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Special Envoys in Internal Conflicts: A Case Study of the Somali National Reconciliation Process 2002-2006

by

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DECLARATION

This project is my original work and has not been submitted for another Degree in any other University

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This project has been submitted for examination with my permission as University supervisor

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Table of Contents

DEDICATION

To all who strive to end conflict through pacific means and to end the needless suffering of our brothers and sisters

ABSTRACT

Conflict in my view is inherent in all human beings. Man is constantly seeking to assert himself in all manner of ways, some of which are downright antagonistic. Being the only protagonist in this world in a drama played out with himself, man has proven that he has unnerving capacity to decimate and even decapitate himself in the name of pursuing his own interests. These self interests have been at the heart of almost if not all conflicts that have been witnessed in this good earth.

There are theories that explain this nature and which can be used to stem or try to enable him to peacefully coexist with his fellow being. Conflict can be effectively prevented, managed and resolved. Peace is not a given, but is something that has to be worked at. Settling conflict can be done through many ways, some of which involve amicable settlement, others which are more arbitrary. Either way, the end target is always the resolution of the conflict.

Mediation plays a very important role in managing conflict. It involves third parties intervening in a conflict to bring the parties to the negotiating table. Peace is both a valuable and desirable condition that we cannot take for granted. When people devote their time and energy to attempt to win the peace, we should take notice and accord them some appreciation. It is always better to talk it over than to not talk at all and destroy the very peace that we so cherish.

Special Envoys in Internal Conflicts: A Case Study of the Somali National Reconciliation Process 2002-2006

Chapter 1

Introduction of the Study

Introduction

This project will focus on the Somali peace process under the aegis of the Inter Governmental Authority on Development (IGAD). IGAD facilitated the negotiations between 2002 and 2006. This study will emphasise the role played by special envoys of Kenya in the Somalia peace process. At the 9th Summit of the IGAD Heads of State and Government held in Khartoum on 11th January 2002, IGAD recommended that under the IGAD chairman's supervision and led by Kenya, Kenya, Ethiopia and Djibouti, i.e. the Front Line states were to coordinate their efforts for national reconciliation in Somalia.[1] It will evaluate the role played by the special envoys from Kenya to Somalia during the stated period with a view to making cogent recommendations on the need for enhancing and integrating the role of conflict management experts as special envoys to conflicts in general.

Special envoys, in the context of this project, are widely respected and experienced diplomats dispatched by the authority of a third party to travel to areas in conflict to help reduce tensions and settle disputes. Envoys are deployed by heads of state, international organisations such as UN secretaries-general and executives of regional organisations. Envoys work to keep tensions

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[1] United Nations Security Council, Presidential Statement, 4718th meeting, Document S/PRST/2003/2 of 12 March 2003

from escalating among opposing groups by collecting data, assisting in creating opportunities for negotiation, leading negotiations that emphasise peaceful methods, helping to create peace agreements, and bringing conflicting groups together to initiate country-building with aid of third parties or the international community. Special envoy visits rarely keep volatile situations from worsening for very long solely through their own efforts.

Envoys play important diplomatic roles in situations where parties in conflict have no or very little trust and no way out to drive positive and peaceful efforts for stability. Envoys contribute to conflict prevention or mitigation by assessing circumstances, offering conciliation efforts, providing early warning for the outside community, and other such responsibilities. They act as facilitators or catalysts for indigenous or international interventions such as observer missions, economic assistance and democracy-building.[2]

It is in this context that the Inter Governmental Authority on Development intervenes in the Somali conflict in 2002 with intervention that was indigenous

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[2] Rob Zaagman, "Minority Questions, Human Rights and Regional Instability: The Prevention of Conflict," in Robert Pfaltzgraff and Richard H. Shultz, Jr., *Ethnic Conflict and Regional Instability: Implications for US Policy and Army Roles and Missions*, Strategic Studies Institute, US Army War College, no date, pp. 217-228.

Max van der Stoel, Talk on the Work of the High Commissioner on National Minorities, Face to Face Program, Carnegie Endowment for Peace, Washington, DC. November 20, 1994.

Conflict Management Group, *Early Warning and Preventive Action in the CSCE: Defining the Role of the High Commissioner on National Minorities*, Cambridge, Massachusetts, October 19, 1992.

Konrad J. Huber, "The CSCE's New Role in the East: Conflict Prevention," *Radio Free Europe/Radio Liberty Research Report*, Vol. 3, No. 31, August, 1994.

Washington Post, *UN's Man in Burundi: A Rock in a Hard Place*, Monday, April, 1995, page A12.

United Nations, Security Council, *Report of the Secretary-General on the Situation in Burundi*, October 11, 1994.

and geared towards honing the regional authority's capacity to handle conflict situations. Special envoys to this peace process included Elijah W. Mwangale, President Daniel arap Moi's Special Envoy for Somalia and Chairman of the IGAD Technical Committee and H.E. Amb. Abdulaziz Ahmed Special Envoy of the Federal Democratic Republic of Ethiopia for Somalia, Ambassador Bethuel Kiplagat who replaced Mwangale as Kenya's special envoy to Somalia after the elections in Kenya in December 2002 and H.E. Amb. Ismail Goulal Boudine, Ambassador of the Republic of Djibouti to Somalia.

This study will examine the roles played by these Kenyan envoys in particular in the Somali peace process. It will examine whether the outcome reached was the best that could have been achieved considering the replacement of Mwangale with Kiplagat midway through the process. The study will further critique whether the results would have been any different if there had been no change in the special envoy.

Statement of the Research Problem

This paper will argue that although special envoys have been eminent persons, there is a need to empower specialists in conflict management specifically to act as special envoys to conflict situations through granting them the access to and confidence of their appointing authority for them to be effective. It is time to integrate the intellectual capacity existing within the region with the policy makers so as to create a stronger conflict management component.

The deployment of special envoys currently is within the formal structure of the foreign ministry wherein the envoy has the status of ambassador and operates within the formal structure and bureaucratic processes of the civil service. A special envoy today does not enjoy specific and direct access to the President. Any reporting has to go through the structures existing within the civil service. This curtails independence, speed, efficiency and effectiveness of an envoy to deal with situations that may arise in the course of his deployment to conflict negotiation situations.

Objectives of the Research

The objective of this research is to show that a special envoy should enjoy both the support of and access to his appointing authority coupled with being a skilled specialist in conflict management to effectively carry out his mandate.

Literature Review

Conflicts

Conflict has its beginnings in the social fabric of mankind's interaction. Conflict is sometimes used to refer to inconsistencies in the motions, statements, purposes or claims of entities, and sometimes to the process of resolving these inconsistencies.[3] Internal conflicts are those whose origins that can primarily be traced to domestic rather than systemic factors. Examples include violent power struggles involving civilian or military leaders, armed ethnic conflicts and secessionist campaigns, challenges by criminal organisations to state

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[3] Burton John & Dukes Frank, *Conflict: Readings in Management and Resolution*, The Macmillan Press Ltd, 1990, p 15

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sovereignty, armed ideological struggles and revolutions.[4] Internal conflict is the most pervasive form of armed conflict in the international system today.[5]

Internal conflict usually causes tremendous suffering. The stakes are high and fighting is vicious. It ususlly involves direct deliberate attacks on civilians and may degenerate into international crimes such as genocide.[6]Internal conflict often affects and involves neighbouring states. Refugees flee across borders in large numbers. At the height of the genocidal slaughter in Rwanda in 1994 for instance, 250,000 Rwandans fled to Tanzania in a single day.[7] Over the course of a few months an estimated 2 million people fled from Rwanda to Tanzania, Zaire and Burundi.[8] Internal conflict can also affect neighbouring states at a military level. The territory of neighbouring states can be used to ship arms and supplies to insurgent groups. Internal conflict can affect the interests of states outside the immediate region of a state in various ways. It can endanger foreign nationals who happen to be within the state that is experiencing conflict, threaten political and ideological allies and threaten access to strategic resources such as oil.

Theories of Conflict

Conflict may be elaborated under certain theories or schools of thought. Closely tied with structural conflict and structural violence are the structural theories. These form the theoretical bases that explain relationships by reference

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[4] Brown, Michael, (ed) *The International Dimensions of Internal Conflict*, MIT Press, Cambridge, 1996, p 1

[5] Brown, Michael, (ed) *The International Dimensions of Internal Conflict*, MIT Press, Cambridge, 1996, p 3

[6] Article 2 of the Genocide Convention of 1948 defines genocide as "acts committed with intent to destroy in whole or in part a national, ethnical, racial or religious group"

[7] Preston Julia "250,000 Rwandans Flee to Tanzania in One Day," *Boston Globe*, April 30 1994, p1

[8] Human Rights Watch World Report 1995, New York, pp 39-48

to the underlying structure. Structural conflict leads directly to structural violence which, although has no physical manifestations, can be as or even more harmful than physical violence. The way out of conditions of structural violence is to change the structure that is responsible for the conflict through overthrowing such structures.[9]

Objectivism and subjectivism theories also inform the study of conflict. The subjective view of conflict argues that conflict cannot exist unless an incompatibility of goals is subjectively experienced. According to this theory, people cannot be said to be in a situation of conflict if they cannot subjectively perceive the conflict and its effects. Objectivism propounds that it is possible for people to be in a state of conflict even though they do not immediately or readily experience it. This may occur because conflict is embedded in the social structure and can thus exist independently of people's perception of it.

The subjective/objective discourse has far reaching implications on conflict and its management. For the subjectivists, because the parties to a conflict must experience it, conflict management must centre on the efforts and inputs of the parties themselves. Subjectivists approach the conflict from the perspective of negotiation and analysis. For the objectivists, since people may be in conflict without realising it, third parties can enter into the conflict and be instrumental in its management. The objectivist approach might mean polarising the conflict so that the parties begin to feel and experience it. The objectivist approach is from the perspective of taking action to change the structure. This forms the

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[9] I p Mwagiru Makumi, *Conflict: Theory, Processes and Institutions of Management*, Westpark Publications Nairobi, 2000, 16

fundamental distinction between these two schools of thought. Conflict research is subjectivist as it avoids taking sides in a conflict. One of the main criticisms of the objective view of conflict is that objectivists impose their own values on the conflict, with possible serious consequences to the management of the conflict.

Another school of thought is informed by the debate between nature and nurture, otherwise known as the inherency/contingency debate. Those who argue for the nature view contend that human beings are by violent and aggressive, and that this derives from an innate drive in human beings for domination. For this school of thought violence is inevitable since it is in the nature of human beings to be violent. The nurture school argues that human beings are not violent and aggressive by nature. Violence and aggression are conditioned by the environment in which people find themselves. Violence is not inevitable in human society. Just as it was learned, it can be unlearned. Changing the environment would prevent violence.

These debates feed into the inherency and contingency theories. Their conceptual framework is the belief that the most important thing in social science is to make the distinction between inherency and contingency, and that this is the quest of all science. The inherency view argues that conflict is a normal and natural thing in society. The contingency view propounds that people get into conflict situations not because of inherent factors, but because of the circumstances they find themselves in. in this perspective, conflict is not inevitable. It may be avoided by better information, less misperception and more rational behaviour.

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The debate between inherency and contingency is very relevant for conflict analysts, mangers and students. The debate is generally about three underlying things: The nature of humanity; the nature of society; and the appropriate forms of social control. The debate gives rise to two perspectives that are relevant to understanding conflict and its management. The first is that if those in power adopt the inherency view of human nature, then social control becomes an important aspect of the exercise of power. Since in this view human desires cannot be satisfied, any concession by those in power is seen as a step towards anarchy. Their response is therefore to repress. If those in power take the contingency view, they try to avoid disruptions in society by trying to meet the demands of people through negotiation and accommodation.

The inherency theory has a strong base in the Realist theory of international relations. Realism propounds that each state strives for dominance in the international system as a means of achieving and attaining security and national interest. Realism posits that the system of sovereign states is inescapably anarchic in character; and that this anarchy forces all states in the inevitable absence of any supreme arbiter to enforce moral behaviour and agreed international codes, to pursue power politics in order to attain their interests.[10]

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[10] Held, David *Political Theory and the Modern State*, Polity Press, Blackwell Publishers UK 2000 p226

Internationalisation of Conflict and Third Party Intervention

Internationalisation of conflict occurs when a conflict previously seen as a purely internal matter within a state goes through a process of diffusion and takes on an altogether different character. In particular, it has linkages with other conflicts across borders, and its processes are informed by multiple actors and issues.[11] This creates a conflict system wherein one conflict within a region is interconnected with others in the same region. They cannot possess peculiarities that are not shared by the other conflicts in the system. Systems theory as applied to the analysis of conflict performs two useful and interrelated functions. It takes into account the diversity of actors, factors and transactions in a conflict. Secondly, it is holistic in its approach to and appreciation of conflict.[12]

The systemic view of the world has to do with interrelatedness[13] such that a conflict in a particular region will affect others within the region thus transforming the dynamics of the conflict. The ramifications of this association may then drive a third party to intervene in what started off as an internal conflict through the process of mediation. International law espouses peaceful means to manage conflict in line with Article 2 (4) of the United Nations Charter. Article 33 (1) of the Charter specifies the methods of peaceful settlement of disputes as negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or agreements, or any other peaceful means.[14]

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[11] Mwagiru Makumi, *Conflict: Theory, Processes and Institutions of Management*, Westpark Publications Nairobi, 2000 p 71

[12] p12 Mwagiru Makumi, *Conflict: Theory, Processes and Institutions of Management*, Westpark Publications Nairobi, 2000 72-73

[13] Rapoport, Anatol, *The Origins of Violence: Approaches to the Study of Conflict*, Transaction Publishers, New York, 1989, pp 347-365

[14] Charter of the United Nations, Articles 2 (4) and 33

Doob defines mediation as "the efforts of one or more persons to affect one or more other persons when the former, latter or both perceive a problem requiring a solution." Mitchell defines it as "any intermediary activity undertaken by a third party with the primary intention of achieving some compromise settlement of issues at stake between the parties or at least ending disruptive conflict behaviour." Folberg and Taylor define mediation as "the process by which the participants together with the assistance of a neutral person or persons, systematically isolate disputed issues in order to develop options, consider alternatives and reach a consensual settlement that will accommodate their needs."

In combining these definitions and breaking down the constituent ingredients in them, Bercovitch defines mediation as "a reactive process of conflict management whereby parties seek the assistance of, or accept the offer of help from an individual, group, or organisation to change their behaviour, settle their conflict, or resolve their problems without resorting to physical force or invoking the authority of the law."[15]

Mediation must be seen as an extension of the negotiation process whereby an acceptable third party intervenes to change the course or outcome of a particular conflict. The third party with no authoritative decision-making power is there to assist the disputants in their search for a mutually acceptable agreement. As a form of conflict management, mediation is distinguishable from other more binding forms of third party intervention such as arbitration and

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[15] Bercovitch Jacob, *Resolving International Conflicts: The Theory and Practice of Mediation* Boulder London 1996, p13

adjudication in that it is initiated under request and it leaves the ultimate decision making power with the conflicting parties.[16]

Mediators have interests and incentives that motivate their involvement in conflict. When mediators have interests they have something at stake in the conflict. These stakes may stem from the issues at hand or from the broader political and economic context and relationships with either side. Benefits to the mediator may be humanitarian or material such as salaries or intangible rewards such as prestige, gratitude of the disputants and others from the community, a sense of satisfaction at a personal level and political ambitions among others.[17]

Peace enforcement theory is based on several major conditions. A third party intervener must demonstrate the will and the capacity to coerce the parties to a conflict to abide by the terms of a peace accord. In other words, the peace enforcer must have the requisite materiel and personnel to induce compliance.

Another important element is that the enforcer must be familiar with the

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[16] Folberg J, Taylor A. *Mediation: A Comprehensive Guide to Resolving Conflicts without Litigation* San Francisco: Jossey-Bass 1984

[17] Bercovitch Jacob, *Resolving International Conflicts: The Theory and Practice of Mediation* Boulder London 1996, pp 39-40

[27] George Klay Kieh, Jr., *The Economic Community of West African States and the Liberian Civil War*, Monograph (forthcoming).

broader political, economic, social, and cultural dynamics of the target area.[27] Without this knowledge base, the enforcer will lack the understanding that is critical to peace enforcement.

Special Envoys

Second track diplomacy is broadly defined as facilitated dialogue to address conflict issues between unofficial representatives or equivalent opinion leaders from communities in conflict. It is an essential complement to official (first track) diplomacy for responding to the enormous challenge that complex conflicts pose to building a sustainable and dynamic peace.[28] Special envoys play this role as trusted emissaries of their appointing authorities such as presidents and bring to the conflict resolution process both influence and expertise with a view to affecting the outcome of the mediation.

Special envoys are not a novel concept. In the Middle Ages diplomacy was conducted on a part-time basis by emissaries of the monarchs in Europe who were vested with full powers to conduct their special missions. They were sent on temporary basis with narrowly focused tasks. Once the task was complete, the envoy was required to return home.[29]

Special envoys must be independent individuals who have effective working relationships with key government officials within the jurisdiction of his appointing authority and with other members of the diplomatic community. During visits, envoys meet with the highest-ranking officials such as the president, prime

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[28] John Davies and Edy Kaufman , *Second Track/Citizens Diplomacy*, Rowman and Littlefield Publishers, 2002 pp 25-40

[29] Berridge, G. R, *Diplomacy: Theory and Practice*, Perntice Hall/Harvester Wheatsheaf, London, 1995, pp2-3

minister, other ministers, parliament members, other government officials who are responsible for policy-making, opposition party leaders, various representatives regarding issues, and sometimes with religious leaders or heads of non-governmental organisations.

In the performance of their duties, special envoys perform activities such as collecting information on areas and conflicts; promoting dialogue concerning situations with the potential to develop into a new or further conflict; and making reports of suggestions for preventive activities and recommendations on various aspects of issues.

Special envoys tend to bypass the established traditional form of the resident ambassador. A special envoy engages in his mission to the exclusion of the resident ambassador. When special emphasis needs to be given to a message or the message is so sensitive that it cannot be put in writing, a special envoy may be sent.[30] For example, British ambassador to France from 1975 to 1979, Nicholas Henderson, once stated that he was not very busy for a period of time owing to negotiations being carried out on a bilateral basis between Paris and London without his being involved. He had literally been marginalised![31]

Special envoys take the lead in negotiations with the resident ambassador, where one exists; playing a supportive role and following up on the negotiations once the envoy has departed. Diplomatic practice in Britain for

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[30] Berridge, G. R, *Diplomacy: Theory and Practice*, Perntice Hall/Harvester Wheatsheaf, London, 1995, p 40
[31] Ibid

example has a long tradition of sending special envoys that are higher ranking than the resident ambassador to conduct important negotiations.[32]

Envoy effectiveness requires that conflict participants agree to an opportunity for negotiation and that envoys gain a certain degree of trust from every side of participants of conflicts Envoys bring visibility, their own personal stature and the influence of the appointing authorities they represent to encourage parties to settle a dispute or eschew forceful means of pursuing it. At the same time, they present the prospect of a peace broker who understands the grievances of the parties and may be able to represent their interests where appropriate before the international society. Their strength lies in their stature and experience and in their considerable degree of independence. Their success also depends on how much envoys can earn trust from those involved in conflict.

Diplomacy of Special Envoys

The relationship between diplomacy and security in general and conflict management in particular is both complex and involving. The question of what constitutes security can be addressed from the perspective of the international system, where security can be sought in terms of the stability of the international system, defined as the level of tension or violence, and the corresponding extent to which actor interests can be accommodated through diplomacy.[33]

A trend has emerged where states consider it beneficial to their image and their foreign policy to engage in conflict management diplomacy. There are several reasons why states engage in the diplomacy of conflict management.

[32] Berridge, G. R, Diplomacy: Theory and Practice Third Edition, Perntice Hall/Harvester Wheatsheaf, London, 2005, pp 109,133

[33] Barston, R. P, Modern Diplomacy, Pearson Education, Harlow, England, 2006, p 206

Common to states is the need to achieve certain national interests through engaging in conflict management activities. States wishing to change or control the regional environment of which they are a part may also involve themselves in the diplomacy of conflict management. Such states may feel that they are able to shape the regional or sub-regional environment by trying to manage regional conflicts. The basis of this perspective is the belief that a regional environment free of conflicts can best deliver the goods that a particular state believes it can get regionally. Kenya's foreign policy has been centred on conflict management for the past two decades and has been informed by this belief. [34]

Some states may choose to involve themselves in conflict management activities in their quest for regional leadership and dominance. Such states view their ability to manage conflicts within a region as a sign of strength and source of respect. Their pursuit of these activities is seen as an important foreign policy goal that they strive to achieve. States also decide to engage in the diplomacy of conflict management because of the personal wish of their leaders to go down in history as peacemakers. [35]

This study is informed by the objective theory of conflict management and more particularly with the aspect of special envoy diplomacy. Mediation through special envoys turns the nature of the conflict from dyadic to triadic. Kenya has,

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[34] Mwagiru, Makumi, *Diplomacy: Documents, Methods and Practice*, Institute of Diplomacy and International Studies, Nairobi, 2004, p 119.
[35] Barston, R. P, *Modern Diplomacy*, Pearson Education, Harlow, England, 2006, pp 119-120
[37] Mwagiru Makumi, "Kenya's Diplomacy of Conflict Management in Conflict Resolution in Africa," *South African Yearbook of International Affairs 2006*; Mwagiru, "The Elusive Quest: Conflict, Diplomacy and Foreign Policy in Kenya," in P. G. Okoth & Bethwell Ogot (eds) *Conflict in Contemporary Africa*, Nairobi, Jomo Kenyatta Foundation, 2000 pp177-189

since the 1980s engaged in the diplomacy of conflict management through third party intervention in conflict management in the region and beyond.[37]

These mediations have either been under the auspices of sub-regional organisation with Kenya as chair of the mediation team, or as sole mediator as was the case in the Uganda internal conflict in 1986. With regard to the special envoys, this study seeks to elaborate that special envoys are effective when they enjoy both access to and confidence of their appointing authorities. Special envoys as diplomats should be able to contribute both to the shaping and to the carrying out of foreign policy. They must be foreign policy capable, implying competence on both the advisory and executive sides of the business.[38]

Theoretical Framework

Mediation through the institution of special envoys is informed by the objective school of thought in conflict management. Mediation is a reactive process of conflict management whereby parties seek the assistance of, or accept the offer of help from an individual, group, or organisation to change their behaviour, settle their conflict, or resolve their problems without resorting to physical force or invoking the authority of the law.[39] Objectivism propounds that it is possible for people to be in a state of conflict even though they do not immediately or readily experience it. This may occur because conflict is embedded in the social structure and can thus exist independently of people's perception of it.

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[38] Marshall Peter, *Positive Diplomacy*, New York, Palgrave, 1999, p 119
[39] Bercovitch Jacob, *Resolving International Conflicts: The Theory and Practice of Mediation* Boulder London 1996, p13

16

From the perspective of the objectivists, since people may be in conflict without realising it, third parties can enter into the conflict and be instrumental in its management. The objectivist approach might mean polarising the conflict so that the parties begin to feel and experience it. The objectivist approach is from the perspective of taking action to change the structure.

Hypothesis

This study seeks to support the position that special envoys need to be appointed on the basis of skills and academic competence on the one hand and political and material support on the other to be effective.

Methodology

This thesis will be guided by both primary and secondary data in its preparation. The primary data will be obtained from non scheduled and open ended interviews with persons who have been involved in the Somalia peace process under the IGAD initiative as well as two diplomats from the Kenyan Ministry of Foreign Affairs to elicit clear indications of Kenya's use of special envoys and the diplomacy of special envoys Secondary data will emanate from texts, journals and reports of the deliberations from extensive desk studies as well as interviews with parties who worked in IGAD during the period under study.

Chapter Layout

Chapter One lays out the framework of the study and the theoretical backing that underpins the rest of the study. It also contains the literature review of conflict and the institutions of special envoys.

Chapter Two gives an overview of special envoys in Kenya from around 1980 to the present day. It provides a background to the growth of the institution of special envoys in Kenya and delves into examples of special envoys within the region.

Chapter Three then focuses on the particular roles played by the special envoys to Somalia between the years of 2002 and 2006. The two envoys to Somalia during this period were Mr. Mwangale and Ambassador Kiplagat.

Chapter Four will then critically analyse the roles that these special envoys to Somalia played with a view to determining whether the successes or failures they had were as a result of their having had access to their appointing authority.

Chapter Five will then tie together the analyses and observations before testing them against the hypothesis and making conclusions.

Chapter Two

Special Envoys in Kenya

Introduction

This chapter will commence with a discourse on the foreign policy diplomacy of Kenya from independence with the intention of elaborating on the basic principles that have served to define the foreign policy of Kenya. It will then examine the aspect of the diplomacy of conflict management with relation to Kenya and further tackle the evolution of continental diplomacy under the multilateral institutions that exist in the continent, namely the OAU and the AU before concluding with an examination of the evolution of the institution of special envoys in Kenya.

Foreign Policy and Diplomacy in Kenya

Foreign policy is the sum of all policies which have an effect upon a government's relations with other national governments.[1] Foreign policy is used to support and advance domestic policy initiatives and conversely to guard against external threats.[2] Kenya, in pursuit of its national interests, adopted a foreign policy that sought to maintain peaceful coexistence with the international society. This is in line with the United Nations Charter which provides that all members of the United Nations shall refrain in their international relations from the threat of the use of force against the territorial integrity and or political

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[1] T. B. Millar, "On Writing About Foreign Policy," in Rosenau James (ed), *International Politics and Foreign Policy: A Reader in Research and Theory*, New York, The Free Press, 1969, p 57
[2] Paul K. Huth & Ellen Lust-Okar, "Foreign Policy Choices and Domestic Politics: A Reexamination of the Link between Domestic and International Conflict," im Harvey Frank P. and Mor D. Ben (eds), *Conflict in World Politics: Advances in the Study of Crisis, War and Peace*, London, Macmillan Press Ltd, 1998, p 63

independence of any state.[3] All disputes among states in the international system should be settled through the employment of peaceful means.[4]

The 1960 Kenya African National Union Constitution ascribed to four principles of foreign policy. There was commitment by the nationalists to 'vigilantly safeguard national interest' and work 'with the other nationalist democratic movements in Africa and other continents to eradicate imperialism, colonialism, racialism and all other forms of national, racial or foreign oppression.' Additionally Kenya would join with other UN members to promote and consolidate 'international peace and the peaceful settlement of international disputes' and work with other African leaders to foster 'closer association of African territories and states by promoting unity of action among the people of Africa.[5]

The 1961 and 1963 KANU Manifesto followed the tone of the Constitution. A KANU government would 'take the necessary measures to protect the security of the people and preserve the national integrity of Kenya within the present borders.' In order to achieve this the military were to be maintained at a level that would facilitate their implementation of this role. Additionally party leaders resolved not to pursue radical policies; neither would they be belligerent to Kenya's neighbours. On the attainment of political independence Kenya would seek a defence arrangement with other African countries with special attention to

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[3] Article 2 (4) *United Nations Charter*
[4] Article 33, United Nations Charter
[5] KANU Constitution, 1960, pp 1-2

an Eastern African defence policy 'for the purpose of maintaining collective regional security.'[6]

The 1963 KANU election manifesto declared that Kenya would build on the foundation of the East African Common Services Organisation and of the East African Common Market to bring the people of Kenya, Uganda, Tanganyika and Zanzibar into closer political cooperation. There would be no change in the colonial economic policy that had fostered foreign private investment in Kenya. Concurrently, local private investment and state participation in the economy would be boosted by government support.[7]

At the global level, Kenya espoused a policy of non-alignment, offering friendship to any country that would return it.[8] Kenya's economic foreign policy of attracting foreign capital investment and dominance of the East African market in Kenya's export of manufactured goods combined to facilitate and maintain Kenya's regional dominance.[9]

Several factors that occurred between Kenya and Somalia, for instance, between 1963-1983 will put in perspective Kenya's foreign policy in general. Almost immediately after gaining independence, Kenya engaged in a protracted war against Somalia over the Northern Frontier District. In 1964 Kenya and Ethiopia concluded a mutual defence pact as deterrence against Somali claims over their territories. The military takeover in Somalia in 1969 and the subsequent heavy Russian involvement in Somalia led to increased suspicion of

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[6] KANU Manifesto, 1961, p 3
[7] KANU Manufesto, 1963, p 17 and pp 23-24
[8] KANU Manifesto, 1961, pp 28-30; 1963, pp 27-28
[9] Makinda, S. M. "From Quiet Diplomacy to Cold War Politics," *Third World Quarterly*, Vol. 5 No. 2, 1983, p 145

Somalia. After the military coup in Ethiopia in 1974 and the military clash between Ethiopia and Somalia in 1977,[10] Kenya did not interfere.

In 1978 President Moi visited Ethiopia and affirmed that Kenya's foreign policy was underpinned by cooperation with other states in the region regardless of their political ideologies.[11] Even when the conflict between Somalia and Kenya flared up again between 1980 and 1983, Kenya still maintained that presidents Moi and Siad Barre issued a joint communiqué which stipulated their commitment to promote better understanding between the two countries. Kenya nevertheless reserved it right to defend itself against the expansionist tendencies of Somalia.[12]

The heads of state even met in July 1984 and concluded border agreements; the countries cooperated in news and radio programs and had regular meetings both at the national and regional levels between officials of the two governments.[13] It is possible to deduce that the foreign policy was driven by the need for Kenya to maintain peaceful coexistence, cooperation and non interference in the internal affairs of other states. This would change as will be discussed below.

Diplomacy of Conflict Management in Kenya

The diplomacy of conflict management in international relations should be viewed from the perspective of an international system that is anarchical in nature with no single overarching authority and on the legal principle of the

[10] Adar G. Korwa, *Kenyan Foreign Policy Behaviour Towards Somalia, 1963-1983*
[11] Ibid, No. 42, p 180
[12] *Africa Press Bulletin (Political, Social and Cultural)*, 18 (6) June 1981, p 6074
Adar G. Korwa, *Kenyan Foreign Policy Behaviour Towards Somalia, 1963-1983* pp 191,192

equality of states. From this perspective, then it becomes evident that in order for one state to enter into a conflict between other states or between groups in one state as mediator, it must be acceptable to the conflicting parties.

With the collapse of the Soviet Union and the emergence of several violent internal conflicts-now the predominant manifestation of conflict in the world-the challenges of applying conflict resolution techniques and methodologies have grown in scope and urgency. The mediation efforts in Sri Lanka for example teach valuable lessons on the conduct of conflict diplomacy. Understanding root causes of conflicts, engendering ownership of the process of mediation among the parties to the conflict, identifying all the actors and facilitators of the mediation process, setting realistic timetables, sustaining the mediation effort by ensuring that there is constant support for the exercise, and identifying strategic goals are just some aspects that must be considered before engaging conflicting parties in mediation.[14]

Throughout the 1990s, the notion of conflict prevention had an impressive career. It reappeared on the international scene when UN Secretary-General Boutros-Ghali coined the term "preventive diplomacy" in this *Agenda for Peace* (1992). Since then, several international organisations or multilateral institutions, including the UN, the OSCE, the OAU, the OECD or the G-8, have published piles of papers and declarations committing themselves to the prevention of violent or armed conflicts, to change their policies accordingly (for instance in the area of development or financial aid) and to develop new or to reform old tools,

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[14] Rupasinghe Kumar, "Mediation in Internal Conflicts: Lessons from Sri Lanka," in Bercovitch Jacob, *Resolving International Conflicts: Theory and Practice of Mediation*, Colorado, Lynne Rienner, pp153-168

ranging from fact-finding or observer missions, special envoys, the use of sanctions, peace-building efforts, institution-building, reconciliation processes to humanitarian aid and long-term financial and economic assistance. ,

Kenya's engagement with the diplomacy of conflict management has evolved over the years from independence owing to the changes in the nature of conflict over different periods. This engagement has occurred in three distinct phases. The first of these phases spans largely the 1960s during which time Kenya resorted to conflict to respond to the foreign policy of other states as has been mentioned above with regard to the war with Somalia which Kenya fought in response to the Somali foreign policy undertaking of creating a Greater Somalia.

The second phase was underpinned by Kenya's commitment to multilateral political institutions and their frameworks of operation. In this phase Kenya's foreign policy associated itself with the formal aspects of disowning conflict and the use of force. It pleaded allegiance to the UN Charter and to the OAU, and respect for the international rule of law. Phase three of Kenya's involvement with foreign policy has run from the early 1980s to the present. This phase overlapped with the second one especially during the early years of President Moi's regime. Kenya actively sought an active role that would define its status within the international relations of the surrounding regions. During this phase conflict management emerged as an important, and even distinguishing

aspect of Kenya's foreign policy. This phase saw Kenya become active as mediator in several internal conflicts in neighbouring states.[15]

There were reasons for these changes-Kenya's self interests[16] in striving to maintain its regional and sub-regional hegemony was perhaps the most important. Kenya's image as a moderate state in international affairs enabled it to have an important vote in international councils. Kenya's perceived relative political stability also encouraged it to seek a leadership role in the region and beyond. Its vital economic interests in Uganda, Rwanda, Burundi, Sudan and Zaire as outlets for its manufactured products also played a part. For instance, following the 1972 Addis Ababa Peace Agreement, Kenya served as a base from which operations of multilateral agencies and other agencies engaged in the reconstruction process of Sudan. When the current conflict broke out in 1983 it was a great threat to these economic interests, and it was therefore in Kenya's interests to spearhead the research for peace in Sudan.[17]

By 1985 Kenya was almost entirely surrounded by countries with socialist ideologies in Tanzania, Somalia, Ethiopia and for a while Sudan. A good example stems from the Soviet interest in the Horn of Africa for strategic values. It courted Somalia and even concluded a treaty of friendship and cooperation with the government of Somalia in 1974. When there was a coup in neighbouring Ethiopia, the Soviet Union promptly warmed up to Mengistu Mariam. Siad Barre,

[15] Mwagiru Makumi, "Foreign Policy and the Diplomacy of Conflict Management in Kenya," *African Review of Foreign Policy*, Vol. 1 No. 1, March 1999, pp 48-49
[16] Mitchell, C. R. "The Motives for Mediation," in C. R. Mitchell & K. Webb (eds), *New Approaches to International Mediation*, Westport CT, Greenwood Press, 1988, pp 29-51
[17] Mwagiru Makmi, "Foreign Policy and the Diplomacy of Conflict Management in Kenya," *African Review of Foreign Policy*, Vol. 1 No. 1, March 1999, p 49-50

president of Somalia in a huff expelled all Soviet advisers and denied the Soviet Union access to any military facilities in Somalia. The Soviet Union responded by bolstering its relations with Ethiopia.[18]

At the same time Kenya's trade routes to Zaire, Rwanda and Burundi were being adversely affected by the conflict in Uganda, which is an important trade partner for Kenya. During the last years of the Uganda conflict and of Idi Amin's reign. Tanzania had become increasingly influential in East African and regional affairs, especially in Uganda. This concerned Kenya and it needed to design an appropriate foreign policy response to this increasing Tanzanian influence. Mediating the conflict in Uganda was a way in which Kenya could try and ensure a friendly regime in Uganda.[19]

President Moi also wanted to be recognised as the elder statesman in East Africa and leave a legacy as a peacemaker. Thus a peace agreement brokered in Nairobi would leave a lasting legacy. Kenya was also worried that if the National Resistance Army of Yoweri Museveni took over power on its terms in Uganda, this would create a domino effect in Kenya. It was therefore necessary to create a framework for domesticating such revolutions and mediating in the conflict would lay a foundation for the task. Kenya's traditional conservative leanings in international diplomacy and politics did not believe that governments in power, whatever their extraction, should be removed by force.[20]

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[18] Albright, David E, "The USSR and Sub Saharan Africa in the 1980s," *The Washington Papers/101* New York, Praeger , 1983, pp 63-64
[19] Museveni, Y. K. *Sowing the Mustard Seed: The Struggle for Freedom and Democracy in Uganda,* London, Macmillan, 1997
[20] Moi, D, *Kenya African Nationalism: Nyayo Philosophy and Principles,* London, Macmillan, 1986, p 159

There were also external reasons that informed Kenya's foreign policy response to the Ugandan conflict. Among these was the fact that Nyerere was handing over office to Mwinyi as president of Tanzania. He was thus too preoccupied and would not want to get involved in a diplomatic initiative whose duration was unknown. .Mediating in Uganda was an attempt to use Kenya's foreign policy to cement Moi's role as the elder statesman in East Africa. This was aided by the fact that Nyerere and Tanzania were not thought by some Ugandan parties to be an impartial mediator.

The mediation itself was carried out along traditional lines of Track One diplomacy. It was eventually more of a bargaining exercise than a negotiating one. The dominant framework adopted in the mediation was one of power. It seemed that the mediator was more concerned with reaching an agreement than with constructing an enduring post conflict political structure in Uganda. The mediation was more concerned with the *minutiae* of post conflict Constitutional and administrative structures than with the psychological dimensions of the conflict and the peace that was expected to ensue. The mediation failed to address the psychological aspects of the conflict and the perceptual factors that separated the parties to the conflict. No wonder that the peace collapsed within a month of the Uganda Peace Agreement being signed.

Though not a complete success, Kenya's mediation of the Uganda conflict established the pattern of Kenya's foreign policy for the next decade and beyond. It was also an important psychological breakthrough for Kenya's foreign policy

27

and diplomacy. Kenya discovered that it could carry out a complex exercise.[21] It was also important since it eroded the strength of the OAU Charter provision on non-interference by member states of the OAU in the internal affairs of other states[22]

Evolution of Continental Diplomacy under the OAU and the AU

Continental diplomacy is one of the reasons for the creation of the OAU in Addis Ababa in May 1963. The proliferation of inter and intra state conflicts[23] the Charter embodied aspects of Pan Africanism such as recognising the sovereign equality of member states, non interference in the internal affairs of states and respect for territorial integrity and sovereignty among others.[24]

The main objectives of the OAU were, among others, to rid the continent of the remaining vestiges of colonisation and apartheid; to promote unity and solidarity among African States; to coordinate and intensify cooperation for development; to safeguard the sovereignty and territorial integrity of Member States and to promote international cooperation within the framework of the United Nations. Indeed, as a continental organisation the OAU provided an effective forum that enabled all Member States to adopt coordinated positions on matters of common concern to the continent in international fora and defend the interests of Africa effectively.

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[21] Mwagiru Makmi, "Foreign Policy and the Diplomacy of Conflict Management in Kenya," *African Review of Foreign Policy*, Vol. 1 No. 1, March 1999, pp 52-56

[22] Organisation of African Union Charter, Article 3 (2)

[23] Abraham, Knife, *The African Quest: The transition from OAU to AU and Nepad Imperatives*, 2003, Ethiopian International Institute for Peace and Development &The Horn of Africa Democracy and Development International Lobby Addis Ababa, p5

[24] Kodjo Edem and Chanaiwa David, "Pan Africanism and Liberation," Mazrui Ali (ed), *General History of Africa: Unabridged Version, VIII Africa Since 1935*, Paris, UNESCO, 1999, pp

In its capacity as a multilateral forum, the OAU provided a platform for the call for an independent Africa. It sought the end of colonial rule in those parts of Africa that were not yet independent. It sought international condemnation of all forms of colonialism and apartheid as well as for moral and practical support for liberation movements.

Another of the OAU's concerns was the settlement of disputes using pacific means among its members.[25] Many of these disputes arose from frontier problems inherited from colonialism. Thus in 1962 Algeria and Morocco clashed with one another, and so over the years did Uganda and Tanzania, Gabon and Equatorial Guinea, Cameroon and Nigeria, Zaire and Angola, Dahomey and Niger, Chad and the Sudan, Guinea and Cote d'Ivoire, and Kenya and Somalia. The OAU even intervened in Chad in an internal conflict between various political and military factions confronting each other in Chad. It managed to mediate a transitional government of national unity under the leadership of GoukouniOueddei. This government did not hold for long and civil war soon broke out again. In 1981 the OAU sent in inter African peace keeping forces (of which Kenya sent troops) to the country. It was the first of its kind on the continent.[26]

This aspect of intervention in the affairs of Chad shows that strict adherence to the principle of non interference could impede peace making efforts. Other factors that precipitated the need to review the Charter centred

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[25] Charter of the OAU, Article XIX
[26] Kodjo Edem and Chanaiwa David, "Pan Africanism and Liberation," Mazrui Ali (ed), General History of Africa: Unabridged Version, VIII Africa Since 1935, Paris, UNESCO, 1999, pp 756-757

around the territorial integrity of African states taking into account their shared multiethnic cultures that straddled the laid out colonial borders. Two developments underscored the need for the OAU to take a more proactive stance in African conflicts in the post Cold War era. In 1993 the OAU Assembly of Heads of State adopted a resolution creating the Mechanism for Conflict Prevention, Management and Resolution. This was a formal consultative process ideally designed to prevent the outbreak and further spread of conflicts on the African continent. A further development was the African consensus on the necessity for creating a multinational African defence force capable of responding to African crises militarily.[27]

These and twelve other initiatives in the social and economic sectors led to the creation of the African Union. The advent of the African Union (AU) can be described as an event of great magnitude in the institutional evolution of the continent. On 9.9.1999, the Heads of State and Government of the Organisation of African Unity issued a Declaration (the Sirte Declaration) calling for the establishment of an African Union, with a view, inter alia, to accelerating the process of integration in the continent to enable it play its rightful role in the global economy while addressing multifaceted social, economic and political problems compounded as they are by certain negative aspects of globalisation.[28]

While the Constitutive Act of the African Union provides that member states shall defend the sovereignty, territorial integrity and independence of its

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[27] Schraeder, Peter, "African International Relations," in April A. Gordon & Donald Gordon (eds)*Understanding Contemporary Africa Third Edition, 2001,* London, Rienner, pp 150-155

[28] African Union website, 17th September 2008; 1800 hrs

member states, and promote peace, security and stability on the continent. There is provision however for the Union to intervene in a member state pursuant to a declaration of the Assembly in respect of grave circumstances, namely war crimes, crimes against humanity and genocide.[29]

Evolution of the Institution of Special Envoy in Kenya

The institution of the special envoy in Kenya coincided with the third phase of evolution of Kenya's conflict management diplomacy. These special envoys were appointed based on the African Union, then the OAU realisation in the 1990s that it needed to take primary ownership of its own problems, especially those relating to issues of peace, security and stability.[30]Kenya on its part conducted conflict management diplomacy through the formal structure of its foreign affairs ministry with the minister and officials acting in their official capacities.

Kenya was called upon by Mozambique to help work for a negotiated solution to the conflict it was having with the revolutionary RENAMO outfit in 1989. President Chissano made a personal appeal to President Moi and President Mugabe to convince the Leaders of Mozambique National Resistance (RENAMO) to seek a negotiated solution to the armed conflict, which had caused severe social, economic and political problems. 'He wanted Kenya to be involved in negotiating a cease-fire in the 10-year civil war in Mozambique,

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[29] Constitutive Act of the African Union, Articles 3 (b), (f), Article 4 (h)
[30] Nhara William Godwin, *Conflict Management and Peace Operations: The Role of the Organisation of African Unity and Subregional Organisations* Published in Monograph No 21, Resolute Partners, February 1998

between the government and Renamo rebels who had gained control of large parts of the country.'

Bethuel Kiplagat, then the Permanent Secretary in the Ministry of Foreign Affairs, initiated and facilitated from 1988-1992 the Mozambican peace talks. His first step was to approach Mozambique's President Joakhim Chissano in Maputo, who regarded the Renamo rebels as bandits supported by South Africa and the earlier white regime in Rhodesia. He asked Kiplagat to take a message to the Renamo leaders in the bush, calling for a cease-fire. Easier said than done: it took Kiplagat nine months to reach them. Eventually he went into the rebel-held area through Malawi, accompanied to the border by a Zimbabwean missionary taking bibles to one of the rebel camps.[31]

The rebels took him up river, a two-hour canoe ride, to their village stronghold. They were eager to have the bibles and this surprised Kiplagat. 'I did not expect to find such deep spiritual conviction. I had been told that Renamo guerrillas committed atrocities.' A Renamo delegation was waiting for him, having walked for eight days from their headquarters, eating and sleeping with the villagers. Again this astonished Kiplagat as he had a picture of the guerrillas massacring the population. He was equally surprised that they were ready for peace talks. 'We had a wonderful two-day meeting. They wanted freedom of religion, the restoration of churches and democracy. I wondered how it was that

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[31] From interview held with Mr. Paul K. Ndungu, Ministry of Foreign Affairs, from his tour of duty in Zimbabwe, 12th August 2008

the government had painted such a different picture, of these being the worst kind of humans.'[32]

Kiplagat reported back to President Chissano, who sent him back to the bush to continue talks. But Kiplagat was concerned that the outside world was only getting the government's view. 'I began to make contact with African and Western diplomats. I also chaired a meeting between the guerrillas and the church.' The international community needed to know that 'this was not just banditry; they were being supported by the population'.

The diplomatic community began to put pressure on Chissano to negotiate a peaceful settlement with Renamo. Meanwhile Kiplagat invited the Renamo leader Alfonso Dhlakama for a series of meetings in Nairobi. 'I believe those long hours of talks as human beings, encouraging the leaders to reconcile, to walk towards peace, helped the process.' Kiplagat emphasised throughout that the only way to peace was through free and fair elections.

Kenya enlisted the support of church leaders in Mozambique who acted as a go-between, between the Government and RENAMO. After a considerable time of shuttle diplomacy between the belligerents, it was possible to sit them around the table for talks. Their first meeting was in Nairobi. Subsequently, the St. Egidio Community succeeded with the support of other actors, to engage them in substantive discussions in Rome which led to the Agreement that ended the war. Mozambique has become a case study of a successful resolution of an internal conflict. Today, with a little bit of tension here and there, Mozambique

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[32] http://findarticles.com/p/articles/mi_m0KZH/is_5_13/ai_30218240, 12th August 2008

has been able to conduct successive multi-party elections. Ambassador Kiplagat's role in this was limited to bringing the parties to the negotiation table. In fact through his initiative, Kenya issued temporary passports to Alfonso Dhlakama, leader of the Renamo rebel movement and his team plus air tickets to enable them travel to Rome where the negotiations actually took place.

The role Ambassador Kiplagat played was vital to winning the peace, but is not mentioned in the document that came out of the negotiations held in Italy. Upon examining the General Peace Agreement of Mozambique signed in Italy on the 7th August 1992, even the role the ambassador played in Mozambique and the subsequent facilitation by the Government of Kenya to enable the Dhlakama team to travel to Rome is not mentioned. This would indicate a weakness in the foreign policy of Kenya in that such critical matters that require some illumination and adequate publicity are not highlighted.

That was not to be the end of special envoys from Kenya to conflict areas within the region. There have been special envoys to Sudan and Somalia. Sudan has also been a recipient of special envoys, the first being Ambassador Daniel Mboya. He acted as special envoy to Sudan where he sought to oversee the management of the technical committee and guiding the negotiations. The conflict was between the Government of the Republic of the Sudan (thereinafter referred to as the GoS) the Sudan Peoples' Liberation Movement/Sudan Peoples' Liberation Army and the Sudan Peoples' Liberation Movement/Sudan Peoples' Liberation Army-United (thereinafter referred to as the SPLM/A and SPLM/A-United respectively These negotiators focused their efforts around the

framework for negotiations, known as the Declaration of Principles (DoP), accepted in 1997. The Government of Sudan executed this agreement in Nairobi in July 1997, three years into negotiations.

The agreement provided the framework for the conduct of negotiations, basing them on t understanding that: the history and nature of the Sudan conflict demonstrate that a military solution cannot bring lasting peace and stability the country; a peaceful and just political solution must be the common objective of the parties to the conflict; the right of self-determination of the people of south Sudan to determine their future status through a referendum must be affirmed.

It further provided that maintaining unity of the Sudan must be given priority by all parties provided that the following principles are established in the political, legal, economic and social framework of the country; Sudan is a multi-racial, multi-ethnic, multi-religious and multi-cultural society. Full recognition and accommodation of these diversities must be affirmed; complete political and social equalities of all peoples in the Sudan must be guaranteed by law; extensive rights of self-determination on the basis of federation, autonomy, etc, to the various peoples of the Sudan must be affirmed; a secular and democratic state must be established in the Sudan. Freedom of belief and worship and religious practice shall be guaranteed in full to all Sudanese citizens. State and religion shall be separated. The basis of personal and family laws can be religion and customs; appropriate and fair sharing of wealth among the various people of the Sudan must be realised; human rights as internationally recognised shall form part of this arrangement and shall be embodied in constitution; the

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Independence of the Judiciary shall be enshrined in the constitution and laws of the Sudan; and in the absence of agreement on the above principles, the respective people will have the option to determining their future including independence through a referendum.[33]

In conjunction with Ambassador Bethuel Kiplagat who by the time was appointed as Conciliation Envoy by Non Governmental Organisations in a project called Track II Project to engage in a programme of informal talks and meetings with the Track I negotiators, Ambassador Mboya sought to facilitate contact between parties to the conflict and relevant groups within civil society who were directly affected by the conflict and who had a stake in the dialogue and outcome.

The Track II team also carefully monitored the conflict and exchanged research and analysis of the situation with appropriate parties. The main objectives of these activities were to invigorate the Sudan IGAD peace process by providing a timely and constructive NGO/civil society response to the present critical stage of the Sudan peace effort; to be an informed resource and sounding board for the IGAD committee, the Kenyan chair, and the parties to the negotiations; to link the official process to selected civil society support institutions, constituencies, and perspectives; and to provide ongoing briefings to interested elements of civil society and to other key actors in the international community.[34]

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[33] http://www.c-r.org/our-work/accord/sudan/key-texts-index.php, 12th August 2008
[34] http://www.plouahshares.ca/libraries/monitor/monj01f.html, 12th August 2008

Kenya's Special Envoys to Sudan

Ambassador Daniel Mboya

Ambassador Mboya was appointed in a conflict management scenario where Kenya was not the sole mediator. He was appointed in the context of a conflict management exercise that was being conducted under the flag of a sub-regional organisation, in this case, IGAD.[35] The envoy was further expected to work within the existing diplomatic structure. He was treated just like any other ambassador in the structure of the ministry of foreign affairs. A special envoy in the proper academic sense is appointed by high authorities to whom he reports and answers. Indeed a special envoy is appointed because the job to which he is appointed cannot be done properly within the normal administrative and political structures of a government department or ministry like that of foreign affairs.

A special envoy is not referred to as the envoy of the ministry, but as the President's envoy to a particular situation. Save for using official infrastructure such as administrative and secretarial services, the special envoy's reporting function to the appointing authority is best maintained by keeping the functions and those of the ministry separate.[36] As Ambassador Mboya did not enjoy these facilities, his mission did not produce much in terms of results.

Lt. Gen. Lazaro Sumbeiywo

General Lazaro Sumbeiywo served as Kenya's Special Envoy to the IGAD-led Sudanese peace process (1997-98) and then as mediator (2001-05).

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[35] Makumi Mwagiru, lecture delivered at the National Defence College, Kenya, on the 28th August 2008 at 8:00-10:a.m.
[36] Ibid, No. 82

From 2000 he served as Commander of the Kenyan army before retiring in February 2003. He took over from Ambassador Mboya.[37]

He first went to the parties. The Sudan People's Liberation Movement (SPLM) and President al-Bashir agreed to accept him as mediator. He found that the IGAD Secretariat had built a bill of 10 million Kenyan shillings for rent, services and allowances. His first task was to resolve this, firstly by getting the Kenyan government to pay for it (President Moi directed his Treasury to do this) and secondly by establishing credibility with the donors. He then sought and obtained support from the US, the UK and Italy.

With regard to the format of the negotiations, in 1997-98 he followed the text of the IGAD Declaration of Principles (DoP) point by point, dealing with the issues of recognition, farming and so forth, but realised that this approach was not going to work. His approach changed in 2002. He proposed that parties have continuous negotiation on each element of the DoP until we were through, and prescribe there and then what would happen. When he called the parties in May 2002 they did not have a problem with the programme of work or the modalities, but they could not agree on two words: the government insisted on a 'transition' period; the SPLM wanted an 'interim' period. They refused to sign the document.

He weathered a storm of accusations by the Government of Sudan who questioned his neutrality and called him insolent. He soldiered on despite this and invited them to come on 19 June 2002 to Machakos, Kenya, negotiations that he insists were the first serious ones to deliberate on the right to self

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[37] Extracted from interview with Sumbeiywo in 2006 from http://www.c-r.org/our-work/accord/sudan/mediators-perspective.php. 12th August 2008

determination and the separation of state and religion.[38] After a month of negotiations without any tangible progress, the General forced the hand of the delegates to sign the Protocol, which they did on the 20th July 2002. The process has a breakthrough with the signing of an agreement on a cessation of hostilities in October 2002.

After the elections in Kenya in December 2002 General Sumbeiywo remained as special envoy. He retired from the army in February 2003 and devoted most of his time to the negotiation process, coming up with the Nakuru and Nanyuki documents. He travelled extensively meeting with persons from all sectors of Sudanese society as well as allied and interested partners. The negotiation teams then met in Naivasha in negotiations that went on for sixteen months until they signed a "comprehensive peace agreement." Signing a security agreement establishing two armies in one country and the sharing of wealth were two of the thorniest issues discussed at Naivasha.

Lt. General Sumbeiywo ran the process through, earning respect and trust of both sides to the conflict. There were moments that he had to act tough in order to get things moving. His is a lesson that a mediator can succeed if the persists and accounts for the resources entrusted to him. It takes months of engagement. It takes neutrality. In his words, "you must know how much money you have, for how long you can schedule the meeting - but then meetings never end on time. You have to have a big contingency and a good rapport and

[38] Kwaje Samson, "The Sudan Peace Process, from Machakos to Naivasha, Makumi Mwagiru (ed), *African Regional Security in the Age of Globalisation*, Nairobi, Heinrich BollSiftung, p99

credibility with donors and account for their funds."[39] He played an invaluable role in bringing the conflicting parties of Sudan to settle their conflict through negotiation rather than through violent conflict.

The role of the special envoys to Somalia namely Hon. Elijah Mwangale and Ambassador Bethel Kiplagat will be discussed in depth in the following chapter. For now, it is sufficient to note that just like all the special envoys discussed above, they played a significant role in the realisation of peace and security in the region.

The persons that were appointed as special envoys, were, without exception,, eminent persons who could be counted on to produce positive results. They were singularly supposed to relay to the parties to whatever conflict they were sent the message from the sending authority in Kenya and to ensure that they could make an impact. Integrity is a necessary prerequisite for one to be appointed a special envoy. The personalities of the special envoys, namely Lt. General Sumbeiywo and Hon. Elijah Mwangale may have had something to do with their success. Both were strong personalities who put up with a lot of rancour and yet delivered.

Further, it is clear that integrity played a role in their appointment. The propensity to unscrupulous behaviour that may bedevil lesser men may sometimes be taken for granted, but it is of extreme importance that special envoys observe the strictest standards of propriety so that they may be taken seriously and command respect.

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[39] Extracted from interview with Sumbeiywo in 2006 from http://www.c-r.org/our-work/accord/sudan/mediators-perspective.php. 12th August 2008

Taking into consideration the parameters of this study, the special envoys of Kenya to Somalia were Hon. Elijah Mwangale and Ambassador Bethel Kiplagat. These were eminent persons within both the domestic sphere in Kenya and in the international society. They possessed impressive credentials and had significant influence in their own right. They all had access to their appointing authority albeit to different degrees.

The results of these interventions will be discussed critically in Chapter Four. . Furthermore, a comparative analysis will be made between the case of General Sumbeiywo in Sudan and the Somali peace process as we examine the possibility whether the change of mediators had any effect on the final outcome of the Kenyan-driven Somali peace process. This study acknowledges that there were other extraneous actors that affected the outcomes of these peace processes. The Somali peace process for instance was much more complex with many more actors than the Sudan process.

The Roles of the Special Envoys in the Somali Peace Process

Introduction

This chapter will commence with a brief background into the situation obtaining in Somalia prior to and until the appointment of the special envoys, specifically the Kenyan envoys to the Somali peace process. It will then critically analyse the impact that each special envoy from Kenya had on the peace process. In this chapter will also be views obtained from interviews with Kenyan officials from the Ministry of Foreign Affairs on their perspectives of the Somali peace process and the roles of the special envoys.

Brief Background of the Somali Conflict

It is necessary to put into context the situation prevailing in Somalia that necessitated the appointment of the special envoys from Kenya. In order to better appreciate the circumstances on the ground at the time, a brief history of the Somali conflict is crucial. This project will not delve into the intricacies, but simply go to show the situation pertaining in 2002.

After over a century of colonial defamation of Somalia culture and two decades of repressive, centralised state control, involving the manipulation of clan mentality, the exploitation of traditional rivalry and the suppression and collective punishment of any form of rebellion, a destructive instinct was created in society which was at odds with the notion of Somali nationhood. The decrease of the political resources of the state, both institutional and human, and the failure to deliver the missing territories in Kenya and Ethiopia, undermined the state's effectiveness. And while the state's authority was waning, other sub-national

forces of society were growing stronger, and soon the state was unable to withstand the tide which swept it aside. Given the weakening of the foundations of national unity, it was inevitable that the relative strength of lineage and clan institutions should become the dominant social theme.[1]

Djibouti is home to members of the lise clan of the Dir clan-family and a minority of Isaaq clan-family communities. Traditionally the lise and Isaaq competed with each other in the north western regions. Djibouti was deeply disturbed by the declaration of an Independent Somaliland in 1991. Following the complete failure of the UN mission and other peace talks during the 1990s, Djibouti thought it in the best interests of its lise members to pursue peace in Somalia and advocate a strong central government in Mogadishu that could reclaim jurisdiction over the Isaaq-dominant Somaliland. Djibouti thus launched the Somali National Peace Conference in Arta, in May 2000.

It brought together many warlord members and it was the first time that the warlords would not be allowed to dictate and control the agenda. The Transitional National Government (TNG) was created at the Arta talks. The TNG consisted of a 245 member Transitional National Assembly based on clan representation. This Assembly elected Abdiqassim Salad Hassan as Somalia's president. The TNG was to function until August 2003 and was to operate as a three-year interim national authority to prepare for a constitutional conference and elections.[2]

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[1] Abdullahi A. Mahmoud, *The Demise of Post Colonial State*, 1992, p13

[2] Sabala et al, *Peace Building and Reconciliation in Somalia, Opportunities and Challenges*, paper presented at the OSSREA workshop on African Conflicts, Management, Results and Conflict Recovery and Development, 29 Nov-4Dec 2004, p 4

The TNG lacked recognition and exerted very little power in Somalia. It was perceived as illegal and unrepresentative of Somalia. It did not enjoy the support of militia factions controlling Mogadishu, leaders from Puntland or Somaliland, the RRA or the Juba Valley Authority (JVA). The TNG was also internally divided and received much criticism for being dominated by one clan of the Hawiye clan-family. Its lack of credibility meant that it could not attract the level of foreign assistance needed to make it operational. Because it didn't exert control over Mogadishu it was unable to raise taxes or control the important ports; businessmen also opposed the TNG.

In 2001, three other main opposition groups, in addition to the RRA, emerged that strongly opposed and challenged the TNG. The Somali Reconciliation and Restoration Council (SRRC) was established in 2001 and consisted of numerous political parties, clan militias and other groups opposed to the TNG. The commonality of groups drawn into the SRRC was Ethiopian patronage. Abdulaahi Yusuf Ahmed, the leader of Puntland and the SSDF, was the strongman of the SRRC. The SRRC had no common ideology or vision. Many of the SRRC members were in fact engaged in clan warfare amongst themselves, but they were drawn into a loose alliance based on their opposition to the TNG, and their Ethiopian patronage.

Another opposition group known as the G-8 emerged in opposition to the TNG. The G-8 was also a loose alliance of various clan militia groups. Among the groups represented in the G-8 were warlords who effectively controlled Mogadishu and important business and trade interests, such as the airport and

port areas. Most of the G-8 militias also extended their power beyond Mogadishu into other areas in southern and central Somalia and as such often came into conflict with the RRA and the JVA. The G-8 factions were mostly from Hawiye clans. They had no political ideology and were potential spoilers for any Somali peace process.

Because their patronage and wealth was acquired as a result of the upheaval in Mogadishu, they mostly preferred the status quo. They were opposed to any form of decentralisation that could diminish the role of the capital and were also opposed to any government such as the TNG or other, in which they did not have a large and dominant voice. The JVA is another opposition group that emerged post-2000. The JVA is a loose alliance of Habar Gidir and Mareehaan clans (two different clan-families), that control the important port of Kismayo in southern Somalia. The JVA has been described as being in essence, an external occupier of Kismayo. They have no clear political or other policy; they simply use militia to protect the interests of businessmen who profit handsomely from trade in the port.

The collapsed state machinery of Somalia has meant that a plethora of political parties, clan-affiliated militias, loose alliances and other internal actors have emerged, died and re-emerged during the last two decades. The sheer number of actors, whether with a clear political objective or not, has made any peace process for Somalia extremely difficult.[3] It is at this point that IGAD urges the Frontline states of Kenya, Ethiopia and Djibouti to steer a peace process

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[3] http://www.iss.co.za/AF/profiles/Somalia/Politics.html: 8th August 2008

amidst continued fighting in Mogadishu among the various factions. Kenya was to lead this process.

Special Envoy Elijah Mwangale

The first special Envoy to Somalia under the Kenya-led initiative of the Frontline States of the Horn of Africa was Hon. Elijah Mwangale. He was appointed in 2002 as His Excellency President Daniel arap Moi's Special Envoy for Somalia and Chairman of the IGAD Technical Committee. His main mandate was to oversee the discussions whose main objective was to decide on the structure and functions of the Transitional National Government(TNG). The conference was divided into phases , with phase one being the brainstorming session on the components of the required Transitional National Government.

Phase I involved agreement between the belligerents to adhere to the negotiation process and agree on both the form and substance that the negotiation process would take. The issues agreed upon were to create federal governance structures for Somalia, embodied in a Charter or Constitution, which are inclusive, representative, and acceptable to all the parties, decentralise authority, to cease hostilities in Somalia from 27th October 2002 (the date of signing the agreement), use only peaceful means in the resolution of all disputes between political, military and other groups and the communities they represent, respect the rights of the people of Somalia to receive humanitarian assistance, the endorsement of Outcomes of the Peace Process by undertaking political negotiations and technical discussions in good faith and in a spirit of cooperation

during each phase of the Somalia National Reconciliation Process, to monitor terrorism and to invite IGAD, the African Union and the international community to support and monitor the implementation of this declaration and all further agreements reached.[4] The phase effectively concluded with the signing of a ceasefire on 27th October 2002.[5]

Mr. Mwangale successfully led the negotiation process up to the signing of the agreement by making the mediation process as inclusive as possible. This would explain why he sought consensus on the number of delegates to the conference. Instead of the projected 360 or so delegates, the number that was necessary for an inclusive process was almost 1,000.

Secondly, Mwangale was a seasoned politician and handled the mediation process with skill. The sheer strength of personality he possessed was ample incentive to the conflicting parties to negotiate. He was not known to be very diplomatic and guided the delegates to the reconciliation conference firmly.

Thirdly, the talks were held in Eldoret so that the delegates who attended the talks were those who had been accepted as delegates by all the parties to the conflict in Somalia, not quasi-delegates from Kenya. Had the talks been held in Nairobi for instance, the likelihood of getting local Somalis resident in Nairobi interfering in the peace talks would have been high. In fact, under the leadership of Kiplagat, the talks were shifted to Nairobi. This, as will be seen shortly, had an effect on the success of the talks.

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[4] The Intergovernmental Authority on Development, *Declaration on Cessation of Hostilities, Structures and Principles of the Somalia National Reconciliation Process*, IGAD, 2002
[5] Schlee, Guenter, *Consultancy Report to the Somali National Reconciliation Conference*, IGAD, GtZ, November 2003, Djibouti, p4

The conference also adopted the Rules of Procedure[6] that were meant to guide the process. Mr Mwangale faced challenges with regard to the number of uninvited delegates who turned up at the meeting in Eldoret. The number of invited delegates was 366 yet about 1,000 turned up.[7]

Special Envoy Bethuel Kiplagat

Ambassador Bethuel Kiplagat was appointed to replace Elijah Mwangale as Kenya's Special Envoy to Somalia and Chairperson of IGAD'S Technical Committee on January 18th, 2003. He came in just as Phase I of the Somali Reconciliation Conference was winding up. The organisation of the conference in "phase 2" consisted of the Technical Committee, basically a steering committee manned by the IGAD frontline states which hosted the conference, and a "Leader's committee". Then there were six committees, which dealt with technical issues, namely Federalism and Preliminary Charter; Demobilisation, Disarmament and Reintegration, Land and Property Rights; Economic Recovery, Institution Building and Resource Mobilisation; Conflict Resolution and Reconciliation; and Regional and International Relations.[8]

Phase II of the conference, which started at the end of February, 2003, provided the framework for the finalisation of all tasks related to the

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[6] Somali National Reconciliation Conference, *The Rules of Procedure*, Adopted by the plenary (Eldoret) on 26th October 2002.
[7] Ochieng Kamudhayi, "The Somali Peace Process," in Makumi Mwagiru (ed), *African Regional Security in the Age of Globalisation*, Nairobi, 2004, Heinrich Boll Foundation, pp 110-111
[8] Peace and Security Council Report of the African Union, sitting at its 6th Session in April, 2004 at Addis Ababa, Ethiopia
pp 3-4

drafting of the Transitional Federal Charter(TFC) for Somalia and the preparatory work for the launching of Phase III.[9]

In this phase, the main role of the Special Envoy was to ensure the adoption of the Draft Charter by the Somali leaders as well as other members of IGAD'S Technical Committee, which was scheduled to take place in mid –September, 2003.

This however did not take place as scheduled due to disagreements that emerged between the Somali leaders, Somali factions and members of the Technical Committee on the following issues such as the autonomy of regions such as Punt land and the self-declared region of Somaliland; the status of the three languages spoken in Somali, namely Somali, Arabic and English; the duration of the transitional period; and the designation of the transitional government..

The main bone of contention lay in the fact that the members of the Transitional National Government(TNG) were against the provision in the Charter that was meant to introduce federalism in the new political order. It was felt that having such a provision during the preliminary stages would only escalate the conflict. However, this provision was not entirely opposed. The members found it prudent to postpone the debate on federalism until Somali became totally peaceful. By the same token, other Somali leaders argued that the Reconciliation Conference had the mandate to address the issue of Somalia's future political system.

Since the Technical Committee could not resolve the foregoing issues, the TNG and its allied factions withdrew from the Conference. The reconciliation process thus became a stalemate for a period of three months, hence delaying the adoption of the Charter which was the main agenda of the Conference.[10]

Immediately the conference was called off, members of the TNG and its allied factions were able to mobilise people back in Mogadishu. The said mobilisation led to the formation of the Somalia National Salvation Council(SNSC) which was a regrouping of the TNG and other factions. The mandate of the SNSC was based on the Eldoret Declaration which provided for cessation of hostilities.

The Technical Committee on the other hand undertook a number of consultations and initiatives , with the aim of resuming the reconciliation talks. The foregoing efforts were supported by the 10th IGAD Summit of Heads of State and Government which took place on the 24th and 25th of October, 2003. The Summit recognised and addressed the concerns raised by the Somali leaders, especially regarding the ownership and management of the conference. Most of the Somali leaders had complained that it was the Technical Committee that was dictating the terms and pace of the National Reconciliation Conference.

As a result of the foregoing, the terms of the Technical Committee were reviewed and its mandate was reduced to that of facilitation as

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[10] Information extracted from Peace and Security Council Report of the African Union ,sitting at its 6th Session in April , 2004 at Addis Ababa, Ethiopia

opposed to mediation. This was in line with the aspirations of members of the TNG to own and control the process. The African Union which was an observer at the initial stages of the Conference also became a member of the Facilitation Committee(FC), whose membership was also expanded to other IGAD countries[11].

Kiplagat's appointment underlined the change of not only the special envoy, but also of the style of the mediation of the Somalia conflict. The mediation process shifted its base from Eldoret to Nairobi. While the shift was important in stamping his authority over the process, it adversely affected the continuity of the process that had begun in Eldoret. The shift of the location of the process contributed much to its eventual failure. At the new location, there was very little semblance of the process and strategy that had been applied during the Eldoret phase. The change in some of the administrative staff members and consultants also meant that part of the memory of the process right from its pre-negotiation phase to Eldoret was lost. This change of special envoy and location resulted in the Somali peace process virtually beginning afresh, and the process held at Mbagathi in Nairobi eventually failed.[12] The talks in Nairobi were punctuated by walkouts. Abdulqassim Hassan Salat himself pulled out in July 2003 but was persuaded to return by Ugandan president Yoweri Museveni and would remain president until a new government was selected.[13] This is indicative

[12] Mwagiru, Makumi, Presentaion oñ Special Envoys in Management of Internal Conflict: Lessons from Kenya's Diplomacy of Conflit Management, delivered at National Defence College, Nairobi, August 2008
[13] Neil, Ford, "Aggreeing not to Disagree," in African Business, April 1 2004

of the dearth of influence that Kiplagat had over the parties to the conflict. It had to take the intervention of none other than president Museveni of Uganda.

Perspectives from Participants in the Process

In an interview with a delegate, it emerged that the number of delegates to the conference was deliberately increased in Phase I to ensure that there was representation spreading across all the clans and warlords. "We needed all Somalis to come there, because we did not want opposition when we finished the process. So yes, we wanted the faction leaders to come. We appealed several times for them to come to Djibouti, especially Kanyare, Abdullahi Yusuf, Hussein Aideed, and Egal. We needed all the warlords to come and to sit with us here and try to solve our differences in a peaceful way. We wanted to establish that dialogue All clans were represented from every corner of Somalia. It was an inclusive process. Even the Issak from Somaliland were represented there (the clan of Mohamed Ibrahim Egal, leader of Somaliland, who rejected the process). They are part of the delegation and they have told us they are, as the Issak, full representatives of Somaliland, the breakaway republic in the North."[14] This confirms that Mwangale managed to include as many delegates as possible from as wide an array as possible to make sure that the Eldoret talks did not become a mediation exercise that would eventually be rejected on the ground.

In terms of the greatest strength and weakness of the conference, another delegate attested that the greatest strength is that this was a process in which

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[14] Non-scheduled interview held with a Participant in the Somali National Reconciliation Conference in Nairobi, Kenya; E-mail: ai_awad@yahoo.comto the Eldoret talks Ahmed Isse Awad

most Somalis had a sense of ownership. "This was their process of national reconciliation and of reconstruction, of a unified Somali state, more than anything else. In terms of shortcomings, it's that they were not able to engage those who are outside the Arta process. This was the single most important area in which they did not accomplish as much as they should have done."[15]

"Mwangale's domineering role as special envoy and head of the Technical Committee was a critical part that led to the success of Phase I of the reconciliation process. He was able to prevent the Special envoy from Ethiopia from scuttling the process owing to the Ethiopian government's stance that it should have been the one leading the process. He did a lot of behind-the-scene lobbying to gain the tacit support of president Moi to intercede with the Ethiopian president to accept and work with Kenya as chair of the committee."[16]

These perspectives exhibit that Mwangale was respected by the parties to the reconciliation process. He managed to bring the factions together and guide them towards a settlement-something he managed to do by brokering the signing of the ceasefire agreement. His contribution to the peace process was therefore successful.

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[15] From an non scheduled interview with a delegate to the conference to the Eldoret Talks held on 26th September 2008
[16] From an interview with Mohammed Affey, former Ambassador to Somalia held on the 26th September 2008.

Critical Analysis of the Roles of the Special Envoys

Introduction

This chapter will begin with an elucidation of conflict management systems existing in Europe within the context of the Organisation for Security and Cooperation in Europe concerning the institution of special envoys, compare those with the mechanisms in Africa's multilateral institutions and Kenya, then critique the styles of mediation that both special envoys to Somalia employed in their mediation. it will then examine the role of the special envoy to Sudan to determine the parameters of this study-that for a special envoy to be effective, he should have, in addition to skill in the field of conflict management, direct access to and confidence of his appointing authority. The analysis will demonstrate that an envoy that enjoys all the three ingredients mentioned stands a greater chance of delivering positive results.

The Special Envoy in the Organisation for Security and Cooperation in Europe (OSCE)

The Organisation for Security and Cooperation in Europe (OSCE) has a rudimentary conceptual term of reference for their Special Envoys- Long Term Missions(LTMS) and High Commissioner on National Minorities(HCNM)[1].

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[1] Not counting the OSCE contribution to the follow-up of the *Stability Pact* (launched in 1995 by the European Union) and, also, OSCE assistance in the implementation process of *bilateral agreements* between Russia and Estonia (attribution of residence permits to retired Russian military personnel)

The OSCE Long-Term Missions did not proceed from a general or preconceived blueprint. They emerged pragmatically under the strain of circumstances on a case-by-case basis. The first two LTMs were established in the fall of 1992 as a "better-than-nothing" response to the Yugoslav conflict whose management was then the domain of the United Nations supported by NATO[2] and by the European Union. Indeed, the only meaningful contribution the OSCE could provide was to avoid a spill-over of the Yugoslav conflict to Macedonia as well as the Serb regions of Kosovo, Sanjk and Voivodina.

The Special envoys of the long term missions perform the following functions:

1. *Early warning.* LTMs are multilateral political antennas representing the OSCE in hot spots. Their basic function is to provide ongoing, first-hand and timely information for OSCE decision-making bodies. The effective performance of such a function requires an open-ended and impartial political dialogue with official authorities and all actors of the political life and civic society in the host country.

2. *Expert services.* LTMs provide legal and technical assistance by means of advice on request or direct recommendations to the host government. Such assistance is essentially offered in fields related to the human dimension, with special emphasis on human rights,

and between Russia and Latvia (inspection of the Skrunda radar station and provision of social security advantages to retired Russian military personnel).
[2] North Atlantic Treaty Organisation

freedom of media and protection of persons belonging to national minorities.

3. *Good offices and mediation.* If data collection represents the elementary function of LTMs, good offices and mediation are undoubtedly their most crucial one. Bridge-building is indeed the cornerstone of preventive diplomacy. LTMs aim at promoting confidence between the parties and establishing suitable communication channels. As impartial go-betweens, they are entitled to submit practical suggestions on matters of substance. It is at this particular level that preventive diplomacy, used as a technique for defusing tensions, can display its best potential[3].

On the other hand, the HCNM's originality is twofold. First, the HCNM is a *specialised instrument of preventive diplomacy.* Its mandate aims at preventing conflictual situations of a particular type - those involving national minority issues.

Second, the HCNM is an instrument which *fully integrates the human dimension of the OSCE into conflict management.* Fundamentally, it is a tool for conflict prevention, and not an Ombudsman for the defence of national minorities. As expressed by its title, it is a High Commissioner *on* (and not *for*) national minorities. Human dimension issues occupy, however, an overwhelming place in any single intervention of the HCNM. Besides, practical solutions

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[3] For detailed analysis on the preventive diplomacy activities of the OSCE Missions in Estonia, Latvia, Ukraine and Skopje see Chapter V of our book *L'OSCE dans l'Europe post-communiste, 1990-1996. Vers une identité paneuropéenne de sécurité.* Brussels, Bruylant, 1996.

recommended by the HCNM normally draw on the OSCE's human dimension principles and commitments.

The basic function of the HCNM is to de-escalate intra-State and inter-State ethnic tensions at their earliest possible stage. For that purpose, he enjoys a large margin of appreciation. Usually, his intervention implies the following sequence: on-site information visits (for acquiring a direct and comprehensive understanding of the positions of the parties); confidential recommendations to the parties (publicised only after acceptance); assistance to the parties in the implementation process of what have become OSCE recommendations. The HCNM has also authority to issue an early warning notice to the OSCE decision-making bodies.

Finally, the HCNM is bound to provide - upon request - advice and other consultative services to the OSCE political bodies as well as to governments. The HCNM issued recommendations concerning a dozen countries. He has tackled issues raised by russophones outside Russia (Estonia, Latvia, Ukraine, Kazakhstan, Kirghyzstan), by national minorities of European "divided nations" such as Hungarians (in Slovakia and Romania) and Albanians (in Macedonia). He also addressed the problems of Roma in the OSCE region as well as Greek minorities in Albania and Serb minorities in Croatia.[4]

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[4] OSCE Missions in Estonia, Latvia, Ukraine and Skopje, *L'OSCE dans l'Europe post-communiste, 1990-1996. Vers une identité paneuropéenne de sécurité*. Brussels, Bruylant, 1996., Chapter Vii

The Special Envoy in the OAU/AU

The conflict management arena in Africa has undergone a series of radical and spontaneous change over the past decade or so. Africa's colonial legacy resulted in the principle of non-interference in the internal affairs of member states being embedded in the Charter of the OAU (Organisation of African Unity) as one of its 'unshakeable' founding principles. This principle effectively precluded collective action to address civil wars and other internal conflicts in Africa by the OAU or other African government institutions in the past.

As a result, the conflict management arena in Africa was dominated by foreign, mostly European, concerns, interests and initiatives. For example, the Portuguese facilitated negotiations between Angola's factions in 1990-92, followed by the UN in 1993-95; the Italians mediated the end of the Mozambique civil war during 1991-1992; and the US took the lead with regard to Ethiopia in 1990-1991 and Somalia in 1992-1993.[5]

The OAU brought about major positive changes, especially after June, 1993 when the 29th OAU Assembly of Heads of States and Governments met in Cairo to establish a mechanism for conflict prevention, management and resolution[6]. The mechanism institutionalised conflict resolution at the centre of

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[5] H Cohen, *Conflict Management in Africa*, **CSIS Africa Notes**, 181, 1996.
[6] This historic decision of 1993 was preceded by another groundbreaking OAU Summit in July 1990, which adopted a "Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Change Taking Place in the World," in which the leaders of Africa committed themselves to the democratisation of the continent, good governance, and the peaceful and speedy resolution of all conflicts.

the OAU's being, and established the Central Organ, a committee of member states, to take charge of the process. Africa's experiences in Mozambique, Angola, Sudan, Liberia, Rwanda, Ethiopia and Somalia show that internal conflicts generate massive flows of displaced people and refugees, encourage the proliferation of arms which continues to fuel conflicts, spur crime and destroy the (economic/investment) credibility of the sub region and eventually that of the entire continent. Because these factors combined to hinder the economic development of individual countries, of regions, and of the continent, and because internal wars were recognised to have external consequences, collective action to manage these conflicts was now judged both appropriate and necessary[7].

Nevertheless, the institution of special envoy as elaborated in the OSCE structure is non existent in the AU and Kenya. The appointment of special envoys is dependent upon the importance that a president may attach to an issue. If the issue at hand is not deemed very important, then management may be left to the formal structure of the diplomacy of conflict management as has been discussed in Chapter Two. This poses a challenge especially when taken in the perspective that there are no formal structures for the institution of special envoy in Kenya as will be further explained below. IGAD and the African Union are yet to come up with institutionalised posts for their Special Envoys in Conflict Management.Thus it is vital that the African polity embrace the idea of incorporating into its conflict management systems persons trained and retained

7 Cedric de Coning, The Role of the OAU in Conflict Managment in Africa Published in Monograph No. 10 , Conflict Management , Peacekeeping and Peacebuilding , April, 1997

as conflict management experts so as to ensure that special envoys are selected from a pool whose competencies are trusted and empirical. For instance, following the post-election violence in Kenya in January 2008, the African Union sent a Special envoy following a meeting of Heads of State and Government as an ad hoc measure to react to the emerging crisis in Kenya.

The effectiveness of the special envoys in Somalia as has been mentioned in Chapter Three can be critically assessed taken in comparison with the situation in Sudan. As mentioned in Chapter One, the critical analysis will comprise two areas namely the access that the special envoy has to the appointing authority; and the skill in conflict management that the special envoy may possess. In terms of access to the appointing authority, it is patently apparent that not all three special envoys-the two in Somalia and the one in Sudan-shared this in common. The degree to which this access was exercised is where the difference comes in.

Lt. General Sumbeiywo recalls during an interview how he received his appointment form the former President of Kenya to act as special envoy in the Sudan conflict. The President sought to appoint him and urged the General not to turn down the appointment. Needless to say, he accepted the appointment.[8] Says the General, "I had been Kenyan special envoy in 1997-98; at the end of October 2001, President Moi called me and said 'I want to give you a job and I don't want you to refuse it.' I wanted to negotiate myself out of it, but he was determined." This exchange is evidence that General Sumbeiywo and the former

[8] Interview with Lt. Gen. Sumbeiywo, http://www.c-r.org/our-work/accord/sudan/mediators-perspective.php

President shared a close relationship. Secondly, Lt. General Sumbeiywo was also the Army Commander and at a professional level had considerable access to the President as his Commander-in-Chief.

General Sumbeiywo's first task for the Sudan Peace Process was to seek acceptance from the parties to the conflict. To do this, he travelled into Sudan to meet both the Government of Sudan representatives as well as representatives of the SPLM. With this acceptance, he then tackled the administrative matters pertaining to the IGAD secretariat which concerned paying outstanding bills worth 10 million Kenyan shillings. With these bills paid, the parties to the conflict and others began looking positively upon him as a viable mediator. He even sought support from development partners Italy, United Kingdom of Great Britain and Northern Ireland and the United States of America.

Hon. Elijah Mwangale was a staunch ally of the President having been together in the political arena for decades at this point in time. In 1982 Mwangale spearheaded an attack on Sir Charles Njonjo, Minister for Constitutional Affairs at the time. Njonjo had accumulated sufficient political power, as chief of several branches of the country's internal security operations, to constitute a threat to the president. The events of August had clarified the dangers of disloyalty among those who controlled the security apparatus.

In return for political favours, Mwangale led a group of Luhya (a community in Western Kenya) political leaders in December of 1992 in an onslaught against Njonjo. In a move well choreographed by President Moi, Mwangale led a large group of parliamentarians in protracted attacks against

61

Njonjo and his allies who were perceived to be a threat to Moi's presidency and thus had to be removed from the political scene. With Njonjo resigning under pressure on 1st July 1983, the President then moved and appointed Elijah Mwangale to the prestigious Ministry of Foreign Affairs as Minister.[9] Political alliances between them remained deep. His access to the President was also intense and quite personal.

In a qualitative analysis, it is clear that all envoys had different levels of access to their appointing authority. Mwangale had unbridled access to President Moi, a factor that put him in good stead with the parties to the Somali peace process. Mwangale's approach as a politician was effective. He had access to the corridors of power and could thus deal with some of the issues politically.[10]

In terms of skills particular to conflict management, we observe that the three exercised their respective mandates quite differently. Mwanagle was in essence a politician whose various assignments included being Kenya's minister for foreign affairs. He was not trained in conflict management, but played the role of mediator. He headed the mediation on behalf of President Moi to the point of achieving the huge task of bringing the peace process to the Eldoret conference and the subsequent signing of the 'Declaration on the Cessation of Hostilities and the Structures and Principles of the Somali National Reconciliation Process.

Mwangale had an abrasive character and some of the delegates to the conference considered him to be high-handed, but this approach produced

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[9] Widner Jennifer A. *The Rise of a Party-State in Kenya* University of California Press 1993, pp 145-148

[10] Makumi Mwagiru, lecture delivered at the National Defence College, Kenya, on the 28th August 2008 at 8:00-10:a.m.

results. The grumblings and disquiet among the delegates, however significant, does not remove from the fact that he managed to mediate in Phase I of the Somali reconciliation process to the point of ensuring that there was a ceasefire agreement and rules to govern the negotiations.

The Pace and Security Report of the African Union sitting at its 6th session in April 2004 averred that Mwangale failed to harness the necessary administrative clout and even permitted almost 1,000 delegates to the Eldoret conference instead of the four hundred delegates that was envisioned.[11] However, I disagree with this perspective. In retrospect, it is clear that the suspicions among the various factions led to them sending more delegates than was anticipated. This made the negotiations more inclusive and less likely for the parties to reject it even though it cost much more than had been budgeted

As for Ambassador Bethuel Kiplagat, his service to President Moi in various senior capacities in government, from Ambassador to France through to Permanent Secretary and mediator in the Akobo Peace Conference in Sudan, Wajir in Kenya and the Yei Peace Conference in Sudan serves to show that he was, in addition to being an experienced mediator, a trusted ally and problem fixer for President Moi. Unfortunately, in terms of access during his tenure as special envoy to Somalia under President Kibaki was encumbered by the fact that he had to use the normal civil service structure where the ambassador reports to the President through the bureaucratic chain. This hindered his

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[11] Information extracted from Peace and Security Council Report of the African Union ,sitting at its 6th Session in April , 2004 at Addis Ababa, Ethiopia.

63

effectiveness. Secondly, his style, though diplomatic, did not go down well with the Somalis who mistook it for weakness. His personality was also very diplomatic and the delegates to the conference could not reconcile his rather non-abrasive character with that of the former envoy Mwangale.[12] He had a conference full of delegates whose authenticity was doubtful since Somalis resident in Nairobi infiltrated the conference and insisted that they were the legitimate delegates, leading to unacceptability of any resolutions they would reach.[13]

Ambassador Kiplagat on his part started by seeking acceptance of the belligerents as well as interested partners to assist in the provision of funds for the process. He quickly met with various donors and lobbied for funds. With this behind him, he then dived into the substantive issues. This is where the paradox comes in. One would expect that he would have been able to guide the process after Mwangale to a successful end, but this did not happen. Even the talks seemed to dull after he took over as special envoy to President Kibaki for the process. Access to President Kibaki did not follow the direct manner of his previous ties with President Moi. Access to his appointing authority was limited;

The role of these special envoys should be seen within the wider context of conflict management in the region, particularly within the context of strengthening regional capacity for conflict management diplomacy through the institution of the special envoy. The diplomacy of special envoy has evolved from

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[12] Ochieng Kamudhayi, "The Somali Peace Process," Makuni Mwagiru (ed), *Security in the Age of Globalisation*, Nairobi, Heinrich BollSiftung, p 111
[13] Ibid, No 55, p 112

traditional conflict management diplomacy to the independent era of Sumbeiywo and Mwangale, and then to the institutional one again under Kiplagat. Both Sumbeiywo and Mwangale managed to deliver positive results in their mediations. They both had direct access to President Moi and briefed him directly.

Chapter Five

Conclusions

Introduction

The role of a special envoy in the management of internal conflict has been critically explored in this study. It began with a theoretical underpinning that internal conflicts can become internationalised thus requiring third party intervention, in this case through the institution of special envoys. These envoys should then be persons of high repute who command respect and whose abilities in mediation are not in doubt. The study sought to show that they should be persons who are both skilled and who enjoy direct access to and confidence of the appointing authority.

The study has examined the development of the institution of special envoys not only in Africa, but also Europe to give a good example of a regional organisation that has embraced the permanence and structure of this institution. In this, it is indicative of the need to initiate such an institution within the region, both at the multilateral level and as part of Kenya's conflict management diplomacy development.

A case study of the special envoys to the Somali national reconciliation process was undertaken to assess the impact of the special envoys in that conflict taking into account the results they achieved, and considering the effect of not having a continuous process with one mediator. A comparative analysis is done of the conflict in Sudan to observe the effect of having the same

mediator/special envoy handle a conflict through the negotiation stage from start to end.

This chapter will then contain the conclusions drawn from this study, having identified that the effectiveness of a special envoy is dependent on both access to the appointing authority and skill in conflict management. This will be done by making deductions on each of their operations.

Conclusions

Lt. General Sumbeiywo and Mwangale operated outside of the formal structure of the civil service and only used staff members of the Ministry of Foreign Affairs for administrative purposes. They enjoyed direct access to the president (Mwangale until he delivered on Phase I was operating during president Moi's reign; Sumbeiywo had substantially cleared his mission by the time there was a change in administration in 2003) and did not require to go through middlemen in the ministry. They had the full confidence of the president and were thus able to direct the mediations they were involved in without having to go through processes of official clearance. Although this meant that no official memory of the process was created, it was an important device for the efficiency of the special envoys and their ability to deliver.

As discussed in Chapter 3, the appointment of Kiplagat as special envoy to Somalia in 2003 returned the institution of special envoys to the first phase where special envoys were treated as normal ambassadors. Kiplagat worked within the structures of the ministry of foreign affairs and could thus not be

efficient. Nevertheless, it is important to create a formal structure as exists within the OSCE for the institution of special envoys in the region and in Kenya to ensure that there is both a focal point for skills, training and development of this important institution, and a memory bank for institutional memory of the various interventions of special envoys. The roles of the special envoys vis-à-vis the formal structure should be re-engineered. The special envoy should not be caught up in the bureaucracy of the ministry of foreign affairs since this would impede delivery of results.

The special envoys for Somalia had different effects on the peace process. The period that Hon. Mwangale spent with the parties to the conflict was sufficient for him to win their trust, respect and create conditions within which negotiations could take place. The fact that he steered the process as mediator and more so as President Moi's trusted envoy seeking to bring peace to the land of Somalia was not only successful, but also went to show that persistence, knowledge of the parties to the conflict and the conflict itself is extremely vital. The interaction of these dynamics is the recipe for success.

Ambassador Kiplagat in the seat of mediator to the Somali Peace Process did not come across as having interacted with the three paradigms cited above to produce success. The unfortunate turnout of his stint as mediator goes to show that skill on its own may not be the panacea for any mediator to a conflict.

The comparative study of Lt. General Sumbeiywo in Sudan brings into perspective that it is essential to have both access to the appointing authority and

skills. Access so as to be able to have decisions made quickly avoiding all the bureaucratic red tape that characterises the civil service; knowledge of he parties to the conflict and the conflict itself so as to be able to come up with cogent and durable settlements.

As was elucidated in the hypothesis, a special envoy skilled in conflict management and that has the support of and access to the appointing authority makes an effective mediator. Although all these attributes did not exist simultaneously in any one of the special envoys to the Somali peace process, we see that Mwangale was effective. He delivered. He had access. I want to believe that his years at the helm of the Ministry of Foreign Affairs imbued him with some knowledge about conflict management. Coupled with the fact that he had very strong ties with President Moi-his political ally and close personal friend-led to a positive result in Phase I of the talks. Would the results have been different had Mwangale continued to lead the process? Short of being clairvoyant, I would support the argument that the results would probably have been more fruitful and the talks would not have failed. However, this is not the reality.

Finally, I posit that for a special envoy to be effective, he must have both access to and the support of the appointing authority in addition to being skilled in conflict management. While it is not as exact as pure mathematics, this combination provides prescriptive method for aptly equipping special envoys to conflicts in the region an even beyond.

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