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Over the past five decades, independent Africa has faced various forms of conflicts. The conflicts have ranged from inter-state to intra-state, and due to this sad state of affairs, the continent has been characterized negatively as war torn and hopeless. All bad things have been associated with Africa.

The causes of these conflicts are varied. They have included mismanagement of natural resources, corruption, bad governance, lack of rule of law, nepotism, ethnicity and regional imbalance. The effects of these conflicts are immense. People have lost lives and properties. Some have been reduced to refugees and even internally displaced persons.

To address this, both continental and sub-regional organizations have all along created mechanisms the likes of the Commission of Mediation, Conciliation and Arbitration (CMCA), the Mechanism for Conflict Prevention, Management and Resolution (MCPMR) and the late Peace and Security Council (PSC). Whether the constant creation of these mechanisms has brought qualitative change in the performance of OAU/AU or not, that is part of the reason for undertaking this study.

All these tools have operated within the context of Chapter 6 of the UN Charter that recognizes the role of Regional Organizations in such matters. Within the African context, the OAU/AU along with sub-regional organizations the likes of SADC, ECOWAS and ECCAS have rose to the challenge.

There have so far been successes and failures in this endeavor. The buzzword is African solutions to African problems. Challenges have included the lack of both human and financial resources.

This book attempts to trace and evaluate the performance of various mechanisms created by OAU/AU since its inception in 1963 to deal with this situation. Different case studies are referred to in this work, namely Burundi, DRC, Rwanda, Ethiopia and Eritrea.

Besides the challenges facing the AU today, the organization is trying to operationalize the African Peace and Security Architecture (APSA). This framework is on track with its main components, namely the African Standby Force, the Panel of the Wise, the Continental Early Warning System and the Peace Fund. Pros and Cons of this framework are extensively interrogated. The book ends with some pertinent observations and recommendations worth considering if the continent is to avoid marginalization in the twenty first century.

JORAM MUKAMA BISWARO

THE ROLE OF REGIONAL INTEGRATION IN CONFLICT PREVENTION, MANAGEMENT, AND RESOLUTION IN AFRICA THE CASE OF AFRICAN UNION

This book brings an important contribution for the comprehension of the socio-economic dimension of Africa, as well as the difficulties faced by the African countries due to a high prevalence of conflicts. The author observes that some sources of conflicts are purely internal reflecting the dynamics of a particular sub-region, while others have an international dimension. Conflict prevention demands a great deal of prudence and skills in evaluating situations, as well as political will. Besides that, Biswaro's book emphasizes the United Nations Security Council (UNSC) on establishing peace and security in the world, and the role of regional organizations in preventing, managing and resolving disputes.

Joram Mukama Biswaro

THE ROLE OF REGIONAL INTEGRATION IN CONFLICT PREVENTION,
MANAGEMENT, AND RESOLUTION IN AFRICA



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To the Founding Fathers of the Organization of
African Unity (OAU)

FOREWORD

On analyzing conflict in Africa it is necessary to understand that there is a range of intra- to inter-state conflicts, which affect the socio-economic development of the continent. African countries have been involved in active civil war for some decades, and between the 1960s until the mid of 1990s mass violence has afflicted every nation, even those which got their independence experiencing personal injuries, physical and mental disorders, deaths, followed by the destruction of tribes, families bonds, wealth and infrastructure.

The overall scenario shows that approximately 80 violent changes in government in the 48 sub-Saharan African countries took place, and many of these different countries had numerous fatal conflicts involving situations in Burundi, the Democratic Republic of Congo (DRC), Liberia, Rwanda, Sierra Leone, Somalia and Sudan among others.

The new millennium has not changed the lives of a whole generation immersed in endemic poverty, economic inequality and exclusionary governance systems that do not allow participatory

arrangements or the development of its citizens. Presently, there are a number of covert and latent violent conflicts specified by current civil war in Ivory Coast, Liberia, Burundi, and the Democratic Republic of Congo. The governmental uncertainties have negative impacts in Foreign Direct Investments (FDI), investment credits, GDP growth forecasts, and peace negotiations.

The Organization for African Unity (OAU) has created the Mechanism for Conflict Prevention, Management and Resolution (MCPMR), to address the problem, notwithstanding the lack of resources.

The analysis points out the necessity of a strong regional and sub-regional organization, encompassing AU, ECOWAS, SADC, for the maintenance of regional peace and security in the continent, strategically fostering political, socio-economic or strategic development.

In this book, Joram Mukama Biswaro brings an important contribution for the comprehension of the socio-economic dimension of Africa, as well as the difficulties faced by the African countries due to a high prevalence of conflicts. He observes that some sources of conflicts are purely internal reflecting the dynamics of a particular sub-region, while others have an international dimension. Conflict prevention demands a great deal of prudence and skills in evaluating situations, as well as political will. Besides that, Biswaro's book emphasizes the United Nations Security Council (UNSC) on establishing peace and security in the world, and the role of regional organizations in preventing, managing and resolving disputes.

The author points out the necessity of keeping nations peacefully together, handling disputes in a clever way, maintaining good relations and cooperation among each other, enforcing preventive mechanisms, both on a domestic and state-to-state level.

Participatory democracy is on the fore for the stability of the African countries, the ability to work together with major groups in civil society, accommodating hopes, providing a sound economic base, nurturing the local spaces in which civil society can thrive, defending the ideals of democracy, economic development and consolidating the democratization processes in their countries. The book launches new lights on the analysis of the history of Africa, in the elaboration of new public policies, which will be important for the strengthening of bilateral relations between Brazil and Africa, as well as the respect the citizens deserves.

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PREFACE

Socio-economic development in Africa is inseparable from warfare. In the mid 1990s alone, a third of sub-Saharan African countries had an active civil war, many of which lasted a decade or more. Mass violence has afflicted nearly every African nation since independence. These conflicts are epic events in each nation's history, destroying life, skills, wealth, and infrastructure and potentially damaging a society's social bonds and institutions.

For example, according to the Tunisian Government Support Plan to the G8 in May 2011, the crisis in that country left it at a crossroad economically. The uncertainties arising from the transition period had a negative impact on the Tunisian economy, with a cost estimated at five percent of the country's GDP. Growth forecast was low, the state budget and the balance of trade were negatively affected and Foreign Direct Investments (FDI) have slowed down. As a result, many investment credits were cancelled in order to meet this need (Tunisia Govt. Mid-Year Report, 2011).

The causes of conflicts are varied. The then the Organization for African Unity (OAU) had created from time to time,

mechanisms such as Commission of Mediation, Conciliation and Arbitration (CMCA) and Mechanism for Conflict Prevention, Management and Resolution (MCPMR) aimed at addressing this problem. Indeed, the fact that OAU had these mechanisms is, by itself, the center of the problem to be studied. This is precisely so because the prevention, management and resolution process always raises a number of pertinent issues that call for further serious investigations. Such issues include: why has there been a continuous state of conflicts in the continent since the end of the colonial era? What are the root causes? The possibilities that would exist for success or failure, and why? The expectations of the populace, region, as well as international community; what role can the regional economic communities (RECs) play in addressing these conflict situations, and the experience that can be gained from similar occurrences in other parts of the world in the process and so on. It has to be noted, however, that the debates and discussions taking place during peace negotiations are far from being enough and adequate. To get answers to all these questions, there is a need to carry out a comprehensive study and to broaden the scope of data and information collection. It is therefore our intention (researcher) to contribute to this study with the aim of demonstrating by inference and logic, *inter alia*, that the mechanism suffers from some constraints embedded in the Charter, lack of resources and so forth. Further, it was due to the fact that the mechanism had somehow failed to live up to its expectations owing to these and other varied reasons, thus leading to its transformation into the Peace and Security Council (PSC).

Finally, the study attempts to demonstrate empirically the socio-economic effects of such conflicts to Africa and to the

international community, and how the regional and sub-regional economic integration groupings can play a significant role in preventing, managing and resolving such phenomena.

This work is a revised version of the author's post doctoral project in International Economic Law submitted to the Catholic University of Brasilia-Brazil. The author is extremely grateful to many persons and institutions whose assistance facilitated the preparation of initial and revised versions of this book. I would like to express my deepest gratitude to Prof. Dr. Leila Maria Da'Juda Bijos, of the Catholic University of Brasilia-Brazil for exposing me to the discipline that broadened my scope of understanding and developed interest in the field. I am deeply indebted to my family for its incredible patience and inspiration during my research. I am also grateful to the various librarians at both Catholic University and University of Brasilia for their invaluable service. The final work contains ideas drawn from my personal experience and different sources inspired by all of whom, I have mentioned. Any shortcoming in style and presentation are however, attributable to me personally. It is my conviction that I remain a student, ever willing to learn, improve and absorb new ideas on the subject.

LIST OF ABBREVIATIONS

AC	Andean Community
ADB	African Development Bank
APEC	Asian-Pacific Economic
APRM	African Peer Review Mechanism
ARF	ASEAN Regional Forum
ASEAN	The Association of the Southeast Asian Nations
AU	African Union
CMC	Conflict Management Centre
CMCA	Commission of Mediation Conciliation and Arbitration
CNDD	Conseil national pour la défense de la démocratie
DRC	Democratic Republic of Congo
ECOWAS	Economic Community of West African States
EU	European Union

FLS	Front Line States
FDD	Front pour la défense de la démocratie
FDI	Foreign Direct Investment
ICISS	International Commission on Intervention and State Sovereignty
ICTR	International Criminal Tribunal for Rwanda
IMF	International Monetary Fund
IPEP	Independent Panel of Eminent Persons
MCPMR	Mechanism for Conflict Prevention, Management and Resolution
MDR	Mouvement Démocratique Républicain
MRND	Mouvement Révolutionnaire National pour le Développement
NAFTA	North American Free Trade Area
NATO	North Atlantic Treaty Organization
NEPAD	New Economic Partnership for African Development
NGOs	Non-Governmental Organizations
OAS	Organization of American States
OAU	Organization of African Unity
OSCE	Organization of Security Cooperation in Europe
PALIPEHUTU-FNL	Liberation Party of Hutu People in Burundi
PDC	Parti Démocrate-Chrétien
PL	Parti Libéral

PSC	Peace and Security Council
PSD	Parti Social-Démocrate
RPF	Rwandan Patriotic Front
RPA	Rwandan Patriotic Army
RTMLC	Radio Télévision Libre des Mille Collines
SADC	Southern African Development Community
SAARC	South Asian Association for Regional Cooperation
UNO	United Nations Organization
UNAMIR	United Nations Assistance Mission in Rwanda
UNITAR	United Nations Institute for Training and Research
UNSC	United Nations Security Council
UPRONA	Unité pour le Progrès National
USA	United States of America
WB	World Bank
WTO	World Trade Organization

CHAPTER I

INTRODUCTION

The contemporary history shows that Africa has had a high prevalence of conflicts. The effects of these conflict situations to the socio-economic development are immense. This phenomenon has raised more questions than answers. For example, is there any role for regional and sub-regional organizations (like AU, ECOWAS, SADC) in the maintenance of regional peace and security and if so, how effective are they? This question has polarized the debate on the role and potential contribution of regional intergovernmental collective security organizations in the maintenance of international peace and security in the post-Cold War period. Some scholars argue that regional organizations play only a limited role and that even when they do so, it is often in pursuit of their political, socio-economic or strategic self-interests. On the other hand, some academics and policy practitioners are of the view that regional organizations not only have a role to play but have emerged as a viable framework for the maintenance of

regional peace and security. In the process, they have ‘rescued’ the global institution, the United Nations, in its mandate to maintain international peace and security. The case of the West African peacekeeping and conflict stabilization interventions and regional deployments have been cited as a reflection of this development, despite its many problems and challenges. If this is the case, what has been the role and contribution of the sub-regional organizations the likes of Economic Community of West African States (ECOWAS) in regional peace, security, stability?

In an attempt to examine this issue we need to define however, briefly, conflict as a concept. The Oxford Dictionary defines conflict as a serious disagreement or differences. This could be of interests, ideas, arguments, opinions, or views.¹ For the purpose of this study, we subscribe to this definition. Depending on the nature, origin and dynamics, conflict could be violent or non-violent, active or passive, deep-rooted or non-deep-rooted.

As we will see later, the causes or sources of conflict vary from one place to another. Although the sources of conflict in the world in general and Africa in particular as well as preventive measures maybe beyond the scope of this study, it is worth noting that they are varied. As then UN Secretary-General, Mr. Kofi Annan, correctly observed, some sources of conflicts are purely internal reflecting the dynamics of a particular sub-region, while others have an international dimension.²

Chapter VII of the UN charter states that the responsibility of peace and security in the world rests with the United Nations

1 Crowther, J. (1995).

2 Annan, K. (1998), p. 3.

Security Council (UNSC). Furthermore, Chapter VIII of the same Charter correctly, recognizes the role of the regional organizations in preventing, managing and resolving disputes.

Once David Mitrany wrote in 1943 that “the problem of our time is not how to keep nations peacefully apart but how to bring them actively together.”³ Today it is evident that Mitrany underestimated the success of bringing states together in regional and international organizations.

The problem we face today is not how to bring them together, but how to handle disputes and maintain good relations once cooperation has been initiated. As regional organizations have become more dominant in international affairs, it is especially interesting to see how they work in relation to conflict prevention and resolution.

Regional organizations in general have been noted to enforce preventing mechanisms or even to act as such in political disputes. One well-known example of such a regional organization is the forerunner of today’s European Union, the European Coal and Steel Union, which was created in the immediate post World War II period. The Association of the Southeast Asian Nations (ASEAN) and the Andean Community are among other regional organizations cited as successful in this regard.⁴

Similarly, the Asia-Pacific Economic Cooperation (APEC) and the North American Free Trade Area (NAFTA) are arguably

3 David Mitrany (1966), *A Working Peace* (Chicago: Quadrangle Books).

4 Niklas Swanström (2002), *Regional Cooperation and Conflict Management: Lessons from the Pacific Rim* (Uppsala: Department of Peace and Conflict Research), Uppsala University.

examples of organizations that have prevented disputes in the economic sphere.⁵

It should be noted, however, that what is referred to as prevention today has not been the norm earlier. Indeed, earlier attempts are better described as conflict management in the best of cases and as crisis management in most cases. Although the need of preventive action always has been apparent, conflict prevention has not until relatively recently been noted as an important concept when dealing with conflicts, both on a domestic and state-to-state level. But the saying that “an ounce of prevention is worth a pound of cure” is, however, widely accepted today. After the end of the Cold War, states, regional and international organizations have also adopted a more diversified view on security that also encompasses humanitarian, environmental and economic issues.

This move away from the traditional conception of security is positive, especially since the nature of conflict also has changed. According to estimates made by the United Nations Development Program (UNDP), deaths related to interstate conflicts dropped by two thirds – from 660,000 in the 1980s to 220,000 in the 1990s. This can be contrasted to the 3.6 million people who were killed as a result of internal conflicts in the 1990s.⁶

Moreover, this is not taking into consideration the societal and humanitarian disasters, like poverty, diseases and environmental degradation, that follow, especially, intrastate conflicts.

5 International Crisis Group, *Increasing Europe's Stake in the Andes*, Latin American Briefing, June 15, 1994.

6 United Nations Development Program, *Human Development Report 2002* (Oxford: Oxford University Press, 2002), p. 11.

The combination of old and new security threats has increased the need and potential for conflict prevention, and it has become necessary to expand the focus to include, among other things, the prevention of social, environmental and economic degradation. Today, it is therefore vital to deal with more complex conflict matters and move away from the single-minded focus on military threats.

Military threats are no longer the sole security threats and the focus has moved beyond the interstate level to encompass individuals, sub-national and regional entities. This has led to a realization that the costs of inaction, or late action, can be tremendous since military conflicts, in combination with the new security threats, tend to be more devastating both in terms of human suffering and economic losses.

In addition, in contemporary military conflicts, there is always at least a potential risk that nuclear weapons will be used, something which could end in total destruction as several states in the region are armed with nuclear weapons. Academics, Non-Governmental Organizations (NGOs) and policy institutions have both noted the increased risk that this combination of security threats implies, as well as its increased destructiveness. Thus, the central issue is no longer whether conflict prevention is needed or if it can work, but rather under what conditions it can be effective and how it should be implemented.⁷

The failure, or unwillingness, of states to implement conflict prevention measures is somehow illogical since everyday society

7 Michael Lund (1996), *Early Warning and Preventive Diplomacy*, in *Managing Global Chaos: Sources of and Responses to International Conflict*, eds. Chester Crocker (Washington D.C.: USIP Press).

is filled with conflict prevention measures, such as the social security system, insurances, traffic rules, legal norms or simple rules such as washing your hands before dinner to prevent you from contracting sickness. All these rules are simple prevention measures that nobody would think twice about, but preventive measures that could save millions of lives and billions of dollars are often contested or neglected by politicians and policy-makers.

There are at least two reasons for this. On the one hand, many decision-makers do not believe in the possibility of conflict prevention. On the other hand, following the prevailing Cold War mentality, prevention is not considered realistic and military options seem many times as the logical solution. The reluctance towards conflict prevention can also be the result of a fear among states that conflict prevention implies an intervention in internal affairs. However, regional organizations seem to have had greater success than international organizations in implementing conflict prevention measures. This is because trust and integration normally is deeper in a regional setting, which in turn eliminates some of the fear of intervention in internal affairs. In addition, conflicts, even domestic ones, often have regional effects and reasons.

Moreover, regional organizations are becoming increasingly important as the UN under its charter, has delegated the responsibility of conflict prevention and resolution to regional organizations. As a result, states need to interact in a regional setting in order to be effective in developing prevention strategies. Very few conflicts can be prevented with solely national methods as globalization has reduced the world to a village. Today, national

borders are neither a good defining line, nor are they capable of containing conflicts.

Scholars and practitioners have devoted great efforts, both in theory and practice, in regards to regional cooperation and its effects on conflict related issues in politics and trade. States are also becoming increasingly involved in regional organizations to prevent such conflicts. Conflicts, both internal and international, in many cases have regional implications, dimensions and connections that necessitate a multilateral approach to conflict prevention.

Michael Lund has pointed out that preventive diplomacy in its nature is multilateral, and that organizations such as the Organization of Security of Cooperation in Europe (OSCE), the EU, the Organization of African Unity (OAU), later African Union (AU) and the Organization of American States (OAS) – all working in a multilateral context – have been very active in conflict prevention.⁸ There also seems to be a consolidation and expansion of regional structures such as the EU, APEC, ASEAN, ASEAN Regional Forum (ARF) and NAFTA. As a result, new roles are being carved out for international and regional organizations.⁹ This is in line with the United Nations' policy to increase the importance of regional organizations.

The effectiveness and impact of regional organizations on regional structures is, however, still relatively unclear. This said,

8 Michael Lund, *ibid.*

9 Aggarwal, V.; Beverly, C.; Cédéric, D. (2001), *European Integration as a Model for Asia Pacific Regionalism* (Paper presented at a Conference on Global and Regional Economic Security and Integration, Swedish IIA, December 14-15, 2001).

it is important to realize that regional organizations do not operate in a vacuum. In fact, their success in preventing conflicts is directly dependent on cooperation between nations (their member states) and international entities such as the WTO, the UN and NATO. There is no doubt that conflict prevention, both as a theoretical concept and an instrumental tool, is increasingly becoming important as it enhances the possibilities for peaceful development at a low cost for the international community and individual states. Early intervention in conflicts, even before they have erupted, makes prevention easier and militarized disputes or open conflicts can be avoided. At the early stages of conflict, the disputed issues are less politicized and therefore fewer resources, both political and economic, need to be invested.

Moreover, militarized conflicts imply a greater cost than structural or direct prevention. It has been suggested that regional organizations could function more effectively as conductors of conflict prevention than other units within the international system (international or state level), but more research is needed on this issue before any conclusions can be drawn.

The linkage between regional cooperation and conflict prevention has received less attention than crisis management and security at large, especially regarding the relation to international actors or states. There is a great amount of literature on conflict management and negotiation in transnational settings and cultures, but far less on conflict prevention. The theoretical discussion on the correlation between regional cooperation and conflict prevention has been limited in earlier studies and offers little guidance. Ernst Haas, Robert Butterworth and Joseph Nye,

who conducted one of the first studies directly focusing on regional cooperation and conflict management (but not prevention), came to the conclusion that international organizations can influence the conflict management processes. The drawbacks, which they acknowledge, were that they were unable to base their study on an existing theory, but also to produce a new theory at the time of writing.¹⁰

However, studies on cooperation and conflict management have since been conducted and their results have led researchers and policy makers to assume that a positive correlation exists between conflict prevention and regional cooperation. Yet the theoretical basis, on which such assumptions are founded, lacks theoretical differentiation and reflects the researchers' conceptual simplification. Further research is needed here.

The distinctions and difference in power between regional, international and national units are important to understand in order to make a correct analysis of the prospects of conflict prevention in regional organizations. In this connection, sovereignty and the unique enforcement power of national entities are one of the more important aspects that differentiate them from international and regional entities.

The aspect of sovereignty has traditionally made each individual state legally "immune" from external intervention and external involvement in the domestic decision-making process. Conflict prevention in regional and international organizations makes the state, per definition, open for external intervention in

10 Ernst Haas, Robert Butterworth & Joseph Nye (1972), *Conflict Management by International Organizations* (Morristown: General Learning Press).

accordance with the treaty that establishes the mechanism. Despite attempts to protect their sovereignty, a sovereign state will have to give up certain aspects of its sovereignty when it enters into regional or international cooperation.¹¹ This includes the exclusive power of enforcement and the right to rule in disputes. This transfer of authority strengthens the regional or international entity's ability to act. At the same time, it weakens the national entity's ability to act independently.

The actual degree of sovereignty that states surrender is, however, mostly relatively low and at best is not enough to empower the international or regional organization. The South Asian Association for Regional Cooperation (SAARC) and the African Union (AU) are examples of organizations with little independent power over the individual member states and they are thus dependent on the more powerful members.

On the other hand, the EU has limited the sovereignty of all its members to empower the organization, which coordinate and act for its members as a unit.¹² How the transfer of sovereignty has impacted on conflict prevention varies between the different regional organizations, but generally a higher degree of transferred sovereignty means more effective preventive mechanisms.

Conflict prevention can be a very wide or a very narrow term for mechanisms created to deal with the prevention of violent conflicts. Track-two diplomacy, high-level official meetings, disarmament,

11 Alastair I. Johnston (1999), "The Myth of the ASEAN Way? Explaining the Evolution of the Asian Forum" in *Imperfect Unions* (Oxford: Oxford University Press).

12 Mattli, Walter (1999), *The Logic of Regional Integration: Europe and Beyond* (Cambridge: Cambridge University Press).

economic development and cooperation, democratization, etc., are all different aspects of conflict prevention and its definition depends on the authors' individual purpose.¹³

However, the focus of all these aspects of conflict prevention is the prevention of violent conflicts. The focus on violence is important since conflicts per se are not negative. The easiest way to separate prevention from other forms of intervention is to focus on the time factor. Crisis management and dispute resolution are both tactics that are initiated after the conflict has erupted. Conflict prevention is by definition applied before the outbreak of conflict or in a post-conflict phase to prevent a conflict from reoccurring. In this chapter, conflict prevention will be analyzed as concerted actions designed by organizations to deter, resolve or halt disputes before they explode.¹⁴

Indeed, the causes or sources of conflict vary from one place to another. Although the sources of conflict in the world in general and Africa in particular and preventive measures thereof maybe beyond the scope of this study, it is worth noting that they are varied. As then UN Secretary-General, Mr. Kofi Annan, correctly observed, some sources of conflicts are purely internally reflecting the dynamics of a particular sub-region, while others have an international dimension.¹⁵

Some of the causes of conflicts in the world that have been recorded include: (i) historical factors (colonial territorial

13 Bruce Russett (1998), "Preventing Violent Conflict through Kantian Peace" in *Preventing Violent Conflicts: Past Records and Future Challenges*, ed. Peter Wallesteen (Uppsala University), p. 260.

14 Sophia Clément (1997), *Conflict Prevention in the Balkans: Case studies of Kosovo*, World Education University Press.

15 Kofi, A. (1998), Report of the UN Secretary-General, p. 3.

boundaries); (ii) governance factors (lack of good governance, denial of civil rights, corruption and poverty); (iii) socio-economic factors (unequal resources distribution) clashes over resources (such as water, oil); and (iv) cultural, language, religious, and ideological factors.

The preventive measures could be both operational and structural. Operational ones are those measures applicable immediately (short term). These could include early warning, preventive diplomacy, economic measures (e.g. sanctions, inducements, conditionality and force measures).¹⁶

The structural preventive measures (long term) are peace building strategies such as putting in place international legal systems, dispute resolution mechanisms and cooperative as well as integrative arrangements. Essentially, they aim at addressing the root causes of the conflicts.

Since independence, there have been many conflicts in Africa. It is estimated that more than thirty wars have been fought on the continent since 1970. Most of them have been intra-state in origin. In 1996, 14 of the 53 African states were affected by armed conflicts.¹⁷

Their effects on the political and socio-economic development of the continent have been catastrophic. These wars including the 1994 Rwanda genocide, Darfur, Somalia, etc., have produced millions of deaths, refugees and displaced persons. The continent's long term stability has been undermined.

16 Peter Wallesteen (1998), "Preventive Security, Direct and Structural Prevention of Violent Conflicts," Uppsala University.

17 Fitzroy (1999), p. 25.

The settlement of conflicts forms part of different efforts deployed by the UN, the AU, and sub-regional organizations to reinforce peace in Africa and the world. There have been success and failures in this effort. It should be recalled that, at independence, most African countries inherited arbitrary and artificial boundaries. A few years after independence, some African leaders started questioning the rationality of these colonial borders.

However, the OAU Member States pledged to settle all disputes among themselves by peaceful means. To this end, they decided to establish a Commission of Mediation, Conciliation and Arbitration (CMCA). Although the CMCA was the official mechanism stipulated in the OAU Charter, it was never been allowed to function properly since its inception. The reason was because Member States did not want to engage into such legalistic procedures. As such no matter was referred to it. Instead preferred to use good offices. The conflicts indeed continued unabated.

In 1993 a new mechanism by the name of OAU Mechanism for Conflict Prevention Management and Resolution (MCPMR) was born. This signaled Africa's determination to solve its own problems. Indeed, by creating the MCPMR, OAU Heads of State and Government made concrete commitment to Africa to work together towards the peaceful and speedy resolution of all conflicts on the continent.

The MCPMR had three goals namely: to anticipate and prevent potential conflict, to carry out peacemaking and peace building efforts where full blown conflict occur and to take care post conflict situations. Its key structures included: the Central Organ and the Conflict Management Centre (CMC).

This book is divided into seven chapters. Chapter 1 is based on introduction, research design, etc. It also describes and explains in a nutshell, the root causes of conflict in the world in general and Africa in particular from a theoretical perspective as well as strategies applicable to avert them. Issues that involve the colonial and post-colonial era are brought to bear. Chapter 2 focuses on the definition of key concepts and literature review. Chapter 3 reflects on the socio-economic effects of African conflicts.

Chapter 4 examines the internal conditions (political, socio-economic) that led to the formation of the Organization of African Unity (OAU) and its immediate challenges of grappling with conflicts. Successes and failures of the new Organization to address the conflicts are also discussed. But one thing that becomes evident is the fact that the constraints contained in the continental body's charter contributed to the problem.

Chapter 5 is devoted to the case study i.e. Mechanism for Conflict Prevention, Management and Resolution (MCPMR). The main focus here is on the nature, origin, objectives and structures of the MCPMR. The MCPMR's performance in addressing different conflicts the likes of Rwanda, Burundi, DRC, Ethio-Eritrea, since its inception is critically examined. Chapter 6 addresses Peace and Security Council (PSC) and its prospects. Chapter Seven, which is the last one, focuses on recommendations and conclusions.

CHAPTER 2

DEFINITION OF KEY CONCEPTS AND LITERATURE REVIEW

2.1. Definitions

This chapter defines and revisits key concepts applied in this study. These include Regional Economic Integration and Cooperation, conflicts, conflict prevention, resolution and genocide. Indeed, before embarking on such study, one needs to have a clearer understanding and analysis of these key concepts and how could be applied to the African situation. This also calls for the necessity to review various theoretical frameworks, which have emerged within the African context of regional economic integration and cooperation, conflict prevention, management and resolution, genocide, etc.

2.2. Economic Integration

Economic integration refers to the formation of an intergovernmental organization (IGO) by countries to create a larger and more open economy expected to benefit member states. Basically the process of economic integration may take any of the following forms, each of which may represent a different stage of integration if member countries have a desire to pursue integration to its logical conclusion:

- (a) Preferential trade arrangements, which represent the form of loose economic integration whereby participating countries scale down barriers to trade with each other;
- (b) A free trade area, which entails essentially a complete removal of trade barriers among member countries, while member countries maintain separate trade policies with non-members;
- (c) A customs union, whereby member countries decide to go beyond the removal of trade barriers among them and adopt a common external trade policy with all non-members;
- (d) A common market, whose nature involves the removal of any all barriers to factor movements among member countries in addition to the requirements of a customs union;
- (e) An economic union, which essentially entails going beyond the requirements of a common market by unifying member countries economic institutions and coordinating their economic policies;

- (f) A monetary union, whereby member countries, in addition to the satisfaction of the requirements of an economic union, adopt a common currency and use a common supranational central bank;
- (g) A political union, whereby cooperating countries in a monetary union eventually create a regional bloc that is akin to a nation-state by creating centralized political institutions, including a regional parliament.

In a nutshell, it can be argued that whereas the concept of integration refers to a voluntary process of pooling resources for a common purpose by two or more sets of partners belonging to different states, regionalism means regional approach to problem solving. This could include regional integration, regional cooperation or both. The terms regional integration and regional cooperation have in common the involvement of neighboring countries in collaborative ventures. However, regional cooperation implies that this is organized on ad-hoc or temporary basis through a contractual arrangement of some sort around projects of mutual interests, while regional integration involves something more permanent.¹⁸

2.3. Conflict

The term conflicts can be defined as a dispute or difference between parties on specific issues. In this connection it may refer to differences in perspectives, opinion and value on specific issues. These issues can be social, economical, historical or cultural.

18 Maurice & Winters (2003).

As suggested by William Zartman and J. Lewis Ramussen, a conflict is an escalated competition at any system level between groups whose aim is to gain advantages in the area of power, resources, interests values or needs, whereby at least one of these groups believe that the dimension of its relationship is based on certain mutually incompatible goals.¹⁹

Thus, people in conflict areas are likely to incline themselves to the group that seem to be interested in enhancing or realizing one or a combination of the above mentioned objectives. Moreover, conflict may occur at an individual level, national or international levels. Conflicts that happen at national level are normally referred to as intra-state conflicts, while those involving more than one country are known as inter-state conflicts.

Conflicts leading to organized violence emerge from a particular combination of factors: incompatible positions over an issue, hostile attitudes and certain types of diplomatic and military action. The parties to the conflict are normally the government of the nation-State, rebels, etc. Parties seek to achieve certain objectives such as additional or more secure territories, sovereignty, security, access control of resources, state power, prestige, alliances, the overthrow of an unfriendly government, etc. In an effort to achieve or defend these objectives, their demands, actions or both will run-counter to the interests and objectives of other parties.

From a theoretical point of view, conflict behavior is likely to result when party “A” occupies a position that is incompatible

19 Zartman, W. and Rasmussen, J. L. (2001).

with the wishes or interests of party “B” and perhaps others. The critical situation is thus the condition of scarcity, where a move in an issue field by one party is seen to be at the expense of the other party’s position. The most traditional issue is actual territory, but territorial control is hardly the only condition that gives rise to international or inter-state conflicts.

There may also be incompatibilities of position on such issues as tariff structure, the price of oil, the proliferation of nuclear weapons, the treatment of minorities in a state for example, Biafra-Nigeria, Rwanda, etc. Conflicts may arise in these areas because one government wants the problem solved in a manner incompatible with the wishes of another party or parties.

Suffice it to note that whereas the term tension refers to the set of attitudes and predispositions such as distrust and suspicions that populations and policy-makers hold towards any other parties, tensions do not by themselves cause conflict. For example, the Israeli and Syrian governments display distrust, fear and suspicion toward each other, but an incompatible position on an issue such as control of Jerusalem and the Golan Heights must arise before these pre-dispositions or attitudes lead to diplomatic or military action.

In other words, antagonism, distrust, suspicions, etc. are not sufficient conditions for the assurance of conflict or crisis.²⁰ Tensions are only a part of the conflict underlying the psychological dimension. What is a crisis? This is one stage of a conflict; its distinguishing features include a sudden eruption of unexpected

20 Holsti, K. J. (1988), p. 396.

events caused by previous conflict. A conflict such as the division of Berlin or Taiwan, may continue for decades but occasionally, sudden and unexpected hostile action by one party will raise tensions and perceived threat to such a point that policy-makers of the responding state are “forced” to choose between extreme alternatives including resorting to war or surrendering.

From the policy-makers’ perspective, the hallmarks of crisis are: unanticipated (surprise) actions by the opponent, perceptions of limited time to make a decision or response, and perceptions of disastrous consequences from inaction. None of these events or perceptions is likely to occur unless there has been a preceding conflict.

Theories on how and why conflicts occur distinguish between structural factors on one hand, and accelerating or triggering factors on the other. As pointed out earlier, the structural factors are to be viewed on a long-term horizon.

These are the ones that create a potential climate for violent conflict without, however, making its eruption inevitable. They include some interrelated political, social and economic factors such as population density, the level and distribution of wealth and opportunity, the state of the resource base, the structure and ethnic make-up of the society as well as the history of inter-group relations.

Certain patterns of socio-economic organizations can result in a high degree of vulnerability to conflict. For example, ranked societies with sharp patterns of stratification in which a politically dominant group controls the state and access to wealth education

and status, often suffer from a high degree of vulnerability to conflict. According to M. K. Khalil, the situations in Burundi and in Sudan need to be seen in this context.²¹

The accelerating factors are events, actions and decisions which result in the escalation of disputes into violent conflict like that of Indo-Pakistan. Some examples include: economic decline, changes in the degree of internal state cohesion, shift in the internal control and central authority (e.g. Military), intervention of neighboring States, regional powers and organizations, large movements of people and capital. A case in point is partly explained by the manner in which the U.S.A. on many occasions used its military power to either overtly or covertly controls political events in Latin America.

As a general rule, a society endowed with good balance and distribution of social and economic resources, as evidenced by high human development indicators, is able to manage tensions with less risk of institutional and social breakdown than a society marked by destabilizing conditions such as pervasive poverty, extreme socio-economic disparities, systematic lack of opportunity and the institutions to resolve grievances.

It should be borne in mind that a conflict is not static but rather dynamic process. While distinct phases can be distinguished, they do not necessarily follow a sequential pattern. A combination of factors will generally determine whether a conflict escalates or recedes. Hence, the passage from one phase to another is not necessarily the result of a single event or factor at the exact moment

21 Khalil, M. K. (2000), Vol. 9, 3, pp. 295-322.

of transition. Notwithstanding the diversity of the causes and escalators of conflict, almost all crises can be sub-divided into four main separate phases: situation of submerged tension; situation of rising tension; eruption phase of open confrontation and violent conflict; and fragile transitional to post conflict situation.

2.3.1. Causes

The causes of conflict are varied and intertwined. They could be both internal and external. For the purposes of our present discussion, we have decided to divide them into the following broad categories:

2.3.1.1. Problems in Managing Transition and Rapid Change

The processes of basic change often create social and political dislocations. Without adequate opportunities to participate in national civil society, the political process and labor markets can erode social cohesion and weaken traditional authority structures. Change can sometimes result in a loss of cultural identity and the uprooting or marginalizing of communities. Economic and political transition may also generate tension especially where the power balance shifts in favor of some groups and away from others. Power struggle can erupt between groups competing in the development process even where they enjoy some of the benefits of economic prosperity.

Transition processes at play during the decolonization period, the current transformation from authoritarian to more participatory states, and the evolution of former centrally-planned

economies illustrate this. A case in point is what is happening in Russia and Eastern Europe today. These countries are undergoing wrenching transitions in both political and economic domains.²² Most of Third World conflicts today and African conflicts in particular, are partly results of this phenomenon.

2.3.1.2. Widening Socio-Economic Disparities

The imbalance in economic growth and disparities in the distribution of its benefits can also increase tensions. This may disrupt the established pattern of production and wealth. The allocation of meager resources benefits sometimes reaches only those groups which control the State apparatus. This can result in the marginalization of vulnerable groups and the neglect of the less dynamic regions. These inequalities are particularly important when coupled with increased perceptions of disparity and a lack of institutions to respond to those inequalities, such as often occurs in fast-growing urban populations. For example, China's new wealth is generating huge disparities between urban and rural areas, coastal and interior provinces²³. At the international level, the present gap that exists between North and South needs to be seen within this context. As the Third World delegates argued at the recently held World Summit in Mexico this disparity could be a source of terrorism.²⁴

22 Hammond, A. (1998), pp. 116-2-122.

23 Ibid., p. 153.

24 The Monitor Newspaper, Addis Ababa, 2002.

2.3.1.3. The Exploitation of Ethnic, Religious and other Social Differences

Ethnic, religious and cultural differences in themselves rarely cause conflicts. Instead, they help to strengthen natural unity. In an atmosphere of heightened tensions resulting from socio-political conflicts, however, they can often offer fertile ground for political exploitation. Factors which may contribute to the polarization of ethnic and cultural differences include: economic, social and political dislocation resulting from unbalanced development itself, the legacy of colonial boundaries; illegitimate or weak state institutions, the forced assimilation of minorities; and aspirations for increased autonomy by territorially concentrated ethnic groups.

I. Elbadawi and N. Sambini pursue this matter by arguing that Africa's ethnic diversity actually helps rather than impedes the formation of state development in promoting coalition.²⁵ Formalization of ethnic affiliation into political process might enhance the efficiency and political governance in Africa. Africa's ethnic diversity is not a cause of the recent rise in incidences of civil wars. Other things being equal, Africa is inherently safer than other regions because of its social diversity. However, before the Continent can turn its ethnic diversity into an asset for preserving peace, it must achieve better levels of political freedom, much higher standards of living and diversified economies.

25 Journal of African Economies, 2000, pp. 235-243.

2.3.1.4. Competing Over Scarce Resources

Competition over shared resources can also contribute to increase tension without resilient political means to manage such competition.²⁶ Localized and regional scarcity of water and productive land (sometimes caused by abrupt changes in population density), changes in land tenure systems, environmental disruption or degradation and regional crises lead to conflict over the management, distribution and allocation of resources. A case in point is the Niger Delta area in Nigeria and the crises between the Ogoni tribe and the Federal Government and Multinational Petroleum Co-operations. It has always been a source of crises where people have lost lives and properties.

Conflict over internationally shared resources can threaten the stability of neighboring countries and sometimes even the entire region. According to D. R. Kaplan and A. Hammond, in their books *The End of the Earth* and *Which World?* respectively, the potential areas of such conflicts include: riparian states of rivers Nile, Jordan, Mekong and Tigris.

2.3.1.5. Legacy of Violence

Usually, violence and the damage inflict, sharpen and entrench polarities in society. This intensifies insecurity, hatred, reprisals and revenge, all of which strengthen the “Conflict History” of inter-group relations. In addition to hindering economic progress, it can contribute to aggravating the vulnerability of certain groups to adverse conditions, resulting in extreme cases of large-scale

26 Holst, op. cit., p. 396.

humanitarian crises. Consequently, exploitation of ethnic, religious and cultural factors often ensure the recurrence of conflict even when general conditions improve. This situation is today prevalent and persists in the Great Lakes Region of Africa, i.e. Rwanda, Burundi, DRC, Central Africa, Uganda, Kenya, Tanzania and in the Horn of Africa (Somalia, Sudan, Eritrea and Ethiopia). The 1994 Rwanda genocide can partly be explained within this context²⁷.

2.3.1.6. Environmental Insecurity

Evidence available shows that environmental insecurity can be a significant factor in generating tensions and disputes. Environmental degradation results in poverty and large-scale displacement of populations.²⁸ This can combine with other factors to precipitate or exacerbate violent conflicts both locally and internationally. In developing countries, major environmental degradation may include the deterioration of agricultural lands, rapid population growth and depletion of resources such as grazing land and drinking water. Very often these man-made factors interact and reinforce natural forces. For instance, natural flooding can be aggravated by deforestation and the draining of wetlands. Environmental insecurity is created when ecosystems are no longer able to support and sustain the population inhabiting them and therefore resulting into large-scale movement of the people.²⁹

It is estimated that, as of today, more than 25 million people have been affected in this way. Competition for, and unequal

27 IPEP Report/OAU, 2005, p. 16.

28 Kaplan, R. D. (1996), p. 8.

29 Hammond, op. cit., p. 169.

distribution of increasingly scarce natural resources can thus contribute to local and regional conflict.

From the above, one can sum up that the causes or sources of conflicts are varied. They could include: Historical factors, e.g. past conflicts, differences in the interpretation of history such as colonialism and its legacy and delineation of borders cutting across ethnic groups, etc. Others could be governance/political participation factors: under-development (poverty), denial of civil rights, lack of good governance, political and military elites who use conflict to gain and retain power and wealth, corruption (natural resources are misappropriated causing huge discrepancies within societies), ideology, loss of confidence in government, coups d'état, rigging elections, inadequate immigration laws, etc.

2.4. Preventive Measures/Strategies

Having seen various factors that generate conflicts, it is time we addressed, though briefly, different appropriate preventive and resolving strategies.

Conflict prevention refers to process(es) or action(s) embarked upon to pre-empt, deter and contain conflicts. Underlying this concept is the assumption that well-planned and coordinated activities are initiated in order to resolve disputes before they arise by relying on pre-acquired information. Therefore, there is a direct link between conflict prevention and a well-functioning Early Warning System.³⁰ This link leads us to another important assumption about conflict prevention, which is that there is

³⁰ Solomon and Cédric (2000) op. cit., p. 7.

constant and indeed formalized interaction between the OAU, various sub-regional groups and organs of civil society in Africa. Such interaction would ensure that there is a multi-pronged approach to conflict prevention where various players, including state, non-state and inter-State parties would cooperate in order to combat an emerging crisis.

The idea of developing a multi-pronged approach emanates from the fact that since the end of the Cold War in 1989, conflicts in Africa and, indeed in other regions of the world (e.g. Europe) have become complex emergencies and as such, attempts to resolve them could no longer be the exclusive preserve of the states. It is therefore important for the AU and sub-regional groups to put in place mechanisms to nurture such interaction in order to foster multi-track initiatives.

However, as observed above, conflict is a dynamic process. Nonetheless, its causes can be influenced by both internal and external factors. Conflict prevention and peacebuilding approaches must be coherent, comprehensive, integrated and aimed at addressing the root causes of the conflict. The close cooperation of all policy instruments such as diplomacy, military, trade and development cooperation³¹ based on their respective comparative advantages, is required to ensure coherence and coordination.

Approaches to conflict prevention should also take into account its potential international dimensions. Neighboring and regional countries, the UN system, regional organizations and other stakeholders may all necessarily be involved. Just as in

31 Holsti, *op. cit.*, p. 396.

the practice of good medicine, preventing the outbreak, spread and recurrence of the disease, deadly conflicts requires timely interventions with the right mix of political, economic, military and social instruments. The circumstances that give rise to conflicts can be foreseen. Early indicators include widespread human rights abuses, increasing brutal political oppression, inflammatory use of the media, the accumulation of organized killings, etc.

Such developments, especially when combined with chronic deprivation and increasing scarcity of basic necessities, can create an extremely volatile situation. Successful prevention of mass violence will therefore depend on retarding and reversing the development of such circumstances.

When efforts to avert conflict do not succeed, it is essential to, at least prevent the conflict from spreading. Such efforts include: political and diplomatic measures aimed at managing and resolving the conflict as well as humanitarian measures to relieve the sufferings. Activities could also aim at improving the allocation and management of natural resources, reducing poverty, promoting good governance, civic education, and limiting the flow and diffusion of arms. It should be noted that 46 out of 49 continental wars fought on the African continent recently have used light weapons.³²

It is against this backdrop that we can now examine some of the preventive strategies, namely: *Operational Prevention* (measures applicable in the face of immediate crisis) and *Structural prevention* (i.e. measures to ensure that crises do not arise in the first place or, if they do, they do not recur).

32 Boutwell, J. and Klare M., 1998.

2.4.1. Operational Prevention

This implies an early engagement deliberately designed to create conditions in which responsible leaders can resolve the problem leading to a crisis. This involves four key elements: (i) a lead player – this would be an international organization, country or even prominent individual around which or whom preventive efforts can mobilize; (ii) a coherent political-military approach designed to arrest the violence, address the humanitarian needs of the situation and integrate all political and military aspects of the problem; (iii) adequate resources – to support the preventive engagement especially inter-State conflict; and (iv) plan for the restoration of host country's authority.

These elements form a framework for operational prevention and within this framework a number of specific *measures* can be applied. The first critical task in prevention is to determine where and when the most disastrous conflicts and confrontations are likely to occur. The capacity to anticipate and analyze possible conflicts is a pre-requisite both for any prudent decision to act and for effective action itself.

2.4.2. Early Warning

The circumstances that give rise to violent conflicts can usually be foreseen or predicted. This was certainly true of the violence in Bosnia in 1992 and Rwanda in 1994. Early warning of the deteriorating circumstances was available in both cases in the open media and through government intelligence information channels. It is not plausible for governments to claim that there

was a lack of timely warning of crisis.³³ This argument does not hold water when major governments operate extensive, sophisticated early warning and intelligence networks world-wide.

These governments as well as the major regional players often do know about incipient catastrophes, and in most cases they have a sense of what should and could be done to reduce the chance of catastrophe. For example, In Rwanda, during the months preceding genocide, as the Arusha Agreement was being negotiated, decision-makers in the major capitals of countries of the region were warned repeatedly in public and private that the Hutu extremists were preparing to unleash a campaign of a massive violence against the Tutsi minority.³⁴ But countries of the region and wider international community took no action to prevent such preparation.

What kind of warning is most useful?

Because dangerous circumstances rarely degenerate into violence without a warning, what is needed is not simply more information, but rather the right kind of information and a reliable interpretation of its meaning. Every major government maintains an active watch over the world's "hot spots" and many have developed capacities to track and predict developing trends.

Yet, even prompt early warning will not ensure successful preventive action unless there is a fundamental change of attitudes by governments and international organizations. A systematic and practical warning system should be combined with consistently up-to-date contingency plans for preventive action.

33 IPEP Report (2000), pp. 90-91.

34 IPEP Report, op. cit.

This would be a radical advance on the present system whereby, when a trigger even sets off an explosion of violence, it is usually too difficult, costly and late for a rapid and effective response. For effective preventive action, however, policy makers also need to identify the issues, factors and conditions that will encourage and sustain local solutions and efforts that may very well involve providing support for “responsible” or moderate leaders.

To summarize, therefore, two things must be noted: first, during the early stage of the crisis, policy-makers should not only be attentive to how circumstances could worsen but also be alert for opportunities to make constructive use of local issues and processes that could help to avoid violence. Second, they should exercise great care as to whom they support and how that support is offered.

Worth noting is the fact that governments, international organizations, NGOs, business enterprises, religious leaders, scientific groups, the media and even the public at large all have, in their different ways, a capacity for early warning. Governments of course have already developed procedures and systems to keep themselves abreast of the essential information necessary to operate in dangerous circumstances. But many of these and other groups have capacity to warn. NGOs, for example, are often the first to be aware of and to act in crisis areas, and they have a wealth of information regarding the conditions and grievances that give rise to violence. In Cambodia, for instance, while outside links with leaders were largely non-existent throughout the 1980’s, NGOs maintained a presence in much of the country and provided a rich source of information which the country was able to draw.³⁵

35 Kaplan, R. D. (1996), pp. 430-431.

This leads one to ask the question: “Who should be warned?” Logically early warning should be given first to those who can take constructive action. This generally means governments and groups likely to be immediately involved in the crises, governments and leaders nearest to the scene of conflicts, the United Nations Security Council and Regional Organizations. Religious organizations may also be warned, particularly of situations in which local religious leaders and institutions could play a positive role. Further, media, business committees, NGOs, etc., should be kept informed.

2.4.3. Preventive Diplomacy

Simply knowing about a developing crisis is not enough. As a minimum step to arrest potential violence and address humanitarian needs, but without precipitating unwanted and indefinite involvement in a remote crisis, governments should explore the possibilities of expanded frontline preventive diplomacy by using ambassadors, senior foreign service officers and personal envoys of the UN Secretary-General, AU, etc. When the crisis threatens, traditional diplomacy continues, but more urgent efforts are also made-through bilateral, multilateral and unofficial channels to pressure, arbitrate, mediate, or lend “good offices” to encourage dialogue and facilitate non-violent resolution of the crisis.

Preventive diplomacy must overcome several obstacles. One of the greatest challenges is suspicion of the motives of those who would practice it. Another is the charge that much of this really means little more than traditional diplomacy i.e. statecraft and foreign policy have been composed largely diplomatic and

political efforts to forestall undesirable events. A key difference today, however, is that diplomats and politicians need to find ways to cope with crises anywhere in the world and with States as well as between them, not only because these crises are tragic in themselves, but also because they are increasingly costly for neighboring and many countries beyond. Therefore, diplomacy today is tied as never before to a complex web of economic and social relationships that span the globe.³⁶

In deteriorating circumstances, a number of steps may help to manage the crisis and prevent the emergence of violence. These could include:

- (a) The state should resist the use of the traditional weapon of suspending diplomatic relations as a substitute for action, and instead maintain open high fidelity lines of communication with leaders and groups in crisis.³⁷ Cases in point here are: Pakistan vs. Taliban. The Pakistan authorities continued to maintain the Afghanistan Embassy in Kabul during the American led anti-terrorist campaign in Afghanistan. Likewise, the OAU Mission in the Comoros maintained contact with the military junta in Moroni. These contacts helped to facilitate communication in a bid to resolve the crisis.
- (b) Governments and international organizations must express in clear and compelling way the interests in jeopardy. This

³⁶ The Carnegie Commission Report, 1997, p. 49.

³⁷ Holsti, *op. cit.*, p. 396.

step is particularly important should more assertive steps to deal with the crisis become necessary later.

- (c) The crisis should immediately be put on the agenda of the UNSC or the relevant international organizations, or both, early enough to preventive action. At the same time other means should be established to track developments in the crisis, provide regular updates and include a mechanism to incorporate information for NGOs and other non-governmental actors to support high-level deliberations on unfolding events.
- (d) Notwithstanding the foregoing, it is imperative to broaden the multilateral context of the unfolding crisis. Governments should be attentive to opportunities that support quiet diplomacy and dialogue with and between moderate leaders in the crisis.

Diplomatic and political strategies to avert a crisis demand creative ways of defusing tension and facilitating mutual accommodation among potential belligerents. Such strategies may include serious discussions of peaceful border adjustments or revising new constitutional arrangements, regional or cultural autonomy, etc. Potential solutions may lie in various forms of power-sharing to help to assure the minority groups that their interests are not at the mercy or dependent on the whims of the majority. As we shall see, official diplomacy can be greatly strengthened by private sector activities too. Long used in international negotiations by leaders to take informal soundings of adversaries' intentions, track diplomacy is increasingly becoming the strategy of choice in dealing with problems beyond the reach of

officials' efforts. Some governments have found NGOs very useful in striking political agreements and complementing government roles. For example, the Carter Centre's International Negotiation Network, the Conflict Management Group, the Institute for Multi-Track Diplomacy, etc., have developed models for multi-track diplomacy and conflict resolution.

2.4.4. Economic Measures

In circumstance of incipient conflicts, a number of economic measures are at the disposal of states and international organizations in a position to influence potential belligerents to avoid violence. Sanctions, of course, are one of such tools. But, besides sanctions, inducements³⁸, economic conditionality and the disputed mechanism of WTO, etc., may also prove useful.

2.4.4.1. Sanctions

Sanctions can play an important role in support of preventive diplomacy notwithstanding the fact that practical questions remain about government's activities to apply sanctions effectively. Sanctions serve three broad policy functions for government: to signal international concern to the offending State (and by example, to others), to punish state's bad behavior and to serve as a precursor to stronger actions, including if necessary the use of force. However, sanctions should be part of the broader influence strategy that puts maximum political and economic pressure as precisely as possible on the offending parties, preferably ruling parties or specific leaders and their families rather than the whole

38 Brabant, K. and Killick, T. (1999), p. 9-11.

population. Otherwise, they may be counter-productive. As a result, efforts are sometimes made to employ “surgical sanctions” or “smart sanctions” that hit only some groups particularly the elite rather than the poor.

Nevertheless, States that impose sanctions should also take steps in accordance with the UN Charter, to reduce unwanted or undesirable side effects and minimize the resultant suffering of innocent civilians and the economic losses often suffered by neighboring countries. For example, during the sanctions that the Frontline States (FLS) imposed on the Rhodesian regime under Ian Smith, there was special compensatory mechanism by the international community to assist Mozambique.

Sanction regimes that are exclusively focused on commodities must be simply and comprehensively imposed to be most effective. Graduated piece-meal approaches are unlikely to work. Sanctions regimes should be supported where necessary, with coercive measures suitable to ensure compliance and demonstrate resolve.

Diplomatic and other political communications should be clear on the behavior necessary for sanctions to be lifted and, where possible, accompanied by an incentive package. Public information outlets at home and abroad should convey these same messages.

“Targeted” sanctions offer a way to focus the penalty more directly on those most responsible for crisis. Such targeted sanctions include freezing leaders’ and their families’ personal assets or denying them access to hard currency and visas to travel abroad. For this purpose, financial information can be shared among cooperating nations to identify and restrict the cash

flows of leaders and their families who threaten to use violence. However, experience shows that in practice this is difficult. The OAU imposed sanctions on the Comoros and Burundi, but these were constantly violated.

In this case, therefore, cooperation will be required to achieve these aims and minimize loopholes; sustained and skilled efforts are needed to produce the diplomatic consensus required to ensure both the legitimacy and effectiveness of sanctions. In this regard, the UN is indispensable in mandating and implementing sanctions, but we also recognize the potential preventive value of informal measures undertaken by neighboring countries or other regional arrangements. A case in point is when the countries of the Great Lakes Region took such measures against Major Pierre Buyoya of Burundi, from 1996 to 2000. Such informal moves can often be implemented quickly, sending a clear signal that unacceptable behavior has generated this response.

It is our considered opinion that whereas we see promise in the use of economic sanctions as a tool for preventing conflict, we are also cognizant of the fact that sanctions mandated by the UN since the 1990s have lasted longer and, in some cases, have been less effective and more costly than their proponents had originally thought. Obviously, much needs to be done to improve them. To begin with, sanctions must be considered in the context of a broader influence strategy. Such a strategy would take account of the targeted States' vulnerabilities and the role of neighboring States and regional arrangements. This would require a legal justification and monitoring of sanctions implementation. It would also need specifying the steps to be taken by the targeted State that might avoid sanctions or cause them to be lifted.

2.4.4.2. Inducement

Inducement is a carrot and stick policy. In practice, inducements are very often an integral part of diplomacy. They could have greater preventive potential if they were better understood.

Essentially, the inducement process involves the granting of a political or economic benefit in exchange for specified policy adjustment. Inducement policies strive to make cooperation and conciliation more appealing than aggression and hostility. Examples of inducement include: favorable trade terms, tariff reductions, direct purchases, subsidies for exports or imports, economic and military aid, tolerable taxations, granting access to advanced technology, military cooperation and many other benefits. Often, policy-makers juggle a variety of political, military and economic elements as part of an overall package of inducements. For example, the U.S., Saudi Arabia and Pakistan in Afghanistan gave the Taliban great assistance with a view to containing both the then Soviet Union and Iran.³⁹

Studies have revealed that inducements are more effective when used early and that they are especially influential when used against the background of sanctions where the benefits of cooperation can weigh against stark punishment for pursuing a course of violent action. The proportion of these positive and negative approaches to be applied in particular situation depends on the nature of the problem and the objectives being served.

While inducement strategies are preferable for laying foundations for peace and cooperation and preventing the initial

39 Brabant, K. and Killick, T., op. cit., pp. 9-11.

outbreak of violence, coercive measures may be more appropriate and effective when an unacceptable behavior is clearly indicated. Here too, however, careful consideration of the political and economic needs of the targeted State can assist the international community in devising a balance between positive and negative approaches. While inducements are not appropriate in every setting and may be considered appeasing if employed in the face of overt military aggression, they can have significant advantages over punitive approaches. Conciliatory gestures often lead to cooperative responses while threats often initiate spirals of hostility and defiance. If such gestures are applied to preventive action and new ways are created to use inducements judiciously, chances can be improved so that a violent outbreak might be averted.

2.4.4.3. Conditionality

One particular potent tool for effective preventive action may be conditionality. This could be the forging of links between responsible, non-violent behavior and the promise of greater reward through growing integration into the community of market democracies. Increasingly, through the bilateral programs and through pressure from the international financial institutions, States are attaining good governance conditions to development and assistance provided to emerging economies. The current Bretton Woods system of giving loans to the Third World is case in point. For example, in Malawi, Zimbabwe and Kenya bilateral and international financial aid was suspended for sometime in a bid to promote 'democracy'.

Tying assistance with responsible governance in this way may give the international community a powerful source of leverage with those who persistently use violent means to pursue their aims. States that attach these kinds of conditions to their aid are not themselves above scrutiny. The potential leverage of conditionality is diminished when donor-states demand higher standards of behavior than they themselves are prepared to issue. There is a great need for consistent standards to be devised and applied to all States equitably.

2.4.5. Force Measures

Situations will always arise where diplomatic responses, even when supplemented by strong economic measures are insignificant to prevent the outbreak or recurrence of major violence. The question is when and how should individual nations, regional organizations and the globe wish to apply forceful measures to curb incipient violence and prevent potentially much larger destruction of life and property.

There are three broad principles to govern this: (1) any threat or use of force must be governed by universally accepted principles as per Chapter VI and VII of the UN Charter; (2) the threat or use of force should be regarded as a last resort in desperate circumstances; (3) a United Nations Security Council resolution should specify a clear mandate detailing the arrangements under which force will be used and the units to be involved in the actions.

However, this does not mean that there are no circumstances whereby use of force might be allowed. Indeed, the Charter authorizes unilateral use of force in certain circumstances. For

the kind of preventive action contemplated here, however, a multilateral response should be used more, as envisaged in the Charter, and a norm established to be applicable to big as well as small power States.

2.4.6. Structural Prevention

Structural prevention of peacebuilding comprises strategies such as putting in place international legal systems, dispute resolution mechanisms and cooperative arrangements; meeting peoples' basic economic, social, cultural and humanitarian needs of security, well-being, and justice, thereby giving people a stake in non-violent efforts to improve their lives. Meeting these needs not only enables people to live better lives, but also reduces the potential for deadly conflict. In this connection, institutions like the mass media, religious and civil society organizations, etc., must be involved.

2.5. Conflict Resolution

Needless to say, the concept of conflict resolution refers to a plethora of activities that seeks to address the root causes of any conflict situation. This process should not, however, be divorced from other components of the conflict spectrum. It ought to be viewed as dynamic and therefore not isolated from the other activities aimed at containing a conflict as well as finding solutions thereto. Conflict resolution therefore entails assembling all the necessary human and other resources to address, for example, the political, economic and social causes of a conflict.

A critical appraisal of African conflict resolution initiatives would reveal that problems abound and that very minimal success

has been achieved. The political trend has been that an outsider or a third party would attempt to influence the initiative and therefore sideline or ignore local inputs to the process. It is crucial to bear in mind that conflict resolution attempts need to be remodeled in such a manner that local ideas and initiatives are recognized so that the peoples concerned would view the process as just and hence accept it.

It is a common knowledge that the African continent has been characterized by many conflicts both violent and non-violent, deep-rooted and non-deep rooted. Rwanda is a case in point.⁴⁰ Studies have been carried out and much literature developed which have facilitated the building of a relatively rich experience around the phenomena of peace negotiation and conflict prevention and resolution.

It has to be noted, however, that peace negotiations or mediation are integral parts of the conflict resolution process. Other methods include: facilitation, reconciliation and conciliation.⁴¹ All this could be done within the UN Security Council framework as per UN Charter, Chapters VI and VII.

The general objective of any conflict prevention or resolution is to ensure that under any situation conflicts are put to an end so that peace and security may be restored. In other words, conflict prevention and resolution should succeed. To achieve that objective, a number of theories have been developed on the African continent.

40 Mpungwe, A. (1998), in Arusha Conference Report.

41 Hizkias, op. cit., p. 8.

One area of concern is what the ideal model should be or whether the model should be indigenous to Africa.⁴² Malan asserts that so far Africa has benefited a great deal from the experience and expertise on conflict resolution that has been developed in other continents. However, notwithstanding that benefit, recent views tend to point out the need for greater use of conflict resolution traditions, which have been developed within Africa. The African experience had incorporated insights and skills acquired during the period of traditional leadership in the pre-colonial, colonial and post-colonial era.

Another area of theoretical concern is how conflicts should be perceived in Africa. One school of thought perceives that some conflicts are negative while others are positive. The second view that conflicts can be both negative and positive seems to be much more widely acceptable.

President Yoweri Kaguta Museveni of Uganda has argued that conflicts could be justifiable and non-justifiable.⁴³ In certain circumstances, actors resort to the use of forces as the only means to combat domination and other forms of injustice.

Yet another important area concerns the perception and characterization of conflicts in terms of deep-rooted or non-deep-rooted factors. It has been contended that an analysis of whether a conflict is deep-rooted or non-deep-rooted is important in order to expose and create an understanding of the main demands, attitudes and perceptions among the conflicting parties. The most

42 Malan, *op. cit.*, p. 16.

43 Museveni, Y. K., *op. cit.*

significant element in conceptualizing conflict resolution is to avoid the danger of carrying out a peacemaking process, which is likely to bring about short-lived peace characterized by latent conflicts.

The issue of the type of peacemaking process to be applied also needs to be taken seriously. According to Prof. Zartman of John Hopkins University, there are two types of peacemaking processes, one is internally based and the other external.⁴⁴ An internally based peacemaking process takes place when the conflicting parties within a country decide to initiate negotiations for peace until they reach a peace agreement without an external mediator or facilitator. He cites the Sudanese Government and some liberation movements as a case in point. Nevertheless, sometimes, internal peacemaking and agreement can be a product of one of the conflicting parties becoming a victory over the other through fighting or political stance. In any case, both sides have to come to the round table to settle the conflict. The settlement could be done through negotiation, mediation, facilitation and even reconciliation.

The externally based type of peacemaking process is usually carried out through external mediators or facilitators. This happens when it becomes difficult for the conflicting parties to come together and negotiate internally.

Examples of such processes include those of Rwanda and Burundi, which the former presidents of Tanzania H.E. Ali Hassan Mwinyi and the late Mwalimu Julius K. Nyerere respectively

⁴⁴ Zartman, W. I., op. cit., pp. 301-306.

mediated the negotiations in Arusha, Tanzania . External mediation is often regarded as a delicate and complex process as it has to take into consideration factors such as interference in the internal affairs of the country, acceptability of the mediator by all parties and the origin or nationality of the mediator. This means that mediators should be people of high integrity and credibility.

Another important aspect of the theoretical framework, with which we concur, is the matter of implementation and consolidation of a peace agreement. This requires a peacekeeping force as well as political and ideological transformation. A peacekeeping force is established in the country concerned in order to ensure that all the conflicting parties observe the agreement during the process of its implementation. The peacekeeping force can be an UN, an AU or a sub-regional force. The Burundi 2006 Peace Agreement signed in Dar es Salaam, Tanzania, between the government and the PALIPEHUTU-FNL party is a case in point. Peacekeeping forces are usually characterized by a number of problems which include partiality, conflict of interest, nature or origins of some soldiers and so forth.

Finally, for consideration is the question of institutions involved in the processes of conflict resolution. Institutions which play an important role in conflict resolution include: the UNSC, the Commonwealth, AU, sub-regional organizations such as Economic Community of West African States (ECOWAS), Southern African Development Community (SADC) and Non-Governmental Organizations (NGOs). Worth noting is the fact that regional integration refers to a voluntary process of pooling resources for a common purpose by two or more sets of partners belonging to different states.

Of late, such arrangements have played crucial roles in resolving conflicts in various regions in the world, particularly in Africa. However, experience in conflict resolution in Africa has exposed some weaknesses and problems associated to some of these institutions particularly the larger ones, such as the UN and the AU. Some of the problems are financial, organizational, experience and mandate-related limitations.

The UN for example, lacks the will to act promptly on conflict issues in Africa as well as a comprehensive database to enable it to diagnose and prescribe correct solutions at the right time. The OAU/AU for its part has been criticized for its weaknesses in dealing with the various conflicts besieging the Continent. The Arusha Conference report⁴⁵ on “Learning from Conflict Resolution in Africa,” held in Arusha, Tanzania in January, 1998, has argued that the OAU had tendencies of undertaking “fire-brigade” activities, thus reflecting an absence of long-term planning. The Organization also lacked executive command, resources and the financial discipline to enable it to carry out effectively conflict prevention and resolution responsibility on the Continent. Hence, the root causes of the problems of the OAU were found partially within the OAU Charter itself. Some of the principles and norms enshrined in the Charter made it so constrained that the document remained conservative. For example, some Member States still continue to view sovereignty as sacrosanct and, by so doing, placed several constraints on OAU’s scope of action and room for maneuver. Unfortunately this tendency has continued in the AU.

45 Arusha Conference Report (1998), pp. 32-33.

However, while the UN and the OAU/AU are still important and relevant institutions in matters of conflict prevention, management and resolution, the current tendency has been for them to avoid direct intervention and make use of NGOs and sub-regional organizations. The role of Sant'Egidio of Italy in Mozambique and that of Mwalimu Nyerere Foundation of Tanzania in Burundi should be viewed within this framework. Likewise, ECOWAS and SADC in Liberia, Sierra-Leone and Lesotho, DRC respectively, are but cases in point.

2.6. The Concept of Genocide

Raphael Lemkin who was a Polish-Jewish legal scholar and an immigrant to the United States coined the term genocide in 1944 to describe Nazi's near successful attempt to wipe all Jews.⁴⁶ Adolph Hitler's attempts to exterminate the Jews brought to the international scene 'the concept of genocide', which on December 9, 1948 a convention was unanimously adopted by the United Nations General Assembly commonly known as "*the Genocide Convention*".

As defined in Article 2 of the International Genocide Convention of 1948¹ the term genocide refers to acts committed with the intention to destroy, wholly or in part, a national ethnic, racial or religious group as such. The concept of genocide may involve killing of the people physically because of the physical reasons such as racial differences, tribe, religion, political ideology or affiliation; or any other reasons whatsoever resulting into the need for exterminating a certain group of people in the society.

⁴⁶ United Nations, Treaty Series, Vol. 78, p. 277.

However, it is worth noting that genocide can be categorized as first-degree genocide and the second-degree genocide. The first-degree genocide is where the motive for the mass killing is to wipe out completely those who must be exterminated. The explicit examples of this type of genocide are the Turkish persecution of Armenians during World War I and the persecution of four to six (4 - 6) million Jews who were considered by Nazi Germans as menace to the purity of the German Aryan race during World War II.

Another lucid explicit example of first-degree genocide is the annihilation of hundreds of thousands of Japanese in Hiroshima and Nagasaki cities by the atomic bomb of the allied powers during the World War II.⁴⁷

The second-degree genocide refers to the suppression (psychological killing) of people by reducing them to half human being status. In this case a trauma of false image is mechanically planted into their psyche thereby forcing the victim to believe in the myth of inferiority complex. For instance, the victims may be forced to believe that God created them more inferior than those who are suppressing them; and for that reason they are expected to accept that fact. Here, the oppressed are forbidden to question about their rights or get involved in voting or in any civil activities. A good example of the second-degree genocide is the apartheid policy of the former minority white regime in South Africa whose intention was to psychologically kill the entire black race. Other examples of the second degree genocide are the Jewish case in Russia in the 1880s⁴⁸ whereby the then Russian regime wanted

47 The International Center for Conciliation Initiatives (ICPRIA), "The Rwanda Catastrophe," p. 7.

48 Ibid., p. 8.

to exterminate all Jews and Judaism in Russia, and the conduct of the Portuguese colonial policy in Angola and Mozambique to mention, but a few.

Nevertheless, the world has witnessed unspeakable torrent of violence, repression, slaughter, carnage, massacre and many other forms of persecutions or wiping away of the minorities or majority. Terrible as they have been, none is at par with genocide. As it would be accounted in this study within the period of three months in 1994, hundreds of thousand Tutsis and politically moderate Hutus in Rwanda were murdered during the 1994 Rwandan genocide.

2.6.1. Factors Justifying Events as Genocide

Having finished defining the concept of genocide and discussing the two categories of genocide, it is noteworthy to mention factors that once present in a given situation, may be used to justify the events as genocide. These include the followings:

- There should be a deliberate intention of or by the actor to kill a large number of people.
- There should be sufficient proof confirming that the intent to kill had existed before in the form of policy, program, arrangement and the like by the actor in advance (prior) in preparation to exterminate a certain group of people.
- The extermination must not be carried out in self-defense or reprisal. For instance when the United States of America bombed the cities of Hiroshima and Nagasaki with an atomic bomb, had the Japanese government in retaliation bomb as well the states of Washington DC and Texas and

wipe out all the people, that would not have been a crime and consequently not a genocide case.

With regards to the events prior to the 1994 conflagration in Rwanda, we argue that the events in Rwanda in 1994 fully meets the definition of genocide as articulated in Article 2 of the International Genocide Convention of 1948. Regarding the deliberate intention of or by the actor to kill a large number of people, through this study it was learnt that a list of targets had been prepared in advance before the 1994 Rwandan genocide. In addition to that Radio Mille Collines broadcasted names, addresses and even cars' number plates of the Tutsis minority. Killers with machetes in one hand and transistor radios in the other hand listening for the directives on their victims butchered their targets at checkpoints and heavily guarded roadblocks around Kigali.⁴⁹ One may wonder how was it possible to execute the killings to that scale shortly after the downing of president Habyarimana's jet.

Reflecting to an old English proverb that a person forewarned comes fully armed, it compels me to argue that the 1994 Rwandan genocide triggered by the death of president Habyarimana was deliberately intended and well planned.

Moreover, following the ongoing ICTR trials for the people suspected to have committed genocide; conspired to commit genocide; direct or indirect publicly incited to commit genocide or complied in genocide; it was established that Pauline Nyiramasuhuko, a former Minister of Family and Women's Affairs, had marked out in her diary the names and addresses of Tutsis

49 Power, S. (2001) "Bystanders to Genocide," *Atlantic Monthly*, September 2001, p. 154.

who should be exterminated during the 1994 Rwandan genocide. This diary was proven by Antipas Nyanjwa, a handwriting expert from Kenya as genuine, and has been accepted by the ICTR as a relevant exhibit. This provide sufficient proof confirming that the intent to kill and a program arranged by the perpetrators of the 1994 Rwandan genocide had existed in advance, in preparation to exterminate a certain group of people in Rwanda in 1994⁵⁰. Besides, as would be demonstrated in this book the 1994 Rwandan genocide was not carried out in self-defense or reprisal but rather for various other reasons that has been traced in this study, dating many years back prior even to the coming of colonialists in Rwanda.

Therefore, we are strongly convinced and argue with great confidence that the events in 1994 Rwandan genocide fully meets the definition of genocide as articulated in the Genocide Convention adopted by the UN's General Assembly in 1948.

To sum up, in this chapter, we have tried candidly to delineate some causes of conflict and conflict preventive strategies in the world. Some examples have been cited across the globe. Examples from Africa have also been given. We have noted that, in theory, it is possible to define a conflict cycle in terms of peace-conflict-reconciliation. The actual situation however, is far more complex. It is often quite difficult to demarcate exactly the moment at which peace or normality has been transformed into conflict or vice-versa.

A clear progression from conditions of peace to heightened socio-political tensions culminating in violent conflict before receding back again to peace is an exception rather than a norm.

50 Modestus, K. "Genocide Diary is Genuine," Says Expert, The Guardian Newspaper, November 6, 2004.

Similarly, at a given point in time, certain parts of a country may be at peace while conflict lingers in others, flaring up periodically. Many countries are characterized by both peace and conflict. But peace is achieved only when the root causes are explored and resolved.⁵¹

Furthermore, irrespective of the stage of the conflict, under the rubric “prevention action,” there are a wide range of instruments available for mediating and settling conflicts. In any case, it becomes particularly important to monitor and prevent the stockpiling of arms by the conflicting parties. Though short-term measures will be necessary to de-escalate the conflict, long-term efforts aimed at peacebuilding should continue and may even be intensified. Conflict prevention, peacebuilding and resolution initiatives need to be closely coordinated if they are to play an effective role in support of other activities and will have the most effect if targeted at the root causes of the conflict. In any case, all these initiatives require those coordination among the security, policy, diplomacy, humanitarian and development cooperation organizations.

This is a challenge which all together we should confront. As the world has become a global village, what happens in one part of the globe today, affects the other parts of the world in one way or the other. As the then UN Secretary-General, Mr. Kofi Annan, once rightly observed, both Africans and non-Africans alike should summon the political will to rise to the challenge. The time is long past when anyone could claim ignorance about what was

51 Hizkias, A. 1993:4.

happening in Africa, or what was needed to achieve progress. It is a responsibility that we must all face. The UN stands ready to play its part.⁵² So must the world. So must Africa. It is in light of this that the next chapter attempts to reflect on effects of conflicts in Africa to the continent and the international socio-economic development as a whole.

⁵² Annan, K., op. cit. p. 30.

CHAPTER 3

REFLECTIONS ON THE POLITICAL AND SOCIO-ECONOMIC EFFECTS OF AFRICAN CONFLICTS

As seen in the previous chapter, the causes of conflict in Africa are as diverse as the continent itself. They have included wars of liberation and independence, border disputes, authoritarian, dictatorial rule, superpower Cold War interference in local conflicts, poverty and unemployment, uneven poorly distributed development, ethno-political movements, religious intolerance, economic and financial crises, land and environmental stress as well as cultural self-assertion. These causes are all closely interrelated and conflicts rarely have one simple explanation.

Since the 1970s, but even more so in the 1990s, while the causes of conflict are usually country specific, the conflicts themselves usually take on *regional dimensions*. This was evident in Southern Africa during the struggle against white supremacy and apartheid; in the Horn of Africa in the 1980s; from the impact

of the conflict in Liberia on the rest of West Africa and even more dramatically in the recent crises in the Region of the Great Lakes.⁵³

As noted above, the April 1998 Report of the United Nations Secretary-General to the Security Council on the causes of conflict and the promotion of durable peace and sustainable development in Africa has contributed greatly to an understanding of the problems besieging many countries on the Continent. Of course, the Report traces these sources to historical legacies, internal and external factors, economic motives, etc. But as Tindwell correctly argues, conflicts do not occur within a vacuum.⁵⁴ Their consequences are always very devastating.

The conflicts have both short and long-term impact on the society. The situation implies lack of social stability and threat to human, economic and institutional development. Efforts to estimate the cost of conflict usually focus on human, political, economic, ecological, social, cultural, psychological and spiritual costs. It is against this backdrop that in this chapter, we briefly examine some socio-economic effects or consequences of conflict on the continent as follows:

3.1. Missing Lives

The human cost implies the number of dead and wounded, displaced and war induced famine victims. There are several codes of conduct governing military behavior. The most widely respected should be the Geneva Conventions regarding the “protection” of

53 Mpangala, G. (2000), pp. 1-5.

54 Tindwell, A. C. (1998), p. 2.

civilians and war prisoners. Currently this is not the case. The big majority of victims of conflicts in Africa, both those that have recently ended and those still raging are unarmed civilians.

According to the ADB Report, between 1980 and 1993, the total death toll caused by the “Murderous phase of Angolan War,” the slow pace of rehabilitation of health institutions and drought relief in Mozambique, and the famine induced death in the Sudan and Ethiopia, stood at *about seven million*. This does not include the 1.5 million people who lost their lives in similar circumstances in Rwanda and Burundi alone between 1994 and 1998.⁵⁵

Undoubtedly, the data notwithstanding, it is safe to argue that the number of people who have lost their lives and property in Africa as a result of conflict has been devastating to the Continent, its sub-regions, countries and local communities. The overwhelming majority of casualties are presumed to be unarmed civilians, especially infants and children below five years as well as elderly people. These two groups are particularly vulnerable to malnutrition, absence of basic medical care and displacement. Apart from the collapse of medical health services, the main cause of death has been lack of capacity to import and transport food during droughts and crises as in the Sudan and Angola. Direct combatant casualties accounted for less than five percent. In Rwanda and Burundi, 95 percent of the victims who lost their lives were civilians.

A new phenomenon in this type of conflict is the easy availability and increasing use of light weapons, including anti-

55 ADB Report (1995), p. 36.

personnel mines. Even when the international community announces a ban on the sale of armaments to potential conflict areas, the flow of arms continues and many external companies and machinery organizations reap profits. All states have the right and responsibility to defend themselves by force of arms if necessary. But they should not become stooges in the global proliferation of arms, while profiteering immoral individuals and companies reap financial benefit from Africa's suffering and destruction. We suggest that African countries need to reduce military expenditure and armed aggression in the region, should sign non-aggression pacts and security cooperation agreements, participate in joint military training exercise and patrols, harmonize policies against illegal arms trafficking, and monitor the exportation of arms to areas of conflict and tension.

Another area of concern is the growth of paramilitary forces on the Continent which are not bound by any military code of conduct. The conscription and forced abduction of children both boys and girls, as fighters and sexual slaves is an affront to human rights and dignity. In the Liberian war, it is estimated that 70 percent of the former combatants were children of 15 years and under.

The same scenario almost applies to the war in Sierra Leone. Such factors and elements of conflicts wreak havoc during wars and perpetuate violence long after the peace process has begun. The large numbers of victims of anti-personnel mines in numerous countries, the growing incidence of rape, assault and other forms of violence against women, girls, and the overall alarming spiral of violence and criminality in post-conflict societies are but a few cases in point.

3.2. Anti-Personnel Landmines

In many of these countries, one of the vestiges of war is hidden landmines. They maim or kill many innocent people. Mines are often laid with the intention of disrupting the social and economic life, including production, and are laid in path used to fetch firewood and water as well as cultivated land. Angola is on record to be the most mined country in the world after thirty years of conflict. A third of the country is land-mined. In this context, pursuing agricultural production and fetching firewood and water are fraught with danger. Obviously affect not only production but inter- and intra-regional trade.

In Mozambique the problem is on a smaller scale but it is nevertheless immense, with an estimated one million unexploded mines.⁵⁶ Expensive mine clearance projects have to be a major part of reconstruction in these countries. Mining of roads has implied unnecessary detours increased the cost of time and fuel and hiked the price of goods. The cost of landmines is not only the war-induced environmental destruction and the maimed and the dead during the conflict, but even when the conflict has been resolved their presence remains a terrible risk in times of peace, especially to farmers and livestock.

It is worth recalling that the late Princess Diana of the United Kingdom visited Angola to publicize the landmine problem and raise funds to demine the territory and to assist the maimed and crippled survivors. Pledges were made but government programs and NGOs activity to demine and assist victims are currently

⁵⁶ Newsweek, March, 1990.

under-funded, due to donor fatigue and to preferred investment in broader health and other social sector programs. Her death in August 1997 was definitely a blow to the international campaign to raise funds and ban the use of land mines by belligerent States.

3.3. Refugees and Displaced Persons

Conflicts have caused massive displacement of populations throughout the African Continent. It has been observed that “parallel to death though less permanently and irrevocably devastating is displacement, internally and as international refugees” (ADB, 1995: op. cit). Available records indicate that more than 28 nations in Africa are either producers or recipients of refugees and in most cases they are both. Up to July 1999, two countries, namely the United Republic of Tanzania and Cote d’Ivoire were the only nations in Africa which were recipients of refugees but non-producers.

In recognition of this, the 35th OAU Summit in Algeria decided to award the Presidents of the two countries with medals. President Benjamin William Mkapa of the United Republic of Tanzania received the award on behalf of his country. On that occasion, he made an impromptu speech that received a standing ovation. The President said, *inter alia*:

...While receiving and ministering of refugees was a combination of an enormous burden and an honorable duty, the Continent must now strive to prevent civil and inter-state wars and having started, concerted efforts

*should be made to put to an end these catastrophic adventures.*⁵⁷

It is estimated that currently there are 16 million refugees and displaced persons in Africa. This figure deeply illustrates the magnitude of the problem that has become a permanent characteristic of the socio-economic and political landscape in Africa. Unfortunately, there is still a lack of research on the status of refugees and displaced persons; but it is known that female refugees and displaced persons are particularly disadvantaged in terms of access to education, health services and resources to establish independent livelihoods. Additionally, female refugees are often exposed to sexual violence with an intensified risk of HIV/AIDS transmission, unwanted pregnancies, etc.

In 1995, more than half of the population of Liberia and more than one quarter of the population of Rwanda and Sierra Leone were either internally displaced persons (IDPs) or were refugees in other countries. Currently, the Sudan is said to be home to more internally displaced persons than any other country in Africa with an estimated 4 million or one seventh of its total population. Other African countries that have large numbers of internally displaced populations with varying estimates include the Democratic Republic of Congo (DRC) with 225,000; Kenya with 210,000; Ghana with 150,500; and Mali with 10,000.⁵⁸ The number is very volatile.

Displacement creates huge problems of protection and assistance. Resources have to be mobilized, camps established

57 Foreign Newsletter, issue No. 1, 1999, p. 1.

58 UNHCR population Rpt; 1996, p. 7.

and managed, information systems set up, field and local support and technical cooperation projects established, national laws harmonized with international humanitarian and human rights standards, and the civil society and NGOs action strengthened. Although NGOs do a great deal to promote self-sufficiency and minimize aid dependency, since displacement is treated as a temporary phenomenon, there is little investment in the transition structures of camps for the displaced. All this involves a huge amount of money and the economies of these countries are almost always rendered stagnant.

3.4. Economic Losses

Countries directly engaged in conflict and the regions in which they are located may be economically affected. In Mozambique between 1980 and 1994, GDP per capita fell by 50 percent. It was estimated that by 1988 in the first four years, the civil war cost in excess of US\$ 15 bn or four times the GDP. During 1980 and 1988, the total cost of Mozambique conflict to the Southern African Development Community (SADC) Member States was estimated at US\$ 60 bn.⁵⁹ For the period 1980-1993, the total GDP loss for the Horn of Africa as a result of conflicts in Ethiopia, Eritrea, the Sudan and Somalia was estimated at about US\$ 25 million.⁶⁰

In West Africa, the Liberian war between 1989 and 1993 reduced the country's GDP by more than 75 percent, while the GDP declined by half between 1991 and 1993.⁶¹ The recent conflict in the Great Lakes Region has been equally devastating. The per

59 UNCTAD, 1998, p. 139.

60 ADB, 1996, p. 39.

61 UNCTAD, 1997, p. 139.

capita GDP of Burundi, Rwanda and the DRC together declined cumulatively by 63 percent from 1990 to 1996, an average annual rate of nine percent. In Burundi alone the economy reportedly contracted by more than 20 percent over the last four years⁶² (ADB, 1998:16). These costs also have international dimensions.

Besides, the cost of refugee resettlement, in 1987-1991, UNHCR spent \$126 million on refugee programs while the United States spent \$97.6 million for humanitarian aid destined for Operation Lifeline in the Sudan during 1989 to 1993.⁶³ The loss of human and institutional resources, decline in production, the move from a formal to an informal economy, disruption of transport and marketing systems and widespread destruction of infrastructure all have long-term consequences.

3.5. High Social Costs

In most cases, the conflicts trigger the collapse of essential social systems, health and educational services have failed and life expectancy has fallen. The end of conflict normally does not translate into quick recovery, especially where the human, institutional and infrastructure losses have been substantial.

With respect to the women folk, the war and its end have always led to lack of employment, accommodation and a breakdown of the social fabric. This has resulted in a great increase in prostitution (*changudoa*) as well as the proliferation of other kinds of sexual survival strategies even among young girls.⁶⁴ Dislocation has also

62 ADB, 1998, p. 16.

63 UNCTAD, *op. cit.*

64 Baden, 1997.

led to substantive increase in begging, street girls and boys, petty crime and illegal trade. Alarming too has been the rapid increase of HIV/AIDS and other sexually transmitted diseases (STDS) in refugees camps, areas occupied by the internally displaced in the host countries as well as in the countries and areas of origin to which many displaced persons return.

3.6. Conflict-Induced Changes in Women's Gender Roles

Conflicts, particularly displacement and refugee experiences change people's political views. One of the major results of the conflict in Rwanda was widowhood, requiring increased women participation in income-generating activities and community affairs. Another major result was the increase in the proportion of women in the population from just over half to about 70 percent higher in areas hardest hit by the massacres.

For both men and women whether a conflict situation opens up disadvantages or opportunities in economic, educational or political activities depends on how distressed the situation is their level of community organization, extent of assistance from aid agencies and individuals' own determination to succeed. The way in which women respond is largely a factor of their pre-war positioning in the society and the economy. The coping mechanisms of professional women without jobs differ from those of the rural women who intensify subsistence agriculture and livestock rising. Many rural and urban dwellers resort to small businesses.⁶⁵

One of the visible impacts of war has been the heightened role of women in the productive economy. In Angola, the war

⁶⁵ UNECA, 1999, p. 30.

intensified a parallel economy in which women are said to control nearly 80 percent of the distribution. In Ethiopia, a large number of women were employed in the construction industry as unskilled day laborers while other with more assets engaged in the growing import trade by bringing in goods mostly from the Middle East and Asian countries. They used the country's strategic location to gain heightened modality and international business experience. Some Ethiopians went to live and work in the Middle East, Europe, and the USA from where they sent regular remittances to their families in Ethiopia.

In a society steeped in patriarchal and clan structures, many Somali women had to take on new roles, often as bread earners for their families. Some have been the beneficiaries of the micro-credit loans and, in many cases women are the ones largely responsible for whatever reconstruction has been taking place in communities.

3.7. Post-Conflict Reconstruction

It is normal practice that once a peace agreement is signed, a peacekeeping force is established in order to ensure that all the conflicting parties observe the agreement during the process of implementing and consolidating the agreement. In Africa, the forces may be from the UN, the OAU, regional bodies or from a combination of the three or two.⁶⁶ Correspondingly, reconstruction and rehabilitation activities should follow. However, the situation is not compartmentalized and is far more complicated. Simultaneously, action is needed on all fronts, with relief and rehabilitation and development intertwined. The reconstruction

⁶⁶ Mpangala, G., op. cit., p. 117.

period has to include both creative measures such as emergency assistance, and preventive activities for reducing recurrent violence and sustaining peace. Integrated humanitarian and development approaches have to be pro-active and seek to reduce the gaps in priorities planning and programming between governments and agencies.

Governments tend to pick up the regions of governance slowly, and it takes time for agencies to get funding and organize and establish their presence in the most distressed areas. At the level of the civil society, women peace and development initiatives do not have reliable budgets and may be overshadowed by large reconstruction efforts and institute frameworks. However, with a clear mandate and supportive institutions behind them, their traditional values and mediating methods can make a significant contribution during the phases of reconstruction to halt the destruction, renew economic development options and rebuild a cohesive social fabric.⁶⁷

Development initiatives can make the reconciliation and reconstruction process more sustainable. Nevertheless, the process is not linear. It is a long-term process with various entry points depending on political will, domestic resources including organizational management and capacity building as well as external assistance. Furthermore, the implementation and consolidation of a post-conflict phase also require some socio-economic measures. In view of this, some of the post-conflict measures are:

⁶⁷ UNECA, *op. cit.*, p. 33.

3.7.1. Immediate Post-Conflict Reconstruction

In the immediate post-conflict reconstruction phase, when the reign of terror is still close, it is the local people who must start to clean up the debris, bury and mourn their deceased until a new government and local, regional, international organizations and agencies establish their presence. Local and foreign-based NGOs trickle in to tackle peacebuilding, provide emergency relief assistance, particularly, in the supply of food and medicines. Local, national and international initiatives may get off the ground more quickly in circumstances where as international peacekeeping force is successfully keeping the peace and helping to reorganize and re-establish legitimate authority. In such early stages of reconstruction where the government is in formation, armies and militias are disarmed and disbanded and unaccompanied children and orphans are placed in orphanages or foster care, if reunification with extended family is not possible. The situation of children in the post-conflict state demands immediate attention in most cases, as does the return of destitute refugees and the internally displaced persons.

The role of the armed forces, security forces and militias is frequently questioned during this time, especially if international peacekeeping forces have been deployed. Strong feelings tend to develop in post-conflict situations that military expenditure should greatly decrease and that the army should be trained to better understand the needs of the civilian population, and to participate in peacetime infrastructure and community development projects. Parallel with this is the need for both political and ideological transformation.

Food and medicines are in demand as is clean and safe drinking water. Because refugees and displaced persons are gradually returning, basic infrastructure and services have to be restored as quickly as possible. The ravaged economy has to pick itself up and start again, as too does agricultural activity to produce food and cash crops. In some cases, as in Angola and Mozambique, hidden and unexploded landmines continue to take lives and maim, thereby discouraging agricultural activities over a large area.

However, as peace sets in, planned reconstruction and development activities can begin to replace *ad hoc*, informal survival mechanisms. To this effect, the immediate post-conflict situation tends to focus on relief measures and on dealing with the immediate security consequences of war. Later phases of assistance focus more on developmental goals and initiatives.

In many post-conflict countries, the physical rehabilitation and reconstruction activities offer opportunities for employment in construction to both men and women. Since the 1980s, African women, many of whom have experience with building transitional homes, have been venturing into the modern construction industry, mostly as unskilled daily laborer, digging, stone breaking, and carrying sand, gravel, rocks and water. Nevertheless, with a little training they could be employed in more skilled areas such as machinery, wood and metal work, supplies management and so forth.

3.7.2. Political Reconstruction

This requires first, the ability of leaders to offer the people a credible political alternative to violent change, security and stability

to pursue the rebuilding of their lives. Consensus is needed both formally and informally, on how power is to be shared and resources used. The framework of reconstructing the political platform has to be based on reconciliation, reconstruction and development. This platform has to be communicated to the people and governments should be accountable for their performance. Social and economic advancement is also highly dependent on the political framework. It should not stifle popular participation, civil society and private enterprises but empower and enhance them. Political reconstruction tends to fail unless the emergent post-conflict appearance to governance supports the participation of all ethnic and other interest groups in the society. This requires a correct assessment of needs and conditions prevalent in the society as well as the identification of owners and stakeholders of the peace agreement.

3.7.3. Economic Reconstruction

Economic reconstruction focuses on priority areas of growth and rehabilitation within the national development plan. Pre-war infrastructure for agricultural and industrial production, and marketing and distribution need urgent attention; so do the commercial and financial sectors and the social services that support operations. Human resources pools have been depleted, therefore staffing and qualified personnel, including managers have to be recruited and trained. Structurally, all sectors cannot reach pre-war capacity overnight. Assistance from external financial institutions is needed at this time, in the form of new finance as well as through debt rescheduling and cancellations and other forms of financial relief.

Obtaining the needed international financing, for example, from the World Bank, normally requires implementation of specific Structural Adjustment Programs (SAP) and exchange rate management strategies. Structural, political and economic liberalization impacts greatly on the social sector and should be guided by a gradualist rather than a shock approach that further traumatizes the people. For instance, some economists have called the 1994 situation in Rwanda an “economic genocides” due to the drop in the price of coffee combined with the SAP, which has also been blamed for provoking social unrest. The speed of economic recovery in these situations is a function of the level of pre-war production and infrastructural capacities, extent of war damages and financial and economic management in the aftermath. A politically enabling environment is the key to emerging domestic and external investment. The private sector has to feel safe to invest again, and needs tax and development incentives. The informal sector needs appropriate incentives for the African context, including micro-credit, business premises and training.

As the sector employing the majority of rural-based Africans, agriculture has to be revitalized as a matter of top priority. Food security is usually destroyed or threatened by years of neglect during fighting. Land tenure, especially in areas occupied by opposing forces for many years may be difficult to establish. Reform of land law, resettlement plans and land distribution programs are sometimes preconditions for stimulating agricultural production and productivity. Lack of seeds and farm implements, inefficient administration and extension services to this sector, are serious constraints even when land access is not a particular problem.

3.7.4. Social Reconstruction

Rebuilding social services and institutions (like water, electricity, health care, education, transportation) despite the heavy investment required, is actually somewhat easier than the more intangible aspects of rebuilding trust and solidarity in a sadly traumatized and bitter situation.

The government has to oversee the construction of new infrastructure, facilitate the return of refugees and the displaced, and coordinate national and external assistance for maximized welfare. Policies and programs at the national level can lay the foundation for a new social order, but it is societal interaction and the civil society that best respond to the psychosocial illnesses and war-ravaged inter-ethnic relations.

Formal and informal education and training are also an effective way to influence the new social and political guiding philosophy of governance, particularly in relation to peace education and inter-cultural communication. The latter function is particularly important in highly politicized and paralyzed societies, with high rates of violence. Those with divisive ideology such as ethnicity, regionalism and racism should transform into a new nation-based non-divisive ideology.

3.7.5. Relief vs. Development in Gender-Sensitive Reconstruction

Reconstruction in the post-war context is both humanitarian and development oriented, with the former tending to predominate in the early days after the war has ended. Humanitarian agencies

often take quick action in emergencies but frequently lack the mandate and development in a sustainable way. Operational linkages have to be set up as speedily as possible in the immediate post conflict period of organizing for peace. Both types of assistance tend to implement their limited mandates in preferred areas instead of cooperating with each other regarding comparative advantages in addressing the needs of affected population and of institutional capacity-building to cope with the chaos and destruction. As reconstruction progresses, emphasis slowly shifts from humanitarian to development. The main idea is that development agencies will move upstream as the humanitarian ones move downstream.

The emerging consensus is that collective action has to be led by national actors and peace activities able to mobilize constituencies around reconciliation and reconstruction goals. The immediate post-conflict era is always characterized by low national capacity, which has to be built up gradually with international assistance. However, sustainable peace requires that the national government and civil society should be the legitimate owners of the peace process.⁶⁸ Peace brokering and anchoring is still needed. National and local government structures have to be reorganized and rebuilt, with special recognition of the fact that minority groups, victims, returnees, and other vulnerable groups need protection and assistance to rebuild their lives in safety and security.

In the immediate post-conflict period, a transitional framework begins to operate that may or may not lead to durable

⁶⁸ Mpangala, *op. cit.*, p. 120.

peace and stability. Whatever their shortcomings, international agencies and NGOs must work with national actors and within the institutional and financing arrangements if development is to reach and surpass prior levels. Traditionally, reconstruction supported by new governments and by the international community begins to restore infrastructure under uncertain security circumstances. Peacekeeping forces may still be on duty just as landmine clearance may be underway. Disarmament of combatants and paramilitary forces is a first priority.

In post-conflict societies, there tends to be easy availability of military weapons and small firearms. The fighters have to be demilitarized, re-deployed or disbanded. Demobilization of children from the armies is necessary but often problematic since many are destitute without the army, have no family or have been separated from them. Most do not want to be put in institutional care, preferring substitute care and guardianship arrangements.

From the above, we note that the costs of war or conflicts are very high not only for the countries involved but the sub-regions, the continent as well as the international community as a whole. This is both during and after the conflict. It is worth recalling that the war ravages the socio-economic fabric of the country including infrastructure, trade, industry and investment. This is not a conducive environment to potential investors. As a result, FDI flow into the country and region is discouraged. FDI contributes to creation of employment and other opportunities that contribute to the GDP.

Further, instead of the ODA being directed to socio-economic development programs, the assistance is diverted to other issues

such as sponsoring negotiations, handling refugees and Internally Displaced Persons (IDPs). This could have been avoided had there been no war/conflict. In a nutshell, therefore, the basis for the way forward has to be the collective support of all the stakeholders. It is in this context that we look at how the African continent has tried to deal with this situation from an historical perspective.

CHAPTER 4

THE OAU, FROM CHARLTON TOWN HALL, MANCHESTER, TO AFRICA HALL, ADDIS ABABA

The Fifth Pan African Congress was held at the Town Hall, Manchester, from 15 to 19 October 1945. For the African on the continent, it remains the most important congress ever, considering the manner in which it addressed the question of colonialism and set the independence movement in first gear. It was also the momentum deriving from the Pan African Movement, which culminated in contacts and consultations leading eventually to the creation of the Organization of African Unity (OAU) in Africa Hall, Addis Ababa, Ethiopia, on May 25th, 1963.⁶⁹

For the first time, a large number of Africans from the Continent were in attendance. They included: Wallace Johnson (Sierra Leone), Obafemi Awolowo and Nnamdi Azikiwe (Nigeria), Jomo Kenyatta (Kenya), Hastings Banda (Malawi), Peter Abrahams (South Africa), Ako Adjei and Dr. Kwame Nkrumah

69 Salim, A. S. Report of the Organization of African Unity (OAU). Addis Ababa, 2001, p. 2.

(Ghana). African political parties fighting for independence were also represented.

The Congress Resolution put emphasis on the need for the speedy decolonization of the African continent. The congress document entitled, "The Challenge to the Colonial Power" stated that the delegates to the Fifth Pan African Congress believed in peace. Nevertheless, if the Western World continued to rule humanity by force, then the Africans would have to resort to force as a last measure in the effort to achieve liberty, even if that force destroyed them, and the world.

This was a radical departure from the previous positions that appealed to the reasonableness of the colonialists instead of proffering a direct political challenge. The result is that a little over a decade after the Manchester Congress unanimously approved and adopted the declaration to the colonial peoples of the world, Ghana won its independence in 1957.

It should be recalled that before the 1945 Manchester Congress there had been a series of such meetings, the first being the 1st Pan African Conference held in London Westminster Central Hall from 23rd to 25th of July, 1900. It was convened by a Trinidadian Barrister then based in London, Mr. Henry S. Williams, and Dr. W.E.B. Du Bois who drafted the letter to the Queen of England. However, what came to be known as the Pan African Congress series were organized by Dr. Du Bois on February 17th - 21st, 1919. The meeting which took place in Paris demanded that the land in the colonies should be reserved with the natural resources therein for the natives. The second Congress was held in September 1921 with successive sessions in London, Brussels and Paris. The third

Pan African Congress was held between November and December, 1923. The first session took place in London on November 7th and 8th, 1923. The second session was held in Lisbon on December 1st and 2nd, 1923. The fourth Pan African Congress was held in New York, August, 1927.

It is worth recalling the famous declaration of Ghana's first President Kwame Nkrumah, who asserted that the independence of Ghana was meaningless unless the rest of Africa was free. Hence, in April 1958 Nkrumah called a meeting in Accra, of all the then independent states of Africa, namely: Egypt, the Sudan, Libya, Tunisia, Liberia, Morocco and Ethiopia. This became the first Pan African Conference to be held on the African continent. During the Conference, the late Dr. Kwame Nkrumah observed that Pan Africanism had finally returned home, and had therefore, ceased to be a diaspora-inspired and diaspora-led movement. The resolution at this conference reclaimed the central demands of the 1945 Congress in relation to self-determination for all African peoples with the added boost that there were no independent States that could offer support.

To buttress the strong and militant resolutions of April 1958, in December 1958, another conference was called, this time comprising both independent States and nationalist movements. At this meeting, 62 nationalist movements/groups were represented. The conference pledged political, moral and diplomatic support for all liberation movements and endorsed the principle of freedom by any means necessary, including armed struggle. It also sensitized the groups to the need for continental union as the goal of national independence.

The 1960s saw the formal decolonization of most of the states, such that by 1963 there were thirty-two (32) independent States. Increasingly however, there appeared divisions both of emphasis and ideology between the nationalist leaders over the kind of unity desired and achievable. Some stood for immediate political union (Casablanca Group) while other championed the gradualist approach (Monrovia Group). Several efforts were made to reconcile the two camps. Twice they failed.⁷⁰ Nevertheless, in June 1962, Sekou Touré and Emperor Haile Sellasie decided to work together to merge the Monrovia and Casablanca Groups.⁷¹

In May 1963, both camps represented by 31 independent States met in Addis Ababa in Africa Hall, and formed the Organization of African Unity (OAU), whose Charter and governing principles were a compromise between the aspirations of the two groups. Critics described the OAU as a toothless bulldog while other counsel a more sympathetic understanding emphasizing the modest success of the Organization in the early years in the area of diplomatic, political and even material support for African countries still under colonialists and settler minority rule.

If we put the OAU in the same dialectical evolution like the Pan African Movement from 1900 when the Congress merely drew attention to the sufferings of the natives to 1945, when they demanded self-determination as well as independence without equivocation, maybe we can be more sympathetic about the OAU.

70 Zartman, I. W. (2001), *Preventive negotiation: Avoiding Conflict Escalation*. Rowman & Littlefield Publishers, London.

71 Thompson, W. S. (1969), *Ghana's foreign policy, 1957-1966: Diplomacy, Ideology and the New State*, Princeton University Press, Princeton, New Jersey.

This means understanding it as an organization which was relevant in 1960s, but which needed to be radically reformed to respond to contemporary requirements.

The Summit meeting of May 1963, therefore marked a turning point in the foreign policies of independent Africa as well as of the entire continent. Previous ideological differences that divided the Continent in two blocs namely, Monrovia and Casablanca, by no means disappeared. But, they were sub-merged in the combined atmosphere of euphoria and seriousness that reigned at the meeting. At that Summit, leaders like Ahmed Ben Bella, first President of Algeria, declared in Addis Ababa at Africa Hall that “we must all prepare to die a little for the liberation of our continent”.⁷²

The OAU was established on the basis of an Ethiopian Draft, along the lines drawn from both the Casablanca and Monrovia Charters, and it included an annual Summit meeting, a Council of Foreign Minister, a Secretariat and a number of special commissions. Liberia, Nigeria and Ethiopia were most active in drawing up the Charter. “Unity” desired as solidarity and cooperation among sovereign and equal States vindicated the ideas consistently expressed by West Africa’s oldest statesman, President Tubman of Liberia at his first meeting with Sékou Touré in 1958.

Four elements contributed to the success and impact of the Addis Ababa Summit. One was the careful preparation resulting from the efforts of the Casablanca and Monrovia Groups almost

72 Salim, A. S., op. cit., 2001, p. 4.

from their inception, Tunisia's work towards North African harmony and the third conference of Independent African States held in Cairo.

Second element was the nearly universal attendance which indicated that the local issues of the past had been relegated to a secondary level although by no means resolved, and that the traditional divisions between Black and Arab Africa, between Anglo-phone and Franco-phone States, between radicals and moderates, and among rival personalities were not important enough to prevent a common meeting.

Besides, the impressive attendance imposed on the delegates the need to come to some agreement. In the middle of the conference when spirits had begun to flag because of an apparent lack of harmony, a speech by Emperor Haile Selassie reminded the Heads of State and Government that the foreign press, only too conscious of the failures of past attempts at unity, was scornfully predicting failure again at Addis Ababa. The speech roused the delegates and impressed them with the need for more than formal attendance.

Third, the results of Addis Ababa, combined with the aims of the previous groups, alliances and organizations, eliminated rivalries by absorbing their purposes. Goals of political consultations, economic cooperation, and assistance to independence movements were brought over from the conference of independent African states, the Casablanca and Monrovia Groups and the All African Peoples Organization (AAPO). With the establishment of the OAU, therefore, previous groupings withered away.

Finally, the Addis Ababa meeting meant an effective resting place in the search for African Unity. Agreement on the specific formula did not destroy the arguments of States like Ivory Coast – which wanted non-interference by supra-national institutions, or Ghana which believed in the creation of a Pan African Federation. But it did establish an initial consensus, and working institutions based on the consensus. Only after these had been tried and tested for several years could it be determined whether or not they were adequate to the needs and wishes of their members and to the changing African situation.

Indeed, Western and Northern Africa relations immediately put the OAU institution to the test. Most serious was the outbreak of hostilities between Morocco and Algeria over their undesignated border. Initial military action along the frontier that had been troubled by incidents for several months broke out in early October 1963.

It continued despite bilateral negotiations and attempts at mediation by Tunisia, Ethiopia and the Arab League. Later in the month on the suggestion of Algeria, the matter was brought before a special quadripartite summit meeting of the OAU at Bamako, where Hassan II, Ben Bella, Keita and Haile Selassie worked out a Cease-fire Agreement. The Bamako Declaration also called for an urgent meeting of the OAU Foreign Ministers at Addis Ababa in mid-November the same year to create a special Arbitration Commission.

The Commission composed of Mali, Senegal, Ivory Coast, Nigeria, the Sudan, Tanzania and Ethiopia, met in Abidjan in early December 1963, in Bamako in late January, in April in Casablanca

and in Algeria in May 1964. The Africanization of the problem brought several results: it symbolized North Africa's membership on the African world and showed the greater vitality of the OAU over the Arab League.

By giving the new Organization something to do, the border war both put it to test and prolonged its life. The OAU succeeded in stopping the war because the rest of Africa was more deeply committed to unity than to belligerence, and also an armistice fit with both Morocco's goal (to bring the unsettled border to Algeria's attention) and Algeria's aims (to end the war that it was losing).

The OAU did not succeed in establishing the frontier because it was impossible to make a technical decision either on the border or on the "war guilt." Besides, it did not have the authority to make a political decision on either matter.⁷³

Needless to say, many West African problems found a befitting settlement in the Second Cairo Summit held in mid July 1964. The occasion was used to reconcile bickering States. Bouguiba brought together Hassan II and Ben Bella. However, it was not until ten (10) months later, that the two Heads of State finally met on their own soil, in the Moroccan town of Saidia, and Ben Bella at least agreed to study the frontier question. Hassan II's presence at the Conference, in alphabetical order next to Mauritania, marked a noticeable relaxation of the Moroccan irredentism pressures, and permitted the two delegations to agree on the cessation of radio propaganda.

73 Murray D. J. and Viotti (1994), *The Defense of Policies of Nations: a comparative study*. The Johns Hopkins University Press, Baltimore and London, p. 545.

On the other hand, an OAU resolution specifying the legitimacy of colonial frontiers – AHG Res 16(1) was introduced by Sékou Touré while the late Dr. Nkurumah came up with a renewed plea for immediate political unity. Dr. Nkurumah's resolution was turned into a weaker one recommending a study of the Pan Africanist approach. However, an agreement was finally reached on three matters: the site of the permanent seat (Addis Ababa instead of Dakar or Lagos), the choice of the Secretary-General (Guinean Diallo Telli in preference of United Arab Republic (UAR) candidate – Emile Zinsais with four assistants from Nigeria, Algeria, Dahomey and Kenya) and the venue of the 3rd Summit – Accra, Ghana.

Worth recalling is the fact that a nine country Liberation Coordination Committee comprising Guinea, Algeria, Senegal, Nigeria, Tanzania, Uganda, Congo Brazzaville, Ethiopia and Egypt was established to administer aid to anti-colonial liberation movements. Its headquarters was in Dar es Salaam, Tanzania.

The Organization had the following goals: to promote the unity and solidarity of African countries; defend the sovereignty of members; eradicate all forms of colonialism; promote international cooperation having due regard for Charter of the UN and the Universal Declaration of Human Rights; and coordinate and harmonize the policies of Member States in the educational, health, welfare, scientific and defense fields.

Its principles were, *inter alia*, non-interference in the internal affairs of individual African countries; respect for the sovereignty and territorial integrity of individual African countries; and adherence to the sanctity of African borders as defined by colonial powers. Besides, with respect to security matters, the OAU rejected

Nkrumah's argument for a common defense system, i.e. under one Africa High Command. Instead, as we shall see, it created a Defense Commission.

Indeed, all these principles had serious and practical implications for African peace and security. Since 1963, the Continent has experienced a number of challenges to its peace and security, including struggles for independence, inter-states as well as intra-state conflicts. These conflicts included the civil wars in Nigeria, Chad, Liberia, Sierra Leone, Somalia; the wars of Liberation in Southern Africa notably in Zimbabwe, Namibia, and the former Portuguese colonies of Guinea-Bissau, Angola and Mozambique. Others were wars against the Apartheid regime in South Africa, etc. Many of these conflicts were fueled by the Cold War, as the United States and the then Soviet Union fought for ideological hegemony and strategic positions on the Continent.

4.1. The Commission of Mediation, Conciliation and Arbitration (CMCA)

As indicated above, one of the major preoccupations of the Founding Fathers was the management of African conflicts and the question of setting up appropriate machinery for this purpose. To this end, therefore, they sought to fill the vacuum by merely pledging to settle all disputes among themselves through peaceful means. They set up accordingly, a Commission of Mediation, Conciliation and Arbitration under the Charter.⁷⁴

Needless to say, the Commission set up as an autonomous body with its own constituents, brought with it certain "assets,"

⁷⁴ OAU Charter Article XIX.

given that it was the sole organ of the OAU specifically and exclusively charged with conflict resolution, “and that it was conceived as a standing body.” As is well known, however, the Commission remained virtually dormant since its inception.

Indeed, even at first sight, the commission had certain important constraints of its own with regard to the Organization’s preoccupation with conflict. For one thing, its jurisdiction was limited to involvement in inter-states disputes, as distinct from intra-state ones; and for another, it was an organ concerned exclusively with conflict resolution as distinct from conflict prevention.

In fact, the point has been made that even the Committee of Seven Experts set up to produce the Draft Protocol for the Commission of Mediation, Conciliation and Arbitration “were particularly conscious of distinction between work of the mediation and conciliation and that of an arbitral tribunal” a distinction which they describe as of fundamental characteristics.⁷⁵

This may in fact explain why, though the OAU continued to employ the less formalized procedures of mediation, and to much lesser extent, conciliation over the years, it never even on one occasion resorted to the Commission; but rather, only informally through the instrument of individual statesmen, *ad hoc* committees and to a much lesser extent, the Secretary-General. It is significant to note that the procedure of arbitration has never been employed, even within the framework of an *Ad hoc* Committee.

Arbitration, as is known, is a binding procedure. Hence, the requirement that arbitrators should have legal qualifications

75 Wolfers (1976) Looking for Peace in Africa, Addis Ababa, p. 106.

is deemed necessary in these types of proceedings because they perform essentially judicial work. The reluctance of OAU Member States to invoke the procedure of arbitration or any other judicial procedure was already evident at the Founding Conference of the OAU in 1963 which rejected categorically the provision in the Draft Charter for a Court of Mediation, Conciliation and Arbitration to be set up by means of a separate Treaty.

It should be noted that a number of moves were initiated to modify the Commission in order to make it function, but none of them succeeded. It was therefore no wonder that when the Secretary-General submitted his review of activities (1963-1967) to the Fifth Ordinary Session of the Assembly of Heads of State and Government, he disclosed a clear choice on the part of Member States for a less formal political process of dispute settlement. This became the norm.

The *Ad hoc* Committee was for the first time, applied during the Algeria-Morocco conflict in 1963. Since then, it provided a versatile instrument, useful in a number of conflicts. Thus a range of different types of *ad-hoc* committees with a variety of appellations, and different mandates and employing various procedures have been established. One type of non-permanent *ad hoc* committee created continued the use of “Good Offices” committees. An example was the eight-man Good Offices Committee for the Somali-Ethiopia dispute created by the 10th Ordinary Session of the Assembly in Addis Ababa in May 1973. Its mandate, put in simple terms, was to normalize relations between the two states.

Another type of *ad hoc* committee created in the past was the Fact Finding Committee. An example is the ten-member Fact

Finding Committees set up to deal with the Rwanda-Burundi conflict. Its mandate again simply expressed, was to examine all aspects of the refugee problem and make appropriate recommendations.

As is well known from the history of the OAU, most of the disputes submitted to the *ad hoc* committees related to borders, and since the Commission set up its Bureau in Addis Ababa, not a single Member State had paid its assessed contribution. The General Secretariat, therefore, had to lend the Commission necessary funds to enable it to operate. Furthermore, though the Member States had been informed when the Commission Bureau was established, not even one dispute had been referred to the latter.

What followed were several attempts over a number of years to modify the Commission – starting first with the conversion of its status as a permanent body to part-time *ad hoc* body.

*It would now conduct most, if not all, of its business in the territories of the Member States involved in any dispute brought before it, and the Member States concerned would meet all the expenses plus allowances of Members of the Commission sitting on their cases so as to remove the burden of expenditure which the OAU as a whole was reluctant to bear.*⁷⁶

Despite these modifications, the Commission never took off, it died of natural death. The *ad hoc* informal system consisting of the employment of individual Heads of State or eminent persons as well as *ad hoc* committees, thus, prevailed.

76 Amate, C. O. C. (1986), *Inside the OAU: Pan-Africanism in Practice*, Macmillan.

Indeed, during the first thirty years of its existence, the OAU has recorded some successes in conflict management and resolution. As stated above, in the immediate post-independence era, there was a proliferation of conflicts over the definition of international borders. This became a major factor in international relations as many of the newly independent States struggled to come to terms with the arbitrary nature of their colonial inherited boundaries and their implications for nation building. It is in managing these types of disputes that the Organization registered some of its significant successes.

In the 1960's and 1970s for instance, the OAU was successful in resolving a number of border disputes, including those between Algeria-Morocco, Mali-Burkina Faso, Senegal-Guinea, Somalia-Kenya and Ethiopia-Somalia. Another area in which the OAU played a significant role was in helping the liberation struggle against colonialism and apartheid,⁷⁷ especially in Southern Africa. The continental body, in collaboration with the UN, mobilized the international community to act and gather support for the actions of the then Frontline States (FLS) in the struggle for the independence of Zimbabwe, Namibia, and South Africa. This joint effort made it possible for Zimbabwe to win its independence in 1980 while Namibia was able to achieve self-determination from apartheid in South Africa in 1990. Majority rule was won in South Africa in 1994.

The OAU remained active in initiatives to find solutions to the conflict that erupted between the Polisario Front and the

77 Lund, M. S. (1998), *A Region at War: in searching for peace European platform*, Utrecht, p. 56.

Kingdom of Morocco in 1976. Morocco occupied Western Sahara after the withdrawal of Spain. The OAU's main contribution was the establishment of an *Ad hoc* Committee of Five (the Wise Men) constituted at the 15th Ordinary Session of the Summit of the OAU in Khartoum, the Sudan in July 1978 to deal with the Western Sahara dispute. The Committee's report to the OAU in 1979 recommended a referendum to enable the Saharawi people to exercise their right to self-determination. However, the planned UN organized referendum has been repeatedly delayed, though the AU continues to retain civilian observers in Western Sahara.

Mention must be made of the Assembly's resolution, AHG/Res. 16(1) on the inviolability of borders adopted by acclamation in 1964 at its ordinary session in Cairo. By that resolution, the Assembly set up a norm applying the principle of *Uti possidetis* as regards boundaries existing at the time of independence. The successful story has enabled the OAU to avoid many inter-state disputes.

Another case in point emanates from the Assembly's position on the Nigerian civil war in which it reaffirmed Member States' "adherence to the principle of respect for sovereignty and territorial integrity" and expressed their condemnation of secession in any Member State. However, four countries, namely, Tanzania, Ghana, Ivory Coast and Zambia, had recognized Biafra.⁷⁸

Further, the Assembly's formal role-developing norms were of such practical significance that "African States rarely disregard the Assembly's position on such issues..." though not openly. The UN almost always endorses Africa's position as articulated by the

78 Muyangwa and Vogt, op. cit, p. 6.

Assembly, and encourages the resolution of African conflicts on the basis of the Assembly's position.⁷⁹

Notwithstanding the above-mentioned strengths and successes of the OAU, the Organization's Assembly nonetheless, demonstrated certain limitations in terms of the extent to which it can be promptly convened to respond to conflict situations. In contrast to the incidence of African conflicts, the Assembly's sessions are normally irregular. It meets at least once a year "and brief." The sessions are of an average duration of three days. In theory these limitations should be eliminated by the provision for extraordinary session whose deliberations should focus on conflicts on hand. This is by virtue of the fact that the Rules of Procedure of the Assembly provide that the agenda of an extra-ordinary session shall comprise only the items submitted for convening the extraordinary session. The remarkable fact, however, is that the Assembly did not meet in the extraordinary session until January 10th, 1976, in Addis Ababa.

It was in fact to discuss the war in Angola involving the three liberation movements. That did not mean, however, that no attempts had been made at all to convene extraordinary sessions of the Assembly.

On the contrary, several calls were made in that regard. For example, as early as the later part of 1964, both Emperor Haile Selassie and the *Ad hoc* Commission on Congo suggested that an extraordinary session of the Assembly be convened to discuss the Congo crisis.

79 Amoo, S. G. (1992), *The OAU and African Conflicts: Past successes, present paralysis and future perspectives*, George Mason University, p. 13.

Again, following the Unilateral Declaration of Independence (UDI) by Rhodesia in November 1965, there were calls for the extraordinary-session. However, none of the proposals could muster the two-thirds quorum required. There are several probable reasons for this failure in the face of the many major crises which Africa has confronted since the creation of the OAU. Probably the most important is the fact that any attempt to convene more than fifty Heads of State and government, each of whom is preoccupied with pressing domestic or other international affairs, on short notice is difficult.⁸⁰ It is easier to convene Ministers for Foreign Affairs, whose schedules tend to be more flexible and who are perforce preoccupied with international problems, than Presidents.

It should also be noted that, being a club of Heads of State and Government, OAU norms for many years unfortunately discouraged any significant multinational efforts to address internal practices, disputes and conflicts, and thus tolerated some horrible abuses of African societies by leaders such as Idi Amin, Mobutu Sese Sekou, Emperor Bokassa, etc. States overruled opposition elements of any kind within states.⁸¹

Another area in which the Organization fared badly over the last 30 years was in the field of peacekeeping. The Chad crisis furnished the first occasion ever for the OAU to mount a peacekeeping operation. However, prior to that, some African countries had participated in the UN peacekeeping operations

80 Polhemus, J. H. (1971), *The Organization of African Unity and Intra-system Conflict Management, 1963-1968*. Duck University, Ph. D. Thesis, p. 81.

81 Lund, M. S., *op. cit.*, p. 56.

in the Congo in the early 1960s. The operation in Chad differed from other examples of OAU military involvement in conflict management in that it was more complex than a ceasefire observation type of mission that the OAU had been mounting up to that point. It was a peacekeeping operation.

According to the Lagos II Accord of 1979, the OAU Secretary-General was required to assemble an OAU neutral force which would supervise the cease-fire and to head a monitoring commission that would supervise both the peace process and peacekeeping operations. The countries which were supposed to provide the neutral African force were the Congo, Benin and Guinea. Only the Congolese contingent of 500 turned up in Chad on January 8th, 1980. However, it had to be evacuated as a result of the renewed fighting in N'djamena. The Bureau of the OAU Standing Committee on Chad met in Lomé in January 1981 and decided to send urgently to Chad a peacekeeping force. However, the peacekeeping force was unable, once again, to go to Chad. At a very late stage when Senegal, Nigeria and then Zaire decided to contribute with troops, the issue of funding hit a snag. The funds from Member States were not forthcoming. Finally, the burden was thus borne by the contributing countries. In fact, this state of uncertainty of funding not only undermined the morale of some troops, but also jeopardized the whole operation.

Indeed several factors contributed to this dismal performance of the OAU over the past thirty years (1963-1993). They included: the limitation of the OAU's mandate (e.g. Inter-State only, conflict resolution and not prevention, etc.), the lack of conflict management institutions, the lack of political will among OAU

Member States, the lack of capacity, experience and financial resources as well as the impact of external intervention on OAU's capacity for conflict prevention due to the fact that the continental body was at its embryonic stage. In any case, the cooperation of the UN and the whole of the international community were very necessary. It was within this context, as we shall see in the next chapter, after a thorough reflection, a new mechanism aimed at preventing, managing and resolving conflicts in Africa was created in 1993.

CHAPTER 5

THE OAU MECHANISM FOR CONFLICT PREVENTION, MANAGEMENT AND RESOLUTION

Following fundamental political and socio-economic changes which were taking place in the world in the late 1980s and early 1990s, the then OAU Secretary-General Dr. Salim A. Salim submitted to the 58th Ordinary Session of the Council of Ministers, and 29th Ordinary Session of the Assembly of Heads of State and Government, in June 1993 in Cairo, a report on the establishment within the OAU, of a Mechanism for Conflict Prevention, Management and Resolution (MCPMR). Based on that report, the Assembly, in turn, adopted a declaration establishing within the OAU, a mechanism for preventing, managing and resolving conflicts in Africa.

The adoption of such a mechanism which Professor Jannie Malan describes as a truly African product signaled Africa's determination to solve its own problems.⁸² Indeed, by

82 Fitzroy, N. (1999).

establishing within the OAU this mechanism, the Heads of State and Government gave concrete expression of their commitment to work together towards a peaceful and speedy resolution of all conflicts on the Continent.

According to the report, the Mechanism would be equipped with the objectives and principles of the OAU Charter particularly, the sovereign equality of Member States, non-interference in the internal affairs of States, the respect for the sovereignty and territorial integrity of Member States, their inalienable right to independent existence, the peaceful settlement of disputes as well as the inviolability of borders inherited from colonialism. It would also function on the basis of the consent and the cooperation of the parties to the conflict.

5.1. Objective of the Mechanism

The primary objectives of the Mechanism were the anticipation and prevention of conflicts. In circumstances where conflicts have occurred, it would be the Mechanism's responsibility to undertake peacemaking and peacebuilding functions, to facilitate the resolution of these conflicts. In this way, civilian and military observation and monitoring missions of limited scope and duration would be mounted and deployed.

In setting these objectives, the Heads of State and Government were fully convinced that prompt and decisive action in these spheres would, in the first instance, prevent the emergence of conflicts, and where they do inevitably occur, stop them from degenerating into intense conflicts. Emphasis on anticipatory and preventive measures and concerted action in peacemaking and

peacebuilding would obviate the need to resort to complex and resource-demanding peacekeeping operations, which Africa will find difficult to finance.

However, in the event that conflicts degenerate to the extent of requiring collective international intervention and policing, the assistance, or where appropriate, the services of the United Nations would be sought under the general terms of the UN Charter. In that respect, peacekeeping and peace enforcement were not to be priorities for the OAU. In that regard, OAU Member States would examine the ways and modalities to make practical contribution to such UN peacekeeping force by undertaking and participating effectively in the peacekeeping operations on the Continent.

5.2. The Structure of the Mechanism

5.2.1. The Central Organ

The OAU Mechanism was built around two main bodies. *The Central Organ* and the *Conflict Management Centre* (CMC). The Central Organ was composed of the Bureau of the Assembly of Heads of State and Government, elected annually, bearing in mind the principle of equitable geographical-regional representation and rotation. In a bid to ensure continuity, the State of the outgoing Chairperson and that of the incoming Chairperson were also members of the Central Organ.

Furthermore, other OAU Members States, particularly those in the conflict-affected areas, could also be invited to participate in its deliberations. Its sessions were open-ended. In between Ordinary Sessions of the Assembly, the Central Organ

assumed overall direction and co-coordinated the activities of the Mechanism. In a nutshell, the Central Organ was a decision-making body of the Mechanism.

The Central Organ functioned at the level of Heads of State and Government, Ministers and Ambassadors accredited to the OAU. It may, where necessary, sought the participation of other OAU Member States in its deliberations, especially the countries of the region in conflict. It also sought from within the Continent, such military, legal and other forms of expertise as it may required in the performance of its functions.

5.2.2. The CMC

The Secretary-General of the OAU and the CMC served as the operational arm of the Mechanism. The CMC was responsible for supporting the Secretary-General in implementation of strategies to prevent, manage and resolve conflicts. In order to fulfill its functions, the CMC:

- a) Collected, collated and disseminated information relating to current and potential conflicts on the Continent;
- b) Prepared and presented policy options to the OAU Secretary-General on how best to address current and potential conflicts, and support the Secretary-General in the presentation of OAU's decisions in the area of conflict management;
- c) Undertook or commissioned analysis and long-term research into the root causes of conflicts and their

implications for conflict prevention and peacebuilding efforts; and

- d) Supported and managed political, civilian, military observer and monitoring missions as well as coordinating regional training policies to support peacekeeping operations.⁸³

5.2.3. Early Warning

The Mechanism was furthermore supported by Units such as the Early Warning System with a capacity to identify and gather information on emerging conflict situations. This information was used by the Organization to identify and implement appropriate actions for anticipating and preventing the outbreak or escalation of the conflict.

5.2.4. Operation Unit

A field Operation Unit, designed to enable the OAU carry out observation and monitoring missions of limited scope and duration was also established.

5.2.5. Peace Fund

Another significant component of the CMC was the Peace Fund, established to finance the Mechanism's operational activities. The OAU Peace Fund, *alias* the Special Fund, was made up of financial appropriation of six percent of the regular budget of the OAU, voluntary contributions from OAU Member States, and from other sources within Africa. The Secretary-General would also

83 OAU CMC, 1999, p. 8.

accept voluntary contributions from sources outside Africa. For the period June 1993 – December 2001, US\$ 49,396,948.62 was mobilized for the Peace Fund, US\$ 13,513,000.00 from the OAU regular budget, US\$ 3,522,129.18 from voluntary contributions by Member States and US\$ 29,084,885.13 from OAU partners. This dismal contribution from OAU Member States put to question whether or not the Organization owned/controlled the Fund and consequently the MCPMR. Further, as a result of the low income reserves of the Fund, the MCPMR failed to meet its obligations.

5.3. Performance of the MCPMR

Undoubtedly, the Mechanism brought a new impetus to the OAU's efforts aimed at bringing about peace, security and stability in the Continent. Over the time, the OAU had been involved in the management of nearly all the conflict facing the Continent. As a result, the Organization had increased both its credibility and visibility. One of the most far-reaching developments resided in the fact that the OAU had much latitude to deal with issues that were previously considered as purely internal affairs. In this respect, the principles articulated by the Organization on the question of unconstitutional changes of Governments and the practical steps taken to this end (e.g. in Sierra Leone, following the coup d'état of May 1997, in the Comoros after the coup d'état of April 1999, and in Cote d'Ivoire after the coup d'état of December 1999) are cases in point.⁸⁴ All the leaders of those regimes were barred from participating in all OAU proceedings. The new dynamism demonstrated by the Organization applies to the entire spectrum

⁸⁴ AHG Decl. 5 XXXVI.

of conflict management i.e. from early warning and prevention to conflict resolution and peacebuilding.

5.4. Preventive Diplomacy

For quite some time, the OAU had taken a number of initiatives aimed at preventing conflicts through the deployment of Eminent Personalities, Special Envoys or preventive diplomacy for purposes of containing a situation and averting its escalation. A case in point was the decision taken at the OAU Summit in Lomé in July 2000, to dispatch a committee of ten (10) Heads of State to Cote d'Ivoire to help defuse the tension prevailing in the country at the time, and assist the Ivorian political leaders in ensuring a smooth transition.

The decision taken by the OAU Central Organ to deploy an OAU Observer Mission in the Comoros, in September 1997, constitutes another illustration of this proactive approach to conflict prevention by the OAU Mechanism. The objective then was to contain the mounting tension in the Archipelago, resulting from the secessionist attempt in Anjouan, and to prevent further negative developments in the rest of the country.

Furthermore, recently at the end of October 2001, following reports on the deterioration of the relations between Uganda and Rwanda, the OAU Secretary-General travelled to both countries to meet with their leaders and urged them to exercise restraint and work towards the peaceful settlement of their differences. As a sequel to the new crisis that erupted in the Central African Republic in November 2001, the Secretary-General dispatched a team led by an Assistant Secretary-General to meet with the parties and help them contain the situation.

Finally, in reaction to the developments that took place in Madagascar pursuant to the first round of the presidential elections held on 16 December 2001, the Central Organ called on all the parties to exercise maximum restraint. Significantly, deciding to remain seized of the matter, the Central Organ indicated that it was acting within the purview of its preventive mandate.⁸⁵

As part of its preventive efforts, the Central Organ had also been involved in structural prevention. The objective here was to create conditions in which the naturally occurring competition for power, resources and prestige within and between States could be managed peacefully and prevented from plunging into a spiral of violence. In this respect, the efforts made by the OAU within the framework of the Mechanism were worth mentioning.

Following the OAU Summit Decision in Algiers in 1999 on Unconstitutional Changes of Government, the Central Organ established a Sub-Committee that elaborated a framework for an OAU response to unconstitutional changes, which was adopted by the OAU Summit in Lome in July 2000.⁸⁶ Basically, the framework provides for a set of common values and principles of democratic governance, a definition of what constitutes an unconstitutional change, the measures and actions that the OAU would progressively take to respond to unconstitutional changes and an implementation mechanism.

It should, in particular, be noted that the Central Organ emphasized the need for Member States to comply with the set

⁸⁵ OAU Communiqué MEC/AMB/Comm. (LXXX) of February 23, 2002.

⁸⁶ OAU Declaration AHG/Decl. 5 (XXXVI) of July 2000.

of common values and principles for democratic governance, stressing that some of the unconstitutional changes of government arose from non-compliance with those principles. It is in light of this that we interrogate the role of OAU (through its Mechanism for Conflict Prevention, Management and Resolution), some sub-regional arrangements the likes of ECOWAS, Great Lakes Region, IGAD, SADC and other stakeholders how have addressed these conflict situations on the continent as follows:

5.5. The Comoros

On August 3rd, 1997 separatists from the Islands of Anjouan and Moheli, declared their independence from the Grande Comoro. The government responded by sending troops to restore law and order. The action however, did not only give rise to considerable political instability, but also resulted in deaths of hundreds of civilians and military personnel. Moreover, it created a disastrous humanitarian situation on both sides. The leadership of both islands announced that they wanted to return to French rule with the same status as Mayotte or become micro-States in association with France. They felt themselves economically and socially neglected by the Central Government.

The leadership supported this position by arguing that most of the financial aid given by the World Bank as well as the UN was claimed by the Grande Comoro. Ironically, France is not interested in any new colonial alliance with the two islands. However, the then Comorian President Taki, approached the OAU, the UN and the Arab League for assistance. The OAU responded by asking the authorities to refrain from the use of force and sent a special envoy

Mr. Pierre Yere to the Comoros. Mr. Yere managed to persuade the separatists and the government to participate in the talks. These talks attended by all parties led to the agreement for an inter-island conference in which the concerns of each party would be addressed, and establish a follow up mechanism to be chaired by the OAU.

Apparently, the OAU is the only body that took the conflict seriously and had since then sent several missions to the islands. It has played a significant role in the crisis mainly out of concern for maintaining peace and unity in the Indian Ocean Region. The Ajouan and Moheli independence aspirations were considered as posing a real threat to unity in the Indian Ocean region.

In December 1997, observers from Egypt, Niger, Senegal and Tunisia were sent to the islands to help ease tension after a declaration of independence by the island of Anjouan. The OAU Observer Mission (OMIC) visited the islands in December 1998 to make a proper, professional assessment of the situation and examine all the options on how to assist in the restoration of normalcy in Anjouan. The predominantly military composition of the mission suggested that peace enforcement would have been at least, one of the major considerations of the team.

In February 1999, the OAU launched a new peace initiative that, *inter-alia*, called for an inter-island conference which was held in Madagascar. It resulted on April 23, 1999, in the Madagascar Agreement that offered each island broad autonomy under a national government and outlined the establishment of an interim government which would rule until the next elections.

The agreement decided to put in place an interim government led by a Prime Minister. Anjouan refused to sign the agreement. The refusal precipitated violence against Anjouanese citizens, and also resulted in a coup led by Col. Azali on April 30, 1999. This was a setback in the implementation of the peace deal.

The OAU withdrew its military observer within OMIC as it did not want to deal with a military government. The civilian component of the mission stayed to observe developments and attempts to continue dialogue with the military government. In October 1999, the Central Organ refused the junta's Minister for Foreign Affairs to address it and reiterated its commitment to the unity and territorial integrity of the Comoros. It also reaffirmed its commitment to continue working for a solution as proposed in the report of the Secretary-General on the situation.

The Organization continued with its efforts to resolve the crisis while steadfastly maintaining its unwillingness to compromise on the unity and territorial integrity of The Comoros. It spent most part of the year 2000 trying to get the Anjouanese to cooperate with the OAU. The then OAU Secretary-General Dr. Salim A. Salim appointed Ambassador Francisco Madeira from Mozambique as his Special Envoy to the Comoro.

Furthermore, the countries of the region notably Tanzania, South Africa, Mauritius, Madagascar and Mozambique became more involved on behalf of the OAU in finding a solution. South Africa was chosen as the coordinator. Likewise, the Arab League and the Francophone were also engaged. Under pressure from the OAU, France continued to give financial aid to the Islands, but

refused involvement. The UN limited itself to official statements on the problems of the Comoros.

OAU's efforts however, paid off. On December 22, 2000 the Archipelago held a referendum in which most of the population voted for preserving the territorial unity, though with broad autonomy. Finally elections were held in April 2002 and consequently Comoro readmitted to the African Union (AU) family.

5.6. The Democratic Republic of the Congo (DRC)

The conflict in the DRC was essentially a continuation of the war in Rwanda. Following RPF's victory in 1994, remnants of the deposed Hutu government and the Interahamwe force escaped and sought refuge in refugee camps in Kivu, Congo. The Interahamwe started using the camps as bases for rearming themselves and staging cross-border assaults on the new government of Rwanda. The new leadership in Kigali began to secretly train and equip the Banyamulenge (descendants of Tutsi that had migrated to Congo) to prevent the attacks. Noticing the weak status of Mobutu's government, the leadership in Rwanda organized some of the groups opposed to Mobutu's government together with the Banyamulenge and they toppled the government.

The Democratic Republic of the Congo (DRC) is the third largest country in Africa with a total area of 2,345 million square kilometers. DRC is located in the center of the continent and shares boundaries with Congo (Brazzaville) and Central African Republic on the west; Sudan on the north; Uganda, Rwanda, Burundi and Tanzania on the east; and Zambia and Angola in the south. DRC has a population of 56 million, and over 200 ethnic groups. Five of the largest ethnic groups,

the Mango, Luba, Kongo, Magbetu, and Azande, make-up about 45 per cent of the population. French is the official language and Lingala, Kigwana, Kikongo, and Tshiluba are widely spoken. Ethnic politics is not the main problem confronting the DRC; however, weakness of the state together with the ethnic problems in Rwanda transformed Congo's problems into ethnic conflict.

The government of Rwanda exported its conflict to Congo via its ethnic clan in eastern Congo, the Banyamulenge. The Banyamulenge are a small ethnic group constituting less than 1 per cent of the population of the DRC. They are descendants of Rwandan Tutsi whose ancestors had migrated into the Congo about three centuries ago in search of better land. The Congolese government and the general population at large have always discriminated against the Banyamulenge. The Banyamulenge were denied most political and economic rights, particularly the right to own land. Life became more complicated for the Banyamulenge when Mobutu's government instituted two more laws discriminating against them. The first was in 1988, when the citizenship law re-enforced the fact that the Banyamulenge could not own land. The second was in May 1995, when legislation forbidding the Tutsi from appropriating homes and land was passed. This legislation was followed by an order by the army chief of staff that indigenous ethnic groups had the right to expel Tutsi from land they occupied.

The politics of discrimination against the Banyamulenge, leading to the first war in Congo, was very similar to that in Uganda before Obote's government was toppled. *In both cases* economic rights of descendants of Rwandan immigrants were curtailed. It

could even be argued that the rights of this minority ethnic group were reduced to a bare minimum. In fact these people became so desperate that they chose to fight. A combination of high population densities in these areas and authoritarian governments that do not respect minority rights, led to the discrimination of Rwandan refugees.

In the 1990s, there were two wars inside the DRC; the first one removed Mobutu Sese Seku from power and the second one was a struggle for power between Laurent Kabila and his opponents. *Mobutu ruled DRC (Zaire) for thirty-two years (1965-1997), a period in which he earned the reputation of being the most corrupt leader in the world.* Mobutu exploited Zaire's enormous mineral wealth for personal gain, squandering the country's opportunity for economic growth. Given the poor economic conditions in his country and the opposition it generated, Mobutu maintained power by suppressing any form of opposition. However, as many of the other leaders of Africa of the old generation, Mobutu's abilities to maintain power were seriously undermined by international developments following the end of the cold war.

In May 1997, Laurent Kabila led the Alliance of Democratic Forces for the Liberation of the Congo (ADFL) into Kinshasa and toppled Mobutu's government. While Kabila and the ADFL had genuine grievances against Mobutu and his government, the government of Rwanda together with the Banyamulenge was the forces behind the revolt that culminated in the overthrow of Mobutu's government. Clark observes that Mobutu's decision in September 1996 to expel some 300,000 Banyamulenge sparked the war.

Within weeks of this announcement, a full-fledged civil war between the Banyamulenge and the Hutu refugees was under way, with the Zairean national army backing the latter. Rwandan advisers, and then regular troops, were soon crossing the border to assist the Banyamulenge and other anti-Mobutu elements⁸⁷.

The root cause of the second war, the 1998 war, and the crisis that followed lay in the disagreements among members of the coalition that overthrew Mobutu's government. After taking power, Kabila started distancing himself from Rwanda, Uganda, and the Banyamulenge by replacing top government and military officials who were Banyamulenge. This move was designed to please the majority of Congolese people that were concerned about the disproportionate influence of Banyamulenge and the government of Rwanda and Uganda in Congo's politics. Kabila's political maneuvering alarmed members of the political coalition that assisted him in grabbing power, particularly Rwanda. Paul Kagame, Rwanda's president, felt that Kabila had ignored his country's security concerns by allowing Hutu refugees to launch destabilizing attacks on his country. With those developments, the stage was set for Africa's first "world war."

The Congo conflict was important to the East African leaders for several reasons. First, DRC is a member of the *Region of the Great Lakes (RGLs)*. The RGLs is essentially composed of Uganda, Kenya, Tanzania, Rwanda, Burundi, and the DRC. However, for political expediency, countries such as Zambia and Ethiopia are considered as members. The EA leaders were not only concerned about the

87 Clark (2001), p. 268.

war in Congo because of their obligations as members of the RGLs, but also their proximity to DRC and the political implications. In addition to being a member of the RGLs, DRC is important to both neighboring countries and continent at large because of its size, location and mineral resources. However, insecurity created by Rwandan and Ugandan refugees in the Congo was the most urgent problem. According to Kagame, Rwandan forces were in Congo to prevent Interahamwe refugees from organizing and attacking his government. Kagame had accused the Interahamwe of using the refugee camps to regroup and attack his government. Similarly, Yoweri Museveni justified the presence of Ugandan forces on grounds of protecting his country from rebel forces based in the Congo. Museveni claimed that some of the rebels fighting his government in the north were Ugandan refugees living in eastern Congo. *Remnants of Amin's and Obote's armies* had sought refuge in Congo from where they periodically attacked villages and public offices in northern Uganda.

In spite of the regional impact of the conflict, the EA leaders neither acted collectively under their regional organization nor did they pursue similar policies. Museveni pursued the military option. Museveni sought to protect his country from rebel forces based in the Congo by *fighting rather than negotiating* with them. However, there was another reason Museveni involved his country in the Congo conflict, according to Mamdani and Clark.⁸⁸ Museveni's unstated reason for fighting Mobutu's and Kabila's governments was to support his ally, Paul Kagame. Both scholars argue that Museveni was initially opposed to using foreign forces to overthrow

88 Mamdani (1999) and Clark (2001).

Mobutu and Kabila's governments. However, abandoning Kagame after his forces had entered Congo would have placed both Kagame and Museveni's reputations in jeopardy.

Consequently, the need to support Kagame forced Museveni to order his army not only to occupy territory necessary to ensure border security, but also to threaten the existence of Kabila's government. The conflict in Congo, therefore, was a continuation of the Rwanda conflict. Both Kagame and Museveni wanted to defeat Habyalimana's Hutu regime and the Interahamwe forces decisively.

Mwesiga⁸⁹ writes that Tanzania declared its neutrality and was willing to lend a helping hand in mediating the Congo conflict. However, he questions Tanzania's neutrality given its relationships with various parties to the conflict. The Congo shares the longest border with Tanzania after Mozambique and the Indian Ocean. This means a conflict in the Congo, particularly if it leads to a movement of refugees is likely to affect Tanzania significantly, and the two conflicts in the 1990s did affect Tanzania.

It is also important to note that Tanzania facilitated the delivery of arms to the invaders (Uganda and the RPF) and the rebels during the conflict. Tanzania justifies its actions of delivering ammunitions to an invading force by arguing that

there is a standing agreement between Tanzania and Uganda to facilitate the movement of all manner of commodities through Tanzania's ports to Uganda given

89 Mwesiga, B. (1999).

*that Uganda is landlocked and that it is a member of the newly revived East African Cooperation arrangement.*⁹⁰

Even more confusing about Tanzania's policy regarding the conflict, is its membership in SADC, an organization whose members both defended President Kabila militarily and facilitated a negotiated settlement of the conflict. In short, Tanzania tried to be neutral but ended up helping the rebels.

Of the three EA countries, Kenya was the least involved in the Congo conflict. Kenya does not share a border with the Congo, and trade relations between the two countries are small (only 5 per cent of Congo's imports come from Kenya). Nonetheless, being a member of the RGLs and the EAC (whose other members were involved in the conflict), Kenya was concerned about the conflict.

Kenya's concern, demonstrated in a collective manner together with Uganda and Tanzania, is demonstrated by the discussion about that issue that the heads of state of the three countries had on November 30, 2001.

Among other matters discussed at the annual EAC Summit meeting, the Heads of State exchanged views on matters pertaining to regional peace, stability and good neighborliness with particular reference to the efforts to end the Congo war/crisis (under the Lusaka Agreement) and the Burundi conflict. H.E. President Museveni undertook to follow up the matter with President Nelson Mandela and report on progress to the Presidents of Kenya and Tanzania. This shows that the three EA heads of state were concerned and involved with the conflict in the Congo, though with different policies and different intensity.

90 Ibid., p. 41.

The late Laurent Kabila deposed the late Mobutu Sesse Sékou in May 1997. He renamed former Zaire the Democratic Republic of Congo (DRC). Laurent Kabila made little effort to *reach out to and unify the splintered democratic opposition* and establish a broad based popular government. His critics argue that Kabila increasingly acted like his predecessor in political enemies.

August 1998, soon after Kabila demanded that the Rwandese Tutsi soldiers who had in fact helped him to defeat Mobutu return home, a new rebellion broke out in the East to challenge his government. Its leaders accused Kabila of corruption, cronyism and nepotism, as well as of supporting the groups which were responsible for the Rwandan genocide and pursuing insurgencies against Rwanda, Uganda and Burundi.

The opposition's leadership comprised different political factions which claimed they came from around the country and represented the Congolese people. But much of their discontent appeared related to Kabila's military promotion decisions. In the words of Prof. Mahmood Mamdani, President Kabila had one trump card at his disposal. That card was the demand that Rwandan troops leave. He *reaped a mixed harvest* of both civilian support and armed rebellion.⁹¹

Through courageous early moves, the rebel forces captured some key eastern towns and quickly advanced towards the capital Kinshasa. Even though Kabila's performance in office had disappointed many observers, the rebellion against him did not pick up the broad international moral support that greeted

91 Mamdani, M. (1999), p. 33.

the one against the late Mobutu. Instead, Zimbabwe and Angola unexpectedly came to Kabila's aid militarily and halted the rebels progress. Namibia, the Sudan and Chad joined hands.⁹² Despite the fact that at the beginning they denied their involvement, it became evident that Rwanda, Uganda and Burundi supported the rebels.

By mid-1999, the rebels had succeeded in capturing one-third of the country, and a balance of power prevailed over a country that was divided into several zones. Although they had formed a political alliance to press their political demands, the rebel movement split into three main factions in June 1999 supported by Rwanda and Uganda. These factions differed in terms of whether they wanted to pursue negotiations to achieve a transitional government or to persist in the military struggle.

The rapid military gains by the rebels in August 1998 sparked a variety of peace initiatives at the very onset of the fighting, whose aim was cease-fire. Dr. Salim Ahmed Salim, then OAU Secretary-General, called upon both sides to exercise restraint and seek a peaceful solution to the conflict. He also dispatched a fact-finding mission to the region led by his representative to Burundi. Based on the information from the mission, the central Organ met in August 1998.

It requested both sides to seek a peaceful solution to the problem, condemned all external involvement in the conflict and encouraged the efforts of the regional countries particularly the *Southern African Development Community (SADC)* members to seek a peaceful solution to the conflict.⁹³

⁹² Ibid.

⁹³ Lunds, M. S. (1998), pp. 23-43.

Besides meetings and missions carried out by the continental body, Libya's Colonel Ghaddafi, Saint Egidio and other parties, the most active and sustained involvement was that of SADC in collaboration with the OAU. *Some SADC* members feared the conflict could lead to a region-wide war. But with some would-be mediators backing one protagonist or the other, different approaches were in contention among various SADC Members based on their national interests and allies.

With the conflict in DRC now threatening to engulf the whole Great Lakes Region, the OAU moved swiftly to convene a meeting with the regional States in August 1998. The meeting resulted in "The Cease-fire Agreement" and "The Mechanism for setting up an OAU Observer Mission or a United Nations peacekeeping Operation." Nevertheless, because the rebels were not party to these discussions, the cease-fire was not implementable.

In the meantime, SADC requested President Chiluba who together with Tanzania preferred a non-military solution, to serve as its principal mediator. Despite a series of meetings in the fall of 1998, in which Kabila or the rebels alternately often did not attend, no agreements were reached. In July 1999, however, the Lusaka Accord sponsored by SADC was signed between the countries supporting the various Congolese sides: the DRC, Angola, Zimbabwe, Rwanda and Uganda.

They agreed to a cease-fire, confining themselves to the areas under their current territorial control, withdrawing, and to a UN peacekeeping force. But no plans were made to disarm the rebels who did not take part in the meeting. At one point in August 1999, the Rwandan and Ugandan troops supporting different groups

began shelling one another in Kisangani where there was gold and diamond for looting.

With the fighting continuing, the rebel factions divided, blame for the conflict unaddressed, and the future of the government unresolved with Kabila still in power, it was unlikely this agreement meant either the end of the fighting or the beginning of peace negotiations that could resolve the country's political stalemate.

In 2000, the OAU was extremely active in its diplomatic efforts to bring the DRC conflict to an end. In January 2000, the OAU participated in a series of meetings and missions including one with UN officials to discuss the ways and means to pool and coordinate their resources and efforts in the DRC. The OAU also participated in the fourth session of the Joint Military Committee (JMC) in the third session of the Political Committee on the DRC peace process and in the Special Session of the UNSC on the DRC. The results of the latter meeting was the adoption of UN Security Council Resolution 1291, under which a peacekeeping mission was to be sent to DRC.

From that period, the OAU witnessed a flurry of activities aimed at getting the parties to the conflict to commit themselves to a cease-fire, agree to the disengagement and redeployment of their troops on ground and, in the long-terms, bring peace to DRC. OAU officials all along *accompanied the facilitator* for the Inter-Congolese Dialogue, Sir Ketumile Masire, former President of the Republic of Botswana, to the region for discussions with the parties to the conflict. The *first dialogue* was held in Botswana, the second *in Ethiopia* followed by one at *Sun City*, South Africa. The dialogue did hit hitches here and there but later on took the right course.

The OAU also participated in several meetings of the JMC and the Political Committee and served as an observer in the Summit of the parties to the conflict. Other peace efforts on the DRC included a mini-Summit convened by the OAU in 2000 following a massive violation of the Cease-fire Accord. Then Zambian President Chiluba, Chairman of the Regional Initiative on the DRC appealed to OAU Members States of continued financial and material support to strengthen the peace process. The OAU consistently asked member countries to take the lead in providing troops in support of resolution 1291.

Following to this call, countries contributed troops. Furthermore, the OAU continued to work with the UN to examine the JMC's relations with the UN Observer Mission to the Congo (MONUC) especially with regard to the co-location facilities, and their efforts to demilitarize and disengage the belligerents. These continental, sub-regional and international community efforts finally paid off and culminated in holding successful general elections in 2006.

5.7. Burundi Conflicts

As a sequel to its independence in 1962, increasingly Tutsi-dominated regimes in Burundi discriminated against Hutus in terms of educational opportunities and positions in the civil service and the army. Despite the long-standing Tutsi dominance of government and social institutions, the numerical preponderance of Hutus, almost 85%, made possible sporadic rebellions. Burundi hence experienced coups and counter coups, attempted coups and inter-communal violence in 1965, 1966, 1972, 1976, 1987, 1988 and 1991. Other ethnic groups are Tutsi, 14% and Twa 1%.

Maundi and Zartman (2006) have correctly described this phase of the conflict in Burundi interesting for what it can tell us about the circumstances in which prospective intravenous gain access to internal conflicts. In view of this, they have raised fundamental theoretical questions as follows: What has been the nature of Burundi's conflict in this period? Who were the parties to the conflict? Did the nature of the conflict have any effect on the type of entry initiatives? Who tried to intervene and what were their motives? Was the conflict ripe enough to warrant the mediation initiatives? What were the perceptions of aspiring mediators about the nature of the conflict? Were the perceptions constant between the parties and the interveners throughout the evolution of the conflict? If not, what caused the change and how did it affect the entry initiatives? Did the entry initiatives have any impact of dynamic evolution of the conflict? Did the dynamic evolution of the conflict in turn have any effect on the type of entry initiatives and their sustenance or exit? In other words, was sustenance or exit a function of a certain level of the conflict's evolution? Who among the prospective interveners were successful and who were not, and why? Why did those who succeeded get accepted? Among the parties who committed to a compromise settlement, how genuine were their commitments? These questions and several others provide the analytical framework in which the conflict is presented. Theoretical and practical lessons from the answers to these questions will be drawn out to form the conclusions of this part (Maundi and Zartman, *ibid.*).

5.7.1. The Nature of the Conflict

The conflict in Burundi could be characterized as a centralist internal conflict whose main contention is state control. Its major

causes are both political and economic. Its sporadic phases have always been triggered by a fierce struggle for political power and scarce economic resources between the elites of the two dominant ethnic groups, the majority Hutu and the minority Tutsi. Ethnicity is thus used as a vehicle for political and economic competition. By being political, the conflict becomes not just about who is in control but more about governance in general, legitimacy, the country's political system, its political institutions and political stability.

This characterization simply means that the conflict is about who is in political control at a particular point in time, how legitimate that control is, under what political system the control is based, under what political institutions it is operated and how stable the political institutions are. In economic terms, the conflict is more than a mere issue of resource scarcity. It is about how scarce resources are mobilized and distributed. Essentially it is about how economic *demands are met*, and it becomes more viciously driven and existential as the conflict itself reduces the resources available for distribution.

The current phase of the conflict was triggered by the political events of October 21, 1993, which were the latest link in a chain of other triggers that had sparked off other related political events. The October 21 coup was followed by a process of political reform that had been initiated by President Buyoya in late 1988, less than a year after coming to power through a military coup. The launching of the political reforms was not voluntary; it was done mainly under external pressures, which were in turn a reaction to the 1988 massacre in the central communes of Ntega and Marangara.

The massacre caused by the savage, pre-emptive Hutu killing of the Tutsi in response to premonitions of a repeat of the 1972 Hutu massacre by the Tutsi. Following the massacre, Western powers pressured Buyoya to introduce political reforms as a way to end the vicious cycle of ethnic violence. It was partly under these pressures that Buyoya was forced to introduce the democratic reforms.

Apart from the external pressures, internal political realities also called for such a move. The ideology of ethnic exclusion practiced by Tutsi-dominated military regime was increasingly pushing the country to *the brink of ethnic civil war*. In the late 1980s, the African wave of demands for political transformation was gaining momentum. Burundi was not able to build a wall against the wind of political change sweeping across the continent.

In late 1988, as a result of these domestic, regional, and international pressures for political reforms, Major Pierre Buyoya made a number of significant political decisions that were aimed at steering the country towards a democratic political system. These efforts with the creation of a bi-ethnic Consultative Commission on National Unity, whose objective was, *inter alia*, to conduct a sustained investigation in the historical and socio-cultural foundations of Burundi unity, to trace its evolution, and identify the reasons and manifestations of the divisions so as to propose appropriate solutions (Maundi and Zartman, *ibid.*).

The commission's assignment ended in the production of two important reports: *On the Question of the National Unity in 1989 and On the Democratization of Institutions and Political Life in 1991*. Out of the two reports a Chapter of National Unity was formulated. It proposed a new constitution that called for establishment of

a democratic multiparty political system. Both charter and the constitution were overwhelmingly approved by the people through national referendums. One of the most significant aspect of the new constitution was that it prohibited political organizations that advocated tribalism, division, and violence. Political parties were required to be national – that is, to recruit their membership from all ethnic groups.

The new democratic multiparty political system was tested on June 1, 1993, during the first free presidential elections. Of twelve registered parties, only three put up candidates: the incumbent party, the Party of National Union and Progress (UPRONA), whose candidate was the incumbent president, Major Pierre Buyoya; the Burundi Democratic Front (FRODEBU), which put up a Hutu candidate, Melchior Ndadaye; and the monarchist and, predominantly Tutsi People's Reconciliation Party (PRP), whose candidate was a Hutu, Pierre Claver Sendegeya. The elections resulted in the victory of Melchior Ndadaye for FRODEBU, who got 65 percent of the votes, against the incumbent, Pierre Buyoya of UPRONA, who received 33 percent of the votes, and Sendegeya of the PRP who received a little more than one percent.

The presidential elections were followed by the legislative ones on June 29, 1993. Ndadaye's party won sixty-five of the eighty-one seats in the National Assembly. With a clear victory in both elections, Ndadaye was sworn in on July 10, 1993, as the first democratically elected president, as well as the first Hutu and the first civilian to hold that office. Likewise, FRODEBU became the first opposition party to replace the incumbent state party, UPRONA, which had been in power since independence.

The outcome of the political reforms symbolized a regime change, a transformation from an authoritarian to a new democratic political system. The ushering in of the new political system represented an introduction of new political norms and values. This was a major departure from the old regime, whereby the country's stability was, based not on a broad consensus of opinion among different ethnic groups but on "the sheer capacity of the regime to ensure its own survival regardless of the means employed to achieve this goal." Henceforth, the country's political stability would depend on how much the new values would be respected.

The political reforms not only restored political legitimacy but also changed the basis of governance. Instead of depending on force, governance in the new political system would depend on the new norms on national political consensus. The effectiveness of governance would now be measured on the basis of how much the new leadership would respect the national consensus:

Effective governance depends on the establishment of a national consensus on norms, the reinforcement of those norms and values as a legitimizing regime, and the creation of new institutions and principles as a replacement regime if the former values and institutions prove inadequate (see Touval and Mitchell cited by Maundi and Zartman, op. cit., p. 61).

The other important outcome of the political reforms was that they changed the mode of political organization and mobilization. The establishment of political parties, which were required to be national in character (drawing membership from all ethnic

groups), was designed to ensure that politics would no longer be organized on the basis of ethnicity. Political mobilization was to be on the platform of constructive ideas and social issues and not on ethnic sentiments. A political party voted into office democratically through free, fair and credible elections would exercise power.

The fact that for the first time in the country's history a civilian became president, was another remarkable significance of the political reforms. And taking into consideration the country's unfortunate history of ethnic rivalries and violence, the political reforms put Burundians into untested waters of both ethnic and political tolerance and reconciliation.

Soon after the presidential election, however, thousands of Tutsi youth, mobilized by UPRONA, protested the elections' results. And on July 2, 1993, following the legislative elections but before the president-elect was sworn in, Tutsi soldiers of the Second Command Battalion tried unsuccessfully to seize power by force. Among the officers who commanded them was Lieutenant Sylvestre Ningaba, Buyoya's cabinet director. The events could be interpreted as a signal that the military and Southern Tutsi oligarchy were not ready to share power.

These events and subsequent pronouncements of the Tutsi politicians indicated that the Tutsi were not happy with the election results. Interestingly enough, their argument was that the elections were not free and fair in terms of the way had been conducted, rather that they were considered not free and fair in terms of their outcome. They interpreted FRODEBU's victory, in both the presidential and the legislative elections, on the basis of ethnic lines – that is, as Hutu victory – in keeping with the “Savimbi

scenario”, whereby the elections would have been considered free and fair, as far as the Tutsi were concerned, only if UPRONA won them. The victory of FRODEBU is not a democratic victory but a Hutu victory; what is now emerging is the institutionalization of tyranny of an ethnic majority, in short, a Jacobine state under Hutu control.

Burundi’s first encounter with democracy did not last very long. Three months after the inauguration of President Ndadaye, he and four other top government officials were assassinated on October 21, 1993, in an attempted coup engineered by extremist elements within the Tutsi-dominated army. The coup and the death of the president spelled the end of the brief democratic experiment and returned Burundi to yet another sad phase of violent ethnic conflict. Thousands of Tutsi were massacred by Hutu, and thousands of Hutu were massacred by the Tutsi-dominated army and militia in retaliation, leaving more than 50,000 dead, 400,000 internally displaced and 800,000 refugees took refuge to neighboring countries.

The coup was significant because it was watershed in Burundi’s political evolution. It did not affect merely the government of the day but, more important, an infant political system. As such, it posed a major challenge to the country’s future political process and ethnic relations. Hence, the October abortive coup was significantly different from the previous ones, with the exception of that of 1996. The 1993 coup and that of 1966 were about regime change. The 1966 coup changed the nature of an authoritarian rule from monarchy to military oligarchy, and the military oligarchy formalized an ethnic exclusionist ideology in

all spheres of public life, pursuing a skewed-development strategy based on regional favoritism whose outcome was a national socio-economic imbalance. The 1993 coup swept aside a legitimately elected government. It revived not only authoritarian rule but also the issue of legitimacy in governance; it also revived the ethnic exclusionist ideology in favor of the Tutsi. Burundi returned to the status quo ante of the past three decades. The ensuing Hutu violent reaction was not only a function of the death of a Hutu president but also, more fundamentally, the demise of a new political system that, for the first time, had given them hope in and respect for their political future (Maundi, *op. cit.*).

5.7.2. The Parties to the Conflict

One of the most significant aspects of the brief democratic experiment was that elevated those involved in the Tutsi - Hutu ethnic conflict from mob-like organizations to official and well-organized political parties. Regardless of the constitutional inhibitions, the parties were organized mainly along ethnic lines. Hence, from the October 21, 1993, coup attempt, when President Ndadaye was assassinated to the July 25, 1996 coup, when the civilian government was overthrown, the major protagonists to the conflict were the army and UPRONA, representing the Tutsi, and FRODEBU and the National Council for the Defense of Democracy and its military organ, the Forces for the Defense of Democracy (CNDD/FDD), representing the Hutu; an additional extremist Hutu group, the Party for the Liberation of the Hutu people (Palepahu), and its National Liberation Front were still not brought into the growing agreement a decade later.

It is interesting to note that each ethnic group had a dominant political party and a military wing, UPRONA was the Tutsi-dominant political party and the army was its major military wing. On the other hand, FRODEBU was the Hutu-dominant political party, with the CNDD/FDD established in the first half of 1994 as its military wing. The dominant political and military wings of each ethnic group were supported by a network of other political parties and military groups. These various groups constituted a continuum that ranged from weak moderates to powerful extremists. After the coup, a clear line of battle was drawn between the two antagonistic ethnic camps and the country sank into a prolonged, low intensity civil war.

A party's stakes in a conflict depend on its perception of the conflict and in turn determine the means of their realization. Any change in one variable carries a potential change in the other two. If a party modifies its perception of conflict, this may harden or soften its position in the conflict and may as well have an impact on the policy options for its resolution. What were the parties' perceptions in Burundi's conflict?

5.7.2.1. The Army and UPRONA

These two actors have perceived the conflict in ethnic terms throughout its entire cycle. What is at issue for the Tutsi is the fear of Hutu numerical strength. Coupled with the myth of Tutsi ethnic superiority, this fear has been driven with yet another mythical notion of the Tutsi being victims of the Hutu conspiracy of trying to wipe them completely from the face of the earth. The Tutsi then are in an existential struggle and are required to be always on guard

to make sure that the Hutu do not get a chance to realize their sinister motives. The solution to this problem is set in zero-sum terms: the Tutsi numerical weakness must be counterbalanced by their dominance in all spheres of public life as the only way to guarantee their survival.

In relation to the current phase of the conflict, the Tutsi perception has been that the unexpected outcome of the June 1993 elections was the first ever serious threat to their monopoly on power. It appeared as if, for the first time, the Hutu caught them napping. As far as they were concerned the culprit was not only the FRODEBU party that had won the elections, that enabled it to grab power from them – mainly President Buyoya. The FRODEBU victory was therefore perceived as a “sell-out” and a “national betrayal” as well as, and more significant to their paranoia, a stepping-stone toward the Hutus’ long-term genocidal intentions. This perception was the basis of the army’s justification for initiation the October 21 coup and the subsequent assassination of President Ndadaye. The coup and the assassination constituted a pre-emptive move to prevent the “impeding” Tutsi genocide by the Hutu and to return power to Tutsi.

5.7.2.2. FRODEBU and the CNDD/FDD

These actors perceived the prolonged conflict as a problem “ethnic apartheid” practice by the Tutsi in order to exclude them from all spheres of public life. They are Burundians but they do not feel a sense of national belonging. They are treated like second-class citizens in their own country, and as in apartheid South Africa, their efforts to change this intolerable situation have always been met with violent responses.

Throughout the cycle of the conflict, the Hutu never perceived the solution to their plight in zero-sum terms, but rather, in inclusive a participatory terms. In their perception, justice would prevail only if they would be allowed to participate equally in the affairs of their country. This perception entailed the opening up of all national institutions to all Burundians. The political reforms, which culminated in the June 1993 elections, were perceived as a window of opportunity to realize this dream. FRODEBU's victory in the elections epitomized the realization of the dream (Stedman, S. J., 1996).

The events of October 21 were, therefore perceived as an indication that the Tutsi were not ready to share power with them, that the Tutsi were bent on continuing their apartheid ideology. The events of October were also interpreted as an effort to wipe them physically off the map. Hence their killing of Tutsi triggered by the death of Ndadaye constituted a pre-emptive move to prevent the repeat of the 1972 massacre of Hutu (Zartman, W. I., 1996).

5.7.3. The Mediation Initiatives - October 21, 1993 - July 20, 1996

The political turmoil coupled with coup and the assassination of the president evoked an instant worldwide indignation and condemnation. There was a general concern within the international community that if these events did not receive immediate attention, there would be a real danger that the country would plunge into another outright genocidal civil war. This fear ignited a flurry of international and regional initiatives at the state, international organization, and non-governmental

organization levels to prevent another spiral of ethnic violence. No other country on the continent received more attention from so many conflict resolution experts than did Burundi between October 1993 and July 1996. Particularly striking in the entry of mediators was the direct intervention of external parties that seized the initiative from the outside with only acquiescence of a government that was decapitated and awkwardly reconstructed (Maundi, *op. cit.*).

Maundi (*ibid.*) argues that out of the International frenzy of responses to the conflict, a distinction should be made between those who intervened because of humanitarian concern and those whose objective was to try mediate the conflict. For those who tried to mediate the conflict between October 21, 1993, and July 20, 1996, were France, the UN Security Council and the special representative of the Secretary-General (SRSG), the regional states, the OAU, and one NGO – the Carter Center. The initiative consisted of a political and a military track. It is important to analyze the initiatives sequentially in order to observe how the conflict evolved and how the mediation efforts affected each other.

The first reaction, and sudden entry, came from France, which offered asylum in its embassy to the decapitated government and then swiftly flew in twenty gendarmes to guard its members as they were moved to a nearby hotel. While France took no further lead actions in the subsequent mediations, it supported others' and its initial preserved both the Burundian government and the French position.

The second reaction came from the UN Secretary-General. Immediately after the coup, Secretary-General Boutros-Ghali

dispatched James Jonah, the UN undersecretary-general for Africa, to Bujumbura on a fact-finding mission. On his arrival, he was confronted with a request for international military protection from Prime Minister Sylvie Kinigi. The Security Council rejected a call for peacekeeping forces but authorized sending SRSG, and Ahmedou Ould-Abdallah arrived little more than a month after the assassination. Ould-Abdallah had been foreign minister of Mauritania at the time was serving in a senior position with the United Nations in New York.

His mandate included facilitation contact between the parties to the conflict, restoring the legal institutions, conducting an investigation of the coup and the massacre that followed, and linking up with the OAU. He was instrumental in helping to quell the violence and in reviving the country's tattered political institutions. His actions included reassembling the members of the National Assembly and helping to revive and amend the constitution to facilitate the election of the president.

These regional and the OAU response to the events of October 21, 1993, was also immediate and firm. They perceived the conflict in terms of legitimacy and democracy, that the coup toppled a legitimate democratic government and replaced it with an illegitimate one. In addition, it was likely that the conflict would increase the problem of regional security. Their intervention was motivated by three aims: to discourage the role of the military in African politics, to encourage democratic rule in Africa, and to address regional security concerns. The initial objective of their intervention was therefore to restore the democratically elected government to power, and they intended to pursue this

through political dialogue or, if necessary, even through military intervention.

The regional leaders strongly condemned the assassination of President Ndadaye and the derailment of Burundi's young democracy. They called for an immediate reaffirmation of the democratically elected government and an international military intervention to stop ethnic killings and to restore order. They called on the international community, especially the OAU and the United Nations, to come up with an internationally supported African force that could help to restore trust and the rule of law. The deposed government: The first prime minister Sylvie Kinigi, who was hiding in the French embassy with some of her ministers, had requested one thousand foreign troops, from either the United Nations or the OAU, to protect the remaining government leaders and key installations in the country.

For the OAU, the conflict and the military request served as a litmus test for the organization's newly established Mechanism for Conflict Prevention, Management, and Resolution. Not only did the organization have the new mechanism but it also had a request from the legitimate government of Burundi to intervene militarily. Although, the OAU decided to send troops to Burundi and the OAU representative, Ambassador Papa Louis Fall, announced the arrival of five hundred soldiers by December, the Burundian army rejected the decision, and it was finally agreed that an unarmed OAU Observer Mission in Burundi (OMIB), divided equally between civilians and military personnel, be dispatched to Bujumbura. The initial complement was to be seventy, then forty-six, and when they appeared in February 1994, they numbered only eighteen.

Among the various NGOs that were involved in the Burundi crisis during this period, the Carter Center can be cited out as one of the few to be directly involved in the political process, and it took former U.S. president Jimmy Carter to get the regional mediation process started, upon invitation by the presidents of DRC (then Zaire) and Uganda. Rather than consider the conflict as distinctly Burundian, the Carter Center initiative perceived it in a holistic regional context – that is, as a mixture of socio-economic and cultural problems played out on the basis of ethnic politics that had deluged the whole region. Treating the whole of the Great Lakes Region as one big conflict area, the Carter Center adopted a linkage approach, and its role was more of facilitation than of mediation. It did not engage the parties to the conflict directly but dealt with the regional leaders. Between November 1995 and March 1996, it succeeded in organizing two summits that brought together the leaders of the region to discuss the security problems of the area.

After detailed consultations with the regional leaders, which included visits by Carter to some of the regional capitals, the first summit took place in Cairo on November 29, 1995. It was attended by the presidents of Zaire, Uganda, Burundi and Rwanda, and a special presidential envoy from the new government of Tanzania. Carter and South African archbishop Desmond Tutu served as facilitators.

Condemning the ideologies of political genocide and exclusion, the leaders pledged to take joint concrete steps to advance peace, justice, reconciliation, stability and development in the region. They also requested that former presidents Julius

Kambarage Nyerere of Tanzania, Amadou Toumani Touré of Mali, and Jimmy Carter of the United States, and Archbishop Desmond Tutu of South Africa, analyze in depth the results of the meeting and the continuing problems of the region and prepare meeting in early 1996. They opened the doors for the invitation of other participants and observers during the next meeting.

The second summit took place in Tunis, March 16-18, 1996. This time all the presidents of the five countries attended. Former presidents Carter, Nyerere, and Touré served as facilitators. More extensive than the first meeting in terms of duration and depth of discussions, the Tunis Summit reviewed the progress made toward the achievement of the commitments undertaken during the first summit. Among its important decisions, the summit committed the regional leaders to reduce tension, hospitality, insecurity, and distrust in the region. Tanzanian president Benjamin William Mkapa stressed that refugees in his country received neither arms nor military training.

The regional leaders finally requested that former presidents Carter, Nyerere, and Touré, and Archbishop Tutu, continue their efforts to facilitate contact and actions by their governments, monitor the achievements made at the two summits, and prepare recommendations for consideration at the next meeting. Unfortunately, no other summit was organized under the Carter initiative.

This was followed by the Mwanza peace process started with the courting of the former president of Tanzania, Julius Nyerere, to play the mediating role on behalf of the region and the OAU. The regional leaders, Ethiopian Prime Minister Meles Zenawi,

who was then the OAU Chairman, and the OAU Secretary-General Dr. Salim Ahmed Salim sounded out the idea to Mwalim Julius Nyerere (Maundi, *ibid.*). Nyerere did not accept the offer outright; he wanted time to reflect on it and consult with other African leaders and major powers, as well as relevant international institutions. He also wanted to make his own assessment of the viability and prospects of the assignment after consulting with the Burundian parties to the conflict. His personal contacts took him to the Burundian parties to the conflict twice, to the United Nations in New York and to various capitals of the member states of the European Union, as well as to Canada.

A consensus emerged that Nyerere should represent not only the region and the OAU but the United Nations as well; this meant that he would be the “international envoy” to Burundi. After the two Carter-sponsored summits in Cairo and Tunis, Nyerere finally agreed to be the facilitator for the Burundi peace talks. However, he refused to be an official representative of either the OAU or the United Nations, preferring instead to adopt a “freelancing” approach. After consulting with the major parties to the conflict in April 1996, including the armed groups, Nyerere convened two meetings in Mwanza, Tanzania, in May and early June 1996.

Meanwhile, the security situation in Burundi was beginning to deteriorate. This prompted the convening of the first regional summit on Burundi in Arusha on June 25, 1996. Apart from the regional leaders, the Prime Minister of Ethiopia also attended the meeting in his capacity as the immediate past Chairman of the OAU, along with the organization’s Secretary-General, Dr. Salim Ahmed Salim. The meeting was presented with an official request

from the government of Burundi for military assistance to help reverse the deteriorating security situation in the country. Hutu President Sylvestre Ntibantuganya and Tutsi Prime Minister Antoine Nduwayo presented the request jointly.

This request came at the very moment that discussions were going on within the United Nations regarding a contingency plan for a humanitarian force for the Great Lakes Region. The summit endorsed the request and formed a technical committee to study the modalities of constitution of the force. The request for a regional peacekeeping force and its subsequent endorsement quickly ignited protest in Burundi: Once again, the army and Tutsi radical parties believed that such a force would work against their security guarantees and interests. The political impasse and the unrest that followed were part of the contributing factors that led to the July 25, 1996 coup that returned former president Pierre Buyoya to power and brought the Mwanza peace process to an abrupt end.

Unlike in Rwanda, the United Nations was prompt in responding to the crisis in Burundi this time around. The swift response was modified by the United Nations' experience from its involvement in the Rwandan and the Somali conflicts. The Somali experience was instrumental in shaping the UN's role in Burundi, particularly because of the scathing attacks on the organization by its own SRSG in Somalia, Mohamed Sahnoun, for the unsatisfactory manner the United Nations had responded to the Somali conflict. Burundi was also one of the fresh conflicts that had confronted the new UN secretary-general, Boutros Boutros-Ghali. Being an African himself (specifically, from Egypt), he had to act fast lest he be accused of letting the continent down.

The United Nations' perception of the conflict did not differ much from that of the region and the OAU. Perceiving the conflict as a power struggle among politicians, the United Nations also adopted a two-track approach parties in order to get a compromise political settlement. The Military track was humanitarian concerns and to guarantee a peaceful environment for political negotiation.

5.7.4. Legal Explanation

The military track of the region, OAU and UN initiatives was motivated by a number of objectives. For external powers, military intervention was necessary to reinstate constitutional legality and to prevent genocide. For the deposed government, military intervention was requested to provide protection. But in fact there was no actual deployment; instead, the region, the OAU, and the United Nations ended up sending a small OAU observer mission. Given their size, and the fact that members were not armed, the missions were in no way capable of either protecting the deposed leaders or preventing the killings, let alone reinstating constitutional legality other than through clever diplomacy. They nevertheless ended up being very useful. Their physical presence in Burundi provided the international community with a respectable position whose moral authority made its opinion credible and trusted (Maundi, *op. cit.*).

Actually, their small size and harmless nature were the very reasons that the missions managed entry. All parties accepted them because they were perceived as harmless as far as the parties' interests were concerned. But more significant, the missions served as a cushion for pressures for military intervention. This was a

relief to both the internal parties that opposed external militarily. The ones who lost were those who requested and supported the military intervention. The military option failed to gain entry mainly because of the problems associated with its justification, objectives, capacities, and more important, acceptability.

In regard to justification and objectives, after the regional, the OAU, and UN Security Council leaders had recovered from the shock of the events of October 21, 1993, they asked themselves whether their reasons were strong enough to justify a military intervention in an African state, and were ready to face all implications of such a move, how clear were the objectives of a military intervention, and what its costs would be. It was actually surprising for the OAU and the United Nations to have even considered a militarily action at a time when the continent had just publicly expressed its weakness in this area through the OAU's new Mechanism for Conflict Prevention, Management, and Resolution. But, apart from all these other constraints, key to failure of the military track was the problem of acceptability. Both the Burundian army and the Tutsi-dominated political parties refused to accept entry of any external military force in the country.

As the conflict evolved, the United Nations re-evaluated its policy options. By the end of 1995, as Ould-Abdallah was leaving the UN assignment, it was clear that political diplomacy alone was not sufficient to stop the fratricidal war. Although the UN Secretary-General had called for preventive multinational force for Burundi since August 1994, the military option had been in the back seat. It was only the beginning of 1996 that the Secretary-General started seriously looking for a military option. In his report to the Security Council on February 15, he proposed a

United Nations-authorized contingency plan for the deployment of humanitarian multinational force of Burundi.

The military option was not conceived as an alternative but as complement to the political dialogue. It was motivated by the fear of an ethnic genocide like the one of 1972. The Rwanda genocide two years earlier increased the fear. The military option was motivated as well by what some analysts call “alibi building.” With the United Nations’ experience in Somalia and Rwanda, the initiative was intended to protect the organization from being blamed for not having done enough to prevent genocide.

Informed also by the experiences of previous similar peace enforcement missions, the Secretary-General proposed that the plan should follow the “contracting out” approach similar to the United Nations-approved “coalitions of the willing” mission to Korea, Iraq, Somalia, Haiti, and the French Operation Turquoise in Rwanda. The choice of this approach was based on the appreciation and acknowledgment of the United Nations’ inherent institutional constraints in the area of peace enforcement.

The proposal did not take off simply because Boutros-Ghali failed to find a coalition that was willing to lead the force. As Stephen Weissman correctly puts it, “the key determinant of success or failure of any risky UN military initiative is the political will of the five permanent members of the Security Council,” namely Britain, China, France, Russia and the USA. In Burundi, the two most interested members of the Security Council, the United States and France, did not support the plan whole heartedly. The United States was still nagged by the questions of the clarity of the mission’s objectives, its mandate contribution

of troops and funding, security of the troops, and its duration – and most of all, by attacks from U.S. Senator Jesse Helms, head of the Senate Foreign Relations Committee at the time. Recalling the humiliating experience of the Somali expedition, defending its current international commitments in Haiti and Bosnia, and facing imminent presidential elections, the Clinton administration did not want to find itself caught up in the uncertainties of another messy foreign ethnic conflict. The French also had reservations. Although they opposed it publicly, they informally indicated a willingness to provide financial and logistical support for such a force. Like the Americans, they were afraid of the uncertainties of the project. After the experiences of the Operation Turquoise in Rwanda, they were reluctant to go it alone. If the risks were worth taking, would have to be borne by a coalition of credible and formidable partners, which the American reticence put into doubt. Finally, they had much faith in the political track instead. Without the support of the United States and the French, no other powers were willing to rescue the plan.

On the political track, the Convention of Government was an appropriate framework through which the international community could support Burundi's peace efforts, although it involved the registered political parties only; it left out not only other political forces, which emerged out of the recent political chaos, but also the armed groups. The Convention was firmly based on the principle of power sharing and shifted the balance of power between the two antagonistic ethnic groups and among the government institutions. It provided that 55 percent of cabinet posts, the Forces for Democratic Change under FRODEBU, and 45 percent to the Tutsi group, the Coalition of Opposition Political

Parties under UPRONA. Decision making powers were shifted from the president to a National Security Council that had a FRODEBU majority.

Nonetheless, the government institutions failed to function, and the government paralysis increased political uncertainty. Political militancy increased among the Hutu groups; the mass desertion of the militant Hutu from FRODEBU and the creation of the CNDD/FDD in 1995, further exacerbated the group and personality rivalries that undermined the Convention's formula.

The Carter initiative was useful for regional confidence building and contributed to the process of formalizing the regional search for the prospective mediator by endorsing and supporting Nyerere for that role. Likewise, the forum helped Nyerere to make a critical assessment of the Burundian conflict and get feeling of the regional leaders' perceptions on the nature of the conflict and how to resolve it.⁹⁴

One may wonder why, in spite of the early regional and the OAU's response to the events of October 21, that an effective mediation process began too late. The Mwanza peace process started in early May 1996, almost thirty-two months after the October 21 coup. This could partly be attributed to the fact that both the region and the OAU had initially given prominence to the military track. Accordingly, when the military option ended with the symbolic OMIB, they then turned their support to the process and began when it was discovered that the United Nations-brokered Convention of Government did not work.

94 Zartman W. and Maundi, M. O. (2008), *Getting In*, pp. 143-198.

Nyerere's acceptance of the mediating role was motivated by humanitarian and regional security concerns. He strongly believed that trying to help in the Burundian conflict would bring not only peace to the country but also security and political stability to the region. His knowledge of and experience in the Burundian conflict made him a better candidate for the job. In addition, he accepted the task in order to live up to the confidence and he could succeed after his own one-year personal assessment of the conflict and consultation.

The major factor that made the Mwanza peace process fail to achieve immediate results was its abrupt ending by the July 25 coup. As a process it was not given enough time to unfold. Its life span was confined to only two sessions – not enough time to achieve much for a conflict with the complexity of Burundi. The differences between major political parties, UPRONA and FRODEBU, also contributed to the lack of positive results. Their biggest point of contention was who should be included in the list of participants. UPRONA was adamant against accepting some of FRODEBU's participants on the pretext that they had committed acts of genocide. UPRONA was likewise not happy with Nyerere's efforts to include the armed groups in the talks. In other words, the conflict was stronger than the peace process and was obdurately against its attempts to achieve full entry into a mediation process.⁹⁵

95 Maundi, M. O., Zartman, W. I., Khadiagala, G. and Nuamah, K. (2006), *Getting In: Getters Entry into the Settlement of African Conflicts*; United States Institute of Peace Press.

5.7.5. The Second Phase Initiatives – July 25, 1996- July 15, 1998

The July 25 coup was motivated by the political state in Burundi resulting from deteriorating security and the failure of the Convention of Government. The army was worried by the advances made by the armed groups, particularly the CNDD/FDD. To many Burundians the coup appeared to be *déjà-vu*. It was the usual way Burundi changed its leaders, and the people were accustomed to it, but, analytically, the coup was more than just business as usual. The first thing the coup makers did was to reinstate Major Pierre Buyoya as the head of state.

In his first public address, Buyoya announced the suspension of all the political parties, the National Assembly, and the 1992 Constitution, replacing it with a three-year Transitional Decree. In the October 21, 1993 coup attempt, these institutions had not been suspended. Suspending these democratic institutions made the 1996 coup more than just an act targeted at President Ntibantunganya. More significant, it symbolized the completion of the regime change that began in the autumn of 1993.

Structural change of the conflict actually began before the July coup, and it was one of the factors that had hastened it. By the time the country was facing difficulties in implementing the Convention of Government in 1995, the conflict's intensity shifted from the political to the military arena, from the political parties to the armed groups. Although the major antagonistic political parties, UPRONA and FRODEBU, were still in the picture, the effective movers of the conflict were the army and the major militant armed group, the CNDD/FDD.

Realizing that the conflict was advancing at the war front and not at the negotiating table, Buyoya made it his policy priority to restore security rather than to achieve political dialogue. In his first public address, Buyoya expressed his intentions to reorganize and re-equip the security forces and the army in order to deal effectively with the country's security problems. This military buildup resulted in a drastic enlargement of the army from 15,000 at the time of the July coup to more than 60,000 by the beginning of 1998. The military option was accompanied by the "regroupment" policy, whereby hundreds of thousands of Hutu were forced into army-protected camps after their houses had been burned down in order to isolate the militant armed groups from the population, from which they drew their support.

At the time of the July 25 coup, only the regional/OAU initiative, among the prospective intervention agents, was still trying to mediate the conflict. The UN exit came with the breakdown of the Convention of Government and the subsequent withdrawal of Ould-Abdallah. The exit of the Carter Center initiative came as a result of the amicable formalization of Nyerere as the "international envoy" for Burundi. From July 25, 1996, when the coup took place, to June 15, 1998, when substantive peace talks began in Arusha under Nyerere's facilitation, only one new serious prospective mediator tried entry into the process – the Rome-based Catholic group, the Community of Sant'Egidio. The entry of Sant'Egidio at this stage of the conflict was not intended to complement the regional initiative but to substitute for it; thus its entry became more competitive than complementary.

The region's and the OAU's responses to the July 25 coup were firmer and swifter than their response to the events of

October 21, 1993. The OAU's Mechanism for Conflict Prevention, Management, and Resolution met at an ambassadorial level at an extraordinary session in Addis Ababa the day after the coup took place. The meeting strongly condemned the coup and reiterated the organization's and the continent's resolve to oppose strongly any illegal change of power in Burundi and promised to impose sanctions and isolate the regime.

The region responded by holding a summit in Arusha on July 31, 1996, during which economic sanctions were imposed on Burundi, to be lifted only when Buyoya reinstituted constitutional order and restored the political parties and the National Assembly. Another key condition was to immediately and unconditionally undertake negotiations with all the parties to the conflict, including the armed groups inside and outside the country.

The imposition of the sanctions was a precedent-breaking act, the first time African states took punitive measure against one of their own member. The sanctions were intended to force the military regime to not only restore constitutional legality but also come to the negotiating table. The harsh regional response had serious implications for the regional mediation efforts, for the international support to the regional peace initiative, and for Burundi's bilateral relations with the region, particularly with Tanzania.

The imposition of the sanctions was indeed an unfriendly act. The perception of the regional leaders was that the punitive measure would motivate Buyoya to cooperate in finding a lasting political solution. But instead of bringing him closer to the region, the sanctions had an unintended effect of further isolating

Burundi. Initially, doubtful of the sanctions' effectiveness, Buyoya simply refused to negotiate under duress. Furthermore, a political solution was not one of his urgent priorities. Faced with the immediate problem of insecurity, he made a military solution his priority. He was therefore convinced that he could temporarily afford to ignore the regional pressures while pursuing his military option. In addition, he believed, correctly, that the Western powers had a soft heart for him personally; with the major powers' support, he believed that the regional isolation would not hurt him much.

The sanctions indeed affected Burundi's bilateral relations with Tanzania. Buyoya believed that Tanzania and Nyerere were instrumental in the imposition of the sanctions and so naturally questioned Nyerere's impartiality as a mediator and Tanzania's appropriateness as the host country for the peace talks. The movement of the CNDD/FDD's headquarters from eastern Zaire to Tanzania, following the breakout of fighting between the Banyamulenge and Mobutu's forces in late 1996, increased the animosity between the two leaders and their countries to the extent of threatening to regionalize the Burundi conflict.

The major powers did not fully support the regional sanctions, which they saw as a liability rather than as an asset to the peace initiative. Their lack of support in turn helped to reduce the international pressure on the Burundian military regime and helped Buyoya to buy time. The difference in perceptions between the region and the major powers on the issue of the sanctions was an outcome of the differences in their perceptions of Buyoya as a leader. To the Western powers, Buyoya was moderate enough to deserve a second chance. In a chaotic and volatile situation like

Burundi's, Buyoya was perceived as the only man capable of re-establishing order and political stability. The regional sanctions would therefore not be helpful for such a difficult task. For the regional leaders, Buyoya was just an outmoded dictator who would respond only to negative incentives.

The resolute regional pressures on Buyoya and his negative response toward them made the regional peace initiative somewhat futile. In fact, the sanctions had an unintended effect of shifting the regional and international focus from dealing effectively with conflict to discussing the merits and demerits of lifting the sanctions. With each party holding its ground, it was impossible to continue with the peace process under Nyerere's facilitation, and that is what gave the impetus to the Sant'Egidio initiative. The major powers' opposition to the sanctions also helped the search for an alternative to the regional initiative.

The Sant'Egidio initiative had three more advantages for Buyoya. First, it provided him with his military option by giving him an opportunity to engage the strongest and the most serious armed group, the CNDD/FDD. Second, unlike in the regional initiative, where Buyoya was required to deal with all the parties at the same time, Sant'Egidio provided him with a window of opportunity to tackle one group at a time, and at his own order of priority. And third, Sant'Egidio provided an aura of freedom, whereby Buyoya could negotiate from a position of strength, unlike in Arusha, where he was supposed to face the pressure of the regional leaders.

In this respect, while slowly responding to the regional pressures, Buyoya, with the support of Western powers, shifted his

peace initiative to Rome in September 1996. Rome was motivated by a desire to achieve a suspension of hostilities between the government and the CNDD/FDD. As for the CNDD/FDD, their acceptance of Rome was part of their resolve to get a fair political deal. Their resorting to the bush was aimed at putting pressure on their protagonists to negotiate an equitable political settlement after winning an international recognition.

After four rounds of talks, the two sides succeeded in coming up with a written agreement on a framework of general principles of a political settlement and an agenda for further talks. The agenda covered seven crucial items:

- a. Restoration of constitutional and institutional order;
- b. Status of the security forces and army;
- c. Suspension of hostilities;
- d. Justice, including setting up an internal criminal tribunal;
- e. Involvement of other parties in political process;
- f. Cease-fire; and
- g. Guarantees on the means of carrying through an overall agreement.⁹⁶

The negotiations dragged on for two months before they broke down in May 1997. The two parties were deadlocked on the first agenda item. Whereas the CNDD/FDD demanded the reinstatement of the 1992 constitution, the government insisted on a new one. The failure of the talks could be attributed largely to this disagreement, and with it, the government succeeded in

96 OAU, Report of the Secretary-General, 1997.

imposing its political framework on the country. The organizers of the talks and their supporters had wrongly assumed that the CNDD/FDD would be willing to join the government in exchange for an agreement on the general principles of a political settlement. They also assumed that the privacy of the talks could be preserved over a relatively long period: when the talks became known, the excluded parties became suspicious. And they assumed that the CNDD/FDD would continue to tolerate a situation in which “progress” in the secret talks was frequently invoked by the organizers, their supporters, and African observers as a justification for regional decisions to relax sanctions against the Burundian government. As these assumptions proved to be wrong, the Sant’Egidio initiative collapsed.

With the exit of the Community of Sant’Egidio, only the region and the OAU still remained in the picture. Another brief entry initiative was attempted by the UN Educational, Scientific, and Cultural Organization (UNESCO), which organized a peace conference on Burundi in Paris in October 1997. The conference was attended by all the political parties (with the exception of FRODEBU), the armed groups, and the government. Nothing substantive comes out of it.

Not buying the Western characterization of Buyoya as the “lesser evil,” the region and the OAU believed that he was not seriously committed to negotiation. His procrastination and his attempts to find alternative fora like Sant’Egidio and UNESCO were viewed as diversionary tactics. His questioning Nyerere’s impartiality and Arusha’s appropriateness as the venue for the talks were also perceived in the similar way.

Thus Mwalimu Nyerere volunteered to step down as the facilitator and Tanzania offered to withdraw Arusha as a venue for talks, the presidents attending the fifth regional summit in Arusha on September 4, 1997, turned down their offers. They urged Nyerere to continue and decided that the next session of the talks would be in Arusha.

Considering that mediation required parties to accept the mediator and to agree on a venue, it was for the regional leaders to insist that Nyerere should continue to be the mediator and Arusha the venue regardless of the fact that one of the major parties – the crucial one for that matter – seemed to have reservations. However, the regional leaders wanted to send a strong message to Buyoya that they were the ones running the show and not him. Accepting the offers would have weakened their position and strengthened Buyoya's. A change of venue would have made the regional initiative slip away from them. Accepting Nyerere's resignation would have been humiliating both to him personally and to the regional leaders because they had great respect and confidence in Nyerere's statesmanship (Maundi, *op. cit.*).

Hence, instead of yielding to Buyoya, they responded firmly by tightening the noose: and more conditions were added. They called upon the Burundian government to halt the trials it was then conducting until a negotiated solution was in place and to release unconditionally the speaker of the National Assembly, Leonce Ngendakumana, and to allow him, together with former presidents Bagaza and Ntibantunganya to travel freely and participate in the talks in Arusha.

After exhausting all other external avenues, Buyoya was left with no other choice but to respond positively to the regional pressures. In fact, it did not take long before the sanctions began to bite. Regardless of their implementation flaws and adverse humanitarian effects, the sanctions regime as a policy, did work. Political parties and the National Assembly were reinstated on September 4, 1996. While insisting on continuing with the regional leaders at the fourth regional summit in Arusha on September 4, 1997, decided to ease some of their conditions for humanitarian reasons.

Faced with regional initiative and its sanctions regime, Buyoya decided to work for an internal political solution. This approach presented a number of advantages. After the failure of the Rome talks, an internal political solution seemed to be the only rational choice. Despite its failure, the Rome engagement with the CNDD/FDD from September 1996 to May 1997 provided the government with an opportune breathing period to improve security in the country. Complemented by the “regroupment” Policy and destabilization effects on the CNDD/FDD of the fighting in eastern Zaire (now DRC), the security situation had improved enough to warrant a shift from a military to political option. If an internal political deal could be struck, it would help Buyoya get the regional pressures off his back, and the sanctions would be lifted. Hence, because of his failure to strike a deal with the CNDD /FDD and the lack of support from his own party, UPRONA, Buyoya decided to work with FRODEBU. He found in it a ready partner because the partnership helped FRODEBU come out of its political isolation. He did not engage the regional leaders seriously until the

Internal Partnership Agreement between the government and the FRODEBU – dominated National Assembly was formally adopted in June 1998.

By February 1998 Buyoya was not yet fully committed to the Arusha process. He was still insisting that additional mediators should assist the facilitator and that the venue should be changed. Since the regional leaders were not satisfied with his internal peace plan, they decided during the sixth regional summit in Kampala on February 21, 1998, to continue the sanctions. Confident that an internal political deal was imminent, Buyoya dropped charges against Ngendakumana, who, together with former president Bagaza and Ntibantuganya, was allowed to travel freely in the first half of March 1998.

Following the positive developments, the late Mwalimu Nyerere embarked on a series of consultations with all the parties between the months of March and April 1998. It was formally agreed that peace talks be held in Arusha under Nyerere's facilitation, with effect from June 15, 1998.

It took almost five years, eight regional summits and a sanctions regime for the region to exert itself in facilitating mediation in the Burundi conflict, indicating not only the complexity of the conflict but also the intricacy of gaining entry into the mediation process itself. The regional initiative was finally accepted by Buyoya because he believed that the regional leaders would appreciate his efforts toward a political settlement and would support the Internal Partnership deal. He strongly believed that Arusha was an ideal place to market the Internal Partnership to the other Burundian parties: He was convinced that

with the endorsement of the regional leaders the other parties would be tempted to come on board. The regional endorsement would therefore lead to the lifting of the sanctions. But even if the Internal Partnership could not be sold to the regional leaders and the other Burundian parties, participating in the Arusha talks would give the government enough time to implement the Internal Partnership agreement.⁹⁷

5.7.6. Conclusion

As pointed out earlier, it needs to be recalled that since its independence in 1962, Burundi has been a land of political chaos. Apart from a short period of political tranquility the country has undergone prolonged cycles of ethnic violence, marked by the assassinations of prominent politicians, coups and countercoups, attempted coups, massacres, political exiles, hundreds of thousands of refugees and displaced persons, and subsequently, lack of development. From 1966 to 1993, Burundi's politics was dominated by a military oligarchy. Coups have been the vehicle of leadership change.

Apparently, all the Heads of State during this period came from the army and were all Tutsis from the same region and clan. The first successful coup was initiated by Michel Micombero, a Tutsi army captain from Bururi, a southern province of Burundi on November 28, 1966. He abolished the constitutional monarchy and declared Burundi a republic, with himself as the president. Micombero was overthrown in another bloodless coup a decade later, on November 1, 1976, by Lieutenant Colonel Jean Baptiste

⁹⁷ Maundi and Zartman (2006), *op. cit.*

Bagaza, a Tutsi also from Bururi and a relative of Micombero. This was followed by another coup a decade later, on September 3, 1987, led by Bagaza's nephew, Major Pierre Buyoya. In October 1993, Burundi witnessed yet another military coup that led to the assassination of the first Hutu democratically elected President Melchior Ndadaye.

Although he seized power through a coup himself, in September 1987, the Tutsi President Major Pierre Buyoya responded to a new round of Hutu guerrilla killings and anti-Hutu army reprisals in 1988.

Responding to the democratic sentiment then rising in Africa, President Buyoya launched an unprecedented series of economic and political reforms. These included a referendum on a new constitution and the country's first multi-party elections set for June 1993. The mid-1993 elections brought the decisive victory of FRODEBU candidate Melchior Ndadaye as the first Hutu President.

The outcome was widely heralded as a victory for the democratic majority, and the dawn of a new era in Burundi politics. Even though the election campaign had been deeply imbued with ethnic overtones, the new government appeared to be assuming effective control and gaining acceptance from the army and Tutsi political leaders. Unlike Rwanda from 1990 to 1994, Burundi was making the transition to a more representative government in a peaceful way.

However, in October 1993 an army unit led by Junior officers attacked the presidential palace and killed the democratically

elected Hutu President Melchior Ndadaye and top Hutu officials. Within a short time, widespread killings mainly of Tutsis were instigated by Hutu activists in many parts of the country in the name of revenge for killing their President. On their part, the army paratroopers began first to rescue the threatened groups, and then indiscriminately carried out massive reprisals against Hutu peasants and local officials including some Tutsis. The violence claimed the lives of between 50,000 to 100,000 people and many properties destroyed.

It was at this point that the OAU became involved in the conflict in Burundi. More specifically, apart from several visits to Burundi by the Secretary-General and other officials of the OAU, the Organization deployed an observer Mission in Burundi (OMIB) headed by a Special Representative of the Secretary-General H.E. late Ambassador Bah from the Republic of Guinea, initially comprising military and civilian elements. Nevertheless, after Major Pierre Buyoya's coup d'état of July 25, 1996, the OAU withdrew its military component of the Mission. It also called on Member States and the international community as a whole to isolate the new regime in Bujumbura.

Subsequently, and short of a military intervention, the countries of the region imposed sanctions to ensure the return to constitutional negotiations with all the parties in Arusha, Tanzania, under the facilitation of former Tanzanian President, the late Mwalimu Julius Kambarage Nyerere. These sanctions were endorsed by the Central Organ and monitored by the OAU Secretariat. They were suspended in January 1999 after Major Buyoya's military regime complied with the call for negotiations.

In view of the foregoing, it is quite evident that the countries of the Great Lakes Region and the OAU were closely involved in the Arusha negotiation process which started in March 1996, and led to the signing, on August 28, 2000 of the Arusha Peace and Reconciliation Agreement. The OAU/AU is signatory to and moral guarantor of the Burundi Agreement. In particular, the OAU has been entrusted with specific responsibilities both at the level of the Implementation Monitoring Committee (IMC) and the Sector Commissions provided for in the Arusha Peace Agreement. The OAU actively participated in the efforts to implement the Arusha Agreement.

The 15th Regional Summit held in Arusha in July 2001 marked a turning point. Indeed, it was that meeting which endorsed the decision to appoint Major Pierre Buyoya as President of the first phase of the transition that lasted for 18 months. This led to the establishment on November 1, 2001 of the Transitional Government.

In view of the progress made in the implementation of the Arusha Agreement, the 75th Ordinary Session of the Central Organ at Ambassadorial Level held in Addis Ababa 2001, requested the then Secretary-General of the OAU to take the necessary measures to ensure that the OAU further contributes to the peace process. In this respect, steps were taken to strengthen the OAU Mission in Burundi.

Finally, an OAU force was deployed. The countries that contributed troops were South Africa, Mozambique and Ethiopia. The OAU forces stayed in Burundi until after the general elections in 2005 which CNDD/FDD won.⁹⁸

98 AU Commission, Report to the Assembly, 2006.

In view of the foregoing, we are inclined to draw a number of important theoretical and practical lessons from this conflict in so far as regional integration and cooperation in preventing and resolving conflicts in Burundi is concerned as follows:

- (a) A swift and resolute response is key to entry. The Great Lakes Regional Leadership, OAU, the United Nations and other stakeholders acted fast and got foot in the door. The consideration of a military intervention of their determination not only to take the lead in dealing with the conflict but also on use of all the means available to fulfill such a commitment. From a foot in the door to a full-fledged mediation process in Arusha was a long step, however.
- (b) As Rwanda also showed, perceptions, positions and policy options in a conflict are not constant; they change as the conflict evolves. The change affects both the parties to the conflict and the prospective interveners. The political reforms that had been initiated in 1989, for example, were perceived by the Tutsi as a means of confirming and legitimizing their political dominance. When they lost the elections, the outcome was a loss of power too. This new perception, in turn changed their position from that of supporting the reforms to opposing them. The change of their position also changed their policy option from normal politics to military measures that culminated in the October 21 coup, taking the conflict to another level.
- (c) A conflict needs an incremental intensity and drastic triggers to attract interveners. The 1988 massacre induced the external pressure that forced Buyoya to initiate

political reforms. The October 21 coup and the death of President Ndadaye attracted a full harvest of humanitarian interveners and prospective mediators, including the region, the OAU, the United Nations and the Carter Center. The July 25 coup brought in the region, the OAU, and the Community of Sant'Egidio, and UNESCO. This response stands in the contrast with that of Rwanda, whose one major trigger, the October 1990 RPF invasion, attracted just a seasonal crop of interveners.

- (d) For sanctions to be effective, there must be total solidarity and strict coordination among the imposers of the sanctions, as well as unwavering international support for the sanctions. Buyoya took quite some time to respond to the impact of the sanctions, primarily because the enforcers' solidarity was quickly broken down following individual states' economic interests. The impact of the sanctions was also reduced because of flagging international support. The western countries' ambivalence on the sanctions contributed to Buyoya's procrastination on the regional initiative. Furthermore the war in the DRC which almost divided the region's solidarity, affected the implementation of the sanctions.
- (e) The two requests for regional military intervention from the legitimate governments of Burundi in October 1993 and in June 1996 were turning points in that they were the first and second time a sovereign country in Africa had voluntarily sought such assistance. The significance was not only in the requests but also in the response to

the requests. The lesson from the Burundian experience is that the failure to respond to such a policy option is not necessarily a function of legal barriers for sovereignty but can also be a function of exogenous factors. For Africa and the African Union, the OAU's successor, the lesson is that there is an urgent need for the continent to start thinking seriously about beefing up its capacity in the area of peacekeeping which requires predictable and sustainable human and finance resources (Maundi, *ibid.*).

- (f) Though more difficult, the inclusive approach of engaging all the parties to the conflict is key to success. This approach differed from the conventional one that usually favors the central authority and moderate parties in negotiations aimed at striking a deal in compromise political settlement. The experience of the exclusive approach adopted for the Arusha process for Rwanda is a very instructive contrast to this innovation. The extremist groups that were excluded in the Rwandan negotiations in Arusha contributed not only to the failure of implementing the negotiated agreement but also to the 1994 genocide. While engaging all the parties might appear to be the right approach, however, such an approach may be its own undoing taking so long to get the hold-outs agreement that the early compromise falls apart. Here again, we see the significance of the role of regional and sub-regional arrangements and their response to such conflict situations.
- (g) While regional cooperation can be significant in maintaining regional security, particularly the security of

the democratically elected governments, African leaders are still unable to co-ordinate their policies effectively due to lack of enough human and financial resources. At the end these efforts became counter-productive.

5.8. Rwanda

Outside the continent, African countries are usually identified by the gruesome crises that are reported on international news outlets. Mentioning Uganda often times evokes memories of Idi Amin and all the atrocities he committed on his peoples. A conversation about Ethiopia is usually punctuated with talk about drought and famine. In a similar vein, Rwanda invokes images of Africans hacking each other to death with machetes. As we shall see, the conflict in Rwanda is mainly remembered by the genocide of 1994. Between April 6 and July 17, 1994, the Rwandan state encouraged its supporters to kill members of the Tutsi ethnic group and its political adversaries. As many as 800,000 people were reported dead and 4 million were displaced from their homes, with most of them fleeing their country altogether.

Indeed, Rwanda is one of the smaller African countries with a surface area of 10,186 square miles. It has a population of 7 million, which is composed of three ethnic groups. The Hutu are the largest ethnic group with 84 per cent of the population, followed by the Tutsi with 15 per cent and *Twa with 1 per cent*. Although the three ethnic groups in Rwanda differ slightly in bodily features, their social structures are similar. They share a common language; have same kinship and clan systems and agree on a common set of social values.⁹⁹

99 Nyrop *et al.* (1974), p. 44.

In spite of the similarities between the ethnic groups in Rwanda, the Tutsi and Hutu have fought each other several times since the country won independence in 1962. Most media reports and some scholars have used primordial theories to explain the conflicts in Rwanda. It has been suggested that cultural differences between the Hutu and Tutsi are the main cause for the conflicts. However, Lemarchand¹⁰⁰ contends that there are more similarities than differences between the two groups. Lemarchand goes on to argue that most of the differences between the Hutu and Tutsi are imaginary and not real, and politicians pit the ethnic groups against each other to achieve their political goals.

Rwanda has experienced a disturbing and prolonged cycle of violent conflict since 1959 three years before it gained its independence. The conflict, which has been characteristically political and socio-economic in nature, has played out mainly on the basis of ethnicity and regionalism. Although the first phase of the conflict was set off during the process of the country's decolonization that began in the late 1950s, its seeds were sown during the colonial period itself.

It was first German and then Belgian colonialism that created and nurtured the country's ethnic rivalry between the majority Hutu and the minority Tutsi. The rivalry was constructed on the basis of a myth of Tutsi superiority over the Hutu in order to serve both the colonial policy of divide-and-rule and the colonial division of labor. The Tutsi were designated as the administrative supervisors and the Hutu as the labor force of the extractive

100 Lemarchand (1996), pp. 4-9.

colonial economy. It was on the basis of this specialized division of labor that the country's socio-political and socio-economic relations were established prior to independence.

The objectives of the 1959 revolution, which brought the Hutu to power, were to end colonialism and to change the socio-political and socio-economic relations that it had created. Unfortunately, though it succeeded in changing the colonial socio-political relations, it failed to crush the ethnic stereotypes that continued to haunt the country. Hence, if there was anything revolutionary about the 1959 revolution, it was the elitist role-reversal whereby Hutu elites succeeded in taking the reins of power from the Tutsis. Since independence, both Hutu and Tutsis elites continued to manipulate ethnic hatred for socio-political advantage. The second phase of the conflict came during the early 1970s, when Juvénal Habyarimana initiated a coup that replaced the nationalist President Grégoire Kayibanda. Although this phase of the conflict had inter-ethnic connotations and implications, it was more of an intra-Hutu regional conflict a protest of the northern Hutu, represented by Habyarimana, against the exclusionist tendencies of the Kayibanda regime, which was mainly dominated by the Hutu of the south and central part of the country. The third phase of the conflict was the Tutsi return to power, sparked by the October 1990 invasion of the Rwandan Patriotic Front (RPF). The most common characteristic of all the phases of the Rwandan conflict has been the killing of tens or even hundreds of thousands of innocent civilians and the forcing of hundreds of thousands of others into exile as refugees (Maundi and Zartman, *op. cit.*).

The cycle of violence that has destabilized the Great Lakes region began in Rwanda in 1959, and has since affected Rwanda,

Burundi, Uganda, Tanzania, D.R.C., and to a lesser extent Kenya. Violence in the region started in 1959 when the majority ethnic group, the Hutu, overthrew the ruling Tutsi monarch. The new rulers of Rwanda, under the leadership of President Grégoire Kayibanda, changed the state apparatus from a monarchy to a republic. Before the revolution in which the monarch was abolished, Tutsi and Hutu had a hierarchical and interdependent social order. Naturally, the Tutsi were not happy with the political changes and many went to exile in Uganda, Burundi, Tanzania, and D.R.Congo. From exile, the Tutsi tried to overthrow President Grégoire Kayibanda's government with an unsuccessful attempt in 1963 and increased activity in the early 1970s. President Kayibanda launched a policy of repression against all political opponents and encouraged the persecution of Rwandan Tutsi. The witch-hunt culminated in the 1973 massacre and caused the overthrow of his (Kayibanda) government by Major Juvénal Habyarimana.

In spite of overthrowing his government, Habyarimana continued with Kayibanda's oppressive policies and the flow of refugees continued unabated. However, two events deserve special mention because they explain both the germs of the genocide and consolidation of Tutsi grievances. First, creation of the *Mouvement de Rassemblement National Démocratique* (MRND), and its role in eliminating opposition to the government greatly contributed to political tension in the country. The MRND, nicknamed *interahamwe* (those who attack together), was essentially a group of Hutu militiamen who caused widespread fear and created a climate of political terror. Another important event was the government's uncompromising opposition to the

return to Rwanda of exiled Rwandan citizens living in neighboring countries. The Habyarimana regime advised Rwandan refugees *to apply for citizenship in countries* where they were residing arguing that Rwanda is too small, too poor and over populated to welcome back all refugees in exile.

The main issues driving the Rwanda conflict were the lack of rule of law in Rwanda, the need to share power between the two major ethnic groups, and the repatriation of refugees.¹⁰¹ The issue that makes the Rwanda conflict different from most other conflicts on the continent, and one that we will focus on, is that of repatriation of refugees. Refugees have been a problem in the Great Lakes Region (GLR) since independence when spatial boundaries were established. The struggle for power between the Hutu and Tutsi, in Rwanda and Burundi, has produced thousands of refugees that have settled in Uganda, Tanzania, and D.R. Congo. The conflict in the Great Lakes Region has also been particularly violent because of the high population density in the region. Mwanasali reports that the border area where Uganda, Tanzania, Rwanda and Burundi meet is among the most densely populated on the continent.¹⁰² Interaction of the two factors, ethnic conflict in Rwanda and the dense population of the region surrounding this country has created an explosive situation for the region as a whole. Pervasiveness of refugees in a region with a high population density raises the importance of refugee issues and concerns.

The issue of Rwandan refugees has been a strong undercurrent in Ugandan politics for a long time. Despite their lengthy

101 Jones (2001), p. 79.

102 Mwanasali (2002), p. 53.

stay and integration in society, Rwandan refugees were never fully accepted by their Ugandan hosts. Descendants of Rwandan refugees were discriminated against, particularly in the economic and political sectors. Sometimes, Ugandan political leaders, who would use the issue to divert attention from other national problems, endorsed discrimination against Rwandan refugees. During Obote's second presidency in the 1980s, the government of Uganda accused people of Rwandan descent of supporting the National Resistance Army (NRA), a rebel group that was fighting the government. A crisis erupted in 1982 when local officials in southwestern Uganda indiscriminately forced 80,000 people of Rwandan descent, including many with Ugandan citizenship, to leave their homes and possessions.

Since Habyarimana's government had refused them from returning to their homeland, they were forced to live in refugee camps on the Ugandan side of the border. Given such pressures and frustrations the refugees established an organization called the Rwandese Patriotic Front (RPF) in 1987.

The initial objective of RPF was to facilitate the repatriation of Rwandan refugees back to Rwanda, but later its objective became the toppling of the Habyalimana regime. RPF wanted to establish a new regime that was more sensitive to the problems of all Rwandan peoples.¹⁰³

Rwandan refugees were a critical component of Museveni's National Resistance Army (NRA), the first rebel group to overthrow a government in Africa. Many Rwandan refugees joined the

103 Jones (2001), *op. cit.*

NRA after being persecuted by officials of Obote's government. Clark¹⁰⁴ reports that Museveni's 14,000-soldier army (as of 1986) had some 3,000 (mostly Tutsi) Rwandan soldiers. With their Rwandan citizenship revoked and Ugandan residency uncertain, the Rwandan refugees were some of the most disciplined and fiercest fighters in Museveni's army. They also occupied some of the high-rank positions, something that caused many Ugandans to question Museveni's nationality. The contribution of Rwandan refugees toward his successful campaign against Obote and their occupation of high positions in government placed Museveni in a difficult situation. Many Ugandans resented the fact that people of Rwandan descent were occupying top positions in both the armed forces and civil service. In addition, the Rwandans that assisted Museveni to get power wanted him to pay them in kind by helping them overthrow Habyarimana's government that had denied them of their citizenship.

While Museveni denies assisting the PRF or knowing about its plans to invade Rwanda from Uganda, several facts suggest that Ugandan government officials knew about the rebel's plans.

Jones¹⁰⁵ reports that a substantial part of Museveni's guerrilla army was made up of descendants Rwandan refugees. Museveni's army fought and finally removed Obote's government. Another important fact is the two highest ranking military officials of RPF had also been high rank officials in Museveni's army. Fred Rwigyema was deputy minister of defense in Museveni's army and Paul Kagame was deputy chief of military intelligence. Given

104 Clark (2001), op. cit.

105 Jones (2001), op. cit.

the large numeric composition of people Rwandan descent in Uganda's armed forces, some of whom were high rank officials, it is unlikely that Ugandan government official were ignorant of RPF's preparations to invade Rwanda.

Tanzania's interest in the Rwanda conflict is also related to the refugee problem. While its population density is less than that of Uganda, Tanzania's northwestern region is one of the more densely populated ones. In addition, Tanzania shares boundaries on the west with Burundi and the Congo, two other countries with frequent political instability; that often produce refugees. Tanzanian government officials, therefore, are always concerned about conflicts in the region because these conflicts are likely to result in refugee camps in Tanzania.

African governments are increasingly finding it difficult to care for refugees because of the cutbacks in government spending demanded by International Financial Institutions as part of the economic restructuring programs. Of equal importance, is the social and political instability created by the refugees, both in the camps and in the surrounding areas. On many occasions relations between the Tanzanian government, on one hand and Rwanda or Burundi governments on the other, have become tense due to political activities in refugee camps.

Kenya does not share borders with Rwanda, and was not directly impacted by the main issue driving the conflict, that of massive refugees. Nevertheless, there were refugees in Kenya, but of a slightly different kind. Most refugees in Uganda and Tanzania were Tutsi because they were the ones persecuted by the Hutu dominated government in Rwanda.

When the RPF started closing-in on the Hutu dominated government, the officials had few neighboring countries in which to seek asylum. Kenya was the safest country in the neighborhood, particularly for officials who had the means to get there. Another reason prominent Hutu politicians chose to seek refuge in Kenya is because its President at the time, Daniel Arap Moi, was one of the African leaders of the older generation. Moi was less enthusiastic about new governments instituted through guerrilla movements and more understanding of the problem facing Habyarimana's government.

Many government officials from Habyarimana's government sought refugee in Kenya as the war intensified. Africa Research Bulletin¹⁰⁶ reports that Kenya had become a sanctuary for Rwanda Hutus, most of who were implicated in the genocide. In fact, relations between the Kenyan government and the new Rwandan government were not good for the first two years of the new government. The June 1996 issue of Africa Bulletin Research reports the closure of Rwanda's embassy in Kenya after a Rwanda diplomat was accused of attempting to kill a political refugee from the previous government, and the diplomat was expelled.

Relations between the countries only started to warm up in 1997 when the government of Kenya arrested two refugees, from the deposed government, accused of participating in the genocide and handed them to officials of the UN war crimes tribunal¹⁰⁷. Surely these refugees were an embarrassment to Kenya and they strained its relations with other countries in the region.

106 Africa Research Bulletin (1995).

107 Africa Research Bulletin (1997).

The discussion above shows that the conflict in Rwanda *had a regional impact*. All three countries of the EAC were affected by the conflict, particularly through their association with Rwandan refugees.

In spite of the regional dimensions of the conflict, the EA countries' efforts to resolve the conflict were neither coordinated nor guided by the EAC treaty. According to the EAC treaty, EA leaders pledged to "establish common foreign and security policies." However, in resolving the Rwanda conflict the leaders pursued different policies. The presidents of Kenya and Tanzania attempted negotiated settlements to Rwanda's conflict, independent of each other, while the president of Uganda implemented a military strategy.

Of the three EA leaders, President Museveni of Uganda was most involved in the Rwanda conflict. As discussed above, the rebel group fighting Habyarimana's government, the RPF, was based in and launched its attacks from Uganda. In other words, Museveni applied a military approach to the problem of Rwandan refugees in Uganda. Museveni offered military and political support to the RPF rebels to solve the refugee problem in his country. Museveni's continued support of the RPF rebels, until they toppled Habyarimana's government also demonstrates that Museveni preferred the military solution as the way of resolving the conflict between the government in Kigali and the rebels.

Tanzania's role in the Rwanda conflict was to assist the parties in trying to settle their differences in a peaceful way. Three weeks following the launching of hostilities (October 17-19, 1990), Tanzania organized a meeting with the presidents of

Rwanda and Uganda aimed at finding a solution to the problem of Rwandan refugees. Five months later (February 19, 1991) a more important summit including Rwanda, Uganda, Burundi, Zaire, the Organization of African Unity (OAU) and the United Nations High Commissioner for Refugees (HCR) was held in Dar es Salaam. Because of Tanzania's neutral position in the conflict and its commitment to searching for a peaceful resolution, the OAU chose it to facilitate negotiations toward a peaceful resolution of the conflict. From January 1992 until August 1993, a diplomatic marathon aimed at bringing peace to the region was conducted in Arusha, Tanzania. Six African countries (Uganda, Burundi, Senegal, Zimbabwe, Nigeria, and Zaire), the former colonial ruler of Rwanda (Belgium), representatives of the Security Council (France and the United States), the OAU and United Nations technical advisers participated in the Arusha Peace Negotiations.

Unlike Uganda and Tanzania, Kenya did not participate in the Arusha peace negotiations. Jones¹⁰⁸ documents two meetings in which Kenya participated in activities aimed at resolving the Rwanda conflict; one meeting, just after the war had started, included a Belgian mission, and the presidents of Rwanda, Uganda, Tanzania and Kenya. Kenya also participated in a meeting involving the presidents of Rwanda, Burundi, and Tanzania, right before the presidents of Rwanda and Burundi died in the plane crash. Other than these two meetings, there is not much to show Kenya's involvement in the Rwanda conflict or activities to end that conflict.

108 Jones (2000), op. cit.

The Rwanda revolution was a result of numerous factors that had shifted the balance of political power from the Tutsi to the Hutu. First, the Hutu underdogs were supported in their campaign of majority rule by the “new generation of missionaries who were inspired by a Christian socialism based on the fashionable ideas of equality, democracy and social progress”.¹⁰⁹ Second, the representative councils set up at each level of the administrative structure from 1952 onwards placed the Hutu in a position to establish a strong presence by way of greater numbers. Third, the Hutu interpreted the Hamitic Hypothesis in a way that suggested Tutsi to be foreign invaders. Rwandan Tutsi were from now on treated as immigrants and the 1959 revolutionaries called for the return to Ethiopia of the Tutsi colonizers.

5.8.1. Mediation Efforts

This section focuses on the mediation and the role of regional and sub-regional organizations efforts in the third phase of the conflict. Its time frame ranges from October 1990, following the RPF’s invasion, to June 1992, when the Great Lakes Region’s efforts to initiate mediation succeeded in launching the Arusha Peace Process under the Tanzania government’s facilitation.

In order to realize this objective, the following questions will form the basis of our analysis: What was the nature of the Rwandan conflict in this phase? Who were the major protagonists? What were the specific issues of the conflict? Who tried to intervene and what were their motives? What were the prospective intermediaries’ perceptions of the nature of the conflict? Were these perceptions

¹⁰⁹ Destexhe (1995).

in line with those of the parties to the conflict? Why did the protagonists accept mediation and the particular prospective mediators¹¹⁰? The section concludes with specific theoretical and practical lessons from the sub-regional, regional and international community conflict resolution experiences in Rwanda.

5.8.2. The Rwandan Civil War of the 1990s

The October 1990 civil war was a classic case of a centralist internal conflict based on the struggle for the control of central authority. A number of external and internal factors contributed to the timing of the RPF invasion from Uganda (Maundi and Zartman, *ibid.*).

First the Rwandan government's policy of denying hundreds of thousands of refugees, scattered all over the world, the right to return to the country of their nationality amounted to a process of denationalizing them or condemning them to permanent refugee status – and thus an invitation to a forceful return. The policy was based on the argument that the country did not have enough land to resettle the returnees, and that its high population density made it all the more exigent that the refugees remain in the host countries. Against this backdrop, the refugees the majority of whom, by the history of previous events, happened to be Tutsi decided to organize themselves and fight for their return to Rwanda.

Second, the role of the Rwanda refugees who later constituted the backbone of the RPF in helping bring Yoweri Kaguta Museveni

110 Maundi, M. O. and Zartman, I. W., *op. cit.*

to power in Uganda in 1986, their numerical presence, and the high positions some of them occupied in the Ugandan National Resistance Army (NRA) raised hostile nationalistic sentiments among Ugandans themselves, especially those who were opposed to Museveni. These xenophobic sentiments and the subsequent sidelining of the Rwandan top officials within the NRA created among the refugees a feeling of being unwanted and a fear of future harassment and hastened preparations for their return. Thus the invasion was neither accidental nor spontaneous. It was carefully thought out, planned and clinically executed.

Within Rwanda, the RPF was helped by growing internal opposition against Habyarimana's regime. These were the 1990s, and, like everywhere else in Africa, Rwandans were being blown by the winds of political change. Thirty years of dictatorial leadership, human rights abuses, dismal economic performance, nepotism, corruption, and the north-south political divide provided an impetus for civil society to mobilize for political transformation. Inspired by the democratic changes taking place in other African countries then and donor nations' conditionalities that tied foreign aid to political reform, courageous politicians, intellectuals, and journalists called for the introduction of a multiparty system. This call posed, for the first time, a serious threat to Habyarimana's single-party rule. In July 1990, he succumbed to these pressures and promised to form a national commission to study the issue. In September, a group of thirty-three agitators declared that there was no need for a commission to study the relevance of democratic changes. Rwanda was more than ready for multiparty politics (see Des Forges cited by Maundi, p. 33).

Another internal factor was Habyarimana's apparent change of heart on his refugee policy. In February 1988, he had formed a joint commission with Uganda to deal with the refugee problem, but nothing serious was done. Following the world congress of the Rwandan refugees held in Washington, D.C., in August 1988, which passed a resolution on the "right of return," even by force if necessary, Habyarimana started to pay more serious attention. During its third session, held in July 1990, the joint commission came up with a document that spelled out the modalities that would have guided the Rwandan officials to determine the list of the refugees to be repatriated from Uganda, effective in November. However, the return came earlier and much differently than the joint commission envisioned.

The RPF invasion in October was a calculated pre-emptive move to prevent Habyarimana from making positive inroads in the political sphere and in the refugees' problem. The RPF militants were in danger of losing support from the refugees if the refugees would now be able to return peacefully, and of losing their political platform if Habyarimana were to install a multiparty system.

Of lesser importance, but still significant, was the absence of both Museveni and Habyarimana in their capitals during the eleventh hour of the invasion. Both were in New York attending a United Nations Children's Fund Conference on Children's Problems in the Third World. Hence, "Museveni would be able to distance himself from any RPF activities until it was too late to stop them, while in Habyarimana's absence, the regime in Rwanda would also find it more difficult to respond effectively."

Despite initial setbacks, the RPF proved within a short time to be a credible challenger to the Rwandan government. The Front

suffered a shocking major loss on just the second day of the invasion, when its chief commander, Major-General Fred Rwigyema, was killed in ambiguous circumstances. After recovering from its initial blow, the government forces, the Forces Armées Rwandaises (FAR), backed by the French, launched a serious counter offensive. Within two weeks, they succeeded not only in pushing back the invaders but also in killing two other RPF high-ranking commanders with a score of fighters as well as senior officers. These initial losses threw the RPF in disarray and they were forced to retreat. But after lying low for two months, the RPF was able to regroup and re-launch what its new chief commander, Major-General Paul Kagame, called “the beginning of a protracted popular war.” This second offensive rooted the insurgency in the ground and established its credibility. It would take the RPF four years of military and diplomatic campaign to get rid of Habyarimana’s regime and elevate itself to power.

5.8.3. The Parties to the Conflict

By early 1992, the conflict was already a triad in itself even before the involvement of an intermediary. Although the RPF invasion reduced the conflict to a two-party scenario, between itself and the government, the internal opposition was actually a third party. Each of the three parties had specific objectives (Maundi and Zartman, p. 35).

5.8.3.1. The RPF

The RPF was constituted mainly by the Rwandan refugees, with Tutsis in the majority. Whereas its initial core leadership and the backbone of its fighters were refugees from Uganda, many others

from the Diaspora joined the organization as the war continued. The RPF's eight-point political program, adopted some years before the invasion, called for national unity, democracy, an end to corruption and nepotism, a self-sustaining economy, improved social services, a national army, a progressive foreign policy, and an end to the system that generates refugees and the transformation of the Rwandan political system and all that it stood for.

The RPF faced a number of dilemmas in its effort to achieve the two objectives. The first dilemma was the tactical question. Defining one's objectives is one thing, deciding how to achieve them is another. Given the political circumstances prevailing then in Rwanda, military insurgency seemed to be the rational choice to guarantee the return of the refugees. But this approach created another dilemma. How could an exclusionist political system be transformed by an institution exclusively dominated by one ethnic group without being accused of the very ills that it was determined to eradicate? It dawned on the RPF that this would not have been possible without adopting an integrative approach; it was expedient to give the organization a national character in both its leadership and membership. This character was provided by the objective of overhauling the political system, as spelled out in the eight-point program, and appears to be the credible explanation for the inclusion and involvement of a few Hutu among the RPF combatants and in its leadership.

The RPF was fully aware that the involvement of the Hutu within its ranks could not be a cosmetic or a short-term expediency. It would never have been able to realize the objective of turning Rwanda into a democratic society under the RPF's leadership

without a mass participation of the Hutu in it. Short of making the organization a truly integrative national movement, there was no way that the RPF could win and be legitimized by a free and fair multiparty election. The indication of that awareness could be deduced from its political agenda, which spelled out not only a democratic objective but also national unity and a national military. The RPF simply could not achieve national unity, let alone a unified national military, without adopting an integrative approach.

Two distinct categories of Hutu were attracted to the RPF. The first consisted of the Hutu who were political exiles and refugees like the Tutsi in Uganda. The RPF's objective of the "right of return" resonated with the plight of these Hutu as well. The political exiles included prominent Hutu personalities such as Colonel Alexis Kanyarengwe and Pasteur Bizimungu, who became top-ranking Hutu cadres in the RPF. The initial few Hutu fighters in the RPF were descendants of Hutu agricultural migrants who had moved to Uganda in the 1920s and 1930s to escape the harshness of Belgian colonialism and take advantage of the economic opportunities Uganda then offered. During Milton Obote's anti-refugee repression in Uganda in the early 1980s, the Hutu were targeted the same way as the Tutsi refugees. Some Hutu joined Museveni's NRA for the same reasons the Tutsi refugees did, and later on joined their Tutsi comrades-in-arms in the RPF.

The second category of the Hutu who joined the RPF included those who were specifically attracted by its broader national political agenda to bring down Habyarimana's authoritarian regime. Admittedly, the political agenda took time to gain credibility among the population, but as the war dragged on and

the RPF was scoring some impressive victories, some young Hutu men left their villages and enlisted in the RPF army. With time-some government soldiers defected to the RPF side unabated.

Others have interpreted the Hutu involvement in the RPF merely as opportunistic: it provided an avenue for combatants to earn a living, a stepping stone for quenching the megalomania of those who joined the ranks of its leadership and a cover-up of the organization's Tutsi ethnic character in order to deceive the world.

Though opportunism cannot be completely ruled out in individual cases, it should not, at the same time, be taken as the only credible explanation for Hutu participation in the RPF. Some Hutu combatants joined the RPF to earn a living, although the RPF was not paying its fighters. The proponents of this view may argue that the combatants did it as a long-term investment, expecting to be paid once conscripted in the regular army following the RPF victory. Though plausible, this would have been a really costly investment. How could they be sure that the RPF would succeed, or that they themselves would service the war in the first place? A gambling per excellence!

For the Hutu who joined the RPF leadership for opportunistic motives, doing so would have been equally costly and risky. Would it not have been cheaper for them to wait on the sidelines until the RPF took care of the Habyarimana regime, and then pursue their political ambitions through the bandwagon of a democratic system by joining opposition parties? The most credible explanation for the presence of the Hutu in the RPF is that they were really committed to its nationalist approach in dealing with Rwanda's political problems. Given the historical ethnic hatred between

the two, it was an extraordinary measure of courage for the few Hutu and the Tutsi to trust each other and work together for a shared objective. Much credit should be given to the few Hutu who were courageous enough to risk their necks and join the RPF. Their action could serve as a much-needed bridge to link the people of Rwanda for a meaningful political transformation, irrespective of their deep-rooted ethnic animosity.¹¹¹

Uganda was the major supporter of the RPF. Its support was so obvious that it ran the risk of robbing the organization of its international sympathy and raising fears of the revival of the great Hima Empire in the region. Many countries saw only “Museveni’s hand in the RPF conspiracy” and downgraded the real plight of the Tutsi refugees, which was one of the issues that had forced the RPF to launch the war. Yet it should not be difficult to understand the rationale of Uganda’s support for the RPF. Museveni owed much to the RPF for the role its members played in the NRA. In addition, the RPF was almost a copy of Uganda’s National Resistance Movement, the political wing of the NRA, in both policy and tactics. Both claimed to be broad-based nationalist movements, and both launched military insurgencies in order to replace the central authority. Also Museveni felt obliged to assist a seemingly “progressive” movement, such as a RPF in order to expand the new brand of African “progressive” leadership on the continent.

5.8.3.2. The Government

By the time the civil war broke out, the government consisted of a political wing represented by the ruling party, the *Mouvement*

111 Maundi and Zartman, op. cit.

Révolutionnaire National pour le Développement (MRND), and military wing represented by the FAR. The government was dominated by the Hutu, particularly those from the north, where Habyarimana originated. The deliberate and institutionalized marginalization of the Tutsi was based on an exclusionist ideological myth that equated democracy with demography. The logic was that the Hutu majority automatically made the Hutu-controlled government both legitimate and democratic.

During the Habyarimana years there was not a single Tutsi *bourgmestre* (equivalent to district head) or prefect (provincial head), only two Tutsi members of parliament out of seventy, only one Tutsi minister out of a cabinet of between twenty-five and thirty members, and only one Tutsi officer in the army, whose members were even prohibited by regulations from marrying Tutsi women. The government's objective was to resist both the ethnic and regional threats to its power monopoly posed by the Tutsi under the guise of the RPF and by the southern and central regions' Hutu under the guise of the opposition parties, respectively. Against the RPF, the government was fighting for its survival that is, not to be replaced by it. Against the internal opposition, it was fighting for its monopoly of power, refusing to open its doors to participation in the government of the day (Maundi, *ibid.*).

In the government's struggle for survival, France was the most reliable ally. It became the major supplier of arms to the Rwandan government, trained its various branches of the armed forces, including the notorious *interhamwe* militia. Further, it advanced vigorous steps in the transformation of Habyarimana's foreign policy in accordance with his internal initiative toward absolute

power, Habyarimana marginalized was the marginalization of Rwanda's former metropole, Belgium, as a primary foreign ally in favor of France. It was beneficial for Rwanda to join the larger and more prestigious Francophonie club rather than remain in the smaller and less glamorous Belgian camp.

One of the indicators of this change of policy was Rwanda's attendance at the Francophonie summits that began during the Giscard d'Estaing administration and became more prominent during the Mitterrand administration. It is only France, among the former colonial powers that once ruled Africa that has kept the will and the political breathing space, both at home and on the African continent, to use military power whenever it feels the need to add muscle to its policies in defense of its "special relationship" with Africa. Gérard Prunier contends that there are personal material rewards from this policy: Africa is used as a money-laundering machine.

Overpriced government contracts are given to good trusted friends and public money becomes vibrantly alive in private hands... There is a high degree of symbiosis between French and francophone African political elites. It is a mixture of many things: old memories, shared material interests, delusions of grandeur, gossip, sexual peccadilloes in short, a common culture for which there is no equivalent among ex-colonial powers with the possible and partial exception of Portugal.

France's paranoia of the Anglo-Saxon influence and the danger it posed to French interests is another explanation of its deep involvement in the Rwandan crisis. Referred to as the "Fashoda Syndrome" (reminiscent of the 1898 clash of British and

French colonial ambitions at a small village in southern Sudan), the French Anglo-Saxon fear is very much a part of French foreign policy thinking, and particularly in Africa, where France's post-colonial interests are concentrated and important.

5.8.3.3. The Internal Opposition

Rwanda's internal opposition gained prominence the very moment that the RPF invaded the country. There was a kind of reciprocity between the two groups: While the internal political situation was one of the influencing factors in the RPF's timing of the invasion, the invasion in turn acted as a catalyst for internal agitation. It took just a month after the invasion for Habyarimana to agree to political change. In a speech on November 11, 1990, he promised that a multiparty system would soon be allowed and that there would be a constitutional referendum in June 1991. On the basis of this promise, a new constitution was proclaimed on June 10, 1992, the internal opposition comprised five major political parties.

The Mouvement Démocratique Républicain (MDR), formed in March 1991, adopted a name of an old party, the Mouvement Démocratique Rwandais, Kayibanda's transformed Parmehutu, which was abolished in 1973 following Habyarimana's coup. It had to change its name to shed its negative image associated with the anti-Tutsi massacres during the 1959 revolution. Like Kayibanda's old MDR, the new one also drew its membership from Hutu in the north, especially Ruhengeri, where Habyarimana came from, and the south and the central party, particularly Gitarama, Kayibanda's birthplace. The Gitarama membership outnumbered that of Ruhengeri by two to one, and then potentially inherited the Hutu

regional rivalry that was characteristic of the Kayibanda period as well as Habyarimana's time. Ideologically, the MDR adopted a populist approach.

The Parti Social Démocrate (PSD) was a center-left party that drew its membership from the civil service and other professions. Based in the southern province of Butare, the PSD was a moderate party that tolerated a bit of ethnic mix unlike the MDR.

The Parti Libéral (PL) was a center-right party with no specific geographical or ethnic base. It was therefore the only party that could boast of being a real national party by being able to attract both the Hutu and the Tutsi to its ranks. These liberal leanings, however, resonated more with the urbanites than with the rural people; hence, its following was confined to prominent and well-to-do Hutu and Tutsi.

The Parti Démocrate Chrétien (PDC) was smaller than the other three parties. Given the strong and warm relations between the Catholic Church and the Habyarimana regime, it was not easy job for the PDC to make inroads into the political arena on the basis of a religious ideology.

The Coalition for the Defense of the Republic was also very small but one of the most significant parties in the future politics of the country. It was one of the most extremist Hutu parties, and its anti-Tutsi ideology took it to the fringes of racism. It benefited from the fact that the internal opposition depended more on the conducive international and regional political environment that favored political transformation in Africa than on specific external support as such.

5.8.4. The Bumpy Road to Arusha

Responses to the RPF invasion were immediate and varied, according to the way the actors perceived the conflict. The government of Rwanda, while one of the internal sources of the conflict, quickly tried to internationalize it by turning it into an interstate conflict between Rwanda and Uganda. After all, the invaders came directly from Uganda, and the initial 2,500 RPF invaders were all soldiers of the Ugandan army who entered Rwanda still in Ugandan army uniform and ranks, armed and equipped with Ugandan army weapons and material. Habyarimana hoped that his characterization of the conflict as an interstate one would make the outside world sympathetic to Rwanda for being “invaded” by Uganda.

Buying the “invasion-from-outside” perception, France, Belgium, and Zaire responded quickly by sending troops. Although France and Belgium justified their action on the excuse of protecting their nationals, France’s subsequent behavior indicated beyond doubt that it sent in troops to assist the Rwandan government. Belgium withdrew its troops by the end of the month after a brief stay and called for the formation of an African peacekeeping force. As for Zaire (now DRC), Mobutu had long been a patron of Habyarimana and so Zairian troops quickly joined the FAR in fighting against the RPF, although they were withdrawn later for indiscipline.

The Belgians, nonetheless, had a two-track response. They sent troops to Rwanda and, at the same time, initiated a diplomatic offensive by dispatching a powerful delegation to Rwanda, Kenya,

Uganda, Tanzania, and Ethiopia to hold talks with the heads of state and government of those countries and the secretary-general of the Organization of African Unity. The offensive was aimed at encouraging the regional leaders and the OAU to prevail on Uganda to stop the invasion rather than to force Habyarimana into accepting mediated talks with the RPF. The diplomatic initiative appears to have been taken on the basis of the *perception* of the *interstate* conflict.¹¹²

Whereas France and Belgium responded immediately as a result of their historical ties with Rwanda, the other major powers did not respond at all, or their response came a bit late, and the most probable explanation for their late responses is that the conflict itself was a victim of timing as far as some of the major powers were concerned. The conflict started on the eve of the most spectacular world changes, as the international community moved from the Cold War to the uncertain post-Cold War era.¹¹³

The conspicuous absence of the former Soviet Union's response to the Rwandan conflict can be explained by these world changes. The Soviet Union was, at the time, undergoing its own internal upheavals and transformation. It therefore never thought beyond the box.

The U.S. delay in responding was attributable to a number of reasons chief among them, the standard U.S. policy of not paying attention to African conflicts that did not have a direct impact on its national interests. This prioritization of foreign policy concerns

112 Maundi and Zartman, *ibid.*

113 Clark, *op. cit.*

was compounded by its new found status as the only superpower after the collapse of the Soviet Union. In this regard, the United States was undergoing a soul-searching exercise on how to respond to numerous world crises that were emerging. Second, the attention of the United States, together with some of the European major powers, particularly Britain, Italy, and Germany, was focused elsewhere at the time within its “sphere of influence” in the Philippines, Panama, and Haiti, or together with the European powers in the Persian Gulf, Yugoslavia, Angola, and Somalia. And third, attention during the initial state of the Rwandan conflict was pre-empted by the early response of the French and the Belgians; so long as these two took care of their “neighborhood,” the United States felt no need to meddle. The United States’ and Britain’s delay in responding was also encouraged by two specific considerations: to minimize the French paranoia of the “Anglo-Saxon conspiracy” and to avoid being labeled as “accomplices” to the so-called “Museveni interests” in the Rwandan war.

5.8.5. The Regional Response: October 1990 – August 1991

The regional response was initiated by Tanzania and Zaire and continued later on with the active involvement of the OAU. It was agreed at this stage that Mobutu should be the region’s and the OAU’s mediator of the conflict. Mobutu’s early response was one of the reasons that led to his endorsement by the regional and the OAU for the mediating role; his patronage of Habyarimana was another reason. The logic here was that he was the leader in the region most likely to prevail over Habyarimana, delivering the

agreement of the party that the mediator favored. Although the other regional leaders were aware of Mobutu's domestic problems, they recognized the fact that he was still around and they could not just wish him away while he was the regional Dean. Ignoring him at this stage would have been a suicide.

The early regional response was motivated by security concerns. Considering that Rwanda had perceived the conflict as between itself and Uganda, the regional leaders feared the possibility of an interstate war. Their early intervention was also intended to prevent further internationalization of the conflict as demonstrated by the French and Belgian response. Furthermore, the region intervened as an ad hoc collective security mechanism to prevent the conflict's spillover effects.

The effectiveness of mediation depends on the proper understanding of the nature and character of the conflict. The summitry approach adopted by the early regional response was determined by these regional misperceptions of the Rwandan conflict. There were those Zaire and, to a certain extent, Kenya who bought Habyarimana's argument that the conflict was between Rwanda and Uganda. Others perceived the conflict in the traditional "government-versus-rebels" terms. Still others saw the refugee problem as the major cause of the conflict. Because the nature and character of the conflict were not properly comprehended, the summitry approach was bound to face difficulties.

On the basis of the "interstate conflict" and "government-versus-rebels" misperceptions of the conflict, the flurry of regional summits that took place at various venues between October 17, 1990 and September 7, 1991, concentrated on engaging the

heads of state of Uganda and Rwanda. The RPF initially was not directly involved in the talks because, from the interstate conflict perspective, it was not a party to the conflict, and, from the government-versus-rebels perspective, it was regarded as illegitimate. Accordingly, the heads of state negotiated with their peers Habyarimana and Museveni hoping to end the conflict without directly involving the RPF on the basis of the assumption that Museveni would deliver the RPF agreement. On the basis of the perception that the conflict was a one-factor crisis, the summits focused more on the issue of refugees. Presumably, the logic was that if it was the refugee problem that forced the RPF to invade Rwanda, its resolution would have ended the conflict automatically.

The unexpected launching of the war on October 1, 1990, led to Belgian shuttle diplomacy in the region to encourage the regional leaders to intervene diplomatically. The region responded by convening the Mwanza summit on October 17; the Gbadolite summit on October 26; and the Goma summit on November 20. The Mwanza summit was attended by the presidents of Tanzania, Rwanda, and Uganda. High on its agenda was the issue of the refugees, identified by the heads of state and government as one of the major factors underlying the conflict. Consequently, it was decided that a regional conference on the problem of the refugees should be organized in order to find a lasting solution to the problem. The Gbadolite summit was attended by the presidents of Zaire, Rwanda, and Burundi. It reaffirmed, among other things, the decision of the Mwanza summit to hold a regional conference on the refugee problem. The Goma summit, attended by the presidents

Zaire, Rwanda, and Burundi, and the third deputy prime minister of Uganda, dwelled at length on the refugee problem as well.

The RPF's successful attack at Ruhengeri, the home province of President Habyarimana, on January 23, 1991, prompted the Zanzibar summit on February 17, the Dar es Salaam summit on February 19, and the N'sele summit on March 29. The Zanzibar mini-summit was a precursor to the regional conference on the problem of Rwandan refugees held in Dar es Salaam. Attended by the presidents of Tanzania and Rwanda, it had more of a consultative than a substantive nature. The convener of the regional conference on the Rwandan refugee problem, President Ali Hassan Mwinyi of Tanzania, wanted to consult and get the feeling of the president of Rwanda on the agenda before the conference.

The regional conference on refugees was preceded by an experts' meeting (January 17-18, 1991) and a ministerial meeting (January 19-20, 1991). It was during these two meetings that the draft declaration on the refugee problem was examined and adopted. The regional conference itself was held in Dar es Salaam under the chairmanship of President Mwinyi. It was attended by the presidents of Burundi, Rwanda, Uganda, and the prime minister of Zaire as the representative of the mediator, President Mobutu. At the end, the Dar es Salaam Declaration on the Rwandan Refugees Problem was adopted and circulated.

The Declaration was a usual diplomatic litany that apportioned responsibilities and commitments to everyone but lacked specific decisions pertaining to the immediate problem. The government of Rwanda recognized the legitimate rights of the refugees to voluntary repatriation and committed itself to finding a definitive

and durable solution to the problem by removing all the obstacles that impeded their return. The four neighboring countries – Burundi, Uganda, Tanzania, and Zaire – undertook to facilitate the naturalization of the Rwandans who may have desired to become nationals of the host countries. The international community and international organizations were called upon to facilitate the naturalization process.

The little that the Declaration touched on regarding the immediate conflict thanked President Mobutu “for his efforts in instituting a dialogue between the Rwandan government and the armed opposition” and urged him to maintain the momentum of the dialogue. The regional leaders realized that their mediation efforts had failed to stop the military conflict, and it must have dawned on them that the failure had much to do with their mediation approach. This realization necessitated changes in both their perceptions of the conflict and the approach to its mediation. It is obvious that at that juncture, nobody among the regional leaders, apart from Habyarimana, believed the argument that the conflict was between Rwanda and Uganda. Hence, this perception was dropped.¹¹⁴

By dropping the interstate perception, the regional leaders automatically confirmed that the RPF was *de facto* a party to the conflict regardless of its legal status. And the RPF’s effectiveness at the war front forced the regional leaders to realize that they would not be able to make a significant move in their efforts to mediate the conflict without seriously engaging it.

114 Maundi and Zartman, *ibid.*

It was obvious, subsequently, that if there was anybody that the regional leaders were supposed to deliver, it was not the RPF but their colleague, President Habyarimana. They had to convince him that whatever his perception of the conflict, a mediated resolution was impossible without negotiating directly with the RPF. It appears that these realities were brought home to Habyarimana during the Zanzibar and Dar es Salaam summits, and he was convinced to accept them in order to facilitate the mediation process.

Inspired by the Dar es Salaam Declaration, which, among other things, committed Habyarimana to “find a definitive and durable solution to the problem” and asked Mobutu to “maintain the momentum of the dialogue,” the first direct negotiations between the government of Rwanda and the RPF took place in March under Mobutu’s mediation and resulted, on March 16, 1991 in a cease-fire agreement that was formally signed on March 29, 1991 at N’sele by Rwandan foreign minister Casimir Bizimungu and RPF vice-chairman Paul Kagame. The signing ceremony was presided over by the mediator, President Mobutu, and was witnessed by the OAU secretary-general Dr. Salim A. Salim, the foreign ministers of Uganda and Zaire, the deputy foreign minister of Tanzania, and a representative of Burundi. The *N’sele cease-fire agreement* contained provisions for a continued dialogue between the parties and instituted a Neutral Military Observer Group (NMOG) to monitor the cease-fire. The NMOG was composed of five military officers each from the government of Rwanda, the RPF, Burundi, Uganda, and Zaire, under the supervision of the OAU Secretary-General’s representative. It took more than a month to assemble

the NMOG before it was deployed on May 7, 1991. Immediately following its deployment, the government violated the cease-fire by attacking the RPF.¹¹⁵ What a pity!

There are two reasons as to why the N'sele cease-fire agreement was not respected. The first was that although Habyarimana had agreed to negotiate directly with the RPF, the decision seemed not to have been made with a genuine commitment to a compromise settlement. The fact that the government was the first to violate the N'sele agreement attested to this sentiment.

The second reason was that neither of the parties had faith in the cease-fire's monitoring mechanism, the NMOG. Both the government and the RPF had problems with its composition. The government did not trust the impartiality of the NMOG's Ugandan and Burundian officials, while the RPF, for its part, did not trust the officials from Zaire. As a result, the cease-fire was deliberately violated partly in order to prevent the effective deployment of the NMOG.

From the signing of the N'sele agreement to the Gbadolite summit of September 7, 1991, there were no triggers from the war front to push the regional initiative forward. The stalemate at the front during this period contributed to the diplomatic slowdown. The question was how the region could come out of this diplomatic limbo and reactivate the mediation efforts.

It took another summitry framework to reactivate the regional process – specifically, the OAU's annual summit of June 1991. Meeting in Abuja, the OAU directed the Secretary-General

115 OAU Secretariat Report, 1991.

to organize another regional summit that would continue the mediation efforts to end the conflict. The resulting summit of September 7, 1991, was preceded by a series of talks between the parties under the chairmanship of the mediator. Many of the sessions were on the problem of striking a deal on a new cease-fire agreement. When the parties agreed on the new terms of the cease-fire, it was signed under the supervision of President Mobutu. The then Nigeria's president Ibrahim Babangida, the chairman of the OAU at the time, also witnessed the signing ceremony.

The Gbadolite cease-fire agreement was a revised version of the N'sele agreement. The most significant change was the reconstitution of the NMOG. Instead of having its members from Rwanda, the RPF, Uganda, Burundi, and Zaire, this time the NMOG was exclusively composed of officers from Nigeria and Zaire. Nigeria was also to provide the overall commanding officer. This decision was intended to address some of the problems that had undermined the N'sele cease-fire agreement. However, once more, the Gbadolite cease-fire agreement, like the N'sele agreement, was not respected. Military skirmishes continued and the NMOG had in effect no cease-fire to monitor. The failure of the Gbadolite cease-fire agreement could again be attributed specifically to the governments' lack of a firm commitment and faith to a compromise solution (Maundi, *op. cit.*).

5.8.5.1. A Postmortem of the Summitry Phase

The Gbadolite summit of September 7, 1991, was the climax to both the summitry approach and Mobutu's role as the mediator for the Rwandan conflict. It is obvious that the summitry approach

failed to mediate the conflict. The first major contributing factor to the failure was the multiplicity of perceptions in the region concerning the nature and character of the conflict. Some regional leaders still saw it as an interstate conflict and others as a refugee problem, although the perception of a civil war was growing. Second, the summitry approach contributed to the failure. The high-profile nature of the mediation failed to do the job.

Third, the regional initiative at this phase did not deal effectively with all the parties to the conflict and all the issues involved. Although the RPF was invited to some of the summits, it was not involved in direct talks with the government before the N'sele meeting. Despite the fact that the conflict had various demands, the summits concentrated more on the problem of the refugees. Even though other groups inside Rwanda had interests in the talks, no internal group had ever been invited. Fourth, the summits were spontaneous events, each responding to particular triggers. Accordingly, they lacked consistence and continuity, which are crucial components of an effective mediation process. And last, it is doubtful whether at this stage all the parties to the conflict were ready for and fully committed to a compromise solution.

5.8.6. Zeroing- in -on the Mediator: September 1991 – June 1992

By September 1991 the conflict had transformed a great deal; it was already tested both at the war front and at the negotiating table. From the battlefield the conflict had changed from its earlier conventional framework to a potentially protracted guerrilla war.

From the negotiating table it was clear that the conflict no longer needed the kind of initial “fire brigade” types of responses for its resolution. It now required a well-thought-out strategy that would be complemented by both technical expertise and an expanded as well as effectively reliable support system. More important, from both the battlefield and the negotiating table, the parties to the conflict had a better chance to make a cost-benefit analysis of their goals and the means at their disposal to attain them. These realities also helped the interested external parties to readjust their positions. It was under these conditions that the conflict had paved its road to Arusha.

After the failure of the initial phase of the regional initiative, it was obvious that external supplementary efforts would be necessary to keep the process going. The initiative’s support system was therefore expanded from the exclusively regional to the international level, involving the active participation of the United States and France. There was also a significant change of approach as well. Instead of a collective high-profile diplomacy, a low profile and one-on-one contact strategy was adopted. Senior officials of the U.S. State Department and French officials had various contacts with the officials of the parties to the conflict, along with regional heads of state and government and other relevant senior officials.¹¹⁶

These efforts were complemented by the internal political developments in Rwanda. On March 4, 1992, Habyarimana compromised with the internal opposition by agreeing to form a

116 OAU Report, *ibid.*

coalition government. The new government, sworn in on April 7, 1992, was mandated to conduct peace negotiations with the RPF and made its first direct contact with the RPF on May 24, the same year, when Foreign Minister Boniface Ngulinzira met RPF vice-chairman Patrick Mazimhaka in Kampala.

The meeting was an outcome of earlier separate high-level contacts between U.S. assistant secretary of state of Africa Herman Cohen and the presidents of Uganda and Rwanda. Following this meeting, it was announced that there would be direct negotiations between the two parties in Paris in June. Parallel to the Paris meeting between the government and the RPF, the latter also met with a delegation of the opposition parties, composed of the representatives of the MDR, PSD, and PL, on June 6 in Brussels. The government and the RPF met again in Dakar, Senegal, in June, immediately before the OAU's annual summit, and reaffirmed their resolve to hold comprehensive negotiations as agreed upon in the Paris meeting.

After three days of deliberations in Paris, the government and the RPF finally agreed on June 6 to hold comprehensive political negotiations under Tanzania's mediation. Arusha, Tanzania, was picked as the venue for the negotiations that were scheduled to begin on July 10, 1992.

It needs to be recalled that there were disagreements between the parties on the issues of the mediator and the venue. The government wanted the negotiations to be held in Paris under the French mediation, but the RPF insisted on holding the negotiations in Africa under African mediation. Tanzania was chosen as the mediator and Arusha as the venue. The selection of

Tanzania as the mediator replaced Zaire as the initial mediator. To avoid ill-feelings with Mobutu personally and the region as a whole, a compromise was reached to maintain both countries' involvement but with different responsibilities. President Ali Hassan Mwinyi of Tanzania was designated to be the "Official Facilitator," while President Mobutu was designated as the "Official Mediator." Mobutu's retention was to serve a number of purposes. It was a face-saving mechanism: it prevented Mobutu's personal ego from interfering with the mediation process. It also preserved the link between the initial regional pre-mediation and the more internationalized second phase.

Maundi and Zartman (op. cit.) have identified some factors that contributed to the success of this pre-mediation phase which included a change in the perception of the nature and character of the conflict. It was clear by this time that, regardless of its external characteristics, the conflict was an internal matter. The change in perception in turn allowed the real parties to the conflict to be engaged. Direct contacts were therefore concentrated on the three major contenders: the government, the RPF, and the internal opposition. Glamorous and high profile, diplomacy was replaced by a low profile and cutting-edge quiet diplomacy. And the regional support system for the initiative was expanded to include other major actors outside the region.

5.8.7. Legal Explanation of the Outcome

The immediate regional response in trying to mediate the Rwandan conflict prevented a rush of other aspiring interveners. Although a number of actors became involved in the process, the

region succeeded in claiming and formalizing the ownership of the mediation initiative. The only option open to other prospective mediators was to contribute to and support the regional efforts. The equally immediate Belgian diplomatic response was a good example of such support and contribution; it was not intended to create a parallel initiative but to encourage the regional leaders to take up the responsibility.

The delayed intervention of the U.S. and the French mixed position (of sending troops and encouraging dialogue) was also crucial and supportive to the region, particularly during the second phase of the pre-mediation process. Hence, at the end of the day, after almost two years of trying, the selection of Tanzania as the mediator became the consensus not only of the parties to the conflict but also of the other states in the region and the international community as a whole.¹¹⁷

The stampede within Africa, and at the international level, was restrained by the firm support of the OAU, under whose auspices the regional summits took place. The OAU was very instrumental throughout the process in both arranging the regional summits and drafting the various communiqués and agreements. Equally important among its contribution was its role in the establishment and the supervision of NMOG.

The OAU's active role in the regional initiative was explained by a number of factors. During this period, OAU Secretary-General Salim Ahmed Salim was steering the organization toward a redefinition of its vision and mission at a time when the world

117 Maundi and Zartman (2006), *op. cit.*

was undergoing a fundamental transformation. The organization was discussing the relevance of having a new mechanism for conflict prevention, management and resolution, and its active involvement in the Rwandan conflict was practical part of that objective and was an expression of Africa's commitment to find its own solution to its problems.

UN involvement was indirect, mostly supporting the efforts of the region and the regional organization, the OAU. Its direct role was exercised by its agency, the United Nations High Commissioner for Refugees, which was active throughout, especially during the first phase of the regional process, in organizing the regional summits that addressed the refugee problem.

Zaire's replacement by Tanzania as the mediator needs to be explained as well. Zaire's president was, at that time, losing his moral authority to command events and his respect in the region. Even his initial mediating role in the Rwanda conflict was translated as his personal attempt to revive his regional status. Mobutu's declining prestige and health was mirrored by his country's political decline of the leader and the country called into question Zaire's effectiveness in handling the rigors of a mediation process.

At the same time, it needs to be noted mediators require adequate resources – facilities, logistics, influence, incentives, and sanctions – for a successful mediation. It was doubtful whether Zaire had any of these. Yet another factor was Mobutu's bias, stemming from his good relations with the Habyarimana regime. His partiality implied and ability to deliver the Rwandan regime's agreement in the mediation, which he proved unable to do.

Regardless of these factors, it is important to recognize both Zaire's and Mobutu's positive contributions to the regional initiative. It was Zaire and Tanzania that initiated the regional response, and it was from this early response that, later on, the region and the OAU endorsed Mobutu as the mediator for the conflict (OAU Report). It was from Mobutu's personal efforts that the parties had agreed to meet face-to-face for the first time at N'sele and concluded the N'sele and Gbadolite cease-fire agreements. The fact that the two cease-fire agreements were not respected does not diminish Mobutu's contribution in mediating the cease-fires.

Tanzania's availability as the mediator for the Arusha peace negotiations was achieved through a process of elimination. Along with Zaire, the other concerned countries in the region were tarnished in one way or another. The bitter personal hostilities then between Presidents Moi and Museveni would not have allowed the latter to convince the RPF to accept Kenya as the mediator. Burundi's similarities to Rwanda, in both history and the nature of their ethnic conflicts, were strong reasons for its elimination. Tanzania therefore remained the clear choice.

However, Tanzania also possessed other important qualifications. Apart from providing the venue for the negotiations, it was among the first countries to respond to the conflict. Furthermore, the country commanded political respect and moral clout in the region as a result of its domestic political stability, as well as its contribution to the decolonization process, particularly in southern Africa. Its fights against human injustices at international forums gave the country good political standing

in the region. The fact that Rwanda depended on Tanzanian ports for 80 percent of its imports and exports was also an added factor.

Tanzania's acceptance of the challenge had been influenced by human, national, and regional considerations. A *peaceful resolution* of the Rwandan conflict would have stopped the human tragedies associated with the conflict. The war in Rwanda had a direct impact on Tanzania in terms of economic and security reasons. A stream of refugees fleeing the war in Rwanda had ecological, economic, security, and social effects on Tanzania. Instability in Rwanda affected regional stability and, consequently, regional trade.

5.8.8. Accepting Mediation

Indeed, the government's acceptance of mediation went through three fluctuating phases. At the initial 3 stage of the conflict, the government readily accepted the regional intervention because it believed that the region shared its perception that the conflict was between Rwanda and Uganda. The initial acceptance had nothing to do with accepting either direct negotiation with the RPF or a compromise settlement. It was aimed at impressing upon regional leaders the need to condemn or to force Museveni to withdraw his "invading" troops. In a way, the initial acceptance was used as bait to attract sympathy and external assistance.

Even though the government succeeded in getting sympathy and assistance from Zaire, Belgium, and France, it had problems in selling the idea of a Ugandan invasion to the international community at large. When the government was forced to accept the realities of the domestic sources of the conflict, it adopted the traditional "government-versus-rebels" perception. At this second

phase, the government accepted the regional mediation for two reasons: it was faced with a *fait accompli*; the region was keen in intervening whether the parties liked it or not. And it seemed to have responded to the premise that “collective intervention is generally regarded as more legitimate than unilateral intervention.” However, while it endorsed the regional peace initiative, it refused to negotiate directly with the RPF because of the latter’s illegitimacy. As for its acceptance of Mobutu’s mediation during the initial stage of the regional initiative, the reason was the very good relationship between Rwanda and Zaire and between Habyarimana and Mobutu.

In the third phase, in June 1992, the government accepted mediation specifically because of the conflict’s political and economic impact. On the political front, the government was forced to share power with an internal opposition that was keen on getting a negotiated settlement with RPF. On the war front, the RPF was steadily gaining ground. In spite of the military assistance from France in terms of both logistics and personnel, the FAR was nowhere near defeating the guerrillas.

At the economic front, the war was badly affecting the already shaky economy. By mid-1992, while export revenue remained steady at 8.9 billion Rwandan francs, imports had increased from 23 to 38 billion francs. Public debt increased from 6,678 to 13,702 million francs. During the same period, the Ministry of Defense budget had increased from 3,155 to 8,885 million francs. The increase corresponded with that of the army, which grew from 5,200 men when the war started to 50,000 men by mid-1992. The government finally accepted mediation because it was clear that it could not succeed in achieving a military victory against the RPF

and, second, it was economically too costly to continue to pursue the military option. It alone was in a hurting stalemate.

If the RPF was relatively stronger on the war front than the government, why did it accept mediation? In spite of the fact that RPF had started the military confrontation, it appears that its objective from the outset was a political rather than a military victory. The RPF's behavior on the battlefield was the most illustrative indication of its preference for a political solution. Responding to the mass killings of Tutsi by Hutu extremists, the RPF withdrew from the Arusha talks, and February 8, 1993, broke the cease-fire with a serious offensive against the FAR. In less than two weeks it had covered such an extensive territory that it was just thirty kilometers north of Kigali when it proclaimed a unilateral cease-fire on February 20 and withdrew to its previous positions.

Regardless of the reasons that had forced it not to advance to Kigali, the mere fact that the RPF voluntarily decided to relinquish territory that it had conquered was unusual in guerrilla warfare. The action – an “escalation to call” in poker terms – was demonstrative enough to show that the RPF did not seek an outright military victory but, rather, a political settlement. Not only would the majority Hutu not have accepted the total Tutsi domination of an outright victory, but military victory also would have made it difficult for the RPF to implement its political agenda. The war was intended to serve two short-term objectives: to speed up the return of the refugees and to serve as a bargaining chip for Tutsi participation in the country's politics.

Accordingly, the RPF accepted mediation because a mediated solution was consistent with its political objectives spelled out

in its eight-point program. Apart from the return of refugees, the remaining points in the program made up favorable recipe for a compromise solution. Hence, the RPF accepted the regional intervention, first and foremost because it badly wanted international recognition, sympathy, and support. Second, it wanted a quick political solution because its supporters could not afford to sustain the armed insurgency for a long time. Obviously, its stalemate did not hurt as much as the government's, but it saw that it might be if the war continued, producing the same effect subjectively, the RPF accepted Mobutu's mediation because it wanted to go along with the regional initiative and its choice of the mediator. It was also a tactical move to prevent Mobutu from undermining the regional efforts if he were not accepted as mediator of the conflict.

There are two reasons the opposition parties accepted mediation. Viewed individually, each had an opportunity to advance its individual agenda through mediation. After all, dialogue is the domain of politicians; it provided them with an opening for recognition and integration into the political process. Viewed as part of the coalition government, they shared the same reasons that forced the government to accept mediation. But, frankly, the merger between the MRND and the opposition parties was in form only; each party continued to pursue its own political agenda (Maundi and Zartman).

5.8.9. Summary

In summary, it is of worth noting that the Rwandan conflict did not attract as many prospective mediators as one would have expected of a conflict of such magnitude. One of the obvious

explanations for such low enthusiasm for playing an intermediary role was the risk associated with trying to resolve such a challenge in another country's internal strife. But most important, the early and effective regional response was a key factor in locking the door for the direct involvement of other prospective stakeholders. Although the processes of negotiation and mediation per se may be beyond the scope of this study, from this Rwandan experience one may draw specific theoretical and practical conclusions as follows:

First, self-interest is basic to prospective mediators and their motivation to get involved in internal conflicts. This was shown not only in the immediate response of the neighboring countries but also in the distant interested parties such as France and Belgium. The swift regional response of specific countries in the region, and that of France and Belgium were in sharp contrast with the lukewarm response of the rest of the international community, which appeared to have been less interested in Rwanda.

Second, once access has been gained by one mediator to perform a particular mediating role, it is absolutely necessary that there should be no competitors for the same role, it may be counterproductive. However, this does not rule out the involvement of other actors. Other actors can either play other intermediary roles or act as part of the support system. But competitive involvement creates chaos in mediation and subsequently undermines the whole process. Gaining control provides legitimacy and creates a sense of ownership of the mediation process. The most significant contribution of control is that it establishes order in the intermediary process. In Rwanda, order had been created by the effective regional involvement. While the regional intervention did not rule out the

involvement of other actors, the other actors did not compete with but complemented the regional initiative.

Third, the Rwandan case demonstrated a direct relationship between perceptions, positions, and policy options. The conflict demonstrated that the three variables are not constant; they change as the conflict evolves. The change impacts both the parties and the mediator. Rwanda was a centralist conflict that could be defined in several ways. When the government initially perceived the conflict as an invasion from another state, it adopted an uncompromising position. A military response was the preferred policy option. The military option was directed toward the RPF as well as Uganda, which was perceived as the real enemy. The border incursions between the two countries were a clear indication that Rwanda was willing to go to war with Uganda. Although the government had accepted the regional intervention at the initial stage of the conflict, it did so within the context of its “interstate conflict” perception. The government had hoped that its acceptance of the regional intervention would have exposed Uganda.

When the government was forced to appreciate the realities of the domestic causes of the conflict, its perception of the nature of conflict changed from the original “interstate conflict” to a “government-versus-rebels” perception. Its position continued to be uncompromising and it pursued the military track as the preferred policy option, now directed not at Uganda but to the defeat of the RPF within Rwanda.

When the war began to hurt the government seriously, it was forced to adopt a compromise stance. This stance was what finally committed the government to a policy of mediated settlement.

The regional initiative also experienced the same perceptual, positional, and policy transformation. Perceptually, the regional initiative shifted from an “interstate conflict” to a “government-versus-rebels” to a “refugees’ problem” position. Its policy options shifted from summitry to a serious mediated engagement of the parties through Tanzania’s facilitation, which was mandated by the region. At the end of the day the process was successful.

5.9. Ethiopia-Eritrea

The exact root cause of the Ethiopia-Eritrea war is not known to date. Perhaps this remains a top secret to Meles Zenawi and Isaias Afewerki. However, officially, a border dispute between Ethiopia and Eritrea that broke out into violence in May 1998, startling unperceptive observers who had celebrated the latter’s painless emergence as a new independent state, provides a case of interstate mediation, a residue of the thirty-year Ethiopian civil war. This minor border incident on May 6, 1998 escalated into a battle by May 12 when Eritrean forces occupied the town of Badme and Shiraro in the Yirga Triangle and overran the local civilian administration. After Eritrea’s action, Ethiopian forces retaliated, terming the invasion an act of territorial aggression and demanding unconditional withdrawal, but Eritrea accused Ethiopia of having crept into its territory since October 1997.

Over the course of two years, the conventional war spread to three separate fronts: Merib-Setit in the west, Zalambessa in the centre and Bure on the eastern side of the border. The war resulted in the death of about 100,000 Ethiopians and Eritreans and many of them displaced by the vengeful expulsions. As part of the war effort,

each side bought weaponry on an extraordinary scale, pouring more than \$ 300 million a year into rearmament. From the start of the conflict, a variety of mediators shuttled between Addis Ababa, Ethiopia and Asmara, Eritrea, in attempts to resolve it.

Broadly motivated by the desire to restore stability to the volatile Horn of Africa, these mediators succeeded in crafting a number of agreements that finally led to the end of the war in June 2000. This part, examines the intervention by the regional bodies aimed at resolving the conflict through mediation. Although the Eritrean-Ethiopian war was an interstate conflict, it was the continuation of an interstate regionalist conflict that had paradoxically reached a conclusion by becoming a centralistic conflict. Eritrea broke away from Ethiopia by first overthrowing the Ethiopian government under Colonel Mengistu Haile Mariam. This situation immediately raises questions, as seen in previous cases, of the definition of the changing nature of the conflict. Other concepts are equally pertinent. Dominant concepts of mediation are anchored in notions of hurting stalemates, ripe moments, invitation, motivation and leverage. These analytical categories both capture the structural and process components of mediators in all types of conflict. From this view, successful mediation hinges on the interplay between the structure of the conflict and the interests and leverage of mediators converging the conflict.

As indicated before, most of the literature on intervention conceives of mediation as a coordinated and sequenced process along a clear conflict resolution continuum. Mitchell, for instance, has proposed that mediation be viewed as a number of interlocking and complementary roles played by a variety of actors; such process

conception of mediation seems not only an analytically more fruitful way of understanding the essential nature of mediation, but is, as in many cases, a more accurate reflection of an empirical reality than the single mediator model in which the same entity attempts to carry out a single task.

Conceptions of the utility of multiple intermediaries in conflicts tend to obscure the problem of 'crowdedness' (particularly the obstacles of coordination and sequencing of roles) that characterizes entry. In this case, one is tempted to argue that, in conflicts where multiple actors vie for mediation roles, entry is an exclusionary process of keeping many out to establish a credible and orderly negotiating framework. Mediation is a process, but entry is often a decisive event, a moment of disaggregating parties with intervention proclivities or tendencies. In such a competitive environment, marginalization of mediators is most significant at the initial point of entry because it helps to determine the parties with the leverage to contribute to conflict de-escalation.

Although intervening the process in the formative stages overcomes some of the problems of multiple intermediaries, competing and marginalized mediators do not necessarily fade away, hence the continuing importance of order to the evolution of the mediation. In Ethiopia-Eritrea conflict, order was created by the intervention of the United States from the outset, the institutional ownership of the mediation by the Organization of African Unity, and the international partnership established in the latter phase of the conflict among special envoys from the United States, the European Union (EU), the OAU, and the United Nations.

5.9.1. The Origin and Nature of the Conflict

Scholars and analysts posit that the Ethiopia-Eritrea border conflict needs to be understood as a post-colonial conflict in which weighty questions of political and geographical identity were compounded by the unique transition from a provincial to a state boundary. The outbreak of the border conflict occurred within the larger context of a host of unresolved questions stemming from Eritrean independence in 1993. The conflict manifested fundamental issues of redefining the bilateral relationship, issues that had been postponed in the euphoria of independence (Maundi and Zartman, *op. cit.*).

The guerrilla war for Eritrean independence against the Ethiopian empire of Haile Selassie and the then dictatorship of Mengistu Haile Mariam forged a close military and political alliance between the Eritrean People's Liberation Front (EPLF) and the Tigray People's Liberation Front (TPLF). A unity of opposite principle at work! After the fall of Mengistu, this alliance enabled a peaceful transition to Eritrea's statehood. Under President Isaias Afwerki, the EPLF (now called the People's Front for Democracy and Justice) took the leadership in Asmara while the TPLF, led by Prime Minister Meles Zenawi, formed the core of the governing alliance of the Ethiopian People's Revolutionary Democratic Front government.

Despite the fact that, Eritrea and Ethiopia signed wide-ranging agreements that pledged economic, political, and military cooperation, the decisive glue in the bilateral relationship was military 'camaraderie' and cultural consanguinity. Moreover, even as Zenawi and Afwerki basked in the glory of the previous alliance,

the camaraderie of the war of liberation concealed historic rivalries based on ideology and personality within their parties. As was characteristic of postcolonial states, Zenawi and Afwerki came to embody the image of their nations. In stamping their individual styles and leadership onto otherwise weak institutions, however, they guaranteed that the resurgence of conflicts over identity and stature would have enormous consequences for their countries. It is in this respect that the border conflict (widely posed in populist terms as a war among “brothers” and “cousins”) exhibited an inability to structure rule in impersonal institutions.¹¹⁸

Soon after the border hostilities broke out in May 1998, Afwerki suggested that settlement would be illusive because we might be more concerned about pride, integrity, respect, trust, confidence, and all those kinds of things. When you lose them, it becomes a big problem for us in this region – it is not always money or resource.

Right from the start, both nations began to forge diverse political identities, which strained the relationship. To manage ethnic division that had bedeviled Ethiopian politics, Zenawi adopted a new system of ethnic federations that potentially gave each group the right to self-determination. In contrast to Ethiopia’s federalism, the Eritrean government created a unitary, one-party state informed by the pattern of postcolonial consolidation with emphasis on a charismatic leader. At the core of the National Charter for Eritrea, approved in February 1994, was the principle of enhancing nationhood as the means to postwar reconstruction. Although Eritrean nationalism initially focused on the domestic

118 Abraham, K. (2001), *Ethiopia: The Dynamics of Economic Reforms*, IIPD, Addis Ababa.

front, it gradually assumed regional dimensions. Endowed with a battle-hardened military and self-confidence, President Afwerki seemed ready, in the words of one commentator, to “boost Eritrea’s identity at every opportunity.” As part of its regional assertiveness, Eritrea was embroiled in border conflicts with Sudan, Djibouti, and Yemen before the conflict with Ethiopia began.

The promise of close economic cooperation and integration initially mitigated Ethiopia’s loss of ports along the Eritrean coast. Agreements reached in 1991 and 1993 allowed for reciprocal rights of citizens; Eritrea’s use of the Ethiopian currency, the birr; and Ethiopian access to the Red Sea ports of Assab and Massawa. In addition, Ethiopia was to remain the principal market and supplier of Eritrean food, the source of revenues from transshipment duties, and the provider of jobs to almost 300,000 Eritreans. Yet differences in economic policy surfaced early on when Eritrea abruptly expelled 150,000 Ethiopians, fueling Ethiopian resentment that there was no real reciprocity regarding access to employment. Other strains developed after Ethiopia complained about mounting costs of fuel supplied by Eritrean refineries and doubling of port charges.¹¹⁹

These economic conflicts culminated in Eritrea’s decision to introduce its own national currency, the *nakfa*, in November 1997 to solve its shortage of currency reserves. Although the Asmara authorities requested that the *nakfa* and the *birr* be legal tender in both countries, Ethiopia rejected this move and instead insisted on the use of letters of credit and hard currency in all commercial

119 Maundi, M. O. and Zartman, I. W., op. cit.

transactions. The currency crisis caused considerable economic hardships for both states as the hard currency transactions raised the costs of Eritrean ports for Ethiopians and food supplies for Eritreans. After the outbreak of border hostilities, a report in the Addis Tribune describe the economic arrangements as unfavorable to Ethiopia:

Under pressure, the Ethiopian government was made to sign several unequal economic treaties with Eritrea, including those related to the use of the Ethiopian birr as a common currency, the establishment of the free trade area, the utilization of the port of Assab and the Assab oil refinery, nearly all of which violated internationally accepted principles and norms pertaining to such bilateral monetary, economic, and other arrangements.¹²⁰

Heightening the contests over political identity and economic relations were the uncertainties in the demarcation of the boundary that had previously been a provincial line. In normal circumstances, boundaries require certainty, predictability, and a modicum of fixity. In the special circumstance of a history of relatively unimpeded border mobility and migration, clarity becomes even more critical. The political temperature raised by the core geostrategic and political conflicts boiled into a showdown over the border between them.

5.9.2. The Mediation

5.9.2.1. Phase One: The Washington-Kigali Intervention

Once the clashes began in May 1998, the United States and Rwanda quickly intervened as “Friends of the Belligerents,” a role

120 Maundi and Zartman (2006), op. cit.

that the two parties accepted. The diplomatic efforts of U.S. assistant secretary of state for African affairs Susan Rice and Rwanda's minister in the presidency, Patrick Mazimhaka, were pertinent as the war threatened to destabilize the Horn of Africa and destroy the reputations of allies at the center of the "African renaissance."

Their intervention surmounted the issues of acceptability and lent some clarity to the peace initiatives. As the conflict seemed to cross a dangerous psychological threshold in which the military logic clouded peaceful entreaties, the United States-Rwanda initiative focused on de-escalation. In addition, with the parties locked into a war of words about who invaded first, the mediators committed them to a peaceful solution.

In almost two weeks of shuttle diplomacy, Rice and Mazimhaka produced a Four-Point Plan, which was publicly unveiled on June 5, 1998, before agreement from the Eritrean side. The plan required the parties to resolve the dispute by peaceful means, to reduce current tensions by agreeing to a small observer mission to be deployed to Badme to oversee the Eritrean withdrawal to positions held before May 6, to agree to a lasting resolution of the underlying dispute through a swift and binding delimitation and demarcation of the border, and to demilitarize the entire common border as soon as possible. In announcing the plan, the mediator indicated that they had presented both sides "with a detailed implementation plan and recommended that each party convey, in a legal and binding manner, their acceptance of the recommendations and implementation plan to the facilitators" (Maundi and Zartman, *op. cit.*).

Ethiopia readily accepted the plan on June 6 because it fulfilled the requirement for Eritrean withdrawal and the return of Ethiopian

administration. But Eritrea objected to major provisions of the plan, claiming that withdrawal “as a precondition would unlikely win local support. Why should we withdraw from our own territory?” Instead, Eritrea suggested the recognition and adherence to colonial borders, the demarcation of the boundary by the UN Cartographic Unit, and the demilitarization of the border to be monitored by an observer team acceptable to both sides. As Asmara dithered on some of provisions, Assistant Secretary Rice warned: “Half an agreement is less than 50 percent if you’re talking about war and peace... We hope that Eritrea will also accept this package of recommendation in its totality. Piecemeal acceptance of one part or another is not the way forward.” Despite its rejection, however, the plan became the primary formula for subsequent initiatives.

The Friends of the belligerents created a credible initiative that, in turn, kept other competitors at bay. To be effective, entry must be exclusive at critical moments, but other mediators cannot be kept out permanently. The biggest obstacle in dealing with those waiting in the wings is to establish their specific contribution to the peace process. Do competitors supplant, supplement, or subvert ongoing efforts? Soon after the entry of the United States and Rwanda, Libya’s Moammar Gaddafi launched a parallel initiative as president of the Community of Sahel and Saharan States (CEN-SAD), then comprising Libya, Chad, Niger, Mali, Burkina Faso, and Sudan. Seeking to use the war as a means to expand his influence in the Horn, Gaddafi argued that the conflict needed to be resolved within a “friendly African framework.” He thus sent CEN-SAD’s Assistant Secretary-General Adam Togoe to propose a Three-Point Plan that would require the end of hostilities, the deployment of

CEN-SAD troops along the disputed border, and international arbitration. Without the key provision of Eritrean withdrawal from Badme, Asmara embraced the Libyan plan on June 8, 1998. According to an Ethiopian official, the competing Libyan plan helped “Eritrea to be even more stubborn.” Over the course of the conflict, Eritrea moved closer to Libya, which culminated in military collaboration and Asmara’s membership in CEN-SAD.

Following Eritrean rejection of the United States – Rwanda plan, Ethiopia mounted retaliatory air raids on military targets on the outskirts of Asmara. In response, Eritrea bombed the provincial capital of Tigray, causing civilian deaths. The air strikes occurred alongside the reinforcement of ground forces in the other contested border fronts. As the air strikes continued, Eritrea claimed that Ethiopia had imposed a virtual blockade of its air space and ports by threatening to attack commercial aircraft and civilian vessels. President Afwerki threatened further military strikes if Ethiopia did not lift the air and sea embargo: “We will make it very difficult for Ethiopia to enjoy the luxury of closing our ports and airports while at the same time enjoying free air space... They have overestimated their power, and leaders believe their own propaganda.”¹²¹

On June 14, U.S. president Bill Clinton intervened to put pressure on both countries to suspend the air strikes. Consistent with the role of a close ally to both parties, U.S. presidential intervention helped reduce the escalation of the air war, leading to a moratorium on air strikes.

121 Zartman and Maundi, *op. cit.*

According to a U.S. government statement,

*[The] moratorium will continue indefinitely or until such time as either party concludes that any prospect for a peace process has come to an end and provides formal, advance notice to the United States Government that it will no longer respect this moratorium.*¹²²

Although both sides continued to beef up their ground forces along the 630-mile-long frontier, the lull in the shooting allowed the resumption of new talks building on the United States-Rwanda Plan.

5.9.2.2. Phase Two: The OAU Mediation

The entry of the Friends of the Belligerents pre-empties the crowdedness of mediators that mars most African conflicts. Rather than establishing an orderly framework for negotiation, multiple mediators, infused with mixed motives, often create confusion. In addition to the Libyan initiative, the Inter-Governmental Authority on Development (IGAD) and other emissaries had already coalesced around the conflict without a clear sense of purpose.

More critical, as the Libyan plan revealed, multiple mediators spawn competing expectations by promising different rewards. But once the United States and Rwanda had established negotiations that engaged both parties, one way to undercut the Libyan initiative and build momentum for the original plan was to anchor the mediation in a broader African multilateral initiative.

Thus, to prevent the subversion of United States-Rwanda effort in the name of African solution to African problems, the OAU had to enter the conflict in a supplementary role. Furthermore, as

¹²² The OAU Central Organ Communique, May, 1998.

an institutional compromise between multiple African mediators and the Friends of the Belligerents, the OAU intervention reinforced the need for order that had surrounded the initial entry. Marginalized but never exiting, Libya waited for an opportunity to re-enter into the peace process.

The outbreak of the war in the OUA's backyard had embarrassed its leaders and raised doubts about the efforts of Secretary-General Salim Ahmed Salim to strengthen the capacity of the OAU in matters of conflict prevention, management, and resolution. To reclaim its sagging image, the OAU formally entered the mediation on June 4, 1998, at the OAU summit held in Ouagadougou, Burkina Faso. Urging Eritrea and Ethiopia to observe a cease-fire and explore avenues for a peaceful resolution to the dispute, Dr. Salim told the foreign ministers "to put the entire weight of our continent in support of a peaceful resolution and avoid the widening of the conflict whose catastrophic consequences are self-evident."

On June 10, the OAU adopted a resolution appealing to both parties to accept the United States-Rwanda plan. During the summit, Ethiopia stated its desire for restraint and willingness to cooperate with mediators. However, Foreign Minister Seyoum warned that Eritrea's bid to create facts on the ground before negotiations constituted a dangerous precedent in Africa: "Eritrea's arrogance and its disdain for Africa... and of all principles governing interstate relations has now reached a stage where Eritrea has become, not only a source of shame for Africa and for its neighbors, but also a menace to peace" (Ethiopian Foreign Ministry statement, June, 1998).

Eritrea expressed interest in more talks, insisting that it would withdraw from the contested areas only in the framework

of a general demilitarization of the border. It also noted that it had rejected the United State-Rwanda plan because of the “premature announcement of the recommendations before discussions on these outstanding issues were exhausted” (Eritrean News Agency, June 10, 1998).

The stumbling block to a genuine solution, its delegate argued, was not differences over general principles or the temporary authority over civilian centers in the demilitarized areas [but instead it is Ethiopia’s logic of force and spiral of measure that have begun by blowing the problem out of proportion and have ended up escalating the conflict to the brink of full-scale war.

To restart the talks, Eritrea made three proposals: Full demilitarization of the border areas to ensure that hostilities would not recur, direct talks between Eritrea and Ethiopia in the presence of high-level mediators, and appointment of high-level African mediators.¹²³

Responding to Eritrea’s request, the OAU appointed a Mediation Committee of Burkina Faso, Rwanda, Djibouti, and Zimbabwe to negotiate the implementation of the peace plan. The OAU initiative occurred against the backdrop of mutual recriminations stemming from continued mass population expulsions. At the same time, Eritrea charged that Addis Ababa was re-imposing the air and sea blockade in violation of the moratorium on air strikes. The OAU Mediation Committee initially read its mandate in the modest terms of winning acceptance of the United States-Rwanda plan, but it soon found itself in the awkward position of either strengthening the plan and risking Ethiopian rejection or maintaining it and

123 OAU Report May, 1998.

risking Eritrean rejection. This dilemma was captured in contrasting positions on the eve of the OAU mission. To Eritrea: “If the OAU delegation brings a dead package, there will be no solution.” To Ethiopia: “The OAU delegation should prevail upon Eritrea to comply with the peace proposal.”

Shuttling between Asmara and Addis Ababa on June 18 and 19, 1998, the presidents of the OAU Mediation Committee secured concessions from the Ethiopian government on cessation of hostilities and a negotiated settlement after Eritrean withdrawal from Badme, but Asmara remained firm in its rejection. In the words of Secretary-General Salim, “Eritrea made it categorically clear that the United States-Rwanda facilitation process was over.” Operating within the structure of the United States-Rwanda plan, the African team was unable to advance any new ideas without fundamentally altering its terms. As an Eritrean official remarked: “The OAU team did not present any new proposals...” In the face of disagreements about the ownership of Badme prior to the May 1998 hostilities, the OAU committee opted to change its approach to the mediation into a ministerial investigation body, a task that entailed a review of maps and other government documents about the disputed area. As Sam Ibok, the then head of OAU’s Conflict Management Unit, acknowledged: “When the committee was set up, it soon became clear the issues were complex and needed on-the-ground-fact-finding investigation.”¹²⁴

As the ministerial committee began its investigations, new mediators from countries such as Uganda, Egypt, Libya, the

124 Maundi and Zartman, *op. cit.*

Democratic Republic of Congo, Sudan, and Italy launched separate initiatives. Central to the invitation of these mediators was Eritrea, whose president, Isaias Afwerki, suggested that the OAU act merely as an umbrella organization for all the mediation efforts:

I do not think it is a matter of who should take the lead or not, this is not a competition for anyone. We are striving to find a peaceful solution to the problem and we would like to see a process put in place that would guarantee that we are on the right track. Yes, the OAU has its limitations and no one can exaggerate the capabilities of the OAU. We have always talked about a consolidation of efforts. It is not that some have the influence and capability. We would like to see all efforts combined to bring an effect and I think the OAU can be one element. The OAU on its own could not come up with miracles and find a solution to the problem (Carol Pineau, June 28, 1998).

With the OAU convinced that some of these initiatives complemented its own process, Ethiopia called for an end to parallel mediators. Worried that they would only distract from the United States-Rwanda plan and provide more time for Eritrea to procrastinate, Prime Minister Zenawi, on a visit to Nairobi in July 1998, warned that further initiatives outside ongoing efforts by the OAU would impede peacemaking.

As the OAU frantically reinvigorated the peace process, both sides began to seek new sources of arms after the Clinton administration suspended sales of weapons and war material in July 1998. In an aggressive buying spree, they acquired small rifles, grenades, and ammunition, as well as fighter-bombers and

helicopters from China and the former Eastern bloc nations. At the same time, marking a departure from the era of cutbacks in defense spending, the Ethiopian parliament approved a nine percent increase in the defense budget for the 1998-1999 fiscal year, the first increase in seven years.

After two months of investigations, the OAU committee drew up a draft report that was presented to the foreign ministers meeting in Burkina Faso in October 1998, and later to Eritrean and Ethiopian leaders. In early November, Afewerki and Zenawi met separately with the leaders of Burkina Faso, Djibouti, and Zimbabwe and assessed the draft proposals. In a nutshell, the OAU proposals did not substantially differ from the United States-Rwanda peace plan, except for ascertaining the status of the Badme area before the onset of the conflict with regard to the authority which was administering Badme before 12 May 1998 and on the basis of the information at our disposal, we have reached the conclusion that Badme town and its environs were administered by the Ethiopian authorities before 12 May 1998.

This conclusion obviously does not prejudge the final status of that area which will be determined at the end of the delimitation and demarcation process. On the basis of this conclusion, the report recommended that pending UN arbitration on ownership, Eritrean forces would withdraw from Badme and its environs, allowing the return of the Ethiopian civilian administration and the deployment of a United Nations – supervised African peacekeeping force.

The OAU also recommended that ultimate sovereign jurisdiction over the contested areas be exercised by the legitimate

authority once the entire border had been demilitarized and demarcated, a process that would be completed in six months. Finally, the plan asked both parties to address the negative socio-economic impact of the crisis on the civilian population, particularly the displaced and deported people.

During a meeting of the sixteen-nation summit of the OAU Central Organ for Conflict Resolution in mid-December in Ouagadougou, Ethiopia accepted the recommendations, stating that they met its primary concerns. In his submission to the OAU summit, Isaias requested amendments to the core proposals requiring withdrawal from the disputed areas. The summit, however, rejected this request and adopted the proposals, the OAU Peace Proposal Framework Agreement, as the basis for a settlement.

In addition to the key provisions in the previous plan, the framework contained new elements: redeployment of forces along all contested border areas supervised by a group of military observers, deployment of human rights monitors in both countries, and creation of a follow-up committee of the two nations to work with the OAU and United Nations on implementation of the framework agreement. Replacing the United States-Rwanda plan, the framework agreement encompassed eleven provisions, subsequently, the European Union and the UN Security Council backed the OAU framework and appealed for Eritrean compliance.¹²⁵

In January 1999, Ethiopian foreign minister Seyoum Mesfin told diplomats that the border dispute has reached “a critical turning period of the eight-month-old crisis” and urged sanctions

125 The Monitor Addis Ababa, January, 1999.

against Eritrea for frustrating diplomatic efforts to end the dispute. The blunt language coincided with massive troop reinforcements along the border and a new round of expulsions. In February 1999, Ethiopia broke both the long lull in war and the United States-mediated moratorium on air strikes by retaking Badme, forcing Eritrean withdrawal.

Employing fighter-bombers, helicopter gunships, and reconfigured transport aircraft in tactical support of ground operations, 'Operation Sunset' reversed Eritrea's nine-month-long occupation. Following this decisive victory for Ethiopian forces, Eritrea accepted in principle the OAU framework agreement.

5.9.2.3. Phase Three: Enter Special Envoys

The capture of Badme and Eritrean concessions were important victories for Ethiopia, taking a tremendous load of the government that was increasingly under pressure from domestic critics of its soft line. Yet, as the acrimony over the details of the agreement revealed, the change in the power balance did not improve the prospects of reaching a cease-fire as a prelude to implementing the agreement. While the OAU and United Nations lauded Eritrean acceptance, Ethiopia made it clear that any cease-fire and subsequent negotiations would depend upon its recovery of all its territory, whether by military action or by diplomacy. In light of the ensuing stalemate, the mediators had to scramble to broaden the terms of the OAU framework to make them acceptable to Ethiopia without further alienating the Eritreans.

The OAU's institutional ownership of the mediation process, in particular the active involvement of the secretariat, had whittled

the relevance of other competing African mediators. With the subsequent appointment of OAU special envoy Ahmed Ouyahia, the mediation process gained additional credence and legitimacy. The order created by the pre-emption of parallel bids in turn led to a sustained OAU mediation effort that could draw support from external mediators with considerable clout, notably the United States, the European Union, and the United Nations. As the mediation process continued, special envoys from these institutions furnished diverse pressures and leverage on the parties.

The United States re-entered the mediation process when President Clinton dispatched former U.S. national security adviser Anthony Lake and an intelligence team from the State Department, the National Security Council, and the Department of Defense on missions to Ethiopia and Eritrea. Similarly, UN Secretary-General Kofi Annan appointed Mohamed Sahnoun to assist the OAU's efforts. Both Lake and Sahnoun sought to reinvigorate the international presence in the peace process in ways that would supplement the OAU initiative. Between the final phases of the negotiations for the framework agreement and the onset of February hostilities, Lake and Sahnoun traveled to both countries, putting forth numerous proposals consistent with the OAU framework. Rather than moving in with a new initiative, Lake and Sahnoun preferred to complement the OAU's priority for a cease-fire.

With the sticking points to implementation hinging on the withdrawal of troops and questions about the administration of the other disputed areas during the demarcation process, Prime Minister Zenawi of Ethiopia offered a cease-fire in return for an

explicit commitment by Eritrea to remove its forces unilaterally from all contested areas. Meeting with Sahnoun in April 1999, he proposed a short time frame for Eritrean withdrawal because as long as Ethiopian territory remains under Eritrean occupation, it is impossible to discuss a cease-fire and negotiate a resolution to the border conflict. Ethiopia believes that aggression cannot and must not be rewarded. Eritrea, however, rejected this offer, demanding implementation without tampering with the framework agreement:

*Adulteration or tampering of the framework agreement would bear no fruit other than throttling the agreement itself and bringing the OAU initiative to a dead end. The OAU should work for the implementation of the framework agreement and not to open the door for another round of fruitless wrangling.*¹²⁶

The impasse led to another spate of military confrontations in May and June 1999 as both sides sought to win a strategic advantage before the start of the rainy season in July. In a large-scale battle in May, Ethiopia repulsed an Eritrean advance across the Mereb-Setit sector of the western battlefield. At the same time, as Eritrea made renewed efforts to recapture Badme, Ethiopia retaliated by using its formidable air power. At the end of the skirmishes in June 1999, Eritrea suffered heavy losses, estimated to be at least 30,000 troops. The fighting eased only when the World Bank warned that both countries could not expect new lending and the UN Security Council threatened to impose economic sanctions against them.

126 Zartman and Maundi, op. cit.

In a fresh diplomatic effort in June 1999, the Italian secretary of state for foreign affairs Rino Serri intervened wearing the hats of the EU special envoy to the Horn of Africa and a “friend of both nations.” On a visit to both countries, Serri held the carrot of economic assistance in return for a commitment to implement the OAU Framework Agreement. But even with the new external entrant, old local faces reappeared on the mediation scene, bent on parallel initiatives. In the same month, 1999, Uganda, Rwanda, Libya, and Egypt proposed alternative negotiating track, but the OAU Mediation Committee in a session in Harare rebuffed these offers and reaffirmed its standing as the official mediator.

The special envoys from the United States, the UN, and the EU converged at Algiers, Algeria, during the OAU summit in July 1999 to attempt a creative revision of the OAU Framework Agreement that would appeal to both sides. As Lake, Sahnoun, and Serri coalesced to exert multilateral pressures on the parties, experts from the OAU, United Nations, and United States worked to clarify and strengthen the technical arrangements of the agreement. As a result, the mediators broadened the agreement by adding a new clause on the modalities for the implementation of the agreement.

Under the modalities, both sides agreed to sign a formal cease-fire agreement before the start of redeployment of troops; Eritrea would commit to withdrawing its forces from territory it occupied after May 6, 1998; Ethiopia would pull back its forces from positions taken after February 7, 1999; and Eritrea and Ethiopia would accept OAU military observers, working with the United Nations, to supervise troop redeployment.

Although both sides agreed to the revised modalities after the Algiers summit, wide differences remained over the interpretation. In particular, Ethiopia dismissed Eritrean acceptance as “meaningless,” contending that the new OAU proposals lacked guarantees of Asmara’s intention to withdraw its forces from all occupied territories. As one diplomat commented after Algiers: “They do not even seem able to agree on what they have agreed to... They are both likely to interpret the fine print of the plan in very different ways.” Amid these differences, the OAU mediators, under the leadership of Algeria’s Ahmed Ouyahia, launched new shuttle diplomacy to obtain Ethiopian consent to the amended agreement.

Throughout most of August 1999, the mediators tried to narrow the differences over interpretation of the framework and the modalities. These efforts culminated in a third document, the technical arrangements providing a detailed implementation plan of the peace package on the basis of the framework agreement and the modalities. Ethiopia, however, rejected the technical arrangements, questioning the timetable, the details for restoring Ethiopian administration in the disputed areas, the compensation for property, and the details of the proposed demarcation and monitoring missions. In a late October 1999 meeting with the mediators, Zenawi informed them that the technical arrangement contained numerous points that were inconsistent with the OAU Framework Agreement and the modalities. Moreover, he continued to reiterate the Ethiopian position that the technical arrangements failed to guarantee a return to the territorial and administrative status quo that existed before war first broke out in May 1998:

“Ethiopia has genuine interest to give peace a chance, but nothing short of the restitution of previous Ethiopian administration in occupied areas is unthinkable [*sic*].”

By the end of 1999, the OAU and special envoys had broadened the initial agreement but in the direction that was palatable to the strong party, Ethiopia. Thus the euphoria that had greeted Eritrea’s acceptance of the original agreement in February 1999 was dissipated by Ethiopia’s recalcitrance. Cumulatively, the diplomatic efforts had engendered an uneasy peace that stopped the fighting during the rainy seasons and allowed both sides to resupply already massive stocks of armaments and raise new forces.

After an eight-month lull, fighting broke out again in February 2000, on the eastern Bure front, near the Eritrean port of Assab. The clashes coincided with a new diplomatic effort to break the stalemate since the release of the technical arrangements. In two weeks of meetings in Asmara and Addis Ababa, Lake, along with Ouyahia, tried to negotiate amendments to the OAU peace plan.¹²⁷

In Asmara, they failed to get Eritrea to accept Ethiopian demands that peace talks be contingent on an Eritrean withdrawal from all the occupied territories. Though Eritrea reiterated its acceptance of the OAU peace plan, it rejected any amendments to the technical arrangements.

Meeting the mediators in Addis Ababa, the Ethiopian government requested three amendments to the technical arrangements. First, specific identification of all the areas occupied, by either side, and from which withdrawal should be made. Second, though the technical arrangements spoke of UN peacekeeping

127 Abraham, K., *op. cit.*

force, the Ethiopians insisted on a much smaller OAU observer mission, arguing that bringing in the United Nations would change the “ownership” of the peace process.

Third, Ethiopia demanded that there should be no restrictions on the composition of the civilian administration that would take over from areas vacated by the withdrawing Eritrean forces; in addition, armed militias should be allowed to patrol these areas. These amendments, Ethiopia contended, would allow a virtual return to the status quo that existed prior to May 1998.

Despite the failure of the Lake-Ouyahia mission, the mediators invited the foreign ministers from the two countries for proximity talks in Algiers at the end of March 2000 to fine-tune the technical arrangements and speed up the implementation of the OAU Framework Agreement. After various postponements, the talks began on April 27, 2000, chaired by Ouyahia and attended by Assistant Secretary Rice and, representing the EU, Italy’s deputy secretary of state for foreign affairs Maurizio Mellani. But after six days of negotiations, the proximity talks broke down against the backdrop of mutual recriminations. Ethiopian foreign minister Seyoum Mesfin blamed Eritrean representatives for refusing to discuss any substance of the agenda set by the OAU; instead “they wanted Ethiopia first and foremost as precondition to sign a ceasefire and framework agreement and modalities.”¹²⁸

In early May 2000, the UN Security Council made a final effort to avert the looming signs of war. The seven-member UN delegation, led by U.S. ambassador Richard Holbrooke, urged both

128 Report of the OAU Secretary-General, April, 2000.

sides “to refrain from resorting to force and further hostilities and to commit immediately, seriously, and without precondition to negotiations.” Expressing “in the strongest possible terms the council’s support for the OAU peace process,” Holbrooke’s mission tried to commit both sides to the deal “immediately, seriously, and without preconditions.” In two days of back-and-forth talks between Addis Ababa and Asmara, Holbrooke warned Ethiopia and Eritrea that they could face sanctions if either side were to resume hostilities. Unable to persuade the two leaders from the brink of war, the Holbrook mission gave up on its mediation efforts.

Two days after the collapse of the Holbrooke mission, a ferocious war exploded along the contested border. Prime Minister Zenawi set the tone for the impending conflict: “We shall negotiate while we fight and we shall fight while we negotiate” (Meles, BBC News, May 23rd, 2000). In a coordinated series of assaults, Ethiopian forces launched what the defense minister billed as a blitzkrieg, starting on the Mereb-Setit western front, followed by Zalambessa on the central front line, and eventually in Bure on the eastern front.

In the first four days of war, Ethiopian troops, backed by helicopter gunships and fighter jets, penetrated Eritrean lines, destroying eight divisions of the Eritrean army and cutting main supply lines for the remaining Eritrean troops on the western front. By the end of May 2000, Ethiopian forces had put fourteen of Eritrea’s twenty-four divisions out of action, and the remaining ten divisions had suffered heavy losses. In addition, the United Nations estimated that about 750,000 Eritreans fled their homes and farms during the Ethiopian advance, some 60,000 of whom

poured across the border into Sudan. On June 2, 2000, Meles announced that the military offensive had achieved its objectives of forcing Eritrea's withdrawal from all pockets of disputed border territory since May 1998 and virtually broken the Eritrean army. The Ethiopians took to the streets to celebrate heroic victory that included the donkeys.

As the mediators scurried back to Algiers for proximity talks in late May 2000, Ethiopia had gained the upper hand on the ground and could use its military advantage to wring additional concessions from the negotiations. In marathon meetings in Algiers, Ouyahia, Lake, and Serri presented "a consolidated and revised" peace proposal to the parties, but they had to negotiate more with the Ethiopians than with the Eritreans. In translating its battlefield victories into diplomatic gains, Ethiopia insisted on continuing to hold on to strategic areas inside Eritrea until international troops were ready to occupy those areas, quibbled over the size of the buffer zone between the rival armies, and demanded international guarantees that Eritrea would not attack again. With Eritrea's bargaining position undermined by the string of battlefield losses, the mediators' compromise cease-fire agreement was more favorable to Ethiopia. Even after Eritrean acceptance of the cease-fire proposal in mid-June, Ethiopian forces bombed a military airstrip on the outskirts of Asmara and sent thousands of reinforcements to the front line to help consolidate the military gains.

The Algiers Peace Accord reaffirmed the parties' acceptance of the OAU Framework Agreement and the modalities for its implementation, and committed them to a fifteen-point cessation of hostilities agreement. Under the cease-fire provisions, the parties

agreed to withdraw to positions held before hostilities began in May 1998 and allowed the deployment of a UN force in a fifteen-mile Temporary Security Zone (TSZ) until international arbitrators, demarcated the 600-mile border. The TSZ, wide enough to prevent the two sides from shelling each other, would lie inside Eritrean territory. Two weeks after the deployment of the UN peacekeeping mission, Ethiopia was requested to submit redeployment plan for its troops from positions taken after February 6, 1999, that were not under Ethiopian administration before May 6, 1998. After the deployment of UN peacekeepers, Eritrean civilian administration, including police and local militia, would be allowed to function in the TSZ to prepare for the return of the population. The agreement stipulated that the interim deployment of forces would not prejudice the final status of the contested areas, which would be determined at the end of the delimitation and demarcation of the border and, if need be, through an appropriate mechanism of arbitration. The presence of Ethiopian troops in the disputed areas gave Addis Ababa a psychological advantage as the implementation mediation process began. In a major concession to Eritrea, the mediators allowed the implementation to be led by a UN force operating under the auspices of the OAU rather than an exclusively OAU process as Ethiopia had demanded. The OAU and the United Nations committed themselves to guarantee the agreement until the determination of the common border on the basis of colonial treaties and applicable international law. The agreement also empowered the international community to take “appropriate measures” under Chapter VII of the UN Charter¹²⁹ in case either side failed to comply with the redeployment plan.

129 The Reporter, 2000.

The Algiers Peace Agreement was an important first step toward the search for a comprehensive resolution of the conflict, entailing the demarcation of the borders, the resettlement of displaced civilians, and the rehabilitation of both countries. The mediators, particularly Lake and Ouyahia, remained engaged in efforts to find durable peace. In November 2000, with the cease-fire holding, the United Nations dispatched 4,200 UN peacekeepers in the TSZ. In December 2000, after talks in Algiers, Ethiopia and Eritrea signed a new agreement establishing three key bodies: an independent body appointed by the OAU Secretary-General to investigate the incidents of May 6, 1998, and any other incident prior to that date that contributed to the war; a neutral Boundary Commission composed of five members with a mandate to delimit and demarcate the border; and a neutral Claims Commission to address the negative¹³⁰ socio-economic impact of the crisis on the civilian population, including the impact on those persons who were deported. In April 2002, the Boundary Commission announced its findings that granted most of the disputed territory to Ethiopia, but Badme – to Ethiopia's consternation – went to Eritrea.

5.10. Conclusions and Lessons

The eruption of the border conflict between Eritrea and Ethiopia on May 6, 1998 took many by surprise. Underlying the conflict were Ethiopia's claims that Eritrean armed forces had invaded the Yirga-Triangle, which the Ethiopians considered their territory. For its part, Eritrea contended that Ethiopian troops had begun incursions into Eritrean territory as early as July 1997.

130 The UN Charter.

Since then, the situation deteriorated with thousands people killed on both sides and expulsions of Eritreans from Ethiopia and vice versa. Several attempts were made to resolve the border dispute. It was not until 2000 when these proliferation of initiatives started bearing fruits.

The first attempt was brokered by the US Assistant Secretary of State for Africa, Susan Rice, and Rwanda government Minister, Patrick Mazimhaka. The US-Rwanda peace plan contained four points, namely: commitment by both parties to resolve the conflict by peaceful means and renounce force as a means of imposing a solution; deployment of a small observer mission to Badme, while Eritrean forces should re-deploy from Badme to the positions held before May 6, 1998; agreement to a swift and binding delimitation and demarcation of the Ethiopia-Eritrea border; and finally demilitarization of the entire common border.

This plan became the basis of most subsequent mediation efforts. All these efforts were accepted by Ethiopia but were difficult for Eritrea to accept. The unconditional withdrawal of Eritrean forces from Badme to positions held before hostilities broke out, remained a stumbling-block.

The Arab world, especially Libya, Egypt and Saud Arabia, had also tried to resolve the conflict. A proposal by Libya called for a cease-fire and the deployment of an African peacekeeping force to separate the warring parties. It did not call for the withdrawal of Eritrea's troops from the contested Yirga-triangle. Eritrea accepted the proposal while Ethiopia stuck to the terms of the US-Rwanda peace proposal. The US-Rwanda proposal had also been endorsed by the Inter-Governmental Authority for Development (IGAD), the OAU and the UNSC.

Meanwhile, the OAU established a high-level delegation that studied the problem and submitted proposals for a framework agreement to achieve a cessation of hostilities. The OAU Central Organ endorsed the Framework Agreement. However, both Eritrea and Ethiopia expressed reservations about certain aspects of the Agreement.¹³¹ The OAU worked with both countries to sort out the problems. Algeria's President Abdul-Aziz Bouteflika, in his capacity as Chairman of the OAU, also deployed intensive diplomatic efforts aimed at resolving the conflict.

As pointed out earlier, the UN had endorsed the OAU efforts to find a solution to the crisis. A peace Agreement was signed by Ethiopia and Eritrea and by October 2000, the UN had started to deploy observers in the disputed border region in cooperation with OAU. Despite past accusations and counter-accusations of violating the Agreement, the cease-fire is holding.

The International Court of Justice in The Hague gave a decision on the Ethio-Eritrea border demarcation on April 13, 2002. It is worth noting the fact that there has currently been a higher level of co-operation between the AU and the UN in resolving the Ethio-Eritrea conflict than in the past. This experience is likely to be continued by the two Organizations in similar future undertakings.

To sum up, in an attempt to resolve the above conflicts, the OAU utilized a wide range of preventive tools and measures. These included direct mediation as the OAU did with the secessionist crisis in the Comoros, as well as the application of political pressure, including the regular issuance of statement and endorsement of sanctions against illegal regimes. The OAU also employed special

131 The Monitor Newspaper, Addis Ababa, 2002, p. 1.

envoys in Burundi and the Comoros. In addition, the Secretariats of the OAU and the UN as well as the sub regional organizations worked together in order to resolve the DRC and the Ethio-Eritrean crises. The OAU deployed fact-finding as well as military observer missions to Burundi and the Comoros. Whereas the missions registered some positive results, it is a fact that the size of the missions was small compared to the magnitude of work. It should be recalled further that, besides these cases, the OAU involved in several other conflicts, including the crises in the Central African Republic between 1996 and 2001, Guinea Bissau, the Mano River Basin and Madagascar, to list but a few.

The overview clearly illustrates the new dynamics brought to OAU's efforts at conflict prevention and resolution by the establishment of the Mechanism. Equally significant was the wide range of tools used by the Organization. The OAU did not only undertake political mediation, using to that end special Envoys, but it also deployed observer missions in Rwanda, Burundi, the Comoros, Ethiopia/Eritrea, DRC and Madagascar. The roles of the missions ranged from that of observing to more operational ones such as arms collection, applied sanctions (in Burundi and the Comoros), sent Fact Finding Missions, established a Panel to investigate the genocide in Rwanda, and undertook mediation efforts in Madagascar following the Presidential election wrangle. Furthermore it issued regular but more moral statements to express concern at specific developments as well as urged the parties concerned to seek negotiated solutions to their differences.

Although peacebuilding maybe, beyond the scope of this study, it should be noted that its functions had been formally

included in the mandate of MCPMR. According to a UN report, peacebuilding is a continuous process that involves a broad range of activities aimed at consolidating peace, and seeks to address both the root causes of conflict and measures for bolstering peace agreement in the aftermath of conflicts.

It is against this backdrop that, in dealing with specific conflicts, the OAU tried to integrate a peacebuilding component in its efforts. For example, the Addis Ababa Agreement of December 1997 on the Comoros provided for the socio-economic development of Comoros. Indeed, the separatist crises facing the Comoros since August 1997 was largely tied to the extremely difficult economic conditions and general situation prevailing in the country and Anjouan in particular. It was in consideration of this situation that the OAU as soon as it got involved in the Comoros crisis adopted the principle of organization of a Donors' Round Table, the objective being to consolidate any political settlement by addressing the root causes of the conflict and avoid its recurrence.

Similar efforts were applied to Sierra Leone and the whole Mano River countries pursuant to the Abidjan Accord of 1998. The Objective was, among other things, to develop a program to address the sub-regional dimension of the post conflict situations in Liberia, Guinea and Sierra Leone, to support these countries in designing and implementing programs for post-conflict economic reconstruction and to develop programs and projects to involve civil society in reconciliation and peace consolidation. The initiatives were carried out by both the OAU and UNECA. With respect to the Ethio-Eritrean conflict, with a view to consolidating

the peace agreement signed between the two countries in Algiers in December 2000, the OAU and the UN working closely with the international Community were to mobilize resources for the resettlement of displaced persons, as well as for rehabilitation and peacebuilding activities in both countries.

It is also worth mentioning the various general elections on the Continent. OAU's involvement in the electoral processes in the aftermath of the conflict also forms an integral part of the Organization's peacebuilding activities. In this regard, it is worth remembering that the OAU which played a key role in the negotiation of the 1995 Abuja Agreement that brought to an end the civil war in Liberia seconded an electoral expert to the Independent Electoral Commission in Liberia. That body, in which both the UN and ECOWAS were represented, played an important role in the successful holding of the elections. The OAU also sponsored African Women Observers for the Liberia elections. This exercise has continued. As of now, OAU has participated in more than 40 general elections on the Continent as Observer. Its involvement in the process has, in most cases, had positive psychological effect on the voters. Morally the voters feel satisfied that once there is an OAU Observer Mission, chances of having transparent, credible, free and fair elections are greater. Nevertheless, the Organization's performance in this field leaves much to be desired. In most cases, it deploys its Missions too little and too late.

On this understanding therefore, we may argue that, the entry of mediators in African conflicts is often conceptualized as a neat division of labor whereby structural factors impel disputants to invite meaningful third parties to help in conflict management.

Internal conflicts exacerbate the problems of entry by increasing the stake and multiplying the invited parties. Moreover, where there are multiple parties waiting for invitation, there is often a wide gap between invitation and acceptance that compounds the entry of mediators. The notion of entry as a problem of creating order captures the puzzle of reconciling competitive mediation bids that accrue from invitation with credible mechanisms that combine the parties' acceptance and the mediator's leverage. Interstate conflicts, such as the Eritrea-Ethiopia border war, confront some of these problems, but the problems are less insurmountable where there are a limited number of disputants and where there are strong institutions to confer or deny entry. It is within this framework that we draw theoretical conclusions as follows:

As a first lesson, order in entry of mediators can be established from the outset by the presence of strong allies of both parties, in this case the United States and Rwanda. Their intervention created a negotiating framework that partially insulated the mediation from competitive interests and marginalized less weighty mediators. Although regional mediators converged around the conflict in the face of the United States-Rwanda intervention, they were not able to dissuade the parties from the parameters of the United State-Rwanda formula that became the benchmark for subsequent agreements.

The other significant element of the United State-Rwanda intervention was that once a working formula for a settlement was established, the mediation passed on to the OAU without marking a sharp discontinuity. Once the OAU adopted the initiative, it

could draw from its experience of ad hoc mediation committees as a means of owning the conflict.

Institutional ownership legitimizes entry, helping to exclude alternative mediators but also expanding the terms of the agreement. The OAU's fact-finding mission that culminated in the Ouagadougou summit gave wider legitimacy to the framework that both parties could not ignore. In addition, the collective weight furnished by the agreement precluded potential entrants or at least limited their room for maneuver. Even when Eritrea, derisive of the OAU, moved decisively to the Arab world for economic and political support, its allies such as Libya and CEN-SAD could operate only within the structure of the OAU framework.

An equally significant phase in the role of region/sub-region, was the exhaustion of the committee model that the OAU had relied upon since its inception and, in this case, throughout the initial phases of the mediation. Both the heads of state and government as well as the inter ministerial committees were found wanting after the conclusion of the Ouagadougou summit in 1998. Although they had succeeded in making the mediation a collective African process, these institutions could not manage the vagaries of shuttle diplomacy that subsequent negotiations entailed. The room was thus open for a more flexible mediation framework within the OAU secretariat that eventually gave way to the OAU's special envoy.

The transition to the OAU special envoy occurred in the context of an uneasy stalemate in the war and intense negotiations not about the basic terms of the agreement, but about clarity and details. With competitive mediators finally marginalized from

the conflict, the United States and the European Union could re-enter the mediation to complement the OAU efforts. The OAU's ownership in its exclusionary dimension paved the way for this re-entry; Africans needed to get their act together and establish credible mediation mechanisms before external actors could step in to help. Ownership claims are often exaggerated, but they cannot be underestimated in the context of competitive mediation bids, for ownership confers commitment and promises carrots and sticks (Maundi and Zartman).

Ownership is a selective mechanism, notably when the institutions for mediation are clearly delineated. Before Libya emerged as the pretentious African hegemony, dictating the rules and foisting into claims, the OAU mediation environment was more certain, with key actors tasked with conflict resolution under the umbrella of the summit of heads of state and government. The Ethiopia-Eritrea conflict threatened this clarity, but it was not entirely obliterated when the OAU Secretariat and the Algerians reasserted their mediation roles. Algeria's mediation was critical because it brought an even-handed regional actor who could be authoritative without the Libyan political baggage. At the same time, it pre-empted the escalation of the African-Arab dimension of the conflict that had been simmering, with the Ethiopian accusation that Eritreans were courting Arab countries, once again, excluding outside interference.

The mediation partnership of the United States, the European Union, and the United Nations marked a momentous phase in the conflict, lending collective leverage to an OAU process that needed more muscle. This partnership was facilitated by the

settlement of prior conflicts over mediation ownership, allowing international actors to operate in an environment of relative stability and order. The Lake-Ouyahia-Serri partnership evidenced the coalescence of international and regional action that built on previous agreements, while seeking to overcome the flaws of these agreements. This partnership established a mediation balance that was acceptable to both sides. In addition, the multilateral nature of the mediation dispelled the accusation from both parties that the United States was favoring the other side. When pressure for UN sanction gathered momentum toward the end of the conflict, the partnership shielded the mediators from accusations of partiality.

Indeed, despite these gains by the OAU Mechanism for Conflict Prevention, Management and Resolution, like its predecessor, it continued to suffer from shortcomings such as lack of finance to undertake various missions, institutional constraints that affected decision-making process, inefficiency, etc. This called for a thorough re-thinking by the member states as to whether this instrument could still be relevant with the transformation of the OAU into AU which has expanded mandate. It was within this framework as we shall see in the next chapter, that Peace and Security Council (PSC) was created in 2002.

CHAPTER 6

PEACE AND SECURITY COUNCIL (PSC)

6.1. An Overview

In his report on the Implementation of the Sirte Decision on the African Union (COM/2210 LXXXIV), submitted to the 74th Ordinary session of the council of ministers and the 37th Ordinary session of the Assembly of Heads of State and Government held in Lusaka, Zambia, from July 2nd to 7th and 9th to 11th, 2001, respectively, the then Secretary-General Dr. Salim. A. Salim identified a potential institutional gap which arose from the fact that some of the institutions or structures within the OAU system had not been specifically provided for as organs of the AU in the Constitutive Act.

Among these institutions was the Mechanism for Conflict Prevention, Management and Resolution (MCPMR) established by the 1993 Cairo Declaration. The Secretary-General further noted that, despite the absence of a provision specifically mentioning it,

the Mechanism forms an important aspect of the objectives of the African Union and that, in essence, the political commitment that led to the establishment of the Mechanism has been reflected in the Constitutive Act.

Dr. Salim recalled that in 1993, there was a consensus among Member States that the Mechanism should be brought into being by means of a simple, efficacious and speedy OAU legal instrument i.e. a declaration that would be adopted by the Assembly with the clear intent that it would become legally binding as an integral part of the OAU Charter. By using the same approach to make the mechanism an integral part of the Constitutive Act, it should be possible to meet the requirement of immediately incorporating the Mechanism into the institutional framework of the African Union and reaffirm the validity of the 1993 Cairo Declaration. Consequently, the Secretary-General recommended that the assembly, through the adoption of a decision or decisions on the matter, should designate or incorporate those organs/ institutions/ bodies of the OAU mechanism, as organs of African Union. The Assembly was, therefore, requested to mandate the Secretary-General to undertake a review of the structures, procedures and working methods of the Mechanism, with the possibility of changing the name “Central Organ.”

6.1.1. The Lusaka Summit

Following its deliberation on the Secretary-General’s Report, the 37th Ordinary Session of the Assembly of Heads of State and Government adopted Decision AHG/Dec. I(XXXVII) on the implementation of the Sirte Summit Decision on the African Union. In that Decision, the Assembly, *inter-alia*:

- Considered that objectives and principles stipulated in the Cairo Declaration constitute an integral part of the declared objectives and principles of the Union;
- Decided to incorporate the Central Organ as one of the Organs of the Union, in accordance with Article 5(2) of the Constitutive Act of the African Union;
- Requested the Secretary-General to undertake a review of the structures, procedures and working methods of the Central Organ, including the possibility of changing its name.¹³²

It was against this backdrop that the 37th Ordinary Session of the Assembly of the Heads of State and Government of the OAU held in Lusaka, Zambia from July 9th to 11th, 2001 decided to incorporate the Central Organ of the OAU Mechanism for Conflict Prevention, Management and Resolution as one of the Organs of the African Union [AHG/Dec. 160 (XXXVIII), 2001]. This decision was also in accordance with Article 5(2) of the Constitutive Act of the African Union (CA, 2000:5).¹³³

Following this Summit decision, the General Secretariat prepared a background document on the review of the structures, procedures and working methods of the Central Organ. The document was submitted by the OAU General Secretariat to the Experts Meeting of OAU Member States held in Addis Ababa, Ethiopia, in February, 2002 to discuss, inter-alia, the Rules of Procedure of African Union (Draft/Rpt/Ex/Mtg.AU (ii) 2002:29)

132 Assembly Decision, Dec. 1; 2001, p. 2.

133 Constitutive Act, 2000, p. 5.

with a view to seeking input from the Permanent Representatives and Experts from the capitals of Member States.

During the exchange of views, the meeting expressed its appreciation for the quality of the background document and its comprehensive exposure of the difficulties, constraints and limitations that had hindered the effectiveness of the OAU Mechanism. The meeting was however, unanimous in stressing the need to transform the Central Organ into a strong institution capable of successfully meeting new demands and realities in Africa.

In this connection, reference was made to the provisions of the Constitutive Act of the African Union concerning the intervention by the Union in the internal affairs of its Member States in the event of gross violations of human rights. The meeting was also of the view that the mandate of the Mechanism should be expanded to include, in addition to conflict prevention, management and resolution, peacebuilding, as well as disaster management. A proposal was made to include those aspects of the Conference on Security, Stability, Development Cooperation in Africa (CSSDCA) dealing with security and stability in the mandate of the Mechanism.

Another proposal was made that the General Secretariat should review the security instruments that existed before the establishment of the OAU Mechanism, and integrate in the new Mechanism those that could still be relevant. It was also agreed that the analytical document prepared by the delegation of Mali on the issue should be made available to all the delegations.

The meeting agreed that more emphasis should be put on resource mobilization and capacity building so as to enable

the Mechanism to fulfill its mandate effectively. In this regard, additional sacrifices were solicited from Member States to increase their contributions to support the work of the new Central Organ.

The meeting briefly addressed the proposal regarding the change of the name of the Central Organ. While recognizing the desirability of the name change no agreement was reached on a new name. Nevertheless, it was indicated that the new name should reflect the peace and security agenda of the revamped Mechanism, and that the designation “African Union” ought to appear in the new name.

Several delegations addressed the issue of membership, and agreed on the need to review the current practice in the selection of the Central Organ’s members. This would be done by setting up criteria limiting membership to those Member States in compliance with all pertinent decisions of the Organization in the domain of democratization, respect for human rights and civil liberties, as well as the fulfillment of the requirements set by the African Union in regard to statutory contributions.

The meeting suggested that the final draft should address the question of the new relations to be established between the Mechanism on the one hand, and the Chairperson of the commission and the Commission itself, on the other. The Meeting also expressed different views on the issues of the duration of the mandate of the Central Organs (one, two or three years) and the frequency of its meetings. On the issue of frequency, it was suggested that given the vital importance of peace and security in Africa, the Central Organ should be able to meet at least once a week, as does the UN Security Council. It was stressed that this

would require a change in the work schedule of the Permanent Representatives to the OAU, who also serve as either Ambassadors or Chargés d’Affaires of their respective countries to Ethiopia.

The possibility was also raised to create a category of Permanent Members of the Central Organ, though without “veto” powers. However, it was stressed that in the new context of the African Union, such a situation could be divisive. Referring to the ongoing debates at the international level concerning the restructuring of the UN Security Council in light of the inadequacies between permanent and rotating seats, the delegations also advised that Africa should not be seen as replicating the decision-making structures that are being transformed at the global level.

Emphasis was put on the need to strengthen decision-making mechanisms within the Central Organ and to ensure that Member States take Central Organ’s decisions seriously and implement them. In this regard, concern was raised about the fact that Member States do not make proper utilization of the central organ. The meeting held the view that by failing to do so, Member States were not taking adequate notice of the problems emerging in their midst in the peace and security domain.

The meeting insisted on the need to develop close cooperation with the RECs, in order to avoid duplication of efforts and waste of resources in the area of peace and security. It was also of the unanimous view that representatives of the RECs should take part in the deliberations of the Central Organ, especially on peace and security matters. The meeting further raised the need for the Mechanism to enhance collaboration in the work of the two institutions. A suggestion was made to establish close working

relations with the UN Center for Peace and Disarmament in Africa, based in Lomé, Togo.

Having deliberated on this document extensively, the meeting deferred the matter. The matter was however, reverted to during the Brain-storming Session for the Ambassadors of the Central Organ and the NEPAD Implementation committee held in Georgetown, South Africa from March 18th to 22nd, 2002.

The participants reaffirmed the validity of the Cairo declaration establishing the Mechanism. It was, however, felt that there were far-reaching provisions in Article 4(h) and (j) of the Constitutive Act (the right of the Union to intervene in a Member State pursuant to a decision of the assembly in respect of grave circumstances mainly war crimes, genocide and crimes against humanity, and the right of Member States to request intervention from the Union in order to restore peace and security) which constituted an important departure from the OAU Charter. Accordingly, they should be duly taken into account and reflected in the new proposals that would govern the work of the Mechanism and particularly the Peace and Security Council (PSC). In the meantime, the envoys recommended that the focus should also be put on peacebuilding and post-conflict reconstruction, which were vital components of the efforts to promote peace and security.

With respect to Prevention, Early Warning and Entry Point, it was emphasized that the previous mandate of the Mechanism should be retained, namely; the anticipation and prevention of conflicts, it being understood that, in circumstances where conflicts had occurred, it was the mechanism's responsibility to undertake peacemaking and peacebuilding functions to facilitate

resolution of those conflicts. In that respect, it was indicated that efforts aimed at increasing the effectiveness of the early warning capabilities of the Mechanism should be intensified by building on existing early warning systems in various sub-regions of the Continent and linking them vertically and horizontally as the pillars of the Continent-wide Early Warning and Conflict Prevention Strategy.

Furthermore, the need for an early warning module was emphasized. Such module would be based on clearly defined and accepted political, economic, social, military and humanitarian indications. The module would be used to analyze developments within the continent and to recommend appropriate course of action. Member States must demonstrate political will to make use of the outcome of the analysis from the early warning module. This would provide a point of entry and enable early political action by the PSC to avert the degeneration of potential situation of conflicts into full-blown crises.

In so far as membership of the Central Organ was concerned, the participants agreed on the need to review the current criteria. They were of the opinion that membership of the PSC should be elective, taking into account the capacity and interest to assume and discharge the responsibilities that go with it. Prospective members should meet the criteria, and a commitment to uphold the principles enshrined in the Constitution Act of the African Union. Additionally, such countries should have a Permanent Mission in Addis Ababa and New York, and must not be under sanctions.

It was also felt that membership of the PSC should be designed in such a way as to ensure continuity so that the members become

familiar with the issues at hand, while maintaining the principle of rotation and equitable geographical representation. It was further proposed that the members of the PSC be elected for a two-year period while the current arrangement of having a Troika was not considered necessary in the new dispensation. Membership of PSC would be limited to fifteen (15).

The idea of permanent members was postulated and deliberated upon. It was emphasized that such permanent members should also be elected based on a mandate that could be withdrawn. The permanent members should have no veto power. However, some participants had a dissenting view on the principle of permanent membership and stressed the need to avoid any difference of status among the PSC members.

On the functioning of the PSC, it was suggested that it should be in permanent session for it to address the daily security challenges confronting the Continent. The PSC would meet at the levels of Permanent Representatives, Ministers and Heads of State and Government. It would convene as often as required at the level of Permanent Representatives but at least twice a month. The Minister and Heads of State and Government, respectively, should meet at least once a year. The Chairmanship of the PSC should be de-linked from the AU and should be of a period of one month rotating among the members of the PSC. In case a member of PSC was party to a conflict under consideration, should be asked to leave after presenting its case.

6.1.2. Relations with the UNSC and the Regional Mechanism

The participants reaffirmed the primary responsibility of the United Nations Security Council for the maintenance of International Peace and Security. In this regard, the need to enhance the relations between the PSC and the United Nations on the one hand, and the regional institutions on the other, was underscored. In this respect, it was felt that the recommendations made by the Secretariat with respect to the relations with UNSC should be strengthened to provide (i) for regular consultations with the UNSC particularly before the PSC takes decisions on issues such as peacekeeping, and (ii) strengthening the United Nations Liaison Mission to the AU in Addis Ababa. With regard to the relations with regional mechanisms, it was proposed that they should be part and parcel of overall security architecture of the African Union, and that the coordination mechanisms should be institutionalized.

6.1.3. Peacekeeping and Intervention

Participants recalled that the Cairo Declaration mandated that only civilian and military observer missions of limited scope and duration should be mounted and deployed. During deliberation, the participants stressed the need to expand the mandate of the Mechanism. In particular, they held the view that within the context of the African Union, the capacity of the mechanism should be enhanced to be able to respond more effectively to conflict situations and to undertake the functions envisaged in Article 4 (h) and (j) of the Constitutive Act in keeping with the relevant provisions of the UN Charter.

It was ultimately agreed that Member States should take steps to establish ready contingents to participate in peace missions mandated by the African Union and UN, in conformity with recommendations of the African Union Chiefs of Defense Staff. However, it was agreed that the Secretariat should take necessary steps towards developing appropriate decision-making processes and chain of command. Additionally, it was recommended that a comprehensive assessment of peacekeeping capacities in Africa should be undertaken with a view to determining how best to reinforce it.

This informal brainstorming session on the background documents was followed by a Consultative Meeting involving the representatives of the RECs and other OAU international cooperating partners in May 2002. All these consultations culminated in the Draft Protocol. The General Secretariat, therefore, organized in May and June 2002, respectively, a meeting of Permanent Representatives and Government Experts in Addis Ababa, Ethiopia, to examine the Draft Protocol on the establishment of a Peace and Security Council within the African Union.

6.1.4. The Debate

During the ensuing extensive debate, all the delegations that took the floor underscored the need and importance of setting up a Peace and Security Council. They stressed that peace and security constituted (with development and integration) the main pillars of the African Union and that, as such, all Member States should be involved in those efforts. The delegations also expressed no objection to the proposed new nomenclature, and it was therefore unanimously approved.

However, while recognizing the importance and need for the establishment of the PSC, some delegations held the view that more consultations were needed within the African Union, on the one hand, and between the African Union and concerned partners in the international community, including the United Nations, on the other. It was argued that the Draft Protocol under consideration had far-reaching implications and, as such, more time ought to be given to Member States for an Exchange of views and careful examination to ensure, inter-alia, conformity of the Peace and Security Council with the United Nations Charter and particularly, the role of the United Nations Security Council in the maintenance of international peace and security.

By contrast, other delegations held the view that the Draft protocol under examination was in conformity with the United Nations Charter, as had been stressed in several introductory and substantive paragraphs of the documents. They also stated that Draft Protocol was in line with the provisions of UN Charter¹³⁴ on the role of regional arrangements or agencies in the maintenance of peace and security. The delegations stressed that while it was important to harmonize the powers and functions of the Peace and Security Council, it was equally important to bear in mind that Africa should address more decisively the issue of peace and security on the continent in view of the fact that the international community and the United Nations Security Council had not always displayed the commitment that Africa had expected from them in this domain. In their view, the Peace and Security Council ought to be viewed as the bridge between the United Nations Security Council and the African Union.

134 UN Charter, p. 29.

All the delegations that intervened addressed the issue of the composition of the Peace and Security Council. They agreed not to consider the option of permanent membership of the Peace and Security Council. In this regard, some delegations stated that at the time of establishing and consolidating the African Union, such a categorization of African countries was divisive and in violation of the principle of sovereign equality of Member States as enshrined in the Constitutive Act. The need was further stressed to uphold the principles of equitable regional representation and rotation and ensure that all Member States take part in the efforts to promote peace and security in the continent.

On the issue of membership, the council agreed on the proposed number of fifteen (15). A consensus also emerged to consider the third option of the Draft Protocol as a basis for the deliberations of the council. After further consultations, a revised formulation of Article 5 was submitted by the secretariat and approved by the Council. The new formulation reads as follows:

1. The Peace and Security Council shall be composed of fifteen members elected on the basis of equal rights, in the following manner;
 - (a) Ten members elected for a term of two years, and
 - (b) Five members elected for a term of three years in order to ensure continuity.
2. In electing the Members of the Peace and Security Council, the Assembly shall apply the principle of equitable regional representation and rotation, and the following criteria with regard to each prospective Member State:

- (a) Commitment to uphold the principles of the union;
 - (b) Contribution to the promotion and maintenance of peace and security in Africa. In this respect, experience in peace support operations would be an added advantage;
 - (c) Capacity and commitment to shoulder the responsibilities entailed in membership;
 - (d) Participation in conflict resolution, peacemaking and peacebuilding at regional and continental levels;
 - (e) Willingness and ability to take on responsibility for regional and continental conflict resolution initiatives;
 - (f) Contribution to the Peace Fund and /or Special Fund created for specific purpose;
 - (g) Respect for constitutional governance in accordance with the Lomé Declaration, as well as the rule of law and human rights;
 - (h) Having sufficiently staffed and equipped Permanent Mission at the Headquarters of the Union and the United Nations, to be able to shoulder the responsibilities which go with membership; and
 - (i) Commitment to honor financial obligation to the Union.
3. A retiring member of the Peace and Security Council shall be eligible for immediate re-election.
 4. There shall be periodic review by the Assembly to assess the extent to which the members of the Peace and Security Council shall continue to meet the requirements spelt out in Article 5(2) and to take action as appropriate.

Some delegations addressed the issue of composition of the Panel of the Wise. While agreeing with the establishment of such

a Panel, the delegations argued that it should be an *ad hoc*, flexible and consultative body. And, persons chosen, should be credible.

The report was submitted to the 76th Ordinary Session of the OAU Council of Ministers and subsequently to the 38th OAU Summit, held in Durban South Africa which approved it. However, there is a safeguard clause that States that before the protocol enters into force, the Mechanism for Conflict Prevention, Management and Resolution shall continue to operate within the Union.

This legal obligation was adhered to. Indeed, the PSC Protocol did not enter into force until it fulfilled the necessary legal requirements that included a two third ratification by member states as indicated in the table below:

List of Countries which Have Signed, Ratified/Acceded to the Protocol Relating to the Establishment of the Peace and Security Council of the African Union

(continues)

No.	Country/Pays	Signature date of/de	Date of/ de ratification/ accession	Date deposited/ date de depot
1	Algeria	09/07/2002	29/01/2003	04/02/2003
2	Angola	07/07/2003	30/08/2004	03/11/2004
3	Benin	09/07/2002	10/05/2004	31/05/2004
4	Botswana	24/06/2005	24/06/2005	25/07/2005
5	Burkina Faso	09/07/2002	01/12/2003	05/12/2003
6	Burundi	09/07/2002	04/11/2003	18/12/2003
7	Cameroon	03/02/2003	04/11/2003	17/12/2003
8	Central African Rep.	04/02/2003	-	-
9	Cape Verde	-	-	-
10	Chad	09/07/2002	07/04/2004	11/06/2004

List of Countries which Have Signed, Ratified/Acceded to the Protocol Relating to the Establishment of the Peace and Security Council of the African Union

(continues)

No.	Country/Pays	Signature date of/de	Date of/ de ratification/ accession	Date deposited/ date de depot
11	Côte d'Ivoire	27/02/2004	24/08/2007	03/10/2007
12	Comoros	09/07/2002	26/07/2003	23/09/2003
13	Congo	04/03/2003	23/02/2004	27/02/2004
14	Djibouti	26/02/2003	18/10/2005	07/11/2005
15	Democratic Rep. of Congo	05/12/2003	-	-
16	Egypt	16/03/2004	01/02/2005	01/03/2005
17	Equatorial Guinea	30/01/2005	29/01/2003	14/05/2003
18	Eritrea	-	-	-
19	Ethiopia	09/07/2002	29/05/2003	17/06/2003
20	Gabon	09/07/2002	29/12/2003	27/01/2004
21	Gambia	09/07/2002	19/11/2003	29/11/2003
22	Ghana	09/07/2002	04/07/2003	07/07/2003
23	Guinea-Bissau	09/07/2002	-	-
24	Guinea	09/07/2002	-	-
25	Kenya	07/07/2003	19/12/2003	22/12/2003
26	Libya	03/01/2003	24/06/2003	06/07/2003
27	Lesotho	09/07/2002	30/06/2003	07/07/2003
28	Liberia	Liberia	09/07/2002	-
29	Madagascar	Madagascar	07/07/2003	12/07/2004
30	Mali	Mali	09/07/2002	19/03/2003
31	Malawi	Malawi	09/07/2002	08/07/2003
32	Mozambique	Mozambique	03/02/2003	02/06/2003
33	Mauritania	Mauritania	23/05/2003	28/07/2008
34	Mauritius	Mauritius	09/07/2002	05/07/2003
35	Namibia	Namibia	09/07/2002	09/12/2003
36	Nigeria	Nigeria	09/07/2002	26/12/2003

List of Countries which Have Signed, Ratified/Acceded to the Protocol Relating to the Establishment of the Peace and Security Council of the African Union

(conclusion)

No.	Country/Pays	Signature date of/de	Date of/ de ratification/ accession	Date deposited/ date de depot
37	Niger	Niger	09/07/2002	27/08/2003
38	Rwanda	Rwanda	09/07/2002	22/05/2003
39	South Africa	South Africa	09/07/2002	22/05/2003
40	Sahrawi Arab Democratic Republic	Sahrawi Arab Democratic Republic	03/02/2003	26/05/2004
41	Senegal	Senegal	09/07/2002	17/10/2003
42	Seychelles	Seychelles	07/07/2003	-
43	Sierra Leone	Sierra Leone	14/11/2002	05/07/2003
44	Somalia	Somalia	09/07/2002	-
45	São Tomé & Príncipe	São Tomé & Príncipe	09/07/2002	28/10/2003
46	Sudan	Sudan	03/12/2002	07/07/2003
47	Swaziland	Swaziland	07/12/2004	05/01/2006
48	Tanzania	Tanzania	09/07/2002	23/09/2003
49	Togo	Togo	03/02/2003	07/03/2004
50	Tunisia	Tunisia	-	08/01/2007
51	Uganda	Uganda	09/07/2002	15/03/2004
52	Zambia	Zambia	09/07/2002	07/07/2003
53	Zimbabwe	Zimbabwe	04/02/2003	09/03/2004

of Countries 53; of Signature 50#, of Ratification 44#, of Deposit 44#

Note: - Adopted in Durban, South Africa, 9 July 2002. - Entered into force on 26 December 2003.

Record Count: 53

6.2. A Comparative Analysis between MCPMR and PSC

A quick glance at the MCPMR and PSC documents reveals some contrasting differences though both aim at achieving peace and security on the Continent. This calls for a review of some of the basic provisions contained in the documents.

6.2.1. Establishment, Nature and Structure

Article 2 of the protocol states that the PSC is established within the Union as a standing decision-making Organ for the prevention, management and resolution of conflicts. It emphasizes that the PSC is a collective and early warning arrangement aimed at facilitating timely and efficient response to conflict and crisis situation in Africa. Unlike the MCPMR, the PSC shall be supported in the commission, by a Panel of the Wise, a continental Early Warning System, an African Standby Force and a Special Fund. This is a qualitative change.

As for the objectives and principles of the PSC stipulated in Articles 3 and 4 of the Protocol, it has a more expanded mandate compared to the MCPMR. They include elements like promotion of peace, security, stability in Africa, develop common defense policy as per Article 4 (d) of the Constitutive Act, promote and encourage democratic practices; good governance and rule of law and the right of the Union to intervene in Member States as per Article 4(h) and (j). None of these elements were present in the MCPMR. In fact some of them constrained the performance of the MCPMR. To us, this is a radical departure.

6.2.2. Composition

The PSC has introduced a new element of permanent and non-permanent membership. The PSC is composed of 15 members elected on the basis of the geographical equal rights. Ten out of the fifteen members would serve for two years while the remaining five would serve for three years in order to ensure continuity.

Most of these elements were absent in the MCPMR. It is worth noting the fact that there is a periodic review by the Assembly, to assess the extent to which the members of PSC would continue to meet the requirements spelt out in Article 5(2) and take the necessary action.

6.2.3. Functions

The functions of the PSC are very many and varied. The PSC is expected to perform functions, *inter-alia*, in the following areas; Promotion of peace, security and stability in Africa; Early Warning and preventive diplomacy; peace support operations and intervention, pursuant to Article 4(h) and (j) of the Constitutive Act; humanitarian action and disaster management. The last two are new functions. They did not exist in the MCPMR.

6.2.4. Powers

Article 7 of the Protocol describes the powers of the PSC as being, *inter-alia*: to recommend to the Assembly, pursuant to Article 4(h) of the Constitutive Act, intervention, on behalf of the Union, in a Member State in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity (as defined in the

relevant international conventions and instruments); approval modalities for interventions by AU in a Member State (following a decision by the Assembly, pursuant, to Article 4(j) of the Constitutive Act); institute sanction whenever an unconstitutional change of government takes place in Member State as provided for in the Lomé Declaration; implement the common defense policy of the Union; ensure implementation of the OAU Convention on Preventing and Combating Terrorism and other relevant international, continental and regional conventions and instruments; harmonize and co-ordinate efforts at regional and continental levels to combat international terrorism; and finally promote close harmonization, co-ordination and cooperation between the Regional Mechanism and the Union in the promotion and maintenance of peace, security and stability in Africa. All these are new phenomena.

6.2.5. Organization and Meeting

The PSC is so organized as to be able to function continuously. For this purpose, each member of the PSC is, at all times, represented at the Headquarters of the Union. This is a departure from the past practice.

However, unlike the MCPMR, the PSC convenes as often as required at the level of Permanent Representatives, at least twice a month. The Ministers and the Heads of State and Government meet at least twice, and once a year, respectively.

Furthermore, contrary to the MCPMR, the Chairmanship of the PSC is held in turn by the members of PSC in an alphabetical order. Each Chairperson holds office for one calendar month.

Formerly, the Chairperson who was the Chair of the OAU could hold that chair for one year (i.e. from one Summit to another). The current method allows each Member State to actively participate in the activities of the PSC. It reflects equality and instills a sense of belonging to the club.

From the above, it can be argued that a change from the MCPMR to PSC, at least in terms of letter and spirit is qualitative. The Protocol is a master-piece in terms of its content compared to the MCPMR. It reflects the material conditions of the moment. In the past, issues like unconstitutional changes of government, intervention in Member States' internal affairs and abuse of human rights, were tolerated. Today, they are really addressed and openly criticized.

A note of caution must, however, be sounded. It should be remembered that some of the factors that led to MCPMR's dismal performance included: lack of funds, lack of political will and so forth. Unfortunately, some of these problems have been inherited by the PSC.

As pointed out above, the PSC Protocol is a qualitatively improved document compared to the 1993 Cairo Declaration which established the MCPMR. After all, the latter was a mere declaration that had less legally binding implications under international law when compared to the former. It was a by-product of historical conjuncture. The PSC reflects the material conditions obtaining in Africa today. It is, therefore, ready to rise to the challenge.

Experience shows that Africa has never been short of good brains and ideas. This is reflected in the current PSC document

which is home grown. On this ground, the document challenges Africa's detractors who claim that it has remained "a dark Continent." For all intents and purposes, the document is, to say the least, a masterpiece.

However, the problem of Africa is the translation of the letter and spirit of such documents into concrete action. History has it that most of the Continent's valuable decisions, resolutions, conventions, declarations and so on, have never been fully implemented. If anything, they remain on the dusty shelves of our offices. Words do not match with actions. This is obviously a disservice to the populace of the Continent. What a pity? We are looking forward, therefore, to seeing the PSC Protocol being spared from a similar fate.

6.3. The Peace and Security Council's Performance under Legal Microscope

6.3.1. Organization and Activities

As already stated, the establishment of the PSC was part of the general process of transforming the OAU and the AEC into a more effective institution, the AU. Therefore, the process was to be guided by the objectives and principles enshrined in the Constitutive Act of the African Union from which the "Protocol Relating to the Establishment of the Peace and Security Council of the African Union" took its inspiration. Consequently, the Protocol endeavored to address all the shortcomings experienced under the Central Organ, its Mechanism and the OAU/AEC at large in the

intended area of its competence; and, certainly, the PSC emerged different from its predecessor in many aspects.

As pointed out above and demonstrating a total departure from the previous arrangements, the PSC was established by a protocol that legally committed Member States more firmly. According to its Article 2, the PSC was “a standing decision-making organ for the prevention, management and resolution of conflicts” and “a collective security and early-warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa.” It was to be supported by the AU Commission, a Panel of the Wise, a Continental Early Warning System, an African Standby Force and a Special Fund as its pillars, each with its well-elaborated role and responsibility. The PSC could also establish subsidiary bodies and sub-committees on specific issues to assist it in carrying out its activities.

The Protocol laid down a wider spectrum of objectives in the promotion of peace, security and stability in Africa, including by developing a common defense policy for the Union, and encouraging democratic practices, good governance and the rule of law. Its principles also encompassed new elements such as the right of the AU, pursuant to a decision by the Assembly, to intervene in any member state to deal with grave circumstances, the right of Member States to request the AU’s intervention in order to restore peace and security, condemnation and rejection of unconstitutional changes of governments, and promotion of gender equality, as laid down under Article 4 of the Constitutive Act. Moreover, the Protocol tries to put in place a more viable

continental institutional framework taking onboard the Regional Mechanisms for Conflict Prevention, Management, and Resolution, and a new structure altogether for the PSC. The structure comprised fifteen members, ten elected for a two-year term, and five for three years with eligibility of re-election for each member. They are all to be elected on the basis of the principle of equitable representation of the OAU geographical regions with specific criteria such as commitment to uphold the principles of the Union; contribution to the promotion and maintenance of peace and security on the continent; capacity and commitment to shoulder the entailed responsibilities, including honoring financial obligations. These are in addition to having well staffed permanent missions/embassies at the AU and UN headquarters; and respect for constitutional governance.

The PSC has detailed and more specific functions and powers too, on which its program of activities is anchored. They are, besides the early warning and preventive diplomacy, matters relating to peacemaking, peace support operations and intervention, pursuant to article 4(h) and (j) of the Constitutive Act; peacebuilding; post-conflict reconstruction; humanitarian action and disaster management. Others comprise the promotion of coordination and harmonization of policies, structures and activities with Regional Mechanisms (RMs), on one hand, and relations with other AU organs as well as civil society organizations, the UN and its agencies, and other international organizations, on the other. In this regard, the AU Commission could conclude a memorandum of understanding and cooperation with the Regional Mechanisms.

The PSC was given powers as well to promoting human rights; ensure the implementation of AU instruments concerning unconstitutional change of governments, common defense policy, prevention and combating terrorism, OAU/AU and other international treaties on arms control, and so on, as would be directed by the AU Assembly. The Protocol also has a specific article addressing the issue of entry points where it gives the PSC discretion to determine accordingly, and stipulated other procedural matters that allow it to have its own Secretariat and Rules of Procedure; making it better organized than its predecessor.

In pursuing its mandate, the PSC has endeavored to erect an African Peace and Security Architecture (APSA) by strengthening itself and putting in place other pillars, namely, the Commission, the Panel of the Wise, the Peace Fund, the Continental Early Warning as well as the African Standby Force under which all other AU and PSC's programs of activities in this respect fall. The work to put up the pillars is still ongoing and most of them, however imperfect, have already been established. For instance, the African Union Commission is now under its capacity-building program that may lead to its transformation into the Authority. The Peace and Security Directorate (PSD) is in full swing under which the PSC Secretariat, the Focal Point for the Panel of Wise, Peace Support and Operations Division (PSOD), Conflict Management Division (CMD), Continental Early Warning System (CEWS) as well as Defense and Security Division (DSC – dealing with disarmament, prevention and combating terrorism, land mines, etc.) are all in operation. Meanwhile, some AU related instruments have also made an encouraging progress.

The “African Charter on Democracy, Elections and Governance” was adopted on 30 January 2007.¹³⁵ The “African Union Non-Aggression and Common Defense Pact” has been adopted and entered into force on 18 December 2009, while the “African Nuclear-Weapon-Free-Zone Treaty” (The Treaty of Pelindaba) entered into force on 15 July 2010.

Under the PSOD, the ASF brigades for all five regions have been established, three under RECs – ECCAS, ECOWAS and SADC – and two on the basis of Eastern and Northern geographical regions of the AU. They have already undergone the Command Post-Exercise “Amani Africa” (i.e. Peace in Africa) from 13 to 29 October 2010 to validate the state of operationalization of the Force.

The Regional Mechanisms on which the ASF stands are connected to the African Union by the already signed the “Memorandum of Understanding on Cooperation in the Area of Peace and Security between the African Union, the Regional Economic Communities and the Coordinating Mechanisms of the Regional Standby Brigades of Eastern Africa and Northern Africa.

The CMD within the Commission has also contributed immensely to the realization of peace agreements that have been achieved, and peace retained in some countries, like Guinea, Mauritania, Comoros, Liberia and Sierra Leone. At the same time, the Peace and Security Directorate has also deployed twelve (12) Field Mission/Liaison Offices some with military contingents to Burundi, Chad, Comoros, Central African Republic, Côte d’Ivoire,

135 African Charter on Democracy, Elections and Governance, Jan. 2007.

Democratic Republic of the Congo, Liberia, Sudan (one in Southern Sudan, one in Khartoum and a joint mission with UN in Darfur), Guinea-Bissau, and Somalia.

The PSD has been undertaking other related activities on the Border Program, Post-conflict Reconstruction, Year of Peace in addition to the process of opening representational offices where RECs and Regional Mechanisms are located; reciprocating what has already been started by the RECs/RMs at the African Union Commission.

The “Tripoli Declaration on the Elimination of Conflicts in Africa and the Promotion of Sustainable Peace and Plan of Action” of 2009 that earmarked 2010 a Year of Peace had a number of associated activities. They consisted of the creation of a Year of Peace Advisory Charter, to assist in the mobilization of resources, and raising awareness on the AU program for the advancement of peace and security. There have been also activities such as enhancing the capacity of universities and research institutions to assist the AU in providing training, and looking for better and feasible ways of preventing, resolving and managing conflicts to make Africa a safer place; and many more. A program on peace and security studies sponsored by the African Union at post-graduate level has started at the University of Addis Ababa.

In supporting the PSC carrying out its mandate, the Panel of the Wise, which was recently strengthened structurally by the creation of a five-member group of Friends of the Panel, has made satisfactory contribution particularly with its thematic reflection program as well as in assisting the Union in laying down a mediation

strategy policy. Since its inauguration in December 2007, it has addressed, as part of its thematic issues, elections-related conflicts and disputes; non-impunity, truth, justice, and reconciliation in Africa; and women and children in armed conflicts. Similarly, the Continental Early Warning System has made great contribution in alerting the PSC, its pillars and Member States on pending conflict situations and thus boosting initiatives associated with the preventive diplomacy. This is done through various AU regional offices and RECs.

The Peace and Security Council itself has continued to be very serious in making sure that those who violate AU rules by involving themselves in unconstitutional changes of governments do not go “unpunished” by sanctions. Furthermore, and in a move to show its seriousness, it has, at times, been conducting physical fact-finding missions to the areas in conflicts or disputes, as it did, for example, to Côte d’Ivoire and Sudan from 28 September to 3 October 2010, and from 15 to 17 December 2010 respectively, to ensure the execution of the Ouagadougou Political Agreement, and the implementation of the Comprehensive Peace Agreement (CPA) between the North and Southern Sudan that led to a successful referendum which gave birth to the new Republic of Southern Sudan.

Furthermore, recently, the PSC under its decision 259, constituted a High-Level Panel to verify the legitimate winner of the Cote d’Ivoire second round election of November 28, 2010 between L. Bagbo and A. Outtara. The five-man team included Presidents of Tanzania H.E. Dr. Jakaya Mrisho Kikwete, Mauritania, Tchad, South Africa and Burkina Faso. The presidential recommendations

were adopted by the PSC that formed the basis for the UNSC on Côte d'Ivoire that recognized Outtara as the winner.

With regard to the Peace Fund, it has been boosted too by the AU policy organs' decision¹³⁶ to increase incrementally the contribution from the AU budget from 6 to 12% starting from 2011; and by the support from the EU under the African Peace Facility as well as donations from various external partners both individual countries, as well as international organizations.

Nonetheless, and once again, despite such immense efforts made, the PSC's achievements have been very little in comparison with what the continent has been suffering from and the various challenges which have to be overcome. Certainly, the African Peace and Security Architecture is still not on a solid foundation. The overall continental institutional framework is yet to be properly laid down for the pillars to be firmly consolidated therein and for the PSC (and the whole AU for that matter) to be able to stretch themselves down smoothly to the regional level.

This, obviously, affects the performance of day-to-day programs of the Commission which needs proper or rather advanced harmonization and coordination of activities with RECs and their Regional Mechanisms, that themselves need support to be strengthened and have their capacities boosted.

Thus, the establishment of the African Standby Force is confronting a problem in putting up a chain of command because the Memorandum of Understanding is not comprehensive enough

136 Decision Assembly/AU/Dec. 287 (XIV).

to cover this aspect. Meanwhile, the contributing brigades are not uniform since some are under RECs and others belong to the geographical regions of the AU, which practically do not exist on the ground and have difficulties in having organized corresponding policy organs to that of the AU and RECs.

Moreover, the Panel of the Wise has no link with similar organs at regional level and the Peace Fund is under-funded. The Fund does not receive enough and sustained support for the AU peace and security programs already initiated. It depends more on the external assistance which not only compromises the AU ownership of this important activity, but also is not reliable.

In such state of affairs, the conflict situations in Sudan (especially in Darfur), Somalia, Ethiopia-Eritrea, Great Lakes Region, DRC, Madagascar, Central African Republic, Somalia, Guinea Bissau, new developments that have started in North Africa in addition to the question of Mayotte and Diego Garcia (still under colonial occupation); and other programs, like the post-conflict reconstruction are still challenging. These challenges therefore call for their deeper understanding of the shortcomings in order to address them.

6.3.2. Some of the Constraints Facing the Peace and Security Council

As previously stated, the PSC was established as part of the transformation process from the OAU into the AU aimed at providing Africa with a continental framework for collective security to facilitate timely and efficient response to conflict and

crisis situations on the continent. In this respect, its establishment was to follow the letter and spirit of the Constitutive Act and other related directives of the AU policy organs, and be carried out in conformity with the general AU implementation strategy.

However, that objective apparently appears to be far from being a reality. This is basically owing to: (i) the lack of implementing the AU strategy accordingly, and in this context that of the PSC; and (ii) the general mishandling of the legal instruments, and the policy organs' decisions in particular, from their preparation to the execution.

6.3.2.1. Confusion over the Establishment of the African Union and the PSC

Due to the confusion that had been caused by the concurrent existence of the OAU and AEC and the lack of consolidating RECs within the OAU/AEC that slowed down the continental integration process, the AU was to be established by merging the OAU and the AEC (hence the OAU Charter and the Abuja Treaty) to have only one institution (the Union) under the Constitutive Act, in which RECs would have been consolidated under one overall continental framework. This would have facilitated the harmonization and coordination of policies, structures and activities among the primary actors particularly the AU and RECs, as well as the mobilization of the much needed and reliable indigenous resources; and thereby accelerating the execution of the Abuja Treaty.

Regrettably, the African Union strategy was not correctly executed, as laid down in its three fundamental instruments,

namely, the “Sirte Declaration,” the “Constitutive Act of the African Union” and the “Decision on the African Union” [EAHG/Dec.1 (V)], which formally established the Union. The “Sirte Declaration” started to lay down that strategy, while Article 33 of the Constitutive Act (on Tanzania’s formulation) gave it the required legality by stressing the devolution to the AU of the OAU/AEC’s assets, liabilities and all matters relating thereto.

The “Decision on the African Union” confirmed the adoption by the policy organs of the subsequent decisions on the implementation of the AU in accordance with Article 33 of the Constitutive Act. Unfortunately, the process took a divergent course hindering smooth formation of the African Union and its structures.¹³⁷ Perhaps, one should rush to clarify two issues here that: First and foremost, the aim was not to establish a government; the idea that came or was purposely brought in amid the confusion on the implementation of the AU strategy.

Second, the applicability of the Abuja Treaty mentioned under Article 33(2) of the Constitutive Act was intended just for the transitional period to facilitate the accomplishment of the devolution exercise when all three legal instruments – the Charter, the Treaty and the Constitutive Act – would all be in force. The article stipulated the subordinate status of the Treaty under the Constitutive Act during that period after which the whole Treaty would have been totally absorbed into the Act and all inconsistencies addressed.

Unfortunately, this did not go ahead that way, plunging the African Union project into bewilderment. To date – nearly eleven

137 Kassim Khamis (2008), *Promoting the African Union*, p. 207.

years later, the Act has remained as it was hurriedly drafted because even the “Protocol on Amendments to the Constitutive Act of the African Union,” however insufficient, and which could have cleared some mystification surrounding the legality of some organs, like the PSC, has not yet entered into force eight years after its adoption as indicated below:

List of Countries which Have Signed, Ratified/Acceded to the Protocol on the Amendments to the Constitutive Act of the African Union

(continues)

No.	Country/Pays	Signature date of/de	Date of/de ratification/ accession	Date deposited/ date de depot
1	Algeria	29/12/2003	-	-
2	Angola	02/02/2010	-	-
3	Benin	23/09/2003	01/12/2005	07/03/2006
4	Botswana	-	-	-
5	Burkina Faso	26/02/2004	05/04/2005	11/05/2005
6	Burundi	03/12/2003	12/12/2006	29/12/2006
7	Cameroon	25/07/2006	-	-
8	Central African Rep.	17/06/2008	16/05/2008	18/02/2009
9	Cape Verde	-	-	-
10	Chad	06/12/2004	19/08/2008	06/10/2008
11	Côte d'Ivoire	27/02/2004	-	-
12	Comoros	26/02/2004	02/04/2004	16/04/2004
13	Congo	27/02/2004	-	-
14	Djibouti	18/12/2003	-	-
15	Democratic Rep. of Congo	05/12/2003	-	-
16	Egypt	10/08/2007	19/06/2008	02/09/2008
17	Equatorial Guinea	30/01/2005	11/05/2006	02/07/2006
18	Eritrea	-	-	-

List of Countries which Have Signed, Ratified/Acceded to the Protocol on the Amendments to the Constitutive Act of the African Union

(continues)

No.	Country/Pays	Signature date of/de	Date of/de ratification/ accession	Date deposited/ date de depot
19	Ethiopia	-	-	-
20	Gabon	28/01/2005	18/05/2007	12/06/2007
21	Gambia	24/12/2003	30/04/2009	09/07/2009
22	Ghana	31/10/2003	28/06/2007	06/08/2007
23	Guinea-Bissau	08/03/2005	-	-
24	Guinea	16/12/2003	-	-
25	Kenya	17/12/2003	22/05/2007	08/06/2007
26	Libya	05/11/2003	23/05/2004	30/06/2004
27	Lesotho	27/02/2004	26/10/2004	05/11/2004
28	Liberia	Liberia	16/12/2003	15/07/2008
29	Madagascar	Madagascar	28/02/2004	-
30	Mali	Mali	09/12/2003	01/06/2004
31	Malawi	Malawi	-	-
32	Mozambique	Mozambique	15/12/2003	20/07/2004
33	Mauritania	Mauritania	29/01/2008	28/07/2008
34	Mauritius	Mauritius	29/01/2005	-
35	Namibia	Namibia	09/12/2003	-
36	Nigeria	Nigeria	02/07/2007	-
37	Niger	Niger	06/07/2004	20/07/2007
38	Rwanda	Rwanda	24/09/2003	10/12/2004
39	South Africa	South Africa	16/03/2004	16/03/2004
40	Sahrawi Arab Democratic Republic	Sahrawi Arab Democratic Republic	21/05/2007	04/06/2009
41	Senegal	Senegal	26/12/2003	15/03/2006
42	Seychelles	Seychelles	-	-
43	Sierra Leone	Sierra Leone	09/12/2003	-
44	Somalia	Somalia	23/02/2006	-

List of Countries which Have Signed, Ratified/Acceded to the Protocol on the Amendments to the Constitutive Act of the African Union

(conclusion)

No.	Country/Pays	Signature date of/de	Date of/de ratification/ accession	Date deposited/ date de depot
45	São Tomé & Príncipe	São Tomé & Príncipe	01/02/2010	-
46	Sudan	Sudan	30/06/2008	-
47	Swaziland	Swaziland	07/12/2004	-
48	Tanzania	Tanzania	05/11/2003	30/04/2004
49	Togo	Togo	30/12/2003	23/01/2007
50	Tunisia	Tunisia	15/05/2007	-
51	Uganda	Uganda	18/12/2003	-
52	Zambia	Zambia	03/08/2005	-
53	Zimbabwe	Zimbabwe	18/11/2003	-

#of 53 countries; #47 signature, #25 ratification, #25 deposit.

Note: - Adopted in Maputo, Mozambique on 11 July 2003. - This protocol shall enter into force thirty (30) days after the deposit of the instruments of ratification by two-thirds.

The situation now seems to see the Union being run more by policy organs' decisions, regulations, (read "decrees") — which also appear not to be well prepared, respected and executed any way; as will be explained later. This trend of affairs has been gravely undermining not only the creation but also operations of the AU and its organs, including the PSC.

It is important to note that the Peace and Security Council was neither on the list of the AU organs stated under Article 5(1) nor a new organ to be established under its Article 5(2)¹³⁸ of the Constitutive Act. It was to be incorporated into the AU

¹³⁸ Constitutive Act, 2000.

system during the transitional period, as a transformed Central Organ of the Mechanism for Conflict Prevention, Management and Resolution, possibly, following an oversight that led to the latter's omission during the rush drafting of the Constitutive Act. Consequently, the exercise was to be undertaken (and partly went on) as provided for under Article 33 of the Act, which authorized the incorporation process, and the decision that formally established the AU — "Decision on the African Union" — that strictly directed the execution of the process according to Article 33.

Article 33(1) and (3) respectively stipulates:

This Act shall replace the Charter of the Organization of African Unity. However, the Charter shall remain operative for a transitional period of one year or such further period as may be determined by the Assembly, following the entry into force of the Act, for the purpose of enabling the OAU/AEC to undertake the necessary measures regarding the devolution of its assets and liabilities to the Union and all matters relating thereto.

And

Upon the entry into force of this Act, all necessary measures shall be undertaken to implement its provisions and to ensure the establishment of the organs provided for under the Act in accordance with any directives or decisions which may be adopted in this regard by the Parties thereto within the transitional period stipulated above."¹³⁹ The decision EAHG/Dec.1 (V), on its part, had asked the subsequent summit in Lusaka to "take the necessary decisions pertaining to the transformation

¹³⁹ Ibid.

*of the OAU into the African Union in accordance with Article 33 of the Constitutive Act, and the preparation of necessary draft protocols relating to the Organs and Institutions of the Union.*¹⁴⁰

However, as the implementation of the African Union did not proceed as planned, the establishment of the PSC was also affected leading it to a direction that missed even a solid legal foundation.

It should be understood that when the Assembly subsequently met in July 2001, in Lusaka, it took “Decision of the Assembly of Heads of State and Government on the Implementation of the Sirte Summit Decision on the African Union” [AHG/Dec.160 (XXXVII)], which incorporated into the AU, the Central Organ and its Mechanism, in addition to Regional Economic Communities (RECs) and OAU Specialized Agencies. On the Central Organ and the Mechanism, it stated:

8. On the Incorporation of other Organs:

(a) The Mechanism for Conflict Prevention, Management and Resolution as an organ of the African Union:

(i) CONSIDERS that the objectives and principles stipulated in the Cairo Declaration establishing, within the OAU, a Mechanism for Conflict Prevention, Management and Resolution constitute an integral part of the declared objectives and principles of the African Union;

(ii) DECIDES to incorporate the Central Organ of the Mechanism for Conflict Prevention, Management and Resolution as one of the Organs of the Union in

140 OAU Assembly of Heads of State and Government, Dec. 1 (V) Lusaka, 2001.

accordance with Article 5(2) of the Constitutive Act of the African Union;

(iii) REQUESTS the Secretary-General to undertake a review of the structures, procedures and working methods of the Central Organ, including the possibility of changing its name.¹⁴¹

Nevertheless, it would seem that the above decision was drafted in a hurry; as there was an oversight too. This is because it contained elements not in line with the fundamental decision “Decision on the African Union,” for which the decision AHG/Dec.160 (XXXVII) was called for to facilitate its implementation — and the former (“Decision on the African Union”) was not revoked or replaced to make the latter stand applicable alone on its own right. This created a legal problem confusion over the implementation exercise: Firstly, while the decision [AHG/Dec.160 (XXXVII)] clearly affirmed the incorporation of the Central Organ as one of the AU’s organs, it referred the exercise to be carried out under Article 5(2), instead of Article 33 of the Constitutive Act. In one’s opinion, Article 5(2) that states “Other organs that the Assembly may decide to establish” was intended for the creation of new organs, and not the incorporation of the old ones. As a result, from there the impression given was that the PSC was a new organ taking its execution to a different course. This should have not been the case because even Article 22¹⁴² of its protocol recognized the validity of the non-controversial OAU resolutions and decisions concerning the Mechanism for Conflict Prevention, Management and Resolution.

141 OAU Decision AHG/Dec. 160 (XXXVII), 2001.

142 PSC Protocol, 2002.

It states: “The provisions of this Protocol shall supercede [sic] the resolutions and decisions of the OAU relating to the Mechanism for Conflict Prevention, Management and Resolution in Africa, which are in conflict with the present Protocol.” Secondly, and consequently, the PSC Protocol showed under its Article 2(1) that the PSC was established in accordance with Article 5(2) of the Act. The article stipulated: “There is hereby established, pursuant to Article 5(2) of the Constitutive Act, a Peace and Security Council within the Union, as a standing decision-making organ for the prevention, management and resolution of conflicts. ...” This was against the extraordinary Assembly’s “Decision on the African Union” that had ordered the transformation hence the drafting of the associated protocols according to Article 33. All the same, even if the PSC was a new organ, there was already a basic “Decision on the African Union” that had given clear and specific directives on how the protocols should have been drafted or rather how the AU organs and institutions should have been established.

Thirdly, under normal circumstances and legal practices, policy organs’ decisions should confirm the letter and spirit of the mother document, the Constitutive Act. Therefore, the decisions establishing the PSC required amendment of the Act to strengthen their legality and avoid “unconstitutionality” and, indeed, the Act was amended; but then the amendments never entered into force to date.

Fourthly, not only the PSC Protocol, but all other protocols regarding the incorporation of the OAU organs and RECs were not drafted in accordance with the “Decision on the African Union” and Article 33 of the Act. The “Protocol on Relations between the

African Union (AU) and the Regional Economic Communities (RECs),” for example, has dealt more with the working relationship among its signatories based on the previous similar protocol on relations between the AEC and RECs which had also been flawed, than the actual incorporation of RECs into the AU. This happened while the decision AHG/Dec.160 (XXXVII) (and as per Abuja Treaty) had confirmed “the status of the Regional Economic Communities as building blocs of the African Union and the need for their close involvement in the formulation and implementation of all programmes of the Union.” As a result, RECs were left out and could not be firmly (embedded into the Constitutive Act) consolidated. Even those organs whose establishment was clearly spelt out in the Act under other separate articles, their protocols were inconsistently drafted. For example, the protocols of the Court of Justice and the Pan African Parliament did not refer to their related articles in the Act nor did they follow the Abuja Treaty from which they originated. Thus, the guiding decisions of the policy organs themselves had their own problems.

6.3.2.2. The Drafting and Execution of the AU Policy Organs’ Decisions

At the outset, it should be noted that since the days of the OAU, AEC and now the AU, this African continental Organization has been suffering from a “chronic syndrome” of not executing or taking legal matters and policy organs’ decisions appropriately. For instance, under the OAU, the Central Organ of the Mechanism for Conflict, Prevention Management and Resolution was established by a mere declaration, and remained like that until it was replaced,

without any effort to amend the OAU Charter to have it formally inserted therein to strengthen its legality and commit Member States to it resolutely. Under the African Economic Community, there was to be a “Protocol on Relations between the African Economic Community and the Regional Economic Communities for the Implementation of the Treaty Establishing the African Economic Community” that was to be drafted on the basis of Article 88 of the Treaty. This would have allowed the creation of a strong link between the OAU/AEC and RECs, including their policy organs.

However, the process was flawed and by involving the African Development Bank (AfDB) and the United Nations Economic Commission for Africa (UNECA), that so called Protocol on relations between the AEC and RECs ended up being a mere Cooperation Agreement among the Secretariats of its signatories taking its legality from Articles 89 and 92 of the Abuja Treaty with a narrow mandate and structure than it was initially envisaged.

Under the AU, as would have been noticed previously, a lot more discrepancies have emerged in the handling of not only the AU legal instruments, but more so the policy organs’ decisions and regulations causing them not honored and difficult, if not impossible, to adequately execute, and eventually affecting the whole Union’s implementation strategy.

First and foremost, all the decisions that give the required authority and lay foundations for the preparation of protocols and international agreements (read running the AU) besides the tendency of oversights, they are not accurately categorized. Actually, even their authentication is not clear if it is in conformity

with the Rules of Procedure of their respective organs. All these put a question mark on their legality as well. Moreover, they are not fairly executed to ensure justice among the Member States and in the AU system at large.

Rule 33(1) of the “Rules of Procedure of the Assembly of the Union” has put the Assembly’s decisions in various categories. It states: The Decisions of the Assembly shall be issued in the following forms:

- a) Regulations: these are applicable in all Member States which shall take all necessary measures to implement them;
- b) Directives: these are addressed to any or all Member States, to undertakings or to individuals. They bind Member States to the objectives to be achieved while leaving national authorities with power to determine the form and the means to be used for their implementation;
- c) Recommendations, Declarations, Resolutions, Opinions, etc.: These are not binding and are intended to guide and harmonize the viewpoints of Member States.”¹⁴³

Likewise, the decisions of the Executive Council have been categorized by Rule 34 of the Council’s Rules of Procedure, but with a minor difference in its Rule 34(1a) that reads: “Regulations: these are binding and applicable in all Member States; and national laws shall, where appropriate, be aligned accordingly.”¹⁴⁴

However, it does not appear that currently the decisions are well classified in that manner. Some kind of classification

¹⁴³ AU Assembly, Rules of Procedure, 2007.

¹⁴⁴ AU Executive Council, Rules of Procedure, 2007.

is observed that separates Decisions from Declarations and Resolutions.

Nevertheless, some are just referred to as Decisions, which in one's view, they also need classification/categorization to understand in which category they belong; whether they are directives or otherwise so as to determine if they are binding or not. This is very important especially when it comes to the decisions that have to do with the adoption of legal instruments.

For example, what is the status of the decisions which adopted the PSC Protocol, the Protocol on Amendments to the Constitutive Act or the Rules of Procedure, etc.? If they are not clear to which category they belong, then there is a loophole of not complying with them by any involved or interested party. Yet, what is more important to consider is that the failure by a member state to implement binding regulations and directives can lead to sanctions, according to Rule 33(2) of the Rules of Procedure of the Assembly. The Rule states: "The non-implementation of Regulations and Directives shall attract appropriate sanctions in accordance with Article 23 of the Constitutive Act." Rule 34(2) of the Executive Council has expounded the same except that sanctions shall be imposed on the non-implementation of the regulations and directives only upon approval by the Assembly. In this state of affairs, and with the exception of those clearly identified as declarations, resolutions and directives, it becomes difficult to tell precisely which decisions are intended to be binding whose failure to implement deserves or does not attract the imposition of sanctions. Consequently, the non-categorization of the decisions appropriately contributes to unfair treatment

among the AU Member States and damages the credibility and whole motive of building a just and fair Union.

Rules 35, 36 and 37 of the Rules of Procedure of the Assembly are about imposition of sanctions on non-compliance by a member state with the AU decisions and policies. In particular, Rule 36(1) proclaims:

The Assembly shall approve, upon the recommendation of the Executive Council, the imposition of sanctions under Article 23(2) of the Constitutive Act on a Member State that fails, without good and reasonable cause, to comply with the decisions and policies of the Union.

On its part and according to Rule 36 of its Rules of Procedure, the Executive Council shall just apply the sanctions imposed by the Assembly in areas of: “a) arrears of contributions; b) non-compliance with decisions and policies; and c) unconstitutional changes of government; as specified in Rules 35, 36 and 37 of the Rules of Procedure of the Assembly.” However, while the AU imposes sanctions on Member States with arrears of contributions proclaimed under Rule 35 of the Assembly’s Rules of Procedure and Article 23 of the Constitutive Act; and on Member States involved in unconstitutional changes of government in accordance with Rule 37 of the Assembly’s Rules of Procedure and Article 30 of the Constitutive Act. It does not do the same on Member States not complying with other AU decisions and policies — such as ratifying the PSC Protocol or the Protocol on Amendments and so on, which are very vital “constitutional” issues to the AU—as laid down under Rule 36(1) and the same Article 23 of the Act which are equally applicable. Article 23(2), for instance, stipulates that

Furthermore, any Member State that fails to comply with the decisions and policies of the Union may be subjected to other sanctions, such as the denial of the transport and communications links with other Member States, and other measures of a political and economic nature to be determined by the Assembly.”¹⁴⁵

That said, what is also vital to note is that in whatever format the current AU decisions are, they do not seem to be appropriately authenticated! Rule 32 of the Assembly’s Rules of Procedure states: “Decisions adopted by the Assembly shall be authenticated by the signature of the Chairperson of the Assembly and the Chairperson of the Commission. They shall be published in all the working languages of the Union in the *Official Journal of the African Union* within fifteen (15) days after signature and shall be transmitted to Member States, other organs of the Union and the RECs.” Similarly, decisions of the Executive Council are to be treated, according to Rule 33 of the Council’s Rules of Procedure.

However, such official journals are rarely published and distributed in time. In some instances, the Chairpersons of the Union have refused to sign the decisions and do away with them. On this aspect, may be lawyers or drafters can assist to determine if mere signatures of the Chairpersons of the AU Commission and the African Union, without their publication as directed, are enough to make the decisions authentic. Otherwise, those posted on the AU website, if to be taken as published, do not bear any signature. Now, are they legally valid and binding or not? If not, what is their status? Obviously, the policy organs’ decisions that

145 The Constitutive Act of the African Union, 2000.

are not clearly categorized have the scope of their implementation being minimized; and it is here that some Member States do not honour them and the issue of legality of the instruments adopted by such decisions comes in. One wonders, for instance, what is the status of the Memorandum of Understanding between the AU Commission and RECs, which is a binding legal instrument, since it draws its legality from the PSC Protocol, that itself has drawn its legality from an uncategorized decision and the Protocol on the Amendment of the Constitutive Act that has so far not entered into force? Or what will happen in case a member state under sanctions by the PSC resorts to the African Court of Justice to question the legality of the PSC and its activities, and the whole issue of justice and fairness within the AU? Why Member States violating other AU decisions and policies are not equally put under sanctions?

In view of the foregoing, it is evident that both the OAU and AU, hence the Central Organ and its Mechanism for Conflict Prevention, Management and Resolution and the Peace and Security Council, have confronted many and serious challenges which have been obstructing their efforts to take on their mandates effectively. These have particularly emanated from the improper execution of legal instruments and policy organs' decisions leading to the creation of inadequate continental framework that could not place RECs at their appropriate place on the AU's hierarchy, and limited resources in general.

Right now, it would appear that the African Union is in uncertainty. Its implementation has not been following the legal instruments on which the AU was established, thereby causing many hitches. For example, the Constitutive Act is still in its

transitional/temporary nature, and there is confusion on the legal status of the Treaty Establishing the African Economic Community.

In some occasions, it would appear as if the Treaty is still in force, and the AU is still working to put the Community in place. Now, what is being established or promoted here, the AU or the AEC? If both what is their relationship? Why the protocols establishing the Pan African Parliament and the Court of Justice did not involve RECs and these were the organs in the Abuja Treaty? If all had proceeded well, there should be no AEC and its Treaty because Article 33 of the Constitutive Act has replaced the OAU Charter to which the AEC and its Treaty were attached; and it has ordered the devolution of everything from the OAU/AEC to the AU.

It should be stressed that the applicability of the Abuja Treaty mentioned under Article 33(2) of the Constitutive Act was intended only for the transitional period; and the ministerial conference on the establishment of the AU that took place from May 31 to June 2, 2000, in Tripoli, and which drafted the Act, had confirmed the merger of the OAU and the AEC into one institution. Similarly, the legitimacy of the Peace and Security Council and its pillars is doubtful, due mainly to the failure by Member States to ratify the Protocol on Amendments to make it enter into force; so that it could clear whatever uncertainty prevailing over the Council's legality.

In the same vein, given that RECs have organically remained outside the AU system, the dream for better harmonization and coordination of their policies, structures and activities with those of the AU has been thwarted. In this case, the AU and RECs, at

some point, each has continued operating independently and unilaterally in many aspects with serious implications on the Peace and Security Council and the African Peace and Security Architecture:

First, RECs were not involved in the drafting of the PSC Protocol; therefore, they are literally not part of it. This has made the PSC to continue having neither link with RECs' policy organs and the Regional Mechanisms nor powers over them, which hinders smooth execution of its decisions and the erection of APSA. Therefore, that Protocol is not viable. Second, a separate Memorandum of Understanding on Cooperation in the Area of Peace and Security had to be concluded to provide a kind of a link between the AU and the RECs/RMs. Unfortunately; it has turned out to be incomprehensive. It is at secretariat level and cannot address the shortcomings already experienced. Third, the APSA pillars particularly the Panel of the Wise and the African Standby Force (ASF) have difficulties in establishing links with similar organs at RECs' level. Members of the Panel are elected on the basis of the five AU geographical regions, which do not correspond to the recognized RECs (pillars), while smooth establishment of the ASF is complicated by the lack of uniform brigades, and so on. Fourth, the AU has not been able to mobilize sufficient resources to support its budget while RECs have not been strengthened and their capacities still need enhancement. Consequently, the establishment of the PSC and the APSA has been flawed; and something must be done to put the project in order.

It is within this context that in order to effectively deal with the challenges facing the PSC and make it more efficient and

relevant to address the various conflicts in the continent within the context of regional integration and cooperation, there is a need to contemplate steps to be taken at both short and long-term periods. In this connection, *the next chapter*, which is the final one, draws a number of conclusions and recommendations based on past and present AU and sub-regional organizations (RECs) experiences to prevent, manage and resolve the different conflicts in Africa.

CHAPTER 7

GENERAL OBSERVATIONS, ASSESSMENTS, RECOMMENDATIONS AND CONCLUSIONS

From this study, we have managed evidently, to demonstrate the role that regional integration and cooperation can play in conflict prevention, management and resolution. Based on Chapter VIII of the United Nations Charter, different regional organizations worldwide have established various mechanisms and used them to try to prevent, manage and resolve such conflicts or disputes in their respective areas. Mechanisms found in OAS, AU, EU, ASEAN and other sub regional groups the likes of Mercosur, Caricom, SADC, IGAD, ECOWAS, EAC, are cases in point.

Turning to African scene, it is evidently vivid that the continent's efforts in search for peace and security has existed since time immemorial. However, for contemporary history, it dates way back to the time of the creation of the OAU. It was during this time that a Commission on Mediation, Conciliation and Arbitration (CMCA) was formed. For various reasons, including the fact that

it was legalistic, thereby causing Member States to shun it, the Commission died a natural death. Instead, the continental body resorted to an Ad-hoc Committee. However, due to changing circumstances on the Continent and in the world, the OAU Heads of State and Government meeting in Cairo in 1993, declared the inception of the Mechanism for Conflict Prevention, Management and Resolution (MCPMR).

The MCPMR tried as much as possible to prevent, manage and resolve the conflicts in Africa and with its expanded mandate compared to the first instrument, it was now able to address both intra and inter-State conflicts. However, the conflict on the Continent continued unabated. Part of the problems that constrained the Mechanism's performance included the lack of funds, lack of experience, lack of political will and commitment and non-interference into members' internal affairs.

Indeed, the MCPMR was never incorporated into the OAU Charter. It was not until at the 37th OAU Summit in Lusaka in 2001 that the Assembly decided to incorporate the Central Organ into the Constitutive Act of the AU, including the possibility of changing its name. This could also enhance the effectiveness of the Mechanism in responding to the challenges of the new era. It was within this context that the Peace and Security Council (PSC) was created in 2002 therefore replacing the MCPMR. It entered into force in March 2004. As noted above, the instrument is composed of 15 AU member states.

During the past seven years, in implementation of the African Peace and Security Architecture (APSA), the PSC has held more

than 280 meetings and briefing sessions within the context of addressing various peace and security challenges in Africa.¹⁴⁶ The PSC has spared no effort in addressing different conflicts and crisis situations, both old and new ones, on the continent.

In the context of division of labor, the AUPSC has collaborated with Regional Economic Communities (RECs) the likes of SADC, IGAD, ECOWAS, COMESA which have established similar mechanisms. In most cases when such crisis or conflict arises, these sub-regional organizations are the first to be contacted and their views are always taken seriously and respected. The same happens with the AU decisions which are normally accepted and adopted by the UNSC in New York.

His practice has raised both the authority and profile of the continental body in international community. In this context, authors have pointed out the importance of regional organizations such as AU, ASEAN, EU and OAS¹⁴⁷ as hubs for conflict prevention, management and resolution.

Some of the positive traits are that the geographical proximity makes it easier for the states to identify potential conflicts and that the limited size of the organization in comparison to the UN and other global organizations makes it easier to reach consensus and undertake action. In addition by adopting a regional approach to conflict prevention, the measures become potentially more

146 Michael Lund (1995), *Preventive Diplomacy and American Foreign Policy*, Washington D.C.; pp. 176-78. Also Niklas Swanström (2000), "China and the Security of Southeast Asia," *Journal of Malaysian Studies* 18; pp. 1-2.

147 Mattli Walter (1999), *The Logic of Regional Integration: Europe and Beyond*, Cambridge: Cambridge University Press.

effective since they can be developed to suit the context and specific circumstances of a particular region.¹⁴⁸

Moreover, regional trade and economic interdependence facilitates a positive development in conflict prevention and integration. Also there are many internal conflicts that have substantial regional dimensions and would benefit, or even require regional solutions. For example, the ethnic diversifications in Central Asia, potential refugees flows from for instance; North Korea, Côte d'Ivoire, Nigeria, Great Lakes Region in the case of conflict, and other spillover effects necessitates regional solutions.

The African experience shows that despite the advantage of regional organizations as hosts for conflict preventive measures, there are also some negative aspects to the regional framework. The negative traits of regional organizations are their relative weakness and lack of logistical capability to deal with conflict prevention and resolution.

Furthermore, it is by definition impossible for any regional state to be impartial to a conflict in its neighborhood. Finally, regional organizations are at many times constrained by their members preferences, demand for consensus, and refusal to give strong mandate to the organizations.

7.1. An Assessment of PSC

However, in order to assess in a more objective manner the work done, achievements, and constraints upon the PSC over the

148 Geert Laporte (1993), "Regional Cooperation and Integration in Africa: An agenda for action at national level," in *Regional cooperation and integration in the world today* (Papers from the first Open Forum, Maastricht 20 April, 1993).

past seven years, as well as the challenges facing it, a number of crucial elements should be taken into account at this stage:

The first element is that the PSC was not designed and structured in a vacuum. The conception of the PSC was a result of a deep reflection drawing from concrete experiences with respect to the design, *modus operandi* and output of African peace and security mechanisms that were put in place at different periods from 1963 [birth of the now-replaced Organization of African Unity (OAU)] to 2002. The operation of those mechanisms left behind important lessons, particularly with respect to the obstacles encountered in the efforts to promote and sustain peace in Africa.

In this respect, it suffices to make reference to the CMCA as well as MCPMR. In their efforts towards peace, the two instruments encountered various constraining factors and obstacles, which were taken into account in building the foundation of the PSC.

The second element is that, and for the first time in Africa, the notion of collective security was injected into the design and operation of the PSC. This introduced a new culture of African togetherness in the ownership and promotion of peace in the continent. Article 2 of the PSC Protocol states that

there is hereby established, pursuant to Article 5(2) of the Constitutive Act, a Peace and Security Council within the Union, as a standing decision-making organ for the prevention, management and resolution of conflicts. The Peace and Security Council shall be a collective security and early-warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa.

The notion of collective security is further reflected in Article 7 (powers) of the PSC Protocol, which (sub-sections 2, 3 and 4) states that the Member States agree that in carrying out its duties under the present Protocol, the Peace and Security Council acts on their behalf; the Member States agree to accept and implement the decisions of the Peace and Security Council, in accordance with the Constitutive Act, and the Member States shall extend full cooperation to, and facilitate action by the Peace and Security Council for the prevention, management and resolution of crises and conflicts, pursuant to the duties entrusted to it under the present Protocol.

The third element is that, as informed by both the efforts and the failures of the past, the PSC is equipped, for its operational guidance, with a well articulated architecture – the African Peace and Security Architecture, which constitutes a holistic framework for promoting peace, security and stability in Africa.

The fourth element is that, the PSC, as compared to its predecessor the MCPMR, marks a difference and has a real advantage, in that its membership is smaller (15 Members out of 53 AU Member States), which facilitates the decision-making process. Also, the PSC operates on the basis of a strong base of guiding values and support structures that give it more functional strength. Article 2 of the PSC Protocol states that “the Peace and Security Council shall be supported by the Commission, a Panel of the Wise, a Continental Early Warning System, an African Standby Force and a Special Fund.”

The fifth element relates to the injection of the critical notion of human security into the work of the PSC. Notably, prior to the advent of the PSC, the focus in Africa was on State-centered security.

The importance attached to human security is reflected in Article 3(a) of the PSC Protocol, which states that, the PSC shall seek to promote peace, security and stability in Africa in order to guarantee the protection and preservation of life and property, the well being of the African people and their environment, as well as the creation of conditions conducive to sustainable development in Africa. The human security component is also reflected in Article 7(a), in which one of the powers of the PSC is to anticipate and prevent disputes and conflicts, as well as policies that may lead to genocide and crimes against humanity.

Lastly, the PSC has operated and continues to operate against several constraints, particularly the shortages in funding, logistics and troop mobilization in cases of deployment of peace support operations/peacekeeping, as well as in cooperation from parties to conflict. The African Mission in Sudan (2005-2007) and the ongoing African Mission in Somalia (AMISOM) prove the point.

7.2. Work and Achievements of the Peace and Security Council

1. Broadly speaking, the term 'work' is hereon used to mean the activities (meetings, briefing sessions, retreats, establishment of relevant structures in line with the PSC Protocol, elaboration of policy), whilst the term 'achievements' refers to the gains made by the PSC in pursuance of its mandate of preventing, managing and resolving conflicts in the continent.
2. During its seven year existence, the conflict situations addressed by the Peace and Security Council include those

in Comoros, Côte d'Ivoire, Somalia, Democratic Republic of Congo, Sudan, Guinea (Conakry), Guinea Bissau, Niger, Madagascar, Mauritania, Burundi, Central African Republic and Kenya, as well as Chad/Sudan relations, Djibouti/Eritrea relations, and more recently, those in Tunisia, Egypt and Libya. The PSC has been able, by virtue of its important role and capacity to initiate and develop partnerships for peace and security, to draw international attention and mobilize efforts towards the promotion of peace, security and stability in Africa.

3. At the same time, it should be noted that, as the PSC was born in a situation dominated by fully-blown out crises and conflicts, this reality had an impact on its capacity to engage in conflict prevention, management and resolution. In this connection, it has taken some time for the African Union (UA) to establish the institutions designed to support the PSC in conflict prevention. For example, the Panel of the Wise only came into operation in December 2008, whilst the African Standby Force (ASF) and the Continental Early Warning System (CEWS) are still in the process of development towards full operationalization.
4. In carrying out its mandate, the PSC on behalf of AU has made cumulative gains over the past seven years. It has been able to mark its relative visibility, leadership, credibility and impact in dealing with conflicts and crises in the Continent. These gains can be summarized as follows:
 - The PSC has been able to increase its capacity to make timely responses to the threats to peace and security in Africa,

thanks to the significant efforts deployed by the members to enhance their capacities to shoulder the responsibilities associated with the membership of the PSC;

- The PSC's approach in dealing with the various conflicts and crisis has crystallized the supremacy of the interest of Africa and its people, in line with the provisions of the PSC Protocol;
- The PSC has demonstrated its collective character in carrying out its mandate, *in the spirit of articles 2 (establishment of the PSC) and 7 (powers of the PSC)*;
- The PSC has drawn a relatively effective presence/representation of its members at the AU Headquarters, as called for in the PSC Protocol;
- The PSC has substantially improved its working methods as articulated in the *Conclusions of the Dakar PSC Retreat of July 2007* that resulted inter alia monthly program of work;
- The deployment of peace support operations in Burundi, Comoros (2007-2008), Sudan (2005-2007) and in Somalia (starting 2007) and the deployment, in conjunction with the *United Nations/African Mission in Darfur (UNAMID)*;
- The application to the letter and spirit of the Lomé Declaration on *Unconstitutional Changes of Government* in dealing with the intervening situations of unconstitutional changes (Mauritania, Guinea, Conakry, Madagascar and Niger) of Government in Africa;
- The operationalization of the Panel of the Wise to boost preventive efforts in Africa;

- The deployment of efforts towards the implementation of aspects of the PSC Protocol relating to the PSC's cooperation and collaboration with other entities, including other AU Policy Organs, the African Regional Economic Communities/Regional Mechanisms, Conflict Prevention, Management and Resolution for Peace and Security, the UN Security Council and other international entities dealing with peace and security issues;
- Acceleration of activities towards the full establishment of the African Standby Force and Continental Early Warning System;
- The growing momentum in the idea of dispatching PSC field missions to conflict zones and post-conflict areas (the PSC has since undertaken three field missions in 2007 (to Chad, Central African Republic and the Sudan); 2009 (to Côte d'Ivoire and Guinea Bissau), and to the Sudan, again in 2009 and 2010);
- The holding of periodic brainstorming sessions to improve the practice of the PSC and to address emerging issues and challenges;
- The PSC has examined and took decisions on other important issues falling under its mandate, including on AU initiatives regarding terrorism, small arms and light weapons, the establishment of a Nuclear Weapons Free Zone in Africa within the framework of the Pelindaba Treaty of 1995 (now in force).¹⁴⁹

149 Pelindaba Treaty, 2010

7.3. Working Method

The PSC held a Retreat to review its working methods in Dakar, Senegal, from 5 to 6 July 2007. The Retreat considered a number of issues relevant for putting in place more enabling working methods for the functioning of the PSC.

This was necessary as there arose circumstances and situations, from time to time, over which the PSC Protocol does not provide ready-made provisions to guide the action of Council. The outcome of the Retreat was the elaboration of conclusions that have significantly smoothened and enhanced the functioning of Council.

Amongst other aspects, the PSC has gained an increasing capability, through its Chairperson, to establish its monthly program of work, a function fulfilled entirely by the Commission at the earlier stages of the PSC. Other developments resulting from the use of these methods include:

- The participation of the Chairperson of the PSC in meetings of International Contact Groups dealing with peace and security issues in Africa. These groups help in rallying international support around the leadership and initiatives of the AU in certain situations and in promoting coordination;
- Monthly briefing by the Chairperson of the PSC to the Permanent Representatives Committee on the activities of the PSC for a given month. The exercise has gained momentum and helps in promoting transparency, inclusiveness and accountability in the work of the PSC,

whilst at the same time helping to draw the attention of Member States in the implementation of PSC decisions, and

- The briefings given to the press/media by the Chairpersons of the PSC after PSC meetings, which promote a wider dissemination of information on the activities of the PSC, thereby contributing to raising the visibility of Member States of the work of the PSC.

Furthermore, the PSC has made progress in improving its practice and in implementing those articles in the PSC Protocol that call for the promotion of cooperation between the PSC and other bodies involved in peace and security issues in Africa as follows:

7.3.1. PSC and Regional Economic Communities/ Regional Mechanisms for Conflict Prevention, Management and Resolution (RECs/RMs)

Article 16 of the PSC Protocol provides, *inter alia*, that African Regional Mechanisms (RMs) for Conflict Prevention, Management and Resolution are part of the overall security architecture of the Union and that the Peace and Security Council shall harmonize and coordinate the activities of the Regional Mechanisms in the field of peace, security and stability. In so doing, the Peace and Security Council shall, in consultation with Regional Mechanisms, promote initiatives aimed at anticipating and preventing conflicts and, in circumstances where conflicts have occurred, peacemaking and peace building functions.

Since 2004, the PSC has taken initiatives to enhance its working relations with the RECs/RMs. It has consistently invited RECs/RMs, as concerned with and involved in given conflict and crisis situations

to participate in its meetings. In some cases, RECs/RMs, given their comparatively deeper knowledge of some situations, have taken lead steps to help manage/resolve a conflict, with the PSC subsequently endorsing those steps or recommendations made regarding a conflict. Building complementarity has been the trend. Examples are the complimentary actions taken by the Economic Community of West African States (ECOWAS) and the PSC in the situations in Côte d'Ivoire, Togo, Guinea (Conakry) and Niger. This has also been the case with IGAD and SADC regarding the situations in Somalia and Sudan, and Madagascar and Comoro (Tanzania led the operation to restore law and order on the Isles), respectively. Addressing the scourge of unconstitutional changes of Government in Africa represents another major area in which working relations between the PSC and RECs/RMs have been strengthened. Nonetheless, maybe in future they could do much better than now.

7.3.2. PSC and other AU Organs

In August 2007, in pursuit of Article 18 of the PSC Protocol, the PSC initiated a consultative process with the Pan-African Parliament (PAP) on peace and security in Africa. However, the process is in need of re-energization. Indeed, the PSC could have deployed similar efforts towards the implementation of *Article 19* relating to cooperation between itself and the African Commission on Human and People's Rights (ACHPR). In this regard, the Dakar PSC Retreat concluded that, at least once a year, the Chairperson of the PSC shall invite both the Chairperson PAP as well as of the ACHPR to brief the PSC on the state of human rights in conflict areas of the continent. Its impact remains to be seen.

7.3.3. Interaction between the PSC and Civil Society Organizations

The PSC convened a Retreat in Livingstone, Zambia, from 4 to 5 December 2008. The objective of the Retreat was to consider an appropriate mechanism for interaction between the Peace and Security Council and Civil Society Organizations (CSOs) in the promotion of peace, security and stability in Africa within the framework of article 20 of the PSC Protocol. In this regard, the Retreat adopted the Livingstone Formula as the basis for its interaction with CSOs. Also, given the large number of CSOs in Africa, the PSC was able to determine that, to interact with the PSC, Civil Society Organizations must conform to the relevant provisions in the Constitutive Act of the African Union and the provisions in the PSC Protocol, as well as to those in the Rules of Procedure of the PSC. Also, CSOs shall comply with the criteria for eligibility for membership as *defined in article 6 of the Statutes of the Economic, Cultural and Social Council (ECOSOC)*.

7.3.4. Establishment and Operationalization of Subsidiary Bodies of the PSC

In implementation of article 8(5) of its Protocol, which provides that the PSC may establish such subsidiary bodies as it deems necessary for the performance of its functions, some initiatives have been taken. Thus, in pursuance of *Article 8(5)*, the 178th meeting of the PSC held on March 13, 2009, decided to establish a *PSC Committee on Sanctions with a view to strengthening the AU instruments for preventing and combating unconstitutional changes of government in Africa*. In preparation for the future work of this

Committee, the PSC Retreat held in Ezulwini, Swaziland, from December 17 to 19, 2009, called for the elaboration of both the Modalities of the Functioning of the Committee and an AU Manual on Sanctions.

But the biggest boost to the operationalization of PSC Subsidiary bodies came from the decision of the 264th meeting of the PSC, held on March 8, 2011, to energize both the Military Staff Committee, and the PSC Committee on PSC Draft Decisions, as well as to operationalize the PSC Committee on Sanctions and the PSC Committee on Burundi and DRC.

7.3.5. Preventing and Combating Unconstitutional Changes of Government in Africa

Since 2008, Africa has been confronted by the resurgence of unconstitutional changes of government, leading to the Heads of State and Government taking important decisions on the matter. The PSC plays the largest part in addressing the problem. The major outcome of the Retreat that the PSC organized at Ezulwini, Swaziland, in December 2009, was the elaboration of the Ezulwini Framework on the Enhancement of African Union Measures in Situations of Unconstitutional Changes of Government in Africa. The framework, coming nine years after the adoption of the Lomé Declaration in July 2000, takes account of the various manifestations of unconstitutional changes of Government that feature in Africa today. In putting this framework in place, including support structures, the PSC has demonstrated its capacity to be a frontrunner in the battle against the scourge of unconstitutional changes of Government in Africa. It has also shown its ability to

work hand-in-hand with concerned RECs/RMs and other involved entities in resolving situations of unconstitutional changes of government.

One needs to note that without peace and security there can never be economic development. It is peace and security that creates conducive environment that will guarantee and attract FDI to flow into the continent. By such investment employment is created to the populace who in turn contribute to the national income. In this regard, unconstitutional changes normally have negative effect to the country's economic development.

7.3.6. Implementation of Article 7(q) and Dissemination of Information to Africa

Article 7(q) of the PSC Protocol provides that the PSC submits, through its Chairperson, regular reports to the Assembly on its activities and the state of peace and security in Africa. The report is a major pointer to peace and security trends in the Continent. The submission of the report has brought, inter-alia, the added advantage of enabling the Assembly to debate on and to review peace and security situations in Africa from a more informed position, thereby taking important decisions on some of the pressing issues. Also, the submission of the report has served as one of the mechanisms by which the PSC disseminates vital information on issues of peace, security and stability within the Continent. This contributes to the coordination of peace efforts at the continental, regional and national levels. However, the fact that the Assembly meets twice a year, the impact of this report is very little.

7.3.7. PSC and the UN Security Council, EU and other International Organizations

Article 17 of the PSC Protocol provides that, in fulfillment of its mandate, the Peace and Security Council shall cooperate closely with the United Nations Security Council, which has the primary responsibility for the maintenance of international peace and security. In this perspective, the two Organs have held five consultative meetings since 2007 aimed at exchanging views on peace and security issues and challenges in Africa.

Similarly, the PSC has held four consultative meetings, since 2008, with the EU Political and Security Committee, to brainstorm on peace and security challenges in Africa as well as in Europe. These consultations help in generating mutual understanding on various conflicts and crises in the world and how to tackle them. Yet the largest consultative process is that between the AU PSC and the PSC of the League of Arab States, launched in December 2010.

Despite the relative improvement in the working relationship between the African Union and other organizations (partners) inside and outside Africa, as we shall see below, there are several constraining factors among them. It is hoped that once such constraints are thoroughly addressed, the relations could be much better than it is to date.

7.4. Constraining Factors upon the Operation of the Peace and Security Council

Although a strong foundation was laid down for the PSC, Africa lagged behind in availing the requisite resources and

capacity to enable it to fulfill the aspirations of African peoples, who have been yearning for peace since independence. This has had serious implications for promoting the true African ownership and control of peace processes in Africa. Among the most salient constraints encountered by the PSC, and which persist today, are:

- a. Inadequate support personnel, including lack of dedicated interpretation and translation services;
- b. Inadequate space for convening meetings, given that the PSC deals with emergencies;
- c. Inadequate personnel in some of the Embassies of the members of the PSC;
- d. Inadequate and unpredictable funding for peace support operations as manifested in the difficulties encountered by the AU mission in the Sudan (AMIS) and in Somalia (AMISOM);
- e. Shortage of logistical capacity from within the Continent, which has the effect of leaving the AU peace support operations to the mercy of a largely non-African logistical support, which does not come condition-free;
- f. Slow troop mobilization and deployment in the theatre of peace support operation;
- g. Inadequate capacity and personnel for both the management of the peace support operations and the manning of the theatre of operation; and
- h. Low level effectiveness in the Military Staff Committee.

7.5. Challenges and Recommendations

In order to enhance the effectiveness of the PSC against the challenges facing it, we need to bear in mind two things. Firstly, the PSC has a lot more to contribute towards the realization of AU's vision of a peaceful, harmonious, unified and developed Africa. Secondly, the susceptibility of Africa to the eruption of crises and conflicts remains a pre-occupying factor and one that highlights the need for the PSC to stay more robust and effective. In our view, the PSC confronts a variety of challenges some of which are hereunder registered with our relevant recommendations:

7.5.1. Strengthening the Role of PSC Members

Although significant progress has been made with respect to the beefing up of the strength of the Embassies of the successive PSC members at the Headquarters of the AU, membership of the PSC demands much more than this. There is a need for PSC member states to play a more active role with respect to the:

- Mobilization of funding for activities of Peace and Security Council;
- Taking the lead in the mobilization and provision of troops for AU peace support operations;
- Provision of logistical support to AU peace support missions to facilitate timely movement of troops, equipment and material to required sites;
- Playing the role of lead nation in AU peace support operations;

- Promotion of good neighborliness policy as a means of boosting cooperation between African countries.

7.5.2. Undertaking the Task of Conflict Prevention

One of the fundamental aspects of the African Peace and Security Architecture is the need for the PSC to take effective measures to prevent conflicts and crises. Medical doctors say that prevention is better than cure. This adage also applies to the peace and security domain. Understandably, as already stated above, the Council has been compelled by circumstances in the past to focus more on the management and resolution of conflicts and crises. Nonetheless, to safeguard the peace gains, the Council to henceforth, take initiatives in the area of conflict prevention with a view to minimizing/averting the eruption of fresh conflicts on the Continent. The fact that the Panel of the Wise has become operational is an advantage. Similarly, the strides being made by the AU towards the full operationalization of the ASF and CEWS brings further advantages for the PSC to become more proactive in conflict prevention. The sooner these steps are completed, the better.

7.5.3. Initiation of Draft Decisions on Issues

The 2002 Georgetown Brainstorming Retreat and the 2004 Cape Town Brainstorming Retreat, followed by the 2007 Dakar PSC Retreat, all underlined the need for PSC members, as part of shouldering their responsibilities, to take initiative in the sponsoring and drafting of decisions. In implementation of the Conclusions of the Dakar PSC Retreat on Working Methods, a PSC Committee of Experts was established and operationalized in 2008,

with a view to giving an active role to the PSC in the elaboration of draft decisions on issues under its consideration. However, the practice has shown that the PSC Committee has not played the role expected of it. In the past, the work of the Committee was simply limited to rubberstamping the draft decisions initiated by the Commission. The PSC's recent initiative to re-energize the Committee is laudable. It is therefore recommended that the PSC Committee of experts should cooperate and play its role as per Dakar Retreat recommendations on working method.

7.5.4. Convening of Public Sessions

The PSC Protocol provides for accountability, transparency and inclusiveness in its work. The PSC's convening of public sessions in which all AU Member States and other relevant stakeholders participate is one of the mechanism for promoting accountability, transparency and inclusiveness in the work of the PSC. It is also a way for the PSC to solicit more support and cooperation from Member States in the implementation of PSC decisions. Since 2004, the PSC has organized fewer public sessions, whereas Council has dealt with a variety of issues that could have been discussed in public sessions. In fact, it is the Commission that proposed the public sessions that have been held thus far. It certainly behooves on the PSC to play a lead role in initiating public sessions and sponsoring the issues that they discuss rather than the vice versa.

7.5.5. Annual Consultative Meetings of the PSC with Similar Organs

Having in mind the objective to build partnership in addressing peace and security issues in Africa, in the spirit of Article 17 of the Protocol, the PSC has co-initiated annual consultative meetings. To date, the PSC has held several consultative meetings with the UN Security Council and with the EU Political and Security Committee. The experience from these meetings indicates that there are gaps to be filled and therefore recommended as follows:

- need to assess and evaluate implementation of commitments made in previous meetings, as opposed to mere issuance of communiqués at each meeting;
- need for thorough preparation ahead of the consultative meetings;
- need to restrict the number of agenda items/issues to allow space for in-depth discussion with a view to finding common parameters for achievable action;
- prioritization of issues (conflicts and crises) in relation to their seriousness/gravity on the African landscape; and
- need for a more robust analytical approach on country situations on the agenda of a consultative meeting, beyond the information provided in PSC communiqués and UN Security Council resolutions;

Furthermore, even if the joint meetings are consultative in their very nature, they have to add value to the efforts aimed at making progress in the peace processes and crisis resolution. In

this respect, the joint consultative meeting, as they are a political exercise, should be more members state-oriented and driven.

In addition, and given the common issues and challenges faced by the two Organs, the PSC, as the senior and more experienced party, could take steps towards holding annual consultative sessions with the PSC of the League of Arab States. The building of this partnership would take advantage of the gains already made in the framework of Afro-Arab cooperation. Moreover, some members of the AU PSC are members of the League of Arab States, hence the need for close coordination and synergy building over peace and security issues in Africa between the two sides.

7.5.6. Convening of High-Level PSC Meetings

Article 8 of the PSC Protocol provides, *inter alia*, that the Ministers and Heads of State and Government shall meet at least once a year, respectively. In this respect, the experience in the implementation of this provision over the past few years has not been encouraging enough. It has not been easy to convene high-level PSC meetings, particularly at the level of Heads of State and Government. The process has encountered constraints in getting together all the fifteen Heads of State and Government of the PSC in a single meeting. Yet, again, this is another aspect in which the Commission, rather than the PSC itself, has been more vocal and acting as the driving force. Indeed, early 2011 gave good results, with the holding two Heads of State level meetings in Addis Ababa on Côte d'Ivoire and Libya. Nonetheless, in compliance with the PSC Protocol, the PSC itself needs to demonstrate political will and commitment at its highest level by deploying more efforts towards the convening of high-level PSC meetings on given issues.

7.5.7. Resource Mobilization

The ideal situation is that Africa should be in a position to raise more funds from within to support peace efforts in all their dimensions. But this is not the case as the Continent has become increasingly dependent on external funding provided by partners. Whilst funding from partners represents a significant contribution to African peace efforts. The partners should play a complimentary and not a primary/dominant role as is the case in Africa today. This situation needs to be reversed in order to promote genuine ownership of peace processes by Africans. The notion of African solutions to African problems will remain a mere rhetoric, unless a more robust resource mobilization is undertaken within Africa itself.

It may not be the lack of financial capacity in Africa that accounts for weak funding from within, but many other factors, including the issues of political will and commitment by Member States. The question of financing the PSC and AU in general has to be realistically addressed. Short of that African detractors and skeptics will be proved right and conclude that nothing has changed except the name. It is thus incumbent upon the PSC to play a lead advocacy role in the mobilization of resources, particularly in financial terms, inside Africa. Furthermore Member States should make a commitment to pay their assessed contributions regularly and timely as the contributions are the main source of PSC's Fund for it uses 6% of the AU's budget. In the same vein the sanctions for defaulting on the payment of assessed contributions should be vigorously observed and enforced unreservedly as per article 23 of the Constitutive Act as well as 33(2) of the rules of procedure

of the Assembly. Besides, the idea of alternative source of funding the AU should be pursued with vigor and zeal.

7.5.8. Operationalization of PSC Subsidiary Bodies

The subsidiary bodies of the PSC are expected to operate as focal points of Council dealing with specific mandates on given issues. But, so far, there is a gap that the PSC needs to close between the adoption of a decision to establish a subsidiary body and its subsequent effective operationalization to implement the given mandate. This call for the PSC, through its successive monthly Chairpersons, to remain focused and ensure that there is follow-up on the operationalization and proper functioning of its subsidiary bodies. In this regard, the ongoing efforts of the PSC to ensure the effective operation of its subsidiary bodies is a good step and therefore must be encouraged and supported by all AU member states.

7.5.9. UN Funding for AU-led Peace Support/ Peacekeeping Operations

Guided by the principles enshrined in the Constitutive Act, the Charter of the United Nations and the Universal Declaration of Human Rights, Article 17.2 of the PSC Protocol provides for that recourse will be made to the United Nations to provide financial, logistical and military support for African Union's activities in the promotion of peace, security and stability in Africa, in keeping with the provisions of *Chapter VIII of the UN Charter on the role of regional organizations* in the maintenance of international peace and security. But the situation on the ground is different.

The battle for obtaining UN funding for AU-led peace support/peacekeeping operations in Africa, undertaken with the authorization of the UN Security Council, is still to be won. In its resolution 1809 (2008), the UN Security Council recognize the need to enhance the predictability, sustainability and flexibility of financing regional organizations when they undertake peacekeeping under United Nations authorization. At the same time, the Security Council reiterated that regional organizations have the responsibility to secure human, financial, logistical and other resources for their organizations, including contributions by their members and support from donors. The Security Council noted the assessment of the options for financing African Union peacekeeping operations authorized by the Security Council outlined in the report of the Secretary-General and expressed its intention to keep all options under consideration.

Much as the PSC has contributed to the Prodi Panel process, there remains a lot more work to be done to get fixed arrangements within the UN for provision of predictable, sustainable and flexible funding to AU-led peace support/peacekeeping operations. It is recommended that the PSC should redouble its advocacy role in this area, bearing in mind that the UN Security Council has the primary responsibility for the maintenance of international peace and security.

7.5.10. Review of the PSC Protocol

As stated earlier, the PSC Protocol was elaborated in 2001/2002 and guides the activities of the Council. Whilst, the Protocol has been conceived as a guide for the long-term, some

of its provisions need to be refined taking advantage of the experience, knowledge and practice that the PSC has gained since 2004. The brainstorming sessions held by the PSC have brought up information that can be used in refining certain provisions in the Protocol. The process of the transformation of the AU Commission into an African Union Authority will indeed bring in some changes in the Protocol. But most of these are likely to be changes in titles and not substantive refinement of given provisions or insertion of new provisions deemed necessary, in the PSC Protocol. The review of the Protocol is a major process in which both Council and the Commission and ultimately, the entire membership of the AU, have contributions to make. It should therefore not be rushed. It needs to be approached holistically while taking concerns of all stakeholders on board.

7.5.11. Nature and Timeliness of Reports

In the past, the report submitted by the Secretary-General played an important part in the deliberations of the MCPMR (Central Organ). However, more often than not, and due to political sensitivities, the reports were drafted in such a way that they did not capture the realities of the situation on the ground to be dealt with. In particular, the reports avoided stating bitter facts in order to be politically ‘correct,’ and in turn reduced the ability of the Central Organ to take informed and objective decisions.

Even in situations whereby the reports prepared by the Secretary-General met the desired comprehensiveness and quality, the fact that they were not circulated early enough to Member States to facilitate consultations between Permanent Representatives

and their respective capitals, reduced the prospects of in-depth discussions.

During the research, it was found that the tendency seems to continue within the PSC albeit in both short and medium terms. This is due to the fact that both Member States and, to a large extent, the staff of the Commission remain the same. Further realization must be made that naturally, with the human nature, attitudes and perceptions take time to change and adapt to new environment.

To redress these weaknesses, the Commission should, among other things, draft reports that rise above political sensitivities so long as they are factually correct. In turn, Member States should accept that the fulfillment of the objectives of the PSC requires such; comprehensive, factual and accurate reports. In addition, the Commission should be endowed with the necessary human resources to cope with the workload.

7.5.12. Discussions within the PSC

Alongside this, the deliberations of the Central Organ over the past years were constrained by the prevailing diplomatic niceties and political culture. As a result, debates within the Central Organ lacked the necessary in-depth frankness, making it more difficult for it to take crucial decision required by situations. During this study, it was discovered that almost the old practice continues. In view of this, it is recommended that the PSC should as much as possible avoid this. Instead, it should change the prevailing culture of niceties and discuss issues in an in-depth, open and frank manner. The Rules of Procedure of the PSC should only be guided

by the objectives of the PSC and should, therefore, be as candid as possible.

7.5.13. Agenda of the Central Organ

Pursuant to paragraph 21 of the Cairo Declaration, the provisional agenda of the Central Organ should be prepared by the Secretary-General in consultation with the Chairperson of the OAU. In practice, however, the consent of the State or States concerned was usually necessary in order to have any item placed on the agenda of the Central Organ. This requirement obstructed preventive action by the Central Organ if a State or group of States opposed the inclusion of an item on the agenda of the Central Organ. The current practice is that this is done indirectly with intensive lobbying. This state of affairs needs to be changed as the inclusion of a vital issue of conflict on the agenda of the PSC may have a significant impact on tempering the position of the conflicting parties. It is hereby recommended that the agenda of the Peace and Security Council should include a general review of the situation in a selected region in order to facilitate broad discussion on the overall situation in various regions. In addition, this will provide the AU with entry point into potential and real conflicts. The organization would, therefore, be able to intervene in a timely manner to prevent and contain conflicts, and avoid situations in which conflicts are left unattended.

7.5.14. Non-Implementation of Decisions and Ratification of Various Conventions and Protocols of the AU

Rule 33(1) of the rules of procedure of the Assembly of the AU has put the assembly's decisions in various categories. It states "the decisions of the Assembly shall be issued in the following form:

- a). Regulations, these are applicable in all member states which shall take all necessary measures to implement them;
- b). Directives, these are addressed to any or all member states, to undertakings or to individuals. They bind member states to the objectives to be achieved while leaving national authorities with power to determine the form and the means to be used for their implementation;
- c). Recommendations, Declarations, Resolutions, Opinions, etc.; these are not binding but intended to guide and harmonize the viewpoint of member states.

Similarly, the decisions of the Executive Council have been categorized by Rule 34 of the Council's Rules of Procedure, but with a minor difference in its rules 34(1a) that reads: "Regulations: these are binding and applicable in all member states; and national laws shall, where appropriate, be aligned accordingly."

During this study, it was discovered that currently, many decisions are not well classified. However, kind of classification is observed that separates Decisions from Declarations, and Resolutions. Otherwise, some are just referred to as Decisions which in our view they also need classification or categorization to understand in which category they belong, whether they are

directives or otherwise so as to determine if they are binding or not. If they are not clear as to which category they belong this has given loophole to member states of not complying with them. Further, what is more important is that the failure by a member states to implement binding regulations and directives can lead to sanctions in accordance with to rule 33(2) of the rules of procedure of the Assembly. It states “The non-implementation of the regulations and directives shall attract appropriate sanctions in accordance with article 23 of the Constitutive Act.”

In this state of affairs, it becomes difficult to understand which regulations, directives, etc., are binding or not. This has weakened the performance of the PSC in particular and AU in general as in some respect member states are at liberty to choose which decisions to implement or not. As result, many more decisions continue to be adopted at various summits but with little impact on the ground for lack of implementation. The same case applies to several conventions, agreements, protocols and other legal instruments. These regional agreements are rarely and timely integrated into national legislations on the African continent. Some are purposely not ratified or suffer from ratification fatigue and therefore delaying their entry into force. Such laxity obviously affects the credibility of the organization as well as its people. In view of this, it is hereby recommended that there be created a mechanism within the Commission or PRC to take charge of this task of categorization of decisions of every summit as well as to follow up their implementation.

7.5.15. Emerging Phenomenon of Popular Uprisings: What Response?

In the recent past, we have witnessed protests led mainly by youths. The protesters demands have been essentially political and democratic reforms in their own countries. Furthermore, the issues of corruption, unemployment, and poverty have featured high on their agenda. These protests have resulted in political casualties starting with Tunisia, Egypt whereby Presidents of those countries were forced to resign. A similar situation obtained in Libya whereby western forces led by NATO savagely killed Muammar Gaddafi in their quest for regime change. These are new threats to the continent which are not fully covered by the PSC Protocol. These protests have had a negative political and socio-economic impact not only on countries trapped in these upheavals but also the countries of the region and beyond. Whether this is unfinished agenda of regional integration efforts in Africa¹⁵⁰ or not, it remains to be seen. It is therefore recommended that AU member states need to hold an extraordinary summit to brainstorm among other things; how to address such new challenges.

7.6. Conclusions

The PSC, for the past seven years since its inception in 2004, has been very busy deploying efforts aimed at promoting peace, security and stability within Africa. As the main pillar of the African Peace and Security Architecture (APSA), the PSC is a key actor in giving substance to the doctrine of African solutions to

150 Anyong Nyong'o (1990), *Regional Integration in Africa: Unfinished Agenda*; (Nairobi: African Academy of Sciences, Quoted by Niklas Swanström, op. cit., 2002).

African problems. It has achieved the expansion of the space of peace and security in Africa.

However, major challenges as noted above, remain at hand to continue to appear. One of the key issues, as the PSC looks into the future, is the need to deploy vigorous efforts towards conflict prevention, management and resolution. There is a need to convene regular Retreat/Brainstorming sessions to devote on the subject of conflict prevention, management and resolution in Africa. Such retreats would, on the basis of a comprehensive assessment/evaluation report, offer an opportunity to the Peace and Security Council to reflect in depth and establish a roadmap containing steps and measures to be taken to raise the capacity of the African Union to prevent, manage and resolve conflicts.

In a nutshell, the African Union should be given credit for the efforts it has expended and for the important steps it has taken to deal with conflicts in Africa. Its efforts at enhancing the capacity of its mechanisms and making it operational reveal a determination to move from almost a position of concerned by-stander to an Organization that can make an effective contribution, along with the UN, Africa's sub-regional organizations and civil-society actors, in maintaining peace and security on the Continent.

The brief history of the Peace and Security Council demonstrates that the African Union has considerable potential to address peace and security crises in Africa. However, much work remains to be done, particularly at the highest political level, in a bid for this potential to be fully achieved. Africa has the capacity. All that is required is political will, commitment, dynamic and visionary leadership.

From this study, we note that the OAU/AU has associated itself with these matters way back to the 1960s. The continental organization continues to do so in collaboration with other sub-regional organizations the likes of IGAD, SADC, and ECOWAS. It is within this context one may draw the following conclusions:

- The causes and solutions for conflicts in Africa are varied;
- The OAU/AU have put in place different legal mechanisms namely; CMCA, MCPMR and most recently PSC all aimed at addressing these conflicts;
- There has been some qualitative change in these legal instruments since their inception in dealing with these conflict situations;
- Conflicts whether intra or inter-state are no longer a preserve of an individual state alone but rather of all international community including the UN;
- Africa has created other legal instruments such as the AU Constitutive Act, African Charter on Democracy, Elections and Governance, African Charter on Human and Peoples Rights, the African Court of Justice, to address these issues;
- As stipulated in the Constitutive Act Art 4 (h) and (j), the AU can now intervene in any member state that violates human rights. In this regard sovereignty is no longer an issue that can prevent the AU from taking tough action against its members;
- The role of regional and sub regional organizations such as AU, SADC, IGAD, Arab League, has taken a centre stage in conflict prevention, management and resolution. Their

recommendations or decisions are mostly respected by the international community particularly the UNSC which adopts them and become binding. A case in point is the recent AU Peace and Security Council Resolution on the political crisis in Côte d'Ivoire of March 10, 2011 that was also endorsed by the UNSC. Further, the Arab League resolution on Libya was the basis of the unpopular UNSC Resolution no.1973 on Libya about no-fly zone;

- Political will and commitment is essential for efficient and effective prevention and resolution and that this partly explains some of the drawback in African multilateral cooperation;
- Lack of *necessary human and financial* resources have been key hindrance for the AU to implement its decisions timely. For example, between 1993 and 1996, OAU's 75% of its budget came from outside. This affected heavily most of the organization's activities. Even today the situation is not encouraging;
- It needs to be stressed that regional organizations do not operate in a vacuum. To the contrary, they are directly dependent on the cooperation between nations (their member states) and international entities such as the UN;
- Sometimes regions are forced to take up the challenges of preventing and resolving conflicts due to the failure of international organizations and states to do so. They however, do so with the assistance of national and international actors;

- Regional actors seem better placed to handle preventive measures as potential conflicts often involve regional issues;
- A visionary and committed leadership is critical in executing a regional agenda in conflict situations on the continent.

Although the 20th century ended with an acknowledgement of the importance of regional and sub-regional organizations in conflict prevention, management and resolution, in the coming decades are likely to further reinforce the significance of these organizations. This will inevitably put more responsibilities on them. What is thus required is some strategy to enhance the capacity of these organizations to meet those impending challenges.

First, the organizations will need to further equip their structures. It is clear that the existing structures in some of the organizations are weak. This is due partly to the fact that some of them were originally economic organizations, and only incorporated security mechanisms into their structures, and due partly to the failure of the African countries to support the organizations in conflict management.

Second, regional and sub-regional organizations in Africa have to work out ways of harmonizing their activities and, at the same time, avoid multiple initiatives. This could be counterproductive. There are, at present, several initiatives within and outside the continent. While some of these are credible and should be commended, others are not effective and their credibility is therefore questionable.

The experience in the 1990s has shown that one of the weaknesses of previous conflict management strategies was the

neglect of the civil societies. Over the last few years, the civil society organizations in many African countries have become strong and effective. Thus, there is a need for all those interested in preventing conflicts in the continent to work in close conjunction with the civil society. Finally, a major refocusing is necessary. More than ever before, African organizations must appreciate the need for good governance and economic rejuvenation, which is, after all, the best guarantor of harmonious inter-group relations.

However, in spite of these findings and conclusions in this research, new threats to peace and security in the continent have emerged recently. North Africa has been the first casualty of this phenomenon. Indeed several legal instruments of AU do not cover them as such events were not anticipated at all in the past. In this connection, a further research is required by academics, researchers, policy makers, gurus in international law, international economic law, etc., to consider in depth the scope and legal as well as socio-economic implications of such events in a bid to address them and provide answers.

It is obvious that, the immediate impact of such events on socio-economic development to the sub-region and to the continent is huge. For example, events in Libya have not only had adverse impact on Libya alone but also the countries of the region as well as the international community. A country like Egypt had almost 1.6 million Egyptians working in Libya. Tunisia had also 80,000 Tunisians working there. These migrant workers were remitting a lot of foreign currency to their domicile. This was a big contribution to those countries GDP. This revenue has suddenly stopped and consequently affecting the countries' revenue and socio-economic development.

Individually the migrants were forced to return to their home countries without any property including their money. In this case, those countries had to find ways and means to reintegrate/resettle these returnees. Surely, this must have overstretched those countries budgets as something which was not anticipated. Besides, other economic development projects and programs were affected as resources earmarked for such programs were suspended in order to cater for returnees.

Furthermore, some investors have closed their businesses in these countries. Likewise other potential investors must have cancelled such plans because of heavy risk involved in investing in such hostile environment. Thus FDI to this country has been curtailed. In addition to this, one of the major sectors of the economy of these countries is *tourism*. Many tourists had to cancel their tours due to these upheavals. Again this had immense impact on the socio-economic development. In both short and medium term, all this has created unemployment in those countries. Besides, many international air flights were either cancelled or postponed in fear of safety. This meant that international economic transactions have been on hold until the situation settles.

In the case of Libya, apart from the fact that infrastructure has been destroyed by the civil war; the direct impact on international economy is the rise of petrol on world market. As a result of this, some of the prices for essential commodities have been affected. By and large this affects also individual in one way or another.

Lastly, in the case of the African Union, Egypt, Libya and Tunisia these countries combined contribute almost over one third of the organization's budget. Under the circumstances, they are

unlikely to pay their assessed contribution to the AU for this year. This will have a negative impact on the Organization's project and programs and ultimately on the continental economic integration agenda.

From the peace and security perspective, the world may soon witness the regionalization of this Arab spring conflict. The immediate casualty may be the Sahel region. Its vulnerability may lead to once again, a spread of weapons in this region. It will not be surprising such weapons to fall in the hands of terrorists organizations such as Al Qaeda. This obviously, will not only have adverse effects to the region but to the rest of the international community. The role of regional and sub-regional organizations is therefore very critical. It is time for a great rethink.

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Over the past five decades, independent Africa has faced various forms of conflicts. The conflicts have ranged from inter-state to intra-state, and due to this sad state of affairs, the continent has been characterized negatively as war torn and hopeless. All bad things have been associated with Africa.

The causes of these conflicts are varied. They have included mismanagement of natural resources, corruption, bad governance, lack of rule of law, nepotism, ethnicity and regional imbalance. The effects of these conflicts are immense. People have lost lives and properties. Some have been reduced to refugees and even internally displaced persons.

To address this, both continental and sub-regional organizations have all along created mechanisms the likes of the Commission of Mediation, Conciliation and Arbitration (CMCA), the Mechanism for Conflict Prevention, Management and Resolution (MCPMR) and the late Peace and Security Council (PSC). Whether the constant creation of these mechanisms has brought qualitative change in the performance of OAU/AU or not, that is part of the reason for undertaking this study.

All these tools have operated within the context of Chapter 6 of the UN Charter that recognizes the role of Regional Organizations in such matters. Within the African context, the OAU/AU along with sub-regional organizations the likes of SADC, ECOWAS and ECCAS have rose to the challenge.

There have so far been successes and failures in this endeavor. The buzzword is African solutions to African problems. Challenges have included the lack of both human and financial resources.

This book attempts to trace and evaluate the performance of various mechanisms created by OAU/AU since its inception in 1963 to deal with this situation. Different case studies are referred to in this work, namely Burundi, DRC, Rwanda, Ethiopia and Eritrea.

Besides the challenges facing the AU today, the organization is trying to operationalize the African Peace and Security Architecture (APSA). This framework is on track with its main components, namely the African Standby Force, the Panel of the Wise, the Continental Early Warning System and the Peace Fund. Pros and Cons of this framework are extensively interrogated. The book ends with some pertinent observations and recommendations worth considering if the continent is to avoid marginalization in the twenty first century.

