

UNIVERSITY OF NAIROBI

INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES

BY

JAAFAR AHMED

SUPERVISOR: DR. EMMANUEL KISIANGANI

**THE AFRICAN CHARTER ON DEMOCRACY, ELECTIONS AND
GOVERNANCE AND ITS APPLICATION: A CASE STUDY OF THE
REPUBLIC OF SOMALIA.**

**A PROJECT SUBMITTED IN PARTIAL FULFILFILMENT OF THE
REQUIREMENTS FOR THE AWARD OF THE DEGREE OF MASTERS OF
ARTS IN INTERNATIONAL STUDIES TO THE INSTITUTE OF
DIPLOMACY AND INTERNATIONAL STUDIES, UNIVERSITY OF
NAIROBI**

2017

DECLARATION

This Research Project is my original work and has not presented for a degree award in this or any other University.

Signature:.....

Date:.....

Jaafar Ahmed Adon

R50/82745/2015

This Research Project has been submitted for examination with my approval as the University supervisor.

Signature:.....

Date:.....

Dr. Kisiangani

Institute of Diplomacy and International Studies,

University of Nairobi

DEDICATION

I dedicate this study to my parents, especially my Mother Abdiya Ali who provided me with much needed encouragement and moral support through the study. I extend my dedication to my special sister Zeitun Adon, who worked tirelessly and supported me through the entirety of this Research Project. Last but not least are best friends who have been there with me and assisted me through my Masters' journey. Thank you all for your support.

ACKNOWLEDGEMENTS

My special gratitude goes out to all those that have supported me in my postgraduate studies as well as in my Research Project. My special thanks goes to my supervisor Dr. Kisiangani for his supervision during this study. I am grateful for the patience, wisdom and motivation during the research process. Thank you for your time, constructive comments and invaluable advice.

I also want to thank the staff and members of the Institute of Diplomacy and International studies. It is through the knowledge and support impacted upon me that I was able to complete this Research Project.

I would also like to mention Hussein Jamaa Director General Ministry of Planning and International Cooperation Somalia who assisted me with my Research project.

Further gratitude goes to Richard Ng'etich for his moral support during this time and wisdom.

My special gratitude goes to Richard Lesasuiyan, Felix Mulama, Samwel, Andati, and Scadden Oringa in their efforts to encourage me and provide me with much needed moral support during my post-graduate academics.

TABLE OF CONTENT

DECLARATION	ii
DEDICATION	iii
ACKNOWLEDGEMENTS	iv
TABLE OF CONTENT	v
ABSTRACT	vii
ACRONYMS	viii
CHAPTER ONE	1
INTRODUCTION AND BACKGROUND TO THE STUDY	1
1.1 Introduction.....	1
1.2 Background	2
1.3 Statement of the Problem.....	3
1.4 Objectives	4
1.4.1 Overall Objective	4
1.4.2 Specific Objective	4
1.5 Research Questions	4
1.6 Hypothesis.....	4
1.7 Justification of the Study	4
1.7.1 Policy Justification.....	4
1.7.2 Academic Justification.....	5
1.8 Literature Review.....	5
1.8.1. Somali and the Quest for Peace	5
1.8.2 The African Union	6
1.8.3 African Union Peace Missions.....	6
1.8.4 The African Charter on Democracy, Elections, and Governance (ACDEG) 2007.....	8
1.8.5 Summary Gaps within Literature Review.....	9
1.9 Theoretical Framework.....	9
1.9.1 Idealism.....	9
1.10 Research Methodology	10
1.10.1 Data Collection Procedures.....	10
1.10.2 Ethical Considerations	11
1.11 Scope and Limitations of the Research.....	11

1.12 Chapter Outline	11
CHAPTER TWO	12
THE SOMALI CONFLICT AND AU INTERVENTIONS.....	12
2.1 Introduction.....	12
2.2 Background to Somali Conflicts	12
2.2 African Union’s Intervention in Somali	15
2.3 Conclusion	17
CHAPTER THREE	18
THE AU AND THE PROMOTION OF THE ACDEG IN SOMALIA.....	18
3.1 Introduction.....	18
3.2 Principles of the ACDEG.....	18
3.3 The Rights.....	19
3.4 Somali’s Fidelity to the ACDEG	20
3.5 Conclusion	22
CHAPTER FOUR.....	24
A CRITICAL ANALYSIS OF THE ACDEGAND OPTIONS FOR PROMOTING GOOD GOVERNANCE IN SOMALIA.	24
4.1 Introduction.....	24
4.2 A Critical Analysis of the ACDEG.....	24
4.3 The Charter and Promotion of Good Governance	27
4.3.1 Continental Initiative	27
4.3.2 Regional level – Regional Economic Communities Initiative.....	28
4.4 Conclusion	33
CHAPTER FIVE	34
CONCLUSION AND RECOMMENDATIONS.....	34
5.1 Introduction.....	34
5.2 Summary of Key Finding.....	34
5.3 Conclusion	35
REFERENCES.....	36

ABSTRACT

The study is basically trying to evaluate Somalia's journey towards democratization process, by using the African Union Charter on Democracy, Elections and Governance as a yard stick. This study tries to review Somalia's historical background on clanism. The literature review basically focuses on post-colonial Somalia and the different political leader that have had the opportunity to govern Somalia. The literature review further tries to evaluate the point at which Somalia slept into anarchy and what the reasons were, the literature review further tries to evaluate what mechanism were used to try and arrest the situation. The study evaluates the various UN mission teams that tried to intervene into the conflict. Chapter two of the study looks into the principles and the provisions of the ACDEG and its application to Somalia. The chapter tries to analyze the intervention by African Union Mission to Somali by looking into what they were able to do right that the United Nations Mission to Somalia got wrong. The chapter further looks into the different peace mechanism that African Union has such as the various security and peace agencies such as the African Peace and Security Architecture. Chapter three on the other hand tries to evaluate whether Somalia has been able to live by the principles of the ACDEG. The study evaluates Somali's transformation from a failed state back into a stable state. It looks at the various peace agreements that were mooted to restore peace and tranquility into the Horn of Africa. Chapter four puts the last nail into the study by trying to prop mechanisms that can help Somalia realize its full potential in the domestication and operationalization of the Charter within Somalia. Chapter five concludes the study by giving recommendations to be adopted by Somalia.

ACRONYMS

ACDEG	African Union Charter on Democracy, Elections and Governance
AMISOM	African Union Mission to Somalia
APRM	African Peer Review Mechanism
AU	African Union
AUC	African Union Commission
EAC	East African Community
ECOWAS	Economic Community for West African States
OAU	Organization of African Union
PSC	Peace and Security Council
TFG	Transitional Federal Government
UN	United Nations
UNISOM	United Nations Mission to Somalia

CHAPTER ONE

INTRODUCTION AND BACKGROUND TO THE STUDY

1.1 Introduction

Somali is part of the Horn of Africa and has been the cradle of culture and diversity since the pre-colonial time. Somalia has endured the longest explosive armed struggle in Africa.¹ Somali has, for some time now, been deeply involved in both inter and intra-state conflicts. The internal conflicts and intra state conflicts notably with its neighbors, Ethiopia and Kenya could be understood in terms of socio-economic co relationship of broad geographical extent & historical depth of the region.²

Efforts have, however, been made to resolve tensions and conflicts within and around Somalia with a mixture of successes and challenges. Several stakeholders have had to play various crucial roles especially in promoting peace inside Somalia, key among them; the African Union (AU). The AU's role in Somali can be traced back to the yesteryears of the Organization of African Union (OAU) that called for the self-determination of Somalia from colonialists. The continental body has been using various legal instruments in its endeavor to pacify Somali. This study focuses on concentrate on the ACDEG³ & the extent to which the AU has promoted it in the context its peacekeeping and building in Somalia.

The ACDEG was adopted on 30th January 2007 but, became operational in April 2013 after 41 African Countries had signed although only 17 had ratified and domesticated the document.⁴ The principles within the charter call for all African countries to have a right to civilian rule; it outlaws unconstitutional changes of government and military coups, and provides for credible and transparent elections. The charter also reiterates the advancement of democratic values and participatory majority rules system, separation of powers, holding of regular, valid and straightforward elections, sexual orientation equity and a rejection of acts of corruption related to offenses and injustices. These are ideals which the AU has sought to promote in Somalia by working with other stakeholders to establish a central governments and to

¹ Mazrui, A. A. (1983). Political Engineering in Africa. *International Social Science Journal*, 35(2), 279-

294.

² Ibid.

³ African Union, (2007). *The Charter on Democracy, Elections and Governance*. Addis Ababa.

⁴ SOTU, (2015). *Continental Compliance Report*. Nairobi.

maintain/promote peace through the African Mission to Somalia (AMISOM). This study examines the extent to which the AU has promoted the ideals of the ACDEG in Somalia.⁵

1.2 Background

Somali slipped into a civil war in 1991 which was precipitated by resistance against Siad Barre regime. This resistance was led by the United Somali Congress rebel group. The ouster of Said Barre left a power vacuum that resulted in clan-based competition for power. The fighting became intense turning Somali into a failed state, thereby attracting UN intervention through the deployment of United Nations Mission in Somalia (UNISOM 1) in 1992. The situation became worse day by day and UNISOM 1 experienced casualties among its peacekeepers which prompted them to withdraw their troops in 1995.⁶ The greatest undoing for UNISOM while in Somali was the perception created against them of being aliens as opposed to peacekeepers going to rescue the situation and build the capacity of the Somali people. The same was to happen to the Americans in 1993, through the operation Black Hawk; America, however, reiterated that

“the prime objective of America was to remove the Horn of Africa from the zone of strategic and ideological confrontation between the superpowers and permit the people in the area to develop in freedom” – United States Ambassador to Somali.

However much as the UNISOM peacekeeping mission failed in Somali, other agencies within the UN stayed put to handle the Humanitarian situation. UNHCR has, for instance, played a greater role in handling the humanitarian situation in Somali.

The AU then intervened in Somali in 2007 by deploying AMISOM forces. The aim was to address the question of instability, which is in line with the ACDEG’s objectives of addressing the challenges of political instability on the African continent. The main mandate in Somali was to aide in the Transitional Governmental Structures, offer security, provide humanitarian aid and clear terror cells like Al -

⁵ Ibid.

⁶ Ibid.

Shabaab. AMISOM has, therefore, been striving to ensure that democracy and proper governance take root in Somali.

The ACDEG envisions that AU member states should consolidate a culture of majority rule government, peace, constitutionalism, the rule of popular participation, periodic free fair and credible elections, transparent and accountable public administration, and eventually strengthening independent institutions.⁷ In as much as Somali has not ratified the charter, the fact that she has signed it and is a member of Africa's continental organization, it is expected of her to live by the mentioned principles as enshrined in the charter. Contravention of the above principles calls for intervention by the AU and that explains why the AU has variously been involved in setting up a central government and sending in AMISOM troops in Somali.

So far, the AU has made tremendous efforts towards stabilizing Somali and its presence in the Country has been highly attributed to African solutions towards African Problems. The Intergovernmental Authority on Development (IGAD) failed to steer negotiations and was forced to withdraw their troops from Somali in 2007 because they were perceived as to being agents of foreign powers.⁸ Due to such perceptions, AU replaced IGAD with AMISOM and that explains why the peacekeeping group has achieved so much support in its disarmament program from the different Somali clans and warlords.⁹

1.3 Statement of the Problem

Somali has been a member of the African Union, but for far too long she has been at cross purposes with the expectations of the ACDEG. Many at times Somali has been referred to as a failed state that for reasons she has been defying the electoral, democratic and governance principles. Going by the tenets of the Westphalia Treaty (1648), Somali qualifies to be a state since she has a well-defined autonomous community with a distinctive way of life, population, language, and culture, however questions remain on the state's ability to consolidate a culture of democracy, rule of law and the periodic free, fair and credible elections. This study examines the extent to which the AU can support Somali to live by the principles of the ACDEG.

⁷ ACDEG, (2007). *The Preamble and Chapter 1*. "Seeking to entrench in the Continent a political culture of change of power based on the holding of regular, free, fair and transparent elections conducted by competent, independent and impartial national electoral bodies"

⁹ Ibid.

1.4 Objectives

1.4.1 Overall Objective

To establish the extent to which the AU has supported Somali to live by the principles of the ACDEG.

1.4.2 Specific Objective

- i. To assess AU's role in promoting the objectives of the ACDEG in Somalia.
- ii. To analyze the AMISOM's intervention in Somalia and its contribution to promoting peace and stability in line with the ACDEG.
- iii. To suggest ways in which the ACDEG can form a reference point for sustained democratic and governance reforms in Somalia.

1.5 Research Questions

- i. Has the AU contributed to promoting the objectives of ACDEG?
- ii. Has AMISOM's intervention fostered peace and stability in line with the ACDEG?
- iii. In what ways can ACDEG contribute towards a sustained governance and democratic reforms in Somalia?

1.6 Hypothesis

If Somali can adopt, ratify, domesticate and live by the A.U ACDEG, then it stands to realize the full benefits of the Charter's principles including democracy and political stability. Domesticating and living by the Charter does not only mean entrenching the Charter into domestic laws but it means fully adhering to the principles, both in spirit and practice to the letter. The principles of the Charter are very rich in content and can highly contribute to peace and nation-building efforts in a country like Somali that has endured endemic conflicts.

1.7 Justification of the Study

1.7.1 Policy Justification

Somali has had endless conflicts since the ouster of President Siad Barre in 1991. The international community has tried to mitigate and mediate in the Somali conflict but their efforts for far too long have been fruitless at least not until the entry of the

African Union that semblance of relative peace was seen.¹⁰ The study shall, therefore, examine how the policy provisions of the ACDEG have the ability to stabilize Somalia. This will help policymakers at various levels (IGAD, AU, and UN) to draw lessons on the application and operationalization of the ACDEG to solve Somalia's protracted problems.¹¹

1.7.2 Academic Justification

So much has been written about Somali's conflict and instability, however very little has been documented from the perspective of ACDEG in promoting peace and stability in Somalia. The study seeks to fill that gap by promoting academic discussions on the possible contribution of the Charter in promoting peace and stability in Somali's.¹²

1.8 Literature Review

1.8.1. Somali and the Quest for Peace

United Nations quest for a stable democratic and governable Somali can be traced back to the years of colonization. Just like in many other colonies, the UN played a greater role in ensuring that the affairs of the Somali people were managed and determined by the citizens of the Somali. It is therefore evident that the UN and world opinion initiated and implemented policies that were conducive to the liberation of the Somali.¹³ 1952.¹⁴ This Resolution articulated that the contract on Human Rights must contain the arrangements that "all people groups might have a privilege to self-assurance". The Somali requests in Western Somali, Ogaden and the previous North Eastern region of Kenya were considered to be as per the present international law, which perceives the privilege to self-assurance for individuals under colonialism.¹⁵

Ultimately, long term resolution of the Somali problem would lead to the resolution of the outstanding problems in the entire Horn. The Horn of Africa is a natural socio-economic unit, and its people have a great deal in common. Unfortunately, old age

¹⁰ AU Commission, (2017). *African Union Hand Book; A Guide For Those Working with and Within the African Union*. Addis.

¹¹ Ibid.

¹² Woodward, P. (1996). *The Horn of Africa: state politics and international relations*: British Academic Press.

¹³ UN (1945), *The United Nations Charter*. San Francisco.

¹⁴ Ibid.

¹⁵ Gordon, R. E. (1996). *Humanitarian Intervention by the United Nations: Iraq, Somalia, and Haiti*.

hostilities siphon off most resources into armaments and make great contributions to the conflict that does not foster the interests of the people. ¹⁶

1.8.2 The African Union

AU's biggest mandate is to advocate for peace but mostly in polarized regions such as the Horn of Africa. To achieve the latter various strategic collaborations had to be forged ranging from regional blocs to inter-governmental agencies. The various AU agencies that have worked towards ensuring that Africa achieves peace and security range from NEPAD to APSA. AU represents Africans desire to speak with a single voice, however, African countries continue to be divided by ideological, personality differences and the pursuit of conflicting national interests. The dependence of many African Countries on their former colonial powers has tended to work against the African dream. ¹⁷

The African Union has achieved little on issues of political stability in the continent. Political stability needs an absolute agency equipped with all the necessary legal means, including the use of minimum force, mediation, arbitration, and control conflicting interests within the region. AU member states have refused to allow themselves to be subordinated by the continental body. Member States are also yet to realize the benefits of intra-African integration as opposed to inter-African integration that promotes protectionism. ¹⁸

1.8.3 African Union Peace Missions

One of the principle goals of AU is to advance peace, security, and dependability inside part states. Its predecessor, the OAU was largely seen to have failed to secure the rights and freedoms of African nationals from their own oppressive pioneers in light of its superseding rule of non-impedance in the inner issues of others states. A similar view has often attended to the AU. Ali Mazrui once reiterated that the African Union was a talking shop with little power to promote and enforce good governance in Africa. ¹⁹ It had neglected to intercede in part states in conditions of war violations,

¹⁶ Ibid. (1966). *The International Convention on Civil and Political Rights*. San Francisco.

¹⁷ Ward, P.A, (1946) *Regional Arrangements and the United Nations*,

¹⁸ Makinda, S. M., & Okumu, F. W. (2007). *The African Union: challenges of globalization, security, and governance*:Routledge

¹⁹ Ibid.

genocide, and wrongdoings against humankind. In July 2009, the AU stopped collaboration with the International Criminal Court, declining to perceive the Court's capture warrant issued against Sudan's pioneer Omar al-Bashir who had been prosecuted before in 2008 for atrocities perpetrated in the Darfur region. Not only that, but AU has been blamed for failing to intervene in many other conflicts in Africa such as the 2016 crisis in Burundi.²⁰

The AU has not only been blamed for failing to intervene but also accused of failing to offer deterrence through imposing of sanctions in some of the situations. Instead, AU has often called on other parties such as the UNSC to force sanctions. A case in point was AU's call to the UNSC to issue sanctions on Eritrea due to allegations of the latter supporting Somali Islamists, al Shabaab, in their attempt to topple the Transitional Federal Government.²¹

Despite all the AU institutions geared towards Peace, Stability and conflict management there still remains a discrepancy between AU's institutions and capacity to mitigate on unconstitutional changes of government. Lack of consensus between member states and poor early warning mechanism has always seen AU make a late entry into conflict resolution, the challenges are also compounded by a lack of timely financial contributions by the AU member states.²²

None the less, the AU remains the main mainland foundation that can show and speak to Pan African goals at the global level, however, its strategic decision-making policy has been compounded by weak intergovernmental relations and institutionalism. Internal divisions are also evident in the Libyan case whereby three African states voted in favor of UNSCR 1973, the determination shaped the legitimate reason for military mediation in the Libyan Civil War, requesting " an immediate ceasefire" and approving the universal group to build up a no-fly zone and to utilize all methods vital shy in foreign occupation.²³

²⁰ I.C.C. (1998). *The Rome Statute*, Hague; Netherlands.

²¹ Western, J., & Goldstein, J. S. (2011). Humanitarian intervention comes of age: lessons from Somalia to Libya. *Foreign Affairs*, 48-59.

²² Ibid.

²³ Ibid.

Regional economic communities (REC's) have however tried to act as the building blocks to the peace and security architecture of the AU, REC's have come to realize that trade can only thrive when there is peace, security, and political stability. REC's converge through geographical inclusivity as opposed to a shared common political vision, REC's are further compounded by overlapping agendas, scarcity of resources and too much donor dependency. REC's have however proven to be formidable in resolving political disputes, ECOWAS, for instance, was at the forefront of resolving the political turmoil in Cote d'Ivoire and Gambia by forcing the incumbents to relinquish power after being defeated by their opposition competitors.²⁴

1.8.4 The African Charter on Democracy, Elections, and Governance (ACDEG) 2007

As observed earlier, ACDEG was established on the 30th January 2007; In the run up towards the eighth normal sessions of the AU and adopted on the 15th February 2012. A year later, forty-one countries had signed the legal document out of which only 17 also ratified it. Somali was among the countries that signed but did not ratify it. The ACDEG seeks to address issues of bad governance and unconstitutional changes of regimes in Africa. It likewise addresses issues of discretionary of electoral processes, human and civil rights and in support of the citizenry in their administration design. Its objective is to reignite the commitment of African States towards the Universal estimations of Democracy; respect for human rights; the rule of law, and constitutionalism, in its political arrangements of the AU member States.²⁵

The Charter expects that African nations must build up, advance and combine a culture of majority rule government and peace. Which is achievable by guaranteeing straightforward and responsible open organization, reinforcing establishments of administration, advancing urban and voter training and guaranteeing multi-partner political and social exchange. African Countries are relied upon to build up successful foundations for vote based system, keeping in mind the end goal to merge common control over the security powers. In such manner, governments ought to set up and capacitate establishments that secure majority rules system, for example, the Ombudsman, human rights commission and discretionary commissions. The different

²⁴Ward, P.A, (1946) *Regional Arrangements and the United Nations*,

²⁵ Ibid.

organizations ought to collaborate at local and mainland levels, through the trading of best practices in administration.²⁶

1.8.5 Summary Gaps within Literature Review

Some of the gaps within the literature review are that very little has been written to link ACDEG to the context of Somali. AU's involvement in Somali is geared towards ensuring that there is full political stability and democracy; a link that most pan-African scholars have not written about.

The other gap is that most of the existing literature is geared towards Somali's past as opposed to the current political context and the role the AU can play, using its instruments, to promote stability. Again very limited literature has documented Somalis path to the democratization process.

1.9 Theoretical Framework

19.1 Idealism

Idealism calls for the establishment of better policies and entrusting governance to properly constituted institutions. Idealism further maintains that the constituted institutions should be allowed to operate freely and independently as per their stipulated mandate. (Ward, 1945). The ACDEG shares the same ideals that idealism as a theory prescribes for which range from human rights, universal values, principles of democracy that allow the people to decide, promote gender balance, equality, and enhance cooperation among nation-states.²⁷

Idealism further contends that the Sovereign States should develop and establish regimes, laws, and treaties that are universal and binding just like the ACDEG. Idealism reaffirms that there are certain rights that are inherently human and can not be taken away from human beings or be left at the behest of the State like the UN universal principles on Human Rights, civil and political governance. Idealism is inspired by the call to allow international and regional organizations to run the global affairs as opposed to sovereign states. That is why Idealists justify UNISOM and AMISOM's intervention into Somali as opposed to sovereign states intervention as was the case by America, Ethiopia, Eritrea, and Kenya.

²⁶ Ibid.

²⁷ Paine, T. (2004). *Common sense*: Broadview Press.

Idealists reiterate that whenever sovereign states intervene in an intrastate conflict, their desire is always driven by selfish and national interest as opposed to the general good of the belligerent country. This can be reflected in the case of Rwanda and Uganda which have always been quick at intervening in the conflict in DRC, however, their intent has never been driven by the desire to see a stable DRC but their desire has always been to loot the alluvial mineral resources in the DRC. ²⁸

1.10 Research Methodology

There are three main research procedures that are normally deployed as a means of data collection and analysis procedures. The three are basically Qualitative, Quantitative and Mixed method research.²⁹ The Study is going to employ qualitative means for exploring and understanding secondary data. Desktop research shall be applied and then be used to analyze the inductively building from particulars of general themes. The study shall then interpret the secondary data inductively.

Qualitative method is suitable because it gives a deeper understanding of a phenomenon thus eliminating assumptions, qualitative approach opens the Pandora's box thus portraying the real situation when exploring data in-depth.³⁰

1.10.1 Data Collection Procedures

The Study shall use secondary means of data collection. Questionnaires will not be used since the study is going to be carried out through a desk view research. The use of questionnaires could have been justified if the study was going to collect primary data by visiting Somali and interacting with the locals.³¹

The secondary data shall be reviewed from libraries, bookstores, and online searches. Basically, it shall entail the collection of data from print materials such as books, reports, articles and journals as earlier reiterated drawn from libraries. Digital print and credible websites will also be used to extract data.³²

²⁸Woodward, P. (1996). *The Horn of Africa: state politics and international relations* (Vol. 6): British Academic Press.

²⁹Mugenda, O. M. and Mugenda, A. G. (2003). *Research Methods: Quantitative and Qualitative Approaches*. Nairobi: African Centre for Technology Studies.

³⁰ Ibid.

³¹ Bruce, L. B. (1988) *Qualitative Research Methods for Social Sciences*. Florida: Pearson Publishers.

³² Ibid.

The validity and reliability of the data gathered can be trusted because the researcher shall be using the nonprobability method of identifying secondary materials both at the authors level and organizational reports level. Through the use of nonprobability, the study shall target governance books with vast information on the post building mechanism in Somali and also consider Organizations that have conducted remarkable research in Somali.

1.10.2 Ethical Considerations

The study is going to uphold citations, referencing of the various authors, and also avoiding plagiarism. Where the study shall find the need to use the authors wording, paraphrasing shall be deployed. The paraphrasing or quote shall not be blown out of context. Every data gathered shall be treated with utmost care and respect.³³

1.11 Scope and Limitations of the Research

The limitations to this study are time and financial constraints, due to such limitations the researcher shall not travel to Somali for data collection. The study shall however not visit Addis Ababa where the AU offices are stationed.

1.12 Chapter Outline

Chapter one shall entail the research proposal entailing the Introduction, Background, Research Problem, Objectives, Research Question, Hypothesis, Justification of the Study, Literature Review, Gaps within the Literature Review, Theoretical Framework, Research Methodology, Scope & Limitation of the Research, Chapter Outline.

Chapter Two: The Somali Conflicts & AU's Intervention.

Chapter Three: The AU and the Promotion of the ACDEG in Somalia.

Chapter Four: A Critical Analysis of the ACDEG and Options for Promoting Good Governance in Somalia.

Chapter Five: Summary and Conclusion.

³³Golafshani, (2003). Research. "Qualitative Studies Focus on Community Engagement".

CHAPTER TWO

THE SOMALI CONFLICT AND AU INTERVENTIONS

2.1 Introduction

This chapter focuses on Somali's post-cold war conflicts and the efforts to bring about peace by the AU.

2.2 Background to Somali Conflicts

President Siad Barre who came to power in 1969, was the longest-serving Somali president, who ruled with an iron fist in what political pundit referred to as authoritarian rule. Nepotism under his leadership was highly exercised, by appointing his family and kinsmen to the highest position of power.³⁴ That saw his son in law become an army general doubling as the Minister of Interior as well. In the run-up to the 1986 Somali elections, Said Barre was not feeling well and due to his ill health he could not contest for the presidency, but because power does not allow a vacuum, the incumbent fronted his son in law for the position. That didn't come as a surprise because after all, he had been grooming him for the position.³⁵

In an effort to hold onto power his political outfit the Supreme Revolutionary Council (SRC) resorted to authoritarianism and arbitrary arrest of opposition leaders who were opposed to his ideals by perennially calling for nationalism.³⁶ SRC's actions forced opposition leaders to seek political asylum in Ethiopia, where they received warm support from the then communist leader Derg who was a firm believer of nationalism.

Later, the asylum seekers were to establish guerilla groupings that started to wage attacks on Barre's administration. The attacks intensified and thus threatening the stability of the government, Aden Abudallah was left with no option but to call for a reconciliation in an effort to accommodate the disenfranchised. A reconciliatory manifesto was developed of which the aggrieved parties were to sign the document. Upon hearing that, Barre decided to curtail the process by demanding the arrest of all the signatories.³⁷ By 1988 resistance against Barre had snow balled within the

³⁴ Ibid.

³⁵ Green, R. H. (1993). *Somalia: Toward 1994-96 Reconstruction, Rehabilitation and Restructuring*.

³⁶ Ibid.

³⁷ Omaar, R. (2004). *Peace-building and democracy—Lessons of Somalia and Somaliland*. *Whitehall*

military, and by 1991 culminating into a mutiny and the eventual dethronement Siad by the Somali armed forces among other clan-based opposition armed groups. The quest to fill the power vacuum precipitated competition among various groupings, which later culminated into a turmoil between the guerrilla groupings due to unhealthy competition.³⁸

At the onset of the turmoil the Somali customary law flopped, it could not mitigate the conflict. Somali eventually turned into a lawless society since the constitution had been suspended, it is at that particular moment that Somali slipped into a failed state. Suspension of the customary law led to the disbandment of the central government, factional fighting between the Southerners and Northerners intensified.

Due to the state of lawlessness UN in 1992 under the United Nations Security Council through Resolution 733 and 746 decided to send its first peacekeeping mission to Somali commonly referred to as United Nations Operation in Somali (UNISOM 1). The situation on the ground was so hostile that even UN peacekeepers were not spared the wrath of violence, actually in 1995 UN incurred significant casualties among its peacekeeping troops, left with no option but to withdraw from the ground.

³⁹

Inside sources indicate that UN was attacked by hardliners and spoilers who felt that the mediation process was curtailing their interest and therefore the need to scuttle the mediation. In their effort to achieve that, they in sighted their communities and rebel groups against the UN peacekeepers. The study has however noted that the UN was able to broker the following peace deals; Mudug Peace Agreement (1993), Hirab Reconciliation (1994), Kismayo Initiative (1994), and Bardhere Conference (1994) all of which culminated into ceasefire agreements.⁴⁰

The eventual withdrawal by the UN led to the development of two factional autonomous governments. Surprisingly, by 1998 the two factions through a power-

Papers, 62(1), 83-92.

³⁸Thakur, R. (1994). From peacekeeping to peace enforcement: The UN operation in Somalia. *The Journal*

of Modern African Studies, 32(03), 387-410.

³⁹UNSC, (1995). *The Somalia Report*.

⁴⁰Western, J., & Goldstein, J. S. (2011). Humanitarian intervention comes of age: lessons from Somalia

sharing formula exerted relative peace leading to harmony, stability, and order, which saw the removal of Somali from the list of failed states.⁴¹

Despite endorsing the power-sharing deal some factional groups felt aggrieved. The northerners withdrew from the deal and called for secession from Somali. They crafted their region and named it Somaliland then later proclaimed for independence by appointing their rebel leader Abdirahman Ahmed Tuur as the president of the new state.

The post-1995 conflicts that were seen in Somali were a result of power struggles among different political players namely Aidid and Ali. Aidid refused to concede defeat after Ali Mahdi defeated him through a highly contested electoral college in Djibouti. Aidid's protest received a big blow after the international community among other observer groups legitimized Ali's win, Aidid was left with no option but to launch an attack in his home turf the southern part of Somali through capturing Baidoa. After capturing Baidoa he claimed authority and sovereignty over it, off which he ruled for the better part of his life.

His death allowed his son to inherit the position through the foreign support that he got from Meles Zenawi a former Ethiopian Prime Minister. Uganda also accorded their support to Aidid junior. In the year 2000 he was invited to a conference in Djibouti to participate in an election, he presented himself for the contest but unfortunately lost to Barre's interior Minister Salad Hassan. Just like his father, he refused to concede defeat opting for guerilla antics, by generating more conflict in the South of Somali. To resolve the situation an option to form a Transitional National Government (TNG) was fronted in the year 2000, which was later actualized in the year 2004.⁴²

The formation of the TFG was neither spared by the Somali conflict. Abdullah Yusuf got elected as the Somali President by more than 200 parliamentarians. The parliamentarians were to later fall out amongst themselves in the year 2005 due to the relocation of Somali's capital and the deployment of peacekeepers in Somali of which many of the legislatures were against. The Speaker of the parliament among other

⁴¹ Ibid.

⁴² Elowson, C. (2010). *Challenges To Peace and Security: The Role of IGAD*.

few parliamentarians relocated to Somali to capture Mogadishu, the President, on the other hand, remained in Nairobi.⁴³

In a bid to relocate the President back to Mogadishu a battle ensued forcing the Americans to intervene. Taliban, on the other hand, used its terror cells to protect the Speaker who was one of their members through the Islamic Courts Union. The battle led to the Talibanization of Somali, turning the country into a safe haven for the Al-Shabaab terror cells. The insurgency intensified forcing the President to voluntarily resign, he blamed the international community for failing to accord him enough support.⁴⁴

2.2 African Union's Intervention in Somali

AMISOM was first deployed to Somali in the year 2007. Core to their main mandate was to protect the Transitional Federal Government (TFG) from unconstitutional change by the Islamist militia groups, support dialogue and reconciliation, ensure the implementation of the Somali national security and stabilization plan through training the local security forces, support the disarmament and stabilization program, mapping out areas for peacekeeping deployment, and taking care of the humanitarian situation.⁴⁵

AU's intervention, therefore, was to guard against unconstitutional changes of regimes as reflected in the principles enshrined in ACDEG. With AMISOM's deployment, substantial change was realized, with a semblance of order being established in Mogadishu. AMISOM realized very positive success stories when compared to UNISOM 1 & 11, which to some was an indication that local problems can be resolved through local solutions. AMISOM which is highly dependent of the African boots and true to their mission were able to protect TFG regimes up to and after 2012 when the transition term expired.⁴⁶ AMISOM's initial mandate after intervention was geared towards protecting the TFG, but that was to change over time leading to the expansion of its mandate from protecting the Executive to fighting Islamic terror cells. An undertaking that they performed very well, leading to the

⁴³Woodward, P. (1996). *The Horn of Africa: state politics and international relations*.

⁴⁴ Ibid.

⁴⁵Silander, D. (2013). R2P-principle and practice? The UNSC on Somali. *Journal of Applied Security Research*.

⁴⁶ Ibid.

eventual recapturing of Baidoa and Mogadishu towns from the al-Shabaab terror cells.⁴⁷

Improving security situation in Somali has not been limited to fighting terror cells like Al-Shabaab but to a larger extent it also meant training the Somali police and the military personnel through the implementation of the National Security and Stabilization Plan which was developed to ensure that the Somali security personnel had the capacity to protect their nation from both internal and external aggression.⁴⁸ AMISOM, therefore, took it upon themselves to diligently train and equip the Somali security agencies. Security agencies in Somali are today playing a vital role in Somali's securitization exercise, their ability and capacity to handle the task have seen AMISOM downsize their peacekeeping missions. Withdrawal of AMISOM has been made possible due to the national security stabilization program.

AU's intervention in Somali was driven by the sole intention of restoring the presence of a central government in Somali. That gives an explanation as to why AMISOM's core mandate was to protect the TFG and its institutions. Somali's profile was mostly factored as a failed state, a reference tag that squarely apportioned blame to the AU for having failed to in its continental mandate. AU's intervention was therefore driven by the desire to redeem its image but most of all to undertake its continental obligation as enshrined in its constitutive charter.⁴⁹

The intervention was further precipitated by the need to end the political intolerance and indifference among the different leaders in Somalia, the possibility of that was only going to be through internal political dialogue. For the realization of a successful dialogue process, there was the need to provide security. Since Somali was a member state of the AU, the AU took it upon itself to promote security.

Further, AU's intervention in Somali was driven by the call to enable Somali hold a democratic election by the end of TFG regime. True to that in the year 2012 Somali held elections by allowing 135 traditional leaders to vet and elect 275 members of parliament whom in turn elected the president. In as much as the President and Members of Parliament were not elected through the principle of direct universal suffrage, nevertheless, that was far much better when compared to the

⁴⁷ AU, PSC. (2013). *Peace and Security Efforts in Somali*.

⁴⁸ See, National Security Stabilization Plan

⁴⁹ Ibid.

unconstitutional means ascending to power that Somali had gone through the last twenty years when settling for a leader. In short, the 2012 elections were a step in the right direction for Somali's new constitutional and democratic dispensation.⁵⁰

2.3 Conclusion

Since the intervention of AMISOM in Somalia, peace and Security conditions have improved. AMISOM has pushed the Islamist militant group Al-Shabaab out of major towns. Somalia has also established governments that have successfully been qualitatively better than previous ones. Challenges, however, remain in realizing the objectives of the AU's intervention. The Federal Government in Mogadishu remains fragile, its security dependent on AMISOM and its stability far from certain.

The next chapter examines the extent to which the African Union's intervention has promoted the objectives of the ACDEG in Somalia.

⁵⁰ Thakur, R. (1994). From peacekeeping to peace enforcement: The UN operation in Somalia. *The Journal of Modern African Studies*, 32(03), 387-410.

CHAPTER THREE

THE AU AND THE PROMOTION OF THE ACDEG IN SOMALIA

3.1 Introduction

The ACDEG stands to be the guiding principle on elections and good governance within Africa as a whole. In as much as the legal instrument is facing ratification challenges from the African Union member states, its principles towards elections and good governance are still given reference to it.

This chapter looks at these AU guiding principles that are enshrined within the ACDEG legal instrument and contextualize them to the Somali scenario. The chapter shall analyze whether or not the AU's intervention in Somali has been lived up to the Charter.

3.2 Principles of the ACDEG

To advance democratic principles in Africa, the AU must put in place policy and autonomous institutional framework. The standards should include the declarations on the unconstitutional changes of regimes, holding of periodic and democratic elections through the guidance of observer missions. In review to unlawful changes of government, the AU Assembly of Heads of State and Government characterized and pronounced that illegal changes of government might be spelled out in accordance to the Rome Declaration, whereby the following are not acceptable.⁵¹

- The exercise of a military upset detat against a sovereign, fairly chose government
- An invasion by soldiers of fortune to oust a justly chose government.
- The pressure of justly chose government to surrender authority to the triumphant party after open, verifiable & credible elections.

This interpretation was expanded in January 2007 through the ACDEG to incorporate a fifth principle which castigates the amendments of constitutions & legal instruments for term prolongation of tenure of office by an incumbent bearer.⁵²

The ACDEG calls for the following principles to be adopted: promotion of democratic principles and social democracy, separation of powers, holding of periodic, free and credible elections, gender emancipation and rejection of acts of

⁵¹ AU, (2007). *The African Charter on Elections, Democracy and Governance*. Addis: Ethiopia.

⁵² Ibid.

impunity. Somali should, therefore, uphold the spirit of their constitution and promote a culture of constitutionalism and honor to the rule of law. They must inculcate a culture of civic and public participation and protect absolute freedoms, people's security, and individual rights. The document also calls for the elimination of all forms of injustice, so as to respect diverse clans.⁵³

In the context of the AU's intervention in Somalia, the expectation is that AU focuses on assisting Somali to develop, and uphold a culture of peaceful and accommodative democracy that is not driven by emotions. That can be done through promoting peace, supporting the building and strengthening of institutions of governance, among others.

Looking at Somali, however, in the context of living up to the objectives of the ACDEG, the country is still far. The Somali government is still way off in establishing and capacitating institutions that support democracy, such as the electoral commission, human rights commission, free media and public participation in governance processes. The AU needs to assist Somalia to establish institutional cooperation at regional & international levels, via the interchange of best practices in governance.⁵⁴

At a basic level, the AU should encourage Somalia to ratify the ACDEG. Upon acceding and the operationalization of this charter, AU member states are required to tender a statement on strides taken in regard to the domestication after every 2 years. If Somalia were to do that and the AU acted on the consolidated statements tabled to the African Union commission, it may just help for African countries including Somali to work towards meeting the objectives of ACDEG.

3.3 The Rights

As per the ACDEG, Somalia's have an absolute freedom to civilian rule and need be subjected to unconstitutional change of government through a military strife, dethronement of government by mercenaries or armed dissidents rebel groups like al Shabaab. Among the things the AU should seek to promote include ensuring that Somalis are not subjected to the ransom by the incumbent leader for refusal to release authority to a winning party following a democratic outcome that has been envisaged through a credible and transparent elections. Political amendments of the constitution

⁵³ APSA, (2010). *An Assessment of Somali: Success and Challenges of AMISOM*.

⁵⁴ Murithi, T. (2007). *Institutionalizing Pan-Africanism Transforming African Union values*

to suit interested parties should not be experienced since it infringes on the democratic sovereigns, principles and rights of the Somali populace.⁵⁵

3.4 Somali's Fidelity to the ACDEG

Since the formation of the TFG Somali has been holding periodic elections as is prescribed in the ACDEG. Somali should, therefore, be applauded for making a shift from the unconstitutional change of government to the principles of holding periodic free, fair, transparent and credible elections. In as much as the Somali electoral system upholds the use of Electoral College as opposed to the popular voting system, they study acknowledges the progress that they have made since democracy is a process, not an event. Adopting a popular social contract system still, poses a challenge to Somali due to security concerns. However, the Electoral College system is much better than the use of coup de tat. Also good to note, is that during the 2017 General elections the incumbent conceded defeat and facilitated a peaceful and smooth transfer of power.⁵⁶

Somali has a provisional constitution that was adopted in 2012, and it upholds the principals of a bicameral legislature. The constitution is the preeminent law of Somali and it gives the legal framework for the existence of the Federal Republic of Somali, the constitution acts as the source of legal authority and stipulates the rights and duties of both the citizen and the state, it goes further to describe the structures of the government as to being a parliamentary system with the president being a parliamentary framework with the president being the Head of State and the Prime Minister Head of government who holds more official forces than the President.⁵⁷

Through a bicameral legislature, the country has an upper house which is the senate and the lower house which is the national assembly together the two make up the federal system of Somalia. The authoritative report maintains the administer of law, regard for human rights, fundamental legitimate guidelines on global law, equity, and participatory consultative and comprehensive government, division of forces between the three arms of government, the sum total of what that has been revered to guarantee

⁵⁵ Western, J., & Goldstein, J. S. (2011). Humanitarian intervention comes of age: lessons from Somalia to Libya. *Foreign Affairs*, 48-59.

⁵⁶ Ibid.

⁵⁷ Reynolds A, & Carey J. Getting Elections Wrong: Democracy.

responsibility, productivity, and responsiveness to the enthusiasm of the general population.⁵⁸

Somalia is no longer the failed state that political commentators and analysts used to refer to. Stability is being restored in the country despite the security challenges emanating from the terror cells. Today Somalia has a stable and sovereign government that has checks and balances through independent institutions. Unlike in the past whereby the president was a non-resident and had to operate from outside. Today the president is a resident and he operates from within his country. Despite security concerns, Somali has its own policing and military unit.⁵⁹

Gender chauvinism is slowly fading away and women are being given and allowed equal opportunities. In the 2017 Somali general elections a female candidate by the name Fadumo Dayib was allowed to vie for the Presidency which was a very positive undertaking indeed.⁶⁰

The ACDEG calls for equal opportunity among both sexes an undertaking that Somalia is adopting over time. The female presidential candidature has shown that reforms are steadily picking up in Somalia and the calls for affirmative action are being embraced both according to the letter and true spirit of the ACDEG and Somali's provisional constitution. Young girls are being allowed to go to school despite the terror cells derailment and protest. Education to the girl child has been taken seriously.

Institutions and the culture of institutionalism are being developed in Somali. It is very interesting to note that Somali has a bi-cameral system and the national assembly acts as the Electoral College that elects the president. That balance of power between different institutions and arms of government is a very positive stride, seeing that institutions are allowed to operate freely and transparently redeems Somali's governance and democratic dividend.⁶¹

The aspect of incumbents conceding power to the winning party is also a positive move, in the 2017 elections, the incumbent allowed a smooth transition of power to

⁵⁸ Dixon, M. (2013). *Textbook on international law*: Oxford University Press.

⁵⁹ Omaar, R. (2004). Peace-building and democracy—Lessons of Somalia and Somaliland. *Whitehall Papers*.

⁶⁰ Ibid.

⁶¹ Murithi, T. (2007). Institutionalising Pan-Africanism Transforming African Union values.

his opponent. Several incumbents have lost elections in Africa but refused to accept defeat and concede power to their opponents. Rather, they deliberately engineered post-election violence that would help them remain in power at all costs.⁶²

Civil Society groups look to protect and defend the disenfranchised and powerless elements of society, attempting to secure the state's accountability with respect to these most vulnerable groups. It is important to acknowledge that the civil society space in Somalia is bulging. More civil rights groups are being accommodated in Somalia, Amnesty International, and Oxfam among other civil rights groups have set and established their offices in Somali which is a positive development. Civil society groups are known for reminding governments on what they are expected to do by seeking for accountability. Civil society, therefore, places itself potentially in opposition to the popular majority represented by the elected legislative and executive members and may be said to subvert the ordinary political process. Civil society organizations mostly use the courts to secure accountability.

3.5 Conclusion

The AU has attempted to promote some of the provisions of the ACDEG in Somalia but the country has a long way to go. It is important That the government assumes the politicalgoodwill to ratify the ACDEG and promote its implementation. The president and his prime minister must ensure that they themselves believe in the charter and establish better political conditions that can see the full realization and operationalization of the charter.

The AU needs to be more active in advancing the Charter by working with Somalis to ensure that there are conscious efforts to integrate the ACDEG into the country's political culture. A common trend emerged in Somalia during the TFG era whereby actors to unconstitutional change of government claimed for a stake during the signing of ceasefire agreements and peace accord signing. Somalia seems to have past the level and that trend should not be allowed to return to Somalia as it basically promoted selfish and partisan interests.⁶³Any individuals should be prohibited from

⁶²Sciences, L. (2009). Separation or Unity ? A Model for Solving Ethnic Conflicts

⁶³ AUC. (2017). *The African Union Handbook*: "Institute Sanction whenever unconstitutional change of government takes place."

holding public offices or participating in elections. This should be so since it is the only way to restore sanity and uphold democratic principle in Somali.

The Somali government needs to establish a central coordinating structure at the national level through the Prime Minister's office since he is in charge of the government. The independent institutions like the judiciary and parliament should initiate appropriate measures through domestication and legislation of the continental legal instrument. The need to domesticate and incorporate the principles and allowances of ACDEG into the national policies & strategies is very crucial.

The government should conduct civic education programs to ensure wider dissemination of ACDEG within the country. Sensitization and popularization of the charter should be the sole mandate of the government since democracy is a two-way process that must be supported by the general populace so as to ensure that the spirit and the letter of the framework is fully realized. Finally, the AU must work with the Somali government to promote peacebuilding measures and initiatives, for instance, by addressing historical injustices and where possible justice must be allowed to prevail. The government should come up with a truth and justice reconciliation commission meant to address the earlier injustices. Cohesion among the different clans can only be realized only if historical injustices are addressed.

CHAPTER FOUR

A CRITICAL ANALYSIS OF THE ACDEG AND OPTIONS FOR PROMOTING GOOD GOVERNANCE IN SOMALIA.

4.1 Introduction

Since the establishment of the ACDEG, the Somali government has developed and acceded to some articles in the charter. This chapter shall therefore, track and respond towards Somalia's adherence to the legal instrument in fact, the Provisional Constitution of Somalia incorporates most of the obligations stipulated in the ACDEG. However, lack of effective implementation of these key instruments continues to deny the Somali citizens the opportunity to enjoy the right promised to them. This study advocates for the need for Somalia to overcome anti-democratic political processes by seeking to practically adhere to the values and principles of the ACDEG.

4.2 A Critical Analysis of the ACDEG

In 2007, the AU adopted the ACDEG that was later enforced in 2012 with eventual ratification by fifteen AU member states. The ACDEG represents the whims and the assignment of the African Union & the member countries to promote democratic principles on governance in the African continent. The zeal for the established and incorporation of the ACDEG can be derived from various legal instruments on good democratic governance, constitutionalism dispensation, and the respect for the power of law, human rights commitment and credible elections that have changed over time from various frameworks since the establishment of the OAU 1963 charter.⁶⁴

The document was been established in line with, among others, decisions adopted in Maputo, Mozambique, and Addis Ababa, all of which echoed the need for the establishment and eventual adoption of the instrument. For the charter to come into effect, it needed 15 ratifications. Thus far, 47 African countries have shown commitment to the charter, however only twenty-four of these have ratified the document.

⁶⁴ Ibid.

The reason behind the ACDEG is not technical to digest. First and foremost, there is need for African countries to realize the AU commitment towards a unified continent. Peace and democracy must first be realized for development to be achieved. The ACDEG therefore proposes a framework under which AU can achieve its vision.

ACDEG consolidates OAU/AU commitments together that are legally binding in the document, under which member states are in a position to build concrete institutional and traditional foundations for sustainable democratic values that can help realize and perpetual peace. Coupled to these is that the ACDEG was built & adopted at a period in which the normalcy of military coups was arising and uprising democratic strides that was being realized in the post cold war Africa.

The document was to be a mirror to unconstitutional changes of government in Africa through the AU's Constitutive Act. While there have been fewer military coup detat, they remain a drawback towards Africa's democratization process, as witnessed by the 2009 military coup in Mauritania, and the events of 2012 in Mali and Guinea Bissau the very year. Current developments in Burundi 2015 are the major course for concern, with an abortive military coup, unconstitutional change of government, political violence, and both the massive internal displacement of Burundians and refugee flows into neighboring Rwanda, Tanzania, DRC, and Uganda.⁶⁵

The ACDEG warns of this trend, which, if not halted can bring diverse effects to the nurturing and consolidation of democracy. Comparaore's failed attempt to manipulate the constitution of Burkina Faso with a view to prolonging his tenure is one clear case in point. However, popular protest played a key role in forestalling this move. Efforts to protect the Burkina Faso Constitution were mounted by the ECOWAS, AU, and UN among others.⁶⁶

The ACDEG has encouraged the hand of the AU, through its Peace and Security Council, in managing all types of illegal difference in government, including uprisings, for example, the latest ones that toppled the Central African Republic government in 2013. Central African Republic remains under sanction by the AU until it returns to constitutional rule.

⁶⁵Lujala, P., & Journal, S. (2017). The spoils of nature : Armed civil conflict and rebel access to natural resources and spoils of nature : Arm rebel access to natural.

⁶⁶Reynolds A, & Carey J. Getting Elections Wrong: Democracy.

ACDEG is a document written in a clear and accessible manner available in all official languages of AU. The Charter is divided into eleven chapters containing fifty-three articles. The Preamble sets the phase by setting up the establishments of the ACDEG it emphasizes the linkage between the ACDEG and the past OAU/AU duties with accentuation on the dismissal and judgment of unlawful difference in government.

The first chapter defines the articulations utilized as a part of the content while Chapter two underscores the need to advance majority rules system, the control of law, human rights and constitutionalism among others. Section three features the key arrangements that the sanction maintains including the advancement of participatory majority rules system, division of forces holding of general, tenable and straightforward races, sexual orientation correspondence and dismissal of the demonstrations of debasement and related offenses and exemption. Section four confers AU part states to maintaining the matchless quality of constitution by pervading a culture of constitutionalism and the govern of law; ensuring central opportunity, human security and individuals' rights. Its inclinations towards the calculation of a culture of prominent support and taking out all its types of segregation and bigotry and in the procedures, regarding all types of decent variety. Part five underscores the fundamentals of straightforwardness and responsible open frameworks and the fortifying administration organizations, among others.

Chapter six, then again, empowers the formation of protected common control for example finished the security segment and the foundation and capacitating of establishments, for example, the constituent commission, office of ombudsman, human rights commission, among others. Chapter seven confers AU part states to satisfy the AU's affirmations on the standards overseeing popularity based decisions in Africa through, among others, the setting up of autonomous and unbiased national discretionary bodies; for helpful administration of constituent debate; guaranteeing regard for and the implementation of restricting set of accepted rules for electable partners, among others. Chapter eight centrally focuses on unconstitutional change of government. It is, therefore, at the very heart of the governance debate on the continent that has witnessed an increasing debate on election manipulation and the clamor for constitutional changes.

Section nine is one of a kind and creative in that it sets up the significance of the part of states parties in propelling administration. It underscores that administration has political, financial, social and social measurements, and furnishes for engagement with conventional specialists and the decentralization of administration. Chapter ten accommodates components/measures that can be put connected to start changes for the use of the sanction. It recognizes the layers for the application and checking of the adherence of AU part states according to the arrangement of the sanction. Section eleven which is the last one accommodates instruments of approval and increase which must be saved with the administrator of the African Union Commission.

Following confirmation and use of the contract, AU part states are required to present a write about the measure taken towards its training and execution like clockwork. The AUC solidifies these reports and submits them to the AU Assembly of Heads of States and Government through the Executive Council. The AUC at that point makes suitable move on the reports. In accordance with the Constitutive Act and the Protocol Relating to the Establishment of the PSC, the get together and the PSC will decide the proper measures to be forced on any part state in instances of infringement of the contract.

4.3 The Charter and Promotion of Good Governance

4.3.1 Continental Initiative

AUC should play as the central coordinating body at the international level, by ensuring that sovereign states are protected from unconstitutional means of a change of government. AU through ACDEG must ensure that the sovereign will of the people is respected. AMISOM's deployment to protect the TFG and institutions was a progress in the right direction. The Somali Federal government is today alive because of AU's intervention.

AUC needs to coordinate assessment of consistence with contract arrangements mutually with other key organs of AU, including the Pan-African parliament, peace and security board, the African Commission on Human and Peoples' Rights, the African Court of Justice and Human Rights, the Economic, Social and Cultural Council, and so on. There is requirement for the improvement of benchmarks for usage of the ACDEG and screen and assess consistence through other continental and universal initiatives such as the APRM and the Universal Periodic Review. Facilitate

harmonization of policies and laws among AU member states, to avoid inconsistencies. Today the wave of presidential term elongation is being done using the constitution, third terms are being enshrined into the constitution through a referendum.

4.3.2 Regional level – Regional Economic Communities Initiative

RECs need to play the role of a central coordinating function in all five regions of the continent. IGAD's initiative to protect the TFG government before the deployment of AMISOM was welcome, ECOWAS intervention in Ivory Coast and Gambia to protect the sovereign will of the people was also welcome. Regional groupings should, therefore, develop a political responsibility to protect and promote democracy. REC's should go further and encourage AU members to ratify and adhere to the ACDEG. Designate faces points for coordination, check, and follow up on compliance just like the African Peer Review Mechanism and the Universal Periodic Mechanism does. Monitoring and evaluation are important because it's able to determine what works and what does not.

State level – government Initiative

The Somali government is expected should establish central coordinating structures at the national level through the Prime Minister's office since he is in charge of the government. The independent institutions are expected to foster appropriate measures through legislative, executive and administrative frameworks to bring national laws into complying with the ACDEG. The need to domesticate and bring about the principles and provisions of ACDEG into national policies & strategies is very crucial.

The government should conduct civic education programs to ensure wider dissemination of ACDEG within the country. Sensitization and popularization of the charter should be the sole mandate of the government since democracy is a two-way process that must be supported by the general populace. The political goodwill to initiate and promote the charter must first of all come from the political class. The president and his prime minister must ensure that they themselves believe in the charter and establish better political conditions that can see the full realization and operationalization of the charter.

Peacebuilding measures and initiatives must be highly encouraged, historical injustices must be addressed and where possible justice must be allowed to prevail. The government should establish a truth and justice reconciliation commission to address the past injustices. Cohesion among the different clans can only be realized only if historical injustices are addressed.

Going Forward

Somalia's should be guaranteed to the absolute circumstances that steer citizen participation towards good governance, not limited to access of fundamental public information, freedom of the media and holding public institutions into account should be guaranteed. The ACDEG empathizes that good governance is whereby the citizenry is involved in the development of government agenda's, policy frameworks and development programs.⁶⁷

The citizenry should be allowed to constructively critique the government whenever it's loosing directions, media, on the other hand, should conduct oversight and bring to the people's attention whenever the government is losing track. The media should be allowed to highlight and expose the Miss givings of the government. Whistleblowing actually, should be the sole responsibility of the media as has been the case in other Jurisdictions. The Citizenry should be allowed to have access to public documents. Abiding by the above undertakings gives birth to a plural society.

Free, fair, credible, periodic, and verifiable elections as stated in the AU's declarations on the guidelines governing democratic elections on Somalia must always be put into consideration when conducting elections. The exercise should not be riddled with electoral irregularities such as rigging, whereby the incumbent colludes with the electoral agency to manipulate the entire exercise in his favors or vice versa where the opposition does the same. Electoral code of conduct must be upheld at all time as prescribed by the AU charter.

Electoral institutions should be independent, impartial, and credible. The electoral body must strive to uphold and defend the electoral rules and regulations that have

⁶⁷ Ibid.

been developed by the stakeholders. The focus must be laid to both political parties and independent candidates since they are the key players in an electoral contest.

Political Parties and candidates must respect, promote and uphold democratic practices and integrity as prescribed by the laws. That should be so since political parties are institutions of governance recognized by the constitution and among other laws. The rights to political parties include mobilization with the view to gaining legitimate power and promoting pluralistic debates by presenting alternative policy platforms. These are not unfettered though. Rather, they come with certain responsibilities and obligations, for instance, while mobilizing supporters, political parties are expected to do this in a way that does not encourage violence or promote hatred against others.⁶⁸

Political gatherings should additionally evade from affecting or advancing any sort of terrorizing of adversaries, participate in impact selling, voter pay off or some other type of misbehavior, acknowledge or utilize unlawful or illicit cash, utilization of open assets by the officeholder, advocate contempt that constitutes ethnic impelling, criticism of others or actuation to cause hurt, they ought not disturb, obstruct, an opponent's meeting, violently demonstrate, coupled to that is they should not establish a militia force, or similar organization or having any links with radical non state actors such as Al-Shabaab.⁶⁹

Ethnic profiling or any other form of biasness anchored on clanism, political culture and opinion, gender chauvinism, religion or race should not be exhibited at all cost by any public institution, fair treatment should cut across without any favoritism. Equity and equality should and must be the order of the day when conducting public service delivery. The study notes that discrimination and profiling lead to marginalization and eventually violation of human rights, that is enough recipe on the calls for cessation. A good case study is that of the Rohingya in Myanmar, South Sudan, Somaliland, and Puntland.

⁶⁸ Ibid. "Strengthening political pluralism and recognizing the role, rights and responsibilities of legally constituted political parties, including opposition political parties, which should be given a status under national law".

⁶⁹ Ibid.

Independent institutions such as a functional judiciary and an effective parliament make a good enterprise for good governance. Checks and balances within a state are very important since their absence provides a better opportunity for despotic leadership, corruption, and bad governance. The judiciary should be in charge of protecting and interpreting the constitution, the judiciary is further charged with the responsibility of ensuring that there is a peaceful settlement of the dispute. Lack of a better dispute mechanism in most cases leads to violence and anarchy, which explains why Somali had been in that perpetual turmoil. The legislative arm, on the other hand, should be in charge of developing national policy frameworks, reviewing legislation, reviewing and approving budgets, investigating matters of national interest, vetting and approving Executive appointments, providing a platform for public participation on issues of national interest, monitoring and evaluating national policy frameworks and national development Projects.⁷⁰

The Judiciary must guarantee that Somali's have a privilege to value under the steady gaze of the law, and equivalent insurance of the law as a major precondition for an equitable and vote based society. The Judiciary must build up and fortify, audit and strengthen the viability of free national human rights foundations, especially on issues of claim, racial segregation, xenophobia and related prejudice. Detention and assassination without trial must be shunned, political prisoners and asylum seekers must be allowed to enjoy their freedom and if they have to be persecuted it must be through the rule of law. Somali has the biggest number of refugees and political asylum seekers.

The right of women, ethnic minorities, migrants, people with disabilities, refugees, displaced person and other marginalized or social groups, should be protected through the appropriate national legislature and administrative measures. Gender chauvinism affects women the most, culture and traditions have presented a norm that a woman's place should be in the Kitchen and that women should just be seen not heard. Many women have been denied the right to education which should not be the case, persons with disabilities, on the other hand, have been viewed as people incapacitated to perform. All women should be entitled to equal and effective participation in all forms of political involvement as well as economic and social governance, discrimination and chauvinism should not be tolerated

⁷⁰ PAP. (2015). *The Role of Parliaments*.

Civil society organizations should be entitled to a favorable environment that enables them to exist and operate within the law. Civil society organizations remind governments on what they ought to do, they push governments to do that which they have failed to do. In many at times, civil society organizations have been forced to step in on behalf of governments.⁷¹ Marginalized communities and localities have highly been forced to rely on civil society for providence on basic commodities such as food, shelter, medical attention, and education. Sovereign states, however, have a negative perception towards civil society, they view civil society as their competitors which should not be the case since civil society organizations are not political parties.
72

The Media also plays a crucial role in democracy, elections, and good governance. It's upon them, therefore, to ensure that opposing parties and candidates to elections need have equitable access to state-controlled media airplay in the elections and also after the elections. The media provides a platform for interaction and promotion of constructive dialogue between the common citizenry and their leaders. Media should, therefore, be allowed to play an oversight role by exposing and whistle blowing the inadequacies of the government.⁷³

Independent observer mission teams should be allowed to oversee elections whenever there is one the role of observer mission teams should not be limited to general elections but it should extend to referendums. The observer teams should be allowed to conduct their missions in such a way that they access the process prior to, during and after the election. The independent observers should state whether the environment prior were conducive for holding elections and ascertain the free and fair electoral process. The reports that observer mission teams produce should be made accessible to the general population.⁷⁴

⁷¹Human, D (2015). *Promoting & Protecting Civil Society Space*. Brussels.

⁷²Journalists for Justice. (2015). *Black and White: Kenya's Criminal Racket in Somalia*.

⁷³ Ibid.

⁷⁴ ACDEG, (2007). *Article 21*.

4.4 Conclusion

To conclude with, the transitional government placed Somalia in a position to conform by the AU charter on elections, democracy and governance. Somalia is therefore in the right direction towards conforming to democracy and good governance. The study has therefore realized that if Somalia continues with the current trend of giving reference to the legal document then they stand to be a pluralistic society within the Horn of Africa.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This study set out to examine the extent to which the AU has supported Somali to live by the principles of the ACDEG. It specifically sought to assess AU's role in promoting the objectives of the ACDEG in Somalia, to analyze the AMISOM's intervention in Somalia and its contribution to promoting peace and stability in line with the ACDEG and to suggest ways in which the ACDEG can form a reference point for sustained democratic and governance reforms in Somalia. The study came up with a number of findings that are summarized below.

5.2 Summary of Key Finding

One of the important realities that the study found out is the challenge of fully operationalizing the ACDEG. Somalia is not the only country facing the challenge rather a big number of the AU member states have either not signed and if they have, then they have not ratified it.

The study observes that notwithstanding the endeavors and considerable accomplishments influenced a few issues to in any case continue. These incorporate absences of political will with respect to top pioneers, tepid responsibility with respect to senior government employees and absence of straightforwardness have stagnated changes. However, these issues have not been impossible to Somalia.

The African Union legal instrument has produced a democratic law by clarifying the general principles of good governance. Invoking this rule of continental applicable law can help the people of Somalia to regain their right to elect their leaders.

The study realized that Somalia is a patriarchal society and societal constructs including husbands, in-laws, council of Elders, are firmly entrenched in beliefs about women's role in society. For such reasons, the first battlefront for women political aspirants in their immediate family and community. Cultural barriers are reinforced by religious beliefs and both are often effectively exploited and deployed by those who want to keep women out of politics. Misinformation campaigns that reinforce stereotypes about women and confuse voters by telling them that women can only vie

for women's seats, further contribute to reducing women's potential success at the ballot box. Thereby undermining the basic principles of ACDEG.

The Somali government has to reach out and work with stakeholders across the board including government agencies, political parties, civil society, media and development partners among others in the spirit and objective of ACDEG. This will promote trust and legitimacy of the electoral process at any given time. Civil society is also institutional establishments that should be upheld to sort out mindfulness battles on vote based system, great administration and straightforwardness. Be that as it may, the dominant part of towns like Baidoa and Mogadishu they are disregarded and in that capacity just rely upon benefactors for center financing. They are likewise limited in their asset assembly and backing exercises influencing their maintainability. Come 2027 Somali needs to grasp the soul of the ACDEG by endeavoring towards great administration and promotion of the rule of law.

5.3 Conclusion

The ACDEG calls for encouraging mainstream investment, legal and lawful changes, enhanced open division administration, advancing private segment advancement, and building solid associations between government, private segment and common society associations. These changes are meant for advancing a more focused administration conveyance, noteworthy administration contracts that natives can use to request their rights and responsibility, less support, among others. These lawful instruments were produced to quicken the coordination of African Government approaches and programs at the national level. All things considered, these new conventions, rights based arrangement principles and lawful instruments hold African States to higher execution.

REFERENCES

- Adar, K. G. (1994). Kenyan foreign policy behavior towards Somalia, University of Nairobi.
- Branch, D. (2012). *Kenya Between Hope and Despair, 1963–2012*. Great Britain: TJ International Ltd.
- Bruce, L. B. (1988) *Qualitative Research Methods for Social Sciences*. Florida: Pearson Publishers.
- Carr, E. H. (1946). The twenty years' crisis, 1919-1939: an introduction to the study of international relations.
- Dixon, M. (2013). *Textbook on international law*: Oxford University Press.
- Golafshani, (2003). Research. “Qualitative Studies Focus on Community Engagement”.
- Gordon, R. E. (1996). Humanitarian Intervention by the United Nations: Iraq, Somalia, and Haiti. *Tex. Int'l LJ*, 31, 43.
- Green, R. H. (1993). Somalia: Toward 1994-96 Reconstruction, Rehabilitation and Restructuring.
- Hobbes, T. (1651). *Leviathan*: Scholar Press 1969.
- Kant, I. (1795). Perpetual Peace, ed. *Lewis White Beck (Indianapolis: Bobbs-Merrill, 1957)*, 20.
- Kothari, C. R. (2003). *Research Methodology: Methods and Techniques*
- Makinda, S. M., & Okumu, F. W. (2007). *The African Union: challenges of globalization, security, and governance*: Routledge.
- Makoa, F. K. (2004). African union: new organisation, old ideological framework. *Strategic Review for Southern Africa*, 26(1), 1.
- Mazrui, A. A. (1983). Political Engineering in Africa. *International Social Science Journal*, 35(2), 279-294.
- Mugenda, O. M. |& Mugenda, A. G. (2003). *Research Methods: Quantitative and Qualitative Approaches*. Nairobi: African Centre for Technology Studies.
- Murithi, T. (2007). Institutionalising Pan-Africanism Transforming African Union values.
- Omaar, R. (2004). Peace-building and democracy—Lessons of Somalia and Somaliland. *Whitehall Papers*, 62(1), 83-92.
- Paine, T. (2004). *Common sense*: Broadview Press.

- Resolution, U. (2011). Resolution 1973–2011 on Libya. *United Nations S/RES/1973 (2011)*.
- Silander, D. (2013). R2P–principle and practice? The UNSC on Libya. *Journal of Applied Security Research*, 8(2), 262-284.
- Thakur, R. (1994). From peacekeeping to peace enforcement: The UN operation in Somalia. *The Journal of Modern African Studies*, 32(03), 387-410.
- Von Clausewitz, C. (1832). On War, ed. and trans. *Michael Howard and Peter Paret (Princeton, NJ: Princeton Univ. Press, 1976)*, 75.
- Ward, P.A. (1946) *Regional Arrangements and the United Nations*
- Western, J., & Goldstein, J. S. (2011). Humanitarian intervention comes of age: lessons from Somalia to Libya. *Foreign Affairs*, 48-59.
- Woodward, P. (1996). *The Horn of Africa: state politics and international relations (Vol. 6)*: British Academic Press.