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Peacemaking in Africa – A critical analysis of the relationship between the African Union and African sub-regional organizations in recent peacemaking initiatives

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DECLARATION

This work has not been previously submitted in whole, or in part, for the award of any degree. It is my own work. Each significant contribution to, and quotation in, this dissertation from the work, or works, of other people has been attributed, and has been cited and referenced.

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ABSTRACT

The African Union (AU) regards Africa's sub-regional organizations as an integral pillar of its peace and security framework to resolve the continent's ongoing conflicts and political crises. However, the working relationship between the AU and these organizations is often unclear, idiosyncratic, and even tension-ridden, especially when it comes to peacemaking and the mediation of conflicts. This thesis considers the question of how, in practice, a regional organization comes to take the leading role in managing a peacemaking intervention. More specifically, it considers which criteria, if any, are used in the choice of a lead actor in peacemaking efforts, and how the principles of 'subsidiarity, complementarity and comparative advantage,' as laid out in the Memorandum of Understanding between the AU and the sub-regional organizations, are being applied in this decision making. The recent example cases of Zimbabwe, Kenya and Cote d'Ivoire are specifically analyzed to show the reality of the working relationship in the present. Relating to the unclear and contradictory guidelines that govern the sub-regional relationship, this work concludes that the AU is still operating under *ad hoc* and politicized rules, which are not proving sufficient to carry out valuable and lasting peacemaking. In fact, the AU and sub-regional bodies often fail to work together in a co-operative, efficient and coordinated manner, leading to poor and unfocused mediation efforts that may even further complicate and undermine the chances of consolidating peace. This thesis concludes with recommendations for better developing the institutional relationship and improving on regional peacemaking initiatives in order to facilitate more lasting and sustainable peace among and within African states.

TABLE OF CONTENTS

ABSTRACT	iv
TABLE OF CONTENTS	v
LIST OF ACRONYMS	1
CHAPTER 1 – Peacemaking in Africa	3
Introduction and Motivation	3
Methodology, Research Design and Limitations.....	6
Defining key parameters.....	8
Historical Background - Legacy of the Organization of African Unity (OAU).....	9
Foundations of the AU’s Peace and Security Architecture	12
Approach to peacemaking in Africa	16
Thesis Structure	19
CHAPTER 2 - The relationship and division of labour between the AU and sub-regional organizations in peacemaking	20
Historical development of the regionalization of peacemaking and mediation.....	20
Principles defined in the AU Constitutive Act, PSC Protocol and Memorandum of Understanding.....	23
Decision-making on peacemaking within the AU and the sub-regional organizations.....	26
Implementing the working relationship	34
CHAPTER 3 – Example cases of the African Union and Africa’s sub-regional organizations in peacemaking interventions	43
Example 1 – Zimbabwe	43
Example 2 – Kenya.....	50
Example 3 – Cote d’Ivoire.....	55

CHAPTER 4 – Implications of the AU-sub-regional organization relationship on mediation efforts	62
Continuing tension and politicization in the relationship between the AU and sub-regional organizations	63
Problems of procedural coordination and lines of authority within the AU structure.....	65
Regional challenges and strong-state dynamics – the hegemon dilemma.....	67
Implications – Problems resulting from a weak and/or uncoordinated institutional relationship in multi-party peacemaking	69
Selecting lead mediators and joint mediators	77
Resultant problems with the approach to peacemaking in Africa	79
Reflecting on African peacemaking.....	82
CHAPTER 5 – Conclusions	83
Recommendations for the AU and sub-regional organizations	84
Recommendations for further research.....	85
Conclusion	86
BIBLIOGRAPHY.....	87

LIST OF ACRONYMS

AMIS	African Union Mission in Sudan
AMU	Arab Maghreb Union
APSA	African peace and security architecture
ASF	African Standby Force
AU	African Union
AUPD	African Union Panel on Darfur
AUHIP	AU High-Level Implementation Panel on Sudan
CAR	Central African Republic
CEMAC	Economic and Monetary Community of Central Africa
CEWARN	Conflict Early Warning System (of IGAD)
CEWS	Continental Early Warning System (of the AU)
CMCA	Commission of Mediation, Conciliation, and Arbitration (no longer operational)
COPAX	Council for Peace and Security (in Central Africa)
CoW	Council of the Wise (of ECOWAS)
CPA	Comprehensive Peace Agreement (Sudan, North-South conflict)
CPMR	Conflict Prevention, Management and Resolution
DPA	Darfur Peace Agreement
DRC	Democratic Republic of Congo
EAC	East African Community
EASBRIG	Eastern Africa Standby Brigade
ECCAS	Economic Community of Central African States
ECOBRIG	ECOWAS Brigade
ECOMOG	ECOWAS Military Observer Group
ECOWAS	Economic Community of West African States
ECPF	ECOWAS Conflict Prevention Framework
FN	<i>Forces Nouvelles</i> (Cote d'Ivoire)
FOMAC	Central African multinational force
GPA	Global Political Agreement (Zimbabwe)
GoS	Government of Sudan
GNU	Government of National Unity (Zimbabwe and Kenya)

HAT	High Authority of the Transition (Madagascar)
ICC	International Criminal Court
IGAD	Intergovernmental Authority on Development
ISPDC	Inter-State Politics and Diplomacy Committee (of SADC)
JEM	Justice and Equality Movement (Darfur)
LJM	Liberation and Justice Movement (Darfur)
LMA	<i>Linas-Marcoussis</i> Accord (Cote d'Ivoire)
MDC	Movement for Democratic Change (Zimbabwe)
MoU	Memorandum of Understanding
MSC	Mediation and Security Council (of ECOWAS)
NASBRIG	North African Standby Brigade
OAU	Organization of African Unity
ODM	Orange Democratic Movement (Kenya)
OIF	<i>Organization internationale de la francophonie</i> / International Organization of the Francophone
OPA	Ouagadougou Political Agreement
OPDS	Organ for Politics, Defence and Security Cooperation (SADC)
PNU	Party of National Unity (Kenya)
PSC	Peace and Security Council (of the African Union)
REC	Regional Economic Community (another term for a sub-regional organization)
SADC	Southern African Development Community
SADCBRIG	SADC Brigade
SIPO	Strategic Indicative Plan for the Organ (of SADC)
SLA/M	Sudanese Liberation Army/Movement (Darfur)
SPLM	Sudan Peoples' Liberation Movement (Sudan)
UN	United Nations
UNAMID	African Union/United Nations Hybrid operation in Darfur
UNSC	United Nations Security Council
UNSG	United Nations Secretary General
ZANU PF	Zimbabwe African National Union - Patriotic Front

CHAPTER 1 – Peacemaking in Africa

Introduction and Motivation

There has been a spike in focus on African leadership and ownership in the resolution of local conflicts, notably marked by the African Union's (AU) declaration of 2010 as the 'African Year of Peace.'¹ While this may be attributed to the unwillingness of the West to intervene in African conflicts, there are also positive reasons to support regional and African-led solutions, including regional actors' proximity, local knowledge and ability to handle regional complexities.² The AU is a very new institution that has set out to be involved in continental peace and security planning, having enshrined the promotion of peace, security and stability in its constitutive act. In 2002 at its inaugural summit, AU members agreed to establish a Peace and Security Council (PSC) that would oversee possible interventions in respect to 'grave circumstances' such as war crimes, genocide and crimes against humanity. It was also a notable moment in which Africa made clear its intention to solve its own security problems on its own terms.³ In addition to the AU, the Economic Community of West African States (ECOWAS),⁴ the Southern African Development Community (SADC),⁵ and the Inter-Governmental Authority on Development (IGAD),⁶ representing three of the continent's major sub-regions, have also made strides in focusing on African peace initiatives and increasing their capacity in this regard. Yet, looking at recent history we can see that these efforts still remain very *ad hoc* and diverse, and have only had exceptional, rather than regular or sustainable, success.

¹ Message by Dr. Jean Ping, Chairperson of the African Union Commission delivered by Adv. Bience Gawanas, Commissioner of Social Affairs on the occasion of the celebration of Africa Day (25 May 2010) in South Africa, 29 May 2010, Sandton Convention Centre, Johannesburg.

² Laakso, Liisa, "Introduction" In Liisa Laakso (ed.) *Regional integration and Conflict Prevention and Peace Building in Africa: Europe, SADC and ECOWAS*. Helsinki: University of Helsinki, 2002, p. 10.

³ P. Godfrey Okoth, "Conflict Resolution in Africa: The Role of the OAU & AU," In *The Resolution of African Conflicts: The Management of Conflict Resolution & Post-Conflict Reconstruction*, edited by Alfred Nhema & Paul Tiyambe Zeleza. Oxford: James Currey, 2008, p. 34.

⁴ ECOWAS was established in 1975. Its members include Benin, Burkina Faso, Cote d'Ivoire, The Gambia, Guinea, Guinea-Bissau, Ghana, Liberia, Mali, Mauritania (currently suspended), Niger, Nigeria, Senegal, Sierra Leone, Cape Verde and Togo.

⁵ SADC was established in 1992 (after its forerunner, the Southern African Development Coordination Conference (SADCC) that was formed in 1980). Its members are Angola, Botswana, the Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe.

⁶ IGAD was established in 1996 (after its forerunner, the Intergovernmental Authority on Drought and Development (IGADD) which was formed in 1986). IGAD comprises Djibouti, Eritrea, Ethiopia, Kenya, Somalia, Sudan, and Uganda.

In the protocol establishing the PSC, the drafters specifically acknowledge ‘the contribution of African Regional Mechanisms for Conflict Prevention, Management and Resolution in the maintenance and promotion of peace, security and stability on the Continent’ and emphasize the need to develop formal coordination and cooperation arrangements.⁷ Article 16 of the protocol attempts to lay out what the relationship between the AU and the sub-regional bodies will be, establishing that the Union will have the ‘primary responsibility’ for promoting peace, security and stability in Africa. Further, under section 16(1)(b), it establishes that ‘the modalities of such partnership shall be determined by the comparative advantage of each and the prevailing circumstances.’ The following Article (17), then affirms that the United Nations Security Council (UNSC) ‘has the *primary responsibility* for the maintenance of international peace and security’ (emphasis added).

At the July 2007 AU Summit in Accra, the AU Assembly adopted a Protocol on Relations between the AU and the Regional Economic Communities (RECs). Apart from noting their ‘awareness’ of the principle of subsidiarity⁸ in the pre-amble, the organizations left the relationship to be clarified in a still-to-come memorandum of understanding (MoU).⁹ This MoU was signed in 2008 between several of these RECs and the AU to formulate their working relationship related to security. The MoU explains that the principles of ‘subsidiarity, complementarity and comparative advantage’ would guide decisions to optimize peace operations.¹⁰ Under Article IV, however, the MOU again recognizes ‘the *primary responsibility* of the Union’ in the maintenance and promotion of peace in Africa (emphasis added).

The contradiction here, between the idea of primary responsibility as noted in the PSC Protocol, and the principle of subsidiarity, emphasized in the MOU, is an obvious obstacle in the establishment of a clear, institutionalized working relationship between the AU and the sub-regional organizations in peacemaking. There are many authors who discuss the potential roles of the AU’s new institutions, including the Panel of the Wise, the Early Warning System and the

⁷ African Union, *Protocol Relating to the Establishment of the Peace and Security Council of the African Union*, Addis Ababa: African Union, 2002. Hereafter the ‘PSC Protocol.’

⁸ Subsidiarity, in this context, implies deference to local solutions and/or organizations before more distant/international actors become involved. This principle will be further discussed later in the thesis.

⁹ African Union, *Protocol on Relations Between the African Union (AU) and the Regional Economic Communities (RECs)*. Accra, Ghana: July 2007.

¹⁰ African Union, *Memorandum of Understanding on Cooperation in the Area of Peace and Security Between the African Union, the Regional Economic Communities, and the Coordinating Mechanisms of the Regional Standby Brigades of Eastern Africa and Northern Africa*, Addis Ababa: African Union, June 2008.

Standby Force. On the other hand, questions of division of labour and primacy are often addressed only indirectly in the literature. Rather than focus on any one of these specific mechanisms and/or on all potential peace and security efforts, this study instead intends to focus on the *relationship* and contradiction in the proposed division of labour between the AU and sub-regional peace and security bodies in *peacemaking operations*.¹¹

There is also a gap in the literature relating to peacemaking and mediation, in contrast to military efforts and peacekeeping, which have been more readily addressed by security scholars. Further, Maundi, Zartman, Khadiagala & Nuamah make the point that there is a lack of scholarly work on the entry phase of mediation, that is, the process concerning the selection and acceptance of the mediator, with an especially noticeable lack of focus on this experience in Africa.¹² This thesis aims to fill these gaps. While peacemaking, often done out of public view, may seem of secondary importance to military efforts, it is of utmost importance in establishing peace. The political agreements that emerge from peacemaking, or fail to emerge, often dictate whether peace will remain or war will return; they provide a framework for a country's post-conflict environment, whether it will be characterised by cooperation and reconciliation or an unsteady, fragile stalemate. Military interventions are often only a starting point in working towards the political, negotiated solutions that will allow a country's leaders to non-violently work together and govern. This discussion illustrates the importance of considering the effect of the problematic institutional relationship on the success of peacemaking in Africa.

In this thesis, the AU's contribution to peacemaking across the continent is considered, questioning whether the new peace and security architecture provides the necessary structure for the sustainable and functional development of a successful peacemaking approach between the AU and the sub-regional organizations. More specifically, this thesis confronts the question of how, in practice, regional organizations come to take the lead in managing a peacemaking intervention. It also discusses which, if any, criteria are used in the choice of a lead mediator and lead actor in peacemaking efforts and mediations, and how the principles of 'subsidiarity, complementarity and comparative advantage' are being applied in this decision making.

¹¹ The term "peacemaking" generally refers to activities aimed at bringing conflicting parties to a settlement; the term is further explored under the "Defining Key Parameters" section of this chapter.

¹² Modammed O. Maundi, I William Zartman, Gilbert Khadiagala, & Kwaku Nuamah (eds.) *Getting In: Mediators' Entry into the Settlement of African Conflicts*. Washington, DC: United States Institute of Peace Press, 2006, p. 2.

The recent examples of peacemaking in Zimbabwe, Kenya, and Cote d'Ivoire are discussed in detail to illustrate the operationalization of these working relationships and the AU's approach to peacemaking. The thesis concludes that the AU is still operating under idiosyncratic and politicized rules which are not yet sufficient to carry out valuable and lasting peacemaking. These contradictory guidelines contribute to limiting the potential success of peacemaking efforts; such an institutional environment has created a deficiency of the co-operation, coordination and skill necessary to run an effective mediation. This thesis also concludes with recommendations for better developing the institutional relationship and thereby improving on regional peacemaking initiatives in order to facilitate more lasting and sustainable peace among and within African states.

Methodology, Research Design and Limitations

Primary and secondary literature sources were used to complete this work, as well as one private interview. The author confronted some challenges related to a lack of available public and academic information on the private decisions of member states and sub-regional organizations on the subject of choosing a mediator. Laurie Nathan notes that sub-regional organizations such as SADC make public only general documents which maintain a posture of unity and preserve confidentiality on security and defence issues.¹³ In aiming to overcome this challenge, this thesis has used literature from inside sources and other less traditional academic sources, such as credible investigative news sources and NGO reports, which can provide such insight.¹⁴

The theoretical framework of this thesis is grounded in regionalism and the regionalisation of peace and security efforts. However, the author has refrained from adapting any one explanation of how regionalism develops, as this is not the main focus of the thesis. This thesis does not purport to explain the growth of regionalism in the peace and security realm, which is the aim of related theories such as *functionalism*, which focuses on the 'spillover' from

¹³ Laurie Nathan, "'Organ Failure': A Review of the SADC Organ on Politics, Defence and Security." In *Regional integration and Conflict Prevention and Peace Building in Africa: Europe, SADC and ECOWAS*, edited by Liisa Laakso. Helsinki: University of Helsinki, 2002.

¹⁴ This generally applies to Chapter 3, the example cases, and most especially to the most recent cases (Cote d'Ivoire and the latest round of the Darfur mediation) that have not yet been the subject of much academic writing.

economic integration to political and security cooperation,¹⁵ and *new regionalism*, which highlights the ‘bottom up’ development of regionalism(s) happening both above and below the level of the state.¹⁶ Unfortunately, these theories are limited in explaining the regionalisation phenomenon as it has developed in Africa, where regional integration for peace and security has remained a state-led and politically driven process that has often progressed only out of necessity.¹⁷ This work rather accepts regionalisation as part of the status quo and explores what role regional organizations have in peacemaking. Theoretical questions of the appropriateness and capacity of regional organizations to do peacemaking work are considered. The author broadly accepts that regional organizations under African leadership do and can have a positive role to play, especially in managing today’s increasingly regionalised conflicts. The main focus of this thesis, however, remains on the specific challenges of coordination and politicisation that are preventing these regional organizations from effectively realizing this objective.

Ultimately, the development of the AU approach to peacemaking is still an ongoing process and one cannot easily predict any future changes that will take place, or what new obstacles may emerge to challenge current developments. The assessment of the current foundations and directions of the organization is based on relevant example cases and current directions. This thesis does not attempt to make predictions about what will occur in any ongoing conflict or what the AU or sub-regional organizations will do in the future; instead, it focuses on an evaluation of the current approach, the current relationship, and its viability, and limit its brief recommendations to ways to improve the problematic working relationship that exists now between the AU and sub-regional organizations.

Finally, the project is also limited in scope since it is focusing on only peacemaking efforts, and not the full spectrum of peace interventions, such as preventative diplomacy, peacekeeping, military interventions, peace enforcement, peacebuilding, and post-conflict reconstruction, which are defined below. Therefore, this analysis is only broadly applicable to conflicts or situations where non-military *peacemaking* interventions have taken place or may be considered desirable.

¹⁵ Prominent theorists in the functionalist/neo-functionalist schools, including David Mitrany and Ernst Haas, explain that the convergence over time of economic goals and unification of self-interests among domestic interest groups can lead to successful integration and eventually to necessary cooperation in the political and security realms.

¹⁶ See Marianne H Marchand, Morten Boas & Timothy Shaw, “The Political Economy of New Regionalisms,” *Third World Quarterly*, 20(5), 1999: 897-910.

¹⁷ See Jeggan Senghor, “Theoretical Foundations for Regional Integration in Africa: an overview,” in Anyang’o Nyong’o (ed.) *Regional Integration in Africa: An unfinished agenda*. Nairobi: African Academy of Sciences, 1990.

Defining key parameters

Rather than considering the entire spectrum of peace operations, as listed above, this thesis focuses exclusively on the institutional relationship concerning peacemaking efforts. Peacemaking can be defined as activities aimed at ceasing hostilities and bringing parties to a settlement, most commonly through the form of negotiations or mediation,¹⁸ often followed by the establishment of a peace deal or governing agreement.¹⁹ David Forsythe states that ‘peacemaking fundamentally manifests itself as the setting of standards, mediation-conciliation, arbitration-adjudication, and enforcement-sanction.’²⁰ There are early phases of peacemaking activities, from the more passive initial stages of establishing communication, which is usually offered under the label of ‘good offices,’ to the more active job of actually mediating and facilitating negotiation between the parties and possibly advancing informal or nonbinding proposals.²¹

This is similar to, but not the same as preventative diplomacy, which seeks to ‘prevent disputes from arising between parties, to prevent existing disputes from escalating into conflicts and to limit the spread of the latter when they occur.’²² Peacekeeping is generally designed to preserve peace when fighting has been halted; its form has changed from a primarily military model of observing cease-fires and the separation of forces after inter-state wars, to ‘incorporating a complex model of many elements – military, police and civilian – working

¹⁸ Nathan defines mediation as “a process of dialogue and negotiation in which a third party assists two or more disputant parties, with their consent, to prevent, manage or resolve a conflict without resort to force.” Laurie Nathan, “Plan of action to build the African Union’s mediation capacity,” Presented at the seminar “Towards enhancing the capacity of the African Union (AU) in mediation,” AU Commission, Addis Ababa, Ethiopia. 15-16 October 2009, p. 11.

¹⁹ This thesis will rely on the generally accepted United Nation’s distinction between preventative diplomacy, peacemaking, peacekeeping and peacebuilding for my definitions and framework. This definition, taken from Secretary General Boutros Boutros-Ghali’s 1992 *Agenda for Peace*, refers to all methods of pacific resolution suggested under Chapter VI of the UN Charter, which lists seeking a solution “by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.” Further information is available at: <http://www.un.org/en/peace/index.shtml>.

²⁰ David P. Forsythe, “United Nations Peacemaking,” *Proceedings of the Academy of Political Science*, Vol. 32, No. 4, 1977, p. 207.

²¹ Chester Crocker, Fen Osler Hampson and Pamela Aall, “Introduction,” in *Herding Cats: Multiparty Mediation in a Complex World*, Chester Crocker, Fen Osler Hampson & Pamela Aall (eds.) Washington, DC: United States Institute of Peace, 1999, p. 7.

²² United Nations. *An Agenda for Peace: Preventive Diplomacy, Peacemaking, and Peacekeeping. Report of the Secretary General (Boutros Boutros-Ghali) Pursuant to the Statement Adopted by the Summit Meeting of the Security Council on 31 January 1992, A/47/277-S/24111*, 17 June 1992.

together to help lay the foundations for sustainable peace.²³ Furthermore, post-conflict peacebuilding is defined as ‘action to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict.’²⁴

Therefore, this thesis focuses on the relationship between the AU and sub-regional organizations as it relates to non-military means of establishing peace and the methods and aims of the specific *peacemaking* interventions undertaken by these organizations. Laurie Nathan noted that there is often less focus, both in policy circles and in academia, on the arena of mediation and peacemaking compared to peacekeeping and post-conflict reconstruction, making it significant and important as an area of study which needs further research.²⁵ This point is emphasized by the number of UN Resolutions,²⁶ statements, joint planning documents²⁷ and studies that have been conducted that focus on increased cooperation in peacekeeping and enhanced capacity for military tasks. This focus on non-military efforts is therefore both needed and significant in the field of conflict resolution, as it looks beyond establishing military stalemates to the broader goals of finding political settlements that can establish lasting peace.

Historical Background - Legacy of the Organization of African Unity (OAU)

The OAU²⁸ was the first regional organization in Africa to deal in peace and security issues. However, the organization’s fundamental stance was one of non-intervention. Created to protect the interests and political independence of African states after colonialism, it prioritised sovereignty, territorial integrity, and non-interference in the internal affairs of member states.²⁹ It repeatedly neglected to involve itself in major inter-state conflicts and shied from developing

²³ United Nations Department of Peacekeeping Operations, *United Nations Peacekeeping Operations Principles and Guidelines*, New York, NY, 2008, p. 18.

²⁴ United Nations, *An Agenda for Peace*, 1992.

²⁵ Nathan, 2005, p. 0.

²⁶ For example, United Nations Security Council, S/RES/1631 (2005), adopted at the 5282nd meeting, 17 Oct 2005.

²⁷ There has been a proliferation of AU documents related to the development of the operationalization of the ASF, including the *Report of the Chairperson of the Commission on the Establishment of a Continental Peace and Security Architecture and the Status of Peace Processes in Africa*, 25 May, Addis Ababa, PSC/AHG/3IX, and the *Experts’ Meeting on the Relationship between the AU and the Regional Mechanisms for Conflict Prevention, Management and Resolution*, Addis Ababa, 22-3 March 2005, EXP/AU-RECs/ASF/4(1).

²⁸ The OAU was established in 1963 in Addis Ababa, Ethiopia. Its original member states included those which had already gained independence, with more countries gradually joining as they also became independent in the 1960s and 1970s, eventually achieving near universal membership after South Africa ended apartheid and joined in 1994.

²⁹ Anthoni van Nieuwkerk “The Role of the AU and NEPAD in Africa’s New Security Regime” in Shannon Field (ed.) *Peace in Africa: Towards a Collaborative Security Regime*. Johannesburg: Institute for Global Dialogue, 2004, p. 41.

firm conflict resolution mechanisms.³⁰ Rok Ajulu argues that the OAU was doomed to failure from the outset because it lacked the mandate to deal with conflicts, particularly internal ones and disputes over state boundaries.³¹ The only early exception to the non-intervention rule was the peace operation undertaken in the early 1980s in Chad, although this ended without any real success.³²

The peacemaking machinery of the OAU was largely invested in the Commission of Mediation, Conciliation, and Arbitration (CMCA) under Article XIX of the OAU charter. Yet delays in establishment carried on for many years and led Member States to become accustomed to *ad hoc* arrangements for peacemaking.³³ The OAU tended to utilize conference diplomacy and summit resolutions as their major techniques for conflict management. These efforts did not utilize effectual, problem-solving, conflict management techniques. The OAU's lack of 'an effective permanent mediatory organ' undermined its ability to facilitate successful negotiations between parties as the OAU came to 'rely excessively on ad hoc committees of heads of state and foreign ministers as primary mediatory organs.'³⁴ Sustained negotiations between conflicting parties are needed to breakdown the complex, underlying issues, but these frequently changing individuals did not have sufficient time or energy to dedicate to sustained mediation and were unable to contribute to the institutional memory of OAU conflict management techniques.³⁵

The end of the Cold War brought renewed concern that the African organization would need to be more involved in securing its own continent.³⁶ In 1993, at a conference in Cairo, the

³⁰ Okoth, 2008, pp. 23-5.

³¹ Rok Ajulu, "African Security: Can Regional Organizations Play a Role?" in Shannon Field (ed.) *Peace in Africa: Towards a Collaborative Security Regime*. Johannesburg: Institute for Global Dialogue, 2004, p. 269.

³² van Nieuwkerk, 2004, p. 42. In Chad, the OAU deployed a force of approximately 3,500 troops (out of the approved 5,000) to try to bring an end to the Chadian civil war in 1981-2. The operation was terminated early due to financial shortcomings, logistical challenges and a poor mandate.

³³ T. A. Imobighe, *The OAU (AU) and OAS in Regional Conflict Management: A Comparative Assessment*. Ibadan, Nigeria: Spectrum Books, 2003, p. 57.

³⁴ *Ibid*, p. 100.

³⁵ An *ad hoc* committee was created to handle the 1972 dispute between Tanzania and Uganda, but ultimately failed to solve the underlying causes of the conflict, resulting in a full-scale war breaking out between the two countries in 1978. Imobighe, 2003, pp. 71-2. In 1977, the OAU created an ad hoc committee composed of Algeria, Cameroon, Gabon, Mozambique, Nigeria, and Senegal to seek solutions to the problem of Algerian support for various Chadian rebel movements. A ceasefire was signed and collapsed shortly after, leading to many more years of conflict. Imobighe, 2003, pp. 76-7.

³⁶ During this period, the central organ approved two small peace missions. The OAU sent a 'preventative diplomacy force' to Burundi in 1993, which helped diffuse some tenuous situations after the 1993 military coup. Former Tanzanian President Julius Nyerere, former South African President Nelson Mandela and later, then-South African Deputy President Jacob Zuma, took over the conflict resolution functions which were generally endorsed by the OAU. The OAU also undertook a mediation effort in Rwanda in 1990-91. Due to financial problems, the agreed-

OAU established a Mechanism for Conflict Prevention, Management, and Resolution which served as a signal of the continent's interest in peacemaking and as a pre-cursor to the AU PSC.³⁷ The mechanism was largely focused on quicker responses for preventative and containment measures that would not require more robust peacemaking and peacebuilding interventions.³⁸ The central organ was an *ad hoc* arrangement with 15 countries elected annually on the basis of geographical representation.³⁹ Under the new framework, limited observer/mediation missions were deployed in Burundi (1993-96), Comoros (1997) and to the territorial dispute between Ethiopia and Eritrea (1998).⁴⁰ Overall, the OAU achieved some limited success in preventative diplomacy and conflict management, but its main legacies were a conservative stance towards intervention, a lack of political will for conflict management and limited financial means.⁴¹

In regard to sub-regional relations, the declaration tentatively explained that OAU was to 'coordinate its activities with the African regional and sub-regional organization and... cooperate as appropriate with the neighbouring countries with respect to conflicts which may arise in the different sub-regions of the continent.' However, a 1999 study commissioned by the OAU on the functioning of cooperation between the OAU and sub-regional organizations in the realm of conflict resolution, found these challenges: unclear divisions of labour and responsibilities of conflict management between the OAU and the regions; lack of agreement and commitment to an institutionalized arrangement for conflict management; the OAU headquarters being located far from conflict areas; and human resource and financial constraints on conflict initiatives.⁴² Therefore, further definition of the areas of responsibility was needed in the peace and security

upon military observer group was eventually absorbed under the UN force in Rwanda. When the genocide broke out in 1994, the military observer mission was totally overwhelmed and withdrawn with no immediate help forthcoming from the UN or the OAU. Van Nieuwkerk, 2004, pp. 43-4.

³⁷ Organization of African Unity, *1993 Cairo Declaration on the Occasion of the Thirtieth Anniversary of the Organization of African Unity*. AHG/DECL.3 (XXIX) Cairo: 28-30 June 1993.

³⁸ Klaas van Walraven, "Heritage and Transformation: From the Organization of African Unity to the African Union," in Ulf Engel & Joao Gomes Porto (eds.) *Africa's new Peace and Security Architecture: Promoting Norms, Institutionalizing Solution*. Surrey, England: Ashgate, 2010, p. 52.

³⁹ Van Nieuwkerk, 2004, p. 42.

⁴⁰ Centre for Conflict Resolution. "The New Partnership for Africa's Security: The United Nations, Regional Organizations and Future Security Threats in Africa." Cape Town: 21-23 May 2004. Seminar Report, Oct 2004.

⁴¹ Van Nieuwkerk, 2004, p. 45.

⁴² OAU, "Interfacing the OAU Mechanism for Conflict Prevention, Management and Resolution with Africa's Sub-Regions and Arrangements: Elements of a Partnership Program," Addis Ababa, July 1999, as cited by Musifiky Mwanasali, "From the Organization of the African Unity to the African Union," in Mwesiga Baregu and Christopher Landsberg, eds., *From Cape to Congo: Southern Africa's Evolving Security Challenges*. Colorado: Lynne Rienner Publishers, 2003, p. 219.

structures of the new AU, specifically through some form of protocol or memorandum of understanding on security matters between the AU and RECs.⁴³

Moreover, through this period, responses by sub-regional organizations in Africa were usually *ad hoc* because there was a lack of institutionalized structures to deal with conflict management and resolution activities, especially non-military structures, at the sub-regional level.⁴⁴ These sub-regional organizations generally set out to accomplish other purposes (economic integration, trade, development, opposition to apartheid, etc...) and added a peace and security agenda only when such matters became pressing and unavoidable. This process is still taking place today, thus these institutions and rules are still forming.⁴⁵ The OAU's *ad hoc* and case-by-case approach in its early peacemaking efforts became the norm for the continent, relying on political leaders and individual countries to make security decisions instead of any supranational body.⁴⁶ There have been broad pushes on paper for standardization and more long-term, stable security planning within each region, but these efforts overall still lack coordination and cohesiveness, which is further discussed in subsequent chapters.

Foundations of the AU's Peace and Security Architecture

Recognizing the shortcomings of the OAU, the Heads of State and Government of the Member States of the Organization of African Unity, led principally by Libya, South African and Nigeria, came together in Lome, Togo in July 2000 and re-constituted themselves into the African Union with the adoption of the Constitutive Act of the Union.⁴⁷ The Act lists the promotion of 'peace, security, and stability on the continent' as the sixth main objective of the Union, following the defence of 'the sovereignty, territorial integrity and independence of its Member States,' which is listed as the second objective. Most significantly related to the AU's

⁴³ Mwanasali, 2003, p. 217.

⁴⁴ Mark Malan, "The OAU and African Subregional Organizations: A closer look at the 'peace pyramid,'" *Institute for Security Studies*, Occasional Paper 36, Jan 1999.

⁴⁵ Victor Adetula, "The Role of Sub-Regional Integration Schemes in Conflict Prevention & Management in Africa: A Framework for a Working Peace System." In *The Resolution of African Conflicts: The Management of Conflict Resolution & Post-Conflict Reconstruction*. Edited by Alfred Nhema & Paul Tiyambe Zeleza. Oxford: James Currey, 2008, p. 19.

⁴⁶ Imobighe, 2003, p. 100.

⁴⁷ *Constitutive Act of the African Union*, Adopted by the Thirty-Sixth Ordinary Session of the Assembly of Heads of State and Government, Lome, Togo: 11 July 2000, entered into force 26 May 2001. Hereafter the AU Constitutive Act.

new approach to conflict management is the Union's list of principles under Article 4, which includes:

(h) the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity;

(j) the right of Member States to request intervention from the Union in order to restore peace and security.

Article 4(p) also sets out the AU's stance against unconstitutional changes of governments. It creates and describes the main organs of the AU, although apart from imposing sanctions or suspending a Member State's membership,⁴⁸ it provides little detail on how the AU will actually carry out its peace and security-related tasks. This was dealt with in the PSC Protocol, as noted below.

The AU appropriated much of its institutional structure for peace and security from the OAU's Mechanism for Conflict Prevention, Management, and Resolution.⁴⁹ In 2002, at its inaugural summit in Cairo, AU members agreed to establish the Peace and Security Council (PSC) that would oversee possible interventions in respect to 'grave circumstances' as well as requested interventions.⁵⁰ Optimistically, the principles for intervention stand in stark contrast to the old codes of the OAU which privileged sovereignty and non-intervention in the internal affairs of member states.⁵¹ The Protocol lays out the mechanisms that will support the PSC: a Panel of the Wise, a Continental Early Warning System (CEWS), an African Standby Force (ASF)⁵² and a Special Fund.⁵³ While increasing the institutionalization of conflict management in some senses, this structure in many ways still echoes the *ad hoc* nature of conflict resolution

⁴⁸ Article 23 and Article 30, respectively, of the AU Constitutive Act.

⁴⁹ van Walraven, 2010, p. 53-4.

⁵⁰ Article 4(h) and 4(j) of the AU Constitutive Act.

⁵¹ Mwanasali, 2003, p. 205; Solomon Dersso, "The role and place of the African Standby Force within the African Peace and Security Architecture." *Institute for Security Studies*, ISS Paper 208, Jan 2010, p. 4.

⁵² It was planned that by 30 June of 2010, the ASF would be established and ready to deploy in complex, multi-dimensional peace operations under AU management. The ASF, which is to carry out the military tasks of the AU, is supposed to be able to deploy within 30-90 days and will be built around five sub-regional brigades, including the Southern African Development Community brigade (SADCBRIG); the Eastern Africa Standby Brigade (EASBRIG); the Economic Community of West African States (ECOWAS) brigade (ECOBIG); the North African Standby Brigade (NASBRIG); and the Economic Community of Central African States (ECCAS) brigade (ECCASBRIG). See African Union. *Roadmap for the Operationalization of the African Standby Force*. 2005.

⁵³ Article 2 of the PSC Protocol.

under the OAU and remains beholden to high politics among member states, despite its general embrace of what has been termed the ‘non-indifference’ norm.⁵⁴

To date, the AU has executed three major peacekeeping operations beyond its regular participation in political peacemaking activities. The first operation in Burundi (2003) was relatively small in scale, and despite delays and financial limitations, it generally accomplished its main aim of bringing enough stability to the country to allow for the UN to take over long-term peacebuilding.⁵⁵ The second major mission was initiated in Darfur in 2004 with a group of AU Observers monitoring a fragile ceasefire.⁵⁶ However, due to the overwhelming challenges and scope of the mission, a ‘hybrid’ UN-AU mission was initiated, relying on UN capacity and force.⁵⁷ The most recent mission in Somalia (2007-present) has proven absolutely ineffective in the face of continuing conflict.⁵⁸ Thus the AU operations have illustrated that the AU is still unprepared for the independent deployment of a complex peacekeeping operation on the continent.⁵⁹ The AU, nonetheless, also plays an important political and diplomatic peacemaking role in all three of these major conflicts, which is the focus of this dissertation.

Although the supreme authority of the AU remains with the Assembly (the Summit of Heads of State and Government), the PSC, which came into being in 2004, is one of the most powerful organs in terms of decision-making power under the APSA, including deciding on and shaping future peacekeeping and peacemaking missions. The 15-member body includes Member States from each of Africa’s five sub-regions (pursuant to equitable regional representation),

⁵⁴ Paul D. Williams, “From Non-Intervention to Non-Indifference: The Origins and Development of the African Union’s Security Culture,” *African Affairs*, 106/423, 2007, p. 278.

⁵⁵ Tim Murithi, “The African Union’s evolving role in peace operations: the African Union Mission in Burundi, the African Union Mission in Sudan and the African Union Mission in Somalia,” *Institute for Security Studies*, African Security Review 17.1, 2009, p. 75. And Emma Svensson. “Lessons Learned from the African Union’s First Peace Operation. The African Mission in Burundi”. FOI memo 2471, *Swedish Defence Research Agency*, June 2008, p. 13.

⁵⁶ The AU Mission in Sudan (AMIS) reached approximately 7,000 troops in mid-2005. African Union, *The Sudanese Parties Sign the Agreement on the modalities for the Establishment of the Ceasefire Commission and the Deployment of Observers in the Darfur*. Press Release 51/2004. Addis Ababa, 28 May 2004. African Union Peace and Security Council, *Communiqué of the 28th Meeting of the Peace and Security Council*. PSC/PR/Comm(XXVIII). Addis Ababa, 29 April 2005.

⁵⁷ Aboagye, Festus. “The hybrid operation for Darfur: A critical review of the concept of the mechanism” *Institute for Security Studies*, ISS Paper 149. Aug 2007.

⁵⁸ The AU force, which has not reached its full authorization level, has even come to be seen as a combatant in the conflict and has been accused of indiscriminately firing on civilians, creating local opposition and making it less likely to be able to restore peace. Bronwyn Bruton, “In the Quicksands of Somalia - Where Doing less Helps More,” *Foreign Affairs* 88, Nov/Dec 2009, p. 87.

⁵⁹ Kobbie, Colonel John Peter Matthews. “The Role of the African Union in African Peacekeeping Operations.” U.S. Army War College Strategy Paper, March 2009, p. 3.

with ten Members elected for a two-year term and five Members elected for a three-year term.⁶⁰ Under its functions, it is responsible for ‘peace-making, including the use of good offices, mediation, conciliation and enquiry.’⁶¹ Yet the current principal operational mechanism of mediation at the AU is the AU Commission (the secretariat of the Union), which implements mediation interventions under the Conflict Management Directorate (CMD). The Commission is also the body that makes decisions on the composition and nature of an envisioned mediation unit.⁶² It is for this reason that this thesis will carefully consider the documents and literature related to the Assembly, the PSC and the Commission as far as they elucidate the role of the AU in peacemaking in Africa.

Mandates to engage in peacemaking and mediation of disputes are also included in the ECOWAS Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (1999),⁶³ the SADC Protocol on Politics, Defence and Security cooperation (2001), the Agreement Establishing the Inter-Governmental Authority on Development (IGAD) (1996),⁶⁴ and the Protocol Relating to the Establishment of a Mutual Security Pact in Central Africa (COPAX) of the Economic Community of Central African States (ECCAS).⁶⁵ Given that the sub-regional peace and security mechanisms have been deemed ‘pillars’ of the AU, these mechanisms are also inherently part and parcel of the African Peace and Security Architecture.

⁶⁰ AS PSC Protocol, Article 5 – Composition.

⁶¹ AU PSC Protocol, Article 6 – Functions.

⁶² Van Jaarsveld, Salomé & Shauna Mottiar. “Mediating Peace in Africa: Securing Conflict Prevention, Strengthening the Mediation and Conflict Prevention Aspects of the African Peace and Security Architecture” research report based on a seminar held in Addis Ababa, Ethiopia on 4 March 2009 organised by ACCORD and the Ministry for Foreign Affairs of Finland at the UN Convention Centre, with the participation of the AU, 2009, p. 19.

⁶³ The protocol established The Mediation and Security Council which is composed of nine members, seven of whom are elected for a two-year term by the Authority; the remaining two are the chairman of the Authority and the immediate past chairman. Adibe, Clement E. “Muddling Through: An Analysis of the ECOWAS Experience in Conflict Management in West Africa,” In Liisa Laakso (ed.) *Regional integration and Conflict Prevention and Peace Building in Africa: Europe, SADC and ECOWAS*. Helsinki: University of Helsinki, 2002, p. 160.

⁶⁴ Article 19A of the Establishing Agreement; further development of IGAD conflict resolution mechanisms has happened under the IGAD Secretariat within the Conflict Prevention, Management and Resolution programme in the IGAD Peace and Security Division.

⁶⁵ The COPAX, although generally related to the maintenance of peace and security in the region, has in practice only focused its attention on military mechanisms and the ECCAS role in the AU’s standby force rather than non-military peacemaking operations.

Approach to peacemaking in Africa

One common trend in African mediations, starting from the time of the OAU, is the deployment of elder statesmen as mediators. From President Daniel arap Moi⁶⁶ in Uganda (1985), President Abdelaziz Bouteflika⁶⁷ in Ethiopia-Eritrea (1998-2000), President Gnassingbé Eyadéma⁶⁸ in Sierra Leone (1999), President Julius Nyerere in Burundi (1995-1999), and President Nelson Mandela in Burundi (1999-2001), Africans proposed that the credibility, trust, and charismatic ability of such figures was essential in acting as capable mediators. It can be said that their powerful status likely does help them gain access and entry into the conflict, but it is not as clear that they have had the ability to be effective mediators with the requisite conflict resolution skills.⁶⁹ For example, Nyerere was noted for his great stature and wisdom, but charged with lacking the expertise and diplomatic finesse to mediate effectively in Burundi.⁷⁰

The peacemaking processes that have been conducted since the establishment of the AU in 2002 have generally continued the trend of carrying out mediations by a head of state or former head of state, including the North-Mali/North-Niger – Tuareg negotiations (Gaddafi), the Somalia Khartoum negotiations (al-Bashir), the Uganda-LRA negotiations (Machar), the Inter-Congolese Dialogue (Masire and Mbeki), the Zimbabwe mediation (Mbeki and Zuma), the Cote d'Ivoire negotiations (Compaoré, Mbeki and Obasanjo), and the Madagascar mediation (Chissano). Other chief mediators included Kofi Annan in Kenya, Salim Ahmed Salim (former Secretary General of the OAU, Panel of the Wise member) and Djibril Bassolé (former foreign minister of Burkina Faso) in Darfur, and a Kenyan military officer (Lt. General Sumbeiywo) in the Sudan North-South negotiations.⁷¹

Regional organizations were prominent institutional hosts, taking the lead in Darfur, Burundi and Kenya under the AU; North-South Sudan under IGAD; Cote d'Ivoire under ECOWAS; Zimbabwe and Madagascar under SADC; the Central African Republic under CEMAC; and Somalia under the AU, IGAD and the League of Arab States. In other cases or

⁶⁶ Moi was president of Kenya from 1978 to 2002.

⁶⁷ Bouteflika is the current president of Algeria, elected in 1999. He was chairman of the OAU from 1999 to 2000.

⁶⁸ Eyadéma was the President of Togo for 38 years, from 1967 to 2005 (at his death).

⁶⁹ Khadiagala, 2007, p. 110.

⁷⁰ Gerald Prunier, "Regional Leaders Tell Off Buyoya," *The East African*, 6 Dec 1999, as cited in Khadiagala, 2007, p. 147.

⁷¹ Simon J A Mason, "Mediation in African Peace Processes: Carefully Comparing Apples and Oranges," In *Unpacking the Mystery of Mediation in African Peace Processes*, Mediation Support Project, Center for Security Studies, ETH Zurich, 2008, p. 16.

stages, the UN generally was the main actor or at least provided significant support for the process, including in the Uganda-LRA negotiation, Somalia, and Sierra Leone.

The peacemaking legacies of South Africa's Thabo Mbeki and Nigeria's Olusegun Obasanjo are significant in understanding the peacemaking approach of the AU. Mbeki and Obasanjo held the position of AU Chair in 2002-3 and 2004-6, respectively. Both were highly involved, via 'quiet diplomacy,' in the attempted resolution of Zimbabwe's land and economic crises. South Africa was a main actor in the Democratic Republic of Congo peace process, the 2002 Inter-Congolese Dialogue. Mbeki sent his support to the Comoros to broker a political settlement after a coup, as well as earlier leading an intervention to reverse a coup in Lesotho in 1998. Mbeki also made strides in bringing together Uganda and Sudan to achieve peace after their support of cross-border rebels, as well as taking the lead in the Burundi peace process. Obasanjo has likewise been involved in conflict resolution in Guinea, Liberia, Sierra Leone and Cote d'Ivoire.⁷² Some of these interventions are further explored later in this thesis to illustrate the approach taken by these central actors in African peacemaking.

African regional peacemaking efforts usually focus on the establishment of a new governing or political agreement. Governments of national unity, proportional representation, power-sharing,⁷³ and democratic institutions have become increasingly popular central elements of such conflict resolution efforts as seen in Liberia, Burundi, the DRC, Kenya, Zimbabwe, Madagascar and Guinea.⁷⁴ In the international arena, the UN and other powerful states have been driven by an imperative to establish 'liberal peace' which embraces democracy, human rights, the free market, self-determination and citizenship within states formerly facing conflict. This usually follows a now formulaic model of preliminary talks, paving the way for formal talks, to

⁷² Adekeye Adebajo and Christopher Landsberg. "South Africa and Nigeria as Regional Hegemons." In *From Cape To Congo: Southern Africa's Evolving Security Challenges*, edited by Baregu, Mwesiga & Christopher Landsberg. Boulder: Lynee Rienner, 2003, pp. 181, 188.

⁷³ There is an ongoing debate over whether power-sharing is a workable solution to domestic political crises. It has been argued that power sharing may actually be contributing to the reproduction of insurgent violence by demonstrating that violence insurgency is a successful path to taking power. See Dennis M. Tull and Andreas Mehler, "The Hidden Costs of Power Sharing: Reproducing Insurgent Violence in Africa," *African Affairs* 104(416), pp. 375-298.

⁷⁴ Katia Papagianni, "Power sharing, transitional governments and the role of mediation," Centre for Humanitarian Dialogue, 24 June 2008, p. 1.

negotiations and a peace agreement, to the establishment of some transitional authority or government, and culminating in multi-party elections.⁷⁵

Yet despite the general embrace of these Western/liberal peace approaches in the governing and political agreements that have emerged from African peacemaking, there is a general trend in AU and sub-regional conflict resolution efforts to reject outright Western impositions and involvement in peace processes. Paul Williams includes ‘anti-imperialism/African solutions first’ as an integral part of the AU’s security culture, which has been internalized in the statecraft of African states and upheld in post-colonial African politics.⁷⁶ For example, although many (currently thirty) African states have signed the Rome Statute of the International Criminal Court (ICC), many states and more generally, the AU, are rejecting its intervention and the imposition of ‘Western legal norms’ in African conflicts.⁷⁷ Specifically, the AU, despite leading the peace process in Darfur, rejected calls by the ICC for the arrest of President Omar Al-Bashir and specifically obliged its member states to comply with the Union’s decisions over those of the ICC Pre-Trial Chamber.⁷⁸ This stance has, however, been mediated over time as African states have come to accept the imposition of certain international norms as well as funding that is conditional upon the acceptance of Western-backed solutions. This uneven acceptance of norms, and balancing of principles with realistic needs, has created the often contradictory stances seen across the AU’s member states.⁷⁹ This, in turn, has created more complications for institutional relationships and affected the success of peacemaking efforts.

At the cost of not consistently achieving sustainable peace, mediation has not been considered a specialized task nor received sufficient support in international organizations involved in peacemaking. This has led to sub-par efforts, especially visible in Africa. Laurie Nathan has observed that the appointment of a head mediator is often made with greater consideration of the candidate’s stature or power and lesser consideration of their actual

⁷⁵ Gerard Hagg and Peter Kagwanja, “Identity and Peace: Reconfiguring Conflict Resolution in Africa,” *African Journal on Conflict Resolution*, 7(2), 2007, pp. 21-2.

⁷⁶ Williams, 2007, p. 261.

⁷⁷ Nicholas Waddell and Phil Clark (eds), “Courting Conflict? Justice, Peace and the ICC in Africa,” *The Royal African Society*, March 2008, p. 9.

⁷⁸ African Union, *On the Decision of the Pre-Trial Chamber of the ICC Informing the UN Security Council and the Assembly of the State Parties to the Rome Statute about the Presence of President Omar Hassan Al-Bashir of the Sudan in the Territories of the Republic of Chad and the Republic of Kenya*, Press Release, N° 119/2010, Addis Ababa, 29 Aug 2010.

⁷⁹ Williams, 2007, pp. 270, 278.

peacemaking or mediation ability, leading to poor mediation that may even exacerbate conflict.⁸⁰ Additionally, mediators are often deployed without consideration of there being sufficient resources, such as adequate technical, administrative, financial and political support to carry out mediations for complex and protracted conflicts. Finally, there is still no comprehensive ‘concept and doctrine of mediation’ under the AU, allowing the style and process to be dependent on the mediator him or herself, who may repeat past flawed approaches.⁸¹ Professionalization and enhancing the mediation capacity of African regional organizations is inter-related with improving the working relation in the AU and sub-regional organizations’ efforts to improve their overall capacity in peacemaking.

Thesis Structure

Ending with a snapshot of the current approach to peacemaking in Africa, the first chapter has situated the parameters of this thesis, establishing the research design (including the theoretical and practical limitations), and provided a historical background and general overview of African peacemaking. This work moves forward, in Chapter 2, by examining the established principles and decision-making structures for initiating and carrying out peacemaking, as they exist in the protocols and memorandums that govern the legal relationship and practice of the AU and sub-regional organizations which are involved in these interventions.

Chapter 3 analyses the example cases of Kenya, Zimbabwe and Cote d’Ivoire. Each example describes the peacemaking effort and includes an analysis of the institutional relationship between the AU and the relevant sub-regional organization(s), as well as a short summary of the outcomes of the peacemaking efforts.

Chapter 4 further scrutinizes these results and explains how this fraught institutional relationship is creating challenges for creating sustainable peace; the ramifications of the unsuccessful and/or piecemeal and reactive efforts that often occur are also discussed. Chapter 5 presents conclusions, including recommendations on improving the working institutional relationship, on choosing lead mediators, and for further research.

⁸⁰ Laurie Nathan, interviewed by author, University of Cape Town, 7 Dec 2010.

⁸¹ Laurie Nathan, “Plan of action to build the African Union’s mediation capacity.” Presented at the seminar ‘Towards enhancing the capacity of the African Union (AU) in mediation’, AU Commission, Addis Ababa, Ethiopia. 15-16 Oct 2009, p. 12; and Laurie Nathan, “Towards a New Era in International Mediation,” Crisis States Research Centre, May 2010.

CHAPTER 2 - The relationship and division of labour between the AU and sub-regional organizations in peacemaking

Towards the aim of evaluating regional relationships in African peacemaking, this chapter outlines the proposed relationships as they have been formulated in the legal protocols, memorandums of understanding and other working documents of the relevant organizations. This chapter illustrates these working principles, modalities, and claims of responsibility and shows where tensions and contradictions lie in the guidelines. Most specifically, it explores the contradiction between the African Union's claim to 'primacy' in its peace and security role, and the claim to operate by the principles of 'subsidiarity, complementarity and comparative advantage' in relation to the continent's sub-regional organizations. This chapter however concludes, in agreement with Adekeye Adebajo, that the AU has still failed to define a plausible and functional division of labour between the Union and the continent's security mechanisms and actors, including the sub-regional pillars.¹

This chapter first briefly describes the historical development of the regionalisation of peace operations in Africa. It then moves on to outline the relational principles that exist in the various working documents, including the AU Constitutive Act, the Protocol Relating to the Establishment of the PSC, and the Memorandum of Understanding (MoU) on Peace and Security. It also describes the decision-making mechanisms on peacemaking and mediation within the major regional organizations, including the AU, SADC, ECOWAS, and IGAD. The chapter concludes by examining how peacemaking efforts, using the aforementioned principles, are implemented by the AU and sub-regional organizations.

Historical development of the regionalization of peacemaking and mediation

The regionalization of peace and security efforts is not a new idea, although in its early forms, regionalization has primarily occurred in military peacekeeping rather than in other peace-related operations. Boutros Boutros-Ghali's *An Agenda for Peace* in 1992 called for an increasing division of labour between the United Nations (UN) and regional organizations as a means of burden-sharing where the UN was unable to carry out its work.² The agenda promoted the use of regional security organizations as first responders and load-sharers in order to reduce

¹ Adekeye Adebajo, *The Curse of Berlin: Africa After the Cold War*, Scottsville, South Africa: University of KwaZulu-Natal Press, 2010, p. 33.

² United Nations, *An Agenda for Peace*, 1992.

some of the UN's peacekeeping burden. This was followed up in 1995 by the report *Improving Preparedness for Conflict Prevention and Peace-keeping in Africa*, which further argued that 'sub-regional organizations sometimes have a comparative advantage in taking the lead role in the prevention and settlement of conflicts and to assist the United Nations in containing them.'³

More recently, the UN Secretary General has also noted the cooperation that has taken place between the AU, sub-regional organizations and the UN in 'nearly every mediation effort in Africa.'⁴ This division of labour developed from earlier understandings of a 'peace pyramid' that emerged under the OAU and UN: the sub-regional organizations and the OAU/AU act as the initial respondents to the armed conflict, while the UN contributes more to peacebuilding and post-conflict reconstruction at the top of the pyramid.⁵ Since the OAU established its sub-regional structures,⁶ there has been an implied OAU position that the organization would intervene in regional matters under certain conditions: when regional efforts were exhausted or the sub-regional organization's credibility was lacking, or where conflict spilled into other regions.⁷

In Africa, regional organizations can help bring the resources and leverage required to sustain a successful peace process, but must also determine a way to manage the interests and demands that emerge from the local and international actors they work with.⁸ Supporters of a regional approach contend that regional actors' familiarity with the region, including the cultural, social and historical factors, can make them more effective on the ground. Geographical proximity should facilitate quicker and less expensive responses. Additionally, having such a strong stake in creating peace in their own neighbourhood and avoiding the negative effects of conflicts (such as cross-border refugee flows), sub-regional organizations should also be more committed to seeing out enduring conflict resolution.⁹ Mediation efforts led by a regional

³ United Nations, *Improving preparedness for conflict prevention and peacekeeping in Africa: Report of the Secretary-General*, UN doc. A/50/711 and S/1995/911, 1 November 1995, paragraph 4.

⁴ United Nations, *Report of the Secretary-General on the relationship between the United Nations and regional organizations, in particular the African Union, in the maintenance of international peace and security*, S/2008/186, 7 April 2008.

⁵ Malan, 1999, p.4.

⁶ It was at the ninth ordinary session of the Assembly of African Heads of State and Government in 1972 (in Rabat, Morocco) when the OAU decided to divide the continent into regions.

⁷ Mwanasali, 2003, p. 207.

⁸ Khadiagala, Gilbert M. *Meddlers of Mediators? African Interveners in Civil Conflicts in Eastern Africa*. Leiden, Netherlands: Martinus Nijhoff Publishers, 2007, p. 188.

⁹ Franke, 2006, pp. 3, 6.

organization (rather than a simple unilateral or bilateral effort), however, require greater levels of coordination and cooperation to harness these regional advantages.

It was only in the 1990s that sub-regional organizations officially became more involved in peacemaking efforts. In West Africa, ECOWAS facilitated negotiations led by General Abdulsalami Abubakar¹⁰ over the 2003 Comprehensive Peace Agreement¹¹ between the Government of Liberia, the Liberians United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL), and also in Sierra Leone with the Lomé Peace Agreement¹² of July 1999 between the Government of Sierra Leone and the Revolutionary United Front, facilitated by President Gnassingbe Eyadema.¹³ There was also sub-regional involvement starting in the 1990s in the Horn of Africa, including the IGAD-brokered Comprehensive Peace Agreement (signed in 2005) between North and South Sudan, the conclusion of which was mediated by Kenyan General Lazaro Sumbeiywo.¹⁴ When these organizations started to engage with peace and security matters, there was no effective continental framework or mechanism to harmonize or coordinate these efforts or coordinate relations with them and the OAU.¹⁵ The OAU's failure to reach out to the growing group of sub-regional actors who were becoming active in peace operations allowed the OAU to eventually become irrelevant as an organization.¹⁶

In 2000, the OAU conceded that cooperation with sub-regional organizations on the continent was lacking due to inadequate structures, poor institutionalization, and the absence of a

¹⁰ The General is a former president of Nigeria. He was selected as chief mediator after discussions between the chair of ECOWAS and Charles Taylor, then-president and former war lord in Liberia. Teresa Whitfield, "External actors in mediation: Dilemmas & options for mediators," *Mediation Practice Series*, Centre for Humanitarian Dialogue, February 2010, p. 20.

¹¹ This Agreement was preceded by the Abuja Agreement in 1995 that failed to hold following the first Liberian civil war. Earlier agreements were also signed in Cotonou in 1993 and Akosombo in 1994. See Jeremy Armon & Andy Carl (eds), "The Liberian Peace Process, 1990-1996," *Conciliation Resources*, 1996.

¹² The Lomé Peace Agreement was preceded by the Abidjan (1996) and Conakry (1998) Peace Accords which failed to hold and had to be superseded by the later agreement. Later, the Lomé Agreement also collapsed. See J. Shola Omotola, "The Sierra Leone Lomé Peace Accord," *Conflict Trends* 10(3), ACCORD, Pretoria, South Africa, pp. 38-43 and Ismail Rashid, "The Lomé peace negotiations," *Conciliation Resources*, Sep 2000, <http://www.c-r.org/our-work/accord/sierra-leone/lome-negotiations.php>.

¹³ President Gnassingbe Eyadema was the Chairman of ECOWAS at the time of the Peace Agreement. He was the President of Togo from 1967 until his death in 2005.

¹⁴ General Lazaro Sumbeiywo was Kenya's Special Envoy to the IGAD-led Sudanese peace process (1997-98) before becoming the lead mediator from 2001 to 2005. His previous role was Chief of Staff of the Kenyan Army. For more information on the IGAD peace process see John Young, "Sudan IGAD Peace Process: An Evaluation." Report Commissioned by IGAD. 30 May 2007.

¹⁵ Ademola Abass, "African Peace and Security Architecture and Protection of Human Security," in Ademola Abass (ed.), *Protecting Human Security in Africa*. New York: Oxford University Press, 2010, p. 249.

¹⁶ Abass, 2010, p. 252.

coherent approach for how to deal with these relationships.¹⁷ The evolution of sub-regional bodies will obviously be closely related to the continued evolution and development of the AU.¹⁸ Mwanasali (2003) contends that the success of the AU will ‘depend, to a large extent, on the ways in which regional economic communities (RECs) and regional security arrangements will merge into the AU.’¹⁹ It was planned that these necessary relationships and structures would be defined in the protocol relating to the establishment of the PSC and later legal frameworks.

Principles defined in the AU Constitutive Act, PSC Protocol and Memorandum of Understanding

The legal framework for the peace and security relationship between the AU and sub-regional organizations is laid out in the Constitutive Act of the African Union, the Protocol Establishing the Peace and Security Council and the Memorandum of Understanding between the AU and the RECs. The Constitutive Act is the least detailed and only mentions that the AU shall coordinate and harmonize the policies between the AU and sub-regional organizations towards the attainment of the AU’s objectives.²⁰ In the PSC Protocol, the drafters more specifically acknowledge the involvement of regional mechanisms in ‘the maintenance and promotion of peace, security and stability on the Continent,’ as well as emphasizing ‘the need to develop formal coordination and cooperation arrangements between these Regional Mechanisms and the African Union.’²¹ These regional mechanisms are considered to be an integral part, or the ‘building blocks’ of the AU’s Peace and Security Architecture.²² The MoU has provided the most insight into the legal relationship, including the principles that characterize the relationship, discussed further below.

Primary responsibility, subsidiarity, or comparative advantage?

Article 16 of the PSC protocol most clearly delineates the relationship between the AU and the sub-regional bodies. It first states that peace, security and stability activities need to be

¹⁷ Mwanasali, 2003, p. 215.

¹⁸ Adetula 2008, p. 20.

¹⁹ Mwanasali, 2003, p. 206.

²⁰ Article 3(l) of the AU Constitutive Act. The objectives of the Union, which includes the promotion of peace and security, are listed under Article 3(f).

²¹ AU PSC Protocol, Preamble.

²² AU PSC Protocol, Article 16.

harmonized, coordinated and developed through an effective partnership between the organizations. It states that the Union will have the ‘primary responsibility’ for promoting peace, security and stability in Africa. Further, under section 16(1)(b), it establishes that ‘the modalities of such partnership shall be determined by the comparative advantage of each and the prevailing circumstances.’ The principle of comparative advantage recognizes the fact, *inter alia*, that some of the sub-regional organizations were actually more advanced or more competent in peace operations than the AU was at the time.²³

At the July 2007 AU Summit in Accra, the AU Assembly adopted the Protocol on Relations between the African Union and the Regional Economic Communities (RECs) which provided practical provisions for cooperation and harmonization of policies among the organizations. It laid the groundwork for inter-organizational communications and representation, and information sharing with a focus towards integration.²⁴ Article 30, concerning the harmonization of mechanisms of peace and security, further emphasizes that the AU and RECs should ‘harmonize and co-ordinate’ their peace-related activities. But apart from noting its ‘awareness’ of the principle of subsidiarity in the pre-amble, the document left the principles of the relationship to be further clarified in a future agreement.²⁵

In June 2008, the Memorandum of Understanding (MoU) on Cooperation in the Area of Peace and Security was signed between the Arab Maghreb Union (AMU), the Community of Sahel-Saharan States (CEN-SAD), the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC), the Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS), the Intergovernmental Authority on Development (IGAD), the Southern African Development Community (SADC) and the AU.²⁶ The MoU is a binding legal instrument on the parties, explicating the principles, rights and obligations that exist and that apply to the relationship between the AU and the relevant sub-regional organizations (alternatively called Regional

²³ Abass, 2010, p. 255.

²⁴ It establishes two new organs, including the Committee on Co-ordination, which is responsible for co-ordinating and harmonizing the peace and security policies, among other policies, of the RECs and the AU. See Article 7 – ‘The Committee on Co-ordination: Composition and Functions’ of the African Union, in the “Protocol on Relations between the African Union and the Regional Economic Communities (RECs),” Accra, Ghana, 7 Jul 2007.

²⁵ Article 30 specifically calls for the Memorandum of Understanding to be concluded to “determine the modalities of the relationship.”

²⁶ The MoU underwent at least five drafts between 2003 and 2007 before being finalized in 2008.

Economic Communities (RECs)).²⁷ The MoU obliges the parties to ‘institutionalize and strengthen their cooperation and closely coordinate their activities,’ signalling the strong commitment to moving beyond informal collaboration and politicking.²⁸ Under Article VII – Conflict Prevention, Management and Resolution, the MoU calls for the parties to cooperate specifically in peacemaking activities to resolve conflicts that have occurred and prevent their recurrence through the means of ‘good offices, mediation, conciliation, enquiry and deployment of peace support missions.’ This signals that the agreement does cover the arena of peacemaking and not just military operations.

The MoU explains that the principles of ‘subsidiarity, complementarity and comparative advantage’ will guide decisions to optimize peace operations.²⁹ Under Article IV (ii), however, the MOU also recognizes and respects ‘the primary responsibility of the Union in the maintenance and promotion of peace, security and stability in Africa.’ The Modalities section (Article XX) of the MoU adds further nuance to the explanation of the relationship:

Without prejudice to the primary role of the Union in the promotion and maintenance of peace, security and stability in Africa, the RECs and, where appropriate, the Coordinating Mechanisms shall be encouraged to anticipate and prevent conflicts within and among their Member States and, where conflicts do occur, to undertake peace-making and peace-building efforts to resolve them, including the deployment of peace support missions.

It is significant to note that there is no clause that requires a sub-regional organization (REC) to obtain explicit approval for a peacemaking or peacebuilding mission before it undertakes one, allowing for possible conflicts over which organization has jurisdiction or the lead role.³⁰

The language of ‘subsidiarity and complementarity’ seems to be gaining a foothold in AU thinking, with the AU Commission also stating that it will be guided by the operating principles of ‘subsidiarity and complementarity with other Organs, Member States and RECs.’³¹

²⁷ Article II (Scope) of the MoU.

²⁸ Article III (1) of the MoU.

²⁹ Article IV (iv) of the MoU.

³⁰ Article XX holds a close resemblance to Chapter VIII of the UN Charter which characterizes the relationship between the UN and regional organizations. Similarly, Article 33(1) of the UN Charter calls for Member States’ to attempt to resolve their members’ disputes through diplomatic means. These parallel provisions appear to create a strong sense of duty on the part of sub-regional organizations to intervene first and organize peacemaking operations in their own regions whenever possible, even though the UN is still primarily responsible.

³¹ African Union, “The AU Commission,” 2010, <http://www.au.int/en/commission>, accessed 8 Feb 2011.

Yet this simple statement leaves much open to interpretation. Clearly there is a desire for enhanced partnership and cooperation between all of the African regional organizations and mechanisms, but there is a contradiction, or at least tension, between the idea of ‘primary responsibility’ of the Union, as originally noted in the PSC Protocol, and the principal of subsidiarity, emphasized in the MOU and by the Commission. This tension is an obstacle in the establishment of a clear, institutionalized working relationship between the AU and the sub-regional organizations when it comes to cooperation on peacemaking. Rather than clearly institutionalizing a decision-making process on who takes the lead in peacemaking and mediation efforts, it leaves excessive room for more flexibility, but also for high politics and/or personal and/or national interests to become crucial factors in initiating peacemaking efforts. Without specifying who has the decision-making power or what the decision-making process will be, decisions may be taken in an *ad hoc* manner, beholden to the power politics of the region or of the regional organizations that are potentially involved.

Decision-making on peacemaking within the AU and the sub-regional organizations

This section provides further detail on the peacemaking structures and mechanisms within each of the regional organizations, as they exist independently. It begins by focusing in more detail on the AU peacemaking and mediation powers, and then continues by providing a brief overview of the three sub-regions that have some working peacemaking institutions supporting the APSA: Western Africa, Southern Africa, and Eastern Africa. While Central and North Africa are recognized sub-regions and have signed the MoU, progress in both of these areas is extremely limited and neither has any institutionalized peacemaking or mediation capacities, hence their omission.³² Each region varies in the level of its capacities and the organizations also vary in their peacemaking and mediation decision-making structures.

³² The Economic Community of Central African States (ECCAS) is more focused on developing its military peacekeeping abilities under its Council for Peace and Security in Central Africa (COPAX). Even here, Member States have not strongly supported this effort, usually looking towards other sub-regional organizations (the EAC and SADC) on peace and security issues. See Adebajo, 2010, p. 45 and African Union, “Profile of the Economic Community of Central African States (ECCAS),” 2003. The Arab Maghreb Union (AMU) in North Africa is completely paralyzed by political tensions and unable to exert any peacemaking leadership in the region. See Robert Mortimer, “The Arab Maghreb Union: Myth and Reality,” In *North Africa in Transition: State, Society, and Economic Transformation in the 1990s*, edited by Yahia H. Zoubir. Gainesville, FL: University Press of Florida, 1999; Bjørn Møller, “Africa’s Sub-regional Organizations: Seamless Web or Patchwork?” *Danish Institute for International Studies*, Crisis States Working Paper, Aug 2009, pp. 16-17; Adebajo, 2010, p. 49.

The African Union (AU)

It is the PSC which has the broad powers to authorize and shape peace interventions, and hence has the most influence in shaping of the AU's approach to peacemaking. In consultation with the Chairperson of the AU Commission, the PSC is mandated to undertake peacemaking functions.³³ The functions include 'the use of good offices, mediation, conciliation and enquiry.'³⁴ The PSC also has the power to create subsidiary bodies including ad hoc committees for mediation, conciliation or enquiry, consisting of an individual State or group of States.³⁵

While the PSC is the decision-making body, the principal operational mechanism and executing body of mediation at the AU is the AU Commission, whose current Chairperson is Jean Ping.³⁶ The Commission is the body that makes decisions on the composition and nature of the mediation unit.³⁷ The Chairperson of the Commission may, at his/her own initiative or when so requested by the PSC, use his/her good offices, either personally or through special envoys, special representatives, the Panel of the Wise³⁸ or the regional mechanisms, to prevent potential conflict and resolve actual conflicts. The exact role of the Panel of the Wise is still being worked out and codified, and remains dependent on how much institutional support the Panel receives from the PSC and the rest of the AU institutions.³⁹

Within the Commission, the Conflict Management Division (CMD) (under the Department of Peace and Security⁴⁰) is the division which specifically focuses on implementing mediation and which also serves as the main contact office for the sub-regional organizations, as

³³ Article 3 of the AU PSC Protocol.

³⁴ Article 6 (Functions) of the AU PSC Protocol.

³⁵ Article 8(5) of the AU PSC Protocol.

³⁶ Jean Ping was deputy Prime Minister and Foreign Minister of Gabon. He was elected in February 2008 to replace President Alpha Oumar Konaré (of Mali) as Chair of the AU Commission, which he held from 2003-2008.

³⁷ Van Jaarsveld and Mottiar, 2009, p. 19.

³⁸ The Panel of the Wise plays a supporting role behind the PSC and the Chairperson of the Commission, who appoints the members of the Panel. In January 2007, the following persons were appointed to the Panel for the next three years: Salim Ahmed Salim, former Secretary General of the OAU; Brigalia Bam, Chairperson of the Independent Electoral Commission of South Africa; Ahmed Ben Bella, former President of Algeria; Elisabeth Pogonon, Chairperson of the Constitutional Court of Benin; and Miguel Trovoada, former President of Sao Tomé and Príncipe. The establishment of the Panel drew from the experience of a similar Panel that was developed by ECOWAS in West Africa.

³⁹ For more information on the Panel and its current development see Tim Murithi & Charles Mwaura "The Panel of the Wise" in Ulf Engel & Joao Gomes Porto (eds.) *Africa's new Peace and Security Architecture: Promoting Norms, Institutionalizing Solution*. Surrey, England: Ashgate, 2010, pp. 78-90.

⁴⁰ The Department of Peace and Security is only one of eight of the Departments under the Commission. The core divisions within the Department of Peace and Security are: (a) Conflict Management (CMD), (b) Peace Support Operations (PSOD), (c) Defense and Security, (d) Darfur Integrated Task Force (DITF), and (e) the Secretariat to the Peace and Security Council.

established in the MoU. The Department of Peace and Security is lead by its Commissioner,⁴¹ currently Algerian Ramtane Lamamra, and under it, the Conflict Management Division⁴² is currently led by Mr. El Ghassim Wane.

The Chairperson of the AU Commission reported in July 2010 that steps are currently being taken to improve the AU's mediation capacity including providing regular training, the development of an effective communication system, enhanced decision-making between the AU and partner organizations and the convening of regular 'lessons learned' workshops on mediation experiences.⁴³ Despite this report, Laurie Nathan, who has taken part in the 'lessons learned' workshops and who has been commissioned to help set the guidelines for these improvements,⁴⁴ does not see great progress taking place at the highest levels of AU decision making. The Conflict Management Division is generally tasked with quickly finding and nominating a mediator, who will then be proposed to the Commissioner for Peace and Security, Mr. Lamamra, and ultimately to Mr. Ping, the Chairperson of the AU Commission. Nathan says that there are still no set criteria provided for mediator selection and the process is often pressurized and done in an arbitrary manner, based on who is available and who has enough stature to fill the position, rather than on skill and finding a proper match to the conflict situation.⁴⁵ This is exhibited in the example cases in the following chapter.

The limited staff and support that exists within the AU Commission, only four researchers in the Department of Peace and Security in 2007, compared to the 64 that support the UNSC, has also over-stretched the capacity of the AU to better handle the burden of peacemaking in Africa.⁴⁶ While the Department of Peace and Security, the Political Affairs Department, and the office of the chairperson of the AU Commission are supposed to coordinate

⁴¹ Ambassador Said Djinnit of Algeria held the post of AU Commissioner for Peace and Security until 2008. He now acts as the UN Special Representative for West Africa.

⁴² The CMD is also the lead division in charge of the Continental Early Warning System and in providing enhanced institutional support for the Panel of the Wise. However, the CMD has yet to work to better link up the Panel of the Wise with the work being carried out by the RECs in conflict management. Murithi & Mwaura, 2010, p. 85.

⁴³ African Union, *Progress Report of the Chairperson of the Commission on the Implementation of Decision Assembly/AU/Dec.275 (XVI) on The Year of Peace and Security in Africa*. EX.CL/612(XVII) Executive Council Seventeenth Ordinary Session, 19-23 July 2010, Kampala Uganda.

⁴⁴ Nathan was commissioned to draft and submit to the AU "Draft Guidelines on UN-AU Mediation Partnerships," June 2010 and a "Plan of Action to Build the AU's Mediation Capacity," Nov 2009.

⁴⁵ Laurie Nathan, interview with author. Dr. Nathan was asked by Mr. El Ghassim Wane, head of the CMD, to help create a roster of potential envoys and mediators that would be available and pre-selected and pre-screened (in terms of skills and qualifications) as the needs arose within the AU.

⁴⁶ Kathryn Sturman and Aissatou Hayatou, "The Peace and Security Council of the African Union: From Design to Reality," in Ulf Engel & Joao Gomes Porto (eds.) *Africa's new Peace and Security Architecture: Promoting Norms, Institutionalizing Solution*. Surrey, England: Ashgate, 2010, p. 67.

on peacemaking efforts, Adekeye Adebajo reports that professional tension and disagreements often arise between the offices.⁴⁷ The two political heads of the AU, the Chair of the Assembly (an African Head of State, rotating on an annual basis) and the Chairperson of the AU Commission (the legal representative of the AU, elected for a four-year term), also lack a institutionalized system for cooperation and have at times tussled over diplomatic appointments and use of their power of good offices and appointing special envoys.⁴⁸ The AU has clearly made strides to institutionalize and enhance its organizational capacity to co-ordinate peacemaking and mediation, but the process of selecting special envoys and mediators remains unprofessionalized, idiosyncratic and able to be shaped by prevailing political pressures.

Economic Community of West African States (ECOWAS)

ECOWAS's 1999 Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (hereafter, the Protocol) set the groundwork for the region's peacemaking and mediation agenda.⁴⁹ The institutions of the Mechanism include the Authority, the Mediation and Security Council (MSC), and the Executive Secretariat (now called the Commission).⁵⁰ The Political Affairs Department of the Office of the Commissioner for Political Affairs, Peace and Security, under the ECOWAS Commission, has the mandate to facilitate the implementation of the Protocol. It is also charged with facilitating and supporting ECOWAS Mediation efforts and Organs (The Council of the Wise, Mediators and Facilitators) and servicing the MSC for its high-level political meetings and external coordination.⁵¹ The MSC is composed of nine member states who deal with all matters relating to peace and security, and authorising all forms of intervention, including political missions; institutionalizing the body has helped avoid accusations of any one faction of the regional

⁴⁷ Adebajo, 2010, p. 35.

⁴⁸ The AU Chairperson and the Chairperson of the Commission are both authorised to use their good offices for the management of a conflict. The AU Chairperson is authorized under Article 16, paragraph 3 and Article 4 of the Rules of Procedure of the Assembly; the Chairperson of the Commission is authorized under article 10, paragraph 1 of the PSC Protocol and article 26 paragraphs 1 and 2 of the Rules of Procedure of the Executive Council. See Delphine Lecoutre, "The Chair of the African Union: What prospect for institutionalisation?" *Institute for Security Studies*, Paper 212, July 2010, p. 11, for more information on the diplomatic tussle over Togo between AU Chairperson Obasanjo and AU Chairperson of the Commission, Alpha Konaré.

⁴⁹ ECOWAS, *Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security*, Lome, 10 Dec 1999.

⁵⁰ Chapter II of the Protocol Relating to the Mechanism.

⁵¹ ECOWAS, "ECOWAS Commission at a Glance," 18 May 2007, http://www.comm.ecowas.int/dept/index.php?id=p_p1_commission&lang=en, accessed 9 Dec 2010.

community dominating the decision-making process.⁵² While the Heads of State and Government, collectively ‘the Authority,’ hold the highest decision-making power,⁵³ their powers are generally delegated to the MSC, which acts on its behalf.⁵⁴ The Executive Secretary, now called the President of the Commission, also has the power to initiate mediation, facilitation, and negotiations in the sub-region.⁵⁵ The Chairmanship of ECOWAS, which rotates on a bi-annual basis and currently belongs to Nigeria, also entails certain political influence.

The actual organs/persons that carry out mediations for ECOWAS are the Council of the Wise (CoW), and the special representatives and special envoys of the President. CoW members are eminent personalities from various segments of society, appointed by their member state. They are supposed to use their good office and experience to act as mediators or facilitators upon the request of the ECOWAS president or the MSC. Special Representatives, on the other hand, are recommended by the ECOWAS President, to be approved by the MSC, on a case-by-case basis.⁵⁶

The ECOWAS Conflict Prevention Framework (ECPF), established in 2008, is aimed primarily at enhancing cooperation and communication between and within the various internal organs of ECOWAS that are tasked with preventative and peacemaking activities, but it also aims towards ‘developing process-based cooperation’ with external partners such as the AU.⁵⁷ It provides certain guidelines relevant to mediation, under the preventative diplomacy section, including that the MSC may appoint one or more of its members or eminent personalities for high-level mediation and arbitration within and between States (49.d.) and that ECOWAS and Member states will facilitate the involvement of former Heads of State, eminent and high-profile persons in mediation as ECOWAS Special Envoys and Ambassadors (49.g). ECOWAS seems to have come the furthest among the sub-regional organizations in institutionalizing and creating empowered working bodies that can make efficient decisions relating to peacemaking and

⁵² Babatunde Tolu Afolabi, “Peacemaking in the ECOWAS Region: Challenges and Prospects,” ACCORD, *Conflict Trends*, Issue 2, 2009, p. 28. And Adibe, 2002, p. 160.

⁵³ Article 7 of the *Economic Community of West African States (ECOWAS) Revised Treaty*, (original signed May 1975), 24 July 1993.

⁵⁴ Article 7 of the Protocol Relating to the Mechanism.

⁵⁵ Article 15 of the Protocol Relating to the Mechanism.

⁵⁶ Afolabi, 2009, p. 27.

⁵⁷ Section II: Introduction. *The ECOWAS Conflict Prevention Framework* (2008) Regulation MSC/REG.1/01/08.

mediation within its region. Positively, it is also continuing to professionalize and enhance its mediation capacity along with the AU.⁵⁸

The Southern African Development Community (SADC)

SADC is still in the process of firmly establishing its peace and security mechanisms and promoting more institutionalized decision making.⁵⁹ Under SADC, the process for planning and deploying a peacemaking effort and/or mediation team is shaped by the Protocol on Politics, Defence and Security Co-operation that was signed by member states in 2001, and the Strategic Indicative Plan for the Organ (SIPO) that was unveiled in 2004.⁶⁰ The Protocol and SIPO give new direction to the SADC Organ for Politics, Defence and Security Cooperation (OPDS),⁶¹ which was created in 1996 in a Summit Communiqué that left much of the operation of the Organ up for contestation between member states.⁶² The Protocol and Plan include initiatives that coordinate member states policies under the realm of conflict prevention, peaceful conflict resolution, and peacemaking efforts. A policy advisory group hosted by the Centre for Conflict Resolution in 2005 found that SADC's deficiency in staff and funding have prevented it from efficiently implementing the agreements made and have kept the Secretariat weak, as well as leaving under-resourced Organ chairpersons without adequate secretariat support.⁶³

SADC is comprised of eight Institutions;⁶⁴ the most significant is the Summit, made up of Heads of State and/or Government, which is the ultimate policy-making institution of SADC. The Organ, the institution responsible for promoting peace and security in the region, reports to

⁵⁸ The Centre for Humanitarian Dialogue is in the process of helping both the AU and ECOWAS upgrade the mediation capacities and improve their practices. For example, the Centre currently assists ECOWAS in the development of a Mediation Facilitation Division within its Political Affairs Directorate, and by holding retreats for its staff who work on peacemaking practice. For more information see Centre for Humanitarian Dialogue, "Strengthening Practice: Support to organizations," <http://www.hdcentre.org/projects/strengthening-practice/issues/support-organizations>, accessed 7 Dec 2010.

⁵⁹ Adebajo, 2010, p. 41.

⁶⁰ SADC, *The Strategic Indicative Plan for the Organ on Politics, Defence and Security Cooperation*, 5 Aug 2004.

⁶¹ The Organ continues the following structures: a Chairperson, the Troika (consisting of the Chairperson, the incoming Chairperson, and the Outgoing Chairperson), a Ministerial Committee, an Inter-state Politics and Diplomacy Committee, an Inter-State Defence and Security Committee.

⁶² SADC, *Communiqué of the Extraordinary SADC Heads of State and Government Summit*, Gaborone, Botswana, 28 June 1996.

⁶³ Centre for Conflict Resolution. "Whither SADC? Southern Africa's Post-Apartheid Security Agenda." Cape Town: 18-19 June 2005. Seminar Report, June 2005, pp. 18, 20.

⁶⁴ The eight institutions are: the Summit of Heads of State & Government; SADC Tribunal; Council of Ministers; Organ on Politics, Defence & Security Cooperation; Sectoral/Cluster Ministerial Committees; SADC Secretariat; Standing Committee of Senior Officials; and SADC National Committees.

the SADC Summit and is headed by a Troika, consisting of a Chairperson, Incoming Chairperson and Outgoing Chairperson.⁶⁵ The Protocol also formalised an Inter-State Politics and Diplomacy Committee (ISPDC)⁶⁶ within the Organ, to achieve its political and diplomatic objectives. It must meet at least once annually and may establish sub-structures to perform its function, but the Protocol provides little detail on the working modalities and jurisdiction of the ISPDC.⁶⁷

Article 11 of the Protocol, which focuses on Conflict Prevention, Management and Resolution, includes under the Jurisdiction of the Organ, that it shall (2.a) seek to peacefully resolve any significant inter-or intra-state disputes between State Parties or between a State Party and non-State Party, and it may also (2.c) offer to mediate in a significant inter-or intra-state conflict that occurs outside the Region, in consultation with the UNSC and the then-OAU. The methods to be used by the Organ include: (3.a) ‘preventative diplomacy, negotiations, conciliation, mediation, good offices, arbitration and adjudication by an international tribunal.’ The Protocol further adds that (4.d) ‘the Organ shall respond to a request by a State Party to mediate in a conflict within the territory of that State and the Organ shall endeavour by diplomatic means to obtain such request where it is not forthcoming.’

SADC’s 2004 Strategic Indicative Plan for the Organ (SIPO) restructured the Organ under the two main ‘legs’ of (1) politics and diplomacy and (2) defence and security.⁶⁸ SADC now has a Department for Politics, Defence and Security within its secretariat, including a Directorate for Politics and Diplomacy.⁶⁹ The Political sector objectives include (3) the prevention, containment and resolution of inter-state and intra-state conflict by peaceful means, which will be achieved by, among other activities, the operationalisation of the ISPDC structures, the enhancement of conflict management capacity, and establishing and operationalising confidence building measures. This new structure for implementation aims to enhance the work of the Organ, which is still primarily lead and carried out by the Troika that oversees its decision-making and policy choices. While the Organ and its Chairperson have

⁶⁵ SADC, *Communiqué of the Extraordinary Summit*, Gaborone, 28 June 1996.

⁶⁶ The ISPDC is comprised of the ministers responsible for foreign affairs from each of the State Parties.

⁶⁷ Article 6, *SADC Protocol on Politics, Defence and Security Co-operation*, Blantyre, Malawi, 14 Aug 2001.

⁶⁸ Roclyn Williams, “Ensuring Strategic and Institutional Inter-Operability: The Organ on Politics, Defence and Security and the Challenges of Managing Regional Security in SADC,” *Journal of Security Sector Management*, March 2005.

⁶⁹ 8.3 – The Structure (Under Section 8 - Institutional Structure and Staffing) of the SIPO, 2004. There is also a Directorate for Defence & Security which handles more security-orientated issues.

certain powers in the peace and security realm, the ultimate decision making power remains with the highly-political Summit which makes the final decision on supporting peacemaking efforts and the approval/appointment of a mediator. The organization has no appointed 'Panel of the Wise' or group of eminent elders to act as its official, pre-selected mediators.

Intergovernmental Authority on Development (IGAD)

IGAD has, of the three major sub-regional organizations currently involved in peacemaking efforts, the least developed institutional guidelines for its peace and security activities. While it has been greatly involved in the peacemaking efforts in Somalia and for the North-South Sudan conflict, it has not yet institutionalized sustainable peace architecture, instead relying on more *ad hoc* political efforts. IGAD was revised from an organization focusing solely on drought and development, to an organization with a mandate to increase political and security cooperation in the 1990s.⁷⁰ The IGAD Council of Ministers identified conflict prevention, management and resolution as a priority area of co-operation in 1996.⁷¹ The Assembly of Heads of State and Government is the supreme organ of IGAD; the Secretariat, headed by an Executive Secretary, is the executive arm of the organization. The Secretariat contains a Political and Humanitarian Affairs division, which is responsible for implementing conflict management and resolution.⁷²

IGAD's Division of Peace and Security, directed by Daniel Yifre, is at the head of its peacemaking efforts. The division has three main programme components: Conflict Prevention, Management and Resolution (CPMR); Political Affairs; and Humanitarian Affairs.⁷³ IGAD peacemaking efforts in Sudan were coordinated by a permanent secretariat on the Sudan Peace Process, based in Nairobi, which evolved from the original *ad hoc* ministerial sub-committee. Similarly, a special committee within IGAD was formed to oversee the peace processes that were being held concerning Somalia.⁷⁴ In 2007, the IGAD Assembly set up the IGAD Office of the Facilitator for Somalia Peace and National Reconciliation, headed by Kipruto arap Kirwa of

⁷⁰ The Intergovernmental Authority on Drought and Development Heads of State and Government (formed in 1986) approved and adopted an Agreement Establishing the Intergovernmental Authority on Development (IGAD) on 21 March 1996 at the Second Extraordinary Summit in Nairobi.

⁷¹ African Union, "Profile of the Intergovernmental Authority on Development (IGAD)," 2003, www.african-union.org/recs/igad_profile.pdf, accessed 30 Nov 2010.

⁷² African Union, Profile of the Intergovernmental Authority on Development (IGAD), 2003.

⁷³ IGAD, "About the Peace and Security Division," 11 Jan 2010, <http://igad.int/>, accessed 15 April 2010. The Division also coordinates the IGAD Anti-Terrorism Programme and the Early Warning Mechanisms/

⁷⁴ African Union, Profile of the Intergovernmental Authority on Development (IGAD), 2003.

Kenya.⁷⁵ Now both of these peace missions (in Sudan, the Post-Agreement follow up mission) are coordinated under the CPMR programme. The Conflict Management component is also supposed to be developing a long-term ‘Conflict Prevention, Management and Resolution Strategy’ for the IGAD region, while it also oversees the coordination of the East African Standby Brigade (EASBRIG).⁷⁶

Looking at the examples of Sudan and Somalia, mediators seem to be chosen on a very subjective basis, with the state that is taking the lead, Kenya for Sudan, and Kenya/Ethiopia for Somalia, choosing and sending a mediator, who has *de facto* IGAD backing. IGAD, however, most obviously lacks the political will for strong collective peace and security actions. An example of this is the proposed IGAD Peace Support Mission to Somalia (IGASOM) that was never realized due to complicated logistics, a lack of funding, the absence of a regional leader, and the divided attention of IGAD member states.⁷⁷ The organization remains poorly staffed and poorly funded, with only four professional staff in its Division of Peace and Security in 2007.⁷⁸ The organization has established a more institutionalized Conflict Early Warning System (CEWARN) that focused on cattle rustling, small arms traffic and refugee flows, but has not yet institutionalized sustainable and functioning response mechanisms for peacemaking or mediation. There are neither institutional methods for mediator selection nor set criteria or guidelines for initiating peacemaking.

Implementing the working relationship

Having considered the varied structures and decision-making methods of the individual regional organizations, this chapter goes on to further consider the implementation of the working principles, namely subsidiarity and comparative advantage. The varied capacities of the organizations, and varied levels of professionalization and development of peacemaking mechanisms, affect the overall level of continental effectiveness. The Peace and Security Department of the AU is charged with elaborating the mechanisms for effective cooperation and

⁷⁵ IGAD, “About the Somalia Peace Facilitation Office,” 23 Sept 2010, <http://igad.int/>, accessed 20 Dec 2010.

⁷⁶ IGAD, ‘About the Peace and Security Division,’ 2010.

⁷⁷ Kenneth C. Omeje, “Understanding Conflict Resolution in Africa,” In David Francis (ed.) *Peace & Conflict in Africa*. New York: Zed Books, 2008, p. 84.

⁷⁸ Adebajo, 2010, p. 47.

harmonization of peace and security policies with the sub-regional organizations.⁷⁹ While time has helped with the cultivation of a more regularized system of communication and partnership between the AU and sub-regional organizations,⁸⁰ the muddled principles and modalities of the relationship are continuing to hinder the creation of functioning, continent-wide cooperation on peacemaking.

Subsidiarity

The principle of subsidiarity, which generally implies that regional arrangements or regional institutions should make ‘every effort to achieve pacific settlement of local disputes’ before referring them to the Security Council, was enshrined in Chapter VII of the UN Charter,⁸¹ and was preceded before the Charter in other emerging international institutions.⁸² Laurie Nathan, however, holds that there is no consensus on how subsidiarity is to be applied to the task of mediation, and no consensus generally on its application within the AU Peace and Security Architecture.⁸³ Neither the AU nor the RECs have specifically defined or clarified how subsidiarity would be implemented in peacemaking. This lack of a definition from the organizations is a significant omission on their part, illustrating their lack of commitment to the working principles that they have named in their protocols.

The *UN Report of the High-Level Panel on Threats, Challenges and Change* recommended that authorisation from the UN Security Council should be sought in all cases for regional peace operations (recognising that in some urgent situations, authorisation may be

⁷⁹ African Union, “About the Peace and Security Department of the AU,” no date given, http://www.africa-union.org/root/au/AUC/Departments/PSC/About_US.htm, accessed 20 Dec 2010.

⁸⁰ Abass, 2010, p. 260.

⁸¹ Article 52.2 of the United Nations Charter (1945) says that “The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.”

⁸² The principle of subsidiarity has been well-established in history, going back to the papal encyclicals of *Quadragesimo Anno* (Pius XI, 1931) who stated that “a community of a higher order should not interfere in the internal life of a community of lower order, depriving the latter of its functions, but rather should support it in case of need and help to co-ordinate its activity with the activities of the rest of society, always with a view to the common good.” Quoted from United States Conference on Catholic Bishops: *Chatechism of the Catholic Church*, Chapter 2, as cited in Bjørn Møller, “The Pros and Cons of Subsidiarity: The Role of African Regional and Sub-Regional Organizations in Ensuring Peace and Security in Africa,” in Anne Hammerstad (ed.), *People, States and Regions. Building a Collaborative Security Regime in Southern Africa*. Johannesburg: South African Institute of International Affairs, 2005, p. 23.

⁸³ Laurie Nathan, interviewed by author, University of Cape Town, 7 Dec 2010.

sought after such operations have commenced).⁸⁴ However, no such authorisation would be needed for a mediation effort that does not entail the use of force since this falls squarely under pacific means in the UN Charter. Therefore, there is no mandate for the UN to oversee or coordinate the response on a typical peacemaking operation. While the AU has sought to establish itself as the coordinating and mandating organization for the continent, there is similarly no requirement for peacemaking authorization within its Constitutive Act, and the sub-regional organizations often act independently, as illustrated in the examples in Chapter 3.

In real practice, it is atypical if there is first deference to the relevant regional organization, then to the AU, and then only to the UN, if both of the lower levels have failed to resolve the local dispute. In most cases, a whole variety of organizations clamour to get involved. Some personnel within the AU believe the Union has absolute primacy in all African cases and that no deference has to be shown to any other body. Additionally, it must be taken into consideration that each regional organization is composed of and led by sovereign states which have their own decision-making forums that are not deferential to other bodies and may craft independent policies in response to a conflict in their region.⁸⁵ On the other hand, regional organizations such as SADC and ECOWAS, which established their regional security mechanisms before the AU was formed in 2002, feel that they have more experience and expertise in their region than the AU. For this reason, they will not always follow AU recommendations, despite the fact that it is supposed to be the coordinating organization.⁸⁶ This miscellaneous collection of principles, beliefs and practices means that subsidiarity is clearly not being consistently applied, leading to acute tension and competition between the organizations.

Comparative Advantage

The concept of ‘comparative advantage’ has become dominant in the literature and in the protocols of these organizations.⁸⁷ Yet what has proven elusive is the clear definition of each

⁸⁴ *A More Secure World: Our Shared Responsibility, Report of the High-Level Panel on Threats, Challenges and Change*, 2 December 2004, UN doc. A/59/565. As cited in Marten Zwanenburg, “Regional Organizations and the Maintenance of International Peace and Security: Three Recent Regional African Peace Operations.” *Journal of Conflict and Security Law* 11(3), 2006, pp. 484, 508.

⁸⁵ Laurie Nathan, interview by author, University of Cape Town, 7 Dec 2010.

⁸⁶ Adebajo, 2010, p. 34.

⁸⁷ This language also extends up to the level of the UN and its relationship working with regional organizations. For example, see *Statement by the President of the Security Council on relations between the UN and regional organizations, particularly the AU*, S/PRST/2007/7, 28 March 2007.

regional organization's comparative advantages, and the determination and application of these advantages in each unique conflict situation. Possible 'comparative advantages' for regional organizations may include previous experience in peace management in the region, already established mechanisms for conflict management, proximity which leads to better understanding of the conflict and/or more legitimacy in the political realm.⁸⁸ Effective third-party mediation is also dependent on 'the mediator's capabilities and leverage... the linkage between the third party and the conflict and the extent to which the mediators see themselves as stakeholders.'⁸⁹ On the other hand, proximity may also jeopardize the neutrality and acceptability of a regional organization.⁹⁰ These factors balance against one another, making a sub-regional organization more or less well-suited to take a lead peacemaking role.

The intention of the authors of the PSC Protocol and the MoU seems to be to purposefully leave space for actors to adapt to the specific conflict and to be able to determine comparative advantages. Still, the problem remains that neither document says *who* will be determining which organization or actor has comparative advantage and how the decision will be made on which organizations, and more specifically which mediation team, is the best equipped to respond first to the situation. Putting such decision-making clauses in the passive tense, without an executing agent, allows for such decisions to go unmade and for no one to be held accountable to carrying out the decision.⁹¹

A 2009 UN Report entitled *The Emerging Role of the AU and ECOWAS in Conflict Prevention and Peacebuilding*, in discussing this theoretical principle of comparative advantage, argues that while comparative advantage is often mentioned in statements regarding division of labour,

these advantages are rarely identified and organizational activities are seldom aligned to any significant degree with presumed or actual comparative advantages. Moreover, an exclusive focus on comparative advantage remains

⁸⁸ Bogland, Egnell, and Lagerström, 2008, p. 37.

⁸⁹ Chester Crocker, Fen Osler Hampson & Pamela Aall, "Multiparty Mediation and the Conflict Cycle," in *Herding Cats: Multiparty Mediation in a Complex World*, Chester Crocker, Fen Osler Hampson & Pamela Aall (eds.) Washington, DC: United States Institute of Peace, 1999, p. 32.

⁹⁰ Bogland, Egnell, and Lagerström, 2008, p. 37.

⁹¹ Laurie Nathan, interview by author, University of Cape Town, 7 Dec 2010.

*difficult for international organizations as they are driven as much by political interests as by their mission and mandates.*⁹²

Although the level of sharing and collaboration between the UN and African regional organizations has been increasing, this report establishes that there is still a large lapse in effective and professional cooperation based on the comparative advantage principle and that the principle is failing to be implemented at least partly due to the continuing politicized nature of African regional organizations.

Comparative advantage infers that some organizations, and thereby some mediators, are inherently better qualified to lead the mediation process than others. Establishing a general rule that stipulates that the lead mediator should always be the AU, the UN or the relevant REC, would go against this common sense notion. Rather, some criterion for being best suited as the lead mediating organization might include: 'the organization's unity and cohesion in relation to the conflict; its acceptability to the parties; its knowledge of the conflict; the resources at its disposal; and personal relations with party leaders that would be helpful to peacemaking.'⁹³ Problematically, there are no clear criteria such as these currently approved and there is no agreed decision-making process to debate these qualifications between the organizations, thereby reducing confusion and tension when a conflict breaks out and requires intervention.

Sub-regional differences and overlap

Each of the sub-regional organizations has its own unique dynamic that affects its ability to carry out successful peacemaking and to cooperate with the AU on joint efforts. An organization's effectiveness in peacemaking is dependent on whether the member states truly have the political will to make the organization effective and whether enough political cohesion exists to create a lasting and sufficiently strong consensus on peace and security in the region. There must be more than just a simple external consensus that peace in the region is positive. For intra-regional peacemaking to be successful, states must share an internal logic with a normative consensus that allows them to operate with close political co-operation on a set of shared and enforceable norms. Such common values are indispensable to help states overcome their

⁹² Office of the Special Advisor on Africa, *The Emerging Role of the AU and ECOWAS in Conflict Prevention and Peacebuilding*, United Nations, Background Paper Prepared for Expert Group Meeting, Dec 2009.

⁹³ Laurie Nathan, "Plan of action to build the African Union's mediation capacity." Presented at the seminar 'Towards enhancing the capacity of the African Union (AU) in mediation', AU Commission, Addis Ababa, Ethiopia. 15-16 October 2009, p. 25.

disputes, build trust and act with a common purpose when confronted with a conflict in their region.⁹⁴

ECOWAS appears to be the strongest sub-regional organization taking the lead and fulfilling its primary role as an effective first responder for conflict prevention and peacemaking. In the 2008 ECOWAS Conflict Prevention Framework (ECPF), the organization recognized the principles of subsidiarity and complementarity which characterize its relationship with the AU and the UN.⁹⁵ Under section 117, the ECPF says that the AU shall work ‘in partnership with ECOWAS’ to enhance its own capacities and jointly identify conflict resolution opportunities. Accordingly, a strong diplomatic norm has been developed over the past two decades of ECOWAS’s peacemaking experience that it has primacy and centrality in any conflict management efforts in the sub-region.⁹⁶ These norms have developed less strongly in East, Central and North Africa, where other sub-regional, continental or international bodies have more easily stepped in and quickly claimed the lead role in managing an emerging conflict.

In contrast to the strong language in the ECOWAS Framework, the Foreword of the SADC Strategic Indicative Plan (2004) indicates that SADC will ‘align its political, peace and security agenda with that of the African Union,’⁹⁷ and nowhere claims primacy under the principle of subsidiarity, despite the fact that it has made such claims in Zimbabwe. This stance underlies the tension in the continent’s institutional relationships, where principles are only claimed when they are politically convenient. Beyond misleading principles, SADC ‘solidarity politics,’ and the liberation legacy’s taboo on making censure or disagreement publicly known, still bog down the organization and remain a serious obstacle to progressive SADC leadership in peacemaking.⁹⁸ SADC has established strong protocols on security cooperation and safeguards on democracy and human rights, but continues to operate on the pillars of absolute sovereignty

⁹⁴ Laurie Nathan, “The Peacemaking Effectiveness of Regional Organisations,” *Crisis States Research Centre*, Working Paper no. 81, October 2010, p. 3.

⁹⁵ Section VII: ECOWAS Mandate and Legitimacy for Conflict Prevention of The ECOWAS Conflict Prevention Framework (2008).

⁹⁶ Adibe, 2002, p. 165.

⁹⁷ Pakalitha Bethuel Mosisili, then-Chairperson of the Organ on Politics, Defence and Security Cooperation, Foreword to the *Strategic Indicative Plan for the Organ on Politics, Defence and Security Cooperation*, SADC, 5 Aug 2004.

⁹⁸ Cecilia Hull and Markus Derblom, “Abandoning Frontline Trenches? Capabilities for Peace and Security in the SADC region,” *FOI*, Swedish Defence Research Agency, June 2009, p. 81. And Anne Hammerstad, “Conclusion,” in Anne Hammerstad (ed.), *People, States and Regions. Building a Collaborative Security Regime in Southern Africa*. Johannesburg: South African Institute of International Affairs, 2005, p. 274.

and solidarity politics.⁹⁹ There is even an understanding that SADC member states have kept the SADC secretariat weak in order to avoid the creation of an interventionist bureaucracy that could interfere in their sensitive security issues.¹⁰⁰ With these political limitations and unresolved working principles, the AU will certainly continue to encounter tension in its attempted cooperation with SADC.

Apart from needing further legal clarifications, politics remains the major obstacle to regional organization cooperation in most of Africa. Unresolved tensions among IGAD member states, featuring mutual suspicion and power politics, continue to plague political cooperation. In the cases where IGAD has been successful, it is often a matter of the intervention involving some regional political power plays with IGAD backing, rather than any truly united regional effort to advance confidence-building mediation and peacemaking among neighbours.¹⁰¹ Where political will or self-interest have been absent, IGAD has generally been meek or simply absent, including the Ethiopian-Eritrean War in 2000, where the OAU took the lead under Chairman Abdelaziz Bouteflika,¹⁰² in Darfur (2006-present), where the AU-UN joint mediation continues, and in Kenya (2008) where the AU acted in the lead role. IGAD failed to play a significant role in any of those conflicts, all unfolding within their realm of influence. With this uneven norm development it is difficult to imagine how the AU can have a consistent continent-wide policy without first working to more strongly enhance the capacity and capabilities of the sub-regional organizations which are supposed to act as the first responders.

A related complication is that Africa lacks clearly defined sub-regions. While on paper the AU has categorized each state into one of the five sub-regions – North, West, Central, East, South – some of the categories are not so clear in reality. For example, Rwanda and Uganda are included in East Africa, despite their connectedness with other Central African states and their involvement in the major conflicts in that region, especially the DRC. Furthermore, in the region where perhaps the strongest conflict management needs exist, the Great Lakes region, there is no well-functioning organization. This lack of clear lines and overlapping memberships makes

⁹⁹ Hammerstad, 2005, p. 275.

¹⁰⁰ Adebajo, 2010, p. 42.

¹⁰¹ Healy, 2011, p. 119.

¹⁰² Centre for Conflict Resolution, “Building an African Union for the 21st Century: Relations with Regional Economic Communities (RECs), NEPAD and Civil Society.” Policy Seminar Report, Cape Town, South Africa, 20-22 August 2005. Rapporteurs: Tim Murithi and Angela Ndinga-Muvumba, p. 27.

problematic any simple implementation of the principle of subsidiarity, which relies on working within one local sub-region.

Utilizing the principle of subsidiarity assumes that there are functioning and capable local or regional-level bodies that can act first, and at a level of proficiency, to manage a local conflict. Unfortunately, in Africa, this assumption does not hold in all cases.¹⁰³ Of the regional institutions that do exist, many are not up to the task or are too weak, especially to act independently. Bjørn Møller adds that the lack of an effective leading hegemon to combine strength and legitimacy within most of the sub-regional organizations makes them too weak to depend on to lead in a relationship of subsidiarity. Most of the African RECs still generally feature an absence of shared values and norms; in quite a few, some members are still fighting each other in outright international wars or proxy wars, especially in the Horn and Central Africa. Møller calls the current environment a ‘patchwork of sub-regional organizations of varying strength... with quite a few gaping holes.’¹⁰⁴ It is not a scheme which the AU will be able to consistently rely on to carry out its peace mandate.

Peacemaking under pressure

The field of mediation itself remains, in many ways, unprofessionalised and under-capacitated. Specific institutional rules for mediation have not been made or approved within the AU or the sub-regional organizations.¹⁰⁵ A deficit of trained human capacity for mediation, continuing financial limitations, and most specifically, the lack of an adequate framework or mechanism at the AU to oversee mediation, often means that ‘mediation processes have still taken an improvised or reactive approach, rather than an institutionalised approach.’¹⁰⁶ It is for this reason that the world of international mediation has been characterized as ‘idiosyncratic and *ad hoc*, overly determined by power politics, deadlines and organizational tussles.’¹⁰⁷ Rather than approaching an impending or active conflict with the best suited mediation team, the best

¹⁰³ Møller, 2005, p. 25.

¹⁰⁴ Møller, 2009: 1.

¹⁰⁵ The UN, in comparison, has worked to improve its professional mediation capacity and has built up its mediation support. For the latest information, see United Nations Security Council, *Report of the Secretary-General on enhancing mediation and its support activities*, S/2009/189, 8 April 2009.

¹⁰⁶ Kruschen Govender & Yvette Ngandu. “Towards Enhancing the Capacity of the African Union in Mediation,” report based on a seminar organised by the AU Commission, Addis Ababa, Ethiopia, 15-16 Oct 2009, ACCORD, 2010, p. 11.

¹⁰⁷ Laurie Nathan, “Towards a New Era in International Mediation,” *Crisis States Research Centre*, May 2010, p. 3.

suited institution in the lead, and a clear plan of action for the management of the conflict, other political variables and arbitrary events often determine who and how a conflict will be managed by concerned actors and institutions.

Resulting from this pressurized and unregulated environment, the terms ‘competitive peacemaking’ and ‘crowdedness’ have emerged to describe the mediation field. In many current cases, including Darfur, Zimbabwe and Cote d’Ivoire, mediators have had to act in parallel or even against other state, non-state and multilateral actors that are also trying to involve themselves in the peacemaking process. Being unable to clearly and quickly select a lead organization or individual, would-be mediators attempt to coordinate their efforts. In some cases, they have created a Joint Mediation team (as in Darfur and Madagascar), but this has been put into practice with limited success.¹⁰⁸ At the present, this crowdedness and lack of coordination remains as a substantial and unresolved challenge in African peacemaking.

This chapter has illustrated how this patchwork nature and variation in regional capacities has limited, and continues to limit, the possibility of implementing the proposed principles of subsidiarity and comparative advantage in real practice. The results of the unclear and *ad hoc* peacemaking architecture are now illustrated through recent cases of African peacemaking in Chapter 3 and further analysis of the consequences of these organizational and institutional challenges in Chapter 4.

¹⁰⁸ Whitfield, 2010, p. 16.

CHAPTER 3 – Example cases of the African Union and Africa’s sub-regional organizations in peacemaking interventions

In the example cases considered here, the AU and relevant sub-regional organization either cooperated or failed to successfully cooperate, providing a study of the practice of the working relationship as it is unfolding in the present, regardless of the principles that exist in the legal agreements. This chapter shows that East Africa/the Horn of Africa generally suffers from a void in regional leadership in peacemaking, despite IGAD’s past leadership on the peace process that led to the resolution of the long-running war between the Government of Sudan and the Southern rebel groups. It also reveals strong institutional rivalry occurring in both South and West Africa between the AU and relevant sub-regional organization (and at times, the UN), where the principle of subsidiarity is only claimed when it is politically convenient. Decision-making on mediations and peacemaking remains fraught and stressed rather than reflecting true collaboration or implementation of the principle of comparative advantage.

The examples of Zimbabwe, Kenya, and Cote d’Ivoire were chosen to provide a sample of the variety of recent initiatives and to provide geographical breadth of cases from different regions on the continent. Without political leaders being willing to speak about the sensitive issues of devising a peacemaking initiative, there are some limitations on the availability of primary data which illustrates the logic, if any, behind the decisions promulgated. This thesis, therefore, uses three examples to determine a pattern, or the absence of a pattern, in the current approach to African peacemaking. Each example begins with a very brief overview of the conflict, the synopsis of peacemaking attempts and the institutions involved, a section focusing on the mediators themselves and an analysis of the institutional relationship in each case.

Example 1 – Zimbabwe

The Conflict and the parties

Zimbabwe has been plagued by thirty years of pseudo-democracy, a legacy of racially-based land alienation, and a more recent profound economic collapse in the early 2000s.¹ Elections since 1980 have often been accompanied by violence and intimidation, while the ‘land

¹ Deon Geldenhuys, “The special relationship between South Africa and Zimbabwe,” in M. Hough and A. Du Plessis (Eds), *State Failure: The Case of Zimbabwe*, Ad Hoc Publication No. 41, Pretoria: University of Pretoria: 2004, pp. 109-113.

reform' issue has also caused internal crises over many years that have more recently resulted in external condemnation and concern due to the government's increasingly rapid and politicized takeover of white-owned farms.² Robert Mugabe, liberation hero and head of government since 1980, has led his ZANU-PF party through three decades of political dominance, although not without using the state's security apparatuses and other resources to help secure his political position.³

Opposition leader and 2008 presidential candidate Morgan Tsvangirai of the MDC party, which was created to oppose Mugabe's attempts at constitutional reform in 1999, posed a legitimate political threat to ZANU-PF's rule.⁴ The government and its allied war veterans responded with violence against the MDC and its growing population of supporters. The parliamentary majority was won by Tsvangirai and the MDC in March 2008; the MDC also gained more votes than Mugabe in the initial round of presidential elections, although not by the requisite 50% majority needed to be declared the winner. The run-off election scheduled for June was preceded by severe intimidation carried out by ZANU-PF and the Zimbabwean army, police, intelligence service and prisons.⁵ Tsvangirai withdrew from the run-off because of the violence, leaving Mugabe the winner of an illegitimate contest.⁶ International pressure mounted for a political intervention. The parties had little choice but to accept a renewed post-election regional mediation or face further isolation not only from the West, but also from its normally supportive neighbours.⁷

The institutions and initiation of the mediation process

South Africa has quietly attempted to resolve political turmoil in Zimbabwe since 2000. Its mandate became regionally-backed in March 2007 when SADC asked Mbeki to help

² For further history and analysis of Zimbabwe's land issue see Sam Moyo & Prosper Matondi, "The Politics of Land Reform in Zimbabwe," in Mwesiga Laurent Baregu & Christopher Landsberg (eds.) *From Cape to Congo: Southern Africa's evolving security challenges*, Boulder: Lynee Rienner, 2003.

³ Mark Anstey, "Zimbabwe in Ruins: Mediation Prospects in a Conflict Not Yet Ripe for Resolution," *International Negotiation* 12, 2007, pp. 418, 420.

⁴ *Ibid.*

⁵ Reports of the violence and which arms of the government are implicated in the attacks are well documented in the report "Punishing Dissent, Silencing Citizens: The Zimbabwe Elections 2008," *Solidarity Peace Trust*, 21 May 2008.

⁶ Nic Cheeseman & Blessing-Miles Tendi, "Power-sharing in comparative perspective: the dynamics of 'unity government' in Kenya and Zimbabwe," *The Journal of Modern African Studies* 48(2), 2010, pp. 203-229.

⁷ Brian Raftopoulos, "The South African led Mediation on Zimbabwe: Can it help break the deadlock?" *Nordic Afrika Institute*, 6 Nov 2010.

negotiate between the major political parties on the holding of universally acceptable parliamentary and presidential elections in 2008.⁸ Mbeki and SADC stepped back and let the elections occur in early 2008 even though some issues were unilaterally settled by Mugabe himself due to of continuing deadlock; many perceived this as a sign of solidarity with the Mugabe regime. Only a few months later, Mbeki had to quickly step back in when the presidential elections were held and followed with massive campaigns of intimidation and violence.⁹

SADC called an extraordinary session in Lusaka on 12th April 2008 to consider the delayed release of the March election results. President José Eduardo dos Santos, Chairperson of the Organ on Politics, Defence and Security Cooperation at the time of the election, oversaw the SADC Electoral Observer Mission to Zimbabwe, and reported at the Summit that the elections were deemed ‘acceptable to all parties.’¹⁰ While the SADC statement remained calm and non-confrontational, more critical opinions were emerging from certain SADC member states, including Botswana and Zambia. Botswanan Foreign Minister Phandu Skelemani criticised Mbeki for characterising the political situation in Zimbabwe as ‘normal,’ and emphasized that the rest of SADC felt that this was indeed a crisis requiring a swift response.¹¹ By June, similarly strong condemnations were emerging from the UNSC, which urged an end to violence and political intimidation, but still deferred to the regional process.¹² The SADC Organ urged the run-off elections be postponed, but to no avail.¹³ The SADC mediation efforts have continually been carried out largely through South African ‘quiet diplomacy,’ refraining from anything ‘more muscular.’¹⁴ SADC again mandated Mbeki to broker a peace agreement between Mugabe and the opposition; talks began on 24 July of that year.

⁸ An *Extra-Ordinary SADC Heads of State Summit* on 29th March 2007 in Dar es Salaam, Tanzania mandated the mediation effort.

⁹ *Solidarity Peace Trust*, 2008, p. 6.

¹⁰ SADC, *Communiqué of the Extra-Ordinary SADC Summit of Heads of State and Government*, Lusaka, Zambia, 13 April 2008.

¹¹ Mandy Rossouw and Jason Moyo, “Botswana raps ‘no crisis’ Mbeki.” *Mail and Guardian*, 18-24 April 2008.

¹² *Statement by the President of the Security Council*, S/PRST/2008/2, 23 June 2008.

¹³ SADC, *Communiqué of the SADC Organ, Troika of Heads of State and Government*, Swaziland, 25 June 2008.

¹⁴ Moller, “Africa’s Sub-regional Organisations: Seamless Web or Patchwork?” 2009, p. 10.

Shortly after the June 2008 presidential run-off elections in Zimbabwe, the Annual AU Assembly Summit also took the events under consideration.¹⁵ The AU shied from condemning Mugabe's electoral tampering and political violence.¹⁶ Rather, the AU called on the parties to come together and resolve the crisis. The resolution also expressed the AU's support for the SADC facilitation, and recommended that SADC should continue to carry out the mediation process by establishing a local mechanism to speed a negotiated end to the crisis. Certain voices within the AU, however, did call for stronger action in the face of ongoing stalemate. By December 2008, Kenyan Prime Minister Raila Odinga called for an AU ousting of President Mugabe, specifically requesting that then-AU Chair Tanzanian President Jakaya Kikwete should implement a solution to the Zimbabwean crisis.¹⁷ Privately, a diplomatic battle did ensue between Kikwete and Mbeki, with Presidents Kikwete, Mwanawasa of Zambia and Khama of Botswana urging an expanded mediation team and a more robust UN role. The efforts were strongly resisted by Mbeki.¹⁸ Mbeki did however help conclude the Global Political Agreement (GPA) on 11 September 2008, bringing an end to the immediate political crisis.

The mediator

South Africa's experience in unilaterally acting to condemn Nigeria's autocratic rule in the mid 90's and the hanging of the 'Ogoni nine'¹⁹ was a factor in shaping future South African diplomacy, as well as Mbeki's approach to peacemaking. Mandela's direct confrontation and reprimand of Nigeria failed to garner any other African country's support. Then-Deputy-President Thabo Mbeki devised an alternative strategy to engage Nigeria rather than confront them, and emphasized that South Africa could not act without the rest of the continent's support. Mbeki, recognizing the problems with Mandela's idealistic foreign policy and aiming to practice

¹⁵ *AU Summit Resolution On Zimbabwe*, African Union Assembly, Sharm El Sheikh, Egypt, adopted 1 July, 2008. Some states at the summit, including leaders of Kenya, Botswana, Zambia, Nigeria, and Senegal, called for strong action against Robert Mugabe, but a resolution simply urging a negotiated solution was the outcome.

¹⁶ This weak response occurred despite the new *AU Charter on Democracy, Elections and Governance in Africa*, adopted 30 Jan 2007, which clearly outlaws unconstitutional means of changing/maintaining power. The Charter is not yet legally binding because it has not been ratified, but the principle against undemocratic changes of government can also be found in other binding AU instruments. The AU suspended Mauritania in August 2008 following a military coup, invoking the new Charter and the AU Constitutive Act. See Ademola Abass, 2010, pp. 275-282 for further discussion of the principles against unconstitutional changes of government and the AU.

¹⁷ Prime Minister Odinga made the remarks at an international press conference in Nairobi in December 2008. Cited in Wafula Okumu, "Can the AU Intervene in Zimbabwe?" *Institute for Security Studies*, ISS Today, 8 Dec 2008.

¹⁸ International Crisis Group, "Negotiating Zimbabwe's Transition," *Africa Briefing* N° 51, 21 May 2008, p. 11.

¹⁹ Nigeria's military government of General Sani Abacha (1993-1998) hung nine political activists from the Ogoni region of the country who spoke out against the General's rule and the actions of the Shell oil corporation in Nigeria.

a more nuanced *realpolitik*, was determined not to face the same form of failure in his own presidency.²⁰ Resultantly, in 2008, Mbeki ignored Western calls to sanction Zimbabwe and instead urged engagement, ‘quiet diplomacy’ and a non-antagonistic, fraternal approach to criticism that could only be voiced privately. Mbeki also wanted to avoid accusations of being a hegemonic player in the region, or of sowing intra-SADC divisions, as had happened after the SADC intervention in the DRC, preferring instead a more conservative and consensus-based course that kept regional relations intact.²¹

Mbeki was also serving, in his capacity as President of South Africa, as Chairperson of SADC at the time of his appointment as the lead mediator for the post-election negotiation.²² He has been a central figure in AU and SADC peacemaking efforts since the dawn of democratic South Africa in the mid-90s and took a lead role in the development of the AU itself under his ideology of an ‘African Renaissance.’ He was involved in peacemaking in Lesotho, Burundi, Zimbabwe, the DRC, Uganda, Cote d’Ivoire, the Comoros, and Sudan.²³ Mbeki seems to be guided by a desire to share and replicate South Africa’s positive experience in adapting a model of power-sharing and reconciliation across the continent.²⁴ Despite this history and his solid regional backing, he lost credibility with the opposition (and international community) since refusing to condemn Mugabe or the violence taking place. By April 2008, Tsvangirai had called for Mbeki to step down, accusing him of being biased.²⁵

The institutional relationship

The posture of solidarity and commitment to sovereignty that was formed within SADC during the struggles against colonialism and apartheid continues to hold in the region, precluding public criticisms of other regional states and creating a posture of tolerance towards

²⁰ Adebajo, 2010, pp. 150-1.

²¹ James Hamill and John Hoffman, “Quiet Diplomacy’ or Appeasement? South African Policy towards Zimbabwe,” *The Round Table* 98 (402), June 2009, pp. 374-5.

²² Mbeki was elected Chairperson in August 2008 (serving until September 2009). SADC, *Final Communiqué of the 28th Summit of the SADC Heads of State and Government*. Sandton, Republic of South Africa, 16-17 August 2008. President Joseph Kabila (of the DRC) served as Chairperson of SADC from Sept 2009 to August 2010; President Hifikepunye Pohamba of Namibia took over as Chairperson at the 2010 Summit.

²³ More recently he has held a major position in the implementation of the North-South Sudan CPA on behalf of the AU and the oversight of the Southern Referendum.

²⁴ Geldenhuys, 2004, p. 129.

²⁵ International Crisis Group, “Negotiating Zimbabwe’s Transition,” 2008, pp. 8-9.

undemocratic practices and human rights abuses.²⁶ Regime solidarity is what has helped keep foreign powers from interfering in the region, but has flanked the organization's usefulness when SADC states have faced intra-regional or domestic conflicts. Underlying this position is also a common feeling of resentment against Western attempts to influence politics in the region. Many SADC states are not shining examples of democracy or political freedom themselves and are therefore reluctant to criticize Zimbabwe.²⁷ Despite the fact that they may not have agreed with Mugabe's policies, the SADC member states largely approached the problem with a joint desire to keep the West, painted as bent on an anti-Zimbabwe crusade, out of the peacemaking process.²⁸ The popular international perception of such efforts is that the South African government and Mbeki have been accommodating the regime rather than acting as an effective peacemaker.²⁹

SADC has continually deferred to South Africa to take the lead on the Zimbabwe issue. In turn, SADC and South Africa have desired to keep the AU and the UN far from the Zimbabwe crisis, despite the reality that they have not initiated any meaningful interventions themselves. Scepticism has been widespread about the effectiveness of SADC mediation, but the main local actors were able to point to the process to show that they were doing *something* to handle the situation.³⁰ The SADC Heads of State, who ultimately retain the political say in the region, maintain that their sovereignty and Zimbabwe's sovereignty should preclude any other external intervention, despite any other guidelines that exist. SADC members 'closed rank' and were able to maintain this relatively coherent and unified stance throughout the crisis.³¹ Opposition candidate Tsvangirai even appealed for AU or UN intervention in April 2008, citing a lack of

²⁶ Nathan, 2002, p. 74.

²⁷ The DRC, Malawi and Zambia have all, at times, been targets of international condemnation over governance issues; even South Africa has felt resentful of Western criticisms of its Presidents' foreign policy decisions.

²⁸ Christian Peters-Berries, "The Zimbabwe Crisis and SADC: How to Deal with a Deviant Member States?" in Hansohm, Peters-Berries, Breytenbach, Hartzenberg, Maier & Meyns (eds.) *Monitoring Regional Integration in Southern Africa Yearbook*, Vol 2, Windhoek, Namibia: Gamsberg Macmillan Publishers, 2002, p. 211.

²⁹ International Crisis Group, "Zimbabwe: Political and Security Challenges to the Transition," Africa Briefing N° 70. Harare/Pretoria/Nairobi/Brussels, 3 Mar 2010, p. 2.

³⁰ IDASA, "Negotiations, Democratic Space, and Zimbabwe's 2008 Elections," Research & Advocacy Unit & States in Transition Observatory, 17 Feb 2008.

³¹ Laurie Nathan, interviewed by author, University of Cape Town, 7 Dec 2010.

progress through SADC, but to no avail.³² This case highlights how international bodies can be sidelined when the principle of subsidiarity is championed by interested regional neighbours.

Outcomes

Observers have concluded that Mbeki and SADC have been too amenable to Mugabe, creating a political agreement that would be unable to hold.³³ However, the SADC talks did succeed in bringing the parties together in a power-sharing government, with Mugabe as President and Tsvangirai as Prime Minister, inaugurated in February 2009. The temporary Government of National Unity (GNU) is meant to stabilize the country before a new election can be held, in addition to a constitutional reform process. In its confidential diplomatic backchannels, the US foresaw and lamented the formation of a GNU by the Mbeki mediation, recognizing that this more ‘stable’ approach would be favoured by Mbeki but would only ‘prolong [rather] than resolve the crisis.’³⁴ By November 2008, the MDC temporarily pulled out of the unity government, stating that it rejected SADC’s weak stance on Mugabe’s non-implementation of the GPA. Yet the government has held together through early 2011.³⁵

The GNU has had mixed success in achieving its stated goals. Despite the SADC Summit’s declaration commending the GPA participants for their ‘constructive engagement in finding a lasting solution to the challenges facing Zimbabwe,’³⁶ it is to be seen whether this solution will really be lasting. Decisions on high-level appointments, constitutional reform, and security sector reform continue to slow transitional progress.³⁷ The mediation generally failed to engage the military-security-economic dominance of the regime, allowing it to hold onto power and likely use this influence in the next elections. Optimism was initially expressed about President Zuma’s leadership of the mediation, who took over in his role as elected President of South Africa in May 2009. It was suggested that he may have the stature, credibility and willingness to make Mugabe stick to his commitments in the GPA and address previously

³² Security Council Report, “Zimbabwe,” Update Report, No. 5. 28 April 2008. Available: http://www.securitycouncilreport.org/site/c.gIKWLeMTIsG/b.4074715/k.F25/Update_Report_No_5brZimbabwebr2_8_April_2008.htm.

³³ International Crisis Group. “Zimbabwe: Political and Security Challenges to the Transition,” 2010, p. 2.

³⁴ US Government Cable 07HARARE638, The End is Nigh, US Embassy Harare, 13 July 2007, <http://wikileaks.ch/cable/2007/07/07HARARE638.html>, accessed 14 Feb 2011.

³⁵ *Resolutions of the 7th MDC national Council of 2008*, Harare, Zimbabwe, 14 Nov 2008.

³⁶ SADC, *Extraordinary Summit of the SADC Heads of State and Government Communiqué*, Pretoria, South Africa, 27 Jan 2009.

³⁷ Raftopoulos, 2010.

untouchable issues.³⁸ Unfortunately, there have been no major breakthroughs in 2010-2011 so far and the MDC has come out once again saying they are disappointed in the South African implementation and guarantor role taken by Zuma, calling it ‘disgraceful.’³⁹

Example 2 – Kenya

The Conflict and the parties

Kenya has a history of election-related violence, resulting in 3,000 to 6,000 deaths between 1991 and 1998, with large numbers displaced.⁴⁰ Daniel Arap Moi’s contentious presidency from 1978 to 2002, paved the way for a joint cross-ethnic opposition campaign and victory in 2002 led by Raila Odinga and Mwai Kibaki. However, by 2005, the co-ethnic government split over power sharing and constitutional disputes, forming the two sides that would confront each other in the 2007 election: Odinga’s Orange Democratic Movement (ODM) and Kibaki’s Party of National Unity (PNU). The ODM was viewed as being dominated by ethnic Luo (and Kalenjin), the PNU by the majority Kikuyu. The ethnic unease was largely rooted in concerns over land and power sharing, with the smaller ethnic groups weary of Kikuyu dominance. The Luo, Kenya’s second largest tribe, more specifically felt excluded in the government and political system.⁴¹

Once the contentious presidential results were announced in 2007, Kenya became the scene of three types of post-election violence: ‘spontaneous disorganised violence, less spontaneous but better organised militia groups, and ‘state’ violence.’⁴² ODM supporters were confident of a win, leading to accusations that the election was stolen and bouts of spontaneous protest and hostility. As a result, more organized and cyclical revenge attacks and killings began taking place on both sides, allegedly with the knowledge and support of MPs and other high level politicians. The police and security forces also reportedly engaged in heavy-handed tactics, either using excessive force or standing by when innocent civilians, who were not aligned with

³⁸ International Crisis Group, “Zimbabwe: Political and Security Challenges to the Transition,” 2010, p. 14.

³⁹ Paidamoyo Muzulu, “Zuma Mediation ‘Disgraceful’ – MDC,” *Zimbabwe Independent*, 13 Jan 2011.

⁴⁰ Nic Cheeseman, “The Kenyan Elections of 2007: An Introduction,” *Journal of Eastern African Studies*, 2(2), July 2008, p. 170.

⁴¹ Michael Bratton & Mwangi Kimenyi. “Voting in Kenya: Putting ethnicity in perspective.” *Journal of Eastern African Studies*, 2(2), 2008, p. 278.

⁴² Marcel Ruttena & Sam Owuor. “Weapons of mass destruction: Land, ethnicity and the 2007 elections in Kenya.” *Journal of Contemporary African Studies*, 27(3), July 2009, p. 317.

their tribal or political group, were being targeted.⁴³ The violence ended in over 1,100 deaths and approximately 350,000 persons displaced, as well as other major social and economic ramifications for the country.⁴⁴ International mediation was called for to help end the chaos and violence in the East African region's normal pillar of stability.

The institutions and initiation of the mediation process

Archbishop Desmond Tutu, under the umbrella of the All-Africa Conference of Churches, entered as the first external mediator, but found that he was unable to get the two parties to agree to international mediation.⁴⁵ AU Chairman and Ghanaian President John Kufuor then went to Kenya in early January 2008 to lead the effort. He presented the parties with a document outlining steps to resolve the crisis. The PNU rejected the proposal for a possible re-run of the election that was favoured by the ODM.⁴⁶ Near the end of the mission, Kufuor announced that the mediation would be further handled by a 'Panel of Eminent African Personalities,' led by former UN Secretary-General Kofi Annan. The parties accepted.⁴⁷

The East African Community (EAC)⁴⁸ was also active in trying to initiate mediation efforts shortly after Tutu's failed attempt. The EAC, led by its Chairperson Ugandan President Museveni as well as Tanzanian President Kikwete, contacted Kibaki and Odinga to have a regional meeting to resolve the crisis. However, the early effort was hindered by Museveni's preliminary endorsement of Kibaki's victory, leading to distrust between Museveni and the ODM.⁴⁹ Despite the first round of failure, Museveni tried again, acting on behalf of the EAC and the Commonwealth, to start a parallel initiative at the same time as the AU Panel was arriving. He met with both parties and proposed a solution through a judicial commission of inquiry,

⁴³ International Centre for Transitional Justice, "Security Sector Reform and Transitional Justice in Kenya," ICTJ Briefing, Jan 2010, p. 3.

⁴⁴ Republic of Kenya, *Report of the Commission of Inquiry into Post-Election Violence (CIPEV)*, 2008, pp. 345-51.

⁴⁵ Khadiagala, Gilbert M. "Regionalism and conflict resolution: Lessons from the Kenyan crisis," *Journal of Contemporary African Studies*, 27(3) July 2009, pp. 436-7.

⁴⁶ International Crisis Group. "Kenya in Crisis." Africa Report N°137. 21 Feb 2008, p. 22.

⁴⁷ Jonathan Litscher, "Kenya, The National Accord and Reconciliation Act 2008," In *Unpacking the Mystery of Mediation in African Peace Processes*, Mediation Support Project, Center for Security Studies, Zurich, 2008, p. 49

⁴⁸ The member states of the EAC are Kenya, Tanzania, Uganda, Burundi and Rwanda. This regional organization has generally been more focused on economic and social integration, but it has also more recently looked towards political and security-related integration efforts. Core member states Tanzania and Kenya have been active in peacemaking efforts in the region, including in Sudan, Somalia, Burundi and Uganda.

⁴⁹ Khadiagala, 2009, pp. 437-8.

which was left hanging by the time Annan started his major mediation attempt.⁵⁰ Similarly, IGAD made early attempts to hold talks with the parties, but their efforts were thwarted as the opposition ODM leadership claimed the talks could not be held with Kibaki since he was no longer the legitimate head of state.⁵¹ Positively, the IGAD team endorsed the efforts by Annan and pledged to avoid crowding the mediation process and complicating the situation with a multiplicity of peacemaking initiatives.⁵²

The final lead mediation team arrived in Kenya on 24 January 2008 and initiated the dialogue between the two negotiating teams, including five representatives from each of the political parties.⁵³ For the first month of the process only indirect talks were held. The teams worked out an agenda and the issues that needed to be addressed, but after a few weeks, no agreement was yet reached over how to resolve the election predicament.⁵⁴ After delays by the parties, Kofi Annan suspended the process and called for direct talks between Kibaki and Odinga, which he would facilitate. Annan contended that he could not let the parties ‘hide behind the mediators’ any longer.⁵⁵ The final talks included Annan, Kibaki, Odinga, former Tanzanian president Benjamin Mkapa, and Tanzanian president Jakaya Kikwete (then-AU Chair), bringing a strong East African regional influence into the final power-sharing negotiations.

The mediator(s)

The Kenyan mediation is a good example of a new brand of ‘hybrid mediation,’ involving a variety of actors with diverse sources of external support.⁵⁶ The AU Panel was led by Kofi Annan, as chief mediator, with former President of Tanzania Benjamin Mkapa and Graça Machel of Mozambique in supporting roles, helping to unify efforts to mediate between Kibaki and Odinga. Annan offered his strong conflict resolution record as UNSG, as well as ‘global stature and continental credibility.’ Mkapa was an important regional link who was familiar with the local players, helping to quickly earn their respect, while Machel, the only female mediator,

⁵⁰ Khadiagala, 2009, p. 439.

⁵¹ Derek Kilner, “Diplomatic Initiatives Multiply in Attempt to Resolve Kenya Crisis,” Nairobi, *VOA News*, 8 Feb 2008, available: <http://www.voanews.com/english/news/a-13-2008-02-08-voa31-66630392.html>.

⁵² IGAD, *Communiqué issued by the Ministers of Foreign Affairs of IGAD Member States following their visit to Kenya*, 11 Feb 2008.

⁵³ The Kenya National Dialogue and Reconciliation, “Negotiating Team,” <http://www.dialoguekenya.org/nteam.aspx>, 1 Feb 2011.

⁵⁴ Litscher, 2008, p. 50.

⁵⁵ Roger Cohen, “How Kofi Annan Rescued Kenya,” *The New York Review of Books*, 55(13), 14 Aug 2008, p. 8.

⁵⁶ Whitfield, 2010, p. 8.

was backed by a solid international reputation and ability to help disarm the parties at critical points.⁵⁷

Annan's unique standing also allowed him to draw upon constant and strong international support for the process, which he channelled to ensure that his effort was the central one which would not be overshadowed by other actors or parallel initiatives. Annan was also distinctively able to increase internal cohesion by having staff from both the AU and the UN.⁵⁸ This position, and the respect for Annan within both institutions, reduced institutional rivalries that have arisen in other cases where the UN is involved, such as Madagascar and Darfur.

The moral authority of the members of the Panel helped establish its weight and legitimacy. The panel members were used for their stature and were assisted by technical staff that helped ensure the processes' success.⁵⁹ The US, through Condoleezza Rice and President Bush himself, made clear their desire to see a sufficiently quick solution to the instability in Kenya.⁶⁰ External support and pressure from regional and international parties added to the Panel's leverage in the mediation process, although the panel refrained from strongly threatening possible negative sanctions themselves.

The institutional relationship

Rather than acting confidently and cohesively, the sub-regional organizations in East Africa, IGAD and the EAC, failed to take the lead, leaning more strongly on peacemaking efforts by the AU and the UN.⁶¹ Only four years earlier, IGAD led and successfully concluded a peace process to resolve the North-South war in Sudan, where its institutional role was called 'crucial' for its ability to maintain continuity and coordination for the peace process over many years.⁶² Yet due to political circumstances and leadership failure, it did nothing to involve itself with the major civil conflict brewing in its region in 2008. With their lead, and usually most stable nation, embroiled in the conflict, both IGAD and the EAC were paralyzed and unable to act effectively.

⁵⁷ Scott Baldauf, "After two months of discord, finally a handshake," *The Christian Science Monitor*, 8 Aug 2008. And Scott Baldauf, "Africa's elders seize a leading role," *The Christian Science Monitor*, 5 Aug 2008.

⁵⁸ Whitfield, 2010, pp. 8-9.

⁵⁹ Litscher, 2008, p. 49.

⁶⁰ Litscher, 2008, p. 51.

⁶¹ Khadiagala, 2009, p. 441.

⁶² Sally Healy, "Seeking peace and security in the Horn of Africa: the contribution of the Inter-Governmental Authority on Development," *International Affairs* 87:1 (2011), p. 111; Sally Healy, "Peacemaking in the Midst of War: An Assessment of IGAD's Contribution to Regional Security in the Horn of Africa," *Crisis States Working Paper No. 59, Royal Institute of International Affairs*. Nov 2009, p. 9.

IGAD's early warning system did nothing to stem the tide of conflict before it began, and confusion was ripe among the regional actors vying to create peace. Here the principle of subsidiarity failed due to the weakness of the regional institutions.

In mid-January, when efforts were still being initiated, parallel initiatives were in existence, creating a process that was 'bound to be inefficient and cause confusion,' according to ODM spokesman Salim Lone, noting the multiple mechanisms being proposed by the international community, former African Heads of States and the EAC.⁶³ When a lead peacemaking team did emerge, it was Annan's unique leadership, stature and close links to both the AU and the UN that helped keep the team focused and to avoid the institutional rivalry which could have potentially undermined the process. His emphasis on the fact that this could be the only active peacemaking process, prevented competing mediators from making other offers that would distract the parties and allow them to look elsewhere for more favourably-disposed mediators.⁶⁴ This is an example of the kind of leadership that is essential to overcome the challenges of competitive mediation and international disunity.

Outcomes

The direct talks led by Annan proved successful, and after two days, resulted in the signing of the Kenya National Accord and Reconciliation Act (2008). The power-sharing agreement, announced by Annan on 28 February, created a coalition government featuring a new office of the prime minister, to be filled by Raila Odinga, allowing Mwai Kibaki to remain as President.⁶⁵ Monica Juma (2009) attributes the success of the mediation to the AU's early determination and framework to resolve the crisis, the involvement of Kenyan stakeholders in the mediation process, the unique skills and network of the mediation team, and the 'African' composition of the peacemaking process.⁶⁶ Khadiagala, however, cautions that 'it is tempting to overstate the AU's role in the Kenyan crisis;' Annan's presence gave the mediation 'a unique international stature that will probably not be replicated elsewhere.'⁶⁷ The sustained international

⁶³ BBC, "Kenya: Power sharing talks," 24 Jan 2008, <http://news.bbc.co.uk/2/hi/africa/62319634.stm>, accessed 31 Jan 2009, as cited by Khadiagala, 2009, p. 439.

⁶⁴ Khadiagala, 2009, p. 440. And Juma, Monica Kathina. "African mediation of the Kenyan post-2007 election crisis." *Journal of Contemporary African Studies*, 27 (3), July 2009, p. 417.

⁶⁵ Litscher, 2008, pp. 47, 50.

⁶⁶ Juma, 2009, p. 408.

⁶⁷ Khadiagala, 2009, p. 441.

commitment and pressure on behalf of Western donors to back Annan's peace process was also exceptional rather than the norm.

The mediation did leave some 'unfinished business' that has been disputed over the last two years, especially the ICC's possible role in Kenya. The power-sharing government, meant to be transitional rather than permanent, faced some considerable challenges that nearly resulted in a breakdown of the fragile union. However, it has managed to hold together for three years, awaiting the upcoming elections in 2012.⁶⁸ The least favorable outcome is the fact that the East African regional organizations seem to have learned little from their experiences and have made few improvements to their ability to cohesively and effectively respond to such political crises.⁶⁹ While Kenya can be considered a successful case of peacemaking, this case shows that subsidiarity is not yet easily implementable in the East African region and that the AU/UN will need to continue to rely on their 'comparative advantages' to take the lead in conflict resolution in this region and muster whatever regional influence they can through their own mechanisms.

Example 3 – Cote d'Ivoire

The Conflict and the parties

Intense political competition ensued in Cote d'Ivoire after the death of the country's founding figure, Felix Houphouet-Boigny, in 1993. The first successful coup d'état occurred in December 1999. Three years later, civil war erupted in September 2002, when a section of the army took control of the northern half of the country.⁷⁰ Three emerging rebel groups aligned under the name the *Forces Nouvelles (FN)*, covering two-thirds of the country.⁷¹ Their grievances mainly related to their political alienation and marginalization by the southern-based government which had, over the years, tried to exclude Northern politicians on the basis that they are actually foreigners from neighboring countries. The nationalist concept of *ivoirité*, introduced

⁶⁸ Scott Baldauf, "Kenya political crisis: Kofi Annan to the rescue – again?" *Christian Science Monitor*, 15 Feb 2010.

⁶⁹ Khadiagala, 2009, p. 443.

⁷⁰ *Encyclopaedia Britannica Online*, 2010, S.v. "Côte d'Ivoire: Year In Review 2003."

⁷¹ Francis Akindés, *The Roots of the Military-Political Crises in Côte d'Ivoire*. Research Report No. 128. Nordiska Afrikainstitutet, Uppsala, 2004, p. 5.

in the 1990s, marginalized and excluded from citizenship rights many who did not belong to the southern ethnic groups, or those who were unable to prove their ‘indigenoussness.’⁷²

None of the various peace processes conducted - including the French-brokered Linas-Marcoussis Accord (LMA) in 2003, the Pretoria Agreement that resulted from Thabo Mbeki’s 2005 AU-sponsored mediation,⁷³ or the 2007 Ouagadougou Political Agreement (OPA), negotiated under the eyes of Burkinabe President Blaise Compaore⁷⁴ - have brought durable peace to Cote d’Ivoire. Since the OPA, the country maintained a level of tentative stability for four years until the recent electoral crisis that began after the November 2010 elections. The election was supposed to be a unifying and culminating moment in the peace process; instead, the election resulted in another state of political crisis with sitting President Laurent Gbagbo refusing to leave office despite internationally-recognized election results that gave the victory to opposition candidate Alassane Ouattara, who had previously been excluded from political competition because he was considered a ‘foreigner.’ Various negotiations were initiated, with ECOWAS threatening military action against Gbagbo, who continued to maintain his position in the Presidential Palace, leaving Ouattara isolated in a UN-protected hotel.⁷⁵ At the time of writing, the crisis threatens to degenerate into another civil war.

The institutions and initiation of the mediation process

Although the post-2010-election institutional relationship is the centre of analysis, I will first briefly recap the mediation efforts that preceded it. ECOWAS quickly initiated talks after the coup in 2002, leading to an initial ceasefire agreement which broke down by 2003, requiring further mediations under French and South African leadership. After years of international failure, President Gbagbo eventually proposed direct talks with the leader of the *FN* in December 2006, sidelining the international interventions and opting for a regional solution. Blaise

⁷² John Akokpari, “Citizenship, the State & Africa’s Conflicts: Ivory Coast,” in *The roots of African conflicts: the causes & costs*, Alfred Nhema and Paul Zeleza, (eds). Athens, OH: Ohio University Press, 2008, p. 97.

⁷³ Mbeki was then serving as Chairperson of the AU PSC at the time of his appointment. See Damiano Sguaitamatti, “Côte d’Ivoire, Ouagadougou Agreement” in *Unpacking the Mystery of Mediation in African Peace Processes*, Mediation Support Project, Center for Security Studies, ETH Zurich, 2008, p. 36. And Ishola Williams, “South Africa in peacemaking in West Africa,” in Roger Southall (ed.) *South Africa’s Role in Conflict Resolution and Peacemaking in Africa*, Cape Town: Human Sciences Research Council, 2006.

⁷⁴ The OPA has been the most lasting agreement, creating a sense of stability and re-launching the electoral process that finally came towards completion in November 2010. International Crisis Group, “Côte d’Ivoire: Securing the Electoral Process,” Africa Report N°1585, May 2010.

⁷⁵ “Militaries ready to act in I. Coast standoff,” *AFP*, 21 Jan 2011.

Compaoré, President of Burkina Faso, although considered biased towards the *FN*, offered and was accepted to facilitate the talks that lead to the OPA.⁷⁶ ECOWAS supported the then-agreed-upon election (which was delayed over the next two years) by deploying an election observer mission including members of its Council of the Wise,⁷⁷ although the Council members have not played a high profile role in the post-election crisis.

After the November 2010 election, Mbeki was again appointed by the Chairperson of the AU Commission, Jean Ping, to be a mediator in Cote d'Ivoire on 4 December; the AU PSC supported the decision the same day.⁷⁸ The PSC also suspended Cote d'Ivoire from participation in all AU activities on 9 December,⁷⁹ following ECOWAS's earlier suspension announced on 7 December.⁸⁰ The West African community officially recognized Ouattara as President and called for Gbagbo to 'yield power without delay.'⁸¹ In late December, the Presidents of Sierra Leone (Ernest Koroma), Benin (Yayi Boni) and Cape Verde (Pedro Pires) arrived as part of an ECOWAS mediation effort. None had sufficient leverage or political clout to help push towards a solution, suggesting a flaw in ECOWAS's choice of special envoys. Former Nigerian President Olusegun Obasanjo took a failed turn at mediation on behalf of ECOWAS in early January.⁸²

Also in January, the new AU envoy, Kenyan Prime Minister Raila Odinga, arrived in Abidjan to make a new attempt.⁸³ Odinga's two official visits to Cote d'Ivoire were not fruitful and he was rejected as being biased by President Gbagbo.⁸⁴ The AU sent its Chairperson, President Bingu wa Mutharika of Malawi, on an unannounced visit on 25 January to meet with the antagonists, even though Odinga was still officially the AU envoy at the time.⁸⁵ Following Odinga's failure, at its 29-30 January summit, the AU created a panel of heads of state tasked with finding a way out of the crisis; the members included Mauritanian President Mohamed Ould

⁷⁶ Sguaitamatti, 2008, p. 36.

⁷⁷ ECOWAS, *Ecovas Observers to Monitor the 2010 Presidential Election in Cote-d'Ivoire*, 26 Nov 2010.

⁷⁸ AU Peace and Security Council, *Press Statement of the 251st Meeting of the Peace and Security Council*, PSC/PR/BR (CCLI), Addis Ababa, 4 Dec 2010.

⁷⁹ AU Peace and Security Council, *Communiqué of the 252nd Meeting of the Peace and Security Council*, PSC/PR/COMM.1(CCLII), Addis Ababa, 9 Dec 2010.

⁸⁰ The UNSC recognized these suspensions and affirmed its support of the AU/ECOWAS-led peace process in UNSC Resolution 1962 (2010), adopted 20 December 2010.

⁸¹ ECOWAS, *Final Communiqué of the Extraordinary Session of the Authority of Heads of State and Government on Cote d'Ivoire*. Abuja, 7 Dec 2010.

⁸² Rukmini Callimachi, "Ivory Coast's Gbagbo rebuffs latest mediator" *AP*, 10 Jan 2011.

⁸³ Raila Odinga was announced as the new AU envoy on 27 December 2010 in a Press Release from Chairperson of the AU Commission, Jean Ping. African Union, *The African Union calls for an immediate peaceful solution to the Ivorian Crisis*, Addis Ababa, 27 Dec 2010.

⁸⁴ "Mediator sees time run out for Côte d'Ivoire," *Afrol News*, 19 Jan 2011.

⁸⁵ "Côte d'Ivoire: African Union Chief Arrives," *RFI*, 25 Jan 2011.

Abdel Aziz, then chair of the AU PSC, Blaise Compaoré of Burkina Faso, Idriss Deby of Chad, Jacob Zuma of South Africa and Jakaya Kikwete of Tanzania, who worked along with the AU Commissioner and ECOWAS President.⁸⁶ The Panel worked throughout February, prepared to hold talks with both sides and create a binding solution to the crisis. However, the panel faced serious challenges from the outset, with members of the panel holding differing opinions about the possible use of force and Gbagbo supporters opposing the role of Compaoré on the panel, alleging he was an ally of Ouattara.⁸⁷

No mediator has been able to get Gbagbo to step down, as has been urged by the international community. Each team came with the increasingly loud warning that force would be used if diplomacy does not soon succeed. However the AU Panel broke with this stance. South Africa, which is represented on the AU Panel by Jacob Zuma, made proposals for a power-sharing interim government until new elections can be held.⁸⁸ An ECOWAS spokesperson announced in February that growing African disunity on a solution to the crisis, which emerged at the January AU Summit, is undermining the efforts of the regional organization.⁸⁹ ECOWAS's President, James Victor Gbeho, expressed anger at South Africa questioning ECOWAS's position, saying it is undermining the normal principle of deference to regional leadership in such situations and that ECOWAS reserves the right to act, regardless of the AU position.⁹⁰ While the AU Panel submitted their recommendations to the PSC on 9 March,⁹¹ Gbagbo immediately rejected the power-sharing proposal that it contained and refused to attend the meeting in Addis Ababa,⁹² seemingly finalizing the failure of the AU attempt.

The mediator(s)

⁸⁶ The Panel was created in *Communiqué of the 259th Meeting of the Peace and Security Council*, Addis Ababa, 28 Jan 2011. The composition of the panel was finalized during the Ordinary Session of the Assembly on 30 January and the group had its first meeting on 31 January during the AU's 16th Annual Summit in Addis Ababa.

⁸⁷ Scott Stearns, "AU Mission in Ivory Coast Encounters Obstacles," *Voice of America*, 2 Feb 2011.

⁸⁸ "Ivory Coast: Abidjan attack kills 10 soldier," *BBC News*, 23 Feb 2011.

⁸⁹ Peter Clotey, "ECOWAS Spokesman: Divisions Undermine Ivorian Peace Efforts," *Voice of America*, 8 Feb 2011.

⁹⁰ Gbeho was quoted in Scott Stearns, "ECOWAS: S. Africa Undermining Ivory Coast Mediation," *Voice of America*, 9 Feb 2011.

⁹¹ AU Peace and Security Council, *Communiqué of the 265th Meetings of the Peace and Security Council*, PSC/AHG/COMM.1(CCLXV), 10 March 2011.

⁹² Scott Baldauf, "African Union backs Ouattara as President in Ivory Coast," *The Christian Science Monitor*, 11 March 2011.

Thabo Mbeki, then-president of South Africa, was first appointed as a mediator in November 2004 by the AU. He was dismissed by the rebel *FN* for not being impartial after a South African statement made at the UNSC which mentioned Gbagbo's 'positive attitude.'⁹³ Mbeki, in the most recent crisis, submitted a confidential report to AU Chairman Jean Ping, dated 7 December 2010, stating that he believed the call for Gbagbo to immediately step down was unwise and that only negotiations could bring about a lasting political solution. Mbeki focused on the idea that there is not one party completely in the right and another in the wrong.⁹⁴ Mbeki favoured an independent investigation; this stance led him to be replaced as the AU envoy with Raila Odinga, who called more strongly to have Gbagbo removed from power.⁹⁵

The choice of Odinga, was, however, rather contentious due to his own experiences of post-electoral violence in his native country of Kenya and his early calls stating that a military removal of Gbagbo was necessary to restore democracy, obviously bringing into question his impartiality.⁹⁶ Gbagbo ultimately told Odinga he was no longer welcome as mediator after concluding his second fruitless visit.⁹⁷ The AU's political calculations and decision to choose Odinga, who has not been able to gain the confidence of the parties, were clearly flawed.

Burkinabe President Compaoré, as well as Minister Djibril Bassolé who regularly ran the Ouagadougou Process, are both again involved in the current mediation attempt. The agreement they brokered had obvious flaws that are playing out today. The AU seems to be recycling its mediators, hoping they will discover some new way forward, despite the shortcomings of their previous solutions. The AU has challenged ECOWAS authority by directly nominating and approving its own mediation teams, which do not seem to have been selected based on any sensible criteria or stipulations of these mediators having a comparative advantage over regional, ECOWAS interlocutors. The principle of regional representation, which was used in the selection of the panel with one representative from each sub-region, does not qualify the panel members as skilled peacemakers, yet their status as heads of state has brought them there. Space limitations preclude a detailed look at all of the mediators who have made peacemaking

⁹³ UN Doc S/PV.5253, cited in: "Médiation remise en cause en Côte d'Ivoire", *Le Monde*, 1 Sep 2005, cited by Sguaitamatti, 2008: 36.

⁹⁴ Nkululeko Ncana, "Gbagbo, Ouattara 'must talk': Mbeki's Ivory Coast report goes against global opinion," *The Times* (Johannesburg), 23 Jan 2011.

⁹⁵ Tabu Butagira, "Côte d'Ivoire: Museveni Opposes U.N. On Polls," *The Monitor* (Kampala), 24 Jan 2011.

⁹⁶ "Côte d'Ivoire: Testing Time for the African Union – Briefing," *IRIN*, 7 Jan 2011.

⁹⁷ "AU mediator for Cote d'Ivoire says to continue role despite rejection by Gbagbo," *Xinhua*, 21 Jan 2010.

attempts, but a general problem of unsuitability and incoherence is evident from their collective failure to make any progress in solving the political crisis.

The institutional relationship

All of the major international and regional actors have had a part, at some stage, in the Cote d'Ivorian peace process. At the end of 2010, ECOWAS, the AU and the UN, as well as the US and EU, were all in initial agreement on calling for Gbagbo to release his hold on the Presidency. Cooperation in choosing a mediator was, however, obviously lacking. ECOWAS and the AU took turns sending a wide variety of envoys, some obviously not well-suited for the position, who were rebuffed one after another. While none of the organizations can be seen as completely 'impartial' since they have all publicly supported Ouattara, they have done a poor job of sending envoys that would be acceptable to both sides. This case is a perfect example of 'crowding' in the entry process for peacemaking, showing the disjuncture and lack of professionalism that occurred in the attempt to resolve the crisis and the lack of coordination between the AU and its supposed sub-regional pillar, ECOWAS.

Despite the outward appearance of early agreement, AU Member States South Africa and Uganda, echoing earlier doubts from Angola, started to back down from the absolutist stance that Gbagbo must leave office, instead also pushing for an independent investigation, as Mbeki had suggested in December before he was dismissed by the AU.⁹⁸ This disunity is in line with assertion of there being an inverse relationship between the number of participants in a multiparty mediation and the likelihood of developing a coherent and sustained peacemaking strategy; the higher number of participants involved in the intervention, the greater complexity and higher number of conflicting positions that will emerge and undermine the focus of the peacemaking effort.⁹⁹ Tensions that emerged in 2005 between South Africa and ECOWAS power-house Nigeria, when the rebel *FN* withdrew their support from Mbeki's AU mediation,¹⁰⁰ have re-erupted in 2010, with ECOWAS accusing South Africa of undermining their regional effort. While ECOWAS has tried to maintain leadership, not all AU member states have been willing to simply follow, including South Africa's reversal in support of a more 'neutral' and

⁹⁸ Tabu Butagira, "Côte d'Ivoire: Museveni Opposes U.N. On Polls," *The Monitor* (Kampala), 24 Jan 2011.

⁹⁹ Crocker, Hampson and Aall, 1999, p. 40.

¹⁰⁰ Adebajo, 2010: 159. The rebels urged then-AU Chairman President Obasanjo of Nigeria to explore alternative peacemaking avenues, replacing Mbeki with a regional ECOWAS-led solution. The Nigerians also faulted South Africa for trying to claim all the glory from any peacemaking success.

'pragmatic' stance.¹⁰¹ ECOWAS's anti-South African stance, joined with its defence of the organization's primacy in the region, illustrates the desire to follow the subsidiarity principle, but the AU member states' non-compliance with their own stated rule.

Outcomes

The application of the 'liberal peace' model in Côte d'Ivoire has not proven successful. The negotiations held under the AU and UN from 2004 to 2005 led to a cessation of violence, but a failure to solve the underlying issues of the conflict.¹⁰² This problem repeated in the 2007 OPA negotiations, which also failed to calm underlying political fault lines, hence creating the political space for the re-emergence of the crisis in late 2010. Another transitional, power-sharing solution would only be a repeat of the past agreements and would not, in all likelihood, create a lasting and sustainable peace, nor restore democracy to the country, even if it would be accepted by the parties.

The current set of AU mediations were already considered 'failed' by the press at the end of January 2011 when Nigeria pressed the UNSC for a resolution authorizing regional military action, suggesting an end to diplomatic attempts to solve the political crisis.¹⁰³ However, consensus on the use of force could not be achieved, prohibiting any more decisive action and causing the position to lose momentum among the African and international community. At the time of writing, the crisis still continues unresolved with war threatening and the international community having no idea on how to diffuse the conflict. This is an obvious failure of cooperation between the AU and ECOWAS which has resulted in prolonged crisis and suffering for the Ivorian people.

¹⁰¹ Scott Baldauf and Drew Hinshaw, "South Africa's now-neutral stance on Ivory Coast infuriates president-elect's camp," *The Christian Science Monitor*, 17 Feb, 2011.

¹⁰² Hagg and Kagwanja, 2007, p. 22.

¹⁰³ Adam Nossiter, "Call for Tougher Measures Against Ivory Coast Leader," *New York Times*, 24 Jan 2011.

CHAPTER 4 – Implications of the AU-sub-regional organization relationship on mediation efforts

A mediation process will stand or fall on the degree of coherence among the actors.

-Monica Juma¹

Not all mediators, whether they are former presidents or former ministers of foreign affairs, are alike or offer the requisite skills to be a successful mediator or lead a peacemaking effort. It is personal attributes and relationships, as well as institutional capacities and credibility, which are essential in defining a mediation effort.² While some mediators, like Kofi Annan, offer both skill and stature, others can bring only one of these two indispensable factors, creating additional challenges to the already tricky and contentious field of conflict resolution in Africa. Similarly, not all regional organizations have the unity, resources and credibility to be effective lead actors in peacemaking processes. With the expansion in the number of actors and activities involved in complex peacemaking efforts, coordination and leadership are now even more essential for success and for managing the difficult and chaotic realm of peacemaking.³

This chapter sheds further light on the implications of the fraught institutional relationship that exists between the AU and the sub-regional organizations. It considers the challenges and complications that were evident in the recent examples in Chapter 3 and their consequences. The chapter also brings in other instances of these difficulties, establishing their near universality in much of African peacemaking. The AU-UN Darfur mediation taking place in Doha, between February 2009 and early 2011, has faced many of these obstacles.⁴ The ongoing Madagascar peace process is also touched upon to illustrate the problems of competitive peacemaking and unskilled mediation under the Joint Mediation Team on Madagascar, comprised of the SADC, the AU, the UN and the International Organization of the Francophone (IOF).

The chapter begins by further highlighting the institutional failings and confusion within the regional organizations, briefly problematizes the dominant role played by South Africa and

¹ Juma, 2009, p. 409.

² Crocker, Hampson & Aall, 1999, pp. 4, 13.

³ *Ibid.* p. 9.

⁴ This mediation was not considered in Chapter 3 because the UN has been the lead actor, and no sub-regional organization has taken any major role in the current peace process.

Nigeria in African peacemaking, and continues to outline and consider some of the problems resulting from this confusion and politicization, including forum shopping, competitive mediation, and wasted time, as well as resources. It ends by illustrating how these obstacles and the confused institutional relationships are hindering successful peacemaking in Africa.

Continuing tension and politicization in the relationship between the AU and sub-regional organizations

The task of determining who takes the lead, shapes the peacemaking approach, and coordinates all of the interventions being brought to bear on a conflict situation is a complicated and highly political undertaking. Conflicts often fall under multiple, overlapping mandates, including a sub-regional organization, the AU, and the UN, among other possible bodies, creating tension in the uncertainty of who will lead. Although some tension is probably unavoidable, more detailed procedures ought to be instituted to help reduce confusion and competition between peace-seeking organizations.⁵ Despite the seemingly comprehensive nature of the APSA, the negotiation and mediation mechanisms remain the least developed. The example cases confirm that ‘mediation is predicated on ad hoc arrangements, determined case by case by the office of the chair of the commission.’⁶ The principles of subsidiarity and comparative advantage, as they exist on paper, are not being followed in the actual day-to-day workings of the AU and the sub-regional organizations, contributing to this chaotic atmosphere.

The mediation attempts in Zimbabwe, Kenya, and Cote d’Ivoire illustrate the fact that the ‘rule’ for decision-making and implementation of peacemaking is that there often is no rule and that decisions are made on an *ad hoc* and politicized basis, with arbitrary factors often dictating how the peacemaking process is initiated and structured. These three different examples, taking place between 2008 and 2011, also illustrate that there is no uniformity in the AU-sub-regional relationship, which was supposedly codified in the 2007 MoU and earlier AU protocols. Admittedly, the process of selecting a mediator inherently involves a synthesis of demands of the conflict parties, the potential mediators and the international community, making each case

⁵ Kruschen Govender & Yvette Ngandu. “Towards Enhancing the Capacity of the African Union in Mediation,” report based on the seminar “Towards a More Strategic Approach in Enhancing the AU Mediation Capacity” organized by the AU Commission, Addis Ababa, Ethiopia, 15 – 16 Oct 2009, *ACCORD*, 2010, p. 22.

⁶ Juma, 2009, p. 409.

unique and never perfectly replicable.⁷ Further, peacemaking interventions cannot escape from the political tensions that exist between member states of a regional organization, which is even more obvious when the institutional relationship has not been clearly established or the institution empowered enough to make decisions that circumvent political infighting. Regardless of these factors, the idiosyncratic nature of implementing peacemaking efforts has often unnecessarily led to poorly run and fruitless mediations that do little to consolidate peace.

Political considerations can easily dominate the role of *ad hoc* committees created to deal with conflict.⁸ In Cote d'Ivoire in 2011, after attempting to employ a single mediator, the AU's decision to revert to a panel of envoys is probably even less likely to work. Accusations against certain panel members have already been made, tearing at the panel's trust and cohesiveness. One of the appointed members, Campaoré of Burkina Faso, neglected to travel to Cote d'Ivoire because of these tensions.⁹ The *ad hoc* and non-permanent nature of these attempts means that they are easily politically manipulated and not likely to be sustainable over time as individuals leave their elected positions or become unavailable to play a role they previously played. Successful conflict resolution requires time and dedication to finding lasting solutions, which is not usually available from *ad hoc* panels of sitting heads of state with ongoing national duties.

The underlying level of tension in the principles of the institutional relationship inherently undermines strategic and effective peacemaking leadership. It has been shown in the example cases, that the principle of subsidiarity is followed when the sub-regional organizations and AU Member States find it convenient. It is obviously simpler for the AU, already overburdened with its own peace and security commitments, to defer to a sub-regional organization when possible. Yet in cases that receive extensive international attention, with requisite calls for a high-level response, the AU or the UN is often cowed into involving itself, as it was in Kenya and Cote d'Ivoire. While Annan's unique stature was able to mitigate the consequences of crowding in the peacemaking initiatives in Kenya, Cote d'Ivoire has exemplified the worst of what international disunity and competition can do to resolving a political crisis and preventing re-ignition of major conflict.

⁷ Whitfield, 2010, p. 6.

⁸ Imobighe, 2003, p. 100. Peacemaking efforts in Morocco-Western Sahara and Uganda-Tanzania in the 1970s, both mediated by the OAU, illustrate this point. In both cases, political considerations prevented any real attempt at ameliorating the underlying issues in the conflict in order to find a lasting solution.

⁹ Marco Chown Oved, "Why the African Union may struggle to mediate in Ivory Coast," *The Christian Science Monitor*, 21 Feb 2011.

UN workshops have been held to improve the skills and capacities of AU mediation teams and to enhance the proficiency of regional organizations in peacemaking.¹⁰ Yet enhanced capacity alone cannot overcome the underlying conflict in principles and politicization of the process at the highest levels. In 2004, a seminar organized by the Centre for Conflict Resolution in Cape Town noted the serious ‘policy incoherence’ between the AU and sub-regional organizations. Sub-regional organizations often take their own initiatives despite the theoretical organizational structure that holds the AU as the mandating authority.¹¹ Mediators from outside the conflict region have to try to integrate themselves into the regional actors’ strategy, but then are restricted to working within this limited regional ambit or must take the risky choice of creating a competing initiative.¹²

The APSA obviously remains beholden to the problem of low political will, which often can be easily disguised in declarations of the importance of sovereignty and the traditional norm of non-interference in internal or regional affairs, when such a stance is expedient. The continuing existence of unclear principles and tension in the institutional relationship will continue to hinder peacemaking capacity if it is not promptly and adequately addressed. Whether the AU chooses to reform its operations for peacemaking, inserting itself as much a stronger coordinator and mandating authority for the sub-regions, or gets its member states to better respect the principle of subsidiarity that they now only selectively follow, a solution is urgently needed to contend with Africa’s political crises.

Problems of procedural coordination and lines of authority within the AU structure

The central procedural problem that has already been illustrated is that there are no definitive guidelines provided in the AU Charter, the PSC Protocol, or any other high-level document that define the process and entry point for mediation.¹³ This void allows for *ad hoc* procedures to be followed which may clash with the efforts of sub-regional organizations or other actors. In Madagascar, the AU and SADC (in addition to the UN and IOF), tried to initiate mediation efforts and ultimately undermined each other’s attempts to act in the lead position,

¹⁰ *Ibid.*

¹¹ Centre for Conflict Resolution. “The New Partnership for Africa’s Security...”

¹² Whitfield, 2010, p. 19.

¹³ Van Jaarsveld & Mottiar, 2009, p. 11.

creating confusion and tension that took away from the focus on resolving the crisis.¹⁴ Without procedures being defined, regional or international entry will be left in the hands of political heavy weights that may or may not have an implementable, functioning peacemaking strategy and that may or may not be willing to commit to seeing out a durable peace.

Certain institutional weaknesses still need to be improved on within the AU itself. The AU's December 2007 self-audit produced a strong critique of the administrative management of the organization under AU Commissioner Konaré. It described the relationship between the chair and the eight commissioners as 'dysfunctional,' and that there was a poor institutionalization of authority levels. There was no acceptance of a clear chain of command or a way to coordinate overlapping mandates, which are a frequent occurrence. The Commission was also under-staffed and relying heavily on short-term consultants rather than permanent staff,¹⁵ which undoubtedly contributed to the inability to institutionalize working relationships and coordination between departments. The unclear principles at the top are filtering through to unclear operations at all administrative levels.

Furthermore, the unresolved and unstipulated relationship between the AU Chairperson and the Chairperson of the AU Commission remains a source of possible tension within the AU. It is not clearly articulated whether there is any relationship of subordination or authority between the two, despite the fact that they share in some of the same powers related to initiating peacemaking activities and the use of their good offices. In the case where a former head of state is acting as Chairperson of the Commission (as it was under Alpha Omar Konaré) and another head of state is acting as the AU Chairperson, some clash of personality and authority is likely.¹⁶ The AU Chairperson, who is fully authorized to exercise authority in the realm of conflict management and giving directions to the PSC or Commission on the management of conflicts,¹⁷ holds a lot of independent decision-making power and influence, but often remains disconnected from the Member States and other decision-making bodies that make up the APSA.

¹⁴ David Zounmenou, "Madagascar's political crisis: What options for the mediation process?" *African Security Review* 18.4, Institute for Security Studies, Dec 2009, p. 73.

¹⁵ African Union, *Audit of the African Union: Towards a People-Centred Political and Socio-Economic Integration and Transformation of Africa*, Addis Ababa, 2007, pp. 42-77, as discussed in Adebajo, 2010, pp. 275-6.

¹⁶ Lecoutre, 2010, p. 11.

¹⁷ Article 4 of the Rules of Procedure of the Assembly, gives the chairperson, as the representative of the Union the power to 'give directives to the Executive Council, the PSC or the Commission on the management of conflicts, wars, acts of terrorism, emergency situations and restoration of peace.' Lecoutre, 2010, p. 12.

The high-level decision makers within the AU and sub-regional organizations often work outside of the stipulated protocols. The mediation process in Zimbabwe was considered by the Chairperson of the AU and the Assembly of States of the AU, not the AU PSC. This is similar to decision-making on the Kenya mediation, which was taken by the AU Chairperson and the UN Secretary General.¹⁸ In Madagascar, the lead mediator Joachim Chissano, former head of state of Mozambique, unilaterally exerted his leadership position based on being the highest ranking person (a former head of state) among the various special envoys from the international organizations present.¹⁹ The highly political SADC Summit affirmed his appointment,²⁰ while the AU was forced to simply accept his leadership of the Joint process. It is clear that in practice, the higher level political players make the big choices according to their own personal or political criterion, leaving the formal structures to simply endorse their choices.

These internal AU tensions have prohibited it from being a cohesive coordinating unit, affecting the functioning of the sub-regional relationship where internal disunity thwarts the output of a clear and cohesive AU policy for the sub-regional organizations to follow.

Regional challenges and strong-state dynamics – the hegemon dilemma

While some of the challenges of differing regional capacities and principles have already been discussed in Chapter 2, the example cases make it obvious that two states – South Africa and Nigeria – play pivotal roles in African peacemaking within their own sub-regions and beyond. The debate over the pros and cons of having a hegemon at the helm in a regional organization is well-contested in the literature.²¹ Bjørn Møller argues that a hegemon can help facilitate the development of stable organizational institutions.²² The sub-regional organizations that are relatively strongest, ECOWAS and SADC, are those that rely on the commitment and resources of these dominant states.²³ The absence of a clear hegemon in East Africa/the Horn of Africa, where there is a split hegemony between Ethiopia, Kenya and Sudan, has so far been an obstacle to the development of a working peace and security architecture in the sub-region,

¹⁸ Sturman and Hayatou, 2010, p. 74.

¹⁹ Laurie Nathan, interviewed by author, University of Cape Town, 7 Dec 2010.

²⁰ SADC, *Communiqué of the SADC Extraordinary Summit of SADC Heads of State and Government*, 20 June 2009, Sandton, South Africa.

²¹ See Adebajo and Landsberg, 2003.

²² Møller, 2005, p. 31.

²³ *Ibid.*, p. 79.

where power politics remains the norm.²⁴ South Africa and Nigeria have also been able to drive the creation of the AU security architecture, taking lead continental roles. However, when two hegemonies, South Africa and Nigeria, pursue differing policies, it creates major complications for African peacemaking.

Both South Africa and Nigeria walk a political tightrope in their regions, still working to overcome accusations of hegemonic ambitions after their involvement in near unilateral peace operations in Lesotho and Sierra Leone, respectively. Yet South Africa is consistently playing an influential role, either through current or past heads of state, as well as extending its peacekeeping capacities under UN or AU missions. In West Africa, Nigeria faces the choice of taking the lead in peace efforts or standing back because of political sensitivities, both domestic and regional. However, Clement Adibe argues that in contrast to SADC, ECOWAS has come far in institutionalizing the *ad hoc* mechanisms that were used in conflict management techniques and have replaced the political exigencies with more permanent mechanisms.²⁵ This move has helped reduce some inter-regional tensions and the politicization of Nigeria's relationship to ECOWAS. While this thesis does not intend to undertake a thorough critique of the South African or Nigerian approach to peacemaking, it is important to consider the countries' willingness to cooperate and work collaboratively with the AU, SADC, ECOWAS and other organizations, including IGAD and non-African organizations.

These two regional leaders have most recently come to heads over the situations in Cote d'Ivoire. Nigeria, voicing its strong opinion that President Gbagbo should be taken out by force if necessary, has pushed this policy option through ECOWAS. On the other hand, South Africa, through both Thabo Mbeki who was an initial mediator to the conflict, and the country's current President, Jacob Zuma, who is using his influence on the AU Panel, have come out against the use of force and seem instead to be suggesting a power-sharing government would be a better option. With these two countries leading the two organizations in opposing directions, there has emerged an obvious problem with the approach to mediation and conflict management that is being taken by all of the different mediators who have been sent to Cote d'Ivoire.

²⁴ Alemayehu Fentaw, "A nascent peace and security architecture in the Horn of Africa: prospects and challenges," *Horn of Africa Bulletin*, March 2010, citing Alex de Waal, 'In Search of a Peace and Security Framework for the Horn of Africa,' in *Report of the Conference on the Current Peace and Security Challenges in the Horn of Africa*, Organized by CPRD and IAG, 12-13 March 2007, Addis Ababa.

²⁵ Clement E. Adibe, "Muddling Through: An Analysis of the ECOWAS Experience in Conflict Management in West Africa," In Liisa Laakso (ed.) *Regional integration and Conflict Prevention and Peace Building in Africa: Europe, SADC and ECOWAS*. Helsinki: University of Helsinki, 2002, p. 103.

ECOWAS President, Ghanian James Gbeho, was quoted in the Nigerian *Vanguard* newspaper as saying that ‘a situation like this demands that the regional body involved needed to be consulted first before any action is taken but what we are seeing now is that some states are breaking the rules because they have interests to protect.’²⁶ His allusion to South Africa’s involvement shows that South Africa is not consistently willing to uphold the principles supposedly agreed to in the PSC Protocol and the MoU, creating a bind for regional organizations. Mbeki’s increasingly prominent role in the AU High-Level Implementation Panel (AUHIP) for Sudan, and a possible new Darfur peace process, shows it may also be displacing IGAD influence in the Horn, creating another quandary over regional leadership. This discussion shows that competitive leadership and continental hegemony is obviously complicating rather than astutely leading and coordinating peacemaking efforts.

Implications – Problems resulting from a weak and/or uncoordinated institutional relationship in multi-party peacemaking

Coordinated peacemaking involves ‘the careful crafting of a coherent political strategy, building support and finding resources for that coherent strategy, and diminishing the possibility that other third parties – and interested outsiders – will undermine the peace process by pursuing their own agenda.’²⁷ This is not a simple task. In the 1995 *Supplement to an Agenda for Peace*, the UNSG recognized, fifteen years ago, some of the major problems that emerge when there is no sound working relationship between the institutions involved in peacemaking efforts: ‘overlap and institutional rivalry,’ as well as the possible ‘multiplicity of mediators.’²⁸ The analysis obviously applies not only to the UN and sub-regional organizations, but between the sub-regional organizations themselves. This problem has been increasingly identified by these organizations, although it has yet to be resolved.

Khadiagala argues that African mediators have often played the role of meddlers, intervening out of necessity, but without the means to be effective.²⁹ For a mediation to be

²⁶ Emman Ovuakporie, “South Africa is Fuelling Ivorian Crisis – Ecowas,” *Vanguard* (Nigeria), 8 Feb 2011.

²⁷ Chester Crocker, Gen Osler Hampson and Pamela Aall, “The Practitioner’s Perspective,” in *Herding Cats: Multiparty Mediation in a Complex World*, edited by Crocker, Hampson & Aall. Washington, DC: United States Institute of Peace, 1999, p. 58.

²⁸ *Supplement to an Agenda for Peace*, Position Paper of the Secretary-General on the Occasion of the Fiftieth Anniversary of the United Nations, A/50/60-S/1995/1, 3 Jan 1995.

²⁹ Khadiagala, 2007: 2, 6.

successful, it generally must be guided by a lead actor who has the coherence, unity and authority to tackle the given conflict. Lead actors must be able to bring together key constituencies and interested parties, share credit, borrow leverage, help other institutions and parties ‘save face’ when making tough decisions, and keep all sides united through a common agenda.³⁰ Lacking this, complications, including forum shopping, competitive mediation, institutional rivalry, overlap, feeble interventions and delayed responses, can all contribute to the failure of peacemaking. ECOWAS (2008) itself admits that the unclear distribution of roles and responsibilities between ECOWAS bodies, and between ECOWAS and external partners, has resulted in ‘the utilization of limited instruments, piecemeal interventions and late response to crises.’³¹ The sub-regional organizations are, therefore, cognizant of the coordination problems that are faced and recognize how they contribute to the breakdown of peacemaking.

Forum shopping

Conflicting parties generally have different views of which organization or mediator would be better for the peace process (and would better serve their interests). For example, while states that have an advantage in a conflict prefer low-profile mediators who will not threaten their formal legitimacy, non-state actors or rebel groups may prefer a high-profile external mediator in order to advance their status and importance.³² Nonetheless, the important function that international actors can perform is to coordinate so that parties cannot ‘shop’ among different mediators or different forums, undermining progress in coming to one unified solution. The 2009 *Report of the Secretary General on enhancing mediation and its support activities*, argued that a multiplicity of actors allows for forum shopping through which ‘intermediaries are played off against one another,’ creating a fragmented response and further complications in the conflict.³³

A lack of coordination can provide parties with ways to avert the pressure of embarking on serious efforts to resolve their conflicts. This practice is frequent in the period before formal

³⁰ Chester Crocker, Gen Osler Hampson and Pamela Aall, “Rising to the Challenge of Multiparty Mediation,” in *Herding Cats: Multiparty Mediation in a Complex World*, edited by Crocker, Hampson & Aall. Washington, DC: United States Institute of Peace, 1999, p. 696.

³¹ *The ECOWAS Conflict Prevention Framework* (2008) Regulation MSC/REG.1/01/08.

³² Hans Giessmann & Oliver Wils, “Conflict Parties’ Interests in Mediation,” *Berghof Policy Brief* 01, Sep 2009, p. 7.

³³ United Nations, *Report of the Secretary-General on Enhancing Mediation and Its Support Activities*, UN Document S/2009/189, 8 April 2009.

talks begin when multiple mediators or organizations pursue involvement in the peace process.³⁴ A past example of exactly such an experience includes the behaviour of Morocco and its efforts to stall the resolution of the Western Sahara question.³⁵ Similarly, the multiplicity of actors that attempted mediation in the Zaire crisis – the joint UN-OAU representative for the Great Lakes, a US special representative and a US special presidential envoy for democracy, the deputy foreign minister of South Africa, and the president of Togo – created distractions and leeway for the parties.³⁶ More recently in Madagascar, the period in 2010 that was characterized by the lack of a united international position allowed Rajoelina ‘to plot a course between international actors’ and thereby diminish the leverage any international actor tried to build in facilitating a political solution.³⁷

One example of successfully managing forum shopping was IGAD’s oversight of the peace process to resolve the North-South war in Sudan. IGAD’s early unity helped keep mediators from Egypt, Libya and Yemen at bay, while the chief mediator, Lt. General Lazaro Sumbeiywo, successfully linked up with international actors and created unity of effort throughout the process.³⁸ However, the unique factor in this case was Kenya’s political commitment and support for the peace process, which has been lacking in Darfur. In contrast to the IGAD process, the Darfur negotiations in Abuja led by the AU were ‘not able to establish unity of effort among the external actors,’ with competing interests and fading commitments leading to the parties’ unwillingness to negotiate.³⁹ IGAD’s failure to institutionalize its interventions and successfully manage the other conflicts in its region has left a peacemaking vacuum. When no organization exerts its authority and prevents forum shopping, parties can quickly take advantage of the situation for their own benefit.

Competitive mediation and institutional rivalry

A 2010 report from the Centre for Humanitarian Dialogue (CHD), which works in the field supporting international mediation efforts, discusses the challenge of cooperation and

³⁴ Whitfield, 2010, p. 16.

³⁵ Imobighe, 2003, p. 168.

³⁶ Crocker, Hampson and Aall, 1999, p. 58.

³⁷ International Crisis Group, “Madagascar: Crisis Heating Up?” 2010, p. 4.

³⁸ Simon J A Mason, “Sudan, North-South Comprehensive Peace Agreement,” In *Unpacking the Mystery of Mediation in African Peace Processes*, Mediation Support Project, Centre for Security Studies, Zurich, 2008, p.72.

³⁸ Whitfield, 2010, p. 13.

³⁹ *Ibid.*, p. 13.

cohesiveness in mediation efforts, and how competition has led to peacemakers working against one another. Factors contributing to the ‘messiness’ and competition in the mediation field include: ‘the need for discretion; individual relationships of trust with the conflict parties; the entrepreneurial, and at times egotistical, tendencies of many mediators; and the widely varying practices and cultures of their different governments or other organisations.’⁴⁰ Combined, these factors, as well as the disjuncture that exists between the AU and the sub-regional mechanisms, has created a situation where the parties themselves are aware of the competition for entry and can utilize this reality to lengthen the conflict, manoeuvre between the institutions, and/or gain certain advantages within the peace process.

The problem of institutional rivalry and competition between senior decision-makers in organizations that are supposed to be working together can become so deep as to completely undermine a peace process. Institutional tensions detract attention from the conflict that is supposed to be addressed, wasting attention on the fight with the contending organization(s).⁴¹ The 2010 AU Panel of the Wise Report also noted that coordination remains problematic where ‘selective engagement of different parties and the pursuit of competing priorities often yields conflicts.’⁴² It is usually quite evident to the parties, who see the divisions within the peacemaking effort and react by similarly not taking the process seriously or not putting their trust in the mediation process.

Competing initiatives often emerge due to the relative weakness of some sub-regional organizations. Examples include the early competing initiatives between IGAD and Egypt/Libya in the Sudan negotiations, the involvement of Chad, Eritrea and Libya in the Darfur mediation, the French role in the Madagascar peace process,⁴³ the multiple organizations that are involved in conflict resolution efforts in the Great Lakes/DRC region, and the continuing chaos in Somalia which has proven irresolvable by IGAD alone, inviting involvement of the European Union and League of Arab States, among others. While mediators from abroad should seek to make their efforts complement the actors in the region, weaknesses among the local efforts will limit the

⁴⁰ Martin Griffiths & Teresa Whitfield, “Mediation ten years on: Challenges and Opportunities for Peacemaking,” *Centre for Humanitarian Dialogue*. March 2010, p. 11.

⁴¹ Nathan, interview with the author, 2010.

⁴² African Union, *Election-Related Disputes and Political Violence: Strengthening the Role of the African Union in Preventing, Managing, and Resolving Conflict*, Report of the AU Panel of the Wise, July 2010, p. 46.

⁴³ International Crisis Group, “Madagascar: Crisis Heating Up?” Africa Report N°166, 18 Nov 2010, p. 16.

possibilities for success.⁴⁴ IGAD recognized the problem of having a ‘proliferation of peace initiatives,’ as it called for an end to this problem when it was undermining progress in Somalia in 1998. From there it declared that IGAD should be the coordinating body to oversee all external interventions and aid so that it would be productively channelled.⁴⁵ Yet even here, the response was reactive, rather than planned and well-prepared from the outset. Time, political will and resources were wasted as time passed trying to come to the point of having a clear leading and coordinating body.

In the last few years, great efforts have been made in trying to enhance and coordinate the relationship between the UN and the AU.⁴⁶ While this thesis does not focus on this relationship due to its more extensive coverage in the literature and the attention it already receives, it is important to point out that the UN-regional relationship is still plagued by the problems of competitive mediation, institutional rivalry and uncoordinated interventions. One recent example is the Darfur mediation in Doha where the two cooperating organizations (the UN and AU) have a very different stance on certain aspects of the peace process. Ambassador Bassolé,⁴⁷ the Joint AU-UN Chief Mediator, is stuck between the generally pro-ICC UNSC and the AU, which has declared that it is against the ICC indictment of President Bashir and is now actively working to support the deferral of the indictment.⁴⁸ These contending pressures are prohibiting the development of a focused and united mediation strategy.⁴⁹ Yet the conflicting positions have no clear path towards resolution under the current joint structure of the peacemaking process.⁵⁰ Tension between the envoys has been a setback, with public disagreements between AU

⁴⁴ Whitfield, 2010, p. 19.

⁴⁵ IGAD, *Communiqué by the 6th Ordinary IGAD Summit*, Djibouti, 16 March 1998.

⁴⁶ A plethora of recent reports related to this development includes the *Report of the Secretary-General of 7 April 2008 on the relationship between the United Nations and regional organizations, in particular the African Union, in the maintenance of international peace and security* (S/2008/186); *Report of the Secretary-General of 8 August 2008 on cooperation between the United Nations and regional and other organizations* (S/2008/531 and Corr.1); and *Declaration on enhancing United Nations-African Union cooperation: framework for the ten-year capacity-building programme for the African Union* (A/61/630); also the *Report of the African Union-United Nations panel on modalities for support to African Union operations* (S/2008/813).

⁴⁷ Bassolé is a former foreign minister of Burkina Faso and member of the 2005 AU mediation team in Cote d'Ivoire.

⁴⁸ African Union, *On the Decision of the Pre-Trial Chamber of the ICC Informing the UN Security Council and the Assembly of the State Parties to the Rome Statute about the Presence of President Omar Hassan Al-Bashir of the Sudan in the Territories of the Republic of Chad and the Republic of Kenya*, Press Release, N° 119/2010, Addis Ababa, 29 Aug 2010.

⁴⁹ Whitfield, 2010, p. 13.

⁵⁰ Laurie Nathan, interviewed by author, University of Cape Town, 7 Dec 2010.

representative Mbeki, Joint mediator Bassolé, and UNAMID Chief Gambari⁵¹ complicating the process.⁵²

The participation of the Justice and Equality Movement (JEM) rebel group in the Doha talks concretely illustrates the problem of competitive mediation. Frustrated with the process and the venue, JEM temporarily withdrew in March 2009 (which it would do again in late 2010). Among the reasons JEM cited for withdrawal were: ‘the weakness of Mediation and the lack of a clear negotiation strategy and road map for peace; the lack of neutrality of the Mediation and the host country in the talks; [and] the adoption of parallel talks despite singularity of Mediation, venue and conflict.’⁵³ The Chief Joint mediator had an obvious inability to coordinate all of the organizations and parties, leading to more splintering of the rebel groups, and tense mediator relations among the UN, the AU and the host nation of Qatar. That a participating rebel group had to admonish the UN and AU over their poor coordination make obvious the extent of the problem. While making a process ‘joint’ may seem to ease some of the institutional rivalry and lack of coordination, in reality, the problems of collaboration and cooperation are still as strong as in any other case.

Additionally, Bassolé seems to be facing rivalry from within his own nominating organization, the AU, where Thabo Mbeki who chaired the AU Panel on Darfur (AUPD) and the AUHIP on Sudan, has suggested the abandonment of the Doha venue in favour of an ‘internal’ Darfur Peace Process under the AUHIP and the AU-UN Hybrid operation in Darfur (UNAMID). The ‘African and Arab ministerial committee on Darfur’ tried to urge the parties back to Doha and reassert the AU-UN process as the ‘only platform’ for resolution,⁵⁴ but institutional rivalry has already done its damage in undermining the peacemaking initiative. Advocacy groups have come out condemning the proposed internal peace process, saying only a highly coordinated peace process in a neighbouring state, as existed for the CPA, would provide a workable venue that would be inclusive, and not unreasonably favourable to the Sudanese government.⁵⁵ Regardless of the outcome, the enmity between the UN and the AU, with the AU trying to exert

⁵¹ Ibrahim Gambari is the Nigerian officer who is in charge of the joint AU-UN UNAMID peacekeeping mission in Darfur.

⁵² Enough Project, “A Roadmap for Peace in Darfur,” Feb 2011, p. 6.

⁵³ JEM Secretariat for Media, “JEM Takes Stock of Recent Development and Conspiracies.” 5 July 2010, <http://www.sudanjem.com/2009/archives/31437/en/>, accessed 3 Feb 2011.

⁵⁴ “Arab and African committee calls to make Doha only venue for peace in Darfur,” *Sudan Tribune*, 6 Jan 2011.

⁵⁵ Enough Project, “A Roadmap for Peace in Darfur,” Feb 2011, p. 3.

its influence in a process in which it has come to feel excluded and undermined, is affecting reasonable decision making and the ability of the mediator to do his job.

The suggestions the CHD report makes for overcoming the competition problem include developing ‘interoperability’ among mediators through complementary support systems, developing shared standards of performance and ethics, and building mechanisms that encourage unity of effort at a more strategic level.⁵⁶ More specifically, Khadiagala has suggested that competitive mediation can potentially be reduced by establishing ‘functional and complementary relations... born out of recognition of distinctive strength and weakness’ between sub-regional organizations and the AU.⁵⁷ What is made clear in the example cases is that simple communication and interaction alone will not solve the problem; the high-level and political decision makers at the top of the institutions must decide to follow the principles and practice true cooperation on entering, shaping and planning the peace process if it has any chance of being coherent and united.

Wasted time, attention and resources

Reflecting on lessons learned from Kenya’s successful peacemaking experience, Juma argues that a timely response is an important aspect of a successful intervention. She adds that ‘the speed of intervention matters, as it galvanises action, exerts pressure on the parties to stay the course, and leaves limited, if any, room for spoilers to derail the process.’⁵⁸ The Cote d’Ivoire crisis has illustrated how delays have in fact caused the problems that Juma warned of, including sewing divisions and reducing pressure on Gbagbo to go along with the initial ECOWAS-international position. The time lost to institutional infighting and unclear lines of authority in decision making certainly contributed to crucial time being lost.

A further issue relating to timing is that political attention spans are short, while successful peacemaking usually requires a long-term commitment with actors willing to stay the course through sometimes prolonged negotiations and even longer implementation periods. Hastily suggested solutions and proposals do not usually have the requisite trust and confidence

⁵⁶ Griffiths & Whitfield, 2010, p. 11.

⁵⁷ Khadiagala, 2009, p. 442.

⁵⁸ Juma, 2009, p. 409.

of the parties to be acceptable.⁵⁹ Since *ad hoc* arrangements still dominate African peacemaking, there is no obvious way to create follow-through and sustained engagement with parties. Another problem is that new events and crises can easily take the spotlight away from still-simmering conflicts that have lost the world's attention. Darfur, still facing instability and fighting seven years after the outbreak of the major rebellion in 2003, has lost the spotlight to the Southern Sudan referendum in early 2011. The two Sudanese peace processes have remained separate and uncoordinated for years,⁶⁰ and with South Sudan's expected independence, there will be few options to reverse this. Similarly, the crisis in Cote d'Ivoire became overshadowed by the revolutions in Egypt and North Africa, leaving it without the sufficient political attention to put pressure on the parties to come to an agreement, as the suffering of the population increased under tough international sanctions.⁶¹ Without professionalizing, fully resourcing and planning peacemaking to be a long-term endeavour, political attention spans will continue to lapse and reduce the real peacemaking options that are available.

Overlapping membership in multiple sub-regional organizations, as discussed in Chapter 2, as well as multiple, competing initiatives, also prove problematic in terms of resources. States have fewer resources to dedicate to building and supporting any one of the conflict management mechanisms among the various organizations. Funds for AU mediation efforts are still raised on a case-by-case basis, often coming from external donors, foreign governments or other multilateral institutions, sometimes creating the perception that foreign partners, or the UN, are the dominant decision-makers.⁶² On the other hand, former AU Commissioner, Alpha Konaré, and former Commissioner for Peace and Security, Said Djinnit, pushed the AU beyond its limits in Burundi, Rwanda, Comoros and Darfur in obsessing over 'African ownership.'⁶³ Multiple mediators and peace initiatives that emerge from multiple organizations lead to the duplication of roles and the waste of resources and support structures, which could be better spent to counter

⁵⁹ Lakhdar Brahimi and Salman Ahmed, "In Pursuit of Sustainable Peace: The Seven Deadly Sins of Mediation," in *Annual Review of Global Peace Operations 2008*, A Project of the Center on International Cooperation, Boulder and London: Lynne Reiner Publishers, 2008, p. 9.

⁶⁰ It has been argued that this peacemaking process may have ultimately become part of the fuel for the Darfur rebellion. The parties – the Government of Sudan (GoS) and the main Southern rebel group – excluded Darfuri concerns in their agreements, leading to the entrenchment of their perceived marginalization. Laurie Nathan, "Anti-Imperialism Trumps Human Rights: South Africa's Approach to the Darfur Conflict," *Crisis States Working Paper, Series 2*, 31, 2008, p. 9.

⁶¹ "Cote d'Ivoire: From bad to worse" *IRIN*, 15 Feb 2011, <http://www.irinnews.org/Report.aspx?ReportID=91924>, 17 Feb 2011.

⁶² Van Jaarsveld & Mottiar, 2009, p. 19.

⁶³ Adebajo, 2010, p. 37.

this perception. Instead of productively channelling the funding and support from the international community through one channel, it is divided over various initiatives, undermining the chances of success of any of them. While it is imperative that the AU invest in its own capacity for effective peacemaking, using and channelling limited resources wisely is another way to improve peacemaking effectiveness.

Selecting lead mediators and joint mediators

The actual basis for selecting mediators is not always visible due to the lack of transparency in the decision-making process. Yet the mediators who have been deployed in Madagascar, Darfur and Cote d'Ivoire, illustrate that there is often no obvious logic behind the choice of a mediator. In the case of Madagascar, the stature of Chissano was more valued than skill and experience, leading to ineffective mediation. The US privately accused Chissano of blundering by presenting proposals, which were not made jointly by all of the parties, as final 'decisions,' hence alienating certain participants in the final round of Joint Mediation Team negotiations at Maputo.⁶⁴ Experienced and skilled mediators using a confidence building approach could more likely avoid such mistakes, but given that Chissano pushed for his own position based on political rank, skill in mediation was absent in the mediator selection criteria.

In Cote d'Ivoire, among all the various attempted peace efforts, the nomination criterion has presumably included a mixture of simple availability, regional representation and political influence. Since mediator choice is often left up to the AU Commission and easily influenced by influential member states and politicking, it is not the rule that the best suited possible mediator ends up with the job. Success, when it does come about, is usually only achieved reactively, after initial mediators fail and more appropriately qualified persons are dispatched as the problem worsens.

Given the importance of personal trust and connections between a mediator and the parties, choosing a mediator who speaks the same language as those in the conflict would be a logical criteria. Appointing a West African, Bassolé, whose first language is French and who has little experience in conflict in Arabic-speaking Sudan has been an obstacle to peace rather than

⁶⁴ Cable 10ADDISABABA288, AU SUMMIT - A/S FOR AFRICAN AFFAIRS CARSON MEETS, US Embassy Addis Ababa, 11 Feb 2010, <http://wikileaks.ch/cable/2010/02/10ADDISABABA288.html>, accessed 14 Feb 2011.

an advantage.⁶⁵ Similarly, English-speaking Mbeki and Kibaki have an inherent disconnect from the parties they worked with in French-speaking Cote d'Ivoire; Mbeki also faces this problem in Arabic-speaking Sudan. This is obviously an issue not consistently taken into consideration by the organizations and persons which appoint lead mediators.

Crafting a 'joint' structure, which may seem from the outside to be a logical strategy, is not as workable as it seems. The Darfur negotiations in Doha emerged as a joint attempt by the AU and UN. This was, however, a function of circumstances rather than favourable decision making. The AU failed in its early peace process in Abuja, but would not accept the public humiliation of having the process taken away from them completely, leading to the 'joint' nature. In reality, the process is dominated by the UN and the AU complains bitterly that the Darfur joint mediator does not report to them.⁶⁶ Joint Mediator Bassolé has not taken a strong lead in the effort or clarified the long-term strategy of the process. Being a lead mediator without the stature of a former head of state, one of the participant groups noted that he was often disempowered by the host nation, Qatar, in favour of implementing their own agenda.⁶⁷

The example shows that the joint nature does not resolve the coordination problems, and that the choice of a joint mediator may require even more careful attention than the choice of a single mediator from one lead institution. Bassolé and Chissano lacked the ability to coordinate and manage the contending international regional influences and the skill to run an effective peacemaking effort that builds confidence among the parties and earns their trust. An effective joint mediator must be in a position to do so, and to keep all of the supporting organizations on board with the process and feeling adequately included in decision making.

Having considered the effectiveness of other mediators, including Thabo Mbeki and Kofi Annan, among others, in the examples in Chapter 3, I will not do so here again. This analysis can however help to support the conclusion that the persons appointed to be lead mediators by the AU and the sub-regional organizations are not always sufficiently qualified to handle the task. Language differences, unfamiliarity with the conflict and a lack of strong commitment to seeing out lasting, fully resolved solutions have been common factors in many African peacemaking attempts, perhaps with the exception of Kenya.

⁶⁵ *Ibid.*

⁶⁶ Nathan, interview by author, 2010.

⁶⁷ JEM Secretariat for Media, "JEM Takes Stock of Recent Development and Conspiracies." 5 July 2010.

Resultant problems with the approach to peacemaking in Africa

Regardless of the level of institutional development within a region, regional organizations are still made up of member states that are continually pursuing their own national interests. These national interests, which regularly come into conflict with the interests of other member states, often lead to political compromises being made at the highest level of regional institutions.⁶⁸ Compromises, however, do not provide solid support for mediators, who are faced with accommodating non-compatible policies in what needs to be a consistent and coherent peacemaking effort. The nature of the institutional relationship which absorbs all these compromises leads to a watered-down and piecemeal approach being utilized. A regional approach to peacemaking can prove to be advantageous, but the coordinating regional organization must find a method to merge these interests into one coherent approach.

Further, Sesay argues that regional groupings which do not stress the importance of democratization and good governance, as the most fundamental and responsive conflict management system, will not be successful.⁶⁹ Some consensus on democratization is a precondition for sustainable regional cooperation,⁷⁰ the lack of which causes frictions where there is a lack of appropriate structures for institutionalized political cooperation.⁷¹ Combined with African statesmen's tendency towards 'pragmatic solutions' and consensus, policies on democratisation often revolve around the lowest common denominator. Where consensus on democracy is weak, as it is in most of the regions, sub-regional peace interventions are, consequently, often aimed at stopping immediate violence, but do little to solve the underlying governance problems and ensure long-term stability. Zimbabwe stands as a stark example of the lack of political will in SADC and the AU to stand up for democratic governance, human rights and lasting solutions.⁷² Without these regional organizations achieving consensus on upholding these principles, they have been unable to consolidate lasting peace.

⁶⁸ Crocker, Hampson and Aall, 1999, p. 55.

⁶⁹ Amadu Sesay, "The Role of ECOWAS in Promoting Peace and Security in West Africa," *DPMN Bulletin*, IX, 3 June 2002.

⁷⁰ L. Fawcett, "Regionalism in historical perspective," In: *Regionalism in world politics*, edited by L. Fawcett and A. Hurrell. Oxford: Oxford University Press, 1995, pp. 27, 30.

⁷¹ Abdelwahab El-Affendi, "The Perils of Regionalism: Regional Integration as a Source of Instability in the Horn of Africa?" *Journal of Intervention and Statebuilding*, 3: 1, 2009, p. 14.

⁷² Merle Lipton, "Understanding South Africa's foreign policy: the perplexing case of Zimbabwe," *South African Journal of International Affairs*, 16(3), pp. 336-8.

The application of a ‘liberal peace’ approach in African peacemaking interventions has established ‘negative peace’ through agreements that simply settle the division-of-power issues within the state structure, but do not manage to address the fundamental causes of the conflict.⁷³ The liberal power-sharing solution only yields compromises within and between ethnic and/or political elites and their factions.⁷⁴ Such technocratic interventions tend to encourage simplistic ‘good governance’ changes or surface-level modifications without breaking down the underlying feelings of hatred, grievance, and mistrust that exist between the parties.⁷⁵ This approach also fails to reconfigure politicized ethnic identities which are at the heart of many African intra-state conflicts.⁷⁶ Any peace process in Africa must consider the reality of Africa’s ethnic divisions, which can be harnessed if the proper institutional arrangements are instituted during peacemaking.

Power-sharing solutions also leave certain disputes and issues to be further worked out by the parties when they get to the actual work of governing. These disputes are often major and can threaten a return to conflict after the agreement is made, as was seen in the tension in Kenya’s and Zimbabwe’s GNUs,⁷⁷ as well as between the parties in Madagascar after signing their initial power-sharing solution.⁷⁸ Conflict did in fact return to Cote d’Ivoire in 2010 after the OPA of 2007 failed to solve the underlying conflict issues that re-emerged after national elections. Mediations completed without careful planning for implementation and continued regional involvement can prove dangerous. Despite this poor record, the man who seems to be Africa’s most popular mediator, Thabo Mbeki, continues to suggest power-sharing based solutions. There is, therefore, a need for the AU and the sub-regional organizations to improve their approach to creating power-sharing solutions that leave some of the most difficult issues to be worked out in the future, when the mediating organizations have ‘completed’ their work and left the scene.

⁷³ Johan Galtung, *Peace by peaceful means: peace and conflict, development and civilization*. Oslo: International Peace Research Institute, 1996; and Royce Anderson, “A definition of peace. Peace and Conflict.” *Journal of Peace Psychology* 10 (2), 2004: 106, as cited in Hagg and Kagwanja, 2007, p. 23.

⁷⁴ Hagg and Kagwanja, 2007, p. 23.

⁷⁵ John Darby & Roger Mac Ginty, “Introduction: What Peace? What Process?” In *Contemporary Peacemaking: Conflict, Peace Processes and Post-War Reconstruction*. 2nd ed. Edited by John Darby & Roger Mac Ginty. Basingstoke: Palgrave Macmillan, 2008, p. 5.

⁷⁶ Hagg & Kagwanja, 2007, p. 25.

⁷⁷ See Andreas Mehler’s discussion of power-sharing in Africa in “Peace and power sharing in Africa: A not so obvious relationship,” *African Affairs*, 108/432, 2009, pp. 453–473.

⁷⁸ Power sharing agreements were signed in Maputo in August 2009 and Addis Ababa in November that brought together the four political movements of Rajoelina, Ravalomanana and two other former presidents. Despite this, Rajoelina hindered implementation, and then unilaterally cancelled the agreements. International Crisis Group, “Madagascar: Crisis Heating Up?” 2010, p. 16.

The Zimbabwe GPA, birthed by SADC, is one example of a limited peace. The issues of transitional justice, healing and national reconciliation were completely left out of the agreement, in a country that would be best served by addressing and overcoming deep past wounds and grievances from both the colonial and post-colonial periods.⁷⁹ SADC's mediation did little for victims, allowing Mugabe's impunity for human rights violations, including rape, torture and murder, to continue. SADC conflict resolution methods are only carried out using *track one* (state-based) diplomacy which leaves out the voices of citizens and parliaments within member states.⁸⁰ While the domestic political constraints and economic factors do continue to make it nearly impossible to consider any type of transitional justice process,⁸¹ the regional stance seems to only continue to aid and abet this situation rather than trying to challenge it.

Furthermore, AU peace interventions 'focus on political settlements, rather than holistic interventions that are imperative in order to achieve lasting peace,' such as effective transitional institutions and democratic consolidation, as well as transitional justice mechanisms.⁸² It is important that the mediators do not aim at just achieving a peace agreement, but work at understanding the deep roots of the conflict and how to slowly move towards a more peaceful society where the parties can coexist together in the future.⁸³ Since these ideas are not yet present in the AU mediation examples discussed here, where power-sharing and transitional arrangements between previous enemies are, in fact, an emerging norm, it is safe to declare that the AU nor its sub-regional partners have yet seriously considered its approach to peacemaking and how to better carry out these tasks.

The nature of African mediation as illustrated here, largely based on power politics and high diplomacy, lends to mediation strategies that put pressure on the disputant parties through threats, admonitions and sanctions. This power-based strategy is not conducive to solving the underlying complexity and real grievances found in national conflicts. It also generally ignores the parties' natural feelings of distrust and animosity, common to national and local conflicts,

⁷⁹ Shari Eppel & Brian Raftopoulos. "Political Crisis, Mediation and the Prospects for Transitional Justice in Zimbabwe." *Oxford Transitional Justice Research Working Paper Series*. 18 Dec 2008, p. 1.

⁸⁰ Francis K. Makoa, "Conflict Resolution in Southern Africa: Trading Democracy for Regional Peace?" in *The Quest for Peace in Africa: Transformations, Democracy and Public Policy*, edited by Alfred G. Nhema. Addis Ababa, Ethiopia: OSSREA, 2004, p. 94.

⁸¹ Eppel & Raftopoulos, 2008, p. 12.

⁸² George Mukundi Wachira, "Advocating for the Adoption of a Holistic Transitional Justice Policy at the African Union," presented at the African Transitional Justice Research Network Workshop "Advocating Justice: Civil Society and Transitional Justice in Africa," Johannesburg, South Africa, 30–31 Aug 2010.

⁸³ Mason, "Mediation in African Peace Processes..." 2008, p. 20.

which must be overcome to foster reconciliation.⁸⁴ These solutions may even be postponing conflict that is likely to re-erupt later. A confidence-building approach and low-power mediation would often be better suited to resolve the intra-state conflicts that the AU and sub-regional organizations are dealing with,⁸⁵ although this is rarely taken into consideration.

Reflecting on African peacemaking

Many mediation efforts continue to suffer from generic weaknesses discussed here that are not necessarily related to the sub-regional relationship, including poor understanding of the conflict, the creation of poor agreements that cannot be implemented and a broader problem of the disconnect between the mediation and more long-term and comprehensive strategies for bringing lasting peace to a conflict. However, a 'lack of diplomatic unity and other sources of leverage behind mediation; [and] confused regional diplomacy' absolutely contribute to the unsuccessful outcomes of many peace processes.⁸⁶ Uncoordinated and pressurised efforts, featuring competitive mediation and strained institutional relationships, are the most likely to end in a minimalist agreement (if they even do) with limited provisions for continuing support for implementation and lasting consolidation of peace. The minimalist agreements that came out of the African peacemaking efforts in Zimbabwe, Kenya, Cote d'Ivoire, Madagascar and Darfur, where the parties were pressured into signing and not often fully committed to future cooperation and peaceful coexistence, illustrate this point.

⁸⁴ Hagg and Kagwanja, 2007, p. 24.

⁸⁵ Nathan, 2010, p. 3.

⁸⁶ Whitfield, 2010, p. 10.

CHAPTER 5 – Conclusions

Before concluding this work, it is prudent to again consider the circumstances of regional peace and security efforts: an organization is composed of member states which retain their sovereignty and are ultimately responsible for the authorization, political decision-making and support for a regional organization's efforts. Therefore the organization's effectiveness remains beholden to the member states' will and whether the organization has built the requisite 'political trust and cohesion' to make it effective in peacemaking.¹ While this reminds us that it is Africa's leaders who hold the ultimate responsibility for initiating and supporting successful peacemaking, this thesis has contended that having coherent and professionally functioning regional organizations to carry out peacemaking are also essential in this task.

The relationship between the AU and the sub-regional organizations remains weak and non-institutionalized, shown in the lack of consistent rules or patterns in the AU's regional peacemaking approach. The principle of subsidiarity is not consistently enforced and there is no agreed upon method for deciding which organization has the 'comparative advantage,' nor is the AU effectively carrying out its proposed mandating and coordination functions. In each case, who has the primary responsibility varies depending on the strength and capacity of the sub-regional organization, the political will of member states, external motivations and commitments, and other less predictable factors. The 'architecture' has not yet been firmly put into place and peacemaking efforts still remain nearly as *ad hoc*, idiosyncratic and reactive as in the past, confirming that the trend in peacemaking from the time of the OAU to the AU is one of continuity rather than considerable change. It is unclear whether the AU, with its internal tensions and problematic relationships, is yet in a position to effectively manage peacemaking.

Increasing mediation capacity has become a major focus of the AU and the sub-regional organizations, which is evident in the increasing number of training and joint-cooperation sessions being held concerning these issues.² ECOWAS's ECPF lays out plans to build mediation facilitation capacity to promote more professional and skilled mediation services within the Commission. It also calls for the improved provision of resources and secretariat

¹ Nathan, "The Peacemaking Effectiveness of Regional Organisations," 2010, p. 3.

² For example, the Mediation Support Project (a joint venture between Swisspeace, Berne and the Center for Security Studies) offered mediation trainings to IGAD member states in 2010, as well as parties to the Darfur mediation in 2008, <http://peacemediation.ch/tailor-made/>, 20 Feb 2011.

services, capacity-building workshops and trainings on conflict analysis and resolution skills for mediators.³ The AU has undertaken similar endeavours to build its mediation support capacities.⁴

Despite this step forward, the entire process of peacemaking and mediation is still hamstrung by the unclear and harmful effects that spring from the practically unregulated relationship that exists between the AU and the sub-regional organizations. Head mediators, normally sitting or past heads of state or foreign ministers, chosen on an *ad hoc* and politicized basis, are not likely to take part in this professionalization process. More importantly, these mid-level management improvements will not filter up to the high-level political decision-making bodies of the organizations. For this reason, many African initiatives, especially those plagued by competitive mediation, institutional rivalry and incoherency, appear to be more thoughtfully labelled as ‘meddling’ rather than mediating.⁵ Without the necessary resources, leverage and unity of effort required for effective peacemaking, piecemeal and ill-conceived peace processes can actually hinder peace and create set-backs, such as increasing divisions within the parties or making parties lose faith in the serious nature of the third-party process.

Recommendations for the AU and sub-regional organizations

This thesis does not wish to suggest that AU and sub-regional peacemaking is doomed to failure or unable to overcome these challenges. However, it would be wise for the AU and the sub-regional organizations to revisit the topic of their relational principles. While the MoU was a step forward, it still contains gaps that have become more-than-obvious as the organizations have clashed and come to a head over recent peacemaking efforts that required collaborative and joint efforts. Special consideration should be paid to elaborating the concept of ‘comparative advantage,’ over the notion of subsidiarity that now only stands to support politically-motivated assertions of leadership when convenient. The organizations should also work to make these decisions in a more transparent manner, expressing the logic of their reasoning.

The Working Group which took part in the AU seminar on enhancing the AU’s mediation capacity suggested that one general rule cannot be stipulated that says which organization should always be the lead. They did however conclude that principles and shared

³ *The ECOWAS Conflict Prevention Framework* (2008).

⁴ The AU organised the seminar “Towards Enhancing the Capacity of the African Union in Mediation” at the AU Commission of the African Union in October 2009. Before the seminar it hosted a series of consultations with varied stakeholders to compile lessons and recommendations on mediation in Africa.

⁵ Khadiagala, 2007, p. 6.

standards can be established depending on the circumstances, available resources and views of member states and the conflicting parties.⁶ The guidelines for considering which organization may have a comparative advantage could include: ‘intimate knowledge of the conflict and history; personal relations with the parties that will ease contact; unity or cohesion of the organisation in relation to the conflict; [and] acceptance from disputant parties.’⁷ While this will hopefully lead to some consensus on who should be the lead actor, there must also be some procedural rule and process in the case that the decision is contested, hence requiring rapid consultative meetings between high-level decision makers within the relevant organizations, concluding in one clear and united position.

Moreover, the process for choosing a lead mediator and mediation team, now often done by simply looking to appoint available retired heads of state and diplomats, needs to be institutionalized and governed by sensible criteria. Laurie Nathan has suggested that mediators should rather be considered based on the following qualifications:

- Skill in peacemaking acquired from familiarity with mediation techniques;
- Credibility with the conflicting parties;
- Language proficiency in one of the major languages spoken by the parties;
- Full-time availability throughout the mediation process;
- Personal attributes including analytical ability, problem-solving skills, sound political judgment, and facilitations skills.⁸

Finding the ideal mediator which meets all of these criteria may not always be possible, but rather than continuing with the current approach of sending ill-suited mediators who may actually make the situation worse, more consideration must be put into appointing persons who have the leverage, personal attributes and skills to do the job well.

Recommendations for further research

As referred to in the discussion on the Darfur peace process, the developing relationship between the UN, the AU, and the African regional organizations is another institutional layer that should be further examined in these new cases. The UN, although attempting to implement

⁶ Nathan, 2009, p. 19.

⁷ Govender & Ngandu, 2010, p. 23.

⁸ Nathan, “Towards a New Era in International Mediation,” 2010, p. 2.

burden-sharing and allow African organizations to take the lead, still plays a major role in peace processes in Africa. This thesis focused on African sub-regional organizations and the AU because there is less literature on this emerging trend, but further research aiming to look at the entire global relationship would be an important contribution to the subject of institutional cooperation in peacemaking in Africa.

This thesis has also largely remained focused on the peacemaking process and has not concerned itself with implementation or more long-term and comprehensive peacebuilding efforts. Further research could extend analysis of the sub-regional institutional relationship to these varieties of peace operations. The problem of ‘hand-off’ between the time of forging an initial agreement and implementing the agreement, while noted in the literature,⁹ seems extremely problematic for Africa’s sub-regional organizations. Including IGAD in Sudan, the AU in Burundi and ECOWAS in Liberia and Sierra Leone, regional participation and commitment often drops off after an agreement has been forged, leaning on the UN or other international partners to finance and lead long-term efforts. Problematising this development and exploring how the regional organizations can better contribute their regional capacities through all stages of conflict management and peacebuilding is another substantial area of inquiry.

Conclusion

The recent cases of peacemaking attempts in Zimbabwe, Kenya and Cote d’Ivoire have illustrated some strengths of regionally-led peacemaking, but also some of the pitfalls that plague these efforts. Unclear principles and the complexities of coordinating multiple potential peacemakers are not the only challenges confronting African peacemaking. However, this thesis has established that there are still fundamental problems with the institutional relationship between the AU and sub-regional organizations in Africa and that these unclear working relationships and lines of authority are a major factor unnecessarily undermining peacemaking success. While political factors, unexpected turns of events and personal relationships cannot ever be totally controlled for or eliminated in peacemaking, the AU and African sub-regional organizations must take concrete steps to professionalize, improve on and systematize their relationships in order to move beyond the *ad hoc*, politicized and reactive nature that has continued to characterize peacemaking in the AU’s first decade of operation.

⁹ Crocker, Hampson and Aall, 1999, p. 675.

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