

UNIVERSITY OF NAIROBI

**A COMPARISON OF THE ORGANIZATION OF AFRICAN UNITY
(OAU) AND AFRICAN UNION (AU) MANAGEMENT OF CONFLICTS
IN THE HORN OF AFRICA**

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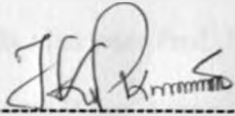
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Master of Arts in International Studies at the Institute of Diplomacy and International
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DECLARATION

This project is my original work and has not been presented for a degree/diploma in any other university/college.

Signature:  Date: 16th November 2009

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This project has been submitted for examination and my approval as university supervisor.

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DEDICATION

To my beautiful wife, Susan

ABSTRACT

Many of the nations of Africa have struggled with violence since their independence from colonial powers. The formation of an intercontinental body the Organization of African Unity did little to reduce the number or severity of the conflicts in the continent. The failure of this organization to maintain peace was due in large part to normative boundaries that prevented it from managing internal conflict of its member nations. The Organization of African Unity was dissolved in favour of a new organization, the African Union, in 2002. The mandate of African Union is much more proactive than that of its predecessor with regard to intervention in internal conflicts. Additionally, some of structural and practical weaknesses of the Organization of African Unity have been addressed in the African Union. Consequently this study aims at comparing conflict management by OAU and AU in the Horn of Africa in order to establish whether the change has resulted in a more effective management. This paper argues that OAU was a Cold War creation and thus unsuited for international challenges and security threats of the post-Cold War era. Although its success lay in the liberation of the continent from colonial rule, the organization was averse to internal conflicts and therefore performed dismally. It contends that the lifting of the Cold War overlay and exacerbation of internal conflicts rendered OAU ineffective therefore justifying the establishment of AU. It posits that although AU has made normative shifts from that of OAU, it has not been successful as expected in managing conflicts because of the type of conflicts and incomplete structures. The study asserts that once AU is fully operational and the challenges addressed, it will certainly be more effective.

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LIST OF ABBREVIATIONS

AACC	-	All African Councils of churches
ASEAN	-	Association of South East Asian Nations
AMIB	-	African Union Mission in Burundi
AMIS	-	African Mission in Sudan
AMISOM	-	African Mission In Somalia
AMU	-	Arab Maghreb Union
APRM	-	African Peer Review Mechanism
AU	-	African Union
CMCA	-	Commission of Mediation, Conciliation and Arbitration
CPA	-	Comprehensions Peace Agreement
DRC	-	Democratic Republic of Congo
EAC	-	East Africa Community
ECCAS	-	Economic Community of Central African States
ECOWAS	-	Economic Community West African States
EPLF	-	Eritrea Peoples Liberation Front
EU	-	European Union
ICC	-	International Criminal Court
IGAD	-	Inter-Governmental Authority on Development
JEM	-	Justice and Equality Movement
NATO	-	North Atlantic Treaty Organization
NEPAD	-	New Partnership for Africa's Development
NFD	-	Northern Frontier District
NMOG	-	Neutral Military Observer Group
NRM	-	National Resistance Movement
OAS	-	Association of American States
OAU	-	Organization of African Union
ODM	-	Orange Democratic Party
PNU	-	Party of National Unity
PSC	-	Peace and Security Council
PSO	-	Peace Support Operations
REC	-	Regional Economic Communities
SADC	-	Southern African Development Community
SLA/M	-	Sudan Liberation Army/Movement
TFG	-	Transitional Federation Government
TFI	-	Transitional Federation Institutions
UIC	-	Union of Islamic Courts
USA	-	United States of America
UN	-	United Nations
UNISOM	-	United Nations Mission In Somalia
UNLF	-	Uganda National Liberation Front
UNTAF	-	Unified Task Force
WCC	-	World Councils of Churches

CHAPTER ONE

INTRODUCTION TO THE STUDY

1.0 Background

The rise of realism and neo-realism as an onslaught against idealism did not result into the defeat of idealism but instead the paradigm made significant adjustments that resulted in liberal theory.¹ The post Second World War period witnessed the formation of a number of international and regional organizations making the prospects of cooperation in the international system no longer remote as they appeared before the First World War. This is contrary to the premature conclusions by some realists such as E. H. Carr that they had won the debate calling their arguments real unlike the “utopia” as presented by the idealists.²

The growth of regional organizations has made significant contribution towards stabilizing the peaceful transformation of the international system and they will likely become increasingly important in managing change at both regional and global levels.³ In the case of Africa, cooperation in matters of security could be seen through the formation of regional organizations such as the establishment of OAU and AU while ASEAN and OAS were established by Asia and America respectively. One of the roles of OAU was to ensure cooperation amongst the member states as espoused in article 2(2) of the OAU Charter while the mandate of AU also includes provisions for cooperation in security

¹ L. Chweya, “Emerging Dimensions of Security in the IGAD Region”, in M. Mwagiru (ed.) *African Regional Security in the Age of Globalization*, (Nairobi: Heinrich Boll Foundation, 2004), p.35.

² G. Stern, *The Structure of International Society: An Introduction to the Study of International Relations*, (2nd ed), (New York: Continuum Imprint, 2000), p.22.

³ M. Alagapa, Regionalism and the Quest for Security: ASEAN and the Cambodian Conflict, *Journal of International Affairs*, vol. 46, Issue. 2, 1993

matters although defined in broader terms. The main role of the two organizations is the maintenance of peace and security in the region.

OAU was founded on 25th May 1963 in Addis Ababa with the aim of articulating the interests of African states while development and cooperation of member states remained at the core of its mandate. Self-determination from the colonial rule of its members justified its existence until South Africa was liberated from apartheid and all its members attained their independence. Escalation of internal conflicts, a new type of self-determination, need for better governance and a definition of security to include the environment, economic and socio-political issues meant that the foundation on which OAU stood on had to be reconstructed. It is on these grounds that OAU was laid to rest ending its over forty years in operation while at the same time AU was founded on 9th July 2002 in Durban South Africa. During the Cairo OAU summit of 1993, a decision was reached to create an OAU mechanism for conflict prevention and resolution with its primary objective being to anticipate and prevent conflicts. Peacekeeping by civilian and military missions of observation and monitoring of limited scope and duration was only allowed under “forced” circumstances.⁴ This was a departure from an earlier position by the organization not to interfere in internal affairs of member states but did not fully authorize intervention but rather reserved it to UN.

The piecemeal restructuring could still not serve the continent’s needs in light of the global changes and therefore AU was formed. There has been optimism among many scholars and practitioners in that the new organization which is stronger structurally than its precursor could manage conflicts more effectively within the region. Among the

⁴ “The OAU in Conflict”, *New African Magazine*, July-August 2002. p.26.

changes infused into the structures of AU that never existed in the OAU include a conflict early warning and response system, normative shifts from non-interference in internal affairs of member states⁵ to a more proactive one where the union can intervene in circumstances where genocide, war crimes and crimes against humanity have been committed, formation of five African Standby Brigade Forces and establishment of a Pan African Parliament which is underway among others.

1.1 Statement of the Research Problem

On establishment of OAU, its Charter underlined the sovereignty, territorial integrity and independence of individual member states which was translated to mean non-intervention.⁶ The organization was also hampered by only being able to act when all states had come to a consensus. OAU was operating in a political context whereby the main driving force was the fight against apartheid and colonialism. With the end of apartheid and the achievement of independence of all African states, the purpose of OAU had come to an end. It was during this decade (1990s) that many internal conflicts in Africa escalated while an increased pressure on governments to have good governance, accountability, democratic and political openness was witnessed with western countries and trading partners putting conditions to their assistance to Africa. It was this context that AU was formed to work for political and economic cooperation amongst its member states aiming at reducing poverty, increasing respect for human rights and promoting peace and democracy. AU differed from OAU in that it had stronger institutions.

⁵ OAU Charter Article 2(3).

⁶ T. Murithi, The African Union's Evolving Role in Peace Operations: The African Union Mission in Burundi, The African Union Mission in Sudan, The African Union Mission in Somalia, *African Security Review* 17:12008

The critical question that this study examines is whether the change that was made from OAU to AU has resulted into more effective management of conflict or it was just a nomenclature change. In examining this central question, this study compares the management of conflicts by the two organizations within the Horn of Africa and answers pertinent question as to whether they have been successful or not.

1.2 Objectives of the Study

This study examines the following specific objectives;

- a). Examine the structural changes that have been made to AU as compared to those of OAU.
- b). Examine the success and/or failure of AU and OAU in conflict management in the Horn of Africa.

1.3 Literature Review

In order to identify the gaps and a relevant theoretical framework on which this study will be anchored on, relevant literature review will be categorized into three parts namely; literature about conflict management by OAU and by AU and a comparison between AU and OAU.

1.3.1 Management of Conflicts by OAU

The reordering of the international system has revitalized the debate on the nature of international politics and the continued relevance of the realist paradigm.⁷ Critics of

⁷ R. O. Keohane, *Neorealism and its Critics*, (New York: Columbia University Press, 1986)

realism content that developed countries are no longer interested in relative gains but their behaviour can only be understood in institutions that both constrain states and make their actions understandable to others. Furthermore realism uses state-centric perspective in their analysis in international relations yet because of interdependencies, the state cannot exist alone therefore making nation-state solutions to issues become “obsolete”. Globalization on the other hand attempts to “shrink” the world utilizing technological advancement, information and economic interests:⁸ however this notion is still “premature”. Buzan advances the importance of the region when he argued for the increased attention of the region.⁹

Regionalism approach has gained relevance in a number of ways. First, UN attaches great importance to regional groupings and agencies and is amplified by Chapter VIII of its Charter which authorizes regional arrangements to deal with matters relating to maintenance of international peace and security.¹⁰ This position was reinforced by a report prepared by former UN Secretary General Boutros-Ghali on the instruction of Security Council summit meeting which recognized the important service rendered by regional organizations by decentralizing, delegating and cooperating in the responsibility of maintaining international peace and security.¹¹ Secondly, longer term benefits accruing from regionalism to developing states in form of growing political maturity and the perceived potential of regionalism to promote their economic development and to mitigate their disadvantaged position in the international arena.

⁸ S. Spiegel, et.al, *World Politics in a New Era*, 3rd ed. (Belmont: Thomson Wadsworth, 2004), p.29.

⁹ B. Buzan, *People, States and Fear: An Agenda for International Security Studies in the Post-Col War Era*, (2nd ed), (New York: Harvester Wheatsheaf, 1991), pp. 186-226.

¹⁰ UN Charter, Article 52(1).

¹¹ Boutros Boutros-Ghali, *An Agenda for Peace: Preventive Democracy, Peacemaking and Peacekeeping*, (New York: United Nations, 1992), pp.36-7.

The effectiveness and limitations of a regional organization in management of conflicts is to be seen in its three broad roles of conflict prevention, conflict containment and conflict termination based on the organization's strategies adopted in each role.

Conflict is endemic in the society implying that it will always be an important part of life therefore being inalienable. Threats to domestic political stability, social cohesion and economic development should be regarded as constituting security threats to African states at the national and sometimes sub-regional levels.¹² According to Zartman and Deng, the underlying causes of conflicts in Africa are incomplete nation-building and differences in identities derived from complex internal factors such as ethnicity, religion, culture and language; economies and competition for limited resources, state-society relationships and political demands that exceed state capabilities all inspire and perpetuate conflicts.¹³ However, Africa's conflicts can be classified into three broad categories;¹⁴ self-determination in which most of the states became independent; boundary conflicts for example Eritrea-Ethiopia conflict, Western Sahara and Kenya-Somali conflicts. The third category is those of secession after the installation of regimes immediately following their independence. This included Eritrea, Biafra, Southern Sudan and Ogaden. In all the three categories, ethnicity is a major catalyst in the African conflicts.

According to Tekle, OAU's performance on management of conflict has been dismal because of its structural weaknesses, the nature of the post colonial African states

¹² According to Ibrahim A. Gambari in unpublished Manuscript, An Overview of Threats to African Security,

¹³ F. Deng and I Zartman, "Introduction", 1991, in Deng and Zartman, (eds), *Conflict Resolution in Africa*, (Washington DC: Brookings Institution, 1991) p.4

¹⁴ M. Mwagiru, The Organization of African Unity and the Management of Internal Conflicts in Africa, Sage Publications, *International Studies*, 33,1,(1996), p.7.

and the organization's position and role.¹⁵ OAU's norms fall short of being able to prevent or impose solutions on serious conflicts in Africa.¹⁶ These norms are the non-interference on internal affairs of member states, territorial integrity, sovereign equality of member states¹⁷ and African solutions to African problems.¹⁸ For instance, the Dakar meeting of the Council of Ministers in 1992 debated and reached unanimity in the area of peacemaking but lacked consensus on peacekeeping and prevention roles. Although the ministers gave the excuses of high cost of funding peacekeeping operations, it is clear that this was a case where article 3(2) on non-interference principle was being interpreted strictly.¹⁹ Instead, the organization preferred the UN to handle the issues of internal nature. The non-interference was motivated by the aspirations of the organization to keep its members united as they feared interfering with the fragile African states which had just emerged from the yoke of their colonial masters.²⁰

In instances where there was a clash of principles for example non-interference and territorial integrity, OAU chose the later; West Sahara and Chad conflicts are some of the examples.²¹ In the case of Chad the organization went to an extent of sending its

¹⁵ A Tekle, "The OAU: Conflict Prevention, Management and Resolution 1999", in H Adelman and A Suhrke (eds), *The Rwanda Crisis from Uganda to Zaire: The Path of Genocide*, (New Jersey: Transaction Publishers, 1999), p.111

¹⁶ W. Foltz, "The Organization of African Unity and Resolution of Africa's Conflicts" in Deng and Zartman . *Conflict Resolution in Africa*, (Washington D.C: Brookings Institution,1991), pp. 347-366.

¹⁷ OAU Charter, Article 3(3).

¹⁸ C. Amate *Inside the OAU: Pan-Africanism in Practice*, (London, 1986),p.166 and W. Foltz, "The Organization of African Unity and Resolution of Africa's Conflicts" in Deng and Zartman , *Conflict Resolution in Africa*, Op.Cit. p. 347.

¹⁹ A Tekle, "The OAU: Conflict Prevention, Management and Resolution 1999", in H Adelman and A Suhrke (eds), *The Rwanda Crisis from Uganda to Zaire: The Path of Genocide*, Op Cit. p.116

²⁰ M. Mwangi. The Organization of African Unity and the Management of Internal Conflicts in Africa, Op. Cit, p.6.

²¹ Ibid. p.6.

first peacekeeping force in 1980 although it resulted in 'abject failure'.²² In examining 26 conflicts that occurred within the continent between 1963 and 1977, Zacher finds out that the organization intervened and succeeded only in instances where there was consensus especially in conflicts such as territorial revisionism and aid to secessionist movements.²³

Another impediment in managing conflicts by OAU is the notion of internationalization of conflicts. The dichotomy between internal and international conflicts has been rendered irrelevant on the grounds of universal human rights,²⁴ the idea that all conflicts have internal sources²⁵ and the involvement of exogenous third parties.²⁶ Internationalization of conflicts combined with strict interpretation of article 3(2) attacked OAU's position as rightly put by Mwangi.²⁷ OAU therefore because of the dichotomy between internal and international environment could not solve Uganda, Burundi and Rwanda conflicts. The great events that shook the world following the end of the Cold War in the 1990's did not leave Africa behind. Importance of Africa to the Cold War race that had seen Africa get a lot of economic and political support diminished. Furthermore its strategic importance came to an end.²⁸ The superpowers and their allies with enormous political, economic and military resources at their disposal were in an advantageous position to cooperate in settling regional conflicts. However,

²² A Tekle, "The OAU: Conflict Prevention, Management and Resolution 1999", in H Adelman and A Suhrke (eds), *The Rwanda Crisis from Uganda to Zaire: The Path of Genocide*, Op Cit. pp.112-113.

²³ M. Zacher, *International Conflict and Collective Security, 1946-1977: The United Nations, Organization of American States, Organization of African Unity, and Arab League*. (New York: Praeger, 1979)

²⁴ J. Donnelly, *International Human Rights*. (Boulder, 1993)

²⁵ J. Burton, *Global Conflict: The Domestic Sources of International Crises*. (Brighton, 1984)

²⁶ J. Wall, *Mediation: An Analysis, Review and Proposed Research*, Journal of Conflict Resolution, vol. 25, 1981, pp.157-80, also C. Mitchell, "The Motives of Mediation" in C. Mitchell and K. Webb, (eds), *New Approaches to International Mediation*. (Westport, CT, 1988), pp.29-51 and M. Mwangi, *Conflict in Africa: Theory, Processes and Institutions of Management*, (Nairobi: CCR, 2006) p.52.

²⁷ M. Mwangi, *The Organization of African Unity and the Management of Internal Conflicts in Africa*. Op. Cit. p.14.

²⁸ T. Callaghy "Africa and the World Economy: Got between a Rock and a Hard Place", in J. Harbeson and D. Rothchild, (eds), *Africa in World Politics*, (Boulder CO, 1991), p.40.

after the Cold War, that cooperation too had waned.²⁹ Rather than more assistance and cooperation by the west, there emerged an increased demand for good governance and liberalization of trade. While inter-state conflicts such as Kuwait-Iraq conflict received attention from major powers, the burden of African conflicts weighed heavily on the regional organization;³⁰ OAU. This situation was exacerbated by an increase in internal conflicts arising from fights over meager resources. Furthermore instead of overhauling the organization, OAU member states embarked on piecemeal restructuring that never yielded the desired results.³¹

Self-determination and its interpretation was another phenomenon that brought a lot of dilemmas to OAU's management of conflicts. South Africa's case in which OAU interpreted it to mean freedom from alien rule led to numerous challenges.³² Conflicts such as Sudan and Ethiopia could not be interpreted by OAU as Self-determination and therefore could not receive attention from the organization. "Internal" self-determination which is liberation from oppressive and dictatorial regimes and "post-colonial" self-determination arising from arbitrary demarcation which divided communities gave self-determination a new meaning.³³ The autocratic regimes which were installed by colonialists after independence orchestrated massive violation of human rights yet OAU could not raise a finger. OAU in many instances patched up conflicts without addressing

²⁹ P.G. Okoth, "Conflict Management in Post-Cold War Africa: The Role of International Actors, 2004, in A. Nhema,(ed), *The Quest for Peace in Africa: Transformations, Democracy and Public Policy* ,(Addis Ababa: International Publication, 2004), p.73.

³⁰ M. Alagappa, *Regionalism and the Quest for Security: ASEAN and the Cambodian Conflict*, *Journal of International Affairs*, vol.46.Issue 2, 1993.

³¹ OAU, *Declaration of the Assembly of Heads of State and Government of OAU on Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World*, (Addis Ababa, OAU,1990). and in OAU Doc: AHG/Dec.I(XXVII)

³² C. Young, "Self-Determination, Territorial Integrity and the African State System", in Deng and Zartman, (eds), *Conflict Resolution in Africa*, (Washington D.C: Brookings Institution,1991) pp.320-46

³³ M. Mwangi, *Conflict in Africa: Theory, Processes and Institutions of Management*, Op.Cit. p.144.

the core issues which were human rights violations by individual governments against its own people. Rwanda, Burundi, Somalia and Liberia are some of the examples.³⁴ This increased the agitated calls for self-determination.

The organization was handicapped in management of conflicts because the Commission of Mediation, Conciliation and Arbitration (CMCA) which was limited to interstate conflicts yet the Assembly of Heads of States and Governments preferred to use *ad hoc* committees in confronting numerous conflicts that were present.³⁵ Member states pledged to settle disputes amongst themselves by peaceful means,³⁶ and the Commission of Mediation, Conciliation and Arbitration was to be the lead organ in facilitating the settlement yet until its disbandment no dispute had been brought before the commission.³⁷ The Assembly of Heads of State and Government did not prefer institutionalized methods of settling disputes, therefore settling cases out of court or using *ad hoc* methods became popular.³⁸ This led to the perception that OAU was a club of Heads of States who were not genuine but self-appointed dictators and oligarchs.³⁹

According to Van Walraven, the lack of hegemonic leadership coupled with the weaknesses of mediation theory on which OAU relied on meant that the organization remained ineffective. OAU like any other international organization has its own interests in settling disputes. In this case, the OAU's ideological ground-work points to the interest

³⁴ M. Mwangi, The Organization of African Unity and the Management of Internal Conflicts in Africa, Op. Cit. p.17.

³⁵ A Tekle, "The OAU: Conflict Prevention, Management and Resolution 1999", in H Adelman and A Suhrke (eds), The Rwanda Crisis from Uganda to Zaire: The Path of Genocide, Op. Cit. p.112

³⁶ Article 19 of the OAU Charter.

³⁷ W. Foltz, "The Organization of African Unity and Resolution of Africa's Conflicts" in Deng and Zartman, Conflict Resolution in Africa, Op.Cit. p. 356.

³⁸ M. Mwangi, Conflict in Africa: Theory, Processes and Institutions of Management, Op. Cit. p.107.

³⁹ T. Murithi, The African Union Evolving Role in Peace Operations: The African Union Mission in Burundi, the African Union Mission in Sudan, the African Union Mission in Somalia, Op. Cit. p.72.

of its elite in protection of their mutual security.⁴⁰ Although article 3(4) of OAU Charter puts an obligation on all member states to use peaceful means in settling disputes, it did not bind them legally to use the Commission of Mediation, Conciliation and Arbitration. The absence of hegemonic leadership in the region made its compliance impossible even if it was legalized. While using a combination of hegemonic and regime theory which holds that the most important factors in the creation of regimes is self-interest of states finds out that a weak secretariat, self interest of elites, lack of an hegemon to enforce the position taken by the organization and misplaced normative provisions of OAU have contributed to its poor performance in managing conflicts. Although Walraven could be partially right in his argument about hegemonic stability, it is also true that states can cooperate even without a hegemon. Functionalism theory as advanced by Mitrany shows that cooperation can be achieved through other means without necessarily having a hegemon.⁴¹

Following the changes that took place around the globe and the end of colonial rule in the 1990s, OAU began to shift from its traditional approach to conflict management by introducing structural changes.⁴² A mechanism for conflict prevention, management and resolution was established and the secretariat acted as the operational arm of the Central Organ by focusing on conflict prevention, peacemaking, peace building. Peacekeeping was not given prominence unless forced by circumstances; however observer missions such as that of Rwanda in 1992 were preferred.⁴³ Although

⁴⁰ K Van Walraven, *Dreams of Power: The Role of the Organization of African Unity in the politics of Africa. 1963-1993*, (Adlershot Hants: Ashgate Publishing Ltd, 1999), p. 270.

⁴¹ S. Spiegel, et.al, *World Politics in a New Era*, 3rd ed, Op. Cit., pp. 51-52.

⁴² OAU Doc: AHG/Dec.1(XXVII)

⁴³ A Tekle, "The OAU: Conflict Prevention, Management and Resolution 1999", in H Adelman and A Suhrke (eds), *The Rwanda Crisis from Uganda to Zaire: The Path of Genocide*, Op. Cit. p.123.

the launch of the mechanism showed some level of engagement in what was earlier taken as internal conflicts.⁴⁴ it still showed some softness which rejected military aspects of conflict management as shown by their reluctance in deploying forces in Rwanda and Somalia. The new mechanism however failed in optimally utilizing sub-regional organizations such as Inter-Governmental Authority on Development (IGAD), Southern African Development Community (SADC) and Economic Community West African States (ECOWAS) by cooperating and strengthening their conflict management rather than subordinating them.⁴⁵ The advantage of sub-regional organizations is that they are usually more familiar with each others problems for example social, identity, history and sometimes similar experiences that outsiders are not conversant about and that African conflicts more often are systemic in nature therefore the entire sub-region is motivated to get engaged.⁴⁶

According to Mwangi, despite the structural changes, the organization still failed to take advantage of individual mediations by member states. To him such actions as Kenya's mediation in Uganda conflict, Sudan conflict and President Moi and Mugabe's efforts in the case of Mozambique cannot be interpreted as interference with member states affairs as per article 3(2) of the Charter yet their contributions are very valuable.⁴⁷

Rechner argues that OAU has been most successful in the area of conflict prevention with its successful mediated peace treaty following disputed elections in Congo (Brazzaville) and the Arusha accord of 1993 which halted at least temporarily the

⁴⁴M. Mwangi, The Organization of African Unity and the Management of Internal Conflicts in Africa, Op. Cit. p.13.

⁴⁵ Ibid. p.15

⁴⁶ W. Nhara, Conflict Management and Peace Operations: The Role of the Organization of Africa Unity and Sub-regional Organization, Monograph no. 21 Resolute Partners, Feb. 1998.

⁴⁷M. Mwangi, The Organization of African Unity and the Management of Internal Conflicts in Africa Op. Cit. p.18.

violence in Rwanda.⁴⁸ However the organization has been hampered by its lack of operational intelligence and was even worsened by the lack of preventive deployment capabilities where peacekeepers could be placed in areas of risk prior to outbreak of hostilities. Conflict management through preventive diplomacy, sanctions, peacekeeping, peace enforcement and humanitarian intervention where necessary, non-interference principle effectively banned peace enforcement and humanitarian intervention. According to Rechner, OAU's success in managing conflicts included successful mediation by its Council of Ministers in Morocco-Algeria conflict in 1963. The OAU's first attempt to involve itself in internal affairs of its members came in 1967 during the Nigerian civil war. An *ad hoc* committee which had been formed to look into the case condemned secessionists and showed clearly that it respected the colonial boundaries.

Chapter VIII of the UN Charter deals with regional arrangements. Article 52(1) state that nothing in the charter precludes the existence of regional arrangements or agencies for dealing with matters relating with the maintenance of international peace and security.⁴⁹ However in some instances UN declined to come to the aid of OAU but rather gave conditions for their assistance. A good example was the condition that unless the two warring parties signed an agreement in the case of Rwanda and unless the operation was under direct political and military authority was given to UN in the case of Chad, UN was not going to assist.⁵⁰

Babangida, the former Nigerian president while heading OAU tried to mediate in Sudanese civil war in 1992 and 1993 to no success. In the war the points of contestation

⁴⁸ J. Rechner, From OAU to the AU: A Normative Shift with Implications for Peacekeeping and Conflict Management or Just a Name Change?, *Vunderbilt Journal of Transitional Law*, vol. 39, issue 2, 2006, p. 84

⁴⁹ UN Charter, Article 52(1).

⁵⁰ A Tekle, "The OAU: Conflict Prevention, Management and Resolution 1999", in H Adelman and A Suhrke (eds), *The Rwanda Crisis from Uganda to Zaire: The Path of Genocide*, Op. Cit. pp. 113-120

were state and religion, wealth and political marginalization of the south by northern Sudan plus the new dimension of self determination. This attempt according to Muli was a failure.⁵¹ Some form of success by OAU in mediating the Sudanese conflict was in the first “Anyanya” war that started in 1955-1972 where the organization and the sponsorship of World Council of Churches (WCC) brokered a peace deal that was signed in March 1972 in Addis Ababa.⁵² However according to most scholars, this was a lull period which erupted again in 1983 therefore this success is somewhat debatable. This raises questions as to the yardstick to be used in measuring success or failure in conflict management.

According to Chweya, the region has moved from a realist perspective where security was defined in a narrower and state centric manner to a more neo-liberal position through the formation of AU.⁵³

1.3.2 Management of Conflicts by AU

Rechner notes that the institutional limitations of OAU have been overcome in formation of AU particularly regarding the normative boundaries.⁵⁴ According to him, the closer coordination between the Assembly and the PSC and the willingness to use peacekeepers for humanitarian intervention such as in Darfur is a clear indication of departure from OAU’s ineffectiveness. The suspension of Togo in February 2005 from

⁵¹ F Muli, *The Role of Regional Organisations in Conflict Management IGAD and Sudanese Conflict*, (Nairobi: Catholic University, 2008) p 27.

⁵² Ibid p.38

⁵³ L. Chweya, *Emerging Dimensions of Security in IGAD Region 2004* in M Mwagiru (ed) *African Regional Security in the Age of Globalization*, Op. Cit. pp.31-48

⁵⁴ J. Rechner, From the OAU to AU: A Normative Shift with Implications for Peacekeeping and Conflict Management or just a name Change? Op. cit.

AU's activities following unconstitutional transfer of power to a new president shows the willingness of AU to impose sanctions upon member states.

Murithi concurs with Rechner and argues that AU has adopted a much more interventionist stance through its legal frameworks and institutions.⁵⁵ PSC is mandated to intervene through peacemaking, peacekeeping and peace building even in internal crisis situations as per Article 4(h) of the Constitutive Act.⁵⁶ Despite the praise of article 4(h) there are fears from some quarters that the article alone may not mean much. Kuwali investigates the issue of what conditions should prevail before AU's intervention under Article 4(h) of its constitutive act. He calls for a broader definition of thresholds while retaining the strict definition under the international criminal law.⁵⁷ Kuwali critiques the present article which he says that in its form seems to suggest that intervention will occur on the commission of war crimes, genocide and crimes against humanity. This to him is a reactive agenda and therefore is not in line with the preventive agenda for the protection of human rights.

The establishment of an African Standby Force by 2010, the Panel of the Wise and Continental Early Warning Systems coupled with cooperation with UN and other sub regional organizations puts AU in a more proactive role.⁵⁸ Murithi indicates that although African Union Mission in Burundi (AMIB) was eventually taken over by UN, it was wholly an AU initiative and this demonstrates that it can make useful interventions in the continent. The case for Darfur where the Secretary General took a lead role in

⁵⁵ T. Murithi, The African Union Evolving Role in Peace Operations: The African Union Mission in Burundi, the African Union Mission in Sudan, the African Union Mission in Somalia, Op. Cit. p.74.

⁵⁶ AU Constitutive Act

⁵⁷ D. Kuwali, The Conundrum of Conditions for Intervention under Article 4 (h) of the African Union Act, *African Security Review* Vol. 17, No. 4, 2008.

⁵⁸ T. Murithi, The African Union Evolving Role in Peace Operations: The African Union Mission in Burundi, the African Union Mission in Sudan, the African Union Mission in Somalia, Op. Cit. p.74.

initiating a peace deal in Abuja, although not all parties signed the agreement it is evident that even the structures of the commission can work. Peer review mechanism which a committee of ten leaders is intended to evaluate one another's performance in achieving democracy and avoiding serious abuses of human rights is a step forward for AU. This internal audit mechanism showed seriousness when it censured President Mugabe after what they termed as a flawed election by suspending Zimbabwe from the council of the Commonwealth.

Although Murithi attributes some weaknesses of AU to resolve disputes as lack of finances and logistics, he however cannot pass a definitive judgment on the organization's ability to manage conflicts since it is too early to do so although it has taken stronger stands on conflict and peace initiatives in Cote d'Ivoire, Burundi and Darfur. He concludes by stating that AU peace and security architecture is a vital component to consolidate order and stability.⁵⁹

Dagash argues that although AU has been strengthened institutionally, the union had left out an important organ of communication and information. To him, OAU's poor performance was because it was misunderstood. AU therefore should not transfer OAU mentality and requires it to seek ways of generating income and not to depend purely on members' contributions.⁶⁰

A functioning of division of labour between AU and Regional Economic Communities (RECs) has been revealed in the first five years of AU's existence.⁶¹ According to Franke, the AU has learned from its precursor which allowed multiple

⁵⁹ Ibid p.82.

⁶⁰ I. Dagash, *The OAU: Reality or Fiction?*, (Addis Ababa: OAU Information and Communication, 2006) p.103

⁶¹ B. Franke, Competing Regionalism in Africa and the Continents Emerging Security Architecture, *African Studies Quarterly*, Vol. 9, Issue 3, 2007

regional organizations to take initiatives in conflict management to its detriment. AU's limitation of REC's to only seven that is ECOWAS, SADC, IGAD, AMU, ECCAS, COMESA and EAC and its collaboration than competition has made it more proactive. AU faces challenges such as bloated institutional landscapes, continuing competition from too many organizations and institutions that need to be integrated to AU's structure, duplication of effort by this organizations and the overlapping membership.⁶²

The 9th Ordinary Session of Assembly of heads of state and government held in Accra, Ghana in July 2007 saw a resurgence of Pan-Africanism through a proposal to establish a "United State of Africa" with a president, ministers and a central bank.⁶³ The summit focused on three options; one of strengthening the Commission and the existing RECs, two to establish a Union Government by 2015 with executive powers and three to establish a " United States of Africa".⁶⁴ This has however served to re-think about the purpose of the AU and brings more light to members' interests, some of whom seek to be more competitive in the global market while others do not want to cede their sovereignty out of self-interest.

1.3.3 A Comparison between OAU and AU Management of Conflict

Conflict management by the AU is likely to be more effective than by OAU given the broader mandate of the AU and involvement in internal affairs of its member states. The ability to deploy peacekeepers, peace enforcers and humanitarian intervention without member states permission gives the AU the capacity to restore or maintain peace

⁶² Ibid

⁶³ Briefing Papers, Ghana Centre for Democratic Development, vol. 8, no. 3, p.2

⁶⁴ Ibid.

in a wide variety of circumstances. According to Rechner, AU has been structured to be more effective at least in theory to address the many shortcomings of OAU.⁶⁵ Diplomatically, AU is stronger in that it has given the commission some diplomatic responsibilities unlike OAU. The AU's ability to enforce gives it some teeth to act unlike OAU whose decisions were merely recommendations. This together with the Article 23 of the Constitutive Act which provides imposition of sanctions for failure to comply with the AU's decisions and policies and defaulting in making contributions to budget the AU puts it in a better conflict management position.

According to Murithi, the AU has succeeded in intervening in what was initially perceived as internal affairs of member states and which OAU may not have done⁶⁶. This has been illustrated by its intervention in Darfur conflict in Sudan, Somalia and Burundi by sending peacekeepers although he indicates that it was too early to measure their successes.

1.3.4. Gaps in the Literature

It is apparent from the literature review that a lot of studies have been done regarding management of conflicts by OAU. There is also an emerging attempt to do the same on AU although this effort is still insufficient. However there is no study that has compared conflict management of OAU and AU in order to establish their success and/or failure. Moreover the Horn of Africa is a sub-region that has always presented challenges

⁶⁵ J. Rechner, From the OAU to AU: A Normative Shift with Implications of Peacekeeping and Conflict Management or Just a Name Change? Op. Cit.

⁶⁶ T. Murithi, The African Union Evolving Role in Peace Operations: The African Union Mission in Burundi, the African Union Mission in Sudan, the African Union Mission in Somalia, Op. Cit. p.72 also J. Rechner, From the OAU to AU: A Normative Shift with Implications of Peacekeeping and Conflict Management or Just a Name Change? Op. cit

to both OAU and AU. Conflicts such as secessionism, boundary disputes, irredentism, and human rights abuses to livestock thefts have been experienced in the sub-region. The systemic and patterned nature of conflicts in the Horn of Africa provides a distinction from other areas. It is therefore ripe to examine the management of conflicts by the two organizations in the sub-region in order to fill these gaps.

This study is therefore justified in critically examining conflict management mechanisms of the two organizations and their abilities to resolve conflicts. It compares AU and OAU performances over the years in order to establish their success and hopes that the findings will add more literature in the area of conflict management.

1.4 Theoretical Framework

Regional peace doctrines are recent and have been developed just after the Second World War. According to Joseph Nye, the most important linkage that regionalists have hypothesized between regional organizations and peace relates to the capacity of the micro-regional economic organizations to foster integration that changes the character of the relations between states and creates islands of peace in the international system.⁶⁷ Regionalist peace doctrine has five arguments, four of which relate to the political effects of integration fostered by small-scale economic organizations. The last argument relates to conflict control by the larger-scale political organizations and it is from this last argument that will guide this study.

The first argument is about the restoration of multipolarity. It argues that bipolarity creates tension and thereby reduces the capacity of each to tolerate changes in

⁶⁷ J.S. Nye, *Peace in Parts: Integration and Conflict in Regional Organizations*, (New York: University Press of America, 1987), p.11.

political alignment that might benefit the other countries.⁶⁸ The second argument regards merger of small states. Decolonization resulted in small and weak states that are only sovereign in name than in fact. As such there is a temptation to foreign intervention and conflict that could be removed if these states were amalgamated into larger regional units. The larger size arising from regional organization makes available to them the economic benefits arising from economies of scale, common markets and services. A smaller size of a state poses the problems of economic underdevelopment therefore leads to frustrations and conflict. However an important factor that cannot be overlooked is not only size but also the cohesiveness of the organization. Thirdly, it argues that there is a possibility of using a regional organization to go beyond a nation-state. It theorizes that violent conflicts lie in human nature but it is possible through the creation of regional institutions to limit the conflict-laden consequences of the division of mankind into sovereign nation-states. John Mill goes further to argue that the creation of regional federation government would have peaceful effects because they would be unable to wage any but defensive wars.⁶⁹

The fourth argument is about regional organizations creating new relations among states. Regional organizations particularly those involving economic integration are the best setting for functional cooperations that can make states less prone to exercise sovereign power for violent conflict. The emphasis here is not so much on diminishing sovereignty but on making it less dangerous by tying up states in a tight web of functional relationship. The fifth and the most important argument is that regional organizations

⁶⁸ K. Deutsch, and D. Singer, Multipolar Power System and International Security. *World Politics*, 16, April 1964, pp.390-406. Also, R.N. Resecrance, Bipolarity, Multipolarity, and the Future. *Journal of Conflict Resolution*, 10, 1966, pp.314-27.

⁶⁹ J. Mill, *Considerations on Representative Government*, (Oxford: Blackwell, 1948), p.305.

have a special capacity to control conflicts among its member states. It “makes peace divisible” and isolates conflicts and preventable local issues from becoming entangled with irrelevant problems and thus changing into insolvable global issues. Regional organizations are effective at conflict control because geographical neighbours are more likely both to understand the factual background of a conflict and share the norms that are relevant to the task of controlling the conflict.⁷⁰

Skeptics of regionalism argue that neighbours are often far from impartial. However Touval has discounted partiality or impartiality of third parties arguing that parties in conflict are more interested in the resources being brought by the third party. This theoretical framework therefore can enhance the analysis of this study.

1.5 Hypotheses of the Study

The following hypotheses will direct this study:

The structural changes made to AU as compared to those of OAU have led to a more effective management of conflicts in the Horn of Africa.

Alternate hypothesis one;

Structural changes made to AU have resulted into ineffective management of conflicts in the Horn of Africa as compared to OAU and therefore the change has not been useful.

Alternate hypothesis two;

There has not been any change in the effectiveness of conflict management in the Horn of Africa despite the structural changes made to AU as compared to OAU.

⁷⁰ W.O. Henderson, *The Genesis of the Common Market*, (Chicago: Quadrangle, 1962), p.159.

1.7 Methodology

Broadly, sources for this study fall into three categories: documents of the OAU and AU; data obtained through interviews and data from African governmental documents and journals, periodicals, newspaper articles, books as well as internet sources.

The importance of this study on both OAU and AU documents is self evident. AU and OAU documents consist mainly of public documents which include declarations, decisions and statements, official publications by the Secretariat and Commission, the charter and constitutive act. However it is acknowledged here that documents intended for internal use although they are important, they may not be obtained because of costs and time constraints in traveling to the organizations headquarters. This first category represents official expression of the two organizations.

The second category comprise of data obtained through interviews. The interviews target two groups of people; functionaries of the two organizations and diplomats and secondly the scholars of the relevant subject matter. Questions include the organizations' mechanisms for managing conflict, conflicts that the organizations have mediated or intervened and whether they were successful, challenges faced by the two organizations, recommendations and the institutional framework in which the two organizations operated under. The questions are set in an open ended manner to allow for flexibility and therefore facilitate collection of more information however; the area of study is limited to conflicts within the horn of Africa sub region. Interviews will be conducted in English while mailed questionnaire will be made available to OAU and AU members of staff who may be far hence personal interviews may prove difficult.

The third source will comprise government documents which may be obtained from Ministry of Foreign Affairs or any other government institution. However the bulk of the sources of information will be constituted mainly by literature reviewed from secondary sources that is from journals, periodicals, newspaper articles, books as well as from internet sources.

Data collected from interviewed respondents serves as a supplement to and verification of the other written sources although they also contain interesting information that cannot be found in documents. Interviews conducted will however be limited than would ordinarily be required because of cost and time constraints given above. However this methodology is favoured because of several reasons. First, the published materials on the subject matter are limited and therefore inadequate in shading light on the area of study. Secondly, personal interviews provide flexibility that enables more information to be collected and it allows background information of the respondents to be collected in case further interviews are required. Lastly, Kenya is a country whose foreign policy has been geared towards peaceful settlement of disputes within the region and therefore envoys and diplomats in this area are abundant and their wealth of experience cannot be ignored.

The analysis will be underpinned by the research objectives. Information collected will then be collated and verified before subjecting it to the theoretical framework that serves as an analytical tool in testing the three hypotheses.

1.8 Structure of the Study

Chapter one of the study introduces the subject of study, lays the research question, justification, literature review, theoretical framework and methodology.

Chapter two looks at OAU; its conflict management mechanisms, the conflicts it has mediated or intervened and the extent of their successes

Chapter three examines AU mechanisms of managing conflicts, conflicts it has managed and the extent of their success.

Chapter four makes a comparison of AU and OAU conflict management by examining conflicts within the Horn of African sub region.

Chapter five makes a critical analysis of conflict management by OAU and AU

Chapter five concludes the study.

CHAPTER TWO

AN OVERVIEW OF OAU CONFLICT MANAGEMENT IN THE HORN OF AFRICA

2.0 Introduction

This chapter will examine how OAU managed conflicts from its inception in 1963 until 2002. It critically looks at the organization's conflict management mechanisms, the conflicts it has mediated or intervened in and their successes or failure.

The chapter will be divided into four sections. Section one deals with the organization's establishment, section two examines the organizations mechanisms of managing conflicts, section three analyses conflicts managed by the organization while section four will examines OAU effectiveness in managing conflict.

2.1 Establishment of OAU

The struggle and the desire for independence and self-determination from colonial rule by African countries was underway in 1963. This manifested itself through the formation of two groups namely the Casablanca group which advocated for the formation of a "United States of Africa" under a centralised command and the Monrovia group which was rather conservative and therefore stressed the importance of independence, integrity, sovereignty of African states and advocated for a loose association of states.¹ However on 25th May 1963 in Addis Ababa, Ethiopia, the two

¹ G. J. Naldi, *The Organization of African Unity: An Analysis of its Role*, (2nd ed), (London: Mansell, 1999), p.2. Also see J. Rechner, *From the OAU to AU: A Normative Shift with Implications of Peacekeeping and Conflict Management or Just a Name Change?*. *Vanderbilt Journal of Transitional Law*, vol. 39, issue 2, 2006, p. 84

groups came together and signed the OAU Charter which “captured the radical-unionist Pan-African spirit” of Casablanca group while emphasizing the independence and sovereignty of each state advocated by Monrovia group.²

The organization’s purposes included to promote the unity and solidarity of the African states, to coordinate and intensify their cooperation and efforts to achieve a better life for the people of Africa, to defend their sovereignty, their territorial integrity and independence, to eradicate all forms of colonialism from Africa and to promote international cooperation, having due regard to the Charter of UN and the Universal Declaration of Human Rights.³ In their pursuit of the organization’s purposes, the member states declared their adherence to some principles among them the sovereign equality of member states, non-interference in internal affairs of states, respect of sovereignty and territorial integrity of each state and peaceful settlement of disputes.⁴ “African solutions to African problems” is not in the charter but was agreed on in Cairo in 1964.⁵

OAU Charter differed from UN Charter in not explicitly stating that peace and security was its top priority even though peace and security were critical for accomplishment of its goals.⁶ While the organization’s purposes were realistic at least until all its members gained their independence from their colonial masters and the end of apartheid,⁷ these principles became a hindrance especially when internal conflicts exacerbated in the region.

² Ibid, p.2. Also OAU Charter.

³ Article 2 (1(a-e)), OAU Charter.

⁴ Article 3 (1-7), OAU Charter.

⁵ AHG/Res.16 (I), also C. Amate *Inside the OAU: Pan-Africanism in Practice*. (London, 1986), p.166 and W.J. Foltz, “The Organization of African Unity and Resolution of Africa’s Conflicts” in Deng and Zartman, *Conflict Resolution in Africa*, Op.Cit. p. 347.

⁶ Article 1(1), UN Charter

⁷G. J. Naldi, *The Organization of African Unity: An Analysis of its Role*, Op. Cit. 38

Multilateral institutions contribute to conflict management by formulating norms that member states must uphold in their intercourse. Several norms were included on OAU's charter while others arose based on the practise of the organization. There was however a conflict of principles of OAU while managing conflicts. In Chad conflict, there was a conflict between non-interference and territorial integrity due to the involvement of Libya and in the case of Western Sahara there was a conflict between non-interference and *uti possidetis*. OAU in both cases demonstrated that it held the principles of territorial integrity and *uti possidetis* more important than the others where a conflict of principles occurred. This meant that the organization could only intervene in interstate conflicts and not internal conflicts. The organization's fear was of tearing apart the fragile state systems that had just emerged from colonization. In order to fully comprehend the role played by OAU in managing conflicts, these normative provisions need to be analysed.

2.1.0. Non-Interference in the Internal Affairs of States

This norm arises from article 3(2) of the AU Charter. The non-interference principle was motivated by the aspirations of the organization to keep its members united as they feared interfering with the fragile African states which had just emerged from the yoke of their colonial masters.⁸ Furthermore this principle is addressed to the outside world to leave African countries to carry on with their nation-building and development.⁹ The inclusion of this norm is not a departure from other international norms as can be seen in UN Charter which embraces it;¹⁰ however the

⁸ M. Mwangi, The Organization of African Unity and the Management of Internal Conflicts in Africa, Sage Publications, *International Studies*, 33,1,(1996), p.6.

⁹ M. Mwangi, Who Will Bell the Cat? Article 4(2) of the OAU Charter and the Crisis of OAU Conflict Management, *Kent Papers in Politics and International Relations*, Ser. 4, no. 7, 1995, p. 3.

¹⁰ Article 2(7) UN Charter.

interpretation of the norm has been the main point of contention. OAU's strict and rigid interpretation meant that internal conflict could not be managed effectively. However the charter did not prohibit the organization from involving itself. Indeed OAU's mandate could not be fully executed without its involvement in the form of conflict management of a member state internal conflict.

Internationalization of conflicts and the interpretation of internal conflicts by OAU contributed to its inaction when it came to managing internal conflicts. While the organization argued on a strict distinction between internal and interstate conflicts, it has emerged through the works of some scholar such as Burton and others that there are domestic sources of international conflicts and vice versa which make it conceptually difficult to distinguish between the two. The clear line between internal and international conflicts has been rendered irrelevant on the grounds of universal human rights,¹¹ the idea that all conflicts have internal sources,¹² the involvement of exogenous third parties,¹³ the media, refugees,¹⁴ humanitarian aid¹⁵ and modern technologies. Internationalization of conflicts combined with strict interpretation of article 3(2) impacted negatively the OAU's position.¹⁶ The changes taking place in the world that ended the Cold War significantly reduced inter-state conflicts but heightened internal conflicts arising from fights over meager resources and the non involvement by the major powers.

¹¹ J. Donnelly, *International Human Rights*. (Boulder, 1993)

¹² J. Burton, *Global Conflict: The Domestic Sources of International Crises*, (Brighton, 1984)

¹³ J. Wall, *Mediation: An Analysis, Review and Proposed Research*. *Journal of Conflict Resolution* .vol. 25, 1981, pp.157-80, also C. Mitchell, 'The Motives of Mediation' in C. Mitchell and K. Webb. (eds), *New Approaches to International Mediation*. (Westport, CT, 1988).pp.29-51 and M. Mwangi , *Conflict in Africa: Theory, Processes and Institutions of Management*, (Nairobi: CCR, 2006) p.52.

¹⁴ M. Mwangi, *Who Will Bell the Cat? Article 4(2) of the OAU Charter and the Crisis of OAU Conflict Management*. Op. Cit., p. 9.

¹⁵ A. C. Arend & R. J. Beck, *International Law and the Use of Force: Beyond the UN Charter Paradigm*. (London: Routledge, 1993), p.113.

¹⁶ M. Mwangi, *The Organization of African Unity and the Management of Internal Conflicts in Africa*. Op. Cit. p.14.

The non-interference principle has been worsened by rebels fighting a legitimate government where in most cases clandestinely got support from other member states for instance civil wars in Biafra, Southern Sudan and Eritrea yet no effective sanctions could OAU institute to mitigate such situations.¹⁷

2.1.1 Territorial Integrity

This norm enshrines the legitimacy of borders inherited from the colonial period no matter how perverse or arbitrary they were. The norm is contained in the OAU Charter article 3(3). Territorial integrity was a bedrock principle of OAU that went further than UN counterpart by prohibiting any action that might undermine territorial integrity;¹⁸ not just action that constitute a threat or use of force as UN Charter stated but led to *uti possidetis* with regard to state boundaries.¹⁹ The principle however provided solutions to most problems facing the organization right after independence as it kept the Pandora's Box tightly locked but it also brought a lot of hue and cry.

The norm finds support in two ways. One is the need and quest of the African elite who had emerged from the colonial rule to regulate transfers across their boundaries. Secondly is the international system which supports juridical statehood of weak states from being dismembered by strong neighbours or imperialists. The application of this norm in resolving African conflicts was in Western Sahara, Chad and Libya conflicts, Kenya, Ethiopia and Somalia conflicts.²⁰ To some extent the norm resolved the dispute fairly satisfactorily especially interstate ones however in

¹⁷ W. J. Foltz, "The Organization of African Unity and Resolution of Africa's Conflicts" in Deng and Zartman, *Conflict Resolution in Africa*, Op. Cit, p.358.

¹⁸ Article 2(4), UN Charter.

¹⁹ M. Mwagiru, The Organization of African Unity and the Management of Internal Conflicts in Africa, Op. Cit., p.6. Also I. Brownlie, *Principles of Public International Law*, (Oxford, 1979), pp.137-138.

²⁰ K. Van Walraven, *Dreams of Power: The Role of the Organization of African Unity in the politics of Africa. 1963-199*, Op. Cit. p.282.

instances where the *uti possidetis* itself is contested for example where there are disagreements over the exact boundary for lack of demarcation,²¹ the norm brought a lot of acrimony. African boundaries are largely porous as communities live across them therefore their interaction with strict adherence to *uti possidetis* compounds the problems of these communities living in frontier districts for example it hindered communication especially in the case of nomadic communities.

Despite the support by the African elite on the norm, several challenges have been mounted including the challenge by Somalia and Morocco. In 1976-77 Togo revived claims against Ghana in an effort to bring its entire Ewe speaking people in its fold.²²

2.1.2 African Solutions to African Problems

The idea of trying OAU first before going to the UN Security Council derives its legal basis from article 52(2) of the UN Charter. This article urges member states that are members of regional organizations to settle disputes peacefully through the respective regional organizations before referring them to the Security Council. This norm is not found in the OAU Charter but can be traced to the Algeria-Morocco conflict in 1963 when the Council emphasized “the imperative need of settling all differences between African states...within a strictly African framework”.²³ The norm was agreed on during the Assembly of Heads of State and Government meeting held in Cairo in 1964 and was later reaffirmed several times.²⁴

²¹ S. Touval, *The Boundary Politics of Independent Africa*, (Cambridge: Mass, 1972), pp.279-280.

²² K. Van Walraven, *Dreams of Power: The Role of the Organization of African Unity in the politics of Africa. 1963-199*, Op. Cit. p.284.

²³ ECM/Res.1 (I) October 1964.

²⁴ ECM/Res.3 (III); ECM/Res.5(III); ECM/Res.7 (IV); AHG/Res.16 (I); CM/Res.794 (XXXV); and AHG/Res.106 (XIX).

The principle has been tested on several occasions in the past. The conflict between Chad and Libya in 1983²⁵ and the Kenya, Ethiopia and Somalia conflict²⁶ in 1977 are good examples that elicited reactions from OAU. The preference to have Africa solve its problems emanate from the belief that African action will be substantively more effective in resolving African disputes and yet during the Cold War, there was an immense involvement of the superpowers meaning that Africa could not keep its problems inbound. However this notion is not normally true as OAU tended to patch up conflicts without resolving them. The fact was that so long as Africans handled their “dirty linen” themselves, deeper resolutions to conflicts had no primacy. In practice this principle meant that member states were at the mercy of OAU to provide solutions shutting out other organizations such as UN yet the Unity rarely provided solutions.

Several reasons underlie African solutions to African problems norm. First, there are negative externalities arising from welcoming great powers to intervene in African conflicts. Secondly, the acceptance by OAU to publicly invite external actors would have set precedence where the outsider would comeback even if his intervention was not welcome. Lastly, by welcoming outsiders the OAU feared that they would deepen differences and make cooperation more difficult.

2.1.3 Self Determination

Self-determination and its interpretation was another phenomenon that brought a lot of dilemmas to OAU’s management of conflicts. OAU interpreted it to mean

²⁵W. Foltz, “The Organization of African Unity and Resolution of Africa’s Conflicts” in Deng and Zartman, *Conflict Resolution in Africa*, Op. Cit, p.355.

²⁶S. Touval, *The Boundary Politics of Independent Africa*, (Cambridge: Mass, 1972), p.216.

freedom from alien or colonial rule which led to numerous challenges.²⁷ This is a restrictive interpretation. Conflicts such as Sudan and Ethiopia could not be interpreted by OAU as self-determination and therefore could not receive attention from the organization. "Internal" self-determination which is liberation from oppressive and dictatorial regimes and "post-colonial" self-determination arising from arbitrary demarcation which divided communities gave self-determination a new meaning.²⁸ The autocratic regimes which were installed by colonialists after independence orchestrated massive violation of human rights yet OAU could not raise a finger.

Like the negative norm of secession which is an off-shoot of the principle of territorial integrity meant that self-determination was condemned. The Western Sahara and Somali experiences reaffirm that the structures as imposed by the colonial partition that determine the socio-geographical framework of self-determination.²⁹ Because of this interpretation it meant that a leader could carry out atrocious acts against his own people without OAU taking action given the non-interference principle. The only exception was in the case of Eritrea's struggle for self-determination. It was only until Eritrea Peoples Liberation Front (EPLF) had defeated Ethiopian army and Ethiopia's new leader had agreed to its independence that Eritrea was recognized by other states and admitted to the OAU.³⁰

²⁷ C. Young, "Self-Determination, Territorial Integrity and the African State System", in Deng and Zartman, (eds), *Conflict Resolution in Africa*, (Washington D.C: Brookings Institution, 1991) pp.320-46

²⁸ M. Mwangi, *Conflict in Africa: Theory, Processes and Institutions of Management*, Op.Cit. p.144.

²⁹ C. Young, "Self-Determination, Territorial Integrity and the African State System, Op. Cit., p.342.

³⁰ *African Research Bulletin* (PSC), 1993, pp. 10995-10997.

2.2 OAU Structures of Managing Conflicts

OAU's efforts in managing conflict have been varied over time although this can be broadly divided into two periods. The first period being from its establishment in 1963 to 1993 and the second period being from 1994 to 2002 when the organization was disbanded and AU established. The first period was predominated by the continent's fight against colonization and apartheid. The second period forms part of the post-Cold War which saw a lot of changes including an increase in internal conflicts and a realization by the member states of the need to restructure the organization. In this period a new mechanism of managing conflict was established, a shift from the classical methodologies and new forms of self-determination arose that OAU had not taken into account.

OAU was generally guided by the four norms of non-interference, territorial integrity, sovereign equality of member states and "African solutions to African problems". The methodologies adopted involved three approaches, first is the collective mediation by sitting heads of state, *ad hoc* committees and cooperation with other organizations such as UN although it tried at its later stages to involve sub-regional organizations.³¹ The conflict management policies were based on "mediation shading to conciliation"³² and arose from practice. Non-involvement in internal affairs of member states, dichotomy between inter-state and internal conflicts and mistrust on judicial and formal means of settling disputes by OAU heads of states shaped the type of conflict management that the organization took.

³¹ M. Mwangi. Who Will Bell the Cat? Article 4(2) of the OAU Charter and the Crisis of OAU Conflict Management. Op. Cit., p. 2.

³² Ibid.

2.2.0 Management of Conflicts by OAU (during the Cold War Period: 1963-1993)

Until the 1990s, OAU was obstructed by the non-interference in the internal affairs of member states therefore restricting its role in mediation of domestic conflicts. However Walraven argues that OAU at times did intervene in various ways if the conflict was marked by substantial non-African involvement.³³ Human rights violations were orchestrated against the populace by the new regimes yet OAU could not raise a finger as in the case of Mobutu in Zaire. OAU in many instances patched up conflicts without addressing the core issues which were human rights violations by individual governments against its own people. Rwanda, Burundi, Somalia and Liberia are some of the examples.³⁴ The organization preoccupied itself with protecting the newly found fragile states by holding the principles of *uti possidetis* and territorial integrity more important. OAU also during the Cold War period condemned secessionism no matter what the reasons were for self-determination as in the case of Eritrea and Biafra in Nigeria. Similarly the superpowers often came to the rescue of African states which had internal conflicts.

The Assembly of Heads of State and Governments was the supreme organ of the organization which outlined common concerns of Africa with a view to coordinating and harmonizing them.³⁵ However the organ was undermined by the consensus it operated under. Lack of a widespread support on an issue made the organ ineffective furthermore the lack of enforcement mechanism made resolutions reached less emphatic. The chair of the assembly is rotational and the state hosting the summit

³³K Van Walraven, *Dreams of Power: The Role of the Organization of African Unity in the politics of Africa. 1963-199*, Op. Cit., p. 270.

³⁴M. Mwangi, *The Organization of African Unity and the Management of Internal Conflicts in Africa*, Op. Cit. p.17.

³⁵Article 8, OAU Charter.

gets the privilege of heading the assembly. Because of this, some statesmen whose human rights track records were not clear ran a chance of heading the organization therefore raising dilemmas (Idi Amin-1975 and Gadaffi-1982).³⁶ OAU preferred collective mediation undertaken by sitting heads of state but also encouraged individual mediation provided that it operated within this collective framework.³⁷

The Commission became moribund as member states never felt the need to invoke its provisions. This was because of the distaste by OAU heads of states and governments on judicial and formal means of settling disputes. Several reasons can be attributed to this behaviour by the African leaders. One is that CMCA was an independent institution that was initially made up of professionals.³⁸ With poor track record that the heads of states had especially in the field of human rights and unconstitutional means (coups) that they came to power, CMCA was not trusted to give a verdict that could favour most of them. In this regard they preferred *ad hoc* bodies that could be influenced to give a desired result. Secondly, the lack of compulsory jurisdiction hampered the efficacy of CMCA. Although article 15 of CMCA Protocol imposes an obligation on member states to refrain from any act or omission that is likely to aggravate a situation which has been referred to the Commission, consent by a party is required before it could act.

2.2.1 OAU Management of Conflicts (during the Post Cold War period: 1994-2002)

Until the formation of the Mechanism for Conflict Prevention, Management and Resolution in 1993, OAU relied on *ad hoc* bodies in resolving conflicts. The

³⁶G. J. Naldi, *The Organization of African Unity: An Analysis of its Role*, Op. Cit. p.19.

³⁷ M. Mwangi, *Who Will Bell the Cat? Article 4(2) of the OAU Charter and the Crisis of OAU Conflict Management*, Op. Cit., p. 2.

³⁸ AHG/Dec.109 (XIV).

adoption of the *Declaration on the Political and Socio-Economic situation in Africa and Fundamental changes taking place in the World*,³⁹ OAU committed itself to peaceful and speedy resolution of all disputes in Africa including internal ones. This shift compelled the secretary general to explore a number of radical changes including creation of an African Security Council which were not endorsed save for the Mechanism for Conflict Prevention, Management and Resolution which was adopted in Cairo Summit in 1993.⁴⁰

The mechanism's primary objective was the early warning and response of conflicts. It was therefore mandated to undertake confidence building measures in order to resolve conflicts. It focused its efforts on conflict prevention, peacemaking and peacebuilding. Peacekeeping was not given prominence unless forced by circumstances but observer missions were.⁴¹ The launch of the mechanism showed some level of engagement in what was earlier taken as internal conflicts.⁴²

The mechanism was activated in several conflicts just before the organization was disbanded. This was in Rwanda, Burundi, Liberia, Congo and Nigeria-Cameroon conflicts. In Rwanda, the mechanism deployed a Neutral Military Observer Group (NMOG) to monitor ceasefire violation based on the Arusha Accord.⁴³ The group faced a lot of financial and logistical difficulties it was later incorporated into the UN Force which took over the implementation of the agreement. The mechanism also deployed an observer team in Burundi after a coup in which the government requested OAU to send an International Mission of Protection and Confidence Building in

³⁹OAU Doc: AHG/Dec. I (XXVII).

⁴⁰J. Naldi, *The Organization of African Unity: An Analysis of its Role*, Op. Cit. p.24

⁴¹A Tekle, "The OAU: Conflict Prevention, Management and Resolution 1999", in H Adelman and A Suhrke (eds), *The Rwanda Crisis from Uganda to Zaire: The Path of Genocide*, Op. Cit. p.123.

⁴²M. Mwagiru, *The Organization of African Unity and the Management of Internal Conflicts in Africa*, Op. Cit. p.13.

⁴³OAU, CM/1751 (LVII) 1993:1, also

Burundi.⁴⁴ In Liberia, OAU send an eminent personality whom together with UN representative, Economic Community of West African States (ECOWAS) representative and the warring parties efforts led to the signing of an agreement although it later became difficult to implement.⁴⁵ Through the mechanism, an OAU Special representative working with the secretariat managed to broker an agreement that was signed in Libreville between the Presidential Coalition of Parties and the Opposition.⁴⁶

2.3 OAU Intervention in the Horn of Africa

This section critically examines in detail seven conflicts in the Horn of Africa namely the Ethiopian-Somalia, Kenya-Somalia, Ethiopia-Eritrea, Uganda-Tanzania, Somalia internal, Sudan internal and Uganda internal conflicts. The essence is to establish the organization's success or failure in managing these conflicts.

2.3.0. Ethiopia-Somali conflict (1977-78)

In 1977 the conflict flared and the Somali troops invaded Ogaden region of Ethiopia while renewing its earlier claims of uniting Somalia. President Bongo of Gabon while heading the Assembly requested the Good Offices Committee to discuss the matter at its session in August 1977 in Libreville where the committee adopted a recommendation emphasising the norm of *uti possidetis*.⁴⁷ After the defeat of

⁴⁴ M. Mwangiru, The Organization of African Unity and the Management of Internal Conflicts in Africa, Op. Cit. p.12.

⁴⁵ OAU Doc: CM/1747 (LVII), p.6.

⁴⁶ M. Mwangiru, The Organization of African Unity and the Management of Internal Conflicts in Africa, Op. Cit. p.13.

⁴⁷ *African Research Bulletin*, (PSC), 1977, pp. 4525-6.

Somalia, the committee reaffirmed the *uti possidetis* and explicitly declared that Ogaden belongs to Ethiopia.⁴⁸

Although OAU can be credited for introducing the norm of *uti possidetis* which it used in delivering a verdict in this conflict, it can be observed that the organization stuck by its norm of "African solutions to African problems" in having the case referred back. It clearly shows the avoidance of close scrutiny of African problems by outsiders and also an attempt to project a good image of not having failed in its role. The *uti possidetis* norm itself was aimed at keeping the Pandora's Box closed lest other states revive similar claims. This also ensured that issues of claims of self-determination as raised by Somalia could not be addressed as the organization interpreted this norm in a narrow way. The success in managing any conflict is to be able to stop the escalation of hostilities and to bring peace. In the case of Somalia-Ethiopia conflict, OAU did not quite succeed as hostilities turned violent and its verdict came too late when Somalia had already been defeated in battle by Ethiopia.

2.3.1. Kenya-Somalia conflict (1964-84)

Somalia after its own independence had its own interests of encouraging Somalia nationalism which was widespread to areas of Ogaden in Ethiopia and what came to be known as Northern Frontier District (NFD) in Kenya. Somalia's irredentist behaviour was formally inscribed in the constitution and was even portrait in its five star flag.⁴⁹ Just like Ethiopia, Kenya preferred to have its conflict with Somalia be referred back to OAU. During the 1964 extraordinary meeting of the Council of

⁴⁸ AHG/105(XVII): Report of the Good Offices Committee on Ethiopia-Somalia dispute, Lagos, 18-20 August 1980.

⁴⁹K. Van Walraven, *Dreams of Power: The Role of the Organization of African Unity in the politics of Africa 1963-199*, Op. Cit. p.287.

Ministers, Kenya accused Somalia for its expansionist policies while Somalia accused Kenya for neglecting the wishes of the NFD population which had expressed their desire to join the Somalia republic and therefore appealed for a referendum to determine the territories "reunion".⁵⁰ The council simply called for a peaceful settlement and an end to propaganda campaign.⁵¹

The introduction of the norm of *uti possidetis* sealed the fate of Somalia's ambitions. Somalia during the Kinshasa Assembly summit in 1967, desired to normalise relations with Kenya in an attempt to pursue only one adversary, Ethiopia. Somalia therefore asked President Kaunda to mediate which led to the adoption of a declaration in which both countries expressed respect for each other's territorial integrity in the spirit of article 3(3) of OAU's Charter and undertook to resolve the remaining differences peacefully.⁵²

It was very clear that Somalia sought to take advantage of what it called marginalization of the NFD populace and therefore brought important notions of self-determination. Although "post-colonial" self-determination arising from arbitrary demarcation which divided communities, self-determination got a new meaning,⁵³ OAU rigidly interpreted this phenomenon as liberation from the colonialists. This interpretation affected management of conflicts by the organization. In the Kenya-Somalia conflict, OAU never really address the core issues in the conflict and although this was the case, the conflict was resolved early enough before it escalated further.

2.3.2. Ethiopia-Eritrea conflict (1998-2000)

⁵⁰ ECM 2. Dar es Salaam, February 1964, ECM/PV.5, pp.13-21.

⁵¹ ECM/Res.3(II) and ECM/Res.4(II).

⁵² S. Touval, *The Boundary Politics of Independent Africa*, Op.Cit. p.223.

⁵³ M. Mwagiru, *Conflict in Africa: Theory, Processes and Institutions of Management*, Op.Cit. p. 144.

Ethiopia-Eritrea conflict can be traced to a recommendation by UN Commission in 1950 which made Eritrea a federal state of Ethiopia. However this federation ended in 1991 when Eritrea Peoples Liberation Front (EPLF) took over power in Asmara.⁵⁴ Ethiopia-Eritrea conflict was a border conflict although several factors contributed to the conflict including Eritrea's decision in 1997 to create its own currency and denial of Ethiopia access to the port by Eritrea.

USA and Rwanda were the first to take an initiative of mediating in the conflict. It came up with several recommendations including a withdrawal of Eritrean forces to positions held before 6th May 1998 when the conflict started, establishment of an observer mission and called on parties to agree on delimitation and demarcation of the border. Attempts had been made by OAU to address the Eritrean issue since 1989 but had failed. OAU made several efforts in trying to manage the conflict starting with a call for the two warring parties to use peaceful means when the organization's summit met in Ouagadougou, Burkina Faso in 1998.⁵⁵ Council of Ministers and Ambassadors were employed by the organization but their decisions became mere recommendations as the two parties continued with armed conflict. OAU adopted a High Level Delegation's recommendations when it was presented before the organization's Central Organ.⁵⁶ This was supported by UN, USA and European Union (EU).⁵⁷ Although the organization managed to convince the warring parties to sign a peace agreement on 12th December 2000, the outcome had already been decided through military action which had determined who the winner was.⁵⁸

⁵⁴ P. Woodward and M. Foryth (eds), *Conflict and Peace in the Horn of Africa: Federalism and its Alternatives*. (Aldershot: Dartmouth Publishing, 1994), p.65-7.

⁵⁵ T. Fessehatzion, *Shattered Illusion, Broken Promise: Essays on the Eritrea-Ethiopia Conflict (1998-2000)*, (Asmara: The Red Sea Press, 2002), p.269.

⁵⁶ OAU Press Communiqué of 8th November 1998.

⁵⁷ UN Security Council Resolution, no. 1226 of 1999.

⁵⁸ T. Fessehatzion, *Shattered Illusion, Broken Promise: Essays on the Eritrea-Ethiopia Conflict (1998-2000)*, p.275.

The failure to address key issues in Eritrea's claims prior to the independence of Eritrea was largely due to the organization's condemnation of secessionism as demonstrated elsewhere in Biafran conflict.⁵⁹ Despite the formation of the Mechanism for Conflict Prevention, Management and Resolution which was endorsed in Cairo Summit in 1993, it became clear that the mechanism alone could not work. The lack of enforcement mechanism that could compel the warring groups to abide by OAU's decisions contributed to the parties resorting to use of force. Although the OAU managed to broker a peace deal, it failed to stop the fighting.

2.3.3. Somalia Internal Conflict (1991-2002)

The gaining of independence on 26th June and 1st July 1960 and the subsequent unification of the British Somaliland and the UN Trusteeship territory marked a struggle by the Somali population for national identification and the unification of the entire Somali people.⁶⁰

OAU initially adopted an isolationist approach to the concerns of Somalis including the issue of territorial disputes with its neighbours. Most member states saw the Somali question as troublesome moreover several issues including funding, pragmatic structures to act and the strict interpretation of non-interference norm contributed to the reluctance to act by OAU. It was only until January 1992 when the Secretary General of OAU requested UN to act. UN action came in the form of a resolution and a call for peace and security but there was no tangible feel on the ground.⁶¹ UN send an observer mission in Somalia (UNISOM I) and later reinforced by USA led troops Unified Task Force (UNTAF) both failed to disarm the rebels who

⁵⁹ J. Naldi, *The Organization of African Unity: An Analysis of its Role*, (1st ed), Op. Cit. p.37

⁶⁰ H. Dualah, *Search for a New Somali Identity*, (Nairobi, 2002), p.46.

⁶¹ UN Security Council Resolution 733 of 23rd January 1992.

later carried on with the fighting resulting into their failure.⁶² UN Also deployed another humanitarian intervention mission in Somalia (UNISOM II) being one of its kind on an experimental basis.⁶³ The failure of UNISOM II came quick after the UN Secretary General started trading accusations with the warlords and in May 1995 the mission was forced to terminate without achieving much.⁶⁴

OAU and IGAD again tried to address the Somali internal conflict by appointing Ethiopia as a mediator. This led to the signing of a joint declaration in Sodere, Ethiopia therefore forming a council on 1st June 1997.⁶⁵ The process adopted a top-down design and tried supplementing it with a bottom-up approach as it attempted to send the new council back to Somalia although this was short lived as the Eritrea-Ethiopia conflict broke out. Djibouti through the Arta peace talks took over the process but also resulted in failure as some of the sub-regional members for example Ethiopia complained of IGAD not having been consulted yet the process was rushed through the OAU, UN and Arab League. However at its 70th Ordinary Session of the Central Organ of the Mechanism for Conflict Prevention, Management and Resolution on 2nd October 2000 a communiqué was issued welcoming the outcome of Arta process.

The isolationist approach that OAU initially took can be attributed to the principle of non-interference held dearly by the organization and even preferred external intervention in the form of UN. Again it is a clash of norms between the African solutions to African problems norm against the non-interference in internal affairs of a member states norm. In this instance OAU preferred giving in to the norm

⁶² A. Knife, *Somalia Calling: The Crisis of Statehood and the Quest for Peace*. (Addis Ababa: EIIPD, 2002), p.89 and also UN Security Council Resolution 794.

⁶³ UN Security Council Resolution no. 814 of 26th March 1993.

⁶⁴ A. Knife, *Somalia Calling: The Crisis of Statehood and the Quest for Peace*, Op.Cit., p. 101.

⁶⁵ Ibid, p.217.

of African solutions to African problems by inviting UN. In the later parts of the 1990s it is observed that OAU started recognizing the important service rendered by sub-regional organizations such as ECOWAS by decentralizing, delegating and cooperating in the responsibility of maintaining regional peace and security. The failure of the Soderre and later Arta peace processes can be attributed to interests of some individual member states which only served to contradict those of others. AU and IGAD thereafter carried on with the peace process after OAU failed to effectively manage the conflict.

2.3.4. Uganda internal conflict (1979-1985)

Kenya initiated mediations in the internal conflict in Uganda in 1985. This was a departure from the OAU's approaches to conflict management. Kenya mediated between the two Tito Okello's Uganda National Liberation Front (UNLF) and Museveni's National Resistance Movement (NRM) the two main protagonist parties.⁶⁶ Kenya was heterogenous mediator as it belonged to the same system of both the Greater Horn of Africa conflict system.

Despite having succeeded in brokering an agreement between the parties, it was clear that the outcome was unacceptable leading to its rejection by Ugandans who pursued a military solution to the conflict. This was because the mediation did not involve the entire warring parties and concentrated only on the power sharing configuration but failed to address the root causes therefore making the re-entry problematic.⁶⁷

⁶⁶ Y. K. Museveni, *Sowing the Mustard Seed: The Struggle for Freedom and Democracy*. (London: Macmillan Education Ltd, 1997), p. 168.

⁶⁷ *Ibid*, p. 169.

The involvement by Kenya in trying to manage Ugandan internal conflict should have served as a lesson to OAU which continued to strictly adhere to article 3(2) of its charter and interpreting it as non involvement. Other mediations by individual states include Zimbabwe and Kenya in Mozambique's internal conflict and Inter-Governmental Authority on Drought and Development (IGADD) in Sudan internal conflicts.⁶⁸ Uganda, Mozambique and Sudan at no time did they complain of interference by the mediating parties therefore these actions put OAU stand under question and served to reinforce arguments by scholars that non-interference did not entirely prohibit involvement as often given by OAU to justify its inaction. It also served as a lesson that the dichotomy between internal or international conflict was now blurred as the mediating parties had directly or indirectly been affected and therefore could not just sit and see a fellow member consumed in deadly violence. In this conflict OAU failed to involve itself in the conflict because of its strict adherence to article 3(2) of non interference in internal affairs of a member state.

2.3.5. Tanzania-Uganda conflict (1978-1979)

Tensions between Uganda and Tanzania dated back to 1971 after Amin came into power following a *coup d'etat*. Uganda accused Tanzania of supporting Uganda rebels including their leader Obote. In October 1978, Uganda occupied parts of Tanzanian territory and later declared the areas north of river Kagera part of its territories. On 8th November, Amin offered to withdraw only on the condition that OAU guarantees that Tanzania will not attack Uganda however four days later, Tanzanian president Nyerere announced that Tanzania had launched an offensive.⁶⁹

⁶⁸ M. Mwangi, The Organization of African Unity and the Management of Internal Conflicts in Africa. Op. Cit. p.18.

⁶⁹ S. Chesterman, Just War or Just Peace?. Humanitarian Intervention and International Law, p.77

Mediation attempts by individual states such as Kenya, Nigeria and Zambia had failed. Discussion in the OAU *ad hoc* committee on interstate conflicts was also fruitless and on 2nd March 1978 the OAU admitted that its efforts to reach a cease-fire had failed. UN Secretary General Waldheim appealed to both countries to stop fighting and offered his good offices to seek a solution but was in vain.⁷⁰

Similarly, OAU lacked the appropriate machinery and resources to intervene in any effective way and had to content itself with feeble attempt at ending the armed conflict. OAU mediation team visited Kampala and Dar-es-Salaam in February 1979 but ended without passing any resolution on the invasion. OAU ministerial meeting held in Nairobi in March 1979 likewise did not pass any resolution on the invasion. Despite the complains by President Numeiry and General Obasanjo arguing that it was a bad precedence, OAU summit meeting in Monrovia in July 1979 did not condemn Tanzania but instead acknowledged the new Uganda president.⁷¹

The way OAU handled the issue of Tanzania's decision to invade Uganda draws some insights into its weaknesses in managing conflicts. First, it could not take any action on Amin despite his poor human rights record and yet these were the causes of internal conflicts. It could not as Nyerere rightly puts it condemn the Amin's regime. Secondly, the refusal to condemn Tanzania for its actions clearly shows that there was a need to revise its chartered to allow the organization's intervention in certain circumstances such as human rights violations. OAU efforts to evade armed conflict in the Tanzania-Uganda conflicts showed weaknesses of OAU in dealing with interstate conflicts as it did not have any collective framework that could guide the organization if one state aggressed on another member. It was in this

⁷⁰ M. Brecher and J. Wilkenfeld, *A Study of Crisis*, (Michigan: University of Michigan, 1997), p.454.

⁷¹ O. Aluko, African Response to External Intervention since Angola, *African Affairs*, vol. 80, no. 319, April 1981.

conflict that article 3(3) of the OAU Charter on the sovereignty and territorial integrity of Uganda was violated and yet OAU could not simply condemn it.

2.3.6. Sudanese Civil War (1957-1972 and 1983-2005)

Early efforts by state actors to mediate included that of Milton Obote in 1963 the then president of Uganda. After several reconciliation attempts, the outcome failed as the two sides continued pursuing military action.⁷² Nkrumah's Pan-African drive and efforts to mediate in the conflict were thwarted by Sudanese President, Moghaoub who turned him down on the grounds that the Southern Sudan issue was an internal affair. This argument showed some cracks and weaknesses of the newly formed OAU arising from its norm of non-interference. It is indeed this norm that undemocratic African states have continuously used to avoid scrutiny in their human rights violations.

Another attempt to resolve the Sudanese civil war in the 1970s was the Movement for Colonial Freedom, a London based organization. Its findings that external forces were working against the unification of Sudan were quickly dismissed by South Sudan resulting into a failed attempt.

Several other peace initiatives were carried out but the notable one came in 1972. World Councils of Churches (WCC) sponsored its affiliate the All African Councils of churches (AACC) to mediation in the Sudan civil war. The initiative culminated into the March 1972 signing of Addis Ababa agreement which succeeded to halt hostilities until 1983 when the second civil war broke out. The ratification of the agreement became a decree known as the Southern Province Regional Self-government Act and was co-opted into the laws of the country. In this peace initiative,

⁷² H. Assefa, *Mediation of Civil Wars: Approaches and Strategies-The Sudan Conflict*, (London: Westview Press, 1987), p.88.

OAU did not participate directly although the Southerners had tried to involve the organization.⁷³ Haile Selassie used his influence as one of the founding members of OAU to have the warring parties sign the agreements.⁷⁴ OAU is however credited for the 1972 agreements which ended Anya-Nya I conflict although in reality it did very little.⁷⁵

OAU attempted to mediate in the Sudan conflicts again in May 1992 when it requested the then chairman of OAU and the president of Nigeria Ibrahim Babangida to hold peace talks in Abuja Nigeria.⁷⁶ This came at the time when SPLM was in the verge of collapse following a split. Despite the North rejection on secularism and could not approve a referendum, a communiqué was issued at the end of the talks. A second attempt was made in 1993 but again failed.⁷⁷

The most successful of all attempts in managing Sudanese conflicts between the North and the South was that undertaken by IGAD which started its operations initially as an authority dealing with drought and development. The authority entered as a mediator in the conflict in 1994 to 2005 when a Comprehensive Peace Agreement (CPA) was signed in Nairobi. Before CPA was signed, several other protocols were signed for instance the Machakos I round which dealt with self-determination and religious issue. Machakos II dealt with issues of government, power sharing, wealth, human rights and security arrangements. OAU, USA and UN supported IGAD in its success in brokering an agreement that had so far halted hostilities.

⁷³ E. O'Ballance, *Sudan, Civil War and Terrorism, 1956-99*, (London: Macmillan Press, 2000), p.31.

⁷⁴ F. Mulu, *The Role of Regional Organizations in conflicts management IGAD and Sudanese civil war* . Op. Cit. p.44. Also

⁷⁵ H. Ofuho, "Security Concerns in the Horn of Africa", in M. Mwagiru (ed) *African Regional Security in the Age of Globalization*, Op. Cit. p.14.

⁷⁶ D. H. Johnson, *The Root Causes of Sudan's Civil Wars: Update to the Peace Agreement*, (Indianapolis: Indiana University Press, 2003), p.101.

⁷⁷ *Ibid.* p.101.

OAU was hindered in the management of Sudan civil war by its strict adherence to the norm of non-interference. It was in effect other organizations such as AACC and individual leaders such as Haile Selassie that enabled the signing of an agreement that halted hostilities from 1972 to 1983. Similarly the realization of the changes taking place after the end of Cold War leading to the recognition that OAU could not do without sub-regional organizations such as IGAD made it have a closer relationship with them. The role of sub-regional organizations therefore cannot be simply ignored as they understand the dynamics within their sub-regions.

2.4 OAU Effectiveness in Managing Conflict

The effectiveness of any organization engaged in management of conflict can only be seen in its three roles of conflict prevention, containment and resolution.⁷⁸ Lack of an early warning and risk assessment prior to 1993, hampered the organization's conflict prevention efforts. Although there was an early warning in the case of disputed elections in Congo (Brazzaville) and Rwanda,⁷⁹ the response mechanism was inadequate. The organization was successful in preventive diplomacy;⁸⁰ however it lacked preventive deployment capabilities where peacekeepers could be placed in areas of risk prior to outbreak of hostilities as in the case of Eritrea-Ethiopia conflict.

In conflict containment, isolation through sanctions and intervention through collective security, collective self-defense, and coercive diplomacy, peacekeeping and humanitarian intervention were necessary but these were thwarted by a number of

⁷⁸R. O. Keohane, *Multilateralism: An Agenda for Research*, *International Journal*, 65, no. 4, pp.736-40.

⁷⁹J. Levitt, *Conflict Prevention, Management and Resolution: Africa Regional Strategies for the Prevention of Displacement and Protection of Displaced Persons: The Case of the OAU, ECOWAS, SADC and IGAD*, Op. Cit. p.55.

⁸⁰*Ibid*,

OAU's institutional characteristics. The principle of non-interference required that permission had to be obtained from the affected member state while peace enforcement was effectively banned by the OAU Charter. The only reason that compelled OAU to intervene in Chad "internal affairs" was because of a clash of principles; non-interference and territorial integrity, OAU chose the later.⁸¹ OAU Mechanism for Conflict Prevention, Management and Resolution mainly focused on conflict prevention, peacemaking and peace building but did not consider peacekeeping.

It is clear that sub-regional organizations play a critical role in conflict resolutions taking an example of IGAD's role in Sudan which was commendable and could have complemented OAU's efforts. The regional organization however chose to compete and subordinate it instead of assisting sub-regional organizations. Individual states also have a role to play in mediating in conflicts especially those taking place in their areas. Kenya's role in Uganda and Zimbabwe's role in Mozambique are good examples that despite conflicts being internal, external actors could involve themselves through mediation in the conflicts and still not interfere in internal affairs of those particular states.

OAU ineffectiveness also lay in its interpretation of self-determination. OAU was therefore operating in a colonial period context meaning that violation of human rights went unabated and yet any attempt to address these issues by individuals in a state was taken as secessionist tendencies. This led to a rise of dictatorship while the organization remained mum and not raising a finger.

⁸¹ M. Mwangi. The Organization of African Unity and the Management of Internal Conflicts in Africa. Sage Publications, *International Studies*, 33,1,(1996), p.6.

In conflict resolution, OAU lacked enforcement mechanisms in that despite the signing of an agreement, its implementation lay at the mercies of the conflicting parties. OAU patched up conflicts without resolving them. Rwanda and Ethiopia-Eritrea are some of the examples.

In conclusion, OAU played a critical role in decolonization of Africa and was more active in interstate conflicts despite its failures in Somalia-Ethiopia, Tanzania-Uganda conflict and partial success in Eritrea-Ethiopia conflicts. In internal conflicts, OAU kept off and interpreting non-interference of internal affairs of a member state as non-involvement.

CHAPTER THREE

AN OVERVIEW OF AU CONFLICT MANAGEMENT IN THE HORN OF AFRICA

3.0 Introduction

The previous chapter revealed that OAU engaged itself in liberating Africa from the colonialists and also preoccupied itself with managing inter-state conflicts during the Cold War period. However with the changes taking place during the post-Cold War period, there was need for OAU to shift away from its traditional way of dealing with issues especially in the field of conflict management. The establishment of a Mechanism for Conflict Prevention, Management and Resolution saw an establishment of an early warning and response system and an extended mandate of the Secretary General unlike before.¹ The incremental changes in OAU structures of managing conflict nevertheless failed to inspire effective management of conflict. This realisation gave rise to the establishment of AU.

This chapter will therefore examine how AU managed conflicts since its establishment in 2002 to 2008. It critically looks at the organization's conflict management mechanisms, the conflicts it has mediated or intervened and the extent of their successes.

The chapter will be divided into four sections. Section one deals with the organization's establishment, section two examines the organizations mechanisms of managing conflicts, section three analyses conflicts managed by the organization while section four will examine AU effectiveness in managing conflict.

¹ OAU Doc: CM/1747 (LVII).

3.1 Establishment of AU

The Constitutive Act of the AU was adopted in Lome, Togo on 11th July 2000 by the OAU Assembly of Heads of State and Government.² It came into effect on 26th May 2006 when the act was ratified but it became operational on 10th July 2002.³ AU is a new entity that was formed in order to address OAU shortcomings although contrary to this, African leaders saw it as a reformation of OAU.

The Constitutive Act of AU in article 3 provides the objectives of the Union which seek to achieve greater unity and solidarity among African states, defend the sovereignty, territorial and independence of member states, accelerate the political and socio-economic integration, promote and defend African common position on issues of interest, encourage cooperation, promote peace and security and stability on the continent and promote and protect human and peoples' rights.⁴ Others include enable the continent play its rightful position in global economy and international negotiations, promote sustainable economic, social and cultural development and integration, promote research in all fields and promote good health in the continent.⁵

In order to attain the above objectives, the act provides its principles in Article 4 of the AU Constitutive Act. These are sovereign equality and interdependence among member states, respect of borders existing on achievement of independence, participation of African people in the activities of the Union, establishment of common defence policy, prohibition of the use or threat to use force and peaceful resolution of conflicts.⁶ Other principles are non-interference by any member state in internal affairs of another but the Union has a right to intervene in a member state in

² OAU Doc: CAB/LEG/23.5, (11th July 2002)

³ AU Constitutive Act.

⁴ AU Constitutive Act, article 3(a-h)

⁵ Ibid, article 3(i-n)

⁶ Ibid, article 4(a-f)

respect of grave circumstances for example war crimes, genocide and crimes against humanity have been committed and peaceful co-existence of member states.⁷ Right for a member state to request intervention from the Union in order to restore peace and security, promotion of self reliance within the framework of the Union, respect for democratic principles, human rights and the rule of law, promotion of social justice, respect for sanctity of human life, condemns and rejects impunity.⁸ The Constitutive Act also condemns and rejects unconstitutional changes of governments and respects democratic principles, human rights, the rule of law and good governance.⁹

In the absence of a hegemon, regime theory holds that a set of principles, norms, rules and decision making procedures are set around which actor expectations converge in a certain issue area.¹⁰ These regimes are different from temporary arrangements or *ad hoc* agreements. AU has established norms representing a shift from its predecessor OAU. This section will however examine the emerging AU norms for peace and security. AU Constitutive Act provides a framework on which peace and security will be promoted. It attempts to ameliorate the critical socio-economic and political dimensions that hinder the maintenance of peace and security.

3.1.0 Humanitarian Intervention

The development of International Humanitarian Law and the adoption of the charter during OAU's time on human and peoples' rights in 1986 has motivated the establishment of this principle. Although article 4(g) of the AU Constitutive Act

⁷ Ibid, article 4(f-i)

⁸ Ibid, article 4(j-o).

⁹ Ibid, article 4p.

¹⁰ E. B. Haas, Regime Decay: Conflict Management and International Regimes, 1945-1981, in *International Organization*, 1983, pp.98-113.

provides for “non-interference in internal affairs of states”, the act also moves away from the notion by each member state as a separate inviolable entity by giving itself a right to intervene in grave circumstances, namely; war crimes, genocide and crimes against humanity.¹¹ It also gives a right to member states to request for intervention from the Union in order to restore peace and security.¹²

The importance of this norm cannot be overemphasized. Whereas OAU maintained a strict non-interference principle leading to commission of genocide and war crimes in most African states including the painful experiences of Rwanda, AU can intervene in internal issues in certain circumstances. Humanitarian intervention is defined by Wil Verney as,

“..... threat or use of force by state or states abroad, for the sole purpose of preventing or putting a halt to a serious violation of fundamental human rights, in particular the right to life of other persons, regardless of their nationality, such protection taking place neither upon authorisation by relevant organs of the United Nations nor with permission from the legitimate government of the target state”.¹³

This emerging norm is based on the view that sovereignty is no longer sacrosanct and that the organization will be willing to set aside the principle of inviolability of national borders and non-intervention.¹⁴ Although there are debates as to what constitutes humanitarian intervention, which intervention would be effective and the purposes of intervention, AU has made bold steps considering the continents past record. It should be noted that the core issues sparking conflicts were human rights violations by individual governments against its own people. Rwanda, Burundi, Somalia, Liberia and even Uganda during Amin regime are examples and yet OAU

¹¹ AU Constitutive Act, article 4(h).

¹² Ibid. article 4(j).

¹³ W. Verney, “Legitimacy of Humanitarian Intervention after the Cold War”, in E. Ferris (ed.), *The Challenge to Intervene: A New Role for the United Nations?* Uppsala Life and Peace Institute, 1992, p. 114.

¹⁴ D. Francis, *Uniting Africa: Building Regional Peace and Security Systems*, (Hampshire: Ashgate Publishing Ltd. 2006), p.110.

could not lift a finger.¹⁵ Kithure Kindiki indicates that despite the well publicized atrocities of Amin of Uganda, Bokassa of Central Africa Republic, Nguema of Equatorial Guinea, Mobutu of Zaire, Numery and Bashir of Sudan, Sayyid Barre of Somalia, Banda of Malawi, Moi of Kenya and Abacha of Nigeria, OAU never criticized these leaders.¹⁶ This norm therefore gives AU a reflection of the modern challenges that if implemented will go along way in taming leaders with autocratic tendencies.

This school of thought that favours forceful intervention propagated by natural law proponents and modern human rights activists is also backed by UN Charter.¹⁷ In Africa, there are fears that with the anarchic nature of the international system in which some African leaders who still have territorial ambitions and suffer from egoism and hegemonic complexes may be tempted to invade their neighbours. Furthermore despite the praise of article 4(h) there are fears from some quarters that the article alone may not mean much. Kuwali investigates the issue of what conditions should prevail before AU's intervention under Article 4(h) of its Constitutive Act. There should be a broader definition of thresholds while retaining the strict definition under the international criminal law.¹⁸ The present article in its form seems to suggest that intervention will occur on the commission of war crimes, genocide and crimes against humanity. This is a reactive agenda and therefore is not in line with the preventive agenda for the protection of human rights.

The criticism of article 4(h) notwithstanding, interventionist stance that AU has put will have a direct bearing in the way internal conflicts will be managed. As

¹⁵ M. Mwagiru, *The Organization of African Unity and the Management of Internal Conflicts in Africa*, Sage Publications, *International Studies*, 33,1,(1996), p.17.

¹⁶ Kithure Kendiki, *The Legality of Applicability of Humanitarian Intervention to Internal Conflicts in Africa*, *East African Journal of Peace and Human Rights*, vol.7, no.1, 2001, p.42.

¹⁷ UN Charter, Chapter VII.

¹⁸ D. Kuwali, *The Conundrum of Conditions for Intervention under Article 4 (h) of the African Union Act*, *African Security Review*, Vol. 17, No. 4, 2008.

argued earlier, most of the African leaders perpetrated atrocious acts to their people resulting in internal conflicts yet still went unchecked. With this norm, AU will be able to step in through Peace and Security Council (PSC).

3.1.1 Unconstitutional Changes in Government

The Constitutive Act of the AU provides among the foundational principles of the AU established by Article 4 that the Union shall function in accordance with: respect for democratic principles, human rights, the rule of law and good governance,¹⁹ respect for the sanctity of human life, condemnation and rejection of impunity and political assassination, acts of terrorism and subversive activities²⁰ and condemnation and rejection of unconstitutional changes of governments.²¹ Specifically, Article 30 of the Constitutive Act provides that governments which shall come to power through unconstitutional means shall not be allowed to participate in the activities of the Union.

The prohibition of unconstitutional changes in government is very well established in AU. This norm is a fundamental principle of the AU. More significantly, it is the only commitment in the Constitutive Act for whose breach a sanction is prescribed, suggesting that the treaty recognizes it as a limitation to the general principle of domestic jurisdiction and non-interference. Unconstitutional changes in government establish dictatorships, subvert democratic governance, preclude the exercise of the rights of people to constitute or change their government, and lead to gross violations of human rights. The prohibition of unconstitutional changes in government by the Constitutive Act may thus be seen as a distinct African

¹⁹ AU Constitutive Act, Article 4(m).

²⁰ Ibid, Article 4(o).

²¹ Ibid, Article 4(p).

recognition of a right to constitutional democratic governance in international law.²² It is inherent in the right to participation contained in Article 13 of the African Charter on Human and Peoples' Rights.²³

The prohibition against unconstitutional changes in government seeks to address the problem of perennial governmental instability in Africa. Between the Egyptian revolution in 1952 and 1998, there were 85 violent or unconstitutional changes in government, 78 of which took place between 1961 and 1997.²⁴ For the most part, the Organization of African Unity (OAU), the African Union's predecessor, regarded these as essentially within the domestic jurisdiction of its member States. The story of the emergence of this norm in the AU illustrates the ways in which the different institutions with a role in international law-making in Africa have worked together to set in place the new principle.

The AU Constitutive Act does not define unconstitutional change in government. However, for the fifteen years before it was adopted, the responses in practice to controversial regime change in African states had already been establishing its meaning. During the 1990s, the African Commission on Human and Peoples' Rights, responsible for ensuring respect of the African Charter on Human and Peoples' Rights, was required to interpret Articles 13 and 20 of the Charter, on political participation and self determination,²⁵ in relation to two forms of unconstitutional changes of government, in cases against Nigeria and The Gambia. In June 1993, the military regime in Nigeria annulled a general election mid-way through the announcement of voting returns. Deciding on a communication challenging this decision, the African Commission held that the annulment violated

²² N. Udombana, *Human Rights and Contemporary Issues in Africa*, Chapter 2, 35-106 (2003)

²³ African Charter on Human and Peoples' Rights, Article 13(1)

²⁴ A. Adeyanju, *Africa records 78 coups in 30 years*, *The Guardian*, Lagos, 9 February 1997.

²⁵ African Charter on Human and Peoples' Rights, Article 20(1)

Articles 13 and 20(1) of the Charter.²⁶ In a later case brought by Gambian President Dawda Jawara, the Commission concluded that a 'military coup d'état was, therefore, a grave violation of the right of Gambian people to freely choose their government as enshrined in Article 20(1) African Charter on Human and Peoples' Rights.²⁷

It is clear that during the waning days of OAU there were attempts to ensure that peoples' rights are respected and an attempt to ensure that undemocratically elected governments did not get to power. Albeit this attempts, its flaws remained as the independent Commission of Jurists who were charged with the responsibility of overseeing the Charter were denied the judicial powers. The inclusion of this norm in the AU Constitutive Act and its early indicators of the willingness to actualize it (for example the suspension of Togo from all AU activities in 2005 for allowing unconstitutional transfer of power), is a move towards a positive direction. AU condemned several *coup d'etats* such as in Mauritania and Guinea Bissau in August 2008.²⁸ The Union also suspended the participation of Madagascar from all AU organs and bodies after the army forced out the president and installed the opposition leader in his place.

The trend of events and even the actions being taken by AU seem not to deter the upsurge of unconstitutional governments. Others have sought to legitimize their positions by successfully extending their terms in office for instance in Uganda, Algeria and Cameroon. More severe measures need to be taken other than simply condemning and isolating the illegal governments and the African Court of Justice is one of these options.

²⁶ Communication 102/93, Constitutional Rights Project and Civil Liberties Organisation v. Nigeria, (2000), AHRLR, 191, 198, paras. 50-53.

²⁷ Communications 147/95 and 149/95, Sir Dawda K. Jawara v. The Gambia, (2000) AHRLR. 107, 118, para. 73.

²⁸ AU Commission Press Release no. 43/2009, after the AU Summit meeting in Addis Ababa.

3.2 AU Structures of Managing Conflict

There has been a normative shift by AU as compared to the OAU; however the power structure remains the same. The Assembly of the Union is still the supreme organ and is composed of fifty three heads of state and government.²⁹ Voting on substantive matters remains by consensus failing which, by two-thirds majority basis while procedural matters require the vote of a simple majority.³⁰ Two-thirds of the membership forms a quorum just as OAU assembly. Equally the AU Executive Council is made up of Foreign Affairs ministers or other ministers or authorities designated by a member state.³¹ The Executive may have responsibilities delegated by the Assembly.

The AU Constitutive Act creates a Commission which is the secretariat of the Union.³² There was a need to create a more powerful secretary and commission for the purpose of managing conflicts better as compared to the OAU. The establishment of PSC pursuant to article 5(2) of the AU Constitutive Act is the greatest improvement on OAU Charter. It is comprised of fifteen members, ten of whom serve a two year term while five serve a three year term in order to maintain continuity.³³ PSC works in conjunction with the Chairperson of the Commission. It is charged with authorizing deployment and deciding the mandate of peace support missions, recommending armed intervention to the Assembly in “grave circumstances”, initiating sanctions on governments that take power unconstitutionally and other related peace and security functions.³⁴ PSC is a resemblance of UN Security Council

²⁹ AU Constitutive Act, article 6.

³⁰ AU Constitutive Act, article 7(1)

³¹ Ibid, article 10(1)

³² Ibid, article 20.

³³ Article 2(1) of Protocol Relating to the establishment of PSC of AU

³⁴ Ibid, article 7(1a-r).

although the power to intervene in internal conflict without the member state's permission rests with the Assembly not PSC.³⁵

The Chairperson of the Commission as part of the PSC has the authority to bring matters believed to pose threat to peace and security to the attention of PSC. The chairperson also uses his diplomatic capabilities at his initiative or direction of PSC to prevent, resolve conflict and peace-building.³⁶ This role of the Chairperson of the Commission shows distribution of power as compared to the OAU. The Protocol establishing PSC has laid the foundation for more effective conflict management. Preventive diplomacy forms a cornerstone of AU conflict prevention, with the Chairperson of the Commission and the Panel of the Wise charged with using their "good offices" to avoid conflict.³⁷ The Protocol also establishes an early warning system with a central command and regional observation and monitoring units.³⁸ The collected information is passed to the PSC through the Chairperson of the Commission. A functioning of division of labour between AU and Regional Economic Communities (RECs) has been revealed in the first seven years of AU's existence.³⁹ This is a very important step in that OAU had subordinated the sub-regional organizations instead of collaborating with them especially in peace and security issues.⁴⁰

A notable omission in the AU Constitutive Act however is the failure to create a standing military although article 4(d) authorizes the establishment of a "common defense policy". However this failure is understandable on political and economic

³⁵ Ibid, article 7(1)(e).

³⁶ Ibid, article 10(2)(c).

³⁷ Ibid, articles 10 and article 11.

³⁸ Ibid, article 12.

³⁹ B. Franke, Competing Regionalism in Africa and the Continents Emerging Security Architecture, *African Studies Quarterly*, Vol. 9, Issue 3, 2007

⁴⁰ M. Mwangi, The Organization of African Unity and the Management of Internal Conflicts in Africa, Op. Cit. p.13. M. Mwangi, *The Organization of African Unity and the Management of Internal Conflicts in Africa*, Op. Cit. p.15.

reasons. What is to be applauded is the establishment of five standby forces which are envisaged to be utilized in peacekeeping missions.⁴¹

3.3 AU's Management of African Conflicts

Immediately the Union was formed, several challenges emerged starting with Burundi, Darfur and the protracted conflict in Somalia. This section will examine AU's intervention in these conflicts among others such as Kenya's post election conflicts within the Horn of Africa.

3.3.0 AU Intervention in Darfur Conflict (2003-2008)

Darfur conflict was a litmus test for AU's conflict management and its ability to intervene in what used to be considered internal affairs of member states by OAU. Although causes to the Darfur conflict can be traced way before and during colonial rule, the current crises started in February 2003 when it turned out to be violent with devastating results. After decades of neglect, drought, oppression and small scale conflicts, two rebel groups; the Sudan Liberation Army/Movement (SLA/M) and Justice and Equality Movement (JEM) mounted a challenge on Sudan's President, Omar al-Bashir. These groups were made up of non-Arab black African Muslims comprising mainly the Fur and Zaghawa tribes although they later recruited the support of Massaleit and other smaller tribes.⁴²

On 25th May 2004, the PSC of the AU authorized the Chairperson of the Council to deploy an AU observer mission in Darfur.⁴³ The mandate of the mission

⁴¹ Article 13, Protocol Relating to the Establishment of PSC of AU.

⁴² J. Rechner, From OAU to the AU: A Normative Shift with Implications for Peacekeeping and Conflict Management or Just a Name Change? Op. Cit

⁴³ African Union Peace & Security Council Communiqué of the Solemn Launching of the Tenth Meeting of the PSC, A(6), PSC/AHG/Comm. (X).

was to monitor the progress of the N'Djamena Humanitarian Assistance and Humanitarian Ceasefire on 8th April 2004 signed between the government of Sudan and the insurgent groups. At its seventeenth meeting on 20th October 2004, PSC authorized an "enhancement" of the so called African Mission in Sudan (AMIS). Its mandate was not only monitoring, confidence-building and securing humanitarian relief but also the protection of civilians under eminent threat in the immediate vicinity.⁴⁴ AU also moved forward in diplomatic fronts by appointing former OAU Secretary-General, Salim A. Salim as AU Special Envoy for Inter-Sudanese Political Talks on Darfur in May 2005. AU's diplomatic efforts bore fruit on 5th May 2006 in Abuja Nigeria when some of the warring parties signed an agreement although conflicts exacerbated thereafter.⁴⁵

Despite the AU's willingness and right to intervene in internal conflicts in a member state, Darfur intervention backfired because of the mission being ill-equipped and under resourced to resolve the conflict peacefully.⁴⁶ On 31st July 2007, UN authorized the deployment of an AU/UN Hybrid force (UNAMID) which was to include over nineteen thousand military personnel.⁴⁷ The search for peace in Darfur is still on with the emerging UN-AU partnership which is one in its kind. AU through this mission showed that it could intervene in what OAU would not have done and more so the use of a peacekeeping force rather than OAU's observer missions. The non-interference norm which OAU operated under has clearly been overcome. Issues of funding of AU missions have also come under scrutiny and therefore raise

⁴⁴ African Union Peace & Security Council Communiqué of the Seventeenth Meeting of PSC, PSC/PR/Comm. (XVII).

⁴⁵ Darfur Peace Agreement signed in Abuja-Nigeria on 5th May 2006 between the Government of Sudan and SLA led by Minni Arcua Minnawi.

⁴⁶ T. Murithi . The African Union's Evolving Role in Peace Operations: The African Union Mission in Burundi, The African Union Mission in Sudan, The African Union Mission in Somalia. *African Security Review* 17:12008, p.78

⁴⁷ UN Security Council Resolution 1769 dated 31st July 2007.

questions as to who should bare the burden. While UN has the overall mandate to maintaining international peace and security, it has an obligation to fund regional arrangements such as AU in undertaking part of these obligations.

Lessons have also been learned in AU's involvement in Darfur conflict. One is the "tunnel vision" or ideographic view that the Union has taken. Darfur conflict is an internationalized conflict and it is here that several conflict systems overlap drawing in many actors and more so Chad which has been engaging itself in proxy wars with Sudan. AU therefore needs to take a systemic approach and consider the interests of these actors. Similarly AU seems not to be putting enough pressure on the conflicting parties in order to have them negotiate; in any case they seem to be taking a softer stand especially when it comes to the government. Although peace has not been realised in Darfur, AU partially succeeded in preparing the ground for UN peacekeeping force.

3.3.1 AU Intervention in Somalia Internal Conflict (2002-2008)

Somalia central government collapsed in 1991 after many years of bad governance by regimes that came after the attainment of independence. Several initiatives attempting to bring peace in the country have all failed the last initiative being that of IGAD-led Somali National Reconciliation Conference held in Kenya which failed due to the representation disagreement, member state interests and problems of re-entry. Conflicts exacerbated in May 2007 causing tremendous loss of life and damage to property.⁴⁸ With the backing of USA, Ethiopia launched incursions in Somalia in order to route out the Union of Islamic Courts (UIC) and to protect the Transitional Federation Government (TFG) which was established in Nairobi.

⁴⁸T. Murithi , The African Union's Evolving Role in Peace Operations: The African Union Mission in Burundi, The African Union Mission in Sudan, The African Union Mission in Somalia, Op. Cit. p.80.

On 6th December 2006, UN Security Council authorized IGAD and member states of AU to establish a protection and training mission in Somalia.⁴⁹ On 19th January 2007, the AU PSC established the African Union Mission in Somalia (AMISOM) which was launched in March 2007 with 1,700 Ugandan troops while Nigeria, Ghana, Malawi and Burundi pledging to deploy troops.⁵⁰ However to date it is only Uganda and a few Burundi troops that are present in Somalia. Their mandate was to provide support for Transitional Federation Institutions (TFI), facilitate the provision of humanitarian assistance and to create conditions conducive to long-term stabilization, reconstruction and development in Somalia. AMISOM is being supported financially by European Union while AU has approached NATO for air transportation support.

AU's involvement in Somalia conflict has not succeeded yet due to a number of reasons. One of this is the political will by member states in contributing troops and other equipment needed to achieve the mandate of the mission currently operating in Sudan. Secondly, there seems to be no collective action and individual states appear to be pursuing individual interests; Kenya because of its security concerns including an influx of refugees, Ethiopia because of territorial concerns, Djibouti because it has tried to safeguard the outcome of Arta agreement that it brokered, Eritrea has tried to settle scores with Ethiopia using this conflict while Uganda tries to be a leader in conflict management in the sub-region.⁵¹ The lack of concerted effort has contributed negatively to the Somalia peace process. Similarly UN has not come to the aid of AU in the maintenance of peace and security in Somalia.

⁴⁹ UN Security Council Resolution, 1725.

⁵⁰T. Murithi, The African Union's Evolving Role in Peace Operations: The African Union Mission in Burundi, The African Union Mission in Sudan, The African Union Mission in Somalia, Op. Cit. pp.80-81. Also PSC/PR/2(LXIX).

⁵¹ Ochieng Kamudhayi, "The Somali Peace Process" in M. Mwagiru (ed.) *African Regional Security in the Age of Globalization*, (Nairobi: Heinrich Boll Foundation, 2004), pp. 107-123.

3.3.2 AU's involvement in Kenya's post election conflict (2007-2008)

In Kenya, 2007 presidential elections degenerated into violent conflict that claimed over one thousand lives and many others displaced. In the past elections, violence occurred prior to elections indicating deep rooted structural type of conflict.⁵² The main issues in the conflict were accusations and counter-accusations by the two contesting parties that is Orange Democratic Party (ODM) led by Raila Odinga and Party of National Unity (PNU) led by its presidential candidate Mwai Kibaki. ODM believed that PNU stole elections while on the other hand PNU argued that it was the legitimate winner.⁵³

AU intervened in the conflict in two ways; one through the good offices of the Chairman of AU and mediation by African eminent personalities. President Kufuor on 10th January 2008 while heading AU visited Kenya for three days on a facilitative mission. Although the conflicting parties did not agree on a negotiation framework, Kufuor succeeded in using AU's good offices.⁵⁴ Kufuor's success can be seen through the acceptance of the parties to negotiate and the acceptance of a panel of African personalities led by former UN Secretary-General, Koffi Anan.

The incoming AU Chairman President Kikwete of Tanzania also played a crucial role in using the good offices of AU to break a deadlock that had ensued at the course of negotiations. His frantic efforts in diplomacy led to ODM calling off its protest rallies and PNU loosened its hard line on the issues of the powers of the Prime Minister.⁵⁵ The panel managed to have the parties sign an agreement on 28th February 2008 which halted the killings. Although the structural causes of the conflict have not

⁵² M. Mwangiru, *The Water's Edge: Mediation of Violent Electoral Conflict in Kenya*, (Nairobi: IDRC, 2008), p.1

⁵³ *Ibid.*, p.3

⁵⁴ *Ibid.*, p.60.

⁵⁵ *Ibid.*, p.142.

been fully addressed, the AU team can be said to have succeeded at least in bringing a peaceful political settlement albeit the intense manipulations that was witnessed during the mediations.

Several principles guided AU in management of conflict in Kenya. Peaceful resolution of conflicts,⁵⁶ non-interference by any member in internal affairs of another which should be read together with article 4(h) which allows the Union to intervene in respect of grave circumstance, namely; war crimes, genocide, and crimes against humanity, article 4(j) that gives a member state a right to request for AU intervention, respect of sanctity of life, condemnation and rejection of impunity,⁵⁷ and condemnation and rejection of unconstitutional changes in government.⁵⁸ Although the Union utilized article 11 of the Protocol establishing PSC that calls for PSC to request the services of African personalities, questions arise as to whether the Union should have used its humanitarian intervention by invoking article 4(h). At what point of a conflict does the Union decide that genocide has been or is likely to be perpetrated? Thresholds for intervention therefore need to be determined in order to make the organization more proactive than reactive. To do this AU should enhance its warning system rather than a reliance on existing structures of African governments which may not readily share its intelligence with the Union.

3.3.3 AU's involvement in Burundi conflict (2003-04)

Burundi conflict intervention by AU is the first operation that was wholly initiated, planned and executed by AU members through African Union Mission in Burundi (AMIB). In the operation, AU was mandated to build peace in a fluid and

⁵⁶ AU Constitutive Act, Article 4g.

⁵⁷ AU Constitutive Act, Article 4(o)

⁵⁸ Ibid, Article 4(p)

dynamic situation in which there were genocidal tendencies just like those that occurred in Rwanda.⁵⁹ The mission also had the task of establishing conditions that would allow for a UN peace operation to enter the country although UN was reluctant to do so. AMIB deployed in April 2003 with 3,000 troops from South Africa, Ethiopia and Mozambique to monitor the peace process and provide security.

The mission in Burundi experienced mixed success.⁶⁰ The peacekeepers stabilized 95% of the country and created adequate conditions for the deployment of UN peacekeepers although several issues such as disarmament and reintegration had not been fully addressed. However it is clear that in this instance AU engaged itself in peace building through preventing violent conflict and trying to lay a foundation for reconciliation and reconstruction.

Burundi conflict was a success owing to AU's swift intervention having realized that there were genocidal tendencies and the driving force were the lessons learned from Rwanda. The decision by the AU to invoke article 4h of the AU Constitutive Act early enough indicates that the regional organization can in fact make useful peacebuilding intervention in Africa. It is worthy understanding that AU because of its proximity can intervene in time and stabilize the situation in a conflict area before UN can deploy.

3.4 AU Effectiveness in Managing Conflict

It is evident that AU has been re-enforced structurally in order to address the shortcomings of OAU which lay in the strict normative adherence of article 3(2) of the OAU Charter which required the organization not to intervene in internal affairs

⁵⁹ T. Murithi, The African Union's Evolving Role in Peace Operations: The African Union Mission in Burundi, The African Union Mission in Sudan, The African Union Mission in Somalia. Op. Cit, p.75

⁶⁰ F. Agoagye, The African Mission in Burundi: Lessons Learned from the First African Union Peacekeeping Operation. *Conflict Trends* 2/2004, p.14.

of states. The normative shift has seen AU involve itself in conflicts that OAU would not have done.

AU engaged itself in Burundi, Darfur, Kenya and Somalia conflicts management which were according to some were internal conflicts although it can be argued that there are no purely internal conflicts. This is because the line between internal and international conflicts has been rendered irrelevant on the grounds of universal human rights,⁶¹ the idea that all conflicts have internal sources⁶² and the involvement of exogenous third parties⁶³ among others. Therefore AU's involvement is quite important. The willingness by the belligerents to make various agreements and to submit to the AU's authority indicates that these parties recognize that the union wields some power over them.

The most important structural change in AU is the creation of an enforcement mechanism to compel member states to comply with the Union's decisions and obligations arising from the membership. The AU Constitutive Act provides for the imposition of sanctions for default of payment of contributions to the budget of AU as well as sanctions for not complying with the Union's decisions and policies.⁶⁴ AU has demonstrated its willingness to use the power of sanctions when it suspended Togo from all AU activities on 25th February 2005 for allowing unconstitutional transfer of power to a new president by the military.⁶⁵ However the Union has at some point failed to utilize article 23 of its Constitutive Act for instance when it threatened to

⁶¹ J. Donnelly, *International Human Rights*. (Boulder, 1993)

⁶² J. Burton, *Global Conflict: The Domestic Sources of International Crises*, (Brighton, 1984)

⁶³ J. Wall, Mediation: An Analysis, Review and Proposed Research. *Journal of Conflict Resolution*, vol. 25, 1981, pp.157-80, also C. Mitchell, 'The Motives of Mediation' in C. Mitchell and K. Webb, (eds), *New Approaches to International Mediation*. (Westport, CT, 1988), pp.29-51 and M. Mwangi, *Conflict in Africa: Theory, Processes and Institutions of Management*, (Nairobi: CCR, 2006) p.52.

⁶⁴ AU Constitutive Act, article 23.

⁶⁵ J. Rechner, From OAU to the AU: A Normative Shift with Implications for Peacekeeping and Conflict Management or Just a Name Change?. *Vanderbilt Journal of Transitional Law*, Op. Cit.

refer Sudan to UN Security Council for failing to meet some deadlines.⁶⁶ This threat was however misguided as the union should have applied sanctions on Sudan instead.

AU has capitalized on its diplomatic expertise in order to assist in conflict resolution. The appointment of prominent personalities like Salim A. Salim to head its missions is applauded. In the case of Darfur, these personalities have been able to facilitate the signing of several agreements and protocols although a comprehensive peace is not yet in sight. In the Kenyan conflict management, the union was able to facilitate negotiations between the parties using the good offices of the chairman and successfully employing the African personalities therefore ending the physical violence although some more effort in addressing the root causes of the conflict still stand out.

The successes of AU in Burundi and Kenya do not pass without the organizations shortcomings. In the protracted Somalia conflict, the organization has performed dismally. Despite the pledge by Malawi, Nigeria and Ghana to deploy troops, it is only Uganda and a few Burundi troops who are present within a small part of Mogadishu while the rest of the country is under the control of warlords. Member countries need to honour their pledges while the Union needs to redouble its efforts in raising funds to fund such interventions.

Most African heads of state and governments have not changed drastically since the end of OAU. While the Unions move to disperse power to other organs such as PSC, it is evident that the Assembly remains the supreme organ. Considering the poor track record of the leaders and their tendencies to protect each others' interests little is expected from the organization. Structural changes alone therefore cannot be an end in itself but a means to better management of conflicts. There is need for a

⁶⁶ Ibid.

mental change and political will in the African leaders if at all AU will make an impact in conflict management.

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CHAPTER FOUR

A COMPARISON OF OAU AND AU MANAGEMENT OF CONFLICTS IN THE HORN OF AFRICA

4.0. Introduction

The previous two chapters examined both OAU and AU involvement in conflicts in the Horn of Africa. The findings are that OAU was until 1993 inept in managing internal conflicts because of its strict interpretation of its norms and the unwillingness to use formal structures in its intervention. Although there was an incremental change towards its waning days as it shifted from its earlier position, this was not enough to bring an inspiring change in its intervention in internal conflicts. AU on the other hand has made modest normative changes and laid institutions that its predecessor was lacking and yet there is minimal outcome from its efforts. Therefore there is need to compare the management of conflicts by the two organizations in order to establish why this is the case.

This chapter will compare OAU and AU management of conflicts in the Horn of Africa. It critically looks at the two organization's conflict management mechanisms and makes a comparison between the organizations' (OAU and AU) involvement in conflicts in the Horn of Africa sub-region in order to establish the level of their success and/or failure. The chapter will be divided into three sections. Section one will examine the differences between the OAU Charter and AU Constitutive Act, section two compares conflict management mechanisms of AU and OAU while section three assesses the success of each organization in managing conflict.

4.1. Differences between the OAU Charter and AU Constitutive Act

The AU Constitutive Act recognises the problems facing the member states in the field of armed conflict and the effect that these conflicts have on human rights. The objectives of AU as stated in article 3 of the Constitutive Act include the promotion of peace, security and stability on the continent¹ and promotion and protection of human and peoples' rights.² AU also aims at defending the sovereignty, territorial integrity and independence of member states which is a reproduction of article 2(1c) of the OAU Charter.³ The AU Constitutive Act calls for the achievement of greater unity and solidarity between the nations and people of African states meaning article 2(1a) of the OAU Charter was not adequate as it simply stated that OAU shall defend their sovereignty, their territorial integrity and independence.⁴ However the AU principles as pronounced in article 4 of its Constitutive Act is a fundamental shift in the way OAU perceived issues.

OAU adhered to the principle of sovereign equality of all member states,⁵ while AU Constitutive Act rephrases this as the respect for the sovereign equality and interdependence among member states of the Union.⁶ AU therefore realises the need for integration and the fact that a state cannot exist without the horizontal interaction with other member states. While OAU speaks of respect for sovereignty and territorial integrity of each member state and for its inalienable right to independent existence,⁷ AU's Constitutive Act speaks of respect for borders existing on achievement of

¹ Article 3(f) of AU Constitutive Act.

² Ibid, Article 3(h).

³ Ibid, Article 3(b).

⁴ Ibid, Article 3(a).

⁵ Article 3(1), OAU Charter

⁶ Article 4(b), Constitutive Act

⁷ Article 3(3), OAU Charter

independence.⁸ AU simply entrenches what had been developed as a norm of *uti possidetis* which had been introduced in the Cairo summit meeting in 1964.⁹ This means that despite the calls made by some member states such as Somalia and Morocco on revision of boundaries, this article had finally put it to rest.

The greatest departure from OAU Charter by AU regards the intervention in what OAU had perceived as internal affairs. OAU had adopted a rigid policy of non-interference of member state's domestic issues;¹⁰ however AU gives a right to the Union to intervene in a member state pursuant to a decision by the Assembly in respect of grave circumstances, namely; war crimes, genocide and crimes against humanity.¹¹ The rigid interpretation of this principle meant that OAU could not intervene in internal conflicts yet the development of humanitarian law calls for intervention. AU has not only been given explicit authority to intervene in internal affairs but its Constitutive Act also gives a member state a right to request for intervention from the Union in order to restore peace and security.¹²

OAU's policy of non-interference was further eroded by the AU Constitutive Act's refusal to recognise illegal governments that take over power in African countries.¹³ This provision therefore ensures that those governments that seize power through unconstitutional means have no place in the Union. The Constitutive Act also provides for common defence policy for the African continent.¹⁴ These normative differences between AU and OAU are significant and are reflective of African leaders'

⁸ Article 4(b), AU Constitutive Act.

⁹ AHG/Res.16(1)

¹⁰ Ibid, Article 4(g).

¹¹ Ibid, 4(h)

¹² Ibid, 4(j)

¹³ Ibid, 4(p)

¹⁴ Ibid, 4(d)

understanding that a new organization with new powers and principles was necessary to deal with current problems faced by Africans. This comparison between OAU Charter and AU Constitutive Act reveals two major differences that are crucial in managing conflict. One is a significant move away from the notion of each member state as a separate, inviolable entity and two, a more interventionist policy on the part of AU. Thus the normative barriers that had haunted OAU all of its life have been removed but what remains is how AU will utilize these provisions and the manner in which it interprets them.

Power structure of AU has remained largely unchanged from that of its predecessor despite the normative differences between the two organizations. The Assembly of the AU Heads of State and Governments still remain the supreme organ of the organization just as was the OAU Assembly of Heads of State and Government.¹⁵ The voting and quorum for both organizations remains largely the same. The duties of the AU Executive Council also remain similar to those of the OAU Council of Ministers as they are delegated by the supreme organ.¹⁶ Peace and Security Council (PSC) was established by a protocol pursuant to Article 5(2) of the Constitutive Act.¹⁷ The Council works in conjunction with the Chairperson of the Commission of the AU.¹⁸ In many ways PSC is analogous to the UN's Security Council; however the use of force to intervene in an internal conflict without a member state's permission is vested with the Assembly instead of the PSC.¹⁹

¹⁵ Article 8 of OAU Charter

¹⁶ Ibid, article 12-15 and also Article 7(1) of AU Constitutive Act.

¹⁷ Article 2(1) and 5(2) of Protocol Relating to the establishment of PSC of AU

¹⁸ Ibid, article 7(1)

¹⁹ Ibid, article 7(1e)

The Chairperson of the Commission has a role of bringing matters believed to pose threat to peace and security to the attention of PSC.²⁰ The chairperson can use his or her diplomatic capabilities on his or her own initiative or when directed by PSC to prevent and resolve conflicts and promote peace-building.²¹ The protocol that establishes PSC has laid a concrete foundation under which conflict management can be mounted. The duties of the Chairperson of the Commission and the Panel of the Wise who can use their “good offices” to avoid conflict through diplomacy form essential means of conflict prevention.²² The protocol also establishes an early warning system which was lacking in the OAU prior to 1993 which is charged with monitoring a variety of political, economic, social, military and humanitarian factors at the local level.²³

One of the new developments that clearly distinguish AU’s architecture from that of its precursor OAU is the intensive cooperation between AU and sub-regional organizations. Whereas OAU’s security efforts were plagued by its often uneasy co-existence with the continent’s various Regional Economic Communities (RECs), AU does not see them as competitors in a zero-sum game, but as essential ‘building blocks’ and implementation agencies for its own programs.²⁴ The AU’s basis of its security architecture on sub-regional pillars and incorporating existing initiatives into its continental policy does not only benefit from the sub-region’s comparative advantage in military and security matters, their experience and peace operations established frameworks and mechanisms of conflict prevention, management and resolution but also

²⁰ Ibid, article 10(2a)

²¹ Ibid, article 10(2c)

²² Ibid, article 10 and 11

²³ Ibid, article 12

²⁴ Article 16 of the PSC Protocol and the Common African Defence and Security Policy (CADSP)

gives them a significant stake and a control role in all processes.²⁵ In so doing, the primary responsibility for peace and security remains squarely with the RECs, while AU serves as authority for all the initiatives. In this way, AU consequently fills the institutional gap between UN with its authority for ensuring international peace and security on one hand and the sub-regional organizations greater political will on the other hand.

This division of labour between sub-regional organizations and AU has resulted into sub-regional organizations such as ECOWAS, IGAD and SADC becoming deeply involved in dealing with Africa's conflicts with IGAD success story in mediation efforts in Sudan and Somalia and ECOWAS interventions in Cote d'Ivoire, Sierra Leone and Liberia. On one hand AU with the support of RECs has conducted its own peace operations such as in Burundi, Darfur in Sudan and Somalia. However this initiative is not without challenges or concerns. Some of the barriers that need attention include a continued existence of sub-regional groupings and the resultant problems of coordination and competition, overlapping membership within these groupings, implementation crisis and funding of the bloated institutions and problems arising from sub-regionalism without common values.²⁶

4.2 A Comparison of OAU And AU Structures of Managing Conflicts

The nature of conflicts in Africa indicates that efficient resolution of conflicts requires the regional organization to have the authority to intervene in both internal and

²⁵ F. Benedikt, In Defence of Regional Peace Operations in Africa. *Journal of Humanitarian Assistance*, Article 185, 2006.

²⁶ F. Benedikt, Competing Regionalism in Africa and the Continent's Emerging Security Architecture. *African Studies Quarterly*, vol. 9, Issue 3, 2007.

interstate conflicts and still be acceptable by the member states. Moreover, the organization must be able to make member state(s) comply with its decisions.²⁷ Resolution of internal conflicts is so critical in that a majority of African states are either weak or failing states and therefore require state building. Furthermore, the required security organization should be able to deal with external actors and be able to provide funding for its structures in order to ensure its success.

In OAU and AU, the Assembly of Heads of State and Governments is the supreme organ²⁸ and operate under a consensus while making decisions failing which by two-thirds majority although a simple majority is required for procedural matters.²⁹ Operating under a consensus means that making decisions and passing resolutions becomes difficult because the quality of any decision has to be “watered down” to accommodate everyone. The Heads of State and Governments preferred to adopt collective mediation methodologies.³⁰ It also encouraged individual mediations as long as the mediations worked under the premises of collective security. The use of *ad hoc* committees whose outcomes reflected their position was preferred while on one hand cooperating with UN although during its early days it insisted on “trying OAU first” and therefore lobbied conflicts to be referred back to the organization rather than being handled at the UN level.³¹ The OAU Council of Ministers and AU Executive Council for the two organizations are similar and meet twice a year. Unlike the OAU Secretariat, the AU Commission is made up of Commissioners whereby one of them also chairs the

²⁷ S. C. Saxen, *The African Union: Africa's Giant Step towards Continental Unity, in Africa at the Crossroads*, (London, 2004), pp.188-189.

²⁸ AU Constitutive Act, Art 6, also AU Charter, Article 8

²⁹ AU Constitutive Act, Art 7 and AU Charter, Article 10.

³⁰ W. Foltz, “The Organization of African Unity and Resolution of Africa’s Conflicts” in Deng and Zartman, *Conflict Resolution in Africa*, (Washington D.C: Brookings Institution, 1991), pp. 347-366.

³¹ ECM/Res. 1(I).

Peace and Security Council, (PSC) and is responsible for conflict prevention and management.³² He is responsible for bringing matters believed to threaten peace and security to the attention of PSC. He also uses his diplomatic capabilities and his initiative or the direction of PSC to prevent, resolve conflict and to carryout peace building.³³ On the other hand the OAU Secretary – General and the secretariat were the operational arm of the Central Organ and in consultation with it could resort to various aspects of conflict resolution in the performance of their functions. Unlike the Central Organ which operated at three levels of the Heads of State, Foreign Ministers and Ambassadors, PSC is a more formal structure with permanent staff.

The OAU mechanism was guided by the objectives and principles of the OAU Charter and in particular, sovereign equality of member states, non-interference in internal affairs of member states, their inalienable right to independent existence and peaceful settlement of disputes as well as the inviolability of borders inherited from colonialists.³⁴ PSC on the other hand adopted some principles that guided the mechanism such as respect of borders existing on achievement of independence, but it deferred from OAU in non-interference principle in that other principles such as the right of AU to intervene in a member state's internal affairs in respect of grave circumstances and the right of a member state to request intervention from the Union. Other principles that guide PSC are peaceful settlement of disputes, early response to contain crisis situations, interdependence between socio-economic development and the security of peoples and states, respect for the sovereignty and territorial integrity of a member state.³⁵

³² J. Cilliers, Peace, Security and Democracy in Africa, *Institute of Security Studies, ISS*, paper 60.

³³ Protocol Establishing PSC, Article 7

³⁴ OAU Charter, Article 3(1-4)

³⁵ AU Constitutive Act, Article 4

PSC defers from the OAU Mechanism in that it is guided by a Common Defence and Security policy framework.³⁶ PSC is made up of fifteen members whereby five members represent the five regions of Africa and serve a three-year term while the remaining ten are elected and serve a two-year term. For PSC to achieve its objectives, it has taken on board the Panel of the Wise which comprises five highly respected African personalities,³⁷ a continental early warning system which is made up of observation and monitoring units of the Regional Mechanisms and a Central Observation and Monitoring centre,³⁸ an African Standby force,³⁹ Military Staff Committee while New Partnership for Africa's Development (NEPAD) and Sub-regional Mechanisms for Conflict Prevention Management and Resolution work closely with PSC.

From the two structures of OAU Mechanism for Conflict Prevention Management and Resolution and the AU's PSC, several observations can be made. First, from its inception the OAU's mechanism started off by embracing some principles such as non-interference in internal matters of member state as a guiding principle although it tried to interpret it more loosely as compared with its earlier position (during the Cold War). As earlier illustrated, this principle had justified the organization's inaction when it came to internal conflicts yet during the post-Cold War period, the continent witnessed an exacerbation of domestic conflicts which tore some states apart. A continued human rights violation went unchecked and yet this was the main source of internal squabbles. The mechanism continued with this norm meaning a continuation of poor management of conflicts more so internal conflicts. Although the mechanism tried to manage internal

³⁶ AU Constitutive Act, Article 4d

³⁷ Article 11 of the Protocol Establishing PSC

³⁸ Ibid, Article 12.

³⁹ Ibid, Article 13.

conflicts, it failed to accept peacekeeping missions as a means of intervention. The mechanism gave peace-building and peacemaking a priority rather than peacekeeping. Military and civilian missions of observation and monitoring of limited scope and capacity could be deployed as in the case of Rwanda where a small Neutral Military Observer Group numbering 100 was deployed although it was later incorporated into UN Force. In Burundi, a 47 Military Observer team was authorized.⁴⁰ The emphasis in the OAU Mechanism was in the preventive measures of early warning and response through peacemaking and peace-building which could obviate the need to resort to complex and resource demanding peacekeeping operations which the African states would find it difficult to finance. The emphasis by the Secretary General to have troops earmarked for peacekeeping operations were considered at the waning days of OAU but these efforts were never actualized.⁴¹ This meant that in circumstances where conflicts escalate turning violent, the OAU mechanism had no means to contain and eventually terminate it.

PSC's guiding principle of non-interference has however been watered down by the AU's ability to intervene in such circumstances as in the commission of genocide, war crimes and crimes against humanity and the right of a state to request the organization to intervention. One of the factors that made the African Heads of State embrace the Mechanism was the fact that the Assembly still had a say unlike in an organ such as Commission of Mediation Conciliation and Arbitration which was "independent". PSC's independence that includes, its ability to carryout its activities autonomously although it has to seek the Assembly's concurrence before intervening in a member state's internal conflict is a major improvement in comparing to OAU's

⁴⁰ OAU Doc: Central Organ/Mec/AHG/3(1)D

⁴¹ CM/DEC.378(LXVII)

mechanism. PSC has however taken a more interventionist stance by creating stand-by forces in all the five regions of Africa. However questions arise as to whether a Brigade size force in a sub-region such as the Horn of Africa is adequate to deal with numerous conflicts such as Ethiopia – Eritrea, Eritrea – Djibouti, Kenya internal, Uganda internal, Sudan internal, failing Somalia, Comoros and Madagascar all taking place at the same time. This therefore seems to be “a drop of salt in the ocean” which may not really address the real issues. AU therefore needs to address seriously the issue of human rights and impunity perpetrated by individual member states and table the member to account rather than defending some of its leaders whom have been indicted by International Criminal Court (ICC). Article 4 (h) gives the union a right to intervene in a member state’s affairs pursuant to a decision by the Assembly. The article if interpreted in its present form seems to suggest that intervention will occur only on the commission of war crimes, genocide and crimes against humanity. This therefore is a reactive agenda and not in line with the protection of human and people’s rights.

Another difference between OAU and AU is in the area of human rights. African Charter on Human and People’s Rights was adopted in June 1981 unanimously by OAU Assembly but it came into force in October 1986.⁴² Initially the Banjul Charter made no provisions for a court to enforce the rights guaranteed in the charter. This omission was justified on the basis that the African conception of law is averse to third party adjudication, which is considered as confrontational but alternatively it is traditionally based on reconciliation reached through consensus. In addition, many African states would have been reluctant to ratify the charter had provisions been made for compulsory

⁴² G. J. Naldi, *The Organization of African Unity: An Analysis of its Role*, (2nd ed), (London: Mansell, 1999), p. 109.

judicial settlement. The lack of judicial remedy attracted considerable criticism as undermining effective application of human and people's rights in Africa.⁴³ OAU had drawn a protocol establishing a court of human and peoples' rights in 1997 and was later launched in 25th January 2004. However this protocol did not allow individuals to present cases before the court but entitled states and other actors. This major weakness has since been addressed through a protocol that merged the African Court on Human and Peoples' Rights with the Court of Justice of the African Union.⁴⁴

AU has pursued the continent's quest for good governance by embracing NEPAD's African Peer Review Mechanism, (APRM). This is an instrument voluntarily acceded to by member states of the AU as a self monitoring mechanism. The aim is to ensure that the policies and practices of participating states conform to the agreed political, economic and corporate governance values, codes and standards contained in the "Declaration of Democracy, Political, Economic and Corporate Governance". APRM is the mutually agreed instrument for self monitoring by participating member governments.⁴⁵

4.3 Effectiveness of Conflict Management between OAU and AU

In effectively assessing the success or failure of OAU and AU in conflict management, this section begins with examining the roles that regional organizations play and thereafter use these roles in critically comparing the roles and effectiveness of the two organizations.

⁴³ Ibid, p. 147

⁴⁴ Article 30(f), AU Protocol Merging the African Court on Human and Peoples' Rights with the Court of Justice of the African Union.

⁴⁵ AHG/235 (XXXVIII).

4.3.0 Roles of Regional Organizations in Managing Conflicts

In broad terms, regional organizations such as OAU and AU have three roles; conflict prevention, conflict containment and conflict termination. The effectiveness and limitations of these regional organizations is determined by their ability to influence the interests and capabilities of states.⁴⁶

Conflict prevention role is a situation where the regional organization seeks to forestall a conflict in order to prevent its outbreak.⁴⁷ Preventive role requires the redefinition of the interests and capabilities of the concerned state and this is achieved by providing information and altering patterns of transaction costs as well as altering the underlying power capabilities of states through collective action.⁴⁸ Strategies of socialization, integration, reassurance and deterrence are relevant in conflict prevention. Socialization creates security regimes while integration helps to reduce security dilemmas and creates a security community.

In conflict containment role, the task of the regional organization is to deny victory to the aggressor and to prevent the spread of conflict. This includes stopping the aggressor short of attaining his full goal and persuading him to undo them. Intervention and isolation are the required strategies where isolation prevents both horizontal and vertical escalation and gives an opportunity to the protagonists to resolve their issues bilaterally. Intervention takes the forms of coercive application of collective political,

⁴⁶ R.O. Keohane, Multilateralism: An Agenda for Research. *International Journal*, vol. 65, no. 4, 1990, pp.736-40.

⁴⁷ C.R. Mitchell, *The Structure of International Conflict*, (New York: St. Martins Press, 1981), p.17.

⁴⁸ R.O. Keohane, Multilateralism. Op. Cit. p.737.

economic and military resources to terminate it. The four types of intervention include collective self-defence, collective security, coercive diplomacy and peacekeeping.⁴⁹

Conflict termination role is aimed at halting and bringing the hostilities to a satisfactory conclusion. The satisfactory conclusion is from the perspective of the regional organization by for example removing the source generating the conflict. Termination of conflict is through either settlement or resolution. Settlement focuses on achieving an agreement to end the use of violence and to resolve the more immediate and overt dimension of conflict.⁵⁰ Conflict resolution on the other hand seeks to remove the source of the conflict altogether. Although the two are not mutually exclusive, conflict settlement is preceded by resolution and requires long-range political and economic strategies to achieve its objectives. By resolving a conflict, the regional organization comes back to the starting point of conflict prevention. Intermediation and internationalization are at the disposal to the regional organization to use.

In Intermediation, the organization urges the parties in conflict to use regional or global mechanisms and procedures for pacific settlement of conflicts.⁵¹ In internationalization strategy, both conflict containment and termination are beyond the capacity of the regional organization or where extra-regional actor gets involved. The regional organization mobilizes resources from external actors while denying the adversary the same. Despite these benefits, the regional organization must be careful otherwise its interests maybe overridden by those providing external resources.⁵²

⁴⁹ M. Alagappa, Regionalism and the Quest for Security: ASEAN and the Cambodian Conflict, *Journal of International Affairs*, vol.46.Issue 2, 1993.

⁵⁰ C.R. Mitchell, *The Structure of International Conflict*, Op. Cit. pp. 275-7.

⁵¹ O.R.Young, *The Intermediaries*, (Princeton, New Jersey: Princeton University Press, 1967), pp.59-70

⁵² M. Alagappa, Regionalism and the Quest for Security: ASEAN and the Cambodian Conflict. Op. Cit.

4.3.1 OAU and AU Role in Conflict Prevention

Lack of an early warning and risk assessment prior to 1993 hampered the OAU's conflict prevention efforts. Even if an early warning system was there during the Cold War period, the response mechanism was inadequate to prevent any escalation of hostilities as it can be illustrated in the election dispute in Congo (Brazzaville) and in Rwanda.⁵³ Preventive deployment capabilities where peacekeepers could be placed in areas of risk prior to an outbreak of hostilities as in the case of Eritrea-Ethiopia conflict and even in the Rwanda conflict was lacking. The initial strict adherence to article 3(2) of the OAU Charter equally hampered any efforts of the organization's ability to deal with internal conflicts. The Cold War period ensured that the superpowers tolerated atrocious leaders as long as the said leader was on its side. Former Ugandan President Iddi Amin and Mobutu of Zaire grossly violated fundamental human rights and people's freedoms and yet both the East and the West could not raise any finger against them. It is through these violations that engendered both internal and interstate conflicts being witnessed to date.

One of the sources of internal conflicts has been the violation of human and peoples' rights therefore giving rise to new forms of self-determination. The adoption of these rights come late in Africa and was accepted in June 1981 by the OAU Assembly and came into force in 1986. However there were no enforcement mechanisms by the organization and therefore relied on individual countries to enact municipal laws that would safeguard these rights. This was understandable in that African leaders were

⁵³ J. Levitt, Conflict Prevention, Management and Resolution: African Strategies of Prevention of Displacement and Protection of Displaced Persons, *Duke Journal of Comparative & International Law*, vol. 11, no. 39, 2000, p.55.

averse to formal and judicial means of settling disputes. In 1997, OAU moved towards establishing a court on human rights but failed to entitle an individual to be able to bring a case before the court. The slow pace in addressing human rights violation engendered internal conflicts instead. OAU also failed to sanction unconstitutional governments in the region who continued to perpetrate human rights violations. Arising from this, conflicts such as the Uganda internal conflict could not be evaded by the organization.

OAU during the post-Cold War period established a mechanism for preventing, managing and resolving conflicts but the early warning system that constituted the foundation of preventive action was not fully developed and its network with sub-regional organizations remained underdeveloped until OAU was disbanded. Although OAU's mechanism tried to deploy significant efforts in order to make it more robust and work effectively, problems of resource mobilization hindered its work. The members' contributions to the peace fund remained inadequate to meet the budget of numerous conflicts that the OAU was addressing such as in DRC and Sierra Leone.⁵⁴ Conflict prevention was however too important and yet this task was left to the Africa leaders alone despite having been accused of being an exclusive "Club of heads of state and governments". OAU cooperation with UN at times escalated conflicts and brought a lot of dissatisfaction from some members as illustrated by organization's emphasis on "African solutions to African problems" norm and successfully lobbying for some cases to be referred back to OAU.⁵⁵ An example is the Somali border conflict with Kenya and Ethiopia where Somali felt that OAU was incapable of giving it a fair hearing and indeed

⁵⁴ Jakkie Cilliers & Kathryn Sturman, The Right Intervention: Enforcement Challenges for the AU, *African Security Review*, vol. 11, no. 3, 2002.

⁵⁵ S. Touval, *The Boundary Politics of Independent Africa*, (Cambridge: Mass, 1972), p. 216.

the Council of Ministers simply patched the matter until it escalated into full scale war in 1977. Conflict prevention by OAU was further hampered by the methodologies that the organization adopted. It favoured collective mediations and *ad hoc* committees where their opinions could be taken into account and a consensus reached in every action that could be taken.

AU on the other hand has enhanced its conflict prevention role in conflict management. It has adopted an early warning and response mechanism which is linked up with sub-regional organizations mechanism.⁵⁶ Other than sharing of information with the RECs, AU has also build a response mechanism in terms of a standby force in the five sub-regions which are supposed to be utilized in preventive deployment and peace building during and after conflicts.⁵⁷ The framework stipulates that PSC shall undertake among others implementation of disarmament demobilization and re-integration programmes and assist vulnerable persons. The success of AU in preventing conflicts was in Burundi where the deployed forces were mandated to build peace in a dynamic and fluid situation in which there were genocidal tendencies just like those of Rwanda.⁵⁸

Sanctioning of unconstitutional governments is another tool that the organization seeks to use in its preventive role in conflict management. It is in article 23 of the AU Constitution Act that provides for sanctions, while article 30 bans governments that come into power through unconstitutional means from participating in the activities of the Union. AU successfully used this instrument by not recognizing Togolese unconstitutional government in 2005 and with the help of EU, USA and France managed

⁵⁶ Protocol Establishing PSC, Article, 12

⁵⁷ *Ibid*, Article 14

⁵⁸ T. Murithi , The African Union's Evolving Role in Peace Operations: The African Union Mission in Burundi, The African Union Mission in Sudan, The African Union Mission in Somalia. *African Security Review* 17:12008, p.75

to force Faure Gnassingbe to step down.⁵⁹ Sanctions however serve as a precursor not an alternative to the use of force as was in the case of Yugoslavia, Haiti, Sierra Leone, Liberia and Rwanda.⁶⁰ Substantial reservations have however emerged in the recent years about the efficacy and morality of sanctions against very poor countries in line with growing international opinion that the 'civilian pain' is not worth the 'elusive political gain'⁶¹ hence the preference for smart or target sanctions.

In its quest for the promotion of democratic practices, good governance, the rule of law and human rights, AU has embraced a NEPAD African Peer Review Mechanism (APRM) which is a voluntary instrument. This has proved that it is not a solution either as it relies on the will of the individual state leadership. In Kenya for instance, a comprehensive peer review was carried out in May 2006 and yet less than one year down the line a post election conflict was witness. Equally, Kenya hosts the East African Standby Force which was never deployed during the 2007/2008 in the Kenyan conflict simply because this institution is not up and running yet. Deployment of AU forces in Darfur and Somalia have not been successful neither have AU's condemnation of *coup d'états* in Mauritian and Guinea Bissau bore any fruits.⁶² Similarly, suspension of Madagascar from participating in all AU functions after the army forced out the president and installed an opposition leader in his place continue to be a headache for the organization. The efficacy of sanction instrument will therefore only function in a situation where the African states are fully integrated and interdependent.

⁵⁹ I. Olawale, The African Union and Conflict Management. *African Development*, vol. xxxii, no. 1, 2007, pp. 41-68

⁶⁰ D. Cortright & G.A. Lopez, *The Sanctions Decade Assessing UN Strategies in the 1990s*, (Boulder: Lynne Rienner, 2000)

⁶¹ T. Weiss, D. Cortright, G. Lopez and L. Minear (eds), *Political Gain and Civilian Pain: Humanitarian Impacts of Economic Sanctions*, (Lanhma, Rowman & Littlefield, 1997)

⁶² AU Commission Press Release No.43/2009, after the AU Summit Meeting in Addis Ababa

4.3.2 OAU and AU Role in Conflict Containment

In conflict containment, isolation through sanctions and intervention through collective security, collective self-defence and coercive diplomacy, peacemaking and humanitarian intervention were necessary but these were frustrated by a number of OAU's institutional characteristics. Again the principle of non-interference required that permission had to be obtained from the affected member state while peace enforcement was effectively banned by the OAU Charter. The only reason that compelled OAU to intervene in Chad was because of a clash of principles; of non-interference and territorial integrity where OAU chose the later. OAU Mechanism for Conflict Prevention, Management and Resolution did not allow peacekeeping unless under extreme circumstances where there was a total breakdown of constitutional structures. This reflects how averse the African leaders were when it came to what they interpreted as internal affairs of a sovereign state.

In the Ethiopia-Somalia conflict (1977/78), Ethiopia-Eritrea (1998/2000) and Uganda-Tanzania (1978/1979), OAU clearly could not contain these conflicts militarily as the member countries resorted to full combat. Furthermore, OAU was unable to rally the big powers to stop supporting the protagonists and to pressure them into resolving their conflicts using peaceful means. In the Ethiopia-Somali (1977/1978) and Ethiopia-Eritrea (1998/200) conflicts, the big powers at the time namely; the USSR and USA continued supporting the protagonists militarily and therefore OAU could not effectively isolate the belligerents. As a result the organization was only able to secure an agreement after the war had been won on the battleground. This clearly indicates the organization's ineffectiveness in managing conflict was influenced to some degree by external actors.

Further, OAU had no collective security, collective self-defence and peacekeeping frameworks that could guide the organization in such conflict situations. In essence OAU hoped that the strategies of socialization, and reassurance would deter states from going to war. In most of the conflicts examined where OAU involved itself in other than Kenya-Somali conflict, the organization did not have the economic and military resources adequate enough to be applied in wearing down the adversary and forcing him to revise his calculations and to agree to a mutually acceptable termination of the conflict. Political pressure was the only tool that was left for OAU in containing conflicts and yet the major powers during the Cold War period were preoccupied with their interests which at times were not congruent with those of OAU.

AU in containing conflicts has put up structures such as the standby forces to be used in peacekeeping missions. It has equally eroded the strict interpretation of non-interference and has laid a favourable ground where internal conflicts can be managed. The willingness by the belligerents in conflict to make various agreements and to submit to the AU's authority indicates that these parties recognize that AU wields some power over them. The enforcement mechanisms that include sanctions for not complying with the Union's decisions and policies have given it some teeth to enable it to act.⁶³ Although AU has demonstrated that it can use sanctions, at times the AU has not been consistent for instance in the case of Sudan, the union threatened to report it to UN Security Council for failing to meet some deadlines instead of using the sanctions instrument.

Despite the major steps that AU made, most of its structures including the African Standby Force, the African Court of Justice and Human Rights and the African

⁶³ AU Constitutive Act, article 23.

Parliament among others are still being test-ran and are not fully operational yet. At the time of this study, the court had not even deliver a single ruling while the Standby Force had not engaged in any operation. Similarly, AU has not been able to use its position at the UN General Assembly effectively. A case in point is when it tried to canvass for UN to support its position against the indictment of Sudan's president by International Criminal Court but instead, the UN Security Council simply noted the AU concern contained in the Unions communiqué of the 42nd PSC meeting.⁶⁴ It is equally clear that AU member states have not had the political will necessary to address Somali conflict as expressed by their unwillingness in contributing troops. Malawi, Ghana and Nigeria had pledged to deploy troops in 2007 but to date a handful number of Uganda and Burundi troops have been deployed in Somalia therefore making them incapable of fully executing their mandate. Financial and logistical constraints are still some of the factors haunting AU in the case of Darfur (AMIS) and Somalia (AMISOM) missions.

4.3.3 OAU and AU Role of Conflict Termination

The success of any negotiation or mediation and thus eventually in conflict termination, can only come about in a situation of uncertainty and/or mutual conflict exhaustion or when one party decides to cut its losses. Indeed, OAU utilized informal structures mainly made up of *ad hoc* committees comprising of heads of state and governments, council of ministers or ambassadors. This was in line with arguments made early that OAU despised formal structures such as the Commission of Mediation, Conciliation and Arbitration which at the end became moribund. In terminating conflicts

⁶⁴ UN Security Council Resolution (UNSCR) 1828 adopted on 31st July 2008.

OAU adopted a non-involvement posture when it came to what it interpreted as internal conflicts as per article 3(2) of its Charter. OAU tended to patch up conflicts without actually resolving them and yet the "African solutions to African problems" principle was so important to the organization to the extent that it lobbied at the UN to have cases forwarded directly to UN be referred back to OAU. In the Somali-Kenya conflict, the OAU Council of Ministers simply called for a peaceful settlement and an end to propaganda campaign⁶⁵ while in the Somalia-Ethiopian case, the Council desisted from debating the merits of the conflict but concentrated on defusing the conflict as it just ordered for a ceasefire. OAU therefore preoccupied itself with fire fighting and not addressing the root causes of the conflicts. The lack of a mechanism to enforce the organization's decisions meant that the implementation of any agreement lay in the hands of the conflicting partners. This expression was evident in Somalia-Ethiopia and Ethiopian-Eritrean conflicts where the belligerents decided to pursue a military action against each other.

Norms that guided OAU in management of conflicts were highly contestable and at times justified the organization's inaction and isolationist position that it took when it came to some particular conflicts. The non-interference principle for instance justified the organization's non-involvement in Uganda, Somalia and Sudan internal conflicts. On the other hand, the 'try Africa first' impacted on Somalia-Ethiopia conflict and made other member states dissatisfied leading to withdrawal of membership in the case of Morocco. Overall, OAU tended not to address the deep rooted causes of conflicts therefore resulted

⁶⁵ ECM/Res.3(II) and ECM/Res.4(II)

into their resurrection much later. The inadequacies of the organization led to poor settlement and resolution of conflicts in the Horn of Africa and Africa as a whole.

AU has made significant improvement in ensuring that conflicts are terminated from the onset. The “watering down” of the non-interference principle, formation of an intervention force, its willingness to use sanctions, and the use of good offices by the chairperson of the commission are some of the strengths that AU has over OAU. AU has adopted a panel of the wise which is made-up of African personalities who together with the Chairperson of PSC can use their “good offices” in facilitating and mediating in conflicts. Kenya’s post election conflict in fact is a good example where the Chairman of the AU Assembly (both Kufuor and Kikwete) played critical facilitative roles that paved the way for African personalities who mediated in the conflict. AU just like OAU has other organs such as the Executive Council, the Assembly, Ambassadors and Envoys at its disposal who can be employed in mediation role. African Court of Justice and Human Rights is also expected to enhance this conflict termination role although it is yet to be up and running.

Overall, AU has not been able to effectively resolve conflicts in the Horn of Africa as Darfur and Somalia which stand out as unresolved. In both conflicts, the Union has not been able to achieve an all inclusive mediated agreement since the protagonists continue to take the military ‘solution’ rather than negotiation. Although AU has been working assiduously together with the sub-regional organizations, its assessment cannot be exhausted in that in both Darfur and Burundi which have been examined in this paper fall short as UN took over from AU and therefore AU took a mere stabilizing role without managing the conflicts to a logical conclusions.

The success or failure in management of conflicts by OAU and AU can be analyzed in either quantitative or qualitative terms. In the later, the assessment is confined to the organization's record on the basis of "clarity" of the settlement effected, its "political realism" and its "permanence".⁶⁶ In quantitative terms however, it is whether the organization's involvement has temporarily or permanently halted the conflict. For the purpose of this study, attention is given to the quantitative approach although other factors such as the direct or indirect management of the conflict by the organization and the stage of the resolution in the conflict cycle are also put into consideration. In the case where the organization manages a conflict indirectly say it supported a sub-regional organization, the regional organization is also credited if the outcome was a success while on the other hand if the organization does not involve itself for some reason such as perception of a conflict as domestic then the outcome is rated as a failure. Finally if the regional organization (OAU or AU) only resolves a conflict after the conflicting parties have gone to a full scale war and the outcome decided through the military action, then this is taken as a partial success.

⁶⁶ I.L. Claude, *Swords in Plowshares: The Problems and Progress of International Organization*, (New York: 1964), pp. 215-216.

Table II

AU Management of Conflicts in the Horn of Africa (1963-2002)

<u>Year</u>	<u>Parties Involved</u>	<u>Outcome</u>
2002-08	Somalia Internal	Failure*
2003-04	Burundi Internal	Success**
2003-08	Sudan (Darfur) Internal	Failure***
2007-08	Kenya Internal	Success

* AU has deployed a few peacekeepers with a limited mandate but 3 countries that had pledged to contribute troops had not by 2008.

** AU managed to stabilize and end violent conflicts but UN came to its assistance in 2004 and helped in re-integrating the displaced persons.

*** AU and UN established a joint Force in 2008 creating a hybrid force, however armed conflicts continued and no peace was in site by the end of 2008.

CHAPTER FIVE

COMPARISON OF AU AND OAU IN MANAGING CONFLICTS: CRITICAL ANALYSIS

5.0 Introduction

Chapter four compared OAU and AU management of conflicts which is the central theme of this study. The findings were that OAU concerned itself mainly with liberating Africa from colonial domination which it made some success but the end of Cold War brought in other challenges that the organization was poorly equipped to handle. AU was therefore formed to handle these challenges which included among others better management of internal conflicts. The success of AU has not yet been felt as most of its institutions are still being tested.

This chapter critically examines major discourses raised in the earlier chapters. It is divided into four main sections; the first section is a summary of the previous chapters, section two examines critical issues raised, section three tests the hypotheses, objective and theoretical framework and section four concludes the thesis.

5.1.0 Introduction to the Study

Regional approach in managing conflicts has gained relevance and can be traced to a number of developments.¹ One is the lifting of the Cold War overlay which has revealed that major powers take some conflicts more seriously for example the invasion of Kuwait by Iraq while others such as African conflicts are less

¹ M. Alagappa, *Regionalism and the Quest for Security: ASEAN and the Cambodian Conflict*, *Journal of International Affairs*, vol.46, Issue 2, 1993, also B. Buzan, *People, States and Fear: An Agenda for International Security Studies in the Post-Col War Era*, (2nd ed), (New York: Harvester Wheatsheaf, 1991), pp. 186-226.

consequential to their interests.² Secondly, the decision by the UN to decentralize, delegate and cooperate with regional organizations in order to lighten its burden of engaging in low-intensity conflicts that are expensive and bog it down for a longer period of time has equally contributed to relevance of regional organizations.³ Thirdly, longer term benefits accruing from regionalism to developing states in form of growing political maturity and the perceived potential of regionalism to promote their economic development and to mitigate their disadvantaged position in the international arena.⁴ Regional organizations are effective at conflict control because geographical neighbours are more likely both to understand the factual background of a conflict and share the norms that are relevant to the task of managing the conflict.⁵ Therefore regional organizations such as African Union (AU) and Association of South Eastern Asian Nations (ASEAN) among others are and will continue to play a pivotal role in maintenance of regional peace and security which will ultimately re-enforce the UN role.

Organization of African Unity (OAU) was formed with the role of ensuring cooperation amongst the member states as espoused in article 2(2) of the OAU Charter and specifically to liberate Africa from the colonial rule.⁶ OAU managed to forge closer cooperation amongst African states however as may be apparent, its degree of success has been modest in many areas.⁷ Although the organization was

² J.N. Pieterse, *Neoliberal Empire. Theory Culture and Society*, vol. 21, no. 3, 2004, pp.121-122.

³ Boutros Boutros-Ghali, *An Agenda for Peace: Preventive Democracy, Peacemaking and Peacekeeping*. (New York: United Nations, 1992), pp.36-7, also UN Charter, Article 52(1).

⁴ P. Taylor, "Regionalism: The Thought and the Deed", in A.J.R Groom and P. Taylor (eds), *Framework for International Relations*. (New York: St. Martins Press, 1990). pp.151-71

⁵ W.O. Henderson, *The Genesis of the Common Market*. (Chicago: Quadrangle, 1962), p.159.

⁶ Amb. Japheth R. Getuge, former Kenyan Ambassador to Uganda (2005-2009), interviewed on 26 September 2009, also Article 2(1d) of OAU Charter, also G. J. Naldi, *The Organization of African Unity: An Analysis of its Role*. (2nd ed). (London: Mansell, 1999), p.1, also M. Mwangi, *The Organization of African Unity and the Management of Internal Conflicts in Africa*. Sage Publications, *International Studies*, 33,1,(1996), p.6.

⁷ G. J. Naldi, *The Organization of African Unity: An Analysis of its Role*. (2nd ed), Op. Cit. p.37.

commendable in liberating Africa, its performance in managing internal conflict was dismal due to its extremist interpretation of its norms,⁸ poor structures of managing conflicts and its methodologies of managing conflicts.⁹ During the immediate post-Cold War period, OAU was still firmly rooted in its ideal to protect state sovereignty and its unwillingness to intervene in internal conflicts of member states. This stance taken by OAU threatened to render it irrelevant in the international environment as internal and deadly conflicts exacerbated contrary to the world expectation.¹⁰ This realization led to reforms of the organizations approach to conflict management by the formation of a Mechanism for Conflict Prevention, Management and Resolution.¹¹ The novelty of the new mechanism lied in the improvement of reactive capacity and in greater coordination and continuity of mediation. The emphasis was prevention and early containment of conflicts in order to avoid expensive military intervention.

OAU's shift in the post-Cold War never brought out the expected results and therefore an overhaul was eminent giving rise to AU which has enumerated an impressive array of institutions and normative change from that of OAU.¹² This change provided a dynamic framework for providing vision, leadership and policy guidance and engagement and implementation in all spheres of the continents development. Seven years after the launch of this initiative, a compelling need is beckoning to do a comparison of the two organizations (OAU and AU) in order to establish whether the move has bore any fruit in the area of conflict management.

⁸ K Van Walraven, *Dreams of Power: The Role of the Organization of African Unity in the politics of Africa. 1963-1993*, (Adlershot Hants: Ashgate Publishing Ltd, 1999), p. 280.

⁹ Mwangiru, Who Will Bell the Cat? Article 4(2) of the OAU Charter and the Crisis of OAU Conflict Management, *Kent Papers in Politics and International Relations*, Ser. 4, no. 7, 1995, p. 3.

¹⁰ A. Adedeji, *Comprehensive and Mastering African Conflicts*, (London: Zed Books, 1999), p.3.

¹¹ OAU Doc: AHG/Dec.1(XXVII).

¹² Amb. Salim A. Salim, in J. Akokpari, A. Ndinga-Muvumba and T. Murithi, (eds), *The African Union and its Institutions*, (Auckland Park: Centre for Conflict Resolution, 2008), p. xv.

5.1.1 OAU Conflict Management in the Horn of Africa

Multilateral institutions contribute to conflict management by formulating norms that member states must uphold.¹³ However while these norms encourage a certain approach in conflict management,¹⁴ they do not settle concrete disputes.¹⁵ Nevertheless OAU's norms that underpinned its response to conflicts were the norm of non-interference on internal affairs of member states, territorial integrity, sovereign equality of member states¹⁶ and "African solutions to African problems".¹⁷ There was however a conflict of principles of OAU while managing conflicts in which it held some norms dearly while giving in to others. The strict adherence of these principles ensured that OAU could not engage itself in internal as compared to inter-state conflicts.¹⁸

The Heads of State and Governments preferred to adopt collective mediation methodologies.¹⁹ It also encouraged individual mediations as long as the mediations worked under the premises of collective security therefore despising institutionalized methods of settling disputes.²⁰ The use of *ad hoc* committees whose outcomes reflected their position was preferred while on one hand cooperating with UN although during its early days it insisted on "trying OAU first" and therefore lobbied for conflicts to be referred back to the organization rather than being handled at the

¹³ K Van Walraven, *Dreams of Power: The Role of the Organization of African Unity in the politics of Africa. 1963-1993*, Op. Cit. p. 279.

¹⁴ I.W. Zartman, "Conflict Reduction: Prevention, Management and Resolution", in F.M. Deng and I.W. Zartman, (eds), *Conflict Resolution in Africa*, (Washington: 1991), ch. 11.

¹⁵ W. Foltz, "The Organization of African Unity and Resolution of Africa's Conflicts" in Deng and Zartman, *Conflict Resolution in Africa*, (Washington D.C: Brookings Institution, 1991), pp. 347-366.

¹⁶ OAU Charter, Article 3(3).

¹⁷ C. Amate *Inside the OAU: Pan-Africanism in Practice*, (London, 1986), p.166 and W.J. Foltz, "The Organization of African Unity and Resolution of Africa's Conflicts" in Deng and Zartman, *Conflict Resolution in Africa*, Op.Cit. p. 347.

¹⁸ M. Mwangiru, Who Will Bell the Cat?: Article 3(2) of the OAU Charter and the Crisis of OAU Conflict Management, *Kent Papers in Politics and International Relation*, series 4, no. 7, 1995, p.4

¹⁹ W. Foltz, "The Organization of African Unity and Resolution of Africa's Conflicts" in Deng and Zartman, *Conflict Resolution in Africa*, (Washington D.C: Brookings Institution, 1991), pp. 347-366.

²⁰ M. Mwangiru, *Conflict in Africa: Theory, Processes and Institutions of Management*, Op. Cit. p.107.

UN level.²¹ Although it succeeded in having the conflict heard at its forum,²² most conflicts were just patched and in most cases;²³ no concrete solutions were reached.

At the end of Cold War and the defeat of apartheid in South Africa, a new challenge emerged that required a transformation of the organization's structures and methodologies of managing conflict. Attainment of independence by all African states meant that self-determination geared towards liberating Africa had been attained and was marked by the disbandment of the Liberation Committee.²⁴ Internal conflicts, human rights violations, demand for good governance by the West, were the new challenges that OAU faced.²⁵ The establishment of a mechanism to prevent, manage and resolve conflicts especially internal conflicts did not quite achieve the desired outcomes coupled with some leaders' ambitions to form a united government of African states demanded that AU be formed.

Despite OAU "fire fighting" many conflicts in Africa, Ambassador Getugi credits the organization for keeping the African states united and its success in interstate conflicts although it could have done more in managing internal conflicts.²⁶ OAU therefore did not entirely fail but the change of environment called for the establishment of a more vibrant organization with the correct tools to manage African problems.²⁷

²¹ ECM/Res. 1(I).

²² ECM/Res.3 (III); ECM/Res.5(III); ECM/Res.7 (IV); AHG/Res.16 (I); CM/Res.794 (XXXV); and AHG/Res.106 (XIX).

²³ Amb. Japheth R. Getugi, former Kenyan Ambassador to Uganda (2005-2009), Op. Cit.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ A Tekle, "The OAU: Conflict Prevention, Management and Resolution 1999", in H Adelman and A Suhrke (eds), *The Rwanda Crisis from Uganda to Zaire: The Path of Genocide*, (New Jersey: Transaction Publishers, 1999), p.111, also J. Rechner, From OAU to the AU: A Normative Shift with Implications for Peacekeeping and Conflict Management or Just a Name Change?, *Vanderbilt Journal of Transitional Law*, vol. 39, issue 2, 2006, p. 84

5.1.2 AU Conflict Management in the Horn of Africa

African leaders viewed the formation of AU as a reformation of the OAU, rather than the creation of an entirely new entity.²⁸ AU was designed to address some of the shortcomings of OAU, including the inability to deal effectively with deadly conflicts.²⁹ AU has established a normative and legal framework that can respond to the new peace and security challenges which is a shift from that of OAU.³⁰ AU departs from the strict interpretation of the non-interference norm and includes the right by the Union to intervene in grave circumstance where war crimes, crimes against humanity and genocide have been committed and also allows a member state to request for AU's intervention. These changes are important in tackling internal conflicts that have resurged during the post-Cold War period. Similarly, AU condemns and rejects impunity and political assassinations, acts of terrorism and subversive activities³¹ and prohibits unconstitutional changes of governments.³² Specifically, Article 30 of the Constitutive Act provides that governments which shall come to power through unconstitutional means shall not be allowed to participate in the activities of the Union.

AU has established Peace and Security Council (PSC)³³ which is a formal structure for managing conflicts, the Panel of the Wise,³⁴ closer relationship with Regional Economic Communities (RECs),³⁵ African Peer Review Mechanism

²⁸ C.A. Packer and D. Rukare. The New African Union and its Constitutive Act 96. *American Journal of International Law*, vol. 96, no. 2, 2002, p.365.

²⁹ J. Rechner, From OAU to the AU: A Normative Shift with Implications for Peacekeeping and Conflict Management or Just a Name Change?, *Vanderbilt Journal of Transitional Law*, vol. 39, issue 2, 2006

³⁰ D.J. Francis, *Uniting Africa: Building Regional Peace and Security Systems*. (Hampshire: Ashgate Publishing Limited, 2006), p.128.

³¹ *Ibid*, Article 4(o).

³² *Ibid*, Article 4(p).

³³ AU Constitutive Act, Article 5(2), also Protocol Relating to the Establishment of PSC

³⁴ Protocol Establishing PSC, Article 11

³⁵ *Ibid*, Article 16, also ³⁵ B. Franke, Competing Regionalism in Africa and the Continents Emerging Security Architecture, *African Studies Quarterly*, Vol. 9, Issue 3, 2007

(APRM),³⁶ African Standby Force in the five African sub-regions³⁷ and African Court of Justice and Human Rights.³⁸ These structures are well elaborate and it is expected that when fully operational, it should be able to deal with conflicts in the continent.

The normative shift and structural re-enforcement of AU has however not yielded much largely due to the bloated institutions that are still being established,³⁹ financial and logistical inadequacies and the type of conflicts that are completely different as compared to those faced by OAU.⁴⁰ This notwithstanding, AU has shown that a regional organization can indeed intervene even in internal conflicts which may at times be mistaken to be internal.

5.1.3 Comparison of OAU and AU Management of Conflicts in the Horn of Africa

AU has made both normative and structural shifts as compared to OAU. OAU operated under the principles of non-interference in internal affairs of States,⁴¹ sovereign equality of all Member States,⁴² territorial integrity of Member States⁴³ and “African solutions to African problems”⁴⁴ and it was upon these norms that the organization developed its own methodologies of conflict management. Thus OAU relied on *ad hoc* mediations rather than formal arrangements as exemplified in the

³⁶ Protocol Establishing APRM

³⁷ Protocol Establishing PSC, Article 13

³⁸ AU Protocol Merging the African Court on Human and Peoples’ Rights with the Court of Justice of the AU

³⁹ B. Franke, *Competing Regionalism in Africa and the Continents Emerging Security Architecture*, *African Studies Quarterly*, Vol. 9, Issue 3, 2007

⁴⁰ Amb. Japhet R. Getugi, Former Kenyan Ambassador to Uganda (2005-2009). Interviewed on 26th September 2009.

⁴¹ Article 3(2) of the OAU Charter

⁴² *Ibid.*, article 3(1)

⁴³ *Ibid.*, article 3(3) and also AHG/Res.16(1)

⁴⁴ AHG/Res.16(1)

Charter's provision for a Commission on Mediation, Conciliation and Arbitration.⁴⁵ However AU has made a change by giving itself a right to intervene in certain circumstances in what was interpreted as internal conflict by OAU⁴⁶ and further entitled Member States to seek for the Union's intervention in order to restore peace.⁴⁷ AU has also established more formal structures such PSC which resemble the UN Security Council and works closely with the Panel of the Wise,⁴⁸ sub-regional organizations,⁴⁹ NEPAD African Peer Review Mechanism and a Standby Force.⁵⁰

Through the normative and structural changes made by AU, intervention in internal conflicts has been made possible as illustrated by the Union's intervention in Burundi, Somalia and Darfur. These interventions would not have been possible under the OAU framework. AU has also shown that it can use the enforcement instruments such as sanctions in ensuring that its decisions have been adhered to by member states. Despite the significant improvements made to AU, the achievement of its mandate has largely been hampered by financial and logistical constraints. This has made the Union depend on external funding from organizations such EU according to Amb. Ramtane Lamamra, Commissioner for AU Peace and Security Council.

5.2 Non-Interference and Member State Sovereignty

OAU had for a long time interpreted the non-interference norm (art. 3(2) of OAU Charter) in sharp contrast with United Nations (UN)⁵¹. This interpretation was understandable during the Cold War period as it endeavoured at protecting newly

⁴⁵ Article 19 of the OAU Charter

⁴⁶ Article 4(h) of the AU Constitutive Act

⁴⁷ *Ibid*, article 4(j)

⁴⁸ Article 11 of the Protocol Establishing PSC

⁴⁹ Protocol on Relations between the AU and RECs

⁵⁰ *Ibid*, article 13

⁵¹ K Van Walraven, *Dreams of Power: The Role of the Organization of African Unity in the politics of Africa. 1963-1993*, Op. Cit. p. 304

founded African states from collapse arising from external interference especially the fear that former colonialists would come back. This position was however rendered irrelevant during the post Cold War period as internal conflicts exacerbated. Moreover there is really no clear line between internal and external conflicts as argued in chapter two of this study.⁵² This strict adherence to the principle in essence meant that OAU did not act when it came to internal conflicts. In conflicts that it attempted to mediate, the leader of the affected state used the non-interference principle to wade away OAU's involvement. Tshombe in Congo crisis of 1964 for instance condemned the action of the OAU *ad hoc* committee for violating the principle.⁵³

In the post Cold War and with the launch of OAU Mechanism for Conflict Prevention, Management and Resolution, the heads of states gave it a green light to also manage internal conflicts. Although this was an important shift, resistance was still evident. The reservation for a very important role such as peacekeeping to United Nations⁵⁴; and the provision that the mechanism could only work in situations of internal conflicts with the concurrence of a member state except in circumstance where constitutional structures have completely failed essentially affected the efficacy of the mechanism.⁵⁵ AU's shift from the strict interpretation of non-interference and its erosion of the principle of sovereignty by including the right by the Union to intervene and a member state to request for intervention has elicited both support and criticism.

Some scholars have contended that what is called humanitarian intervention is an unacceptable assault on a state's sovereignty. Portella has argued that NATO's

⁵² J. Burton "Global Conflict: The Domestic Sources of International Crisis (Brington, 1984)

⁵³ K Van Walraven, *Dreams of Power: The Role of the Organization of African Unity in the politics of Africa. 1963-1993*, Op. Cit. pp. 304-306

⁵⁴ M. Mwangi "The Organization of Africa Unity (OAU) and Management of Internal Conflicts in Africa" p.14

⁵⁵ OAU. "Resolution Conflicts in Africa", no. 40 , p.43

action in Kosovo without the authorization by UN Security Council breached international law.⁵⁶ Furthermore others argue that UN is the only international organization to decide on enforcement action.⁵⁷ Questions are therefore ripe regarding AU's right to decide on intervention outside the UN framework. Cilliers and Sturtman have argued that the concept of sovereignty on which the international system was founded presumes that each state has the power, authority and competence to govern its territory. For many African states however, sovereignty is a legal fiction that is not matched by governance and administrative capacity.⁵⁸ The definition of humanitarian intervention according to the Danish Institute of Foreign Affairs is,

“Coercive action by States involving the use of armed force in another state without the consent of its government, with or without authorization from the UN Security Council, for the purpose of preventing or putting to a halt gross and massive violations of human rights or international humanitarian law”⁵⁹

In his 2000 Millennium Report to the UN General Assembly the Secretary General challenged those against intervention by stating that without intervention UN would not respond to gross violations such as that of Rwanda and Srebrenica.⁶⁰ Similarly Museveni while making his maiden speech at the OAU Ordinary Session of Heads of States and Government in 1986 accused them of wholesale massacre of Ugandans by Iddi Amin under the guise of not interfering because it was an internal

⁵⁶ C. Portella, Humanitarian Intervention, NATO and International Law: Can the Institution of Humanitarian Intervention Justify Unauthorized Action?, Research Paper published by the *Berlin Information Centre for Transatlantic Security*, December 200, p.3

⁵⁷ Article 53 of the UN Charter

⁵⁸ J. Cilliers and K. Sturtman, The Right of Intervention: Enforcement Challenges for the African Union, *African Security Review*, vol. 11, no.3, 2002, p.3

⁵⁹ *Danish Institute of International Affairs*, Denmark, 7 December 1999

⁶⁰ The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty, International Commission on Intervention and State Sovereignty, *International Development Research Centre*, Ottawa, 2001, p.2

affair of Uganda. He indicated that the same laws enunciated the sanctity and inviolability of human life.⁶¹

In international law, "domestic jurisdiction" (internal affairs) concern those areas where a state's jurisdiction is not bound by international law. Moreover in general international law, "interference" or intervention refers to an intrusion without a state's consent in its domestic jurisdiction. However discussion of or adoption of resolutions concerning a state's internal affairs does not constitute interference.⁶² Furthermore the involvement of an individual, organization or even another state in mediating in another country's conflict certainly should not be interpreted to mean interference. AU however will have to bear in mind the high cost involved in such an intervention and the prospects that it may be a long-haul affair. Furthermore, intervening in one failed state could set a precedent that may have to be replicated in other countries more often than the capacities of AU and its member states would allow.

5.3 Human Rights

Human rights violations account for a significant number of internal conflicts which is on the rise in Africa. OAU never lifted a finger on any of its leaders despite the well publicized atrocities committed by leaders like President Amin and Bokassa among others.⁶³ Such leaders ran the chance of heading OAU despite their poor human rights track record therefore raising dilemmas as in the case of Amin of

⁶¹ President Museveni of Uganda, 22nd Ordinary Session of the OAU Assembly of Heads of State and Government, Addis Ababa, Ethiopia July 1986

⁶² I. Brownlie "Principles of Public International Law", (Oxford, 1979), pp. 291-5

⁶³ Kithure Kindiki, The Legality of Applicability of Humanitarian Intervention to Internal Conflicts in Africa, *East African Journal of Peace and Human Rights*, vol.7, no.1, 2001, p.42

Uganda in 1975.⁶⁴ This engenders internal self-determination where citizens under repressive regimes struggle against the arbitrary oppression by their governments. The adoption of the African Charter on Human and Peoples' Rights in June 1981 came into force in October 1986 while a Commission on Human and Peoples' Rights was established mandated with promoting human and peoples' rights and ensuring their protection.⁶⁵ Although this was an exciting prospect for the protection of human rights, it was hindered by the extensive use of claw back clauses, national authorities retaining considerable discretion and lack of an enforcement mechanism.

However AU has attempted to address the issue of human rights and poor governance by including in its principles; respect for democratic principles, human rights, the rule of law and good governance;⁶⁶ promotion of social justice to ensure balanced economic development;⁶⁷ respect for the sanctity of human life, condemnation and rejection of impunity and political assassination, acts of terrorism and subversive activities;⁶⁸ and condemnation and rejection of unconstitutional changes of governments.⁶⁹ Furthermore AU has established an African Court of Justice and Human Rights where even an individual can sue the state for violation of his human rights. AU has also embraced the African Peer Review Mechanism which is a voluntary self monitoring mechanism.⁷⁰

While AU has made tremendous efforts in addressing human rights violations, it is imperative that these improvements must be followed through with practical actions else it risks being just theory. Taking Kenya's post election conflict as a case

⁶⁴ G. J. Naldi, *The Organization of African Unity: An Analysis of its Role*, (2nd ed), Op. Cit. p.19

⁶⁵ Ibid, p.139

⁶⁶ AU Constitutive Act, article 4(m)

⁶⁷ Ibid, article 4(n)

⁶⁸ Ibid, article 4(o)

⁶⁹ Ibid, article 4(p)

⁷⁰ AHG/235 (XXXVIII)

in point, the regional court has not taken any action against those suspected to have carried out violence. The continental court needs to coordinate its activities with the sub-regional courts and international courts such as International Criminal Court (ICC) if it has to maintain its credibility. On the other hand good governance cannot be entrusted wholly on the self appraisal of APRM as African leaders are not likely to act on peer review.

5.4 Conflict Management Methodologies

OAU's conflict management methodologies were characterised by its desire to operate by consensus and therefore was guided by a preference of collective mediation undertaken by Heads of States and Governments. Despite having formed a formal body empowered to manage conflicts, (Commission of Mediation Conciliation and Arbitration) the organization led by its Heads of States and Governments mistrusted it and therefore never handled any conflict until the organization was dissolved in 2002. Instead OAU preferred *ad hoc* committees appointed by the Assembly to deal with specific conflicts; for instance the *ad hoc* committee led by President Kenyatta in 1964 to mediate in Congo conflict. Although the OAU mechanism for managing conflict that was launched at the turn of the post-Cold War period was revolutionary as compared to the "old" OAU, it still relied on the conflicting parties to accept the organizations intervention. For instance an OAU delegation on its way to Somalia had its movement terminated when it reached Nairobi because a powerful warlord had changed his earlier concurrence.⁷¹

The difference between OAU Mechanism and AU PSC is that the later can intervene without the consent of the member state concerned and it does not need to

⁷¹ Ben Kioko, The Right of Intervention Under the African Union Constitutive Act: From Non-Interference to Non-Intervention, *IRRC*, December 2003, vol. 85, no. 852, p.814

necessarily seek UN Security Council's authority first before intervening.⁷² This was informed by past actions such as those undertaken by Economic Cooperation of West African States (ECOWAS) in both Sierra Leone and Liberia and NATO in Kosovo intervention where no authorization was sought prior to intervening.⁷³ UN in these instances did not complain that its powers were being usurped because the interventions were carried out partly because UN Security Council had not taken any action and that the intervention was in support of a popular cause.⁷⁴

AU has laid down formal and expanded structures for managing conflicts. These include PSC, a more powerful secretariat, Panel of the Wise and an African Standby Force. Conflict prevention has therefore been enhanced through the use of the good offices of the Chairperson of the Commission and the African Eminent Personalities and the peace building that is expected to be undertaken by the Standby Force. AU's framework of managing conflict is quite elaborate and ambitious but this can come to naught if logistical and financial support is not available. Although AU has provided for the sanctions for non compliance of its decisions, at times AU has been inconsistent as in the case of Sudan in the Darfur conflict.⁷⁵ Economic sanctions imposed by AU on a recalcitrant state would be likely to gain some level of compliance, even if diplomatic sanctions failed as in the case of Togo in 2005.⁷⁶ The efficacy of sanctions relies mainly on the interdependence of member states and the ability of the continental organization to rally international support for the imposition

⁷² Ibid, p.817

⁷³ Ben Kioko, The Right of Intervention Under the African Union Constitutive Act: From Non-Interference to Non-Intervention. Op. Cit., pp. 819-821

⁷⁴ Ibid, p. 821

⁷⁵ J. Rechner, From OAU to the AU: A Normative Shift with Implications for Peacekeeping and Conflict Management or Just a Name Change?. *Vanderbilt Journal of Transitional Law*, vol. 39, issue 2, 2006,

⁷⁶ Ibid.

of the sanctions. Furthermore AU needs to use target sanctions not aimed at the poor population of a member state but directed to individual rogue leaders.

The power structure of AU does appear to be more balanced than that of OAU. Although the Assembly comprised in the OAU and AU of the heads of states is still the “supreme organ”, the creation of PSC authorised to deal with many issues of peace and security is a step forward from the OAU. The fact that the Commission plays an active role in the functioning of the PSC is also encouraging and indicates that the Commission has more power than did the OAU Secretary General. The cooperation and collaboration between the Assembly and the PSC is evident in the level of agreement and relatively quick decision-making undertaken.

5.5 Collaboration between Continental Organization and UN and the RECs

There is an emerging phenomenon in regionalisation of conflict management and sharing of responsibilities for international peace and security. Cooperation between UN and regional organizations provide an understanding of the division of labour.⁷⁷ Chapter VIII of the UN Charter deals with regional arrangements while article 52(1) states that nothing in the Charter precludes the existence of regional arrangements.⁷⁸ Despite the OAU Charter calling for close cooperation with UN,⁷⁹ during the Cold War, UN cooperated with OAU for example when OAU lobbied for cases to be referred back to OAU because of the norm of “African Solutions to African Problems”.⁸⁰ However in some instances, UN declined to come to the aid of

⁷⁷ D.J. Francis, *Uniting Africa: Building Regional Peace and Security Systems*. (Hampshire: Ashgate Publishing Limited, 2006), p.117

⁷⁸ UN Charter, Article 52(1)

⁷⁹ OAU Charter, Article 2(e)

⁸⁰ AHG/Res.16 (1)

OAU but rather gave conditions for its assistance. A case in point is when it gave conditions before helping manage Rwanda and Chad conflicts.⁸¹

In the post-Cold War period, there has been an increase in cooperation between the OAU, UN and sub-regional organizations.⁸² Among other areas of cooperation is a clear division of labour between UN and regional organizations; regular consultation, mutual support in diplomatic and operational activities, joint operational deployment where appropriate, common conflict prevention modalities; and common peacebuilding principles.⁸³ The underlying principle for the emerging framework for cooperation is that all peace and security activities must be within the spirit of Chapter VI and VII of the UN Charter.

Sub-regional organizations play a critical role in managing conflicts within their sub-regions in that they belong to the same conflict system with the warring parties and so are more likely to work out an enduring solution to the conflict.⁸⁴ The failure by OAU to respond to some conflict situations in Africa, in particular during the post-Cold War period provided the opportunity for sub-regional organizational organizations to fill the security and defence gap.⁸⁵ The philosophy and ideology underpinning the response of sub-regional organizations to peace and security is perceived as part of “try Africa first” approach to African problems.

Nhara sees the partnership between UN, regional organizations and sub-regional organizations in graphic terms where at the top of the pyramid is UN and at the bottom is sub-regional organizations while in between the apex and the base is

⁸¹ A Tekle, “The OAU: Conflict Prevention, Management and Resolution 1999”, in H Adelman and A Suhrke (eds), *The Rwanda Crisis from Uganda to Zaire: The Path of Genocide*, Op. Cit. pp. 113-120

⁸² K. Graham et al, Regional Security and Global Governance: A Study of Federation between Regional Agencies and the UN Security Council. Bruges: UNU/CRIS, 2003

⁸³ Ibid

⁸⁴ M. Mwangi. The Organization of African Unity and the Management of Internal Conflicts in Africa. Sage Publications, *International Studies*, 33,1,(1996), p.16.

⁸⁵ D.J. Francis, *Uniting Africa: Building Regional Peace and Security Systems*. Op. Cit. p.126

OAU/AU which provides a critical link.⁸⁶ Despite this important relationship between the three organizations, Mark Malan critiques Nhara's perspective and argues that regionalisation of conflict management tends to undermine the legitimacy and efficiency of UN Peace Support Operations (PSO) therefore state actors rather than sub-regional organizations should form the base, body and apex of the peace pyramid.⁸⁷ However, Malan's view tends to support centralization rather than decentralization of conflict management and does not take into consideration some achievements made by sub-regional organizations. Good examples where sub-regional organizations have succeeded include IGAD in Sudan, ECOWAS in Liberia and Sierra Leone and SADC in Democratic Republic of Congo.

Considering developments in Somalia where UN has not come to the aid of AU calls for a further review of the partnership between the three organizations. UN-AU Hybrid force in Darfur Sudan clearly shows how a continental organization has partnered with AU where division of labour has seen AU provide troops while UN provides funding and logistics and the two collaborate in political-diplomatic activities. UN has the responsibility of maintaining international peace and security and therefore should not be averse to low intensity conflicts currently troubling Africa but should be making annual contributions to AU Peace Fund if AU is to manage conflicts effectively on its behalf.

Although AU has signed a memorandum with sub-regional organizations and is working closely in the area of early warning system,⁸⁸ there is need for it to ensure that the five sub-regional organizations are fully established and functioning. At the

⁸⁶ W. Nhara, "Conflict Management and Peace Operations: The Role of the Organization of African Unity and Sub-Regional Organizations", in M. Malan (ed), *Resolution Partners: Building Peacekeeping Capacity in Southern Africa*, ISS Monograph, series 21, ISS Pretoria 1998, p.38

⁸⁷ M. Malan, *The OAU and Sub-Regional Organizations: A Closer look at the Peace Pyramid*, ISS Occasional Paper, no. 36 January 1999, p.6

⁸⁸ Solemn Declaration on a Common African Defence and Security Policy, Para 27(g)

moment it is only IGAD, SADC and ECOWAS that are in the right path. A survey of the continent indicates that it is littered with sub-regional communities and security/defence groupings all of which are geared towards the realization of the continent's gradual and incremental approach to African unity. The multi-dimensional nature of complex peacekeeping which requires greater resources and capacity to cope, points at the fact that sub-regional and regional organizations alone are incapable of meeting the present peace and security challenges. The sub-regional organizations can therefore play fundamental role in early warning; AU deploys an early stabilizing force while UN subsequently deploys a peacekeeping force. The shared responsibility is likely to enhance conflict management in the region.

5.6 Evaluating the Objectives, Hypotheses and Theoretical Framework

This paper set out to critically compare the management of conflicts in the Horn of Africa by AU and OAU with an aim of establishing whether the change from OAU to AU has resulted in a more effective management. To answer this critical question, two objectives were set, one is to examine the structural changes that have been made to AU as compared with OAU and secondly to examine the success and/or failure of the two organizations in managing conflicts in the Horn of Africa. The study traced the evolution of OAU and AU since they were established, it also examined their structures, critically looked at the conflicts managed by the two organizations and compared their effectiveness. The study therefore achieved the objectives put forward in chapter one.

Using regionalisation approach as a tool of analysis, three outcomes were hypothesized namely; that the change made from OAU to AU has led to a more effective management of conflicts; secondly, that the change has resulted into

ineffective management therefore the change has not been useful; and thirdly that there has not been any change in the effectiveness of managing conflicts meaning no impact has been felt yet even after the establishment of AU.

The findings of this paper is that the third hypothesis that there has not been any change in the effectiveness of managing conflicts holds despite the strong structural and normative shift exhibited by AU. Several factors can be attributed to this state of affairs which has made the optimism that the Africans had at the launch of AU not a reality yet. The difference in the type of conflicts managed by the two organizations is one of the factors. OAU during the Cold War period was faced with colonial liberation struggles, secessionist wars, Cold War proxy wars and inter-state conflicts emanating from border disputes. However the post-Cold War period saw the growth and intensity of intra-state wars in Africa which has led to their labelling as identity/ethnic-based wars or resource-based wars.⁸⁹ This difference in the types of conflicts required different methodologies of management. As argued in this paper, OAU was a Cold War creation and thus unsuited for the international challenges and security threats of the post-Cold War era. The strict interpretation of the non-interference norm and member state's sovereignty in fact this interpretation aided OAU in forging some solidarity among African states. However strict adherence to these two principles hampered any attempts by the organization to resolve internal conflict. AU which is more oriented to the post-Cold War conflicts and in particular internal conflicts has not been effective yet as expected. The incomplete structures and the challenges facing the AU have led to some conflicts which it engaged itself in not resolved yet. Some of the structures such as the African Parliament, African Court of Justice and Human Rights, African Standby Force among others are not operational

⁸⁹ D.J. Francis, *Uniting Africa: Building Regional Peace and Security Systems*, Op. Cit. p.63

yet. On this basis their effectiveness in resolving conflicts cannot be fully assessed. Out of four internal conflicts that AU involved itself in the Horn of Africa sub-region, 50% were successful while out of four internal conflicts managed by OAU only one was a success. No interstate conflict managed by AU has been examined in this study while OAU managed four interstate conflicts of which only one was a failure.

OAU had been in operation for 39 years before its disbandment while AU has only been in existence for six years. This gives OAU an advantage over AU as its management is conclusive. Several other challenges that have hindered AU management of conflicts include a continuing existence of a “cacophony” of regional groupings and the problems of coordination and competition, overlapping membership within these groupings, the issue of funds and the problems arising from regionalism as formalism and regionalism without common values. Overcoming these challenges is critical for a successful African security regime and a huge step towards ending the continent’s history of competition regionalism.

Despite the AU’s rationalisation efforts, the African continent is still overcrowded with 42 organisations that share the same purposes but operate independently of each other.⁹⁰ Western powers including USA, Britain and France have also established peace and security structures.⁹¹ It is essential that AU continues to strengthen its role as an authoritative clearinghouse for all cooperative initiatives and clarifies its relations with these initiatives in order to avoid the impression that the various levels of cooperation are competing for pre-eminence in promoting peace and stability in Africa.

⁹⁰ C. Francis, Why the United States Should Robustly Support Pan-African Organizations. *Parameter*, Winter 2005, pp. 106-23.

⁹¹ Berdal Mats, “Peacekeeping in Africa, 1990-1996: The Role of United States, France and Britain”, (1998) in Furley Oliver and May Roys (eds) *Peacekeeping in Africa*. (Adershot: Ashgate Publishing, 1998), p.50.

The institutional chaos is further complicated by many African states simultaneously belong to more than one intergovernmental body that aspires to play a role in security maintenance and conflict management. The extent and effects may prove particularly detrimental to the continent's infant security architecture. Of 53 African countries, 26 are members of two sub-regional organizations and 19 are members of three while 2 countries even belong to four but only 6 countries belong to only one regional community.⁹² However AU has limited itself to only five RECs. Although countries benefit politically and economically from multiple membership, the overlap not only leads to wasteful duplications of effort and counterproductive competition but also tends to dissipate collective efforts towards common goals of AU therefore muddying the goal of integration. AU must therefore disentangle Africa's web of institutional overlaps.

5.7 Conclusion

The findings of this study strongly support the regionalist arguments that regional organizations play a pivotal role in managing conflicts despite some of the unsuccessful involvements by AU/OAU. Effective management of conflicts stem from the fact that long term benefits accrue from regionalism to developing states in form of growing political maturity and perceived potential of regionalism to promote their economic development and to mitigate their disadvantaged position in the international arena.

The paper contents that although the two organizations have scored 50% each in their success in managing conflicts it argues that OAU was more successful in managing interstate conflicts but in most cases avoided internal conflicts because of

⁹² United Nations Economic Commission for Africa, *Assessing the Integration in Africa*, (UNECA: Addis Ababa, 2004), pp.39-40.

the non-interference norm. AU's performance in managing conflicts has been modest so far. This study posits that AU has the potential to be more effective than OAU once the organizations structures are fully operational and the leadership addresses the challenges pointed in this paper.

CHAPTER SIX

CONCLUSION

6.0 Introduction

The previous chapter made a critical analysis of the study, tested the hypotheses and found out that although AU has addressed the conceptual problems that hindered OAU's operation and management of conflicts, not much practical change has been realized yet. This is attributed to the organization's structures that are yet to be fully operational and the logistical and financial challenges faced by AU. Normative and structural changes that AU has made have contributed immensely as it has ventured into managing internal conflicts where its precursor never dared.

This chapter concludes the study. It is divided into three parts with section one reflecting on the past management of conflicts by OAU, section two looks at the present conflict management by AU while section three postulate at future conflict management by the continental organization.

6.1 Management of Conflicts in the Past by OAU

This study has argued that in the past, management of conflicts by OAU was hindered by both structural and normative weaknesses of the organization. It was pointed out that those norms such as non-interference strict interpretation resulted into inaction by OAU when it came to internal conflicts. Although OAU saw a clear distinction between internal and interstate conflicts, the study has argued that there is intermesticity between the two. It was shown that refugees, exogenous third parties, media, humanitarian aid and

modern technology have rendered this clear demarcation between internal and interstate conflicts irrelevant.

It was argued that mediation or any involvement by any individual, organization or state in domestic conflict with an aim of maintaining peace and security cannot and should not be interpreted to mean interference in internal affairs of a sovereign state. OAU was inept in managing conflicts because of poor methodologies it adopted. The OAU Assembly which was branded a “club of heads of state” tended to safeguard individual leaders interests in total disregard of the citizens interests. OAU chose informal methodologies and was averse to third party adjudication which was considered confrontational and could go against their wishes. Based on this, OAU preferred reconciliatory methodologies reached through consensus and was understandable as the organization aimed at uniting the newly independent states rather than engaging in more radical and disruptive activities. Furthermore instead of decentralizing and delegating its conflict management functions, OAU centralized them by competing and subordinating the sub-regional organizations.

Human rights violations which were perpetrated by individual governments against its own citizens were never addressed by OAU. This therefore exacerbated internal conflicts resulting to struggles for self-determination culminating into calls for secession and yet OAU effectively banned these ambitions. Failure by OAU to punish the abusers of human rights amounted to a cover-up of the decay in most member states.

OAU however played a critical role in decolonization of Africa which account for its modest performance. Similarly the organization made a fair attempt in addressing inter-state conflicts such as border conflicts although they were not fully resolved.

However OAU performed dismally when it came to managing internal conflicts because of its normative strict interpretation as argued earlier in this study.

6.2 Management of Conflicts Currently by AU

Establishment of AU was a realization by the African leaders that OAU was ill equipped to handle the challenges faced by the continent and the urgent need for a coherent and united Africa. Despite the short period that AU has been in operation, there are prospects that when fully established and its organs fully running, it would address most of the shortcomings of the OAU.

Some of the improvements that AU made include the establishment of Peace and Security Council (PSC), African Stand-by Force, Panel of the Wise, African Parliament, African Court of Justice and Human Rights, Continental Early Warning system and has established a stronger relationship with sub-regional organizations which is based on cooperation and not subordination as OAU had done. The AU Constitutive Act which is revolutionary has shown that the organization can intervene in internal conflicts. The study has however argued that despite the improvements, the organization is yet to effectively manage conflicts bedeviling the continent. Several reasons can be attributed to this dismal performance which includes inability to finance the bloated institutions and its ambitious Peace Support Operations (PSO), logistical problems and organs that have not been fully established.

In order to effectively manage conflicts in Africa, the continent does not only require a well articulated Constitutive Act but a strong political will by the continents leaders in order to move the quest for integration forward. Currently a dilemma prevails

as to whether to integrate gradually by strengthening the Regional Economic Communities (RECs), establish a Union Government by 2015 with executive powers belonging to a president and cabinet or AU should simply establish a "United States of Africa". These options encompass both radical and gradual approaches to unity.

6.3 Management of Conflicts in Africa in the Future

In 1963, the ideal of Pan-African unity gave rise to different political groupings of free African states two of which predominated. A more radical group that advocated for the formation of a "United States of Africa" under the power of a centralized command and another group that stressed the importance of the independence, integrity and sovereignty of each African state. So much has changed and yet Africa is still undecided as to which direction to follow. Today Africa is still divided between those calling for a gradual move to integration through strengthening, rationalization and later harmonizing the RECs and those calling for an immediate integration through formation of a United Government.

While there is a general consensus that Africa needs to integrate, those advocating for a gradual process seem not to want to cede their sovereignty. With a looming depletion and politics of oil in other continents and the recent discoveries in Africa, major powers in the world have turned their attention to the African continent. There are strong possibilities indicating that the focus on Africa in the future is likely to engender resource-based conflicts. There is need for Africa therefore to quicken its steps in its quest for integration. However the unwillingness by most states to surrender part of their sovereignty, as illustrated by the 9th Ordinary Session of the AU Assembly meeting in

July 2007 in Accra where the debate on a Union Government was acrimonious and heavily charged, raises the need for the Union to come up with an imperative or rationale that the majority of the AU member states would generally support.

The way forward therefore is for the member states to strengthen the RECs and to fully establish its organs without necessarily over-depending on the external world for funding. The organization needs to match its mandate with its resources. To do this the member states need to exploit their enormous potentials at national, regional and continental levels. AU should work towards economically empowering its populace and safeguarding human rights in order to extinguish any prospects of internal conflicts.

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