

**(A CRITICAL EVALUATION OF THE OAU CHARTER AND ITS IMPACT ON
THE ORGANISATION'S PERFORMANCE)**

BY

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DECLARATION

**THIS DISSERTATION IS MY ORIGINAL WORK AND HAS NOT BEEN
SUBMITTED FOR A DEGREE IN ANY OTHER UNIVERSITY**

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DEDICATION

My efforts to the dissertation are dedicated to the three most important people in my life – my two children Louise and Eddie and their father, Horace. Without your encouragement, love, perseverance and prayers, this work would not have been possible. Whenever I felt overwhelmed, you gave me strength by urging me not to give up. You reminded me that “mum must be an achiever”. You are and will forever remain God’s special gift. Thank you for your very valuable support.

IN MEMORY

**IDDAH ADHIAMBO IMBAYA
(1923 – 1995)**

Mother, though illiterate, you understood the value of education. You taught me to embrace it as my tool for survival. You made me know and believe that I am capable of accomplishing anything so long as I work hard and pray about it. Though physically gone, your values live on and spiritually you will forever be in my mind. Your hard work was not in vain. Rest in Peace Mama.

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ABSTRACT

The study investigates the extent to which the OAU Charter has influenced the Organisation's performance and how this influence has come about.

In the methodology, it has relied almost entirely on secondary sources of information supplemented by data from primary sources. Interviews were also conducted but these were in the form of discussions with open-ended questions.

The study established that the preference of the OAU member states to pursue national interest at the expense of collective interest has been the main cause of the Organisation's inability to respond adequately to the needs of the African populations. The study has also highlighted the fact that the OAU itself has violated the provisions of its own charter from time to time, thus ignoring the very tool that is supposed to guide it in its operations. Added to these, the study has confirmed that the OAU is capable of registering success in its activities so long as the member states are willing to take a united stand on issues that call for its intervention.

The study makes the case that African leaders do not feel morally and politically bound to abide by the provisions of the Charter, hence their lack of commitment to the Organisation. As a result, they hardly ever take the Organisation seriously and only see the Summits as a time for interacting with one another but not for discussing serious issues that affect the lives of the African populations.

In the conclusion, the study states that although the OAU Charter has contributed to the Organisation's weakness from time to time, it is not the main cause of the Organisation's weakness and dismal performance. Secondly, that unless the attitude of members towards the regional organization changes, the OAU (now AU) may never improve in its performance.

The study makes the case that the OAU should revise Article III of its Charter to allow it to intervene in the internal affairs of its member states; this should be done with a view to protecting the African populations. It is also recommended that the OAU should form a special group of leaders on a sub-regional basis to be charged with the responsibility of analysing issues and coming up with recommendations.

The study advocates that the OAU should be able to generate income through the provision of technical expertise to the members and other needy organisations at a fee. In the same light, the study advocates the introduction of African languages as the Organisation's languages of operation with a view to enhancing the African culture that it is supposed to protect.

ABBREVIATIONS

AAPC	All African People's Conference
AEC	African Economic Community
AIDS	Acquired Immune Deficiency Syndrome
ANC	African National Congress
ASEAN	Association of South-East Asian Nations
AU	African Union
AWCPD	African Women's Committee on Peace and
DRC	Democratic Republic of Congo
ECOWAS	Economic Commission of West African States
ECOMOG	ECOWAS Monitoring Group
ECOSOC	UN Economic and Social Council
FROLINAT	Front de Liberation Nationale du Tchad
GDP	Gross Domestic Product
HIV	Human Immunodeficiency Virus
ICJ	International Court of Justice
LONRHO	London-Rhodesia Company
OAS	Organization of American States
OAU	Organization of African Unity
PAC	Pan-African Congress
PAN AM	Pan-American Airlines
PAFMECA	Pan-African Movement of East and Central Africa Development
SADC	Southern African Development Community
UN	United Nations
UNESCO	United Nations Educational Scientific and Cultural Organisation
UK	United Kingdom
US	United States

USSR.....United Soviet Socialist Republic

WTO.....World Trade Organization

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CHAPTER ONE

OAU: THE QUEST FOR AN AFRICAN UNITY

1.0 Introduction

The Organisation of African Unity (OAU) is a regional intergovernmental organisation that came into existence on 25 May 1963. 32 independent African countries whose leaders had been greatly inspired by the pan-African movement signed the Charter on which the operations of the OAU are based. The movement, whose aim was to free the continent from foreign domination and white minority rule, played a big role in the conception of the pan-African organisation.

Having just gained independence, African leaders saw the danger posed by linguistic, cultural and religious differences, economic inequalities and controversies over boundaries that had been arbitrarily drawn by the colonial powers and decided that there was a need for co-operation. By the time the OAU was launched and the Charter signed, Africa was already split into two main rival blocs – blocs that reflected the type of co-operation that was desired by the different parties for the continent. The moderate group advocated a gradualist functionalist, (Monrovia-Lagos group) approach to African unity and the formation of a loose association

of states, while the radicals (Casablanca group) advocated for a political union and the creation of a strong United States of Africa. However, coming at a time when African leaders were experiencing the first taste of independence, very few of the leaders were keen on having the type of a union that would deprive them of the newly acquired power from the colonial masters. The issue of having a federal government was therefore not well received by most of the leaders. Indeed, some even saw it as Kwame Nkrumah's personal vendetta to acquire control over the entire continent. With the divisions on strategies and feelings of insecurity, the African leaders thought it best to settle for a unity that would still leave them with the full control of their independent states. This led them to settle for a superficial unity that left the sovereignty of their independent states intact and only united them as heads of states but not as African peoples.

The primary aim of the OAU, according to the Charter, was to promote unity and solidarity among African states. This is clearly stated in Article II of the Charter:

“The Organization shall have the following purposes:

- to promote the unity and solidarity of the African States,
- to co-ordinate and intensify their co-operation efforts to achieve a better life for the peoples of Africa; and

to defend their sovereignty, their territorial integrity and independence; among others.”¹

Other aims and objectives include improving the general living standards in Africa, defending the territorial integrity and independence of African states, and promoting international co-operation. Unfortunately, much as the OAU is the most comprehensive of all the political organisations in Africa, the continent has not felt its impact in so far as the achievement of its objectives is concerned. Thirty-eight years since its inception, the OAU has become less visible with several criticisms being levelled against it. Many a time it has been referred to as a “dormant” organisation in reference to its inability to solve the problems faced by its members. For example, the continent has continued to experience increasing cases of intra and inter state conflicts while poverty levels have more than doubled in comparison to what it was at the time of the organisation’s inception. Abuse of human rights by governments is rampant. Indeed, Africa today presents a picture of poverty and disillusionment

One cannot help wondering what went amiss with the organisation which was poised to be the continent’s hope in bringing all the African countries together in peace and harmony. In an attempt to unravel the mystery, this study seeks to examine the OAU Charter with a view to determining its role in the organisation’s performance with regard to its stated objectives.

1.1. Statement of the Problem

In May 2001, the OAU celebrated its 38th anniversary. Unfortunately, currently what comes out as its achievements in 38 years is too negligible compared to its failures. The OAU members have become more and more alienated from the Pan-Africanist idea that was the driving force at the formation of the organisation. Today, conflicts and civil wars have ravaged the African continent more than could have been imagined by the founding fathers of the organisation. Coups and political assassinations seem to be the “certified” means of changing governments and human rights abuses have become a way of life within the continent. The pursuit of peace, security and stability which have supposedly been the major pre-occupations within the collective agenda of the OAU do not seem to have been achieved.

In his address to the 35th Anniversary of the OAU, on 28 May 1998, the Secretary General of the organisation, Dr. Salim Ahmed Salim, talked of the need to reflect on the glaring gap between the laudable declarations, resolutions and policies that had been adopted by the continental body on the one hand, and their implementation on the other. As he succinctly put it, “the OAU has had many strategies and prescriptions to the continent’s problems. However, the main problem has been its inability together with

that of its members to fully translate these decisions into actions".² With this coming from the Secretary General himself, one cannot help pondering over the cause of this inability to achieve the set objectives. In fact, the real question is, what then is wrong with the OAU that prevents it from realising its noble aims for the continent? This study, recognising the significance of any organisation's Charter for its performance, seeks to examine the OAU Charter and how it has influenced the Organisation's performance since its inception. As experience elsewhere has shown, a Charter may either constrain or enhance the performance of an intergovernmental organisation. The study will look at four case studies and the role the OAU has played in responding to the needs of its member States. The case studies have been chosen on the basis of the persistence of conflicts within the continent and the extent to which the OAU has performed its role so far. The other criteria used in the selection is based on the priorities that were outlined in the OAU Charter. The issue of liberation of the African continent was a major priority - hence our decision to look at how the performed its role in this aspect. The central assumption is that the OAU Charter has been the main cause of the Organisation's weakness and poor performance.

1.2 Objectives

The main objective of the study seeks to examine how the OAU Charter has influenced the Organization's performance.

The specific objectives are:

- i. critically examine the implications of the provisions of the OAU Charter for the Organization's performance;
- ii. critically look at instances in which the OAU has been effective/ineffective and the extent to which such effectiveness/ineffectiveness could be attributed to the Charter.

1.3. Justification

The study has both policy and academic relevance. A lot of work has been done on the OAU. Most studies, however, have concentrated on the OAU's performance in general, and its role in specific cases, especially in the fight to end colonialism in Africa and Apartheid for South Africa. Other scholars have concentrated on the OAU's role in conflict management within the continent. In the process of these studies, the scholars have touched on the Charter and its various weaknesses. However, not much has been done as a critical evaluation of the Charter and especially how it has influenced the organisation's performance. Yet,

it goes without saying that the performance of an organisation such as the OAU greatly depends on its charter. This study is thus important in so far as it fills this gap.

The study will also be useful for policy purposes at the OAU Headquarters and for the organization's members. Its findings will certainly be useful in the revitalization of the OAU to face the Challenges of the 21st Century. With the end of the Cold War, we have seen other issues like environmental preservation, information and communication technology, gender and youth, among others, taking priority in International relations. There is also the issue of the HIV/AIDS pandemic that is threatening to wipe out the African populations, and what better organization could take these up than the OAU. These issues were not taken into account in 1963, as they may not have been urgent then. Now they certainly need to be addressed. Other issues like poverty existed then but have now taken a different dimension with a large part of the African population living below the poverty line. All these call for new strategies by the OAU. The study will look at the Charter in general and selected cases where the OAU intervened and outcomes of these interventions.

1.4. Scope and Limitation of Study

The OAU has been a subject of study by many scholars who have looked at the structure of the organisation as well as its performance in general. Such scholars have more often than not painted a grim picture of the organisation's performance and very little hope for the future. The study will focus on the OAU's Charter and the influence it has had on the performance of the organisation from its inception to date.

1.5. Review of Literature

The OAU is described as one of the largest regional international organisations in the world in terms of membership, yet not much is known about it like others of its nature³. Cervenka⁴ raises an important issue that is linked to the OAU's visibility. However, visibility of any organisation comes about as a result of its positive performance, especially in handling issues that affect the well-being of its members.

To Cervenka, African leaders settled for a superficial unity by signing the OAU Charter at a time when Africa was already split into two rival blocs, namely the radical Casablanca and the moderate Monrovia blocs. He observes that the rivalry between these blocs led to the formation of an organisation representative of a largely negative agreement. Hence it could not afford to please one side more than the other. These divisions have

continued to exist in Africa. Echoing the radical group, Col. Ghaddafi of Libya recently called for the formation of the United States of Africa. It is instructive that at the time when the OAU was being launched, Libya was with the radical group that proposed a federal system together with Kwame Nkrumah of Ghana. Cervenka⁵ also highlights the fact that even as the OAU Charter was being signed, majority of the leaders at the summit had reservations about it and its political consequences, but circumstances were such that none was bold enough to dare make objections to any of its provisions.

Cervenka also touches on the issue of state sovereignty and how the newly independent African countries were afraid of losing their hold on their countries if they were to have a union as proposed by Nkrumah. Cervenka concludes by highlighting the fact that even though each state retained its sovereignty as stipulated by the Charter, the leaders were effectively left free to pursue policies in which continental priorities were sacrificed for narrow national interests⁶.

The Charter is seen to lack a provision that would enable it impose its decisions/resolutions on its members. Instead, the organisation depends on the voluntary co-operation of its members for the implementation of its decisions. Also, much as the Charter does emphasize the defence of sovereignty and territorial integrity as well as independence of member

States, it does not have a clear provision for collective security. In Cervenka's view, the main weakness of the organisation lies in the fact that its Charter does not have provisions for binding resolutions. This, he concludes makes the resolutions become mere recommendations as the members are free to implement them at their convenience, that is, if at all they do implement them. This view is shared by both Mazzeo⁷ and Amate⁸.

Amate also highlights the need for impartiality by the staff at the OAU Secretariat and the impact this has had on the performance of the organisation. Being an Intergovernmental organisation, most of the staff are former government officials who in all intents and purposes still owe allegiance to their governments. This has resulted in these officials being more keen on advancing their countries' policies at the expense of the OAU's. However, due to the limited powers that have been granted to the Secretary-General, he is not in a position to control his staff adequately, thus ending up with the type of frustrations that saw Nzo Ekwangaki, the then Assistant Secretary-General in 1974, resign from his post as he felt that he did not have sufficient powers and authority over his subordinates. Even though there have been changes since, to the extent that the Secretary-General is now allowed to attend the meetings of the Council of Ministers contrary to the initial limitations, the OAU Secretary General still lacks the powers to make independent decisions in so far as the

resolution of problems within the African continent is concerned. His powers are still limited to what the African leaders feel most secure with and he is still subordinate to them in whatever he does. Indeed, the issue of who holds the power is still paramount even at the continental body.

Both Cervenka and Mazzeo mention the conflict between Morocco and Western Sahara as an example of how the OAU can be held at ransom by its members by virtue of the stipulations of its charter. The temporary withdrawal of Morocco from the OAU just because Polisario had been granted membership is presented as a clear indication of how powerless the Organisation is when it comes to dealing with its members. Both scholars blame the flexibility in the membership on Article XXXI of the Charter which stipulates that any state that wishes to renounce its membership can do so by forwarding a written notification to the Secretary-General. Following such notification the Charter ceases to apply to it if the notification is not withdrawn within one year of its initiation.⁹ Even though notification has to be given to the Secretary-General, this is a mere formality as the Charter does not give him any authority to object.

The two also share views on the awkward position that the organisation finds itself in by virtue of Article II (e) which talks about promotion of international co-operation while having due regard to the UN Charter and the Universal Declaration of Human Rights¹⁰. In the past, the OAU has

had to keep as its members some leaders who have committed atrocities in their own countries. Cervenka gives an example of the former President of Uganda, President Milton Obote who in 1973 circulated a letter to all the African leaders informing them of the death of about 80,000 Ugandans under President Idi Amin's regime. The OAU turned a deaf ear citing the principle of "non interference in the internal affairs of member states". The following year, Amin took the mantle for chairmanship of the OAU and not even the bitter protests from one of the founding fathers of the Organisation, the late Mwalimu Julius Nyerere of Tanzania, could make the Organisation change its stand. This has, however, changed and now the Organisation prohibits leaders who have come to power by the gun from attending its summits. This again is also controversial as many of the current OAU leaders did actually come to power through military if not bloody coups.

OAU's problems have also been attributed to the loss of the Pan-Africanist ideals that were initially the driving force in forging African unity. The literature reviewed also highlights the fact that because of its inefficiency, the OAU's mandate is now being hijacked by sub-regional organisations like ECOWAS. This has been evident particularly in peacekeeping in countries like Liberia and Sierra Leone. In both cases, the ECOWAS member countries decided to send a force to the two countries without seeking either financial or military assistance from the OAU. In both cases,

the OAU had no choice but to give its blessings while playing the role of an observer on issues that are within its mandate.

Cervenka,¹¹ like other scholars who have written on the OAU and its performance, talks of an organisation that has been left behind while its members continue to develop. Most of the literature reviewed depict a charter that has become estranged from the needs of the African people, a fact that was also acknowledged by the late Mwalimu Julius Nyerere¹². This brings about the need to develop a new and political architecture that is capable of guiding the continental body into the 21st Century. The same view is shared by Mazzeo¹³ who sees the OAU as having utterly failed to come to terms with the most important problems that affect the future of the continent. Mazzeo¹⁴ also describes the OAU as having gone into inactivity at a time when the super power influence was spreading in Africa. This he attributes to the Organisation's failure to play a meaningful role, for example, in the Congo crisis and highlights the Organisation's long track of inefficiency in dealing with conflicts in Africa, for example. the Somali - Ethiopia conflict, the Tanzania - Uganda conflict and the Chad as well as the Western Sahara conflicts, among others. Much as one could argue that at the time of the Congo conflict, the OAU was still too young, 38 years down the line has not shown any improvement in the Organisation's ability to manage conflicts. The fact that the Organisation has from time to time cited non-interference in the internal affairs of States

under Article III of its Charter is a clear indication of a charter that stands as an obstacle to the Organisation in the performance of its duties. To this effect, one cannot disagree with Mazzeo when he refers to the OAU as being impotent in the maintenance of peace and security in Africa¹⁵.

To Emmanuel Hansen, the OAU's promotion of peace and security is functionally inter-related with the issue of African development. He sees a contradiction between the OAU Charter and the principles that govern the continental body.¹⁶ He also points out other weaknesses of the Charter like the lack of an organ with disciplinary powers. However, Hansen does not put all the blame on the Charter, but attributes part of the blame to the attitudes of the member states towards the Organisation.

Zartman, on the other hand, attributes the OAU's inability to handle some of the disputes in Africa to the organisation's wrong definition of disputes as "internal affairs"¹⁷. On economic development, Amate also looks at the OAU's failure and attributes it to the fact that from the inception of the continental organisation, the Charter did not provide clear guidelines on the responsibilities of the Organisation on economic and social matters.

In the review of literature, what comes out is a clear indication of an organisation that has realised fewer achievements than failures. The OAU's achievements are noted in areas that have entailed lobbying more

than direct action. For example, it is credited for its achievements in fighting to end colonial rule in Africa and the fight against Apartheid in South Africa. The cases of Namibia and the Republic of South Africa can be cited among others. The OAU has also provided a platform for deliberations by African leaders on international and regional issues that affect them. Added to this, as a continental body, the OAU has played the role of “the voice of Africa” at such international fora like the United Nations, especially on issues where a single country’s voice would not get the necessary audience.

The issue of human rights abuse by member states has not been discussed in detail in any of the books, yet many of the continent’s leaders have been known to subject the population of their countries to experiences that are tantamount to human rights abuse. It is also evident that the OAU has not handled this issue with the seriousness it deserves. However, this is not surprising given the fact that it is the same leaders who decide on what human rights abuse is according to their own interpretation at the Summits.

While Article III(5) talks of the unreserved condemnation of all forms of political assassinations and subversive activities, there are notable cases like that of Blaise Campaore, President of Burkina Faso, who was accepted to participate in the summits and even chaired the OAU – despite the common knowledge that he had taken power in a bloody coup during

which his predecessor, Thomas Sankara, was assassinated. Recently, however, the OAU passed a resolution to prohibit leaders who have come to power by military coups from attending its Summits. However, even this is controversial as most of the incumbents themselves came to power through coups. As it is, it was only the Ivorian leader, Robert Guei who had come to power through a military coup just before the next OAU Summit who was affected by the resolution. If the resolution was to be followed to the letter, one wonders whether there would be any quorum at the OAU Summits. For the moment, however, it is hoped that this will bring a reduction in the number of coups and political assassinations that the continent has come to be identified with. The same article (Article III (5)) highlights the fact that the founders of the continental organisation were more concerned with leaders and state survival and not the human rights of the citizens and African populations as a whole. This is a big challenge for the Charter as it has no provisions to adequately address the present challenges that face the African people and their leaders.

Amadi¹⁸ argues that the creation of the Mechanism for Conflict Prevention, Management and Resolution is a contradiction of Article III. This brings about another controversy for the Organisation as it is obliged to observe restraint from interfering with state sovereignty and territorial integrity. The question that arises here is whether the OAU will now

ignore the stipulations of its own charter or abide by it and have a Mechanism that is as dormant as the Organisation itself is known to be.

Even though Hansen attributes part of the blame to the attitude of the member states, it can still be argued that even if the Charter were strong with provisions that are binding, the element of attitude would not even arise as all the members would have been obliged to behave according to the requirements of the charter without exception. Indeed, the blame is still attributed to the Charter.

Unfortunately, none of the literature reviewed seems to have considered the language of operation as presented in the Charter as contradicting the “raison d’être” of the Organisation. The use of colonial languages seems to have been accepted whole-heartedly as the best mode of communication, since none of the scholars seems to have seen it as a weakness in the Charter. A people’s culture is embodied in their language. By embracing these different non-African languages in the process of handling issues that are purely African, the OAU has obviously enslaved itself to foreign cultures and values with the permission of its own Charter. African languages such as Kiswahili, Zulu, Jula and even Bambara could be enhanced by the OAU as its working languages.

Efforts that have been made towards a New Structure of the OAU

Just before the end of the 20th Century, the African leaders saw the need to change the way they looked at the performance of their respective countries as well as their collective performance within the OAU. Since the 1980s, the OAU has witnessed several structural changes. In the 1980s, a review of the Charter was initiated. However, this has not progressed with the kind of urgency and focus that one would expect. The same period saw the establishment of the Lagos Plan of Action for the Economic Development of Africa. The purpose of the plan was to promote the development of the nations and peoples of Africa and also their progressive integration over bigger regional areas.¹⁹ The document presented an ideal terrain for the development process. However, not much has been achieved in changing the economic situation of the African countries for the better. In fact, Africa today is still counted as the most economically backward region of the world.²⁰

In 1986, the African Heads of State and Government adopted an African Charter on Human and People's Rights, which came into force four years later. Even then, only 40 member states out of 52 had ratified it. Even though an African Commission on Human and Peoples' Rights was set up to supplement the African Charter, the concept of human rights has continued to be abused within the same continent by the same leaders who

endorsed the establishment of the charter. In fact, their delay in putting it into force was certainly an indication of what was to come.

The Cairo Summit in 1996 saw issues like democratic governance, human rights, corruption, lack of good leadership and accountability feature on the agenda. Such issues had been avoided in the past. The Cairo Summit also endorsed the idea of a Mechanism for Conflict Prevention, Management and Resolution and the need for an Early Warning System. The changes initiated at this summit were not as a result of a comprehensive review of the performance of the Organisation but merely a belated response to the rising incidents of internal conflicts in several of the OAU member states.²¹ However, even the mechanism has not been effective in preventing let alone resolving the conflicts in the continent. The main obstacle has been the principle of non-interference in the internal affairs and sovereignty of states. In fact, Africa has experienced worse intra-state conflicts since 1993 when this mechanism was established. We have, for example, the 1994 Rwanda genocide, the Sierra Leone conflict and the persistent Sudan and DRC conflicts in the Great Lakes region.

The most recent development was the idea of a United States of Africa that was proposed by the Libyan leader, Muammar Gaddafi, in 1999 at the Sirte Summit. This is like going back to the days of the radicals led by Nkrumah, who were proponents of federalism. As would be expected,

African leaders have not been very enthusiastic about a hazy federation of sovereign states and would much rather opt for limited areas of co-operation as a first step. As a result, they have preferred to choose an African Union as opposed to a United States of Africa.²²

Wodajo²³ attributes the OAU's slowness or inability to constantly adjust or to redefine its role to changing regional and global environments to the lack of an appropriate conceptual framework. This, he claims has rendered the organisation less relevant to Africa's priority economic, political and security needs. . However, like most other authors, Wodajo also maintains that the prospects of the organisation's enhanced relevance to Africa's needs depends on the determination of its member states to make it an effective instrument of co-operation.²⁴

In the words of the OAU Secretary-General, if effective change has to be seen in the performance of the organisation, " Africa must take stock of its past and present policies and chart out a new path towards a destiny predicated upon collective wisdom and collective strength",²⁵

In conclusion, it is evident that as much as efforts are being made to review the structure of the OAU, there are crucial areas that must be changed for the Organisation's performance to improve. There is for example, the functions of the Secretary-General which desperately need to

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In conclusion, it is evident that as much as efforts are being made to review the structure of the OAU, there are crucial areas that must be changed for the Organisation's performance to improve. There is for example, the functions of the Secretary-General which desperately need to

be reviewed with a view to improving the management of the secretariat. In fact, as long as the OAU Charter continues to deprive the Secretary-General of all political functions, his leadership will not be as effective as would be expected from an organisation of its nature. There is also the financial capability of the organisation which is very crucial for its effective operation. As long as the organisation's leadership continues to pass resolutions that cannot be implemented due to lack of funds, the OAU will continue to register dismal performance and lack of impact on the behaviour of its member states. These sentiments are echoed by Okoth in his paper on the OAU and the Tanzania-Uganda War between 1978 and 1979.²⁶

The OAU in the context of other International Organisations of its standing

i. The Organisation of American States (OAS)

Compared to charters of other regional international organisations of the OAU's standing, the Organisation's Charter seems to put more emphasis on states than on the citizens of these states. The Charter of the Organisation of American States (OAS) for example, is more citizen friendly. It sees the prevention of possible causes of difficulties and ensures the pacific settlement of disputes that may arise among its

members, and the eradication of extreme poverty which constitutes an obstacle to the full democratic development of the peoples of the hemisphere as some of its priorities²⁷. This is even more evident in its vision for the new century where the Organisation sees its challenge as being how to turn citizens' high expectations into a reality. It is also interesting to note that the OAS with only 35 members has undergone several amendments and even a major reform in 1997 on its Charter, unlike the OAU that has a larger membership and still operates on a Charter that has obviously lived beyond its time.

OAS member states have a commitment to common goals and respect for each nation's sovereignty. The principles that embody the Organisation of American States grew out of a history of regional co-operation dating back to the 19th century. This is important as it reflects the existence of co-operation among the member states long before the creation of the regional body. OAS did not therefore experience the type of divisions that had been experienced by the OAU before its establishment. The existence of a hegemon, the United States, among the members seems to be an asset. There is a tendency for such a country to steer the rest of the members and the organisation at large in the achievement of their common goals. For the OAU, Nigeria, commonly known as the "giant of Africa", has tried to play the role of the hegemon among the Organisation's member states. However, riddled by its own political and economic problems, Nigeria has

not been successful in steering the OAU to notable success. We can therefore conclude that a politically strong and economically as well as culturally powerful member of the group plays a big role in the eventual performance of a regional organisation. It is no wonder that hopes have been high with the entry of the Republic of South Africa as a member of the OAU. However, a lot will still depend on the political stability of South Africa as an independent democratic state.

ii. The Association of South-East Asian Nations (ASEAN)

The Association of South East Asian Nations (ASEAN) is a very strong sub-regional intergovernmental organisation whose activities are based not on a charter but on a declaration to ensure regional peace and stability. Unlike the OAU, in an effort to group and work together, the ASEAN leaders realised the need to strive for resilience both individually as nations and collectively as a regional grouping to overcome intervention in their affairs by external powers. Even for the ASEAN, promotion of regional peace and stability is a priority area just as it is for both the OAU and OAS. However, there is an aspect of abiding respect for justice and the rule of law in the relationship among countries²⁸ that probably makes a difference in how the countries relate to one another and consequently with their regional organisation. Whereas ASEAN is a multipurpose regional organisation like the OAU, the South-East Asian countries were more

interested in strengthening the already existing bonds of regional solidarity and co-operation. The main aim of the member states of ASEAN was to share responsibility for strengthening the economic and social stability of the region as well as to ensure peaceful and progressive development. The Association was meant to accelerate the economic growth, social progress and cultural development in the region through joint endeavours in the spirit of equality and partnership.

ASEAN has a strong reference to the respect for justice and the rule of law, (presumably international law) in the relationship among countries of the region, and adherence to the Charter of the United Nations. Whereas ASEAN was established by a treaty, it relies heavily on the principles of the UN Charter, just like the OAU. This is possibly a factor that has contributed to its flexibility in the performance of its duties and thus, the general success of the organisation.²⁹

An analysis of the three regional intergovernmental organisations reveals that the Charter of the Organisation of American States talks more of the achievement of order, peace and justice, promotion of solidarity with a view to strengthening their collaboration. Much as the principle of non-intervention is mentioned, there is a degree of flexibility in its observance in the sense that Article 2(b) of its charter stipulates promotion and consolidation of representative democracy with due respect for the

principle of non intervention.³⁰ This is different from the OAU Charter that stipulates adherence to the principle of non-interference in the internal affairs of states.³¹ The article does not give the OAU any allowance for intervening in the internal affairs of its member states. On the other hand, OAS could intervene in internal affairs of a member state on the basis of promotion and consolidation of democracy.

The OAU Charter having been drawn up at a time when the African states were just beginning to enjoy the newly won political independence reflects limitations in its vision for the development of the continent. There was more concern on safeguarding the “hard won” independence and sovereignty together with territorial integrity. This was so important that it is reflected in the preamble as such:

“Determined to safeguard and consolidate the hard-won independence as well as the sovereignty and territorial integrity of our states, and to fight against neo-colonialism in all forms...”.³²

Moreover, due to their colonial background, African leaders seemed more obsessed with the liberation of fellow African countries from the colonial rule. This was such that they ended up ignoring the very essential issues like the future economic and social development of the continent. In fact, it is evident that whatever was put down in the Charter was not given serious

thought regarding its future implications on the organisation's performance. The leaders were more preoccupied with the issue at hand which was liberation of the remaining African countries from minority rule. It is no wonder therefore that the issue of economic development seemed to have been ignored and reserved for the Economic Commission for Africa.³³ All the three regional organisations have laid emphasis on economic and social development and the general co-operation among the countries in their regions. However, unlike in the OAU, co-operation seemed to have existed among the member states before the establishment of these organisations.

The OAU members appear to be divided on the issues of language, culture and even religion, than is seen in the other two regional organisations. This is not only as a result of the various ethnic groups but mainly as a result of the different colonisers that brought about their own languages. The division is clearly reflected in the OAU Charter Article XXIX which stipulates that the working languages of the organisation will be English, French, Portuguese and Arabic!³⁴ The different languages did indeed erode the existing indigenous cultures and the Africans found themselves adopting strange ways which they were not familiar with. This also saw the entrenchment of the masters' religion which ended up destroying the African's perception of God as the supernatural. The OAU member states have colonial legacy as a uniting factor. In fact, we can conclude that for

the OAU, regional political and linguistic differences and divisions have been major barriers to substantial political integration in Africa.

1.6. Theoretical Framework

Theory can simply be defined as a way of viewing the world. Technically, it refers to a set of assumptions of relationships. Theory is important in any study as it helps to explain why things are as they are. According to Hans Morgenthau, theory must be judged not just by some preconceived abstract principle or concept that is not related to reality but by its purpose which is to bring order and meaning to a mass of phenomena.³⁵

As an intergovernmental organisation, the OAU has independent African states as its members. The effective performance of the continental body certainly depends on how loyal the members are to its Charter. In analysing the Charter and its impact on the organisation's performance, one cannot ignore the fact that Africa as a continent and individual countries therein are actors in the international system. This brings in the concept of power in an anarchical international system where states have to struggle on their own for survival. Consequently, the theory of realism which assumes in the disharmony of interests has to be used in the analysis of events. Commonly known as the power theory, realism postulates that man is essentially evil – selfish and very nasty.³⁶ The proponents of this

theory apply this to the states by arguing that it is the same man that makes up the states and therefore the behaviour is basically the same. Realism as a theory helps in explaining the struggle for power in an anarchical world and the importance of national interest for states, whose goals in a state of anarchy is self-help. The issue of morality does not arise here, and therefore, an organisation whose Charter relies on the moral force and political goodwill of the members like the OAU is certainly set to have problems in its performance. Realism advocates permanent preparedness for war, an idea that has led to states having imaginary enemies, hence the many inter-state and internal conflicts to which Africa has become prone. Realism is built on the concept of national interest which has been embraced by the African member states at the expense of the interests of the continent as a whole.

As already mentioned, Africa as a continent has its place within the international system. The marginalisation of the continent and its position at the periphery vis-à-vis the core is also a contributing factor to the dismal performance of its regional organisations in the periphery.³⁷ This can be explained by looking at the World systems theory that views the international system in terms of economy, whereby the countries at the core (developed capitalist states) dominate over those at the periphery. The behaviour of the African states in the international system does reflect their

position at the periphery, hence the reflection of dependency in their foreign policies.

Consequently, African countries have tended to have reactive policies as they hardly ever initiate anything within the system in which they find themselves. This has impacted on their regional organisations and the OAU is no exception as it is theoretically an organisation of independent African states, but practically an organisation of “dependent” African states. The dependency of the African states has been reflected several times in cases where the decisions of the member states have been greatly influenced by their superior allies in the west. A good example is the OAU Summit in Tripoli, Libya which failed to reach a quorum because the US had influenced most of the African countries to boycott because Col. Ghaddafi was an enemy of the West. This was also reflected in the boycott of the Moscow Olympic games in 1980 by most of the African countries as a result of the US influence. The world systems theory is also useful in this study in helping us to understand why African leaders have failed in implementing their own decisions that are supposedly for the benefit of the African populations at large.

We have touched on two theories which are very useful in analysing the behaviour of the OAU member states. As would be expected, these theories also have certain limitations. For instance, realism that believes in

the disharmony of interests is looked at in this study from the point of view that African leaders had the intention of harmonising their continental interests, hence the establishment of the OAU. They were also aware of the need to safeguard their powers, hence the decision to go for a unified Africa as opposed to a unionised one. On the other hand, the world systems theory focuses too much on economics and does not explain factors like ethnicity. The study has taken this into account by looking at the OAU as an organisation that was formed at a time when African countries were just in the process of gaining their independence. As a result of the prevailing environment, economic development was not such an issue and neither was ethnicity. The priority was to be free from minority rule and control whatever resources Africa had.

Reference to these theories cannot be avoided in this study and they will therefore form the analytical framework within which the influence of the Charter on the OAU's performance will be based. They will also help in explaining why the OAU has registered more failures than successes in its thirty-eight years of existence and why even new initiatives like the Mechanism for Conflict Prevention, Management and Resolution and the Early Warning System have continued to encounter problems when put to practice.

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1.7. Operationalisation of Concepts

Charter

In this study, we shall take the Charter to mean a document that establishes a loose international organisation based on the voluntary co-operation of members. It is known not to be legally binding and compliance with its provisions depends to a large extent on the moral force and goodwill of the members. As a result, any organisation that has been created by a Charter is known to be subordinate to the nation-state³⁸. What this means is that any organisation that is created by a Charter remains subordinate to the nation state. Consequently, the OAU has been subordinate to its member states since its inception. Hence, the heads of state and government make important decisions while the Secretary General enjoys very limited powers. It is by looking at the Charter as a concept that we shall be able to understand why OAU resolutions are implemented half-heartedly if at all. The distinction between a charter and a constitution has to be drawn for one to understand why the African leaders opted for a charter. Unlike the Charter, a Constitution is a legally binding document whose provisions are enforceable by a court of law. The definition and understanding of the two concepts also help us to understand why there were divisions at the beginning on whether to have a unionised or a united continental body. Whereas the radical group could have certainly gone for a constitution, the moderates had understood quite early the implications of a binding document and were therefore determined to safeguard their sovereignty. A

constitution would have created a new political system and a government that stood above the existing nation states.

Sovereignty

Other concepts in the study include that of sovereignty, which will also be used from time to time in an effort to explain the relationship between the Charter and the OAU vis-à-vis the expectations of its members. The concept of sovereignty is highlighted in Article III of the Charter. Every independent state is sovereign in the sense that it has a right to determine what is good for it without any interference from external sources. It also has the right to defend and protect its interests as a nation. These are the factors that make a sovereign state. All States have equal rights and status in as far as sovereignty is concerned, and its territories are to be respected by all the other states. This study also seeks to highlight the extent to which the concept of Sovereignty as stipulated in Article III of the Charter has influenced the performance of the OAU Charter.

Performance

In this study, the concept of performance will be looked at from the point of view of the expectations of the members vis-à-vis their regional organisation. In other words, the mandate of the OAU and the extent to which the Organisation has endeavoured to realise what is expected of it. The concept of performance simply refers to the act of fulfilling something

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or executing a function. In our case, in looking at performance, we shall be referring to the OAU and how successful it has been in responding to the needs of its member states.

1.8. Hypotheses

In evaluating the relationship between the Charter and the OAU's performance, the study revolves around the following **hypotheses**:

- i) The Charter inhibits the realization of the Organization's objectives and has contributed to its poor performance.
- ii) The performance of the OAU is linked to the divisions that existed prior to its establishment.

1.9. Methodology

The study relies mainly on two categories of data

The first category will be composed of:

- i) Primary documents the Organisation in general, the OAU Charter in particular, working papers and deliberations of meetings of the council of Ministers, all of which will have been published by the OAU itself.

- ii) Secondary documents on the OAU by the many scholars who have written on the organisation and its performance. These will mainly be found in libraries.

The second category of data was generated by the survey method, mainly in the form of discussions and interviews with relevant officers from the Kenya Government, Kenya's Ministry of Foreign Affairs (Africa Desk), African diplomats serving in Kenya, long serving OAU staff members and others. Discussions were based on open-ended questions.

Chapter Outline

The study comprises five (5) main Chapters. Whereas Chapter I introduces the study, Chapter II gives a historical background to the Organisation of African Unity and a general overview of its performance. Chapter III of the study gives a general overview of the Charter and a critical analysis of its provisions in an effort to highlight how it has contributed to the structural weakness of the Organisation. The same chapter will also highlight the recent developments within the OAU and the need to redesign a new Charter for the organisation.

In Chapter IV, specific case studies are carried out with a view to highlighting both successes and failure of the OAU. It is in this chapter where the weaknesses and strengths of the OAU will be highlighted. These

case studies are based the Nigerian Civil War (1967- 1969), decolonisation, the Chad-Libya conflict and the Ugandan Humanitarian issue in 1978. Lastly, Chapter V will provide the conclusions of the study and policy recommendations.

Notes

- ¹ OAU Charter, 1963, Article II
- ² Speech of the OAU Secretary General at the 35th Anniversary Celebrations, 1998, p.3
- ³ Cervenka, Z., *The Unfinished Quest for Unity: Africa and the OAU*, London: Friedmann Ltd., 1977 p.vii
- ⁴ Ibid.
- ⁵ Ibid.
- ⁶ Ibid. p.ix
- ⁷ See Mazzeo, D., *African Regional Organization*, Cambridge: Cambridge University Press, 1984, p.81
- ⁸ See Amate, C.O.C., *Inside the OAU: Pan-Africanism in Practice*, London: Macmillan Publishers Ltd., 1986, p.61
- ⁹ OAU Charter, 1963:Article XXXI, P. 7
- ¹⁰ Ibid., Article II (e), p.2
- ¹¹ Cervenka, Op. Cit. p.ix
- ¹² An interview with Nyerere on "Africa's Generosity must continue", in *Refugees*, Vol. 2 No. 115, pp 14 -15
- ¹³ Mazzeo, Op. Cit., p. 81
- ¹⁴ Ibid.
- ¹⁵ Ibid., p.79
- ¹⁶ Hansen, E. (ed), *Africa: Perspectives on Peace and Development*, London & New Jersey, United Nations University Zed Books Ltd. 1987, p 128.
- ¹⁷ Zartman, William, I., *Ripe for Resolution: Conflict Intervention in Africa*, New York: Oxford Univ. Press, 1989, pp 282-283
- ¹⁸ Amadi, Henry, *The OAU Involvement in Conflicts: The case of the Somali civil war*, M.A. Thesis, UoN, 1998 (unpublished).
- ¹⁹ *Lagos plan of Action for the Economic Development of Africa, 1980-2000*, Geneva. OAU, 1982, p.iv.
- ²⁰ Report of the Secretary-General to the 26th Ordinary Session of the Assembly of Heads of state and Government, 1990, p.20
- ²¹ Wodajo, Kifle., *Ethioscope*, Vol.2 No.2., 1996, pp 3-9
- ²² Daily Nation Newspaper, Friday, March 2, 2001, p.6
- ²³ Wodajo, Op. Cit.
- ²⁴ Ibid., pp 3-9
- ²⁵ Report of the Secretary General, Op. Cit., p.20.
- ²⁶ Okoth, Godfrey, "The OAU and the Tanzania-Uganda War, 1978-1979". In *Journal of African Studies*, Fall, 1987, pp.152-162.
- ²⁷ See Charter of the Organization of American States, Washington D.C, 1997, Part I, Article 2 (c) and (g).
- ²⁸ See ASEAN Declaration, Thailand 1967, p.1
- ²⁹ See, ASEAN, the Preamble of the *Bangkok Declaration, Thailand, 1967*.
- ³⁰ See, Charter of OAS, Article 2(b).
- ³¹ See OAU, Op. Cit. Article III(2).
- ³² OAU Charter, preamble, p.1

³³ Mazzeo. Op. Cit.

³⁴ See OAU Charter, Article XXIX

³⁵ Morgenthau, Hans J. *Politics Among Nations: The Struggle for Power and Peace*, 6th edition, New Delhi, Kalyani Publishers 1995, p.3

³⁶ Lecture notes by Dr. P. Nying'uro, International Relations of African States, 2000

³⁷ Adebayo, Adedeji, (ed.). *Africa within the World: Beyond Dispossession and Dependence*, London, Zed Books, 1993, p.11

³⁸ Cervenka, Z., *The Unfinished Quest for Unity: Africa and the OAU*, Great Britain, Julian Friedmann Publishers Ltd., 1977, p 80

CHAPTER TWO

HISTORICAL BACKGROUND AND AN OVERVIEW OF THE OAU CHARTER

2.0. Introduction

The OAU is an African intergovernmental organisation founded at a time when the African leaders were experiencing the first taste of independence and were therefore anxious to consolidate their leadership. The Organisation came into being on 25th May 1963 – opening a new chapter in the history of pan-Africanism. Pan-Africanism as a movement originated from North America in the 19th century. It was established in response to the alienation and exploitation of the Negroes with the aim of repatriating freed slaves.¹ The term “pan-Africanism” was first used at the first conference on Pan-Africanism in London in 1900 by Sylvester Williams, a West Indian lawyer from Trinidad. It is important to note that the movement was born out of complete alienation, physical exploitation and spiritual torment of the people of African descent living in the diaspora.

In Africa, the aim of the movement was to stop colonialism and other forms of foreign domination and racial discrimination. The movement had inspired a number of African students who were studying in Europe and the US at the

time. These included notable African leaders like Kwame Nkrumah of Ghana, Mnamdi Azikiwe of Nigeria and Hastings Kamuzu Banda of Malawi.² On their return to Africa, these students became more vocal in their demand for independence and liberation of the continent from foreign domination and white minority rule. The first fruit of the liberation struggle was realised when Ghana became independent in 1957 with Kwame Nkrumah as its first black leader. Ghana and Nkrumah inspired liberation movements and leaders elsewhere in Africa who redoubled their efforts to win independence for their countries.³

However, with independence gained, African leaders found themselves facing many challenges. The need for regional co-operation became more urgent if vast potentialities of the continent were to be exploited. There was also the need to protect and preserve the freedom and independence won. It was in this context that between 1958 and 1960, the leaders were involved in several attempts to bring about African unity at regional and sub-regional levels. For instance, in November 1958, Ghana and Guinea decided to consolidate their two states into united states – the Ghana-Guinea Union which they declared to be the nucleus of a united states of West Africa. These sentiments for West African unity eventually gave way to the desire for a wider, all embracing continental African Unity.⁴

From 1960 onwards, an increasing number of African states gained independence. This brought about questions of leadership in the Pan-Africanist movement, problems of personal rivalries and ideological differences.⁵ While West Africa seemed to be the centre of Pan-Africanism, Eastern and Central African leaders also took important initiatives. For instance, they formed the Pan-African movement of East and Central Africa (PAFMECA) under the leadership of Jomo Kenyatta of Kenya, Julius Nyerere of Tanganyika and Milton Obote of Uganda. The immediate goal of PAFMECA was to form a federation of its member territories when they had attained their independence. This was also described by the leaders as a first step towards the eventual formation of a continental state.⁶

With time, however, two rival groups emerged, each with a different approach to Pan-African unity. The Casablanca group took a rather radical position to the issue of the liberation struggle and African unity, whereas the Brazzaville-Monrovia group seemed more moderate in its approach.⁷ Apart from Kwame Nkrumah, the Casablanca group was also associated with such prominent leaders as Abdel Nasser of Egypt, Sekou Toure of Guinea and Modibo Keita of Mali, while leaders like Emperor Haile Selassie of Ethiopia, Houphouet Boigny of Ivory Coast and Leopold Senghor of Senegal and Julius Nyerere of Tanzania were members of the Monrovia group. The Monrovia group emphasised the need for pooling resources and co-ordinating efforts in order

to overcome the barriers of growth that they were being confronted with. They also emphasised absolute equality of African and Malagasy states, co-operation throughout the African continent based on tolerance, solidarity and good neighbourliness and sovereignty of each member state.⁸ They essentially preferred a gradualist, functionalist approach to African unity and the formation of a loose association of states. The idea of an immediate political union did not appeal to them. Both groups committed themselves to giving financial and material assistance to nationalist movements that were involved in fighting guerrilla wars against the colonial rulers in their countries. As far as the issue of African Unity was concerned, the group decided to intensify the efforts for the creation of an effective form of co-operation among the African states in the economic, social and cultural domains. The radical group advocated for a political union and the creation of a strong United States of Africa. This group was believed to be led by Kwame Nkrumah.

Despite this ideological polarisation, African leaders still agreed that continental unity was the only solution to Africa's problems, differences over method and means notwithstanding. The uniting factor was the general anxiety to bring all independent African states into a pan-African forum and a strong common desire to eradicate imperialism, colonialism and racism. In 1958, the first All African People's Conference (AAPC) was held in Accra,

Ghana. The aim of the conference was to give encouragement to various nationalist leaders in their efforts to organise independence movements and to plan the strategy for a non-violent revolution in Africa. The common goal helped to bring conflicting groups together and in May 1963, a historic Summit Conference was held in Addis Ababa, Ethiopia with 31 Independent African states participating. The OAU was established on 25th May 1963 with 32 African states signing its Charter as member states.

2.1. Sources of the OAU Charter

The Conference of Foreign Ministers met in Addis Ababa one week before the Summit with a view to drafting the documents to be considered by the heads of state and government. The first item on the agenda was the establishment of the organisation of African states. The ministers tried to define the concept of African unity in order to understand exactly what they were going to propose. On the one hand, there was the idea of a complete political integration with one federal government, one flag, one national anthem and one military high command as advocated by the Casablanca group.

The Monrovia group on the other hand, introduced the idea of an Association of independent sovereign states for the purpose of pooling resources in an

effort to resolve common individual problems as well as those problems that were facing the entire continent as a whole.⁹ Apart from the two main rival groups (Monrovia and Casablanca) submitting their different Charters for consideration, Ghana and Ethiopia had also taken the initiative to draft possible charters for consideration. Altogether, the committee of Foreign Ministers had four draft charters to study before coming up with one which was acceptable to all.

The Ministers, however, felt that Africa needed a Charter whose principles would be subscribed to by all African states without them surrendering their sovereignty. After very intensive deliberations which ended without conclusive remarks on which charter to adopt, the Ministers decided to recommend the Ethiopian Charter to the Conference of Heads of State and Government as a basis for discussion. The choice of the Ethiopian Charter was based on the fact that apart from representing a minimum proposal on which the African states as a whole could agree, it had also taken into account texts from the Casablanca and Monrovia Charters. The same Charter had indications of consideration of the existence of different situations and groupings in the African continent.¹⁰ At least there was consensus on the fact that the Ethiopian draft contained enough of the substance of both the Casablanca and the Monrovia Charters to be accepted as a basis for discussing the new Charter.

At the Summit Conference, not a single head of state asked for a deferment of the decision on the Charter. In fact, all talked of the importance of the summit ending with the formation of an organisation that would provide a platform on which African leaders would study Africa's problems together and settle inter-African disputes, not to mention the promotion of common defence as well as economic and social programmes.¹¹ Nkrumah tried in vain to explain what the continental union that his group was proposing stood to achieve for the continent. However, whereas this could probably have been looked at differently had it come later on, at that particular time, the timing was totally wrong as none of the African leaders was willing to sacrifice the power that had come with the independence for the sake of an African unity.¹²

With the pressure to come up with a charter before the end of the Summit Conference, the heads of state and government instructed the sub-committee of foreign ministers to go back to the drawing board. The group was to come up with a draft charter on the basis of the Ethiopian draft as the working document. The committee finally presented its draft Charter in the morning of the last day of the conference (25/5/63). Whereas the original title proposed by the sub-Committee of Foreign Minister was "Charter of the Organisation of African and Malagasy States", this was finally changed after a long debate to "the Organisation of African Unity". This title was favoured by majority of

the heads of African states, and thus, the name of the continental body was subsequently created.¹³

2.2. The Role of the Foreign Powers in the formation of the OAU Charter

As would be expected, the foreign powers, especially the former colonial masters played an influential role in the formation of the Organisation of African Unity. On the eve of the Addis Ababa Summit Conference, the atmosphere had already been set by the Western mass media, which was bent on inciting animosity towards Ghana's President. Of course, the foreign powers had to protect their interests in the continent and with Nkrumah's proposal for a federal state, they stood to lose more than the African leaders were aware of.

The American Press had taken the lead in this act while *Newsweek* the British weekly magazine smeared the name of the Ghanaian President even further by linking him to the death of the Togolese President, Sylvanus Olympio who had earlier been assassinated.¹⁴ The paper even referred to Nkrumah as "modern Africa's self styled founding father", a title they very well knew would annoy his fellow African leaders and hence incite them against Nkrumah. This was followed by more accusations by the *Time* magazine.

With the Americans behind the functionalists, they ensured lack of support for the radical group. Moreover, Ghana had objected to the presence of an expert from the Organisation of American States being brought in by Liberia and Ethiopia to help in the drafting of the charter – a fact that certainly annoyed the Americans. This invitation introduces us to the existence of foreign influence in the Organisation right from the onset. The invitation to the Summit Conference of an expert from the Organisation of American States to help in drafting the Charter, - an important document for the African organisation, was a clear indication of how much influence the United States of America in particular, and foreign powers, in general, already had and would continue to have on the continental body.

It is indeed clear that dependence on foreign powers had begun at the Organisation's inception. For Liberia, a country formed by freed slaves from the US, it is not surprising that the leaders had felt that the Charter needed the American touch for it to be worth its salt. As for Ethiopia, the only country in Africa that had not experienced colonialism, its invitation of the OAS expert can only be seen as an act of ignorance as to the type of impact this invitation would eventually have on the proposed future unity of the African states.

Given the weight that the foreign Press carried in Africa at the time, the anti Ghana sentiments were fully exploited by Nkrumah's opponents.

Consequently, Ghana lost even the little support that it had gathered from some of the Casablanca group members.¹⁵ The wind was therefore set to blow towards the moderates and indeed they captured the day.

2.3. The Charter: An Overview of Performance

A Charter is “a document establishing a loose international organisation based upon voluntary co-operation of (member) states.”¹⁶ Orwa¹⁷ goes further to explain that it is not legally binding and compliance with its provisions is voluntary and depends largely on the moral force and goodwill of its members. Any organisation that has been created by a charter therefore remains subordinate to the nation-states.¹⁸

The Charter of the Organisation of African Unity, like any Charter of an international organisation, starts with a preamble.¹⁹ The preamble that underlines the right and determination of the African people to control their destiny, achieve their legitimate aspirations and harness the existing natural and human resources for their total advancement. The preamble also reaffirms the adherence of the African heads of state to the Universal Declaration of Human Rights and their desire to unite all African states with a view to ensuring the welfare and well-being of their peoples. Unfortunately, the Charter reflects a weakness that seems to have haunted the organisation

throughout the years as it endeavours to serve its member states. This is because the charter does not provide for the protection of the rights of the African masses. As Mazzeo²⁰ observes, there seemed to have been an overwhelming preference for a very loose organisation and limited forms of co-operation. Subsequently, the Charter did reflect a compromise in favour of a weak and loose organisation.²¹

The preamble talks of the inalienable right of all people to control their own destiny, and the fact that freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples. However, what was targeted here was the liberation of the African people from white minority rule. The priority at the time was to fight colonialism. The economic, social and political rights of African men and women living in independent states were not really seen as an important issue. Moreover, it was not even given a thought during the discussions leading to the adoption of the Charter. As Nyerere once pointed out, the charter spoke for the African people still under colonial or racial domination.²²

The Charter, therefore is a document more for the African heads of state than for the general populace. Given the situation that exists in Africa today, with more and more leaders abusing the rights of the very people they are supposed to protect, one wonders whether the charter has lived beyond its time or worse

still, whether it has simply become redundant. With all the African countries independent, there is even a greater need to protect the African populations from the atrocities of violence committed by their very own heads of state. Such cases have been experienced with limited intervention, if any, from the OAU. A good example is the shocking but notable case of the former Ugandan dictator, Idi Amin. Others like Bokassa of the Central African Republic and Mobutu of Zaire (now Democratic Republic of Congo) etc... are worth mentioning. In all these cases, the OAU failed to bring change for the sake of the populations of these member states.

For its goals, the Charter of the continental organisation talks of the promotion of solidarity and unity, achievement of a better life for the peoples of Africa, defence of their sovereignty, territorial integrity and independence, eradication of all forms of colonialism and the promotion of international co-operation.²³ To start with, the promotion of solidarity and unity of the African people has not been very easy to achieve as we have seen more intra and inter state conflicts than there were in 1963 when the organisation was established. It is evident that African countries were unanimous on the liberation struggle for the continent and this was done with unwavering unity and solidarity. However, in as far as other issues like social, economic and political development are concerned, individual national interest has always taken precedence over the overall concept of African unity. This also applies to the

concept of co-operation whereby efforts to achieve regional integration have been hindered by countries preferring to pursue their national interests. This has led to the failure of such regional integration groups like the East African Community that could go a long way in enhancing economic development in the OAU member states.

The different ideologies embraced by the African member states especially during the Cold War was also a contributing factor in the dismal performance of regional co-operation groups. It is evident that the OAU Charter did not consider the different ideologies as a possible threat to unity and solidarity. With the overthrow of leaders like Nkrumah and the death of others like Abdel Naser of Egypt, the new crop of leaders that came changed their countries' political and ideological stance within the continental body. Most of the new governments that came into existence in the late 70s were as a result of long and bloody wars of liberation. With the type of international polarity in place at the time, African countries were supported by one or the other of the two super powers (the United States and the Soviet Union). In most cases, support in the form of arms came from the Soviet Union and some other states like Cuba. On the other hand, the United States and major European powers, especially the capitalist ones at the time, identified themselves with the colonial regimes in Africa. These divisions were extended to the OAU and further complicated the division between the

moderates and the radicals. With the scramble for Africa that had existed for some time, the ideological division was enhanced, and the OAU member states got divided even further.²⁴

The Charter gives the OAU the right to defend the sovereignty and territorial integrity of its member states. However, so far a good number of the OAU member states are known to have had several intra and inter-state conflicts. We have seen Senegal and Mauritania, Tanzania and Uganda and more recently, Rwanda and Uganda in the Democratic Republic of Congo, all involved in conflicts that have violated respect for territorial integrity and the equality of all states. The OAU has intervened in some inter-state conflicts such as the Moroccan-Algerian border conflict of 1963, Ethiopia-Somali border dispute of 1964 and even the Kenya-Somali dispute of 1965. Others include the Western Sahara dispute between Morocco and Algeria, and the Mali-Burkina Faso conflict of 1985. In these conflicts, the OAU intervened through conciliation efforts led by individual leaders.

In intra-state conflicts, however, the OAU has been reluctant to intervene, choosing to hide under Article III(2) that prohibits it from intervening in internal affairs of states.²⁵ Moreover, having no army of its own, the OAU has often felt helpless when it comes to the resolution of these conflicts. The continental body also lacks a mechanism for punishing the offending states.

Members have also taken advantage of the lack of any provision in the Charter for collective security and therefore tend to go to the defence of others at their own convenience.

Since African leaders wanted a loose organisation whose existence would not interfere with their own powers as leaders within sovereign states, they went for a Charter that was not binding. For the African leaders, this has been very useful since it has enabled them to ignore the expectations of the OAU as a uniting body. The Charter does not provide for sanctions against errant states. Nor does it have authority to enforce decisions. The founding fathers of the OAU had a lot of hope in the moral and political goodwill and the willingness for co-operation from every member state. This was seen as the surest way of preserving peace and security in the continent. Indeed, if Charles Dickens were alive today, he could probably have come up with another work of art under the title "the Great Expectations of the African leaders of the Cold War era". The expectations were many indeed and hopes were high. However, the expected moral and political goodwill proved to be too much for the individual member states who had to choose between advancing their own national interests or the collective interests of the OAU.

Article III (7) of the Charter proclaims non-alignment on East - West issues and at international meetings. However, it has been difficult for member states

to be truly non-aligned because they are poor and economically dependent on western powers. Due to colonial legacy, African states have been inclined to support the ideas of their former masters, hence the futility of the non-alignment movement. As has already been mentioned, the invitation of experts from the Organisation of American States to help in the drawing of the Charter was enough indication of the type of dependency that was bound to plague the continental body in the future.²⁶ The commitment by the African states to the policy of non-alignment was certainly dependent on their ability to limit their individual dependence for development and security on foreign powers as well as their ability to reduce tensions among themselves.²⁷ It is the love for one another as Africans that will lead to a cultural pride that is hard to penetrate.

It is the duty of the OAU Member states to “co-ordinate and intensify their co-operation and efforts to achieve a better life for the peoples of Africa” and to “co-operate in the fields of transport, communication, health, sanitation and nutrition as well as in Science and Technology.”²⁸ These are areas that have glaring failures in as far as the performance of the OAU is concerned. To start with, the life of the African people has continued to decline faster than one would have imagined in 1963. Transport in most African countries has suffered from persistent poor infrastructure. Even in countries that are rich in mineral resources like the DRC, the roads have deteriorated to an impassable

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state. In the area of communication, the frustrations that are experienced in an effort to communicate with another part of the continent (for example from Eastern to Western Africa) cannot be underestimated. Health facilities together with sanitation and nutrition have continued to deteriorate with the increasing level of poverty in the continent. African countries have with time come to experience high levels of rural-urban migration by the populations that believe that a better life could be found in the cities. This has only led to the mushrooming of more slums in the cities and high rates of crime, hence the lack of security that the OAU should be enhancing.

Industrialisation is a concept that has not escaped the African leaders either, especially during their summit deliberations. However, it is a well-known fact that the promotion and development of science and technology is very important if this has to be achieved. African states have also depend on foreign experts from the Wes. These experts are reluctant to train local personnel. This has been the trend since independence and is bound to continue unless a concerted effort is made towards having a change. Unfortunately, this trend has only helped in creating more jobs for the foreign experts and leaving these countries less and less developed in science and technology thus pushing the countries even further from industrialisation.

In submission, the OAU has failed in the area of economic co-operation. The failure may be attributed to the fact that the organisation was intended to be a political organisation rather than an economic one. However, the weaknesses of the economies of the African states and their dependent nature should not be ignored.²⁹ It is also important to note that at the beginning, the charter did not have clear guidelines on the OAU's responsibilities in economic and social matters. However, the formation of the economic and social commission has helped by providing the OAU with a clear role to play.³⁰

Among the principal institutions of the OAU, is the Assembly of heads of State and Government, which is the main organ, concerned with the decision-making process. All the decisions and resolutions are made by this Assembly. Unfortunately, the resolutions are not fully binding – a fact that has been seen by many scholars as constituting the main weakness of the continental organisation. This is because member states do not feel obliged to follow the resolutions to the letter. This has created an obstacle for the OAU where the control of the member states is concerned. The Assembly itself has lost its seriousness as the spirit of Pan-Africanism has continued to decline. Today, most of the African leaders see the OAU summits as the time to dine, wine and read speeches – some of which hardly ever address the current issues. Others see these summits as a waste of time and prefer not to attend. It has

become evident that most African countries spend most of their time promoting national interest at the expense of collective interests.

At the beginning, the Secretary General did not have a lot of power in the dispensation of his duties. This is apparently how the African leaders wanted it to be, so that he remained subordinate to them at all times. The leaders were scared of the secretary general of the organisation usurping too much power. As a result, the Secretary-General was given no political role. This means that he had no right to make independent decisions and was supposed to implement only what the leaders had decided on. This type of arrangement has also weakened the secretariat. The Secretary-General does not have the powers to enforce decisions even on the secretariat staff. Even the deputy secretaries – general are chosen by the Heads of State and Government, the same way the secretary-general himself is chosen. In most cases, there is a lot of politics involved – hence the eventual pursuit of national ideals as opposed to those of the OAU.

Despite the picture of hopelessness that has been painted in reference to the performance of the OAU and the impact of the Charter on this performance, it must be pointed out that the OAU has managed to survive the innumerable failures and divisions that have continued to afflict it. These divisions have threatened its very existence but have failed to destroy it completely. It is also

worth mentioning that the OAU remains an essential instrument for harmonising the positions of African countries on the few issues that unite them. Whatever its shortcomings, the OAU still provides a general institutional framework within which continental interaction in Africa takes place and serves as a collective voice of the African states in various international fora. Indeed, the continental body has maintained its ability to act as a link between the African subordinate state system and the international system as a whole.

The most notable success is in the area of decolonisation and termination of white supremacy rule in South Africa. Though colonialism has continued to creep back into the African countries in the form of neo-colonialism, it is important to note that this is the only notable example of the OAU's success story in its activities. As has already been mentioned, the OAU formed when the African countries had just gained independence, laid a lot of emphasis on the liberation struggle and the need to support the countries still under white minority rule to fight for their independence. Indeed, the Charter has often been criticised by some for putting too much emphasis on the liberation struggle at the expense of economic and social development of the continent.

2.4. Conclusion

The OAU Charter was drafted under circumstances that have continued to influence its performance to date. This is because the divisions that existed even as the founding fathers were settling down to the Organisation of African unity have continued to exist till today. The African countries have continued to be divided on the basis of English speaking versus French speaking, while Islamic countries have continued to show more support for one another. These have ended up in having a negative influence on the performance of the Organisation as some of the countries, especially those that were in the Casablanca group tend to look at the Charter as being more for the Monrovia group than for the entire continent. Recent efforts by Col. Gaddafi and other African leaders to have the OAU changed into an African Union therefore does not come as a surprise to the continent. At the time of its launch, it is worth noting that Libya was among those countries that supported Nkrumah's idea of a federal government for the African people.³¹ It is evident from the Charter that the compliance with its decisions and resolutions depends entirely on the sovereign power and political as well as moral goodwill of the member states. The selfish nature of states that is reflected in their pursuit of national interest has led to the deterioration of the effectiveness and, subsequently, the importance of the OAU as a continental body.

This chapter has highlighted some important facts about the origin of the OAU Charter and the events that took place before the 25th day of May 1963. If the OAU has problems today, it is probably true that these were to be expected, especially given its historical background. However, the very glaring weaknesses that seem to be part and parcel of the Charter should have been looked into and possible solutions found. It is only by finding a solution to these weaknesses that an organisation such as the OAU could have evolved with time, for the benefit of the African people.

Notes

- ¹ Amate, C.O.C., *Inside the OAU: Pan-Africanism in Practice*, London, Macmillan Publishers Ltd. 1986, p.34
- ² Ibid. p.37
- ³ Naldi, Gino, *The Organisation of African Unity: An Analysis of its Role*, London, Mansell Publishing Ltd. 1989, p. 3
- ⁴ Ibid. p.40
- ⁵ Mazzeo, Domenico, (ed.) *African Regional Organisation*, Cambridge, Cambridge University Press, 1984, p. 5
- ⁶ Amate, Op. Cit. p. 43
- ⁷ Ibid. p.49
- ⁸ Ibid.
- ⁹ Ibid. p. 52
- ¹⁰ Ibid. p.53
- ¹¹ Ibid. p.57
- ¹² Cervenka, Z., *The Unfinished Quest for Unity: Africa and the OAU*, Julian Friedmann Publishers Ltd., 1977, p. ix
- ¹³ Amate, Op. Cit. p.59
- ¹⁴ see Cervenka, Op. Cit. p.4
- ¹⁵ Ibid. p.6
- ¹⁶ See Cervenka, Z., *The Organisation of African Unity and its Charter*, London, C. Hurst & Co. 1969, p. 80
- ¹⁷ Ojoo, Olatunde, D.K. Orwa. and C.M.B. Utete. *African International Relations*, Lagos, Longman, 1990, p.79
- ¹⁸ Ibid.
- ¹⁹ See OAU Charter, 1963, p.1
- ²⁰ Mazzeo, Op. Cit.,p. 56
- ²¹ Ibid.
- ²² See, Nyerere, "Africa's Generosity must continue", In *Refugees*, Vol.2 No.115, pp 14 - 15
- ²³ see Charter, Op. Cit, Articles II and III
- ²⁴ Amate, Op.Cit. p.22
- ²⁵ see, Charter, Op. Cit., Article III (2)
- ²⁶ Cervenka, Op. Cit. 1977, p.
- ²⁷ Mazzeo, Op. Cit. p.62
- ²⁸ see Charter, Op. Cit. Article II (2).
- ²⁹ See, Mazzeo, Domenico, (ed.) *African Regional Organisation*, Cambridge, Cambridge University Press, 1984, p.
- ³⁰ see. Treaty Establishing the African Economic Community, Abuja. 1991
- ³¹ Cervenka. (1977) Op. Cit., p.2

CHAPTER THREE

THE OAU CHARTER AND ITS PROVISIONS

3.0. Introduction

In Chapter II, we mentioned that a charter is a document that is used to establish a loose international organisation based on the voluntary co-operation of the members. It is not a legally binding document and its success depends on the moral and political will of members to abide by its provisions.

It is evident from the available literature that even as the African leaders signed the OAU Charter, they all had reservations about it. However, none of them had the courage to object to any of the provisions for fear of being branded a traitor to Africa's united stand against colonialism and apartheid.¹ The African press was not to be left behind in the enthusiasm that had engulfed African leaders. It gave very enthusiastic comments about the new Charter and depicted it as the political and legal instrument for the liberation and unification of the African continent. However, for those who were able to see beyond the charter, the inspiration and organisational means that it provided could only become a reality if the African masses were mobilised into action.²

3.1. The Preamble

The preamble of the OAU charter lists some of the objectives and beliefs of the organisation.³ It is then followed by what is referred to as the operative section which consists of thirty two Articles. The last part of the Charter is the protocol. The most important element of the preamble is its commitment to the inalienable right of all people to self-determination and to freedom, equality, justice and dignity.⁴ These are seen as essential objectives for the achievement of the legitimate aspirations of the African peoples.

The Preamble also highlights the determination of the African heads of state and government to safeguard and consolidate the hard-won independence as well as the sovereignty and territorial integrity of their states. They also declared their desire to fight against colonialism in all its forms.⁵ The Charter also emphasises the establishment and maintenance of international peace and security based particularly on the UN Charter. In a nutshell, the preamble encompasses the general purpose as well as the principles of the continental body.

A lot of emphasis is also given to the eradication of colonialism in Africa. This again was not surprising since the African countries were in the process

of fighting for their independence and those who had gained freedom were more determined to liberate the others and rid the continent of this vice. The eradication of colonialism in all its forms was therefore a necessary prerequisite to the attainment of the OAU goals.⁶ It is also in the preamble where the adherence of the member states to the principles of the Universal Declaration of Human Rights as enshrined in the UN Charter are mentioned. The African states reaffirmed their adherence to these principles and even showed more commitment to them by the establishment of the African Banjul Charter on Human and People's Rights in 1986

The principles as they appear in the preamble depict no indication of binding legal norms that would restrict the member states to stick to them. On the other hand, they appear to be reaffirming existing rules and a statement of objectives to be achieved. Unfortunately, how they are achieved and the assurance that they are achieved is not clearly elaborated.⁷

3.2. The Objectives

The purposes of the OAU are stipulated in Article II(1) as the promotion of the Unity and solidarity of the African states; the co-ordination and intensification of co-operation and efforts with a view to ensuring a better life for the peoples of Africa; the defence of sovereignty, territorial integrity and

independence of member states; the eradication of all forms of colonialism from Africa; and the promotion of international co-operation, having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights.⁸

To achieve these goals, the OAU member states pledged the means to be used as mainly co-operation in political and diplomatic fields, economic, educational and cultural as well as in Health, sanitation and nutrition. The African member states also identified scientific and technical co-operation as a means to be used for the achievement of the stated goals. Given the need and importance of security, the African leaders also pledged themselves to co-ordinate their policies in the fields of defence and security. However, despite the emphasis on defending the sovereignty and territorial integrity of member states, the Charter did not provide for any collective security arrangement. As much as this omission was rectified in a document adopted at the 1973 OAU Summit Conference in Rabat, it did not provide for the formation of a standing army for collective security. The Summit merely recommended that member states should avail themselves to assist needy states with modern equipment and military assistance pending the setting up of the Executive Secretariat of Defence”.⁹

Unfortunately, no “Executive Secretariat for Defence” has been set up to date. Neither have any measures been adopted for collective defence. The issue is not just logistical but also borders on the question of management. Given the internal divisions in the OAU, it would be a problem for the countries to agree unanimously on one country to host the secretariat for defence. This would bring problems of one country seeing itself as more powerful by virtue of the privilege that has been bestowed upon it. Moreover, the issue of leadership would come back to haunt the OAU when it comes to decisions like who would head the defence secretariat.¹⁰ It is important for us to note, however, that because of the unity that existed on the issue of colonialism, the African member states were very receptive to the needy member states. This is also the only OAU resolution that was implemented by the member states without violation and with a lot of commitment.

The strategies for achieving the objectives of the OAU are more social and economically oriented. It is evident that military integration does not appear among the purposes of the OAU. Member states have, however, managed to co-operate in the area of defence and security through by providing peacekeeping forces under the auspices of the OAU. This initiative was first experimented in 1981 in Chad. The OAU also sends representatives from member states as observers in political elections in member states.

3.3. The Principles of the OAU

The principles of the OAU are embodied in Article III of its Charter. They are seven in total, namely:¹¹

- a) the sovereign equality of all member states;
- b) non-interference in the internal affairs of states;
- c) respect for the sovereignty and territorial integrity of each state and for the inalienable right to independent existence;
- d) peaceful settlement of disputes by negotiation, mediation, conciliation and arbitration;
- e) unreserved condemnation, in all its forms of political assassination as well as of subversive activities on the part of neighbouring states or any other state;
- f) absolute dedication to the total emancipation of the African territories which are still dependent;
- g) affirmation of a policy of non-alignment with regard to all blocks.

The first principle in Article III of the Charter tries to affirm that all states are equal irrespective of their different sizes. This was certainly a rejection of the belief that Africa had too many unviable and unjustifiable small sovereign states.¹² Out of the seven principles, the majority are clearly in defence of sovereign rights of member states. The first four are similar to the first four principles of the Charter of the United Nations. However, African leaders

seem to have felt that these would be a deterrent to leaders like Nkrumah who were bent on having a political integration of African states. Principle 5 of Article III was included as a result of the assassination in January 1963 of Sylvanus Olympio, the then President of Togo. African leaders realised how vulnerable they were and decided to voice their condemnation of any such act in the future. The mention of Nkrumah in connection with Olympio's death prompted the addition of the last part of the sentence:

“-----the unreserved condemnation, in all its forms, of political assassination as well as of subversive activities on the part of neighbouring states or any other state”¹³

The principle is said to have been included on the insistence of Nigeria that was notably against the Casablanca group, especially the ideas of Kwame Nkrumah. Whereas it is not very different from the one of non - interference in the internal affairs of states, the African leaders attached a lot of importance to it, and therefore, felt that it was very crucial. Consequently, they went ahead to adopt a special declaration on the problem of subversion at the 1965 Summit in Accra.¹⁴

Unfortunately, the death of Olympio was just the beginning of many other political assassinations that were later to haunt the continent. The immediate next victim of political assassination was Sir, Abubakar Tafawa Balewa, the

Prime Minister of Nigeria, who himself had been very anxious to see the fifth principle inserted in the Charter.¹⁵ Today, we can say that Africa has known more political assassinations than have been known by any other continent. Most changes in governments in Africa have hardly ever known a smooth bloodless transition. A few of the leaders who opt to hand over power peacefully, like Leopold Sedar Sengor of Senegal and the late Mwalimu Julius Nyerere of Tanzania are viewed as having unique qualities.

We have already mentioned that the new Charter was a compromise of the Charters of the two rival groups. The sixth and seventh principles appear to be concessions to the Casablanca group. The “absolute dedication to the total emancipation of the African territories which were still dependent highlights the main purpose of the OAU. This was an issue very close to the hearts of Nkrumah and his group. In fact, the Independence of some of the African countries was seen by leaders like Ahmed Ben Bella as “a starting point to helping other African territories still under colonial rule to gain their independence.”¹⁶ The OAU was established at a time when anti-colonial feelings were very high and the African leaders felt very strongly that the future of Africa could not be discussed when some parts were still under colonial rule. They made the liberation of the other dependent member states a priority and went ahead to establish an OAU Liberation Committee. This

was mainly to facilitate, co-ordinate and ensure assistance to liberation movements.

The first task for the OAU was the case of South West Africa which was under the control of the South African Apartheid regime. The first OAU Steering Committee was formed right after its inception to handle the case on behalf of the OAU. All African states accepted the responsibility to finance the case. The African group at the United Nations took the case to the UN General Assembly and demanded the immediate termination of South Africa's mandate over South West Africa. With the persistent pressure brought to bear on the United Nations by the African group, the General Assembly finally agreed to recognise SWAPO as the sole and authentic representative of the people of Namibia. The Assembly went ahead to adopt other resolutions by which termination of South Africa's mandate over Namibia was confirmed.¹⁷ When in June 1971 the International Court of Justice declared the continued presence of South Africa in Namibia illegal, the first struggle against colonialism in Africa was won by the OAU. The Liberation struggle had just begun.

The declaration of the principle of non-alignment as the seventh principle was not a mere coincidence. This arose from a conviction that Africa could contribute to world peace by adopting a policy of non-alignment. With the

Super-power scramble for Africa at its height, African leaders noted with concern the ideological division that was already dividing their countries. Both the USSR and the United States were determined to win as many of the African countries to their ideas as possible. In fact, some of the African countries exploited the existing situation by playing one super power against the other. Ideological affiliations depended on who was willing to assist at the time when need arose. With more and more countries becoming independent, African leaders felt that the policy of non-alignment would best serve their national interests, not to mention the interest of the entire continent. This is because it was seen as the only means of surviving the East –West conflict in which the continent had been placed at the centre.¹⁸ The problem of alignment seemed to have been more evident in the French-speaking African states which still maintained very close links with France, the former colonial power. Some of the leaders of these countries even looked up to the French leader, Gen. Charles de Gaulle, as their godfather.¹⁹

3.4. Membership: Rights and Duties of Member states

Membership to the Organisation of African Unity is a right of every independent African state. However, Article XXVIII requires any new state that was not a founding member to notify the secretary-general of its intention

to adhere and accede to the Charter before it can be admitted.²⁰ The notification of the rest of the member states by the Secretary General is a mere formality which hardly ever makes a difference. This was illustrated in 1973 when the OAU violated its own Charter by admitting Guinea-Bissau after it had been proposed by Algeria at the 8th Extraordinary Session of the Council of Ministers at Addis Ababa. Guinea Bissau had only become independent on 24 September 1973 and by 21 November 73, it was being proposed for membership. Surprisingly, the Council unanimously approved Guinea's admission. This violation was followed by the cases of other countries like Mozambique, Cape Verde Islands, Comoros Islands and Sao Tome and Principe, whose admission was approved by the resolution on the admission of new members that had been adopted in Kampala in July 1974.²¹ This was of course different from the stipulations and provisions of the OAU Charter which is specific on the period a state should be in existence before becoming a member.

Article XXXII stipulates the freedom of the members to terminate their membership to the organisation by notifying the Secretary General. However, membership to the OAU is not binding and can be terminated after one year of notification.²² Unfortunately, while the Charter gives the member states all the freedom to adhere to, and to separate from the continental body as members, there is no provision in it that advocates for suspension or expulsion

of a member state on any grounds whatsoever.²³ This is very unfortunate since it is another factor that has led to the weakness of the organisation. The OAU member states, aware that they can neither be suspended nor expelled have tended to disregard the rules, regulations and the general requirements of the organisation. It is no wonder that the members' actions have been very alienated from their affiliation to the organisation, hence the promotion of national interest as opposed to continental interest.

Articles V and VI highlight the rights and duties of member states. They state that all member states shall enjoy equal rights and have equal opportunities.²⁴

Article VI requires member states to pledge to observe scrupulously the principles enumerated in Article III of the OAU Charter. The Charter talks of equal rights for the members, and does not have any provisions that would be used to accord special responsibilities to any of its members distinctly, unlike what is enjoyed by the permanent members of the UN Security Council. In practice, all members participate on equal footing in the work of all institutions and committees of the OAU. This is emphasised by Articles X and XIV which grant each member state one single vote in all the institutions of the organisation.²⁵ However, as would be expected, the geostrategic position of any country will certainly determine the role it plays within any regional organisation. In this respect, countries such as Nigeria, Egypt and more recently, South Africa have continued to play a bigger role by virtue of their

size, economic wealth and military strength. These countries also qualify as sub-regional super-powers in Africa and therefore they have a lot of influence on the other OAU member states. Nigeria, for example, has played a big role particularly in conflict resolution in West Africa, through the ECOMOG forces. As has already been mentioned, it was also very instrumental in confronting the Apartheid regime in South Africa by giving material and technical support to African National Congress.

Equality among states is, therefore, only found in the payment of dues where the contributions are based on the UN assessment of national income. However, many international organisations assess contribution on a country's GDP. This is unrealistic as the general economic situation in Africa is such that a country might have the highest GDP but is very highly indebted to the extent that its priority goes to paying the debt it owes to the IMF rather than honouring its contributions to the OAU. As a result, the number of defaulting member states has been very high, especially with the absence of any binding resolutions and provisions for sanctions.

3.5. Organs of the OAU

The Charter creates various organs to enable the organisation perform its duties. The four organs of the OAU are enumerated in Article VII of the

Charter as the Assembly of Heads of State and Government; the Council of Ministers for Foreign Affairs; the Secretariat; and the Commission of Mediation, Conciliation and Arbitration.²⁶

In addition to the four, there was also the special Co-ordinating Committee which was established for the Liberation of Africa. This was created in 1963 by the resolution on the decolonisation. In the initial years of the OAU, it was considered the third most important body of the organisation after the Assembly and the Council of Ministers.²⁷ It ceased to exist once the decolonisation of the continent was complete.

3.5.1. The Assembly of Heads of State and Government

The Assembly of Heads of State and Government, commonly known as the “Assembly” is described in Article VIII as the supreme organ of the OAU. The Assembly discusses matters of common concern to Africa with a view to co-ordinating and harmonising general policy.²⁸ As such, it is the Assembly that has the responsibility of acting on matters of far-reaching consequences in political, military and economic spheres. For instance, it can review the structure and functions of all the other organs and any other specialised agency which may be created under the Charter. The Assembly is the competent body to interpret and amend when necessary.

There is a general feeling that OAU summits have become the meeting place for African leaders, where they can wine and dine and often give speeches that are often more in the interest of their respective countries. However, this seems to be in line with the purpose of the Assembly which is to provide a forum for discussion by the Heads of State and Government. Whether they stick to important issues for the benefit of the continent and pass relevant resolutions is the question that we are obliged to ask. All the resolutions and decisions made by the Assembly are determined by a two-thirds majority.²⁹

However, these resolutions are not legally binding – a fact that has been considered to constitute the main weakness of the organisation.³⁰ The member states, knowing very well that they are not legally bound to observe these resolutions, rarely implement them. The OAU, on the other hand, has no control over the implementation since its own Charter does not provide for any form of punishment for those who fail to implement the Assembly's decisions. An illustration of how irrelevant the resolutions appear to the member states is the recent failure by most OAU member states to implement the Assembly's decision to proclaim 25 May a "work-free Day" in Africa. By this decision, the OAU expected all its member states to take all the necessary legislative and regulatory measures for its implementation. In Kenya for

example, the day passed without any indication or even mention of its existence.³¹

In 1986, the Banjul Charter on Human and People's Rights was established. The Assembly was mandated by the Charter to constitute a Commission on Human and People's Rights to oversee the promotion of human and people's rights in Africa.³² Article 33 of the Banjul Charter gives the Assembly the right to elect the members of the Commission by secret ballot from a list of nominees by state parties. Article 58 empowers the Commission to bring cases of serious or massive violations of human and people's rights to the Assembly which is ultimately responsible for taking whatever action appears necessary.³³

However, the Assembly has not performed well in this area, especially given that most abuses of human and people's rights are committed by the very African leaders who constitute the Assembly. As recently as the 1990s, there have been cries of violations of Human and People's Rights in countries like Togo (whose President is the current OAU Chairman), Rwanda (which eventually exploded into genocide), and many other African countries that go unmentioned. Uganda was known for its serious violations of Human Rights but the main culprit, ex-President Idi Amin, was allowed to be the Chairman of the OAU. The Assembly does, however, have powers to delegate to the

commission any powers that it deems necessary and may also apply political pressure upon recalcitrant states by publicising measures taken under the Banjul Charter. Nevertheless, given the nature of the Assembly, such measures are hardly ever taken.

3.5.2. The Council of Ministers.

The Council of Ministers is the second major organ of the OAU. Its duties and functions are set out in Articles XII-XV of the OAU Charter. It is composed of Foreign Ministers of member states or other designated ministers of the member states. The Council meets at least twice in a year. The resolutions of the Council are, however, mere recommendations to the Assembly which is the only organ with a right to take final decisions. Nevertheless, the Council plays the important role of adopting the budget of the organisation. It is also the Council that is charged with the responsibility to approve the reports of the specialised commissions. The Council also drafts and adopts resolutions and declarations.³⁴

The Council can meet in extraordinary session at the request of any one of its members. However, a two-thirds majority agreement is needed. The first extraordinary session of the Council was convened in November 1963 to consider the Algerian-Morocco dispute. In 1964, the army revolt in Tanzania

saw another extraordinary session being convened. This also discussed the Somalia –Ethiopia and Somalia-Kenya border disputes. In December 1976, the 11th extraordinary Session was held in Kinshasa. This particular session was very unique in the history of the organisation since it was the first one to have been devoted to the continent's economic problems.³⁵ It is evident, however, that the Council has a tendency of convening extraordinary sessions easily whenever problems arise that require the OAU's attention.

3.5.3. The General Secretariat

Articles XVI –XVIII of the OAU Charter makes provisions for the General Secretariat. The Secretariat is responsible for assembling the information needed to guide policy formulation and also for policy implementation. The secretariat is headed by the Secretary General. The initial title of the head of the General Secretariat as preferred by the founding fathers was ‘ “Administrative Secretary General”. This was because they wished to limit the powers of this official to the extent that he would remain subordinate to them and did not aspire to become a policy-maker for the continental body. It is with this in mind that the Charter cautiously describes his duties and emphasises the “absolute neutrality of both him and his staff.”³⁶

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The rules that govern the functioning of the Secretariat define it as a central and permanent organ of the OAU which is responsible for carrying out the functions assigned to it by the Charter. The General Secretariat is also the organ that is responsible for carrying out any functions of the OAU that are specified in other treaties as well as the agreements among member states. It also provides all the administrative and technical staff for all the meetings of the other organs, and specialised commissions of the OAU.³⁷ It keeps records of all these meetings and circulates them among member states.

The role of the Secretary General in the organisation is purely administrative. This position was further weakened by the failure of the Charter to grant the Secretary General the right to attend the meetings of the Council of Ministers, the Assembly and the Specialised Commissions. This failure is avoided by reference to rule 9 of the rules of procedure of the bodies concerned, which states that:

“Participation of the Administrative Secretary General in the deliberation of the Assembly of the Council of Ministers, of the Specialised Commissions and the other organs of the organisation shall be governed by the provisions of the Charter and by the respective rules of procedure of these bodies”.³⁸

It is evident that those who drafted the rules of procedure had wished to reserve the right to exclude the Administrative Secretary General whenever it was convenient for them. As much as the Secretary General and his assistants do attend all the meetings, the set up is such that they can be barred from attending at any time, depending on the wishes of the Council of Ministers and the Assembly, and the agenda of the meeting.

Most of the staff at the General Secretariat often seek support of their respective governments. This is partly due to the fact that their recruitment is dependent on consent of their Government. This type of arrangement has led to the staff advancing the policies of their own governments at the expense of those of the continental body. The Secretary General has no effective control over his staff hence his inability to enforce strict rules and regulations to govern staff performance. This can be extremely frustrating and indeed saw the resignation in 1974 of the then Administrative Secretary General, Nzo Ekangaki, who felt that it was futile heading the continental body if he was too powerless to even enforce discipline among his own staff.³⁹ The Secretary General can only ensure the efficiency of the Secretariat if he is given the powers by the Charter to enforce discipline and improve the service conditions of his staff. However, these have been left as the responsibility of the Assembly which only thinks of the OAU matters at the time of the Summit Conferences. It is no wonder that the Secretariat has been accused

several times of inefficiency. Moreover, the political nature of the appointments of both the Secretary General and his Assistants has in itself given the member states more powers over the General Secretariat than the Secretary General himself has.⁴⁰

3.5.4. Commission of Mediation, Conciliation and Arbitration

The fourth principle in Article III of the Charter requires all the member states to settle all disputes among themselves by peaceful means, that is., negotiation, mediation, conciliation and arbitration. The Commission was formally established under Article XIX which defines the composition and service conditions of its members and the procedures for settling disputes between member states. The protocol that put it into force was signed in 1964 by all the 33 member states. Article XII of the Protocol gives the Commission jurisdiction over inter-state dispute when empowered jointly by the parties concerned, by a party to the dispute, by the Assembly or by the Council of Ministers.

The Commission has, however, never been fully operational despite the numerous conflicts that the continent has continued to experience. This has been attributed to the fact that much as the protocol is technically in force no member state has ever felt the need to invoke its provisions. Moreover, most

of its functions continue to be performed by a number of ad hoc bodies. Nevertheless, the Commission was established because the African leaders felt it necessary to have a judicial system in whose creation they have played a role instead of running to the International Court of Justice (ICJ) which to them was too international, more European and completely foreign.⁴¹

Ad hoc committees are always appointed by the OAU itself. They have varied from good offices to mediation, conciliation, negotiation and arbitration. These committees have been known never to delve into the rights and wrongs of the issues in dispute. More often than not, they listen to the disputing parties after which they remind them of the need to respect the principles of non-interference in the internal affairs of other states and the sovereignty and territorial integrity of each state.⁴² For anybody looking at the number of conflicts in Africa, it would be imperative to give some life to the Commission since it would contribute greatly to the maintenance of not just regional peace but international peace and security as well.

3.5.5. Specialised Commissions

The OAU is also allowed by Article XX of its Charter to establish specialised Commissions whenever it considers it necessary. Consequently, the following Commissions were established by the African leaders within this framework:

- Economic and Social Commission;
- Educational and Cultural Commission;
- Health, Sanitation and Nutrition Commission;
- Defence Commission;
- Scientific, Technical and Research Commission.

However, to avoid duplication of the work being carried out by ECOSOC and Economic Commission for Africa (ECA), only three of these principal commissions are operative:- the Education, Science and Cultural Commission, the Economic and Social Commission and the Defence Commission. The composition and functions of these commissions is covered in Articles XXI and XXII of the OAU Charter. The role of the Defence Commission is purely consultative and advisory since the OAU Charter does not make any provisions for an OAU standing army or peacekeeping force just as it does not provide for collective security.⁴³

Also provided for in the Charter is the Budget of the organisation. The source of the OAU budget is the contributions from member states. The burden is not shared equally. It is apportioned on the basis of the scale of UN assessment that is, national incomes. None of the OAU member states is assessed for an amount exceeding 20% of the OAU's yearly budget. The OAU Charter advocates equality in respect to the contributions made by member states.

However, this scale of assessment puts countries at various levels of development, hence the idea of equal rights and equal duties is nothing but an irrelevant phrase in the Charter. Unfortunately, contributions are normally assessed on the basis of a country's GDP – a very unrealistic way of making an assessment especially of African countries where the general economic situation is such that a country might have the highest GDP but is very highly indebted. This changes its focus from meeting its obligations to attending to matters of national interest, like paying for the debts that are owed to the Bretton Woods Institutions.

There is, however, no provision in the Charter that ensures punishment for those who fail to pay their contributions regularly. Non payment of dues has hampered the effective functioning of the organisation, particularly when it comes to meeting its commitments. In fact, the OAU is not financially sustainable since it operates on budgetary deficits. This means it cannot adequately achieve its objectives. A look at the approved budget for 1998-99 financial year gives us a clear picture of the financial scenario of the OAU. The approved budget for that period was US\$ 32,400,000 of which member states were assessed on a total amount of US\$ 27,830,000. By the end of the financial year (31/5/99), only US\$ 13,406,749 was paid leaving an unpaid balance of US\$ 14,423,251 (a figure slightly more than half the total amount).⁴⁴

3.5.6. Languages of Operation

The Charter describes the working languages of the organisation under Article XXIX . These are, African languages (if possible), English, French, Arabic and Portuguese.⁴⁵ One wonders why the expression “if possible” is used in reference to African languages. From the very day of its establishment, the OAU confirmed the use of the languages of the former colonial masters as its working languages. This is a clear indication of the influence of the master’s culture even in the deliberations of the continental body. In fact, just as the entire African continent is plagued by its colonial legacy, the OAU is no exception, hence its inability to adopt African languages that it can promote to be used as its official working languages. Africa has a diversity of languages, just as diverse as the culture of its populations. However, there are languages that are spoken by a majority in every given region. We have, for example Kiswahili for East and Central Africa, Zulu for Southern Africa, Hausa in West Africa and Arabic for the Arab countries within the continent. Any one of these languages deserves to be promoted as one that could eventually used as an OAU working language.

3.5.7. Amendment of the Charter

Ironically, while Article XXXII of the OAU Charter gives provision for its amendment, the organisation has maintained the same Charter since its

inception without any amendments. It is easy to conclude that no member state has ever felt it necessary to propose for the amendment of the Charter as stipulated in Article XXXII. Moreover, even if the Council of Ministers felt the need, it is evident that African leaders themselves felt quite comfortable with the Charter as it was. This is because it provided them with the opportunity to get away with anything under the cover of sovereignty. It has taken African leaders 38 years to realise the need to change from an “African Unity” to an “African Union”. This has certainly changed the face of the OAU since it now operates on a Constitution instead of a Charter. The Constitutive Act which took effect on 26th May 2001, has therefore put to rest a Charter that had definitely lived beyond its time, and had contributed to the organisation’s weaknesses more than strengths.

3.6.0. Recent Development in the OAU

Just before the end of the 20th Century, the African leaders saw the need to change the way they look at the performance of their respective countries as well as their collective performance within the OAU. Since the 1980s, the OAU has been involved in efforts to make structural changes in the continental body. The OAU has made some effort to improve its capabilities for conflict management and resolution. With the end of the Cold War, there was a proliferation of internal conflicts in Africa. The security landscape of

Africa continued to deteriorate, internal conflicts predominated and with the diminished international interest in Africa, the OAU was prompted to take stock of the changes that were taking place both in Africa and in the international system at large.

Seeing the many challenges that were facing the continent, the OAU was forced to reconsider its own role in this new climate, particularly in relation to the continent's economic development and security.⁴⁶ The prevalence of conflicts in Africa had been noted by the African leaders during the OAU Summit in 1990 as having seriously hampered the individual and collective efforts at both political and economic developments. Their pledge at this Summit to work together to reduce the scourge of conflicts in the continent led to a proposal later on by the Secretary-General's Report for an OAU Mechanism for Conflict Prevention, Management and Resolution.⁴⁷ The OAU Secretary-General argued in his report that the Organisation's ad hoc approach to conflict management had proven to be inadequate, and that there was an urgent need for the OAU to adopt a new security agenda as well as develop an institutional framework within which African conflicts could be better addressed.

The Cairo Summit in 1996 saw issues like democratic governance, human rights, corruption, lack of leadership and accountability to feature on the

agenda. Discussion of such issues had been avoided in the past. The changes initiated at this summit were not as a result of a comprehensive review of the performance of the organisation but merely as a belated response to the rising incidents of internal conflict in several of the OAU member states.⁴⁸ These have continued to increase despite the establishment of the Mechanism for Conflict Prevention, Management and Resolution in 1993. The main obstacle has been the principle of non-interference in the internal affairs and sovereignty of states. In fact, more serious conflicts have erupted in many states since 1993 when this mechanism was established. We have witnessed the 1994 Rwanda genocide, the Ethiopia-Eritrea war, the Sierra Leone conflict and the persistent conflicts in the Sudan and the Great Lakes region. The mechanism has thus not been effective in preventing and even resolving the conflicts in the continent.

In 1980, a review of the Charter was initiated. However, this has not progressed with the kind of urgency and focus that one would expect. The same period saw the establishment of the Lagos Plan of Action for the economic development of the continent. The purpose of the plan was to promote the development of the nations and peoples of Africa and also their progressive integration over bigger regional areas.⁴⁹ The document presented an ideal terrain for the development process. However, not much has been achieved in changing the economic situation of the African countries for the

better. This situation has continued to register stagnation and rapid decline as the years go by.⁵⁰ In fact, Africa today is still counted as the most economically backward region of the world.

In 1986, the heads of state and government adopted an African Charter on Human and People's Rights. This came into force four years later, and even by then, only 40 member states had ratified it. Even though an African Commission on Human and peoples' rights was set up to supplement the African Charter, the concept of human rights has continued to be abused by the same leaders who endorsed the establishment of the Charter. In fact, their delay in putting it into force was certainly an indication of what was to come.

1991 saw another new development in the OAU structure. The African Economic Community (AEC) was established during this period as a follow-up to the recommendations of the Lagos Plan of Action.

3.6.1. The Restructuring Process

The changing of times and the many new challenges that are facing the continent at large and the OAU in particular have forced the continental body to review its response to the needs of the African populations. This has led to reforms and the restructuring of the general secretariat including

representational and scientific specialised offices. This exercise is aimed at enhancing the organisation's efficiency and effectiveness to make it more responsive to the needs of the member states. The reforms and restructuring process follows the work and recommendations of a Canadian Consultancy firm that had been commissioned by the OAU to look into what needed to be done to revamp the continental body. The decision to go ahead and restructure the organisation was taken at the 69th Ordinary Session of the Council of Ministers in Addis Ababa in March 1999.- At its 70th Session, the Council reiterated the fact that the Secretary General would be responsible for leading the transition period and in overseeing its implementation. This was a new development as the Secretary General was given the power by the Council to lead the transition process. Other activities undertaken in the restructuring exercise include the launching of the Human Resource Rationalisation Component which requires that the staff complement be matched with the job requirements. This is a move in the right direction since the OAU has previously been accused of being blotted with unskilled staff. It is hoped that this exercise will bring a better face to the renewed organisation.

The Organisation of African Unity has also taken keen interest in issues that are not covered in its Charter, like the rights of the child. In 1990, Africa's leaders committed themselves to the goals set out in the 1990 World Summit for children among a list of others contained in the Convention on the Rights

of the Child which had been adopted in 1989.⁵¹ The OAU played an active role in the Summit for Children and subsequently led an African effort in articulating the needs of African children in 1994 with the Dakar Consensus for African children. Between 1989 and 2001, a host of other declarations, decisions and recommendations relating to children have been made by the OAU. However, as much as the organisation has continued to make efforts in this area, its member states have not done much. This came out clearly at the recent Pan-African Forum on the future of the children, held in Cairo, Egypt in May 2001. The Forum ended with the conclusion that African Governments had failed their children.⁵² Otherwise, were it not for its members, the OAU had tried to play its part and had even made great efforts to see to the entry into force on 29/11/99 of the African Charter on the Rights and Welfare of the Child. With this, Africa now has a more relevant legal instrument which will safeguard the rights of its children to survival and development.⁵³

The OAU has also acknowledged the fact that drug abuse and illicit trafficking is taking greater proportion of the population in Africa. The Organisation sees this as a serious hindrance to the social and economic development in the continent. As a result, the heads of state and government at their 32nd Summit Conference in Yaounde, Cameroon in June 1996, established the African Plan of Action as a framework to tackle this problem.

In implementing the Plan of Action, the general secretariat initiated actions which led to the first meeting with the regional economic communities from 21 to 23 September, 1999 in Addis Ababa. This meeting provided a forum for the discussions on the strategies and mechanisms for strengthening co-operation in the area of drug abuse and illicit trafficking.⁵⁴

Whereas the OAU does not have any special provision for gender issues, it has taken cognisance of the demands of the times. Consequently, the organisation has of late shown a lot of support for the mainstreaming of women's effective participation and vision within its activities. To ensure that its member states do not neglect the needs of women, the OAU has requested them to take appropriate measures to ensure that women are appropriately represented in the decision-making processes not only in their respective countries but also in the OAU. In April 1998, the African Women's Committee on Peace and Development (AWCPD) was established in pursuant of the decision made at the 66th Ordinary Session of the Council of Ministers held in Harare in June 1997. To illustrate the OAU's commitment to gender issues, the Secretary General participated in the 6th African Regional Conference on Women, from 22 to 27 November, 1999.

The OAU has also embarked on programmes which will show its close involvement in educational programmes within the continent. At the 70th

Session of the Council, a Programme of Action for the Decade of Education was endorsed. Consequently, Yaounde Summit in 1996 declared the period 1997 to 2006 the Decade of Education in Africa and mandated the General Secretariat to prepare a programme of Action for its implementation.⁵⁵ The programme constitutes a framework for mobilising actions to be taken at national levels. The Regional Management Strategy organised its first Regional Seminar in Banjul, Gambia in January 2000. This initiative saw close collaboration between the OAU, Economic Community of West African States (ECOWAS) and Southern African Development Community (SADC). The Education Decade is to be financed by the OAU member states.⁵⁶ In the same context, the OAU Secretary General addressed the UNESCO Executive Board in Paris in October 2000, where he highlighted Africa's challenges as it enters the new millennium. The report identified several challenges facing the continent which need attention and support, namely, peace, development, democratisation, debt, youth, women, education and science, information and communication technology, multiculturalism and dialogue among cultures, as well as integration and Pan-Africanism.⁵⁷ The Secretary General emphasised the need for collaboration with, and assistance from intergovernmental organisations like UNESCO with a view to meeting the goals of Education For All.

The HIV/AIDS pandemic is devastating the continent. The heads of state and government endorsed the Dakar (1992) and Tunis (1994) declarations on the AIDS epidemic in Africa. The OAU also commemorated the World AIDS Campaign in 1999 and all activities of the day were focused on children and youth as the groups most vulnerable to the epidemic. Similarly, the Secretary General has convened a number of meetings on this critical issue. The OAU's commitment to the eradication of HIV/AIDS in Africa was illustrated when it organised the HIV/AIDS Summit in Abuja on 27 April 2001 where several world leaders were represented and important commitments were made. This commitment that has been shown by the continental body has been very effective and we have seen many countries coming up with financial contributions to show their desire to assist in combating the epidemic in Africa.

The most recent development was the idea of a United States of Africa that was proposed by the Libyan leader Muammar Gaddafi in 1999 at the Sirte Summit. This is like going back to the days of the radicalists led by Nkrumah, who were proponents of federalism. As would be expected, African leaders have not been very enthusiastic about a hazy federation of sovereign states and would much rather opt for limited areas of co-operation as a first step. As a result, they have preferred to choose an African Union as opposed to a United Africa.⁵⁸ The "new" African body has a Constitutive Act which came

into effect on 26 May 2001. The implication here is that the OAU will no longer exist as an organisation that is governed by a Charter. The hope is that this new set-up will make the OAU more responsive to the needs of the African populations.

Wodajo⁵⁹ attributes the OAU's slowness or inability to constantly adjust to changing regional and global environments to the lack of an appropriate conceptual framework. This, he claims has rendered the organisation less and less relevant to Africa's priority economic, political and security needs. . However, like most other authors, Wodajo also maintains that the prospects of the organisation's enhanced relevance to Africa's needs depends on the determination of its member states to make it an effective instrument of co-operation.⁶⁰

In the words of the OAU Secretary general, if effective change has to be seen in the performance of the organisation,

“ Africa must take stock of its past and present policies and chart out a new path towards a destiny predicated upon collective wisdom and collective strength”⁶¹

With the recent developments, it is evident that the Charter must be revised for it to fit in with the new structure that the organisation is trying to put in place.

3.7. Conclusion

In conclusion, it is evident that as much as efforts are being made to review the structure of the OAU, there are crucial areas that must be changed for the organisation's performance to improve. There is, for example, the functions of the secretary general which desperately needs to be reviewed with a view to effective management of the secretariat. As long as the OAU Charter continues to deprive the secretary general of all political functions, his leadership will not be as effective as would be expected from an organisation of its kind. There is also the financial capability of the organisation which is very crucial for its effective operation.. As long as the organisation's leadership continues to pass resolutions that cannot be implemented due to lack of funds, the OAU will continue to register dismal performance and lack of impact on the behaviour of its member states. Okoth Godfrey echoes these sentiments in his article on the OAU and the Tanzania-Uganda War between 1978 and 1979.⁶²

The efforts being made by the OAU to tackle issues of concern to Africa like HIV/AIDS and Tuberculosis by bringing leaders together to discuss such issues must be lauded. These have been illustrated by the ground breaking 2000 Abuja Malaria Summit, the Africa Development Forum held in Addis

Ababa in early 2001, and the Abuja Summit on HIV/AIDS, Tuberculosis and related pandemics in April 2001. In fact, had similar efforts been made in the earlier years, diseases like Malaria would not have grown to resist the drugs in the market. Similar efforts need to be directed towards the economic development of the continent. With such concerted efforts, the idea of industrialisation would not sound unattainable as it does now.

The OAU Charter was certainly not exhaustive in its provisions. The situation would probably have been different today if member states had taken the initiative to propose amendments from time to time whenever the need arose, as has been the case of similar organisations like Organisation of American States. This would certainly have kept the Charter at the same pace with both regional and global developments. Member states have also contributed to the ineffectiveness of the organisation by ignoring the resolutions made within the stipulations of the Charter in their efforts to satisfy national interest. It is clear that unless the OAU has binding resolutions and a machinery to enforce sanctions, the members will never implement any of the decisions made. The performance and financial position of the organisation will also not improve. There is also a dire need for the OAU to do away with the principle of non-interference in the internal affairs of states. It is only in this way that the organisation will have an impact on conflict management and resolution.

Notes

¹ Cervenka, Z., *The Unfinished Quest for African Unity: Africa and the OAU*, London. Julian Friedmann Publishers Ltd., 1977, p. 10

² Ibid., p. 11

³ See Naldi, Gino, *The Organisation of African Unity: An Analysis of its role*, London. Mansell Publishing Ltd., 1989, p.5

⁴ Ibid.

⁵ Ibid.

⁶ Ibid., p. 6

⁷ Ibid. Also see Charter. Op. Cit.,

⁸ OAU Charter, Article II (1)

⁹ Cervenka, Op. Cit. p. 13

¹⁰ Ibid.

¹¹ OAU Charter, Article III: Principles, 1963

¹² Mazzeo, Domenico, (ed.) *African Regional Organisations*, Cambridge: Cambridge University Press, 1984, p. 58

¹³ OAU Charter. Op. Cit., Article III, principle 5

¹⁴ Cervenka, Op. Cit., p.14

¹⁵ Ibid.

¹⁶ Amate. Op. Cit., p.63

¹⁷ Ibid. p.386-9

¹⁸ Ibid., p 58

¹⁹ Ibid., p.63

²⁰ Ibid., p.64

²¹ Cervenka, Op. Cit. p.16

²² Mazzeo, Op. Cit., p. 59

²³ Amate. Op. Cit., p. 64

²⁴ OAU Charter, Op. Cit., Articles V & VI

²⁵ Amate, Op. Cit. p. 64

²⁶ OAU Charter, Article VII

²⁷ Cervenka, Op. Cit., p. 20

²⁸ See, Ibid. p. 21, Mazzeo, O. Cit., p.59, Naldi, Op. Cit., p.14, OAU Charter, Articles VII-XI

²⁹ See Article X of the OAU Charter.

³⁰ Mazzeo, Op. Cit.

³¹ See Sixth Ordinary Session/Fourth Ordinary Session of the AEC, July 2000, Decisions Adopted, (AHG/Dec. 157 (XXXVI),

³² Naldi, Op. Cit. p.15

³³ see Articles 33 and 58 respectively of the Banjul Charter. Also Naldi, Op. Cit., p.15

³⁴ Cervenka, Op. Cit., p. 25

³⁵ Ibid., p.27

³⁶ Cervenka, Op. Cit. p.27, also see Article XVII that states the obligations of the Secretariat staff and the member states.

³⁷ Cervenka, Ibid.

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- ³⁸ Ibid., p.28
- ³⁹ Ibid., p. 30
- ⁴⁰ Ibid. p. 34, see also Mazzeo, Op. Cit., p.61, and Amate, Op. Cit., p.124
- ⁴¹ Naldi, Op. Cit. pp 19-25
- ⁴² Amate, Op. Cit. p.167
- ⁴³ Naldi, Op. Cit., p.27
- ⁴⁴ See, Introductory Notes to the Report of the Secretary-General at the 71st Ordinary Session of the Council of Ministers, March 2000
- ⁴⁵ see OAU Charter, Miscellaneous, Article XXIX
- ⁴⁶ Muyangwa, Monde, and Margaret A. Vogt. "Assessment of the OAU Mechanism for Conflict Prevention, Management and Resolution" In *International Peace Academy: Reports -Africa*, 2000. p6.
- ⁴⁷ Report of the Secretary-General to the to the 26th Ordinary Session of the Assembly of Heads of State and Government, on the Fundamental Changes taking place in the world and their implications for Africa: Proposals for an African Response, Addis Ababa. OAU, 1990.
- ⁴⁸ Wodajo, Kifle, "Africa and the OAU At the Crossroads: A brief for Revitalising the OAU". In *Ethioscope*, Vol.2, No.2, 1996, PP. 3-9
- ⁴⁹ *Lagos Plan of Action for Economic Development of Africa*, p.iv
- ⁵⁰ *Report of the Secretary General to the 26th Ordinary Session of the Assembly of Heads of State and Government*, 1990, p2
- ⁵¹ *Nation Newspaper*, Saturday June 16, 2001, p.5
- ⁵² *Nation Newspaper*, Saturday 16 June, 2001. p. 5
- ⁵³ Naldi, Op. Cit, p.23
- ⁵⁴ Ibid. p.24
- ⁵⁵ see. Address by Dr. Salim Ahmed Salim to the Executive Board of UNESCO, Paris, 24 October 2000, p.12
- ⁵⁶ Naldi, Op. Cit., p. 26
- ⁵⁷ Address by the OAU Secretary General to the UNESCO Executive Board, Paris. October, 2000
- ⁵⁸ *Daily Nation Newspaper*. Friday, March 2, 2001,p.6
- ⁵⁹ Wodajo, Kifle Op. Cit., pp3-9
- ⁶⁰ Ibid.
- ⁶¹ Report of the Secretary General. Op. Cit., p.20
- ⁶² Okoth Godfrey, "The OAU and the Tanzania-Uganda War, 1978-1979". In *Journal of African Studies*, Fall, 1987, pp.152-162

CHAPTER FOUR

AN OVERVIEW OF THE OAU PERFORMANCE: CASE STUDIES

4.0. Introduction

The first three chapters, looked at the OAU as a regional organisation, its establishment and how the member states hoped to attain unity within the continental body. We have also given an overview of the OAU Charter and how the organisation has performed its role as a uniting body for the African countries. In performance, we also touched on the recent developments within the OAU, the events that have led to these new developments and what the future holds for the OAU as a regional organisation.

However, an empirical overview of the performance of the organisation can only be done by looking at specific cases where the OAU has been called upon to exercise its role of ensuring peace and security to its members within the continent. In this Chapter, we shall look at specific case studies of four events that called for OAU's intervention and assess how the continental body performed in each case. We shall endeavour to critically analyse the reasons for the OAU's success or failure in each case. The case studies will help us to have a clear insight into the actions of the Organisation with respect to the provisions of its Charter. This Chapter is crucial in helping us to determine

whether it is indeed the OAU Charter that has contributed to the dismal performance of the Organisation, as postulated in this study.

During the first 30 years of the OAU's existence, the continent experienced numerous challenges to its peace and security, including struggles for independence, civil wars and inter-state conflicts. Some of the notable conflicts during this period include the Nigerian civil war, the Chad conflict, Liberian and Sierra Leone conflicts, the Uganda-Tanzania war and the Somalia border disputes with both Kenya and Ethiopia. The liberation struggles in countries like Zimbabwe, Namibia, Angola and Mozambique, which eventually led to civil wars, were other challenges that faced the OAU. Similarly, the struggle to end apartheid in South Africa in particular, and the general minority rule in Southern Africa continued to challenge peace and security in the continent. However, the OAU was established at the very peak of the Cold War, thus many of the conflicts during this time were fuelled by the Cold War as the United States and the Soviet Union fought for ideological dominance and strategic position in the continent and other parts of the world.

As much as the OAU has been accused of playing an insignificant role in the management and resolution of conflict in Africa before the creation of the Division of Conflict Prevention, Management and Resolution, the Organisation did try its best to intervene in some of the conflicts with the

intention of arriving at peaceful and final resolutions. Indeed, immediately after independence, there were numerous disputes over the demarcation of international borders as African countries struggled to come to terms with the arbitrary nature of their colonially inherited borders and their implications for nation building. It is in trying to manage some of these disputes that the OAU registered some of its most notable successes. In fact, the first decade of the OAU is known to have registered more success in mediation in disputes than in the later years. This was mainly during the 1960s and the 1970s when border disputes between Algeria and Morocco, Mali and Upper Volta (now Burkina Faso), Somalia and Kenya and Somalia and Ethiopia, were rife and the OAU's involvement was crucial.¹

However, in the immediate post-independence era, a number of conflicts erupted which exposed the OAU's limitations in dealing with the full range and scope of conflicts in Africa. The OAU's role in resolving most of these conflicts was mainly hampered by Article III of its Charter that stipulates non-interference in the internal affairs of member states and sanctifies the integrity of their territories. This weakness was devastatingly demonstrated by the eruption of the Nigerian Civil War in 1967. This was the most serious conflict to confront the OAU in the very first decade of its existence.² The Nigerian civil war is discussed in detail as a case study in the pages that follow in this Chapter.

The impact of the Charter's non-interference clause was evident in all other conflict situations. As has already been mentioned, the Charter is very weak when it comes to the resolution of conflicts among its members. This has resulted in the members not having much respect for the Organisation's machinery for conflict management and have often turned to the International Court of Justice whenever conflicts arise, instead of going to the OAU for assistance. This attitude rendered the Commission on Mediation, Arbitration and Reconciliation inoperative to the extent that even when parties in dispute did go to the OAU, they overlooked its presence for other tools like ad hoc mediation and consultation committees, delegations, diplomacy and good offices.³ It was not surprising, therefore, when the Commission on Mediation, Arbitration and Reconciliation together with the Defence Commission failed to produce the expected results and remained largely moribund.⁴ In the end, the OAU failed to set norms and to institutionalise capabilities for conflict management. Moreover, member states were either unable or unwilling to garner the necessary political will to create security mechanisms that would enable the Organisation to address conflicts more effectively through an institutionalised framework, even when they could see clearly that there were deficiencies in the Organisation's mandate and mechanisms.⁵

The management of any conflict encompasses a number of activities. These include peacemaking and peacekeeping. During the first 30 years of the OAU's existence, it became quite clear that it had neither the experience nor the capacity for peacekeeping. As already mentioned in the previous chapter, the OAU has no standing army nor does its Charter provide for collective security. Its inability to manage conflict through peacekeeping was clearly illustrated by its experience in the Chad Civil War. By 1980, the war had deteriorated to such an extent that the OAU felt compelled to dispatch its first peacekeeping force to oversee a cease-fire and the political transition process that the internal parties had earlier agreed to. The civil war in Chad is discussed in detail later in this chapter as a case study in an effort to determine how the OAU has fared in its performance since its inception.

Effective management and resolution of any conflict requires a sound financial base. Unfortunately, the OAU has always been plagued by a lack of financial resources right from its inception. Apart from the inconsistencies in the contributions by its member states, the OAU's funding situation has continued to worsen with the decline in the economies of member states. Analysts have also linked the declining African economies to the prevalence of conflicts in the continent.⁶

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One area in which the OAU has been credited for notable success is in the struggle to liberate the rest of the continent from minority rule. In fact, the struggle for total liberation was put as the priority area in the Charter of the Organisation. Indeed it was one of the forms the principal objectives of the OAU. The Liberation Committee was formed with a view to ensuring the co-ordination of the activities of the organisation in this area. It was also supposed to promote unity of action among the various liberation movements as well as to offer its good offices to conflicting liberation movements for the purpose of reconciliation. Its main role, however, was to liaise with the liberation movements especially those that were accorded official OAU recognition. Such movements became eligible not just for aid from the Special Trust Fund, but also for representation at the meetings of the Liberation Committee and the Council of Ministers. This recognition also provided diplomatic advantages in dealing with non-African states in order to secure further assistance. During the liberation struggle, the committee co-operated closely with the United Nations and its specialised agencies which provided humanitarian assistance to various liberation movements. The armed struggle by these movements against colonialism was, in fact, recognised as legitimate by the United Nations' Security Council in 1972.⁷

The liberation of Africa was seen as the collective responsibility of all African states. To achieve this goal, African countries were expected to pay their

outstanding dues to the Special Fund started in 1963. Of particular significance is the very crucial role the OAU is noted to have played in the liberation of South Africa from the white minority rule and consequently the ending of the apartheid system. This is treated in this chapter as a case study with a view to analysing the important role the Organisation played in the struggle to liberate the continent and how it performed as a unifying organ. It is important to note that all the countries that gained their independence after the establishment of the OAU were assisted in their liberation struggle by the OAU in one way or the other.

4.1. The OAU and the Liberation Struggle: the Case of South Africa

4.1.1. Introduction

The problem in southern Africa in particular was known to be two-fold: first and foremost, there was the Republic of South Africa as a colonial power and secondly the same country was known to have a racist regime.⁸ At least this is how the situation in Southern Africa was described by the Declaration on Southern Africa that was adopted at the 9th Extraordinary Session of the Council of Ministers in April 1975 in Dar-es-Salaam. This declaration was considered to be one of the two most important Policy Pronouncements by the

Organisation on Southern Africa since the adoption of the Charter in 1963. The first pronouncement was in the Lusaka Manifesto which was endorsed by the OAU in 1969.⁹

Popularly known as the Republic of South Africa, the country lies on an area measuring 1.2 million sq. Km (490,462 sq. miles) and has a moderate climate. The capital city is Pretoria but there are other major cities like Johannesburg, Durban and Port Elizabeth. The population of South Africa depicts a “rainbow” as once described by the country’s former President Nelson Mandela. Out of a population of 43.5 million (2000), 77.6% are black, 10.3%, white, 8.7% are of mixed race (commonly referred to as coloureds) while 2.5% are of Asian origin. This leaves a further 0.9% that is characterised as others.¹⁰ These were the major racial categories in which the South African law had divided that population until 1991. The country has an annual growth rate of 1.5%(2000) and a GDP of \$ 126 billion (GDP growth rate of 3.1% and GDP per capita of \$ 2,900) (all 2000 statistics).¹¹

Historically, the Union of South Africa was created on 31 May 1910, and it became a sovereign state within the British Empire in 1934. In 1948, the National Party began passing legislations that enforced stricter policies of white domination and racial segregation known as *apartheid* (an Afrikaans term meaning separateness).¹²

Following the passing of the new racial legislation, liberation movements like the African National Congress (ANC), founded in 1912, and the Pan-African Congress (PAC), with a view to fighting the restrictions based on colour, became even more determined to fight for the liberation of the black people. This resulted in several bloody protests like the one of Shaperville in which several protesters were often killed. As a result, these movements were banned and most of their leaders were convicted and imprisoned on charges of treason. These liberation movements were, however, forced underground and fought the Apartheid system through the guerrilla warfare and sabotage.¹³

In 1961, South Africa declared itself a republic and withdrew from the Commonwealth, partly due to the international protests against Apartheid. When the OAU was launched in May 1963, the ending of the apartheid system in South became a priority on its agenda.

4.1.2. The OAU Intervention

The term *Apartheid* was first used on 28 March 1943 in a Cape Town Newspaper *Die Burger* to refer to the policy of the Nationalist Party. Malan, the then Prime Minister of South Africa and the architect of Apartheid described it in his address to the South African Parliament on 25 January 1944

as the Policy “to ensure the safety of the white race and of Christian civilisation”.¹⁴

The OAU called for diplomatic and economic sanctions in South Africa to force it to abandon its racist. Oil producing countries were asked to cease from supplying oil and petroleum products to South Africa as a matter of urgency.¹⁵ Through the efforts of the OAU, the UN endorsed the view that Apartheid was a negation of the UN Charter and, a crime against humanity. The explosive situation in South Africa, in particular, and in Southern Africa, as a whole, was seen as resulting from the inhuman and aggressive policies of apartheid which, indeed, constituted a threat to international peace and security. However, the Security Council still insisted that the policy only disturbed the peace and security in a limited area only - that is Southern Africa only.¹⁶

As would be expected, not all the OAU members felt bound by collective effort. Some still maintained relations with the reactionary and inhuman regime of apartheid. Dr. Kamuzu Banda, a founding father of the organisation and an ardent member of the pan-Africanist movement illustrated the selfishness of African states by announcing the establishment of diplomatic relations with South Africa on the same day that the OAU Heads of State and Government adopted the Resolution on Apartheid and Racial

Discrimination which condemned the political, military and economic collaboration between western powers and South Africa. It also urged all African states to boycott South African products.¹⁷ Even though most of the other African states were angered by this attitude to the extent that some like Zambia even proposed Malawi's expulsion, the OAU was handicapped by the provisions of its Charter that do not have any section for expulsion of members. Malawi, therefore, continued to be a member of the continental body even though its actions were a violation of the principles of the Charter.

At the same time, the OAU had a difficult time restraining the western powers from trading with South Africa. Theirs was an interest in profit and even the OAU's appeal could not deter them.¹⁸ They disregarded the pleas and demands of the OAU. During the 1968 OAU Summit, African leaders expressed their anger at western powers by unreservedly condemning Great Britain, The United States, France, West Germany and Japan for their continued political and military collaboration with the oppressive South African racist regime. They also condemned France, Italy and West Germany for enhancing apartheid by selling military equipment to South Africa and, assisting it in the production of ammunition and poisonous gas.¹⁹

In 1969, African leaders adopted the Lusaka Manifesto on South Africa. The manifesto attempted to explain Africa's reasons for its united opposition to

the racist policies of the South African Government. It also outlined Africa's objectives on South Africa as being de-colonisation and the elimination of racial discrimination. The concern of the African states was explained as follows:

"our objectives in southern Africa stem from our commitment to the principle of human equality. We are not hostile to the administration of these states because they are manned and controlled by white people. We are hostile to them because they are systems of minority control which exist as a result of, and in the pursuance of doctrines of human inequality. What we are working for is the right for self-determination for the people of those territories. We are working for a rule in those countries which is based on the will of the people, and an acceptance of the equality of every citizen..."²⁰

While the manifesto acknowledged the fact that the Republic of South Africa was an independent state, and also recognised that on every legal basis its internal affairs were a matter exclusively for the people of South Africa, it also pointed out that the policy of Apartheid exceeded the limits of "internal affairs" and was of rightful concern to international community:

"the purpose of law is people, and we assert that the actions of the South African government are such that the rest of the world has a responsibility to take some action in defence of humanity..."²¹

The manifesto reaffirmed the previous stand expressed by the OAU Resolutions. It went further and added a new element into Africa's policy on South Africa, by advocating negotiation as opposed to destruction, talking

rather than killing, non-violence and an end to the violence against human dignity. The OAU Assembly endorsed the manifesto in Addis Ababa in 1969. The UN General Assembly adopted it on 20 November 1969 as Resolution 2505(XXIV) with 113 countries in its favour. Only South Africa and Portugal voted against it. Malawi and Cuba abstained from voting.

However, the OAU's idea of dialogue with South Africa did not augur well with the liberation movements since they felt that they were being pushed into a compromise with the regimes that they were fighting. The western press did not make things any better for the continental body as they presented this idea as an abandonment of the armed struggle. However, the OAU aware of South Africa's military might, realised that armed struggle could not succeed since the liberation movements could not match it in any way – both militarily and economically. They felt that even trade sanctions were due to fail since South Africa's main trading partners were not willing to stop trading with her.²² Once again, as would be expected, this issue of dialogue brought about divisions among the OAU members and resulted in a showdown between supporters and opponents of the sanctions at the OAU Summit which took place from 21 to 23 June 1971 in Addis Ababa, Ethiopia.

The Summit, however, ended with a declaration that rejected dialogue with South Africa but reiterated the commitment to the principles of the OAU

Charter. Eventually, it was declared that if there was to be any dialogue at all, it had to be between the minority regime of South Africa and the people they were oppressing and exploiting. According to the declaration, no member state was expected to initiate or engage in any type of activity that would undermine or abrogate the solemn undertakings of the OAU Charter. This could only happen with the consent and approval of the OAU.²³ This simply meant that the right of each member state to independent opinion and independent foreign policy did not apply. The weakness of the Charter vis-à-vis the OAU members was once again illustrated in August 1971 when President Banda of Malawi went ahead to pay an official visit to South Africa, while totally ignoring the declaration that had stated clearly that any state that went ahead to pursue the policy of dialogue and collaboration with South Africa would be contravening the principles of the Charter and defying the opinion of the majority.²⁴

However, the OAU was not ready to give up. In 1972, it held another Summit in Rabat where one of the most militant resolutions was made – recommendations on special measures to be adopted on de-colonisation and the struggle against apartheid and racial discrimination. The following year (May 1973) the OAU held its 10th Anniversary Summit in Addis Ababa where a resolution that reiterated the opposition to the repressive measures of the South African minority racist regime against black people. The resolution

also reiterated that military build-up of South Africa constituted a threat to peace and security in the continent.²⁵

In 1975, the OAU came up with a resolution that advocated sanctions against the white minority regimes in Southern Africa. The resolution voiced Africa's disappointment with the attitude of Western powers and held them directly responsible for the survival of the regimes in South Africa and Rhodesia (now Zimbabwe).²⁶ In 1976, at its 13th Summit in Port Louis, Mauritius, which also coincided with the Soweto Massacre, South Africa once again featured top on the agenda. The Summit adopted another resolution reiterating the Organisation's commitment to the liberation of the South African people from racist oppression. The OAU once again strongly condemned South Africa's trading partners like the United States, Great Britain, France and West Germany. This summit also came up with another resolution on the non-recognition of South African Bantustans. This particular resolution registered a lot of success since it was fully respected by the entire international community and thus no state recognised Transkei as an independent state.²⁷

Unfortunately, OAU's policy on South Africa continued to be gradually eroded by its own members. For example, Malawi still maintained diplomatic relations with Pretoria, while Ivory Coast continued to exchange delegations with South Africa at ministerial level. The Central African Empire drew on

South Africa loans while Zaire exported its Copper through South African ports. Some African states still opened their airports to airlines like Lufthansa and PANAM, that were operating in a pool with South African Airways. Moreover, a large number of trans-national companies with South African connection such as LONRHO and were still operating freely in many African countries. In a nutshell, the need to survive which can simply be referred to as the national interest made countries like Botswana, Lesotho, Swaziland, Malawi and Mozambique, to mention but a few, stick to their ties with South Africa.

These obstacles, however, did not deter the OAU from its determination to support the liberation movement. The struggle for a free South Africa continued. Between 1976 and 1985, there were popular uprisings in black and coloured townships. These eventually helped to convince some National Party members that there was a need for change. Thus in 1984, a new constitution was drafted that gave Asians and Coloureds a limited role in the national government. The struggle for freedom continued, and in February 1990 the ban that had been imposed on the ANC and PAC were lifted by President F.W. de Klerk. This unbanning applied to all other anti-apartheid groups in South Africa.²⁸

In 1991, the Group Areas Act, Land Acts and Population Registration Act were abolished. In December 1993, there was a promulgation of a new constitution into law. With this, the path to victory was clear and there was no turning back. Indeed, African countries had united their efforts to liberate one of their own and victory was in sight. The OAU'S priority area was being effectively implemented, and from 26 to 29 April 1994, non racial elections were held for the first time in the history of the Republic of South Africa. The result was the installation of Nelson Mandela, leader of the popular ANC (now a political party), as President on 10 May 1994.²⁹ Today, having emerged from the international isolation of the Apartheid era, South Africa has become a leading international actor. It has endeavoured to develop good relations with all countries especially its neighbours in SADC and the other members of the OAU.

4.1.3. Conclusion

A lot of credit goes to the OAU for having maintained a steady fight against the white minority regime in South Africa. The assistance that was extended to the liberation movement cannot be undermined. In fact, the Liberation Committee was by far the most consistent and most purposeful of all the organs created by the founding fathers of the OAU.³⁰ The Committee brought up the colonial issue for debate at all the meetings of all the organs of the

OAU and also at all the meetings of all the organs of the United Nations and other international bodies in which the OAU member states participated.

Any liberation movement that was officially recognised by the Committee had a gateway to treasuries and armouries of several donor countries from which the liberation movements obtained the bulk of their finances and war materials. These made it easier for them to sustain their wars of independence. In fact, to use the late Samora Machel's words, the Liberation Committee was a "blood-bank" which had been created by the OAU. According to him, the Liberation Committee "succeeded in popularising the cause of liberation throughout the continent".³¹ OAU's commitment to the liberation struggle led to the liberation of many African countries from colonial rule. By 1980, the number of independent African countries had increased to 50 with Zimbabwe as the 50th one from the 32 that were in existence at the time when the OAU was formed in 1963.

One might be tempted to argue that going by the changing political climate of the time, these countries would still have gained their independence anyway! However, it is highly doubtful that this could have taken place as fast as it did, had it not been for the OAU's commitment and assistance in the liberation struggle. Indeed, the OAU's contribution in this area was immense and immeasurable.³² Thus, this is one area where the OAU registered excellent

performance and even the selfishness of its members did not prevail over their collective effort.

4.2.0. The Nigerian Civil War: The Role of the OAU (1967 – 1970)

4.2.1 Introduction

Nigeria the most populous and potentially one of the richest countries in Black Africa, got its independence on 1st October 1960. The country has a large internal market and became an economic giant in sub-Saharan Africa from early 1970s. This was due to rapid growth in oil revenue. The history of Nigeria has been dominated by ethnic regional antagonisms from the civil war of 1960. However, since then, military rule has been the normal means of government. The first federal government was a civilian coalition one with Sir Alhaji Abubakar Tafewa Balewa as the federal Prime Minister, and Dr. Nnamdi Azikiwe as Governor General and subsequent President. The first military take-over took place in 1966 by Lt. Col. Yakubu Gowon, and in 1967 there was the Biafra war. Since the 1966 military take-over, Nigeria has experienced one military government after another.³³

Nigeria, had over 128 million people in 1999. About 56% of the population live in the rural areas although the urban population has also been growing rapidly. The country has a literacy rate of 43%. Nigeria is considered to be endowed with both human and 'material resource base even though this potential has not contributed in making the country the wealthy state that one would expect it to be. Nigeria's vast size and large population has encouraged

increasing investment both foreign and indigenous, thus making it probably the fastest growing market in Africa.

Nigeria's economy is essentially agriculturally based with agriculture contributing 32% to the GDP. However, her foreign exchange earning is mostly derived from oil, which contributes about 95% of the country's export. Agriculture which was initially the backbone still plays a big role in the country's economy. The country has, for example maintained itself as one of the world's largest exporters of cocoa, rubber and palm produce. The country also exports food to neighbouring countries like Niger, Benin, Togo and Ghana. Economically, Nigeria has one of the highest incomes in Africa although her per capita income is relatively low due to the high population. The economic growth has been rather stunted recording an annual rate of some 2.5%. This has resulted in poverty being prevalent with a high rate of unemployment. However, due to its high economic income, Nigeria to play an influential role in Africa. It is for example her economic and financial strength that has made it possible for Nigeria to give aid to needy African countries as part of her foreign policy. Regarding foreign investment, Nigeria has massive inflow of foreign investment from western countries, notably Britain and United States. This has enabled it to have a voice in her dealings with these countries due to its geostrategic position, especially during the Cold War.

It is important to give a brief history of the civil war before we can look at the role the OAU played in bringing an end to it, while at the same time acknowledging that the civil war did in fact have an effect on the continental organisation. From the outset, Nigeria's ethnic, regional and religious tensions were magnified by the significant disparities in economic and educational development between the south and the north. On January 15, 1966, a small group of army officers, mostly southern Ibos, overthrew the government and assassinated the federal prime minister and premiers of the northern and western regions. A federal military government assumed power, but it was unable to quieten ethnic tensions. This led to another coup in July. The massacre of thousands of Ibos in the north prompted many of them to return to their homeland in the southeast. This saw strong secessionist sentiments emerge within the Ibo.

In an effort to give greater autonomy to minority ethnic groups, the military replaced the four regions with 12 states. The Ibo rejected attempts at constitutional revisions and insisted on full autonomy for the east. Finally, in May 1967, Lt.Col. Emeka Ojukwu, the military governor of the eastern region, who had emerged as the leader of an increasing Ibo secessionist sentiment declared the independence of the eastern region an independent sovereign state under the name "Republic of Biafra", with himself as the head. This was the beginning of a bitter and bloody civil war.³⁴

The war soon changed to a war of international dimensions. During the 920 days that the war lasted, it claimed the lives of several Nigerians (estimates however indicate that there were between one and two million lives lost).³⁵ Nigeria got a lot of support in the form of arms, especially from Great Britain. This reinforced the strength of the federal forces and thus to the defeat of Biafra. This came about on 12 January 1970 when Biafra acknowledged its weakness vis-à-vis the Nigerian Federal forces and thus surrendered.

During the conflict, the federal military decided to treat the war against Biafra as strictly an internal Nigerian affair. Unfortunately, this was during the Cold War and there was the heavy supply of arms including aircraft and artillery by the UK and USSR, Czechoslovakia and Egypt, to the Federal government, while the French and the Portuguese were busy supplying Biafra. This was a source of concern not just to the other African countries but also for the entire international system.³⁶ Moreover, some countries like Tanzania, Gabon and Côte d'Ivoire had decided to recognise Biafra. Worse still, the population of Biafra had been cut off from the sea and encircled by Federal troops, thus leading to civilian starvation within the Biafran state. All these led to Biafra's inability to effectively defend itself from Federal forces. At the same time, the

condition of the civilians in Biafra led to the OAU's decision to intervene in the conflict.

4.2.2. The OAU Intervention

OAU's intervention in the Nigerian civil war was a challenge to the continental body. To start with, the Federal government of Nigeria under General Gowon had repeatedly insisted that the conflict was purely an internal matter, thus not requiring any intervention by the OAU. In fact, it was considered that even a mere discussion at the OAU level would constitute a violation of Article III (2) of the OAU Charter which prohibited it from interfering in internal affairs of member states.³⁷ On the other hand, Biafra wanted to internationalise the conflict and tried very hard to have the OAU Assembly in Kinshasa in 1967 to discuss the matter as an item in the agenda.³⁸ While Nigeria was proclaiming internal affairs, Biafra was persistent on their inalienable right to independence as stipulated in Article III (2) of the OAU Charter.

Still, the OAU had to act and the decision to discuss Nigeria at the Lusaka Summit in April 1969, was made with a lot of reservations. When the resolution was adopted by the assembly, it was a resolution which avoided all indications of interference of internal affairs of Nigeria as an independent

federal state. In fact, the recognition of the matter as “an internal affair” was clearly spelt out in the resolution and the consultative mission that was formed had the responsibility of assuring the head of the federal government of Nigeria, Gen. Gowon, that the OAU was only concerned about the territorial integrity, unity and peace of his country.³⁹

The OAU also made sure that there was a careful balance of the different attitudes towards the conflict in its selection of the members of the ad hoc committee, that is, those who were pro-Nigeria as well as those who were pro-Biafra. Unfortunately, the outcome of the mission that was conducted by the committee members was a bitter disappointment for Biafra that had all along advocated OAU mediation in the conflict, provided its (Biafra's) sovereignty was not negotiable. The fact that the OAU mission only went to see one head of State (Gen. Gowon, head of the Nigerian federal government), was taken as a sign of subjectivity not only by Biafra, but even by those countries that were pro-Biafra. As a result, the OAU suffered the wrath of Biafra which accused it of “condoning genocide” and proving itself as a mere “rubber stamp” endorsing General Gowon's warning that failure to rally to his support would result in the disintegration of their own countries. Consequently, Biafra rejected the OAU initiative and made it even more difficult for the talks to be held within the auspices of the continental body.⁴⁰

Preliminary talks were therefore held in London on 6 May 1968 under the auspices of the Commonwealth Secretariat. The Peace talks that were held in Kampala on 23 May 1968 still reflected the three objectives that were implicit in resolving the crisis, namely: stopping the fighting, preserving the unity of Nigeria, and giving assurances of safety to the Ibo people as unsurmountable obstacles to any settlement.⁴¹ The talks however, broke down when Sir Louis Mbanefo, Biafra's representative in the OAU ad hoc Committee, levelled accusations at both the Federal Government and Biafra delegations. He accused the former of exploiting its military position and trying to dictate rather than negotiate the terms while at the same time pinning the blame for the break down on the Biafran delegation. For the Federal Government, he felt that their demands were totally unacceptable.

However, as much as the talks had broken down, the OAU could not turn a blind eye to the miserable condition of the Ibo population in Biafra. The consultative mission was therefore revived by Emperor Haile Selassie and a meeting was held in Niger (Niamey) on 15 July 1968. The result was an adoption by the mission of a resolution in which emphasis was put on the relief operations in the distressed areas of Biafra, rather than on the reconciliation of the two parties. However, the two parties were invited to do everything possible to resume negotiations that would achieve possible solution to the crisis.⁴² The Niamey meeting can be considered to have been

successful in the sense that at least it led to the representatives of Biafra and Nigeria holding talks and agreeing on peace talks in Addis Ababa between 5 August and 9 September 1968. It was at these talks that a permanent settlement of the conflict, cessation of hostilities and proposal for transport of relief services to the suffering populations of Biafra were discussed.

The OAU Consultative mission on Nigeria maintained its support of the federal government's persistence that Nigeria should be preserved as one entity. The OAU further agreed with the other two parties on peace talks to be held in Addis Ababa under the Chairmanship of Emperor Selassie. The Ethiopian head of state tried to get the two sides to agree on some form of arrangement that would enable the transfer of food supplies to the war-ravaged areas. The Emperor put in a lot of efforts to try and resolve the conflict to the extent that he received commendations from Pope Paul VI of the Catholic Church and the International Red Cross among others. However, despite his efforts, these peace talks were also adjourned.⁴³

During the war, Tanzania, Zambia, Gabon and Ivory Coast had all along supported Biafra. They challenged the charter's stipulations on territorial integrity and non-interference by pledging their support for Biafran secessionist cause. However, fearing similar events taking place in their own countries, the four leaders were all influenced to support the Federal

Government at the Algiers Summit in September 1968. Even though the OAU had a difficult time trying to help the parties settle their differences through peaceful negotiation, it came closer to solving the problem than had any of the other initiatives that were made at different times by countries like Great Britain and even the Commonwealth Secretariat. At the Algiers Summit, the OAU adopted resolutions that called upon its member states and those of the UN to refrain from taking any actions that were detrimental to the peace, unity and territorial integrity of Nigeria. It also invited the Consultative Committee to continue with its efforts and to see to the implementation of both the Kinshasa and Algiers resolutions. The Algiers resolution realised commendable success due first and foremost to the very pro-Nigeria sentiments that were part of the opening address of the Algerian head of state. Moreover, the UN Secretary General was supportive of the OAU's stand on the Federal government and even made it clear in his address to the conference by calling upon the OAU to bring about a settlement and warning that the continuance of the crisis would endanger African unity. With this level of support, other African countries felt that Nigeria was a power-house in Africa, and therefore most of the leaders wanted to be recognised later as having been on her side.

Finally, the last meeting of the OAU Consultative Mission on Nigeria which was held in Monrovia Liberia on 17/4/69, proposed that the two parties should

accept a united Nigeria in the supreme interest of Africa. Immediate cessation of fighting was proposed as well as the opening of peace negotiations. This was not taken well by Biafra who accused the OAU of not being objective and decided to appeal to some European countries like Switzerland, Austria Sweden and Yugoslavia for mediation. The appeal failed to get support mainly because Nigeria had maintained that the OAU was the only authorised body to mediate in the conflict.

4.2.3 Conclusion

The Nigerian civil war is another conflict where the OAU's ability to manage conflict was tested. Coming at a time when the organisation was only four years old, it can be said that it tried to give it its best shot and came out a winner. The Organisation maintained its united approach and stand on the issue while the committee also continued to put pressure on both the Nigerian federal government and the secessionist regime for peace talks. The refusal of Emperor Haile Selassie to meet with the Biafran delegation in December 1969 as the Ethiopian head of state and not the Chairman of the Committee went along way in reinforcing the commitment of the OAU to the resolution of the conflict. When Col. Ojukwu fled the country three weeks later, his successor signed the act of surrender of the troops and the Nigerian civil war came to an end.⁴⁴

During the conflict, the OAU passed an important policy of non-recognition of Biafra which called upon all its members and those of the UN to uphold the principle of African unity and refrain from any action that was detrimental to the peace, unity and territorial integrity of Nigeria. This particular resolution proved to be so effective to the extent that even the UN ignored Biafra's pleas for mediation. Moreover, Nigeria was the legitimate government and it would have only been on its consent that anybody, including the UN could have considered any request for sending peacekeeping forces. The Nigerian experience did indeed persuade the OAU members to accept the OAU as their common voice when it comes to pleading their case with the international community. Overall, the OAU did little to end the bloody war which was concluded only after Biafra had surrendered in 1970.

Nevertheless, it goes without saying that the OAU solidarity contributed greatly to the diplomatic success of the Federal Government.⁴⁵ In fact this was an important lesson to the African countries since it clearly showed them that though militarily and economically weak, they can achieve a lot if they take a united stand. This was summarised in Gen. Gowon's appeal for African unity in Addis Ababa at the Assembly of Heads of State and Government after the defeat of Biafra:

“African countries can never survive, they can never make it if we adopt an attitude of an eye for an eye and a tooth for a tooth”.⁴⁶

More than anybody else, Gen. Gowon felt that it was the demonstration of the solid support that restrained the enemies of Africa from successfully splitting Nigeria.⁴⁷ Indeed, the solidarity behind Nigeria by all the African states (except the four that had recognised Biafra by mid 1968), not only provided the Federal Government with moral encouragement, but also gave her an important diplomatic edge over Biafra. This was reflected in the behaviour of the British Government that cited the OAU on several occasions in justifying its support for the Federal Government. It was the same OAU stand that made U Thant, the then UN Secretary-General to successfully resist any attempt to raise the issue at the UN General Assembly and the Security Council.⁴⁸ The result of the Biafra war left the OAU with Nigeria as an ardent supporter. The leaders were left convinced that once an issue is overwhelmingly supported by two thirds of the OAU members, it should be regarded as morally, if not legally, binding on all. Even today, Nigeria strongly believes that any African problem can be solved through the OAU – a belief that ideally should be shared by the rest of the organisation’s member states.

4.3.0. Introduction

The OAU as any regional organisation has the responsibility to undertake to mediate when the members see it in their interest to do so rather than taking sides or staying neutral. Mediation in this case takes place “when it is perceived by both the mediator and the disputants to be in their respective interests, and then when the mediator is able to generate a prospective outcome that is both relatively and absolutely attractive to the parties”.⁴⁹

It has already been discussed in the previous chapters that the OAU was essentially created as a security community designed to enhance the maintenance of non-violent relations within the African region, and thereby protect each state from the other.⁵⁰ The Charter of the OAU imposes on member states the adherence to the principle of “peaceful settlement of disputes by negotiation, mediation, conciliation and arbitration”.⁵¹ Hence, the Commission on Mediation, Conciliation and Arbitration was thus established by the Charter in July 1964 to resolve inter-state disputes. Consequently, the OAU was thus entrusted with the primary and explicit mandate to eliminate, reduce or control conflict among its members. However, as previously asserted the emphasis on the critical norms of sovereignty and independence

also imposed limitations on the constitutional power for organisational intervention in regional conflict. The Charter that the leaders signed at the inception of the OAU had created an organisation that was devoid of any coercive powers for conflict management and the maintenance of peaceful inter-state relations. The Charter makes no mention of a collective measure against an offensive state.⁵²

Unfortunately, the OAU members never made the commission functional. Instead, they resorted to the practice of intervening in conflicts with ad hoc mediation committees from among the Assembly's membership.⁵³ With time, the ad hoc Committees ended up becoming the primary instrument of mediation for the Assembly. For instance, for the Nigerian Civil War, a Consultative Committee on Nigeria was created while an ad hoc committee was created to handle the Chad-Libya conflict. Even in the Western Sahara conflict, the Assembly's first instrument of intervention was the ad hoc Committee.⁵⁴

The Republic of Chad became independent on 11 August 1960 under President François Tombalbaye. The country is situated on an area of 1,284,634 sq. Km (496,000 sq. miles). It is a desert and mountainous country to the north with fertile lowlands in the extreme southern region. The climate is generally very dry all the year round in the north. However, the southern

lowlands are warm and more humid with seasonal rains between the months of May and October. The central plain is, however, hot and dry with rainy seasons between June and September.

Chad has a population of 5.5 million and an annual growth rate of 2.5%. Economically, the country has an estimated GDP of \$1 billion and a per capita income of \$200 (est.). 85% of the country's population make their living from subsistence Agriculture, fishing and stock raising. Cotton and livestock are the two major exports. They account for 70% of the Country's export earnings.⁵⁵ There are more than 200 ethnic groups in Chad, with those in the North being predominantly of the Islamic faith. Most of the Southerners are animists and Christians. The Country has had long religious and commercial relationships with Sudan and Egypt, resulting in most of the peoples in its Eastern and Central regions adopting Arabic cultural practices. Chad shares its borders with Libya to the North, Cameroon and Central African Republic to the South, Sudan to the East and Niger and Nigeria to the Western part.

The Chad civil war initially started as a tax revolt in 1965 and it soon set the Muslim in the North and Eastern part of the country against the southern-led government. In 1975, Gen. Malloum Felix staged a successful military coup against the civilian government and took over the control of the country. This was the beginning of the Chad conflict, the focus of this section. Our study

will analyse how the OAU handled the conflict and the outcome of its intervention.

4.3.1. The OAU Intervention

The war in Chad broke out as a result of distrust between the northerners who are dominated by the Tuareg-Berber tribe and the Southerners dominated by Sara tribe of Bantu origin. The latter are the largest ethnic group in the country. Due to the overwhelming representation of the southerners in the administration of the State, the northerners protested claiming that they were increasingly being marginalised. The northerners revolted under the leadership of *Front de Liberation Nationale du Tchad* (FROLINAT), which advocated for greater northern participation in national affairs. These differences culminated into a military coup in which Tombalbaye was killed, and in which Libya went ahead and occupied the Aouzou strip, part of Chadian territory. When the case was tabled at the OAU Summit, the OAU adopted a conciliatory resolution which affirmed the principles of the Charter, especially respect for the sovereignty and territorial integrity of each state, non-interference in the internal affairs of a state and the peaceful settlement of dispute among States.

The sour relationship between Libya and Chad is reported to have existed long before the entry of Col. Ghaddafi into the African political scene.⁵⁶ This had started with the Ottoman and later Italian rulers who had attempted to enlarge their sphere of influence into Chad at the beginning of the 20th Century. However, Col. Ghaddafi's entry into the scene did not make things any better for Chad since he himself had his own intentions. Gaddafi had his dreams and saw Chad as a stepping stone to the heart of the African continent. He hoped to gain access to the uranium deposits in northern Chad and eventually turn Libya into a major regional power in Africa. From 1970, Libya's intervention in Chad became inevitable. This eventually culminated into an attempted coup against Tombalbaye in 1971. Later on in 1975, Tombalbaye was ousted and replaced by Felix Malloum who vehemently denounced Libya's annexation of the Aouzou strip and its massive support to the FROLINAT. FROLINAT had been formed in 1966 by the merger of the various liberation movements.

In 1977, the FROLINAT faction under Goukouni Weddeye trounced the Chadian national army and captured most of the BET – Boukou-Ennedi-Tibetsi (this is the region in the north where the French remained as administrators after Chad gained its independence) region. Malloum, lodged a complaint against Libya with the OAU at the Libreville Summit in July 1977. As would be expected, the OAU responded by appointing an ad hoc

committee to mediate in the conflict. The Committee organised a meeting in Libreville in August 1977 where a recommendation counselling moderation by the two parties, Chad and the Libyan backed FROLINAT, was adopted. This did not achieve much. In July 1978, the Chad conflict was once again on the agenda of the Summit in Sudan. Once again, a new ad hoc Committee was appointed to continue to mediate the conflict.

However, the conflict took a new turn and intensified when the Malloum regime was defeated by the FROLINAT faction of Hissen Habre. This defeat only transformed the conflict into a struggle for power among Muslim leaders themselves, complicating the conflict further. Consequently, Nigeria, which had been a member of the Sudan Summit ad hoc Committee assumed leadership in the mediation of the conflict and hosted four reconciliatory conferences. All this was done within the framework of the OAU.⁵⁷ Between 1979 and June 1982, the OAU treated the Chad Conflict as a Civil War and pursued its regional intervention accordingly. By this time, Chad had collapsed as a state and had no effective government in place. In an effort to end the conflict, the OAU sponsored a peace conference for the Chadian factions. The conference, however, failed to produce any solution to the Civil War. The conflict continued to deteriorate and became even more complicated when Ghaddafi's intervened in support of Goukouni Weddeye, Hissen Habre's rival.⁵⁸ With Libya's entry into the scene, the entire region was

dragged into the conflict. Other African countries joined hands in condemning Libya's action and its subversive activities in the region. Subsequently, a total of 14 African countries suspended normal diplomatic relations with Ghaddafi's government.⁵⁹

In December 1980, the ad hoc committee organised a conference which was attended by Goukouni as Chad's nominal Head of State and Libya's Foreign Minister. Once again the conference did not achieve much as there were divided sentiments among the participants on how to handle Libya's involvement in the conflict. In fact, some of the participants refused to sign the final communiqué arguing that it had not gone far enough in condemning Libya's intervention. The conflict threatened to divide the continental body. Worse still, a behaviour that is typical of the OAU member states was once again seen when both Chad and Libya did not feel perturbed by the discontent of the OAU members and went ahead to announce a merger on 6 January 1981. Infuriated by this decision, the Presidents of 12 African countries met in Lomé, Togo, on 14 January 1981 and released a communiqué where they strongly condemned the Libya Chad merger. The leaders called on Libya to withdraw all its forces from Chad territory.⁶⁰

Disappointed by Libya's intervention in Chad, the OAU leaders' Summit meeting in Nairobi in June 1981 decided to send peacekeeping forces to the

country. With enough pressure from the OAU and the discontent expressed by other African countries, Weddeye's government succumbed to the continental body's demands and requested Libya to withdraw from Djamena and surrounding areas.⁶¹ Surprisingly, Ghaddafi agreed to withdraw his forces without any conditions. As much as Ghaddafi's reasons for agreeing to withdraw its forces were not known for certain, there is a school of thought that believed that Libya withdrew because the occupation was becoming too costly. Others believe that it was his hope to become the next OAU Chairman during the 1982 Summit that made him agree to the demands without conditions.⁶² Whatever his reasons were, at least Ghaddafi's withdrawal registered some success for the OAU, however short lived it was. It paved the way for the OAU to send its peacekeepers to Chad as had been planned.

Unfortunately, the OAU peacekeeping mission started encountering many financial and logistical problems immediately it was launched. To start with, the continental body had problems as it could not afford the transportation and general logistics of the contingent forces and had to depend on foreign powers to bail it out. France, as usual, was ready to assist in facilitating the transportation and logistics of the Senegalese contingent, bearing the entire cost. The US committed a total of US\$ 12 million for the facilitation of logistics for the Zairian and Nigerian contingents. Unfortunately, even with all these financial interventions, the OAU could still not meet the estimated

peacekeeping mission budget of US\$ 192 million for the first year of operation.⁶³ Given the organisation's perennial financial problems stemming from the inability of the members to fulfil their financial obligations to a project of such magnitude definitely proved to be beyond OAU's capabilities.⁶⁴

Faced with this dilemma, the OAU tried to seek help from the United Nations. Unfortunately, even this request for financial, material and technical assistance for the mission only elicited a Security Council resolution that called for voluntary contributions.⁶⁵ Coupled with these problems, the OAU was also not able to get full co-operation from the Chadian factions in the peacekeeping mission. The factions did not appreciate the neutral interpository role of the peacekeeping force. They also lacked the political will for a negotiated settlement, and were more determined to resolve the conflict violently. This posed a major obstacle in the operations of the OAU. The factions continued fighting, ignoring the presence of the peacekeeping force. Hissen Habre eventually managed to drive out Goukouni's forces from N'Djamena on June 7 1982. The peacekeeping mission had therefore failed.

The bitter truth was that the OAU was incapable of operating the peacekeeping mission, and neither was it keen on continuing with it under the above-mentioned circumstances. Consequently, the then OAU Chairman,

President Moi of Kenya, ordered the immediate termination of the mission, and eventual withdrawal of troops by June 30 1982. The OAU's failure to sustain its peacekeepers in Chad did not make things any better for that country. Col. Ghaddafi, having failed to get the OAU Chairmanship, renewed his military campaign against Chad. Once again, the OAU reactivated its ad hoc committee on Chad /Libya dispute to handle the problem.

The OAU's inability to make its members respect its resolutions was once again exposed when the Chadian President this time rejected the organisation's call for a cease-fire. As the conflict raged on, each successive OAU Chairman attempted to mediate, each seeking to outdo the efforts of the other by trying to improve on an earlier deal.⁶⁶

Between 1984 and 1986, the OAU ad hoc Committee called for a total of three meetings, all of which were abortive. The Chad conflict also exposed the distrust of the ICJ by the OAU members. This was evident in their call for a political reconciliation rather than taking the matter to the world court. As it has already been mentioned in the previous chapter, the OAU members had always felt that the ICJ was too foreign to them, as they played no role in its creation.

4.3.2. Conclusion

The Chad conflict demonstrated the multiplicity of conflicts since it touched on the inter-state, inter-ethnic and inter-factional facets of a conflict. Another aspect of the Chad conflict was that it had an external reflection that is quite characteristic of most internal conflicts in the third world countries. The OAU's dilemma on how to manage and resolve this conflict was caused by the fact that even the mediation efforts can only work in a situation where both parties perceive it to be useful to them. This very basic element of a mediator's leverage was lacking for the OAU in the Chad conflict. Moreover, at no time did the parties reach a hurting stalemate which would enable them to welcome the OAU wholeheartedly as a mediator. In all the cases, it was only Chadian governance that appeared to need the OAU's assistance. Libya and Goukouni's faction seemed contented with the situation as it was.

The Chadian case demonstrated the strengths and weaknesses of the OAU as a mediator in regional conflicts.⁶⁷ Right from its inception, the strengths of the OAU lay in its moral authority and regional salience. The Pan-Africanist ethos coupled with the inclusive membership and its normative principle of African solidarity has made it the only place in Africa to which African countries turn in times of conflict. However, the same states are disappointed

because what they have is a weak organisation that is unable to resolve their conflicts due to the fact that they themselves have asked it to preserve their independence against any conceivable threats – even its own.⁶⁸

The OAU member states are also slaves of their own individual national interest. This does not help in enhancing the collective interest that is the OAU's mandate. The Chad conflict also demonstrated the inability of the OAU to co-ordinate its conflict resolution activities. This was clearly demonstrated by the many attempts by the different African Heads of States to mediate over the return of Goukouni and other dissidents through the provision of good offices. There was also a lot of undercutting that took place during the overall mediation process in the conflict. The end result was, however, a complete failure of the organisation to resolve the conflict.

It is also ironical that Libya still continued to be a member of the OAU despite having contravened the principle of the inviolability of the borders inherited at the time of independence. However, it cannot be denied that the OAU reacted appropriately against an external threat to the existence of a member State, in accordance with the principles of its Charter. Indeed, while giving credit where it is due (however minimal), we can say that this action did contribute to the appearance of a strong government in Chad.

In a nutshell, Chad conflict was the type that called for complex negotiations and solutions, an autonomous mediating body, an effective executing agency, a collective authority with a source of deployable resources.⁶⁹ Unfortunately, this is the OAU's weakest area and what was required for the resolution of the conflict was far beyond its capabilities. The conflict clearly demonstrated that the OAU lacked the broad-based political will that was requisite for sustained conflict management and resolution. Most important of all, the organisation becomes impotent when it does not have the logistical and financial resources necessary for intensive and effective intervention in regional conflicts. OAU's failure to sustain its peacekeepers and its subsequent dependence on foreign assistance was in itself an embarrassment for the organisation.

The crisis furnished the continental body with the very first occasion to mount a peacekeeping operation. The fact that the OAU has never been ready for collective peacekeeping was indeed brought to the fore. The contingents were obliged to depend wholly on their respective governments for the provision of materials, food, uniforms, arms, allowances and everything else that they needed to perform their work in the service of the OAU.⁷⁰ This state of uncertain funding not only undermined the morale of some of the troops but it also jeopardised the whole operation. Nevertheless, as much as the OAU reacted as it should to the external threat of a sovereign state, it registered

total failure in this operation as a result of its lack of provision for a mechanism that can force the errant members to pay their dues.

The Uganda –Tanzania Conflict: The Role of the OAU

4.4.0 Introduction

The Republic of Uganda is 241, 040 sq. km in size with a terrain that is 18% inland water and swamp; 12% national Parks, forest and game reserves while the remaining 70% is composed of forest, woodland, grassland. Uganda has a total population of 23 million inhabitants (2000) with an annual growth rate of 2.7%. English is used as the official language. However Luganda and Swahili are also widely used.⁷¹

Economically, Uganda has a purchasing power parity (GDP) of US\$ 24 billion (1999) with an inflation rate of approximately 7% (Dec. 1999). As far as International trade is concerned, the country's efforts amount to \$ 624.5 million (1995-96) from Coffee, Cotton, Tobacco and tea. Its imports amount to \$ 1.193 billion (1994-95). Uganda's population is predominantly rural, and its density is highest in the Southern regions.

Uganda was granted internal self-government by Britain in 1961 with Benedicto Kiwanuka of the Democratic Party as the first Prime Minister and Milton Obote as President. However, political instability reigned and in February 1966, Milton Obote, then Prime Minister suspended the

Constitution, assumed all government powers and removed both the President and Vice President. In 1967, a new constitution proclaimed Uganda a Republic and gave the President even greater powers. Traditional Kingdoms were also abolished. However, Obote's government was ousted in a military coup led by armed forces Commander Idi Amin Dada. Amin then went ahead and declared himself President. He amended the constitution to give himself absolute power.⁷²

Unfortunately, Amin's eight-year (8) rule produced economic decline, social disintegration and massive human rights violations. In 1978, the International Commission of Jurists estimated that more than 100,000 Ugandans had been murdered during Amin's reign of terror.⁷³ In the same year, Tanzanian armed forces repulsed an incursion of Amin's troops into Tanzanian territory. This was the beginning of the Uganda – Tanzania War that ended with Kampala being captured in April 1979 and Amin fleeing with his remaining forces. This is the war that forms the basis of this case study.

The beginning of the Uganda-Tanzania war can be traced back to the time when Amin took power in January 1971 and instituted a totalitarian regime. President Julius Nyerere, Uganda's neighbour and one of the founding fathers of the OAU, was the first African leader to condemn Amin's regime. Records show that within a week of Amin's coup against Milton Obote, Nyerere

denounced Amin as a “murderer”. The Tanzanian head of State refused to recognise Amin’s regime and vowed never to sit with him on the Authority of the East African Community, of which he (Nyerere) was Chairman.⁷⁴ Nyerere had also granted asylum to Obote and his supporters. This was the beginning of stormy relations between Uganda and Tanzania. On 17 September 1972, Nyerere permitted Obote’s exile forces to attack Uganda. Obote’s forces were, however, no match for the well-trained and fully equipped Ugandan soldiers and the invasion failed.

4.4.2. The OAU Intervention

Being infuriated already by the human rights abuses in Uganda, Tanzania’s President, Julius Nyerere decided to deal with the situation by first of all trying to get the OAU to condemn Amin’s invasion of Tanzania’s territory. Nyerere opened up talks with the OAU and various African leaders to press his claims against the Actions of the Ugandan leader. The OAU stepped in to mediate between the two countries in accordance with the stipulations of its Charter. The mediation resulted in the Mogadishu Agreement of 15/10/72 by which both countries agreed not to undertake military operations against each other.⁷⁵

Nevertheless, the relations did not improve between the two countries. Amin still regarded Tanzania as Uganda's enemy since Nyerere had given sanctuary to Obote. He was convinced that the Tanzanians were out to overthrow him. In October 1978, Amin invaded Tanzania from the West of Lake Victoria region (popularly known as the 710 Square-mile Kagera Salient), on the pretext that the Kagera River was Uganda's natural frontier.⁷⁶ Ideally, the invasion of Tanzania was the result of heightened squabbles within the ruling military circle that had finally surfaced in the form of a mutiny at Mbarara. Amin's soldiers had crushed the mutiny and pursued the remaining mutineers into Tanzania where they finally occupied the Kagera Salient for about two weeks. In fact, the incident had been instigated by Amin's troops, but the Ugandan leader converted it into a war against Tanzania. His real motive seems to have been also to divert attention from his problem-riddled Uganda.⁷⁷ The following announcement that was broadcast on Radio Uganda was a clear declaration of war against Tanzania, and indeed Tanzania had no option but to respond accordingly:

“ A military spokesman informs the nation and the world at large that the new Uganda – Tanzania border is now up-to the River Kagera. This follows a twenty-five minute operation yesterday, the 31st of October. This short operation has added 710 square miles to the Ugandan territory.... All Tanzanians in the captured area up o the River Kagera

must know that they are under the direct rule of the Conqueror of the British Empire, Field Marshal Amin. President Amin warns Tanzania that we are capable of hitting any part of the country if Tanzanian troops try to cross the Kagera River....”⁷⁸

Infuriated by Amin’s violation of property and human rights, Nyerere devised a strategy to deal with the situation. He opened up talks with the OAU and various African leaders to press his claims against Amin. Nyerere’s intention was to get the OAU to openly condemn Amin’s aggression. The then OAU Chairman, President Numeiry of Sudan, went to Dar-Es-Salaam for mediation talks. Surprisingly, the OAU refused to condemn Amin’s aggression thereby violating its own Charter. Instead it recommended a cease-fire, an end to territorial claims against neighbouring countries, withdrawal of troops to the recognised borders and ironically, adherence to the OAU Charter (specifically its provision of non- interference in the internal affairs of member states). As would be expected, the OAU also emphasised respect for the sovereignty and inviolability of member State borders. Surprisingly, a part from Ethiopia, Madagascar and the frontline states, no other African leaders raised their voices to condemn Amin’s aggression.⁷⁹

Thoroughly enraged by the OAU’s inability to condemn Amin’s aggression and all the violations that he had caused, Nyerere called for a revision of the

Charter, claiming that it spoke only for African peoples still under colonial or racial domination. He declared that once countries had emerged into nationhood, the continental body simply served as a trade union for heads of State and automatically protected them.⁸⁰ Nyerere hoped in vain for OAU pressure on Amin to force him (Amin) to withdraw his forces. However, since this was not forthcoming, the Tanzanian leader was left with no option but to act to drive Amin away from his country's territory. On 22nd June 1979, Dar-es-Salaam Radio announced heavy fighting at the border; and four days later, Tanzania admitted that its troops were fighting on Ugandan territory.

With still no condemnation coming from the OAU, Tanzanian troops backed by the Ugandan exile forces went ahead with the military campaign. Meanwhile, the OAU continued with its abortive efforts at a cease-fire. An OAU delegation was sent to Uganda for this purpose and Amin promised he to co-operate with the mediation committee. Nyerere on the other hand still reiterated his conditions for a peaceful settlement. He emphasised to the delegation that the OAU could not afford to be neutral when Amin's aggression had violated both Tanzania's territorial integrity and the OAU Charter.⁸¹ Ironically, while the sanctity of territorial borders and Integrity enshrined in the OAU Charter was cited by leaders like President Moi of Kenya, the fact that Amin had violated this very principle was not mentioned

or condemned. This infuriated Nyerere even more and he decided to put an end to Amin's regime once and for all.

On 2nd March 1979, the OAU mediation Committee reported at the Monrovia Summit that its mediation efforts had failed. Nyerere persisted with his claim that the OAU had preferred to see only the victim and not the aggressor in the Uganda - Tanzania conflict. The Uganda - Tanzania conflict provoked the idea of the need for a Pan-African military force with which the organisation could promptly respond at all times to problems of varying dimensions that threatened the peace, stability and security of Africa. The conflict also threatened the stability of the OAU as it enhanced divisions among member states, that is, those who supported Nyerere against those who supported Amin. Amin's supporters included Egypt, Libya, Nigeria, Somalia, Sudan and the former French colonies as well as military regimes.

4.4.3. Conclusion

The silence by most of the African states as Amin continued to abuse and violate human rights of Ugandans may be explained by the fact many of them were also guilty of the same in their own countries. Moreover, many of the member states were bordering large countries and invasion of Uganda was seen as something that could happen to them, should their stronger neighbours

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decide to invade them. The Muslim factor made African muslim states sympathetic to Amin. In fact, the Monrovia Summit July 1979 was a conference where ideological differences, political interests, and even personal interests conspired to make the OAU not act decisively. The inability of the Council of Ministers' meeting in Monrovia to handle the Uganda issue was a clear reflection of the division among the heads of state; those who supported Amin represented the "moderates", while Nyerere's supporters represented the "radicals".⁸² However, the fact that no one questioned the presence of the Ugandan delegation led by Binaisa at the Summit was an indication that majority of the member States supported Tanzania. After 3 days of heated and emotional debate, there was a consensus that the Charter should be examined and revised to avoid similar crises and clashes of opinion in future.⁸³

In its failure to condemn the deaths in Uganda as well as the aggression by Amin on a neighbouring state where innocent Tanzanians had lost their lives, the OAU once again showed that it did not care much for the well-being of the very people that it claims to stand for in Article II (b) of its Charter. In fact, the OAU and its members employed double standards in the application of its Charter when it considered Tanzania's invasion of Uganda as a violation of the Charter when Amin's earlier invasion of the Kagera Salient was not condemned as a similar violation despite repeated protests from Nyerere.

Unfortunately for the OAU, Tanzania as a member state took advantage of its weakness and capitalised on the non-condemnation to bring an end to Amin's regime. President Julius Nyerere rationalised this act as follows:

"If he (Amin) were allowed to stay and he were not being condemned, he would wriggle out and start all over again, and the people of Tanzania would be very angry with me if the next invasion became much more serious"⁸⁴

While Amin claimed he was pursuing exile forces being hosted by Tanzania, to explain his invasion and occupation of the Kagera Salient, the OAU's inability to see the act as an invasion that warranted condemnation was a very simplistic way of looking at such critical issues, especially when Amin had openly announced the "annexation" of the Kagera Salient. Indeed, the Uganda-Tanzania conflict confirmed that selfish national and regional interests still remain the hindrance to African unity that was being looked for at the time of the OAU's inception 38 years ago. Such border conflicts have continued to threaten the existence of the continental organisation. During this conflict, the OAU openly displayed its inability to provide leadership under such circumstances. As was emphasised by several Western media, the Tanzania initiative in removing a regime from a neighbouring member state set precedence in contemporary African history. However, this precedence

dramatised the need to strengthen the OAU and to revise its Charter so that the Organisation can act with speed and success in times of crisis. With time, we have seen the formation of the Division of Conflict Prevention, Management and Resolution within the OAU. However, the Charter has remained the same, thus continuing to restrict both the OAU and its new mechanism.

The Uganda-Tanzania war severely tested the OAU's concept of African unity since all the three parties to the conflict, Uganda, Tanzania and the OAU itself violated the relevant provision of the Charter that should have been respected. In fact, both Amin's invasion and occupation of Tanzania territory and Tanzania's initiative in overthrowing Amin are acts that violated the OAU Charter. The OAU simultaneously violated its own Charter by not condemning Amin's invasion and thereby not defending Tanzania's territorial integrity and independence.⁸⁵ Therefore, the OAU did not contribute in any way to the resolution of the conflict between the two East African countries. On the other hand, the war exposed the structural problems of the entire African continent namely, underdevelopment, conflicting ideologies, narrow political and economical alignments, arbitrary boundaries etc.... These are problems that need a change in the OAU for them to be adequately addressed. The conflict brought to the fore the ideological and religious differences within

the continental body, thus highlighting the need to strengthen the arbitration Committee and a revise the Charter.

A revision of the Charter would entail looking into issues of enlarged membership, diversity of ideology in post independent Africa, complex political problems of member states and the mounting aspirations as well as the needs of the African peoples. Such a revision would also need the inclusion of a legal clause that will not only punish subversive member states by whatever means it chooses, but will also enable the OAU to intervene in conflicts and disputes by a high command. A Security Council of the United Nations type seems to be imperative. However, such a high command should be one that is beyond manipulation by selfish national or regional interests.⁸⁶ It is in this context that we view the African Union as a postscript to this study.

Notes

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- ² Ibid. p.7
- ³ Ibid.
- ⁴ Ibid.
- ⁵ Ibid.
- ⁶ Ibid. p.8
- ⁷ Cervenka, Z., *The Unfinished Quest for Unity: Africa and the OAU*, 1977, PP. 45-47
- ⁸ Ibid. p. 110
- ⁹ Ibid.
- ¹⁰ US Department of State: Bureau of African Affairs, *Background Note on South Africa*, May 2001, p.1
- ¹¹ Ibid.
- ¹² Ibid. p.3
- ¹³ Ibid. p.5
- ¹⁴ Cervenka, Z. Op. Cit.p.111
- ¹⁵ Ibid.
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- ¹⁷ CM/Res. 102(IX)Sept. 1967
- ¹⁸ Cervenka, Z., Op. Cit. P. 113
- ¹⁹ See Resolution on Apartheid and Racial Discrimination. adopted by the Council of Ministers at its 10th Session, Addis Ababa, February 1968, CM/Res.142(x).
- ²⁰ Cervenka, Z., Op. Cit. p. 115
- ²¹ Ibid.
- ²² Ibid. pp.116-117
- ²³ Ibid. 119
- ²⁴ Ibid.
- ²⁵ Ibid. p.120
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- ²⁷ Cervenka, Z. Op. Cit. 121
- ²⁸ US Department of State: Bureau of African Affairs, *Op. Cit.*, p.3
- ²⁹ Ibid. p.4
- ³⁰ Amate, C.O.C., *Inside the OAU: Pan-Africanism in Practice*, London, Macmillan publishers, 1986 P. 282
- ³¹ Ibid. p. 315
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- ³³ Economist Intelligence Unit: Country Analysis (Nigeria),1991
- ³⁴ U.S. Department of State: Bureau of African Affairs – Background Note: Nigeria, Op. Cit., p3
- ³⁵ Cervenka, Z., *The Unfinished Quest for Unity: Africa and the OAU*, London, Julian Friedmann Publishers Ltd., 1977, p.97
- ³⁶ Ibid.
- ³⁷ See Article III (2) of the Charter of the OAU, Addis Ababa. OAU, 1963
- ³⁸ Op. Cit. p.98
- ³⁹ Ibid., p.99
- ⁴⁰ Ibid.
- ⁴¹ Ibid. pp.100-102
- ⁴² Ibid
- ⁴³ Ibid.
- ⁴⁴ Amate, Op. Cit., pp 441-445

- ⁴⁵ See Yashpal Tandon, *The Organisation of African Unity, Round Table* (April 1972)p. 223
- ⁴⁶ See "Long Live African Unity": Text of an address by Major General Gowon to the Assembly of Heads of State and Government of the OAU on 6 September 1969 as quoted by Cervenka Z., on page 148, from Aluko Olajide
- ⁴⁷ See Kaye Whiteman, "The OAU and the Nigerian Issue", *The World Today*, (Nov. 1968), p. 450
- ⁴⁸ See. Cervenka. Z., Op. Cit., p. 161
- ⁴⁹ See Samuel Amoo. G and I. William Zartman, "Mediation by Regional Organisations: The Organisation of African Unity in Chad", in *Mediation in International Affairs*,
- ⁵⁰ *ibid.* p.133
- ⁵¹ Charter of the OAU, Addis Ababa. 1963
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- ⁵³ See Rule 37 of the Rules of Procedure of the Assembly of Heads of State and Government. Addis Ababa, OAU, 1963
- ⁵⁴ Op. Cit.
- ⁵⁵ See US Department of State. Bureau of African Affairs: Background Note – Chad, August 2000, p. 1
- ⁵⁶ See Samuel Amoo. G and I. William Zartman, Op. Cit., p. 136, also Elias, T.O., "The Commission of Mediation, Conciliation and Arbitration" in *British Yearbook of International Law* 40, 1964, pp 336-54
- ⁵⁷ *Ibid.* p. 140
- ⁵⁸ *Ibid*
- ⁵⁹ *Ibid.*, p. 141
- ⁶⁰ Report of the Secretary-General on Chad , 6-11 June 1983, OAU Doc. AHG/109/XIX
- ⁶¹ Op. Cit.
- ⁶² See Buijtenhuijs, Robert. *Le Frolinat et les Guerres Civiles au Tchad (1977-1984)*, Paris, Editions KARTHALLA et ASC, 1987, pp. 200-204
- ⁶³ See Amoo, G., Op. Cit. p.142
- ⁶⁴ See *Report of the External Auditors on the Accounts of the OAU for the 1985 Financial Year*, Feb., 1986, OAU Doc., CM/1408[XLV]
- ⁶⁵ See UN SC/R.504, 30 April 1982
- ⁶⁶ See Amoo and Zartman, Op. Cit., p. 143
- ⁶⁷ *Ibid.* p. 144
- ⁶⁸ *Ibid.*
- ⁶⁹ *Ibid.* p. 146
- ⁷⁰ See Amoo, Sam G., *The OAU and the African Conflict: Past successes, Present Paralysis and Future Perspectives*, Institute of Conflict Analysis and Resolution, George Mason University, May 1992, p. 19
- ⁷¹ US State Department
- ⁷² See US Department of State: African Affairs(Uganda), May 2000, p.3
- ⁷³ *Ibid*
- ⁷⁴ See Okoth, Godfrey P., "The OAU and the Uganda -Tanzania War, 1978-1979", In *Journal of African Studies*, Fall 1987., also, *Journal of African Studies*, Vol. 14, No.3 (Fall 1987), p.153
- ⁷⁵ *Ibid.*
- ⁷⁶ *Ibid.*
- ⁷⁷ See Smith. G.I., *Ghost of Kampala*, London, Weidenfeld and Nicolson, 1980, p. 178
- ⁷⁸ *Ibid.*, p. 179. Also see Okoth Godfrey, Op. Cit., p. 154.
- ⁷⁹ ACR 1978-79:B 394, as quoted in. *Journal of African Studies*, Fall 1987.
- ⁸⁰ Okoth Godfrey, Op. Cit.,as quoted by the author from Radio Broadcast of 10/12/1978, Dar-es-Salaam.
- ⁸¹ See, *Daily News*, Dar-es-Salaam. 26 February 1979.
- ⁸² Okoth Godfrey, Op. Cit., p. 157
- ⁸³ *Ibid.*
- ⁸⁴ See *Africa Now*, December 1983, p.119
- ⁸⁵ Okoth Godfrey, Op.Cit.,p.152

CHAPTER FIVE

SUMMARY, CONCLUSIONS AND POLICY RECOMMENTATIONS

5.0. Summary

This study's objective was to investigate the extent to which the OAU Charter had influenced the Organisation's performance. The assumption was that the Charter was the main cause of the Organisation's weaknesses and poor performance. Drawing from the theory of realism which we had chosen as our main theoretical tool of analysis, we also hypothesized that the performance of the OAU was linked to the divisions that existed at the time of its establishment. Our choice of the realist theory was significant because it is a power theory that explains the behaviour of states in general and that of the African countries in particular. The realist theory helps in explaining why the founding fathers of the OAU chose to have a Charter that allows them to retain their respective state sovereignty. In our methodology, we stated that this study would almost entirely depend on secondary sources of information supplemented by data from primary sources where available. We also mentioned that a survey method based on discussions with open-ended questions would be employed in the study.

In Chapter II, we looked at the historical background of the OAU from the pan-africanist days to the disunity that prevailed before its inception in May 1963. The main purpose of the Chapter was to throw some light on

the historical roots of the Charter. The OAU's main role was to liberate African states that were still under colonial and white minority rule. The Organisation had the mandate to preserve peace and security in Africa. This was clearly demonstrated by its intervention in the Congo crisis, the Nigerian Civil war, the Chad-Libya Conflict and many others. It was in the light of these roles that we set out in Chapter III to look at the general performance of the OAU and the extent to which its Charter has been responsible for the Organisation's dismal performance. This led us to analyse the provisions of the Charter and also the recent developments that have taken place within the continental body. It was also in this light that we went ahead to look at specific cases where the OAU has been involved in an effort to maintain peace and security within the continent and also to respond to the needs of its member states within its mandate as the regional body.

5.1. Conclusions

On the basis of the available data, we have come to the conclusion that the relationship between the dependent and independent variables in the first hypothesis is positive but not significant enough to prove that the Charter has been the main cause of the OAU's weakness and dismal performance. It is true that the Charter has weaknesses that have influenced the performance of the OAU. However, in this study, we have established that

in most cases, the OAU member states have preferred to pursue their national interest at the expense of those of the continental body. In other cases, the OAU itself has been seen to violate the provisions of its own Charter. This is certainly an indication that even if the Charter was strong and flawless, it would still be violated by the very Organisation that it is supposed to be guiding. The reality is that African leaders do not seem to feel morally and politically bound to abide by the Charter's provisions. The study has shown that any time member states have shown a united stand on an issue, the Organisation has always registered success in its performance. This is illustrated by the united stand that was taken on the Nigerian civil war and the resulting success on the part of the Federal government against the Biafra secessionists. In fact, the OAU's united stand on the issue influenced the international community to the extent that it was very difficult for Biafra to get the support that it could have got had there been a significant division among the OAU members.

Similarly, African leaders demonstrated a strong commitment and stand against colonialism and the Apartheid system in South Africa. Once again, a success story was registered. In fact, this was one area where all the OAU member states were united for a common goal and the result was the Organisation's most successful activity since its inception. Even though member state like Malawi still preferred to pursue their national interest by maintaining links with South Africa, the persistent condemnation of such

acts and the continuous campaign on a united stand went along way in ending the Apartheid system in South Africa. Even countries like Kenya that had dealings with transnational corporations like Barclays and Lonrho still prohibited its citizens from traveling to South Africa with an official stamp on their national passports.

Even though the Charter did not provide for collective security in its provisions, this would not have affected the activities of the OAU as much as it has done if the member states had adopted the attitude of being one another's keeper. Such an attitude could have reduced the many inter-state conflicts as well as the involvement of neighbouring states in another's internal affairs as has been seen in the Great Lakes Region. Ideally, the OAU being dependent on the goodwill of the member states does not need a standing army for collective defense. On the other hand, an OAU army should be easy to constitute whenever the need arises. What is needed is member countries to be ready to provide soldiers for OAU activities whenever the need arise. This was experimented in Chad but failed due to the financial weakness of the Organisation. Success in such an operation can only be expected if the OAU is financially independent enough to cater for the temporarily constituted African army without leaving it to the responsibility of the individual member states.

Our second hypothesis links the OAU's performance to the immediate circumstances that led to its establishment. Our assumption here is that the divisions that existed before the creation of the Organisation have continued to prevail even when the OAU is performing its duties. This has not been shown by the data collected during the study, thus providing us with a negative relationship between the variables. It is true that there still exists divisions within the OAU on the basis of ideology and religion. However, this has not come out as a major obstacle when it comes to the performance of the Organisation's activities. What comes out is the selfish attitude of individual member states and their preference to pursue of national interest in issues of social, economic and political development. It is time the African leaders realized that the prospects of the Organisation's enhanced relevance to the continent's needs depends on the determination of its member states to make it an effective instrument of co-operation.

It is indeed true that Article III of the Charter has influenced the OAU's performance from time to time. However, it is the OAU member states themselves that have contributed to the weakness and, subsequently, the dismal performance of the Organisation by being more concerned with their individual national interests as opposed to the collective interest. It is the same member states that have continued to ignore the resolutions of the continental body in their efforts to pursue national interests while hiding under the concept of state sovereignty. Unless this attitude changes, the

Organisation of African Unity (now the African Union) may never improve in its performance.

5.2. The death of the OAU and birth of the AU

At the time of conducting this study, the OAU was still operating under its initial name, and governed by the same Charter that was drawn in May 1963. However, in the course of the study, specifically before the study came to a conclusion, African leaders adopted a Constitutive Act which declared the formation of the African Union and subsequently the change from the Organisation of African Unity (OAU) to the African Union (AU). The Constitutive Act of the African Union was adopted during the OAU/AEC Assembly of Heads of State and Government in July 2000 in Lomé, Togo. In March 2 2001, the 5th Extraordinary OAU/AEC Summit held in Sirte, Libya adopted a decision that declared the establishment of a change in name and structure of the continental body.

In fact, the idea of a Union started way back in June 1998 at the Ouagadougou Summit. The decision by African leaders to work towards the establishment and consolidation of effective democratic systems by involving all actors in civil society marked a change of attitude in the OAU. This Summit mostly dealt with economic issues unlike the previous ones that were characterised by a strong focus on political issues. Indeed,

the real turning point in the Organisations' history was marked by the Ouagadougou Summit of 1999 in Algiers. There was a new sense of urgency at this Summit, and willingness to reposition the OAU for the next century, thus creating a framework for the new millennium.¹

The objectives of the new AU are different and more comprehensive than those of the OAU. While the OAU aimed to promote the unity and solidarity of African states, the AU aims to achieve greater unity and solidarity between the African Countries and the peoples of Africa. However, the principles of the OAU Charter are in terms of the Sirte Declaration maintained as part of the orientation basis of the African Union.²

The African Union is modeled on the lines of strong regional groupings in Europe, America and Asia – organisations that are operating on a very different environment from that of the OAU. Moreover, Article III of the Constitutive Act of the African Union still talks of the achievement of greater unity and solidarity between the African countries and the peoples of Africa, as well as the defense of the sovereignty, territorial integrity and independence of the OAU member states.³ Similarly Article IV (g) of the Act stipulates non-interference by any member state in the internal affairs of another.⁴ These are similar to what is advocated by Article III of the OAU Charter which has been depicted by many scholars and supported by

this study as contributing to the OAU's weakness. One therefore wonders to what extent the AU will be different from the current OAU. In fact, the founding Summit in Lusaka in July 2001 was a clear indication of what to expect from the future continental body. The Summit coincided with the funeral of murdered Zambian opposition leader Paul Tembo with which President Chiluba was greatly associated. Despite warnings to the OAU by Zambian opposition leaders of a gathering political storm, no African leader said a word at the Conference about Tembo murder. Once again, the OAU tradition of turning a blind eye to issues under the refuge of the principle of non-interference in the internal affairs of member states was put into practice to the embarrassment of the new AU. As the media in Zimbabwe commented:

“ hiding behind the sovereignty of their national flags and coats-of-arms, a number of unscrupulous African leaders saw in that a license to behave as they pleased – emptying their countries' coffers for personal gain, while maiming, killing and imprisoning those they saw as standing in the way of their insatiable lust for absolute power and personal accumulation”⁵

Indeed, once again the political cowardice of the OAU has been demonstrated at the launching of the new Union. It is however hoped that the AU will be more effective in its performance than the OAU has been during its 38 years of existence.

As the AU takes over, it should be acknowledged that the OAU had served its purpose and had to make way for a comprehensive and flexible structural continental mechanism that would be more responsive to the challenges of the 21st Century. As much as the OAU has been associated more with weaknesses than success, it is hoped that the African Union will at least build on the notable successes of this Organisation which since its inception has developed into the political and economic fulcrum of Africa. Despite its many weaknesses, the fact remains that the OAU was a uniquely African institution voluntarily created by African states and leaders as a vehicle to serve pan-African interests. Indeed, the Organisation embodied the aspirations of the African peoples and the collective decisions of African leaders.

As the transition from the OAU to the AU takes effect, it is also important to remember that the OAU served as a forum through which a collective and united African position could be presented to the rest of the world, especially on international issues affecting Africans. It is some of these successes that the AU is expected to build upon in its efforts to serve the African populations better. It is also our hope that the African Union will not be haunted by the very weaknesses that the OAU has been associated with. However, whether it has the ingredients to be more effective in its response to the needs of the African populations than the OAU is a matter that only time can tell.

5.3. Policy Recommendations

In this study, we have highlighted the fact that the African continent has continued to experience more conflicts than it did during the first ten to twenty years of the OAU's existence. We have also mentioned that the Commission of Mediation, Conciliation and Arbitration has never been fully operational despite the many conflicts that the continent has continued to experience. The establishment of the Mechanism for Conflict Prevention, Management and Resolution has not proven to be the solution since we have seen the Rwanda genocide, the Ethiopia-Eritrea conflict and the persistent Sudan and Great Lakes' Region conflicts amongst others since the time it was established. As long as the arbitrary borders that were defined by the colonial masters are in place, and as long as the Charter of the organisation continues to retain Article III of the Charter as it is today, the OAU will always have problems in resolving conflicts in the continent. The application of International law is therefore inevitable. However, to avoid being accused of biases, the OAU must enlighten its members on the need to have arbitration done by the International Court of Justice (ICJ). Ideally, the OAU should have the right to intervene in the internal affairs of its member states as long as it has established that the rights of the African people in that country are being abused. After all, it has the responsibility to protect the African populations.

The OAU also needs to look into ways of reinforcing its most important organ – the General Assembly. Instead of having all the Heads of State and Government decide on issues that affect the African populations, it is necessary to consider having a special group of selected leaders on a regional basis to be charged with the responsibility to analyse issues and make final recommendations. This could enhance the seriousness with which the African member states look at the resolutions of the organisation. This special Assembly would also reduce the costs that are incurred by the organisation during the OAU Summits.

It has been pointed out that the Secretariat of the OAU is composed of staff who from time to time seek support from their governments. Such staff have continued to enhance the interests of their governments as opposed to those of the OAU. To avoid this, recruitment of the OAU staff should not be dependent on secondment of government officials by respective governments. Instead, this should be done on geographical distribution basis as is the case in most Intergovernmental Organisations like UN. Such staff should be impartial to national affiliations and should dedicate their efforts to serving the interests of the African populations but not those of the African governments. Similarly, the General Assembly should only retain the responsibility of selecting the Secretary General of the organisation. However, the responsibility of choosing the deputy

should be left to the Secretary General. This will certainly make the Secretary General more effective in his role as a manager since he will be having more control of his staff. Moreover, no staff will pay allegiance to his/her own government. In this way, the ideals of the continental body will be ensured by the secretariat.

OAU also needs a secure financial base to be effective. To ensure financial sustainability, the organisation needs to look into ways of generating income instead of depending entirely on the contributions from the economically strapped member states. This can be done through the provision of services in the form of technical expertise to member states and any other needy regional organisation. This can be in areas of economic development, *Education, Health and Sanitation, Nutrition, Agricultural Development and Science and Technology*. This could all be done at a subsidised fee to the African member states but at full cost for other organisations.

The OAU must fully reflect the African organisation that it is supposed to be. There is no better way to show this than in its languages of operation. African languages reflect Africa's natural borders, and empowerment comes from utilising and developing those languages. In each sub-region of the continent, there is a language that is spoken or understood by a number of countries within it.. Such languages should be enhanced with a

view to making them the working languages of the OAU. English, French and Portuguese could be retained as secondary languages. In West African region for example, Jula and Bambara languages are widely spoken and understood and can therefore be enhanced. Kiswahili language is spoken and understood in Eastern and Central Africa while Zulu would be most suitable for Southern Africa region. Arabic could be retained for North Africa since it is the main language of communication in the Arab countries within the continent. Use of these African languages will not only depict the OAU as an African organisation but will also promote the African cultural heritage that is in dire need of preservation.

Lastly, the OAU must look for a way of binding its members to implement its resolutions. This will not just strengthen the organisation but will also ensure more commitment from its member states. In this way, the organisation's strategies and prescriptions will easily be translated into actions.

5. 4. Issues for Research

With 700 million people in 53 countries, the OAU is currently the largest regional inter governmental organisation in the world. This calls for more research to be done to find out ways of making it more effective than it has been for the past 38 years of its existence. To this effect, it would be useful

to look at the extent to which ethnic religious and ideological differences have divided the continental body and the extent to which these differences have influenced the organisation's performance.

With the new African Union in place, it would also be important to look at the Constitutive Act and the extent to which its provisions are a guarantee for a better performance than that which has been shown by the OAU. Within this same framework, research could be conducted on whether the African continent needs to be unionised than to be united, and what stake is in the new union for the already impoverished African populations.

Notes

¹ See Article on "Transition from the OAU to the AU by the Department of Foreign Affairs, June 2001, pp.6- 7 on site: <http://www.dfa.gov.za/events/oau.au.htm>

² Ibid.

³ See Constitutive Act of the African Union, Certified copy, OAU legal Counsel. OAU Documents, Addis Ababa, June, 2001, P.5

⁴ Ibid. Article IV(g), P.7

⁵ See *Africa Today*, Vol. 7 No. 8, Afro Media (UK) Ltd., August 2001. p.33 as quoted from the *Zimbabwe Mirror* commenting on the 38 year History of the OAU

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