

University of Nairobi
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**The Role of Sub-Regional Organizations in Mediation of Conflict: A Case Study of IGAD and
Mediation of the Sudan Conflict 1994 -2005.**

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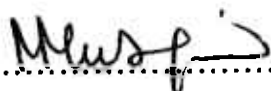
DECLARATION

I Edla A Muga, hereby solemnly declare that this dissertation is my original work and has not been presented for a degree in any other University

Signed  Date..... 22nd November 2010

EDLA A. MUGA

This Dissertation Has Been Submitted for Examination with my Approval as University Supervisor

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DEDICATION

This dissertation is dedicated to all working African mothers and our children. I believe that with determination, and the support of their communities, African women can effectively carry out their many roles in Society and contribute greatly to development. In this way we serve as role models for generations to come.

ABSTRACT

As the people of Southern Sudan await the Referendum scheduled to be carried out on 9th January 2011, there are calls for separation of Southern Sudan from the North. There have been five years of relative peace, accompanied by sporadic violence from various militia and armed groups. Some believe that these militia were funded by Khartoum to disrupt peace, while others believe that it is a result of cattle rustling due to scarce resources and an injured economy that leaves few means of earning a living. The International community has had a large presence in Southern Sudan, from peace keepers in key areas to relief agencies providing food, non food items and development training to the citizens of Southern Sudan. The government of Southern Sudan has appealed to the International community to be ready to provide basic necessities for large numbers of Southern Sudanese returning to the South from the North. The influx is already high in Abyei, Unity State and Northern Bahar El Ghazal, which border the North. So far, the government of Southern Sudan has successfully covered two major hurdles in the implementation of the Comprehensive Peace Agreement, that is to complete a census, albeit one with disputed results and to carry out a nationwide election which observers deemed to be below international standards.

This period of peace was purchased, so to speak by the signing of a Comprehensive Peace Agreement in January 2005 at Naivasha lodge in Kenya. The document was signed between the Khartoum government represented by Ali Osman Taha, and the Sudan People's Liberation Movement/Army was represented by General Salva Kiir Mayardit, the current president of Southern Sudan and first vice president of all of Sudan.

The Peace Agreement was brokered by the Intergovernmental Authority on Development, through its chief mediator, Major General Lazarus Sumbeiywo. Major Sumbeiywo was handpicked by the former President of Kenya Daniel Arap Moi to lead the initiative. The key question asked in this study is why did IGAD succeed where others had repeatedly been unable to broker a similar Agreement? Since IGAD was a regional organization responding to a long standing African conflict, and which was using mediation as a means to respond, the study endeavors to explore the conflict management role of IGAD, while comparing it with previous initiatives that came about to ameliorate the same conflict. This initiative also took place in the post cold war era and in a multi polar environment and this aspect is not lost on the study. The investigation was carried out through literature review of primary data, secondary data and one on one interviews and focus group discussions.

The study concludes that IGAD succeeded because a ripe moment had been reached, which brought the parties to the table and allowed for various compromises on long standing views to enable the Agreement to be signed.

Furthermore, the end of the cold war saw a decline in strategic interest of powerful countries in Africa leading to regional groupings that gave them greater collective influence and power. Such regional groups are better able to gauge and understand underlying regional factors in a conflict and therefore identify appropriate ripe moments. At the same time, the United Nations recognized that it needed to cooperate with regional organizations and gave them the Mandate to mediate conflicts. The emergence of a new brand of Terrorism after the September 11th 2001 attacks on the World Trade Center in the US saw a new direction in superpower interest in security and Sudan was considered a potential breeding ground for terrorists.

These regional organizations also faced funding problems and a lack of proper hegemony or power structure to backstop the processes. When such organizations engage in mediating a conflict that has become internationalized, and the conflict involves the security of a superpower, combined with elements of high levels of natural resources, then funds and technical support can often be found as was the case with the establishment with a secretariat under the auspices of IGAD for the purpose of mediating the Sudan conflict.

The moment was ripe for the conflict to be mediated there was funding and technical support from superpowers, and the international community at large that backstopped any agreements that moved towards peace for Sudan. The regional partners provided further pressure to the parties to the agreement and had a sincere interest in the end of the conflict, also because of pressures on security due to influx of small arms and growing numbers of refugees and asylum seekers. The IGAD mediators also had the good fortune of being able to study previous endeavors and learn from them. They were also able to mediate on issues as well as values, which had previously not been possible.

KEY TO ABBREVIATIONS AND ACRONYMS

AU- African Union

BBC- British Broadcasting Corporation

CEWARN – Conflict Early Warning and Response Mechanism

CBO – Community Based Organization.

CPA – Comprehensive Peace Agreement

DOP – Declaration of Principles

DUP – Democratic Unionist Party

EDF – Equatoria Defense Force

GOS – Government of Northern Sudan

GOSS – Government of Southern Sudan

GONU – Government of National Unity

ICG – International Crisis Group

IGAD – Intergovernmental Authority on Development

IGADD – Intergovernmental Authority on Drought and Desertification

IRIN – Integrated Regional Information Networks

MCF – Mully Children’s Family (A Christian Nongovernmental organization from the United Kingdom)

NCP – National Congress Party

NDA – National Democratic Alliance

NGO – Non Governmental Organization

NIF- National Islamic Front
OAU- Organization of African Unity
OLS – Operation Lifeline Sudan
SANU – Sudan African National Union
SPLA - Sudan People’s Liberation Army
SPLM – Sudan People’s Liberation Movement
SPLM/BGG – SPLM Bahr El Ghazal Group
SSIG – south Sudan Independents Group
SSIM/A – Southern Sudan Independent Movement Army
SSDF – South Sudan Defense Forces
TNG – Transitional National Government
UMMA – Nation Party
UNDP – United Nations Development Program
US or USA – United States of America
USAID – United States Agency for International Development
USAP – Union of Sudan African Parties
UDSF – United Democratic Salvation Front
UN – United Nations

These are some of the questions that I asked to different individuals during interviews and focus group discussions, and to persons representing organizations such as IGAD, the SPLM and certain Nongovernmental organizations.

Questions related to the various processes in the mediation process and how it assisted IGAD forge the way forward

1. In 2001, President George Bush Junior appointed Senator John C. Danforth Special envoy for peace in Sudan...how did his role assist IGAD with regard to the peace process
 - a. Did his role give IGADs role in Sudan peace process international acceptability?
 - b. Is this the point at which the USA had begun working with the IGAD secretariat?
 - c. Did it help increase the participation of Norway, Canada and Switzerland?
 - d. After Senator Danforth, was there an increase in technical support, funding etc?
 - e. Which other super power joined the process as a result of this?
 - f. How did it help bring Egypt on board, apart from their parallel peace processes?
 - g. What further value did having the Egyptians on board do to the IGAD peace initiative?
 - h. How did the Senator's report to Congress or the president assist IGAD in setting forth the DOP?
 - i. What form of Support did the Americans, Egyptians, Ugandans and the others provide during the period between 2001 to 2005?
2. The Addis Ababa Agreement, what in your opinion led to its collapse, was it the discovery of oil by Numeiri, push by the Muslim brotherhood that led to a military coup?
3. What are some of the aspects of the Addis Ababa Agreement that were tightened in the IGAD process?
4. What were the dynamics?
5. What did the church do to contribute to the peace process?
6. What did Sumbeiywo do as a person to assist in the peace process?
7. What do you think made Bashir come back to the table after he left Machakos II?

CHAPTER ONE - Introduction

1.0 PROBLEM CONTEXT

The North/ South Sudanese war was one of the most long drawn conflicts in Africa, the response to which should be of great interest to scholars and countries in the greater Horn of Africa conflict system¹. This conflict has now been brought to an end with the signing of the peace agreement on 9th January 2005, between Omar Al Bashir of Northern Sudan and John Garang of Southern Sudan. Some say it is a temporary end to the conflict and that it is still likely to erupt into full scale war when the CPA period expires in July 2011. The conflict begun as an intra state conflict in colonial times, but quickly became an interstate and finally an internationalized conflict. According to Mwangi, these are conflicts whose origins are found within a state but whose development eventually takes on international characteristics, usually identified by involvement of external actors as the conflict spills over beyond the confines of the affected state.² The conflict has had wide repercussions within the Horn of Africa in many respects as a result of the influx of asylum seekers and refugees from ³ the South of Sudan into other more stable countries in the region. The conflict also led to the presence of internally displaced persons within both the Northern and Southern parts of Sudan. It has also raised security concerns as a result of the presence of small arms, and perceived support by countries in the region of rebel movements. As a result, this conflict raged on for decades since 1955, with intermittent times of peace. The last civil war for example commenced in 1983, and therefore lasted at least 22 years.

This study specifically considers mediation by regional organizations as a response to the conflict, and a mechanism for conflict management with special emphasis on the role of IGAD. It endeavors to explore the conflict management role of IGAD, while comparing it with previous initiatives used to ameliorate the same conflict. In view of the fact that this is a post-Cold War

¹ The horn of Africa region comprises of countries on the Eastern Seaboard of Africa including Djibouti, Somalia, Ethiopia, Eritrea and Kenya

² See Mwangi, M, and Conflict: Theory, Processes and Institutions of Management, Nairobi: Watermark Publishers 2000.

³ 1951 Convention and Protocol relating to the status of refugees describes a refugee as a person who owing to a well founded fear of being persecuted due to race, religion, nationality or membership of a particular social group or political opinion is outside his/her country of nationality and owing to such fear unable to return to it. The 1967 Protocol and OAU 1969 Convention expanded the definition to include persons who leave due to war and violence. An Asylum seeker is one who has apparently fled for reasons stated above but is yet to seek formal refugee status.

initiative, it is representative of an African initiative for the management of an internal conflict. This initiative battled with repercussions of the post cold war era that saw a shift in policy by the superpowers with regard to engagement in Africa and its conflicts. The study is a means to gauge why this particular initiative succeeded where numerous other initiatives failed. It will attempt to clarify aspects of the IGAD mediation that were different from other previous initiatives which predicated its success, leading to the signing of the Peace Agreement.

The study is aimed at exploring why the IGAD mediation process was successful, despite the fact that in the IGAD peace process, only state actors in the region are taken on board, unlike previous processes which included the Church and other eminent persons. Indeed, Mwagiru opines that in the philosophy of IGAD, it does not appear as if non-state actors are equally stakeholders who should participate in the mainstream peace process.⁴ In as much as this may be true, the mediators in this particular initiative had the privilege of looking back at previous mediation initiatives and thus had a more inclusive approach, bringing to the table more pertinent issues for discussion. The thesis is also premised on an assumption that previous mediation attempts were conducted before a ripe moment was secured, and did not involve the wider international community, as was the case in the IGAD process. In 1994, there was a perception of perceived ripeness by all parties, leading to the commencement of the involvement of IGAD in the peace process. There was therefore a ripe moment and both parties were willing to come to the table and submit to mediation. The study will expose whether or not these affected the outcome of the IGAD mediation process or had a bearing on them.

After numerous peace initiatives, a series of Protocols covering different aspects of a settlement were agreed upon between 2003 and 2004, ensuing in the signing of the Comprehensive Peace Agreement on January 9th 2005.

1.1 STATEMENT OF THE PROBLEM

This study is designed to examine the use of mediation by sub regional organizations, in the process of conflict resolution, and proposes to use the IGAD mediation of the Sudan conflict as a case study. The study is done with a view to explore and ascertain how, and, to what extent, the

⁴ Supra page 80.

intrigues of and within regional organizations influence mediation processes. The larger context is the machinations of sub-regional organizations using Mediation as a Conflict management mechanism in a long-drawn and complex African conflict.

The situation in the Sudan complex one and has attracted the response of many state and non-state actors with interlocking interests. It seems to have taken IGAD, a regional organization to change the situation. In order to understand the IGAD mediation process in South Sudan, the paper explores the nature of sub-regional organizations and their contribution to peace and reconstruction work in the region. The study also explores the theoretical framework within which the IGAD mediation process was carried out as well as any challenges faced by the IGAD mediation team and their partners.

1.2 OBJECTIVES

The Study seeks to meet the following objectives.

- To compare the IGAD mediation process with previous mediation processes in Sudan.
- Critically analyze the theoretical frameworks within which the IGAD mediation process was carried out.
- Identify challenges faced by the IGAD mediation team and their partners and the effects of these challenges on the Comprehensive Peace Agreement of 2005.

1.3 LITERATURE REVIEW

This section aims to identify existing literature on regional organizations and mediation of conflict, mediation generally, mediation theory, and finally the IGAD peace process.

1.31 Role of Regional Organizations in Mediation of Conflicts

In International actors in African international relations, Olatunde⁵ argues that in Africa, quite apart from supplementing and in some cases substituting for diplomatic exchange, international organizations can also be seen as instruments for restraining power struggles. International organizations do this by subjecting member states to certain codes of behavior.

⁵ Olatunde O., *The International Actors, in African International Relations*, Longman, New York, London, Lagos, (1987) pp.39.

In exploring sub-regional conflict, *Opportunities for Conflict Prevention*⁶, the case is argued for the importance of sub regional conflicts being resolved by Sub regional organizations. These are organizations whose membership is comprised of countries in a particular sub-region. The author argues that because of regionalization of conflict, and due to similar historical, political and economic and geographic factors, regional organizations have a niche and significant role to play in conflict prevention. On funding, international support and viability, he argues that increasingly, UN bodies will partner with them or they may take the only role, and that in any case, the UN and bilateral donors are often divided into regional desks and divisions. Furthermore, regional variances matter so that policy responses to conflict are not formulated with incomplete information, particularly due to the specific impact of the Cold War on specific conflicts in various regions, in some cases removing constraints and in others acting as an impetus for peacemaking.

Wedgewood in examining regional and sub-regional organizations in conflict management concludes that:

“...Regional groupings can provide a moral voice to win broad adherence as the OAU did in building a sanctions regime against South Africa but it cannot constrain an outsider from trading with a captive customer. Wedgewood concludes that they face constraints including lack of resources and inability to impose punitive measures, or reward.”⁷

The issue of resources is an important factor as it brings out the fact that there were many interested parties in this conflict, such that IGAD was not just a representative of the states who were its members but of other parties who had a vested economic and⁸ other interest in the outcome of the peace process and therefore provided funding for the IGAD mediation process.

⁶ Sriram Chandra Lekha and Nielson Zoe, Eds. *Exploring sub-regional conflict, opportunities for conflict prevention*, Lynne Rienner Publishers, Boulder London (2004).

⁷ Wedgewood, R. *Regional and Sub regional Organizations* in Crocker et al (Eds) *United States Institute for Peace Press* (1996) pp. 278.

⁸ See Senator John Danforth's report to President George W. Bush Junior on why the USA should participate in supporting a peace process for Sudan.

In the Report on Cooperation between the UN and regional Organizations⁹, it is stated that though chapter 8 Article 24 of the UN Charter confers on the Security Council primary responsibility for the maintenance of international peace and security, from 1995 it was facing a growth in peacekeeping responsibilities, the resources provided for the same were not always commensurate with the responsibility. This kind of recognition led to a rise in the role of regional and sub-regional organizations in the peace-making, peace-keeping and enforcement capacities. However, many of the regional and sub-regional organizations faced the same resource constraints. As of March 1999, there were 16 regional and sub-regional organizations and arrangements that were cooperating with the UN Peace-keeping and other peace –related activities, having responded to the Secretary General’s call for partnership. The same report clarifies that although it is not possible to establish a universal model defining ideal relationships between the UN and regional or sub-regional organizations, it is clear that different levels of cooperation are required and that the UN believes that these should be engaged in.

Chapter 8 and articles 52 and 53 of the UN Charter¹⁰ are on regional arrangements and allow for the activity in the international platform as well as the existence of regional arrangements and agencies dealing with matters relating to the maintenance of international peace and security. This can be done so long as the activities therein are consistent with the Purpose and Principles of the United Nations. Thus article 52(2) urges such regional agencies to attempt pacific settlement of local conflict before referring them to the Security Council, whilst article 52(3) encourages such action whether it comes from initiatives of the states concerned or the Security Council. While Article 53(1) gives the UN a free hand to utilize regional arrangements for enforcement under its authority, it denies such regional arrangements power to enforce any action without the authorization of the Security Council, with the exception of measures against any enemy state.

⁹ United Nations, Report on the Cooperation between the United Nations and regional Organizations /arrangements in a peacekeeping environment, suggested principles and mechanisms, Department of Peacekeeping Operations (DPKO), UN (1999).

¹⁰ The UN Charter.

Deng,¹¹ argues that African problems, whether in conflict management or development must be approached from the perspective of their local, regional and national contexts. Politically, the starting point as in most matters pertaining to Africa has to be the colonial nation state, which brought together diverse groups that are paradoxically kept separate and un-integrated. Regional ethnic groups were broken up and affiliated with others within the artificial borders of the new states.

Recognizing the numerous assents to regional organizations and their role in peace initiatives, the OAU (Now AU) responded with the development at policy level of The Kampala document.¹² This document states inter alia that On Conflict prevention and containment, greater attention should be paid to measures to prevent or contain crises before they erupt into violent confrontations: Internal and external security for Africa must derive from a framework of common and collective continental security: African governments must individually and collectively be guided by the principle of good neighborliness and a peaceful resolution of Conflicts: National and Continental self-reliance in certain strategic areas covering both military and non-military, including popular participation in national defense, is vital for Africa's security. This means that it promotes regional involvement in Conflict Resolution.

In a discussion by Chris Bakwesegha in Conflict resolution in Africa, a new role for the OAU, it is stated that Conflict management is not an entirely new task to the OAU because since its inception in 1963, it has been concerned with the political liberation, economic development and management of inter-state conflict in Africa. In 1993, however, the OAU established the Mechanism for Conflict Prevention, Management and Resolution. According to Bakwesegha¹³, the OAU (now the AU) clearly felt that this mandate could only be effectively carried out in partnership with the UN and other regional organizations. Apart from intervening in several internal conflicts since 1993 including Rwanda (August-October 1993), Burundi (December 1993-July 1996) and the Democratic Republic of Congo (November 1999), the OAU (now the

¹¹ Deng Francis M, Preventive Diplomacy: The Case of Sudan, Preventive Diplomacy Series 1(African Centre for Constructive Resolution of Disputes (ACCORD) Durban 1997.

¹² African Leadership Forum, The Kampala Document: Towards a Conference on Security, Stability, Development and Cooperation (New York, African Leadership Forum, 1992).

¹³ Bakwesegha C., Conflict Resolution in Africa – A new role for the OAU? In Sorbo G and Vale P (Eds) (1997): Out of Conflict: From War to Peace in Africa Nordica Afrikaninstitutet Uppsala pp.79-96.

AU) has also developed an early warning mechanism to strengthen its capacity for preventive action. Indeed, The first Comprehensive Peace Initiative for Southern Sudan was launched by the Organization of African Unity now AU which facilitated two rounds of peace talks in Abuja Nigeria in May-June of 1992 (Abuja I) and April – May 1993 Abuja II).¹⁴ Tenets of these talks were important in later IGAD attempts at mediation of the Sudan conflict. This move indicates that it was felt that a sub-regional organization like IGAD would be better able to address the problem.

Under Article 7 and 18A of the Agreement establishing IGAD¹⁵, it is clear that its precursor, the Intergovernmental Authority on Drought and Development (IGADD) became IGAD on the premise that security was part and parcel of development. IGAD was given a new mandate for conflict prevention, resolution and management, which new mandate re-emphasizes the collective responsibility of preserving peace, security, and stability as essential elements of socio-economic development and progress. This also emphasizes the importance of regional organizations in conflict amelioration. Subsequently, the members of the Horn of Africa Intergovernmental Authority on Drought and Desertification (IGADD) established a standing Committee on Peace in Sudan on 7th September 1993. This had a more permanent character than the OAU (now AU) Abuja Initiative. Thereafter, four IGADD sponsored negotiations were arranged during 1994. The basis for the talks was a Declaration of Principles (DOP) which inter alia covered the right of self determination, separation of religion and the state (secularism) and a scheduled Referendum to be held in Southern Sudan with Secession as an option.

In 1996, the member states of IGADD, agreed to amend the constitution of IGADD and signed a declaration leading to the birth of IGAD, with an expanded mandate that included Conflict Management. The IGAD mediation of the Sudan Conflict can be examined in several phases but two phases stand out, which are separated by a long period of stalemate. The first phase would have been between 1993 and 1994, where substantial progress was made, after which the talks

¹⁴ Wondu S and Lesch A., *Battle for Peace in Sudan: An analysis of the Abuja Conferences 1992-1993* Latham, New York and Oxford University Press of America Incorporated (2000) pp.16-18, 24-25.

¹⁵ IGAD, Article 7 and 18A of the Agreement establishing the Intergovernmental Authority on Development (IGAD), 21st March 1996.

broke down in September 1994. The second phase starts with the resumption of the talks in April 1997 to 1999, which is the end of the first post Cold War decade.

African sub-regional organizations have encountered problems that are very similar in nature as they try to address conflict in Africa. Some of the constraints include achieving political consensus among members of the sub region, material, and technical and financial resource constraints. In the ICG report, of 1999¹⁶ for example, it is indicated that in the second post Mobutu conflict in the Democratic Republic of Congo, the OAU (now AU) initiative suffered because the intergovernmental character constrained its capacity to act in the matter of rebel participation in their meetings due to Kabila's opposition to the proposal of participation of rebels in the talks. Similarly in Burundi, early OAU (now AU) intervention failed because Burundi opposed it¹⁷. The Abuja Initiative also failed because Khartoum opposed self determination and a prolonged interim period¹⁸. This was an early indication of the weaknesses of the OAU (now AU) and regional intergovernmental organizations in general.

Indeed, Møller¹⁹ opines that the AU neither intends to manage nor is capable of managing Africa's armed conflicts or other problems hence its African Security architecture envisages considerable outsourcing of responsibilities to the various sub-regional organizations. Apart from this, another constraint is lack of leadership as few members are able to play the hegemon, combining strength and legitimacy in the eyes of other members. This in Moeller's opinion is a reflection of the absence of values and norms that are shared by all²⁰.

Obviously therefore, there is a nod at international policy and diplomatic level of the participation of regional organizations in conflict amelioration.

¹⁶ International Crisis Group (ICG) Report: How Kabila Lost his way, ICG 21st May 1999.

¹⁷ Vogt, M. A. Cooperation between the United Nations and the OAU in the Management of African conflicts, paper presented at the Symposium on International Peace and security: The African Experience, jointly sponsored by the South African Military Academy and the Institute for Security Studies Saldanha South African,(21st to 23rd September (1998) pp 57-78.

¹⁸ See Wondu and Lesch Op cit.

¹⁹ Moeller Bjorn, Africa's sub regional organizations: Seamless web or patchwork, In Crisis States Working papers series 2 Working paper no.56, August 2009. Page1.

²⁰ Supra page 2.

1.32 Mediation – Operational Definition.

Having reviewed a number of definitions of Mediation and concluded that the nature or mediation often means that definitions emphasize different aspects, such as functions, the process or attributes of the mediator, Bercovitch goes on to give his own definition of mediation.²¹ This definition of mediation shall be adopted in this study. It combines all three elements of Mediation which are that “Mediation is a process of conflict management, related to but distinct from the parties” own efforts, where the disputing parties or their representatives seek the assistance or accept an offer of help from an individual, a group state or organization to change, affect or influence perceptions or behavior without resorting to physical force or invoking the authority of law. ``

The nature of mediation also explains why it is a frequently chosen method of conflict management. To add on, it is non-violent, non-binding and ultimately, parties can as of right accept or reject the outcomes. It is therefore non-threatening and does not have the binding effect of laws.²² Odera is of the opinion that if undertaken as an exercise in foreign policy, mediation will also reflect the interests and policy and goals of third parties.²³

Mediation was the chosen mode of managing the Sudan conflict and was frequently applied for by the Khartoum government. Their Southern Sudanese counterparts, the SPLM/A also agreed to be subjected to mediation in an attempt to ameliorate this conflict.

1.33 Mediation of the Sudan Conflict-Causes of the conflict and previous mediation efforts

D.H. Johnson²⁴ opines that Northern Sudan has been united by Islam. In his opinion, the “historical” causes which have frequently been offered to explain the conflict between the North and the South must be revised because though all were elements in the Sudanese civil war, none

²¹ Bercovitch J. Structure and Diversity of Mediation in International Relations, in Bercovitch J and Rubin J. Z (Eds) *Mediation in International Relations: Multiple Approaches to Conflict Management*, London, Macmillan Press (1992) chapter 1.

²² Rubin J.Z. (Eds) 1992, *Collection of Essays in Bercovitch J, Mediation in International Relations, Multiple approaches to conflict management*, London Macmillan Press.

²³ Odera J. “Intervening in African regional conflicts in the Post cold war era: A case study of IGAD mediation of the Sudan Conflict” PHD thesis, University of Ghent, Belgium (2004).

²⁴ Johnson D.H. *The Root Causes of Sudan’s Civil Wars*, African Issues series of the International African Institute, E.A.E.P. Nairobi (2004) pp.1-2.

by itself fully explains the causes of this war. He explains that these “historical” causes include: Religion, Local perceptions of race and social status, Economic exploitation, Colonial and Post-Colonial interventions.

Judy El-Bushra and Ibrahim M.G. Sahl²⁵ believe that there are five major factors that have jointly contributed to the civil war in Sudan. Artificiality of colonial boundaries, which shackled together a number of huge and culturally diverse regions, is one such reason. Conflicts over natural resources, particularly water, oil and territory is for them another factor. Issues of governance in a state whose structure has been built on the exclusion of peripheral and marginal groups is considered another factor while a socio-political structure in which ethnocentrism and elitism figure highly would have escalated the war. Finally, they cite Religious and cultural tensions as well as the interference of regional and global powers, anxious to retain access to Sudan’s strategic location, natural resources and critical cultural alliances.

In Guerilla government, political changes in southern Sudan, during the 1990s, Oystein Rolandsen²⁶ addressed the SPLM National Convention of 1994, which was necessary following the overthrow of Ethiopian President Mengistu Haile Mariam²⁷ and the weakened state of the SPLA/M. The Convention coined the use of the term New Sudan, rather than Southern, confining the movement to the South. He listed a number of meetings prior to the Convention, including the Torit meeting of 1991, which was a response to Lam Akol Ajawin and Riek Machar’s call for a coup to topple then chairman John Garang and The Bedden Falls meeting of May- June 1992, during which Dr. Garang would clarify the SPLM Position on the Abuja negotiations. He also outlined the role played by NGOs in reducing the humanitarian crisis that resulted from the war.

²⁵ Judy El-Bushra and Ibrahim M. G. Sahl, *Cycles of Violence, Gender Relations and Armed Conflict*, ACCORD(2005) pp30-31.

²⁶ Oystein H. Rolandsen, *Guerilla Government, Political Challenges in Southern Sudan during the 1990s*, Nordica Afrikaninstitutet, Uppsala Sweden (2005).

²⁷ Muga E, Interview with anonymous SPLM Official: (He supported the SPLM/A by allowing weapons purchase through Ethiopia) Juba, Southern Sudan January 2010.

Wawa²⁸ attempts to show that the issue of national identity of the Sudan can never be resolved if those in power do not acknowledge the differences between Northern and Southern Sudanese. Furthermore, he argues that the question of Self-determination of Southern Sudan would always be a bone of contention until it becomes reality and finally, he strongly opines that Khartoum has propagated a feeling of superiority by Northern Sudanese versus inferiority by Southern Sudan

Alier²⁹ made a personal account of his experiences while serving in the Sudan. There were many Agreements, pledges and so on which over time have been consistently ignored or dishonored leading to perpetuation of civil war in Sudan. Alier concluded by pointing out a number of prospects requiring a political settlement to the problems that gave rise to the eruption of the second civil war, being: The issue of national identity, that is whether Sudan is an African, Arab or Afro Arab state: The position and role of religion in a nation state of diverse religion, cultures and languages: Inadequate distribution of economic resources and benefits: Monopoly of state power by a few read together with the composition of the army and related security services: The civil service, conduct of foreign relations and diplomatic representation abroad, the judiciary and the role of economic and financial institutions. A lot of these issues were later to be included in the Declaration of principles and other diplomatic documents pertaining to the Sudan peace process.

Deng³⁰ gave a number of reasons that contributed to the Addis Ababa Agreement, and the initial enforcement gestures, which if continued would have turned Southerners from their demands for self determination. He also describes the undermining of the Agreement by Nimeiri and his supporters, leading to the abrogation of the same.

Wondu and Lesch³¹ in *Battle for Peace in Sudan: An analysis of the Abuja Conferences 1992-1993* gave a verbatim report of the discussions of the Abuja Conference between the SPLM and GOS under the auspices of President Ibrahim Babangida of Nigeria. The Communiqué that

²⁸ Wawa Y., *Southern Sudanese Pursuits of Self-Determination: Documents in Political History*, (Mariana Press, Kampala) (2005).

²⁹ Alier, A., *Southern Sudan: Too Many Agreements Dishonored*, (Garnet Publishing Ltd. Reading) (2003).

³⁰ Deng F. M., *Preventive Diplomacy: The Case of The Sudan*, Preventive Diplomacy Series 1 Durban African Center for Constructive Resolution of Disputes (ACCORD) (1997).

³¹ Wondu S. and Lesch A., *Battle for Peace in Sudan: An analysis of the Abuja Conference 1992 -1993* (University Pres of America, Inc. Latham, New York and Oxford) (2000).

resulted from the discussions confirmed Abel Alier's stand on the critical issues that needed to be addressed such as the devolution of powers, the recognition of the multi ethnic, multi-lingual, and multi-cultural nature of the people of Sudan, equitable sharing of wealth and a Ceasefire. None of these issues were addressed forcing parties to adjourn for a second phase of discussions.

Lukare Kwaje in *The Sudan Peace Process: From Machakos to Naivasha*³² contextualized the Sudanese Conflict in light of successive government policies in the Sudan, outlining the search for peace in four phases. This started from 1930 when the British developed a policy for the South in the Closed District Ordinance, during which parts of Southern Sudan including Nuba Mountains in Southern Kordofan, Equatoria, Upper Nile and the Fung areas of Southern Blue Nile were demarcated as a shield against the vagaries of the Northern Slave Traders and the Islamization and Arabization movements in the country. This was envisaged by the colonial powers to eventually culminate in the political independence of Southern Sudan. He also included various contentious issues in the Machakos and Naivasha Peace processes and the march towards attainment of the CPA. These included such issues as the right to self determination and a secular state.

Barash and Webel³³ propounded definitions, historical research and issues that underpin peace and war situations: Particularly factors that contribute to negative peace movements, which would serve as lessons in the implementation of the Comprehensive Peace Agreement.

1.34 Mediation Theory

Various theories may be used to expound on the use of mediation as a tool of conflict management particularly within the Sudan conflict. According to Odera, there are three basic concepts in mediation theory, which define the roles of the mediator. These include Communication, which gives the mediator a function like good offices, facilitating communication between parties: A formulation role, which allows mediators to partake in negotiation, such as making proposals and helping parties unblock their thinking: And finally, manipulation, which function is most involving and in which the mediator uses his leverage to

³² Kwaje S. L., *The Sudan Peace Process: From Machakos to Naivasha*, in Mwagiru Makumi (Ed) *African Regional Security in the Age of Globalization*, (Heinrich Boll Foundation, Nairobi) (2004).

³³ Barash D. P. and Webel C. P., *Peace and Conflict Studies*, (Sage Publications) (2002).

push parties in a certain direction.³⁴ All these roles would be useful to the chief mediator in IGAD as will be seen later in this study.

According to Morgenthau, Mediators are able to exercise power to move partners in an intended direction because of expectation of benefits, the fear of disadvantages, and respect or love for mankind and institutions.³⁵ He goes on to state that mediators have resources that are both material and psychological, and which may be exercised through orders, threats, authority, or charisma of the person in office, the office itself, or a combination of these.

Zartman groups the sources of leverage of a mediator into five, persuasion (compelling through alternative formulations, Extraction (obtaining attractive compromises from parties, Termination (Withdraw from mediation), Deprivation (withholding of resources) and Gratification (Addition of resources).³⁶ Odera³⁷ premises that the analysis of the IGAD mediation of the Sudan conflict is premised on the presumption that mediators will move parties towards a negotiated process. She argues that this process as well as the input from Morgenthau and Zartman explain the power approach to mediation and emphasizes leverage as a key ingredient of mediation. She also opines that IGAD has pursued mediation as a single strategy.

Rubin suggests that different kinds of mediators may be necessary and more effective at different stages of a conflict life cycle. He further argues that from the hypothetical model of sources of power, large states have the most bases of power while the private Individual, regional organizations and the small state have the least.³⁸ Because non state actors have played a critical role in ameliorating conflict and influencing the behavior of parties in mediation conflict settlement, Realists have reacted cautiously on the notion of new actors on the scene and suggested that:

³⁴ Odera Josephine, Op cit.

³⁵ Morgenthau H. (1985) *Politics Among Nations, The struggle for Power and Peace*.

³⁶ Zartman W.I. and Touval S. *International Mediation in the Post cold war era* in Crocker et al (Eds) in *Managing global chaos*, United States Institute of Peace (1997) pp.445-462:455.

³⁷ Josephine Odera PHD thesis (op cit).

³⁸ Raven B. H. and Rubin, J. Z., *Social Psychology*, second edition, John Wiley. New York (1983).

“...Multiple efforts must be well coordinated so that they do not work against one another. At the official level, this requirement means cooperation among assisting parties. On a broader level, it means cooperation between official and unofficial efforts”.³⁹

Though the World Society doctrine rejects power as a basis for managing conflict, considering that third parties need to create a non-threatening, analytical atmosphere so parties can examine misperceptions, at the end of the day, a conclusion similar to that of the power school is reached. This conclusion is that:

“...Peacemaking by states, multinational bodies and non-state actors should be regarded as complimentary, suitable in different settings or appropriate at different stages in the mediation of conflict.”⁴⁰ At the same time, the number of countries who have faced conflict and that have attempted to draw positive experiences from traditional mechanisms is gaining ground such as the SPLM/A and their use of the people to people peace process sponsored by the New Sudan Council of Churches is increasing.⁴¹

On the issue of impartiality, Zartmann and Touval argue that, for the parties, impartiality is not as important a consideration as the calculation of a favorable outcome and even suggest that a partial mediator seen as capable of influencing one side may be preferred.⁴² Amoo and Zartman argue that mediation by regional organizations reflect the interests and concerns of individual sovereign states, with the organization being a flag and not a corporate actor. They indicate that because capacity to act is determined by member states, regional organizations function as such for self preservation, and that they provide a forum to collectively manage external issues without isolating internal issues.⁴³

³⁹ Zartman W. I. Toward the Resolution of International Conflicts in Zartman W.I. and Rasmussen, Lewis J, United States Institute for Peace, (1997) *ibid*, pp3-22: 14.

⁴⁰ Nathan L. When push comes to shove: The failure of International mediation in African civil wars, occasional paper, Track Two, Vol. 8 Centre for Conflict Resolution, Cape town (1999) pp.23.

⁴¹ Diocese of Rumbek, The church in Sudan: Journeying Towards Justice and Peace, Pauline's Publications, Africa, Nairobi (2001).

⁴² Zartman, W. I. Dynamics and constraints in Negotiations in Internal Conflicts in Zartman W.I. (Eds) *Elusive Peace: Negotiating an end to Civil wars*, Washington DC, The Brookings Institution, (1995) pp.2-29:21.

⁴³ Amoo, Samuel G and Zartman William I, Mediation by regional organizations: The organizations of African Unity (OAU) In Chad in Bercovitch and Rubin J.Z. (Eds) *Mediation in International Relations: Multiple approaches to Conflict Management*, London Macmillan Press (1992) op. cit pp131-135.

On the other hand Structuralists argue that global economic relations are structures that exist so as to benefit certain social classes and that the resulting world system is fundamentally unjust. Structuralists argue that conflict is structural because of the framework in which interstate economic relations take place. Structuralism also emphasizes the presence of non-state actors, and stresses the conflictual nature of the global economy rather than interdependency.

Another theory that could be used to explore the IGAD mediation of the Sudan conflict is the theory of empowerment. The key work on the theory is by Baruch Bush and Joseph Folger. They discuss empowerment in the context of what they call the transformative approach to mediation, focusing on interpersonal conflicts, while distinguishing this approach from a narrower problem solving approach. According to them, in a transformative approach, mediators do not focus purely on helping parties reach a mutually acceptable agreement, rather that:

‘...Transformative mediators concentrate on empowering parties to define issues and decide settlement terms for themselves and on helping parties to better understand one another’s perspectives...Transformative mediation helps parties recognize and exploit the opportunities for moral growth inherently presented by conflict. It aims at changing the parties themselves for the better as human beings.’

Bush and Folger therefore define empowerment as the restoration to individuals of a sense of their own value and strength and their own capacity to handle life’s problems. They identify two ways in which transformative mediators work: Firstly, putting a priority on encouraging and supporting parties in careful deliberation about the range of choices they may have available to them: or secondly adopt a micro focus in which they presume that, during the mediation process, there will be many opportunities for each party to make decisions though they will feel a new sense of control over the conflict, or at least over their behavior in the conflict. Transformative mediators are said to listen carefully to statements from each party, looking for such transformative opportunities.⁴⁴

While stating that Bush and Folger aforementioned focus purely on empowerment with regard to mediation, Maire A. Dugan indicates what she feels in her opinion that their definition of

⁴⁴ Bush Baruch and Folger Joseph, *The Promise of Mediation*, Jossey- Bass publishers, San Francisco, 1994, chap 4.

empowerment does not include such issues as power balancing or redistribution of power within the mediation process itself in order to protect weaker parties, not does it mean controlling or influencing the mediation process so as to produce outcomes that redistribute resources or powers outside the process from stronger to weaker parties.⁴⁵ Indeed, according to Mwagiru, empowerment or disempowerment can exacerbate conflict and care should be taken in its use.⁴⁶

The Theory of Ripe Moment may also be explored in the analysis of the IGAD conflict. William Zartman⁴⁷ is a key proponent of the theory of ripe moment. He indicates that it is one of the approaches to the study and practice of negotiation, terming it, the timing of resolution. He also states that ripeness theory is intended to explain why, and therefore when parties to a conflict are susceptible to their own and others efforts to turn the conflict toward resolution through negotiation, while not being identical to its results. After a long discussion of the processes, he defines a ripe moment as follows: 'If two parties to a conflict (a). Perceive themselves to be in a hurting stalemate, and (b). Perceive the possibility of a negotiated solution (a way out), the conflict is ripe for resolution, and negotiations towards resolution can begin'⁴⁸

Zartman goes on to assert that a ripe moment is a subjective or perceptual event, not one that stands alone in objective reality. He opines that a mutually hurting stalemate contains objective and subjective elements, of which only the latter are necessary and sufficient to its existence. In identifying the components of a ripe moment, Zartmann insists that in notable cases, a long period of conflict is required before the Mutually hurting stalemate sinks, and that if the parties subjective expressions of pain, impasse and inability to bear the costs of further escalation (in relation to objective evidence of stalemate, data on numbers and nature of casualties and material costs and/or other such indicators of a mutually hurting stalemate) can be found, along with expressions of a sense of a way out, ripeness exists.⁴⁹

⁴⁵ Dugan Maire, A, 'Empowerment', Beyond intractability Eds, Guy Burgess and Heidi Burgess. Conflict Research Consortium, University of Colorado, Boulder, Posted July 2003 <<http://www.beyondintractability.org/essay/empowerment>.

⁴⁶ Mwagiru M., Conflict: Theory Processes and Institutions of Management (2000) Watermark Printers (Kenya) Limited, pp 31.

⁴⁷ Zartman, William I, International Conflict Resolution after the cold war, The National Academic Press, (2000) pg 225.

⁴⁸ Ibid pgs 228-229.

⁴⁹ Ibid pgs 230-232.

Zartman opines that once ripeness is established, specific tactics by mediators can seize the ripe moment and turn it into negotiation, while if only objective elements of ripeness exist, specific tactics by mediators can bring the conflicting parties to feel/understand the pain of their mutual stalemate and turn to negotiations. He states that alert practitioners have no difficulty identifying the existence or importance of a Mutually Hurting stalemate for the opening of negotiations, though not all practitioners are alert.⁵⁰

The body of literature on ripeness falls broadly into four categories as discussed by Mitchell⁵¹. Citing Zartman⁵² and others, he proposes four ripeness paradigms. The first of these is the Hurting stalemate model, where no party envisions a successful outcome through continuing their current strategies, or of an end to increasingly unbearable plateau, stretching into the future. The model suggests that parties to a conflict have to make logical conscious conclusions that they have reached a hurting stalemate before they are able to abandon the conflict unanimously. The second model is the imminent mutual catastrophic one, where parties face an undeniable disaster, such as a huge increase in costs. This depends on both sides being subject to the same catastrophe and at the same time.

The third model is the Entrapment model, where in contrast to the hurting stalemate; the parties are motivated by an apparent trap that is the continued pursuit of victory because they perceive their conflict costs as having been transformed into investments. Mitchell posits that the greater the costs incurred, the more the reason to justify prolonging the conflict and refusing to give up for less than complete triumph.

The fourth and final model is the Enticing opportunity model, which envisages the rewards to parties of searching for and adopting alternatives instead of focusing on sacrifices for which they have to be compensated. This model is said to be multi-faceted and creative, anticipating a wide variety of possible factors that may generate opportunities

⁵⁰ Ibid pgs 233-235.

⁵¹ C. Mitchell, The right moment: Notes on four models of ripeness Paradigms vol 9 no.2 at pp 38-51.

⁵² Zartman W., Ripe for Resolution: Conflict and Intervention in Africa. Oxford, Oxford University Press (1985).

Having looked at the work of Hass⁵³, Pruitt⁵⁴, Olczak⁵⁵ and others, Zartman concludes that for the most part, it would seem that emendations to the theory of ripe moment have either refined aspects of the concept or expressed the same thing differently and failed to come up with an alternative concept or theory. However, having looked at the work of Hoffer⁵⁶ and Moses⁵⁷ he identifies that in certain cultures, which are identified as true believers, justified struggles call for greater sacrifice, which absorb increased pain, and only when the opponent admits the error of its ways does the true believer claim the vindication of its efforts, permitting a management of the conflict. Such cultures are predominantly from the Middle East. He concludes that while negotiations with true believers take longer to come about because ripe moments are harder to find, in the end, if time and patience are available, true believers must eat too, so that pain can be treated as a universal human feeling, with various antidotes to deaden or delay its effects.⁵⁸

Another drawback of the notion of hurting stalemate according to Zartmann is its dependence on conflict, such that to ripen a conflict, it is often necessary to raise the level of conflict until a stalemate is reached and begins to hurt, and its inability to cover the entire process of the negotiations.⁵⁹ Crocker however, states that the absence of ripeness does not tell us to walk away and do nothing, rather it helps us identify obstacles and suggests ways of dealing with them and managing the problem until resolution becomes possible. He stresses the need to be present and available while waiting for the moment to ripen so as to seize the moment when it occurs.⁶⁰ This lends credence to a mediator's role in ensuring ripeness of a conflict. Indeed, if there is no objective indicator to which to refer, ripening may involve a much more active engagement of the mediator, moving the role from communication and formulation to manipulation. He adds that be that as it may this engagement by the mediator in his manipulation role in order to bring

⁵³ Hass, Richard, *Conflicts Unending*, New Haven Connecticut: Yale University Press (1980).

⁵⁴ Pruitt, Dean G. And Olczak, Paul V. *Approaches to resolving seemingly intractable conflict*, in *Conflict Cooperation and Justice*, Barbara Bunker and Jeffrey Rubin, eds. San Francisco: Jossey Bass(1995).

⁵⁵ Ibid.

⁵⁶ Hoffer E., *The True Believer*, New York, Harper (1951).

⁵⁷ Moses, Russel Leigh, *Freeing the Hostages*, Pittsburgh: University of Pittsburgh Press (1996).

⁵⁸ Zartman W. I (2000) op cit pg 240.

⁵⁹ Ibid pg 241.

⁶⁰ Crocker C., A, *High Noon in Southern Africa* New York Norton (1992) pg. 471.

about a ripe moment is a delicate issue that may affect the impartiality of the mediator and scuttle a process.⁶¹

The Hurting stalemate model applies to the Sudan conflict. By 1994, both parties can be said to have reached a mutually hurting stalemate and realized that they would have to abandon the conflict to prevent further increasing costs. The death toll was high on both sides and the international community was beginning to pay attention to the conflict. Both sides were also losing support of previous regional allies as the escalation of the war proved detrimental to security and economic growth in the region.

1.4 THEORETICAL FRAMEWORK

There are various theories that attempt to explain the sources of conflict and solutions to conflict. There are different ways in which these sources or causes have been classified, which reflect the complexity of conflict and the existence of different forms of conflict. The classifications also have a bearing on the conflict resolution mechanism employed in management of the conflict. According to Mwagiru⁶², a good point to begin to classify the different sources of conflict is between Violent (objective debate) versus Non violent conflict (Subjective debate). Violent conflict being objective is easy to identify whereas non violent or structural conflict being subjective may not be so easy to identify but is often a cause of violent conflicts. A lot of literature on the Sudan conflict suggests that there was a perception of inferiority of Southerners Vis a Vis superiority of Northerners. This was well apart from the violent warfare which was of course evident.⁶³

The conclusion is that the IGAD peace process was a complex exercise compounded by the historical nature of the conflict and the issues therein, the state parties to the mediation process as well as interested parties from other spheres. The IGAD mediation of the Conflict in Sudan is

⁶¹ Zartman I William and Touval Saadia 1997 International mediation in the post-cold war era In *Managing Global Chaos*, Chester Crocker, Fen Osler Hampson and Pamela Aall, eds, Washington DC: United States Institute of Peace (1997).

⁶² Mwagiru M. *Conflict; Theory, Processes and Institutions of Management*, Nairobi, Watermark Publishers (2000)

⁶³ See for Example Abel Alier, *Too many Agreements Dishonored* .Reading, Garnet Publishing Ltd.(2003) and Douglas H. Johnson *the Root causes of Sudan's civil wars*, Nairobi. African Issue Series of the International African

clearly premised on power and control issues, which is a major aspect of Realism.⁶⁴ Furthermore, IGAD itself as a regional organization is premised on state membership.⁶⁵ Indeed, Levy contends that pursuant to a power approach, the IGAD mediation was conducted by state actors and approached from a national level.⁶⁶

The Realists, world society theorists and Structuralists however fail to capture completely elements of the IGAD mediation process. William Zartman's concept of "Ripe Moment" helps explain certain key elements of IGAD's successful mediation effort in Sudan⁶⁷. Zartman asserts that ripe moments constitute a mutually hurting stalemate, characterized by the presence of valid spokespersons and mediators, and a formula for a way out. Research also indicates that in the early 1990s, in the Southern Sudan conflict, the skills of President Carter notwithstanding, there was no hope of mediating a settlement because the components of ripeness were not present⁶⁸.

Further research reveals many parallel initiatives to the IGAD peace process, which were complementary to the process and which all contributed directly or indirectly to the success of the IGAD initiative through a transformative approach. It also reveals that IGAD did at some point use a transformative approach or empowerment in mediation to achieve its goals.

The theories of Ripe Moment and Empowerment or transformative approach shall be used to analyze the IGAD mediation process. The hurting stalemate model of Ripe Moment shall be the specific paradigm used to explain IGADs involvement in this long drawn conflict.

1.5 JUSTIFICATION OF THE STUDY

This study will be of great benefit to the regional initiatives in diplomacy and conflict resolution as it will offer new insights into the current efforts being made to bring peace in Africa and

⁶⁴ See Waithaka Waihenya, *The mediator, Gen. Lazaro Sumbeiywo and the Southern Sudan Peace Process*, page 38 on the reasons behind Bashir's signing of the DOP in 1997. Confirmed by Muga E., interview with Major General Lazarus Sumbeiywo, Nairobi, January 2009.

⁶⁵ As discussed in chapter 2 of this dissertation, The IGAD summit had to give President Moi mandate to appoint a mediator, and to establish the secretariat for the IGAD Southern Sudan Peace process.

⁶⁶ Levy J.S. *Contending theories of International conflict: A levels of Analysis approach* in Crocker et al (Eds), Washington, United States Institute for Peace (1996) pp.3-24.

⁶⁷ William Zartman, *Ripe for Resolution: Conflict and Intervention in Africa*, Oxford: Oxford University Press, 1989, pp 134-169.

⁶⁸ Deng F. *War of visions: Conflict of Identities in the Sudan*, Brookings Institution Press (1995) pp. 275-290.

Southern Sudan. Other regional bodies will benefit from the knowledge generated by this study as they will be in a position to learn about the gaps and weaknesses in involving sub-regional organizations in diplomatic mediation, and therefore provide some lessons learnt for rectification of actions in future similar initiatives. The academic community will find the study useful as it serves as a springboard for further related studies on diplomacy in the sub-regional arena in the African context, particularly in relation to globalization and the newly emerging uni-polar world political system.

Previous studies by Adebayo ⁶⁹ Adar ⁷⁰ and Alemayehu⁷¹ have all focused on regional integration in Africa and the gains to be made on the economic front. The political and economic cooperation of states at sub-regional level has come into fashion. However, few studies have been done to address the impact of these on Sub-regional organizations and their role in conflict resolution. This study will address the role of mediation in addressing the conflict in Southern Sudan, using IGAD as a case study. It is groundbreaking in that the conflict resolution and peace efforts in Southern Sudan are still a dynamic process, together with the fact that Mediation is a process with its roots in diplomacy, which in itself is an elusive concept with a largely underdeveloped theoretical background.⁷² Magalhaes⁷³ agrees that Diplomacy is one area of study that has not yet received adequate theoretical treatment and is often confused with foreign policy.

Bercovitch is of the opinion that mediation may well be the closest thing we have to an effect technique for dealing with conflicts in the 21st Century. For this reason, he opines that it behooves us to study it seriously and systematically.⁷⁴ The emerging response initiatives of sub-

⁶⁹ Adebayo Adedeji, *Preparing Africa for the 20th Century: Agenda for the 1990s*, United Nations Economic Commission for Africa, Addis Ababa (1991).

⁷⁰ Adar, K.G. *Conflict Resolution in a turbulent region: The Case of the IGAD in Sudan*, African Centre for Constructive Resolution of Disputes (ACCORD) (2000).

⁷¹ Alemayehu, G. *Finance and Trade in Africa: Macroeconomic response in a world economy context*, Macmillan London (2002).

⁷² Prof. Peter Wanyande, Dean Faculty of Arts, University of Nairobi, in Foreword for *Diplomacy- Documents, Methods and Practice* by Dr. Makumi Mwangi, IDIS Publications on International studies (2004) page vii.

⁷³ Jose Calvet De Magalhaes, translated by Bernardo Furscher Pereira. *The pure Concept Of Diplomacy*, Greenwood Press, New York (1988) page 7.

⁷⁴ Bercovitch J. *Mediation in International Conflict: An overview of Theory, a review of practice*, in Zartmann W.I. and Rasmussen L.J. (eds) *Peacemaking in International Conflict: Methods and Techniques*, United States Institute of Peace, Press Washington (1997)pp.125-153 ,pp. 131.

regional organizations is an important post –cold war mechanism that needs to be better understood through systematic study and analysis with the aim of contributing to their more effective role.⁷⁵ Josephine Odera focuses on mediation as a response to conflict in the post cold war era. Getugi focuses on the mediation process but leaves out interaction in the regional and international contexts. Francis Deng in his studies focuses on mediation strengths and weaknesses, while USIP pays attention to the negotiation agenda in the peace conflict. There is therefore a gap on studies focusing on IGAD mediation from the point of view of engagement of sub regional organizations in mediation processes, and more particularly in the Horn of Africa conflict system.

1.6 HYPOTHESIS

- IGAD provided a forum for a wider and more comprehensive variety of stakeholders to engage in the Sudan peace process as compared to previous peace processes despite its nature as a state membership organization.
- Sub -regional organizations are not in themselves the active mediators, but are usually engaged in proxy activities on behalf of other parties by providing a platform for interested stakeholders to engage in conflict resolution.

1.7 RESEARCH METHODOLOGY

This section outlines the research methodology to be used to meet the objectives of the study. This is a study that shall be conducted mainly based on primary sources such as published literature and Oral interviews. Other sources will include Grey literature including: Non-published reports written or commissioned by respective sides of the conflict and foreign agencies involved in, or funding activities in Southern Sudan: Periodical and Newsletters produced by persons or groups with an informal system of distribution: Material published only on the internet. It shall also rely on Secondary data from various sources, such as published books, journal and periodical articles and workshop reports. Questionnaires and personal interviews shall also be a source of primary information. Secondary Information shall be obtained from such libraries as Jommo Kenyatta Library. the IFFRA library, USIU Library, Library of the College of Defense among others.

⁷⁵ Mwagiru M. Conflict Theory, processes and institutions of Management, Nairobi, Watermark Publication, (2000).

RESEARCH DESIGN

A descriptive study shall be carried out so as to isolate and establish the elements of diplomacy or mediation that IGAD has employed in the South Sudan peace process.

POPULATION

The target population shall consist of participants and stakeholders in the Southern Sudan diplomacy and conflict resolution efforts, with special emphasis on those involved in the IGAD initiative for the peace process in Southern Sudan. These shall include respondents drawn from the nongovernmental organizations, the civil society, government officials and the public.

SAMPLE DESIGN

The sampling method will be snowball sampling. This method is ideal for identifying persons knowledgeable on the Southern Sudan situation, and who can give an informed opinion. This way, the study will be able to get recommendations of the potential respondents.

SAMPLE SIZE

The study shall be carried out among participants and stakeholders in the Southern Sudan and regional diplomacy and conflict resolution process. Using snowball sampling, the study will interview a sample of 8 respondents. This number is considered adequate for the study.

DATA

This study will rely on both primary and secondary data. The primary data will be collected through one on one oral interviews and literature review of grey materials. It will be targeting the participants and stakeholders in the Southern Sudanese diplomacy and conflict resolution process. Secondary data including published books and report will also be reviewed for use in this thesis.

DATA ANALYSIS

On completion of the one on one interviews, and a comparison with the literature review of secondary and grey data, theoretical conclusions will be drawn from the result studies.

CHAPTER OUTLINE

The study is an empirical examination of the use of multilateral diplomacy as a conflict management mechanism by sub-regional organizations, with an emphasis on mediation processes, using a case study approach. It is organized in six chapters each of which outlines a discussion on specific issues. The first chapter shall be the Introduction, which is also the proposal, consisting of the Introduction, which is an overview of the study, a brief background giving a history of the Sudanese Conflict. The problem statement, justification, Methodology, chapter outline and literature review. The second chapter shall explore elements of the processes, practice and theory of negotiation and mediation. The third chapter shall be a discourse on previous initiatives that preceded the IGAD mediation of this Conflict. The fourth chapter shall explore the actual IGAD mediation of the Conflict. The fifth chapter shall be an analysis of IGAD's mediation of the Sudan Conflict, and the sixth shall be the conclusions from the study.

CHAPTER TWO - Negotiation, Mediation and Tracks of Diplomacy

2.0 Introduction

This chapter looks at operational definitions of negotiation and mediation and provides an analysis of those processes generally with a view to linking them up to the IGAD mediation process.

2.1 NEGOTIATION AND MEDIATION

2.2 Common definition of negotiation

Mwagiru defines negotiation as a process by which the parties in a conflict sit down by themselves and talk it out.⁷⁶ He also mentions that it is a non-coercive voluntary process which can involve two or more parties.

2.3 Analysis of negotiation processes

Harold Saunders gives a synopsis of the arenas of a peace process.⁷⁷ Saunders argues that peace processes include more than just official negotiations. He states that peace requires a process of building constructive relationships in a civil society, not just negotiating, signing and ratifying a formal agreement.⁷⁸ He then goes on to describe basic phases of the peace process.

To Saunders, Prenegotiation refers to 'the times and tasks apart from negotiation that have the purpose of beginning, sustaining, and nourishing a peace process by changing relationships and paving the way for negotiation or other peaceful steps to resolve the conflict.'⁷⁹ Since pre negotiation has been used by some theorists to describe a fairly specific set of tasks undertaken just prior to official negotiations, Saunders prefers to use the term Circum-negotiation. While formal negotiation may play a role in the peace process, many modern conflicts are not amenable to negotiation, with people being unwilling to negotiate over issues of Identity, Justice, Security and dignity. Saunders therefore states that for this reason, the goal of pre or circum-negotiation is

⁷⁶ Makumi Mwagiru, *Conflict: Theory, Processes and Institutions of management*, Watermark publications Nairobi 2000) pp.113.

⁷⁷ Saunders Harold, 'Prenegotiation and Circum-negotiation: Arena of the Peace Process, in 'Managing Global Chaos, eds, Chester Croker, Fen Hampson and Pamela Aall (Washington DC. United States Institute of Peace Press, (1996) pp 419-432. Summary of article written by Tanya Glaser, Conflict Research Consortium (1998-2005).

⁷⁸ *Ibid* pp. 420.

⁷⁹ *Ibid* pp. 421.

not just to start the negotiations but to ‘Start the political process to change relationships and lead to the end of violence and onward to peace and reconciliation.’⁸⁰

Saunders views peace processes as spanning four different interconnected arenas, the most familiar being the official arena of government negotiations and diplomacy. The second arena is the quasi-official arena, where individuals and groups cooperate closely with the government, but have no official status or authority to cooperate. Thirdly, he names Public dialogue which seeks to engage representative citizens of the conflicting parties in designing steps to be taken in the political arena to change perceptions and stereotypes in order to create a sense that peace may be possible and involve more of their compatriots.⁸¹ Fourthly, is the arena of civil society at large. He opines that since civil conflicts tend to fragment society and sunder relationships, social coherence must be restored and relationships between and across groups re-established before a peace process can take off. He believes that these four arenas are interconnected and complementary and that for a peace process to be effective, it must be pursued in each arena with third party intervention being helpful in any of them.

Saunders opines that peace processes can be described in five cyclical phases, and that each of these phases can be pursued within each arena. In the opening phase, citizens and officials make the decision to work toward peace and attempt to define the conflict problem. Publicly, individuals look for ways of reaching out to members of the other side and to open a dialogue, which direct contact is often politically impractical in the official arena, which focuses on researching and framing issues.

Saunders states that in phase two, people move on to mapping relationships and issues, which in the public arena are developed in direct communication with the opponent, while officially it is carried out unilaterally because political costs of speaking to an enemy are often still too high at this point. In phase three, Saunders opines that attempts are made to solidify the will to pursue and implement a joint solution to the conflict in question, through public dialogues which help participants to develop specific ways of changing conflicted relationships, and decide which ways are to be pursued. Officially, this phase is devoted to making substantive logistic

⁸⁰ Ibid pp. 421.

⁸¹ Ibid pp. 423.

preparations for negotiations. Some authors use the term Prenegotiation narrowly to refer to this phase

In phase four, which is the negotiation phase, negotiators attempt to write an agreement which presents a formal solution to the conflict at hand. While in the public arena, dialogues seek to design a scenario of interacting steps that can be taken in the political arena to change troublesome relationships.⁸² In the fifth and final phase, citizens and officials act cooperatively to implement the agreement, while individuals begin to take interacting steps toward changed relationships which had been developed over the course of the dialogue. Governments act to implement formal terms agreed to during the negotiations. Official process deals primarily with formal issues, such as changing judicial and physical arrangements. He also indicates that public participation is crucial to the success of the overall peace process. Mwagiru notes that Saunders has made significant contributions to the analysis of negotiation by identifying that the pre-negotiation stage is an important phase in the negotiation process.⁸³ Indeed, he concludes that there is more to a pre-negotiation phase than just preparing for the main negotiation.

2.4 Definitions of mediation

Mediation is defined as a non adversarial process of conflict resolution, in which a third party neutral assists in resolving a dispute between two or more other parties. In this process the role of the mediator is to facilitate communication between parties, assist them to focus on the real issues of the dispute and generate options that meet the interests or needs of all the relevant parties in a bid to resolve the conflict. In this regard, a successful mediation is one where the outcome is accepted and owned by the parties themselves.⁸⁴

Mwagiru defines mediation as a continuation of negotiation by other means⁸⁵, stating that it happens or takes place when disputants have attempted negotiation, but have reached a

⁸² Saunders Harold op cit pp. 430.

⁸³ Makumi Mwagiru op cit, (2000) pp. 114.

⁸⁴ Honeyman, Christopher and Yawanarajah Nita, 'Mediation' Beyond intractability (eds) Guy Burgess and Heidi Burgess, Conflict Resolution Consortium, University of Colorado, Boulder, posted, September 2003. www.beyondintractability.org/essay/mediation.

⁸⁵ Mwagiru, Makumi, 'Conflict: Theory, Processes and Institutions of Management' (Watermark Publications, Nairobi, 2000) pp.115.

deadlock, If this happens, they may agree to use a third party to help them negotiate the conflict and break the deadlock⁸⁶.

Saadia and Zartman define it as a form of third party intervention in conflict which differs with other third –party interventions in conflict because it is not based on direct use of force and it is not aimed at helping one of the participants win⁸⁷.

2.5 Analysis of mediation processes

Zartman and Touval argue that though the end of the Cold War has brought about many changes in international politics. It has reduced neither the incidence of international conflicts nor the tendency of third parties to mediate those conflicts which they find especially troublesome. In this regard, they identify conflict as referring to politico-security issues.⁸⁸ This is because Mediation is a political process with no requirement that the parties should accept the ideas of the mediator.

Jessica Step⁸⁹ has contributed to the understanding of how mediation processes work. She indicates that there are 6 main related steps. The first is the introductory remarks where the mediator gives the ground rules as well as creating a less threatening physical environment. Phase two is where the parties each give a statement of their problems for information and analysis. Phase three is information gathering, where the mediator will ask open ended questions to get the emotional under currents of the parties concerned. This stage three is usually carried out at the same time or under stage four, which is identification of problems. Stage four also happens under each stage. The mediator finds common goals or figures that will settle the dispute. Stage five is the bargaining and generating phase. Here, group processes, discussion groups, sub groups and the development of hypothetical and plausible scenarios are put on the table for analysis. Mediators may also use confidential private caucuses to explore transition solutions. Phase six is the reading of an agreement.

⁸⁶ Ibid pp 115.

⁸⁷ Zartman William and Touval Saadia, International Mediation in the post cold war era, in *Turbulent Peace: The challenges of managing international conflict* (eds) Crocker Chester A, Fen Osler Hampson and Pamela All, eds, Washington DC: United States Institute for Peace Press, September 1996 pp 427.

⁸⁸ Ibid pp 427.

⁸⁹ Jessica Step, How does the Mediation Process work, Beyond intractability, Eds, Guy Burgess and Heidi Burgess, Conflict Research Consortium, University of Colorado, Boulder, September 2003.

Many scholars believe that there is a disconnect and gap in knowledge transfer between Mediation practice and Mediation theory.⁹⁰ This is perhaps why the secretariat was housed at the ministry of foreign affairs for Kenya, as the lead country in the IGAD mediation. The secretariat provided technical and other support. Other interested parties also provided technical expertise from the Troika. Citing that while the United States institute for Peace is still in the process of attempting to identify the curriculum for a good education in peacemaking and negotiation Chester Crocker believes that it needs to have several elements. These include Understanding the sources, nature and patterns of conflict both in general and as applied in specific situations. There is also the need to have the ability to think strategically about third party political intervention, its consequences as well as about the real risks, political, societal and personal- of failing to respond. Familiarity with all the players involved in peacemaking and the different roles institutions and individuals can undertake and a strong grasp of negotiation, mediation and other conflict resolution approaches, as well as an ability to use these tools. Finally, there must be an understanding of key strategic elements such as engagement, timing and leverage: as well as, recognition of the complexities of building a sustainable peace.⁹¹

Another reason for this disconnect is lack of documentation and institutional memory of organizations engaged in mediation such as the IGAD Sudan peace process. This is due to lack of funding for continuity, and also because most mediation exercises regarding the Sudan peace process by IGAD, being those of a regional or international organization, and being state based relied on officials from the Ministry of Foreign affairs in Nairobi , who are frequently posted to other departments. Documents regarding the IGAD Sudan peace process between 1994 and 2005 are currently in the archives of the Ministry of foreign affairs in Nairobi, in their raw and unanalyzed form.⁹² They are also not readily available at the IGAD secretariat in Nairobi.

⁹⁰ Chester A. Crocker, *The Tradecraft Transmission Belt: Transferring Knowledge of Mediation from Practice to Theory, from Theory to Practice and Back again.* (presented on behalf of the United States Institute of Peace , at the Oslo forum in 2006,) pp 84.

⁹¹ Chester A. Crocker, Fen Osler, Hampson, and Pamela Aall. *Taming intractable conflicts: Mediation in the hardest cases* (Washington USIP, 2004). This volume was compiled in conjunction with a companion volume of conceptual essays and case studies edited by these authors and entitled *Grasping the Nettle: Analyzing Cases of Intractable Conflict* (Washington USIP 2005) and also *herding Cats: Multiparty Mediation in a complex world* (Washington, USIP 1999).

⁹² Muga E. Interviews with Mr. Karori, Legal officer, Ministry of Foreign Affairs, Nairobi, Ms Christine, Mwenda third Secretary, Ministry of foreign affairs and Ms Catherine Mogaka head of the Horn of Africa Desk at the Ministry of Foreign Affairs in Nairobi, June 2010.

George Alexander indicated that the policymaking and academic worlds have been slow to interact, usually on the role of force and conflict management in the conduct of diplomacy and even slower on conflict avoidance and resolution. He cited several obstacles including the fact that scholars lack practical experience of peacemaking, while track one practitioners are conceptually challenged, lacking an instinct or interest in setting their experience and knowledge of cases and institutions within a broader framework of principles. Another major obstacle is that conflict resolution scholars define their field of interest in terms of lessons learnt and best practices for track II work while practitioners view track II mediation as interference, a complicating presence and an unrealistic endeavor⁹³.

Pamela Aall however indicates that the line between the scholars and practitioners is blurring mainly for two reasons: One is that the nature of conflict has changed from interstate to intrastate since the end of the Cold War, raising challenges for states and the international community attempts to prevent or settle a conflict and reconciliation. Secondly as a result of these reasons, new institutions, official and unofficial mediators have sprung into being, while existing institutions have changed their mandate in order to respond more effectively to these conflicts. Pamela All concludes that there is therefore a growing volume of transmission of concepts and ideas from scholars into track two, track one and one and a half (non-officials mediating among officials) mediation processes.⁹⁴

2.6 Motives of the Mediators

It is said that states use Mediation as a foreign policy tool, legitimizing their intervention by the goal of conflict reduction. Mediators themselves are players in the plot of relations surrounding a conflict so they have an interest in its outcome. otherwise. they would not mediate. Self-interested motivation for mediation holds for super powers, medium sized powers and

⁹³ Alexander George, *Bridging the gap: Theory and practice in Foreign policy* (Washington DC USIP, 1993).

⁹⁴ Chester A. Crocker, Fen Osler, Hampson and Pamela Aall (2004) *Taming intractable conflicts: Mediation in the hardest cases* (Washington USIP, 2004). This volume was compiled in conjunction with a companion volume of conceptual essays and case studies edited by these authors and entitled *Grasping the Nettle: Analyzing Cases of Intractable Conflict* (Washington USIP 2005) and also *herding Cats: Multiparty Mediation in a complex world* (Washington, USIP 1999).

international organizations.⁹⁵ This means that sub regional organizations also hold self interested motivation for mediation.

2.7 Mediation by states and International Organizations - Track 1 diplomacy

Zartman opines that mediating states are likely to seek terms that will increase the prospects of stability, deny their rivals opportunities for intervention and earn them gratitude of either parties, or enable them continue having a role in future relations in the region. Mediators therefore act defensively, when a conflict between others threatens the mediator's interests, such as when a conflict between two states will upset regional balance. At the same time, even rival powers, are known to have cooperated and engaged in joint mediation when they feared continuation of a particular conflict may endanger their security. The second self interested motive for mediation by states is offensive: propagated by the desire to extend and increase influence⁹⁶.

Small and medium states have few alternative foreign policy instruments at their disposal and mediation increases their usefulness and independence in relation to their stronger allies and many consider mediation of the conflicts in their regions to be a major element of their foreign policy.⁹⁷ Dembinski⁹⁸ asserts the view that the state-centric view is a basic pillar of the international law of diplomacy and indeed the law of the United Nations, since international law confers rights and duties primarily on states. and extended a little bit to international organizations.

International organizations have motives that are somewhat more complex than those of states. Since peacemaking is their reason for existence, it is enshrined in most of their charters. Surprisingly, such organizations are still subject to policies and interests of their particular member states. After the Cold War, therefore, international organizations had begun mediation roles, such as the Inter Governmental Agency on Drought and Development (IGADD) in the Horn of Africa. Thereafter, it included peacemaking as one of its mandates.⁹⁹ States

⁹⁵ Zartman William I and Touval Saadia, International Mediation in the Post-cold war era, in *Turbulent peace: The challenges of managing international conflict* (Eds) Crocker Chester, Fen Osler, Hampson and Pamela Aall, (eds) Washington DC united states institute of peace press (September 1996) pp 428.

⁹⁶ William Zartman and Touval op cit pp 431.

⁹⁷ William Zartman and Touval Op cit pp 431

⁹⁸ L. Dembinski, *The Modern law of Diplomacy: External missions of sates and international organizations* (Dordrecht: Martinus Nijhoff, 1988).

⁹⁹ William Zartman and Touval, op cit pp 432 -433.

International organizations and regional organizations involve themselves in track one diplomacy and conflict management.¹⁰⁰ Because it involves states and organizations of states, track one diplomacy must deal with power and its manipulation, with an agreement being more important than a resolution to conflict. Track one mediation is also subject to a time frame and must deal with pleasing constituents, particularly if conducted by a politician. It has a zero sum structure and attempts to bargain interests and values, yet values are most often non-negotiable.¹⁰¹

2.8 Mediation by unofficial and non-state actors – track two diplomacy

Unofficial actors are also engaged in the practice of diplomacy, which is known as Track two diplomacy that essentially rejects the power¹⁰² and formality that is associated with track one diplomacy. Furthermore, it does not call for formal structures, relationships or institutionalization of operations.¹⁰³ Track two mediations are concerned with Resolution of conflict and are not constrained to the same time frames and considerations as track one mediations.¹⁰⁴ Instead of bargaining or engaging in power contests, they go through a process of analyzing their conflict, and their attitudes and hence designing mutually acceptable solutions that can legitimize their post-conflict relationship.¹⁰⁵

Examples of actors in track two diplomacy include the Catholic Church, the Anglican Church, Relief agencies involved in humanitarian facilitation¹⁰⁶, nongovernmental organizations, Universities, Institutions and Individuals who have a vocation for peace and a calling for conflict management. Due to their lack of clarity with regard to methodology, they tend to borrow this from track one diplomatic efforts, while lacking the resources that track one players have. On the other hand, track two mediation efforts are best suited for mediating on values than track one

¹⁰⁰ Makumi Mwangi op cit. pp 123.

¹⁰¹ Makumi Mwangi op cit. pp. 124.

¹⁰² Burton, J.W. Track Two: an alternative to power politics in J. W. McDonald, and D. B Bendahmane (Eds) Conflict Resolution: Track Two Diplomacy (Washington: Foreign Service Institute, 1987) pp65-72.

¹⁰³ J. W. McDonald and D.B. Bendahmane (Eds) Conflict Resolution: Track two Diplomacy (Washington: Foreign Service Institute, 1987) pp. 1-10.

¹⁰⁴ Mwangi M. op cit pp 130.

¹⁰⁵ Groom, A.J.R. Problem solving in International relations in E.A. Azar and J.W. Burton, (Eds) International Conflict Resolution: Theory and Practice (Brighton: Wheatsheaf Books, 1986) pp. 85-91.

¹⁰⁶ J. Prendergast, Frontline Diplomacy: Humanitarian Aid and Conflict in Africa (Boulder and London: Lynne Rienner 1996).

mediation efforts. In most cases, track two mediators confuse facilitation and supportive roles with conflict management activities such as mediation, and often lack a specific focus.¹⁰⁷

2.9 Conclusion

It is clear from this chapter that both tracks one and track two mediation processes deal with different issues. It would behoove mediators to consider multiple tracks of mediation in order to harness the benefits of both. This is however not always the case due to the distrust of mediators involved in either of each other.¹⁰⁸ Negotiation is an integral part and extension of mediation and it is therefore important to analyze its component in this kind of study. Negotiation or circum-negotiation was an important component of the IGAD mediation process for Sudan. In an interview with Major General Lazarus Sumbciywo, it was ascertained that before parties came to the formal negotiation table, President Moi as the chairperson of the IGAD Summit at that time spoke separately with both John Garang of SPLM/A and Omar Bashir of Sudan before bringing the two together in the formal mediation process. At the very least, the meetings established that both parties were willing to submit to negotiation. The same interview established that at the 1997 meeting in which Bashir agreed to sign the Declaration of Principles, the moves were a clear indication of a regional organization (IGAD in this case) submits to the policies and interests of member states.

¹⁰⁷ Makumi Mwangi op cit pages 136-140

¹⁰⁸ See Makumi Mwangi op cit., discussion on dual conflict management, pg 134.

CHAPTER THREE - Previous Mediation processes of the Sudan Conflict

3.0 Introduction

While chapter 2 gave a brief synopsis of negotiation and mediation processes, chapter three will explore previous attempts to mediate the Sudan conflict of the processes explored in chapter two.

3.1 Previous efforts to mediate the Sudan Conflict

According to Abel Alier ¹⁰⁹ the history of Sudan exposes many proposals and agreements to end the fighting between the North and the South, which Agreements were never fully implemented and none of which brought Sudan closer to Peace. Furthermore, he opines that many Agreements did not provide for international involvement and often collapsed because of the intense distrust of the parties, who could not monitor compliance and verify implementation.

The first phase of the war begun in 1955 with the Torit mutiny, a year before Sudan's independence from British rule on 1st January 1956. It is said that ¹¹⁰ British and Egyptian colonial policies that favored the North led to disorientation of Southerners, by giving more opportunities to Northerners. This was particularly evident after the election of the first self-governing parliament in 1953. Therefore, the Cycle of violence in Sudan can be summarized as the dynamics of identification, confrontation, reconciliation, disaffection, and alienation. At independence in 1956, Sudan was burdened with a legacy of colonial rule that helped fashion contrasting visions for the nation that set the stage for civil war. External involvement of the British colonial polices played a big role in exacerbating the cleavage between North and South.¹¹¹

3.2 The Juba Conference of 1954

In October 1954, southern Sudanese leaders including leaders of the minority Liberal and National Unionist parties, tribal chiefs from all the provinces and representatives of the southern

¹⁰⁹ Alier Abel, *Southern Sudan: Too Many agreements dishonored*, Reading Garnet Publishing, Limited, (2003).

¹¹⁰ Douglas H. Johnson, *The Root causes of Sudan's civil wars*, op cit pp. 27-29.

¹¹¹ Deng Francis Mading and Medani Khalid M , *Civil war and Identity in Sudan's foreign policy*, in Keller E.J. and Rothchild D. eds. *Africa in the new International Order, Rethinking State sovereignty and Regional Security*, Lynne Rienner (1996) pg102.

Sudanese Diaspora in Khartoum¹¹² convened their own conference in Juba to discuss the political future of Sudan as a whole and the political future of the South within Sudan. They resolved to: Vote for independence of the Sudan from Egypt on condition that a federal system for the entire country be adopted, with an autonomous state in the South OR failing this, that the South reserved its right of self-determination, including the option of complete Independence from the North. Although nothing much came out of the resolutions of this conference, it raised issues of Southern Sudanese discomfort with the political, social and economic situations created by the colonial and post/colonial situation and policies at a national level inside Sudan. It appears that it is this conference and its conclusions that made the Northerners take note of Southern Sudan's political discomfiture and led to future subsequent initiatives to solve the problem as will be seen in the write up below.

3.3 Early Efforts by State Actors

According to Assefa, by 1963, with no solution to the problems between the North and the South, then President Milton Obote of Uganda visited Sudan in an effort to mediate and ended up taking part in several reconciliation initiatives.¹¹³

O Balance E¹¹⁴ states that By September 1964, it was estimated that there were over 12000 refugees from the Sudan in Uganda, with the UN allocating 175000 Sterling pounds for refugees in Uganda alone. According to Francis Mullu¹¹⁵, Obote may therefore have intervened due to large numbers of Southern Sudanese refugees in Uganda, some of whom used Uganda as a launching pad to stage raids into Sudan. Mullu goes on to state that because General Aboud continued to pursue a military option to solving the crisis and due to lack of evidence of the proceedings and outcomes of the said negotiations, it is safe to conclude that nothing came out of this initiative. Francis Deng¹¹⁶ however opines that the secessionist inclinations of the southern

¹¹² Minutes of the Juba Conference, 18-21 October 1954, PRO FO 371/108326, no. 193, and document 369 in BDEEP, Sudan.

¹¹³ Assefa H, *Mediation of Civil Wars, Approaches and Strategies- The Sudan Conflict*, West View Press, Boulder, 1987 p 88.

¹¹⁴ O Balance E. *Secret war in Sudan: 1955 -1972*, London: Faber and Faber 1977,pg 85.

¹¹⁵ Francis Mullu, *op cit*, page 38.

¹¹⁶ Deng Mading Francis and Medhani M. Khalid, *Civil War and Identity in Sudan's foreign policy*, in Keller J and Rothchild D eds. *Africa in the new International order, Rethinking State sovereignty and regional security*, Lynne Rienner Publishers (1996) p 106.

insurgents constrained international actors and prospective regional actors as well. Indeed, a Ugandan Minister of state in 1966 implicitly emphasized these principles over issues of identity when explaining his country's policy towards the Sudan conflict by stating 'Uganda would not be influenced in the least by the fact that the North was Muslim while the South was Christian. Nor would it be influenced by the feeling that the Southerners are black and the others are mere Arabs who should be rounded up.'¹¹⁷

A second offer¹¹⁸ at attempting to negotiate the conflict was made by Kwame Nkrumah, perhaps due to his perceptions of Pan Africanism, which offer was rejected by Abboud's successor, Maghoub, on the grounds that the conflict was an internal Sudanese affair. Francis Deng opines that the prevalent Pan-Africanist philosophy emphasized the unity and brotherhood of all Africans, Arabs included and African leaders then held fast to the principle of the sacrosanctity of the existing African boundaries borrowed from their former colonizers.¹¹⁹ It was probably a question of Kwame Nkrumah attempting to leave a personal legacy.

3.4 The Roundtable Conference of 1965

At independence in 1956 therefore, there were perceptions that the conflict in Sudan was a southern Problem. In March 1965 therefore, when a roundtable conference was convened to come up with a solution to the political problems of the time, as perceived by Sir el Khatim el Khalifa, the Khartoum based prime minister, one of its objectives was finding a peaceful solution to the Southern problem. Northern parties and southerners represented by both wings of Sudan African National Union (SANU) were present. According to Assefa, northerners though having their differences were united against any attempts to split Sudan into North and South.¹²⁰

On the other hand, Southerners were perceived to be deeply divided on many issues and lacking collaboration and a unified agenda. For example, moderate ones favored Unity while radical ones favored separation. Collins observes that the Southern Politicians had a propensity to have

¹¹⁷ Quoted in A. G. G. Ginyera-Pincwa, 'The border implications of the Sudan civil war: Possibilities for intervention, in Dunstan M Wai, ed, *The Southern Sudan: The Problem of national integration* (London: Frank Cass, 1973, p132.

¹¹⁸ O Balance E op cit pg 85.

¹¹⁹ Francis Deng Op cit pg 106.

¹²⁰ Assefa H. *Mediation of Civil Wars, Approaches and Strategies-The Sudan Conflict*, West view Press, Boulder (1987) p.62.

personality clashes, lack coordination in their efforts and follow their own interests and that this would be a factor in this and future negotiations.¹²¹ Despite these low points in the 1965 Roundtable, a 12 man committee was formed that came up with recommendations which were later to be incorporated into the Addis Ababa Agreement of 1972.¹²²

The South was represented by the Sudan African National Union and the conference had observers from Ghana, Uganda, Tanzania, Algeria and Egypt. The presence of observers is indicative of the internationalization of the conflict, as countries with leanings towards either side or affected by the war began showing an interest in ending the conflict. Professor Peter Tingwa¹²³ is of the opinion that the conference simply gave the North time to reorganize since none of the recommendations were ever implemented and failed because the North continued to demonstrate their preference for military resolution to the conflict. In the mean time, Southerners feeling that their problems were still not being addressed took up arms as what later became known as the Anyanya I movement to put pressure on the Khartoum government in order to resolve their issues.

3.5 The Anyanya Movement

Although the Anyanya movement is not of itself a part of the peace process, it was such an important reaction of the people of Southern Sudan to the events taking place at this time that it led to the Khartoum government engaging southerners seeking a solution to the problem. Between 1965 and 1972, armed southerners took up arms as Anyanya I to fight against perceived oppression by the Northern government of Southern Sudan. Anyanya literally means snake poison. Originally a weak and disorganized force, which begun as early as 1955 as a result of the Torit Mutiny, by 1963 it was emerging as a credible force, recruiting and training southerners to aim at strategic targets such as police and military posts, bridges, road blocks and so on. The government unable to quell Anyanya attacked villagers purported to be hiding the Anyanya rebels, leading to an influx of southerners into neighboring countries, and internal displacement of southerners into government controlled areas. Anyanya propaganda did not however explain

¹²¹ Collins R.O. *The Southern Sudan in Historical Perspective*, the Shiloah Center, Tel Aviv, University (1975.83) p.83.

¹²² Beshir M. O., *Southern Sudan Background to the conflict*, Christopher Hurst, London (1968) p.80.

¹²³ Interview with Professor Peter Tingwa, head of the Comprehensive Peace Agreement Assessment and Evaluation Committee, Southern Sector, in Juba, July 20th 2010.

complex socio economic issues between the South and the North, and neither did they attempt to discuss political issues involved in cultural clashes between Africanism and Arabism.¹²⁴

Odera¹²⁵ opines that in the early seventies, a number of regional events impacted on Anyanya activities. Ethiopia supported them against the Khartoum regime, because they sought to contain rebels seeking Eritrean secession from Ethiopia, which rebels were known to use Sudan as a base. Uganda became involved in 1971 with the entry of Idi Amin as President, when Langi and Acholi groups sought refuge in Sudan and plotted Obote's return to power from Sudan. Amin therefore allowed Anyanya to obtain supplies through Uganda and conduct activities from there hoping to counter the Acholi and Langi groups in return for with support from Sudan. He achieved a bit of this because in 1972, Numeiri signed an agreement with Amin reducing his support to Anyanya. Another Agreement with Haile Selassie of Ethiopia restricted arms shipment for Anyanya through Ethiopia. Furthermore, Numeiri was clamping down on communism in Sudan, earning him Western support. Odera feels that the conflict was thus ripe for resolution and that both parties had no option but to come to the negotiating table.¹²⁶ This eventually happened in the form of the Addis Ababa Agreement of 1972. In order to deliver his end of the bargain, Numeiri appointed Abel Alier, a prominent leader of the Southern Front, as Minister for Southern Affairs and head of the Sudanese government's negotiation team to Addis Ababa.¹²⁷ While the major mainstream processes were ongoing, there were other attempts at resolving the conflict in Sudan. Some of these were not state based, such as National and international nongovernmental organizations.

3.6 The Role of Nongovernmental Organizations

A substantive reading of literature on the issue indicates that while Nimeiri was paving way for peace, a number of church and civic organizations performed important roles in bringing the two

¹²⁴ Wakoson, E. N. *The Anyanya Movement*, in Beshir MO (Southern Sudan Regionalism and Religion, Graduate College Publications NO. 10, University of Khartoum and Ithaca Press, London, p129.

¹²⁵ Josephine Odera , PHD thesis , University of Ghent, Belgium pg 261-266.

¹²⁶ Ibid.

¹²⁷ Deng Francis, M, *Negotiating a Hidden agenda: Sudan's Conflict of identities*, in William Zartman, (Ed) *Exclusive Peace: Negotiating an end to civil wars* (Brookings Institution, Washington DC, 1995,P77-102.

sides together on the negotiating table. According to Mitchell¹²⁸ the forerunner role was enacted by the London-based Movement for Colonial Freedom (MCF). The efforts of the MCF eventually failed. However, he opines that subsequent World Council of Churches and All Africa council of Churches initiatives built on lessons learnt from the MCF effort and eventually became moderators in the actual face-to-face discussion in Addis Ababa. Assefa states that MCF did arrange various delegations comprising British parliamentarians and Trade Unionists to visit Sudan with the aim of gathering facts in order to sensitize the British public opinion about the situation in Sudan. When the MCF made a statement which appeared to the Southern movement as a commitment to support Numeiri's government which was then socialist, they ended MCF's involvement in the peace process.¹²⁹ Mitchell goes on to state that the Society of Friends (the Quakers) played a significant role in the later stages, providing support to factions of the SPLM and preparing them for the negotiations in the Addis Ababa Agreement.

3.7 The Addis Ababa Agreement of 1972 and the years of Peace 1972 - 1983

The coming of Jafar Numeiri into power in 1969 saw renewed efforts to end the conflict. The Addis Ababa Agreement signed in Addis Ababa by representatives of both Northern and Southern Sudan was enacted as the Southern Provinces Regional Self- Government Act of 3rd March 1972 and incorporated into the Constitution in 1973. A reading of the literature on the Addis Ababa Agreement makes it clear that unlike the 1965 Round table, it was not a purely Sudanese affair observed by African states. Rothschild states that foreign personalities, including Christian Church leaders mediated talks between Anyanya as the military wing of the Southern Sudan Liberation Movement, and a government delegation led by a Southerner, then vice president of the republic, one Abel Alier. The Ethiopian emperor Haile Selassie intervened, frequently using his own weight to break deadlocks. He supported Unity of Sudan. Rothschild believes that it was important for Haile Selassie to support a peaceful resolution of the Sudanese conflict in the context of Unity so that a precedent for Eritrean secessionist demands would not be set.¹³⁰

¹²⁸ Mitchell, Christopher, *The process and stages of mediation: Two Sudanese cases*, in Smock David R, (Ed) *Making war and waging peace: Foreign Intervention in Africa* (United States Institute of Peace Press, Washington DC, 1993) pp. 149-150.

¹²⁹ Assefa H, *op cit* page 90.

¹³⁰ Rothschild D. *Coalition efforts to repair Internal Conflict*, (1977) Chapter 8.

The Sudanese Foreign Minister, at the time Mansour Khalid had visions of a shift in Sudanese foreign policy and made the following statement:

‘For an independent foreign policy to be formulated and have credibility, it would have to be preceded by broad based home measures designed to foster solidarity within the Sudan, so that the nation could first identify with itself before it could relate to the outside world: the problems of Sudan go beyond its geographic boundaries. Without this there will never be a national consensus on foreign policy and Sudan’s foreign policy will always remain an extension of the policies of others’¹³¹

The key facets of the Addis Ababa Agreement was that it granted self rule for 3 provinces of the South, namely Bahr El Ghazal, Equatoria and Upper Nile. Regional Executive and Legislative bodies including a Civil Service, Police and Prison Forces, were created and managed entirely by citizens from the South. A number of Anyanya guerillas were absorbed into the national army, while half the forces in the South had to be from the South¹³². For the first time, Southern Sudanese had a right to participate in governance of their affairs through a Southern Cabinet know as the High Executive Council (HEC) ,within the Southern Peoples Regional Assembly (PRA).

Immediately, there were problems, such as the financing of the HEC from Northern coffers, which created tension with Northerners who resented their taxes being used to support the South. Furthermore, rivalries between southern politicians came to the fore. Many saw the Addis Ababa Agreement as predicated upon the personal ties between Numeiri and Alier, who was vice-president and head of the HEC. With time, there were many attempts to overthrow Numeiri due to his personalized rule, particularly an attempt by the National Front in July 1976. In order to foster national cohesion, he reached out to Northerners in exile, seeing the return of Sadiq Al Mahdi and Hassan Al Turabi of the Umma Party and Muslim Brotherhood. Al Mahdi refused an official appointment and returned to exile in 1978, while Turabi eventually became the Attorney General. With him came the rise of the Muslim brotherhood and attempts to revive Sharia, which

¹³¹ Mansour Khalid, *The government they deserve* (London: Kegan Paul international, 1990) p. 151.

¹³² The Addis Ababa Agreement of 1972.

had earlier been shelved in constitutional talks and discarded with the Addis Ababa Agreement. Numeiri thus began to institute changes contrary to the Addis Ababa Agreement.¹³³

According to Badal, the announcement of the discovery of huge reserves of oil in Bentiu area of Upper Nile by Chevron in 1978 added another spanner in the works for the Addis Ababa Agreement. The government introduced the Regional Government Bill of 1980, which sought to redraw the borders of the South contrary to the 1972 Agreement. Of course the south objected and Numeiri reacted by introducing a new region known as Unity Region, created to cover the oil fields while respecting the 1956 borders. The oil refinery was located in Kosti, in Northern Sudan. As opposition in the South rose, Numeiri began altering positions in the Southern Peoples Legislative Assembly, and embarked on a decentralization policy for the South, disbanding the Assembly in 1981 and creating 3 regional governments, covering Equatoria, Upper Nile and Bahr El Ghazal. These divisions played on ethnic differences between Dinka, Equatorians and Nuer tribes of Southern Sudan. The ethnic animosity and tension was according to Badal a reflection of southern tensions that came up all the time as a reason for the sustenance of the North – South Conflict.¹³⁴

By 1982, Sudan's economy had declined, with prices of food skyrocketing, famine in the East and West, strikes by professionals and students and a myriad of displaced citizens. In 1983, failure to pay salaries, differences within the military on implementation of the Addis Ababa Agreement and attempts at transferring southerners out of the South led to the Bor Mutiny, with some of the units fleeing to Ethiopia. This was the beginning of the SPLA.¹³⁵ Abel Alier discusses the sequence of the Abrogation of the Addis Ababa Agreement highlighting a few key aspects in chapter 14 of his book.¹³⁶ According to Alier, a few weeks after the Bor mutiny, Numeiri issued a decree on June 5th 1983, dissolving the Southern Regional Assembly and Higher Executive Council. In September 1983, he announced the introduction of Sharia Law. He

¹³³ This paragraph includes results of a discussion with Senior Sudanese staff members of Norwegian Peoples Aid South Sudan in Juba, in January 2010. Many of them have been working or living inside Southern Sudan during the war and during the negotiation of the Agreement.

¹³⁴ Badal R, in Harit and Tvedt, *Political Cleavages within the Southern Sudan*, 1994, pages 105-125.

¹³⁵ Interview with Professor Peter Tingwa in February 2010, Juba Southern Sudan. Professor Tingwa is the head of the Southern Sudan based arm of the Assessment and Evaluation Commission on the Implementation of the Comprehensive Peace Agreement of 2005.

¹³⁶ Abel Alier, *Too many Agreements dishonored*, chapter 14.

was overthrown in April 1985. According to Lam Akol, after this and as a result of the actions of Numeiri, the SPLM/ A arose to struggle for a New Sudan that would undertake radical restructuring of the power of the Central Government ending monopoly of power by a few in Khartoum.¹³⁷

Nyaba concludes the debate by stating that despite the Addis Ababa Agreement ushering in a new period of peace, its implementation faced problems because the south became an island of liberal democracy in an ocean of one party dictatorship and personal rule of Numeiri and was denied economic power and resources to develop.¹³⁸ The conclusion is that as a result of the abrogation of the Addis Ababa Agreement, Southerners again took up arms to alert the Khartoum government of their disapproval with the state of affairs. This started with what was to be known as the Bor mutiny.

3.8 INTERNAL EFFORTS AT MANAGING THE SUDAN CONFLICT

3.9 The Koka Dam Declaration

Many Southerners believe that Numeiri was overthrown in April 1985 in a bloodless coup during a visit to Washington due to the economic problems in Sudan and his inept handling of the southern uprising.¹³⁹ The Bor mutiny began the second phase of armed struggle. Unlike the initial Anyanya movement, the SPLM/A had members comprised of trained soldiers and policemen, with a better organized military operation. Like Anyanya I however, it suffered a lack of shared vision by southerners, upon which the struggle was to be based, with ethnicity being a key factor. This allowed the Khartoum government to exploit this through arming of ethnic militia. The SPLM/ A was not just fighting northerners but also some southerners aligned to the government, who fought as Anyanya II, and who were supporting Unity of Northern and Southern Sudan.¹⁴⁰ In 1987, Daniel Koat Mathew , former powerful governor of Upper Nile and

¹³⁷ Akol L. The Present War and its Solution, in Deng F, and Gifford P (1987) pg 19.

¹³⁸ Nyaba P.A, The politics of Liberation in Southern Sudan. An insider's view, Fountain publishers, Uganda, pg.19.

¹³⁹ Interview with Regina Ossa Lullo, Director General, Ministry of Gender, Child and Social Welfare, Government of Southern Sudan, March 2010.

¹⁴⁰ Interview with Mac Maika, Project coordinator for the Norwegian Peoples Aid South Sudan Media Project in Juba Southern Sudan in May 2010.

leader of Anyanya II who had enjoyed government support from 1983 to 1986 lost favor with the government and from 1988, he combined Anyanya II with the SPLM/A.¹⁴¹

Harir discusses issues following the eruption of the Anyanya II conflict. He states that after the overthrow of Numeiri by the Muslim Brotherhood over what they termed weak rule, following renewed military escapades by Southerners, many attempts at reconciliation ensued including a meeting at the Koka dam in Ethiopia in March 1986. This meeting issued the Koka Dam Declaration which declaration called for a constitutional conference in preparation for the creation of a New Sudan. The Koka dam meeting was attended by SPLM/A, Trade Unions and the DUP. Egypt encouraged these talks and a further meeting was held in Addis Ababa in 1988. These talks had a lot of support, as a landmark in the search for Peace in Sudan, and were endorsed by the army which opposed the continuation of the war, and both SPLM and DUP showed they could soften positions such as on Sharia law. They negotiated a one month ceasefire to facilitate a constitutional conference. NIF was opposed to these talks because it wanted Sharia law, UMMA feared DUP was too powerful, so UMMA and DUP aligned together to sideline NIF, which staged a coup in 1989. The NIF then enacted Sharia laws in to the constitution of the country in 1991. In 1992, the civil war was declared a Jihad, effectively making religion a serious factor in the conflict.¹⁴²

3.82 The Sudanese Peace Initiative

After the elections following the expiry of the TNC term, the UMMA party and NIF formed a coalition government and marginalized the DUP from mainstream politics. Odera states that the DUP encouraged by Egypt entered into direct talks with SPLM/A. The head of DUP, one Mohamed Osman Al Mirghani, head of DUP and the khatmiya religious sect spearheaded the initiative. They held talks in Addis Ababa, signing an accord later to be known as The Sudanese Peace Initiative which was signed on 16th November 1988. Issues discussed did not differ much from the ones discussed in the Koka Dam Declaration. The only issue emerging was a softening of stance on both sides on the issue of Sharia law. Key aspects of this initiative included freezing of aspects of sharia law till a constitutional conference was held, abrogation of military pacts,

¹⁴¹ Alier op cit.

¹⁴² Harir S. *Recycling the Past, in the Sudan*, in Harir, S and Tvedt, T Eds, *Short-Cut to decay: The Case of Sudan* Nordiska Afrikaninstitutet , Uppsala (1994).

lifting of state of emergency, ceasefire, formation of a committee to prepare for the conference by 31st December 1988. Due to a lot of pressure, DUP quit government in 1988 out of frustration. In the meantime, SPLA continued making wins on the battlefield.¹⁴³

Peter Woodward indicates that the army, which was the instrument of the policy of the North in the South, was opposed to continuance of war, and was effectively endorsing the DUP-SPLA peace process.¹⁴⁴ At the same time, Abbas notes that the position of the army was shared by students, trade unionists, civic groups, and they eventually succeeded in getting the DUP back into government. This forced Mahdi to form a broad based government empowered to implement the accord. This accord was again endorsed in April 1989. Abbas believes that Mahdi's decision to endorse the Agreement was probably motivated by the realization that el Mirghanis reading of the country's mood and its yearning for peace was correct. It was also a clear indication that had el-Mahdi endorsed the agreement earlier; he would not have been subjected to the humiliating experience of receiving an ultimatum in the form of a memorandum from the armed forces whose officers and soldiers were sick and tired of the war in the south.¹⁴⁵ In June 1989, the draft bill to suspend *sharia* law and freeze *hudud* or Muslim punishment was drafted and received Mahdi's assent the next day. Opposed to this softening on issues of sharia, The NIF then led a successful coup de tat which propelled General Bashir into leadership as head of the Revolutionary Command Council. Bashir endorsed the goal of an Islamic state.¹⁴⁶ So begun the heavy stance and lack of compromise of the Northern factions on issues of Islam, which were later to plague the IGAD peace process.

3.83 The National Dialogue

In September 1989, the government organized a conference termed the National dialogue, a substitute to the constitutional conference proposed in the SPLM-DUP document. The dialogue came up with a final report issued in October 1989.¹⁴⁷ The main aspects of the report dwelt on Islamic majority of Sudan, recommending a federal system based on Islamic laws. It recognized

¹⁴³ Josephine Odera op cit page 442.

¹⁴⁴ Woodward Peter, (1990) op cit page 213.

¹⁴⁵ Ali Abdulla Abbas: Reflections on the North South Conflict in Sudan in Deng Francis M (Ed) (1994): Sudan: The forgotten Tragedy, United States Institute for Peace Press, Washington, pp29-36:32.

¹⁴⁶ See the discussion in Wondu and Lesch, A (2000) Battle for Peace in Sudan, University Press of America New York, pg 8-12.

¹⁴⁷ This is the report that the delegation of the Government of Sudan first presented at Abuja as a position paper.

that the rights of the majority should be protected but nonetheless recommended that non Muslim residents be subject to Islamic laws. Only the south was to be exempted from certain aspects of Islamic law. Many Southerners were unhappy because it is said the SPLM/A only learnt of the dialogue very late in the day and that the outcome favored the North. Indeed, it is the report of this dialogue that the North later presented as its agenda during the beginning of the Abuja conference, claiming that all parties had agreed to its content.¹⁴⁸

3.84 The Frankfurt Agreement

This Agreement was signed between the Government of Sudan and the first splinter group from the SPLM/A known as the SPLM/A –United or Nasir faction in 1992. It was secretly negotiated by Ali el Hag, for the government and Lam Akol for SPLM/A-united in Frankfurt Germany. It was meant to guarantee self-determination for Sudan. It later led to Lam Akol leaving SPLM/A united and joining the Khartoum government. When this happened, Riak Machar issued a statement as follows:

‘It must be reiterated that the fundamental objective of the Nasir Move was and still remains the right of self-determination for the people of Southern Sudan to be exercised through a referendum in Southern Sudan in order to establish an independent and sovereign state of South Sudan. The continued denial of the exercise of this democratic right to self determination has necessitated the war and its continuation ...Dr. Lam Akol favors piece meal settlements with the government of Sudan...In collusion with the government of Sudan, he attempted to sabotage the IGAD peace efforts by favoring peace settlements outside IGADD...’¹⁴⁹

It is important to note that two years later, Riak would also be signing a similar agreement.

3.85 The Political Charter

The Political Charter was signed on 10th April 1996 by Riak Machar, leader of SSIM/A as renamed after the split in SPLM/A-united, Kerubino Bol of SPLM-BGG and Zubeir Mohamed Salih, first vice president of the government. These were parties that had broken away from the original SPLM/A. The political charter states inter alia that:

¹⁴⁸ See minutes of Abuja I conference.

¹⁴⁹ Press Statement: Dr. Lam Akol joins NIF, 28th February 1994, signed by Riek Machar, points 2 and 4 of the statement.

‘ ...The unity of the Sudan with its known boundaries shall be preserved, its entity shall be secured against all internal and external dangers...after full establishment of peace and stability and a reasonable level of social development in the south, and at the end of the interim period, a referendum shall be conducted by the people of Southern Sudan to determine their political aspirations...recognizing the constitutional development implementation of federal systems and political practice based on the values of participatory democracy, the parties shall try to boost the progress in these fields in light of changing situations.’¹⁵⁰

Odera states that the Charter was dismissed by other opposition groups as a sellout¹⁵¹. This led Riak to write to IGAD heads of state requesting their intervention to get John Garang to sign it.¹⁵² Abel Alier opines that Southern groups entered into the agreement because they believed it was a way of settling the conflict.¹⁵³ Members of the Sudan working group opined that the collaboration was prompted by need for survival, which required injection of military and economic support as a result of splits within the SPLM/A¹⁵⁴ Press reports quote SPLM/A as stating that Riak’s alliance with the government enable successful exploitation of oil in Bentiu and helped the government retain Juba, and that they also believed that collaborating with Riak was tantamount to collaborating with the Khartoum government.¹⁵⁵ The conclusion as Abel Alier aptly put it was that the charter increased intra-southern tension, ultimately reducing avenues for dialogue amongst the Southern Factions, which translated into more intense fighting between southerners.¹⁵⁶

3.86 The Sudan Peace Agreement

This Agreement was signed in April 1997 by the Khartoum government, Riak’s newly formed United Democratic Salvation Front (UDSF), the Union of Sudan African Parties (USAP) SPLA – Bahr el Ghazal group (SPLA –BGG) , Equatoria Defense Force (EDF) and South Sudan Independents Group (SSIG). It was presented as a follow up of the Political Charter, to enter into

¹⁵⁰ Articles (2),(3) and (4) of the Political charter signed on April 10th 1996.

¹⁵¹ Josephine Odera op cit pg. 453.

¹⁵² Letter written on 5th September, 1996, partly reproduced in the minutes of 28th November 1996 of the Sudan Working Group, All Africa Conference of Churches.

¹⁵³ Alier Abel (1996), The Political Charter: Observations and a commentary in Sudan Democratic Gazette.

¹⁵⁴ Interviews with members of Sudan working group, cited in Josephine Odera op cit., page 454.

¹⁵⁵ Communication quoted in Sudan Democratic Gazette, No. 75, August, 1996 p. 8.

¹⁵⁶ Alier Abel (1996), op cit.

force and be enacted as law by constitutional decree.¹⁵⁷ It identified clearly the definition of the South as per the boundaries of 1st January 1956, spelt out the interim period as 4 years, and accepted federalism and state as well as residual powers. Presidents Moi and Museveni were present at its signing in Eldoret though this was done outside the IGAD process. Pax Christi a Nongovernmental organization dealing with peaceful solutions to conflict indicate that the agreement though addressing core issues of the conflict such as the Referendum and the future of Southern Sudan would not have been possible to implement without the participation of the SPLM/A.¹⁵⁸

3.87 Grassroots Mediation Initiatives

Grassroots peacemaking initiatives in the Sudan have focused mostly on reconciliation among clans and ethnicities on one hand and factions on the other. These initiatives are referred to as People to People peace processes¹⁵⁹. Religious bodies and churches are the main propagators. An example is the interethnic reconciliation between the Nuer and the Dinka¹⁶⁰ and the dialogue between the factions and the people such as the Yei meeting¹⁶¹ between SPLM/A and the communities held in 1999. Indeed all military factions of southern Sudan have participated in people to people initiatives. These initiatives have served as awareness raising opportunities making grassroots aware of issues affecting their leaders, government and country, and also of giving fresh mandate to the factions and leaders in the South.

3.9 EXTERNAL INTERNATIONAL ATTEMPTS AT MANAGING THE SUDAN CONFLICT

3.91 The 1989 Coup and the Jimmy Carter Peace Initiative

In January 1989, a coup brought the hardline National Islamic Front of Hassan Turabi into power. Despite this, international pressure due to concerns about suffering civilians led to a ceasefire to enable humanitarian intervention. The Operation Lifeline Sudan (OLS) was launched in April 1989 with no formal agreement between the UN, SPLA and Government of Sudan.

¹⁵⁷ 14th Constitutional Decree (Implementation of the Sudan Peace Agreement).

¹⁵⁸ Pax Christi (1997) A commentary on the Sudan Peace Agreement, Netherlands.

¹⁵⁹ Reference term used by the New Sudan Council of Churches (NSCC).

¹⁶⁰ The Dinka-Nuer Peace Conference was held from 27th February to 8th March 1999 and produced a document entitled the Wunlit Dinka-Nuer Covenant.

¹⁶¹ See the New Sudan Council of Churches-SPLM/A Yei Declaration, July 1997 in SPLM/A update, Vol VI, issue No. 7 pg 2.

However, there was an informal agreement that there be a ceasefire to enable humanitarian aid reach civilians trapped inside Sudan.

Lam Akol¹⁶² states that the ceasefire that contributed to the operations of Operation Lifeline Sudan (OLS) collapsed in October 1989 as renewed hostilities broke out, with Bashir closing down OLS, compelling Jimmy Carter to initiate the Nairobi peace talks in December 1989. Omondi¹⁶³ opines that the Carter Peace initiative was based on the linkage theory, whereby Khartoum provided support to Eritrean and Ethiopian rebels, while Ethiopia provided support to Sudanese rebels. This theory stated that attainment of peace in Ethiopia and Sudan were linked. These talks failed even as donor aid was suspended in an attempt to bring the parties back to the negotiating table. The Carter talks were however the first in a series of mediation efforts to mediate the Sudanese conflict in the post-cold war era and by an international party.

3.92 The Cohen Initiative

In 1989, with the military situation in favor of the SPLM/A, the government of Beshir, approached the United States to intervene and pursue the negotiations initiated by Carter. Herman Cohen, then Assistant Secretary for African Affairs had the task when the US government agreed. This discussion is based on discussions in Wondu and Lesch.¹⁶⁴The American government had the misguided notion that the government of Sudan was willing to withdraw from the South. Cohen's first strategy was a military withdrawal of government forces from certain parts of the South and a corresponding withdrawal of SPLM/A forces, followed by a Constitutional conference. SPLM/A were for it but Beshir was against it.

Cohen's response was more comprehensive, consisting of massive reduction of government forces from the south, a rolling back of SPLM/A forces, an internationally supervised cease-fire and safe havens for humanitarian assistances. Khartoum agreed to all proposals except the use of foreign supervision in demilitarized zones. SPLM/A rejected the Khartoum amendments. When the gulf war broke out, Sudan sided with Iraq and the US government withdrew from the

¹⁶² Akol L., SPLM/SPLA: Inside an African Revolution , Khartoum: Khartoum University Press, 2001,pg132-137.

¹⁶³ Interview with Judith Omondi in Juba, April 2010. She is a journalist and political scientist who has worked in Sudan since 1990, particularly under Senator John Danforth's initiative. She currently heads a UNDP joint project with the southern Sudan national census and statistics board.

¹⁶⁴ Wondu and Lesch op cit, pg 14.

negotiations due to the shift in support. Odera¹⁶⁵ opines that the Gulf was of strategic importance to the USA while Sudan was a remote conflict of little interest, hence the withdrawal, which was heightened by the fact that Sudan decided to side with Iraq, the enemy of the USA. Despite the withdrawal of the USA from these talks, there appears to have been continued American interest in the Conflict in Sudan as can be seen from spontaneous efforts such as the Johnstone initiative.

3.93 The Johnstone Initiative

Congressman Harry Johnstone, then chair of the US Congressional House Foreign Relations Committee on Africa initiated a process to reconcile warring Southern factions in the aftermath of the Abuja negotiations. Johnstone's initiative aimed at the SPLM of John Garang and SPLM-United of Riak Machar, resulting in the Washington declaration of 22nd October 1993.

The two parties agreed on immediate cessation of hostilities and monitoring of the cease-fire agreement: Peaceful resolution of intra SPLM/A disputes following an agenda of peace, reconciliation, unity and democracy, cooperation and facilitation of humanitarian relief operations: Support of the regional peace effort: A united position on self determination for Southern Sudan, including Abyei, and Nuba mountains: To inform regional leaders of substance of declaration and hold a follow up meeting within a month.¹⁶⁶ A media report states that they agreed on these positions but refused to sign because of reference to SPLM Mainstream which Garang opposed and Machar insisted on.¹⁶⁷ Meanwhile as the Johnstone Initiative was taking place, other initiatives to reconcile the clans and ethnicities as well as the various factions were taking place too.

3.94 The Abuja Process Part I May to June 1992

In 1990, Mubarak of Egypt and Mobutu of Congo are said to have tried to mediate the Sudan conflict but could not get the parties to even sit together. Wondu and Lesch give a comprehensive discussion of the Abuja talks based on verbatim reports, from which the

¹⁶⁵ Josephine Odera op cit pg 463.

¹⁶⁶ The Washington Declaration of 22nd October 1993.

¹⁶⁷ ¹⁶⁷ Horn of Africa Bulletin no.6/93 p.27.

discussion in this part of the thesis emerges¹⁶⁸. Bashir seeking an African Solution to his problem specifically requested Nigeria to mediate and the OAU Heads of States Summit gave President Babangida the mandate. Nigeria had a similar religious mix as Sudan and had fought and successfully settled a civil war, and which had a federal system of government and furthermore was due for chairmanship of the OAU. Under the OAU and now the AU, African interstate relations are premised on non-interference, Sovereignty and unspoken distaste for self determination as a conflict management outcome.¹⁶⁹

By 1991, SPLM/A literally controlled the entire South and was about to take Juba, the administrative capital of the South.¹⁷⁰ However, by the time the mediation process begun, SPLM/A position weakened. With the overthrow of Mengistu, they had less logistical support, and within their ranks, they were split into the SPLM/A Torit faction and SPLM/A Nasir faction. This led to the government capturing Bor, Kapoeta, and Torit. The humanitarian factor was also drawing attention to the war internationally¹⁷¹.

For Abuja I, Principles of negotiation were identified as Sudanese national identity, the basis of national unity, equality based on citizenship and fundamental human rights, liberties and religious freedoms. Secondly, they were to address equitable power and wealth sharing, judicial systems, the participation of the SPLM/A in government, and issues to do with armed forces, police, security forces, civil and diplomatic service. A third phase was to address interim arrangements and permanent constitution, and the fourth was to discuss Abrogation of Sharia laws and others and a fifth phase was to consider follow-up on negotiations¹⁷².

The government of Sudan did not want to discuss a ceasefire, confident they were winning on the battle field. According to Abel Alier, the SPLM/A had lost major towns but had support from the countryside. They came to the table with a memory of a history of broken trust and what they perceived as mistakes made at Addis Ababa. On national identity, both sides acknowledged that

¹⁶⁸ Wondu and Lech, *Battle for Peace in Sudan: An analysis of the Abuja Conferences, 1992- 1993*, Lanham university Press, America, p12-15.

¹⁶⁹ Wondu and Lesch op cit.

¹⁷⁰ Nyaba PA. *The politics of Liberation in South Sudan, An insiders View*, Kampala, Fountain Publishers p.11.

¹⁷¹ Wondu and Lesch Op cit.

¹⁷² Wondu and Lesch Op cit.

there was diversity but could not agree on mechanisms for working with it. Self determination was promoted by the Southern delegations, which position the mediators refused to accept¹⁷³, and the North refused to discuss. Eventually, the issue of a Referendum was completely deleted from the emerging communiqué.¹⁷⁴ Mediators attempted to propose a secular constitution with application of sharia in personal areas like marriage, which was not accepted by the Government delegation. The final communiqué omitted any reference to the discussion on separation of state and religion.¹⁷⁵

On interim arrangements, the mediators proposed discussion of two issues, cessation of hostilities and the transition period. With respect to Cessation of hostilities, mediators proposed a ceasefire, with impartial African monitors and international observers. The government side rejected these wholesale. SPLM had agreed with the mediators, arguing that one of the problems with the Addis Ababa Agreement had been insufficiency of safeguards in security arrangements. The resultant communiqué made vague reference to a need to create a good atmosphere but did not include any agreement to de escalate hostilities¹⁷⁶.

On the interim arrangement, the matter was deferred to the next session. This was because though the SPLM delegations wanted to ensure that the interim arrangements observed devolution of powers under a confederal system of government for Southern Sudan, Abyei, Nuba Mountains and Southern Blue Nile, and to put a time frame to the interim arrangement, the government of Sudan did not. Furthermore, with the Nigerian mediators being against Separation, it was difficult for them to convince the SPLM delegation with their partial recommendations.¹⁷⁷ In other words, the conclusion is that there was no hurting stalemate that would lead both parties to negotiate for peace. They were unable to go through the entire agenda, agreed on broad principles and were therefore unable to develop legally binding frameworks for implementing them. When Nigeria prepared a report for the OAU summit in Dakar, Senegal in

¹⁷³ Wondu and Lesch Op cit page 56.

¹⁷⁴ Minutes of the sessions of the Abuja Conference.

¹⁷⁵ The Abuja I Communiqué.

¹⁷⁶ The Abuja I Communiqué.

¹⁷⁷ Zartman I. William and Touval, Saadia. Third party Diplomacy and Informal Peacemaking in Brown, J, Sheryl and Schraub, M Kimber, eds, Resolving Third world Conflict; Challenges of a New Era, United States Institute of Peace Press, Washington,(1992)pp. 239-261.

June, 1992, the OAU never discussed the report¹⁷⁸. Perhaps the problems faced during the conference preceded them and the OAU summit dismissed the results as inconclusive and did not see the need to discuss them.

3.95 The Abuja Process Part II April to May 1993

Within the year between the two processes, the government of Sudan had improved militarily, and had overrun SPLM out of Torit. Further splits occurred within SPLM Torit which was now to be known as SPLM Mainstream. Key negotiators under Abuja I such as William Nyuon and Richard Mulla defected to Nasir faction.¹⁷⁹ Under the aegis of President Yoweri Museveni of Uganda SPLM Mainstream and the government of Sudan issued a joint communiqué confirming the willingness of the two sides to go to Abuja II. The SPLM mainstream got their wish of being considered the legitimate faction.¹⁸⁰

The broad agenda items for Abuja II can be found in a press statement issued at the end of Abuja I, namely that Abuja II would work towards an institutional and political arrangement to accommodate diversities of Sudan; consult principals to determine structure for interim arrangements and thirdly work towards interim arrangements that would consider the fears and positions of all sides in the matter¹⁸¹. Expected pre- talks did not take place because SPLM opposed discussing substantial issues at the pre –talks. The mediators agreed. Secondly, SPLM requested international observers during the negotiations, which the government opposed¹⁸². Mediators agreed to act both as mediators and observers. It was agreed that the signing of the final agreement would be witnessed by several heads of state. There was an impasse on the matter of religion and state. They also failed to settle the issue of interim agreements, and informal recommended talks broke down when Bashir refused to accept a delegation from the mediators in Khartoum. Eventually both parties refused to issue a joint communiqué.¹⁸³

¹⁷⁸ Josephine Odera Op cit.

¹⁷⁹ Muga E., Interview with Professor Peter Tingwa Op cit.

¹⁸⁰ Entebbe Communiqué, 23rd February 1993.

¹⁸¹ Press statement on Abuja II.

¹⁸² Wundu and Lesch (2000) pp cit Chapter 8.

¹⁸³ Minutes of the proceedings.

The mediators decided to issue a Communiqué on their own anyway, and which they issued on 17th May 1993, the mediators issued a press statement on areas where progress had been made and where disagreement remained. On progress they stated that a commitment to a negotiated settlement was confirmed, and there was a renewed willingness to pursue the question of religion and state. Where disagreement remained included share and size of revenue collection, composition of ceasefire commission, security of south during interim period, definition of the South, and separation of state and religion.

In conclusion, Odera¹⁸⁴ notes that the parties were not susceptible to mediation due to a lack of a hurting stalemate. A ripe moment had not materialized, as evidenced by the moves made by the government side, such as circumventing the Abuja Process through talking to Museveni, refusing to meet mediators' envoys to salvage talks and refusing to compromise on any position. Secondly, the mediation was done around a personality, that is Babangida, and the outcome of the talks therefore depended on his personality. Towards the close of the talks, his term as OAU chair was drawing to an end and his presidency was also expiring. Apart from the fact that he was against separation, Wondu and Lesch believe he also believed the Government of Sudan would defeat the SPLA/M leading to its capitulation.¹⁸⁵

Finally, it is evident that the Abuja Process elicited the main items as State and Religion, Unity versus Self Determination and interim arrangements, with Sharia being a critical issue. This agenda of the Abuja conference eventually informed the Declaration of Principles as will be seen in Chapter 3 of this thesis. In the mean time, certain events were happening on the international stage independent of the various peace processes and their happenings that would have a profound effect on the peace process. One of these was increased advocacy from Sudanese in the Diaspora and the second was the September 11th attacks on New York City which catapulted Sudan into the international spotlight¹⁸⁶

¹⁸⁴ Josephine Odera Op cit.

¹⁸⁵ Wondu and Lesch (2000) op cit, p.19.

¹⁸⁶ Ulf Terlinden, IGAD: Paper Tiger facing gigantic tasks, Friedrich Ebert Stiftung (2004) page 12.

3.96 Senator John C. Danforth and President George Bush Junior 2001

As a result of great international pressure, President George W. Bush Junior of the United States of America appointed Senator John C. Danforth as a Special Envoy for peace in Sudan. His mandate was “To determine the commitment to peace by the parties to the Sudan conflict and to recommend whether the United States should engage energetically in efforts to bring a just peace to that country”.¹⁸⁷ Having discussed possible approaches to fulfilling the mandate, with Secretary of State Collin Powell, Assistant Secretary of State, Walter Kansteiner, National Security Advisor, Condoleezza Rice amongst others, Senator Danforth was of the opinion that the most effective approach would be “a catalytic one that encouraged and harmonized the peace initiatives of countries neighboring Sudan , especially Egypt and Kenya, and which engaged interested countries such as Canada, Norway, Switzerland, Britain, certain Members of the European Union including Italy and others in a common effort to support peace. The US would not create its own peace plan to compete with those plans already in existence, but would encourage a dynamic peace process in which the United states would be a participant.”¹⁸⁸

One of the results of the visit of Senator Danforth was a move towards coordination of humanitarian and development programs of USAID and other donor missions. This move coordinated the approaches of the United States, Canadian and the interested European governments. In the past, differences in approach were detrimental to the peace process in Sudan because donors did not present a common face.

Another was the consolidation and coordination of the efforts of IGAD through President Moi and the Egyptian-Libyan initiative, which made it difficult for the SPLM and GOS to choose one over the other and this helped to speed up the process of reaching a Peace Agreement.

Finally, the visit of Senator John C. Danforth revealed that despite the fact that both parties wanted an end to the long-running civil war, both sides viewed progress as a zero sum game, with any advantage to one side being seen as a disadvantage to the other. This to him underscored the essential importance of outside intermediaries in a peace process, including the

¹⁸⁷ John C. Danforth, Report To the President of the United States on The Outlook for Peace in Sudan, April 26th, 2002. page 1.

¹⁸⁸ Supra page 2.

United States. He also noted that the parties would need to be willing to live up to any commitments they make. The senator identified key substantive issues on which both the SPLM and GOS held strong views, including Oil, noting that discovery of significant oil reserves especially in the south and the onset of serious production in 1999 reshaped Sudan's civil war. The good senator recommended the development of an acceptable monetary formula for sharing oil revenue between the central government and the people of the South, with international monitoring, and encourages foreign investors to participate.

Another key substantive issue identified by Senator Danforth was Self Determination. While acknowledging that due to the discrimination suffered by Southern Sudanese at the hands of various governments in the North, any peace agreement must address the injustices suffered by the Southern Sudan, his recommendation was the development of a system of internal and external guarantees to ensure the right of the people of Southern Sudan to live under a government that respects their religion and culture, and not separation. A third substantive issue identified by Senator Danforth was Religion. His opinion was that the relationship between religion and the state in Sudan was extremely divisive but recommended that the development of internal guarantees that would entail judicial means of enforcing religious rights, coupled with external guarantees including international monitoring of religious freedom should be applied, and that this was preferable to Self determination and therefore separation as a solution .

A fourth substantive issue he identified was governance. He opined that division of power between Central and Regional governments, the method of selecting government leaders at all levels and ways of enforcing individual rights must be part of any peace agreement, particularly in view of the presence of significant politico-tribal factions , influential religious and other civil society groups in both Northern and Southern Sudan, whose views and participation in selection of governance structures need to be considered for a peaceful political future in Sudan. A fifth substantive issue he identified was internal and external guarantees for the enforcement of any new Peace Agreement. He opined that internal guarantees would need to be enshrined in Sudanese law, but that until Sudan had a credible legal system and enforceable constitution, meaningful complimentary guarantees would have to be provided by other countries, regional or international organizations. He mentioned IGAD, The African Union, The Arab League and the

United Nations Security Council as possible complimentary external guarantees for the enforcement of a new Peace Agreement.

Finally the good senator urged that the USA continue to accord Sudan a high priority through humanitarian and development assistance in Southern Sudan in collaboration with other donors¹⁸⁹. It is important to consider Senator Danforth's initiative because it led to increased international support and funding for further peace processes including the IGAD process. However, the Danforth Initiative was subsequently referred back under the IGAD umbrella to avoid duplicity of efforts and an effective channeling of funds and human resources for purposes of achieving a better resolution¹⁹⁰

The government in power in Khartoum as at 1994 had pursued military options against the South aggressively. This led to a deterioration of the economic conditions, leaving hundreds of southerners at the risk of starvation due to a serious humanitarian crisis, largely caused by the long conflict. Meanwhile, the discovery of oil and revenues from the oil fueled the conflict even further.¹⁹¹ Alarmed by the deepening crisis and multiple failed attempts by outside mediators, IGAD, a regional organization that was formed to promote cooperation and development, formed a mediation committee consisting of a summit committee of 9 heads of state from Ethiopia, Eritrea, Kenya and Uganda, and a standing committee composed of their mediators.¹⁹²

3.97 Theoretical Analysis of Previous Mediation Efforts in the Sudan Conflict

These efforts may be divided into Formal or track one (Efforts by state actors such as Uganda and Congo, The Addis Ababa Agreement, the Roundtable conference of 1965, The Koka Dam process, The Sudanese Peace initiative, The National Dialogue, The Frankfurt Agreement, The Political Charter, The Sudan Peace Agreement, The Jimmy Carter initiative, The Cohen Initiative, The Johnstone initiative, The Abuja Peace process ,Senator Danforth's initiative, The Abuja process , and informal or track two (Juba conference of 1954,efforts by the churches,

¹⁸⁹ Danforth report op cit.

¹⁹⁰ Ulf Terlinden op cit pg 13.

¹⁹¹ See CRS issue brief IB98043, Sudan, Humanitarian Crisis, Peace Talks and US Policy by Ted Dagne.

¹⁹² See God, oil and Country: Changing the Logic of War in Sudan. International Crisis Group (ICG), 2002.

and NGOs such as Movement for colonial Freedom (MCF) and the Quakers, Grassroots peacemaking initiatives.

As noted in chapter two of this thesis, Track One initiatives having to deal with power and manipulation, are concerned with bargaining both interests and values, the latter of which is not often negotiable, must deal with pleasing constituents (Khartoum governments have changed nine times in the course of the Sudan conflict, mostly because the ongoing track one initiatives did not please constituents)¹⁹³, and adhere to specific time frames due to the cost and effort involved. All these reasons led to a lack of success of conflict resolution, because they ignore the basic root of the conflict. However, each track one attempt left a lesson learnt that could have been picked up by IGAD. For example, the same issues that led to the failure of the Addis Ababa Agreement were picked up during the Subsequent foreign interventions, including Abuja I and II and the IGAD peace process.¹⁹⁴

With regard to track two initiatives, chapter two of this study concludes that they apply formality of the track one initiatives, and tend to concentrate on interests rather than issues, which they would be better able to influence, leading to their failure to resolve conflict. Mwangiri recommends a level of dual diplomacy, where issues are identified as interests and issues, and a specific mediation track identified to deal with each particular one, which reality is different from what is currently the norm¹⁹⁵.

3.98 Conclusions on Transformation of conflict and an opportunity for a ripe moment

Conflicts are dynamic and keep changing and transforming. As the epicenter changes, the larger conflict also changes to mirror the transformation. The colonial legacy was a divided south with what was viewed as a southern and not Sudanese problem. Despite the fact that the North endorsed the Roundtable conference, they continued their military campaign. This led to the rise of a military faction from the South that was known as Anyanya one.

¹⁹³ The Internationalization of the Sudan Civil War, African Security Review Vol. 7 page 9.

¹⁹⁴ See communiqué of Abuja conference, Addis Ababa Agreement and the Machakos Declaration of principles.

¹⁹⁵ Mwangiri Makumi op cit (2006) pg 136.

Due to the military campaign by the Anyanya, Numeiri signed Agreements with Ethiopia and Uganda to reduce their military might. In an attempt to end the problem of a military south, he signed the Addis Ababa Agreement in 1972 which lasted until 1983. The conflict was transformed by the reduction of military might of the Anyanya leading to the birth of the Addis Ababa Agreement. There is then the entry of NGOs who came in to empower the southerners, such as churches. There were also foreign personalities such as Haile Selassie with interests in ensuring the supremacy of the colonial borders in Africa and ensuring there was no separation. The Agreement lasted for about eleven years but with many implementation problems.

Some Northerners had already begun to question the war. With the signing of the Addis Ababa Agreement, there was tension in the North with regards to the financing of the Agreement, and a clamor for return of Sharia. The discovery of oil compounded the problems of implementation of the Addis Ababa Agreement and led to its abrogation. Despite the Addis Ababa Agreement, the South was left with no economic power and no resources flowing there. The reaction of the South was the establishment of the SPLM/A. This time round, Southerners had better trained soldiers, some of whom had been in the police force before. The military opposition from the South was therefore stronger.

Attempts at appeasing the South were made with a constitutional conference. This was also done to appease Northerners who were weary of war and of a split between the North and the South. At the same time, the Islamic brotherhood declared that the war was a Jihad. This transformed the war to another level of religious conflict. Elements supportive of the unity of Sudan and who were ready to compromise on the religious position, supported by Egypt attempted to deal with the SPLM/A but failed, leading to a change in government.

At the same time, splinter groups emerged amongst the SPLM/A. Lam Akol's Nasir faction purported to support unity of Sudan through the Frankfurt Agreement, whilst Riak Machar and others signed the Political charter, also purporting to promote unity of Sudan. These caused further tension amongst southerners and there was war or fighting not just within the South amongst Southerners, but also with the North.

A group of southerners even signed the Sudan Peace Agreement with the North outside the IGAD process. This was even witnessed by Museveni and Moi. At this point, it became very clear that without the SPLM/A proper or mainstream, nothing permanent could happen with regard to the quest for peace in Sudan. It was also clear that an internal solution was not forthcoming.

The Carter, Johnstone and Cohen initiatives missed the key issues of self determination, secure state and the clamor for separation by the SPLM/A. While the Cohen initiative was ongoing, around 1989, SPLM/A was winning militarily and the mediators were misguided in thinking that the Khartoum government was willing to withdraw from the South. The gulf war erupted at this time and since that was a more strategic battle for the United States of America, they lost interest in it.

The Johnstone initiative failed because they did not take into account internal politics of seniority between Garang and Riak Machar. They tried to place the two at the same level, which was unacceptable to Garang.

Again during the Abuja process, the military strength of the SPLM/A escalated the war, while at the same times the SPLM/A had lost trust in the goodwill of the Khartoum government. Mediators chosen upto this point did not seem to be open to the issue of self determination. Furthermore, the southern factions added into the Frey issues of Abyei, Nuba Mountain and Blue Nile, insisting that these too be considered in the negotiations. The Abuja talks also lacked support of the OAU (now AU) to backstop it. The Khartoum government was not only winning on the military front at this time but also was opposed to the presence of external observers at the talks.

Given a choice between the Libyan and IGAD processes, Senator John Danforth from the world's only superpower at this time supported the IGAD process. This changed the tone for IGAD and clearly lay out behind who the power would be. With all its problems as a regional organization, this support was godsend for IGAD.

The conflict was ripe for negotiation and there was a mutually hurting stalemate propelling the Khartoum government and the SPLM/A to the mediation table.

CHAPTER FOUR - The IGAD Mediation Process of the Sudan Conflict

4.0 Introduction

Chapter four sets out to explore the actual process of the IGAD mediation of the Sudan conflict. It lays out the problems faced in the course of the process and how they were overcome, whether by the mediators at the table or by issues arising and events taking place outside the mediation room. It also details how the mediator made use of these aspects to push the process forward. Due to time constraints, the objectives of the study, and the actual commencement of serious engagement of IGAD in the Sudan peace process, the period under exploration is between 1994 and the actual signing of the Comprehensive Peace Agreement in January 2005.

The government in Khartoum requested IGAD to mediate in 1993 after the collapse of the Abuja process. According to them, Eritrea and Ethiopia were governed by former insurgents indebted to Sudan¹⁹⁶, Uganda's sympathy for SPLM could be controlled and Kenya which was neutral could be paralyzed by responsibilities of chair.¹⁹⁷ They felt that with this state of affairs, they would have an upper hand in the proceedings leading to favorable outcomes for themselves. But this was not to be. Many external and internal factors led to an outcome that was not envisaged by the Khartoum government.

The IGAD region comprises the countries of Djibouti, Eritrea, Ethiopia, Kenya, Somalia, Sudan and Uganda.¹⁹⁸ In 1984, it started as the Inter Governmental Authority on Drought and Desertification (IGADD) then quickly changed to Inter Governmental Authority on Drought and Development (IGADD), and again in 1994 to Inter Governmental Authority on Development (IGAD). Former President Daniel Arap Moi of Kenya took a personal interest in the peace process in Sudan. Following several meetings in March, May, July and September 1994, mostly under the auspices of the IGAD Summit of presidents, a Declaration of principles (DOP) was

¹⁹⁶ Mengistu was deposed in 1991 by forces supported by Khartoum and Eritrea had achieved independence with long term assistance from Sudan see also Wondu and Lesch, *Battle for Peace in Sudan: An analysis of the Abuja conference, 1992-1993*, University Press of America, New York(2000) pp 152 -153.

¹⁹⁷ Wondu and Lesch, *Battle for Peace in Sudan ; An analysis of the Abuja conferences, 1992 -1993*, University Press of America, New York, (2000) pp. 152 – 153.

¹⁹⁸ Previously known as IGADD, or Intergovernmental Authority on Drought and Development, one D was dropped and it became IGAD in 1996 when its mandate was expanded, becoming the Intergovernmental Authority for Development (IGAD).

signed in Nairobi by the SPLM in 1994.¹⁹⁹ The DOP recognized both the Government of the Republic of Sudan and the SPLM/A United as equal partners in the Agreement and urged them to use the IGAD process to reach a negotiated and peaceful solution to the conflict in Sudan. The key facets were many, including that the parties would commit to a peaceful and just political solution since military solutions could not bring about lasting peace and stability. The right of self determination of the people of Southern Sudan to determine their future status through a referendum was affirmed. The DOP also stated that maintaining unity would be given priority provided that certain principles were established in the political, legal, economic and social framework of the country. These principles included the recognition and accommodation of multi-racial, multi-ethnic, multi-religious and multi-cultural nature of Sudanese society. They also included establishment of a secular and democratic state, appropriate and fair sharing of wealth among the various people of Sudan and the embodiment of human rights in the constitution of the country.

For the government of Sudan, possibility of separation of the South from the North appears to have been the key issue of contention and they did not want this to form the basis of future negotiations, though it was a major part of the DOP. Indeed, it is said that the Government of Sudan, still viewing the SPLM as a mere guerilla group resisted signing the document. However, they were forced to do so in 1997, at a specially convened IGAD Summit held in State house Nairobi, during which the heads of state for Eritrea, Ethiopia and Uganda threatened to attack Khartoum should he not sign the document.²⁰⁰

Though Bashir, his team in Khartoum and Egypt viewed the SPLM as insurgents, the other parties in the mediation process obviously thought otherwise. Under International Law, when insurgents are well organized, conduct hostilities according to laws of war and have a determinate territory under their control, they may be recognized as belligerents whether or not the parent the parent state has already recognized their status.²⁰¹

¹⁹⁹ Wondu and Lesch op cit page 38.

²⁰⁰ Muga E., Interview with Major Gen Lazaro Sumbeiywo, Nairobi Kenya, January 2009.

²⁰¹ Jessup P.C, A Modern Law of Nations, New York, Macmillan Press (1949) pp 53.

Due to the internationalization of the conflict, it became imperative for some of the states concerned to recognize the belligerent. It was in the national interest of neighboring states to recognize Southern Sudanese belligerents.²⁰² The fact that these other countries and their representatives put pressure on Bashir to sign the DOP shows that they recognized the SPLM/A as a legitimate belligerent.

Though IGAD heads of State had been handling the peace process in Sudan on an *ad hoc* basis, The IGAD peace process for Sudan was established in 1997 after this meeting when President Bashir of the GOS agreed to sign the DOP. Thereafter, the former Kenyan president received a reinforced Mandate from the IGAD summit in Khartoum in March 2001 and appointed the then Chief of Staff Major general Lazarus Sumbeiywo as Kenyan special envoy to the Sudan Peace process. In fact the IGAD secretariat for the Southern Sudanese Peace Process was established in 1999, and given the proper mandate to carry out continuous negotiations on the conflict. The activities in the mediation were no longer part of the core budget of IGAD as an organization. However, since IGAD is a state based organization, subject to the summit of the head of states and council of ministers, and since the secretariat was based in Nairobi, Officials from the Ministry of foreign affairs formed the majority of the technical staff working on the formal documents and dealing with the logistics of the process.²⁰³ This was done to ensure that the mediation structure was able to sustain continuity in the process. In fact the secretariat only became operational on the second phase of the mediation when the problem of continuity of the process was realized²⁰⁴.

However, soon, Eritrea formally complained to the UN Security Council that Sudan was engaged in destabilization activities in Eritrea, recruiting Eritrean refugees to fight the war with the South. Ethiopia noting that the security of Eritrea was crucial to it (because of the use of the port of Asmara without which Ethiopia is landlocked) joined the fray. Uganda also accused the Sudanese government of supporting rebel activity in the north of Uganda. Human Rights watch indicates that furthermore, at the launch of the IGAD initiative, the heightened intensity of the

²⁰² M.K. Nawaz, *Bangladesh and International Law*, AJIL, (1973), pp251 at pg 259.

²⁰³ Muga E., Interview with Major General Lazarus Sumbeiywo, at the Moi Peace Center in Karen Nairobi, January 2009.

²⁰⁴ Muga E., Interview with Catherine Mogaka op cit.

war in the South had led to a high incidence of human rights abuses and humanitarian crises.²⁰⁵ This means the conflict was attracting international attention through media and participation of partners of IGAD. The internationalization of the conflict was taking place beyond the borders of Africa.

SPLM/A officials confirm that between 1991 and 1995 they were at their weakest. Meanwhile, Bashir was issuing statements that the government of Sudan was about to make the final offensive on the SPLA.²⁰⁶ Both The government of Sudan and SPLM therefore submitted to negotiation to save face against rising international condemnation of human rights abuses by both sides. The government of Sudan did not want to isolate its neighbors any further. On the other hand, Reports were emerging that the SPLA were recruiting child soldiers²⁰⁷. Under international law, a recognized belligerent has a duty to use international standards in its military campaigns.²⁰⁸ The first meeting with all the parties was held at the Kenya Commercial Bank Training centre in Karen, in May 2002.²⁰⁹ Major General Lazarus Sumbeiywo and his technical team drew up an agenda and program of work for the negotiations under which the parties succeeded in reaching agreement on two contentious issues of the right to self –determination and the separation of State and religion. This agreement came to be known as the Machakos Protocol.²¹⁰ One of the key facets of this Agreement was the Right to Self Determination, and it was agreed that the people of Southern Sudan were to have their right to self determination, to be exercised through an internationally monitored referendum. This referendum was to have two options, Confirmation of the unity of Sudan as set out in the peace agreement, or cessation, with two transitional periods, a first pre-transitional period of six months during which parties were to work out a legal framework for the agreement and establish institutions of governance as provided in the peace agreement, and a longer transitional and interim period of six years, during

²⁰⁵ See the Report, Africa Rights: Food Security and Power in the Sudan: A Critique of Humanitarianism, London, (1997); AND Human Rights Watch, Sudan Global Trade, Local Impact, (1998) op cit.

²⁰⁶ Sudan Democratic Gazette No. 25 of June 1992:5 and interview with Abeny Nathaniel, major in the SPLM and former member of the Girls brigade, Juba April 2010.

²⁰⁷ Save the Children, 1999, The use of Children as Soldiers in Africa, Available at: www.child-soldiers.org/Africa

²⁰⁸ Kapoor S. K, International Law, Central Law Agency, 10th Edition , Taxco printers, Bahadurganj, Allahabad, India (1994) pp 173.

²⁰⁹ Waithaka Waihenya, The Mediator: Gen. Lazaro Sumbeiywo and the Southern Sudan Peace Process, Kenway Publications, Nairobi, 2002, chapter 10 page 80.

²¹⁰ Muga E., Interview with Major General Lazarus Sumbeiywo, Nairobi, January 2009.

which time steps towards implementing a comprehensive ceasefire while assistance and resources were to be mobilized and secured for the peace process and reconstruction.²¹¹

The other contentious issue solved through the July 2002 meeting at Karen was the separation of State and Religion. The national and central constitution was to guarantee freedom of belief, worship and religious practice to all Sudanese. When parliament enacted laws for northern states, it could use Sharia and customs as a source of legislation. On the other hand when enacting national legislation applicable to Southern Sudan, it was to use non-sharia sources and could derive legislation from popular consensus, values and customs of the people of Southern Sudan.²¹² Although there was to be a central bi-cameral legislature consisting of upper and lower houses, and administration of Southern Sudan was to involve substantial devolution of powers from the center to ministries and national institutions. All in all, however, the protocol only provided a platform for further negotiations as this is what it was, a framework for negotiations.²¹³

Once the Machakos Protocol was signed, in July 2002, the SPLM convened a consultative conference on the IGAD peace process in August 2002. This was held in Kapoeta and representatives from all the states of Southern Sudan attended²¹⁴ As a result of this convention, the SPLM/A delegation was mandated to negotiate with confidence and given resolutions to be used by the SPLM/A in further negotiations.²¹⁵

4.1 Machakos II

The second session of the Machakos Peace process begun in August 2002, and General Sumbeiywo and other IGAD envoys were joined by observers from the United States of America, United Kingdom, Norway and Italy. The adopted agenda included structures of government power sharing, wealth sharing, human rights and judiciary and the rule of law,

²¹¹ Intergovernmental Authority on Development, Machakos Protocol Framework, Machakos Kenya, 20th July 2002.

²¹² Ibid.

²¹³ Supra Muga E., Interview with Major Lazarus Sumbeiywo, Nairobi, January 2009.

²¹⁴ Central Equatoria, Western Equatoria, Eastern Equatoria, Upper Nile, Jonglei, Warrap, Bahr el Ghazal.

²¹⁵ Muga E., Interview with Acuil Malith Bangol, head of propaganda and communication section, SPLM, in Juba Southern Sudan in May 2010.

security arrangements, comprehensive cease fire, modalities for implementing the peace agreement and regional and international guarantees.

According to Kwaje Samson, in order to assist the parties in their discussions, the mediators drew a two week programme of lectures and seminars. Experts and distinguished resource persons from the United Kingdom, United States of America, Norway, South Africa and Kenya delivered lectures and shared experiences with the parties. These were followed by comments, questions, and discussions by participants. The main focus of the lectures and seminars was structures of government and wealth sharing during the Six year interim period.²¹⁶ According to Suzanne Jambo, Negotiations in late 2002 proved difficult and the first two weeks were designed for briefing and lectures by experts on a wide range of issues relating to nation building and conflict resolution. Thereafter, the parties were given a 51 page report entitled Draft Protocol on power sharing within the framework of a broad based transitional government of national unity between the government of Sudan and the SPLM, and parties asked to respond to the mediator's draft.²¹⁷

4.2 Khartoum Withdraws from Machakos II

It is said that ²¹⁸ in September 2002, IGAD mediators informed the SPLM/A delegations that the Government of Sudan was recalling its delegation from Machakos because they could not continue with the negotiations based on the SPLM/A position regarding power sharing, the status of the national capital and the issue of Nuba Mountains, Funj and Abyei.

In response to the requests of mediators, the SPLM/A submitted their proposals on these issues, proposing a sharia free capital for the central government, and a structure of power sharing at national government, south Sudan government and state level. They also proposed that the issue of Nuba Mountain, Funj and Abyei be dealt with as part of the IGAD mediation as a part of the overall solution to the Sudanese conflict. They wanted the ceasefire arrangements to be dealt

²¹⁶ Kwaje Samson, "The Sudan Peace Process: From Machakos to Naivasha" in Makumi Mwangi (Ed), African Regional Security in the age of Globalization, Nairobi: Heinrich Boll, 2004, pp.96-105.

²¹⁷ Suzanne Jambo, Sudan: The challenge of National Renewal, in Quest for a culture of peace in the IGAD region: The role of intellectuals and scholars, Nairobi, Heinrich Boll Foundation (2006) pg 154-156.

²¹⁸ Interview with Kosti Manibe, Minister of State in the Office of the President of Southern Sudan in Juba, May 2010.

with as part of the agenda; the Khartoum government demanded that IGAD limit the peace process to Southern Sudan in accordance with the borders of 1st January 1956. They also wanted to deal with the ceasefire as the first item on the agenda, contrary to the agenda of the mediators. Clearly, it can be ²¹⁹ concluded that the Khartoum government withdrawal from the peace talks at this stage had nothing to do with the content of the SPLM position paper but that it was a strategic move to avoid discussing the contentious and serious issues at hand. Many members of the Southern delegation believe that it was a ploy to enable the Khartoum government continues to exploit the oil and use it to defeat the SPLM. Indeed, by mid August 2002, Khartoum had begun aerial bombardment of Civilian infrastructure all over Southern Sudan, which only ended when SPLA pursued them out of Torit in September 2002.²²⁰ Another thing was very clear, Egypt was not happy with the discussions around the Machakos protocol.

Agence France –Presse reported a deliberate snubbing of NIF first vice-president Ali Osman Taha, despite a three day official visit to Egypt, by President Mubarak, a sign to show Egypt's deep displeasure with Khartoum's entertainment of the Machakos Protocol²²¹.

Some scholars' state that IGAD attempts at this stage to reconcile conflicts could hardly continue because of conflicts between mediators and also between the countries such as Ethiopia and Eritrea, Sudan and Somalia and now between Sudan and Egypt. They indicated that the conflicts in the Horn of Africa and disagreement among the leaders of IGAD member states tended to undermine the organization's ability to lead to a settlement, particularly since there was no process through which inter party diplomatic conflicts of this nature could be managed.²²²

Despite all these problems, in October 2002, the Khartoum government returned to the negotiating table, and signed a Memorandum of Understanding on Cessation of hostilities which

²¹⁹ Muga E. Interview with Kosti Manibe op cit.

²²⁰ Muga E., Interviews with Kosti Manibe op cit and Professor Peter Tingwa, head of Assessment and Evaluation Commission of the Comprehensive Peace Agreement, Southern Sector, May 2010.

²²¹ Agence France-Presse report, July 2002.

²²² See International Crisis Group, 2003 reports: El-Affendi, A. the impasses in the IGAD peace process for Sudan: The limits of regional peacemaking? African Affairs 100: pg 581-599; Mwagiru M. The Greater Horn of Africa Conflict System: Conflict Patterns, Strategies and Management Practices (paper prepared for the USAID project on Conflict and conflict management in the Greater Horn of Africa, April 1997, revised September 1997)pgs 18-20.

was to “create and maintain a favourable atmosphere throughout the negotiations until all outstanding issues were resolved”.²²³

The question is why Khartoum came to the table at this time. During this period, there was a lot of pressure on both parties to come up with a peace deal. The Khartoum government had been accused of harbouring terrorists and years of economic sanctions from America and her allies were hurting. They also needed to have good relationships with their neighbors in the region. A lot of Senior southern Sudanese in various positions, including those who were working for NGOs and the SPLM/A at this time, interviewed with the promise of anonymity, on this also indicate that there was an influx of arms to the SPLA/M from friendly quarters.²²⁴ These were mostly brought in through Kampala, but also supplied from Eritrea and Ethiopia. Some NGOs have even been accused of providing arms for the SPLM by carrying them together with relief food from as early as 1995.²²⁵ The details of the document included cessation of laying of land mines, refraining from occupation of new areas, ceasing supplying all areas with weapons and ammunition, refraining of acts of violence and abuse against the civilian population, freezing media wars and propaganda.²²⁶ After numerous violations,²²⁷ An Addendum was added which *inter alia* allowed for the establishment of a Verification and Monitoring Team, that was empowered to travel to any area where a violation was reported, and which would report to IGAD and the International community on any such violation.

In an interview with Voice of America, Sumbeiywo stated that “...the draft proposal is balanced. Khartoum negotiators have a right to suggest what they want. The international community (including the United Kingdom, Norway and the US) has agreed with me that it is fair. I am impartial and the Khartoum negotiators have acknowledged the same on many occasions.”²²⁸ In the meantime, Riak Quai, vice president of Sudan’s ruling National Congress Party asked the Arab League chief, Amr Mussa to urge mediators from the IGAD to withdraw their draft peace

²²³ Intergovernmental Authority on Development, Ceasure of Hostilities Agreement, Nairobi, Kenya, October 2002.

²²⁴ Anonymous interviews with senior SPLM/A officials, Juba, November 2008.

²²⁵ See USAID Evaluation of Title 3 Food Aid to southern Sudan, Office of the Inspector General USAID, Washington DC, 1995, pp 39.

²²⁶ Ceasure of Hostilities Agreement Op cit.

²²⁷ Francis Mully, op cit page 53.

²²⁸ Lazarus Sumbeiywo in a radio interview with Voice of America on July 13th 2003.

accord.²²⁹ There were signs that NCP would seek to undercut implementation through its use of militias, bribery and tactics of divide and rule. It actively encouraged hostility between southern groups, hoping that intra-south fighting would prove a sufficient destabiliser so that the referendum would be postponed indefinitely without NCP being blamed.²³⁰

The Egyptian government was very critical of the key features of the Machakos Protocol of 2002, which guarantees the people of Southern Sudan a self determination referendum. They stressed to the US envoy, Senator Danforth, the need for IGAD to display neutrality as it goes about mediating the Sudanese conflict. Through their foreign minister Ahmed Maher, they renewed Egyptian opposition to the secession of the South.²³¹ The BBC correspondent Nick Price wrote on July 28th 2003 that “ Egypt and Libya in particular are not pleased that their own three year peace initiative to end the civil war in Sudan appears to have been pushed aside in favor of a US plan, which plan supported the IGAD process. The Egyptians indicated their fear about the secession of the south as follows ...the separation of the Sudanese south from its north is against the core Egyptian interest, even if the Sudanese accept it. In case they decide to establish two state, one in the north and one in the south, Egypt will live in fear that Israel, America or any other may act against its interests by tampering or threatening to tamper with its rights and share of the Nile waters”.²³²

All these voices notwithstanding the process went on in Naivasha. Indeed at a particular website of justice Africa, it has been noted that the IGAD process was at this point still the only game in town, which still needed strengthening. The implementation of Senator Danforth’s confidence – building measures was also mentioned as important and needing to be accelerated and invested with more resources. Finally the website indicated that the mediators also needed to invest greater human resources in their activities to succeed.²³³ With the signing of the Machakos Protocol, the process moved on to Naivasha where the agenda was wealth sharing during the Interim period and the issue of the armies.

²²⁹ Interview of Riak Quai, vice president of Sudans ruling National Congress Party, on Agence France Presse, July 14th 2003.

²³⁰ International Crisis Group, Africa Report No. 96, 25th July 2005 pg 2.

²³¹ Interview with Egyptian Foreign Minister by Deutsche Presse-Agentur, July 16th, 2003.

²³² Majdi Muhanna, chief editor, Editorial in Egypt’s Al-Wafd newspaper in Arabic, July 29th 2003.

²³³ <http://www.justiceafrica.org/may02html>. pg 8 of 8.

4.3 The Naivasha process

This process began in September 2003, with Khartoum led by First vice president Ali Osman Mohamed Taha and the SPLM/A delegation led by the chairman of the SPLM and commander in Chief, Dr. John Garang de Mabior. Security Arrangements were resolved by allowing the existence of two armies, the SPLA in Southern Sudan and the Sudan Armed forces in the North, that were to remain separate during the six year interim period, with equal treatment as Sudanese army units.²³⁴ No other military groups were to operate in Sudan besides the two and an internationally monitored ceasefire was to come into force immediately after signing of a Comprehensive Peace Agreement.

On wealth sharing during the interim period, a quick reading of the resulting Agreement²³⁵ indicates that the two parties agreed that it was to be shared equitably to enable each level of government discharge its legal and constitutional responsibilities and duties, and that the national government was to provide transfer of revenue to the government of Southern Sudan. They also agreed on principles of regulation, management and processes of sharing wealth from subterranean natural resources. For oil for example, after payment to an oil revenue stabilization account and at least 2 percent of oil revenues allocated to oil producing states, the balance was to be split on a 50% basis between the national government of Sudan and the Government of Southern Sudan. An independent National Petroleum Commission to operate during the pre-interim period was also to be formed that would be co chaired by the presidents of both Sudan and of Southern Sudan. Furthermore, an Islamic banking system would subsist in the North and a Conventional one in the South.

During the last three rounds of the Naivasha talks, it was agreed that the peaceful resolution of the conflict in Nuba Mountains and Southern Blue Nile would form part of the Comprehensive agreement in Sudan. It was also agreed that during the interim period, the autonomous self governing regions of Nuba Mountains and Southern Blue Nile would fall under the SPLM

²³⁴ Intergovernmental Authority on Development, Security Arrangements Agreement, Naivasha, Kenya, September 2003.

²³⁵ Intergovernmental Authority on Development, Wealth Sharing Agreement, Naivasha, Kenya, January 2004.

component of the presidency.²³⁶ At this stage, there were reports that the IGAD process had made progress because of pressure exerted by the United States of America and others.²³⁷ The Comprehensive Peace Agreement was signed in Naivasha on 9th January 2005. In a one-on-one interview, Officials of the Ministry of foreign affairs for Kenya in Nairobi indicate that the IGAD Sudan Peace process was a personal initiative of the former President Moi. He was interested in it as an individual, to raise his profile as elderly statesman, but also because of the concurrent problems Kenya was facing such as large numbers of refugees and small arms into the country, which were affecting security.

4.4 Conclusion

A key issue that would have affected the mediation process was the status of the SPLM/A, which was a belligerent organization. After the Sudan Agreement, it had become clear that no peace could be attained in Sudan without the involvement of this organization. Numerous peace agreements between the Khartoum government and other organizations had been signed but none had led to peace for Sudan. Due to internationalization of the conflict, countries in the IGAD region and the Troika or friends of IGAD gave a lot of support to the IGAD process, beginning with Senator John Danforth's endorsement of the IGAD process. All these states recognized the SPLM/A as an apt representative of the people of Southern Sudan, thereby eliminating this hurdle.

The Friends of IGAD provided funding as well as technical expertise for the process. When talks failed, there were processes that went on outside the mediation processes such as support of various sides with arms, increased economic sanctions, and pressure from the international community which brought the parties round.

Over the past two decades, there have been numerous attempts to end civil wars in Africa through mediation. Most of the mediation initiatives were unsuccessful, with one or more of the Protagonists spurning negotiations, being unwilling or unable to reach a settlement in the course

²³⁶ Francis Mulu op cit pg 56-57.

²³⁷ New African Magazine, Sudan Peace in our time? January 2004 No. 425.

of mediation or subsequently violating the terms of a peace agreement. These include numerous processes aimed at resolving the Sudan conflict. The factors that might account for the failure in each case include the history, nature and causes of the conflict; the goals and conduct of the disputants; the role of foreign powers and neighboring states; and the style and methods of the mediator.²³⁸

The main argument is that the key to effective mediation lies in understanding, managing and Transforming the 'psycho-political dynamics' of conflict which make adversaries resistant to Negotiations. IGAD as the mediating body in the Sudan peace process appears to have managed to do this.²³⁹

²³⁸ Nathan Laurie, *When Push Comes To Shove; The failure of International Mediation in African Civil Wars*, Track 2, Vol 8, No. 2 of November 1999, Centre for Conflict Resolution (CCR) Cape Town, pp 1-2.

²³⁹ *Ibid* Nathan Laurie, pp 1-2, 1999.

CHAPTER FIVE – A critical Analysis of the IGAD Mediation of the Sudan Conflict

5.0 Introduction

Chapter five is a critical analysis of the peace process in Sudan as implemented by IGAD. While Chapter 4 pulled out key factors that could have led to the success of the IGAD process, this chapter puts them in perspective.

5.1 The sub regional events leading up to IGAD involvement in the peace process in Sudan

The Inter governmental Authority on Drought and Development IGADD was established in 1986 with a view to promoting a coordinated approach to the regions common problems. It had a narrow initial focus, but by 1994, the members realized that the developmental problems of the region extended beyond the consequences of drought and within the same year, it begun involvement in attempts to help resolve Sudan's protracted war. As a result of this involvement, an extraordinary summit was convened in Addis Ababa in 1995 to discuss ways to revitalize the organization and expand its activities into related spheres. Finally in 1996, another extraordinary summit in Nairobi decided to reconstitute the organization as IGAD, with the signing of an amended charter. This included the establishment of the IGAD conflict early warning and response mechanism (CEWARN)ⁱ Mwagiru states that in the operation of this mechanism, it has been realized that states alone cannot establish security, and that the communities in the region have a role to play. Chief in this is the realization that globalization and its effects have changed the meaning or definition of security, which must now include other aspects such as optimum gender, environment and health status among other things. It must also be noted that it is now a widely recognized fact that the IGAD region is one of the most severely affected area in terms of generation of refugees and the attendant problems of insecurity.²⁴⁰

Sub-regional organizations have also had to redefine their roles to address issues of security.²⁴¹ Intermeshing of economies and shared interests in regional stability has meant that security has become a collective problem, which can only be managed if there is a shared

²⁴⁰Cynthia Macharia, "Post Cold war challenges of the Protection of refugees: A case study of the Horn of Africa" (MA dissertation, Institute of Diplomacy and international Studies, University of Nairobi, 1998).

²⁴¹ Makumi Mwagiru, towards a Security Architecture in the IGAD region, in African Regional Security in the Age of globalization, Makumi Mwagiru (ed), Heinrich Boll Foundation, (2004) Chapter 11, page133-145.

perception of insecurity and mobilization of joint resources towards collective security management²⁴² as IGAD was relaunched in Djibouti in November 1996. Three priority areas were identified, namely: Conflict Prevention, Conflict Management and Resolution and Humanitarian affairs; Infrastructure (Transport and Communications) Development; and Food Security and Environment, with particular emphasis on reactivating peace and security initiatives in Southern Sudan and Somalia.²⁴³

According to John Koech, Some key characteristics of the IGAD region can be isolated. First of all, the members of IGAD form what can be called the Greater Horn of Africa, a region prone to occasional drought and therefore relies heavily on pastoral economy and irrigation-fed Agriculture. Secondly, Ethiopia and Uganda are catchment areas for the Nile, which raises issues of water rights, which are an issue of high politics regionally. Thirdly, the concept of failed states has been practically manifested in the Horn of Africa, such as the case of Somalia and finally, the IGAD region comprises countries with marginal economic growth characterized by low industrialization as well as resource-based, political, religious and ethnic conflicts.²⁴⁴

Apart from globalization, security issues and the status of the IGAD region and of IGAD itself, another factor that needs to be emphasized is the end of the Cold War, in 1989.²⁴⁵ While the Cold War period saw Africa's place in the Western agenda determined by geopolitical considerations, with interests in the region ebbing and flowing with shifts in perceptions of potential impact of African events on the global interests of the West and Soviet Union,²⁴⁶ following the end of the Cold War, it was no longer easy to attach strong geostrategic interest to Africa, resulting in the west viewing Africa as littered with economic stagnation and political instability informed by nationality, racial, class and religious conflict.²⁴⁷ The response of African states has been establishment of Sub-regional frameworks to ensure economic development and political

²⁴² John Koech, Emerging challenges of Security in IGAD, in African Regional Security in the age of globalization, Makumi Mwagiru (Ed) Heinrich Boll foundation (2004), Chapter 10 page 129.

²⁴³ IGAD website.

²⁴⁴ John Koech, Emerging challenges of Security in IGAD, in African Regional Security in the Age of globalization, Makumi Mwagiru(Ed), Heinrich Boll foundation (2004) chapter 10, pages 125 to 132.

²⁴⁵ See Francis Fukuyama, The End of History, The National Interest (Summer 1989).

²⁴⁶ M. Clough, Free at last: US policy towards Africa and the end of the cold war (New York; Council on Foreign Relations Press, 1992) pp. 5-13.

²⁴⁷ P.H. Baker, Africa in the New World Order, SAIS Review, 10, no 2, Summer/Autumn, 1991/1993: (139-152).

solidarity and in order for them to exploit interdependence: having realized that collective regional activities give individual states a greater competitive edge.²⁴⁸ This and the UNs endorsement of regional initiatives and American endorsement of the IGAD process appear to have been the most powerful factors leading to the involvement of IGAD.

5.2 The IGAD Mediation Process and past Mediation Processes: A Comparative Analysis`

It is important to note that the Sudan Conflict has attracted external mediation interest even in the post Cold War period. American initiatives are the most visible, with the Cohen initiative addressing the primary conflict between the SPLM/A and the government of Sudan while the Johnston initiative addressed the secondary one among southern factions, aiming at reconciliation.²⁴⁹

The history of exclusion of southern Sudan in important political and other matters by the colonial powers left a legacy of low self esteem amongst southerners and high self esteem amongst Northerners.²⁵⁰ The Northerners seemed to think that Sudan was theirs, power was theirs and they could do what they wanted as can be ascertained from their reactions to various southern reactions to their attitude and behavior. This led to several reactions by southerners, the most serious of which was the south going to war against the North.

In 1954, the Juba conference was the beginning of Southern attempts to get their voice heard. Though nothing much came of the recommendations of this conference mainly because it was a mainly south to south affair, it did document Southern perceptions about Northern governance. The Juba conference failed to deal with the underlying causes of the conflict between the North and the South, such as ethnicity, unequal distribution of resources, religious and other discrimination and total lack of development initiatives in the South. Furthermore, the Southerners had no say in the governance issues. As early as 1954, Southerners had begun to feel that the solution lay in their ability to govern themselves.

²⁴⁸ Okoth Godfrey P., Regional Institutional responses to Security in the era of globalization, in African regional security in the age of globalization, Makumi Mwangi (ed) Heinrich Boll foundation (2004).

²⁴⁹ Odera op cit, pg 468.

²⁵⁰ See Douglas Johnson Op cit, chapter 1.

Early efforts by state actors erupted due to internationalization of the Conflict. Milton Obote it is said tried to mediate the conflict because it produced refugees²⁵¹ that were a burden on his poor struggling country, while Kwame Nkrumah, a Pan Africanist, hearing about this through the media tried in the spirit of his beliefs to mediate the conflict. However, both attempts failed because Sudan was able to call into play its sovereignty citing the fact that the conflict was one within its borders.²⁵² NGOs also failed in the major scheme of things to become legitimate front line mediators, because they did not have negotiating power beyond their own organizations when they ran into problems as mediators. They however played an important role in the peace processes.²⁵³

Due to Southern initiatives to alert the North to their discomfort with the situation, the North called a roundtable conference in 1965, whose conclusions were never implemented leading to the formation of Anyanya I.

Furthermore, the Juba conference was the first time that observers from outside Sudan were involved and engaged in a mediation effort of this conflict.²⁵⁴ When the Juba conference recommendations were not implemented, the Southerners went to war as the Anyanya I. Thus the southerners had learnt early that going to war would bring the Northern parties to the negotiating table. It did make Nimeiri agree to negotiate the Addis Ababa Agreement.²⁵⁵ As a lesson learnt for IGAD, cessation of hostilities and detailed security arrangements later formed a major part of its various protocols and agreements, including the final Comprehensive peace Agreement, sometimes as an addendum. Secondly, the IGAD negotiations would go on despite and during periods of fighting between the North and south as well as during intra south and intra north conflicts. There seemed to be a realization that the parties resorted to war to gain leverage rather than as an end in itself and the mediators seized opportunities for ripe moments throughout the conflict.

²⁵¹ Mullu Francis (2008) op cit.

²⁵² O Balance E (1977) op cit.

²⁵³ See Assefa H, op cit.

²⁵⁴ Mullu Francis (2008) op cit.

²⁵⁵ Odera, op cit.

The Addis Ababa Agreement identified Self Rule, a system of self governance, development of a civil service, prison and police and participation in governance structures as key issues that the southerners were wont to fight for.²⁵⁶ These would later form part and parcel of the IGAD negotiation agenda as key areas for negotiation. The Collapse of the Addis Ababa Agreement was informed by various issues including lack of funding for its implementation, personal leadership problems of Numeiri, and the final abrogation was the result of the discovery of oil in an area that was previously been demarcated as being part of Southern Sudan as at 1st January 1956.²⁵⁷ The Addis Ababa Agreement also collapsed due to lack of funds, because the south was denied economic power and resources to develop.²⁵⁸ The Addis Ababa process was also a process that included many other parties including Emperor Haile Selassie, church leaders and NGOs. For the first time, the personal interests of a key mediator came into play into a mediation process because Haile Selassie supported the process in the context of unity so that a precedent for Eritrean secession would not be set.²⁵⁹

The Addis Ababa Agreement had no external monitoring systems and depended on the good will of an individual, Nimeiri for its implementation. This is evident from the discomfort of the Muslim brotherhood over the Agreement, later leading to his overthrow.²⁶⁰ This is also said to have been another factor leading to its abrogation. Following the abrogation of the Addis Ababa Agreement and the takeover of power in Sudan by hard line Islamists, there was a shift by the Khartoum government. They wanted to remove the prying eyes of the rest of the world from the Sudan conflict and try internal mediation. So the Koka Dam declaration of 1986 was a Sudanese affair, encouraged by Egypt and supported by the army. But the Islamists decided to declare the conflict a Jihad in 1992 and lock out the recommendations of the Koka Dam declaration.

The army was however opposed to continuation of war supporting the Sudanese Peace initiative which was endorsed in 1989, leading to yet another coup by hardline Islamists and scattering the process.²⁶¹ The Sudanese Peace initiative included freezing aspects of sharia law in the South

²⁵⁶ See the Addis Ababa Agreement of 1972.

²⁵⁷ Badal R. (1994) op cit.

²⁵⁸ See Nyaba P. A. (1997) op cit.

²⁵⁹ See Rothschild d (1977) op cit.

²⁶⁰ See Harir S (1994) Op cit

²⁶¹ See Wondu and Lesch op cit.

until a constitutional conference was held, ceasefire, and lifting of the state of emergency, all of which later became pillars of the Comprehensive Peace Agreement.²⁶² The national dialogue was an initiative of the Khartoum government that was very pro-Islam and in which the SPLM/A were invited at the last minute.²⁶³ This report though tabled as part of the Abuja conference was debated but not adopted because it was one sided.²⁶⁴ As a lesson learnt, the Comprehensive Peace Agreement ensures freedom of religion and does not enforce a compulsory following of Islam in the South.

The Frankfurt Agreement of 1992, the Political Charter of 1996 and the Sudan Peace Agreement of 1997, were all one sided agreements between factions from the South and the Khartoum government. None included the SPLM/A proper. All of them were initiated and signed while the IGAD process was ongoing, and were all seemingly a result of splitting of southern factions, which left some factions without economic and military strength, or at least stopped partnering with the Khartoum government.

Another set of initiatives that ran parallel to the IGAD initiative included the Jimmy Carter Initiative of 1989, the Cohen Initiative of 1989 and the Johnstone Initiative of 1993. The Jimmy Carter initiative missed the mark, and failed to bring to the table, the primary actors and issues. It mistakenly linked the Ethiopian –Eritrean war to the north south conflict in Sudan, leaving out other aspects and failing to deal with underlying causes of the conflict as part of its agenda²⁶⁵. The IGAD initiative included on its agenda, key contentious issues that had been raised by both the South and the North from the beginning including religion, self governance, self determination, wealth sharing and interim period arrangements..²⁶⁶

The Cohen Initiative started off with an invitation from the Khartoum government. The key issue was American clamor for cessation of hostilities or a ceasefire, with foreign monitoring which the Khartoum government again declined. The initiative ended when the USA later withdrew of its own accord due to various ideological and political reasons, leaving great doubt as to the

²⁶² Comprehensive Peace Agreement of 2005.

²⁶³ Minutes of the Abuja Conference.

²⁶⁴ Minutes of the Abuja Conference.

²⁶⁵ See Mullu Francis (2008)Op cit.

²⁶⁶ See Comprehensive Peace Agreement.

seriousness of the mediator. It also clearly showed that for the process to succeed, the process needed to be sustained.

The Johnstone initiative was a spontaneous attempt by the chair of the US congressional house foreign relations committee on Africa to reconcile warring southern factions, namely Riek Machar's and Garang.²⁶⁷ This initiative seems to have failed because Johnstone did not have knowledge of the intricacies of regional reconciliation processes and systems and the deeper issues underlying the warring between the two factions.²⁶⁸

As seen in chapter three before, The Abuja process was requested by Bashir. It occurred at a time when SPLM/A was making great inroads in the fighting. Bashir chose General Babangida of Nigeria because he wanted the involvement of a partial mediator, whose own country had the same mix of Muslims, Christians and animists, whose countries had undergone similar threat of secession and survived it. The situation changed to the advantage of the Khartoum government in the middle of the process and they refused SPLM/A attempts to discuss separation of state and religion. They also refused external safeguards to safeguard the agreement. Despite the mediators reporting to the OAU it was not even discussed at the OAU summit. This again raised the issue of having a body that would sustain the process through its ups and downs. The weakness of the Abuja process was laid bare, including the fact that it was a Track One initiative with no strong power base, due to the fact that it was the child of a weak state.²⁶⁹

Though parties agreed to Abuja II, there were no international observers so the Mediators acted as both mediators and observers. There was no agreement on religion, separation of state, interim agreements and finally, Bashir who had requested the talks declined to meet the mediators. It appears that the mediators would have to be persons supported by powers that were strong and of which the parties, particularly Khartoum was fearful.

²⁶⁷ The Washington Declaration of 22nd October 1993.

²⁶⁸ See Josephine Odera *op cit*.

²⁶⁹ Nigeria is a weak state because it lacked real power and hegemony as well as back up of a more important political power. They too are members of the OAU and were subject to the OAU (Now AU) rule on post colonial borders in Africa.

5.3A critical Analysis of the IGAD mediation process in Sudan

The IGAD process was able to go beyond this aspect due to international and regional pressure and recognition within the international system, including the UN which legitimized its actions. It was also strengthened by involvement of NGOs and state actors in form of support provided in form of capacity building for various factions particularly the southern representatives to the negotiation, as well as identification of resource persons for the various seminars and conferences that were used in the IGAD process. Furthermore, attitude had changed at this time about the so called sovereignty of nations.

As a lesson learnt, the IGAD peace process always included other parties as fellow mediators and observers, including the UN, the AU, and friends of IGAD. Secondly, Sumbeiywo used his power as a chief mediator supported by the US as a super power to lock out parties who seemed to want to influence the outcome for their own benefit, while not always being involved from the beginning.²⁷⁰

The IGAD peace process recognized the SPLM/A and the Khartoum government as key partners in the mediation of the Sudan Conflict. By the time the Comprehensive Peace Agreement was being signed, most of the splinter southern factions had rejoined the SPLM/A on the negotiating table as one side.

The IGAD initiative was sustained for a period of about 11 years before the final peace agreement was signed with many breaks in between and a lot of back and forth negotiations going on during the breaks.²⁷¹ Sustenance of the IGAD peace process was a key factor to its positive conclusion, it seemed. Management of a protracted conflict follows the long path taken in the development of the conflict, and means each and every stage has to be undone. It takes a long time and the mediator's patience is hence a virtue²⁷².

²⁷⁰ See Waithaka Waihenya, op cit.: Muga E., Confirmed by Interview with Major General Lazarus Sumbeiywo, Nairobi January 2009.

²⁷¹ See Waithaka Waihenya, (2006) op cit: Muga, E., Confirmed by Interview with Major General Lazarus Sumbeiywo, Nairobi, January 2009.

²⁷² Muga E., Interview with Chris Abongo, PHD, Associate Lecturer at University of Nairobi School of Environmental Law.

The IGAD initiative was composed of a mediator who was a soldier like the chief negotiators for both sides and included a team who was from the region with a clear understanding of the issues behind the conflict between the southern factions, as well as clear knowledge of the contentious issues. He was also working with a team composed of regional and international experts.²⁷³

A lesson learnt out of this by IGAD was the wealth sharing clauses within the comprehensive peace Agreement which ensured that the South was allocated resources and allowed to collect taxes in order to run their state government.²⁷⁴ IGAD also sought separate funding for the IGAD Sudan Mediation Secretariat. It was also a mediation initiative formalized through a regional organization and not at the mercy of a single political ruler.

The various North south initiatives brought into play propensity for Southern politicians to have personality and ideological clashes, which IGAD also had to contend with in future, while also portraying a North united by Islam.²⁷⁵ By the time the IGAD mediation process was taking off, and also during the said IGAD mediation, clashes between the various Southern factions had played up to include intra south fighting and then cooled off again, with parties realizing they could not effectively come up with a working peace agreement without joining forces, and the majority was back on the negotiating table as one side. Religion had also become an issue in the mediation of the Sudan peace process with the declaration of the conflict as a Jihad in 1992.

Senator Danforth, President Bush, Collin Powell and Ranenberger all supported Sumbeiywo and the IGAD process. Although talks frequently broke down during the IGAD peace process, the mediator was more or less impartial, as he came from a state and background that was not directly seen to be involved in the conflict, and was engaged by both regional and international powers. The personality of the mediator was still important but did not form a basis for the continuation of the IGAD peace process because it was based on a secretariat and renewed mandate by the IGAD summit, supported by the international community. Officials from the Kenyan Ministry of Foreign Affairs formed part of his staff, as indicated in chapter four of this study.

²⁷³ See Waithaka Waihenya (2006) op cit.

²⁷⁴ Comprehensive Peace Agreement of 2005.

²⁷⁵ See Collins RO (1975:83) op cit.

Senator John Danforth's attempts were key in lending credence to the IGAD process. Apart from raising issues that were important to the United States, such as humanitarian assistance to the southern Sudanese civilians and an end to slavery, he concurred with IGAD that wealth sharing, particularly of the oil, self determination, religion, governance issues, and both internal and external guarantees of enforcement were important.²⁷⁶ There had been no similar outright support for any of the other peace processes, meaning that the support of America lent credence to the peace process.

5.4 Track One I and Track Two initiatives - welding them together

Although IGAD is termed a track one initiative, and even though it pursued this form of mediation as a single exercise, and did not weld it to any track two initiative, IGAD inherited many advantages from track two initiatives. The mediation is said to have taken a classical bargaining format, achieving trade-offs between the Khartoum government and the SPLA. There was a Summit of Heads of States followed by negotiations on details between officials.²⁷⁷ MCF and the Quakers for example trained members of the Southern Sudanese factions on negotiation processes, while the South to South initiatives of the churches and grassroots initiatives empowered the constituents of the southern faction, leading to their giving a new mandate to their leaders. These track two processes therefore gave constituents and members of the Southern factions' greater knowledge about the whole process and their rights in the whole exercise. In between track one mediation processes, when there was a deadlock or impasse, the mediators in the IGAD process found ripe moments to approach the parties separately and bring them back to the table. Most of these occasions meant using track two initiatives to get the parties on both sides to listen.

Another important aspect is that despite being a track one initiative, that is best suited to dealing with issues rather than ideals, the IGAD peace process captured the ideals as well. It managed through the track 1 processes to bargain and trade off on issues of self determination, or a promise of the same, through a referendum process , separation of religion and state for the

²⁷⁶ See Danforth report op cit.

²⁷⁷ Mwangi, M, the Greater Horn of Africa, Conflict System Conflict Patterns, Strategies and Management Practices, paper prepared for the USAID project on conflict and conflict management in the greater horn of Africa, April 1997, Revised September 1997.

South, and reprieve for non-Muslims in the North, while also giving very detailed documents on the issues of governance, wealth sharing and security arrangements.

Because of the nature of the IGAD Sudan peace process, which is a regional interstate exercise, it was one of the first conflict mediation exercises that saw the conflict as a problem of the entire conflict system. The interests of all the actors were catered for due to its state-centric nature.²⁷⁸ Even when conflict between member states or amongst the mediators erupted, the process allowed for reconciliation and a continuation of the mediation process.

5.5 Challenges faced by the IGAD mediation team and their partners and the effects of these on the Comprehensive peace Agreement of 2005

The IGAD region is composed of countries with a low development index, most of who are subject to drought and have low GDP. Though the heads of the summit formed a secretariat, funding was an issue from the beginning and the mediator had to find a way of attracting funding from donors. One way of doing this was to allow many different parties, including the Friends of IGAD, the United Nations and the African Union to participate. Resource persons for the various activities during the peace talks like seminars and so on were sourced from many different countries and different international NGOs and faith based organizations. Funding was not forthcoming without cessation of hostilities in Sudan.²⁷⁹

Initial distrust of the IGAD process was a major factor. During the period during which the Machakos protocol was signed Egyptian representatives, Khartoum and Senator Danforth both made remarks in the media and through communication questioning the impartiality of the mediator, Elijah Sumbeiywo.²⁸⁰

The American factor was an important consideration. Following the collapse of the Soviet Union, there was a new world order and the USA became the sole super power. This event happened any time between 1989 to 1991 depending on the scholar and therefore is more of a

²⁷⁸ Ibid page 19.

²⁷⁹ Mulu Francis Op cit page 63: Confirmed by interview with Major General Lazarus Sumbeiywo, Nairobi, January 2009.

²⁸⁰ Media reports op cit.

process than an event.²⁸¹ Mohammed is of the opinion that Khartoum agreed to the IGAD process in late 1993 due to concern about a possible US intervention in the country. Herman Cohen had recommended inclusion of Sudan on a list of sponsors of terrorism and the UN working with the USA had put Sudan on a special Rapporteur status due to its human rights record.²⁸²

Furthermore, US engagement in Sudan increased from President Clinton's Executive order of November 1997, which imposed comprehensive trade and economic sanctions. It moved to the early 2000 US legislation banning any company from doing business in Sudan's oil industry from participating in the US capital markets. It then proceeded on to the Sudan Peace Act of October 2002, which stipulated further sanctions if the Sudanese government was found not to be participating in peace processes in good faith.²⁸³

Francis Kornegay concludes that collectively, these measures by the most powerful country in the world sent a powerful message to the Khartoum government to end the war.²⁸⁴ The Sudan Peace Act authorized the president to provide increased assistance to areas of Sudan not controlled by Khartoum to prepare the population for peace and democratic governance inter alia.²⁸⁵ The problem of having them on board was that the Americans once they committed to support the IGAD mediation process wanted to micro manage it, including wanting the document to be exchanged in the White House.²⁸⁶

The ongoing intra-south conflicts between the Southern Sudanese parties as well as diplomatic rows amongst the constituent countries of IGAD were another factor. IGAD chose to deal with SPLM/A as it seemed to be the strongest and with the largest following. Experience had shown

²⁸¹ Mullu Francis Op cit page 59. Muga E., Confirmed by Interview with Major General Lazarus Sumbeiywo, Nairobi, January 2009.

²⁸² Mohammed H.A. Hamad, IGAD's Trojan horse: Containing Sudan's Regional Ambitions, paper presented at the 22nd Annual Meeting of Sudan Studies Association, Georgetown University, USA 31/07-04/08/2003.

²⁸³ African Security Analysis Programme, The Sudan-IGAD Peace Process: Signposts for the way forward, Occasional paper 86, March 2004.

²⁸⁴ Kornegay, Francis A. Regional and International Implications of the Sudanese Peace Agreement,' in Adar K. G. et al (Eds) Sudan Peace process: Challenges and future prospects; Pretoria: Africa Institute of South Africa (2004) pp 59-67.

²⁸⁵ Waithaka Waihenya (2006) op cit pg. 89: Muga E., Clarified by interview with Major Lazarus Sumbeiywo in Nairobi, January 2009.

²⁸⁶ Ibid pages 138,90 and 91.

that any agreement signed by any faction apart from SPLM/A or any faction apart from Bashir's party would not succeed as can be seen from the Frankfurt Agreement, the Sudan Peace Agreement and other internal attempts at resolving the conflict. This would later be a cause for criticism of Sumbeiywo as mediator and the peace process generally.²⁸⁷ Furthermore, IGAD sustained the process through the turbulent times, despite the fact that regional initiatives at the time lacked the capacity to deal with these other erupting diplomatic rows. Somehow, these were dealt with in the course of the process allowing the mediation process to continue.

Ongoing fighting on the ground was another factor. In between the various phases of the IGAD peace process, severe fighting on the ground continued sometimes leading to various factions withdrawing from the talks. During Machakos II for example, the Khartoum faction withdrew because SPLM/A had captured Torit and in the process some key persons who were very close to Bashir passed away in the fighting.²⁸⁸ This precipitated negotiations with each side outside the IGAD process, to bring the parties back to the table.

Johnny-come-latelys and clamor to be part of the process were another problem. Once the Declaration of Principles was signed, many parties who had not shown any interest before clamored to be allowed to take part in the peace process. The chief mediator feared they would derail the process and therefore only invited the United Nations, the African Union and Friends of IGAD to the process.²⁸⁹

Perceptions of the process, such as lack of Inclusiveness of the IGAD process- making it look like it was not a Kenyan exercise was at times difficult. The mediator circumvented this by inviting a team of mediators and observers from many different countries. This inclusiveness

²⁸⁷ See Waithaka Waihenya (2006) op cit Muga E., Confirmed by Interview with Major General Lazarus Sumbeiywo, Nairobi, January 2009.

²⁸⁸ Mullu Francis Op cit.: Muga E., Interview with Tiberious Bara, and Agnes Wajaras, NPA staff from the civil society development program, Agnes Wajaras is one of a group known as Shamsidin's widows. Her husband was arrested and tortured by Shamsidin for being a dissident opposing Khartoum rule in the course of the Civil war. Shamsidin was a right hand man of Bashir killed in a fatal plane crash, when a grenade was set off by Arok, an SPLM intelligence officer captured to be taken to Khartoum.

²⁸⁹ See Waithaka Waihenya (2006) op cit. Muga E., Confirmed in interview with Major General Lazarus Sumbeiywo in Nairobi, January 2009.

made everyone feel party to the process.²⁹⁰ Officials of the Ministry of foreign affairs have indicated that this conclusion was unfair because the IGAD Sudan peace process was instituted at a time when President Moi was chair of the IGAD summit, and because he expressed an interest in the mediation process. Furthermore, he obtained the mandate of the Summit of heads of state to appoint a mediator.

Regional pressure on the two parties was another factor that contributed to challenges faced by the IGAD mediation team. The conflict had a spillover effect on the countries in the region due to movement of refugees and asylum seekers, proliferation of small arms leading to insecurity. Therefore, in response to what was seen as security and Islamist threat to their sovereignty, Ethiopia, Eritrea and Uganda stepped up military assistance to SPLM/A and by 1995, were sending their armed forces into Sudan.²⁹¹ Africa Confidential reports state that by June 1995, Eritrea reacted to Sudan's support of Eritrean Islamic Jihad by affirming its support to the National Democratic Alliance, an opposition outfit opposed to Khartoum.²⁹²

Uganda and Sudan share a common border with common communities found across both borders, which all feel marginalized by their respective capitals, and in April 1995, Uganda severed diplomatic ties with Sudan over Sudan's refusal to hand over a cache of weapons presumed to belong to the Lord's Resistance Army, which was fighting the Kampala government, leading to a 17 month break in diplomatic ties.²⁹³ Regional isolation and military support of neighboring countries to SPLM/A leading to victories in the field forced Khartoum in 1997 to accept the Declaration of Principles which it had rejected in 1994, and which affirmed the right to self-determination for the south.

²⁹⁰ Waithaka Waihenya op cit: Muga E., Confirmed in interview with Major General Lazarus Sumbeiywo in Nairobi in January 2009.

²⁹¹ Mullu Francis Op cit.: Muga E. Confirmed in interview with Major General Lazarus Sumbeiywo in Nairobi in January 2009.

²⁹² Africa Confidential, 1995, 36(4), p. 8.

²⁹³ Mullu, Francis op cit pg 64: see also Beshir M.O. The Southern Sudan Background to the Conflict, London Hurst, 1968, p.6.

On the other hand, in May 1998, when the Ethiopian –Eritrean war broke out, and the Ugandan government begun engagement in the Democratic Republic of Congo war²⁹⁴, regional pressure on Khartoum diminished and the IGAD peace process at Lake Bogoria in Kenya collapsed in October 2000, leading to Khartoum withdrawing in 2001.²⁹⁵ Mulu opines that it was the end of the Ethiopia Eritrea war and the withdrawal of Uganda from the DRC that brought more regional pressure on Khartoum making them go back to the negotiating table.

The Kenyan elections of 2002 would have been another regional factor. As the elections approached, IGAD peace negotiations were halted, as President Moi, who as chair of the IGAD summit had appointed Lazarus Sumbeiywo as chief mediator and Sumbeiywo paid a visit to the USA seeking support for the continuation of Sumbeiywo as a mediator.²⁹⁶ This was granted and Sumbeiywo continued as chief mediator after the Kenyan election of December 2000, when Moi's Kenya African National Union ANU lost to the National Rainbow Coalition. This slowed down continuation of the process, at least for a while.

Total lack of regional or IGAD strategy on security and conflict was a major factor. Because IGAD as a whole lacks a security policy or strategy, the mediator did not have a fallback position and had to deal with issues as they arose. The importance of an IGAD security strategy has been stressed by various scholars.²⁹⁷ Regional countries lacked any form of leverage to bring the parties together apart from military support to the SPLM/A. There were no mechanisms within IGAD to compel parties to negotiate.²⁹⁸

Intra-North issues were also a factor. In the course of the IGAD mediation process, government changed many times, in most cases due to a fear by the core Islamist wing of the Northern government of secession of the South, preferring to pursue a military option, particularly in light of increased oil revenue. Reports kept coming in of the Government of Sudan purchasing

²⁹⁴ International Crisis Group (ICG), *God, Oil and Country: Changing the Logic of War in Sudan*, ICG report no., 39, Brussels, 2002, P.156.

²⁹⁵ Daily Nation, Nairobi Kenya, 5th October 2000.

²⁹⁶ See Waithaka Waihenya (2006) op cit: Muga E., Confirmed in interview with Major General Lazarus Sumbeiywo, Nairobi, January 2009.

²⁹⁷ See Makumi Mwangi, *African regional security in the age of globalization: and Ulf Terlinden* op cit.

²⁹⁸ Mulu Francis op cit pg.66 : Muga E., Confirmed in Interview with Major General Lazarus Sumbeiywo

sophisticated weapons systems and expanding domestic weapons production.²⁹⁹ IRIN reports indicated that Furthermore, the North was increasingly divided, with the traditional UMMA and Democratic Unionist Party (DUP) splintering and remaining outside the peace process while Eritrean support for the National Democratic Alliance (NDA) demonstrated pitfalls if northern groups opposing the government of Sudan were to remain outside the peace process. NDA for example was unhappy that the SPLA/M unilaterally signed acceptance of Sharia in the North. Rebellion in Darfur in early 2003 was also a factor because most of the Sudanese army was composed of African Muslims from Darfur.³⁰⁰ All in all, it was mostly external factors that affected the IGAD mediation process as a whole though intra party factors also affected the process. The pull of the external factors won the day.

²⁹⁹ Stratfor, Sudan and Russia Forging New Ties Around Oil and Arms, January 22nd 2002.

³⁰⁰ Ceasefire reportedly breaks down in Darfur, March 20, 2003. UN Integrated Regional Information Networks.

CHAPTER SIX - Conclusions and Observations

6.0 Introduction

Chapter six is the final chapter of the study. The study was designed to examine the issue of mediation by sub regional organizations in the process of conflict resolution. The study also set out to explore the machinations of sub regional organizations using mediation as a conflict management mechanism in a long-drawn and complex African conflict. The study used the IGAD mediation of the Sudan conflict as a case study. It set out to ascertain how and to what extent the intrigues within IGAD influenced the mediation processes.

The main objectives included: Comparing the IGAD mediation process with previous processes in Sudan: Critically analyzing the theoretical frameworks within which the IGAD mediation process was carried out and finally: Identifying challenges faced by the IGAD mediation team and their partners and the effects of these on the Comprehensive Agreement of 2005. Chapter five laid out the major hurdles faced by IGAD in the mediation of the Sudan conflict and set out the ripe moment that allowed the success of the IGAD mediation of the Sudan Conflict. Chapter six will therefore derive conclusions about the success of the IGAD mediation process based on the findings in previous chapters, particularly chapter five of the study.

6.1 CONCLUSIONS

The end of the cold war saw a decline in strategic interest of African countries to the superpowers specifically and the West in general. Shortly after the end of the cold war, breakdown of law and order led to interventions by multilateral military and humanitarian forces.

Fouad Ajami states that:

‘...The cruel calculus of sovereignty versus misery has changed the way the international community thinks about foreign intervention and the rights of states. In the face of an absolutist doctrine of the rights of nations, there is now a tentative right to interfere. Man cannot eat sovereignty, we have learnt: the order within nations is just as important as that among them.’³⁰¹

³⁰¹ Fouad Ajami, 'Somalis: The work of order and mercy: US News and World Report, December 21, 1992, pg 25.

Furthermore, the principles within the Kampala document produced by the OAU in 1992 required that new institutions, mechanisms and instruments be put in place both regionally in Africa and globally to meet challenges of regional security.³⁰² These initiatives would be in line with UN secretary general Boutros Gali's Agenda for peace as well as closely related Agenda for Development. IGAD was given the go ahead to engage in regional mediation processes.

Others like Zartman felt that the newness of African political systems and the early stage of their political development account for much of the conflict within and among African States. He also points out that unlike in earlier decades of Independence; non African states now have much less interest in intervening in African conflicts. The task falls now with regional and sub-regional organizations of African states themselves, yet the circle of insecurity closes on them, too, since they are manned by the same vulnerable states. External powers have been involved in African state rivalries because weak African states sought to borrow power from outside, particularly during the cold war.³⁰³ At present, therefore, African mediation tends to come from heads of neighboring states and current AU presidents³⁰⁴ as was the case with the Sudan conflict. African states have therefore been active in trying a number of collective mechanisms for providing conflict management and security. The IGAD process was one of the first to be legitimized and formalized by the auspices of a sub-regional organization.

African states were born under the OAU doctrine of *Uti possedetis juris*, which declared boundaries inherited from colonial rules inviolable. In some cases however, African criteria of geography, ethnic unity and even history could be evoked to challenge colonial inheritance while more recently, new situations, notably offshore oil deposits, require new boundaries.³⁰⁵ Many secession attempts were declared illegitimate by the OAU doctrine apart from Eritrea, which was unique because, Secession occurred by referendum agreed to by the government of the larger unit, which is Ethiopia and secondly that secession occurred along colonial lines, thus

³⁰² African Leadership Forum, The Kampala Document: Towards a Conference on Security: Stability, Development and cooperation (New York: African Leadership forum, 1992) p. 9.

³⁰³ I. William Zartman, African Regional security and changing patterns of relations, in Keller E.J. and Rothchild, D.(eds), Africa in the new International Order, Rethinking state sovereignty and Regional security, (1996) pp52-53

³⁰⁴ I. William Zartman, 'Mediation in Africa' in Barbeson John and Rothchild D. eds, African in world politics 2d ed, (Boulder Colo.; Westview 1994).

³⁰⁵ See discussion in I. William Zartman, International Relations in the New Africa, 2d. ed.(Lanham, Md: University Press of America, 1989) chapter 3.

conforming to the OAU doctrine.³⁰⁶ For Southern Sudan, there did exist a separate status under the common colonizer, Britain, before independence. It would fit into the first Eritrean condition if Khartoum agrees to secession, like it appears to have done with the signing of the Comprehensive Peace Agreement of 2005.³⁰⁷

6.2 General observations

This section will be done in line with the hypotheses that were first introduced at the beginning of the thesis, and thereafter any other informal observations:

- IGAD provided a forum for a wider and more comprehensive variety of stakeholders to engage in the Sudan peace process as compared to previous peace processes despite its nature as a state membership organization.

The study concludes that this hypothesis is true. IGAD is a regional state-centric institution. It was one of the first organizations to adopt a mediation process that took into account the entire conflict system. The interests of all the states in the conflict system, whose epicenter was now Sudan was addressed, because they all participated in the heads of summit meetings and gave mandate for the mediation process to commence. Furthermore, some of the initiatives that IGAD allowed fall within the theory of empowerment, such as the use of capacity building workshops and discussions in the course of the negotiations to allow the different factions understand the processes better allowed for indirect involvement of NGOs, churches, academics and consultants. In this way, non-state actors and constituents were involved in the process. However, IGAD still pursued formal Track One mediation as a sole strategy. The mediation team was composed of participants from constituent member states of IGAD.

- The power framework of mediation was unsuitable for IGAD because mediators, be they individual or countries who and which in the African context do not usually independently possess the actual power to implement their functions but it succeeded because it involved other state and non state parties to partake in the process.

³⁰⁶ Zartman William I. *Supra*, pg 55.

³⁰⁷ Niblock Tim, *Class and Power in the Sudan*, (Binghamton: State University of New York Press, 1986); Dunstan Wai, *The African –Arab Conflict in the Sudan* (New York: Africana, 1981).

Because African states are weak, not economically self sufficient and constrained within the confines of the OAU (now AU) doctrine of *Uti possedetis juris*: and in the absence of separate mechanisms for dealing with member states who do not adhere to certain set principles, they on their own did not have staying power, leverage or capacity to manipulate a mediation process to achieve results. However, the IGAD process was of great interest to the United States of America in the new world order, after the cold war. Following September 11th 2001, terrorist attacks on the world trade center, and subsequent bombing of Khartoum, the USA.

- Sub -regional organizations are not in themselves the active mediators, but provide a platform for interested stakeholders to engage in conflict resolution.

A review of literature on the matter indicates that during the IGAD mediation process, deadlocks and impasses were sometimes reached, which the mediator would be unable to wade through. When these happened at a time of reduced regional pressure due to interstate conflict between Sudan and Eritrea, Sudan and Uganda or Sudan and Ethiopia, the mediation process would stall for a long time. It is only after these interstate conflicts were handled, often at diplomatic level that the mediation process was able to continue. Since the IGAD mediation process was a separate organization with a separate secretariat for the Sudan peace process, the perception of the parties to the process was that it was independent of the interstate disagreements. At the IGAD mediation process, state members of IGAD who were members of the regional organization had a common interest in dealing with the conflict because its internationalization was affecting them adversely. While dealing as IGAD, they were seen as mediators, and they were involved.

- Interested stakeholders as mediators are usually engaged in proxy activities on behalf of other parties.

Interviews and literature indicate that the IGAD peace process was a regional initiative but that the former President Moi had a special interest in it, so as to be viewed as an elderly statesman involved in successful peace processes, and because the internationalization of the process was adversely affecting Kenya, in terms of a large number of refugees, and transfer of small arms and other weapons leading to rising cases and levels of insecurity in Kenya. He

selected Major Lazarus Sumbeiywo as chief mediator, because he believed that Sumbeiywo would fulfill his wishes.

After the September 2001 attacks, the USA and its allies was also interested in controlling the rise and spread of terrorist elements, most of whom are said to be staunch islamic factions that were on the rise in Khartoum, and who had for a long time opposed self determination and a secular state for the South.

The Egyptian-Libyan initiative saw Egypt push to partake in the mediation process of the Sudan conflict. Literature suggests that the interest of Egypt was that an independent South may not be willing to continue allowing them unlimited and unfettered access to the source of the Nile. They even tended to make statements against the IGAD Declaration of Principles which proposed that the people of South Sudan should have a say in whether or not to separate from the North.

When General Babangida was working on the Abuja process, his aim was to assist the parties but he had a hidden agenda of ensuring that self determination would not be an option because he had similar calls within Nigeria, right from the time of the civil war there.

Emperor Haile Selassie also previously had an interest in ensuring that self determination would not be an option because he feared the calls from Eritrea to separate from Ethiopia and did not want that to happen.

6.3 Informal observations

Why did the IGAD peace process of 1994-2005 succeed despite the challenges it faced?

- Unlike the other mediation processes, it was supported by the world power in the new international order and its allies that is the United States of America, together with Norway and other members of the *troika* or friends of IGAD. This group had collective power to support the mediator indirectly by providing funding for the process, experts in mediation

and negotiation to support the secretariat, and to backstop the process in case some power element was required to push parties to a bargaining point.

- Unlike other mediation processes, the process benefited from the results of Track 2 initiatives which built the capacity of the factions in the process to understand the issues better and therefore listen to one another, making it easier for them to compromise at the end of the day.
- The IGAD peace process agenda was the same as that in the Addis Ababa Agreement, and also the same issues at the Abuja conference. The mediators learnt from previous mediation initiatives which were the main issues and ideals and tackled this from the beginning. Other peace initiatives often did not have much to go with as they were starting off on very different grounds. Some dealt with the factions in the south such as the Johnstone initiative.
- The IGAD peace process though being a track 1 initiative managed to bargain for issues such as governance and constitutional processes, as well as ideals, such as the right to self determination and religious freedom. Other mediation processes were unable to do this. The use of the empowerment framework could have contributed to its success in this initiative.
- The IGAD peace process has been praised for proper accounting of funds as well as sustainability, of riding through the waves of deadlocks and impasses. The process was longer than all the other mediation efforts before it, lasting for slightly over 10 years, before succeeding.
- The IGAD process had external international observers, and ensured that the security arrangements were thorough and included external international peace keepers to monitor implementation of the ceasefires. SPLM later merged with Paulinho Matip's SSDF for example and continues to seek to merge with militia existing outside the auspices of the Comprehensive peace agreement to reduce military action outside it.
- The IGAD process ensured that the wealth sharing arrangement allowed for funding for the South in development initiatives and also to support the governance structures of the South, so that lack of payment of salaries no longer became an issue for the sustenance of the ceasefire.

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