THE CHOICE OF A MEDIATOR IN INTERNATIONALISED CONFLICT; A CASE STUDY OF KENYA IN THE SUDAN NORTH-SOUTH MEDIATION PEACE PROCESS:

2000-2005

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DECLARATION

This thesis is my original work and has not been presented for any other

degree in any other University.

Hkrofep_____ Date :_

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This thesis has been submitted for examination with my approval as

university supervisor.

Date:_

Dr. Robert Mudida

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God bless you all.

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ACRONYMS' AND ABBREVIATIONS [2]

ABC   Abyei Boundaries Commission

AEC   Assessment and Evaluation Commission

AMIS   African Union Mission in Sudan

AU   African Union

CPA   Comprehensive Peace Agreement

DoP   Declaration of Principles

DUP   Democratic Unionist Party

EF   Eastern Front

ELI   Egyptian-Libyan Initiative

ESPA   Eastern Sudan Peace Agreement

GNU   Government of National Unity

GoS   Government of Sudan

GoSS   Government of Southern Sudan

ICC   International Criminal Court

ICF   Islamic Charter Front

IDP   Internally Displaced Person

IGAD   Intergovernmental Authority on Development*

IGADD   Intergovernmental Authority on Drought and Development*

IMF   International Monetary Fund

[1] Conciliation Resources, 173 Upper Street, London, UK
[2] Lesch, Ann Mosely. *The Sudan - Contested National Identities.* Indiana, USA. 1998

IPF	IGAD Partners Forum
JAM	Joint Assessment Mission
JEM	Justice and Equality Movement
JIU	Joint Integrated Unit
JMC	Joint Military Command
LRA	Lord's Resistance Army
NCP	National Congress Party
NDA	National Democratic Alliance
NGO	Non-Governmental Organization
NIF	National Islamic Front
NPC	National Petroleum Commission
NRF	National Redemption Front
NSCC	New Sudan Council of Churches
OAU	Organisation of African Unity
OLS	Operation Lifeline Sudan
PDF	Popular Defence Force
PDP	People's Democratic Party
PNC	Sudan Alliance Forces (NDA) or Sudanese Armed Forces (government)
SANU	Sudan African National Union
SCP	Sudan Communist Party
SLM/A	Sudanese Liberation Movement/Army
SPDF	Sudan People's Democratic Front

SPF	Sudan Peace Fund
SPLM/A	Sudan People's Liberation Movement/Army
SRRA	Southern Sudan Relief and Rehabilitation Agency
SSDF	South Sudan Defence Forces
SSIG	South Sudan Independence Group
SSIM/A	Southern Sudan Independence Movement/Army
SSLM	South Sudan Liberation Movement
SSU	Sudanese Socialist Union
SSUM/A	South Sudan Unity Movement/Army
UDSF	Union of Democratic Sudanese Forces
UNDP	United Nations Development Programme
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commission for Refugees
UNICEF	United Nations Children's Fund
UNMIS	United Nations Mission in Sudan
US	United States
USA	United States of America
USAP	Union of Sudan African Parties

IGADD was renamed IGAD in March 1996.

ABSTRACT

Kenya continued to pursue duality of hosting the talks while supporting SPLM/A to the point of facilitating the signing of the Comprehensive Peace Agreement (CPA). This anchors our interest in this peace mediation process as the assumptions that the mediating parties to a conflict are supposed to be neutral for a successful mediation to be brokered.

The study purposively selected 4 key informants. These were selected from the diplomatic forum, Kenyan Government representative and South Sudan administrators. This was done through purposive sampling procedure. They were key people who were involved in the mediation process from Sudan and Kenya. A semi-structured interview schedule was used as a guide during the interviews that were undertaken with the informants.

The results confirmed that the chief mediator does not need to be impartial to the warring parties for a successful mediation to be achieved. It was noted that partiality is relative to the parties at war. It was also revealed that the type of mediator determined if there would be success of the mediation. This was in terms of the profession that the chief mediator held because it contributed greatly to the mediation succeeding if they are in the same profession with the warring parties. Also exposed in the findings was that there was need to have the mediators remaining in the arena during the implementation of the peace agreement. It was noted failure to this, the agreements risked falling and there was possibility of a return to conflict.

Understanding these dimensions of the choice of a suitable mediator have provided for a better mechanism of handling intra-state conflicts in Africa. This, if applied, would see a greater movement towards peace in Africa while dealing with the various intra-state conflicts that have arisen and might arise in future.

CHAPTER 1

BACKGROUND TO THE STUDY

1:0. INTRODUCTION

This chapter discusses what conflict mediation is, giving its definition. It will also have the Statement of the Problem under study, the objectives of the study, hypotheses, the Literature review, justification of the study and the theoretical Framework. The chapter will end with the chapter organization of the chapters that follow.

Mediation involves the intervention of an outsider; an individual, a group or an organization into a conflict between two states or other actors. This becomes third party mediation. The intervention is non-coercive, non-violent, and ultimately non-binding. Mediators enter a conflict, whether internal or international, in order to affect it, change it, resolve it, modify or influence it in some way. Their overriding interest is to reduce violence and achieve a peaceful outcome.[1] Zartman and Touval have explained mediation as best thought of as a mode of negotiation in which a third party helps the parties find a solution which they cannot find by themselves.[2]

This kind of conflict management is practiced widely in international relations due to its many advantages, making it appealing to parties in a bitter conflict. It is ad hoc in nature, non-coercive and voluntary, making it less threatening than other possible conflict management options. It is also non-

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[1] J. Bercovitch. *International Mediation and Intractable Conflict.* 1991. www.bevondinlractabilitv.ora/m/med_intractable_confliet.isp-68k

[2] W I. Zartman. *Mediation in Ethnic Conflicts.* Center for Development Research (ZEF Bonn): Facing Ethnic Conflicts. 14-16 December **2000.**

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evaluative and non-judgmental, and it is particularly suited to the reality of international relations, where, states and other actors guard their autonomy and independence quite jealously. It can offer both parties the prospects of a better outcome without necessarily having any direct meetings with a sworn enemy. Mediation may, therefore, offer the prospect of escaping the dilemmas of conflict that is intractable.[3] In the North-South conflict in Sudan, the conflicting parties involved the use of a third party, as the warring parties could not come to an agreement on their own. They needed a third party (mediator) who used different tactics to enable the two parties come to a compromise.

Several major conferences were convened in an attempt to resolve conflicts between the North and the South of Sudan in the hope of reconstituting a peaceful and inclusive modern state in the Sudan[4]. Internalization of conflict makes conflicts complex in character.[5] Many of the intra-state conflicts in turn become internationalized in the sense that they have trans-boundary effects. The fundamental agents of conflict internationalization include interdependence, ethnic relations, the media and refugees. This makes it necessary to adopt a systematic perspective to effectively manage regional conflicts.[6] It is also very important to understand the processes and mechanisms of the diffusion of conflict and hence its internationalization. If this is not done, it will be difficult to design proper and effective management mechanisms for internalized conflicts.[7]

In 1983, a fresh conflict pitying the Sudanese government and the SPLA broke out. By 1985 when, attempts were made to settle this conflict, over two million people had died and displaced. The attempt failed. This was much later followed by the peace efforts by the countries of Inter-Governmental Authority on Development (IGAD) through the Sub-committee on Peace in the Sudan.[8]

'Ibid I, J. Bercovitch. 1991
[4] S. L Kwaje. ***The Sudan Peace Process: From Machakos to Naivasha.*** Paper presented to the conference on Regional Security Issues in the Age of Globalization; 16-18 March, 2004
[5] M. Mwagiru. *Conflict Management in Africa: Lessons learnt and Future Strategies.* Friedrich Ebert Stiftung, Feb. 2001.pp 28.
[6] See M. Mwagiru. *Conflict Theory, processes and institutions of Management.* Nairobi. Watermark Publishers, 2000.
  Ibid 6, Makumi Mwagiru. Pp29
' Ibid 4, S. L Kwaje.

Partly because of the destabilizing impact of the war on neighbouring countries and in the wake of the failed Nigerian initiative, the Inter-Govemmental Authority on Drought and Desertification (IGADD, the forerunner of today's IGAD) established a Standing Committee on Peace in Sudan in early 1994." In February 1994, IGAD in Addis Ababa mandated Kenya to mediate the conflict. [10] In March 1994, Sudanese peace negotiations under the auspices of IGADD were officially launched in the Kenyan capital, Nairobi. At this stage, Kenya was playing host to the Sudanese People's Liberation Movement /Army (SPLM/A) leadership and the Sudanese refugees in Kakuma, North-Western Kenya. Kenya's relationship with the Sudan Government prior to this selection of Kenya had not been very friendly. The Sudan Government's reaction to SPLM/A's presence in Kenya was to interdict the SPLM/A's supplies apparently passing through Kenya and Uganda. Sudan's air force had launched an attack on Lokichogio in retaliation to the SPLM/A's presence in Kenya. Sudan's Government had also extended support to armed pastoralists groups at the border of both countries, thus spawning violence in North-western Kenya. The government of Sudan had on the other hand, sought to influence the Ugandan state by arming the LRA (Lord's Resistance Army) creating a tense relationship with the Ugandan government. The question we must then pose to ask is that of why did both the IGAD's Sub-committee on Peace in the Sudan and the protagonists to the conflict settle on Kenya as a mediator.

Sudan entered the post-conflict stage of the peace process with unstable relations with most of its neighbours." The government of Sudan and the SPLM/A met in continuous negotiations between 2000 and 2004 under the auspices of the IGAD peace process; also in respect to the issues related to the conflict areas of Southern Kordofon, and Blue Nile, 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. The parties pursued to commit a negotiated settlement on the basis of a democratic system of governance which on one hand, recognized the rights of the people of Southern Sudan to

'See J. Young. *Nigeria Initiative Abuja l-II.* 2001. Presented by Young who is a Sudan Peace Process Expert.
[10] Ibid 4, S. L Kwaje.
[11] A. Njoroge Gathecha. *A Critical Analysis of the Role of IGAD in Mediation. A Case Study of the Sudan Peace Process, 1994-2005* An MA dissertation presented to Institute of Diplomacy at University of Nairobi; September 2007, pp 85.

self-determination and sought to make unity attractive during the interim period. On the other hand it was at the same time founded on value of justice, democracy, good governance, respect for fundamental rights and freedom of the individual, mutual understanding and tolerance of diversity within the realities of Sudan.[12]

The IGAD Ministerial Sub-committee agreed during the Fourth Session meeting held from 19[lh]-23[rii] July 1999 in Nairobi, agreed on the establishment of a permanent structure for conducting the negotiations. The negotiations were to be conducted under two Technical Committees: Political and a Transitional Committees. The first Political Committee meeting was held from 15th - 21st January 2000 where the common areas of understanding and points of difference were established. The second and third Political committee meeting was convened from 21st-26[lh] February 2000 and 3rd-7[lh] April 2000 respectively. They attempted to narrow down the differences but there was no success. The parties reconvened from 21st September-I['] October 2000. At this fourth Political Committee meeting the envoys presented to the parties a proposal that attempted to derive a common ground position on state and religion, the issue of marginalized areas, self-administration and wealth sharing. No agreement was reached in these talks.[13]

The Kenya led process subsequently stalled for 33 months in 2001 as parties to the conflict haggled over the Declaration of Principles (DoP). The Government of Sudan (GOS) refused to accept some points in the DoP. The parties reconvened at a fourth Political Committee meeting where envoys presented to the parties a proposal that attempted to derive a common ground position on state and religion, the issue of marginalized areas, self-administration and wealth sharing. This necessitated the rejuvenation of the IGAD Peace Process that became the Machakos Phase (Phase Five: 2002-2005). It is at this phase that a seemingly successful Comprehensive Peace Agreement (CPA) of 9th January

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[12] Ibid 11, A. Njoroge Gathecha, 2005. pp 86.
[13] Ibid 4, S. L Kwaje 2004.

2005 was signed in Naivasha-Kenya, ending the war between the north and the South. The negotiations were thus far deemed successful with this agreement.

In pursuance of this commitment the GOS and SPLM/A reached agreement on the following: Machakos protocol in 2002; the agreement on security arrangement in 2003; the protocol of power sharing in 2004; the protocol on the resolution of conflict in Southern Kordofon, Abyei and Blue Nile states in 2004 and the Security Council of the UN in its resolution 1574 of 19th November 2004. On 9th January 2005, the GOS and SPLM/A signed the CPA. It offered not only hope but a concrete mode for solving problems and other conflicts in the country. The parties agreed on these upon signing the CPA.[14]

1.1: STATEMENT OF THE RESEARCH PROBLEM

Underlying our question are the assumptions that the mediating parties to a conflict are presumed neutral. As presented by Bercotvitch [15], impartiality is synonymous for engendering trust and confidence of the parties. On their part Folger and Bush emphasis the element of influence of the mediators.[16] If we are to privilege the element of influence we must then pose to ask the question: What influence does a partial actor have to engender participation of an actor who deems himself apriori disadvantaged? That Kenya continued to pursue this duality of hosting the talks while supporting SPLM/A to the point of facilitating the signing of the Comprehensive Peace Agreement (CPA), anchors our interest in this process. Touval [17] has argued that, if the acceptance of mediation is based on a cost-benefit calculation, then the assumption that mediators must be perceived as impartial needs to be revised citing the scenario presented above.

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[14] Ibid 11, A. Njoroge Gathecha 2005 pp. 86-88.
[15] Ibid 1, J. Bercovitch, 1991.
[16] J. Folger and R. B. Bush: "*Alternate Views of Conflict and Mediation",* Conflict Research Consortium, article summary, 1998-2005.
    W. I. Zartman & S. Touval: *International Mediation in the Post-Cold War Era* Summary by Tanya Glaser, 1998, conflict research consortium

A number of reasons and factors of motivation that led to the CPA have been put forward. It is not satisfactory to just acknowledge that the Sudanese government and the Sudanese People's Liberation Movement /Army (SPLM/A) decided to end the hostilities between them, after years of fighting, welcome as this is. How do we explain the eventual decision by the parties to accede to the Naivasha CPA? It is this phenomenon of Naivasha that intrigues us. Had the issues leading to past disagreements become unimportant at this point?

In specific terms we seek to grapple with the questions capsulated into two core questions:

a   What factors explain the selection of Kenya and success in the mediation process, as mediator, despite her apparent partisanship on the side of SPLM/A?

b   What factors elucidate the decision by SPLM/A and the Sudanese Government to finally sign the agreement through Kenya's mediation?

Creditably, these are large questions but to the extent that they answer an attempt to resolve dilemmas that have plagued Africa for many years necessitates our study.

1.2.0: OBTECTIVES

1.2.1: This study seeks to achieve the broad objective of the key factors influencing the choice of a mediator. Sub-objectives are to:

I   Examine the factors that led to the selection of Kenya as a chief mediator to the Sudan Peace Process.

II   Analyze the motivations of the mediating actors and the warring parties that led to the signing of the Comprehensive Peace Agreement.

III   Portray research based recommendations geared towards ensuring successful mediation of internationalized conflicts.

1.3. LITERATURE REVIEW

The literature review will include both case study literatures as well as theoretical literature reviews. These reviews will lead to the justification of the study. Theoretical literature review is critical as disputes persist within literature regarding how factors such as mediating actors influence and partiality impact the mediation success.'[18] Most researchers have focused on the importance of proper timing of mediation initiatives for achieving successful outcomes. Few have focused on the type of mediators that would produce successful mediation in African conflicts scenario. 'Although the level of conflict intensity constantly increased rather than leveled off as war continued in Sudan, this did not prevent the attainment of a negotiated settlement. As such intense conflict should not be ruled out as candidates for mediation.'[19] Negotiated settlements in civil wars are generally a rare occurrence.[20] Thus demonstrating the need for case study literature dealing with specific conflicts. This expands the arena of information in mediation literature.

1.3.1: THEORETICAL LITERATURE REVIEW

A theory is a body of internally consistent empirical generalizations of descriptive, predictive and explanatory power. As is presented in the discussions below, we try to bring out the gaps in the theories that have been advanced by scholars in this field. A question to be addressed is whether parties to a conflict can find a solution by themselves. Zartman and Touval[21] have argued that, mediation is best thought of as a mode of negotiation in which a third party helps the parties find a solution which they cannot find by themselves. Arguably, parties at war can come to an agreement without the intervention of other outside parties if they decide to. This paper will show how at various points both the Sudan government and SPLA/M tried to bring each other to a consensus though they failed.

" J. M. Greig. *Moments of Opportunity: Recognizing Conditions of Ripeness for International Mediation between Enduring Rivals. The Journal of Conflict Resolution.* 2001

[9] M. Kleiboer. *Understanding Success and Failure of International Mediation._ The Journal of Conflict Resolution.* 1996.

A. El-Affendi. *Impasse in the IGAD peace process for Sudan: The limits of regional peacemaking?* African Affairs, Royal African Society, 2001.

[21] Ibid 17, W.I. Zartman & S. Touval. 1998.

Conflicts are usually as a result of inherent factors that both sides to the conflict are aware of. They do not occur in a vacuum and concurrently. There is a process to conflict and in it the adverse effects of conflict can be countered if the warring parties come to an agreement before the conflict escalates into combat. Leaders can control the escalation of conflict at any one point of the conflict and also work in the reverse, that is, to the reduction of hostilities. Sudan was not unfamiliar to this. Both warring parties could have resolved to end the conflict between them if they wanted to, thus negating the assertion presented by Zartman and Touval[22].

The choice of a mediator is not always straight forward. Two conflicting views of mediation have emerged as depicted by Wells J.: 'facilitative conception and a dependency-creating conception. The facilitative conception regards mediation primarily as a set of administrative mechanisms to improve the efficiency and responsiveness of programs set. In the dependency-creating conception, mediators foster dependency rather than increase autonomy. This approach cautions that the linkage agents (mediators) are not merely administrative go-betweens but rather are key elements in the power relations between societal centers and peripheries. Mediators can therefore undermine autonomy and horizontal solidarity that could be basis for political efficacy.[23] This then brings us to the question of how then do warring parties choose a mediator who does not undermine autonomy and at the same time improves the efficiency and responsiveness of both parties?

It can be suggested that some mediators lend themselves to be chosen to mediate more than once in various conflicts. As Bercovitch and Schneider propose 'Shuttle diplomacy still plays an all too important role in international politics. The mechanisms through which certain conflicts become amenable to third party intervention and the reasons why certain parties are chosen again and again as mediators are not understood. Most studies on international conflict management focus on the success

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[22] Ibid 1, J. Bercovitch 1991.
  M. J. Wells: *Mediation, Dependency, and the Goals of Development*; American Ethnologist. 1983

of these mediation attempts. No study has been undertaken that systematically examines the recurrence of certain mediators in international conflicts.'[24] I suggest to you that this will be partially answered in this paper as we seek to analyze why Kenya was chosen as Chief mediator and continues to be selected as a chief mediator in other conflicts.

The neutrality of the mediator is not always a key component to them being accepted to mediate. The success of the Sudan mediation process contradicts the notion that 'impartiality is an important asset in a mediator's inventory of attributes' as presented by Bercovitch and Schneider.[2-1] It presents a failure of the notion of impartiality because the chief mediator who was affiliated to the warring parties became active in the mediation and successful. The Kenya scenario contradicted the notion that parties will have confidence in a mediator only of he/she is and is perceived as neutral. 'The emphasis on neutrality stems from a failure to recognize mediation as an aspect of social interaction in which the mediator is a major participant with distinct interests.'[20] 'Zartman and Touval have observed that when a mediator possesses resources that either party values (e.g. political support, economic resources), and not when a mediator is unbiased or neutral'[27] that a successful mediation would be achieved. Mediators who can promise support (or conversely, threaten to withdraw it) are more likely to produce an agreement than other mediators. This again negates the perception that mediators leave the mediating scene once an agreement is achieved. The warring parties also consider the support that they will receive from the mediators as they accept them to mediate in their conflict. This brings a new concept in the mediation arena that has not been researched widely.

While some analysts recognize that mediators do bring their own interests to a conflict and cannot be expected to be completely impartial. The interventionist approach that the Sudan mediators adopted

[24] J. Bercovitch and G. Schneider: *Who Mediates? The Political Economy of International Conflict Management. Journal of Peace Research.* 2000
"ibid 16, J. Folger and R. B. Bush 1998-2005
[26] Ibid 16, J. Folger and R. B. Bush, 1998-2005
[27] Ibid 16, J. Folger and R. B. Bush, 1998-2005

sought to distinguish itself from traditional 'subversion'[28]. This was a departure from non-partisanship that mediators have projected in the past as a method of mediation which has not borne fruit. 'Sudan's reluctance to withdraw from the IGAD process even after it had become clearly partisan and conflictual had less to do with keenness to achieve results and more to do with the desire to block more effective forms of intervention.[20] This again negates the principle of impartiality that previous mediations have operated in.

Mediation has been depicted as being an intervention that is non-coercive and ultimately, non-binding by Bercovitch,[30]. This view suggests that mediators are impartial. This view is weak and cannot be applied to mediation wholesomely as it lends itself to particular conflicts. As seen in the Sudan Peace Process scenario presented in this paper, the Sudanese Government was threatened with sanctions from the international community if they did not adhere to resolutions made on the mediation course. This is in agreement with Kleiboer who states that 'the involvement of a biased mediator can lead to positive results.'[31] This has been evidenced in the resolution the Sudan North South Conflict. On the other hand, the international community, in the form of the International Peace Forum (friends to IGAD) led by United States of America, were bound to the decision of upholding the sanctions if the Sudanese government did not comply. This paper seeks to depict that in practice mediation is at times coercive and binding.

Core values are important to warring parties. Bercovitch [,2] has presented mediation as offering the possibility of a jointly acceptable outcome without giving in on one's core values and beliefs. This is contradictory to practical mediation practice. For any peaceful outcome to a conflict the warring parties

[:8] A. El-Affendi: *Impasse in the IGAD peace process for Sudan: The limits of regional peacemaking?* African Affairs, Royal African Society, 2001.
[29] Ibid 28, A. El-Affendi. 2001
[50]Ibid 1, J. Bercovitch. 1991.
'M. Kleiboer: Review: *Research on International Mediation-. Searching for Breakthroughs;* Mershon International Studies Review. 1996
[32] Ibid 1, J. Bercovitch. 1991

have to give concessions in order to reach an agreement. The war in the first place began because one of the parties deemed him/herself disadvantaged by the other party and could not find peaceful ways of effecting the change desired. The other stronger party was at peace because it had an upper hand and as such was at a vantage point compared to the other party. A conflict eventually ensues because the stronger party is not willing to loose its advantage. For such parties to come to a point of peace again core values will have to be dropped in order for a common ground to be realized. One of the core values to the SPLM/A was to have South Sudan as a separate state from the North. They put this aside in order for the agreement to be reached. The government of Sudan also had to forego the desire of having an Islamic kind of government and in its place have a secular kind of government in South Sudan, critical as this was to the government, thus negating Bercovitch's view.

In the mediation practice, uncomfortable choices are made by the warring parties, questioning their autonomy. Matz[33], who has alluded that autonomy exists when an individual has the capacity to make a choice among real alternatives and can make the choice for reasons with which he/she is comfortable, stands faulted in the Sudanese case. His argument does not agree with the practice of mediation that was undertaken during the North/South Sudan conflict resolution as this study illustrates. For a mediator to encourage the free expression of a party's will, the mediator may (and in some circumstances must) apply pressure, impose constraints, and limit voluntaries. Thus, a paradox occurs in mediation practice where mediators use pressure to enhance parties' decision-making abilities, throwing doubt to the sovereignty of the countries that are at the negotiating table. In the past, internal wars were not considered to be of great importance in the international affairs arena as they were considered to be an individual country's affair in view of a country's sovereignty. In practice and with the fact that what happens in another country affects other countries, (internationalization of conflict), this notion cannot continue to be held as true, because doing so jeopardizes international peace and

D.E. Matz: *Mediator Pressure and Party Autonomy: Are they consistent with each other? Negotiation Journal 10:*4 October 1994, pp. 359-365.

security. Mediation therefore begets concern to the sovereignty of a country when discussing war and its resolution through mediation. This applies to all countries (including Sudan) that are at war within themselves and out of themselves (i.e. at war with others).

In addition, questions have arisen on the control of the mediation outcome despite Bercovitch's [34] presentation of mediation as a voluntary form of conflict management. According to Bercovitch the adversaries in an intractable conflict choose whether to begin or continue mediation or not, and they retain their control over the outcome (if not always over the process) of their conflict, as well as their freedom to accept or reject any aspects of the process or the ultimate agreement. Contrary to this view, the warring parties are not always in control of the mediating process most of the time and may at times not have the freedom to accept or reject some aspects of the ultimate agreement. As will be seen in our study, the Sudanese Government was not fully at liberty to reject some aspects of the agreement due to the sanctions imposed on it by the international community. The wider international community drew the SPLM/A and the Sudanese government onto the negotiating table and it was not by their own free will to negotiate at some points of the process. At one point, concern arose on the escalation of the internal conflict in Sudan into a regional conflict and ultimately an international conflict in light of terrorism. This too could be considered as another aspect that led to the international community pushing for the attainment of peace in Sudan. Thus negating the above view of voluntarism of adversaries.

[4] Ibid 1,J. Bercovitch, 1991.

Partial and sporadic reviews have been made by individuals and institutions concerning the mediation of the North South Sudan conflict. This implies that there is still need to undertake more case studies on the Sudan North South conflict that would update the information that is already available. Multiple mediation does work in some cases. One assessment on the failure of multiple mediation has been presented by Mwagiru, who, in respect to the mediation process undertaken by IGAD in its initial stages commented that: The efforts of the Inter-Governmental Authority on Drought and Desertification (IGADD) to have member states mediate in the conflict in Sudan represented the first time that there was anything approaching a systematic perspective in regional conflict management in the Horn of Africa.[35] Mwagiru further stated that the approaches followed by IGADD and its successor IGAD fell short of including the non-state actors in the mediation process, which could be taken as a drawback to the process. This was perhaps a contributor to the failure of the mediation processes that were being undertaken at that time. Citing the use of 'multiple mediation' as a method of mediating the Sudan conflict, Mwagiru attempted to demonstrate that the limitations of 'multiple mediation' by alluding as an example the unfriendly relationship between different members states of IGAD themselves. Yet despite the unfriendly relationships between IGAD the countries the IGAD led process achieved a significant product -the CPA. The analysis with Mwagiru falls short of the actual mediation on the ground with multiple mediation finally bearing fruit. This paper seeks to exemplify this with regards to the IGAD's involvement with the International Peace Forum (friends of IGAD) who were partisan to the mediation process.

IGAD change in dealing with internationalized conflicts in Africa led to the success of the mediation process. Contrary to IGAD's Charter, IGAD solicited the help of non-members. At the same time not all the member-states acted collectively in the Sudan mediation Process. A number of resolutions and

M. Mwagiru: *Critical Comparison of the Analytical Frameworks of international Relations and International Law.* Rutherford College, 1980. p. 77-91.

documents have been produced by IGADD and IGAD and are part of the literature on the subject with great importance to develop understanding on dynamics of the peace process on Sudan. Reference to the Amendments to the Agreement establishing the IGADD in East Africa (2 I$^{s'}$ Mar. 1996) indicates that IGAD's role in the Sudan conflict emanates from the "Aims of Objectives" enshrined in its Article 7. In Section 'g' states one of the objectives as: "Promote Peace and Stability in the sub-region and create mechanisms within the sub-region for the preventive management and resolution of inter and intra-state conflicts through dialogue."[36]. The Amended Charter of IGAD gives more emphasis to peace by identifying conflict resolution as a separate item in Article 18A. It underscores that "Member states shall act collectively to preserve peace, security and stability which are prerequisites for economic development and social progress." This was exemplified strongly when IGAD became more involved in the peace process changing the traditional methods used in the mediation process of Sudan's North-South Conflict which led to a successful mediation. This view supports this paper which seeks to analyze IGAD's resolve as IGAD used new methods of mediation that were not initially prescribed in the resolution of the conflict. These methods have been discussed to show how IGAD eventually succeeded through the choice of the chief mediator as well as using the IPF as discussed in this paper. Kenya was a play field where other interested parties wielded their power through. IGAD agreed to have other non-member states to assist in resolution of the Sudan North-South conflict. This is exemplified more in the discussions presented in this paper.

IGAD was depicted as having failed by some scholars yet this was not entirely so. As quoted by Sumbeiywo[7], IGAD had no money at all and the donors were unwilling to commit new monies then because they did not have faith in its ability to achieve its goals. Structures were however put in place that enabled the process move forward and where the structures failed, IGAD changed its strategy. An example is the Declaration of Principles (DoP) of May 1994 which is part of IGAD's documents. It

^IGAD Head of States Communique, 1996

  W. Waihenya. *The Mediator: Gen. L.Sumbeiywo and the Southern Sudan Peace Process.* Nairobi. Kenway Publications, 2006

aid the basis and set direction of subsequent negotiations. IGAD Permanent Secretariat (Nov. 2000) identified the progress, limitations and recommendations for the way forward through the report by Nairobi based Permanent Secretariat (established in July 1999). The DoP is greatly mentioned in this paper as it became a point of contention among the warring parties, yet at the same time marked a progress in the peace process.

Mwagini, ICG and other writers may fall into the category of looking at IGAD success record of Sudan Peace Process in two categories. Some before the Machakos talks argue that IGAD was not successful due to pitfalls like multiple mediation, structural deficiency and lack of innovativeness. Yet there was success in IGAD 's mediation evidenced by the signing of the CPA. Others believe that IGAD made commendable contributions citing the DoP. There was, though, a seemingly consensus at that time, that IGAD was the only process that brought the two parties to a continued negotiation and the sole framework that tied the Government of Sudan to address the issue of self-determination.[38] This is not entirely true. Various other factors tied the Government of Sudan to address the various issues that were in contention about, self-determination being one of them. This paper desires to explicit this in its various discussions presented.

Most efforts to address and resolve the North-South Sudan conflict failed. The UN and other bodies, including the OAU and IGAD had attempted to mediate some of the most intractable conflicts on the continent that included Sudan conflict to no avail. African by and large, is communal inclusivists. There are many problems, however, in using traditional methods of conflict management in today's conflicts. The traditional societies within which conflicts were settled in the past no longer exist in large pans of Africa and the way conflicts are fought have also changed.[3"'] This enhances the need to have more research undertaken.

„ Sw Desta, 2002. Paper submitted to University of Nairobi-Law School.
  A. Pitsch. *Overview of Conflict Management Methods.* 26 October 2000

•When the two sides met on August 11, they quickly deadlocked and adjourned, but under more pressure they agreed to try again in September. As Connell quoted, neither side wanted to be the one blamed for the failure of the process especially because such a determination would automatically trigger strong US sanctions under the 2002 Sudan Peace Act.'[40] This proved the fact that the mediating parties had to be pushed into agreement contrary to Bercovitch's hypotheses that the warring parties can choose to agree with what the mediators put on the table.

Sudan's internal conflict 'both in its historical perspective and in its contemporary context were fundamentally with the policies that had been pursued by the various governments in Khartoum since independence in 1956'.[41] Various peace efforts were undertaken and most 'did not succeed in part because of irreconcilable differences on fundamental issues between the "Arabized" north and southern rebels. This exposes a lack of something that needed to be addressed before the conflict would be resolved.

1.4: LITERATURE OVERVIEW

Overall, 'there is consensus in literature that contextual factors consist of variables concerning the dispute, the contending parties and their relations, the mediator and the international context. Process conditions focus on the nature of the mediator activities, for example, the strategies mediators may employ. Kleiboer states that evaluations criteria are often taken for granted, but seem to raise more questions than answers. He explains that this could be the reason why conceptual and/or normative treatments of mediation results are so conspicuously rare in the existing literature. He continues to state that analysts in the field seem to have dealt with the issue in three ways; some have avoided defining mediation success and failure, some have generated their own criteria for successful intermediary

[4] D. Connell: *Peace in Sudan Prospect or Pipe Dream?* Middle East Research and Information Project Report. 2003.
[41] Ibid 4, S. L. Kwaje. 2004

,intervention and others have opted for highly simplified operationalizations to facilitate systematic analysis and measurement. According mediation success is "a situation in which both parties to the conflict formally or informally accept a mediator and a mediative attempt within five days after the first attempt. The main disadvantage is that such criteria tend to be less suited to the complexities of international diplomacy. Other researchers have used broad definitions to retain flexibility. Successful outcomes mean producing a cease fire, a partial settlement or a full settlement.'[42] In this paper we term successful mediation as the production of a full settlement.

1.5.0: JUSTIFICATION OF THE STUDY

1.5.1: ACADEMIC JUSTIFICATION

One of the most alarming things in Africa has been that while the problem of conflict and its management has been so glaring, there is little that has been taught in African Universities and other institutions of higher learning about the analysis of conflict.[41] This study is thus justified by lack of a detailed, incisive and systematic analysis of conflict resolution as an important factor in the relations between states. The few studies undertaken on internal conflicts resolution have not focused on the internal processes that bring the conflicts to a substantive end. The social, economic and political implications of these wars and subsequent impact of those activities upon interstate relations in the sub-region and international systems has largely escaped any meaningful attention by scholars for a very long time.[44] It is these relations that determine the success of the mediating parties something that this study seeks to investigate and by so doing add new knowledge onto the little that is presently available. 'One future strategy is to develop some time and resources to the better understanding of the process of internationalization of conflict and its dynamics. Notably local conflict management processes in themselves are not very effective. Internal conflicts and their development face pressures from other parts of the conflict system, as is evident from the conflicts in Sudan, Liberia and Sierra

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" M. Kleiboer: *Understanding Success and Failure of International Mediation.* The Journal of Conflict Resolution. 1996
[45] Ibid 6, M. Mwagiru. 2000.
[u] See S.M, Singo:1996

Leone. It is this dimension that a complex approach to conflict management needs to take into consideration in future.[45]

Conflicts, like the one that was in North-South Sudan, reflect the absence of peace. They disrupt the routine of normal life thus, drawing attention to observers who mainly include neighbours and the international community, whose interests are threatened[46]. This necessitates the need for mediation. With the advent of internal conflicts and their seeming resolutions, new ideas and activities have emerged in the resolution of internal wars. Sudan's war was categorized as an intractable conflict (i.e. a protracted conflict, one in which it persists for a long time, waged in ways that the adversaries or interested observers regard as destructive, and there is failure to end or transform it). It is historical to actually have arrived to an end of this conflict that has persisted for many decades.

During the war in Sudan, many Sudanese people had to seek safety in other countries. Their number is in millions who have either died out of the conflict or been forced to flee from their own country. This is a concern to countries on humanitarian grounds as well as international security. Every internal war is a 'landmark in the world history'[47]; a common occurrence in today's international system is the genocide effected in these countries. Ending these wars then, becomes crucial for the survival of mankind in today's international system, as the processes through which internal wars become internationalized are built into the structure of the international system and that the outcome of internal wars is always dependent upon external factors . The advent of terrorist activities being practiced and initiated within the context of a civil war is also a new development in today's conflict scenarios that cannot be taken lightly. In agreement with Rosenau[48] who says that, even if the frequency of internal

" Ibid 5. M. Mwagiru, 2001. Pp29-30
R. P. Bulitia: *Impact of internal conflicts-clashes, 1991-1999, on Kenya's international image.* 2002
Ibid 46, R. P. Bulitia. 2002.
J.N. Rosenau. *International Aspects of Civil Strife.* Princeton NJ. Princeton University Press, 1964.

wars remained constant, there would still be a compelling reason to probe their international aspects,[49] we realize that there is the need of in depth study of subsequent resolution of internal conflict.

According to Greig, recognition of the viability of cooperative strategies is likely to increase as the costs of continued conflict become more apparent. As military conflicts between rivals continually result in stalemate and generate high economic and human costs for rivals, leaders are more likely to seek alternatives to the current conflictual strategy. Richter has suggested that repeated international crises may function to demonstrate to leaders that the existing foreign policy is likely to continue to result in heavy loses.'[50]

'The research paper hopes to provides perspectives for future debates and generate a more coherent foundation for future research on the success and failure of third party intervention in international conflict.'[51] 'There is some empirical evidence to suggest that mediators from the same bloc as the parties in conflict are more likely to be acceptable and effective than mediators from different blocks.'[52]

There is no universal answer to what makes a competent mediator. No particular type or amount of education or job experience has been shown to predict success as a mediator. Successful mediators come from many different backgrounds. Competence depends partly on the context of the dispute and the parties' expectations. It also depends on whether the mediator has the right mix of acquired skills, training, education, experience and natural abilities to help resolve the specific dispute. Important skills

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[49] Ibid 17, W.I. Zartman & S. Touval. 1998.
   J. Michael Greig: *Moments of Opportunity: Recognizing Conditions of Ripeness for International Mediation between Enduring Rivals.* The Journal of Conflict Resolution. 2001
[51] Ibid 1, J.Bercovitch 1991.
[52] Ibid 16, J. Folger and R. B. Bush, 1998-2005.

and abilities include neutrality, ability to communicate, ability to listen and understand, and ability to define and clarify issues.[51]

1.5.2: POLICY JUSTIFICATION

This study is justified by the high costs conflicts, like the Sudan North-South conflict, inflict upon people and leaders of states concerned. Of great significance is the desire for peace and benefits associated with it in the contemporary international system. Research on the evolvement of conflict resolution among states helps to bring better understanding and new insights into the resolution process, making it easier for statesmen and policy makers in general to be in a position to mange inter-state conflicts and their resolution, thereby reducing the costs. Such study is important and therefore justifies by its relevance and usefulness to policy makers in conflict mediation/[4]

External actors' role in the outbreak, course and conclusion of internal wars is of crucial concern in the advent of new wars and old wars reinvesting themselves. In this view, the Comprehensive Peace Agreement stands in need of constant aid to be executed and thereby sustained by the parties that participated in the negotiations preceding its signing. The roles of the mediation actors, who are largely external, manifested key functions to the mediation for the successful achievement. A look into their input is needed to not only add knowledge but also identify the respective lessons that need to be learnt from the mediation of Sudan's civil war. Their application to other wars/conflicts that are ravaging the world currently, and for others yet to come, becomes vital in their mediation.

In addition, a sense of urgency over the new foreign policy questions has arisen. This is due to modem technology, which has rendered the globe smaller, and the world has 'shrunk'. Events in one country

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Hawai'i State Judiciary Center for Alternative Dispute Resolution. *Selecting a Mediator.* Honolulu. September 1996

[54] See S.M Singo:1996

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have become increasingly relevant for every other nation.[5'] The current humanitarian crisis in Darfur and other regions has led to increase in social disorder. The number of displaced people and refugees continues to skyrocket. Putting pressure to other countries to seek to identify ways of ending the conflicts in the home countries of the displaced people or to accommodate them. Accommodation of the refugees and the displaced people is not one that can be sustained for long.

The very nature of enduring rivalries, with their legacy of mutual distrust and pain makes conflict management more difficult to achieve than in other types of disputes. Understanding the conditions associated with mediation is important from both a theoretical and a policy standpoint to determine under what circumstances mediation between enduring rivals is most likely to produce conflict management. A better understanding of conditions for mediation would aid policy makers in deciding when international mediation would be most likely to improve relations between disputing parties. This understanding would result in fewer wasted mediation attempts and encourage more concerted efforts for favourable mediation conditions. It would also prevent the deterioration of relations between rivals. If states continually update their beliefs about their opponents and the likelihood of improvement or deterioration of relations based on their prior experience, then unsuccessful mediations may teach rivals that management of their conflicts is unlikely, forcing adoption of more coercive, aggressive strategies by both sides. A better understanding of the conditions under which mediation is most likely to be successful would aid in preventing the deleterious effect of unsuccessful mediation.[56]

1.6: THEORETICAL FRAMEWORK

This paper stands on the Conflict Research theory. The conflict research approach holds that conflict behavior has alterable components. Perceptions can be modified and images changed, that external

[55] Ibid 48, Rosenau, 1964
[5"] Ibid 2, W.I. Zartman, 2000

conditions can be influenced to alter the environment of an actor which in turn may be reflected in its behavior, that the process of selecting goals and the means to achieve them from a wide range of possible values is not necessarily preordained and that the costing procedures relating to different policy options are in some cases subject to manipulation. Thus behavior is neither random nor preprogrammed. It assumes decision making to be rational by the parties to a dispute. Rationality is seen as the notion that in the mind of the actor there are some criteria by which goals are set and policies adopted for their achievements. Kenya, as the third party in the mediation process of Sudan, under the IGAD led peace process, and partly through the friends of IGAD, used her power as leverage to influence the outcome of the settlement (the Comprehensive Peace Agreement) of the Sudanese (North-South) peace mediation process. Both the Sudan's government and SPLM/A kept changing their stand leading to the CPA being singed. This behaviour signifies the rationality of the actors in decision making which is backed by the conflict research theory.

On the other hand Conflict Research theory holds that conflictual behaviour is a response to an actor's perception of the environment. It is a learned behaviour triggered by circumstances and to the extent that the environment can be manipulated, so can conflict behaviour, which is dysfunctional. The decision making process of the parties is amenable to a cost-gain calculus that is not restricted to the parameters of power politics.[57]

The theory is backed by mediation theory as presented by Bercovitch[58] who describes mediation as a process of conflict management, related to but distinct from the parties' own negotiations, where those in conflict seek the assistance of, or accept an offer of help from, an outsider (whether an individual, an organization, a group, or a state) to change their perceptions or behavior, and to do so without resorting to physical force or invoking the authority of law. Mediation is therefore, an extension of the parties'

A.J.R. Groom; *Paradigms in conflict: the Strategists, the Conflict Researcher and the Peace Researcher.* 1990
' Ibid 1, J. Bercovitch, 1991

own efforts to manage their conflict. Where they fail, a third party (mediator) is called in.[5"] A number of theories have, therefore, with time, emerged to explain negotiating tactics, their strengths and weaknesses, as well as how to respond to them. Negotiations are generally, complex, drawn-out processes and a broad range of factors make each somewhat unique[""].

Cooperative orientations generally lead to cooperative or constructive processes of conflict resolution. Although there is evidence of some consistency in social behaviour across different types of situations[61], the evidence more strongly indicates that people, groups and nations behave rather differently under different circumstances[02]. Parties to a conflict also frequently get committed to perpetuating the conflict by the investments they have made in conducting the conflict[03]. Similarly, there is considerable evidence to suggest that those who have acquired power profit; prestige, jobs, knowledge or skills during the course of conflict may feel threatened by the diminution or ending of conflict. This is strengthened by the behaviour of both the conflicting parties in the Sudanese civil war at different periods of the mediation process. Eventually, Sudan's case became a win-win situation, where both sides came out with something they could call their own and therefore, have a standing agreement.

1.7: HYPOTHESES

The study hypotheses that:

a. The chief mediator does not need to be impartial to the warring parties for a successful mediation to be achieved.

b. Successful mediation is dependent on the mediators and not the parties at war.

c. Mediators should leave the scene for the warring parties to implement the agreement.

[59] Ibid 1, J. Bercovitch, 1991
" See E. Brahm: *The Difference Between Negotiation And Mediation And When The Two Come In: Negotiation Stage*
[61] Epstein, 1979
[62] Mischel and Peake, 1982
"Jervis, 1976

1.8.0: METHODOLOGY

<u>INTRODUCTION</u>

This paper used primary and secondary data. It analyzed the events in the mediation process with specific focus on the period after 1994 to 2005. The mediators and the agreements reached were looked at comparing the time taken to reach agreements before 1994 and after 1994. The mediators studied included members from the Inter-Governmental Authority on Drought and Development - IGAD(D) and the International Partners Forum-IPF who are friends of IGAD.

The choice of mediators involved and their degree of involvement (that is, their policy changes-if any, and the amount of resources employed) were treated as the independent variable while the agreements reached by the two warring parties and the duration it took to agree were treated as the dependent variable.

The perceived reasons behind the mediators' involvement were looked into as well. The degree of involvement referred to whether they wholly participated or partially participated through government officials or individual representatives, policy changes as well as the resources employed and the effect these had to the mediation process.

The duration implies the time it took for the agreement to be reached on issues that had been in contention. Here we analyzed the contentious issues that were for discussion on the mediation table and tried to find out why there was an agreement whether immediately or later on; i.e. why was there no comprehensive agreement before 2005. The questions we tried to answer included: Could there be an outside pressure that made the warring parties compromise.

Research site

This study was carried out in Nairobi and Sudan. This was undertaken at the diplomatic and government offices.

Research design

This study aimed at being cross-sectional and to a large extent aimed at collecting qualitative data through key informant interviews with diplomatic officials from South Sudan and government officials who were involved in the mediation process. The purpose of the interviews was to ascertain the understanding towards the choice of the chief mediator.

This included interviewing 4 people who were involved in the mediation process. This phase of the research involved the use of a semi-structured interview schedule to collect qualitative data from key informants. In this phase, data was collected on the background of the country policies, sanctions and degree of involvement of mediators.

Sample **and Sampling procedure**

As already stated, the study plan purposively selected 4 key informants. These were selected from the diplomatic forum, government representative, political analysts and South Sudan Administrators. This was done through purposive sampling. They were selected from Sudan and Kenya. A research assistant was used in the South Sudan to undertake the interview in South Sudan.

pata was collected using semi-structured interview schedule of key informants. This was because this type of interviews are quite flexible in what they can measure.[64] A semi-structured interview is a rnethod of research used in the social sciences. While a structured interview has a formalized, limited set questions, a semi-structured interview is flexible, allowing new questions to be brought up during the interview as a result of what the interviewee says. The interviewer in a semi-structured interview generally has a framework of themes to be explored. However, the specific topic or topics that the interviewer wanted to explore during the interview were thought about well in advance as this was a research project. It is generally beneficial for interviewers to have an interview guide prepared, which is an informal "grouping of topics and questions that the interviewer can ask in different ways for different participants". The interview guide helped the researcher to focus the interviews on the topics at hand without constraining them to a particular format. This freedom helped the interviewers to tailor their questions to the interview context/situation, and to the people they were interviewing/'[5]

Secondary data

Documentary materials, dissertations, theses, books and seminar papers were reviewed. Secondary data provided a wide range of materials covering different areas and periods, which resulted in a greater scope and depth than was possible when using primary data alone.

Survey

Data was collected on opinions, views and experiences of the mediation process. The interviews contained both closed and open-ended questions. The interviews were conducted in English.

R. Mutuku. *Domestic Violence: A Case Study Of Korogocho Slum In Nairobi.* MA on Gender and Development Project paper. University of Nairobi, 2007
,[5] Wikipedia, the free encyclopedia, 29 July 2009

Information from the interviews was analyzed qualitatively.

Ethical Issues

Ethical issues that were considered in this study included: getting a permit to conduct the research from the relevant education body as required by the laws of the land and assuring informants that collected information would not be made available to anyone who was not directly involved in the study. The informants were made aware of the nature of the research and how their information would be utilized for their benefit and that of others. The study did not use the names of those of real informants to safeguard the individuals' confidentiality. Informants were not be coerced into participation. Rather, their participation was voluntary. Informants were also assured of their safety and that their participation in the research would not harm them in any way either. They were also assured of their anonymity throughout the study. This guaranteed them privacy as they shared their experiences with the researcher.

Care was taken to ensure that time spent with informants was not exploitative and that the informants did not incur undue loss of resources and income. We ensured that the study was fair, honest and transparent. There was no falsification or fabrication of research findings. Research findings were reported truthfully and accurately. Respect and sensitivity to culture and the people studied was core to this study. The rights of informants was respected, protected and promoted.[h]"

R Mutuku. *Domestic Violence: A Case Study Of Korogocho Slum In Nairobi.* MA on Gender and Development Project Papa, University of Nairobi, 2007

1J: CHAPTER OUTLINE

Chapter One:

Background to the study.

Chapter Two:

Causes and Evolution of the Sudan North-South Conflict.

Chapter Three:

The Choice of mediators in the Sudan North-South Conflict.

Chapter Four:

Critical Analysis of the Choice of the Mediator

Chapter Five:

Conclusion and Recommendations

110.: CONCEPT DEFINITIONS

CONFLICT

Conflicts are driven by antagonists with a strong sense of identity, grievance of some sort (economic or political) and a desire to use violence to change the status quo. In places as diverse as Israel, Sudan, Northern Ireland, Congo, Cyprus, Korea, Kashmir and many others, conflicts are responsible for the continued violence and loss of lives. These conflicts threaten regional disorder and international stability. There is nothing pre-ordained about the path of any conflict. (J. Bercovitch: 1991)

Conflict is also described 'as a condition in which one identifiable group of human beings whether tribal, ethnic, linguistic, cultural, religious, socio-economic, political or other is engaged in conscious opposition to one or more (of) other identifiable human groups because these groups are pursuing what are or appear to be incompatible goals' (J. E. Doughty & R. L. Pfaltgraff (Jr.)). It is with this definition that we understand the North-South conflict in Sudan to have been. The conflicting parties had, seemingly, incompatible goals hence the war, its continuance and difficulty in its resolution.

MEDIATION

Mediation is 'a process of conflict management, related to but distinct from the parties' own negotiations, where those in conflict seek the assistance of, or accept an offer of help from, an outsider (whether an individual, an organization, a group, or a state) to change their perceptions or behavior, and to do so without resorting to physical force or invoking the authority of law'. (J. Bercovitch: 1991) Mediation is extensions of the parties' own efforts to manage their conflict. Where they fail, a third party (mediator) is called in to intervene. The intervention is non-coercive,

non-violent, and ultimately non-binding. Mediators enter a conflict, whether internal or international, in order to affect it, change it, resolve it, modify or influence it in some way. Their overriding interest is to reduce violence and achieve a peaceful outcome.

Mediation is also defined as a process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute. (Dearborn S., 2001)   Thus, mediation involves the intervention of an outsider; an individual, a group or an organization into a conflict between two states or other actors. This intervention is non-coercive, non-violent, and ultimately non-binding.

Mediators enter a conflict, whether internal or international, in order to affect it, change it, resolve it, modify or influence it in some way. Their overriding interest is to reduce violence and achieve a peaceful outcome. They bring with them, consciously or otherwise, ideas, knowledge, resources, and prestige. These are used throughout the process to advance the cause of conflict resolution. Mediation is a voluntary form of conflict management. This means the adversaries in an intractable conflict choose whether to begin or continue mediation or not, and they retain their control over the outcome (if not always over the process) of their conflict, as well as their freedom to accept or reject any aspects of the process or the ultimate agreement. Another feature that makes mediation very attractive to parties in a conflict is that mediation operates on an ad hoc basis only. Once completed, a mediator departs the arena of the conflict according to Touval and Zartman (1998).

MEDIATOR

A mediator, on the other hand, is also a participant, a wielder of power who compels a recalcitrant party to make a compromise it does not want to make. However, this is not always the case when the mediator does not have a lot of resources that will enable one to wield a lot of power. The

mediator can only be a play field where other interested parties wield their power through. *Economist* (1998). This was the case in the mediation process of Sudan's North-South. Kenya, who was the chief mediator, needed immense support from other countries whose economies were stronger and able to provide the necessary resources to sustain the peace process. Kenya was not therefore, a wielder of power directly. The warring parties were compelled to make compromises based on the international community's whims that were manifested through Kenya.

NEGOTIATION

Negotiation is the basic means of getting what you want from others. Mediation is best thought of as a mode of negotiation in which a third party helps the parties find a solution which they cannot find by themselves. (Zartman and Touval; 1998) In this paper, mediation is studied in collaboration with negotiation as a means of resolving conflict.

THEORY

A theory is a body of internally consistent empirical generalizations of descriptive, predictive and explanatory power. Theory explains, describes and predicts phenomena.

African/Arab [67]

A dichotomy between 'Arab' and 'African' identities has recently taken on increasing political relevance and subjective reality, despite being historically and ethnographically spurious in the Sudanese context. The term 'Arab' in Sudan has multiple meanings based loosely on ethnicity, language, perceptions of race,' way of life or profession (as Arabs were historically cattle traders the term suggests 'pastoralist,')• 'Black Africans' are sometimes referred to pejoratively as *zurqa* , from *azraq* , meaning blue, despite indistinguishable skin colour. Strains of Arab supremicism and the political use of 'Arab' to imply global victimhood have been additional factors in the politicization of Arab identity. The creation of

Conciliation Resources, 173 Upper Street, London, UK

Africanism' owes much to the SPLM/A, whose former chairman, the late John Garang began to speak , fan 'African majority' in Sudan to counter the government's attempts to forge an Islamic state.

ynsar

Literally 'protectors' or 'followers,' the Ansar are members of a Sudanese Muslim sect loyal to the vlahdist movement of the 1880s, whose current spiritual leader is the Mahdi's great-grandson, Imam **as**-Sadiq al-Mahdi, also chairman of the Umma Party. Not to be confused with Ansar as-Sunna, Followers of the Way,' a Sufi movement with three seats in the National Assembly.

Baqqara

Literally 'those of the cow.' Describes 'Arabized' African cattle herders, such as the Misseriyya of Southern Kordofan.

Par

'Country, traditionally denotes only sultanates such as Dar Massaleit and Dar Fur, though more recently used to describe any tribal homeland.

Janjaweed

Literally 'ghostly riders', from *jin* (spirit) and *jawad* (horse), the *janjaweed* are a Darfur-based militia with an Arabist agenda.

Jjhad

Literally 'struggle,' it includes both the inward spiritual struggle against human desires and the outward struggle against injustice, oppression and the rejection of the truth by non-believers, which leads to "holy war' only when sanctioned by the legitimate political authority.

Khatmiwa

A Sudanese Sufi Muslim sect led by Democratic Unionist Party (DUP) Chairman Mulana Mohamed Osman al-Mirghani, a descendant of the Prophet Mohamed. The Khatmiyya are traditional rivals of the

\nsar, though both groups have seen their membership decline in recent years, in part as a result of splits in their political wings.

Nlurahaleen

Literally 'people on the move,' from *maraheel*, the migratory pathways whose obstruction was a cause of the current conflict in Darfur. Originally used to describe Baqqara travelling on horseback to escort herds of cattle, but from 1985 usually refers to a largely Baqqara militia which fought the SPLA in Bahr al-Ghazal.

Pastoralists

People whose main source of livelihood is livestock, with which they move seasonally in search of fresh pasture and water.

Shari'a

Islamic law, which sets out the five pillars of Islam (ritual purification, prayer, fasting, charity and pilgrimage) and the regulation of human interaction. Often refers in Sudan to the restrictive legal code introduced in 1983 by Hassan al-Turabi during the Nimeiri regime. This became an obstacle to peace, with northerners claiming their right to be ruled by *shari'a* and southerners calling for a secular 'New Sudan.'

Ihree areas

Three areas (the Nuba Mountains, southern Blue Nile and Abyei) north of the 1956 north-south border but claimed by some as part of the south. The government and SPLM/A dealt them with in negotiations (2003-04) that were initially distinct from the IGAD-mediated talks.

Tribe

Academically controversial but widely used, the term 'tribe' refers to political or administrative ethnically-based units of peoples. It does not have a precise definition; tribal membership is fluid, and tribes' can refer to groups numbering a few hundred or millions. The term has been exploited by some

to reinforce political allegiances, while others have denounced 'tribalism' as a means to limit cross-tribal political affiliation.

Demoeide:

A government's intentional murder for whatever reason. Genocide is demoeide, but a demoeide is not necessarily genocide, as the demoeide by the Cambodian Khmer Rouge, or by Stalin. Also, governmental assassinations, massacres, atrocities, mass murder, or government caused disappearances involve demoeide[68].

Democracy:

Includes two meaning of democracy. One is a procedural democracy involving regular, open and fair competition for leadership, a near universal franchise, and secret ballots. The other meaning is of a procedural democracy that guarantees the human rights of its subjects. This is a liberal democracy.

Democratic peace:

The peace within democratically free states and between them. Peace should be understood broadly as the absence of war, minimal violence, and the existence of human security. This not an either-or concept, but continues one assuming various degrees of a democratic peace.

Genocide:

Government intentional murder of any people because of their race, religion, ethnicity, nationality, or language. It does not include murder by virtue of a people because of their politics, political actions, party membership, or ideology. Murder for this reason is demoeide.

' **http://www**.hawaii.edu/powerkills/**DBG**.CHAP2.HTM

(.oxcrnment:

The institution or person that monopolizes power over a territory and its people. This is not limited to national states, but also includes the governments of gangs, tribes, clans, and some terrorist groups.

Human rights:

Conventionally, and basically, the right to one's life and liberty. But, also the right to freedom of speech, religion, organization, and legal equality. This will be my meaning here. Others, as has the UN. may add to this sociocultural and economic rights, such as food, employment, and a decent wage.

Human Security:

Freedom from social and political violence, as well as the UN's definition that includes economic security and assured access to food, good health, and safe and protected environment.

Mortacracv:

A government that commits large scale and continuous democide, as did Hitler, Stalin, and Mao.

Murder:

The intentional taking of a life, except in self-defense, or military combat; or by a fair and open legal

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and constitutional process, as in a judicial execution.

V iolent Conflict

Violent conflict has been referred to as protracted, destructive, deep-rooted, resolution-resistant, intransigent, grid locked, identity-based conflict, needs based conflict, complex, difficult, malignant or enduring as well as intractable. As we see it, intractable conflicts are those that lie at the frontier of the

Limited **democratic peace glossary. November 23, 2008**

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field - the conflicts that stubbornly seem to elude <u>resolution</u>, even when the best available techniques are applied. Examples abound: abortion, homosexual rights, and race relations in the United States; and the Israeli-Palestinian problem, Sri Lanka, and Kashmir, Sudan, Somali, (among many others) abroad. Intractable conflicts need a different, more multi-faceted, and more prolonged approach.[70]

\War

War is a particular type of intense violence and what generally causes, aggravates, and inhibits violence so affects war. In addition, war is uniquely aggravated by power parity and class conflict. It is inhibited by power disparity. Violence and war is an appreciation that they operate as part of an international social field. They are field forces, conditions, and states. This means that these causes and conditions are interrelated, part of a whole, a process, and equilibrium. In other words, they operate contextually within the conflict helix.[71]

<u>Peace</u>

Peace on the other hand has been defined into two types of peace: negative peace and positive peace. Negative Peace is the absence of direct violence (physical, verbal, and psychological) between individuals, groups, and governments. Efforts to achieve negative peace emphasize: Managing interpersonal and organizational conflict in order to control, contain, and reduce actual and potential violence; Reducing the incidence of war by eliminating the extreme dangers of the war system and limiting war through international crisis management and preventing war through strategic deterrence ^d arms control. The concept of Negative Peace addresses immediate symptoms, the conditions of war. and the use and effects of force and weapons. Words and images that reveal the horror of war and its aftermath are often used by writers, artists, and citizen groups in their efforts to stop it.

Positive Peace is more than the absence of violence; it is the presence of social justice through equal

*Ibidl,J. Bercovitch. 1991
Ibid 5, M. Mwagiru, 2001.

opportunity, a fair distribution of power and resources, equal protection and impartial enforcement of law. Efforts to achieve positive peace emphasize: establishing peace through world order by supporting international law, compliance with multilateral treaties, use of international courts, and non-violent resolution of disputes, participation in international organizations, trade, and communication; Establishing social equality and justice, economic equity, ecological balance; protecting citizens from attack, and meeting basic human needs; Establishing a civil peace that provides the constitutional and legal means necessary to settle differences non-violently; Eliminating indirect violence, that shortens the life span of people, sustains unequal life chances, or reduces quality of life for any citizen and Practicing conflict resolution as a foundation for building peaceful interpersonal and institutional relationships. The concept of positive peace involves the elimination of the root causes of war, violence, and injustice and the conscious effort to build a society that reflects these commitments. Positive peace assumes an interconnectedness of all life[72] for all people. This was the goal of the mediating actors to the North-South Conflict.

CHAPTER 2:

CAUSES AND THE EVOLUTION OF THE SUDAN NORTH-SOUTH CONFLICT

2.0. INTRODUCTION

This chapter will give a background to the conflict that has been termed as the Sudan North-South Conflict. The chapter begins with looks at the formation of the ideology of the separation of Sudan into the North and the South. It will review the various governments as well and policies that were enforced during the conflict period giving a basis for the different environments that the mediating actors faced during the mediation process.

Living in a world free of the threat of violence remains the greatest challenge that the human race has ever faced. Where there is injustice in the structural system, there is conflict. This occurs because one party has organizational structures in place and the other party does not. This makes the party without organizational structures weaker and more vulnerable to violence and conflict.[1] Conflict is generally classified in terms of both violent and non-violent conflict. Violent conflict is generally associated as the use of force as a means to an end, while non-violent conflict usually involves peaceful negotiation between conflicting groups or even mediation by an external (outside) group in order to work toward a compatible goal or resolution." In this chapter, we review the causes and the evolution of the North-South Sudan conflict, which was a violent conflict and also referred to by some scholars as intractable. We begin with the discussions of conflict occurrence and the understanding of peace in the international arena. The development of the Sudan politics in reference to the conflict generation and eventual evolvement will also be discussed by looking at the various governments that were in place during the conflict as a build up to the conflict.

' A. Pitsch. *Overview of Conflict Management Methods.* 26 October 2000
~ Peace, Conflict & Governance. Taking it Global. 2008. http://issues.**tiEweb**.org/peace

The discussion in this chapter will be based on conflict theory which various scholars have defined using different angles of interpretation. The conflict approach holds that the most important aspect of social order is the domination of some groups by others, that society is best understood as an arena of actual and potential conflict.[3] Muzafer presents realistic conflict theory as when there are limited resources, i ll eads t o c onflict, p rejudice a nd d iscrimination b etween groups w ho s eek t hat c ommon resource. Once hostility has been aroused, it is very difficult to return to normal relations and an ongoing feud can arise.[4] This theory holds that hostility between groups is a result of direct competition for limited and valued resources. Sherif has proposed that intergroup relations reflect the functional relations between groups. If the outcomes of two groups are competitively interdependent (gains for one group depend on losses for the other) intergroup hostility will be maximized; competition gives rise to unfavorable stereotypes, increased in-group solidarity and cohesiveness, and thus in-group biases in evaluations of the two groups. If the groups are cooperatively interdependent (for example; there is a super ordinate goal), intergroup hostility will be reduced, cumulatively improving intergroup relations.[5]

2.1: THE NORTH - SOUTH IDEOLOGY OF SUDAN

"When G o d m ade S udan, H e l aughed." T his i s a p roverb[0] i n S udan t o d escribe t he s ize o f S udan. Sudan (or The Sudan; officially the Republic of the Sudan or Republic of Sudan) is the largest country by area in Africa and the largest Arab country by area. It is bordered by Egypt to the north, the Red Sea to the northeast, Eritrea and Ethiopia to the east, Kenya and Uganda to the southeast, Democratic Republic of the Congo and the Central African Republic to the southwest, Chad to the west, and Libya

M. Sherif. Syque 2002-2009. http://changingminds.org/explanations/theories/realistic_conflict.htm.
[4]Ibid 3, M. Sherif. 2002-2009.
D. Abrams. The Blackwell Encyclopedia of Social Psychology
W. Waihenya. *The Mediator. Gen. L.Sumbeiywo and the Southern Sudan Peace Process.* Nairobi. Kenway Publications, 2006. pp 47.

to the northwest. It is the tenth largest country in the world by a rea. Sudan is situated in Northern Africa; bordering the Red Sea it has a coastline of 853km along the Red Sea. With an area of 2,505,810 square kilometers (967,499 sq mi), it is the largest country in the continent. It is dominated by the River Nile and its tributaries. Like many colonial creations, Sudan amalgamated territory and peoples that had never previously been a coherent entity. Much of northern Sudan is an arid desert, while the south has large areas of rain forests and swamps. Some places in the far north receive only a week of rain, while the far south can get nine months of rainfall. The experiences of those in north and south have often been as sharply different as Sudan's climate and geography. The southern region has a population of around 6 million and a predominantly rural, subsistence economy. This region has been affected by war for all but 10 years since independence in 1956, resulting in serious neglect, lack of infrastructure development, and major destruction and displacement. More than 2 million people have died, and more than 4 million are internally displaced or have become refugees as a result of the civil war and war-related impacts.[7]

Realistic conflict is the notion that prejudices arise when social groups must compete for scarce resources and opportunities. According to the realistic conflict the competition between groups intensifies over scarce conditions. When this happens' prejudices and aggression between the groups can come about.* Natural resources, as drivers of intrastate conflicts, must be understood within the context of a deep sense of anger by rebels at the failure of the State to provide economic and physical security[9] in order for sustainable peace to be achieved. In the north, where Egypt encouraged Islamic values, Britain focused its efforts largely on economic and social development. Consequently, as disproportionate economic and political power came to be centered in the north, the two regions' cultural and religious identities became more divisive, and the stage was set for discord. In 1947, after realizing the inevitability of Sudanese independence, the British fused the separately ruled zones and

' Interview in Khartoum Undertaken by International Crisis Group. November 2001
[8] Ibid 3, M. Sherif. 2002-2009 RAD Essays.com.
  D- Keen. *The Economics Functions of Violence in Civil wars, op. cit.,* p. 35

gave political power to the northern elite. This transfer at the expense of the south sowed the seeds of war within newly independent Sudan. As former Sudanese Foreign Minister Francis Deng, writes: "For the South...independence was to prove merely a change of outside masters, with the northerners taking over from the British and defining the nation in accordance with the symbols of their Arab-Islamic identity". With independence imminent, the northern elite commenced "Sudanisation"-replacing British officials with Sudanese nationals. Almost all colonial administrators were removed between June and November 1954. This massive infiltration of northerners into the government greatly alarmed southerners. In September 1956, the Legislative Assembly appointed a committee to draft a national constitution, only three of whose 46 members were southerners. The southern delegation walked out after its repeated calls for a federal constitution were outvoted.

It is clear, as Broom and Selznick point out, that society and social dynamics are composed of both consensus and conflict. If there were only consensus, there would be no change whatsoever in society, which is as much as saying that there, would be no movement, no life. The change in society which gave rise to the movement of abstract expressionism was the result of this clash between conflict and consensus, between the relative harmony which followed the madness of World War II and the sense of instability and anxiety which was let loose by the war.

Peace, on the other hand, is equilibrium among many forces. Change in any particular force, trend, movement, or policy may at one time make for war, but under other conditions a similar change may make for peace. Peace has been defined into two types of peace: negative peace and positive peace. Negative Peace is the absence of direct violence (physical, verbal, and psychological) between individuals, groups, and governments. The concept of Negative Peace addresses immediate symptoms, the conditions of war, and the use and effects of force and weapons. Positive Peace is more than the absence of violence; it is the presence of social justice through equal opportunity, a fair distribution of power and resources, equal protection and impartial enforcement of law. The concept of positive peace

involves the elimination of the root causes of war, violence, and injustice and the conscious effort to build a society that reflects these commitments. Positive peace assumes an interconnectedness of all life [0] for all people. This was the goal of the mediating actors to the North-South Conflict. A state may at one time promote peace by armament, at another time by disarmament, at one time by insistence on its rights, at another time by a spirit conciliation. To estimate the probability of war at any time involves, therefore, an appraisal of the effect of current changes upon the complex of intergroup relationships throughout the world.[11]

Many difficulties arose from the colonial legacy. When Sudan fell under the control of Britain and its quasi-protectorate Egypt in 1898, a joint-authority government was formed. Britain took over management of southern Sudan, leaving the north under nominal Egyptian rule (largely as a nod to former Egyptian territorial claims). Britain developed a "Southern Policy", the primary aim of which was to prevent economic integration of the two regions in order to curtail the north's Arabic and Islamic influence. The British saw a distinct south as a buffer that could preserve English values and beliefs, such as Christianity, and eventually either be developed into a separate political entity or integrated into British East Africa. A Christian missionary presence was encouraged in the south, as were the English language and legal traditions. The southern provinces were largely closed off to northern contact and increasingly isolated.[12] Historians record that the coming of Islam is what fundamentally changed the nature of Sudanese society and facilitated the division of the country into North and South[13].

2.2: CONFLICT IN SUDAN

International Conflict Behavior is caused by various factors that include; opposing interests and capabilities (specific socio-cultural differences and similarities between the parties), contact and

Pearson Education, Inc. 2000-2009. www.teachervision.fen.com

Wright, 1965: 1284 in R.J. Rummel. *Causes And Conditions Of International Conflict And War. Understanding Conflict And War.* Vol. 4: War, Power, Peace Chapter 16

* International Crisis Group. *Understanding the Players.* Interview in Khartoum, November 2001

[13] Ibid 6, W. Waihenya. 2006

salience (awareness), significant change in the balance of powers, individual perceptions and expectations, a disrupted structure of expectations and a will-to-conflict. It is aggravated by; socio-cultural dissimilarity, cognitive imbalance, status difference, coercive state power. It is triggered by perception of opportunity, threat, or injustice and surprise.

Conflict Behaviour manifests a series of sub phases in the balancing of powers. Each sub phase involves different kinds of behaviour. In addition to the general causes of Conflict Behaviour, non-violent Conflict Behaviour and minor low-level violence are aggravated by cross-pressures. In addition to this, violence (including war) is caused by at least one party having an authoritarian or totalitarian regime, status quo disruption and confidence in success. It is aggravated by; system polarity (centralization of coercive power), Big Power intervention, weakness of the status quo Power, credibility at stake and honour at stake. [14]

The history of Sudan is, in many ways, a study in the subjugation of one people by the other in terms social, political, religious and economic equalities. The lighter skinned desert peoples have always been drawn to the South by its promise of water, natural wealth, slaves, ivory and gold. But the darker-skinned Africans have always resisted the Arab intruders who used to overrun their villages, enslaving their people and taking away their livestock.[15] Violent conflict broke out in Sudan even before independence in January 1956. In 1955, as independence approached, southern apprehension led to riots and a bloody rebellion. After hearing rumours that they were to be disarmed and transferred to the north, soldiers from the army's Southern Corps mutinied, and at least 300 people (mostly northerners) died. Mutineers who evaded imprisonment fled into the bush or neighbouring countries.

In November 1958, the army, led by General Ibrahim Abboud, seized power. The military regime suppressed opposition, imprisoning politicians, trade unionists, students and communists. Abboud also launched a controversial effort to accelerate "Islamisation" of the south through an aggressive

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[4] R.J. Rummel. Causes And Conditions Of International Conflict And War. Understanding Conflict And War: Vol. 4: War, Power, Peace Chapter 16

Ibid 6, W. Waihenya. 2006

proselytizing campaign. His repression forced thousands of southerners into exile in Uganda, Kenya, Ethiopia, and the Central African Republic. These refugees formed opposition organizations, the most significant of which came to be known as the Sudan African National Union. It petitioned the United Nations and the Organization of African Unity (OAU), arguing for self-determination and a peaceful solution to the southern Sudan problem. While the Sudan African National Union was emerging as a political voice, a southern Sudanese military movement, the *Anya-Nya* ("snake poison"), composed mainly of former soldiers and policemen from the 1955 mutiny, materialized out of the bush. Feeling underrepresented and discriminated against, the southern civilian population supported *Anya-Nya*. General Abboud responded with a sweeping military campaign, and over half a million southerners fled as refugees. As the war intensified and the government refused to acknowledge its root cause was the lack of southern political and economic power, even the Sudan African National Union, which initially condemned the *Anya-Nya's* violent tactics, organized guerrilla attacks. By 1963, there was full-fledged civil war.[16]

The first necessary cause of war is an incongruent structure of expectations, which is correlative to the conflict situation. A structure of expectations is based on a particular balance of powers between states. The balance may shift in time, however, and aggravated by socio-cultural dissimilarity and cognitive imbalance, will produce incongruent expectations. When incongruence occurs, such a conflict situation is produced; tension and hostility are generated. Incongruence is a latent situation of conflict ripe for disruption, for an eruption into manifest confrontation. This disruption divides in time, and thus the conflict situation arises from the situation of uncertainty and the balancing of powers.[17] This is in agreement with conflict theory that presupposes that the most important aspect of social order is the domination of some groups by others.[18]

it Ibid 12. International Crisis Group. November 2001
 Ibid 14, R.J. Rummel.
' Ibid 3, M. Sherif. Syque. 2002-2009.

Besides these necessary causes of Conflict Behaviour of all kinds, violence uniquely assumes the existence of three additional necessary causes.. One is the expectation of success. In their own subjective calculus of gains and losses, each party believes that the outcome of violence will be advantageous (even if it means for one invaded that it will at least succeed in forcing concessions from the aggressor). A second necessary cause of violence is a disrupted status quo. The status quo defines the ideological and territorial distribution of who has what. It is the core of the structure of expectations. Without a disruption in the status quo the issues are neither important nor clear enough to warrant violence. The third necessary cause is that a party to the conflict be nonlibertarian (authoritarian or totalitarian). Violence will not occur between two libertarians (or liberal democratic) parties: domestic constraints, cross-pressures and libertarian bonds makes violent alternatives unthinkable. Such is not the case for non-libertarian parties.[19] If the groups are cooperatively interdependent intergroup hostility will be reduced, cumulatively improving intergroup relations.[20]

Since the end of the Cold War, there has been a shift in attention from inter-state wars to intra-state wars. Both inter- and intra-state wars were the cause of great concern during the Cold War because of the super-power rivalry between two huge nuclear powers, the US and USSR, who were often behind-the-scenes players. Today, with a few notable exceptions, intra-state wars are the dominant type of deadly conflict, and are of great concern more for their humanitarian consequences than because they threaten to pull in numerous global actors; as depicted in the history of Sudan where Soviet Union took sides in the North-South conflict.

During the Cold War, systemic theories of conflict were dominant. Focused on explaining inter-state conflict, they suggested that conflicts resulted from the anarchic nature of the international system and Power relations between major actors within it. Relatedly, structural theories of conflict emphasize

Ibid 14, R.J. Rummel.
D Adams. *The Blackwell Encyclopedia of Social Psychology*

institutions and organizations and argue that these vary across states and groups. Some types of institutional and organizational structures are more vulnerable to violence and conflict than others. Especially within the international system, states with certain institutional and organizational structures fare better than others, and the weakest of these is the most vulnerable to conflict. For example, states with weak and unproductive economies are at much greater risk within the international system than those with strong and productive economies. The former cannot absorb international shocks as well as the latter, and as these shocks affect their domestic constituencies, discontent and violent revolt are more likely. The theory that democracies are less prone to conflict than nondemocracies might also fit in here. The main argument of democratic theory is that democracies do not wage wars with other democracies, though they have been known to wage wars on nondemocracies. Also, democracies are less likely than non-democracies to suffer major internal crises and conflicts. Another type of conflict theory is the strategic theory. This way of thinking about conflict suggests that individuals, states, or groups enter into conflicts when it is in their interest to do so. They rationally choose when and how to engage in conflictual behaviour. Charles Tilly argues that political violence will occur only when aggrieved parties can make the violence count, i.e. when they have the resources and organization that make them capable of taking significant actions. Jay Rothman distinguished between issue-based conflicts, which might be explained using strategic theory, and identity-based conflicts, which are better explained by the psycho-social theory of conflict. Interest-based conflicts are usually concrete and clearly defined, and often rooted in competition over resources."[1] As mentioned earlier, this emphasizes the need to understand natural resources as drivers to intrastate conflict due to the deep sense of anger by rebels at the failure of the State to provide economic and physical security.[22]

Identity-based conflicts, on the other hand, are often deeply rooted in the history and psychology of a culture, and are rooted in threats to ones basic needs and core values. Another category of theories of

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; Ibid 1, A. Pitsch. 2000
[J] Ibid 9, D. Keen.

the origins of conflict is psycho-social. These theories focus on individual and group perceptions of themselves and others and how groups and individuals relate to one another. Galtung, for example, sees conflict as a dynamic process in which structure, attitudes, and behaviour are constantly changing and influencing one another. As parties' interests come into conflict or the relationships they are in become oppressive, they begin to organize in order to pursue their interests and they develop hostile attitudes and conflictual behavior. In this theory, conflicts arise out of social changes, and resolving them includes de-escalating conflict behavior, changing attitudes, and transforming the relationships or clashing behaviors that are at the core of the conflict. Galtung also distinguishes between direct violence (killing people), structural violence (people dying because of poverty), and cultural violence (whatever blinds us to the former or seeks us to justify it). Ending the killing is not enough; one must also address the underlying causes leading to conflict.

Relatedly, one might hypothesize that poverty and misery leads to conflict. This is a structural explanation of conflict. Structural explanations stress that conflict results from socially constructed situations. John Lederach, for example, suggests that conflict emerges through an interactive process based on the search for and creation of shared meaning, which is rooted in people's perceptions, interpretations, expressions, and intentions. Further, culture is assumed to be the core commonality amongst groups in conflict. Conflict results when people are deprived of their livelihoods, property, and status within society. However, this explanation does not really explain under what conditions violent conflict arises. Certainly, societies that are poor tend to experience greater conflicts than societies that are better off, yet not all poor people rise up and revolt. It is not poverty alone that breeds violent conflict.[23]

Ted Gurr's theory of relative deprivation is one answer to the problem posed by the structuralists. Gurr's theory can be placed in the psycho-social category of theories of conflict. Gurr's theory argues

Ibid 1, A. Pitsch. 2000

not that poverty and misery breed conflict and violence, but perceived discrepancies between peoples' value expectations and their value capabilities leads to a greater opportunity for violence and conflict. Gurr argues that people can accept high levels of oppression if they expect such discomforts as part of their natural lot in life and see no way to change their lot. But, when societal conditions increase the level or intensity of expectations without increasing people's capabilities to achieve a better position in life, their discontent increases and the potential for collective violence and conflict increases as well. Factors leading to rising expectations might include uneven economic growth and exposure to other cultures through the global media, trade, among others. Factors that might contribute to the use of violence include the extent and degree of success of past political violence, the articulation and dissemination of symbolic appeals justifying violence, the legitimacy of the political system, and the response of people in positions of power to the group's experience of relative deprivation[24] as was the case with the North-South Sudan conflict.

Having briefly examined some different approaches to the study of conflict, it is important to stress that the different theories should not necessarily be thought of in isolation from one another. It can be beneficial to look at conflicts from different theoretical perspectives, and to take account of the variables that each perspective emphasizes. Certainly, some wars are fought over resources and territory, while others are mainly about ideology and power, while still others may be about a combination of all these factors. The North-South Sudan conflict had a combination of all the factors. At the same time, what a group or state is fighting about on the surface may not necessarily be the main motivating factor in the conflict. The rhetoric of a particular actor does not necessarily conform to the reality of the situation. Further, the rise in concern for humanitarian disasters and the expansion of thinking about conflict to include structural violence as well as direct violence demands a broader approach to explaining and ultimately resolving conflicts.[2^]

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[4] Ibid 1, A. Pitsch. 2000
  Ibid 1, A. Pitsch. 2000

2.3: POLITICAL HISTORY OF SUDAN

A Northern civilian uprising forced General Abboud from power in October 1964, and the opportunity for peace looked more promising until a roundtable conference in Khartoum the next year failed to bring a political settlement. The war intensified and became dangerously internationalized, with increasing numbers of foreign powers supporting either the government or the *Anya-Nya,* and sometimes both. For example, in 1965 rebels from the Congo (DRC) provided *Anya-Nya* with arms. Israel became a key financier of *Anya-Nya* after the Six-Day War of June 1967 and shipped weapons captured from Egypt, hoping this would encourage the government to limit its assistance to Middle East nations. Israel established a base in Uganda and began training and supporting *Anya-Nya* troops, who also relied on Ethiopia as a sanctuary. IChartoum responded to Israeli support for *Anya-Nya* by strengthening its alliance with Egypt. Other Muslim nations - the United Arab Emirates, Algeria, Saudi Arabia and Kuwait - aided the war effort by providing arms, ammunition and funds. The government's main financier, however, was the Soviet Union. Soviet aid increased dramatically after the Six-Day War, and in January 1968 Sudan and the Soviet Union signed a U.S.S100 million agreement.[26]

In 1969, General Jaafar al-Nimeiri came to power in a *coup d'etat.* Given that Sudan straddles the Nile and has access to the Red Sea, it increasingly came to be seen as a Cold War battle ground. Nimeiri actively courted the Soviet Union and other communist states. He increased trade with the Eastern bloc and came to rely on Moscow for financing and armaments to wage the civil war. The government also moved to distinguish itself as an ardent supporter of the Arab cause against Israel, having broken relations with many Western countries after the Six-Day War. Israeli support for *Anya-Nya* peaked after al-Nimeiri brought Sudan into the Arab Federation with Egypt and Libya. Soviet military and financial assistance also peaked. Prospects for peace were dim. A failed communist coup in July 1971, however, set in motion events that dramatically altered both Sudan's domestic political landscape and its international alliances. Relations with the Soviet bloc deteriorated, while those with Western

Ibid 7, International Crisis Group, November 2001.

Europe, the United States, China and most of the Arab states improved. The Soviet Union terminated its support for the war effort. Without his largest military backer, Nimeiri came to see peace as more attractive than fighting an unpopular war backed by a weak army.

With fragile domestic support, Nimeiri began to address the civil war and improve regional relations to bolster his hold on power. In March 1971, he signed an agreement with Emperor Haile Selassie of Ethiopia in which both leaders promised to cease assisting the other's separatist movements. Later that year. Nimeiri signed an agreement with Ugandan dictator Idi Amin ending support of Ugandan rebels in exchange for similar action on the *Anya-Nya*. Amin ejected the Israelis from Uganda, and the loss of external support devastated the *Anya - Nya's* war capabilities, forcing southern politicians to consider Nimeiri's peace overtures in late 1971 and early 1972. With a monopoly of power, Nimeiri faced little opposition to ending the war in the south. This accelerated the peace process at a time when *Anya-Nya* was changing from a disparate group plagued by ethnic and personal rivalries into a more unified political force. Colonel Joseph Lagu seized authority in *Anya-Nya,* united its officers under his command, and declared the formation of the Southern Sudan Liberation Movement. The unity of the Southern Sudan Liberation Movement/zl^a-A^a proved invaluable in the peace negotiations that began at Addis Ababa in 1971.[27]

Whereas the 1965 roundtable failed because southern representatives were split between those favouring secession or a federal system, a settlement was achieved this time because Lagu convinced bis followers to accept Nimeiri's proposal for peace "within the framework of one Sudan". Ratification of the Addis Ababa Agreement in March 1972 inaugurated a peaceful and cooperative era. The agreement included power-sharing and security guarantees for southerners and, most importantly, granted the south political and economic autonomy. Former *Anya-Nya* soldiers were to be included in

Ibid 7, International Crisis Group, November 2001.

the national army in proportion to the national population, and 6,000 southerners were to be recruited into the army's Southern Command, an important security provision.

However, Sudan's peace was short lived, as Nimeiri increasingly faced northern opposition to the Addis Agreement. With Libyan backing and support from the Ansar movement, whose supporters follow the strict teachings of the Mahdi (who ruled Sudan in the 1880s), the former Prime Minister, Sadiq el Mahdi, unsuccessfully attempted to overthrow the government in July 1976. The abortive coup had a profound effect on Nimeiri, who introduced a policy of national reconciliation in an attempt to win over the north and increase his political base.[ix]

The resource based conflict theory holds that hostility between groups is a result of direct competition for limited and valued resources.[29] In a bid to dissipate the hostility, the process of national reconciliation led to the appointment of a number of opposition leaders to prominent government positions, including Mahdi. The majority of the Ansar and Muslim Brother exiles returned to Khartoum, and the leader of the Muslim Brothers, Hassan al-Turabi (Mahdi's brother in-law), became attorney general. Southerners were squeezed out of the national political process, and the political landscape took on an increasingly Islamic tilt. In 1977, Mahdi and a coalition of northern opposition parties demanded that Nimeiri review the Addis Agreement, especially its provisions for security, border trade, language, culture and religion, and Nimeiri appeased them by making unconstitutional revisions. The discovery of oil in the south also increased northern pressure to jettison the Addis Agreement, particularly those provisions allowing the south a degree of financial autonomy and the right to collect all central government taxes on industrial, commercial and agricultural activities in the region. Nimeiri conceded to many wishes of his increasingly hard-line cabinet and replaced southern troops with northerners at Bentiu, the site of extensive oil deposits. He personally pocketed proceeds

 Ibid 7, International Crisis Group.2001
' Ibid 3. Muzafer Sherif, 2002-2009

from an oil licensing deal that the Addis Agreement stated should go to the regional government and

discussed building a pipeline so that oil could be transported out of the south to the Red Sea for export

I **or to** northern refineries for processing. Though this never materialized due to SPLA military pressure,

I **the** intention to bypass the Addis Agreement and favour northern interests infuriated the south."

2.4: SOUTH SUDAN

With southern grievances rising, Nimeiri became increasingly apprehensive that half of the Southern

I Command was controlled by former *Anya-Nya*. In January 1983, southern troops of the 105th battalion

I refused orders to abandon their weapons and be transferred north. They feared they would be sent to

| Iraq to join another Sudanese contingent fighting in that country's war against Iran and leave the south

vulnerable to an all-northern unit. After negotiations failed, Nimeiri ordered an attack on the

insubordinate soldiers in May 1983. The southern unit fled, taking weapons and equipment and

inspiring a succession of desertions and mutinies in the south throughout the year. The mutineers found

sanctuary in Ethiopia, where they united to form the SPLA. On 5 June 1983, Nimeiri issued

"Republican Order Number One", abrogating the Addis Agreement and returning regional powers to

the central government. The Republican Order explicitly destroyed the south's autonomy and carved it

into three powerless administrative provinces. It transferred the south's financial powers to the central

government and declared Arabic, not English, the region's official language. The order abandoned

direct secret ballot elections for the Southern Regional Assembly and dissolved its power to veto

central government law. It also cancelled the sections of the Addis Agreement that guaranteed local

control of the armed forces in the south and transferred this responsibility to the central government. In

addition to dramatically re-centralizing political and economic power, Nimeiri officially transformed

Sudan into an Islamic State, decreeing in September 1983 that *sharia* or Islamic law "be the sole

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[30] Ibid 7, International Crisis Group, 2001.

guiding force behind the law of the Sudan". Though one-third of the population was non-Muslim, Islamic penal codes were imposed on the entire country."[1]

Southerners were infuriated by abrogation of the Addis Agreement, and violent protest soon followed. This in agreement with Keen who has argued that natural resources, are drivers of intrastate conflicts, and must be understood within the context of a deep sense of anger at the failure of the State to provide economic and physical security.[32] Southerners mobilized around the SPLA, and John Garang emerged as its leader. Unlike the *Anya-Nya*, the SPLA defined its objectives more broadly than southern autonomy, arguing that all of Sudan needed to be transformed into a multi-racial,multi-religious and multiethnic democratic state. The success and overwhelming popularity of the SPLA in its first years is a testament to the scope of southern grievances. Once again Sudan's government was changed by military coup, with Lieutenant General Swar al-Dhahab ousting Nimeiri in 1985, and once again there was halting impetus toward peace. Popular pressure brought the SPLA and an alliance of professional and trade unions and political parties, including the Umma Party, together for peace talks. In 1986 they agreed to the Koka Dam Declaration, which called for a peace process spearheaded by a National Constitutional Conference. However, the Declaration was unable to resolve the contentious issue of *sharia,* which was left to a new incoming civilian government to be headed by Sadiq al-Mahdi. Political and military turmoil persisted for several years as successive coalition governments headed by Mahdi were dissolved due to disagreements over economic, social and peace initiatives.

By June 1989, however, conditions favoured peace. The SPLA controlled almost the entire south and was exerting considerable military pressure on the government. The army calculated that it was in its best interest to cut losses and negotiate. John Garang recognized the SPLA would never win and that his strong tactical position would be best used to achieve favourable terms in negotiations. When

Ibid 7, International Crisis Group, 2001.
"Ibid9,D. Keen.

Mahdi swiftly met its preconditions for a constitutional conference, the SPLA announced a cease-fire and reacted positively to the expulsion of hard-line National Islamic Front elements from the cabinet. Mahdi began to refer to the SPLA as an "armed movement" rather than terrorists". However, on 30 June 1989 Brigadier General Omar Hassan Ahmad al-Bashir seized power in a *coup d'etat* and immediately cancelled all prior agreements, including the proposed constitutional conference. Bashir also acted quickly to consolidate his power and destroy the political opposition. He imposed a state of emergency and created the Revolutionary Command Council, which he chaired, to serve as a cabinet. It revoked the transitional constitution of 1985, abolished the parliament, banned political parties, detained all political party leaders and closed the newspapers. The leaders of student groups, unions, professional associations and political parties faced arbitrary arrest and disappeared in "ghost houses" and prisons where they were tortured or killed. The government also intensified the war.[33]

Despite rhetorically embracing calls for peace Bashir demonstrated little interest in serious negotiations. Two sessions, in Addis Ababa in August 1989 and in Nairobi in December 1989, failed, with Islamic law again a key sticking point. SPLA demands to revoke *sharia* were anathema to the National Islamic Front - the Islamist political movement behind the Bashir coup - and the crackdown on opposition parties and non-governmental groups silenced some of the most forceful peace advocates. Bashir, who had served in the south, promised new resources for the military and declared soldiers to be fighting as martyrs for the imposition of God's law. He increasingly referred to pan-Arab and Islamist values when talking about the war in hopes of garnering support from Arab countries. Iraq soon sent arms, and the government revived its military agreement with Tripoli, bringing in Libyan armaments and oil. As the Gulf War took its toll on the assistance Iraq could provide, Bashir turned to •ran. The SPLA, questioning President Bashir's commitment to talks, also stepped up military efforts and forged ties with the National Democratic Alliance. The National Islamic Front government perceived Garang's refusal to negotiate without strict preconditions as indicative of a commitment to

Ibid 7 International Crisis Group, 2001.

resolve the conflict on the battlefield. The army vowed," not to give up one inch of the soil of this homeland", and government officials rushed abroad to request funds to win back "Arab" towns captured by "Africans" and "infidels". Garang and the S PLA d id not recognize Bashir as president because the military coup had ousted a democratically elected leader, and they denounced the junta as "running dogs of Islamic fundamentalism". In kind, government officials dismissed Garang as a communist and an agent of Ethiopia.[34] The direct competition for limited and valued resources led to this outcome between the groups in consistency with the conflict theory.[35]

2.5: CHAPTER OVERVIEW

Incongruence and disruption are the basic causes: structures of expectations become incongruent with the underlying—previously supporting—balance of powers, making disruption likely; disruption generates the balancing of powers, which determines a more realistic, mutually perceived balance of powers; this new balance forms a new, congruent structure of expectations; this structure becomes in time incongruent.[36]

Other necessary causes specifically underlie the disruption of the structure of expectations and the consequent situation of uncertainty and balance of powers. They include a significant change in the balance of powers. This is a change in interests, capabilities, or will (credibility) that causes one or both parties to feel that their understandings and agreements, the distribution of rights and benefits, duties and responsibilities—in short the structure of expectations—are wrong, unjust, inconsistent with their powers, and should and can be altered to the advantage of one or the other. Another necessary cause of disruption is a will-to-conflict. No Conflict Behaviour can occur unless the parties are willing to confront each other.[37]

[34] Ibid 7, International Crisis Group, 2001.
[35] Ibid 3, Muzafer Sherif, 2002-2009
Tbid 14, R.J. Rummel.
  Ibid 14, R.J. Rummel.

Sudan's internal conflict elicited immense international concern. The war 'both in its historical perspective and in its contemporary context was fundamentally with the policies that had been pursued by the various governments in Khartoum since independence in 1956'."* Various peace efforts were undertaken and m ost 'did n ot s ucceed i n p art b ecause o f i rreconcilable differences o n fundamental issues between the "Arabized" north and southern rebels. The strong belief by the National Islamic Front (NIF) regime that it could resolve the conflict through military means continued to be a major impediment to peaceful efforts. Another major obstacle was National Islamic Front - NIF's inflexible position on the role of religion in politics and government. The government seemed interested in talks when it was weakened militarily or to buy time to prepare for another military offensive.'[39]

Most efforts to address and resolve the North-South Sudan conflict failed. The UN and other bodies, including the OAU and IGAD had attempted to mediate some of the most intractable conflicts on the continent, that included Sudan conflict to no avail. On the other hand, some conflicts have been peacefully resolved (e.g. Tuareg rebellions in Mali and Chad; South African apartheid). Though Africa is a d iverse c ontinent, i ts n umerous c ultures w ere t raditionally s een t o sh are an umber o f c ommon characteristics (e.g. communal orientation, respect for elders and ancestors, complex lineage systems that determined certain social relations). In the area of conflict management, a number of commonalities are also evident. Traditional conflict management in Africa stressed that the goal of the process was to harmonize the interests of the parties, to reconcile them and integrate the offender back into the community.[40]

Other characteristics of traditional conflict management include that the society as a whole bears some responsibility for the defects of its members and must be integrated into the conflict resolution process,

S. L Kwaje. *The Sudan Peace Process: From Machakos to Naivasha.* Paper presented to the conference on Regional Security Issues in the Age of Globalization; 16-18 March, 2004

Sudan Humanitarian Crisis. *Peace talks, Terrorism and US Policy.* Apr. 23, 2003

' Ibid 1, A. Pitsch. 2000

the idea of atonement, and the idea of negotiation by third parties. Further, traditional methods were relational. That is, they were used when the conflicting parties already had an existing relationship and shared an existing set of values. African by and large, is communal inclusivists. Managing conflict becomes an open sum process involving immediate family, supervisors, elders, etc. within the framework of morals. This necessitates entering into a dialogue from which a sense of fairness and unfairness towards other members in society can emerge. There are many problems, however, in using traditional methods of conflict management in today's conflicts.

First, there is no good record of traditional methods, and what is today considered traditional is in fact an amalgamation of ideas, both traditional and modern. Tradition has become distorted through exposure to the West and in response to colonization. Another problem is the nature of today's conflicts in Africa. Simply the scale of many conflicts makes traditional methods unlikely, especially when modern combatants do not necessarily have the communal ties and relations deemed necessary for traditional methods to work. Third, many modern African leaders have co-opted traditional leaders as state agents or have politicized, corrupted, or abused traditional structures. This has resulted in the delegitimization of traditional structures of conflict management and to the obliteration of the perceived neutrality of traditional rulers in many countries. Making it even more difficult to resolve intra-state conflicts.[41]

The particularistic nature of traditional conflict management strategies to today's conflicts is likely to arouse suspicions of ethnic domination in today's multi-ethnic, post-colonial societies (Osaghae, 2000). The traditional societies within which conflicts were settled in the past no longer exist in large parts of Africa, and the way conflicts are fought have also changed. However, one could argue that the

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" Ibid 1, A. Pitsch. 2000

root causes of conflict do not really change much over time; therefore what worked in one era could potentially work today.[42]

Few conflicts are intractable at the beginning; rather, they become one way or the other according to how they are handled. But some characteristics make conflicts more difficult to handle no matter what. One might say these conflicts are "predisposed" to become intractable. For example, conflicts that involve irreducible, high-stakes, win-lose issues that have no "zone of possible agreement" (ZOPA) often become intractable. These are conflicts from which the participants see no "Way Out" (using a Bill Zartman term), because any "solution" would require giving up some very important value. Thus they move from tractability to intractability as depicted in the diagram below.

$$r^A \text{_____} k.$$

Intractability   Tractability

^   VA
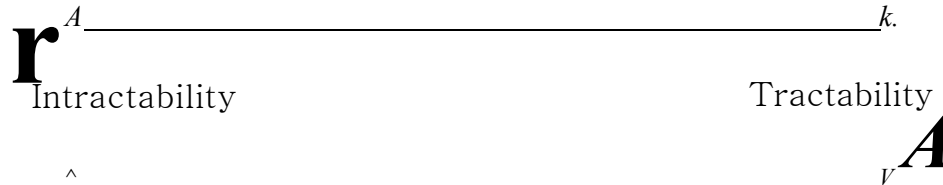
The intractable conflicts are especially destructive as stated by Louis Kriesberg. Some conflicts go on for a long time, but if they do not do damage, and if the parties are not worried about them, he does not consider them intractable (the Peace Research Approach). Intractable conflicts are conflicts that are doing substantial harm, yet the parties seem unable to extricate themselves — either alone or with outside help. This is because the perceived costs of "getting out" are still seen as higher than the costs of "staying in."[43]

The core causes of the conflict in the Sudan made it intractable because they contained an irreducible win- lose element. The political, social, economic and cultural domination and gain of the northern government in Khartoum (predominantly Muslim) was at the expense of the subjugation and lose

^ Ibid 1, A. Pitsch. 2000
  J. Bercovitch. *International Mediation and Intractable Conflict.* 1991.
      .boypndintractabilitv.oriz/m/med_intractable_conflict.jsp-68k

politically, socially, economically and culturally of the people of Southern Sudan. Both parties could not gain equally (zero-sum game). A number of factors made the Sudan conflict an intractable one. Firstly, the conflict was a function of deep-rooted value differences between the people of northern Sudan and the people in the south. There was a distinct religious and cultural difference between the northerners and the southerners. The northerners who were predominantly Arab Muslims used the government as an instrument to Islamize and institutionalize sharia laws in the predominant Christian south, which was a hodgepodge of cultures, distinct from the north. Thus, the cultural identity and the way of life of the southerners had been in jeopardy and hence provoked rebellion from the south.

Secondly, there were high stake distributional questions in the Sudan conflict. Distributional problem was by and large a function of scarcity of resources, which brought about competition over the same, which turned to violence in the bid to access the resources. Those actors with greatest access to power were also best able to use it as an instrument to control and influence decisions over the resources in their favour.

Notably, in the past decade, there has been a shift in the literature to reflect the changes in the international system since the Cold War. Academics, activists and practitioners have emphasized that conflicts occur much more often at the sub-state than inter-state level and that protracted societal conflicts cannot be handled only through traditional diplomatic channels. Conflict management is seen as a process that must be addressed at several levels through multiple channels of communication. Conflict management through unofficial channels has blossomed after the end of the Cold War and its methods include mediation, peace commissions, peace monitors, problem-solving workshops, cultural exchanges, fact-finding missions, and humanitarian diplomacy.[44]

W Ibid 1, A. Pitsch. 2000

CHAPTER THREE (3)

THE CHOICE OF MEDIATORS IN THE SUDAN NORTH-SOUTH CONFLICT

;0: INTRODUCTION

h Chapter Two a background to the Sudan North South Conflict was reviewed. In this chapter we

»cus on the main study of this paper which centers on the choice of the mediator during the Sudan

\'orth-South conflict. This chapter is anchored on the first objective that seeks to examine and

aialyze the factors that explain the selection of Kenya as a chief mediator to the Sudan Peace

Process. It will include a preview of the different mediation processes undertake between 1994-

-005. The different phases and the outcomes of each phase will be discussed with the reasons behind

x outcomes of each phase. The behaviour of Kenya will also be reviewed in relation to the warring

parties in this chapter. This will be discussed in the background of previous mediators involved

xfore Kenya. This chapter will also seek to examine and analyze the factors underlying the signing

tf the Comprehensive Peace Agreement. The mediating actors' behaviour and influences will be

discussed during the period 2000-2005 of mediation. The chapter will also incorporate interviews that

Jre undertaken in the research of this paper.

foe search for peace in the Sudan can be traced to the 1930s where the British developed a policy for

k South in the Closed Districts Ordinance. A Southern Policy was used as early as 1919 as a British

design for the eventual political independence of the South from the North. The 'Southern Policy'

^tailed both the progressive separation of the South from the North and the fostering of

Particularism within it. By the time the country got independence on 1st January 1956 from the

\nglo-Egyptian Condominium, a number of problems concerning the coherence of Sudanese polity vere left unresolved.[1]

Many states mediated in the subsequent conflicts that arose thereafter, but were not successful. However, Kenya's mediation ended up with the parties securing a deal. In this chapter we seek to understand why Kenya was selected as a chief mediator to the Sudan Peace Process that led to the successful mediation. Kenya was a preferred mediator over the other actors in the mediation arena of the Sudan peace process at the time of selection. The question we seek to answer is: What factors explain the selection of Kenya as the Chief mediator and success in the mediation process, as mediator, despite her apparent involvement on the side of SPLM/A? This is because mediation is based on a cost-benefit calculation and as such the assumption that mediators must be perceived as impartial needs to be revised[2] for Kenya to qualify as a mediator.

3J: CHOICE OF MEDIATORS

Parties to a conflict accept mediation when they believe it is in their best interests to do so; that is, when they believe that "mediation will gain an outcome that is more favorable than the outcome gained by continued conflict." Similarly, parties will accept mediation when rejecting it will result in greater harms. Parties may fear incurring bad relations with the proposed mediating nation or international sanctions if they refuse to negotiate. In addition, mediation may offer parties a way to negotiate compromises without losing face. The mediator may also be seen as guarantor of the final settlement.[3]

 S. L. Kwaje. *The Sudan Peace Process: From Machakos to Naivasha.* Paper presented to the conference on Regional ***curity** Issues in the Age of Globalization; 16-18 March, 2004

[w]-1 Zartman & S. Touval. *International Mediation in the Post-Cold War Era*: Summary by Tanya Glaser, Copyright 998, conflict research consortium

[w]-1 Zartman. *Mediation in Ethnic Conflicts.* Center for Development Research: Facing Ethnic Conflicts. ZEF Bonn. [14]-16 December 2000.
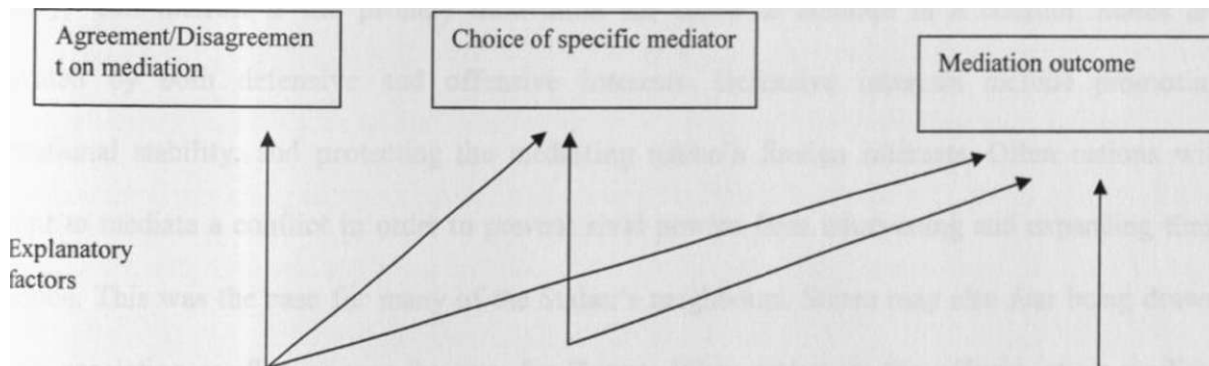
The choice and range of mediators[4] affects international conflict management outcomes. The list of jesired mediator attributes is very long. Among the factors that experienced international mediators cite as particularly important are intelligence, stamina, energy, patience and a sense of humor. Trust, credibility and a high degree of personal skill and competence in a mediator are also necessary preconditions for mediators' acceptance and successful mediation. Evenhandedness or neutrality are also strongly associated with the effectiveness of mediators as well as their being chosen. Impartiality stems from a failure to recognize mediation as an aspect of social interaction in which the mediator is a major participant with distinct interests. Mediators are accepted by the adversaries not because they exemplify an antidote to bias, but because of their perceived ability to influence, protect, or extend the interests of each party in conflict. Mediators are requested to mediate because they are seen as being capable of promoting an agreement through the use of leverage, power potential, and influence and not because their protestations of neutrality. Two factors that influence the choice of a mediator are the ideological position and cultural similarity of the mediator. Mediation takes place within a system of values, beliefs, and interests. Mediators' efforts will be of little avail if they come from a totally different ideological background. Ideological position provides a kind of safety net for all participants in conflict. Culture on the other hand may be viewed as a system of meaning and values shared by a community informing its way of life and enabling it to make sense of the world. This is a major influence affecting the choice of mediators.[5]

On the overall, there is no universal answer to what makes a competent mediator. No particular type or amount of education or job experience has been shown to predict success as a mediator. Successful mediators come from many different backgrounds. Competence depends partly on the context of the dispute and the parties' expectations. It also depends on whether the mediator has the right mix of acquired skills, training, education, experience and natural abilities to help resolve the specific

" Bercovitch and G. Schneider. *Who Mediates? The Political Economy of International Conflict Management. Journal °f Peace Research.* Vol. 37 no. 2, London. 2000. pp. 145-165.
 fold 4 J. Bercovitch and G. Schneider. 2000.

dispute. Important skills and abilities include neutrality, ability to communicate, ability to listen and understand, and ability to define and clarify issues.[6] At the background of this competence that qualifies a mediator is the theory that presented by Bercovitch[7] that mediation is an extension of the parties' own efforts to manage their conflict. A third party comes in when the the parties to the conflict fail to agree. Below is a diagram that depicts the process of mediation.

Figure 1. Mediation as a Three - Step Process[8]

| Agreement/Disagreement on mediation | Choice of specific mediator | Mediation outcome |

Explanatory factors

- Preferences and beliefs of conflict parties
- Capabilities
- Actor attributes
- Dyad attributes
- Structure of global and regional system

- Power
- Preference
- Proximity
- Price of mediation

- Strategies
- Skills
- Beliefs of mediator

Hawai'i State Judiciary Center for Alternative Dispute Resolution. 1996

J Bercovitch. *International Mediation and Intractable Conflict.* 1991.
bevondintractabilitv.org/iri/med_intractable_conflict.jsp-68k

' 'bid 4, J. Bercovitch and G. Schneider. 2000..

3.2.0: THE REGIONAL MEDIATORS REVIEWED

Many intra-state conflicts become internationalized as they have trans-boundary effects. This is because of interdependence, ethnic relations, media and refugees.[4] Sudan's North-South conflict was not immune to this. This therefore necessitates a need to adopt a systematic perspective to effectively manage intra-state conflicts.

Notably, 'self interest is the primary motivation for states to mediate in a conflict. States are motivated by both defensive and offensive interests. Defensive interests include promoting international stability, and protecting the mediating nation's foreign interests. Often nations will attempt to mediate a conflict in order to prevent rival powers from intervening and expanding their influence. This was the case for many of the Sudan's neighbours. States may also fear being drawn into an escalating conflict as was the case for Kenya. When acting on the offense, states mediate conflicts in order to extend and increase their own influence. In such cases states usually have less interest in the content of the settlement.'[10]

The nature and size of Sudan's problems frequently overflowed into neighboring countries and brought misery and insecurity to the region. Over the long years of war, there was a plethora of attempts by various external actors, including neighboring States, as seen in the phases discussed above, as well as the parties themselves, to bring the conflict to an end. However, the immense complexities of the war and the lack of political will prevented its earlier resolution.

R. Mudida. *The Security-Development Nexus: A Structural Violence and Human Seeds Approach,* in K. Brockmann, H B. Havick and S. Reigelation (ed) from Conflict to Regional Stability; linking security and development (Berlin: DGAP, 2008)

W. I. Zartman & S. Touval: *Why Third Parties Mediate* in *International Mediation in the Post-Cold War Era:* Summary by Tanya Glaser, 1998, conflict research consortium. Institute of Peace Press, 1996. USA

3eep distrust, disputes over oil, water and land, and long running concerns about religion, secessionism and military adventurism fuelled an environment of antagonism and violence. A .omplex stew of rapidly shifting policies, commercial interests, alliances and rivalries -often relying on support for cross-border insurgents to advance diplomatic goals - meant that Sudan's neighbours bad been part of the problem more often than they had been part of the solution. Important regional states often believed they had more to gain from a weak Sudan than from a strong, peaceful one. The <nore the Khartoum regime was vulnerable, alleged a Sudanese civil society leader, the more concessions some of the neighbours felt they could extract. Deeply divided regional policies toward Sudan blocked the progress of any serious peace process and allowed Khartoum and the SPLA to play states off against each other. This led to ill-fated and counter-productive regional peace initiatives and largely impotent international responses, including the Egyptian-Libyan Joint Initiative and to an extent the Inter-Governmental Authority on Development (IGAD) process."

3.2.1; KENYA AS A MEDIATOR

In Kenya, President Moi took a personal interest in his government's Sudan policy. A high-ranking Kenyan diplomat explained that "Kenya had borne the brunt of the response to the war, and that was »hy President Moi took the lead on the issue".[12] As was found out during the interview, Kenya was successful in the mediation process for a variety of reasons. During the former president's regime Moi), Kenya had been engaged in other negotiations in the African region. As such she had experience and expertise in the area of negotiations. This endeared her to the Sudan warring parties.[1']

The internationalization of the conflict brought a great deal of distress to the Kenya Government; due

Ibid 1, S. L. Kwaje. 2004
International Crisis Group. *Understanding the Players.* Interview in Khartoum. November 2001
Interview of the researcher with Sudan Embassy Official. Interview in Nairobi on 28-7- 2009.

10 the insecurity in Northern Kenya as a result of the refugees who resided in the Kakuma refugee camp. Because Kenya was a signatory to the UN resolution on refugees, she could not deny entry to Sudanese refugees into the country. She encountered pressure as she was a neighbor with Sudan.[14]

At the same time, Kenya could not undertake any trade in oil with Government of Sudan due to the political dilemma it would create for Kenya. The refugees and the need for Kenya government to access cheap oil put Kenya in an awkward position as discussed in the subsequent paragraphs. However, domestic preoccupations frequently distracted Moi's attention.

Meanwhile, Kenya continued to receive a perverse subsidy as a result of Sudan's long agony. As a primary channel for the massive international relief effort for Sudan, it obtained port fees, road taxes 2nd the financial benefits that accrued from the presence of thousands of NGO workers as well as construction and maintenance of the Lokichoggio airfield and other infrastructure improvements. The United Nations Operation Lifeline Sudan and associated humanitarian organizations were largely staged from Kenyan territory. Kenya permitted non-United Nations affiliated NGOs to operate as well, although Khartoum argued that these accessed Sudanese territory "illegally". Kenya also allowed the SPLA to maintain offices in Nairobi since its inception. Kenya at some point became embroiled in an internal dispute over whether to purchase Sudanese oil. In what appeared to be the Sudan government's oil diplomacy success, it concluded a deal with Kenyan Energy Minister Raila Odinga to export tariff-free oil to Nairobi under the terms of the Common Market for Eastern and Southern Africa.[15]

Subsequently, a domestic controversy led to re-evaluation of the contract, which caused Sudan's Foreign Minister to threaten ending imports of Kenyan coffee and tea. Facing a trade war, Kenya finally allowed the duty free imports. This led to further controversy within the Kenyan energy

Interview of the researcher with Kenyan government official from Ministry of Foreign Affairs. Interview in Nairobi on **12-7-2009**

M. K. Dhuor. Interview with AANA (UNHCR's Assistant Representative) 2003

ndustry, which argued that importing refined products from Sudan would break the "white oil rule", which puts all imports through the Mombassa-based refinery. Another possible escape hatch existed | if the domestic industry successfully made the case that Sudanese crude did not meet Kenyan specifications. Further controversy was likely in any event as the budgetary implications of the deal become clear.[16]

Voting that refugees are agents of conflict internalization,[17] conflict of interests between refugees and host communities were a common place in Kenya. The competition for the limited resources resulted into violent confrontations between Sudanese asylum seekers in Kakuma Refugee Camp in Kenya, and the resident Turkana villagers. The resultant several deaths and destruction of property, suggested that there could be a deeper problem.[18] This brought to the fore the complexities of internationalization of conflict and hence the need to urgently resolve conflicts in their early stages.

On June 21 2002, there was an armed attack on the camp. The ensuing skirmish resulted in the death of nine Sudanese refugees, two Turkana tribesmen, and one Ethiopian refugee. Three days later (June 24), a Sudanese resident in Lokichoggio, near Kenya's border with Sudan, threw a hand grenade into a Turkana home, killing one child and injuring a woman. The incident provoked Turkana youths in 4e area. They ran amok and attacked the premises of Norwegian People Aid (NPA), and Presbyterian Relief and Development Agency (PRDA), claiming that the former had offered refuge to the Sudanese who had hurled a grenade into a Turkana homestead. The latter (PRDA) was attacked tecause it belonged to the Presbyterian Church of Sudan. Here, the youth looted property and caused

Ibid 13, M. K.Dhuor. 2003
fad 9, R. Mudida. 2008
Ibid 13, M. K. Dhuor., 2003

extensive damages. A day after, the Turkana youths stormed UNHCR premises to protest. The grenade use had made them wary that the Sudanese were in possession of deadly arms.[19]

The Lokichoggio incident was said to have been a spillover of what had happened at Kakuma refugee camp just a few days earlier. The grenade wielding Sudanese was, according to locals, avenging the tilling of his fellow Sudanese at Kakuma by the Turkana. This chronology of violent events within just one week portrayed the precarious relationship between refugees in Kakuma, and the Turkana host community. Even though the government and UNHCR were jointly trying to bring the parties in conflict to negotiation in order to instill a peaceful co-existence, events in the past indicated that the relationship between the Turkana and the Sudanese refugees had never been cordial. Statistics indicated that 32 refugees were killed, several of them by the Turkana, between 1992 and September '2002/[°] The structures, attitudes and behavior of people in the two communities were changing constantly and influencing each other. Consequently the parties' interests came into conflict.[21]

Former Labour assistant minister, Ekwe Ethuro, stated on July 16, 2002 that the refugees, mostly Sudanese, were a burden to the local community and should be moved elsewhere or repatriated. The "urkana accused the Sudanese refugees of crimes such as theft, which they said, did not exist before ie coming of the refugees to their area 11 years ago[22] as at that point.

A Sudanese elder Akeec Nyatyiel, living in the camp, had once stated that they wanted the Kenyan Government to give them up to date security. According to him, the solution lay in the Government looking into their re-location because they were being killed by the Turkana. Relocation was not

•bid 13, M. K. Dhuor. 2003
1>idl3, M.K Dhuor. 2003
Galtung, 1969 in *Overview of Conflict Management Methods* by Anne Pitsch. 26 October 2000
Ibid 13, M. K.Dhuor. 2003

nable to the government of Kenya or the UNHCR. Cattle rustling continued to be a point of conflict between the two communities.[23] The conflict scenarios kept changing due to the social changes that were being experienced by the two communities. Resolving the conflict needed the de-escalation of conflict behaviour between the two communities, changing attitudes and transforming the clashing xhaviours that were core to the conflict.[24] Kenya did not take any compromising positions with the Sudanese warring parties. This made her acceptable to both parties to mediate. Kenya did not support iPLA/M financially or militarily as this would have compromised her position and capability to mediate.[25]

3.2.2; OTHER REGIONAL MEDIATORS

As discussed below, the various Sudan' neighbours had limitations that contributed to their failure to mediate effectively in the North-South Sudan conflict as was witnessed over the years before 2005. As noted by Anne[26] in Chapter 2, states enter into a conflict when it is in their interest to do so. The tfious neighbours of Sudan who tried to mediate depicted this behavior at various points of their stervention as discussed below.

i. CHAD

flie 1,360km long Chad-Sudan border has not always been peaceful. In early 1980s, then Chadian *bel leader Hissene Habre began his march on Chad's capital of N'djamena from the Sudan border fta. The Nimeiry government in Khartoum provided Habre with assistance that helped him to

13, M. K Dhuor. 2003

Pitsch. *Overview of Conflict Management Methods.* 26 October 2000

Interview of the researcher with Kenyan government official from Ministry of Foreign Affairs. Interview in Nairobi on : 2-7-2009.

m 22, A. Pitsch. 2000

overthrow the Goukouni Weddeye regime. In November 2002, a faction of the Chadian rebel National Resistance Army claimed to have killed a number of Chadian soldiers northeast of Adre, 30km from the Sudan border. There is no indication that the Sudan government supported the rebels. There has always been considerable movement across this border as the ethnic groups on each side Le related.[27]

This could have acted as a catalyst for ethnic conflict and mistrust among the two governments as one joup could rise up against the other at a given point."[s] The Sudan government at one time considered establishing a joint economic zone between the two countries in an effort to achieve (conomic and political integration. Together with the Central African Republic the three countries established a tripartite committee to oversee security on their common borders. Generally speaking the Chad government had closer ties with the Sudan government and as such could not be relied upon liythe SPLA/M for a mediation process.[29]

1

ii. CENTRAL AFRICAN REPUBLIC

Some of the Central African Republic's (CAR) 1,165 kilometer long border with Sudan is contiguous lo territory in Sudan controlled by southern groups, especially the SPLA/M, that opposed the jovernment in Khartoum. Sudan's diplomacy towards the CAR had been activitist and engaged. The CAR border with Sudan, like all of its other frontiers, is porous; there had been considerable movement across the border in both directions. In May 2002, clashes between the Sudanese "erdsmen and CAR nationals inside the CAR resulted in the death of several dozen Sudanese. The CAR claimed the Sudanese were poachers while Government of Sudan attributed the dispute to tribal

D H Shinn: Situation Report: *Sudan and her Neighbours.* Africa Security Analysis Programme (ASAP) 2003
>id 9, R. Mudida. 2008
' Ibid 24, D.H: Shinn 2003

ssues. Officials from both countries quickly met to create mechanisms to investigate the incidents jnd prevent their recurrence. Sudan then announced its intention to open a consulate in Birao in northern CAR to serve the interests of Sudanese nationals in the CAR. CAR also hosted about 35,000 Sudanese refugees.

In May 2001, there was a failed coup attempt against CAR president Ange-Felix Patasse. As a result of subsequent unrest in the country, Sudan together with Lybia and Djibouti sent several hundred soldiers in support of Patasse. Sudan's involvement took place as a member, together with the CAR, of the Community of Sahel-Saharan States and in the context of a bilateral cooperation agreement. Sudan removed all of its troops from the CAR by end of 2002. Although Sudan described the aigagement as a peacekeeping mission, developing a close security relationship with the CAR also kept open the possibility of using its territory as a base from which it could counter the SPLA/M in case any peace process broke down.[30] This consequently making CAR unsuitable to mediate owing to ! SPLA/M misgivings of their stand.

iii. DEMOCRATIC REPUBLIC OF CONGO

Most of the Sudanese territory along the 628 kilometer long border with the Democratic Republic of Congo (DRC) was under the control of the SPLA/M or the Equatorial Defense Force. There were Persistent and credible reports in 1998 and 1999 that Sudan had sent troops to the DRC to help prop «P the government of President Laurent-Desire Kabila. Both governments denied the existence of Sudanese troops in the DRC although Khartoum acknowledged that it supported Kabila politically." Both governments operated under conflict research paradigm, which proposes that conflictual

"ibid 24, D.H Shinn: 2003
•bid 24, D.H. Shinn:. 2003

behavior is a response to an actor's perception of the environment. It is a learned behavior triggered L circumstances and the extent the environment can be manipulated, so can conflict, which is dysfunctional. Conflict may thus be seen as functional or rational in that it is intended to serve a useful purpose as well.[32]

Joseph Kabila succeeded his father as president and visited Khartoum in February 2002. The two countries agreed to consolidate bilateral cooperation. President Kabila met again with President Bashir in September in Khartoum. One continuing issue was the existence of about 74,000 southern and 5,000 northern Sudanese refugees in the DRC. Following fighting in October 2002 between the Congolese Patriotic Union/Popular Rally and the Lendu community in the vicinity of the Biringi refugee camp located near the DRC/Uganda/Sudan tri-point, 17,000 Southern Sudanese refugees fled but subsequently trickled back to the camp. The Sudanese ambassador in Kinshasa met with these (refugees and urged them to return to Sudan.[33] However, DRC still did not quite qualify to mediate due to her unstable political situation at home.

iv.   EGYPT

Egypt always wanted a united, moderate and cooperative Sudan as a neighbour. While this may *und straightforward, it had often led to deeply contradictory policies. Historically, Egypt considered Sudan something of a younger brother, and Cairo continued to treat events within Sudan * matters of national security. Egypt's interests included ensuring maximum supplies of Nile River »ater, maintaining Sudan as a unified state, bolstering Egyptian influence in Khartoum, and reining ® more extreme Islamist elements, especially those that directly threatened the regime in Cairo. In

A J R . Groom: *Paradigms in conflict: the Strategists, the Conflict Researcher and the Peace Researcher* 1990
foid 24, D.H. Shinn: 2003

jjdition, millions of Sudanese lived in Egypt. One high-ranking Sudanese official was quoted describing the evolution in relations between Sudan and Egypt this way: "The Egyptians no longer controlled the Sudanese government, but we now have mutual interests".[34]

Dealing with fundamentalism in Sudan had been a high priority concern for Egypt, and the sharp international fallout resulting from the 11 September 2001 terrorist attacks against the U.S. only made this perspective more pressing. Egyptian policymakers tried to dilute the influence of the more txtreme Islamists in Sudan and believed they scored a major victory with Turabi's removal. Egypt sought to marginalize Islamist elements in Sudan primarily to prevent the further radicalization of groups within Egypt. Given this perspective, Egypt desired to see Democratic Unionist Party leader Wirghani included in the government and, eventually, Vice President Taha forced out. Egypt generally viewed President Bashir as a bastion against extremism and a window into the Sudanese military, but it was nearly as suspicious of Taha as it was of Turabi. The Egyptians wanted to maintain Bashir because he was weak and because they could. He could maximize the return on their interests, for which they needed a subservient regime.[35] Support for Bashir represented an evolution of Egyptian foreign policy. In the immediate aftermath of Sudan's implication in the attempted assassination of President Mubarak in June 1995, Egypt explored overthrowing Sudan's government.[36]

Over time, however, the Egyptians shifted from a policy of isolation to one of engagement. The Egyptian Foreign Ministry generally favoured this, while the General Intelligence Services insistently advocated a harder line. Egypt's policy continued to shift as events unfolded. Certainly Cairo was uncomfortable that Vice President Taha had consolidated control, and Sadiq al-Mahdi of tie Umma Party had moved closer to the government. After the government's military defeat at Raga,

h
International Crisis Group. *Understanding the Players.* Interview in Khartoum, November 2001
Ibid 31, International Crisis Group Interview, 2001
•bid 31, International Crisis Group, 2001

gyptian General Intelligence Services also began again exploring a deeper relationship with the national Democratic Alliance after military developments. Egyptian policy remained conflicted bough the process of conflict resolution. The government moved ahead with its peace initiative, uilt around a reconciliation strategy aimed at luring northern parties back to Khartoum.[37]

U the same time, however, Cairo was very worried about antagonizing John Garang, with whom it ad a complex relationship over self-determination. Increasing southern calls for Sudanese self-eiermination, and the firming of the SPLA position on the issue, greatly concerned Cairo. The gyptian government had relied heavily on Garang to silence self-determination calls, but this rategy was having diminishing success. Notably, secession rhetoric could be explosive in the islamic community. A Sudanese opposition figure once noted that Khartoum had tried to rile up the gyptians on the basis of a Zionist threat and a U.S. conspiracy to divide the Sudan. The line was that outherners were being used by Israel and the U.S. to separate the south. The Egyptians were gripped y this conspiracy. That propaganda gained some traction in Cairo, particularly in light of anger tout events surrounding the Palestinian issue. In spite of its increasingly efficient use of water, gypt also worried about the effect that an independent Southern Sudan could have on its access to file River resources, although the SPLA had expressed a desire to be flexible. According to one top PLA official, Southern Sudanese had no interest in making claims on the water as it was too easy to ood and they would want to reclaim land, not submerge it. If Egypt did believe that a diversion genda was operative, it would likely invade militarily. Similarly, it would react sharply if Ethiopia as to embark on a major unilateral dam building initiative on the Blue Nile.[38]

Fhe

overnments of Egypt and Sudan kept finalizing agreements that would allow the former access - joint ventures - to hundreds of thousands of hectares of land in the far north of Sudan adjacent to

„   31. International Crisis Group, 2001
">id 31, International Crisis Group Interview 2001

ne Nile. This would have the practical effect of increasing Egypt's water resources. There was also discussion of sending Egyptian labourers to work in Sudanese agriculture, which would help relieve over-population in Cairo. At some point one opposition member charged that "Sudan would become water tank for Egypt and a reservoir for Egyptian labour." Historically, Egypt had negotiated water agreements with weak governments in Khartoum. They would have liked to weaken the government further. Despite the cooperation between Cairo and Khartoum, many in the latter capital deeply ::sented Egypt's heavy hand in their affairs. The Egyptians feared Sudan's use of the water, and tried lo dictate to them what to do. But they would not accept this. Cairo in general viewed its neighbours is potential threats to its water access, and did not want an "African" Southern Sudanese state. Khartoum in turn had been working in league with these same neighbours to overturn Egyptian feegemony on water resources. An Egyptian official disputed that his country opposed southern ^dependence simply because of water interests. He stated that Egypt did not fear another state because of the water issue. There were already ten countries involved in negotiating access, so that was not a big deal. Egypt wanted to see stability in the region, and a new state would destabilize I things.[39] As such Egypt could not mediate effectively due to the absolute interests they held in Sudan affairs.

DIVERSITY OF NAIROBI I'MART EAST AFRICAN*

v. E T H I O P I A

h the early and mid-1990s, Ethiopia was key to the SPLA's development of a military capability in astern Sudan. It provided extensive technical assistance and offered artillery, tank and specialized unit training. Ethiopian forces were instrumental in major SPLA victories in 1996 and 1997 and helped create a buffer zone within Sudan to prevent Ethiopian opposition groups from operating effectively from there. Since then, SPLA units resisted numerous Sudanese government offensives in

"Ibid 31, International Crisis Group Interview 2001

Je region, and local commanders credit the earlier Ethiopian support for much of their success.

Mile content to see parts of Sudan carved away from government control in the mid-1990s, Ethiopia along with its allies at the time, Eritrea and Uganda) did not want to topple the Bashir government or fear that it would be replaced by one more closely controlled by Egypt. As a Sudanese government official once claimed that Ethiopia's greatest fear was a government in Khartoum .•ontrolled by Egypt. Since the Eritrean war, and development of Sudan's oil resources, Ethiopia's wsture shifted considerably. Ethiopia and Sudan undertook an extensive rapprochement and :oncluded bilateral agreements, including on transport, energy and communications. As one pposition Sudanese military commander explained; "Ethiopia had national security interests it was ursuing. It needed Sudan's oil, its port, and the security arrangements that reduced any threats from he West. It needed a friendly government in Khartoum"."[0] As stated by Anne,[41] States with weak sonomies are at much greater risk within the international system than those with strong and productive economies. As such, Ethiopia's weak economy needed Sudan's strong economy to manage. The Ethiopian government had to sing and dance to the Government of Sudan's tune and iierefore was not an effective mediator.

imce Ethiopia continued to perceive Eritrea as more of a direct short - term security threat than Sudan, it had been eager to diversify its oil imports, much of which previously came through Eritrea's ion. Ethiopia's strategy of containment and pressure of the mid-1990s had been completely replaced. i was now based on interest. They did not want a strong Sudanese government that acted •bilaterally. For Ethiopia, Sudan was manageable now.[42] Since 1998, Ethiopia had established the 3lue Nile as an important strategic line of demarcation. It did not permit any cross-border military activity by Sudanese opposition groups north of this line, and effectively cut off some of the National democratic Alliance forces - particularly the Sudan Alliance Forces - which controlled Sudanese

^id 31, International Crisis Group Interview 2001
>d 23, A. Pitsch. 2000.
Ibid 31, International Crisis Group Interview 2001

oTitory along the border. South of this line, Ethiopia still permitted the SPLA to operate freely ктоss the border. In exchange for this relative restraint, Sudan cut off its support for the Oromo jberation Front, a guerrilla group opposed to Ethiopia, and stopped allowing it to stage operations rom Sudanese territory. Ultimately, though, the potential for an arms race, fundamental agreements over governance, paranoia over each other's support for the other's opposition, tonomic tensions and deep historical rivalries all made renewed confrontation between Ethiopia and Mdan a distinct possibility.[43] Both countries historical interests continued to fuel their antagonism igainst each other[44] making Ethiopia unsuitable for a successful mediation.

urthermore, there was a significant constituency within the Khartoum regime that remained eager to toke divisions between Ethiopia and Eritrea. In the meantime, however, Ethiopia's focus on threats rom Eritrea and Somalia left it in a position to pursue cooperation with Sudan. In the aftermath of be 11 September attack s, Ethiopia redoubled efforts with Sudan and the United States to isolate one if the main Ethiopian rebel groups, Al-Itihad al-lslamia, an Islamist organization based in Somalia nd linked to bin Laden. But many Ethiopian officials continued to see Sudan as the foremost threat a the region, particularly because of its potential ability to stir up trouble among their countries' large •ilamic population.[45] However, the collapse of the Mengistu regime in Ethiopia in 1991, dealt a sever ilow to SPLM/A because it provided SPLM/A with an operational base, military and financial upport.[46]

Ibid 31, International Crisis Group Interview 2001
„ Ibid 23, A. Pitsch. 2000.
Ibid 31, International Crisis Group Interview, 2001

W. Waihenya. The Mediator: Gen. L.Sumbeiywo and the Southern Sudan Peace Process. Nairobi. Kenway   77
blications. 2006

vi. <u>ERITREA</u>

intrea largely viewed Sudan as a national security issue and supported the deployment of National

Democratic Alliance forces across its border into eastern Sudan, in what was known as the "eastern

ronf. Eritrea feared the Sudanese government's potential to destabilize the Eritrean state, which was

ielicately balanced between Muslim and Christian populations and interests. Given Khartoum's past

enchant for supporting Eritrean armed opposition groups, this fear was not unfounded. Sudan's

astern front had the potential to become an increasingly important military theatre in the civil war,

iven its proximity to key northern infrastructure, including the pipeline and the Khartoum - Port,

udan road. To this date, however, opposition forces have not been able to sustain consistent attacks

n that infrastructure or hold significant territory. One military officer in the region commented, that

ntrea did not give the opposition training and technical support. They turned the tap on and off. But

by did not have the resources to make a big enough impact.[47] They were however strategically

solved in the conflict by rationally choosing when and how to engage in the conflictual behavior.[4*]

Opposition representatives noted that Eritrea provided continual support to the National Democratic

alliance, even at the height of the war with Ethiopia, although it also attempted periodically to

aprove relations with Khartoum as a means of undercutting Sudanese-Ethiopian ties.[4"] Sudan also

meddled in the internal affairs of Eritrea and Ethiopia which further pushed these countries into

elping the rebels.[50]

wo separate sources reported that Libyan President Qadhafi offered large compensation to Eritrea in

000 if it would end support for the National Democratic Alliance. Further, Sudan unsuccessfully

ffered to terminate its support to the insurgent group Eritrean Islamic Jihad if Eritrea would drop

ndanese opposition groups on the eastern front. Some Eritrean officials (including President Isaias

 tod 31, International Crisis Group Interview 2001
, Ibid 23, A. Pitsch. 2000.
 tod 31, International Crisis Group Interview 2001
'ftd 43, W. Waihenya. 2006

\fororki) would have actually liked to increase support for the National Democratic Alliance on the •stem front but serious internal political problems hindered this. Although Eritrea undertook its own afort at peacemaking in Sudan conflict, it remained deeply involved in the military situation like ^ny of Sudan's neighbours[51] Hence her inaptness to mediate successfully.

vii. <u>UGANDA</u>

ganda had been the most loyal and continuous supporter of the SPLA since President Yoweri fuseveni came to power in 1986. It provided support and haven and at times was directly involved i rebel offensive actions. After the loss of Ethiopia as the SPLA's main base in 1991, Uganda ecame much more important to the SPLA. To counter Uganda's support for the SPLA, Sudan long acked the Lord's Resistance Army and Allied Democratic Forces, both of which are insurgent roups that have targeted the government of Uganda. Nearly half a million people remained itemally displaced in northern Uganda as a result of the fighting between the government and the ord's Resistance Army. Many of these people were relocated to government-run "protection illages", and local leaders were increasingly anxious for the government to dismantle these camps, iow people to return to their home areas and provide adequate protection in these areas.[5]" Uganda Jvernment operated under the world society paradigm with the conflict embracing many different *els, crossing disciplinary boundaries without compunction. By this, a movement could take place wards a resolution based on a new set of legitimized relationships which were self supportive. "

lid 31, International Crisis Group Interview, 2001
bid 31, International Crisis Group Interview 2001
kid A. J R. Groom: 1990

ganda's continuing involvement in the Congo cut into some of its support for the SPLA, and efforts former U.S. President Jimmy Carter and Libya's Qadhafi to improve relations between Sudan and ganda yielded some results, most importantly, a fissure in the relationship between Khartoum and x Lord's Resistance Army (LRA). Interestingly, Sudan became an important investor in Uganda, nd this level of engagement signaled a shift in relations. However in March 1995, the Sudanese jovemment bombed Uganda, prompting the president to break diplomatic ties with the Sudanese jovemment and increase support fort he SPLM/A.[54] In late August 2001, on the margins of an :.temational meeting in Kampala, President Bashir unexpectedly announced that his government was nthdrawing all support for the Lord's Resistance Army, proclaiming: "We are proceeding towards a ew era based on the fact that Sudan is not supporting any opposition group in the region". Bashir penly acknowledged earlier support for the group, saying it was in response to Ugandan help for the iPLA, and called on Uganda to stop backing the SPLA. Bashir's announcement failed, however, to xtract a pledge from Uganda on the SPLA. Instead, it sparked off increased banditry and a series of nilitary operations by the Lord's Resistance Army against Sudanese government forces. A number of nildren abducted by the Lord's Resistance Army escaped and revealed the extent of the fighting, lashir's proclamations spurred some defections from the Lord's Resistance Army. However, ganda's refusal to curb its support for the SPLA likely soured the two governments' attempts at yprochement. Museveni's sentiment in support of southern Sudanese independence would only add tfther fuel to the fire,[55] making Uganda not a viable mediator. Uganda was not neutral as she ^ported SPLM/A by providing them with arms. Hence was not neutral in the Sudanese pvemment's eyes.[56]

ibid 43, W. Waihenya. 2006
fcid 31, International Crisis Group Interview 2001
Interview of the researcher with Sudan Embassy Official, in Nairobi on 28-7- 2009

VIII.   <u>LIBYA</u>

jbya's President Qadhafi intermittently supported both the government and the rebels. He partnered nth Egypt to sponsor the Libyan-Egyptian Initiative and opposed a self-determination referendum or the south for reasons similar to those of Cairo. Also like Egypt, Libya supported Bashir in ousting jrabi. Qadhafi worked assiduously to improve relations between Sudan and Uganda. His greatest merest was in using a potential peace deal to promote his image as a continental leader, and [hartoum played on that expertly.[57] Libya got into the mediation of the North-South conflict because what she could benefit from it. This is in light of the reasons why States get involved in a conflict ^solution; Libya's interests' also included economic links with Darfur in western Sudan as well as fee large number of Sudanese living in Tripoli. Although their cooperation on Sudan was not without gnificant strains, Egypt insisted on Libya's direct participation in the peace process even if this ade the U.S. uneasy. [58] Egypt and Libya came to the negotiating table but they were rejected by SPLM/A because they were not neutral. They would side with the government of Sudan.[5"]

'bid 31, International Crisis Group Interview 2001

IW 31, International Crisis Group Interview, 2001

nterview of the researcher with Sudan Embassy Official, in Nairobi on 28-7- 2009

13. 0: STAGES IN THE MEDIATION PROCESSES OF SUDAN NORTH-jOUTH CONFLICT

\s cited in chapter 1, the history of the country reveals that several major conferences were convened p an attempt to settle the conflict between the North and the South in the hope of reconstituting a ttceful and inclusive modern state in the Sudan.[60] The parties to the conflict could not come to an ureement on their own and hence resulted to having third parties coming in to try change the •wceptions of either parties in light of mediation being a process of conflict mediation, as prescribed y Bercovitch . The peace conferences were summed up into five phases by Kwaje, of which, this aper will allude to. They include: Phase 1 (held in 1947-1972) and involved a number of onferences and addressed the first conflict known as the Anya-nya war that started from 1955 to 572. The phase included The Juba Conference of 1947, The Khartoum Round-Table Conference of '565 and the Addis Ababa Agreement of 1972 which was brokered at this phase. The objective of tie Anya-nya war was the independence of Southern Sudan. The Southern Sudan Liberation Movement (SSLM) and its military wing could not achieve this and they settled for a local autonomy pder the agreement for Southern Sudan. It ended with the independence of Sudan before the second •ar began."[2] This paper terms this second war as the North-South conflict.

'ase 2 of negotiations, held in 1986-1988, ended when the National Islamic Front staged a coup. Hae 3 of negotiations was held in 1989-1993 and were termed as the Abuja negotiations. No <?eement was reached and no communique was issued. The fourth phase held in 1994-2001 and was Howed by Phase five held in 2002-2005. This was seen as the rejuvenation of the IGAD peace "ocess that became the Machakos Phase. It is at this phase that a seemingly successful peace deal

tod 1, S. L. Kwaje. 2004
tod 7, J. Bercovitch, 1991.
tod 1, S. L. Kwaje. 2004

T

3S signed ending the conflict between the North and the South of Sudan as discussed in this paper in :e subsequent chapters.

snarkably, the standing committee on Peace in Sudan established in 1994 mandated Kenya to rediate the conflict. The negotiations were launched in Kenya in March 1994.''' This contravened the impartiality notion of mediation as forwarded by Bercovitch[64]. As pointed out in chapter 1, Kenya at this period hosting the SPLA/M leadership and the Sudanese refugees at the time of her [election as the chief mediator.

3.3.1: PHASE TWO: 1985-1988

His phase addresses mediation attempts by the SPLM/SPLA after the start of the 1983 war and efore the National Islamic Front (NIF) Government, presently called, the National Congress Party NCP) of Omer el Beshir, who ascended to power through a military coup. Efforts for the peaceful ^solution of the conflict included various attempts:[65]

a) <u>March 1985</u>

The SPLM called for the holding of a National Constitution Conference, which was to be organized by the SPLM and the Nimeiri regime before the latter was overthrown by popular uprising of the Sudanese people in April 1985. Nimeiri had accepted the proposal as at the time. Most problems in Sudan were attributed to a non-existence of a permanent constitution for the Sudan and lack of functional political structures. The proposed Constitutional

Md 1, S. L. Kwaje. 2004
'»id 7, J.Bercovitch, 1991.
W 1, S . L . Kwaje. 2004

Conference was expected to address these issues but Nimeiri backed out and the conference never took place/" Because mediation is a voluntary form of conflict resolution,[67] no one could force Nimeiri back to the negotiating table.

b) <u>March 1986: Koka Dam, Ethiopia.</u>

After the overthrow of Nimeiri in 1985, the SPLM started to make contacts with political groups in the Sudan. This resulted in the Koka Dam Conference between the SPLM, Trade Unions in the country and various Sudanese Political parties including the UMMA party, the Sudanese Communist Party and Southern Sudan Political Parties resulting in the Koka Dam Declaration. The National Islamic Front (NIF) and the Democratic Unionist Party (DoP) did not attend the Koka Dam Conference.[68]

c) <u>November 1988: Addis Ababa, Ethiopia</u>

The SPLM and the DUP had a major conference that resulted in the signing of the Sudan Peace Initiative (SPI). This was after the DUP failed to attend the Koka Dam Conference. The SPI called for a constitutional conference where both parties agreed it to be held on July 4[lh] 1989. The SPI also endorsed the Koka Dam Declaration. However this was pre-empted by the NIF military coup of June 30[.h] 1989, four days before the scheduled date of the conference; hence prompting the speculations that the NIF coup was aimed to torpedo the constitutional conference.[69]

lid 1. S. L. Kwaje. 2004
➡xi 7, J.Bercovitch. 1991
3*11 S. L. Kwaje. 2004
3*11, S. L. Kwaje. 2004

3.2: **PHASE THREE: 1989-1993**

"-$ phase started after the National Islamic Front (NIF) currently governing the Sudan under the .jnonal Congress Party (NCP) took power. A number of negotiations were also undertaken under -s phase:

a) <u>August 1989: Ethiopia</u>

Direct talks were undertaken between the SPLM and NIF government without any external mediator(s). No progress was made at these talks.[70] This supported Zartman and Touval's[71] argument that, conflicting parties cannot find a solution by themselves without intervention by a third party. However this hypothesis cannot stand on its own because eventually an agreement was reached by the parties at different stages without the outside interventions.

b) <u>December 1989: Nairobi, Kenya</u>

These were initially direct talks between the SPLM and the NIF Government without any external mediation, but during the talks the mediation of former USA President, Mr. Jimmy Carter, was subsequently secured. Nothing came out of these talks.[7']

c) <u>May/June 1992: Abuja 1 Negotiations</u>

The negotiations were under the mediation of the then Nigerian President Ibrahim Babaginda, when he was chairman of the OAU. A communique indicating some modest progress was issued at the end of the negotiations.

ibid 1, S. L. Kwaje. 2004
Ibid 2, W.I. Zartman & S. Touval: 1998.
Ibid 1, S. L. Kwaje. 2004   .

d) <u>April/May 1993: Abuia 2 Negotiations</u>

These were a continuation of Abuja-1 talks[73]. There was no agreement reached and no communique was issued. The Nigerian mediators issued a press statement adjourning the negotiations for one month, but they were never held again thereafter,[74] until 1994 when there was a change in the chief mediator. Overall, it can be stated that the Abuja negotiations broke down because key leaders were not involved in the negotiations in as much as Nigeria was not neutral enough.[75]

533: PHASE FOUR: 1994-2001

Piis phase marks the beginning of IGAD as mediator to the Sudan conflict. The peace efforts by the :untries of Inter-Governmental Authority on Development (IGAD) started in 1993 when the Sub-t:mmittee on Peace in the Sudan was constituted in December 1993 in Entebbe Uganda. The IGAD sub-Committee was entrusted with the responsibility of bringing the Sudanese conflict to an end tough a negotiated settlement.[7]" Here we note that it was not the warring parties that sought the **IjAD** intervention but an outside party was imposing itself on the warring parties to mediate on the aflict. This negates the notion presented by Bercovitch [7] that mediation is a voluntary form where pe adversaries in a conflict choose whether to begin or continue mediating. The self-imposing party **KAD)** was not focusing at the ripeness (period at when the combatants are willing to re-evaluate feir policies) of the conflict.

Stephen. *The Battle for Peace.* Princeton University Press; 1996

i»d 1, S. L. Kwaje., 2004

^erview of the researcher with Sudan Embassy Official, in Nairobi on 28-7- 2009

1, S. L. Kwaje. 2004

W 7, J. Bercovitch, 1991.

7: February 1994, in Addis Ababa, the President of the Republic of Kenya was mandated to mediate ji chairman of the Sub-Committee for peace in Sudan. Thereafter, the Session of the Standing :mmittee was convened in Nairobi from 18th - 24th March 1994 to define the principles that instituted the framework for negotiation known as the Declaration of Principle (DoP). The DoP **acluded** a number of provisions related to human rights and also held that the unity of Sudan be **;»en** priority - provided that the social and political system was secular and democratic, and rsources were equitably shared.[78] It can be noted that this was relatively accepted as it addressed the **sue** of resources and removed competition over resources; one of the contributions to the conflict.[7"] "us began a process of success in the mediation of the North-South conflict.

July 1994, the Third Session was convened in Nairobi to deliberate on the Draft Declaration of Principles, which identified the key issues of disagreement; that is, separation of state, Religion and : ght to Self-determination. The Fourth session was held on September 6th-7[lh] 1994 n Nairobi. The rsitions of the parties to the conflict continued to harden and polarized even further. This led to the ravening of the Second Summit of IGAD Heads of State Peace Committee in Nairobi on 19th September 1994. It resolved that the IGAD peace process would continue and the Declaration of mciples (DoP) would form the basis of negotiations.[80] The negotiations stalled for 33 months due disagreements over the DoP. The Government of Sudan (GoS) refused to accept some points in the P. In the absence of agreement on these principles, it suggested that the South would have the right self-determination through a referendum. The document was fully endorsed by the SPLM/A, but scted by Khartoum.[81] SPLA/M endorsed the document fully because it was what they wanted •entity. They would have their basic need and core values taken care of if and when the South same self-determined. However, the GoS rejected it because they would loose control of a major

hdl.S. L. Kwaje. 2004
N 23, A. Pitsch. 2000, as discussed by J. Rothman.
'GAD Heads of States Communique issued in State House Nairobi,; 19th September 1994
"to 1, S. L. Kwaje. 2004

*tof the country. This again negated Bercovitch's[82] view that mediation offers the possibility of a

.itly accepted outcome without giving in on one party's core values and beliefs. For peace to be

i-jeved, it was clear as time went by that core values would have to be relinquished by both the

,3rin g   parties.

»as not until 1997 that an Extraordinary Summit of IGAD member States was convened in Nairobi

-?m 8 - 9th July, which called for the revival of the negotiations. It was only then that the

•ovemment of Sudan took a positive step by accepting the DoP as the basis for future negotiations.*'

n22[n<:] September 1997, the Talks resumed under the IGAD ministerial Sub-Committee Meeting

»ich agreed on the establishment of a permanent IGAD Secretariat and appointment of a special

Doy from Kenya while each member state provided an Envoy.[84]

be second session of the Ministerial Sub-Committee meeting was held in Nairobi from 4th-6th May

38 where it was agreed that self-determination would be exercised in the South during an interim

piod. The referendum on the right of self-determination was to be monitored by international

servers. The parties further agreed to facilitate free and unimpeded flow of humanitarian assistance

areas affected by famine.[85]

* Third session of negotiations convened in Addis Ababa from 4th - 6th August 1998 where it was

-^ed that the south should be determined by the border of I[s1] January 1956. However Khartoum

     to sign a communique reaffirming this fact.[86] The two sessions in Addis Ababa in August

'39 and in Nairobi in December 1989, failed because the parties could not agree on the contentious

I'd 7, J.Bercovitch, 1991.
JAD Heads of States Communique issued in State House Nairobi 9th July 1997
«d 1, S. L. Kwaje. 2004
id 1, S. L. Kwaje. 2004
fcd 1, S. L. Kwaje. 2004

•saeof sharia law. As noted by Sumbeiywo[87]. Bashir was not interested in peace, often stalemating is at the slightest opportunity.

"x Fourth Session of the IGAD Ministerial Sub-committee meeting was held from 19^-23* July *9 in Nairobi. This session agreed on the establishment of a permanent structure for conducting the iotiations. Therefore it was decided that negotiations under the Secretariat were to be conducted ;certwo Technical Committees: Political and Transitional Committees.[88]

* first Political Committee meeting was held from 15th — 21st January 2000 where the common reas of understanding and points of difference were established. These were identified as State and iiigion, the marginalized areas (Abyei, Southern Kordofan and Southern Blue Nile), the right to ^[-administration, wealth and power sharing and the status of the two armies (SPLA and Sudan faned Forces).[89]

fx second and third Political committee meeting was convened from 21^{sl}-26th February 2000 and i^* April 2000 respectively. They attempted to narrow down the differences but there was no loess. The parties reconvened from 21st September- 1st October 2000. At this fourth Political mnittee meeting the envoys presented to the parties a proposal that attempted to derive a common und position on state and religion, the issue of marginalized areas, self-administration and wealth aing. No agreement was reached in these talks.[00]

Jid43, W. Waihenya. pp 70.
"ad 1, S. L. Kwaje. 2004
1, S. L. Kwaje. 2004
W 1, S. L. Kwaje. 2004

CHAPTER OVERVIEW

3>ite the hostilities mentioned above, the people of Sudan represented by SPLA/M agreed to have *sya as their chief mediator to the conflict. On the other hand Kenya and Sudan government had -jitained cordial relations since Kenya's independence in 1963. In light of the trade avenue that >sya represented, IGAD's mandate to Kenya to lead the effort to end the conflict in Sudan was, •refore, appreciated by both the SPLA and the government of Sudan. Kenya had a positive stake i both warring parties. Lokichogio in the northwest comer of Kenya had been for many years the iging point for humanitarian assistance provided by international organizations and non- emmental organizations to Southern Sudan. This was yet another evidence of the "emationalization of the North-South Sudan conflict. Kenya's 232-kilometer long border with ian was not particularly significant but it allowed the passage of 67,000 Southern Sudanese rjgees into Kenya. In October 2002 the governments of the two countries established a common wrier livestock market to enable Turkana pastoralists in Kenya and Toposa in Sudan to trade their -Jinals, negating the ethnic conflict theory. Trade was also increasing between the two countries. He sale to Kenya of one controversial Sudanese commodity—oil—was reportedly stopped, in part « to criticism from Kenyan politicians that it aided Sudan's war effort."

ixn the Sudanese perspective, Kenya arguably had the most cordial relationship with Khartoum oong Sudan's nine neighbors. This was confirmed by Sudanese representative who was "erviewed. Kenya was selected as a chief mediator because Kenya was seen as a neutral country by Wh warring parties and was viewed as a stable country. She was not also involved in a conflict with «v of the neighbours. This had earned her trust and respect in the region'[2]. This was surprising sause most Kenyans tended to be sympathetic towards the SPLA/M. The late Kenyan

W 24, D.H. Shinn, 2003
ictview of the researcher with Sudan Embassy official. Interviewed in Nairobi on 28-7-2009

•amentarian Wanyiri Kihoro reflected this view in an interview with the East African Standard, pc argued that the African Union must reject the domination of Southern Sudan by the north and isnoned against the purchase of Sudanese oil, calling it "blood oil." In spite of these sympathies ithe SPLA/M, Kenyan relations with Sudan government remained cordial.[93]

iaiya was an ally to both the SPLA/M and also to the Sudanese Government, supporting each party one way or the other. Interestingly this was not a threat to the warring parties as signified in their ..eptance of Kenya as their key mediator. Notably, since the inception of Kenya as the chief ediator to the Sudan North South conflict there was considerable progress in settling the conflict. It ader Kenya's mediation that a Comprehensive Peace Agreement was reached.

us achievement of the CPA stands out in comparison to the previous mediators that were involved "he peace process before Kenya, who achieved minimal progress as a result of the interests that fich mediator held as presented in past discussions in this paper. The SPLA/M were happy with the fay the CPA had been written. It was a unique agreement as it had power division (between the rth and South); had two governments set out, had also two presidents; there was agreeable ricipation in the government until 2011 for both sides and the wealth sharing was well stipulated. x government agreed because SPLM/A which had been rejecting previous agreements was now reeable to the CPA.[94]

aya's preexisting good relationship with both the warring parties aided effective communication *d facilitated development of creative proposals. Both the adversary parties viewed such a anonship as evidence that the mediator could effectively pressure the other party into a settlement. "ause Kenya was a signatory to the UN resolution on refugees, she could not deny entry to

[bid 24, D.H. Shinn, 2003
3ttview of the researcher with Sudan Embassy official. Interviewed in Nairobi on 28-7-2009.

inese refugees into the country. She encountered pressure as she was a neighbor with Sudan. did not take any compromising positions with the Sudanese warring parties. This made her ..eptable to both parties to mediate. Kenya did not support SPLA/M financially or militarily as this old have compromised her position and capability to mediate.[95] The mediator's success and nation subsequently rode on their ability to deliver their ally into a settlement. And so again the . ersary party was reassured that the mediator was strongly motivated to reach an acceptable clement. This negates Bercovitch's view of impartiality[96] as there is evidence that there was a high elihood that both warring parties agreed to Kenya's mediation as the chief mediator because they :-eived Kenya would influence the other party to their favour. Also the SPLA/M and the Sudanese vernment decided to finally sign the agreement through Kenya's mediation unlike another -intry's mediation as was the case with past mediation for various reasons. Key among them was 2 it was ripe moment for Kenya to mediate the North-South Sudan conflict.[97]

pnda was not neutral as she supported SPLM/A by providing them with arms. Hence was not sural in the Sudanese government's eyes. Egypt and Libya came to the negotiating table but they re rejected by SPLM/A because they were not neutral. They would side with the government of -ian. The Abuja negotiations broke down because key leaders were not involved in the negotiations 2 much as Nigeria was not neutral enough.[9"] In addition, the Ugandans were at conflict with the •imese Government over the Lord's Resistance Army which was fighting the Ugandan •ernment from its base in Sudan, Eritrea and Ethiopia had just ended a border war with each sr."

wview of the researcher with Official from the Ministry of Foreign affairs. Interview in Nairobi on 22-7-2009
kd 7, J.Bercovitch. 1991.
urview of the researcher with Official from the Ministry of Foreign affairs. Interview in Nairobi on 22-7- 2009
iffview of the researcher with Sudanese Embassy Official. Interview in Nairobi on 28-7-2009.
•*J43, W. Waihenya. 2006

dit of our discussion in this chapter, about Kenya's impartiality, we are brought to a conclusion l«a mediator to a given conflict does not have to be impartial and non-coercive to get a positive .ement. The mediator can actually be involved on both sides of the warring parties and still iiate effectively and successfully, as was the case with Kenya in the Sudan North-South conflict, ^ace begging an answer as to whether there is need to review the criterion for selection of mediators x various conflicts in given states.

CHAPTER FOUR

CRITICAL ANALYSIS OF THE CHOICE OF MEDIATOR

A linkage between chapter 2 and 3 will be drawn as well as the analysation in this chapter. The key themes will be presented and the interviews merged. 4 people were interviewed. They were representatives from the South Sudan Administration, Sudanese Embassy and Kenyan Government.

Despite the hostilities mentioned in chapters 2 and 3, the people of Sudan represented by SPLA/M agreed to have Kenya as their chief mediator to the conflict.[1] On the other hand Kenya and Sudan government had maintained cordial relations since Kenya's independence in 1963 with the various governments of Sudan.[2] In light of the trade avenue that Kenya represented, IGAD's mandate to Kenya to lead the effort to end the conflict in Sudan was, therefore, appreciated by both the SPLA and the government of Sudan. Kenya had a positive stake with both warring parties. 'Kenya was selected as a chief mediator because Kenya was seen as a neutral country by both warring parties and was viewed as a stable country. She was not also involved in a conflict with any of the neighbours.'[3] This had earned her trust and respect in the region. She also did not take sides with warring parties. Kenya also had a non-interference policy in internal matters in other countries. She had more experience compared to the other East Africa countries and had been involved in many conflicts. As such Kenya was seen as a forum of peace maker in Africa as well and Kenya was also peaceful since her independence and as such was a favourable entity to mediate.[4] Kenya also received considerable support from international community during this period of mediation unlike

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[1] For futher discussion on Kenya as a mediator see Chapter 3 from page 65.
[2] For futher discussion on the Sudan conflict and the various governments see Chapter 2 from page 49.
[3] Interview of the researcher with Sudan Embassy Official. Interview in Nairobi on 28-7- 2009.
[4] Interview of the researcher with Kenyan government official from Ministry of Foreign Affairs. Interview in Nairobi on **22-7-2009**

the case was before. Kenya had good relations with Sudan. Their sharing a boarder also facilitated the cooperation.[5] Kenya's 232-kilometer long border with Sudan was not particularly significant but it allowed the passage of 67,000 Southern Sudanese refugees into Kenya. In October 2002 the governments of the two countries established a common border livestock market to enable Turkana pastoralists in Kenya and Toposa in Sudan to trade their animals, negating the ethnic conflict theory. Trade was also increasing between the two countries.[6] This discussed more in chapter three.[7]

Kenya was successful in the mediation process for a variety of reasons. During the former president's regime (Moi), Kenya had been engaged in negotiations. As such she had experience and expertise in the area of negotiations. This endeared her to the Sudan warring parties.[8] Because Kenya was a signatory to the UN resolution on refugees, she could not deny entry to Sudanese refugees into the country, as seen in Chapter three.[9] She encountered pressure as she was a neighbor with Sudan.[10]

Kenya did not take any compromising positions with the Sudanese warring parties. This made her acceptable to both parties to mediate. Kenya did not support SPLA/M financially or militarily as this would have compromised her position and capability to mediate. Thus Kenya was not partial to the warring parties from their view point. She was a neutral body in the eyes of Sudan and was neutral in the region. Kenya did not support any of the warring party militarily, hence was seen as neutral. Through IGAD Kenya was holding the IGAD chairmanship by that time. She could not therefore afford to be biased despite her friendship with SPLM/A." Kenya was seen as impartial as she was not involved directly in the conflicting time and as such was not seen as a favouring party.

Interview of the researcher with Sudan Embassy Official. Interview in Nairobi on 28-7- 2009.
^D.H. Shinn: Situation Report: Sudan and her Neighbours. Africa Security Analysis Programme (ASAP). 2003
For father discussion on Kenya see Chapter 3 from page 65-69.
Interview of the researcher with Sudan Embassy Official. Interview in Nairobi on 28-7- 2009.
For more discussions on Kenya see Chapter 3 from page 65-69.
Interview of the researcher with Kenyan government official from Ministry of Foreign Affairs. Interview in Nairobi on 22-7-2009
Interview of the researcher with Sudan Embassy Official. Interview in Nairobi on 28-7- 2009

All the other countries were looking at Kenya's role keenly and she did not want to found wanting in her mediation role.[12]

The SPLA/M and the Sudanese government decided to finally sign the agreement through Kenya's mediation unlike another country's mediation as was the case with past mediation for various reasons. Key among them was that it was ripe moment for Kenya to mediate the North-South Sudan conflict.[13]

From the Sudanese perspective, Kenya arguably had the most cordial relationship with Khartoum among Sudan's nine neighbors.[14] Uganda was not neutral as she supported SPLM/A by providing them with arms. Hence was not neutral in the Sudanese government's eyes.[15] Egypt and Libya came to the negotiating table but they were rejected by SPLM/A because they were not neutral."' They would side with the government of Sudan. The Abuja negotiations broke down because key leaders were not involved in the negotiations in as much as Nigeria was not neutral enough[1'] as presented in chapter three.[18]

The SPLA/M were happy with the way the CPA had been written. It was a unique agreement as it had power division (between the North and South); had two governments set out, had also two presidents; there was agreeable participation in the government until 2011 for both sides and the wealth sharing was well stipulated. The government agreed because SPLM/A which had been rejecting previous agreements was now agreeable to the CPA.

Interview of the researcher with Kenyan government official from Ministry of Foreign Affairs. Interview in Nairobi on 22-7-2009.

[13] Interview of the researcher with Kenyan government official from Ministry of Foreign Affairs. Interview in Nairobi on 22-7-2009.

[14] Ibid 4, H. D. Shinn, 2003

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[16] For futher discussion on Uganda see Chapter 3 pages 79-80.

For futher discussion on Egypt and Lybia see Chapter 3 pages 72-75 and 81.

Interview of the researcher with Sudan Embassy Official, in Nairobi on 28-7- 2009

For futher discussion on Abuja negotiations see Chapter 3 pages 85-86.

International pressure and regional pressure made the two warring parties enter into an agreement and uphold the agreements they entered into before the CPA. The IPF provided the resources and the support that were needed for the negotiations to be undertaken successfully. It was a concerted effort between IGAD and the IPF. These included the EU, America and Japan. They also provided the needed logistics and pressurized both warring sides. As quoted by Sumbeiywo[19], IGAD had no money at all and the donors were unwilling to commit new monies then because they did not have faith in its ability to achieve its goals. The IPF was not also involved earlier on hence not much pressure to the warring parties leading to a failure of the previous negotiations. The warring parties were determined to reach an agreement because of the international pressure they were receiving due to the suffering of people in their country- the humanitarian crisis that was being witnessed in the South Sudan.[20] This goes to show that the international community is needed for a successful mediation to be reached.

This type of mediation cannot be applied to all conflicts. Each conflict has its dimensions and as such should be handled differently in respect to the conflict under mediation. The peace mediation for Sudan cannot be applicable to all. The CPA is not for all countries because not all conflicts demand cessation/ self-determination, e.g. Somalia, Congo. However the way of pressuring the parties can be used. IPF should be involved in African conflicts because of logistics support and pressure that they give to the warring parties.[21]

Some of the impacts and benefits that resulted from the mediation process was that Peace was signed. Movement of artillery and other ammunitions was stopped - from the North to the south.

" W. Waihenya. *The Mediator: Gen. L.Sumbeiywo and the Southern Sudan Peace Process* Kenway Publications. Nairobi. 2006
 Interview of the researcher with Sudan Embassy Official. Interview in Nairobi on 28-7- 2009
[21] Interview of the researcher with Sudan Embassy Official. Interview in Nairobi on 28-7- 2009

Arabs troops were withdrawn from the south. Negotiations for Abyei boarder started. The issues between the North and the South now are easier to solve if the two parties are committed to the peace arrangement. They can agree to separate amicably or equally share resources. Using a mediator at this stage would amount to wastage of resources as well.[22]

There were no mechanisms put to monitor or to guarantee from IGAD to maintain peace process. If CPA broke there was no mechanism to pressure the side that breaks the CPA. There are no judges for this. There was no commitment in protocols to be done. It was not clearly stated by the CPA how the agreement would be monitored and evaluated. There was no provision to affirmatively bind parties to report to an overseeing / monitoring body. Notably there had been delaying tactics especially from the North. Also ceasefire should be imposed by the international community at the onset of the civil war. This would save a lot of lives and stop unnecessary destruction of property.

' It was notably realized during the interview that the choice of the individual undertaking the mediation process played a critical role. In the case for Kenya, the chief mediator was represented I by General Sumbeiyo. This worked as an additional positivity to the mediation process as he was known by both warring parties and he worked previously as an army person. His profession was in the same line with the warring parties and as such was able to speak a language that the parties would understand - the language of combat. The weight behind General Sumbeiywo was also considerably strong and effective for the negations success. His professional capability helped. He constantly and amicably pressed the two parties to go on with the negotiations until they finally signed the peace agreement. Thus the chief mediator needs to be someone in the same professional field as the warring parties for them to gain success in the mediation platform.

: Interview of the research assistant (R. Mutuku) of South Sudan Administrators in Sudan, 2009

4.1: CHAPTER OVERVIEW

Various strategies were used in the mediation process of Sudan. These included the communication-facilitation strategies, which describe mediator behavior at the low end of the intervention spectrum. Here the initial mediators adopted a fairly passive role, channeling information to the parties, facilitating cooperation, but exhibiting little control over the more formal process or substance of mediation. This was a very important role in the conflict when warring parties lacked direct channels of communication, had different conceptions of the central issues, and/or did not even have the opportunity to explore any options that might have benefited both of them.[23]

Other forms of strategies used were the procedural strategies, which enabled mediators to bring both parties together, in some neutral environment, like Kenya where they (the mediator) exerted some control over the conflict management process. Here the mediator-exercised control over timing, issues on the agenda, meeting place and arrangements, media publicity, the distribution of information, and the formality or flexibility of the meetings. Procedural strategies give a mediator the opportunity to control aspects of interaction. This is very significant for parties in a conflict who may not have had an opportunity to interact together in any other place save the battlefield (as was the case with Sudan)[24]. The procedural strategies helped to minimize stress and disruption that arose when the two or more conflictual parties who had little history of peacemaking got together to deal with their conflict. Both the communication-facilitation and procedural strategies were used in the mediation process by the various mediators that came in to solve the conflict, including Kenya.

Co-mediation was advocated for as people always have different ideas and opinions and other experienced mediators would have made the process to run faster. The other mediators especially

" Bercovitch, Jacob and Allison Houston. "Why Do They Do It Like This?" *Journal of Conflict Resolution,* Vol. 44. No. 2, 2000. pp. 170-202
;[4] Ibid 12, W. Waihenya, 2006.
[25] Ibid 16, Bercovitch, Jacob and Allison Houston. 2000.

IPF helped balance the peace process expanding its neutrality.[26] The chief mediator managed to bring the parties to an agreement because he was experienced in his work and consultation with other advisers from outside also helped. International support was also key.[27]

Kenya was an ally to both the SPLA/M and also to the Sudanese Government, supporting each party in one way or the other. Interestingly this was not a threat to the warring parties as signified in their acceptance of Kenya as their key mediator. Notably, since the inception of Kenya as the chief mediator to the Sudan North South conflict there was considerable progress in settling the conflict. It is under Kenya's mediation that a Comprehensive Peace Agreement was reached.

This achievement of the CPA stands out in comparison to the previous mediators that were involved in the peace process before Kenya, who achieved minimal progress as a result of the interests that each mediator held as presented in past discussions in this paper.

Kenya's preexisting good relationship with both the warring parties aided effective communication and facilitated development of creative proposals. Both the adversary parties viewed such a relationship as evidence that the mediator could effectively pressure the other party into a settlement. The mediator's success and reputation subsequently rode on their ability to deliver their ally into a settlement. And so again the adversary party was reassured that the mediator was strongly motivated to reach an acceptable settlement. This negates Bercovitch's view of impartiality[28] as there is evidence that there was a high likelihood that both warring parties agreed to Kenya's mediation as the chief mediator because they perceived Kenya would influence the other party to their favour.

; Interview of the research assistant (R. Mutuku) of South Sudan Administrators in Sudan, 2009
; Interview of the research assistant (R. Mutuku) of South Sudan Administrators in Sudan, 2009
[28] J. Bercovitch. *International Mediation and Intractable Conflict.* 1991. Huw.bevondintractabilitv.org/rTi/med_intractable_conflict.isp-68k.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

The chapter will undertake an overview of the discussions citing the concluding results from the analyzations undertaken in the previous chapters. Recommendations will be presented in this chapter. It will give reference to the objectives of the study as well as the hypotheses that were presented in chapter one.

Chapter one presented the questions of study. It questioned the need for impartiality of the chief mediator bringing to the fore the factors that lead to the selection of the chief mediator. This is answered in chapter 3 where we see that the impartiality of a mediator is relative to the warring parties. Chapter two gives a background of the conflict giving a picture of the political situation in the country that led to the mediation process difficult to achieve. It also tries to explain the reasons behind the ideologies that brought up the definition of the conflict as a North South Sudan conflict. Chapter three discusses the different mediation initiatives that were undertaken and the reasons that made Kenya be selected as a chief mediator. This meets our first objective that seeks to examine the factors that led to the selection of Kenya as a chief mediator. Chapter four gives an analysation of chapters two and three merging the themes in both.

Confirming our first hypothesis that the chief mediator does not need to be impartial to the warring parties for a successful mediation to be achieved; brings us to the notion that partiality is relative to the parties at war. They determine what partiality of the mediator is. As noted by Bercovitch and Schneider, there is empirical evidence to suggest that mediators from the same bloc as the parties in

conflict are more likely to be acceptable and effective than mediators from different blocs.[1] In addition, an official policy of neutrality is not so big an asset in a mediator's portfolio in militarized disputes." In light of our discussion in chapter 3, about Kenya's impartiality, we are brought to a conclusion that a mediator to a given conflict does not have to be impartial and non-coercive to get a positive settlement. The mediator can actually be involved on both sides of the warring parties and still mediate effectively and successfully, as was the case with Kenya in the Sudan North-South conflict. Hence begging an answer as to whether there is need to review the criterion for selection of mediators in the various conflicts in given states.

Our second hypothesis is also confirmed from the study undertaken. This states that successful mediation is dependent on the mediators and not the parties at war. This was evidenced by the failure of previous mediators not getting a successful agreement until other new mediators that included the IPF came onto the stage. As seen in chapter 3[3], the success of the mediation is dependent on the type of mediators. The previous mediators were not favourable to the warring parties, hence did not get a successful agreement. Chapter three and four give an indication of the motivations that caused the warring parties to agree to sign the Comprehensive Peace Agreement, meeting our second objective set out in chapter one. As exemplified from our interview, The IPF was not also involved earlier on hence not much pressure to the warring parties leading to a failure of the previous negotiations. The warring parties were determined to reach an agreement because of the international pressure they were receiving due to the suffering of people in their country- the humanitarian crisis that was being witnessed in the South Sudan.[4]

[1] J. Bercovitch & G. Schneider, *Who Mediates? The Political Economy of International Conflict Management; Journal of Peace Research.* 2000. pp 152
|Ibid 1, J. Bercovitch & G. Schneider, 2000. pp 162
[5] For father discussion on Kenya as a mediator see Chapter 3 from page 65.
[4] Interview of the researcher with Sudan Embassy Official. Interview in Nairobi on 28-7- 2009

Also identified is that the chief mediator needs to be one in the same field of operation/profession as the warring parties for them to make meaningful headway in the mediation process. As quoted by Moi[5], it is unusual for a soldier ideally meant to make war, to venture into intense negotiations and at the end of them make peace. This was definitely a new discovery in the academic arena as well as theoretical field. The task required a man who knew the art of war who also knew how to use that knowledge to attain peace. The protagonists in Sudan were basically military people. As this study has shown us, it therefore required a man who knew how the mind of a military man works to do the task." As presented in chapter four, the chief mediator managed to bring the parties to an agreement because he was experienced in his work and consultation with other advisers from outside also helped. International support was also key.[7]

Also revealed in the findings is that there is need to have the mediators in the arena of implementation in order for the warring parties to implement agreements. Failure to this, the agreements will fall and there might be a return to conflict. This negates our third hypothesis that states that mediators should leave the scene for the warring parties to implement the agreement.

5.1: RECOMMENDATIONS

In light of our third objective, the recommendations are presented to provide research based views that would improve the success of mediation of intra-state conflicts. From previous chapters, it has been realized that the mediating actors should not leave the stage once the mediation is completed in order to maintain a peaceful coexistence among the warring parties; as the case in the past has been among African states where the states have not been able to maintain peace after a conflict

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[5] See Foreword in W. Waihenya. *The Mediator: Gen. L.Sumbeiynv and the Southern Sudan Peace Process* Kenway Publications. Nairobi. 2006
[6] W. Waihenya. *The Mediator: Gen. L. Sumbeiywo and the Southern Sudan Peace Process.* Nairobi. Kenway Publications. 2006
Interview with research assistant (R. Mutuku) of South Sudan Administrators in Sudan. 2009.

without external influence. This type of scene continues to be the case for Sudan even after the North-South Conflict resolution. Literature as presented by Wells states that linkages as the strategic behaviour of mediating individuals and groups with varying personal goals and resources, the typological approach that has been used in mediation, fails to consider changes in the social contexts within which mediators operate. The relationship between political mediation and dependency is shown to be contingent rather than imperative. This is exemplified by the variations in the character of the mediator in terms of role concept and structural location, the environmental constraints that include the goals and power of super-ordinate and subordinate social sectors and the number of channels open to the warring parties. [8]

This paper has worked in agreement with Kleiboer, who states that, 'the conditions favouring mediation success have remained ambiguous, falling short in the mediation of African conflict. Bercovitch [10] has gained empirical support for the hypothesis that as the number of fatalities in a dispute increases, the likelihood that mediation will prove successful suffers a corresponding decline, as protracted and intense conflicts have shown in the various mediations of African Conflicts. As such African conflicts need to be managed in a different way.

'It has been argued that some issues such as disputes that arise from deep rooted values or ideologies are basically zero-sum, leaving no room for (assisted) negotiation.' This is not true as depicted by the North South Sudan Conflict as alluded to in previous chapters. The fact that conflicts in the region are internationalized suggests that internationalization binds the different conflicts in the neighbouring countries together; suggesting that management approaches should address the conflicts in terms of the conflict systems to which they belong to, rather than responding

' M. J. Wells, *Mediation, Dependency, and the Goals of Development; American Ethnologist.* 1983
' J. Bercovitch *International Mediation and Intractable Conflict. 1991.*
www.bevondintractabilitv.org/m/med_intractable_conflict.isp-68k
[10] Ibid 8, J. Bercovitch 1991
" Conciliation Resources. 173 Upper Street, London, UK

to each conflict individually. The different actors in the different countries should all be involved in the management process as well. The precise roles of the neighbouring states in the internal conflicts need to be identified as well.[12]

Questions also arise on the warring parties' responsibility to the mediation outcome. According to John Young, Mediation is a process that leaves the ultimate decision on any outcome to the parties themselves" . This is a view that contends with the sustenance of the CPA in Sudan. The findings in this paper have shown that without the mediators maintaining a similar position as they had when they were signing the CPA, the CPA will not hold. A case scenario is the current state of affairs in Sudan where the SPLA/M side of government pulled out of the government claiming that the CPA was not being honoured by the Sudan government. The mediators and specifically the international community need to maintain their position in order to have the CPA standing. Sumbeiywo is quoted[14] as stating that the real problem was on how to implement, who to do it and how to do it.

In the words of the former president of Kenya,[15] we could not as a country, pride ourselves on having peace while our next door neighbours were languishing in bloodshed. It took an African to do what foreigners could not and thereby reiterate the fact that solutions to Africa's problems will come from Africans themselves, from the rich recesses of the continent and not from outside its borders. This was truly a major breakthrough in the history of the African continent, an indisputable fact that peacemakers are all among us.

It can be ultimately concluded, from the discussion undertaken in this paper that the nature of the conflict determines the kind of mediator the disputants agree to work with and the likelihood of

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[12] M. Mwagiru, *Conflict Management in Africa: Lessons learnt and Future Strategies. Friedrich Ebert Stiftung,* Feb. **2001**
[13] J. Young, *Nigeria Initiative Abuja 1-11.* 2001. Presented by Young who is a Sudan Peace Process Expert.
[14] Ibid 5, W. Waihenya.. 2006
[15] Ibid 5, W. Waihenya.. 2006

success. Notwithstanding also, is that the chances of success are also influenced by the strategies; and the behaviour of a third party develops in the course of mediation. Thus the market for mediation follows certain fashions which promote some states for a certain period to mediate;"' and mediate successfully.

" Ibid 1, J. Bercovitch & G. Schneider, 2000.

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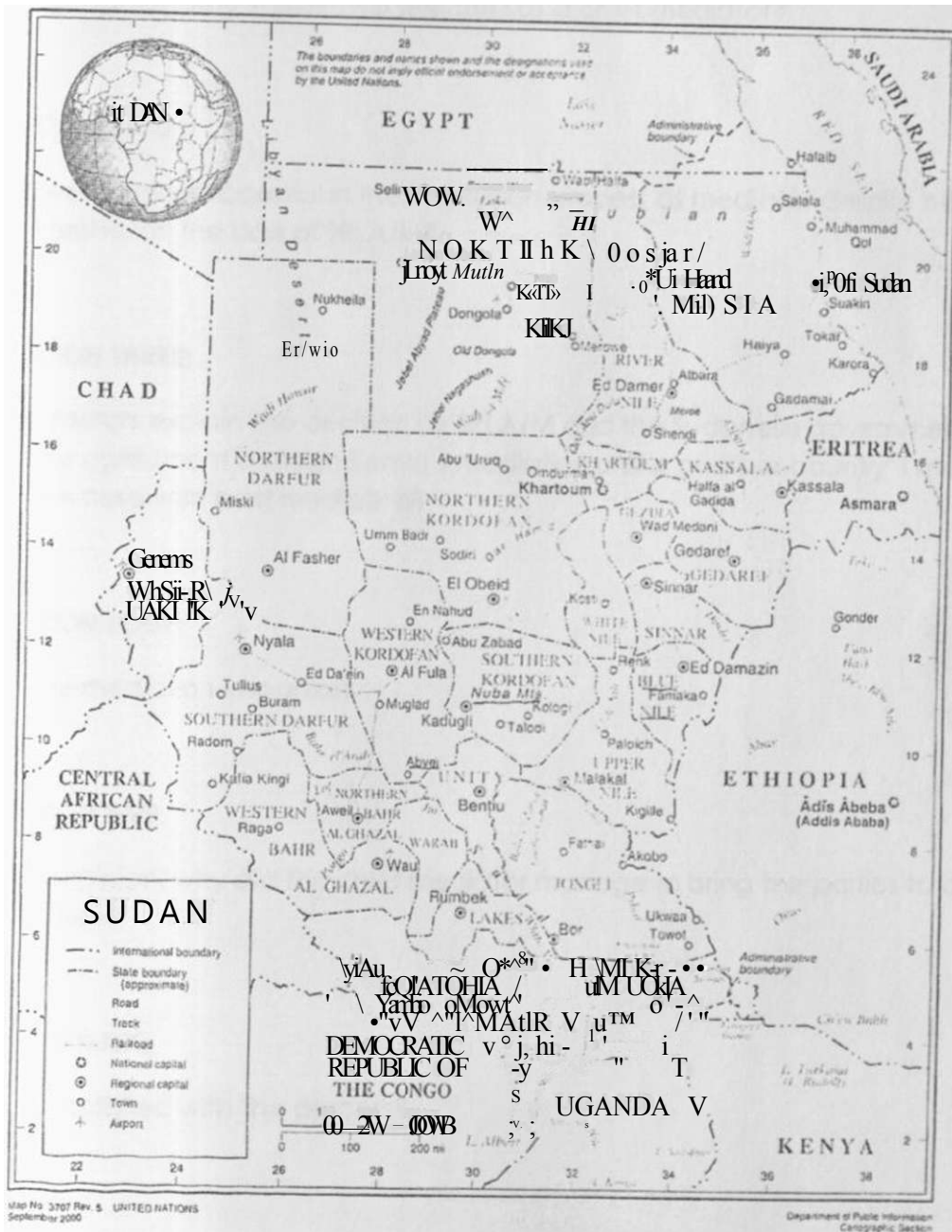
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INTERVIEW SCHEDULE

The interview Schedule included the following questions:

QUESTION ONE:

In your opinion why was Kenya selected as a chief mediator?

QUESTION TWO:

Why was Kenya successful in the mediation process as mediator despite her apparent partisanship on the side of SPLA/M?

QUESTION THREE:

What factors explain the decision by SPLA/M and the Sudanese government to finally sign the agreement through Kenya's mediation unlike another country's mediation as was the case with past mediation?

QUESTION FOUR:

Was the mediation impartial?

QUESTION FIVE:

In your opinion, why did the chief mediator manage to bring the parties to an agreement?

QUESTION SIX:

Was IPF satisfied with the process?

QUESTION SEVEN:

Would you advocate for this type of mediation for intra-state conflicts as the North-South conflict?

QUESTION EIGHT:

As this was a co-mediation, was it beneficial to have other mediators?

QUESTION NINE:

Please describe any other impacts or benefits that you felt resulted from the mediation process.

QUESTION TEN:

Is there anything that should be done to improve the Mediation process of internationalized conflict in Africa?

QUESTION ELEVEN:

Did Dr. Sumbeiyo's profession help in the mediating capability in regard to the parties concerned?