

**AN ANALYSIS OF MEDIATION AS A TOOL IN CONFLICT RESOLUTION IN
AFRICA: A CASE STUDY OF MEDIATION PROCESS IN SOUTH SUDAN
BETWEEN DECEMBER 2013-MARCH 2015**

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DECLARATION

I, Judy Wamaitha Mugo, hereby declare that this research study is my original work. This work has never been submitted to any University, College or other institution of learning for any academic or other award. Other works cited or referenced to are accordingly acknowledged. No part of this research project content should be reproduced without my consent or that of the University of Nairobi.

Signature.....

Date.....

Judy Wamaitha Mugo

DECLARATION BY THE SUPERVISOR

This research study has been submitted for examination with my approval as University supervisor

Signature.....

Date.....

Supervisor:

DEDICATION

I dedicate this project to my beloved son Shawn Jeremy Mugo. I also dedicate it to my parents for their moral support as it is them who laid the foundation of my education and taught me that hard work pays and that the biggest task can be accomplished if it is done one step at a time.

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ABSTRACT

Mediation as a tool in conflict resolution in Africa has got its successes and failures. The successes of the process, though, has depended on the acceptability of the mediators by the warring parties, the neutrality of the mediators in the process, the funding given to the process by the lead actors and the skill and knowledge of mediators on the causes of conflict, the parties, process and viability of the product of mediation. In the case of South Sudan, Since December 2013 when IGAD started the mediation processes over the two warring factions, it has failed to formulate an enforceable ceasefire agreement or a negotiated political settlement thereby compounding on the problems bedeviling the people. This study therefore sought to evaluate the efficacy of the mediation process championed by IGAD. The objectives of the study were to examine the actors involved in the mediation process in conflict resolution in South Sudan; evaluate the efficacy of the actors in the mediation process in conflict resolution in South Sudan; establish the possible effective mediation processes for conflict resolution South Sudan. The research design to be employed by this study will be mixed method research methodology which is a combination of qualitative and quantitative research tools to collect data necessary for this study. The study was a case study of South Sudan. The researcher used both primary and secondary data which was obtained from analysis and review of books, journals, papers and other available literature on mediation process and conflict resolution in South Sudan. Data was then be analyzed using content analysis. Content analysis becomes a more powerful tool when combined with research methods such as interviews, records. The study established that there are various actors in the mediation process in South Sudan. They include IGAD as the lead mediator, regional states (Uganda, Kenya, Ethiopia), the AU and the international community such as the Troika and the US, the European Union, UN and China. The involvement of immediate regional actors in peace talks was a double-edged sword. Some of the major factors that has limited IGAD's mediation process includes: regional rivalries and power struggles; centralisation of decision-making at the HoS level and related lack of institutionalisation within IGAD; and challenges in expanding the peace process beyond South Sudan's political elites. The study recommends that, two things need to happen if peace is to be realized in South Sudan. First, there is a need to show that IGAD is no longer a neutral and credible body to promote peace in South Sudan. Second the government of South Sudan must not delegate its responsibilities of searching for peace in the country to others. It needs to take full responsible and device a way forward to end the rebellion in the country. The study also recommends that African countries and institutions, that is, IGAD, the IGAD Plus Five, the AU Peace and Security Commission, the AU Commission, have to be united and firm in enforcing this agreement on the parties. Moreover, additional security must be provided to protect the proposed government of national unity and the reform process, as well as civilians caught up in the war.

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LIST OF ABBREVIATIONS

AU	AFRICAN UNION
AUHIP	African Union's High Level Implementation Panel
CPA	Comprehensive Peace Agreement
ECOWAS	Economic Community of West African States
IGAD	Intergovernmental Authority Development
JEM	Justice Equality Movement
LLM	Latin Legum Magister
MHS	Mutually Hurting Stalemate
NCP	National Congress Party
SADC	South African Development Community
SPLA	Sudan People Liberation Army
SPLM	Sudan People Liberation Movement
SPSS-	Statistical Package for Social Sciences
UN	United Nations
UNOSOM	United Nations Operations in Somalia
US	Unites States

CHAPTER ONE

INTRODUCTION

1.0 Introduction

This chapter covers the background of the study, the research problem, the research objectives (both the general and specific objectives) and the research questions. The chapter also highlights justification of the study is also included in this chapter. Theoretical framework, literature review, summary of the literature gaps and the research methodology are also contained herein.

1.1 Background of the Study

The African region has experienced many conflicts ranging from the perilous war in Somalia, the Post-election violence in Kenya, the Sierra Leone Conflict, the Ethiopia-Eritrea Conflict, the Genocide in Rwanda the Conflict in Sudan just to name a few. In resolving these conflicts, mediation has been used as a tool for conflict resolution. The commonly used type of mediation in African conflict is regional organization-led mediation processes.¹ The study shall analyze the mediation process in South Sudan between the years 2013 to 2015. The wants study to concentrate on the conflict as from 2013 because of its relative importance in checking the stability of the intra-South Sudan conflict upon attaining the status of a country.

¹Thomas KwasiTieku (2011), “Lessons learned from mediation by an African regional Organization.” Paper presented at the BISA Africa and International Studies Working Group seminar on Peace, Conflict and Intervention at University of Birmingham, April 7, 2011. Available at: http://peacemaker.un.org/sites/peacemaker.un.org/files/LessonsLearnedfromMediationbyanAfricanRegionalOrg_Tieku2011.pdf. Accessed on 13th March, 2015.

Conflicts are usually a culmination of unsolved grievances, which arise from factors such as inequality and differences in ethnic identity². To solve these conflicts, the system of the UN is supported by three notions: namely collective security, prohibition of the use of force in international law and the amicable resolution of disputes³. In regard to peaceful resolution of conflicts, Article 2(3) of the UN Charter requires all the Member States of the United Nations to peacefully resolve disputes ‘in such a manner that international peace and security and justice are not endangered’. Article 33 of the Charter sets out various methods of peaceful dispute resolution including; negotiation, conciliation, enquiry, judicial settlement and mediation⁴.

Sudan is located in one of the most conflict-torn regions of the world and all the neighbouring countries, Chad and the Central African Republic in the west, Egypt and Libya in the north, Ethiopia and Eritrea in the east and Kenya, Uganda and the Democratic Republic of Congo in the south. When it comes to ethnicity, language and religion Sudan is one of the most heterogeneous countries in the world. However, this diversity is not reflected in the leadership of the country, as Sudan is characterized by a persistent domination of the centre over the marginalized peripheries. The centre is located in the capital of Khartoum and power is held by different elites from the Nile Valley area located north of Khartoum.

² Attilio, A. (2006). ‘Geopolitical Explanations of Conflict in the Horn of Africa’ (*Organization for Social Science Research in Eastern and Southern Africa (OSSREA)*, 2006) <http://www.ossrea.net/index.php?option=com_content&view=article&id=266&Itemid=55> accessed 9th July 2016

³ Pellet, A. (2003). Book Review of the Charter of the United Nations: A Commentary, ed. Bruno Simma, 25 MICH. J. INT’L L. 135, 140-141

⁴ United Nations, *Charter of the United Nations*, (24 October 1945) 1 UNTS XVI, Article 2(3)

Sudan has been characterized by internal conflict since its independence in 1956. The first conflict erupted in 1962 pitting a southern-based rebel group called Anya-Nya, which fought for the independence of the south. This conflict ended in 1972 through the Addis Ababa agreement.⁵ The second war broke out in 1983 when Sudanese government canceled autonomy of South Sudan and imposed Islamic Sharia law in Sudan. This prompted the formation of rebel groups including: the Sudan People Liberation Army (SPLA); the Sudan People's Liberation Movement (SPLM) ; and the Justice and Equality Movement (JEM) which fought for secular reforms and against some alleged ills involving the marginalization of South Sudan particularly Darfur.⁶

After long drawn conflict, several African Union and Intergovernmental Authority on Development (IGAD) led peace talks were held. At last a Comprehensive Peace Agreement (CPA) was signed on 9th January, 2005 between the political division of SPLA/SPLM on one hand and the Omar al-Bashir's National Congress Party (NCP) on the other hand. This agreement called for an end to war and the holding of a referendum in 2011 to determine the autonomy of South Sudan.⁷

South Sudan was eventually created in 2011⁸ with the hope that it would become a prosperous, self-governing nation able to successfully harness its resources after years of

⁵ John Prendergast and Roger Winter, "Abyei Sudan's Kashmir," Enough Project, <http://www.enoughproject.org/files/reports/aneyi%2029-1.pdf>.

⁶Shahnawaz (2014), "Young Nation in War; Root Causes of South Sudan Conflicts. Academia.edu. accessed from https://www.academia.edu/9695198/Young_Nation_in_War_Root_Causes_of_South_Sudan_Conflict on 23rd March, 2015.

⁷ Ibid.

⁸ South Sudan became an independent nation on July 9, 2011.

conflict.⁹ However, this hope has since gradually filtered away. Towards the end of 2011, conflict broke out between South Sudan and Sudan over citizenship, security and oil rich area of Abyei. However due to international pressure and diplomacy the same was contained under the framework of Mutual Understanding and deployment of UN led forces in Abyei region.¹⁰

The current crisis in South Sudan began on 15th December 2013 at the end of a meeting of the National Liberation Council of the Sudan People's Liberation Movement (SPLM) in Juba.¹¹ Conflict erupted after tensions arose between President Salva Kiir who is of the Dinka ethnicity and Vice President Riek Machar, who is of the Nuer ethnicity. The military separated into two groups, essentially isolated along ethnic lines, and Mr Machar was sacked. What began as political infighting prompted brutality the nation over, bringing about the demise of countless individuals, and more than two million South Sudanese residents escaping their homes.

Since 15th December 2013 when the war broke out, many lives have been lost and property destroyed in addition to other immense sufferings. Tens of thousands have been killed since the conflict erupted, with more than 1.5 million people displaced from their homes and villages. According to Oxfam: over 7 million people are at risk of food insecurity and 4.9 million of them are in urgent need of humanitarian aid; over one million people have fled their homes and are now displaced within South Sudan; More

⁹ Teresa Welsh (2014), "Can the U.S. Forge a Relationship with South Sudan?" US News and World Report. Accessed from <http://www.usnews.com/news/articles/2014/12/15/can-the-us-forge-a-relationship-with-south-sudan> on 13th March, 2015.

¹⁰ U.N. Security Council, "Report of the Secretary General on the Situation in Abyei 25th February, 2014.

¹¹ Gunnar M. Sorbo (2014), "Return to war in South Sudan." Accessed from http://www.peacebuilding.no/var/ezflow_site/storage/original/application/dfe9c9db13050b38a2a5cb73c072af1e.pdf on 12th March, 2015.

than 80,000 people have sought refuge at various UN compounds across the country. In Juba, 80 percent of displaced people are women and children; More than 350,000 people have fled to neighboring countries; a cholera outbreak was confirmed mid-May, 2014, bringing the imminent threat of a health emergency alongside an escalating food crisis; and only 15% of people have access to adequate sanitary latrines and 30% do not have access to safe water supply.¹²

1.2 Statement of the problem

Since December 2013 when IGAD started the mediation processes over the conflict in South Sudan between the two warring factions, it has failed to formulate an enforceable ceasefire agreement or a negotiated political settlement thereby compounding on the problems bedeviling the people. The signed cease-fire containing a proposal on how the warring factions will share executive power and distribute government positions in an interim administration that will govern the country during a 30-month transitional period has since collapsed with the President SalvaKiir rejecting a proposed post of either a 1st vice president or executive Prime Minister to be given to RiekMachar.¹³

Apart from the lack of progress in reaching an enforceable settlement, other fault lines have been raised in the mediation process including; the partisanship of IGAD mediators; the alleged authoritarianism and failed record of the chief mediator Gen [Ambassador] Seyoum Mesfi; perceived lack of inclusivity; the consideration of political aspects and

¹² It is about time to call the IGAD Mediation Process in South Sudan, an Ethiopian/TPLF Mediation Process instead. <http://www.issafrika.org/iss-today/playing-for-time-in-the-south-sudan-peace-process>. accessed on 13th March, 2015.

¹³ The Wall Street Journal. February 12th 2015.

third parties without listening to the parties; and the closeness of Uganda and Kenya to either warring party. Accordingly, the study sought to evaluate the efficacy of the mediation process championed by IGAD.

1.3 General Objective of the Study

The main objective of the study is to analyze the efficacy of the mediation process as tool in conflict resolution in South Sudan.

The study will be guided by the following specific objectives:

- i. To examine the actors involved in the mediation process in conflict resolution in South Sudan.
- ii. To evaluate the efficacy of the actors in the mediation process in conflict resolution in South Sudan.
- iii. To establish the possible effective mediation processes for conflict resolution South Sudan.

1.4 The Justification of the Study

The study will be beneficial to policy makers and decision makers by evaluating the efficacy of the mediation process in South Sudan shall act as a reference material to the international community and IGAD in particular to take stock of the criticism with a view to making appropriate adjustments or total overhaul of the process. The issue of conflict has caused a lot of threats to security in the world; there is a lot of uncertainty. The research shall act as a useful material to the parties to the mediation process in terms of capturing the sufferings occasioned and the urgent need to find lasting solutions. The parties shall also be able to deduct useful lessons which they can use to participate fully

and open mindedly in the mediation process. The research findings will enable the public understand why mediation as a tool of conflict resolution is failing in South Sudan.

Since much literature on the topic has tendered to concentrate more on the role of mediators in conflict resolution, the study when approved shall expand knowledge and literature covering analysis of mediation as a tool of conflict resolution in South Sudan championed by IGAD. The research findings will be used as reference materials by the students of international relations and conflict management during the course of their study.

1.5 Literature Review

The conflict in South Sudan can be attributed to a number of factors. First, is the power struggle in the ruling party, SPLM, between the President Salva Kiir and the former vice president, Riek Machar? Secondly, it is claimed that ethnic fault lines between the Nuer associated with Machar and Dinka associated with Kiir and more particularly fuelled by the media and the arrest of opposition key figures. Thirdly, South Sudan has been at odds with itself because of fragmented elites, patronage politics, scanty resources and rapid increase in numbers of government structures to ethnic chiefdoms. All these have lessened and weakened accountability mechanisms and thereby informing the violent struggle to access resources and cease power.¹⁴

¹⁴ Le Riche, Matthew. 2014. "South Sudan: not just another war and another peace in Africa." African Arguments, January 28. <http://africanarguments.org/2014/01/28/southsudan-not-just-another-war-and-another-peace-in-africaby-matthew-le-riche/>. Accessed on 12th March, 2015.

Pursuant to the resolution of Heads of States meeting of Intergovernmental Authority on Development (IGAD) held in Nairobi on 27th December 2013, the body assumed to itself the responsibility to mediate in the South Sudan conflict. In a Summit held in Tanzania, IGAD drove the signing of a peace arrangement, which was between the President Kiir and his deputy Machar with a power sharing agreement to be finished up. This has however slumped to a great extent because of the doubt between the parties over IGAD. There are various approaches to approach conflict resolution, which runs from least to most coercive.

Conflicts may be avoided, negotiated, talked out, arbitrated, adjudicated, resolved by enactment of law, by political activity, or by use of force. Parties who cannot agree together successfully may bring a mediator to facilitate the negotiation process¹⁵. Mediation is defined as the intervention in a standard negotiation or conflict of an adequate outsider or third party who has constrained or no authoritative power on decision-making but who helps the involved parties in willfully reaching a mutually satisfactory settlement of issues in dispute¹⁶. Based on the above definition mediators may play various diverse roles, and may enter conflicts at various levels of advancement or intensity. Mediation is one of the best strategies for forestalling peace, managing and resolving conflicts¹⁷.

¹⁵ Moore, C. (2004). *The Mediation Process: Practical Strategies for Resolving Conflict*, 3rd., (San Francisco: Jossey-Bass Publishers.

¹⁶ *ibid*

¹⁷ United Nations (2012). UN Guidance for Effective Mediation. <http://www.un.org/wcm/webdav/site/undpa/shared/undpa/pdf/UN%20Guidance%20for%20Effective%20Mediation.pdf>. Accessed August 15th 2016.

Mitchell drew up the first proposal to systematize mediation roles¹⁸. Taking after Mitchell's proposition, mediation is therefore a procedure with various actors that play distinctive but complementary roles. Mediation is the intervention of outsiders in a conflict where at least two players confront initial issues of incompatibility. The outsider endeavors to help the actors in the conflict to find a satisfactory way out to the problem by themselves. The facilitator will not provide them with the solution, but will help them to discover it by utilizing reasonable methods, processes and systems. It should also be noted that mediation is not needed in all conflicts; the conflicting parties can meet and negotiate directly without the assistance of others. Nevertheless, in more than half of conflicts outsiders are requested to provide assistance¹⁹.

Mediation is therefore said to be a series of activities performed by various individuals in the three basic stages of the peace process: the pre-negotiation, negotiation and execution of agreements. In each of these stages various people who are allotted particular roles may intervene. These are usually private individuals, but sometimes they are centres, organizations or agencies²⁰. This study was seeking to examine the efficacy of the mediation process of the appointment of the mediators, the mediation process and the implementation mechanisms of any mediation award, in terms of its challenges and opportunities.

¹⁸ Mitchell, C. R. (1992). "*External peacemaking initiatives and intra-national conflict.*" In Manus I. Midlarsky, ed. *The Internationalization of Communal Strife*. London: Routledge.

¹⁹ Armengol, V.F. (2013). The principles of mediation and the role of third parties in peace processes. Noref Report.

²⁰ Ibid

Melanie analyzed the negotiation and implementation process of the Comprehensive Peace Agreement on the Sudan²¹. Particularly related to the researcher's study is on the competence of IGAD in conflict resolution in South Sudan. The researcher states that Inter-Governmental Authority on Drought and Development (the precursor to IGAD) was first established due to pressure from international agencies but extended its mandate to issues of peace in the region in subsequent years.²²To this end, a Peace Committee consisting of the heads of state of Ethiopia, Eritrea, Uganda, and Kenya (with President Arap Moi chairing) was created on 7 September 1993 at a summit in Addis Ababa. Under the Peace Committee, IGAD drew up the IGAD Declaration of Principles which became the conceptual precursor to the conflict resolution in the region.²³ The researcher proffer that because of Kenya's neutrality in the conflict, it was possible for her to facilitate and host negotiations within the region whilst being sufficiently removed from the parties. Kenya also had historically strong diplomatic ties with Britain and America, thereby providing a bridge between international observers and the Sudanese role-players.²⁴

In terms of the proper conflict resolution, the researcher reviews the actual process. She states that from 1993 onwards IGAD began a protracted effort to mediate between the NCP and the SPLA and its political arm the Sudan People's Liberation Movement

²¹ Melanie Smuts (2012), "Analyzing the negotiation and implementation process of the Comprehensive Peace Agreement on the Sudan Question; Lessons Learnt. Accessed from: http://repository.up.ac.za/bitstream/handle/2263/37381/Smuts_Analysing_2012.pdf?sequence=1 on 24th March, 2015.

²² J Young 'Sudan IGAD Peace Process: an Evaluation' at http://www.sudantribune.com/IMG/pdf/Igad_in_Sudan_Peace_Process.pdf . Accessed on 24th March, 2015.

IGAD Peace Initiative Declaration of Principles, Nairobi, 20th July, 1994 http://www.gossmission.org/goss/images/agreements/igad_DOP.pdf. Accessed on 24th March, 2015.

²⁴ Ibid.

(SPLM). The process received financial and tactical support from the United Kingdom, The United States, Italy and Norway. In 2002 a ceasefire agreement, known as the Machakos Protocol was implemented, which once more provided the possibility for self-determination in the South. Even though there were sporadic incidents of conflict subsequent to the signing of the Machakos Protocol, the ceasefire generally held and provided an opportunity for broader negotiations on ending the civil war to take place. On 9th January 2005 the National Congress Party and the SPLA/M signed the CPA following 15 months of negotiation in Kenya under the leadership of General Lazaro Sumbeiywo. Key provisions included an option for secession of South Sudan, and also power sharing terms between the North and the South and agreements on resource sharing mostly concerning oil. For the period, a Government of National Unity (GoNU) operated in Sudan with John Garang acting as Vice president. He was, however, killed in a helicopter crash only 21 days later and replaced by SPLM second in command Salva Kiir. After a referendum held in January 2011, in which over 99% of South Sudanese voted for secession, South Sudan became an autonomous state on 9 July 2011 with Salva Kiir becoming the President.

The AU and international partners supported the IGAD's role as lead mediator for south Sudan conflict for two primary reasons: in the first place, IGAD's historic involvement in peacemaking in the Sudan's, including as the mediating body of the earlier Comprehensive Peace Agreement, which ended the civil war in 2005. Second reason is the impact of the conflict on the immediate neighbors, as well as their respective political, economic, and security interests. These realities meant that forging a solution without the

region would be impossible²⁵. However, there is need to review whether IGAD in terms of the legal competence of to lead mediation in South Sudan. Secondly, was the historical basis of conflict resolution in South Sudan enough basis for choosing IGAD and the lead mediator? Thirdly, is on the suitability of General Subweiyi to lead the mediation in terms of his neutrality and command of information on the conflict in the region which was facilitated by his country of origin Kenya, deemed neutral and the professional background as a retired army officer with tactical knowledge in conflict operations.

Since the IGAD began its mediation role in the conflict in South Sudan, it was clear that it would not be an easy task for it to perform this self credited with impartially. There were a numbers of the reasons that disqualified IGAD from the mediation role; these were, first the historical involvement of IGAD's as a mediator in the Sudan conflict which erupted in 1983 and ended in 2005 with the Comprehensive Peace Agreement. For over 10 years and half IGAD was totally insufficient and unsuccessful in coming up with a solution. The discussions floated from one year to the next perpetually until US President, George W. Bush intervened in 2002, and the CPA was brokered. From that IGAD's record of mediation and peacemaking, it was apparent that it had performed poorly and was not fit for that role²⁶.

Besides, when IGAD arrogated to itself the privilege to mediate in the conflict in South Sudan, Ugandan President, Yoweri Kaguta Museveni had already intervened in the

²⁵ Booth, D. (2016). South Sudan, Africa, and the Challenge of Peacemaking. <http://www.state.gov/p/af/rls/rm/2016/252466.htm>. Accessed July 9th 2016.

²⁶ Elhag, P. (2014). IGAD is unfit to mediate in the South Sudan's conflict. <http://www.southsudannation.com/igad-is-unfit-to-mediate-in-the-south-sudans-conflict/>. Accessed July 10th 2016.

conflict in support of President Salva Kiir's genocidal operations against the Nuer people. At the time Ugandan forces were already heavily involved in military operations in Jonglei state with President Museveni threatening Riek Machar with defeat within four days. President Museveni had proclaimed amid his visit to Juba that all the IGAD member states would go after Dr Machar and his group.²⁷ The glaring and overwhelming reasons for disqualifying IGAD's mediation were shockingly ignored by the Secretary General of the United Nation, Mr Ban Ki Moon, who showed and declared his support to IGAD as the most suitable and reasonable body for the undertaking of the role of mediating the south Sudan conflict.

An African Report No. 223 on Sudan and South Sudan's merging conflict reviewed the mediation by IGAD and identified several weaknesses of the mediation process²⁸. First, the report indicates that the IGAD is only centered on Kiir and Machar. This is notwithstanding the fragmentation and proliferation of armed groups, including those operating across the Sudan-South Sudan border, that are often independent of either's control and complicate efforts to end the battles. Secondly, regional tensions resulting from Uganda's intervention have further hindered IGAD's diplomacy, while the African Union (AU) has largely ignored the regional rivalry in its equally unsuccessful efforts to end Sudan's wars. This report is of particular importance in this research for it provides important information on the obstacles hindering the mediation process. This information

²⁷ Sudan Tribune (2013). Accept ceasefire or face defeat, Ugandan leader tells Machar. <http://www.sudantribune.com/spip.php?article49385>. Accessed July 9th 2016.

²⁸ Accessed from <http://www.crisisgroup.org/en/regions/africa/horn-of-africa/sudan/223-sudan-and-south-sudan-s-merging-conflicts.aspx> on 24th March, 2015.

shall be useful in this study for it shall provide a platform basis for coining appropriate recommendations on how to make the mediation more effective.

Despite the IGAD being declared unfit to mediate in the South Sudan's conflict; in August 2015, South Sudan's president Salva Kiir names rival Riek Machar as deputy, fuelled hopes of end to two years of ethnic conflict when a peace agreement was signed. The understanding stipulated the formation of a transitional government of national unity (TGoNU) to steer the country for the next two and a half years, pending elections. In accordance with the power sharing arrangement in the Agreement on the Resolution of the Conflict in South Sudan (ARCISS) brokered by the East African regional bloc, the Intergovernmental Authority on Development (IGAD), and its continental and international partners; the warring parties consented to form a unity government and execute reforms in the country. The rival parties include the government led by President Salva Kiir, the armed opposition faction of the SPLM-IO led by First Vice President, Riek Machar, the Former Detainees (FDs) led by the now appointed Foreign Minister, Deng Alor Kuol, acting chairperson on behalf of Pagan Amum, former SPLM Secretary General, and Other Political Parties (OPPs) led by Lam Akol, Chairman of the Democratic Change (DC) party, who also chairs the alliance of opposition political parties in South Sudan²⁹.

The African Union and Africa's regional organizations have a formal mandate to engage in mediation and other forms of peacemaking. Several legal instruments have been exploited to back up the AU or regional organizations led mediation processes including:

²⁹ Sudan Tribune (2016). South Sudan forms transitional government of national unity. <http://www.sudantribune.com/spip.php?article58800>. Accessed 10th July 2016.

the Protocol Relating to the Establishment of the Peace and Security Council of the African Union (2002); the ECOWAS Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (1999); and the SADC Protocol on Politics, Defense and Security Co-operation (2001)³⁰.

Out of the several mediation attempts, some have failed while some have succeeded. The failed mediation attempts are true in a number of countries including; IGAD in relation to Sudan in the mid-1990s, ECOWAS in relation to Liberia in the 1990s; UNOSOM II in Somalia in 1993; and AU mediation for Darfur in 2006.³¹ The failures of the mediation process have been attributed to quick settlement and relied too much on strong-arm tactics, partisanship, underestimating the complexity of the conflict, ignoring the psychopolitical dynamics of war and neglecting the political imperative of ownership.³²

Musikali and Musikali³³, examined the role of mediation in the resolution of the south Sudan crisis. The study emphasized on the importance of key documents in the mediation process, particularly the Comprehensive Peace Agreement, cannot be underestimated. These agreements have been shown to have culminated in the independence and eventual secession of South Sudan. The Comprehensive Peace Agreement (CPA) played a pivotal

³⁰ Nathan, L., 2006, "Mediation in African Conflicts: The gap between mandate and capacity." accessed from http://www.hdcentre.org/uploads/tx_news/111MediationinAfricanconflicts-Thegapbetweenmandateandcapacity.pdf on 18th March, 2015.

³¹ Nathan, L., 2006, "Mediation in African Conflicts: The gap between mandate and capacity." accessed from http://www.hdcentre.org/uploads/tx_news/111MediationinAfricanconflictsThegapbetweenmandateandcapacity.pdf on 18th March, 2015.

³² Nathan, L., 2006, "No Ownership, No Peace: The Darfur Peace Agreement", Working Paper, series 2, no. 5, Crisis States Research Centre, September.

³³ Musikali, Priscilla M. and Musikali, Lois M., (2013). The Role of Mediation in the Resolution of the South Sudan Crisis (July 10,). *Africa Nazarene University Law Journal*, Vol. 1(2) 2013, 165-200

role in mediation as it secured autonomy and independence for South Sudan. Regional and international organisations also provided suitable and qualified mediators. The CPA provided for independence and self-determination which are embedded in international law. However, despite the success of the Comprehensive Peace Agreement, the situation in South Sudan has not been rosy because there has been unrest concerning oil and oil revenues. This tension has been assisted by provisions on illegal exploitation of natural resources.

On the other hand, Nathan³⁴ conducted a study to examine the challenges facing mediation in Africa and revealed that recent events highlight the need to distinguish between a peace agreement signed by the parties and a genuine and sustainable peace. Considering the peace agreements that were announced by mediators with much fanfare in the case of the DRC in 1999 and 2003, Somalia in 2004, Darfur in 2006, Burundi in 2000 and 2006, and Zimbabwe in 2008; in the course of 2008 it was visibly clear that none of these agreements had in certainty achieved peace and stability, with dire outcomes for the general population those countries. The failure of mediation cannot be blamed on the mediator but it should provoke us to ponder about the crafting and art of peacemaking.

The African Report No. 223 proposes several ways of effectively dealing with the conflict in South Sudan and reshaping the mediation architecture led by IAGD. First it proposes that an UN-imposed arms embargo for South Sudan, supported by more effective cross-border monitoring of armed groups and weapons flows, would increase

³⁴ Nathan, L. (2009). *The challenges facing mediation in Africa*. AFRICA Mediators' Retreat 2009 – The Oslo forum Network of Mediators

leverage in all directions. This should be done in conjunction with increased monitoring by the IGAD Verification and Monitoring Mechanism of cessation of hostilities violations, including by Uganda. It should be complemented by a mechanism to examine how the war is financed and identify measures to prevent South Sudanese leaders using oil revenues and bankrupting the state to fund their war and enable violations of the cessation of hostilities agreement. All this must support more effective mediation, including greater IGAD outreach to armed groups and hardliners across South Sudan, better coordination with AU mediation in Sudan and more strategic and concerted U.S. and Chinese help to break the regional deadlock³⁵.

Secondly, IGAD should ensure timely and public monitoring by the Verification and Monitoring Mechanism of cessation of hostilities violations by all parties, including by Uganda. This is to better link the Sudan and South Sudan peace processes and ensure developments in one are not undermined by deterioration in the other.

Thirdly, IGAD should increase coordination, via a senior forum, between the AU's High-Level Implementation Panel (AUHIP) for Sudan and South Sudan, the IGAD mediation process in South Sudan and international actors supporting them, to ensure the cross-border dimensions of the conflicts are properly addressed.

Fourthly, IGAD should consider how transitional justice and accountability processes can address the cross-border nature of the violence, in particular in South Sudan's Unity state; and coordinate with the results of the AU Commission of Inquiry's findings in South

³⁵Ibid.

Sudan, which should be made public immediately, even if it is not possible to identify those named.

Nathan points out that a more viable model of peacemaking is confidence-building mediation, as occurred in Mozambique in the early 1990s³⁶. Confidence building mediation help build trust on the parties, the process and on the mediator hence the utility of it.³⁷ Put into perspective, in his study of the Mozambique mediation, Hume (1994: 146) ³⁸summarises the essence of the confidence-building approach followed by Sant' Egidio as;

*“Both sides wanted to find an alternative to stalemate and destruction. The mediators helped the parties find that alternative. Because this conflict was essentially domestic, the solution had to be found in a new relationship between the parties. The mediators concentrated on developing mutual recognition and respect, rather than relying on outside leverage to push the parties together. Their first step was to begin a dialogue between the parties that could open the way to reconciliation. Eventually the parties could agree on their own solutions.”*³⁹

1.6 Theoretical Framework

The theory that this research will adapt is ripe moment theory. According to Zartman I Williams, “Ripe moment refers to a dichotomous state of mutual hurting stalemate and a mutually perceived way out”⁴⁰While most studies on the peaceful settlement of disputes focus on the substance of the negotiations, the timing of the negotiations is very key. Parties resolve their conflict only when they are ready to do so. When alternative, usually unilateral means of achieving satisfactory results are blocked and the parties feel that they

³⁶ Ibid.

³⁷ Ibid.

³⁸ Hume, C., 1994, Ending Mozambique's War, Washington DC: US Institute for Peace.

³⁹ Ibid.

⁴⁰ Zartman, I “Ripeness” (August 2003). Retrieved on 24th March, 2015 from <http://www.beyondintractability.org/essay/ripeness/?nid=1280>

are in an uncomfortable and costly predicament. At that “ripe” moment, they seek or are amenable to proposals that offer “a way out”.

The idea of a ripe moment lies at the fingertips of diplomats but it is relevant for negotiators at other levels as well. As long ago as 1974, Henry Kissinger recognized that "stalemate is the most propitious condition for settlement." Conversely, practitioners often are heard to say that certain mediation initiatives are not advisable because the conflict is not yet "ripe." Environmental mediator Larry Susskind, for instance, emphasizes the importance of a conflict assessment before any mediation, both to assess ripeness, and to design the process. If one or more key parties refuse to come to the table, then he concludes that the conflict is not ready for mediation or consensus-building

In 2002 Ehud Barak said the Bush Administration had “concluded that circumstances were not ripe for a high-level effort to start peace negotiations”⁴¹ in the Middle East. In January 2009 president Obama said “the moment is ripe” to renew Israeli-Palestinian peace talks ⁴² In 1976 John Campbell stated that “ripeness of time is one of the absolute essences of diplomacy”⁴³ In the case of the South Sudan IGAD is trying to solve a conflict when the ripe moment is not achieved, the conflict will only be ripe when the conflicting parties are ready for negotiations.

⁴¹ Jeffery, S “ what the US paper Say”, The Guardian, 4th April 2002. Retrieved on 24th March, 2015 from <http://www.guardian.co.uk/world/2002/apr/04/israel.usa>

⁴² Lyon, A. “ Obama’s peace push could collide with reality” 28th January 2009. Retrieved on 24th March 2015 from <http://www.reuters.com/article/worldNews/idUSTRE5OR4FA20090128>

⁴³ Zartman, I “ The Timing of Peace Initiatives: Hurting Stalemates and Ripe Moments” in The Global Review of Ethnopolitics, Vol.1, No.1 (September 2001) Pg8

The concept of a ripe moment centers on the parties' perception of a mutually hurting stalemate (MHS) -- a situation in which neither side can win, yet continuing the conflict will be very harmful to each (although not necessarily in equal degree nor for the same reasons). Also contributing to "ripeness" is an impending, past, or recently avoided catastrophe. This further encourages the parties to seek an alternative policy or "way out," since the catastrophe provides a deadline or a lesson indicating that pain might be sharply increased if something is not done to settle the conflict soon.

Where ripeness is not yet present Zartman suggests coaxing methods to be employed by third parties such as arming the weaker combatant to ensure parity in weaponry and remaining close contact with the parties to aid the identification aid in the process. Zartman support ripeness theory as a prescriptive tool of diplomacy enabling objective assessment of conflicts that are ripe for resolution and where ripeness is absent a guideline for determining how it can be cajoled. In seeking ripeness third parties are able to look for indication of a hurting stalemate through signs such as parity in military might, a public plea for help or a looming catastrophe. Where ripeness is not present third parties are able to assess how it can be induced and respond with appropriate strategies. A conflict becomes ripe for resolution when the parties realize that the status quo -- no negotiation is a lose-lose situation, not a zero-sum situation. Thus to avoid the mutual loss, they must consider negotiation.

Ripeness is a matter of perception, and as with any subjective perception, there are likely to be objective facts to be perceived. These can be highlighted by a mediator or an opposing party when they are not immediately recognized by the party itself, and resisted so long as the conflicting party refuses to recognize the "facts" as legitimate or accurate.

Thus it is the perception of the objective condition, not the condition itself that makes for a mutually hurting stalemate. If the parties do not recognize "clear evidence" that they are at an impasse, a mutually hurting stalemate has not yet occurred, and if they do perceive themselves to be in such a situation, no matter how flimsy the "evidence," the mutually hurting stalemate is present.

The other element necessary for a ripe moment is less complex and also perceptual: a "Way Out." Parties do not have to be able to identify a specific solution; they must only have a sense that a negotiated solution is possible and that the other party shares that sense and the willingness to search for a solution too. Without a sense of a Way Out, the push associated with the mutually hurting stalemate would leave the parties with nowhere to go. Spokespersons often indicate whether they do or do not feel that a deal can be made with the other side. If they think a deal is possible, that suggests a "way out" and the time is ripe for negotiation. If they do not feel the other side will negotiate in good faith, then the situation is not ripe.

Although ripeness theory cannot predict when a given situation will become ripe, it can identify the elements necessary for productive negotiations to begin. This type of analytical prediction is the best that can be obtained in social science, where stronger predictions could only be ventured by eliminating free choice. As such, it is of great value to policymakers seeking to know when and how to begin a peace process.

Finding a ripe moment requires research and intelligence studies to identify the objective and subjective elements. Subjective expressions of pain, impasse, and inability to bear the cost of further escalation, related to objective evidence of stalemate, data on numbers and

nature of casualties and material costs, and/or other such indicators of a mutually hurting stalemate, along with expressions of a sense of a Way Out, can be researched on a regular basis in a conflict to establish whether ripeness exists. Researchers would look for evidence, for example, of whether the fluid military balance in a conflict has given rise at any time to a perception of a mutually hurting stalemate by the parties, or to a sense by authoritative spokespersons for each side that the other is ready to seek a solution to the conflict. Researchers could also look for contrary evidence: statements by one or both sides, suggesting that they can win or that mediation is bound to fail because one or both parties believes in the possibility or necessity of escalating out of the current impasse to achieve a decisive military victory.

Ripeness is the key to many successful cases of negotiation, opening the way for discussions that led to an agreement in the Sinai (1974), Southwest Africa (1988), El Salvador (1988), Mozambique (1992), and many others. The lack of ripeness led to the failure of attempts to open negotiations between Eritrea and Ethiopia in the late 1980s, within Sudan for decades, and elsewhere. Objectively ripe moments, however, were not transformed into subjective perceptions or seized and carried through to successful agreements in Karabagh in 1994, in Cyprus in 2002, and elsewhere, according to published analyses.

This theory guides the study as it shows that, for a mediation process in South Sudan to be effective, the belligerents or the warring parties must be receptive to the process and willing to participate in it. The concept of the ripeness of the conflict for resolution shows viability of mediation. A conflict is suitable for mediation when the warring parties perceive their status quo as a mutually hurting stalemate. When the parties find

themselves locked in a conflict as the case for South Sudan, from which they cannot escalate to victory and this deadlock is painful to both of them, they seek an alternative policy.

1.7 Hypotheses

- i. The actors involved in the mediation process in conflict resolution in South Sudan were not partial.
- ii. The IGAD led mediation process has prolonged conflict in South Sudan.
- iii. The IGAD mediation process is not effective for conflict resolution in South Sudan.

1.8 Research Methodology

The research design to be employed by this study will be mixed method research methodology which is a combination of qualitative and quantitative research tools to collect data necessary for this study. A case study is a research method involving an up-close, in-depth and detailed examination of a subject of study as well as its related contextual conditions. The South Sudan was the case study for this particular study. Qualitative methods of data collection will be used in order to study perception as well as understanding of respondents of the issues under discussion whereas quantitative methods will be applied to obtain the data and analyzing the same.

The study population for this study comprised of all the mediators, parties' representatives to the mediation table, the secretariat of IGAD, experts in conflict resolution and academicians involved in conflict resolutions. The study was a case study of South Sudan. South Sudan is a landlocked country bordered by Ethiopia on the East;

Kenya to the Southeast; Uganda to the South; the Democratic Republic of the Congo to the Southwest; and the Central African Republic to the West; and the Republic of the Sudan to the North. South Sudan includes the vast swamp region of the Sudd formed by the White Nile, locally called the Bahr al Jabal. It is estimated to have a population of 12,340,000 people

The researcher used both primary and secondary data which will be obtained from analysis and review of books, journals, papers and other available literature on mediation process and conflict resolution in South Sudan. The study will also review empirical evidence from other countries and from both developed and developing countries that have used mediation process as a tool for conflict resolution. The reviewed literature will further help in making a sound conclusion on the research problem under study. The data will be gathered through desk research. This study will use gather primary data through use of interviews guide. The interviews will be conducted on those mediators, parties' representatives to the mediation table, the secretariat of IGAD, experts in conflict resolution and academicians involved in conflict resolutions. The interviews will be used on those parties that have offices in Kenya. To establish the content validity, the researcher will seek expert opinion from the research proposal supervisors and other education experts from the school department, University of Nairobi. The comments received from these experts will be in- cooperated in the improvements of the questionnaires.

Data was then be analyzed using content analysis. Content analysis becomes a more powerful tool when combined with research methods such as interviews, records. Content analysis is also a flexible method and well-suited to analyze data collected from open-

ended questions which are more difficult to code because the answers are not prepared in advance.

The researcher will obtain permission to collect data from the mediators, parties' representatives to the mediation table, the secretariat of IGAD, experts in conflict resolution and academicians involved in conflict resolutions. Consent to conduct the study will be sought from the county government of South Sudan. Consent will also sought from research bodies such as Nacosti as well as from the University which is a stakeholder in this study. The researcher will promise to report the findings of the study to the respective authorities for easy access by interested participants and parties.

The researcher foresees two major forms of limitation in the course of conducting this study. The first is with regard to confidentiality of the process. To the extent that this study shall analyze several policy briefs and papers on the issue a delicate mediation process as a tool in conflict resolution in South Sudan, the documents might not be readily accessible for perceived fear of fomenting resistance against the process. However, to overcome this challenge, the researcher intends to get an official authority from the University of Nairobi authorizing the study as part of the requirements for the fulfillment of an award of a Master's programme.

The second foreseeable challenge is with regard to timelines. The researcher intends to overcome this challenge by catering for the potential delay in my time schedule. The researcher further intends to do follow up meetings on my request for the documentation.

Thirdly, is the issue of costs involving travelling to and from South Sudan, IGAD Secretariat, Ethiopia and shuttling in various offices in Kenya? The researcher proposes

to overcome this by working within a tight budget and soliciting for funding from donors and friends.

1.9 Chapter Outline

This chapter discussed the background of the study, the statement of the problem, highlights the research objectives both the main and specific ones and the research questions. The justification of the study is also included in this chapter. Theoretical framework, literature review, summary of the literature gaps and the research methodology is also contained herein. The chapter presented the following literature materials according to the thematic areas forming the core of this study including: the competence and standing of the mediators in South Africa; the obstacles and opportunities within the mediation process in South Africa; and the possible effective way forward

CHAPTER TWO

FACTORS IN THE CONFLICT RESOLUTION IN SOUTH SUDAN

2.1 Introduction

In this section, the study discusses the various actors involved in the mediation process in conflict resolution in South Sudan and their roles.

2.2 Intergovernmental Authority on Development (IGAD)

International and regional bodies are mandated by the Manila Declaration to resolve conflicts in various national and international locations⁴⁴. These organisations are identified by the United Nations Charter which encourages settlement of local disputes through such regional arrangements⁴⁵. The Intergovernmental Authority on Development, IGAD, was formed in 1986 as the Intergovernmental Authority on Drought and Development (IGADD), but it later became IGAD⁴⁶. The aim of this organisation is to ensure that there is harmony and collaboration in the Eastern African region. The IGAD Declaration of Principles (DoP) was born as a result of the need for self-determination⁴⁷.

The South Sudan's neighbours, as mediators, therefore felt that self-determination was the best option because it had previously helped in the separation of Eritrea from Ethiopia. The IGAD's role as lead mediator in South Sudan conflict was supported by the African Union and international partners because of first, the IGAD's historic

⁴⁴ Manila Declaration on the Peaceful Settlement of International Disputes, A/RES/ 37/10 (15 November 1982)

⁴⁵ United Nations, *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, Article 52 (2)

⁴⁶ Weldesellase, K. I. (2011). 'IGAD as an international organisation, its institutional development and shortcomings', 55 JAL 1, 11

⁴⁷ The IGAD Declaration of Principles (*The 1993 Abuja 2 Sudanese Peace Conference*, Nairobi, 20th May 1994)

involvement in peacemaking in the Sudan, which includes as the mediating body of the earlier Comprehensive Peace Agreement, which ended the civil war in 2005. Second reason is the impact of the conflict on the immediate neighbors, as well as their respective political, economic, and security interests. These realities meant that forging a solution without the region would be impossible⁴⁸.

South Sudan continues to be a special case where IGAD commands historical legacy both during the liberation struggle where some of its members; Eritrea, Ethiopia, Uganda historically supported the SPLM/A and during the mediation process ensured inclusion of the demand for the right of self-determination in the Declaration of Principles 1996 which was “the fundamental issue at the heart of conflict⁴⁹”.

The Sudan People’s Liberation Movement (SPLM) faced internal strife that escalated into violence historically (1991 – 2002) and same actors renewed their differences (December 2013). Albeit, the SPLM Chairman’s efforts to address strife democratically within the party structures, the ethnic tone grape the tension and loyalists both sides were quick to push the matter towards confrontations. This could have been averted or contained without escalation to military confrontations, yet it advanced on December 2013 and the GoSS suppressed in the (3) days while named it an attempted *coupe d’état* led by Dr. Riek Machar, the former Vice President, on one side he called a conspiracy by the President that attempted on his life. IGAD attempted preventive diplomacy measures on the 18th December 2013 to contain violence while sent a delegation of its Ministers of Foreign Affairs to meet the parties. The effort was too little and too late, as the former

⁴⁸ Booth, D. (2016). South Sudan, Africa, and the Challenge of Peacemaking. <http://www.state.gov/p/af/rls/rm/2016/252466.htm>. Accessed July 9th 2016.

⁴⁹ Institute for Security Studies (ISS) (2004), The Sudan IGAD Peace Process: Signposts of the way forward, African Security Analysis Programme: Forthcoming occasional paper, February 13.

Vice President managed to escape arrest and vowed to wage a rebellion that was highly ethnically supported by his community⁵⁰.

IGAD offered good offices by Heads of States and Government then later on mediation, which was immediately accepted by the GoS and a Summit was organised on 27th December 2013 in Nairobi for that purpose. The summit appointed (2) Special Envoys to help bringing the parties to the table to harness the quick good will that was declared by the International Community calling for dialogue and peaceful resolution. IGAD's Summit commended President Yoweri Museveni of Uganda efforts to quick deployment with the request of the GoSS to protect vital installations. He was then quoted in the media to have warned the former Vice President to persist pursuing military confrontation. A statement that seemed to have worked its magic in brining the rebels to the table yet, viewed to be in support to the narrative of the government that an attempt to unconstitutional change of government was the cause for the outbreak of the conflict, apparently a notion not shared by all member states. Nonetheless, Uganda's bilateral relations with the Government of South Sudan (GoSS) resulted in early deployment of a division of its forces in South Sudan to protect vital installations, which was commended by IGAD members⁵¹.

The mediation pushed the parties to quickly resolve in stopping the conflict and a Cession of Hostilities Agreement (CoH) was signed on 23rd January 2014 equally with another Agreement on the Status of Detainees, that managed to immediately released (7) former

⁵⁰ Garang, E. (2015). *The impact of external actors on the prospects of a mediated settlement in South Sudan*. Paper to be presented at the Academic Conference on International Mediation, University of Pretoria, 2-4 June 2015, Pretoria, South Africa.

⁵¹ Communiqué 27th December 2013

detainees and later on led to the release of remaining 4 detainees (former ministers accused of the coupe d'état). IGAD immediately started adopting contrary positions from its initial stand of applauding Ugandan's early intervention for "protection to vital installations" in fear of partiality be questioned as support to the GoS and for other internal considerations specially both Ethiopia and Sudan. A situation that led to exclusion of Uganda's representation in the arrangements of appointing military representatives to the Monitoring and Verification Mechanism (MVM)⁵².

The IGAD's Chair Country (Ethiopia), according to basic rules supposedly rotational every year guides the Secretariat on peace making process, as the Secretariat mobilises funds. The rotation of chairmanship of IGAD is to be done at the Summit of Heads of States and Governments level as the most of policy decision-making body. The inadequate adherence to the normative framework caused challenges and coherence within the leadership structure leading to many issues remain to be pending. This created more burden on the institutions of the Summit became engulf in conflict among some of its members and not fully focus to bring about consensus within its ranks to address conflicts at hand. Due to non-progress in the peace talks since the signature of the first two agreements while mediation process continued through the last 14 months the Summit was drawn in as part of mediation levels to prevail over the protagonists⁵³.

However the challenge remained that the mechanism was ineffective and lost its cloud.

The parties complained of introduction of documents signed by Heads of States and

⁵² Garang, E. (2015). *The impact of external actors on the prospects of a mediated settlement in South Sudan*. Paper to be presented at the Academic Conference on International Mediation, University of Pretoria, 2-4 June 2015, Pretoria, South Africa.

⁵³ Ibid

Governments expected them to comply and sign without though negotiations leading to further polarization with the mediation process. IGAD's previous peace process on Sudan whereas the Special Envoy and his team of experts left the process to be run on direct engagement between the two principles and they kept themselves abreast with the development through short visits and engagements.

In recent crisis, the approach differed completely as most of external actors participated with huge influence that resulted into changing attitudes towards the parties and the organizations' lead. IGAD's Special Envoys specially the Chairman for the mediation process been was accused of advancing external and specifically Troika's interests. IGAD's led process on Sudan had specific distinct style of management of external actors' roles and interventions⁵⁴.

Exclusive IGAD-led South Sudan peace negotiations which started in January 2014 have failed to bring a lasting peace solution to the political crises prompting the regional bloc to look for an expanded mediation team. The two warring factions of government led by president Salva Kiir and opposition faction of SPLM-IO led by former vice president, Riek Machar, endorsed the IGAD-Plus initiative after IGAD engaged their respective lead negotiators. The new IGAD-Plus initiative incorporated the African Union, the UN, EU, China and the Troika (UK, US, Norway). It also include five African countries (South Africa, Nigeria, Algeria, Chad, and Rwanda) each representing different blocs of

⁵⁴ Jok M. J. (2015). *The Paradox of Peace in Sudan and South Sudan: Why Political Settlements Failed to Endure*. Inclusive Political Settlements Paper 15, September. Berlin: Berghof Foundation.

the continent, which will all participate actively under the IGAD's expanded mediation process⁵⁵.

2.3 Regional States

The regional states that have taken a frontline in South Sudan conflict resolution includes: Uganda, Kenya, Ethiopia. These states are also members of IGAD. At the outset, the regional leaders particularly that of Kenya, Sudan and the Federal Democratic Republic of Ethiopia, immediately sent their foreign ministers to Juba on 19 December 2013 for consultation with the political leadership after unfolding and deadly violence which occurred on 15 December 2013 and spread to the states of greater Upper Niles along ethnic lines largely between the Dinka and the Nuer communities. On 27 December, 2013 the regional Intergovernmental Authority on Development IGAD held its 23rd extraordinary session of the IGAD Assembly of Head of State and government in Nairobi, Kenya where the IGAD mediation team was appointed in the persons of three renowned military and diplomatic officials namely Ambassador Seyoum Mesfin of Ethiopia as Chairperson of IGAD Special Envoys for South Sudan and membership of General Lazarus Sumbeyo of Kenya and General Mohamed Ahmed El Dabi of Sudan respectively⁵⁶. This is how the other regional states came on board.

The involvement of immediate regional actors in peace talks however is seen as a double-edged sword. From the outset, the engagement of IGAD's frontline states– Uganda, Kenya, Ethiopia, and Sudan, was critical to the parties' calculations and approach to

⁵⁵ Tekle, T. A. (2015). S. Sudan rival factions endorse new 'IGAD Plus' initiative. <http://www.sudantribune.com/spip.php?article55314>. Accessed on 27th July, 2016.

⁵⁶ Sudan Tribune (2015). The dilemma of IGAD-led peace process for South Sudan. <http://www.sudantribune.com/spip.php?article51558>. Accessed 30th July 2016.

negotiations. The sometimes conflicting interests of these states, some of which subsequently became overt or covert participants in the conflict - likewise influenced their approach to the process, particularly during IGAD summits when senior regional leaders participated directly in mediation. This was sometimes critical in advancing the process, and other times complicated progress, by fundamentally altering the direction of negotiations. In the eyes of some, this compromised the neutrality of the mediation⁵⁷.

Not surprisingly, South Sudanese parties were highly attuned to these regional dynamics, and sought political advantage at each juncture, by soliciting support from neighboring patrons and thus undermining the prospect of regional unity. Over nearly a year of negotiations, the parties made some progress in developing an agreement but stuck firm to irreconcilable positions on the most divisive issues. Thus the case of South Sudan reminds us that the viability and merits of a region-led peace process of course depends on the circumstances of that region, the relationships between the states in question, and the presence or not of a regional hegemon⁵⁸.

According to Booth⁵⁹, the comparative advantages regional states bring must be weighed against the negative impacts when they pursue their own interests in a conflict or a post-conflict arrangement. A mediation from outside the immediate region, with no direct interests at stake, is the alternative. Even so, such a mediation structure would require constant dialogue with regional actors to ensure they do not perceive the peace process as

⁵⁷ International Crisis Group (2015). South Sudan: Keeping Faith with the IGAD Peace Process Africa Report N°228 | 27 July 2015.

⁵⁸ Booth, D. (2016). South Sudan, Africa, and the Challenge of Peacemaking. <http://www.state.gov/p/af/rls/rm/2016/252466.htm>. Accessed July 9th 2016.

⁵⁹ Booth, D. (2016). South Sudan, Africa, and the Challenge of Peacemaking. <http://www.state.gov/p/af/rls/rm/2016/252466.htm>. Accessed July 9th 2016.

adverse to their interests. If the region is not part of the solution, it will be part of the problem.

2.4 Role of the AU

The proximity gave IGAD the advantage of taking lead on South Sudan mediation, yet the AU maintained a role in the overall ownership of an African problem within the African continental framework. The unspoken arrangement was that IGAD takes the lead in facilitating a political solution through mediation while the AU takes on the issues of providing protective space in international arena while it tackles accountability related matters in nature such as Justice and investigating the alleged atrocities and human rights violations. The responsibility on matters of international peace and security lies on the UNSC, however at the AU continued as part of its complementarity with the UN to play a vital role through its Security Council providing guidance and management of conflict on African conflicts⁶⁰.

AU's overall responsibility on matters of peace and security in Africa demanded that IGAD reports the progress, hinderers and challenges to the AU Peace and Security Council which it continue to do in implementation to the principle of subsidiarity where RECs play vital roles as building blocks of the AU. The AU in the case of current conflict in South Sudan took lead to investigate the alleged atrocities and violations of human rights. However, its role is complementary as the report was held by the AUSC and not released as leverage on the parties to achieve a mediated settlement as well to avoid

⁶⁰ Dieng, A. (2015). Accountability in South Sudan – the African Union steps up. Available at: <http://www.un.org/africarenewal/web-features/accountability-south-sudan-%E2%80%93-african-union-steps>. Accessed on 5th August 2016.

polarization of the parties and hardening their positions more in case no agreement is reached. AU encourages the complementarity between RECs and its structures as well attempting solutions to African problems through its mechanism⁶¹.

South Sudan case is unique in a sense that the parties accepted IGADs' mediation while maintaining the AU as the next level of reporting and seeking remedies while in cases of conflict in Sudan's Darfur, Nuba Mountains and Blue Nile in addition to political dialogue, the AU took the lead with support from IGAD with symbolic presence in the presence⁶². Nonetheless, with the mounting discomfort of the deteriorating situation on the ground the IGAD role was strengthened with what became known as the IGAD plus where the (5) regions of Africa (South Africa, Nigeria, Algeria, Chad, and Rwanda) are represented by the decision of the AUSC in addition to other partners; Troika and China. The role to be played by the IGAD plus is still subject of on-going consultations between the Special Envoys and the parties to the conflict in addition to IGAD member states and the intended countries to be represented⁶³.

2.5 International Community

2.5.1 Troika and the US

The Troika emerged "as partnership that Norway forged with Britain, and the USA to revive Sudan peace talks" in order to provide support to the first IGAD's efforts on

⁶¹ Garang, E. (2015). *The impact of external actors on the prospects of a mediated settlement in South Sudan*. Paper to be presented at the Academic Conference on International Mediation, University of Pretoria, 2-4 June 2015, Pretoria, South Africa.

⁶² Jok M. J. (2015). *The Paradox of Peace in Sudan and South Sudan: Why Political Settlements Failed to Endure*. Inclusive Political Settlements Paper 15, September. Berlin: Berghof Foundation.

⁶³ Tekle, T. A. (2015). S. Sudan rival factions endorse new 'IGAD Plus' initiative. <http://www.sudantribune.com/spip.php?article55314>. Accessed on 27th July, 2016.

Sudan 1993 – 1999⁶⁴. It provided crucial support and sphere of influence with consistent pressure and engagement that resulted in the signature of the Comprehensive Peace Agreement 2000 - 2005⁶⁵. Albeit the UK being the former colonial master to South Sudan its interests are still entrenched though its presence is hardly felt in country, while its political stands are driven by its alignment to the US foreign policy. The US administration played a vital role in overseeing the commitment of the GoS and the SPLM to implement the CAP. The US war on terror established direct linkages an cooperation with the GoS but particularly enjoyed close ties with the SPLM South Sudan and hence where its network of interests entrenched supported by huge South Sudanese diaspora living there.

On the other hand, Norway enjoyed acceptance in Sudan with developmental agenda but often perceived to have “close relations with the southerners” led to it command respect from both communities and political engagement of its government and leadership with all parties. Norwegian NGOs worked during the years of South civil war in the country in particular the Norwegian Church Aid (NCA), the Norwegian People’s Aid (NPA) both enjoyed long outstanding presence and humanitarian services delivery records letter on joined by the Norwegian Refugee Council (NRC) which operated “in both side” in delivering diverse services⁶⁶. As perceived true friends, the Norwegian authorities continued to engage the GoSS and the SPLMIO constructively in current conflict formulating the international agenda on achievement of a mediated settlement. Norway

⁶⁴ Johnson, H.F. (2011). *Waging Peace in Sudan: The Inside Story of the Negotiations that Ended Africa's Longest Civil War*, Sussex Academic Press.

⁶⁵ Young, J. (2012). *The Fate of Sudan: The Origins and Consequences of A flawed Peace Process*.

⁶⁶ Johnson, H.F. (2011). *Waging Peace in Sudan: The Inside Story of the Negotiations that Ended Africa's Longest Civil War*, Sussex Academic Press.

promises to host forums for construction efforts if both sides were to expedite a peace agreement.

The positive role played by each of these countries on bilateral manner did not hamper their collective stand as Troika push to advance a peaceful solution to the conflict. The Troika efforts in pushing the mediation process on South Sudan conflict involved funding the process through the Transitional Support Unit (TSU), threats to imposed sanctions on individually targeted to obstacles for peace. The Troika efforts resulted so far in imposition of sanctions for some military commanders yet their strong position on the political development in the country warranted the GoSS accusation that it pursues a regime-change agenda⁶⁷.

The US has also maintained a separate position on its foreign policy from its joined activities though continued to coordinate some policy interventions with members of the Troika. The US interests emanated from the fact that South Sudan was seen as major US foreign policy success. The US' other interests are based on containment of China's ambitions with work to outset it from the oil industry as it became very influential in the region. The US eyed the oil sector for its companies as substituted with advance technology the Chinese and Malaysian investors in South Sudan⁶⁸.

2.5.2 Role of the EU

The European Union (EU) continue to support the process financially as it did in the first peace mediation led by IGAD from 1993 – 2005. EU as well has established with IGAD

⁶⁷ Mackuei (2014).

⁶⁸ Garang, E. (2015). *The impact of external actors on the prospects of a mediated settlement in South Sudan*. Paper to be presented at the Academic Conference on International Mediation, University of Pretoria, 2-4 June 2015, Pretoria, South Africa.

the IGAD Partners Forum that is chaired by Italy and represents the group of friends to mediation and source for IGAD mediators to seek leverage from. The EU's interests in the region and IGAD's process is related to the fact that EU is represented by "same colonial powers who had once competed over North-East Africa at the end of the 19th century" and such peace and stability in the region falls under their scope in their bigger efforts bringing aid and development. Though the EU did not want to be treated as outsider when it came to the peace process due to the fact that it funded the process, other reason was its projection of this relationship as it "It met frequently to discuss ways to boost the "friendship" – or put another way, strengthen the "partnership"⁶⁹.

In the current crisis of South Sudan, EU's role continued as a financier to the mediation process led by IGAD yet, it developed its own positions towards addressing the conflict while channelling them via the mediation as it categorises its role "the EU's efforts, including those of its Special Representative for the Horn of Africa Alexander Rondos, are coordinated with, and complementary to this united international effort"⁷⁰. The new EU stand is much illustrated by the statement of the 28 members on the crisis of South Sudan "The European Union is determined to do everything possible to avert further suffering of the people of South Sudan"⁷¹.

The EU challenges the parties to address this conflict seriously and engage towards achieving an end to the violence "It is now time for the South Sudanese leaders to rise to the challenge and start negotiating in good faith towards a peaceful, equitable and

⁶⁹ Ibid

⁷⁰ EU Fact Sheet No. 140710/01

⁷¹ EU Declaration On South Sudan, Press 394, Brussels, 10 July 2014

sustainable solution"⁷². European seriousness about contributing positively to ending the violence took to another level when it started imposing sanctions “two persons responsible for violating the ceasefire agreement will be targeted with a travel ban and a freeze of their assets in the European Union”⁷³. The two sanctioned individuals were reported to be Maj. Gen. Santino Deng, Commander of Third Division of the SPLA and Peter Gadet who was described as the leader of the anti-government Nuer militia⁷⁴.

The EU engagement goes parallel levels in case of pushing for a negotiated settlement while in the other hand imposing sanctions “targeted measures against individuals responsible for obstructing the peace process, breaching the cease- fire agreement and having committed egregious human rights violations”. The sanctions extend to the country as well to “same time, an existing arms embargo against South Sudan will remain in place”⁷⁵. The EU role in the IGAD led mediation can be summarise as it offers support using leverage both sanctions and benefits attaining peace in addition to financing the process “ Supporting IGAD in its efforts to mediate between the warring parties and broker a peaceful solution to the conflict. €1.1 million have been mobilized from the EU's African Peace Facility to allow IGAD to set up a platform for peace talks and provide initial funding to a monitoring and verification mechanism” while promised to mobilize addition €45 million fund for European Development Fund (EDF) “to strengthen the EU response to the humanitarian crisis”⁷⁶.

⁷² Ibid

⁷³ Ibid

⁷⁴ Sudan Tribune July 10, 2014

⁷⁵ EU Fact Sheets

⁷⁶ Ibid

2.5.3 Role of the UN

The UN has no direct role in the mediation process as an external actor, yet it has huge presence on the ground in South Sudan through its mission in country (UNMISS), which superseded the conflict. The relations between the GoSS and the UN deteriorated at early stages of the conflict when (13) UNMISS trucks transporting weapons manifested as building materials were uncovered. “The weapons were packed in crates whose labels said they contained food rations. Under the terms of its agreement with South Sudan, the U.N. is only allowed to ship its peacekeepers weapons by air, not by land”⁷⁷.

The UN admitted its responsibility and the mistake of non-adherence to the Standard of Forces Agreement (SOFA) and “the weapons seized were claimed to belong to Ghanaian peacekeepers but the cargo wrongly labelled”⁷⁸ “containers were wrongly labelled and inadvertently contained weapons and ammunition”⁷⁹. The GoSS and the general public in South Sudan accused UNMISS of housing in protection camps elements of pro-Machar rebels and in some occasions white army militia members within its protection sites⁸⁰.

UNMISS’ role in South Sudan continues to expand with its vital civilian protection mandate where it houses hundreds of thousands of Internally Displaced Persons (IDPs) who are forced to take shelter either because of fighting or fearing retribution of other communities in relation to the current conflict. It accepted responsibility over the violation of the Standard of Forces Agreement (SOFA) and apologised but still denied covering elements of rebellion within its protection, then conducted search for weapons

⁷⁷ Foreign Policy March 18, 2014

⁷⁸ African Globe March 19, 2014

⁷⁹ UNMISS statement on the seizure of weapons March 6, 2014

⁸⁰ AC 2 May 2014, Vol 55 - N° 9: p. 2

among IDPs who sought protection in the camps and managed to uncover huge numbers of rifles and pistols though refused to surrender them to the security organs of the GoSS destroyed these weapons transparently in a present of its representative. Though, the UN HQs expressed an apology and was able to dispatch a high level team to investigate the circumstances of the incident it issued a press statement ahead the arrival of the team and expressed “the United Nations Mission in South Sudan (UNMISS) is looking forward to being able to conduct this investigation in full transparency and collaboration with the authorities of South Sudan, and allow the Mission to clarify the circumstances of this unfortunate incident, ensure that it will not happen again, and defuse any misunderstanding between the United Nations and the Government of South Sudan”⁸¹.

The implications of this serious incident created difficult relations where mounting distrusts by the parties to the conflict of assigning a role to the UN on Monitoring and Verification Mechanism (MVM) established by the Secession of Hostilities Agreement signed on 23 Jan 2015. The UN mission in South Sudan continues to provide logistic to the MVM in their deliverance of mandate “to protect civilians and provide humanitarian relief wherever possible”⁸². The UNSC tries to play its leverage role through threatening targeted sanctions against people it may name as spoilers or obstructing peace. Despite the mixed reactions on which the sanctions were received and the regional and national rejection of even a wider arms embargo, it remained an attempt to skilfully engage in ending the crisis through backing African Unions efforts as well IGAD led process⁸³.

⁸¹ Sudan Tribune March 12, 2014

⁸² EU Fact Sheet on South Sudan

⁸³ Garang, E. (2015). *The impact of external actors on the prospects of a mediated settlement in South Sudan*. Paper to be presented at the Academic Conference on International Mediation, University of Pretoria, 2-4 June 2015, Pretoria, South Africa.

2.5.4 Role of China

China is another country with major interests in both South Sudan and the Sudan with actual investments on multiple sectors. It is known the closest ally to the GoS and its major exporter of weapons plus ammunition, yet it maintains good relations with major businesses in South Sudan including being the imports of about 6% of its needs of oil from South Sudan. China's foreign policy is built upon the principle of non-interference in the internal affairs of its allies, friendly countries or business partners; it was certainly disturbed by the development in postsecession relations between South Sudan and its neighbour the Sudan⁸⁴.

China invests heavily in infrastructure, petroleum sector and telecommunication in South Sudan, which constitute real presence on the ground. South Sudan inherited Chinese oil companies working with other south Asians as de facto investors upon its session. Energy-hungry China advances its presence in South Sudan through supporting the developmental activities of the GoSS providing loans and becoming major market for its defence needs. China's role in the advancement of peaceful resolution of conflict commenced with IGAD's early mediation processes where it contributed financial support to the process arguing the parties to reach a quick solution. Its interests in South Sudan coupled with its strategic relations and influence in the region (Ethiopia, Kenya, Sudan and South Sudan) encouraged it play a vital role in engaging the parties bilaterally or collectively towards a nationally owned agreement⁸⁵.

⁸⁴ Pang, Z. (2013). *The Non-Interference Dilemma: Adapting China's Approach to the New Context of Africa and International Relations in*, Mulegata Gebrehiwoot Brehe and Liu Hongwa (editors), *China-Africa Relations*, IPSS, Addis Ababa University.

⁸⁵ ⁸⁵ International Crisis Group (2015). *South Sudan: Keeping Faith with the IGAD Peace Process Africa Report N°228* | 27 July 2015.

Nonetheless, China sees the conflict in South Sudan to surpass the local politics of power struggle within the SPLM to a more international conflict over resources where its rival the US tries to unseat her via proxy or adopting support to favourable individuals in power. Consequently, China took a robust stand, supporting the mediation, engage the parties while deployed its first combat force in South Sudan as part of UNMISS's peace keeping mission in a clear mark of territory of interests.

IGAD received a one million dollar support for the mediation process from China at the beginning of 2014, and continues to engage high-level representation of its Special Envoy to South Sudan and the Sudan. China's role was viewed as important by both parties to the conflict, it was vocal in rejecting the UNSC proposed sanctions threats against the parties giving it more leverage and credible stand from their view points. It focuses on putting efforts to encourage the parties to expedite the process as China's UN ambassador Liu Jieyi described the move for sanctions modalities as no "logic" behind it while condemned the move stating: "To apply a punitive measure now would send out what kind of message - right message or wrong message?"⁸⁶.

2.6 Conclusion

The conflict in South Sudan has attracted a number of actors in a bid to resolve conflicts among the warring parties. The actors include intergovernmental organizations, regional states, international organizations and the international community at large. South Sudan as a new state as is perceived to have evolving weak institutions while not capable yet to stand its ground resisting international pressure that encourages external actors to manipulate the situations towards their own interests. External actors are determined to

⁸⁶ Associated Press, New York, March 1st, 2015.

support the parties and mediator to achieve mediated settlement that concludes the essence of intervention.

It is imperative to stress on the nature of actors intervention as conflict resolution intervention vary greatly and are conducted by numerous kinds of interveners. Most external actors are focused on intervention in South Sudan given the opportunity and interests due to its new emergence and flexibility of Government. Other parties can be influenced and their demands, positions are shaped, redesigned by help of regional and international actors or their perceived interests. Heavy intervention of external actors in South Sudan's internal conflict may prolong the conflict though attributed to its inadequate political control over state affairs or weak control over territorial integrity. The international community engages into South Sudan's internal affairs based on sympathy with the current turn of events in regard to previous optimism post its independence. Despite the fact that this engagement may generate both positive support to mediators and mediation process in engaging the parties to resolve their differences or negatively supporting one of the protagonists to achieve own national interests of the intervener.

This chapter concentrated on establishing the various actors involved in the mediation process in conflict resolution in South Sudan and their roles. The next chapter evaluates the efficacy of these actors in the mediation process in conflict resolution South Sudan.

CHAPTER THREE

EFFICACY OF THE ACTORS IN THE MEDIATION PROCESS IN SOUTH SUDAN

3.1 Introduction

In this chapter, the study sought to evaluate nature of the mediation process in conflict resolution South Sudan and also assess the effectiveness of the mediation process actors in the mediation process. From the previous chapter, the study established that there are various actors in the mediation process in South Sudan. They include IGAD as the lead mediator, regional states (Uganda, Kenya, Ethiopia), the AU and the international community such as the Troika and the US, the European Union, UN and China. This chapter therefore reviews the efficacy of these mediators in the mediation process in South Sudan.

3.2. Mediation Process in South Sudan

Much of the formal peace process during 2014 and 2015 focused on bringing Kiir and Machar to the negotiating table. Mediation talks were held under the oversight of a regional trade body, the Intergovernmental Authority on Development (IGAD), in Addis Ababa⁸⁷. The centrality of Kiir and Machar, present on behalf of the two sides they were thought (or hoped) to control, reflected the initial source of the unrest, as divisions within the ruling Sudan People's Liberation Movement (SPLM) party led to violence between rival army factions. As a result, the path to resolution of the conflict has often been seen

⁸⁷ International Crisis Group (2015). South Sudan: Keeping faith with the IGAD peace process, available online at: [http://www.crisisgroup.org/~media/Files/africa/horn-of-africa/south%20sudan/228-south-sudan-keeping-faith-with-the-igad-peace-process.pdf](http://www.crisisgroup.org/~/media/Files/africa/horn-of-africa/south%20sudan/228-south-sudan-keeping-faith-with-the-igad-peace-process.pdf).

as a matter of finding a balance in the sharing of power – at the expense of underlying issues⁸⁸.

The IGAD mediation process was notable for its extensive involvement of outside actors. The talks became known as the ‘IGAD-Plus’ initiative, due to the presence of states beyond the group’s East African bloc, with representatives from the so-called ‘Troika’ group (the US, the UK and Norway, responsible for financing the talks), China, the European Union and the African Union joining. At the time of the signing of the final peace agreement, both parties still held reservations, but were reportedly forced to proceed under pressure from frustrated international partners⁸⁹.

Significant regional power dynamics were also evident around the talks. In June 2015, Kenya – seen, along with the Ethiopian hosts, to be vying for control of the process – hosted a parallel meeting between Kiir, Machar and a group of former political detainees⁹⁰. Further parallel meetings were convened in Tanzania, intended to reunify the divided factions within the SPLM. Meanwhile, both Uganda and Sudan, present as IGAD member states, had individual interests in the conflict: Uganda had deployed troops into South Sudan at the request of the government, while in certain areas Sudan was alleged to be providing logistical and intelligence support to the opposition⁹¹.

⁸⁸ Awolich, A. (2015b) ‘The mediation pendulum and the challenges that underlie the peace implementation in South Sudan’, Juba: The Sudd Institute, available online at: <http://www.suddinstitute.org/assets/Publications/pendulumAwolich3.pdf>, p8;

⁸⁹ Ibid

⁹⁰ Sudan Tribune, ‘South Sudanese rival leaders urged to make proposals over outstanding issues’, Sudan Tribune, 28 June 2015, available online at: <http://www.sudantribune.com/spip.php?article55518>; Supra at note 7, p12.

⁹¹ Rolandsen, O. H., et al. (2015) ‘A year of South Sudan’s third civil war’, *International Area Studies Review*, 18(1), p97; Supra at note 7, p1, 10.

Critically, there was a much wider group of key actors who were not present for these high-level negotiations. Among the non-violent parties ‘crowded out’ from the dialogue have been independent civil society organizations, less powerful political parties, women’s groups, youth representatives, and the representatives of traditional authorities⁹².

However, IGAD is perceived to have failed in resolving conflict in South Sudan from the start since, despite evidence that crisis was looming in South Sudan since the beginning of 2013, IGAD did little to intervene at crucial stages of conflict build-up regardless early warning reports provided by the Conflict Early Warning Mechanism (CEWARN) and Mediation Support Unit (MSU). IGAD’s role remains crucial and instrumental on conflict prevention and management in the region and amongst its members⁹³.

The ultimate answer to mitigating the differences among the IGAD partners—and bridging gaps between regional and international approaches—was to bring a greater number of partners around the table and ensure they presented as united a front as possible, in support of the mediators, and key substantive compromises. While the United States, as well as our Troika and EU partners, and sometimes China, had been regularly engaged in supporting the mediation, and shuttling between the parties, our role was ultimately unofficial. In a move these actors supported, Ethiopian Prime Minister and IGAD Chairperson Hailemariam embraced the notion of “IGAD Plus” in the summer of

⁹² Jok, J. M., (2015) ‘National reconciliation in South Sudan: How to translate political settlements into peace in the country’, Juba: Sudd Institute, available online at: <http://www.suddinstitute.org/assets/Publications/PeaceReconJok2015.pdf>, p13.

⁹³ Garang, E. (2015). *The impact of external actors on the prospects of a mediated settlement in South Sudan*. Paper to be presented at the Academic Conference on International Mediation, University of Pretoria, 2-4 June 2015, Pretoria, South Africa.

2015, which formally expanded the table and enhanced our collective political weight with the parties. While not a silver bullet, this altered the dynamic, minimized the space for the parties to exploit differences, and ultimately helped secure a peace agreement.

The Agreement on the Resolution of the Conflict, signed by the parties and guarantors in August 2015, was, without doubt, a major achievement. It outlined a comprehensive plan to end the fighting, frame a post-conflict transition, and begin the tasks of reconciliation and reform. Certainly the agreement is not perfect – no agreement is – as the competing interests of the parties, and the different views of external partners, ultimately curtailed the nature of the agreement’s reform agenda. But its imperfection is not something to stand back and opine critically; we must have all hands on deck, working together with the South Sudanese to implement the agreement. If we simply recite all the reasons why the agreement may not work, it will fail. We must avoid creating a self-fulfilling prophecy.

The months since signature have given a taste of just how challenging implementation will be; the parties have manufactured delays, sought to re-negotiate aspects of the agreement, and continued fighting in some parts of the country. Implementation has been slow. Regional and international fatigue with South Sudan has not helped. However, while some of the warring elite still resist the agreement, the narrative is now increasingly about implementation. The space for spoilers is being minimized. We must continue advancing this trend, with the majority of South Sudanese who seek peace.

The Joint Monitoring and Evaluation Commission and its Chairperson, President Festus Mogae, has now begun to fill the void, pushing the parties toward uneven – but

unmistakable – progress. His first reports to IGAD and the AU helped to break some key deadlocks. Progress will surely continue to be beset by new hurdles, and thus South Sudan’s partners – in the region and further afield – will need to remain engaged. Success will require a sustained mix of support and pressure, that, when appropriately coordinated, brought the parties to an agreement in August.

It is important for the mediator to know when to utilise the leverage of the external actors and when to shut them out. If they are not controlled, the process runs the risk of being driven unilaterally by external actors while the mediator should remain in full control. The mediator should mobilize to “influence disputants “ with the help of external actors and check whether “these associates might be included or excluded from the negotiations in order to induce settlement”.

Gen. Sumbeiywo managed external actors’ intervention during the CPA skillfully though did not bar the interaction with the parties or mediation fully but provided limited managed space for them to interact. The external actors accessed parties in the mediation process twice a week without affecting the process as witnessed by his advisor MR. Nicholas Fink Haysomr: “The observers and envoys played a mixed role. The US representatives would pressure us (IGAD Peace Secretariat) because they too were under real pressure to deliver because of US domestic politics but we also needed them and worked with them. They applied vital leverage. At times the parties would ask us to ‘liberate’ them from the various envoys in attendance yet at the same time of course they were arranging their own bilateral meetings with them⁹⁴”.

⁹⁴ Young, J. (2012). The Fate of Sudan: The Origins and Consequences of A flawed Peace Process.

The parties thrive on ownership of processes, identification of agenda and framing issues but with no despite lost opportunity they may claim to have made progress on their own after they asked the mediators to allow them an opportunity to negotiate on their own. The major stumbling block is the assessment of the way forward, the parties read the situation as addressing their own internal SPLM conflict while the mediators assessments is not only to the root-causes within the party but ensuring a solution that addresses issues of governance and leadership. Many analysts stated that IGAD's intervention failed to yield results in last (14) months of mediation triggering new position of inclusion of more actors, (5) representing different regions of Africa in addition to representatives of the Troika, China and both the AU and UN. IGAD's failure to allow space for inclusivity in addition to parties to freely converse with one another at their own during past mediation life span without any control is largely condemned among South Sudan's society. It has been observed that the only success achieved by the parties though negotiation after first round was in Bahr Dar in 2014. Such progress was attributed to the demands of the parties to be allowed space to directly engage⁹⁵.

International actors supporting the South Sudanese peace effort, including the IGAD as well as the 'Troika' (comprising the US, UK and Norway), have reiterated warnings to impose severe sanctions on those dragging their feet in the peace process. The US Ambassador to the UN, Samantha Power was quoted by Reuters as saying,“(IGAD) are now sitting down with the parties and making (it) very clear that if this round of talks ... do not succeed then IGAD and the (Security) Council are going to need to move out on

⁹⁵ Garang, E. (2015). *The impact of external actors on the prospects of a mediated settlement in South Sudan*. Paper to be presented at the Academic Conference on International Mediation, University of Pretoria, 2-4 June 2015, Pretoria, South Africa

these long-threatened sanctions.” This is the continuation of US Secretary of State John Kerry’s effort in June 2014 to persuade three of South Sudan’s immediate neighbours to impose tough penalties against the spoilers of the mediation process.

The Information and Broadcasting Minister Michael Makuei Lueth has reportedly expressed his dissatisfaction with the IGAD-mediation team. “We are appealing to the region and especially the Kenyan government. Kenya is the centre for everything here in the region. This is where our message should be carried from,” he is reported to have said. In August 2014, Ezekiel LolGatkuoth, former South Sudanese ambassador to the United States and top aide of Dr Riek Machar, criticised the IGAD for ‘legitimising Kiir’. In June 2014, the South Sudanese government threatened to withdraw from the IGAD mediation after the Executive Secretary of the IGAD, (Eng.) Mahboub Maalim, allegedly said that the warring parties were ‘stupid’ if they believed they could win militarily.

The only reason that has kept the warring factions in the negotiation process seems to be the fear of alienation and sanction across the region and the world. South Sudan, which receives a major part of its budget from international donors, is not expected to survive long without it. Lacking the type of party and state structure and popular anti-western social base that enabled the Sudanese and Eritrean regime to survive and sustain themselves under similar sanctions and international pressure, the Sudan Liberation Movement/Army (SPLM/A) and the state would be unable to sustain similar levels of sanctions, if imposed. The state, which depends solely on oil revenue for financing the entire public service, faces a serious decline in its ability to exercise legitimate core

functions, including the maintenance of law and order, and the operation of the armed forces (SPLA). This weakness constitutes a recipe for state failure in South Sudan.

On the other hand, if the anticipated sanctions that include asset freezes are imposed, the damage on the rebel's side will also be fatal. As most of the finance is received from the Nuer diaspora and some other sympathisers abroad, there is no way the Machar group can afford a cut in its budget. There is also a growing consensus that the mediation efforts should employ a fresh approach as present efforts have not delivered the anticipated result. The mediation has taken place in unfavourable circumstances with the requirement to adopt some imperfect positions and approaches, such as the inclusion of ethnic and religious representatives with the vision and commitment to transform themselves and their followers from a purely sectarian outlook to that of democratic citizenry. In this regard, a serious concern of the IGAD-led mediation process is the need to ensure the inclusivity of representatives of all communities, particularly those from peripheral areas located far away from the capital Juba. These include organisations that were disenfranchised even before the crisis erupted (mainly in the diaspora) and those who were displaced during and after the crisis.

This is evident because, despite the agreement and formation of a government of national unity, intense fighting has resumed in South Sudan capital of Juba. Fighting broke out on July 7th 2016 between troops loyal to President Salva Kiir and those loyal to Vice President Riek Machar. Hundreds of troops and dozens of civilians have died amid intensifying gun battles in the South Sudanese capital of Juba, which have forced residents to seek shelter at a UN base, approximately more than 250 are dead. Many

civilians have also been forced to flee their homes to escape the violence, which has also hit a UN camp for displaced people sheltering from the violence⁹⁶. This pokes holes on the efficacy of the actors and more specifically IGAD, in the mediation process in conflict resolution in South Sudan.

Three major factors has limited IGAD's mediation and remain a challenge: 1) regional rivalries and power struggles; 2) centralisation of decision-making at the HoS level and related lack of institutionalisation within IGAD; and 3) challenges in expanding the peace process beyond South Sudan's political elites. Following the oft-violated January 2014 Cessation of Hostilities agreement, the HoS mediation strategy focused on deploying a regional force to create conditions for peace negotiations. When the wider international community stymied the prospective regional force and the situation stabilised by June 2014, leaders could not overcome their divisions to agree on an effective alternate strategy. This undermined the IGAD special envoys, and the warring parties opted instead to engage directly with individual HoS in a series of initiatives in Kampala, Khartoum and Nairobi. IGAD itself had little leverage. For example, despite public threats, the warring parties understood some member states were reluctant to support sanctions, repeatedly called IGAD's bluff and refused to compromise⁹⁷.

3.3. Regional Interventions

Regional intervention or actors have a key role in conflict resolution and often have influence over a specific conflict either to contribute to end it or prolong it. Regional

⁹⁶ Independent. (2016). South Sudan: More than 250 dead as violence breaks out in capital of Juba. <http://www.independent.co.uk/news/world/africa/more-than-250-dead-as-violence-breaks-out-in-south-sudanese-capital-a7129726.html> Accessed 10th July 2016.

⁹⁷ International Crisis Group (2015). South Sudan: Keeping Faith with the IGAD Peace Process Africa Report N°228 | 27 July 2015.

mediators who may be interested in resolving the conflict between parties do that because of their common interests or locally driven interests as any internal conflict affects others beyond national borders since “internal armed conflicts commonly have important regional linkages”⁹⁸.

Members of IGAD differed in their assessment of the Juba mid-December 2013 events. Accordingly, started to align their political positions with either side of the conflict. Though no formal stand was nationally declared in support to the rebels, it been reported in various forms by media houses, research centres, International Non-Governmental Organizations (NGOs) specially ones that investigated specific violent incidents that involved atrocities and human rights violations committed by/with the support of foreign elements associated with the rebels the Sudan People’s Liberation Movement/Army In Opposition (SPLM-IO) in particular or/and forces of/or aliened with the Government of South Sudan. Evidence of military support by the Government of the Sudan implicated it with constant supply of weapons and ammunitions, which were airdropped to the South Sudan rebels⁹⁹. At the regional politics levels, there are tensions amongst IGAD’s members that extended to confrontation with use of proxy and support to rebels of each side, resulted in evidence of Sudan’s support to South Sudan rebels prior to its’ independence and through current rebellion of the SPLM-IO (Conflict Armament Research, June 2015, p. 5). The official narrative in the Government of Sudan linked the presence of Ugandan People’s Defence Forces (UPDF) on South Sudan’s soil with proxy

⁹⁸ Jok, J. M., (2015) ‘National reconciliation in South Sudan: How to translate political settlements into peace in the country’, Juba: Sudd Institute, available online at: <http://www.suddinstitute.org/assets/Publications/PeaceReconJok2015.pdf>, p13.

⁹⁹ Crisis Group Africa Report, N°179, p. 14

tactics and alleges Uganda's support to its rebels of the Sudan Revolutionary Front (SRF) namely the Justice Movement and Equality (JEM) and Sudan People's Liberation Movement – North (SPLM-N).

In the other hand, Uganda accuses the GoS of supporting insurgency within Uganda and training and harbouring Joseph Kony the leader of the Lord Resistance Army (LRA) in its territory of Darfur and Central African Republic (CAR). The GoS alleges cooperation and support between Uganda and its rebels albeit that fact that UPDF is not deployed closer to Sudan's boarder but deployed at the Juba airport (capital) and a section of them in Bor the capital of Jonglei states (180 miles north of Juba). Both countries allegations imply concealing intentionally support to each other's rebels and fighting each other by proxy. This indirect armed conflict is extended to political level at IGAD's leadership and has undermined the mediation efficiency negatively. Another dichotomy relates to member state's politics in particular as relates to the silent dispute between Ethiopia and Kenya over the control and management of the South Sudan mediation process as observed by many analysts. The historical fact that Sudan's previous peace agreement 2002 – 2005 which led to the formation of RSS was hosted by Kenya and facilitated via IGAD's Special Envoy efforts generated competing interests by some member states to lead at this opportunity to deliver peace.

3.4 Effectiveness of Troika and the US

The quest for addressing underlining causes of violence and achieving a lasting solution has been the drive for the Troika multiple influences on the mediation process. It looks for hybrid political solution to engulf both leaders of the parties in power sharing agreement while still push for accountability, despite that the GoSS still accuses the

Troika of being partial in pursuit of the rebel's regime change agenda. The Troika strength relies on combined power of its members; the UK as "a former colonial power with strong interests in the country" plus to its status, a vital player and as a permanent member of the United Nations Security Council (UNSC) with developmental agenda coupled with hard power the US represent in addition to the leading role of Norway in both development and reconstruction merged with interests in nation building efforts and reconciliation. The Troika enjoys contacts with other international actors with both ability to aid any process or force their diplomatic methods in addition of several NGOs actors in the humanitarian fields who they fund directly or originate in any of these countries.

In spite the US role as partner in the Troika it often introduced initiatives unilaterally without consulting or informing its allies, which sometimes "took Britain and Norway by surprise"¹⁰⁰. An is the US initiative to open a testing case under multi-track approach through a pilot cease-fire agreement on Nuba Mountains led by Senator Danforth¹⁰¹. The US policy on South Sudan in relevance to US partners is based on governance initiatives to fight corruption, build capacities and introduce reforms as demanded by the opposition. President Kiir Mayar, the President of South Sudan understood the US interests to go-beyond to link to its interests in controlling petroleum resources stating nature linking the US rigorous involvement to a conspiracy involving the current crisis:

¹⁰⁰ Johnson 2011.

¹⁰¹ ISS 2004: 6

“Riek Machar had told them (USA), ‘If you help me to become president, I will chase away the Chinese and other Asian oil companies from South Sudan, and I will give everything to you’. And they believed him”¹⁰².

The US policy towards South Sudan seems to focus on disallowing the continuity of the current constitutional order in power based on suggestions formulated by the United States Institute of Peace (USIP). USIP best articulates position of the US administration as expressed by Ambassador Princeton N. Lyman, the US Special Envoy to South Sudan and the Sudan on principles to include in any future agreement to end crisis in South Sudan:

“It is unlikely that President Kiir would agree to step down as part of any agreement, nor would that be the likely position of international mediators. He is the elected president. But there could be agreed on a broad-based government of national unity until the next elections. The interim government should be broadly representative of ethnic groups, geography, and political leaders, including some of the senior politicians of the Sudan People’s Liberation Movement (SPLM) detained when the crisis erupted”

The US and the EU were accused of using IGAD’s forum of mediation to push for a transitional government to achieve quick fix to the current conflict to advance regime change as it was described by President Kiir “It’s just how to get me out of power, it’s a smokescreen”¹⁰³. In light of the open criticism of the GoSS towards US government’s position in the conflict that was seen partial and in support to the rebellion led by Machar,

¹⁰² New African September 2014: 52

¹⁰³ New African September 2014: 52

including accusation of ignored an incident by his forces causing injury of 4 of its soldiers during the evacuation of US citizens. The perception prompted John Kerry, the Secretary of State to emphasis the American stand and registered respect of his government to legitimacy of GoSS in his first visit to the South Sudan after the conflict on 2nd May 2014: “I might also say that we do not put any kind of equivalency into the relationship between the sitting president, constitutionally elected and duly elected by the people of the country, and a rebel force that is engaged in use of arms in order to seek political power or to provide a transition”¹⁰⁴.

The US follows a more balanced approached and criticised warring South Sudanese’ leaders, accusing them of lacking “leadership” or seriousness to end the violence he then stated “The country’s leaders failed to act on behalf of their people and their nation”¹⁰⁵. The US efforts in advancing a peaceful mediated settlement continued from financing the IGAD Monitoring and Verification Mechanism (MVM) based in Juba in addition to ensuring pressure on the parties. Kerry summarized US intervention that “for more than a year, regional leaders, the US and others have been urging South Sudan leaders to live up to their commitment that can set their country up on the path of peace and prosperity” (ibid). The US supports multiple approaches empowering civil society organisations, supporting IGAD’s quest for inclusivity, pressurising the parties and providing humanitarian assistant in addition to supporting a demand for accountability advocating hybrid court with immediate support with an amount of (500) million dollars in addition to another (5) millions for “justice and reconciliation” programmes in South Sudan.

¹⁰⁴ Africa Confidential 16 May 2014, Vol 55 - N° 10: p. 6

¹⁰⁵ The East African May 5, 2015

The parties are careful in their relations with the US on understanding that it may influence international actors negatively and then being perceived as spoiler that may cause damage on long run. Both sides understand constructive engagement of the US lead to good support to their position shaping the awaited solution. The latest position where the US pushes for an equally balanced negotiated solution if maintained would allow parties to own-up any potential realistic agreement. However, the US did not give away its leverage on the parties and took some practice steps to be heard by the parties when imposed sanctions on two top generals from both warring sides; Gen. Marial Chanuonng Yol, Commander of the SPLA Presidential Guards and Peter Gadet leading former vice-president Riek Machar's forces in Unity state. The sanctions imposed on both generals were to signal serious dissatisfaction of the US with the warring parties its will to move to the next level pushing them to a settlement as stated by Samantha Powers, US Ambassador to the UN:

“The measures taken against Marial Chanuonng and Peter Gadet are only a first step and should serve as a clear warning to those in the Government of South Sudan and those who have taken up arms against it: the United States is determined to hold accountable those who choose violence”¹⁰⁶.

Other vital considerations existed such human rights violations or ethnic targeting killing both are accused of that warranted “banned from travelling to the US and any assets they have in US financial institutions will be frozen”. Yet, it seems the parties did not give much attention to the threats and imposed sanctions and continued to engage in violations of the CoH, that forced the US Treasury Department to declared that it “noted

¹⁰⁶ Sudan Tribune May 6, 2014

designated” Maj-Gen. Santino Deng Wol, SPLA 3rd Infantry Division Commander and Maj-Gen. James Koang Chuol, former Division Four Commander who defected and joined the rebellion and commands its troops in Unity State¹⁰⁷.

3.5 Internationalization of the conflict in South Sudan (China, USA, EU)

As South Sudan is known as rich land endowed with various natural resources, agricultural land, heavy rain falls and many streams of waters it remains ground for very successful future economy and promising opportunities. Consequently, it is a cause of blessing or curse as international multinational and/or super power states tend to develop conflicting interests in the country. The status quo illustrates the entrenchment of South Asian companies in the only utilized economic sector in South Sudan specifically the petroleum sector that generates lucrative incomes. These companies presence has been inherited as part of the CPA settlement between north and south Sudan in 2005 on grounds of respecting existing oil contracts signed by the GoS prior to the conclusion of the peace.

The lucrative business of petroleum sector in South Sudan grabbed attention of expanding US based oil companies who want to enjoy the dividends of the US Government diplomatic support to the achievement and implementation of CPA. This economic battle/competition between supper powers; China vs. USA put South Sudan at odd while turning it playground of conflicting interests that impacted the mediation processes as well. South Sudan’s referendum January 9th, 2011 was a major landmark in a democratic practice of the people of South Sudan whose majority voted for the first time in history and chosen an independent country with 99.98%. This development

¹⁰⁷ Radio Tamazuji September 18, 2014

created an overwhelming support from international community given that it occurred after violent elections in Kenya 2007. Therefore, South Sudan perceived to be the next beacon of peace and democracy in the region. Nonetheless, the failure of SPLM leadership to resolve its internal differences peacefully prompted many international actors led by the EU to support the process for settlement of such dispute through peaceful mediation.

Consequently, the European interests started to build-up in the process and the preferable type of solution to the conflict. These interests encompass perceived suitable political agenda not the bare minimum acceptable position of both parties, as it might not be in fulfilment of the interests. International Community viewed the conflict in South Sudan as a “blessing in disguise” under which a moral authority was pulled-in to fix accumulation of policy errors seen to lead to nonfunctional institutions of governance and slow transformation towards nation building. These interests could be achieved by suggesting implementation of mechanisms such as escrow account, international control of financial management of South Sudan’s oil similar to the one established in Liberia after its civil war (USIP 2014). This conclusion and advice contradicts what is expected of an external actor who supposedly not to identify solutions to the conflict. They should follow the path for ownership by the parties. External actors supposed to provide the protagonists with opportunities to settlement their disputes; they use pressure and leverage to ensure that both are serious and able to come to the table

3.6 Conclusion

For a deeper national reconciliation to take hold beyond the formal peace process, a more nuanced strategy is required; in the country’s fragmented institutional landscape,

influence in the area of peace-building and reconciliation cannot necessarily be secured through the exercise of central state power alone. The international community needs to continue exerting its utmost pressure on the warring parties. The pressure should also be imposed on regional countries that are directly involved in support of one group over the other. The unilateral involvement of certain countries to support one group over the other will drive South Sudan in particular and the region in general into a deeper political quagmire. A more pragmatic solution would be to work for a government of national unity. South Sudan can usher in a transitional Government of National Unity similar to that of Kenya and Zimbabwe where the ruling and opposition parties share power, for purposes of peace in the country.

CHAPTER FOUR

EFFECTIVE MEDIATION PROCESSES FOR CONFLICT RESOLUTION IN SOUTH SUDAN.

4.1 Introduction

This chapter sought to analyse the effective ways of enhancing the mediation processes for conflict resolution in South Sudan. The previous chapter evaluated the nature of the mediation process in South Sudan and established that there were some flaws in the mediation process.

4.2 Conflict and Conflict resolution in African Context

Conflict is a mechanism through which goals and aspirations of individuals and groups are articulated, creative solutions to human problems are sought and collective identities are to be developed¹⁰⁸. As integral to human making, conflict needs to be understood in the milieu of cultural and social contexts involving values and beliefs, fears and suspicions, interests and needs, attitudes and actions, relationships and network¹⁰⁹. Many of the conflicts, now called ‘new wars’, are more internal (civil, intra-state), non-conversational and culture-sensitive¹¹⁰; conflicts having their origins in domestic rather than systemic factors. Hence, analysis of the root causes of conflict has to emphasize

¹⁰⁸ Albert IO (2001) Introduction to third party intervention in community conflict. John Archers Publishers, Ibadan, Nigeria.

¹⁰⁹ Brock-Utne B (2001). Indigenous conflict resolution in Africa. A draft presented to week-end seminar on Indigenous Solutions to Conflicts held at the University of Oslo, Institute of Educational Research: 23 – 24.

¹¹⁰ Boege, V. (2006). Traditional approaches to conflict transformation: Potential and limits. Breghof Research Centre for Constructive Conflict Management.

shared understandings of past and present contexts, and its resolutions be anchored on laid down traditions as the case is in ‘traditional methods of settling disputes’¹¹¹.

Traditional conflict resolution mechanism is a well-structured, time-proven social capital¹¹². Africa is a continent having its own distinct tradition of conflict resolution deeply rooted into its customs and traditions¹¹³. What is distinct about these traditions is that it is deployed to cater for reconciliation, maintenance and improvement of social relationships by effectively settling and facilitating the terms of relationship and collective action for achieving mutually beneficial ends¹¹⁴. Arbitration focuses on conciliation rather than justice on the basis of rules of law as in the western conception of arbitration¹¹⁵. There is cultural tolerance rather than punishment of perpetrators¹¹⁶. Much weight is given to maintaining social order than meeting individual interests¹¹⁷. Traditional African principles are less individualistic and give emphasis to group interests¹¹⁸. Moreover, they consider all parties interested in and affected by the conflict

Tonah, 2007. Arbiters in African tradition are the elderly, religious leaders and other

¹¹¹ Choudree RBG (1999). Traditions of Conflict Resolution in SouthAfrica. African Journal on Conflict Resolution.

¹¹² Osei-Hwedie K, Rankopo MJ (2015). Indigenous conflict resolution in Africa: The case of Ghana and Botswana. University of Botswana.

¹¹³ Choudree RBG (1999). Traditions of Conflict Resolution in SouthAfrica. African Journal on Conflict Resolution.

¹¹⁴ Fred-Mensah B (2005). Nugormesese: An indigenous basis of social capital in a West African Community. K Notes, World Bank.

¹¹⁵ Nwolise OBC (2005) Traditional modes of bargaining and conflict resolution in Africa. Perspectives on peace and conflict studies in Africa. John Archers Publishers, Ibadan.

¹¹⁶ Castro AP, Ettenger K (1996). Indigenous knowledge and conflict management: Exploring local perspectives and mechanisms for dealing with community forestry disputes. A Paper Prepared for the United Nations Food and Agriculture Organization, Community Forestry Unit, for the Global Electronic Conference on "Addressing Natural Resource Conflicts through Community Forestry.

¹¹⁷ Fred-Mensah B (2005) Nugormesese: An indigenous basis of social capital in a West African Community. K Notes, World Bank

¹¹⁸ Nwolise OBC (2005) Traditional modes of bargaining and conflict resolution in Africa. Perspectives on peace and conflict studies in Africa. John Archers Publishers, Ibadan

influential persons in the communities¹¹⁹. These are persons who know the psychological makeup of their people than trained judges, who are more tuned to rules, facts, and reason than to people's heart. The authority of African traditional arbiters is not questioned¹²⁰.

These African methods of conflict resolution have been, however, successively under siege over the years due in part to colonialism, globalization, and urbanization, many ethnic groups in Africa were forced into cohesive structures by the colonists destroying many of the roots of traditional structures including mechanisms of conflict resolution¹²¹. Wadinga¹²² described that the divide and rule policies of colonial administrators assured the docility of different ethnic groups and isolated them from their own way of life. According to Theresa and Oluwafemi¹²³, Africans had their peculiar ways and manners of effecting peace-making, peace building, and confidence building. However, the advent of colonial masters to Africa, adulterated, and in some areas, wiped out these African methods of monitoring, preventing, managing and resolving conflicts. This resulted in to instability and retarded development; replaced dialogue between disputants by fighting, and the mediating role of elders was replaced in several clashes with police actions (tear gas), military-peace keeping operations, and endless court proceedings. According to Olateju, the colonial authority left a legacy of their legal system for governance in

¹¹⁹ Theresa AA, Oluwafemi BL (2014). Methods of conflict resolution in African traditional society. *African Research Review* 8: 38-157.

¹²⁰ Ibid

¹²¹ Awedoba AK (2009). *An ethnographic study of Northern Ghanaian conflicts: Towards a sustainable peace*. Legon-Accra: Saharan Publishers, Africa.

¹²² Wadinga W (2013). Post- colonial conflict in Africa: A study of Richard Ali's City of Memories in *International Journal of Arts and Humanities* 2: 310.

¹²³ Poku H (1998) *African ethnicity, history, conflict management, resolution and prevention*. University Press of America, Inc, USA.

contemporary African societies¹²⁴. Olateju also argues that the statutes and ordinances which encapsulated the letters of the colonial laws became the blueprints of compliance with the judicial system and the principles behind the maintenance of law and order¹²⁵.

Kasongo¹²⁶, on the other hand, examined how globalization has been significantly impacting on traditional African culture of conflict resolution. Kasongo argues that preserving the traditional measures of preventing conflict in post-colonial Africa becomes imperative in the face of the devastating impact of globalization and its attendant imposition of Western values on non-western societies; the possibility of African values going into extinction and African identity distorted is real¹²⁷.

There is little debate about the impacts of colonialism and globalization on local cultures including practices of conflict resolution. But, we can't at the same time down play the role of internal factors in shaping the course of Africa's transformation. Armed conflicts could be one such factor. Africa is in a deep and persistent malaise; it is by far most conflict-prone politically¹²⁸. Jackson holds, "In policy-making circles and media characterizations, it is "the hopeless continent... Such pessimism is driven in part by the

¹²⁴ Olateju AR (2013). Preserving the traditional measures of preventing. *Journal of Education Research and Behavioral Sciences* 2: 232-238.

¹²⁵ Ibid

¹²⁶ Kasongo A (2010). Impact of globalization on traditional African religion and culture Conflict. *Journal of Alternative Perspective in the Social Sciences* 2: 309–322.

¹²⁷ Ibid

¹²⁸ Jackson R (2013). Violent internal conflict and the African State: Towards a framework of analysis. *Journal of Contemporary African Studies* 20: 29-52.

failure to manage... the destructive consequences of multiple violent conflicts” (p.1)¹²⁹. Although such extreme characterizations would rather do even more harm by failing to appreciate not only African potentials but also many other promising developments witnessed on the African soil, it is established that Africa is a continent with longer history of armed conflict and resultant violence harboring the highest number of armed conflicts that invited the highest rate of external intervention, including the Middle East, which also experiences a great deal of intervention¹³⁰.

Because these armed conflicts do not occur in a vacuum but take place in society by society, and for society, their destructive effects would unfold themselves in the social, economic, political, and cultural harm inflicted on people that harbor them. Such impacts are extensively investigated on people and economies worldwide. However, there has been little research carried out trying to explicate the extent of this harm on cultural fabrics in general and indigenous practices of conflict resolution in Africa in particular. In fact, the situation is even grave when it comes to South Sudan where there is little recorded information about¹³¹. In fact, some attempts were made to examine the impacts of the civil war on children in general and impacts on their notions and behaviors of conflict and conflict resolutions in particular¹³². It was found out that the armed conflict in South Sudan has impacted on children by directly increasing their vulnerability and

¹²⁹ Ibid

¹³⁰ Tchombe T (2006). Education, violence, conflict and prospect for peace in Africa: An Evaluation of Research Endeavors for Peace Education. Colloquium International, Yaunde.

¹³¹ Tefera B (2015) Impacts of the armed conflict in South Sudan on children’s perception of conflict and conflict resolution.

¹³² Kibret BT (2015). Armed Conflict, Violation of Child Rights and Implications for Change. J PsycholPsychother 5: 202.

indirectly targeting their way of life (demolishing infrastructure and institution that cater for their needs) ultimately predisposing them to unbearable impacts of cross border migration and internal displacement, material deprivations and harsh child labor, abuse and maltreatment, child streetism, and a compromised schooling¹³³. These experiences seemed to make children become more violent, disobedient, and difficult to communicate with particularly compared to their parents as children and other children living in a war-free neighboring zone¹³⁴.

The traditional conflict resolution mechanisms that are considered indigenous to Africa are characterized with certain basic features. They are, first and foremost, rooted in to the African cultural milieu that values social harmony and unity, interdependence, and communal life¹³⁵. Second, traditional processes are relatively informal, familiar and, hence, less threatening¹³⁶. Third, they focus on the principles of empathy, sharing and cooperation in dealing with common problems which underline the essence of humanity; simplicity, participatory, adaptable flexibility, complete relevance, and comprehensiveness¹³⁷. Fourth, conflict resolution is not a two dimensional “negotiation”

¹³³ Tefera B (2015). Impacts of the armed conflict in South Sudan on children’s perception of conflict and conflict resolution.

¹³⁴ Kibret BT (2015). Armed Conflict, Violation of Child Rights and Implications for Change. *J PsycholPsychother* 5: 202.

¹³⁵ Kirby JP (2006). The earth cult and the ecology of peace building in Northern Ghana, African knowledge and sciences: Understanding and Supporting the ways of Knowing in Sub-Saharan Africa. COMPAS, Africa.

¹³⁶ Choudree RBG (1999). Traditions of Conflict Resolution in SouthAfrica. *African Journal on Conflict Resolution*.

¹³⁷ Brock-Utne B (2001). Indigenous conflict resolution in Africa. A draft presented to week-end seminar on Indigenous Solutions to Conflicts held at the University of Oslo, Institute of Educational Research: 23 –24.

between the combatants, but a three dimensional “reconciliation” between the combatants and all others suffering the negative indirect effects of the conflict; hence, reconciliation with the “Earth”¹³⁸. That is, traditional conflict management mechanisms in Africa are holistic and consensus-based and often tend to focus on whole communities as parties to a dispute, as opposed to individuals¹³⁹.

In terms of purposes, the immediate objective of such conflict resolution is to mend broken or damaged relationships, rectify wrongs, restore justice and ensure the full integration of parties into their societies again, and to adopt the mood of co-operation¹⁴⁰. The purpose is not merely about adjudication of who is right or wrong and the punishment of culprits, but the reconciliation of the parties in which both parties are satisfied and willing to “let go their pain and forgive each other”¹⁴¹. Hence, it is called a mechanism of “restitutive reconciliation” aiming at restorative justice, restoration of order, harmony and the maintenance of relationships within the community by

¹³⁸ Kirby J. P. (2006). The earth cult and the ecology of peace building in Northern Ghana, African knowledge and sciences: Understanding and Supporting the ways of Knowing in Sub-Saharan Africa. COMPAS, Africa.

¹³⁹ Nwolise OBC (2005) Traditional modes of bargaining and conflict resolution in Africa. Perspectives on peace and conflict studies in Africa. John Archers Publishers, Ibadan.

¹⁴⁰ Brock-Utne B (2001). Indigenous conflict resolution in Africa. A draft presented to week-end seminar on Indigenous Solutions to Conflicts held at the University of Oslo, Institute of Educational Research: 23 –24.

¹⁴¹ Castro. A. P, Ettenger K (1996). Indigenous knowledge and conflict management: Exploring local perspectives and mechanisms for dealing with community forestry disputes. A Paper Prepared for the United Nations Food and Agriculture Organization, Community Forestry Unit, for the Global Electronic Conference on "Addressing Natural Resource Conflicts through Community Forestry.

reintegrating feuding parties for true reconciliation [5] through apology and compensation¹⁴².

The importance and utility of the processes lie in the fact that they strive to restore balance and peace, settle conflicts or eliminate disputes and maintain social harmony. They facilitate ownership, strengthen group unity, and have greater resonance in societies than Western conflict management approaches¹⁴³. Compared to the modern methods of litigation settlements in law courts, conflict resolution in traditional African societies promotes consensus-building, social bridge reconstruction and enactment of order in the society, peaceful co-existence and harmonious relationships, durable or positive peace, rather than the mere absence of violence, and effective conflict settlement¹⁴⁴.

Methods of conflict resolution include mediation, adjudication, reconciliation, negotiation, and cross examination¹⁴⁵. Mediation involves anon-coercive, also called third party, intervention of the mediators(s) characterized with a no victor no vanquished' practice¹⁴⁶. Adjudication is an act of bringing all disputants in the conflict to a meeting and conduct dialogue¹⁴⁷. Reconciliation comes as an end product of adjudication in which after the disputants have been persuaded to end the dispute and give concessions restoration of peace and harmony takes shape anchored on the principle of give a little

¹⁴² Nwolise OBC (2005) Traditional modes of bargaining and conflict resolution in Africa. Perspectives on peace and conflict studies in Africa. John Archers Publishers, Ibadan.

¹⁴³ Ibid

¹⁴⁴ Theresa AA, Oluwafemi BL (2014). Methods of conflict resolution in African traditional society. African Research Review 8: 38-157.

¹⁴⁵ Ibid

¹⁴⁶ Isurmona VA (2005) Problems of peacemaking and peace keeping. Perspective on Peace and Conflict in Africa. John Archers Publishers, Ibadan, Nigeria.

¹⁴⁷ Olaoba OB (2005) Ancestral focus and the process of conflict resolution in traditional African societies. Perspectives on peace and conflict in Africa in Essays in Honour of General (Dr) Abdul Salam A. Abubakar. John Archers Publishers, Ibadan.

and get a little¹⁴⁸. Use of arbitration by an authority figure that mediates between conflicting parties but is empowered to make binding judgments; not to render a judgment in law but to reconcile the conflicting parties and its norms. The relationship between the authority and the community is cushioned by community representatives who advise authority William. Negotiation is an attempt to harmonize the interests of the parties concerned. emphasis on recuperation and reinsertion of errant member back into its place in society, the restoration of the harmony and integrity of the community, as the assertion of value consensus and social cohesion, so that the management of the conflict favors the concerns of both parties. Cross examination is made as a means of weighting evidence through cross checking and corroborating of the facts of the conflict¹⁴⁹.

4.3 Effective Mediation Processes for Conflict Resolution

4.3.1 Conflict Parties and their Interests Need to be Properly Analysed

Though it might sound rather obvious, mediation practitioners emphasise that properly identifying and analysing all the parties involved in a conflict is one of the most fundamental parts of the pre-talks phase. As each party differs in the directness of its involvement in the conflict, it is essential to distinguish between parties and, more importantly, analyse their positions, interests, and demands vis-à-vis the conflict and all the other parties. In the process of identifying primary, secondary and third parties, one must examine the internal dynamics of each party. There is a tendency for parties to present themselves as unified fronts, even if fragmentation and internal tensions exist.

¹⁴⁸ Ibid

¹⁴⁹ Ibid

At the beginning of the 2012 Tuareg rebellion, for instance, the Malian Tuaregs were often presented as one unified front behind the National Movement for the Liberation of Azawad (MNLA), even though factions already existed within the Tuareg community, most notably the Front for the Liberation of the Azawad (FPA). Each party's subtleties thus need to be carefully analysed to fully grasp the overall dynamics and players of a given conflict. Although there are many challenges with properly identifying parties and their interests, failing to fully understand their demands can impede and, in some cases, put an end to mediation processes. The latter was, for example, the case in the run-up to the Abidjan Peace Accord of 1996, which was meant to conclude the Sierra Leonean Civil War. Then Minister of Justice, Solomon Berewa, who was actively involved in both the Abidjan and Lome peace processes as the government's representative, reflects on the pitfalls of the Abidjan agreement:

There was poor preparation from the side of the government. We did not try to understand clearly what the rebels wanted ... We didn't know that the rebels were really determined to share power with the government. They were very keen on being in the government, to share power. In the Abidjan agreement, we didn't include any provision for them to do that. Additionally, they wanted amnesty very badly and we did not give them that...In the case of the Lome Peace Agreement, we really did proper preparation. We found out what the rebels really wanted; we went to Lome prepared to meet the rebels and the rebels were able to articulate what they really wanted¹⁵⁰.

¹⁵⁰ Solomon Berewa, interview with the author on July 17, 2012

In Berewa's view, analysing the interests and demands of the Revolutionary United Front (RUF) and other rebel groups in Sierra Leone would have improved the chances of the Abidjan Accord in bringing about an end to the civil war. His assertion that the government of Sierra Leone learnt from the mistakes of the Abidjan Peace Accords and put more effort into understanding the demands of the rebels before going to the ultimately successful 1999 negotiations in Togo is, therefore, a particularly interesting example of the need to analyse conflict parties' demands already in the pre-talks phase.

Furthermore, in analysing the parties and their position vis-à-vis the conflict, mediators must look at their underlying interests and avoid superficial analysis particularly when it comes to self-declared mediators. The mediation practitioners who attended the CMI-organised seminar from March 28–29, 2012 in Addis Ababa noted that there are often actors who present themselves as mediators or third parties but are, in fact, secondary parties with several interests in the conflict. Stakeholders can often co-opt the language of mediation to disguise their interests in the outcome of the conflict. Using the Sudan-South Sudan border conflict as an example, Kenya could potentially become a secondary party acting like a third party. The President of Kenya, Mwai Kibaki, has suggested that his country could mediate between South Sudan and Sudan, which implies that Kenya is a third party in the border conflict. However, as a neighbouring country with plans to build oil pipelines from South Sudan, Kenya is hardly an outsider party without direct interests in the outcome of the conflict. Therefore, although a difficult task, it is always important to carefully tell first, secondary, and third parties apart.

Moreover, often what seem like benign parties might, in fact, act out of self-interest or in bad faith. When dealing with intra-state conflicts, in particular, the state or the ruling

party may well order or call for peace talks merely to increase their own legitimacy and gain more international support. This was the concern with the 2008 Central African Republic pre-talks dialogue after the country's two 1998 and 2003 failed attempts to develop a sustainable path for national reconciliation. The talks between the ruling government, the opposition, and the country's rebel groups were initiated by President François Bozizé, who took great ownership over the process. He pushed for the inclusion of diverse actors in the talks, while in fact around 80 per cent of the people around the negotiating table ended up being either directly or indirectly associated with the government¹⁵¹.

Though Bozizé's call for the dialogue and the inclusion of civil society could have been considered a candid intent to reach an agreement, it more accurately resembled "window-dressing" or exploiting the talks to gain more domestic and international support¹⁵². Therefore, mediation practitioners emphasise the need to always carefully analyse the underlying intentions of all parties involved in peace talks. How should one go about analysing the parties' needs, then? Traditional desk research on the conflict's background and context needs to be done, but by far the most significant way of gathering information about the parties, their internal dynamics, and their needs is talking with them and other relevant actors. It is often helpful for a mediator to meet with conflict parties and other relevant actors informally to talk about the conflict in confidence. Only through such informal research can the mediator better grasp the finer underlying interests and demands of each party, as CMI's Adviser Col. Faye asserts:

¹⁵¹ Sguaitamatti, D. (2008), "Central African Republic, Inclusive Political Dialog (Pre-talks only)," in *Unpack - ing the Mystery of Mediation in African Peace Processes*, ed. Simon J. A. Mason (Zürich: CSS and swis - speace)

¹⁵² Ibid

You must talk and converse casually with the parties and ask them for their positions on disputed issues. Talk to them about the conflict in general. You will then be able to assess what are their interests and what are the parties' standpoints, and assess if power sharing and negotiations are feasible. Such information you can only get by talking with the parties¹⁵³.

There are, indeed, several approaches to acquiring informal information; mediation practitioners employ techniques ranging from casual meetings and conversations to arranging so-called 'palaver huts' (commonly used in Liberia, for instance) and larger sessions between community stakeholders. While desk research can give mediators and their teams valuable background information, informal consultations and talks with parties can give indispensable and timely insights into the parties' internal dynamics and their interest vis-à-vis the conflict. Such insights cannot be gathered without talking with the parties, which is why mediation practitioners underline the importance of informal talks in the pre-negotiations phase. By consulting informally not only the direct conflict parties but also community members, civil society representatives and other relevant stakeholders, the mediation team can better prepare for the negotiations process.

4.3.2 Analyzing Mediators Self Interests

While it is important to analyse warring parties' demands and roles in a conflict, it is just as important to understand mediators' background and political interests. Though neutrality is an adjective often associated with mediators, it is rare for mediators to not

¹⁵³ Col. Mbaye Faye, interview with the author on July 18, 2012.

have any interest in the outcome of the peace process. In some cases, the mediator's own political agenda can be harmful and impede the process. This is especially the case if the mediator is geographically close to the process. "Local players [as mediators] can be spoilers because they have interests," Lakhdar Brahimi asserts and continues, "To put it very, very bluntly, sometimes these players see that interest in the conflict, not in its solution."¹⁵⁴

In retrospect, the 2008 engagement of Muammar Gaddafi in the persisting conflicts between the Tuaregs and the Malian and the Nigerien governments through his Gaddafi International Charity and Development Foundation is a fitting example of how the mediator's own political agenda can be problematic. By getting involved in solving the conflict, Gaddafi was able to fortify his presence and authority in the region. In other words, rather than acting out of a genuine interest to stop the fighting, Gaddafi used the conflicts to his own benefit¹⁵⁵.

As the Tuareg rebellion of 2012 the MNLA demonstrate, the Gaddafi-led peace talks in Northern Mali and Niger failed to bring about sustainable stability in the region. Therefore, it is important to keep in mind that sometimes a self-interested mediator may use the conflict only to his/her own benefit. Nonetheless, a self-interested mediator who has interests in the outcome does not always impede the process. In fact, such self-interests can make mediators more effective and committed to the overall process. There are several advantages to having so-called 'insider mediators' coming from the local

¹⁵⁴ Brahimi, L. (2012). interview by Elina Lehtinen, CMI, April 25, 2012. Available at: <http://vimeo.com/43127135>

¹⁵⁵ Annika Åberg, (2008). " North-Mali and NorthNiger, Libya Engagement," in Unpacking the Mystery of Mediation in African Peace Processes, ed. Simon J. A. Mason (Zürich: CSS and swisspeace), 59.

community, as Emmanuel Bombande, the Executive Director of the West Africa Network for Peacebuilding (WANEP), noted during the April 25, 2012, CMI-European Parliament Seminar “Regional Actors as Vectors of Peace”:

They [insider mediators] are committed to the outcome of mediation processes. They care about implementation and delivery. They are not mediators just because they want to be involved but because they truly care about the outcome. Insider mediators remain after the agreement; they will be there long time after the conflict¹⁵⁶.

The Juba Negotiations between the Government of Uganda (GoU) and the Lord’s Resistance Army (LRA) offer an interesting example of a self-interested mediator. The vice-president of the Government of South Sudan (GoSS), Riek Machar, became involved in the process as the chief mediator because GoSS had a clear interest in eliminating the security threat posed by the LRA in the region, including in South Sudan. The South Sudanese Acholi groups, in particular, had pressurised the GoSS to address the deadly conflict in Northern Uganda. Therefore, in the Juba talks, the mediator’s direct interest in the outcome of the Northern Ugandan peace process was not hampering but, rather, conducive to the process:

The members of the GoSS, and Riek Machar in particular, were suitable mediators in the Northern Ugandan conflict for four main reasons: first, the GoSS had a strong self-interest in achieving peace between the GoU and the LRA in order to stabilize South Sudan; second, as an important regional actor, the SPLM

¹⁵⁶ Bombande, E. (2012). quoted from CMI-EU Parliament Seminar, “Regional Actors as Vectors of Peace: What role for the EU?,” April 25.

*brought political and military leverage to the table; third, the GoSS was not obliged to enforce ICC arrest warrants because Sudan has not ratified the Rome Statute; and fourth, the GoSS was an acceptable intermediary to both parties*¹⁵⁷.

4.3.3 Timing of mediation process

For a mediation process to be effective, the belligerents must be receptive to the process and willing to participate in it. Such viability of mediation is often referred to as ‘the ripeness of the conflict for resolution’. The notion, coined and largely developed by I. William Zartman, is founded on the idea that a conflict is suitable for mediation when the warring parties perceive their status quo as a mutually hurting stalemate¹⁵⁸. In the words of Zartman, “When the parties find themselves locked in a conflict from which they cannot escalate to victory and this deadlock is painful to both of them (although not necessarily in equal degree or for the same reasons), they seek an alternative policy.”¹⁵⁹ Foes are more likely to accept an outside mediator and come to an agreement with each other if they have reached an impasse that does not benefit them. In that sense, the concept of ripeness is rudimentarily based on cost-benefit analysis. A conflict has reached a mutually hurting stalemate when, as Álvaro de Soto puts it, “the opposing parties perceive that the cost of coming to an agreement has become less than the cost of pursuing the conflict.”¹⁶⁰

¹⁵⁷ Lanz, D. (2008). “Northern Uganda, Juba Negotiations,” in *Unpacking the Mystery of Mediation in African Peace Processes*, ed. Simon J. A. Mason (Zürich: CSS and swisspeace), 62

¹⁵⁸ Zartman, I. W. and Berman, M., (1982). *The Practical Negotiator*, New Haven, Yale, University Press; Zartman, I. W., 1985/1989, *Ripe for Resolution: Conflict and Intervention in Africa*, New York, Oxford University Press.

¹⁵⁹ Zartman, I. W. (2001) “The Timing of Peace Initiatives: Hurting Stalemates and Ripe Moments,” *The Global Review of Ethnopolitics* 1.

¹⁶⁰ Álvaro de Soto, interview with the author on July 26, 2012.

Moreover, for the conflict to be ‘ripe’ for resolution, the parties need to feel that there is a way out through the mediation process. Though oft-debated and somewhat contentious, the notion of ‘ripeness’ continues to be relevant to mediation and conflict management. In many cases, as mediation experts point out, a mutually hurting stalemate does make conflicts more propitious towards a mediated solution. However, as the following lessons learnt demonstrate, also unripe conflicts must be mediated and, in fact, the very idea of a conflict’s ripeness can be manipulated. Acknowledging both the advantages and limitations of the term, it should be noted that the following pages use the concept of ripeness to merely analyse the difficult task of properly timing a mediation process and do not necessarily take a stance on the concept’s accuracy.

Bad Timing: Challenges With Mediating Too Early Or Too Late

When a conflict is not ‘ripe for resolution’, a mediation initiative often – though not always – runs the risk of coming to a premature end. If one of the warring parties sees pursuing the conflict as a more viable option than seeking peace, a mediated agreement is unlikely to efficaciously end the conflict. This was the case with the Sierra Leonean Civil War and the Abidjan Peace Accord. The accord was signed between the Sierra Leone People’s Party (SLPP) and the Revolutionary United Front (RUF) on November 20, 1996, but failed to bring about an end to the deadly fighting. The conflict was not ripe for mediation, because at the time one of the parties – the RUF – did not consider military victory unfeasible. Therefore, as the former vice-president of Sierra Leone, Solomon Berewa, explains from the government side, the hostilities were resumed by the RUF:

We [the government’s representatives] went to the negotiations under the false assumption that they [the rebels] were now prepared to lay down their arms and

they would agree to the peace agreement. In fact, we found out that we were wrong. They were not yet prepared or ready for negotiations; they were determined to continue the conflict¹⁶¹.

Despite the Abidjan Peace Accord of 1996, the Sierra Leonean civil war was prolonged and the fighting between the government forces and the rebels resumed. The Abidjan Peace Accord goes to demonstrate how a conflict might not be ripe for mediation if only one of the parties considers the status quo a mutually hurting stalemate.

The ongoing Syrian conflict also speaks for the difficulty of mediating when a conflict is not ripe for resolution. When the Kofi Annan six-point plan for Syria was introduced in February 2012, the conflicting parties were yet to reach a mutually hurting stalemate. Both sides – the government of President Bashar al-Assad and the Syrian opposition – were determined to continue the fighting and did not perceive the Annan-led negotiations as the only way out of the conflict. Apart from the challenges with mediating unripe conflicts, the Syrian example also exhibits the international community's important role in ripening a conflict. Moreover, the case raises the question of ethics and whether one should try to mediate even if the prospects are not favourable. These dimensions of the international community's role and ethics are discussed further in the following lesson learnt on how ripeness can be manipulated.

A mediated resolution is also unlikely to succeed if the warring parties judge their current situation to be bearable. The Baker Plans of the early 2000s exemplify this concept that a mediation process is likely to fail if the parties' cost of adhering to a peace agreement is

¹⁶¹ Solomon Berewa, interview with the author on July 17, 2012

greater than pursuing the conflict. The Moroccan armed forces and the Frente Polisario liberation movement had engaged in a violent conflict over the Western Sahara since Spain withdrew from the area in 1975. James Baker, the 1997–2005 UN secretary-general’s personal envoy for Western Sahara, produced two peace agreements – 2001’s Baker Plan I and Baker Plan II in 2003 – in order to appease the conflict. While Baker Plan I was rejected by the Frente Polisario, Morocco in turn refused to sign Baker Plan II.

In addition to not having included the warring parties in the drafting process, the Baker Plans failed fundamentally because both parties were determined to continue the conflict. Although people were suffering and the conflict posed costs to Morocco, the human and financial costs were not high enough for the parties to voluntarily commit themselves to a peace process. This acceptance of the current situation extends also beyond the direct primary parties, Frente Polisario and Morocco. As James Baker’s successor Peter van Walsum observes, “A number of states with a potential role in the peace process see the status quo as a ‘tolerable solution’, which spares them the necessity of taking sides in the conflict.”¹⁶² In other words, even a deathly and prolonged conflict can be unripe for resolution if both sides deem their situation bearable, like in the case of Western Sahara.

Benefits of Properly Timing Mediation Efforts

If a conflict has reached a mutually hurting stalemate and the warring parties see a way out through negotiations, the prospects for a mediation intervention are good. As mediation experts point out, mediating when a conflict is ‘ripe’ for resolution does indeed increase the chances of success. The UN mediation process at the end of the Salvadoran

¹⁶² Peter van Walsum quoted in Jonathan Litscher, “Western Sahara, The Baker Plans,” in *Unpacking the Mystery of Mediation in African Peace Processes*, ed. Simon J. A. Mason (Zürich: CSS and swisspeace, 2008), 90.

Civil War of 1979–1992 is often considered a textbook example of this. The conflict, which resulted in over seventy thousand deaths, reached its mutually hurting stalemate in November 1989, when the rebel group FMLN's (Frente Farabundo Martí para la Liberación Nacional) general offensive failed to remove the ruling government. The FMLN was able to take control of all major cities of El Salvador but was unable to spark a popular insurgency. Álvaro de Soto, then the UN Secretary-General's Personal Representative for the Central American Peace Process and responsible for the UN's mediation efforts in El Salvador, describes the ripening of the conflict during the November 1989 offense, also known as the 'ofensiva hasta el tope':

They [the FMLN rebels] realised at that point that they could not take power by the force of arms – there was no military solution for them. At the same time, the government panicked and committed a couple of acts of desperation, including the murder of the Jesuit priests at the Central American University ... The November 1989 offensive made the government and the Salvadoran elites come to the conclusion that they could not defeat the guerrillas militarily ... That was the mutually hurting stalemate, the moment of ripeness. You could almost pinpoint the time of the day at which the conclusion became inevitable and the conflict was ripe¹⁶³.

The conflict had reached an impasse, in which both parties had to analyse the costs and benefits of pursuing the conflict as opposed to seeking a peace agreement. As the civil war was both deathly and costly, the FMLN and the Salvadoran government favoured the idea of beginning a mediation process to end the conflict. This situation made the UN-led

¹⁶³ Álvaro de Soto, interview with the author on July 26, 2012

mediation process viable and gave a strong footing to the peace process that ended in the successful signing of the Peace Agreement on January 16, 1992, at the Chapultepec Castle in Mexico City.

In the case of the Sierra Leonean civil war, the conflict became ‘ripe’ for resolution in the run-up to the Lomé Peace Accord. After the unsuccessful 1996 Abidjan talks, another peace agreement was signed in Lomé, Togo, on July 7, 1999, which finally paved the way for officially declaring an end to the eleven-year civil war in January of 2002. By 1999, the warring parties had come to realise that they were not going to win the war militarily. The mutually hurting stalemate was brought about by the prolonged fighting and culminated in the invasion of Freetown. As several Sierra Leoneans involved in the talks point out, the conflict had ripened and reached an impasse:

“Neither the government nor the rebels were going to achieve a military victory. It dawned on them.” Bishop Biguzzi, Bishop Emeritus, Makeni District¹⁶⁴.

“The country was stuck. The military had accepted that they were not capable of resolving the conflict.” – Yasmin Jusu-Sheriff, Former president of Mano River Women’s Peace Network Sierra Leone¹⁶⁵.

“What led to the Lomé Peace agreement particularly was the invasion of Freetown. We were all hiding under our beds like rats.” Solomon Berewa, former vice-president of Sierra Leone¹⁶⁶.

¹⁶⁴ CMI video documentary “Invisible Negotiators”

¹⁶⁵ Ibid

¹⁶⁶ Ibid

4.3.3 Setting a Clear Framework to Clear Confidence

Another way to build confidence between the parties (and the parties and the mediator) before the negotiations is to create a clear framework for the mediation process. That is, agreeing on the overall framework of the process before the actual talks begin can eliminate excess suspicion and build the parties' trust in the mediator and the negotiations. Getting the parties to agree on some rules of the game before commencing the actual talks is often propitious for confidence-building. By establishing the roles of the mediator and the parties as well as the basic rules for the future negotiations, a clear framework builds trust not only between the parties but also between them and the overall mediation process¹⁶⁷. Such framework was produced in the UN-led El Salvador talks between the FLMN and the Salvadoran government. As Àlvaro de Soto points out, the process of creating a framework in the pre-talks phase functioned as a confidence-building mechanism that supported the negotiations:

I think the most important [lesson learned for the pre-talks phase] has been to establish clarity as to what the rules of the game are going to be ... In the case of El Salvador, even though by the end of January 1990 we had a formal request by both sides for the UN to take over, I nevertheless set about a shuttle between the government and the guerrillas in order to set up a framework as to how the negotiations were going to take place ... It actually helped a lot in many ways by eliminating all possible confusion and by establishing clearly what the UN could do and what were the parameters in which we could operate.³²

¹⁶⁷ Isoaho, E., & Tuuli, S. (2013). From Pre-Talks to Implementation: Lessons Learned from Mediation Processes. CMI

The framework for the Salvadoran peace talks was made official in the Geneva Agreement of April 4, 1990. Setting the rules of the game can indeed function as an effective confidence-building exercise in the pre-talks phase. Nonetheless, having clear frameworks and parameters for the negotiations should not concern the pre-talks phase only; instead, as discussed in the subsequent section on the talks phase, setting clear ground rules and having a target goal for the process is important throughout the negotiations.

CHAPTER FIVE

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Summary

The study established that there are various actors in the mediation process in South Sudan. They include IGAD as the lead mediator, regional states (Uganda, Kenya, Ethiopia), the AU and the international community such as the Troika and the US, the European Union, UN and China. The Sudanese government had agreed to IGAD's diplomatic initiative due to a number of reasons. One it's because its Islamist policies had come under strong international diplomatic and financial pressure following the Islamic revolution of 1989. In the wake of the failure, the Sudanese government approached the regional body of the Inter-Government Authority on Drought and Development (IGADD) during its 1993 summit, asking its leaders to mediate in the Sudanese conflict. In response, an IGAD sub-committee on conflict resolution was established and included the presidents of Kenya, Uganda, Eritrea, and Ethiopia. It was IGAD's first political mediation effort; until then the organization had mainly focused on ecological disaster relief work.

Even though some appear to believe that IGAD's glory days when it served as a mediator between the north and south of Sudan and was considered as an effective regional mediator between rival parties in east Africa, are over. A careful examination of the mediation efforts of this East African regional organization suggests that it has played a constructive and helpful role in today's ethnic and political conflicts in South Sudan. Moreover, the case of IGAD's intervention in the conflict between north and south Sudan

during the 1990s and the first decade of the twenty-first century illustrates how proactive intervention and mediation by a regional organization can contribute to modest success in ameliorating conflicts.

Much of the success of the north-south dialogue in Sudan can be attributed to a massive diplomatic effort by IGAD. However, IGAD seems to have failed in successfully mediating the current conflict in South Sudan. On the nature of the mediation process in South Sudan and established that there were some flaws in the mediation process. The unilateral involvement of certain countries to support one group over the other has driven South Sudan in particular and the region in general into a deeper political quagmire. IGAD's Special Envoys specially the Chairman for the mediation process been was accused of advancing external and specifically Troika's interests. IGAD's led process on Sudan had specific distinct style of management of external actors' roles and interventions.

The involvement of immediate regional actors in peace talks was a double-edged sword. From the outset, the engagement of IGAD's frontline states– Uganda, Kenya, Ethiopia, and Sudan – was critical to the parties' calculations and approach to negotiations. The sometimes conflicting interests of these states – some of which subsequently became overt or covert participants in the conflict – likewise influenced their approach to the process, particularly during IGAD summits when senior regional leaders participated directly in mediation. This was sometimes critical in advancing the process, and other times complicated progress, by fundamentally altering the direction of negotiations. In the eyes of some, this compromised the neutrality of the mediation.

Some of the major factors that has limited IGAD's mediation process includes: regional rivalries and power struggles; centralisation of decision-making at the HoS level and related lack of institutionalisation within IGAD; and challenges in expanding the peace process beyond South Sudan's political elites. When the wider international community stymied the prospective regional force and the situation stabilised by June 2014, leaders could not overcome their divisions to agree on an effective alternate strategy. This undermined the IGAD special envoys, and the warring parties opted instead to engage directly with individual HoS in a series of initiatives in Kampala, Khartoum and Nairobi. IGAD itself had little leverage. Despite public threats, the warring parties understood some member states were reluctant to support sanctions, repeatedly called IGAD's bluff and refused to compromise.

The study found out that the mediator's interests in the outcome of the conflict can have both positive and negative effects. Heavy intervention of external actors in South Sudan's internal conflict may prolong the conflict though attributed to its inadequate political control over state affairs or weak control over territorial integrity. The international community engages into South Sudan's internal affairs based on sympathy with the current turn of events in regard to previous optimism post its independence.

IGAD-PLUS is the proposed bridge between an "African solution" approach and concerted high-level, wider international engagement. If it is to overcome the challenges that bedevilled IGAD, its efforts must be based upon regional agreement and directly engage the South Sudanese leaders with greatest influence through both pressure and inducements. To end this war, a process is needed that seeks common ground, firmly

pushes the parties to reasonable compromises, builds on rather than is undermined by the Tanzanian and South African-led reunification process within the Sudan People's Liberation Movement (SPLM, the dominant political force in South Sudan), and whose outcome is guaranteed by IGAD, the AU, the U.S and China. The coming weeks will require concerted international action, coordinated with IGAD, to take the final, necessary steps to secure an agreement. Failure to do so will lead to further violence and fracturing in South Sudan and leave the region without an effective mechanism to mediate its own internal divisions, with devastating consequences for the people of South Sudan and the region.

5.2 Conclusion

The study was guided by the hypothesis that actors involved in the mediation process in conflict resolution in South Sudan were not partial. The study agrees or rather accepts this null hypothesis. From the findings, the conflict in South Sudan has attracted a number of actors in a bid to resolve conflicts among the warring parties. The actors include intergovernmental organizations, regional states, international organizations and the international community at large. South Sudan as a new state as is perceived to have evolving weak institutions while not capable yet to stand its ground resisting international pressure that encourages external actors to manipulate the situations towards their own interests. While some external actors are determined to support the parties and mediator to achieve mediated settlement, others have vested interests, either political or economic, which jeopardizes the mediation process.

When IGAD got involved in a search for peace in South Sudan after the events of December 2013, South Sudanese were hoping that the East African community had a

united front against violence in South Sudan. Nonetheless, the way in which the peace process is progressing under the leadership of IGAD has proved otherwise, and South Sudan is not going to see peace any time soon. The IGAD-led peace process in South Sudan has worsened the political implications of the South Sudanese conflict. It has created significant gaps in the dialogue between the Government of the Republic of South Sudan and the rebels led by Riek Machar. These gaps have emerged because the IGAD-led peace process has not considered the ordinary South Sudanese as an integral part of reaching a lasting peace in the country. But these gaps might be bridged if the majority of South Sudanese were not absent from this dialogue. After all, South Sudanese who want peace form an important constituent in the country. If their voices are ignored, the peace process is a total failure.

The study was also sought to test the hypothesis that the IGAD led mediation process has prolonged conflict in South Sudan. The study also accepts this hypothesis. The interests of the actors in the mediation process in South Sudan's conflict seem to only prolong the conflict. Consequently, the peace process in South Sudan does not need those who shed the crocodile's tears but those who shed genuine tears for the suffering people of South Sudan. In general, South Sudanese expect their government to protect them and ensure that peace prevails in the country. For peace to prevail in the country, South Sudanese, and their government must make the final decision on how peace should be achieved in the country. They should not allow the outsiders to dictate the terms of the peace process.

South Sudanese and their government should own the process. It entails that the government must come up with its own proposal to initiate ways to establish peace in the country. The government of South Sudan should not be the one to react to proposals

made by people who desire nothing but the continuation of war in the country. It has the duty to propose solutions to the conflict because it knows what can work better in the country. It is quite naïve for the government of South Sudan to expect Ethiopia and Kenya, for example, to place the interest of South Sudan first instead of their own. We all know that Riek Machar's headquarters is in Addis Ababa. Ethiopia has political interests in doing so. Therefore, Ethiopian-led mediation is lame. The same is true for Kenya. Riek Machar, shortly before South Sudan's Independence Day in July this year, declared the government of the Republic of South Sudan illegitimate in Nairobi. Kenya has a political interest in doing this as well. Machar was allowed to call a press conference in Nairobi to promote his violent political propaganda.

Kenya, Ethiopia and Uganda seems to have vested interests when compared to Tanzania when it initiated the reunification of the SPLM, where good results have been achieved. The so-called former detainees have now rejoined the government and are functioning as part of peace building in the country. The Tanzanian example is the form of mediation that the conflict in South Sudan needs. Tanzania does not have hidden agenda in South Sudanese politics. It, therefore, took a neutral stand in the interest of South Sudan and its people to live in peace and prosperity.

The study also sought to test the hypothesis the IGAD mediation process is not effective for conflict resolution in South Sudan. The study accepts the hypothesis. Mediation practitioners stress that mediators who look neutral are unlikely to be that. The United Nations, for instance, is often considered an impartial broker, even though the interests of individual member states are usually reflected in the organisation's agenda. Therefore, a

proper analysis of the mediator's as well as the conflict parties' interests vis-à-vis the conflict and other parties must always be carried out in the pre-talks phase, for it contributes to more successful and sustainable peace processes. Such analysis should also feed into the process of deciding whom to include in the actual negotiations.

The growing protests against the IGAD peace proposal suggest that the people of South Sudan have realized the dangerous path the country is heading to. Therefore, South Sudan's government needs to show its people that it is in control of the destiny of the country because the future of the country is not in the hands of the IGAD. The IGAD countries have different agendas and interests in the peace process. The future of South Sudan should be in the hands of the government and its people. IGAD's Compromise Agreement has failed the test, and South Sudanese must decide the way to achieve peace in the country.

A better way forward to achieve peace in South Sudan is for the government not to rely on the IGAD mediation. The current peace should be the last round under IGAD mediation. If it fails, IGAD should not be allowed to continue the process. A new mediation should be sought.

5.3 Recommendations

The study recommends that, two things need to happen if peace is to be realized in South Sudan. First, there is a need to show that IGAD is no longer a neutral and credible body to promote peace in South Sudan. Second the government of South Sudan must not delegate its responsibilities of searching for peace in the country to others. It needs to take full responsible and device a way forward to end the rebellion in the country.

For peace and effective dialogue to make headways in South Sudan, conversation concerning peace must involve the masses at the grassroots level, particularly the traditional leaders. The presence of traditional leaders or their representatives in the debate about peace in the country could be important because they will bring the concerns of the ordinary South Sudanese on to the negotiating table. The current mode of dialogue by IGAD between the politicians, whose concerns are political powers, has already reached a stalemate. An injection of new ideas from the masses into this process, however, at this point in the history of conflict in South Sudan, would bridge the gaps and cement the relationship between different communities in the country. The South Sudanese traditional leaders have the potential to revive awareness of the importance of social interconnectedness of the South Sudanese communities the tribal politics has destroyed in the country. The underlying claim here is that the traditional leaders would allow the communities to begin to re-emphasize their shared heritage, which has been damaged by negative politics of division and enmity. Therefore, South Sudanese people and their government should design the peace process instead of IGAD.

The study also recommends that African countries and institutions, that is, IGAD, the IGAD Plus Five, the AU Peace and Security Commission, the AU Commission, have to be united and firm in enforcing this agreement on the parties. Second, additional security must be provided to protect the proposed government of national unity and the reform process, as well as civilians caught up in the war. Third, only the international community can assure that the transformational aspects of the agreement – constitutional change, free elections, justice, protection of human rights and free speech, active civil society participation, reconciliation, economic and financial transparency and

accountability, and security sector reform, will be acted upon. Neither of the leading contenders, Salva Kiir nor Riek Machar, have a stake in these processes. Indeed they will find them threatening to their continued and rivalling ambitions for the presidency of the country.

The study recommends that the international community needs to continue exerting its utmost pressure on the warring parties. The pressure should also be imposed on regional countries that are directly involved in support of one group over the other. The unilateral involvement of certain countries to support one group over the other will drive South Sudan in particular and the region in general into a deeper political quagmire. A more pragmatic solution would be to work for a government of national unity.

The IGAD, African Union (AU), United Nations Security Council (UNSC), United States of America (USA), China and Troika have to make a critical set of choices to determine the nature and extend of the transitional government of national unity. They seem to be unconcerned about the fundamental issues that triggered the conflict. The conflict has not only evolved into a civil war in South Sudan, but it has sparked a cycle of horrific social disorder that is rapidly spreading everywhere due to the inability of Salva Kiir's regime to cope with it. The mediators need to resist the temptation of predesigned peace agreement that the parties will be forced to sign or face consequences disciplinary action. By doing so, the interactive problems that beset the first nine sessions of the peace negotiations could be circumvented and imposition of solutions in favor of the genocidal government of Kiir can be prevented, to open up the process for constructive dialogue among the conflicting parties and participants based on democratic practices. Nevertheless, all those challenges can be corrected now by setting forth a new process

and communication standards among the concerned parties. The importance of reinvigorating the peace talks cannot be underestimated. It is imperative, urgent and decisive for the success of the next round of talks, so that it does not stagnate and crumble. Thus there is a need for stronger action from Africa, the UN, and the U.S.

The study recommends that negotiations are bound to be more successful if the conflict has reached a high level of 'ripeness'. That is, the parties' willingness to end the conflict and perception of the mediation process as a 'way out' make a mediated resolution more attainable. Nonetheless, there are situations in which a mediation intervention is necessary and inevitable before the conflict is fully 'ripe' for resolution.

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