

UNIVERSITY OF NAIROBI

**// A CRITICAL ANALYSIS OF THE ROLE OF IGAD IN
MEDIATION: A CASE STUDY OF THE SUDAN PEACE PROCESS,
1994-2005. //**

BY AMOS NJOROGE/GATHECHA

University of NAIROBI Library



0496817 8

**A DISSERTATION SUBMITTED IN PARTIAL FULFILMENT OF THE DEGREE OF MASTER
OF ARTS IN INTERNATIONAL STUDIES TO THE INSTITUTE OF DIPLOMACY AND
INTERNATIONAL STUDIES, UNIVERSITY OF NAIROBI.**

SEPTEMBER, 2007

PA 311256

ARV
JX
1979
' 638
C.2

DECLARATION

This dissertation is my original work and has not been submitted for a degree to any other university.

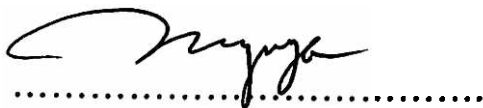


.....
Amos Njoroge Gathecha

13th SEPT 2007
.....

Date

This dissertation has been submitted for examination with my approval as a university supervisor.



.....
Prof. J.D. Olewe Nyunya

13 Sep. 2007
.....

Date

ABSTRACT

A number of studies have been undertaken in regard to the Sudan Peace Process. They range from the chronology of events surrounding the process, the view points of various parties and observers about the process, the conflict situation of the Sudan and the efforts to mitigate the same and much more. A number of studies have also critically analyzed the IGAD led Sudan Peace Process on various dimensions such as the disputants, the conflict history, the mediators history and one or more of these combinations.

The objectives of this study are: to critically analyse the impact of the disputants relationship in mediation outcome; to critically analyse the socio-political factors and their impact on mediation outcome; to critically analyse the issues at stake and their influence on the mediation outcome and to offer recommendations and points to areas of further research on mediation processes.

What clearly emerges in this study is that a combination of factors explains the experiences and the process of the IGAD led peace process. Needless to emphasize, the characteristic of disputants, the nature of the dispute, the nature of the mediators, and the behaviours and strategies prevalent occupied a central place in the dynamics of the peace process.

To maximize the policy utilitarian value, this study has captured the important areas in the peace of process such as where the process inherited from, the behaviours and strategies of the disputants prior and during the IGAD led process, challenges of achieving an all inclusive process, the politics of a beggaring neighbour and the culmination of the process by signing of the Comprehensive Peace Agreement. The study explores the gaps inherent that caused the process to go on for years but appreciates the success story of the process as well as proposing stopgaps for other related and prospective peace processes.

Against these initiatives, the study acknowledges the efforts of IGAD in attaining peace in the Sudan but offers recommendations against the study hypothesis especially for the post mediation process. It also points out to other emerging threats to mediation peace processes for Sudan and other potential areas.

ACKNOWLEDGEMENT

It is impossible to name in this space, all those whom in one way or another have contributed to the successful completion of my entire course. Some however, merit special credit. They are;-

The Government of Kenya, who is my employer, for the faith she has in my abilities. I thank my Permanent Secretary, Mr. C.T. Gituai, for recommending me for a scholarship to enable me take up this sojourn. I promise to put into practice the lessons learnt for service to the nation and as a social responsibility.

Prof. Olewe Nyunya for his academic counsel and supervision. It took long to put this together but his guidance has eventually yielded. I will forever be indebted more so for his encouragement. To all other lecturers and guest speakers both from the University of Nairobi's Institute of Diplomacy and International Studies (IDIS) and else place, I will forever treasure the knowledge impacted.

The National Defence College (NDC) for their facilitation and discipline. It was quite a short year, quite an exposure, quite an interaction, quiet a class and quite a lesson too. The management, the planning, the timings, the teachings and the "parties" were all with a clear cut precision. I have filled in so much I don't regret this one good year. To the Commandant and his entire team, thank you so much, nobody could have done more. My fellow classmates, your enthusiasm is unparalleled. I have planned to hold this as my most nostalgic of interactions. I pray it never ends here! Bravo guys, I owe it to you.

My family, my lovely wife Cate and our three sons- Lee, Shawn and the vibrant Kanyiri, for faithfully being there. The joy of getting back home after a long day to your love and for your patience in my long hours of reading.....This is from me to you! My friends who cheered me on, all those who "threw" in favours and kindness to me in the course of these long hours of books, I honour you.

Above all- To God be the glory!

DEDICATION:

This is dedicated to my family; Cate, Lee, Shawn & Kanyiri.

I did this for you!

ACRONYMS:

- DOP-** Declaration of Principles
- DUP-** Democratic Unionist Party
- EPLF-** Eritrea people Liberation Front
- FFAMC-** Fiscal & Financial Allocation & Monitoring Commission
- GNP-** Gross National Product
- GOS-** Government of Sudan
- IGAD-** Inter Governmental Authority on Development
- LRA-** Lord's Resistant Army
- NDA-** National Democratic Alliance
- NIF-** National Islamic Front
- OAU-** Organization of Africa Unity
- OLS-** Operation Lifeline Sudan
- PNC –** Popular National Congress
- SPLM/A-** Sudan People Liberation Movement/ Army
- SSDF-** Southern Sudan Defense Force
- UN –** United Nations
- UK-** United Kingdom
- US –** United States of America

CONTENTS:

| | |
|----------------------|-----|
| Declaration | i |
| Abstract..... | ii |
| Acknowledgement..... | iv |
| Dedication..... | v |
| Acronyms..... | vi |
| Contents | vii |

CHAPTER ONE: AN INTRODUCTION TO CRITICAL ANALYSIS OF IGAD LED SUDAN PEACE PROCESS : 1994-2005

| | |
|--------------------------------------|----|
| 1.0 Background to the problems..... | 1 |
| 1.1 Statement of the problems..... | 4 |
| 1.2 Objective of the study..... | 6 |
| 1.3 Justification of the study | 6 |
| 1.4 Literature Review..... | 9 |
| 1.5 Theoretical Framework..... | 14 |
| 1.6 Hypotheses..... | 18 |
| 1.7 Definition of concepts..... | 19 |
| 1.8 Methodology | 20 |
| 1.9 Chapter layout | 21 |

CHAPTER TWO: MEDIATION AS AN INSTRUMENT OF CONFLICT PREVENTION, MITIGATION, MANAGEMENT & PREVENTION.

| | |
|---|----|
| 2.0 Thinking about Mediation: An Introduction | 23 |
|---|----|

| | |
|---|----|
| 2.1 Mediation context: The Major variable | 26 |
|---|----|

vii

| | |
|--|----|
| 2.1.1 Characteristic of disputant..... | 26 |
| 2.1.2 The Nature of Dispute..... | 29 |
| 2.1.3. The Nature of Mediator..... | 31 |
| 2.2 Mediation Process; Behaviours & Strategies | 33 |
| 2.3 Tactics of Mediating Internal Conflict..... | 36 |
| 2.4 Conclusion | 39 |

CHAPTER THREE: THE SUDAN PEACE PROCESS.

| | |
|--|----|
| 3.0 The Sudan Conflict; An Introduction | 39 |
| 3.1 The Sudan Peace Process 1994-2004; An Overview | 41 |
| 3.2 The Machakos Protocol | 45 |
| 3.3 Preliminary agreement on Power-sharing arrangements; Third session of IGAD peace mediation..... | 51 |
| 3.4 Was real progress being made between the GOS and SPLM/A? | 55 |
| 3.5 Conclusion..... | 59 |

**CHAPTER FOUR; CRITICAL ANALYSIS OF THE IGAD LED SUDAN PEACE
PROCESS.**

| | |
|---|----|
| 4.0 Introduction | 61 |
| 4.1 Peace Making Efforts; Where IGAD Inherited the Process..... | 63 |
| 4.2 Behaviours and Strategies | 67 |
| 4.3 Nature of the Dispute; Critical Analysis Of Challenges of Achieving an All Inclusive Peace Process | 71 |

viii

4.4 Characteristics Of The Disputants; A Critical analysis Of

Beggaring Your Neighbour 80

4.5 The Comprehensive Peace Agreement (CPA) –January 2005....87

4.6 Conclusions.....89

CHAPTER FIVE; SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.0 Summary95

5.1 Conclusion on the Critical Analysis of Mediation..... .99

5.2 Recommendations and Areas of Further Research.....105

Bibliography..... 106

CHAPTER ONE.

AN INTRODUCTION TO CRITICAL ANALYSIS OF THE ROLE OF IGAD IN MEDIATION: A CASE STUDY OF THE SUDAN PEACE PROCESS, 1994-2005.

1.0 BACKGROUND TO THE PROBLEM.

Conflict is one of the most pervasive and inevitable features of all social systems, however simple or complex they may be and irrespective of their location in time and space. This is true of individuals, group as well as organizational and international systems. Wherever it occurs, conflict is significant, newsworthy and challenging. It can lead to mutual satisfaction and growth or it may produce acrimony, hostility, and violence. Our interest in the study of conflict is undoubtedly related to our desire to manage it in a way that maximizes its potential benefits and minimizes its destructive consequences.

There are a number of ways of dealing with or managing conflict. These may range from avoidance and withdrawal, through bilateral negotiation, to various forms of third-party intervention. Third party intervention in conflict, particularly of the non binding, non coercive kind, is in many ways as old as conflict itself. It has played an important role in industrial and pre-industrial societies. Its popularity as a way of dealing with conflict grows each year, as its applicability to different realms. Unresolved problems and conflicts create the conditions for third-party intervention of one from or another. "The practice of settling disputes through intermediaries has had a rich history in all cultures both western and non-western"¹. Although there are considerable differences in the way mediators from different cultures deal with conflict, all the approaches have value in terms of managing or settling disputes. In the international arena, with all perennial challenges of escalating conflicts, shrinking resources and rising ethnic demands and with the absence of generally accepted "rules of the game" the potential application of mediation is truly limitless.

As a form of conflict management, mediation occurs when a conflict has gone on for sometime and the effort of the individuals or actors involved has reached impasse, neither actor is prepared to countenance further costs or escalation of the dispute and or both

¹ Gulliver, P.H. Dispute and Negotiations: Cross Cultural Perspective: (NY; Academic Press, 1979) pg 4

disputing parties welcome some form of mediation and are ready to engage in direct or indirect dialogue².

Whatever its specific characteristic, mediation must in essence be seen as acceptable third party intervention to change the course of outcome of a particular conflict. The third party, with no authoritative decision making power, is there to assist the disputants in their search for a mutually acceptable agreement. As a form of conflict management, mediation is distinguishable from the more binding forms of third-party intervention, such as arbitration and adjudication, in that it is initiated upon request and it leaves the ultimate decision making power with the disputants.³

No less ambiguity exists concerning an appropriate name for the parties to a conflict, even the parties to core dispute. "Government" is relatively uncontested as the name for one side, although the legitimacy implied by the term is often a major point of issue in conflict. However, the other party can take on many names; such include insurgents, rebels and opposition, which will be used in the study. Internal conflict being with the inability or unwillingness of the government to handle grievances to the satisfaction of the aggrieved; that is they begin with the breakdown of the normal politics. Internal conflicts are about many different things in different cases, but all aggravated grievances can be subsumed under two related categories – neglect and discrimination or distributional elements and an identity element. Without distributional depreciation, identity remains a positive factor and not a motivation for conflict without an identity element, distributional inequalities remain focused and non-mobilizing. The mix of the two elements may vary, situating the conflict towards one end of the spectrum or the other, but that appears to have little effect on its course or tractability.

² Bercovitch, J; Social Conflicts and Third Parties: Strategies of Conflict Resolution (Boulder color, West view, 1984)

³ Forberg, J. & Taylor, A.: Mediation: A comprehensive guide to resolving conflicts without litigation. (San Francisco, Jossey –bass 1984) pg 34

Sudan, geographically the largest country in Africa has been intermittently ravaged by civil war for decades. Millions of people have died over that period due to war related causes and millions others displaced from their homes. The civil war continues to be a major contributing factor to recurring humanitarian crisis. There have been many failed attempts to end the civil war in Sudan.

In March 1994, the heads of states from Ethiopia, Eritrea, Kenya and Uganda formed a mediation committee under the aegis of the Inter-Governmental Authority on Development (IGAD) and held the first formal negotiations. The basis of the talks was a Declaration of Principles (DOP) which included the right of self-determination, separation of religion and the state (secularism), and a scheduled referendum to be held in Southern Sudan with secession as an option. Although the National Islamic Front (NIF) government reluctantly accepted the DOP in 1994, the government in Khartoum walked out of peace talks in September 1994 and returned in 1997 after a series of military defeats.

Alarmed by the deepening crisis and multiple failed attempts by outside mediators, members of the IGAD formed a mediation committee consisting of two organs: a summit committee of heads of states from Ethiopia, Eritrea, Kenya and Uganda and a standing committee composed of their mediators. The IGAD-led peace process began with the view among the mediators that the Sudan conflict was having serious repercussions not only in the country but also in the region, and then sought to deal with the root causes of the conflict. Conditions were ripe for talks since both sides were exhausted from years of fighting and some members of the IGAD committee were seen by Khartoum as allies. The most contentious issues were secularism and self-determination, which the Khartoum government refused to concede.

Bringing conflict to any successful conclusion has proved an uphill task. It is difficult to crush the rebels; at best, conflicts are simply subsumed back into normal politics; they are carried out by other means within accepted rules of political interaction; but never wholly resolved in the sense of eliminating the parties or the causes. Even rebels “win” by achieving secession or overthrow of the government, many of the problems still remain, to

re-emerge at a later moment. As a result, mediation rather than war appears to be the most appropriate means of managing conflict.

The Sudan Peace Process is the best choice of study since it's the most elaborate and systematic case of a conflict that has been mediated in the auspicious of a Sub-regional organization, IGAD, with a sub-structural success path.

1.1 STATEMENT OF THE PROBLEM

Mediation is a sequence of events, not an incident. There is a tendency to think about conflict or the negotiating situation as an isolated incident. It is probably more useful to think about conflict as a process, or a complex series of events over time involving both external and internal social factors. In good faith mediation; both sides are expected to make offers and concessions through third parties. Through offers and counter offers there should be a goal of information exchange that might yield common definition of the problem.

This study thus seeks to pursue a critical analysis of mediation in internal conflict along two dimensions; the sub regional organizations (actor), involvement and dynamics of the mediation experiences thereof – that are derived largely from the subsequent case study of the Sudan peace process. The study begins by examining appropriate processes and behaviours inherent in mediation; a characteristic structure of sub-regional organizations and priorities that define their existence and finally critically analyzing the Sudan peace process; the opportunities and challenges imposed by the disputants; lessons learnt; emerging threats and recommendations for future mediation processes.

The focus on IGAD as the actor in mediation was preferred to single or bilateral mediators for several reasons. Where key individuals or states mediate a number of styles emerge. There is a tendency to act on the trust/distrust of the disputants, make threats, make offers, accepts one sided loss, demand one sides' goal, yield to applied pressure, make/demand concessions, make friends/adversaries, eventually settling for acceptable answers or answers acceptable to mediators. However, out of experience, diverse interest of sub-regional organization and their identity apart from the constituent countries a lot has been

achieved. The mediation process seeks to solve the issues at hand, seeks wise outcome(s), separate disputants from the issues; proceeds independent of trust; focuses on interest not positions; develops multiple options; insists on objective criteria and eventually yields to principle not pressure.

This study thus seeks to pay attention on the following generalizations so as to attend to the inquiry problem:-

- Conflict is an on going process that occurs against a back drop of continuing relationships and events;
- Such conflict involves the thoughts, perceptions, memories, and emotions of the people involved.
- Mediation is like a chess-match, has a strategy; anticipate how the other will respond; how strong is your position and situation; how important is the issue; how important will it be to stick to a hardened position and
- Begin with a positive approach; pay little attention to initial offers.

We recognize that mediation is not a uniform activity. It is carried on by numerous actors in diverse ways. A systematic investigation on the mediation efforts is a necessity in formulating meaningful generalizations about features, processes, functioning and effectiveness of mediation. We appreciate that regional organizations, and to this end IGAD, as representing local collection of states signifying their intentions to fulfil the obligations of membership as set forth in their formal treaty. IGAD is governmental in origin, imbued with political purposes and largely staffed with official representatives.

Here I will address two broad questions:-

- How does IGAD accept and enact its mediatory role?
- Do discrepancies in context and formal structures affect mediation process?

1.2 OBJECTIVES OF THE STUDY

Broadly stated, the study critically analyses IGAD involvement in mediation with special reference to Sudan Peace Process.

Mediation is one of the most promising approaches to constructive conflict management. To understand it better, we analyze what mediators do how they do it, and the consequences of their actions. Our understanding of mediation is predicated on the notion that mediation is related to the overall context in which it occurs. The overall context affects mediation and is, in turn, affected by it. The nature and effectiveness of mediation depends as much on whom the parties are and the character of their dispute and interaction, as on whom the mediator is and his/her behaviour. Mediation is a contingent form of political influence; its performance and results are contingent on context. To overlook this point is to mistake the very nature of mediation.

In this inquiry, I use the information available on the Sudan peace process. The results of the analysis offer some exciting insights into the most significant factors. The specific objectives are thus summarized;

- To critically analyse the impact of the disputants' relationship in mediation outcome.
- To critically analyse the socio-political factors and their impact on mediation outcome.
- To critically analyse the issues at stake and their influence on the mediation outcome.
- Offer recommendations and points to areas of further research on mediation processes.

1.3. JUSTIFICATION OF THE STUDY

As a form of conflict management, mediation has become increasingly important in international relations. Article 33(1) of the United Nations charter exhorts all member states to settle their disputes through mediation. Empirical data indicates that states are

more than happy to do so.⁴ International mediation has become almost as common as conflict itself. It is carried on by such heterogeneous actors as private individuals, government officials, religious figures, regional/International organizations, *ad hoc* groupings, small states, and large states. Each actor brings to the mediation situation its own interests, perceptions and resources and the behaviour of each may encompass a spectrum that ranges from very passive through facilitative, to the highly active.

Traditional approaches to mediation assumes that both parties in dispute and a mediator have one compelling reason for initiating intervention; namely, their desire to reduce, abate or resolve conflict. This shared humanitarian interest may genuinely be the case in few instances of mediation, but normally even this interest intertwines with other less altruistic interests.

It is time we stopped thinking of mediation as a totally exogenous input, as a unique role and a distinct response to international conflict in which a well meaning actor, motivated only by altruism, can change some of the conflict dimensions. A mediator by virtue of mediating becomes another actor in the mediation relationship. The relationship involves interests, entails costs, has potential rewards and exemplifies certain roles and strategies. A mediator's role ¹¹ must reflect and be congruent with that interaction. This is how I consider and study mediation.

Mediation is after all a low cost and flexible approach that may be adopted legitimately and creatively by private citizens and any other actor whose behaviour affects the dynamic, multi-level process that constitutes international *relations* (as opposed to international *politics*)⁵. The successful application of mediation requires experience, professionalism, and judgement of the sort all international actors possess. Although it is a serious and time consuming undertaking, mediation rarely does more harm than good and more often than not it helps the cause of constructive conflict management, as well as interests of the mediator.

⁴ Bercovitch J. 'International Mediation: A study of the Incidence, Strategies and Conditions of Successful Outcomes' *Cooperation and Conflict* Vol. 21(1986) pp 156-68

⁵ The term *relation* is much broader than the term *politics* which may be taken to apply to official policy making bodies only. We are interested in full range of interactions see Volkau, V.D. (ed) *The psychodynamics of International Relationships* Vol. II (Lexington mass; Lexington 1991) pp 41-69

Given the potentiality of the omnipresent conflict, a limited range of widely accepted conflict handling procedures in the international environment, and the unwelcome reality of domestic conflict, it is hardly surprising that so many actors in the international politics are keen to do something to facilitate peaceful interactions.

Individual mediation though significant is not as common in international relations. Most mediation activity is carried on by two kinds of actors; states (or their representatives) and regional/ international organizations. As an actor, the state is one of the most successful and enduring form of social and political organization. The state offers a measure of political and economic security and in return expects the unqualified allegiance of the people. Today some one hundred and eighty Sovereign states legally equal, but with different capabilities, regime – structures and interests, interact on the international arena. They pursue resources, markets and influences often they get into conflict with other states pursuing similar objectives⁶.

The complexity of the international environment is such that states and nations can no longer facilitate the pursuit of human interests, nor satisfy their demands for an ever-increasing range of needs; consequently there has been a phenomenal growth in the number of non-state actors such as regional and international organisations. These non state actors all of whom affect issues of peace and survival have become in some cases, more providers of services than states. They have become in the modern international system, very active participants in search for institutional and proposals conducive to peace.

Regional organisations, operating independently of states embody many of the elements commonly associated with impartiality. This suggests that regional organizations are best likely to maximize the potential of successful mediation.

⁶ Rasler A.K & Thompson, W.R. War and State Making (London; Union Hyman, 1989).

1.4 LITRERATURE REVIEW.

The practice of settling disputes through intermediaries has had a rich history in all cultures, both western and non western⁷. Although there are considerable differences in the way mediators from different backgrounds have handled, managed or settled disputes. In international arena, with its perennial challenges of escalating conflicts, shrinking resources and rising ethnic demands and with the absence of generally accepted “rules of the game” the potential application of mediation is truly limitless.

Whatever its specific characteristics, mediation must in essence be seen as an extension of the negotiation process whereby an acceptable third party intervenes to change the course or outcome of a particular conflict⁸. The scope of mediation activities in international arena is truly immense. This is reflected in the abundance of definitions offered by students of the discipline. Doob⁹, Taylor & Forberg¹⁰, Moore¹¹ Purport that mediation offers a solution to any problem the disputants’ perceives as such. Mitchell¹² defines it as “any intermediary activity” undertaken by a third party with the primary intention of achieving some compromise settlement of issues at stake between the disputants or at least ending disruptive conflict behaviour.

Taking all the features into account, ‘Bercovitch¹³ *et al* sees international mediation as a reactive process of conflict management whereby parties seek the assistance of, or accept an offer of help from an individual, group or organization to change their behaviour, settle their conflict, or resolve their problem without resorting to physical force or invoking the authority of the law.

⁷ Gulliver; P.H. (1979) Disputes and negotiations: Cross Cultural Perspective (NY; Academic press) pg 75

⁸ Forberg J. & Taylor A. *Ibid* pp 301 – 334.

⁹ Doob L.W. (1971) Resolving conflicts in Africa (Newhaven; Yale University) pg 8

¹⁰ Forberg J. & Taylor A. *Ibid*.

¹¹ Moore, C.W. (1986) The mediation Process: Practical Strategies for resolving conflict (San Francisco – Jossey Bass).

¹² Mitchell E. R (1981) Peace Making and the Consultant's Role (West mead – UK)

¹³ Bercovitch J.; Agnoson J. J. *et al* *Ibid*

Different authors have researched the relationship between international mediation process and successful outcomes. Meyer¹⁴ emphasizes the unique aspects of mediation and the impossibility of generating any useful conclusions about mediation outcomes across a wide array of cases. The notion that success or failure in mediation is essentially the product of idiosyncratic factors beyond the reach of ambitious social science scholars is achieved by Simkin¹⁵ who notes that the variables in mediation are so many that it would be an exercise in futility to attempt to describe typical mediator behaviour with respect to sequence, timing or the use or non use of various functions theoretically available.

Internal conflicts – civil wars – are the most difficult of conflicts to negotiate. Only a quarter to a third of modern civil wars (including anti colonial wars) have found their way to negotiation whereas more than half of modern interstate wars have done so.¹⁶ About two thirds of the internal conflicts have ended in the surrender or elimination of one of the parties involved; fewer than a quarter of the international conflicts have so ended. Yet in internal conflicts more than in inter-state wars, defeat of the rebellion often merely drives the causes underground to emerge at a later time. On the one hand, principle negotiation is the best policy for both disputants in internal conflicts. It is the government's job to be responsive to the grievances of its people; it's the insurgents' purpose to draw attention to their grievances and gain redress. "Negotiation is the natural meeting point of these needs and extension of the 'normal politics' that should characterize a well functioning polity."¹⁷ Yet internal conflict works against its best out come.

This study explains why internal conflict is so obdurately resistant to mediations. Internal conflict and the parties to it are both subject to evolutions and life cycles that impose their own dynamics in completion, as it were, in the requirement of negotiation, thus often prolonging and complicating the conflict beyond the interest of the parties.¹⁸ Tactically,

¹⁴ Meyer, A. (1960) "Functions of the Mediator in Collective Bargaining" Industrial and Labour Relations Review Vol.13 pp 161

¹⁵ Simkin W. (1971) Mediation and the Dynamics of Collective Bargaining (Washington DC- Bureau of National affairs)

¹⁶ Paul, P.R. (ed) Negotiating Peace: War termination as a bargaining Process (Princeton Unvi. Press; 1983)pg 8

¹⁷ Zartman, W. (see footnote 4) *Ibid.* Pg 3

¹⁸ Rene' Lemarchand on conflict between Tutsi and Hutu in Rwanda & Burundi: Burundi Ethnocide as Discourse and Practice (Cambridge Univ. Press,1994) pg 14

these conditions make it particularly difficult to get internal negotiations started and require special devices, artifices, and attitudes often available only through mediation.

To understand mediation in internal conflicts, the normal purview of mediation theory must be explained. This theory is developed, tested, against situations of internal conflict and refined accordingly, so that deductive guide to the potentialities for mediation is established. More case studies are needed in order to generate insights and observations that can be used inductively to produce applicable concepts and theory. This is one task of this study. The major parameters and characteristic of internal conflicts' mediations are set out in chapter two.

Symbolic of the complexities of internal conflicts mediation is the ambiguity of the subject itself. Few internal wars are purely internal; although some post World War II rebellions as in Philippines, Andean countries and Basque insurrection in Spain are relatively autonomous and self sufficient¹⁹. Nothing else seems to distinguish these purely internal rebellions from the larger number of other internal wars that have a substantial and often dominant international dimension. Conflict of the latter kind has its subdivision: Internal rebellions that necessarily mirror regional conflicts because of transnational population and interest, as is the case in Sudan ,Central America, South East Asia; ²⁰ internal conflict in which the over arching state identity breaks down and the component pieces draw in external support from Ireland and Afghanistan ;²¹ internal conflicts in which the search for external sources of power has turned into proxy wars for distant powers as the residual group of internal conflict in which one or both parties have enjoyed sanctuary or support or both from outside as the case in South Africa, Rwanda, Biafra and Sudan.²²

¹⁹ Richard, Haas: Conflicts Unending: United States and Regional Disputes (Yale Univ. Press- 1990) Chapter 3 pp 55-81

²⁰ Richard, H *Ibid* Chapter 4 pp 82- 101.

²¹ Thornton, T P "Indo- Pakistan Conflict" See Zartman & Saadia, T. (ed) International Mediation in Theory and Practice: (Boulder; West View Press-1990)pp 141-74

²² Zartman, W & Kremenyuk, V. (ed) Cooperative Security: Reducing Third World Wars (Syracuse Univ. Press-1995) pp29-61

As will be seen, the external dimension has profound effects on both intractability and the mediation of internal conflicts. Regionalized, exploded, proxy and supported conflict are nonetheless internal in their cause and core.

This study is about mediation between government and an opposition that contest the governments' legitimate monopoly on violence and uses violent means to contest government authority. Neither side by any name is a monolith. Beyond the pluralism of each side, external support is the pluralism of its internal composition²³. Although there can be many sources of internal pluralism the basic source is the tactical matter of conflict and negotiation: elements within both sides fall out over the tactical question- the necessity of violence and the advisability of compromise. Such divisions, as will be seen, play an important role in the internal dynamics of the rebellion, as each side seeks to preserve its unity, establish valid spokes person and deliver on military and diplomatic promises. Like external support, internal pluralism can inhibit negotiations, although its role and influence can be turned positive under certain conditions.

Internal conflicts begin with the inability or unwillingness of the government to handle grievances to the satisfaction of the aggrieved; that is, they begin with the break down of normal politics. Internal conflicts are about many different things in different cases, but all aggravated grievances can be subsumed under two related categories neglect and discrimination or a distributional element and identity element.²⁴

In the Sudan conflict, there has been an identity element; rebels finding their identity in religion while the more developing North on ethnic concentration. The basic causes of the conflict in Sudan combine the elements of depravation and discrimination. It (the Sudan conflict) stands as an extreme example of a Zero –sum identity conflict; the Arab North here have felt that their own identity depended upon a denial of identity rights of the other²⁵. The outcome sought by the rebellion as a corrective to discriminatory neglect is of two major kinds, sometimes sharper in definition than in reality. In one, the rebels seek the

²³ The comprehensive Peace Agreement between the Government of the Republic Of The Sudan And The Sudan People's Liberation Movement/Army- A United Nations Security Council Publication- February 2005.

²⁴ Zartman, W. *Ibid* (see footnote 4) pg 5

²⁵ Prendgast, J. & Mozersky, D. "Love Thy Neighbour: Regional Intervention in Sudan's Civil War". A paper presented in a seminar at the Bradford University.

government authority to replace the incumbents and establish a new central government²⁶. In the other, the contest is over government control of or policies for a group or a region of the country, and demands are made for some form of local self-determination ranging from autonomy to secession²⁷

Centralist and regional protest have different goals and hence are satisfied by different outcomes, but they fail to succumb to the other that they can be considered together at some point in the breakdown of normal politics, some of the aggrieved may become convinced that government cannot or should not rule the country; others may become convinced that although the government may still rule the country it cannot or should not rule the aggrieved party's group or region of the country. ²⁸The fork in the road between those two conclusions is clear but not irrevocable and conflicts sometimes shift from one party to the other, and even back again change in intensity and in the demands made on each party. By keeping in mind these destructions and commonalities, an investigation can be made that fine tunes concepts of internal conflict negotiations and may generate better ways of conducting internal conflict negotiations and conducting international relations where internal conflicts continue to affect international peace and security.

This study pursues a critical analysis of internal conflict and mediation along three dimensions: the structural; the dynamic; and the tactical – that are well elaborate in the choice case study. It analyzes a characterized structure of imbalance and corresponding structural ways of getting out of the situation of asymmetry. A rebellion is then placed within its own evolutionary context, and further opportunities and constraints imposed by the disputants in the Sudan Peace Process. The inquiry then examines appropriate processes and behaviours inherent in mediation as they can be pursued within the structural and contextual constraints.

²⁶ Janice, G. (ed) Getting to The Table: The Process of International Prenegotiation. (John Hopkins Univ. 1999) pg25

²⁷ Zartman, W. (ed) Ripe For Resolution: Conflict And Intervention In Africa. (OUP, 1989) pp 45-6

²⁸ Gibson, R. Africa Liberation movements: Contemporary Struggles Against White Minority Rule: see Dividow's "A Peace in Southern Africa" (OUP, for Institute of Race Relations 1994) pp19-42.

1.5 THEORETICAL FRAMEWORK

Mediation theory is the most promising approaches to constructive conflict management. To understand it better, we need to study what mediators do, how they do it, and the consequences of their actions.

A question that invariably confronts all potential mediators and parties to conflict is whether or not they should take the step of initiating mediation. It is agreed that to be effective, mediation must take place under the most propitious conditions, but just whose decision should it be to initiate mediation?

Since mediation is essentially a voluntary process, it is logical to assume that a conflict will be most constructively and effectively dealt with through mediation when both the parties are willing to commit themselves to the process. Harris²⁹, *et al.* suggests that mediation is most successful when both of the adversaries request it. In essence where only one party is interested in seeking mediation assistance or interested third parties propose it, the effectiveness of mediation may be reduced considerably.

One of the central tasks of mediation is to accentuate cooperation and tendencies toward agreement. This is best achieved when the parties' conflict management takes place in a neutral environment, free from the external pressure and influences of constituents and media. Such an environment allows the mediator to have procedural control over the process and the parties to concentrate on the more substantive issues. In a neutral environment, a mediator is able to create a level playing field by guaranteeing each free and equal access to information and resources, maintaining the flow of communication between the parties and when necessary, balancing power differences between the parties.

Evaluating the relationship between what mediators do and the outcome of their efforts is, on the whole, based on *ex post facto* reflections by mediators (and they may be quite reluctant either to claim success or to take responsibility for failure) or on direct

²⁹ See Harris K.L. & Carprevale P.J. "Chilling and hastening : The influence of third-party power and interests on registration" Organizational Behaviour and Human Decision Processes 47: pp 138-160

observations of their performance. Although conceptualizing or measuring mediator behaviour, roles and strategies is difficult, many agree with Kochan and Jick³⁰ and Touval³¹ that it is the most crucial variable affecting mediation outcomes.

There are many typologies for describing mediator strategy and behaviour. Authors such as Bercovitch, Kochan and Jick³² Kolb³³ and Kressel³⁴ attest to such strategy and behaviours. This study follows Touval and Zartman³⁵ who classify mediator behaviour along a continuous ranging from low to high intervention. Three main strategies that encompass the spectrum of mediator behaviour are identified.³⁶ At the low end of spectrum are communication facilitation strategies where a mediator takes a fairly passive role, largely as a channel of communication for the parties, and exhibits little control over the process or substance of mediation. In the second set of mediation strategies, procedural strategies, a mediator exercises more formal control of situational aspects on the process of mediation. Here a mediator may determine such factors as the mediation environment, the number and type of meetings with the adversaries, the agenda covered in those meetings, the control of constituency influences and the distribution of information and resources to the parties. In the most active range of mediator behaviours directive strategies, the mediator sets out to affect the content and substance as well as the process of mediation. A mediator may achieve these goals by providing initiatives offering rewards and punishments, issuing ultimatums, and introducing new proposals.

Mediation theory examines the relationship between different mediation strategies to mediation outcomes. This relationship is particularly strong when disputes are intense³⁷. Mediators who possess the ability, opportunity, and resources to initiate and engage in

³⁰ Kochan *et al* "Negotiation and mediation" Annual Review Of Psychology 43: pp 531 – 582.

³¹ Touval, S. (1982) "Biased Intermediaries: Theoretical and Historical considerations" Jerusalem Journal of International Relations 1: pp 51-69.

³² Kochan and Jick (1982) *Ibid* pp 51 – 69.

³³ Kolb, D.M; (1983) "Strategy and Tactics of Mediation" Human Relations 36: pp 247 – 268.

³⁴ Kressel, K: (1985) "Themes in the mediation of social conflict" Journal and Social Issues 1: pp 179 – 198.

³⁵ Touval S. and Zartman, W. (ed), (1985) "Mediation in Theory" International mediation in Theory & practice [Boulder Colo; Westview].

³⁶ Bercovitch *et al* (1991) *Ibid*: "Some contextual Issues and Empirical Trends in the study of successful mediation. In International Relations" Journal of Peace Research Vol. 28: pp 7 – 17

³⁷ Donohue, W.A(1989) "Communicative competence in Mediators" In Kressel and Pruitt Mediation Research pp 322 - 343

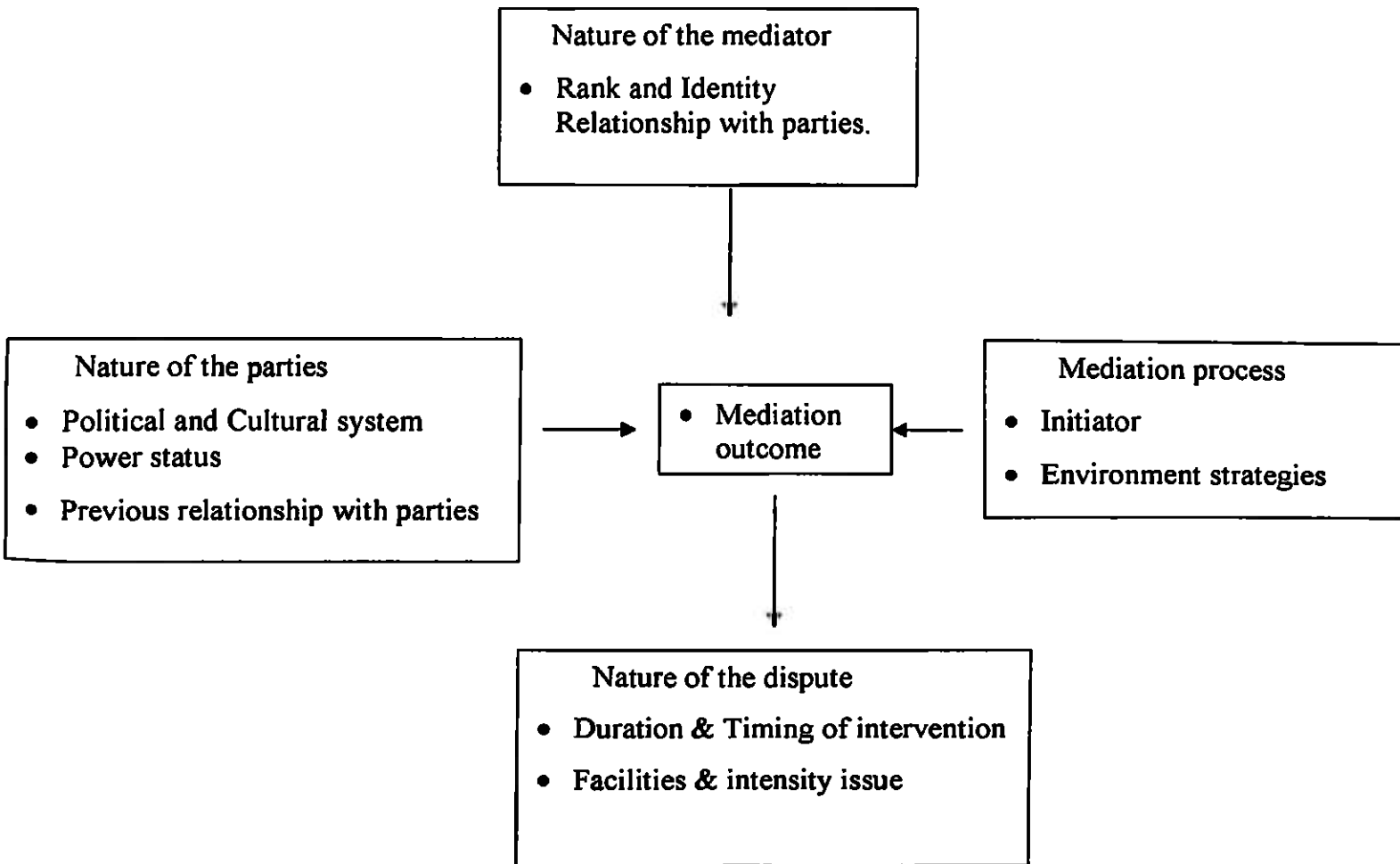
active mediation are more likely to produce a successful outcome than powerless mediators who put their faith in communication strategies only.

Mediation operates within a system of reciprocal social influence in which the parties and mediator seek to influence each other. Mediation behaviour is not based on a specific predetermined plan of action but reflects the changing context of a dispute and the interests and needs of all concerned. A mediator has to be seen as a full, if external, participant in a conflictual decision making system. As such, it is not surprising that possession of resources and an active strategy provide the basis for successful mediation.

It thus emerges that the component of the clusters of mediation framework has a direct impact on mediation outcome. Mediation theory reveals that all the factors, from the disputants themselves; who they are, their past relationship, their social political norms and power, the actual dispute; the issues at stake, its intensity and duration – to the mediators and the way he/she influences the process of conflict management, determine the success / failure of mediation outcome.

(See figure 1 below.)

FIGURE 1
FACTORS ASSOCIATED WITH SUCCESSFUL MEDIATION³⁸



1.6 HYPOTHESES

The involvement of impartial third parties has a long and honorable history in the domain of human social conflict.³⁹ In the field of international relations, the longstanding role of third parties has only recently begun to receive frequent attention, with the work of Young⁴⁰ leading the way to further developments. In the current decade, third party interventions, particularly in the form of medication, have become the focus of

³⁸ Bercovitch J. (1996) Resolving International Conflicts (Lynne Publishers, UK) pp 18

³⁹ Mitchell, C. R. & Webb, K. (1988) New Approaches To International Mediation (NY; Green Wood) pp17-8

⁴⁰ Young, R.O. (1967) The Intermediaries: Third parties in International Crisis. (Princeton Univ. Press)

considerable amount of scholarly activity. This growing emphasis reflects the current reality of international relations, in which the pacific intervention of third parties in conflicts is a common occurrence⁴¹. As expected, the most frequent form of intervention is that of mediation with the fact-finding, good offices and arbitration also being much in evidence.

Multiple approaches – both theoretical and methodological achieve a convergence of findings. However for the purposes of this study we adopt a perspective that permits us to evaluate how mediation affects and in turn is affected, by the context, the participants, the strategies and the nature of conflict. The perspective suggested here recognises two hypothetical dimensions involved in the critical analysis of the role of IGAD in mediation.

- 1) Mediations play an effective role in conflict resolution.
- 2) Success of mediation outcomes depends on the actors, the issues and the process.

The outcomes may have been caused by direct mediator's behaviour, or they may have been facilitated directly by mediators removing barriers to their occurrence, permitting them to occur or not preventing them from occurring. It allows us to embrace a spectrum of outcome (and not just the binary success vs failure). We recognize that mediation outcome is the independent variable upon which several dependent variables revolve. In this study the dependent variables are: the nature of the mediator(s) – their identity, rank and relationship with the parties; the nature of disputes – duration and timing of intervention, facilities and intensity of issues; the nature of the parties – political and cultural systems, power status and previous relationship with parties; and the process – the initiator and the environmental strategies.

1.7 DEFINITION OF CONCEPTS

Negotiation

Negotiation can be considered the fundamental form of dispute resolution. Essentially it involves two or more parties working together to examine their interest and needs and

⁴¹ Bercovitch, J. (1984) Social Conflict And Third Parties: Strategies Of Conflict Resolution (Boulder, Colo, West view)

working out a solution that will give the best possible outcome to both sides. This can be done cooperatively, as it is in principled negotiation, or it can be done in a competitive way as in typical in distributive bargaining.

Mediation

Mediation is a form of third party intervention in which the mediator helps the parties negotiate an agreement which they have the option of accepting or rejecting. In some cases, mediators play a problem solving role focused upon negotiating an agreement to the immediate dispute. In other cases mediation focuses more upon improving relationships with the assumption that improved relationship will lead to conflict resolution or constructive confrontation.

Consensus Building

Consensus building is essentially multi-party mediation while mediation typically involves two disputants and a mediator, consensus building is an extension of the same principles to disputes which involve ten, twenty even hundred (in other words more than two) parties.

Pre-negotiation/Negotiation of Process Issue

Often it is necessary to negotiate about the structure or process of negotiation before the “real negotiations” take place. In pre-negotiation, disputants can decide who is going to be at the table, what the agenda is going to be, how the negotiations get started more effectively than if all of these matters are also in dispute when negotiations begin.

Analytical Problem Solving

Analytical problem solving is an approach to difficult conflicts which focuses upon systematically analyzing a conflict to determine the degree to which fundamental human needs of the parties are being met. In cases where there are significant unmet needs, analytical problem solving examines options for meeting those needs as a way of resolving the conflict.

Dialogue

Dialogue is a process in which parties engage in deep and meaningful conversations with their opponents, not for the purposes of resolving a dispute (as is usually true with negotiation or mediation), but rather for the purpose of developing a better understanding of the people “on the other side”. Through dialogue, disputants break down negative stereotypes, focus on deep-rooted feelings, values, and needs and come to understand the complexity of the conflict and the issues on all sides.

Power Sharing and Autonomy Strategy

Many intractable disputes involve what is referred to as “domination conflicts”. In this situation one group dominates another which does not want to be subordinate to the first group. Conflict is likely to continue as long as either group pursues domination. However, if the group can agree on some principle of power sharing and/or autonomy, domination conflicts can be mitigated and eventually resolved.

Trust Building

In prolonged and exalted conflicts, distrust is inevitable and it significantly hampers the ability of the parties to negotiate even a partial solution to their problems. A variety of trust-building measures are available to slowly build up trust so that more co-operative problem solving approaches can take place. In addition, implementation plans can be developed that largely eliminate the need for trust by being self enforcing.

Reconciliation

Reconciliation strategies are designed to resolve the underlying conflict, rather than settle the immediate dispute episode. They require the parties to reconcile their underlying differences and transform their relationship to that of “normalcy”. This is a long, slow process involving trust-building, apology, forgiveness and a variety of other peace-building measures.

IGAD

Inter-Governmental Authority on Development is a sub-regional organization formed by members of the greater horn of Africa, that is, Eritrea, Ethiopia, Sudan, Uganda, Kenya and Somalia.

Sudan Peace Process

Sudan Peace Process refers to the IGAD led negotiations from 1994-2005, which were geared towards managing the conflict resolution in Sudan; which culminated in signing of a Sudan Peace Agreement (2005).

1.8 METHODOLOGY

Library research will constitute the source of investigation. Consequently, this study is essentially documentary, hinging majorly on secondary sources of information. The secondary sources of information will include journals, articles, magazines, newspapers, books, statistical abstracts, public documents, periodicals and any other such literature that shall be deemed adequate in giving appropriate information.

All the relevant findings and data shall be collected, recorded and analyzed. Particular emphasis will be laid on the Sudan Peace Process; with the aim of illuminating on the patterns of the role of IGAD in negotiations.

1.9 CHAPTER LAYOUT

Chapter one: Introduction to the Critical Analysis of the Role of IGAD in Mediation.

This chapter constitutes the research proposal. It comprises the skeleton of the entire study. It points out the study objectives, justification, through to the hypotheses and methodology adopted.

Chapter two: Mediation as an Instrument of Conflict Prevention, Mitigation and Resolution; An Analysis.

Aspects and dynamics of mediation are analyzed in this chapter. It gives an overview on conflict situation, objectives of mediation, interventions and appreciates that the best way through prevalent conflicts is mediation.

Chapter Three: The Sudan Peace Process- (1994- 2004)

This Chapter addresses the dynamics and involvement of IGAD in the Sudan Peace Process. The apparatus and avenues available to sub-regional organizations for mediation are also analyzed.

Chapter Four: IGAD in Mediation: A Critical Analysis.

This chapter critically analyzes IGAD's involvement in the Sudan Peace Process mediation. It follows through into the protocols, the agreed principles, the transition process, the structures of government state, religion and the right to self determination for the people of Southern Sudan.

Chapter Five: Conclusions and Recommendations.

Eventually dissects and demonstrates the data collected. It mainly covers the entire hypotheses basic to this study in as far as they are proved or disapproved. Thus, the validity of the hypotheses proposed is tested in this chapter. The chapter also offers general recommendations, policy recommendations, besides raising issues for further research.

CHAPTER TWO

MEDIATION AS AN INSTRUMENT OF CONFLICT PREVENTION, MITIGATION, AND RESOLUTION: AN ANALYSIS

2.0 THINKING ABOUT MEDIATION; AN INTRODUCTION

The fundamental changes that have taken place in international relations over the past two decades have altered the occurrence and the character of conflict. These changes however, have neither removed the causes of conflict nor affected its intensity or the need to deal with it effectively. Although the cold war ended, the global changes since then have spawned a myriad of new problems, few of which require more urgent attention than the need to maintain peace and security within and between states.

It is worth noting at the outset that as a response to conflict, there is little that is novel about mediation. It has been used everywhere, and it has a rich and varied history. In the present international system, where the sophistication and destructive capability of weapons make the violent pursuit of conflict both costly and irrational and where there is no adherence to a generally accepted set of rules or a central authority with the power to regulate international behaviour, mediation can be seen as an ideal way of dealing with the differences and settling conflicts between antagonistic and fiercely independent states. This is one of the main reasons why studies of mediation have proliferated in the last two decades. All these studies, despite differences in focus, orientation, and methodology, purport to describe how mediation can prevent the spread of a conflict and contribute to its resolution.

Disciplines as diverse as anthropology, psychology, political science, sociology, law and communication have no definitive answer to further our understanding of how mediation works and under what conditions it is effective. Scholars of mediation – whichever research strategy they adopt – have defined mediation and indicated its unique features, found connections between structures and behaviour,

and learnt to compare and evaluate the contribution of mediation in the numerous cases studies.

Our approach to mediation recognises that it is practised in numerous arenas; that it is, in many ways, a continuation of the parties' own conflict – management efforts: and that it involves the non coercive intervention of a third party who seeks to influence or resolve a particular conflict. This is its primary objective, which mediators fulfil through reliance on persuasion, appeals to logic, the use of information, and the application of social influence strategies. The mediators' objective of changing, reducing or resolving a conflict legitimizes their intervention. The material, political or other resources mediators invest in the process provide the rationale for their own motives and interests. The intertwining of the parties' interests, the mediators' interest, and the overall interest or changing the course or outcome of a conflict is one of the unique features of mediation.

No mediator enters into mediation for altruistic reasons only. Mediators enter into a conflict system passively or assertively to promote or protect any interests they may have. In this sense, a mediator is unlike another party in conflict – management process whose behaviour and performance are conditioned by the context and circumstances as the behaviour of the adversaries themselves. To understand mediation and critically analyse its impact, we have to understand the context, the issues and the parties involved.

The peculiarities and distinctive features of mediation do not relate to the fact that it is not a quasi legal process, nor is it extraneous to the parties' own conflict – management efforts. To be successful, mediation must be congruent with, and complementary to, a given conflict in its context and to treat mediation as either a legal process or a disinterested input is to miss important features that explain the relationship between a mediator and the parties. This chapter makes that relationship explicit.

Mediation begins with the interaction of two conflict parties within a unique context. These parties' reaction to their conflict and to the act of mediation is the result of their particular experience, society, culture and structure. These features in turn affect how a mediator intervenes, what strategies and outcomes are pursued, and mediation's impact on the parties and the outcome. Mediation is organized and should be analyzed in terms of broad framework that places mediation out of the very heart of conflict. This sort of framework explores how different contexts impinge on mediation, what conditions are most conducive to success, what behaviours mediators use in different contexts, and how mediators relate to different parties. Only when such analysis has taken place can an evaluation of the impact of mediation – always a tentative and perilous matter – be undertaken.

It is important to bear in mind that neither mediator roles nor mediation performance can be stipulated in advance. Generic principles promoting better outcomes should be viewed with caution, as mediation is a dynamic and flexible process and adaptability is its prized attribute and its key to success¹.

2.1 MEDIATION CONTEXT: THE MAJOR VARIABLES

2.1.1 Characteristics of the disputants:-

A traditional hypothesis in the study of International Relations suggests that democratic states are less likely to initiate conflict than non-democratic states. Mack and Snyder² conclude that the greater ability of democratic states to channel and accommodate internal discontent makes them less likely to exhibit aggression.

¹ Zartman, I & Touval, S (1985) "Mediation in Theory" International Mediation in Theory and Practice (Boulder, Colo, Westview) pg 2

² Mack, R & Snyder, R (1957) "An analysis of Social conflict: Toward an overview and synthesis" Journal of Conflict Resolution 1: pp 212 – 248.

Moaz and Abdolali³ found little empirical support for this hypothesis. However, they determined that democratic states are unlikely to find themselves in a dispute with one another. The overall agreement of this traditional hypothesis is that political systems do not greatly affect the chances of mediation success.

Disputes in symmetric dyads (where disputants share the same political system) and asymmetric dyads (where disputants are from different political systems) are however quite distinguishable. Mediation is easier when parties share a political system or have a basic adherence to the same set of cultural norms and values. Shared norms and socio – political similarity minimizes misperception and facilitate a successful conclusion to a conflict.

Factors such as internal composition, cultural and ethnic differences and degree of homogeneity affect the outcome of mediation. Conflict management by third parties can occur only between adversaries that have well-defined and legitimate identities. A mediator's job is hardly likely to prove easier if the incumbent government of one of the adversaries is experiencing an insurgency, rebellion or any other serious internal threat. Mediation has a better chance when each disputant is accorded legitimacy. Disunity or lack of cohesion within a state makes it difficult for both the adversaries as well as a mediator to engage in any meaningful form of conflict management. The successive failures of mediation attempts in Lebanon, Cyprus and former Yugoslavia illustrate this point only too well⁴.

Burton⁵ and Modelski⁶ have alluded to the relationship between internal unity and successful conflict management. Raymond and Kegley⁷ states that the greater the

³ Moaz, Z & Abdolali, N. (1989) "Regime types and International conflict" Journal of Conflict Resolution 33: pp 3 – 35.

⁴ Moaz, Z & Abdolali, N (1989) *Ibid*

⁵ Burton, J.W. (1968) Systems, States, Diplomacy & Rules. (Cambridge: - CUP). Pg 45

⁶ Modelski, G. (1964) "International Settlement of Internal war" In Rosenau J. (ed) International Aspects of civil strife (Princeton N.J. – Princeton University Press). Pg 89

⁷ Raymond, G.A. & Kegley, C.W. jr. (1985) "Third Party mediation and International norms". A test of Two Models Conflict Management and Peace Science 9: pg 38.

cultural differences between disputants, the less likelihood of successful mediation. Kressel and Pruitt⁸ support this argument by suggesting that internal discord within a state has a negative impact on its interactions with other states. The greater the fractionation within a state, the greater the chances of mediation failure.

Another contextual factor relates to the relative power status of the parties in conflict. That is the relationship between the power and capabilities of states, or their discrepancies, and mediation effectiveness. Otto⁹ and Young¹⁰ suggest that the smaller the power differences between the disputants, the greater the effectiveness of international mediation. Logically this may seem quite obvious. In cases of clear power disparity, the stronger disputant may not be prepared to make any concessions or compromises that are essential to mediation success. The presence of a fairly unambiguous advantage by one of the parties may well create a clearer incentive toward a settlement.

The idea that mediation outcomes are most effective in disputes involving disputants with equal power receives strong empirical support from a re-interpretation of Butterworth's data¹¹. In a study examining power resources and the impact of mediation, a clear pattern emerged showing high mediation impact (that is, abatement or settlement of a dispute) when power capabilities were evenly matched and low impact or no impact when power disparity was high¹². Butterworth's data was measured using the Cox-Jacobson scale¹³, incorporating measures of states' gross national product (GNP), military spending, GNP per capita, territorial size and the population. It was found out that where power

⁸ Kressel & Pruitt, D.G (1989) (ed) mediation & Research: The process and Effectiveness of Third – Party Intervention (san Francisco; Jossey – Bass) pg 76

⁹ Otto, M.C (1972) "Mediation as a Method of Conflict Resolution" International Organization 26: pp 595 – 618.

¹⁰ Young, O.R (1976) The Intermediaries: Third Parties in International Crisis (Princeton, N.J. PUP) pg 4

¹¹ Butterworth, R (1976) Managing Interstate Dispute: 1945 – 1974 (Pittsburgh; Penn – UPP) pp 32-59

¹² Bercovitch, J. (1986) "International Mediation: A study of Incidence, strategies and conditions of successful outcomes". Co-operation and conflict 21: 155 – 168.

¹³ Cox, R & Jacobson, H (1973) The Anatomy of Influence: (New Haven Yale University Press). Pg 90

disparity between parties is small (0 – 4), that is, where there is little difference in the power resources possessed by each party, the chances of successful mediation was bigger compared to where power disparity is great (11+).

Any dispute is not an isolated event; it has a past and presumably some sort of a future. It may occur between parties who have had a history of friendship or rivalry. Past events and interactions cannot be discounted. Indeed, the previous relationship between the parties is cited by Deutsch¹⁴ as one of the main variables affecting the course and outcome of mediating a conflict. Where parties' previous relationship was friendly, the probability of success was average. Clearly the historical context of a dispute exerts a strong influence on the manner of its management and likely outcome.

2.1.2 The nature of the dispute

There is general agreement in the literature that mediation outcome is largely determined by the nature of the dispute¹⁵. Naturally, the choices of conflict management modes and the chances of successful mediation are affected by the importance each adversary attaches to issues at hand.

To begin with, the duration of a dispute and the timing of initiating mediation may to a large extent determine the likelihood of its success. To be effective, mediation must take place at a propitious moment. However, little agreement occurs on how to recognize when a conflict is "ripe" for mediation. Edmead¹⁶ claims that mediation is more to succeed if it is attempted at an early stage, certainly well before the adversaries cross a threshold of violence and begin to inflict heavy losses on each other. Northedge and Donelan¹⁷, Otto¹⁸, and Pruitt¹⁹

¹⁴ Deutsch, M (1973) The Resolution of Conflict (New Haven: Yale University Press). Pg 8

¹⁵ Otto, M.C. *Ibid* pg 597.

¹⁶ Edmead, F (1971) Analysis and Prediction in International Mediation: (New York, UNITAR Study). Pg 21

¹⁷ Northedge, F.S & Donelan, M (1971) International Disputes: The political Aspects (London; Europa)

¹⁸ Otto, M.C *Ibid*: pg 598.

suggest that mediation is more effective when a dispute has gone through a few phases and must certainly not be initiated before each side has shown a willingness to moderate its intransigence and revise its expectations. These scholars' analysis shows that mediation is slightly more effective when it follows, rather than precede some "test of strength" between the disputants.

Closely related to timing of mediation is dispute intensity. The costs incurred by the parties from continuing a conflict may at some point become so overwhelming that further losses are deemed intolerable and unacceptable. Here again, the literature on mediation offers two contradictory points of view. Jackson²⁰ and Young²¹ suggest that the greater the intensity of a dispute, the higher the likelihood that mediation will be accepted and be successful. An opposing view contends that the greater the intensity and the higher the losses, the more polarized the parties' positions will become and more determined each party will be to reject any mediation effort and attempt to "win" at all costs. These opinions were proposed by Brockner²² and Burton²³.

To test this by hypotheses, we analyse and evaluate the intensity of the Sudan conflict, by the number of fatalities and relate this to the mediation process and outcome.

The literature abounds with ideas linking mediation effectiveness to the nature of the issues in dispute. Otto²⁴ sees the absence of vital national security interests, particularly questions of territorial centrality as a necessary precondition for successful mediation. Randle²⁵ contends that should a dispute affect vital security interests of the parties, no amount of mediation by a third party is likely to prevent

¹⁹ Pruitt, D.G (1981) Negotiation Behaviour (New York, Academic Press)

²⁰ Jackson, E (1952) Meeting of Minds (New York: McGraw – Hill). Pg 56

²¹ Young, O.R. *Ibid*.

²² Brockner, J (1982) "Factors Affecting Entrap"

²³ Burton, J.W (1969) Conflict & Communication (London: Macmillan). Pg 104

²⁴ Otto, M.C. *Ibid* pg 616.

²⁵ Randle, R. F. The Origins of Peace (N.Y. – Free Press) pg 49.

the unit break of hostilities when territory is at stake, the party in possession tend to resist third party involvement.

Issues in conflict are the underlying causes of dispute. They may not always be clear, but they refer to what the dispute is all about. Often more than one issue may be involved and the parties themselves may not agree on what constitutes a disputed issue or on its relative importance. Ordinarily, disputes range from sovereignty, ideology to security, independence, ethnicity and kinds of issues. The nature of the issue can, and does, affect mediation outcomes. There can be no doubt that issues in disputes, and how they are perceived, make a difference to the probability of achieving a successful or unsuccessful outcome. This argument is implicit in much of the writing on mediation.

2.1.3 The nature of the mediator

Brett, Dneghe and Shapiro²⁶; Carnevale²⁷ and Young²⁸ point-out that identity and characteristics of a mediator are predictors of successful outcomes. Others such as Harbottle²⁹ and Kockan and Jick³⁰ do not view the mediator as a critical determinant, relegating him/her to a secondary position. It is thus possible to argue, on one hand, that the personal characteristics of mediators as major agents differentiate effective from ineffective mediation, or on the other hand, that personal traits either way, it would be useful in our case to investigate the relationship between mediators' characteristics and the effectiveness of their mediation.

²⁶ Brett J.M. Dneghe R. & Shapiro D. L. (1986) "Mediator style and mediation effectiveness" Negotiation Journal 2: 277 – 285.

²⁷ Carnevale, P (1986) "Strategic choice in Mediation" Negotiation Journal 2: pp 41 - 56

²⁸ Young (1968) *Ibid*

²⁹ Harbottle M. (1979) "The strategy of third Party International in conflict situation" International Journal 35: pp 118 -131.

³⁰ Kockan T.A. & Jick T. (1978) "A Theory of Public Sector Mediation Process" Journal of conflict Resolution 22: pp 209 – 240.

Mediation is a voluntary process. Mediators cannot mediate unless they are perceived as reasonable, acceptable, knowledgeable and able to secure the trust and co-operation of the disputants. Effective mediation also depends not only on mediators' knowledge of conflict and conflict management but also on their prestige and authority, originality of ideas, access to resources, and ability to act unobtrusively. In a theoretical discussion, Wehr³¹ lists the attributes required for successful mediation as including knowledge about conflict situation, ability to understand the positions of the disputants, active listening, a sense of timing, communication skills, procedural skills and crisis management.

Another characteristic that has traditionally been listed as being strongly associated with effective mediation is even-handedness or impartiality. This emphasis however fails to recognise mediation as a reciprocal process of social interaction in which the mediator is a major participant. According to Susskind³² et al, it is entirely sensible to see mediation as "assisted negotiation", and to regard mediation as an exogenous input is both erroneous and unrealistic. A mediator engages in behaviour that is designed to elicit information and exercise influence. Mediators are accepted by the adversaries not because of their impartiality but because of their ability to influence, protect, or extend the interest of each party in conflict³³. According to Zartman *et al*, exercising any degree of influence, mediators need "beverage" or resources to search for information and move the parties away from rigid positions. Leverage or resources buttress the mediator's³⁴ ability to facilitate a successful outcome through the balancing of power discrepancies and enhancing of co-operative behaviour. The mediator's task is also essentially one of reframing and persuasion. As observed, strategies are most successful not when mediator is unbiased or impartial but when he/she possesses resources, leverage, and influence commensurate with their position to enhance fairness than it is of impartiality.

³¹ Wehr, P (1979) Conflict Regulation (Bowder, Colo, Westview) pg 32

³² Susskind, L. & Cruickshank, J. (1987) Breaking the Impasse (New York, Basic book). Pg 12

³³ Zartman, I & Touval, S (1985) "Mediation in Theory": International Mediation in Theory and Practice (Boulder, Colo, Westview) pg 3

³⁴ *Op - Cit*

Mediators have different ranks and possess different resources, both of which they use in different ways in different disputes³⁵. Mediators have been ranked along various dimensions ranging from government leaders and representatives to regional and international organizations and private individuals. For our case and interest and also as justified in the study proposal, we chose a regional organization - IGAD. As argued, regional organizations with common ideals, perspective and interests appear to offer the best chances of successful outcomes in mediation. A more compelling argument asserts that regional organizations always mediate within the same cultural and value system – and this, it seems, promotes agreement more than any other factor.

We also critically analyse the role of IGAD in mediation by examining its previous relationship with the disputants. The importance disputants assign to a continuing relationship with a mediator may well influence their perception of a dispute and their behaviour. Where a mediator is aligned with one of the parties or shares a common experience or goals with one party and future interactions are important to both, each disputant may show greater flexibility and confidence in the outcome.

These three variables form the context of mediation. We therefore turn to mediation process which forms the other important element for understanding and analysing mediation outcome.

2.2. MEDIATION PROCESS: BEHAVIOURS AND STRATEGIES

Mediators operate within a system of exchange and influence. The parameters of that system can be identified as the communication, experience and expectations of the disputing parties, and the resources and interests of the mediators. The

³⁵ Bercovitch, J (1992) "The structure of diversity of mediation in International Relations" in Bercovitch & Rubin (ed) Mediation in International Relations: Multiple – Approaches to conflict management (NY; St, Martins). Pp1 - 6

interplay between these parameters determines the nature and effectiveness of mediation. Whatever else they do, mediators hope to influence, change or modify one or more of these parameters.

There are a number of suggested roles that describes what mediators do to achieve their objective. Mediators' roles may be characterized in a number of ways. Jeffrey Rubin³⁶ for instance offers a comprehensive set of dichotomous roles and distinguishes between formal *vs* informal, individual *vs* representative, invited *vs* non-invited, advisory *vs* directive, content *vs* process roles.

Susskind *et al*³⁷, whose conception of mediation is that of "assisted negotiation" introduce a dynamic element into the discussion by identifying a number of roles such as representation, inventing options, monitoring and relating these to the various stages of negotiation. Each role may have its place in the life – cycle of a conflict, but it may be unwise to talk of the mediator carrying on the role. The empirical reality is that of many mediators fulfilling a range of roles.

Mediators' behaviour in terms of pre-ordained roles not only reflect our quest for better understanding of international mediation but also factors that shape that behaviour. Mediators' roles which are best placed on a spectrum ranging from passive to active involvement, can only be seen as state and typological. In reality, mediators adopt one or more roles, and, if necessary, change these in the course of mediation. Gulliver³⁸ puts it well when he states that it is necessary to avoid an assumption of the role of the mediator, whether in description or prescription. Dogmatic assertions of that kind, unfortunately not uncommon are misleading and stultify careful analysis. The enactment of a particular role or a set of roles, and the adoption of a passive or active stances does not so much depend on the mediator's determined adherence to a prescribed notion of 'the role' as it does on

³⁶ Rubin, J. (1981) Dynamics of Third Party Intervention: Kissinger in the middle East (NY: Preager) pp2 – 43.

³⁷ Susskind *Ibid*.

³⁸ Gulliver, J. see Susskind *et al Ibid* chapter 5.

the context of the dispute and the interests and resources of the mediator. Since mediation is essentially a voluntary process, it is logical to assume that a conflict will be must constructively and effectively dealt with through mediation when both the parties are willing to commit themselves in the process. In cases where only one party is interested in seeking assistance, or interested third parties propose it; the effectiveness of mediation may be reduced considerably.

Role classification provides us with one conception for categorizing and understanding different patterns of mediation behaviour. The notion of mediation strategies offers another and somewhat more useful conception. A mediation strategy is defined by Kolb³⁹ as an overall plan, approach or method a mediator has for resolving a dispute, it is the way the mediator intends to manage the case, the parties and the issue.

Touval and Zartman's⁴⁰ threefold classification of mediation strategies offers the best taxonomy for the student of international mediation and takes us some way toward answering this question. Three principle strategies are identified. These are: Communication-facilitation; formulation and manipulation strategies. The use of any of these strategies is designed to change, affect or modify aspects of the dispute, or the nature of interaction between the parties. The choice of a strategy, or strategies, by different mediators dealing with different disputes, intertwines with two major factors; the nature of the dispute, and the resources and interests of the mediators⁴¹.

Communication facilitation strategy entails: to make contact with parties; gain the trust and confidence of the parties; arrange for interactions between the parties; identify issues and interest; clarify situation; avoid talking; develop a rapport with parties; supply missing information; develop a framework for understanding;

³⁹ Kolb, D. "Strategy and Tactics of Mediation" *Human Relations* 36. (1983) pg 249.

⁴⁰ Touval, S & Zartman, I.W. (1985) "Introduction: Mediation in Theory and practice" *op cit* pp 7 – 20.

⁴¹ Touval, S & Zartman, I.W (1985) *Ibid* pg 12

encourage meaningful communication; offer positive evaluations and allow the interests of all parties to be discussed.

Formulation strategy entails; to choose meeting sites; control pace and formality of meetings; control physical environment; establish protocol; suggest procedures; highlight common interests; reduce tensions; control timing; deal with simple issues first; structure agenda; keep parties at the table; help parties save face and keep process focused on issues.

Manipulation strategy entails; to change parties' expectations; take responsibility for concessions; make substantive suggestions and proposal; make parties aware of costs of non-agreement; supply and filter information; suggest concessions parties can make; help negotiators to undo a commitment; reward party concessions; help devise a framework for acceptable outcome; change expectations; press the parties to show flexibility; promise resources or threaten withdrawal and offer to verify compliance with agreement.

2.3 TACTICS OF MEDIATING INTERNAL CONFLICTS.

Internal conflicts are marked by intensity and commitment that, more than in many cases of conflict, so lock the parties into opposition and hostilities that they cannot reach a turning point of perception and find a way out by themselves. They are unable to communicate with each other, unable to think of a solution that could be attractive to the other side as well as themselves, unable to conceive of any side payments or enticements to turn the zero-sum conflict into a position – sum solution, and unable to turn from commitment and a winning mentality to problem solving and solutions to grievances. Thus civil wars, more than many external conflicts need a mediator.

Because of the structural asymmetry of internal conflicts, mediators must combine the most intrusive of the three mediation roles – manipulation – with the

other two – communication and formulation⁴². As communicators mediators merely carry messages, overcoming the procedural communications gap between parties; as formulators, mediators put forward their own ideas about possible outcomes, overcoming the substantive communications gaps; but as manipulators mediators are involved in sharpening the stalemate and sweetening the proposed outcome. The most important key to obtaining acceptability is leverage, which comes in three forms; it is achieved either by the provision of side payments that turn the zero-sum game positive; or by the delivering of each sides' agreement to an outcome that the other side can find attractive or by a threat to end the mediation process through withdrawal or taking sides. Beyond such leverage the mediator has no power. The success of mediation depends on persuading the parties to change their perceptions of the value of current situations and future outcomes – that is, to see stalemate and reach a turning point.

The eventual key to the effectiveness of mediators and negotiation is an outcome that returns the conflict to normal politics. In this respect, too, civil wars differ from many other conflicts. Internal conflict cannot be resolved by some wise judgement on an outstanding issue, such as the location of a boundary the exchange of disarmament quotas, or the terms of a peace treaty. Rather, the outcome must provide for the integration of the insurgency into a new body politics and for mechanisms that allow the conflict to shift from violence back to politics. Generally this involves creating a new political system in which the parties to the conflict feel they have a stake, thus in a very positive sense co-opting all parties – government and rebels – in a new creation. There is a danger to that cooption; it can be used by opponents to discreetly negotiate leadership, but that merely strengthens the notion that a stable outcome must be a joint creation with benefits for both sides to hold them to the agreement.

⁴² Mitchell, C. R & Webb, K (ed) New Approaches to International Mediator (NY – Greenwood Press – 1988). Pg 80

Many attempts at mediation fail, at least in the early stages, because parties persist in talking to unrepresentative counterparts who cannot speak for large groups of followers or carry out an agreement if it were reached. Nevertheless, there is often temptation for one side to play politics within the other side on the negotiation issue an option usually more conceivable for the government than for the rebels. This can take one of the three forms. One side may be tempted to divide the other and make a separate peace with factions, winning away pieces; such tactics can be useful in isolating either the radicals of a movement who may have been preventing a solution, or a leader in chief whose personality would be indigestible in a new-government opposition coalition. Or one side may be tempted to seek out a third force to negotiate with in order to get around the obduracy of the rebellion's leaders, on the assumption that a third force might not only be able to come to an agreement but be able to end the rebellion by doing so. Or one side may be tempted to make an agreement with a moderate fringe of the rebellion and make common cause with those with whom it could work.

In the long run, all solutions are only experiments. This is so because solution does not mean a definitive settlement of specific issues (however prominent specific grievances may be among the causes of the conflict) but rather a restoration of normal politics, and because settlement does not mean elimination of the parties but rather their incorporation as actors in a new regime, rebels will bury their guns until they see how the new system works. Although some experiments may hold, others may fail because they do not address the causal problem at all because they maintain mechanisms that can be used to undo the agreement itself, or because they give rise to the conflict in a new form as a result of their results.

Our critical analysis of the Sudan peace process falls in this category of internal conflict where minorities have rebelled against the government. Prior to the IGAD-led mediation intervention, the rebels were discouraged in their struggle

and so alienated. This had turned the situation to almost an overthrow of the nation's central institutions.

2.4 CONCLUSION

In this chapter, I have sought to organize what is known about mediation, extract propositions about how it works, and identify a number of factors that are hypothesized to affect its outcome. These factors are critical in the analysis of mediation. Although eventually I shall be confined to use the findings on the analysis of IGAD's role in the Sudan Peace Process, these factors are all round applicable.

Central to this chapter too, is the notion that mediation is a dynamic process taking place within a political context, which affects and is in turn affected by, the practice of mediation. Mediation is truly a continuation of politics by other means. As such, it can only be comprehended as a contingent and reciprocal form of political behaviour. The nature and effectiveness of mediation depend, therefore, as much on the context, as they do on the identity and the activities of the mediator. To overlook this is to indulge in idle description or wishful prescription. I therefore turn to analyse the Sudan Peace Process (1994 – 2004) before critically analysing the role of IGAD as a mediator in the same process.

CHAPTER THREE

THE SUDAN PEACE PROCESS

3.0 THE SUDAN CONFLICT: AN INTRODUCTION

The Sudan conflict is Africa's longest running civil war. The sources of the conflict are deep and complicated. Religion is a major factor because of the Islamic fundamentalists' agenda of the current government, dominated mostly by the Muslim/Arab North. Southerners, who are mostly Christians reject the Islam influence of the country and favour a secular arrangement. Social disparities are also major contributing factors to the Sudanese conflict.

In recent years, most political leaders in the North, now in opposition to the current government, say that mistakes were made in the treatment of the South and that they are prepared to correct the situation. But the political mood among southerners has sharply shifted in favour of separation, from the North¹. The current government has pursued the military option aggressively. Economic conditions have deteriorated significantly and hundreds of thousands of Southern Sudanese are at risk of starvation due to a serious humanitarian crisis, largely caused by the long conflict. Meanwhile, the discussions on oil and revenues from oil have further fueled the conflict².

The abrogation in 1983, by the then president Jaffer Numeiri of the 1972 Addis Ababa agreement, which ended the first phase of the civil war in the South, is considered a major triggering factor in the current civil war. The Southerners demand autonomy and equality. Analysts point out that northern political leaders have for decades treated Southerners as second-class citizens and did not see the south as an integral part of the country. Southern political leaders argue that under successive civilian and military

¹ For more on Sudan's political situation, human rights and humanitarian issues see CRS issue brief IB98043, *Sudan: Humanitarian Crisis Peace Talks and U.S. Policy* by Ted Dagne

² See Dr. Francis Deng's testimony before the House International Relations Committee, June 5, 2000 at (<http://sudancare.org/HIRCO60502/Deng.htm>)

governments, political elites in the north have made only superficial attempts to address the grievances of the South, without compromising the North's dominant economic, political and social status.

Alarmed by the deepening crisis, and the many failed attempts by different mediators, members of the Inter Governmental Authority for Development (IGAD) formed a committee consisting of two organs, a Summit of Heads of States from Ethiopia, Kenya and Uganda and Eritrea and a Standing Committee composed of mediators. Preliminary talks were convened in 1993 and in March 1994 formal negotiations began.

At the initial negotiations meeting in Kenya, Declaration of Principles (DOP) was presented. Amongst other things, the DOP made provisions for: the right of self determination with national unity an area of high priority; a system of grievance based on multiparty democracy, separation of state and religion (secularism); decentralization through a loose federation or a confederacy; respect for human rights and a referendum to be held in the south with secession as an option³.

3.1 THE SUDAN PEACE PROCESS 1994- 2005: AN OVERVIEW

Since 1993, the leaders of Eritrea, Uganda and Kenya have pursued a peace initiative for the Sudan under the auspices of the Inter Governmental Authority for Development (IGAD), but results have been mixed. Despite that record, the IGAD initiative promulgated the 1994 Declaration of Principles (DOP) that aimed to identify the essential elements necessary to a just and comprehensive peace settlement; that is, the relationship between religion and the state, power-sharing, wealth-sharing, and the right of self-determination for the South. The Sudanese Government did not sign the DOP until 1997 after major battlefield losses to the SPLA.

³ International Crisis Group (ICG) *God, Oil and country: Changing the Logic of War in Sudan* (2002)

In 1995, a coalition of internal and exiled opposition parties in the north and the south created the National Democratic Alliance (NDA) as an anti-government umbrella group. This development opened a north-eastern front to the civil war, making it more than before a center-periphery rather than simply a north-south conflict. The SPLA, DUP, and Umma Parties were the key groups forming the NDA, along with several smaller parties and northern ethnic groups⁴.

Also in 1997, the government signed a series of agreements with rebel factions, led by former Garang's Lieutenant Riek Machar; under the banner of "Peace from Within"⁵ These included the Khartoum, Nuba Mountains, and Fashoda agreements that ended military conflict between the government and significant rebel factions. Many of those leaders then moved to Khartoum where they assumed marginal roles in the central government, or collaborated with the government in military engagements against the SPLA. These three agreements parallel the terms and conditions of the IGAD agreement, calling for a degree of autonomy for the South and the right of self-determination.

In July 2000, the Libyan /Egypt Joint initiative on the Sudan was mooted, calling for the establishment of an interim government, power-sharing, constitutional reform, and new elections. Southern critics objected to the joint initiative because it neglected to address issues of the relationship between religion and the state and failed to mention the right of self-determination. It is unclear then to what extent this initiative would have a significant impact on the search for peace, as some critics viewed it as more aimed at a resolution among northern political parties and protecting the perceived security interests of Egypt in favor of the unity of the Sudan⁶.

In the drought in 2000-2001, the United States (U.S.) and the international community again responded to avert mass starvation in the Sudan. The U.S. and other donors continue to provide large amounts of

⁴ see Khalid Mansour: John Garang Speaks. (ISS, South Africa 1987)

⁵ *Ibid*

⁶ *Ibid*

humanitarian aid to all parts of the Sudan. The government of Sudan (GOS) used aerial bombardments and helicopter gunship to attack the Southern Sudanese civilian population for years. Most of these attacks occurred in the Bahr el Ghazal, Eastern Equatorial, Southern Blue Nile, and Upper Nile regions⁷.

In addition to the direct threat to non-combatants from these aerial bombings, there were additional humanitarian issues associated with the Government's tactics of bombarding civilian and humanitarian targets. There was a direct relationship between GOS aerial bombardment and GOS flight denial of U.N. Operations Lifeline Sudan (OLS) humanitarian operations and evacuating of staff. Furthermore, GOS aerial bombardments raised significant security concerns with OLS Officials that often lead to the United Nations (UN) suspension of operations to an insecure area. In addition, the abduction of humanitarian staff and killing of relief workers was a direct relationship to the GOS bombardment of civilian and humanitarian targets because GOS bombardment appeared to be part of an overall Government policy on restricting humanitarian access.

In September 2001, former Senator John Danforth was designated Presidential Envoy for peace in the Sudan. His role sought to explore the prospects that U.N. could play as a useful catalyst in the search of a just end to the civil war and enhance humanitarian services delivery that can help reduce the suffering of the Sudanese people stemming from war related effects.

In June 2002 a new round of peace negotiations began under IGAD. The session ended up on July 20th where parties signed the Machakos Protocol⁸, which provided a framework for broader negotiations. Key provisions of the Machakos Protocol included a six year interim period, after which a referendum on self-determination would be held in the South. This was supposed to offer a choice between a United

⁷ For more on IGAD's role in the Sudan Peace Process and official IGAD documents see, (http://www.iss.co.za/AF/RegOrg/unity_to_union/IGAD.html)

⁸ *Ibid*

Sudan and succession. The parties were also in agreement that Sharia law would continue to be applied only in the North.

During the second round of talks, which started in August 2002, power and wealth sharing were discussed. President Bashir and Dr. John Garang, leader of the SPLA held a historic first meeting in Kampala. On October 15th 2002 the government and the SPLM/A signed a Memorandum of Understanding (MOU), which called for a complete cessation of hostilities for three months, as all called for unimpeded humanitarian access. After international pressure and a report by the Civilian Protection and Monitoring Team (CMPT) on fighting in Western Upper Nile, the Government and the SPLAM agreed in early February 2003 to a number of provisions to strengthen the cessation of hostilities, including the creation of a new international verification and monitoring team⁹.

Talks on security arrangements began early April 2003. The Government included the Southern Sudanese Defence Forces (SSDF) – the umbrella of government aligned militia groups, in its official delegation. A fifth session on the so-called contested areas that is, Abyei, the Nuba Mountains and Southern Blue Nile, was concluded in May.

The Sudanese government and the rebels, who have been at war for more that two decades, removed one major obstacle toward peace in early January 2004 by signing an accord on wealth sharing. But they had yet to agree on how to share power and territory. Of the two remaining issues, the status of three areas on the border between Sudan's north and south was the most contested. The rebels claimed territory in Nuba Mountains, Southern Blue Nile, and Abyei, which were then part of the north.

On 26 May 2004, the Sudanese government and the main rebel group, the Sudan People's Liberation Movement /Army (SPLM/A) signed three key protocols in the Kenyan town of Naivasha, bringing them

⁹ *Ibid*

step closer to a comprehensive peace, agreement. The agreement provided for six years of autonomy for the mainly Christian and animist southern Sudan, to be followed by a referendum on the political future of the region¹⁰.

The deals, which covered power-sharing arrangements and the administration of three contested areas during a six-year interim period, brought to an end political negotiation between Sudanese first Vice-President Ali Athman Mohammed Taha and SPLM/A Chairman Dr. John Garang. Technical committees were expected to resume talks to work out methods of implementing the six protocols signed and agree on a formula for a permanent ceasefire by mid- July 2004, after which a comprehensive peace agreement would be signed.

THE MACHAKOS PROTOCOL¹¹

In late June 2002, IGAD mediators presented the government of Sudan and the SPLM/A with a “Draft Sudan Peace Agreement” Proposal. The Draft Proposal dealt with a number of critical issues facing the warring parties to the conflict. On the issue of self-determination, the Draft Proposal altered the longstanding position of IGAD and its declaration of principles. IGAD in its DOP specifically endorsed self-determination for South Sudan. In contrast, the 2002 “Draft Sudan Peace Agreement,” proposed a “pre-transition” period that would last about six months and a “transition” period that would last no more than four years. The proposal did not address the issue of a referendum directly but instead suggested “the people of southern Sudan shall be consulted; this popular consultation shall solicit the views of southern Sudanese in regard to self-determination arrangements as set out in this agreement”.

Members of the SPLM/A delegation and their supporters viewed the proposals as unacceptable and an abandonment of their basic right to determine their political future. They objected to the proposed

¹⁰ *Comprehensive Peace Agreement between The GOS and SPLM/A* (United Nations, 2005)

government structures and the authority given to the “national government,” and to what they saw as the diminished role for the South within the proposed framework, asserting that Southern would be getting less than what they got in the 1972 Addis Ababa Agreement. The government of Sudan accepted the proposed draft agreement with a few amendments, since the draft agreement was similar to the government’s previous offers. The, SPLM/A delegations expressed concerns and gave its response to the mediators, arguing for a shorter transition period and demanding clarity on the issue of self determination.

The Draft Proposal was similar to an earlier proposal presented by the Kenyan Special Envoy in early 2002. According to that proposal, self-determination would be replaced by self- administration, and separation of religion and state would be substituted for “religious tolerance.” In addition, the proposal called for a cease- fire agreement before final political settlement, a position that has long been rejected by the SPLM/A. Many observers argued then that the ill-fated proposal was a non-starter, on grounds that the SPLM/A would not make concessions on these two issues, indeed, after a discussion between president Moi and the leader of the SPLM/A Dr. John Garang, president Moi agreed with Dr. Garang that this agreement did not offer anything to southerners.

The SPLM/A and its supporters assumed that was the end of that proposal. But the June Draft Proposal seemed to suggest, considering the similarities of the two, that the earlier thinking was never abandoned by the mediators. According to some observers, the strategy of the mediators appeared designed to appease the government and seek concessions from southerners. This strategy appeared to presume that the government was stronger and more cooperative than before, and that concessions had to be made to win the government’s acceptance without which there could be no deal. Another assumption may have been that if the SPLM/A rejected this proposal; it would be labeled as the obstacle to peace and would be isolated and marginalized. But some analysts argued that this line of thinking achieved quite the opposite results: it unified southerners and opened the door for some violence and intransigence.

Hours before the deadline for the signing of the Draft Agreement, the mediators reportedly realized that the omissions of self determination from the agreement was a serious error and that the Draft Agreement altered IGAD's longstanding support for self determination and took inadequate account of the government of Sudan, the parties reached what some see as potentially historic agreement on 20th July, 2002 the government of Sudan and the Sudan People's Liberation Army, after five weeks of talks in Machakos.

Kenya signed a Framework Agreement to end the war in Southern Sudan. The Machakos Protocol called for a six- year transition period and a referendum on the political future of southern Sudan at the end of the transition period. The Agreement established an independent Assessment and Evaluation Commission to monitor and evaluate the implementation of a final peace agreement. The Machakos Protocol also exempted southern Sudan from the Islamic law or Sharia. The United States, the United Kingdom, and Norway participated as observers in the Machakos IGAD negotiations.

The Framework Agreement¹² was seen by the mediators and some observers as a major breakthrough in the long stalled IGAD peace process. The government of Sudan had favoured the earlier Draft agreement, which neglected self-determination for the South and downplayed the separation of religion and the state. The Framework Agreement by contrast gave both sides something to take back to their constituencies. The government of Sudan was able to point to the fact that it could continue its Sharia laws in the North, while the SPLM/A was able to emphasize the agreement on a referendum to determine the political future of southern Sudan after a six year transition period. The SPLM/A appeared to have made important concessions at Machakos, paving way for the Framework Agreement. The SPLM/A had long insisted on a ten year transition period. The SPLM/A accepted a longer transition period in order to give unity a chance. The SPLM/A also abandoned its long-standing opposition to

¹² Text of the framework Agreement is available at(<http://www.state.gov/r/pa/prs/ps/2002/8915.html>)

Sharia and acceptance of a referendum at the end of the transition period was also seen as an important concession.

The second phase of the negotiations in late 2002 proved difficult. There were significant disagreements on a wide range of issues. The parties met to discuss the transition period in mid –August 2002 and agreed to the following agenda: judiciary and the rule of law; security arrangements; modalities for implementing the peace agreement; regional and international guarantee. The first two weeks were designed for briefing and lectures by experts on a wide range of issues relating to nation building and conflict resolution. Shortly after, the parties were given a report called Draft Protocol on Power Sharing within the Framework of a Board based Transitional Government of National Unity Between the Government of Sudan and the SPLM/A. The parties were asked to respond to the mediator's draft.

In August 2002, however, tensions began to mount on the ground. Government forces attacked a number of garrison towns controlled by the SPLM/A, and SPLM/A forces retaliated by attacking the government's main garrison town in eastern equatorial, Torit. On 2nd September 2002, a day after the capture of Torit, the government of Sudan withdrew from the talks. In a press release, the government stated that it had withdrawn because of SPLM/As' position on power sharing and the status of the national capital, even though most observers were convinced the withdrawal was in reaction to the loss of Torit. The government of Sudan demanded the withdrawal of the SPLM/A from Torit and a cease-fire agreement as a condition for its return to the negotiations. In late September, the government intensified its military campaign in the East and massed troops around Torit. In early October 2002, the government of Sudan returned to the negotiations after its forces re-captured Torit in Southern Sudan. Based on what they characterized as a confidence building measure, the SPLM/A reversed an earlier opposition and agreed to a cessation of hostilities agreement.

The second phase of the negotiations at Machakos focused on a wide range of issues relating to power and wealth sharing arrangements¹³. On the question of the Presidency there were significant disagreements between the parties. The SPLM/A initially proposed a rotation of the presidency during the interim period. The first three years under Bashir's presidency with the SPLM/A in the vice President slot, and the reverse for the second half of the interim period. The government of Sudan rejected the SPLM/A proposal. The SPLM/A then proposed that Bashir could keep first Vice president slot. The government was at first receptive to the idea, but then rejected the SPLM/A proposed arguing that there should be several vice presidents and the president (Bashir) should fill these slot. Members of the government's delegation expressed concerns that to give the first vice president slot to the SPLM/A would be risky since in the event the president were incapacitated, the first vice president (SPLM/A) would assume the presidency. The SPLM/A agreed to the proposal of creating several vice president slots, but insisted that the first vice president slot with genuine powers should be given to the SPLM/A.

There were also disagreements on power sharing arrangements in the executive, legislature, the civil service, and the judiciary. Both the government of Sudan and the SPLM/A agreed on SPLM/A participation in all these government structures. The SPLM/A argued that due to historical injustices, southerners should get 40% of the seats in the Lower House and 50% in the Upper House. The SPLM/A accepted the fact that southerners may only present a third of the population, while pointing out the absence of a reliable population census. The SPLM/A argued that it is important to maintain a fifty-fifty representation in order to avoid abuses of power by the majority in the Upper House. The government contended that southerners represent less than 20% of the population and thus do not deserve to have 40-50% of the seats in the legislature. The mediators had proposed a 33% representation for the SPLM/A. In the executive (Cabinet) and the civil service, the SPLM/A demanded 40% of the positions in all levels, while the government of Sudan offered 20%¹⁴.

¹³ For more on wealth and power sharing negotiations see *Power and Wealth Sharing ; Make or brake time in Sudan Peace Process* (ICG, December, 2002)

¹⁴ Text of the Agreement available at (<http://www.iss.co.za/AF/RegOrg/unity-to-union/IGAD.html>)

Negotiations on the status of the national capital were also contentious. There was an agreement that the national capital would continue to be Khartoum. But the SPLM/A insisted that the national capital which had a large population of non- Muslim Southern Sudanese, should be secular and not bound by the Sharia laws of Khartoum state. At Machakos both sides agreed that the South would be exempted from Sharia and the North could have Sharia. But the status of the capital was not discussed. As a counter-proposal, the SPLM/A suggested that an enclave in Khartoum should be Sharia free and the rest of the capital could continue to have Sharia. The government rejected the SPLM/A proposal and charged that discussion on this issue could unravel agreements reached at Machakos. Observers noted that while on the surface disagreement on this issue seemed minor, the influencing factors behind the disagreement were very serious and at the core of this debate was the role of religion in politics, the very same issues that led to the second phase of the civil war, after the President Nimeri imposed Sharia in the South in 1983.

On wealth sharing there was general agreement that more funds should be allocated for southern Sudan. There were significant disagreements, however, on ownership of natural resources, economic policy, and on revenue sharing. The government of Sudan maintained that all unregistered land belonged to the state, while the SPLM/A contended that land belonged to the community. The SPLM/A argued that because of historical neglect of the south, a significant share of revenues, especially oil revenues, should go to the South. The SPLM/A demanded 60% of the revenues from oil, while the government of Sudan offered 10% .The government contended that the national government would require significant funds to finance reconstruction and development of the entire country during the transition period. Another new currency was proposed for the southern Sudan by the SPLM/A. The SPLM/A argued that the then banking system was based on Islamic laws and was incompatible with the economic system in Southern Sudan.

3.3 PRELIMINARY AGREEMENT ON POWER-SHARING ARRANGEMENTS: THIRD SESSION OF THE IGAD PEACE MEDIATION¹⁵.

The government of Sudan and the SPLM delegations met in Karen, Kenya in late January – early February 2003 to discuss power and wealth sharing arrangements for the interim period. The parties reached agreement in principle on some aspects of power and wealth sharing, but remained far apart on a number of key issues. In previous talks, the negotiations were stalled because the parties could not agree on allocation of parliamentary seats, civil service position for Southern Sudanese, share of revenues from oil and other resources, and power-sharing arrangements in the executive. During these talks, the parties agreed to move away from percentages and agreed on a formula of “equitable” power and wealth sharing arrangements. While there appeared to be broad understanding and agreement about the formula, the prospects for misinterpretations were substantial. The mediators appeared eager to reach agreements where possible and avoid contentious issues, leaving unresolved issues for a later date. The limited success on power and wealth sharing issues hinged completely on the idea of “equitable” sharing of power and wealth. The real challenge came when the parties began to discuss what “equitable” meant to each side. The SPLM/A asserted that decades of neglect of and discrimination against the South should be compensated by giving Southerners more than what they been offered in the past. The government of Sudan argued that other Sudanese communities also deserved attention.

The mediators hoped to bridge the gap between the two sides once they secured agreement on the key issues of power and wealth sharing, the national capital, the marginalized areas of the Nubian Mountains, Abyei, and Southern Blue Nile and final security arrangements. The parties began discussion on the marginalized areas after days of wrangling over the composition of delegations and agenda for the talks. The government of Sudan insisted that members of the delegation on the other side should consist of and should be led by people from the respective areas. Members of the SPLM/A delegation

⁵ Sources for this section were largely acquired from IGAD’s internal documents and an interview with Mjr. (Rtd.) Gen. -azarus Sumbeiywo.

argued that the government of Sudan should not dictate the make-up of the SPLM/A delegation since the Movement is not dictating the composition of the government's delegation. The SPLM/A later agreed to the government's demand. The delegations then adopted an agenda for the talks, after they agreed to discuss the three areas in three sub-committees for the regions consisting of eight individuals from each side.

The mediators and some observers were cautiously optimistic about the talks, although the optimism seemed to reflect simply the fact that the talks are on-going and had not collapsed¹⁶. There had been no major breakthrough in the talks since the parties signed the Framework Agreement on self-determination, religion and state in July 2002. The parties had agreed to hold elections during the interim period, after rehabilitation, reconstruction, and repatriation of Southern Sudan. The structure of the government and the relationship between the governing entities was not clear. The National Unity Government would consist of the current government and the SPLM but it was not clear, however, what role, if any, other opposition groups would have in the National Unity Government. The broad outline agreement was vague about what specific role the SPLM would have in the executive, although the parties had agreed President Omar Bashir would remain the head of government during the interim period. The mediators hoped that the decision making process in the executive would be one of respect for authority and partnership.

The parties agreed to "equitable" representation in both chambers of the legislature without specifying the composition of the parties. The mediators attempted to clarify what they meant by "equitable" sharing of power in the legislature and executive¹⁷. The mediators asserted that relevant considerations shall be taken into account in determining what constitutes equitable representation. What was meant by "relevant consideration" was not clear, however some aspects of the agreement on the national civil service shed light on what was considered "relevant considerations." According to the agreement,

¹⁶ Sec special Envoy's Lazarus Sumbeiywo letter to secretary of state available at (<http://www.state.gov/p/af/ci/su/c9101.htm>)

¹⁷ *Op cit*

several principles were to be applied in determining the level of representation and the number of positions that could be allocated for Southern Sudanese. These principles included “imbalance and disadvantages which existed and had to be redressed; merit was important and training was necessary : fair competition for jobs, no level of government shall discriminate against any qualified Sudanese citizen on the basis of religion, ethnicity, region, gender, or political beliefs, and that the national civil service would fairly represent all the people of Sudan. This general outline of the guiding principles appeared to satisfy the demands of the parties. The government emphasized fair representation of the people Sudan, merit and fair competition, since northerners were better educated, and had more experience in government service. The SPLM/A, on the other hand, focused more on the need to redress decades of neglect and discrimination, and effective utilization of affirmative action for southerners.

The proposed executive consisted of the President, Vice President (s), and a Council of Ministers. The parties had yet to agree on the role and number of vice presidents. The SPLM/A had initially proposed a rotation of the presidency and after a contentious debate dropped its proposal. It was not clear under the arrangement if the SPLM/A would get the vice president’s positions. The executive would have broad powers in matters of national security and administration of the federal government. Allocation of cabinet positions was expected to be addressed before a final peace agreement was signed. The mediators deliberately avoided dealing with allocation of posts in the National Unity Government because the parties could not agree in previous talks. The reluctance by the government of Sudan to accept a rotational presidency in the initial phase of the talks and disagreement over the powers and the vice president contributed to an erosion of confidence between the parties and created uncertainty about the commitment of the government of Sudan to a real power-sharing arrangement with the SPLM/A. The leader of the SPLM/A Dr. John Garang was under intense internal and external pressure to make some concessions. Some senior members of the Movement contended that the SPLM/A had made a

number of important concessions, while the government of Sudan continued to harden its positions. In March 2003, at a leadership council meeting in Southern Sudan, the SPLM/A leadership acknowledged that unwarranted concessions were made during the January talks and that corrective measures would be taken¹⁸.

The parties made some progress in the wealth-sharing talks, although final agreement was not reached. Using the same formulation of “equitable” sharing, the parties dropped the contentious formulae of percentage sharing of wealth. The SPLM/A in the earlier talks had demanded 60% of the oil revenues, while the government offered 10%. The existing preliminary agreement stated that ‘the sharing and allocation of wealth would be based on the premise that all parts of Sudan were entitled to development’. The agreement also emphasized, “the parties agreed that Southern Sudan faced serious needs”. The agreement gave the National Unity Government broad powers to collect taxes and manage national resources. On the issue of land ownership, the parties agreed, “the regulation on land tenure, usage and exercise of rights in lands would be a concurrent competency exercised at the appropriate levels of government”¹⁹. The agreement on land ownership was vague and vulnerable to various interpretations by the parties. The parties could construe the phrase “concurrent competence, at the appropriate levels of government” to mean in the case of the government of Sudan the National Unity Government in which the current government was expected to dominate and the SPLM/A could interpret the phrase as one that gave authority to the government of Southern Sudan.

The parties agreed that existing oil contracts shall not be subject to renegotiations. Some top SPLM/A leaders contend that the Movement gave too much by allowing existing contracts to stay in place. The SPLM/A and human rights organizations repeatedly accused oil companies operating in Sudan of supporting the government of Sudan’s scorched earth policy in the oil- producing regions of Southern

¹⁸ *Op cit*

¹⁹ Woundu, S and Lesch, A Battle for Peace in Sudan (2000)

Sudan. It is not clear what role the government of Southern Sudan would have in new contracts. It was also not clear if the parties' interpretation of "concurrent competence" applied to oil resources. Moreover, the parties agreed that "if contracts are deemed to have fundamental social and environmental problems, the government of Sudan and environmental impact in the oil-producing regions in Southern Sudan²⁰ would be reported on by human rights organizations. The SPLM/A was likely to use this provision to influence new contract negotiations and re-negotiate existing contracts with oil companies.

The parties agreed to establish a Fiscal and Financial Allocation and Monitoring Commission (FFAMC). The Commission was directed to ensure fair allocation of funds to states/ regions, and the government of southern Sudan²¹. The formula the parties agreed on in determining the amount of allocation of funds was largely based on the Gross Domestic Product (GDP), although final agreement was not reached on this provision. The parties also agreed on the contentious issue of external debt. The SPLM had consistently argued that the South would not be responsible for the external debt of GOS since these funds were used to subjugate Southerners and that the funds were never used to develop the South. The SPLM delegation dropped its opposition to the assumption of responsibility for the external debt after several days of debate²².

3.4 WAS REAL PROGRESS BEING MADE BETWEEN THE GOVERNMENT OF SUDAN AND THE SPLM/A?

Many observers and the parties to the conflict agree that the negotiations between the government of Sudan and the SPLM/A had made some progress over the years²³. The mediators portrayed a positive picture and appeared determined to keep the parties engaged in the negotiations. However, the optimistic scenario of peace within reach was not shared by some observers who believe that the Sudan conflict

²⁰ Christian Aid: *The scorched earth; Oil and war in Sudan*(March,2001)

²¹ Amnesty International: *Oil in Sudan; determining human Rights*(June 2000)

²² interview with Rtd. Mjr. Gen. Sumbeiywo

²³ Speech by Foreign Minister of Sudan, Mustafa Ismail, at the Woodrow Wilson Centre on May 21, 2003

may require more time to resolve. Some analysts were concerned that in the absence of trust between the parties and mounting tensions, the talk could collapse. Some SPLM leaders charged that the government of Sudan was dragging out the talks in order to launch a full-scale attack against the South. According to some U.S. officials and regional experts, the government of Sudan seems to be under intense pressure from within to finish off the SPLM/A military rather than to make concessions and threaten the unity of the country. Indeed, there had been no major breakthrough agreements since July 2002. There was small, yet incremental progress made in the last round of talks. The parties, moreover, seemed committed to continuing the negotiations.

The most notable achievements of the negotiations thus far, were improved humanitarian conditions; relative peace and stability in South Sudan, and the asserted conditions had improved significantly. Large scale suffering and death by starvation was becoming a thing of the past, with humanitarian conditions having improved significantly. Moreover, there had been no major military confrontation between the government of Sudan and the SPLM/A since the signing of the cessation of hostilities Agreement in October 2002, although government forces and allied militia attacked SPLM/A forces on a number of occasions in Western Upper Nile in late 2002. Fewer civilians had been targeted by government forces during this same time than at anytime in the past decade, although civilians in Western. Upper Nile reportedly continued to suffer from government- instigated violence and a policy of displacement²⁴.

The optimists argued that a peace agreement could be reached by the end of June 2003²⁵. They asserted that agreements or understanding had been reached on a wide range of issue. Indeed, comparison of IGAD led mediations to Egypt- Libya initiative, suggested that the IGAD- led talk had achieved much committed than on any other previous initiative. While the parties could not be absolutely certain of the

²⁴ Details of the conditions in Southern Sudan can be found in(<http://www.state.gov/af/ci/su/c9101.htm>)

²⁵ In early April 2003, President Bashir and Dr. (the late) Garang, after a summit in Kenya had stated that an agreement could be reached by end of June, 2003.

end game, there were reported signs that the parties could be preparing themselves politically and psychologically for an eventual settlement. This was seen as a major departure for both sides from their previously held positions. Indeed, both sides had their respective hardliners, who continue to undermine the process. What observers saw as new and interesting about this process was that these factions did not appear to enjoy strong support within their respective camps and therefore were less likely to succeed.

Analysts believed that external factors also influenced the negotiations for the better. Shifting alliances in the region had a positive impact on the peace process. It improved relations between longtime arch enemies. Uganda and Sudan, for example, had helped those with NIF who had been urging diplomatic solutions with regional actors and negotiations with the SPLM/A. The two-year war between Ethiopia and Eritrea, which led to the dissolution of the Frontline States assembled against the NIF regime in Khartoum, helped the NIF regime improve relations with neighboring Ethiopia; Moreover, Sudan's rapprochement with Egypt strengthened the standing of the government of Sudan in the Arab world. Meanwhile, SPLM/A's careful courting of the Egyptian government in the years which eased Cairo's fear of a divided Sudan, may have contributed to the limited success of the IGAD- led peace process.

Some observers, who were cautiously optimistic, acknowledged that although progress was made in the initial talks, there had been no breakthroughs. The observers saw that that the lack of progress concerning the security arrangement, the three disputed areas (the Nuba Mountains, Abyei, and Southern Blue Nile), and the status of the national capital as due in large part to the difficult nature of the issues. Solving these issues, they argued would require assertive and forceful engagement by the United States and its peace partners. President Bashir of Sudan and the then leader of the SPLM/A, Dr John Garang, had met twice since the signing of the Framework Agreement in July 2002 in an effort to build confidence between the two leaders. The parties also had made more progress on some of the most contentious issues behind closed doors than was publicly known. The second round of talks on wealth

and power sharing, for example, concluded with major disagreement on a wide range of issues. A follow-up meeting, with technical support by the World Bank and the IMF, on the same issues reportedly produced significant results, but the agreements were never made public.

Pessimists, on the other hand, emphasized that significant challenges remained to any peace settlement in Sudan. Some analysts and Sudanese opposition groups were not convinced that the government of Sudan was truly committed to a just and lasting peace. They argued that its apparent change in behaviour was temporary and tactical in large part of fear of sanctions that might be imposed by the United States. Indeed, the foot dragging on political reform and counter-terrorism co-operation by the Sudanese government abruptly ended shortly after the September 11th terrorist attacks. One serious concern was that a faction led by First Vice President Osman Taha was opposed to the peace process, according to regional observers. This faction, the core of the Islamist wing of the government, reportedly preferred to pursue the military option, especially in light of increased oil revenues. Over the years, the government of Sudan had purchased sophisticated weapon systems, including helicopter gunship and had significantly expanded its domestic production of weapon systems²⁶. Moreover, some observers suggested that the Islamist feared that a peace agreement with the SPLM/A could weaken the Islamic Movement and eventually end their grip on power. Some even suggested that Vice President Osman Taha was concerned that if there was peace agreement he would have to give up the vice president's slot to the SPLM/A, as the negotiations on power sharing seemed to suggest. However, Taha had suggested that he supported the peace process and would play a direct role in the talks.

Several other factors seemed to complicate a final deal between the SPLM/A and the government of Sudan. The North was increasingly divided. The traditional parties, the Umma and the Democratic Unionist Party (DUP) were splintered and remained outside the peace process. The meeting of the

²⁶ Stratford; *Sudan and Russia Forging New Ties Around Oil and Arms*(January 22nd 2003)

National Democratic Alliance (NDA) in Eritrea clearly demonstrated the potential pitfall if Northern groups opposing the government of Sudan remain outside the peace process. Many NDA members were unhappy that the SPLM/A unilaterally signed agreements with the government of Sudan and considered the acceptance of Sharia (Islamic law) in the forcing government's forces to deploy to an area that had been peaceful for years²⁷. The rebellion appeared to enjoy popular public support and had gained ground against government forces.

The SPLM/A was unlikely to give up on another issue, and powerful forces in the government of Sudan were vehemently opposed to a two-army arrangement, arguing that this would be tantamount to an independent South. The difficult in resolving this issue lay in 1972 Agreement that ended the first phase of the Sudan conflict was the maintenance of a unified army. The SPLM/A leadership believed that was a mistake and could have contributed to the intransigence of the North once the South disarmed. Observers agreed that the two-decade war had destroyed much of the trust between the parties. Furthermore, the SPLM/A argued that the July Framework Agreement provided the southern Sudanese the right to hold a referendum to decide their association with the North. Creating a unified army, they contended, could impact on the conduct and outcome of the referendum.

3.5 CONCLUSION

Some observers believed that a solution could be found without jeopardizing a final peace agreement. They argued that even if the opposing sides maintained two armies they could still establish joint national institutions, unified military command, a national police force, a national training center, and joint border patrol. But for this scenario to work, a direct and robust engagement by the United States in the peace process was pivotal. They believed that American engagement was more relevant in light of the changes in leadership in Kenya. The IGAD special Envoy, Lt. General (Rtd.) Lazarus Sumbeiywo,

²⁷ "Ceasefire Reportedly Breaks Down in Darfur" , March, 20, 2003 *UN integrated Regional Information Networks*

who was close to Kenya's former president Moi and had the strong backing of the government, did not enjoy the same level of access to the new Kenyan leadership. Kenya's President Mwai Kibaki also was not though to be as committed to the Sudan Peace Process as former President Moi, who was personally involved in the peace process for almost a decade.

Some observers also suggested that the United States, with the blessing of IGAD and the parties, host a discussion on security arrangements. They maintained that the parties were more likely to embrace a session, believing that direct American engagement would make the United States a guarantor of a peace agreement. Indeed, the Bush Administration has since helped bridge the gap between the United States and its European allies over Sudan policy, paving the way for improved cooperation in the peace process. Other U.S. government agencies have expanded their activities in Sudan, reportedly making a tangible difference for many impoverished Sudanese. The U.S. Agency for International Development (USAID) for example has significantly increased its development programs in Southern Sudan, while the U.S. counter-terrorism experts continue their dialogue with their counterparts in Khartoum.

On April 21, 2003, the US submitted its report on Sudan, as required by the Sudan Peace Act Section 6 (b) (1) (a) of the Act stated that "the President shall make a determination and certify in writing to the appropriate congressional committees within 6 months after the date of enactment of this Act, and each six months thereafter, that the government of Sudan and the SPLM/A, are negotiating in good faith and that negotiations should continue". Section 8 of the Act required the President to report on humanitarian access and aerial bombardment of civilians targets. Section II of the Act requires that the President submit a report on possible war crime. In these reports, the administration certified that both parties were negotiating in good faith and that negotiations should continue. The Administration based its determinations on four key findings: (1) current negotiations offered the opportunity for a peaceful resolution of the conflict (2) the negotiation had made "steady progress" on a wide range of issues,

including power and wealth sharing, cease-fire modalities, humanitarian access, self-determination for the South and exemption of southern Sudan from Sharia laws; (3) the parties to the conflict were committed to continuing the negotiations and (4) the mediators and the parties to the conflict believed that a just and lasting solution could be found²⁸.

²⁸ The Sudan report can be found at (<http://www.state.gov/p/af/su/9101.htm>)

CHAPTER FOUR

A CRITICAL ANALYSIS OF THE IGAD-LED SUDAN PEACE PROCESS; 1994-2005.

4.0 INTRODUCTION

The strength of the IGAD peace initiative, particularly during its later stage, has been its clarity in identifying the key issues at the core of the conflict, and then bringing to bear the necessary political and technical resources, including international pressure, specifically that of the United States (US), to encourage the SPLM,/A and GOS to make the needed concessions. Crucial and worthy as this achievement is, the IGAD initiative from the beginning was understood to involve a continuing involvement in Sudan that would not end until the terms of the peace agreement were fulfilled and the necessary stability was achieved, because only then could there be confidence that peace would be secure. And that objective in turn was not realizable unless there were significant and continuing democratic reforms. The Sudanese people must have assumed increased and ultimate responsibility for a democratic transformation. The broader international community, and most significantly the IGAD must have understood that this objective was an integral part of the peace process and was a core principle of the Machakos Protocol of 20th July 2002¹.

It is not difficult to compile a list of tasks for IGAD during the transitional period. What is more challenging is to provide insight into main tasks, their many dimensions and complexity. This will be identified under two main categories, what should have been

¹ Notes from IGAD secretariat on peace in the Sudan, Machakos protocol 20th July 2002

IGAD's major priorities during the transitional period: first achieving exclusivity in the peace process, and second, rehabilitating Sudan's contentious bilateral relations. Both of these involve a steady expansion of democratic power and popular engagement in, and control over, the institutions of governance. It will be argued that without urgent attention to these concerns there was a real danger that the stupendous achievement of a signed agreement between the SPLM/A and GOS could very likely be undermined.

It is worth noting that this is not a technical chapter, nor is its source entirely from an insider involved in the negotiations. Nor, given various constraints, is this analysis comprehensive in either its assessment of the varying peace processes, or in its consideration of the main elements that it proposes IGAD should have focused on in the transitional period. The analysis does not fully consider issues related to governance, and in particular the governance of southern Sudan, even though these could have proved to be of some significance to the outcome of the peace process², but instead focuses on the more narrow political elements of the transitional period. In addition, this chapter does not detail what IGAD should have done but merely laying out the concerns that should have been dealt with during the transitional period. It should also be noted that this critical analysis does not consider the obstacles to IGAD's pursuit of the peace process, which Adar³ identified as a lack of resources, capacity to implement programs, transparency and coordination, grassroots level participation and democratization in general, as well as the problems posed by functioning in a region characterized by chronic instability. Instead, this analysis just provides some of the necessary background

² I, Young; 'Le SPLM/A et la Gouvernement Du Sud – Sudan' *Politique Africaine* 88 (December 2002)

³ K, Adar; "Conflict Resolution in a Turbulent Region: The Case of IGAD in the Sudan" *African Journal in Conflict Resolution* December 2, 2002

for IGAD's engagement in the post-conflict stage of the peace process, identifies priorities on the way forward, and at all times draw the link between a sustained and expanding peace process and a democratic transformation of Sudan.

4.1. PEACE MAKING EFFORTS: WHERE IGAD INHERITED THE PROCESS.

The SPLM/A insurrection broke out in 1983. With support from the Eastern Bloc and neighbouring countries it quickly became a national crisis. However, the Nimeiri regime was slow to appreciate its significance and the war proved a major cause of its removal by a popular revolt two years later. The incoming Transitional Military Council appealed to the SPLM/A and its leader, Dr. John Garang, to join the government and resolve their grievances peacefully. Crucially however, the Transitional Military Council was not prepared to accept the SPLM/A as a national party with an agenda for reconstructing the entire country, nor did it agree to the movements' demands to freeze the Sharia laws introduced by Nimeiri, end defense agreements with Arab countries and hold a constitutional conference.

The next internal effort at peace-building took place in a meeting between the National Salvation Alliance (the umbrella organization of the parties that overthrew the Nimeiri regime) and the SPLM/A in March 1986 at Koka Dam in Ethiopia, when agreement was reached on all the SPLM/A demands. Unfortunately the refusal of key major parties – notably the Democratic Unionist Party (DUP) and the National Islamic Front (NIF) - to participate in the discussions, undermined the achievement of Koka Dam. In July, after the holding of national elections, the Umma party leader and Prime Minister, Sadiq

Mahdi, met the SPLM/A leader, Dr. John Garang, and agreed to the Koka Dam recommendations and the meeting ended in a note of guided hope⁴ but these hopes were not realized.

Arguably, the best prospect of ending the war before the IGAD achievements at Machakos was the DUP- SPLM/A agreement reached by their respective leaders Osman Al- Mirghani and Dr. John Garang, in November 1988. This agreement essentially affirmed all the SPLM/A demands, including the holding of a constitutional conference. However, faced with dissent in his ruling party, and the opposition of the NIF which was a part of the coalition government, Sadiq did not, or could not, implement the DUP- SPLM/A Accord. Nonetheless, given enormous popular sentiment for peace and the formation of an Umma- DUP coalition government that did not include the NIF, the National Assembly endorsed the agreement on 3 April 1989⁵.

Significantly, however, the agreement was strongly opposed by the NIF, which then left the government. As arrangements for the constitutional conference proceeded, a group of army officers with ties to the NIF- and led by Lt- General Omar Al-Bashir- the current President of Sudan- seized power. This action not only spelt a deathblow to the DUP- SPLM/A Accord, but effectively ended internal Sudanese efforts at peace-making. As a result, subsequent peace initiatives were to be dominated by the regional and international communities. Moreover, the 1991 overthrow of the regime of Mengistu Haile Mariam in Ethiopia, the SPLM/A's foremost foreign supporter and a schism within

⁴ Al Mahdi Correspondence with the Author of an occasional paper 86,2004 of the Institute of Security Studies – the signposts for the way forward for the IGAD peace process.

⁵ *Ibid*

the rebel movement that led to the defection of Dr. Riek Machar and his Nuer followers in the same year, seriously weakened the SPLM/A. That confluence of events led the Government of Sudan to increasingly look to a military victory, and not peace negotiations, to bring the conflict at an end.

Out of fear that the SPLM/A was on the verge of collapse, and because of the importance of the issues of race, religion and self-determination that were at the core of the Sudan, Nigeria President Ibrahim Babangida took the lead in holding peace talks in the Nigeria capital, Abuja, in May June 1992 with a weakened rebel movement represented by factions led by Dr. Riek and Dr. John Garang. An increasingly confident Government of Sudan delegation espoused majority rule, which, it held, meant that the constitution should be based on *Shariah*, although the south could be exempt from the *Hudud* (code of Islamic punishments). Both factions of the SPLM/A pressed for a secular democratic system and the right of the south to a referendum on self-determination. Khartoum rejected secularism and would not countenance the proposed referendum. The talks rapidly collapsed. Almost a year passed before President Babangida of Nigeria called for a second round of talks at Abuja, by which time the SPLM/A was weaker militarily. With very little changes, Khartoum proposed power sharing and balanced development, rejected secessions, and proposed a constitution that did not refer to Islam as the state religion and exempted the south from certain provisions of *Shariah*. The SPLM/A rejected Khartoum's federalist approach and called for a confederation and a secular, democratic, "New Sudan" If this objective was not achievable, the SPLM/A said, then the south and the "marginalized territories" the Nuba Mountains and Southern Blue Nile,

together with Abyei, should have a vote on confederation or separation. There were other differences between the parties, but the critical issues of the separation of state and religion and self-determination proved conclusive in causing the collapse of the negotiations⁶.

In the wake of the failed Nigeria initiative, and perhaps out of fear that the numerous US troops in Somalia could carry out a similar operation in Sudan, the GOS proposed that the Inter-Government Authority on Drought and Desertification (IGAAD), the forerunner of today's IGAD take up the peace process. The countries of IGAD had a clear interest in containing Sudan's civil war and stopping the spread of political Islam. To this end, the elevation of President Isaias Afewerki of Eritrea and Prime Minister Meles Zenawi of Ethiopia to power, the organization had two particularly competent and dynamic leaders ready to assume a number of key constituencies- the congressional black caucus, the influential christian right, liberals, human rights activists, American humanitarian agencies and the oil lobby upset at being denied entry into the potentially lucrative Sudan market combined with heightened concern about international terrorism after 11 September, all of which contributed to the increased engagement of the US in Sudan. Indeed, US engagement in Sudan steadily increased from President Clinton's executive order of November 1997 which imposed comprehensive trade and economic sanctions, through to the Sudan Peace Act of October 2002 which stipulates further sanctions for the GOS was found to be not participating in the peace negotiations in good faith. Further pressure was brought to bear by Sudan being identified as one of seven countries on a state department list of state sponsors of terrorism. While some have questioned the

⁶ Adar, K. *Ibid*

timing, ethics and one-sided American pressure on the GOS, there was little doubt that collectively these measures sent a powerful message to the government, and their removal and equally powerful impetus to bring the war to an end.

Against this background a series of confidence- building measures were proposed, comprising a cease- fire in the Nuba Mountains zone and times of tranquility in which vaccinations and other humanitarian interventions could be carried out, a commission to report on the issue of slavery, and an end to attacks on civilian target all of which achieved some, but not complete compliance⁷. Whether or not these measures increased mutual confidence between the government and the SPLM/A is questionable, but they did suggest that there could be progress in the Sudan peace process. Despite appeals from various sources to formulate their own peace initiative, the US administration repeatedly made it clear that it supported regional efforts led by IGAD. And there was little doubt that the support of the United Kingdom (UK), Norway and Italy, breathed life into the faltering IGAD peace process. Their sustained engagement proved critical to the breakthrough of the Machakos protocol and the continuing progress since then.

4.2 BEHAVIOURS AND STRATEGIES: - CRITICAL ANALYSIS OF CHALLENGES OF AN INCLUSIVE PEACE PROCESS:

Expanding the Sudan peace process to insulate it against implosion must have proceeded in both the internal and external spheres. Internally, this involved the democratic project of bringing more Sudanese actors into the process, gaining their input, acquiring their

⁷ J. Danforth: Report to the president of the United States on the out-look for peace in Sudan, April 26, 2002.

consent, making them partners in the effort, bringing them benefits, and expecting obligations, of which the principal one was their commitment to realizing the stipulation of the final peace agreement. For IGAD it meant a marked change in philosophy and direction from that of the first stage, which could have been characterized as secretive, elite driven, narrowly focused, and which pointedly ignored the issue of human rights, to the next stage where transparency, engaging the large mass of Sudanese, and vastly expanding the focus and direction of the peace initiative, must have set the tone. At the external regional level the objectives were similar, and were based on the assumption that stable relations were a prerequisite of internal stability, and that the pursuit of foreign relations reflected the broad interests of the Sudanese people, the engagement of IGAD countries in the peace process was based on the understood link between instability in Sudan and unstable relations between the countries of the region.

From its beginnings in the early 1990s, the IGAD peace initiative was narrowly focused on the SPLM/A and the GOS. While the NDA, other political groups in both the North and South of the country, and civil society organizations, had repeatedly requested formal or observer status in the mediation, they had without exception been rebuffed. Although both the SPLM/A and the GOS had at times appeared sympathetic to the demands of these groups, it was clear that in the end they did not want them at the bargaining table, and that included their closest allies. The only exception, and it is noteworthy, was the participation of a senior official from the South Sudan Defense Force (SSDF), who took part in two rounds of negotiations on security arrangements as members of the GOS team, but representing the SSDF. Significantly, however, these officials were not invited

to the final round in late September 2003 when an agreement on security arrangement was reached. The IGAD mediators and the official observers from Britain, the US, Norway, Italy, the United Nations (UN) and the Africa Union had all at varying times come under intense pressure to both accept other observers notably Egypt, the Arab League and France and broaden the scope of the talks. They were, however, adamant that the negotiations be restricted to the above western states, together with the UN and the African Union, and that the negotiating parties include only the SPLM/A and the GOS.

Increasingly, however, in the final stages of the negotiations all the participants appeared to become aware that for a peace settlement to achieve acceptance and legitimacy, it needed the support of the Sudanese public. In other words, the democratic imperative was assuming increasing importance. And with that in mind the SPLM/A began to respond to demands of southern civil society and attempt to allay the fears of the NDA that its interests were not being considered in the negotiations. Facing weak and disorganized civil society groups in the north, the GOS apparently did not initially feel sufficiently pressured to engage them until the final days. However, it had gone much further than the SPLM/A in bringing on board various non governmental groups, including members from the leading opposition parties. But crucially, at no point did either the SPLM/A or the GOS accept the principles that they were accountable to constituencies beyond their parties for the positions they took in the negotiations. Nor did they accept these groups or others from the broader Sudanese society, as participating directly in the peace process. There is also no indication that either the Sudan IGAD peace secretariat mediators, the ambassadors from the IGAD countries that served as envoys in the peace process, or the

representatives of US, Britain, Norway and Italy who participated in the negotiations, were concerned at the lack of broader participation.

Although never explicitly stated, from informal contracts it would appear that the argument for narrow-based talks largely held outside any public purview was based on four contentious. First, the DOP, on which the entire process was based, made reference only to the SPLM/A and the GOS since this represented the collective and agreed views of IGAD and the belligerents, it was held to be inappropriate to change in mid-course, notwithstanding the pressure to do just that. Secondly, it was thought that the all encompassing nature of the negotiations made the process very complex in terms of the issues to be considered and the interests that needed to be addressed and hence the participation of additional actors might prove so difficult as to make the process unworkable. The doubt added to this concern was the fear that if the door was opened to additional participants in the negotiations, then it would be very difficult to close it. Thirdly, the mediators feared that increasing the numbers around the bargaining table would inevitably increase the leaks of what held to be confidential information, and this in turn could be used to galvanize dissent that could disrupt the process.

Lastly, and of most relevance to what follows, the mediators made it abundantly clear in the DOP in the Machakos Protocol and in private interviews that they viewed the peace process as a two-steps arrangements, the first of which was an agreement between the SPLM/A and the GOS while the second involved bringing other major political interests into the peace process and gaining their assent to the agreement. Most were aware that

the 1972 Addis Ababa Agreement was seriously undermined by the fact that just as with the IGAD initiative – it was reached between Anyanya and the Government of Nimeiri, neither of which had formal democratic legitimacy. As a result, the leading and democratic based parties of the North, the Umma Party and the DUP, were able to successfully contend that the Addis Ababa Agreement did not have the support of the Sudanese people. Thus a reading of history suggests the need to make the peace process more inclusive, and that entailed a democratic transformation of the country. Moreover, while the lack of transparency and narrow focus, characterized the approach of the mediators during the first stage of the second phase, which involved overseeing a broadening out of the peace process that in turn necessitates a democratic and transparent approach.

4.3 NATURE OF THE DISPUTE: CRITICAL ANALYSIS OF CHALLENGES OF ACHIEVING AN ALL INCLUSIVE PEACE PROCESS:

While it is often held that national elections would serve as the best means to ascertain the views of the Sudanese people in both the North and South of the country on the peace agreement, there was no agreement on the holding of elections. It was widely assumed that elections would take place approximately midway through the six year transition period (which in turn only began after a six- month initial stage). The view from the quarter was that depending solely on elections, much less elections that were unlikely to take place for at least three- and a half year, as a means of giving democratic legitimacy to the IGAD peace process would be a very high risk course of action. Euphoria surrounding the formal signing of a peace agreement should not have blinded anyone to

the fact that many in the north and south had decidedly mixed feelings about the kind of peace that was being agreed upon, and in addition there was no predicting what level of opposition could build over the course of the transitional period. Moreover, the lack of any democratic accountability made the IGAD initiative an easy target. It was also important to note that Salid and DUP leader, Osman- Al Mirghani, had both stated their support of the IGAD peace process on the one hand, but on the other made clear that they would not feel bound by decisions reached in the process that go beyond what they considered its natural limits, issues such as power-sharing, the holding of elections and constitutional changes, all of which were being taken up by the IGAD peace initiative, thus proved problematic, given this perspective.

While national elections remained in doubt, there was even more confusion over proposals for a constitutional conference involving all Sudanese political interests that would take place after the anticipated peace agreement and considered a wide range of issues, from the character of the country to power- sharing. A further problem with this proposal was that a number of the key concerns that it might be expected to address had been, or were being, addressed in the IGAD peace Agreement. It should be noted that the call for a national constitutional conference had been advocated by different Sudanese politicians for many years. In particular, it should be recalled that this was a key demand in the mid to late 1980's of the SPLM/A. Constitutional conference had been largely associated with the former Prime Minister who was the leader of the Umma party, Sadiq – Al – Mahdi. They were also sympathetic to the holding of a constitutional conference and the formation of an all- party transitional government, and this was perhaps not

surprising since Sayid Sadi is widely held to be the inspiration for a Constitutional Review Commission, which was yet to be clearly defined, but which some argued would not be significantly different in its composition or scope than a full-fledged constitutional conference. In any case, it was safe to predict that proposals for a constitutional conference would be given new significance with the anticipated signing of a peace agreement.

In addition to these efforts, both SPLM/A and the GOS have attempted, at varying times and with varying levels of commitment, to win the support of key military and political groups. Noteworthy on the military side is the 1997 Khartoum Agreement, which brought Dr Riek Macher's forces and other smaller groups into an alliance with the GOS and – after his defection the absorption of Dr Riek's Sudan People Democratic Front into the SPLM/A in January 2002. The SPLM/A two agreements with the Popular National Congress (PNC) of Hassan Al- Turabi, although nominally agreed appeared as military pacts, and they were seen by the GOS in that light⁸.

Although many of the provisions of the agreement had been overtaken by events, and the organizations had suffered major setbacks- most notably the departure of the Umma Party – the eight years of unity was a starting point of achieving north-south trust and a northern buy-in to the IGAD peace process. There was no denying the marginalization felt by many elements in the NDA at their exclusion from the peace process. Moreover, the signed Security Arrangements, which involves the SPLM/A led NDA effectively

⁸ L, Cliffe; 'Regional dimensions of Conflict in the Horn of Africa' Third World Quarterly – 20(10 1999)

withdrawing from the territory it captured along the Eritrean border, would seem to sound the death knell of at least the military role of the NDA.

The GOS's efforts at alliance building seemed of the same character as those of the SPLM/A since they did not threaten the hold on power of the dominant elements in the ruling party. Thus southerners became a component of the National Congress Party and two members of the United Democratic Salvation Front (nominally the political wing of the SSDF) were given cabinet positions and from the north the El-Hindi faction of the DUP and the Umma party breakaway group led by Mubarak Al Fadl Al- Mahdi, were also brought into the government, but the engagement of these parties never challenged the hegemonic position of the National Congress Government. The Djibouti agreement between Sadiq Al Mahdi and President Omar Bashir in the wake of the Umma Party's departure from NDA appeared at the time as a precursor of the entry of the Umma into the GOS, but that did not happen and the pact had become a footnote to unrealized expectations⁹. More significant, on a symbolic level at least, was the coming together of the leaders of the three largest opposition parties John Garang, Sadiq Al- Mahdi, and Osman al- Mirghani- and their agreement on a number of issues, including the post-conflict status of Khartoum, in the Cairo Declaration.

Although at times opportunism could be seen as the dominant feature of these agreements, they make clear both the possibilities of agreements across the north- south divide, and of a commitment to reach consensus on the future political configuration of

⁹ President Bashir Statement quoted in Ann M. Lesch "Sudan: The Torn Country" *Current History* 98; 628 (May, 1999) 218

Sudan. Still lacking at the end of year 2004 was a sustained effort at South- South reconciliation, and this was surprising given the almost unanimous support for this by southern of all political persuasions. Church groups led by the New Sudan Council of Churches had overseen a number of local level peace making efforts and organized a conference in December 2002. Despite the success of that conference and plans to hold another, the leading armed southern factions had not met controls a large swathe of southern Sudan, provided the security around most of the GOS occupied towns and held many strategic positions, the most significant of which were Western Upper Nile, where its forces guarded the oilfields.

A group, which was made up of militias and the forces that Riek Machar brought into the government when he defected from the SPLM/A derived their legitimacy from the 1997 Khartoum Peace Agreement¹⁰, which anticipated most of the provisions of the IGAD Sudan Peace initiative, including acceptance of the principles of self-determination for Southern Sudan. While the security arrangements agreement reached between the SPLM/A and the GOS assumed the dismantling of Machar's group, it was by no means clear that this could be readily and peacefully accomplished. It would be far better, and this is the view of most southern Sudanese. If these groups could reconcile peacefully among themselves IGAD, which both oversaw the security arrangements agreement and was assuming responsibility for monitoring the cease-fire had a clear interest in the security of Southern Sudan and would be well advised to give this issue immediate and serious attention.

¹⁰ L, Cliffe *Ibid*

By the end of 2004, there was much talk about a political agreement between the SPLM/A and the NIF. First proposed as an “alliance” by President Bashir in the Machakos Protocol, it had also been put forward as a “partnership” by Dr John Garang although neither term was fully explained. The notion of “partnership” between the two parties at the IGAD-led mediation again came to the fore after the successful meetings between John Garang and First Vice-president Ali Osman Taha that produced an agreement on security arrangements in early October. While the term remained vague, both parties appeared sympathetic to its general thrust and it was seen as crucial to implementing the overall peace agreement and ensuring that the agreement stayed on track during the long and difficult transitional period. But the notion of a partnership that continued beyond the anticipated signing of the peace agreement would seem to be at odds with democratic elections, which might well lead to one or both parties losing power. It raised an obstacle to Sudan’s democratic transformation.

Indeed, some feared that given the lack of enthusiasm of the SPLM/A leadership for the holding of national elections, the National Congress, which had generally favoured early elections, would be willing to trade off elections for other concessions.

The aspiration of southerners, both inside and outside the SPLM/A, focused largely on the promise of self-determination and they become alarmed at any political processes that led to parties assuming power in Khartoum that might either undermine that promise, or hold it up to a nationwide plebiscite where it risked defeat from the numerically larger

northern population. The publicly stated endorsement of the leaders of the two main northern opposition parties, the DUP and the Umma Party, to self-determination of southern Sudan was welcome, but widely suspect and that carried over to such proposals as a constitutional conference, international guarantees of the commitment made in the peace agreement which were given more respect.

The issue of southerners to self-determination was not surprising and was analogous to the sentiments of the Eritreans and Tigrayans during their long (and ultimately successful) armed struggles against a hegemonic state. And, as was the case of these neighbouring peoples, many southerners were prepared to forego a transition to democracy, particularly at the national level, which in any case is of less concern to them than the south, if it was seen as a threat to self-determination. Northern Sudanese not surprisingly come to almost opposite conclusions. Indeed, the end of the war and the return to democracy were irrevocably linked in the minds of most Northerners and any suggestion to the contrary was likely to seriously erode public support for the IGAD peace process. It is safe to assume that the international community would feel uncomfortable with a six-and a half year interim period that did not include national elections. Balancing these two concerns proved challenging for IGAD, but was not seen to be in conflict since self-determination is itself integral to democracy.

Aware that a major weakness of the Addis Ababa Agreement was the lack of provision for oversight during the transitional period, it was agreed in the Machakos Protocol to establish an Assessment and Evaluation Commission to assess and monitor the peace

process. This would seem a worthy tool, but the fact that its composition was limited to the belligerents and members of IGAD limited its democratic character. It would have been better if the parties could agree to expand the membership to include representative of other political groups reflecting the democratic aspirations of the Sudanese and encourage a buy-in to the peace process.

There were many threads that had the effect of going some way in making the peace process a more inclusive affair. But in the end they were only suggesting half measures, which lacked consistency and a broader vision and at times appear to contradict one another. It was not easy to spell out what IGAD had done to achieve inclusivity, but two things were clear. First, the peace process thus far had not stressed democratic values and participation, but IGAD was widely understood to have made commitments to contribute to both a democratic transformation in Sudan and a peace process that would advance from the first stage of an SPLM/A – GOS agreement to inclusivity, and its authority depended upon it at least in making every effort to realize those commitments. Secondly, there was good reason to think, both in terms of political logic and against the experience of the Addis Ababa agreement, that the failure to win both the popular support of civil society and the endorsement of the major political interests of the county, would seriously threaten the viability of the peace process and raise the possibility of a return to war, the biggest and immediate threat to instability in the south if their concerns were not addressed. However difficult the task would be, IGAD had to play a leading role in the intimately linked objectives of an inclusive peace process and establishing a democratic Sudan.

The almost universal pattern in the Horn was of rebel groups starting armed struggles in one country, but achieving only a measure of success when they were able to operate from a neighbouring country. At the level of the neighbouring state the principal dictum was frequently one of “the enemy of my enemy is my friend”¹¹, and that became the rationale for supporting dissident groups, invariably producing tit for tat situation, which in the case of Sudan has continued for decades. As Cliffe has succulently put it “this pattern is at the root of the chronically unstable and volatile regional security regime that characterizes the Horn.

The EPLF (Ethiopia Peoples Liberation Front) was a case in point, since it took form in Ethiopia, was too happy to provide the Sudanese rebels with support in the region for the peace process, was dependent upon improving Sudan’s relations with its neighbours. While arising democratic government cannot guarantee the pursuit of balanced foreign relations, it does at the least reduce fears of conflict arising because of the pursuit of narrow hegemonic interests of those in control of the state, or that the people are brought into conflict unknowingly with neighbours. Indeed, while relations between states in the Horn have frequently been conflict ridden, relations between neighbouring peoples have usually been positive and supportive. Simply put, the long-term role of IGAD has been to translate the generally positive, relations between the disparate peoples of the Horn to provide relations between their states. What follows is an historical overview, which has the intention of making this point.

¹¹ For background on the SPLM/A see Khalid, Mansour. John Garang Speaks, (1987)

4.4 CHARACTERISTICS OF THE DISPUTANTS: CRITICAL ANALYSIS OF THE POLITICS OF BEGGARING YOUR NEIGHBOUR.

The various governments of Sudan have faced resistance from a marginalized South since independence, but in the 1960s this took a more organized form under Anyanya. Meanwhile in 1961 the Eritrea Liberation Front (ELF) launched a revolt against the Haile Sellassie regime after it overrode international agreements protecting Eritrea federal status. The ELF was supported by Sudan, and Anyanya gained the support of Ethiopia in a 'tit for tat' pattern that would continue intermittently to bedevil relations. It resumed in 1983 when the Dergue, with Libyan money and Soviet armaments, began to meet virtually every need of the SPLM/A. Ethiopia support for Sudanese dissidents was in large part a response to Sudan hosting the ELF, the Eritrea Peoples inherited both a civil war led by the SPLM/A and a set of loose alliance with dissident Eritrea and Ethiopia groups. NIF in 1989 support for the fronts was more symbolic and rhetorical than significant given the advanced state of the Ethiopia war, it nonetheless led at least initially to positive relations with two crucial neighbouring countries after 1991 This quickly produced pay-offs when the incoming government ended support of the SPLM/A and forced it to leave the country¹².

But this positive gesture did not change the overall thrust of the NIF, which by the early 1990s was pursuing an aggressive Islamist based foreign policy in the region. This included support for Jihad Eritrea and in Ethiopia of the Benishangul Peoples Liberation

¹² Y, Young "Along Ethiopia's Western Frontier: Gambella and Benishangul in transion" *Journal of Modern African studies* 37(2) 1999

Movement and the Oromo Liberation Front¹³. As a result, relations with Asmara and Addis Ababa rapidly deteriorated. The incursion from Sudanese territory of a multinational group of Islamist guerrillas into the Sahel region of Eritrea in December 1993 proved pivotal in the decline in relations between Khartoum and Asmara. The corresponding event in Ethio- Sudanese relations (and which proved equally significant for Egyptian – Sudanese relations) was the attempted assassinations of President Hosni Mubarak on the streets of Addis Ababa in June 1995, which both Ethiopia and Egypt concluded involved support from elements of the government of Sudan¹⁴.

After the expulsion of the SPLM/A from Ethiopia in 1991, Uganda became the movement's principal regional backer and the major conduit for its external support. In response, Sudan, provided assistance to the West Nile Bank Liberation Front, the Alliance of Democratic Forces, and more significantly, the Lord's Resistance Army (LRA), while Kenya – Sudanese relations never reached such a low ebb, they became increasingly tense as Khartoum objected to Nairobi's logistical assistance of SPLM/A political and humanitarian operations, for its part, concern in Kenya grew steadily in the 1990's about Islamic fundamentalism, which it was believed had the support of Khartoum.

And while the initiative clearly came from the region, the US provided military assistance to these three countries and hoped that it would produce, together with the actions of the SPLM/A and the Northern armed opposition, sufficient momentum to overthrow the

¹³ Cliffe : *Op Cit*

¹⁴ Middle East Times Cairo 10th September 1995

regime in Khartoum. On the political front the attempted assassination of Mubarak led Egypt to join Ethiopia in co-sponsoring a Security Council resolution with Strong US support for an embargo against Sudan¹⁵.

Eritrea in turn broke off relations with Khartoum, complained to the UN, ejected the government of Sudan from its Asmara embassy, and gave increasing support to the NDA, a loose grouping of northern opposition parties linked to the SPLM/A, which attempted to launch an armed struggle from bases in Eritrea, and Ethiopia. The attempted assassination of President Mubarak in turn led Ethiopian to open into border to the Sudanese opposition, who were given military training, while territory captured by the Ethiopia army was subsequently turned over to the rebels. Throughout the 1990's the Ugandan army provided training and supplies to the SPLM/A permitted it to recruit from refugee camps in the country, gave logistical support to the movement's operation in Southern Sudan, and frequently crossed the border to attack the LRA and support the southern rebels. However, it was the Ugandan military withdrawal from Congo that freed up forces that Museveni could use to launch, Operation Iron Fist, an effort designed to completely eliminate the LRA but which had the effect of escalating the conflict¹⁶.

This regional unit in opposition to the NIF did not last, however. Although upset with the NIF, Egypt had mixed feelings about efforts to internationally isolate the regime. In the first instance there was a danger that isolation would lead to the NIF developing even closer relations with radical regimes and movements in the Oselem world. And secondly,

¹⁵ International Crisis Group: *God, Oil and Country; Changing the Logic of War in Sudan* (ICG 2000)

¹⁶ Alister Lyon: *Egypt, Libya Trying for Peace in Sudan*. (Reuters, October 18, 1999)

any weakening of the regime would necessarily have a positive impact to the SPLM/A and Cairo remained deeply suspicious of the movement's demands for self-determination because it was seen as leading to southern independence as well as posing a threat to the free flow of the waters of the White Nile. Moreover, with the marginalization of Sheikh Turabi, the apparent end of Khartoum support for the Muslim brothers and other dissident. Egyptian groups, and the regimes; move away from association with the most radical international Islamism organizations and movements. Cairo began to resume its traditional "big brother" role with respect of Khartoum¹⁷

The aggressive stance of Eritrea and Ethiopia began collapsing in 1998 when war broke out between the two countries. Indeed, this date largely marks the transition from Sudan being under assault by the region to moves to achieve more conciliatory relations with neighbouring countries. Eritrea and Ethiopia both appreciated that Sudanese military, political and intelligence support or use of Sudanese territory could provide a decisive advantage in the conflict. To ensure this did not happen, both alliances between Eritrea, Ethiopia and Uganda were opposed to the NIF.

Eritrea began to mend its political fences with Sudan, but at the same time pressed for a wide-ranging agreement that included negotiations between the GOS and the Asmara-based NDA to end the civil war. These efforts have not to-date proven successful and since Eritrea has not been willing to end its support for the NDA, Khartoum has continued to support Asmara's armed dissidents from bases in eastern Sudan. As a result, relations between the two countries remain, tense, and while there have been no major

¹⁷ *Ibid*

military confrontations between them for some time, their joint border remains closed, trade has effectively ended and military forces in the area remain in a state of high alert¹⁸.

The most dramatic change in regional relations was that between Sudan and Ethiopia. Apart from the outbreak of the Ethio- Eritrea war, the major factors in explaining this turn around were the marginalization of Turabi, the parallel rejection of his aggressive Islamist foreign policy and, with it, an ending of support for the various dissident Ethiopia groups. The GoS saw the developing relations with Ethiopia largely in terms of increasing insecurity, while Ethiopia was mostly concerned with the economic civil wars, was aware of the importance attached to the fact that the Ethiopia has borders with both north and south Sudan, and was the dominant military power in the region.

The end of Eritrea and Ethiopian military opposition to the NIF meant that Uganda alone maintained an aggressive stance against the regime. But the growing LRA insurgency in northern Uganda and failed policies in Rwanda and Congo led Museveni to give more attention to domestic security issues, and this set the stage for a compromise on his long-term support of the SPLMA/A for an agreement with Khartoum on ending its assistance of the LRA¹⁹. Crucially, in the wake of the September 11th attack, the US declared the LRA a terrorist organization and that in turn led Khartoum to end its support for the group and agree to the Uganda army entering Sudan in pursuit of the rebels. However, the Uganda army has been singularly unsuccessful in containing the LRA, and Kampala

¹⁸ *Ibid*

¹⁹ Wondu, S and Lesch, A: *Battle for Peace in Sudan, 2000*.

has repeatedly accused the Sudanese army, or at least elements in it, of continuing to support the rebels.

Sudan thus entered the post- conflict stage of the peace process with unstable relations with most of its neighbours, and in particular with Uganda and Eritrea. This did not bode well given the long-standing support provided by these countries to Sudanese armed dissident. The problem of the LRA insurrection should have been resolved and this would have involved political redress of the grievance of the Acholi and other disaffected groups in Northern Uganda, on the one hand, an efforts ideally led by IGAD to improve relations between Khartoum and Kampala. Tensions between Sudan and Eritrea made clear the link between improving relations with neighbouring countries and making the peace process more inclusive. In particular, the NDA affiliated and Eritrea supported Beja Congress was politically and militarily weak, but nonetheless expressed the resentment of the largest tribe in eastern Sudan about decades of marginalization. Thus, improving relations between Khartoum and Asmara was a genuine effort to address the grievances of the Beja. IGAD should have been well advised to lead efforts at reconciliation between the two countries and encourage Sudan to take up the concerns of the people of the east. In so doing it would gain their commitment to the north-south peace process.

This made clear that the instability in Sudan, and the well-being of the peace process depended crucially on improving Sudan's relations with it neighbours. Beggaring one's neighbours is a finely developed political art in the Horn of Africa, and in the case of

Sudan under the NIF this was exacerbated by an aggressive foreign policy designs to spread political Islam to the far corners of the region. That Islamist onslaught ended by the late 1990's but the reactive politics of the past fifty years in the Horn were too deeply entrenched to imagine they can be easily overcome. However, it was clear that the aggressive Islamist foreign policy of the early years of the NIF did not reflect the will of the Sudanese people, and returning the country to democratic rule was the best insurance against narrow-based groups in the state ensuing destabilizing regional relations. A critical strength of the IGAD peace initiative from the beginning lay in the fact that it was regional – based and that it recognized that the security interests of its various member states were intimately linked. But this overview also suggested that the countries of the Horn had only on brief occasions taken a fully united position with respect of Sudan (noteworthy here is the early to mid-1990 when Khartoum attempted to export political Islam). The common pattern is that their interests diverge and their perspective is likely to be far more long-term with respect to the peace process than that of the broader international community.

4.5 THE COMPREHENSIVE PEACE AGREEMENT- JANUARY 2005.

The Government of the Republic of Sudan (GOS) and the SPLM/A met in continuous negotiations between the year 2000 and 2004 under the auspices of the IGAD peace process; also in respect of the issues related to the conflict areas of Southern Kordofan and Blue Nile states and Abyei area under the auspices of the Government of Kenya. They were conscious that the conflict in the Sudan was the longest running conflict in Africa: having caused tragic loss of life; destroyed the country's infrastructure; eroded its

economic resources and caused great suffering to the people of Sudan. The parties pursued to commit a negotiated settlement on the basis of a democratic system of governance which, on the one hand, recognized the rights of the people of Southern Sudan to self determination and sought to make unity attractive during the interim period. On the other hand, it was at the same time founded on values of justice democracy, good governance, respect for fundamental rights and freedoms of the individual, mutual understanding and tolerance of diversity within the realities of Sudan.

In pursuance of this commitment, the GOS and the SPLM/A reached agreement on the following: the Machakos protocol -2002; the agreement on security arrangements-2003; the agreement on wealth sharing-2004; the protocol of power sharing- 2004; the protocol on the resolution of the conflict in southern Kordofan; Abyei and Blue Nile states-2004 and the security council of the United Nations in its Resolution 1574 of 19th November 2004.

On 9th January, 2005 the GOS and the SPLM/A signed a Comprehensive Peace Agreement (CPA) witnessed by the International Community. The CPA offered not only hope but also a concrete model for solving problems and other conflicts in the country.

Upon signing the CPA, the parties agreed on the following:-

- The pre-Interim period shall commence; and all the obligations and commitments specified in the CPA shall be binding in accordance with the provisions thereof;
- All persons performing governmental functions shall continue to do so at the place at which they render such services or perform such functions unless or until

redeployed or alternative institution are received in accordance with the arrangements agreed to by parties;

- To establish such priority joint task teams, particularly the Joint National Transitional Team (JNTT), the Abyei Boundaries Commission (ABC), the constitutional task team and the joint technical team on “New National Currency” as required to facilitate and prepare for the operationalization of the agreement once it is put into force;
- To take the necessary steps to ensure the effective implementation of the permanent ceasefire;
- To take such steps as are necessary to ensure that resources and funds are available for the establishment of the structures; bodies and institutions contemplated of the CPA especially the establishment of the GOS.

The GOS and SPLM/A jointly appealed to the regional and international community and called on organizations and states which were requested to witness the signing of the CPA to provide and affirm their unwavering support to the implementation of the CPA and further appeal to them to avail resources for necessary and urgent programmes and activities of the transition to peace as contemplated and agreed. The parties agreed to implement the CPA fully and jointly.²⁰

4.6 CONCLUSION

The major reasons for the success of the IGAD peace initiative remained of continued importance and provided direction and insight. First, although there have been many

²⁰ Comprehensive Peace Agreement(S/2005/78) – Security Council of United Nations

efforts to end Sudan's civil war, only one initiative - that of IGAD - has achieved both regional and international legitimacy. The legitimacy was further strengthened with the signing of a peace agreement. Cliffe²¹ notes that interventions by the West and the UN often suffer from short-term perspectives and a tendency to look for quick fixes, while neighbouring countries have the advantages of sustained interest and knowledge of the conflict, indeed, concern that the Sudan conflict was a security threat to the region was the starting point of the IGAD initiative.

Secondly, although Sudan's contentious relations with its neighbours were exacerbated by the NIF's aggressive foreign policy, relations were difficult long before the Islamists assumed power in Khartoum. Thus at all times there was a critical link between the security of one country and that of its neighbours in the Horn. Security and political problems in these countries should be solved, otherwise the whole region will move in a negative direction²². In particular, GOS support for the LRA had fostered a humanitarian disaster in Northern Uganda that regularly spilt over into equatorial, and the settlement of that dispute cannot be resolved independently of improving relations between Khartoum and Kampala. A parallel situation exists in the east where Eritrea and the GOS support armed dissidents and the resolution of their grievances cannot be successful without improved relations between Khartoum and Asmara. And in both of these cases national governments should have stepped towards achieving internal and regional stability. Thus IGAD should have continued to give sustained attention on moving the process toward the holding of a successful referendum.

²¹ Information on IGAD's role in the Sudan peace process and official IGAD documents is on http://www.iss.co.za/AF/RegOrg/unity_to_union/IGAD.html

²² *Ibid*

Thirdly, it was difficult to overestimate the importance of the US to the success of the peace process. The UK took unilateral action, such as the imposition of various sanctions, but crucially it worked closely with selected Western allies and through the IGAD Peace Initiative. Indeed, the success of the peace process had largely been due to the marriage of the IGAD peace initiative with its legitimacy and grasp of the key issues at the heart of the dispute, and the sustained engagement by the US and its willingness to use a wide array of options, including force to press the peace process forward. The critical role of the US in the mediation made it clear that the successful pursuit of the next stage of the process would also depend on the continuing close relationships between IGAD and Washington. The basis of American engagement in Sudan, however, has continued to evolve while American involvement in the peace process initially derived from the interests of various national constituencies, security concerns came to the fore, particularly after September 11th. Security remained a central preoccupation, but with the US bogged down in seemingly intractable disputes in Iraq and Afghanistan, the US was anxious to be seen to oversee a successful peace process- particular in a Muslim country and on the basis of a multinational initiative. The fear was always, however, that American interest in Sudan and commitment to the peace process could prove transitory, and this would have very negative implications for the future security of the country and the stability of the region. IGAD continued to strengthen its political and organizational capacity for peace-building, but given its many weaknesses, it needed the sustained support of the US and its western allies throughout the transitional period.

Fourthly, aware, that a major failing of the Addis Ababa Agreement was that it did not have any continuing international engagement and oversight. The Machakos protocol provided for a number of security monitoring mechanisms and an independent Assessment and Evaluation Commission. The activities of these mechanisms were increasingly to be seen as the form that peace process takes in the second stage. Predictably they raised serious questions about Sudanese sovereignty and ownership of the peace in the second stage. IGAD endeavoured to ensure that these mechanisms achieved a high level of professionalism and accountability, and at all times strived for Sudanese and regional participation. It was also advisable, given its critical role, for IGAD to attempt to get agreement from the parties to expand the composition of the Assessment and Evaluation Commission to include a wider section of Sudanese interest that better reflected the democratic ethos that were being ushered in.

Lastly, beginning with IGAD's DOP, there has been an appreciation of the need for a resolution of the conflict over power at the centre, and the implication of that was that the IGAD initiative should find appropriate modalities for involving all parties to the civil war²³. Moreover, in the Machakos protocol it was clear that the mediators and belligerents understood that the peace process could only achieve legitimacy and be sustained if Sudan underwent a democratic governance, accountability, equality, respect, and Justice for all citizens of Sudan (section 1.1) "that the people of South Sudan have the right to control and govern affairs in their region. (Section 1.2) "that the people of South Sudan have the right to self- determination" (Section 1.3) and that the Sudanese

²³ A, Mohammed and K.E. Amin: 'Conflict Prevention, Management and Resolution; Capacity Assessment study for the IGAD Sub- Region' (Prepared for IGAD in October, 2000)

“establish a democratic system of governance” (Section 1.6)²⁴. In fact, there was little in IGAD’s conduct during the first stage of the peace process to suggest that it was informed by any strong commitment to democracy, but the Machakos principles and the need to the longer term there is an equally compelling needed to gain widespread support for the objectives of the peace process necessitated a change in direction and a change in philosophy to meet the new challenges²⁵.

While the major northern political interests were not able to launch an effective armed struggle under the auspices of the NDA, there was not doubt either of their discontent or capacity to undermine any peace process if they concluded that it did not address their concerns. The then support of all Sudan’s established political parties was open to question, but what could not be debated was the first, second and third positions achieved by the Umma Party, DUP and NIF respectively in the last fully democratic elections of 1986. Thus the isolation of the Umma party from the peace process did not bode well, particular when Sadiq Al –Mahdi endorsed the IGAD peace process and repeatedly stated his acceptance of self- determination for southern Sudan. The DUP under Osman Al-Mirghani may well have felt the most aggrieved at his party’s exclusion from the peace process, since alone among the major parties the DUP has allied with the SPLM/A in the struggle against the NIF and at every stage endorsed the IGAD initiative. Despite this loyalty, which often proved politically costly, the DUP leadership faced the prospects of a return to Sudan with no promises of shared power, no attention to its demands and it should have been prepared to take up enormous task of rebuilding a badly damaged

²⁴ Machakos Protocol derived from the Comprehensive Peace agreement between GOS and SPLM/A

²⁵ *Ibid*

organization. The leaders and cadres were at the core of the national salvation government that took power through a coup in 1989, and while considerably weakened since their banishment, the party and its leader, Hassan Al – Turabi, still constituted a formidable force in the Islamist camp. Their voice was permitted in the democratic institutions that were expected to come to the fore during the transitional period.

The IGAD peace initiative correctly focused in the first stage on the two main belligerents, the GOS and SPLM/A, but beyond 2004, it should give increasing attention to the concerns of the Sudanese masses and their organizations if the peace process is to achieve its objectives. Two concerns stand out here: first, the need to rehabilitate and strengthen a badly weakened political party system, and second, the need to take up in earnest the issue of human rights. Remarkably, issues of human rights received almost no attention by 2004 in the IGAD negotiations, but could not be ignored much longer.

Lastly, it must be stressed that not only were the challenges faced by the second stage of the peace process of a different character than those of the first stage, but they also necessitated IGAD to assume a different approach. The Sudan IGAD Secretariat – led peace process was elite-driven, exclusive, narrow and highly secretive and did not consider human rights concerns. There were sensible reasons for this approach, and the success of the mediation spoke for itself. This approach was not, however, appropriate in the second stage when the major objectives included making the peace process inclusive and transparent, which in turn intimately linked to the democratic transformation of

Sudan and an emphasis on the rights of its citizens. It was a critical test for the IGAD mediators to adapt to the new demands placed upon them and carry the process forward.

In conclusion, although the signing of a peace agreement between the SPLM/A and the GOS has raised the hopes of the Sudanese and their friends internationally, at best the peace of the transitional period is already proving fragile, subject to challenges from within the South's political crisis in Khartoum and the turbulences within the Horn. But probably the biggest threat to efforts of the Sudan IGAD peace process, and indeed the stability of the country, lies outside the north- south nexus and instead from the demands already being raised for justice and democracy by regional and tribal groups. These groups will take heart from successful example of the SPLM/A's armed struggle while at the same time fearing that a further division of material and political assets between the former belligerents will deepen their marginalization. As a result, the prospects of the peace agreement being realized to the expectations of the countries IGAD and the mediators are less than overwhelming. This conclusion should not cause despair, but instead be a rejection of complacency, and an appeal for realism, for renewal and sustained efforts during the long and difficult transitional period and for a democratic vision that involves a serious commitment to overcoming the institutionalized injustices that have fueled violent and non-violent struggles throughout Sudan since its independence almost five decades ago.

CHAPTER FIVE

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS,

5.0 SUMMARY.

Although the civil war began in 1983, its intensity and human devastation increased when the National Islamic Front (NIF) seized power on 30 June 1989 through a military *coup d'etat*. The Islamist government transformed the civil war into a religious *jihad* (holy war) in which soldiers have the duty to kill those who fight against its authority. The *fatwa* (Islamic legal opinion) issued by religious scholars states: "He who is Muslim among the rebels is an apostate, and non-Muslims a heathen ... both standing in the face of the Islamic call *dawa* and it is the duty of Islam to fight and kill both categories."¹ In addition to the proclamation of *jihad*, under which soldiers swear the *baya* (religious) oath of allegiance to President Omar Hassan al-Bashir, the penal code of 1991 based criminal law on *Sharia* (Islamic law).² Residents of the south were only exempted from five of the 186 articles of that code, those that relate to enforcing certain provisions of the *hudud* (religiously prescribed punishments). Non-Muslims who live in the north have *hudud* applied to them, and all citizens must abide by *Sharia* commercial and civil codes. The constitution promulgated in 1998- 1999 affirms that Islamic public law applies to all Sudanese citizens, even though a third are not Muslim and even though many Muslims object to its rigid provisions and in-built discrimination.

The SPLM/A rejected this religious based system. It called for the separation of religion and state and for a constitutional system that accorded legal equality to all citizens. The

¹ Woundu, S and Lesch, A Battle for Peace in Sudan (2000)

² *Op Cit*

SPLM/A insisted on the restoration of democracy and the devolution of power to the regions, moreover, the SPLM/A maintained that unity was conditional, in the absence of democracy, equality under the law, and the separation of state and religion, the marginalized peoples must have the right to secede. This right to self-determination was to be operationalized by a vote in a referendum during the interim period, which would give the southerners and other marginalized people their choice between remaining within the Sudan and establishing their power state³. While a few members of the government accepted the idea that the south could secede, as a means to create a cohesive Muslim state in the north and to end the drain that the war causes on manpower and the economy, the dominant view is that the south is an essential part of the Sudan.

Under the SPLM/A's proposed confederation, the south and north would establish their own constitutions, with a common non-religious political system in the capital city. Although the SPLM/A proposal was far removed from the government's offer of selective "exemptions" to the south, it did open up the possibility of a two-system country in which *Sharia's* might be retained in the north. In the absence of serious negotiations, these ideas remained slogans rather than operatable programs.

Neither side had the power to impose its will decisively on the other. The government controlled the state institutions, armed forces, and security services, and had vastly expanded a variety of popular militias that include tribal forces and religiously motivated volunteers. Money, arms, and security personnel from China, Malaysia, Qatar, Iran, and

³ Cliffe, L. "Regional Dimensions of Conflict in the Horn of Africa" Third World Quarterly vol 20 (Oct. 1999)

Iraq strengthened its grip on power⁴. Revenue from oil exports, which began in August 1999, boasted its ability to propagate the war and even develop its own arms industry⁵. The government has split the northern exiles, by winning a reconciliation agreement with the former prime minister al – Saliq al - Mahdi and thereby removing the influential Umma party from the NDA.

The SPLM/A functioned in the southern countryside, although not in the towns of Wau, Juba or in much of Upper Nile. But the SPLM/A lacked the resources to restore agricultural production, devastated by war and famine, and was beset by intra-southern ethnic tensions caused by ambitious local warlords. Its alliance with the northern exile opposition through the NDA and military support from neighbouring Uganda, Eritrea, and (until much later) Ethiopia enhanced its strength in the mid- 1990's between Ethiopia and Eritrea⁶, led to a rapprochement between Addis Ababa and Khartoum at the expense of the NDA which undermined its positions in the east. Overall, the SPLM/A remained a guerrilla force that lacked air power and heavy weapons and could do little more than harass the armed forces. Moreover, mistrust between northern and southern elements in the NDA affected its tactics and complicates long-ranger planning.

As a result, each party in the conflict thinks it has the potential to win by force, by attrition, or at least to stave off defeat. Each believes it can find new allies that will help it checkmate or counterattack. Along with the profound political differences, these beliefs

⁴ International crisis Group (ICG) *God, Oil, and Country: Changing the Logic of War in Sudan*(2002)

⁵ *Op Cit*

⁶ Ann M. Lesch: "The Torn Country" *Current History* 98; 628 (May, 1999) pg 229

provide disincentives to negotiate and make the serious trade-offs required to end the civil war.

5.1 CONCLUSION ON THE CRITICAL ANALYSIS OF MEDIATION.

President Bashir canceled the DUP- SPLM/A Accord on the grounds that it compromised the right of the Muslim majority to base the political system on Islamic law. Bashir stated that the Junta would restart negotiations with the SPLM/A from scratch⁷. He adopted positions of Al- Mahdi and Turabi. The south was exempted from a few aspects of Islamic criminal law, but would follow Islamic civil and commercial codes: southerners who lived in the north would be subject to all of its provisions. The penal code of 1991 and numerous other presidential decrees codified this Islamic legal system.

Dr. John Garang stated his ground that peace was only possible if the military regime resigned, democracy restored and the constitutional conference convened⁸. Nonetheless, the SPLM/A was willing to talk to representatives of the *de facto* government on how to restore democracy and achieved peace. However, SPLM/A – GOS negotiations in Addis Ababa (19-20 August 1989) and Nairobi (1 December 1989) revealed the wide gap between their positions. Former US president Jimmy Carter, who hosted the Nairobi talks, made the government furious when he suggested that it suspends Islamic law for three months, prior to holding the constitutional conference⁹. The Government, which

⁷ Details of the conditions in Southern Sudan can be found in- <http://www.state.gov/af/ci/su/c9101.html>

⁸ *Op Cit*

⁹ *Op Cit*

had just launched a major military offensive in the south responded that it would “impose peace by force”¹⁰

As fighting resumed in the late 1989, refugees fled in increasing numbers to neighbouring countries. In addition, the Sudanese government began to assist dissidents who tried to overthrow the governments in Ethiopia, Chad, Uganda, and Kenya. It helped Tigre nationalists’ movement to gain independence, and joined with Libya in overthrowing the government of Chad in December 1990. As a result, leaders of the Organization of Africa Unity (OAU) sought to stem the trend toward regional destabilization, caused in part by the Sudanese civil war and exacerbated by Khartoum’s zeal to spread its version of politicized Islam throughout Africa.

When Nigerian president Ibrahim Babangida served as OAU chairman, he pressed the GOS and the SPLM/A to hold negotiations in Abuja, the Nigerian capital. Those negotiations were delayed by a split in the SPLM/A in August 1991 caused by officers who criticized Garang’s autocratic leadership, believing that the demand to transform the political system was hopeless under the existing circumstances and hoped that the GOS would let the south secede. Led by Riek Machar and Lam Akol, they formed their own movement, initially called SPLA- Nasir¹¹.

This schism played into the GOS hands. The regime played off the two wings of the SPLM/A against each other. The GOS signed a ceasefire with SPLA- Nasir in January

¹⁰ For background on the SPLM/A see Khalid Mansour: John Garang Speaks (1987)

¹¹ *Op Cit*

1992 in which it hinted that the south would have the right to self-determination. More significantly, the ceasefire enabled the army to cross the area controlled by the dissidents in Upper Nile in order to attack SPLM/A positions further south. Machar unleashed SPLA-Nasir forces against both the SPLM/A and civilians. These degenerated into inter-tribal warfare. Nuel raids on Dinka civilians' devastated the countryside and undermined Macher's claim to uphold human rights in his area of operations¹².

Nigeria hosted two rounds of talks in the mid 1992 and early 1993. These negotiations underlined the core differences between the SPLM/A and the GOS. In the meetings in 1992, the GOS delegates emphasized the principle of majority rights. The Muslim majority had the right to establish the constitutional system that it preferred. Religious diversity would be honored by exempting the south from the hudud. Over time, it was projected that Arabic would become the universal language and religious differences would diminish¹³.

The SPLM/A differed with the GOS on every issue. Its delegates called for a secular democracy and equality before the law. They opposed religious and racial assimilation and the marginalization of non-Muslims. Delegates from SPLA – Nasir emphasized that two distinct people lived in the Sudan; it was time to end the artificial unity and create two separate states¹⁴. Both SPLM/A delegation upheld the right of the south to self-determination. From the perspective of the main SPLM/A delegation, unity was feasible

¹² For more on Power Sharing negotiations see *power and wealth Sharing: Make or Break time in Sudan Peace Process* (ICG December 2002)

¹³ *Op Cit*

¹⁴ Sudan Government On 4th Round Peace Negotiations with SPLM/A Nairobi 1999

and desirable if all citizens gained the same constitutional rights. However, the government insisted on an Islamic state, while the SPLM/A insisted on self-determination. The SPLM delegations failed to gain Nigerian support for self-determination, much less persuade the government negotiators. Nigeria had denied the right of secession to Biafra in the 1960's and the delegation of GOS had bluntly stated "separation comes from the mouth of gun"¹⁵

When the delegations reconvened in April 1993 (without SPLA-Nasir), the GOS was in a much stronger position on the ground. The armed forces had pushed the SPLM southward to the borders with Uganda and Kenya; the government believed that it was about to destroy the SPLM. President Bashir therefore had already adopted a maximalist stance: "we will never satisfy humans to displease the almighty God"¹⁶. The government insisted that Islamic law remain the supreme public law throughout the Sudan, with the sole exception that it would not apply hudud in the south. The SPLM delegates continued to state their stand on the need for self-determination. The GOS insisted on a unitary state that would Islamize the entire country, the south thus demanded for its independence. A confederation was the optimal compromise given the ideological deadlock that existed then.

Within weeks of the collapse of the negotiations, the armed forces launched a large-scale offensive. This inadvertently helped to widen the circle of mediators. The AU, under the auspices of IGAD established a standing Committee on peace in Sudan in September 1993, chaired by Kenyan president Daniel Arap Moi, Uganda, Ethiopia, and Eritrea were

¹⁵ www.state.gov/af/ci/su/c9101.html

¹⁶ *Op cit*

also members. Tensions ran high between the Sudanese and Ugandan governments since they supported each other's dissidents. Khartoum expected support from the Ethiopian and Eritrea governments, which it had helped to attain power. Nonetheless, Bashir sought to postpone the IGAD talks, hoping to seize the areas bordering Uganda and Kenya and thereby eliminating the SPLM/A militarily. He refused to meet Garang at the first IGAD meeting (March 1994) and rejected the idea of including constitutional principles and the issue of self-determination in the agenda¹⁷.

The government and SPLM/A position papers at the second session (May 1994) reiterated their stances at Abuja. This prompted the IGAD mediators to write their own Declaration of Principles (DOP), whose contents shocked the government and pleased the SPLM/A. The IGAD's DOP emphasized the importance of an overall political settlement. Talks about a cease-fire and an interim period were meaningless without agreement on fundamental political principles. IGAD's preferred principles were "a secular and democratic state" with social and political equality, separation of state and religion, independence of the judiciary, and self-administration for marginalized peoples. The DOP stated that, in the absence of agreement on those principles, the south should have the right to self-determination. A referendum was therefore included in the option of independence. In other words, the unit of the Sudan was conditional on the establishment of a secular state. The government was "enraged" at the DOP whereas the SPLM/A called it, "even-handed" and "a pleasant surprise"¹⁸

¹⁷ http://www.iss.co.za/AF/RegOrg/unity_to_union/IGAD.html

¹⁸ *Op cit*

The government rejected the DOP at the third IGAD meeting (July 1994) whereas the SPLM/A expressed full confidence in IGAD and the DOP. At the fourth meeting (September 1994), the government was represented by two NIF stalwarts who not only refused to discuss self-determination and secularism but also asserted that the government would establish unity by force and that its long-term aim was to Islamize Africa.¹⁹ The Kenyan chair immediately ended the session. He convened a special IGAD summit later after a month, which reaffirmed its support for the DOP and mobilized support from Europe and America donors by forming the friends of IGAD (later renamed partners of IGAD). However, IGAD talks remained suspended until in 1997. By then, the government's military and political position was weaker and the SPLM/A was considerably stronger.

During that period, the GOS tried to by-pass IGAD by signing a political charter (1996) with Machar, Akol, and other southern warlords. This charter (reaffirmed in 1997) included a provision for self-determination, which its southern signatories interpreted as allowing for secession. However, the government insisted that self-determination should take place within a geographically united country. When negotiations resumed in July 1997, President Bashir felt constrained to sign IGAD's DOP since he had already conceded the right of self-determination in the political charter. Nonetheless, President Bashir stressed that the DOP was not legally binding and that the government would never accept secularism or a confederation, indeed, the GOS constitution (1998) re-emphasized that Islamic underpinned the political and legal system. Further IGAD meetings from October 1997 through 2000 failed to bridge the divide.

¹⁹ Statement from the Technical Committee on Peace in The Sudan. (13th – 16th August 2001)

Throughout the 1990's the government and the SPLM/A could not find any common ground on which to base an agreement. In contrast to the democratic era, which public debate and dialogue helped the antagonists to reach an agreement that freezing Islamic law could pave the way to a comprehensive accord. The Islamist military regime blocked the give and take acceptable solutions, instead, cultural and religious polarization deepened.

The two sides also failed to resolve their differences because each side felt it had other options. The government believed that it could defeat the SPLM/A militarily and rule the south through its southern allies, the SPLM/A believed that its alliance with northern opponents of the government and assistance from Africa governments could ward off defeat perhaps even overthrow the regime. Neither side viewed negotiations as the only way to end the civil war.

5.2 RECOMMENDATIONS AND AREAS OF FURTHER RESEARCH.

The impasse between the government and the SPLM/A's is unlikely to end in the near future even after the signing the Comprehensive Peace Agreement (CPA). The ideological antagonism remains deep, despite hints that confederation might temper the difference in the short run. The animosity shows no signs of diminishing, despite the CPA. External military support for the NDA and SPLM/A has weakened, however, just as Khartoum military resources are growing.

The high point for the opposition forces came in 1994- 95 when IGAD articulated its path breaking DOP and when the NDA reached an agreement on the fundamentals of an alternative constitutional system. Until 2005, IGAD had been unable to transform its negotiating principles into operational agreements and the NDA had suffered serious internal stress. The fragility of the NDA's consensus on the nature of the constitutional system and self- determination for the south had become evident. Even though the government had undergone as intense internal crisis as Turabi and Bashir jockey for power, it manipulated the diplomatic scene to its advantage, playing off the Egyptian-Libyan initiative against IGAD and using the accord between Bashir and Al Mahdi to disrupt the internal dynamics within the NDA as well as to put pressure on the NDA-SPLM/A alliance. The complex interactions among the Northern and Southern politicians and the ever-shifting alliances with external governments make the government and the SPLM/A each believe that it has alternative to a negotiated accord and that it can always maneuver itself into a stronger bargaining position. Meanwhile, even with the signing of the CPA and its gradual implementation fighting continues to devastate the south and the social fabric of the entire county is torn by the decades of discord.

As an area of further research, post mediation implementation of resolutions/agreements is an area worth exploration. Beyond the CPA-as is the case for this IGAD led Sudan Peace Process- implementation of the CPA may erode the efforts put in the many years of mediation. Post mediation period is largely left to the parties involved and usually degenerates the commitment thereof.

BIBLIOGRAPHY.

Bercovitch *et al* (1991) Ibid: "Some contextual Issues and Empirical Trends in the study of successful mediation. In International Relations" Journal of Peace Research Vol. 28

Bercovitch J. (1996) Resolving International Conflicts (Lynne Publishers, UK)

Bercovitch J. 'International Mediation: A study of the Incidence, Strategies and Conditions of Successful Outcomes' Cooperation and Conflict Vol. 21(1986)

Bercovitch, J (1992) "The structure of diversity of mediation in International Relations" in Bercovitch & Rubin (ed) Mediation in International Relations: Multiple – Approaches to conflict management (NY; St, Martins)

Bercovitch, J. (1984) Social Conflict And Third Parties: Strategies Of Conflict Resolution.(Boulder, Colo, West view)

Bercovitch, J. (1986) "International Mediation: A study of Incidence, strategies and conditions of successful outcomes". Co-operation and conflict Vol. 21

Bercovitch, J; Social Conflicts and Third Parties; Strategies of Conflict Resolution (Boulder colo; West view, 1984)

Brett J.M. Dneghe R. & Shapiro D. L. (1986) "Mediator style and mediation effectiveness" Negotiation Journal Vol. 2

Brockner, J (1982) "Factors Affecting Entrap" Negotiation Journal Vol. 2

Burton, J.W (1969) Conflict & Communication (London: Macmillan).

- Burton, J.W. (1968) Systems, States, Diplomacy & Rules. (Cambridge: - CUP).
- Butterworth, R (1976) Managing Interstate Dispute: 1945 – 1974 (Pittsburgh; Penn – UPP)
- Carnevale, P (1986) “Strategic choice in Mediation” Negotiation Journal Vol 2
- Cox, R & Jacobson, H (1973) The Anatomy of Influence: (New Haven Yale University Press).
- Deutsch, M (1973) The Resolution of Conflict (New Haven: Yale University Press).
- Donohue, W.A(1989) “Communicative competence in Mediators” In Kressel and Pruitt Mediation Research.
- Edmead, F (1971) Analysis and Prediction in International Mediation: (New York, UNITAR Study).
- Forberg, J. & Taylor, A.: Mediation: A comprehensive guide to resolving conflicts without litigation. (San Francisco, Jossey –bass 1984)
- Gibson, R. Africa Liberation movements: Contemporary Struggles Against White Minority Rule: see Dividow’s “A Peace in Southern Africa” (OUP, for Institute of Race Relations 1994) .
- Gulliver, P.H. Dispute and Negotiations: Cross Cultural Perspective: (NY; Academic Press, 1979)
- Harbottle M. (1979) “The strategy of third Party International in conflict situation” International Journal Vol. 35
- Jackson, E (1952) Meeting of Minds (New York: McGraw – Hill).

Janice, G. (ed) Getting to The Table: The Process of International Pre-negotiation. (John Hopkins Univ. 1999)

Kochan *et al* "Negotiation and mediation" Annual Review Of Psychology 43

Kockan T.A. & Jick T. (1978) "A Theory of Public Sector Mediation Process" Journal of conflict Resolution Vol 22:

Kolb, D. (1983)"Strategy and Tactics of Mediation" Human Relations Vol 36.

Kressel & Pruitt, D.G (1989) (ed) mediation & Research: The process and Effectiveness of Third – Party Intervention (san Francisco; Jossey – Bass)

Kressel, K: (1985) "Themes in the mediation of social conflict" Journal and Social Issues Vol. 1

Mack, R & Snyder, R (1957) "An analysis of Social conflict: Toward an overview and synthesis" Journal of Conflict Resolution Vol. 1

Meyer, A. (1960) "Functions of the Mediator in Collective Bargaining" Industrial and Labour Relations Review Vol.13

Mitchell E. R (1981) Peace Making and the Consultant's Role (West mead – UK)

Mitchell, C. R & Webb, K (ed) New Approaches to International Mediator (NY – Greenwood Press – 1988).

Mitchell, C. R. & Webb, K. (1988) New Approaches To International Mediation (NY; Green Wood)

- Moaz, Z & Abdolali, N. (1989) "Regime tyres and International conflict" Journal of Conflict Resolution Vol.33
- Modelski, G. (1964) "International Settlement of Internal war" In Rosenau J. (ed) International Aspects of civil strife (Princeton N.J. – Princeton University Press).
- Moore, C.W. (1986) The mediation Process: Practical Strategies for resolving conflict (San Francisco – Jossey Bass).
- Northedge, F.S & Donelan, M (1971) International Disputes: The political Aspects (London; Europa)
- Otto, M.C (1972) "Mediation as a Method of Conflict Resolution" International Organization Vol 26:
- Paul, P.R. (ed) Negotiating Peace: War termination as a bargaining Process (Princeton University. Press; 1983)
- Prendgast, J. & Mozersky, D. "Love Thy Neighbour: Regional Intervention in Sudan's Civil War". A paper presented in a seminar at the Bradford University.
- Pruitt, D.G (1981) Negotiation Behaviour (New York, Academic Press)
- Randle, R. F (1987) The Origins of Peace (N.Y. – Free Press)
- Rasler A.K & Thompson, W.R. War and State Making (London; Union Hyman, 1989).
- Raymond, G.A. & Kegley, C.W. Jr. (1985) "Third Party mediation and International norms". A test of Two Models Conflict Management and Peace Science Vol 9

Rene' Lemarchand on conflict between Tutsi and Hutu in Rwanda & Burundi: Burundi Ethnocide as Discourse and Practice (Cambridge University. Press, 1994)

Richard, Haas: Conflicts Unending; United States and Regional Disputes (Yale University Press- 1990)

Rubin, J. (1981) Dynamics of Third Party Intervention: Kissinger in the middle East (NY; Preager)

Simkin W. (1971) Mediation and the Dynamics of Collective Bargaining (Washington DC- Bureau of National affairs)

Susskind, L. & Cruickshank, J. (1987) Breaking the Impasse (New York, Basic book).

The comprehensive Peace Agreement between the Government of the Republic Of The Sudan And The Sudan People's Liberation Movement/Army- A United Nations Security Council Publication- February 2005.

Thornton, T P "Indo- Pakistan Conflict" See Zartman & Saadia , Zartman, W & Kremenjuk, V. (ed) Cooperative Security: Reducing Third World Wars (Syracuse University Press-1995)

Touval S. and Zartman, W. (ed), (1985) "Mediation in Theory" International mediation in Theory & practice [Boulder Colo; Westview].

Touval, S. (1982) "Biased Intermediaries: Theoretical and Historical considerations" Jerusalem Journal of International Relations.

Volkau, V.D. (ed) The psychodynamics' of International Relationships Vol. II
(Lexington mass; Lexington 1991)

Wehr; P (1979) Conflict Regulation (Bowder, Colo, Westview)

Young, R.O. (1967) The Intermediaries: Third parties in International Crisis. (Princeton University. Press)

Zartman, I & Touval, S (1985) "Mediation in Theory": International Mediation in Theory and Practice (Boulder, Colo, Westview)

Zartman, W. (ed) Ripe For Resolution: Conflict And Intervention In Africa. (OUP, 1989)

WEBSITES.

- <http://sudancare.org/HIRCO60502/Deng.html>
- <http://www.state.gov/r/pa/prs/ps/2002/8915.html>
- <http://www.iss.co.za/AF/RegOrg/unity-to-union/IGAD.html>
- <http://www.state.gov/p/af/ci/su/c9101htm>

UNIVERSITY OF NAIROBI
EAST AFRICANA COLLECTION