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AU and SADC Involvement in Conflict Resolution in the Democratic Republic of Congo (DRC): Testing the AU's Principle of Non-Indifference

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Faculty of Humanities
Department of Politics and International Relations
The University of Johannesburg
Johannesburg, South Africa

Supervisor: Professor Chris Landsberg
Co-Supervisor: Dr. Lesley Masters
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DEDICATION

This dissertation is dedicated to God, the almighty Creator, and to my Parents. My mother, Ma Andungyen Esther and my late father Pa Andungyen John Asumbeng. I also dedicate this dissertation to my large family starting with my brothers and sisters, particularly my elder brother Mr. Asumbeng Ernest.
DECLARATION
I hereby declare that this is my own work and all the sources used were referenced correctly.

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<tr>
<th>Acronym</th>
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<tr>
<td>A.A.P.C</td>
<td>All African Peoples Conference</td>
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<td>ADB</td>
<td>African Development Bank</td>
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<td>ADF</td>
<td>Allied Democratic Forces</td>
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<td>ADR</td>
<td>Alternative Dispute Resolution</td>
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<td>AEC</td>
<td>African Economic Community</td>
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<td>AFDL</td>
<td>Alliance of Democratic Force for the Liberation of Zaire</td>
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<td>ALiR</td>
<td>Army for the Liberation of Rwanda</td>
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<td>ASF</td>
<td>African Standby Force</td>
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<td>AU</td>
<td>African Union</td>
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<td>AUPSC</td>
<td>African Union Peace and Security Council</td>
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<td>AUPEP</td>
<td>African Union Panel of Eminent Persons</td>
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<td>CA</td>
<td>Constitutive Act</td>
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<td>CAR</td>
<td>Central Africa Republic</td>
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<td>CIA</td>
<td>Central Intelligence Agency</td>
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<tr>
<td>C.I.A.S</td>
<td>Conference of Independent African States</td>
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<td>CEN-SAD</td>
<td>Community of Sahel Sahara States</td>
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<tr>
<td>CEWS</td>
<td>Continental Early Warning System</td>
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<tr>
<td>CNDP</td>
<td>National Congress for the Defense of the People</td>
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<td>CR</td>
<td>Conflict Resolution</td>
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<tr>
<td>DDR</td>
<td>Demobilisation, Disarmament and Reintegration</td>
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<tr>
<td>DRC</td>
<td>Democratic Republic of Congo</td>
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<tr>
<td>EAC</td>
<td>East African Community</td>
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<tr>
<td>ECCAS</td>
<td>Economic Community of Central African States</td>
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<td>ECOWAS</td>
<td>Economic Community of West African States</td>
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<td>Acronym</td>
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<tr>
<td>ECOMOG</td>
<td>Economic Community of West African States Monitoring Group</td>
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<td>EU</td>
<td>European Union</td>
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<tr>
<td>FARDC</td>
<td>Democratic Republic of Congo Arm Force</td>
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<td>FDLR</td>
<td>Democratic Forces for the Liberation of Rwanda</td>
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<td>FIs</td>
<td>Financial Institutions</td>
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<tr>
<td>FLS</td>
<td>Frontline State</td>
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<td>GLR</td>
<td>Great Lakes Region</td>
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<td>ICC</td>
<td>International Criminal Court</td>
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<td>ICD</td>
<td>Inter-Congolese Dialogue</td>
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<td>ICGLR</td>
<td>International Conference on the Great Lakes Region</td>
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<td>IFIs</td>
<td>International Financial Institutions</td>
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<td>IDPs</td>
<td>Internally Displaced Persons</td>
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<tr>
<td>IGAD</td>
<td>Inter-governmental Authority on Development</td>
</tr>
<tr>
<td>IMF</td>
<td>International Monetary Fund</td>
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<tr>
<td>INGOs</td>
<td>International Non-Governmental Organisations</td>
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<td>ISDSC</td>
<td>Inter-State Defence and Security Committee</td>
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<td>ISPDC</td>
<td>Inter-State Politics and Diplomacy committee</td>
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<tr>
<td>LoN</td>
<td>League of Nations</td>
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<tr>
<td>LRA</td>
<td>Lord’s Resistance Army</td>
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<td>MDC</td>
<td>Movement for Democratic Change</td>
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<td>MDP</td>
<td>Mutual Defence Pact</td>
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<td>MLC</td>
<td>Movement for the Liberation of Congo</td>
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<tr>
<td>OAU</td>
<td>Organisation of African Unity</td>
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<tr>
<td>ODM</td>
<td>Orange Democratic Movement</td>
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<tr>
<td>OPDS</td>
<td>Organ on Politics Defence and Security (SADC)</td>
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<tr>
<td>OPDSC</td>
<td>Organ on Politics Defence and Security Cooperation</td>
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<tr>
<td>Abbreviation</td>
<td>Full Form</td>
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<tr>
<td>PAC</td>
<td>Pan-African Congress</td>
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<td>PNU</td>
<td>Party of National Unity</td>
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<tr>
<td>PSC</td>
<td>Peace and Security Council</td>
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<tr>
<td>PSCF</td>
<td>Peace, Security and Cooperation Framework</td>
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<tr>
<td>RCD</td>
<td>Congolese Rally for Democracy</td>
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<tr>
<td>RCD-ML</td>
<td>Rassemblement Congolais pour la Démocratie -Kisangani-Mouvement de Libération</td>
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<tr>
<td>RECs</td>
<td>Regional Economic Communities</td>
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<td>RMs</td>
<td>Regional Mechanisms</td>
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<td>RPA</td>
<td>Rwanda Patriotic Army</td>
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<tr>
<td>R2P</td>
<td>Responsibility to Protect</td>
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<tr>
<td>SADC</td>
<td>Southern African Development Community</td>
</tr>
<tr>
<td>SA-DRC BNC</td>
<td>South African-Democratic Republic of Congo Bi-National Commission</td>
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<tr>
<td>SSR</td>
<td>Security Sector Reform</td>
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<tr>
<td>UMA</td>
<td>Arab Maghreb Union</td>
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<tr>
<td>UPDF</td>
<td>Uganda People’s Defence Force</td>
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<td>UN</td>
<td>United Nations</td>
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<tr>
<td>UNIB</td>
<td>United Nations Intervention Brigade</td>
</tr>
<tr>
<td>UNITA</td>
<td>União Nacional Para a independência Total de Angola</td>
</tr>
<tr>
<td>UNSC</td>
<td>United Nations Security Council</td>
</tr>
<tr>
<td>MONUSCO</td>
<td>United Nations Stabilisation Mission in the DRC</td>
</tr>
<tr>
<td>WB</td>
<td>World Bank</td>
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<tr>
<td>WNBF</td>
<td>West Nile Bank Front</td>
</tr>
<tr>
<td>ZANU-PF</td>
<td>Zimbabwe African National Union-Patriotic Front</td>
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ABSTRACT

The establishment of the OAU as a continental agency was motivated by the bid to uproot colonialism and secure Africans by helping them achieve freedom. The agency was also mandated to deal with poverty and conflicts that the continent was facing and bring about good governance that would enable prosperity and peace to take place. While the OAU succeeded in uprooting colonialism, it however, failed to deal with African conflicts and this failure was attributed to the non-interference principle which prevented it from interference into domestic affairs of its member states. This necessitated the paradigm shift from the OAU and its principle of non-interference to the AU and the establishment of non-indifference as the new principle. The study investigated the viability and applicability of the non-indifference principle in dealing with African conflicts. Through the use of the DRC conflict as case study, the study affirms that the principle is viable and if applied in support with the RECs where the conflict is occurring, it has the ability not only stopping the conflict but also dealing with it, therefore, bring about stability. To arrive at these validations, the study adopted a qualitative research methodology with exploratory and case study techniques.
CHAPTER ONE

INTRODUCTION TO THE STUDY

1.1 Background

The prevalence of African conflicts and the continued search for socioeconomic development, good governance, democracy and economic growth supported a move from “Organisation of African Unity’s” (OAU) and its policy of “non-interference”, to the African Union’s (AU) and its principle of “non-indifference” in 2002. This also saw the formation of the AU Peace and Security Council (AUPSC) in 2004 as an institution under the AU mandated with the objective to “promote peace, security and stability”.¹ Since the adoption of the AU’s principle of non-indifference and the strengthening of its regional economic communities (RECs),² the AU and its regional economic communities purposed to work together to end African conflicts. Despite this focus, there are lingering questions regarding the effectiveness of the AU in pursuing these goals, and whether the principle of non-indifference has applicability in the AU and its relationship with RECs. In assessing the application of the AU’s principle of non-indifference in a regional context this analysis considers SADC’s role in the Democratic Republic of Congo (DRC) conflict. That is, the study will demonstrate the relationship and collaboration of AU and SADC in the region, and the AU in dealing with the DRC conflict.

Although, the OAU “establishment of a commission of mediation, conciliation and arbitration”,³ but due to its principles of “non-intervention, respect for sovereignty and territorial integrity of the member states internal affairs”⁴ weakened the ability of the OAU, hence became difficult to manage conflicts on the continent and to bring about sustainable peace for past decades.

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¹ AUPSC Protocol, (2002), Article 3 (a)
² The RECs include the East African Community (EAC), the Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS), Community of Sahel Sahara States (CEN-SAD), the Inter-Governmental Authority Development (IGAD), the Southern African Development Community (SADC) and the Arab Maghreb Union (UMA)
³ Organisation of African Unity (1963), Charter
⁴ Ibid.
As Amoo asserts, contrary to the hopes held by many Africans, the removal of colonialism did not bring about an era of peace, stability and socio-economic progress. He further argues that “since 1960, the watermark year of Africa's independence, the African region has been plagued by conflicts and widespread destruction of life, limb and property”. In his work, Maurizio argues that in the years immediately following independence, the OAU geared itself to encourage solidarity as the defining factor of the African states and preserved their sovereignty. Nevertheless, due to the fear of not involving in the domestic affairs of its member states, the OAU became unable to end African conflicts, and avoid genocide on the continent.

While many countries particularly, in the third world countries experienced dictatorial leadership, this led them to development. Literature depicts that dictatorship is the best way to the development in the sense that it enhances economic and human development. Artige further argues that dictatorial leadership built on strong institutions controls the elements of discipline and order in society. However, in Africa due to lack of political will and patriotic leaders, and leadership built on strong institutions, dictatorship instead of bringing development and security, it brought about violent conflicts and wars. Omotola points out that, a number of African states have been victims of political instability or coups because of the unconstitutional changes that are brought about by the dictatorial regimes that marginalised the poor masses, while Ajala notes that the failure of the OAU to addressed African problems has led to wars, poverty and insecurity within the continent. As it can be seen from the preceding, strife followed independence. Conflicts that arose in the post-Cold War era on the African continent were viewed by the OAU as internal issues, which needed no intervention in the member state’s affairs. Indeed, Article 3(2) of “the OAU Charter states” the “non-interference in the internal affairs of member”. Kissinger and Eghweree, argue that the principle of non-intervention actually bred dictatorial regimes and conflicts that have led to the gross human right violations on the continent.

---

5 S. G. Amoo (1992), p. 1
6 Ibid.
7 M. Carbone (2002)
8 L. Artige (2004)
9 Ibid.
10 S. Omotola (2011), pp. 10-20
12 OAU Charter, 1963
depicts that in many cases dictatorship is a better path to development and Kissinger supported Mobutu because, he believes that Mobutu as a dictator was going to lead the country to the path of development; but Kissinger may have been disappointed with Mobutu leadership in the DRC. Example includes the actions of Gen. Mobutu in former Zaire who became a dictator, the conflict in Burundi, and the 1994 Rwanda Genocide.

As the OAU failed to provide peace, security and stability because its policy renders the agency weak, the culture of impunity and gross human right violations became a norm. With the collapse of the “Berlin Walls” in 1990s, and the changing nature of the international politics, the need for the transformation became inevitable. This transformation led to the paradigm shift from the OAU to the AU. Tim Murithi and Angela Ndinga-Muvumba argue that at the dawn of the 21st century African leaders came together in Durban, South Africa, to lay a foundation which led to the formation of the AU. On 9th July 2002, “the AU was inaugurated as the continent’s paramount Pan-African institution”. Kay Mathews argues that “the AU was born out of a longing to revitalise a marginalised and exploited continent that has been ravaged by centuries of slavery and the trans-Atlantic slave trade, colonialism, neo-colonialism, exploitation, oppression, conflicts and hunger”. It was created and established in order to overcome the anomalies that led to the OAU shortfalls in bringing hope for Africa’s people. When the change from the OAU to AU was effected, some African presidents (Nigeria, Senegal and South Africa) persisted with the idea that sovereignty should not be used to torture, violate people’s human rights, and entrench a culture of impunity. This is the reason that led to establishment of the AU and the policy of non-indifference. A principle that does not tolerate sovereignty of its member states provided that peace and security is threatened. Hence, the next section discusses the shift from the “non-interference to non-indifference” policy.

1.2 From non-interference to non-indifference

One can ask themselves why the new principle of “non-indifference”? This is because as discussed, the principle of non-interference under the OAU was challenged by the African conflicts, and it failed to prevent conflicts and genocides so that Africa can enjoy peace,

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15 Ibid.
16 K. Mathews (2008), p. 25
17 M. Carbone (2002), p. 30
stability and good governance. This is because its principle prevented the agency from dealing with conflicts by involving itself in the domestic affairs. Christopher Clapham alluded that most African leaders demanded to guarantee their individual continued existence by using the state apparatus such as the military and judiciary for their own protection. More so, others use tax payer’s money for self-enrichment at the detriment of the population of their countries.\(^\text{18}\) While the masses who wanted to oppose such leaderships are been abused and even jailed using these state’s apparatus. This means that African leaders became dictators; others became demi-gods, and therefore could oppress their own people while the OAU characterized this as the internal affairs of the state. The AU principle of Non-indifference, however, means that the agency does not need to stand by watching where African leaders are oppressing their people, but can intervene. The AU Constitutive Act of 2000, Article 4(h and j) “legally mandates the Union to intervene in cases of grave circumstances, namely, war crimes, genocides and crimes against humanity in any of its member state; and to respond in cases where a party has issued an invitation to crisis situation”.\(^\text{19}\) Conflict resolution is then an important test of the Union’s application of the principle.\(^\text{20}\) The core focus of this study is to access the viability of the AU principle of non-indifference, whether it has filtered into the work of the RECs as the regional blocks of the institutions, and how this has been applied in conflict resolution in Africa. In order to critically understand this principle, the study critically examines the Democratic Republic of Congo (DRC) conflict and investigate how the SADC and the AU worked together to end the crisis.

The principle of non-indifference provides the mandate for the AU to intervene in any conflict that jeopardises the “peace and security on the continent”. Since its inception, the AU, through its “Peace and Security Council (PSC)” architecture has embarked on peace-building, mediation, early warning mechanism, conflict resolution, preventive diplomacy, peacemaking, negotiation, and an electoral body which oversees elections in different African states and peacekeeping operations to stabilise the conflict in Burundi, Comoros, Central African Republic (CAR), DRC, Kenya, Cote d’Ivoire, Mali, Somalia and Sudan. Through this principle, the AU denounces impunity, political killing and “unconstitutional

\(^\text{18}\) C. Clapham, (1996), pp. 4-5
changes of government”. In practice, however the AU implementation of its principle of non-indifference appears limited as conflict continues to affected areas on the continent, with continued acts of terror, ongoing wars, and xenophobia still devastating the continent.

1.3 Rationale, aims and objectives of the analysis

The rationale of this study is to understand the applicability of the AU principle of non-indifference at the regional level through an analysis of the AU and SADC joint intervention in conflict resolution in the DRC. In other word to assess whether the AU principle of non-indifference, in collaboration with the RECs is capable of resolving conflicts in Africa. This means that paper aim to examine the applicability of the non-indifference policy approach of the AU in resolving African conflicts. This investigation involves the AU and SADC joint efforts in ending the DRC conflict. That is, to assess the joint intervention of the AU and SADC in the case of the DRC and testing whether the AU’s principle indifference can be used to promote sustainable peace on the continent.

The objectives of this study are threefold: firstly, to shed light on the development of the principle of non-indifference and how it is being implemented by the AU. Secondly, to offer an assessment of whether or not the AU’s principle of non-indifference works with the support of the RECs. Thirdly, to highlight the challenges facing implementation through analysis of the conflict in the DRC.

There is a deficiency in the literature on the application of the “non-indifference” policy of the AU and how this policy is applied to different cases of African conflicts. The central research inquiry this study sets out to answer: to what extent is the AU’s “principle of non-indifference” viable in ending conflicts on the continent, and how was it applied in the DRC conflict, a case that was jointly done by the AU and SADC? In the attempt to answer the central question, the study adopts sub-questions. These sub-questions are as follows:

- Why was the shift from the non-interference to non-indifference principle necessary under the AU?
- What is the principle of non-indifference?

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21 S. Mkhize (2013)
How does this relate to the role of the RECs as regional blocks of the AU?
How was the principle applied in the case of the SADC/AU engagement in the DRC conflict?

1.4 Problem Statement

With the formation of the AU in early 2000, and its mandate to ensure and promote regional peace, the organisation, as its predecessor OAU, failed to bring about sustainable peace on the continent. There has, however, been limited analysis by African scholars on what makes the AU fail in resolving African conflicts despite its focus on non-indifference. There is thus a deficiency in the literature on the “AU’s principle of non-indifference” in crisis situation on the continent.

In the case of the DRC conflict questions arise on whether it was the AU, SADC or coalition of the two that resolved the conflict and whether this intervention was based on the principle of non-indifference. Furthermore, the DRC conflict is an interesting case worthy for testing the AU’s non-indifference principle, because the conflict threatened peace and security in the Great Lakes Region (GLR) involving countries like Burundi, Rwanda, Uganda, Angola, Zimbabwe, Zambia, and Congo Brazzaville. The conflict was bringing threats to the regional stability, and to successfully deal with it, the AU had to exercise its non-indifference policy. For this reason, the resolution of this conflict involved SADC, interventions as well. Similarly, the literature presents a confused understanding in that it is not easy for one to know the role AU played, and that of the SADC. It is not clear to understand which organisation played a significant role in resolving the conflict. It is understood that the second Congo conflict and the resolution of conflict came when the AU principle of non-indifference was not already in action. But it is worthy to also note that the emerging African leaders had begun thinking of ways to abolish the non-interference principle. In this light, Murithi point out that in 1999 African leaders congregated in Sirte, Libya to review the OAU Charter for the sole benefit of the continent. He further notes that the assembly stressed the significance of “strengthening solidarity among African states”.22 Democratic Republic of Congo became a member in SADC in 1997 because of the ability of the organisation to maintain peace and cooperation in the region. SADC has

22 T. Murithi, (2009), p. 90
overwhelmingly involved on the DRC conflict since it became a member of the organisation and since the eruption of conflict in the DRC the organisation has played an active role to resolve the conflict, as it will be illustrated in this study. Therefore, this study comes at timely era to find out whether the AU was in control of the conflict resolution in the conflict, and if yes to understand how its principle was applied during the process.

1.5 The Conceptual Framework

The conceptual framework underpinning this study is that of negotiation and mediation. Conflict resolution is a method of resolving long standing conflict through the process of negotiation, mediation, conciliation and arbitration between two or more parties with the application of a peaceful agreement. The three methods use to resolve protracted conflicts or disputes effectively and efficiently is either competitively (right-based) approach, cooperatively (interest-based) approach and facilitation negotiation. The right-based negotiation is normally used in a legal system to resolve a conflict between two or more disputants to actually prove the party that is right and the party that is wrong. This will lead to “zero-sum” (win-lose) game. At the regional level, AU will apply its principle of non-indifference as a legal policy in initiating the right-based negotiation in any conflict that is affecting the continent.

However, the AU non-indifference principle legal affirmation of intervention in conflict situation in Africa is stemmed from the AUPSC Protocol Article 4(j and k) and Article 4(h and j) of the AU Constitutive Act. These Articles mandated “the right of the Union to intervene in a member state pursuant to a decision of the Assembly in respect of grave circumstance, namely war crimes, genocide and crimes against humanity; and the right of member states to request intervention from the Union in order to restore peace and security”. The above Articles stand as legal parameters for the right-based approach, for the AU to apply its non-indifference principle in conflict affected areas in Africa through Arbitration, conciliation, mediation, negotiation or military intervention.

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25 R. Licklider (2005)  
26 A. Naser (2008)  
The non-indifference principle prohibits any states from violating the rights of its citizens. While the citizens have the right to peace and security provided by the states, the state has the right entrenched in the sovereignty concept that protects it from any external interference in its internal affairs. The study adopts a “right-based” conceptual approach in that this concept will help understand how the AU exercised its right to intervene in any state affected with conflict as spelled in the non-indifference principle. It also helps understand when the AU exercised such a right, therefore be able to understand how the principle of non-indifference was applied to the DRC case. Given that both AU and SADC intervened in the DRC conflict, this theory will help understand whether SADC had a right to intervene and/or work a alongside with the AU in resolving DRC conflict. Hence understand whether AU failed in the first place that is why SADC came to boost the AU’s intervention or the SADC intervened following its own interest in the DRC conflict. The right-based is the method of negotiation between disputants which take the presumption of who is right and who is wrong.28

From the mandate given to the AU, and the implementation of the non-indifference principle, the AU has the right to intervene in any conflict in its member states regardless of the state permission and/or state sovereignty. This takes place against the context of human rights violation, appearance of crimes against humanity, mass atrocities and genocide within a member state. Unlike its predecessor OAU which stood watching when people’s rights and freedom were being violated, the AU through the non-indifference doctrine has got right to violate state sovereignty and rescue people from mass atrocities.

1.6 Literature Review

There is a shortfall in the literature considering the application of the AU’s principle of non-indifference and its collaboration and harmonisation with the RECs in crisis situations across the continent. The literature does, however, address the continental organisation’s move from “the principle of non-interference to non-indifference”.29 Nonetheless, literature fails to argue whether the AU’s principle of non-indifference is viable from a practical perspective.30 For example, the literature focuses on the OAU and its weaknesses. Analysts note that while the OAU succeeded in bringing about the independence of African

28 M. Deutsch (1958)
29 W. Okumu, (2009), pp. 93-111
30 Ibid
states; and the promotion of self-determination and self-governance.\textsuperscript{31} it failed to secure the continent by helping the newly independent states establish principles and structures that would lead to good governance, rule of law and therefore sustainable peace.\textsuperscript{32} This was by and large caused by the approach of “non-interference in domestic affairs of its member states, a principle which formed the backbone of the OAU”. Former Chair of the African Union Commission (AUC), Alpha Oumar Konare, set out a shift from a tradition of non-interference towards non-indifference so as to prevent, resolve and manage the rising conflicts and other social ills that are affecting the continent.\textsuperscript{33}

With the continent still ravaged by the protracted and intractable conflicts, questions were raised about the principle of non-interference which saw a move towards the principle of non-indifference as part of the transformation from the OAU to AU in 2000. The idea of establishing the AU was revitalised by President Muammar al-Gaddafi of Libya in the mid-1990. In September 1999 the Heads of state and government of the OAU issued the Sirte Declaration for the creation of the African Union (AU). This declaration was later followed by the Lome, Togo summits that led to the drafting of the African Union Constitutive Act in 2000.\textsuperscript{34} Solomon Gomes notes that Salim Ahmed Salim the former OAU Secretary General central input to OAU was embedded in the area of “peace and security” and this core input was due to the increase number of conflict in Africa. Salim points out that “there is a need for accountability governments and of their national and international responsibilities” towards conflict resolution; since “every African is his brother keeper”.\textsuperscript{35} Before the end of his mandate as the OAU Secretary General, he actually persuaded the African leaders to create OAU conflict resolution machinery.\textsuperscript{36}

In 1992 the UN-Secretary General Boutros Boutros-Ghali submitted a report titled “The Agenda for Peace” to the United Nations Security Council (UNSC) arguing that there is need for rapid respond in humanitarian intervention in areas of conflict or war. His suggestion was to employ the intergovernmental organisations to provide a fast respond to the threats of peace and security. The report noted four main fields that include “preventive

\textsuperscript{32} T. Murithi (2007), p. 9
\textsuperscript{33} T. Murithi (2009), p. 92
\textsuperscript{34} H. Melber, (2001)
\textsuperscript{35} S. Gomes (1996), p. 41
\textsuperscript{36} \textit{Ibid.}
diplomacy, peacemaking, peacekeeping and post conflict peace building” were identified.\(^{37}\) This shows that the principle of non-indifference should be used by the AU and its RECs to spill out quick preventive measures in maintaining peace and security in the DRC. Mwanasali points out that at the “regional and sub-regional levels”, the continental organisation has put forward a common defence policy framework to bring about peace, security, stability, development and cooperation.\(^{38}\) He also views that:

“Non-aggression or shared defence and support agreements were signed at the regional level, and endeavors were embarked on by the African Union (AU) and virtually all its constitutive regional components to develop and enhance African capacities in dealing effectively with security threats”.\(^{39}\)

The AU’s Strategic Plan, puts forward that the dream of the AU as “an integrated, prosperous and peaceful Africa, driven by its own citizens and representing a vibrant force in the international arena.”\(^{40}\) The desire for development, social justice and human self-reliance centre on the need for sustainable development in Africa, which has brought to the fore a change in approach in the need to intervene in conflict affected areas in Africa.\(^{41}\)

Deng notes that, African traditional intrastate conflicts were resolved traditionally by relatives and elders of that area without any formal invitation to carry out this process.\(^{42}\) For example, in a typical African family conflict the elders will sit the conflicting parties down and listen carefully to the real causes of the conflict on both sides. In the same light some African leaders have taken forward this idea. With the above illustration, President Nelson R. Mandela urged his colleagues at the 1998 OAU Summit in Burkina Faso that “African has a right and a duty to intervene to root out tyranny”.\(^{43}\) Mandela further argued that Africans “must all accept that we cannot abuse the concept of national sovereignty to deny the rest of the continent the right and duty to intervene when behind those sovereign boundaries, people are being slaughter to protect tyranny”.\(^{44}\)

\(^{37}\) B. Boutros-Ghali (1992)  
\(^{38}\) M. Musifiky (2004), p. 2  
\(^{39}\) Ibid.  
\(^{40}\) African Union Strategic Plan (2009), p.11  
\(^{41}\) M. Musifiky (2004), p. 7  
\(^{42}\) R. Ahmed (2011), p. 4  
\(^{43}\) Ibid.  
\(^{44}\) F.M. Deng (2010), pp. 354-356
In this regard, Landsberg in turns noted that, “a new generation of African leaders has finally started to address the post-independence taboos of non-interference and to articulate new norms of non-indifference and democratic governance”.\textsuperscript{45} Corten notes that the initiative caught on rapidly, particularly with the appearance of a “new international world order in which principles like democracy, the rule of law” and respect for human rights was highlighted as key areas of concern.\textsuperscript{46} The necessity to assist peoples in suffering would signify that everyone had a “duty to assist a people in danger”;\textsuperscript{47} which would supersede the “customary principles of non-intervention, the respect of sovereignty and territorial integrity”.

According to Kristiana Powell, the transformation of OAU to AU has brought about significant changes that were put forward in the African perspectives on peace and security. Powell put forward that, “the Constitutive Act of the African Union and its Protocol relating to the establishment of the Peace and Security Council in 2004 has place a renewed emphasis on building a continental security regime capable of preventing, managing and resolving conflicts in Africa”.\textsuperscript{48} This clearly shown that the AU’s approach to conflict resolution is based on the principle of non-indifference which is extremely different from the OAU’s peace and security machineries which was based on its principle. The AU has put an emphasis on its new principle in conflict affected areas in Africa. In the “AU’s Constitutive Act Article 4 (h and J)”; the organisation has the right to intervene in conflict situation for the protection of people from “war crime, genocide and crime against humanity” and the right to intervene on invitation by the state in conflict.\textsuperscript{49} But the problem is the fact that principle has been theoretically written in the books, but a few studies have been conducted to explain its viability and applicability in the resolution of the African conflicts.

In an effort to prepare for the security conditions of the Constitutive Act, the AU is building facilities for “early warning, quick reaction, conflict prevention, management and resolution”. The practice, implementation and sustainability of the non-indifference are the AU approach to conflict resolution which will solely depend on the causes and characteristics of

\textsuperscript{45} C. Landsberg (2002), p. 140
\textsuperscript{46} O. Corten (1991), p. 664
\textsuperscript{47} B. Kioko (2003), p. 808
\textsuperscript{48} K. Powell (2005), pp.4-5
\textsuperscript{49} African Union Constitutive Act, (2000), Article 4(h and j)
the political will of the African leaders. As a result of this, Mwanasali argues that, “the AU Commission has carved out a Strategic Plan and Vision in 2004-2007 to emphasis the magnitude of intervening to promote peace and security as necessary tools for good governance and development”.\(^5\)

Said Djinnit also notes that, “the fundamental shift from the OAU’s principle of non-interference in the internal affairs of member states to the AU’s principle of non-indifference echo the aspiration of qualifying sovereignty and the task to protect human and peoples’ rights”.\(^5\) Hence, for effective and efficient peacebuilding processes in Africa, the AU has developed institution, structures and capacities to resolved conflicts that are affecting the continent. For example, “the Peace and Security Chairperson, Continental Early Warning System, the Panel of the Wise, Africa Standby Force and African Union Panel of Eminent Persons, etc.”. Djinnit also argues that, the AU has made commitments to deliver on the entire spectrum of methods in conflict prevention, resolution and management, instead of deferring responsibility to the UN or other international bodies.\(^5\)

The main focus of AU Peace and Security Council is

> “to promote peace, security and stability in Africa in order to guarantee the protection and preservation of life and properties; the well-being of the people and their environment; as well as the construction of condition conducive for sustainable development; predict and prevent conflicts on the Continent. In circumstances where conflict has already occurred, the PSC shall have the responsibility to undertake serious interventions to resolve the conflict”.\(^5\)

Alpha Oumar Konare too argues that, “the AU emergence was to shift from the non-interference in armed conflict to a new dimension of non-indifference in member states internal affairs”.\(^5\) Through the development of its institutions and structures in meeting the objective of this principle and this has seen the AU partaking in a pivotal role in resolving conflict in a peaceful manner. For example, the political crisis in Zimbabwe and the post-election violence in Kenya.

Tim Murithi acknowledges that the AU has shown a high level of commitment to the principle of non-indifference in the areas of “diplomatic non-indifference; military non-

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\(^5\) M. Musifiky (2004)
\(^5\) Ibid.
\(^5\) AU PSC Protocol (2002), Article 3
\(^5\) P. Williams (2011), p. 1
indifference and the responsibility to protect (R2P)” in conflict affected areas in Africa. The challenge is, however, that AU has failed to collaborate with the International Criminal Court (ICC), to hold the leaders who have committed crimes against humanity, genocide and massive atrocities to mankind to be accountable for their action. African Union is made up of leaders who have committed crime against humanity, cross human rights abuse and genocide and most of them are still suspects of being charge for their crime and as a result of these aforementioned points. Some leaders of the AU may not support the idea of collaborating with the ICC to convict leaders who have committed cross human rights violation. This proves that AU at one point in time do undermined its principle of non-indifference. Example is the President Al-Bashir case in Sudan.

The method of conflict resolution employed by the AU-SADC in the DRC conflict is through peaceful negotiation and mediation, although there was a military intervention by some SADC member states to rescued Kinshasa from been captured by the rebels. The “AU Peace and Security Council Protocol, Article 3(b)” provides for the PSC to take total responsibility in the area of conflict prevention by undertaken peacemaking and peace-building process for conflict resolution. The SADC in its Politics Defence and Security Cooperation Protocol, Article 2(e) provides that in the case of any intra- or inter-state conflict, the conflict should be resolve in a peaceful manner. However, the AUPSC Protocol Article 7(j) and the SADC OPDSC Protocol Article 11 (4e) clearly spell out the harmonisation and collaboration of the AU and SADC in resolving the conflict in a peaceful method.

Cawthra and Van Nieuwkerk assert that “the Southern African region (SAR) has extensive experiences of external involvement in promoting violent conflict and threats to its security”. The liberty struggles from colonialism and Apartheid; civil wars and electoral violence are some of the examples of African conflicts. This has prompted SADC to intervene in any conflicts that are affecting the region, example is the Lesotho Crisis. The SADC intervention in the DRC conflict was carried out in two phases: “the Military

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55 T. Murithi (2009)
56 Ibid.
57 O.C. Ruppel (2009), p. 275
58 SADC Communiqué (1996)
59 Cawthra and Van Nieuwkerk (2004), p. 9
intervention by some SADC member states (Angola, Namibia and Zimbabwe) and the
diplomatic intervention, which was spear-headed by South Africa".60

In the SADC summit meeting held in September 1998; the then Southern African leaders
declared their intention to resolve the DRC conflict in a peaceful manner. The Zambian
President Frederick Chilub a was deployed by SADC to facilitate peace talks, the ceasefire
agreement of the DRC conflict.61 At the SADC Summit in Mauritius in September 1998
Angola, Namibia and Zimbabwe were appreciated for acting well on behalf of SADC in a
military intervention in the DRC and mandated the President Chilub a of Zambia to
negotiation the peace initiatives.62

Later, the OAU deployed the former President of Botswana; Sir Ketumile Masire to head
the mediation process, and his mediation negotiated the Inter-Congolese Dialogue (ICD)
and enhanced the Lusaka Ceasefire Agreement (LCA).63 The two factions were seen in the
“Lusaka Accord as negative forces”; “and the deficiency to reach into agreement on the
issue of power-sharing led to the failure of the ICD and the continuation of conflict in the
DRC”.64 As a result of this failure Sir Ketumile Masire, who was the main facilitator of the
ICD, requested South African President Thabo Mbeki to complete the last minute
negotiation deal.65 The SADC diplomatic intervention in the DRC conflict was influence by
the role played by South Africa. Landsberg notes that South Africa failed to support SADC
military intervention in the DRC and to condemn the intrusion of the Rwandan and
Ugandan rebels in the DRC.66

However, Solomon points out that SADC diplomatic intervention is not seen as self-
sacrifice, but comprises on huge measure of self-centeredness.67 Landsberg in turn notes
that “South Africa’s national interest was defined by its desire to create a stable environment
in the DRC to allow its companies to trade easily and win lucrative contracts”.68 Curtis also

60 C. Alden, and G. le Pere, (2003), pp. 37-54
62 N. Ngoma (2004), p. 8
63 Apuuli (2004), pp.69-70
64 E. Rogier (2004), p. 31
65 Ibid.
68 C. Landsberg (2007), pp. 121-140
acknowledges that South Africa has work extremely hard through its diplomatic negotiator, mediator and guarantor to mediate the DRC conflict to achieve a peace process. SADC military intervention and diplomatic negotiation by Chiluba that led to the LCA indicates SADC commitment to resolve the DRC conflict. Secondly, the OAU/AU appointment of Masire to mediate the ICD was an indication of the applicability of the principle of non-indifference. Thirdly, the appointment of Thabo Mbeki by Masire was supported by the AU and SADC to complete the last deal of the negotiation that led to a successful 2006 presidential election in the DRC. It can be concluded that the transfer of the peaceful negotiation process of the DRC conflict by President Masire to President Mbeki was an evident that proves that AU and SADC jointly applied the AU’s policy of non-indifference.

The more institutional actors are gripping the negotiation of the DRC conflict to obtained peace, security and stability, a sensible consideration needed not merely because of their comparative institutional strengths and weaknesses; but this will give confidence to the complementary efforts and coordination when one actor or institution handover the negotiation responsibilities to the other. Like the case of President Masire who confidently handover its mediation responsibility to President Mbeki to finished the last minute deal of the ICD. In this regards, one can speedily conclude that AU and SADC jointly implemented the “principle of non-indifference” in resolving the DRC Conflict. The complex nature of the DRC conflict has led to complementary and coordination efforts of multiparty mediation or negotiation by actors such as UN, AU and SADC.

Crocker, Hampson and Aall assert multiparty mediation as the “volume of attempts made by many third parties to assist peace negotiations in any given conflict.” This attempt may occur sequentially like the case of President Masire and President Mbeki in the mediation of the DRC conflict. One can argue that the multiparty mediation processes of the DRC conflict actually began with Late President Nelson Mandela of South Africa, who facilitated the dialogue between Mobutu and Kabila in 1996 to 1997, President Chiluba Frederick of Zambia who negotiated the Lusaka Ceasefire in 1999; President Ketumile Masire of Botswana negotiated the ICD from 1999 to 2002 and President Thabo Mbeki of South Africa completed the Masire negotiation of the ICD in 2002 that gave rise to the DRC first

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69 D. Curtis (2007), pp. 257-273
71 Ibid. p. 7
democratic election in 2006 among other important personalities. These are clear indications which show that AU and the SADC were in total collaboration when dealing with the DRC conflict.

In practice, the AU is committed to work closely with other entities to actively prevent conflicts and promote regional peace. As with other African conflicts, the DRC conflict had become systemic and intractable, in that it threatened the international order. It brought critical threats to global stability. The DRC conflict which was an intra-state conflict later became an inter-states conflict with the involvement of ten states and each of these states were funded by an external body; and thus it jeopardises global peace. Another reason that supports this case study is the fact that the AU alongside the SADC harmonised to address the conflict. Therefore, this case study is worth researching in determining whether the AU and its “principle of non-indifference in domestic affairs of its members” are able to bring about sustainable peace and security. Hence, investigating the viability of the AU’s non-indifference principle and SADC intervention in the DRC conflict is timely and worth researching.

1.7 Research Methodology

The study relies on a qualitative research methodology in the form of a case-study approach considering the application of the AU principle of non-indifference and SADC intervention in the DRC. The use of case study approach in qualitative research helps to emphasize on gaining an in-depth understanding and empathetic of a particular unit or incident at a precise time. Carla Willig argues that the case studies approach “are not characterised by the methods used to collect and analyse data, but rather its focus on a particular unit of analysis”. George and Bennett identify a case as “an instance of a class of events” and a case study as “the detail examination of an aspect of a historical episode to develop explanations that may be generalisable to other events”.

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73 C. Williams, (2013), p.81
74 C. Willig (2008), p. 74
75 G. L. Alexander and A. Bennett (2005), p.17
Hancock views the case-study research approach as an approach “used to describe an entity that forms a single unit such as a person, an organisation or an institution”. It can be envisaged as a simple expressive description of a single happening or incidence. Case study approach uses complex social circumstances over an interlude of time in a bid to exemplify the significance that individual social players convey to their social situations. Moreover, case study as an approach in research designs “offers a richness and depth of information not usually offered by other method”.

Eisner points out that a case study approach can produce a figure that is “a vivid portrait of excellent teaching that can become a prototype which can be used in the education of teachers or appraisal of teaching”. Erickson in turn argued that “the general lies in the particular, what we learn in a particular case can be transferred to similar situations but it is the reader, not the researcher, who determines what apply to his or her work”. Hamel also argued that “the case study has basically been faulted for its lack of representativeness and its lack rigidity in the collection, construction and analysis of the empirical materials that give rise to the study. This lack of rigor is linked to the problem of bias introduced by the subjectivity of the researcher and others involved in the case”.

According to Zainal case study research methodology provides in-depth information from the data gathered which gives detailed information on the subject under investigation. Zainal also point out that case study is very specific on the subject under investigation and it explains the intricacies of factual life situation; although it is time consuming.

The data for this study will be collected from all accessible literature and archives on the subject under study; that is primary and secondary sources. These will be collected from books, academic journals, Charters, protocols, reports and declarations; from the University library and other knowledge centres. Other sources of the research will include media and electronic (internet) basis linking to the topic.

76 B. Hancock (1998), p. 6
77 Ibid., pp. 6-7
79 F. Erickson (1986), pp. 119-1961
80 J. Hamel (1993), p. 23
81 Z. Zainal (2007), p. 4
82 Ibid
1.8 Defining of the Concepts
This section defines various key concepts that will be seen in this thesis. These key concepts are peacemaking, peace-building, conflict, conflict resolution, security, collective security and regional organizations.

1.8.1 Conflict
R.W. Mack and R.C. Snyder define conflict as, “a condition involving at least two parties, who have a mutual problem of position or resource scarcity, in which there is a threat designed through the exercise of power to control or gain at the other’s expense”.\(^{83}\) Generally, conflict refers to “a situation where there is some form of friction, disagreement or discord arising within a group when the beliefs or actions of one or more members of the group are either resisted by or unacceptable to one or more members of another group”\(^{84}\) Lewis Coser also defined conflict as “a struggle over values and claims to scarce status, power and resources in which the aims of the opponents are to neutralise, injure or eliminate their rivals”\(^{85}\) scholars such as Karl Marx, C.W. Mills and Horowitz view conflicts as a situation that arises from the social, political or economic inequalities amongst the social group in the political system.\(^{86}\)

1.8.2 Conflict Resolution
Bercovitch, Kremenyuk and Zartman point out that “conflict resolution is about ideas, theories and methods” which policy makers can use to advance their perspectives; and performance of reducing violent conflicts and establish political processes that complement people’s interest.\(^{87}\) Conflict resolution (CR) is therefore viewed as “needs-based, and cooperative based”.\(^{88}\) Normative political assumption view “conflict as a competitive to be won by one side”. Nevertheless, “needs-based conflict resolution theorists build up a supportive advancement to dispute settlement, centering on essential human needs to encourage win-win solution”.\(^{89}\) Generally, conflict resolution involves “the breaking into constituent parts and developing a consonant solution to the problem at hand”.\(^{90}\)

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\(^{83}\) R.W. Mack, and R.C. Snyder (1971), p. 3  
\(^{84}\) *Ibid.*, p. 4  
\(^{85}\) L.C. Coser (1956)  
\(^{86}\) J. Manza and Michael, A. McCarthy (2011)  
\(^{87}\) J. Bercovitch, Kremenyuk and W. Zartman (2009), p. 1  
\(^{88}\) J. Rothman (1997), p. 61  
Global negotiation and tact have commonly been the favoured means for conflict resolution at the international arena since World War II. “Negotiation and bargaining are thus the default option when conflict arise and much of the work of conflict resolution scholars have centered on understanding these processes of negotiation interaction both when they succeed or failed”.91

Lickliders points out that, “Prolong civil wars are disproportionately more likely to be ended with negotiated resolutions rather than military victory. This is plausible since a long civil war means that neither side has been able to achieve a military victory”.92 Bercovitch view that, “conflict resolution is a vibrant, interdisciplinary field where theory and practice pace real world events”.93 Morgenthau views that, “nonviolence, cooperation and the belief in the essential goodness of humanity are basic principles of this approach to conflict resolution”.94 Roger Fisher’s approach to conflict management is based on “principled-negotiation”. It is aimed to “resolve conflict by deferring judgment to a moral principle. Such an approach advocates the need for interest-based negotiation in contrast to those based on a position”. For example, interest should include issues like security, esteem and pressure.95

1.8.3 Peacemaking
According to Douglas Noll, “peacemaking implies the use of cooperative and constructive processes to solve human conflicts while restoring relationship. Peacemaking does not deny the essential need for adversary processes, but peacemaking places adversary processes into a large perspective”.96

1.8.4 Peacekeeping
Conteh-Morgan defines peacekeeping as “the use of military intervention to maintain peace and prevent an increase in confrontation”.97 Roland Paris points out that, peacekeeping is “deeply shaped by a global culture that sees hasty democratisation and rapid liberalisation as the route to peace. He further argues that other strategies, such as long-term

91 R. B. Bilder (1997)
92 R. Licklider (2005), p. 39
93 Bercovitch et al, (2009), p.1
94 H. Morgenthau (1967), p.3
96 N. Douglas (2005)
trusteeship, may in fact be more effective but are ruled out because they are normatively unacceptable”. 98

1.8.5 Peace-building
Peace-building is essentially about the process of achieving peace. Depending on one’s understanding of peace, peace-building differs considerably in terms of approaches, scope of activities and time frame. The term “peace-building” was first used by Johan Galtung in an essay in 1975. 99 His understanding of peace-building is based on his conceptual distinction between “negative peace (end of violence) and positive peace (peaceful society at all levels)” 100 Galtung developed this concept from an analysis of violence. He argued that “negative peace involves the absence of physical violence through peacekeeping; whilst positive peace can be achieve in the absence of structural violence through peacemaking and peace-building”. 101

1.8.6 Regional Organisations (ROs)
It can be seen as international organizations (IOs), as they integrate as cross border membership and covers geopolitical bodies that readily go beyond one nation state. Therefore, their relationship is differentiated by borders and demarcations attribute to a distinct and exclusive geography, such as continents, or geopolitics, such as economic blocs. 102 For example, African Union (AU), European Union (EU), etc. Fawn denotes that regional organisations are significantly embedded in territory with well-defined boundaries. 103 Fawn further notes that ROs must show the “features of the regions, identifying geography and imagined regional communities, such as SADC, ECOWAS, EAC, etc. the quality and purpose of regionalism, institutionalisation, identity and conflict prevention, resolution and management”. 104

Schoeman views that one of the main reasons for the establishment of regional organisation was for cooperation, integration and to promote peace, security, economic

98 Roland Paris (2003), pp. 441-473
99 J. Galtung (1975), pp. 282-304
100 Ibid
101 Ibid
104 Ibid., pp. 16-25
growth and development in the region. Bennett points out that “the main principle of the UN Charter guiding regional arrangements is limited to the role of regional organisations in the maintenance of international peace and security”. Therefore, these guiding principles can be seen in Chapter VIII Articles 52 to 54. The provisions of Chapter VIII are:

1) Regional organisation may exist for dealing with such issues of international peace and security as are appropriate for the regional action as long as their activities are consistent with the purposes and principles of the UN; 2) states are encourage to settle local disputes through regional organisations before referring them to the UN Security Council; 3) the UN Security Council may, in turn, utilize such organisation for the settlement of local disputes; 4) with the exception of action against enemy states resulting from World War II, no enforcement action shall be taken by the regional organisation without the authorisation of the UN Security Council; 5) the Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

1.8.7 Security

Lippmann notes that “a nation is secure to the extent to which it is not in danger of having to sacrifice core values if it wishes” to prevent conflicts the adversary. Nye defines security as “the absence of threat to the territorial integrity of the state, its sovereignty, its population, culture and economic prosperity should be deemed safe from destruction or main damage”. Wolfers argue that security is “the absence of threats to acquired value and the absence of fear that such values will be attacked.” Bellamy points out that “Security itself is a relative freedom from war, coupled with relatively high expectation that defeat will be a consequence of any war that should occur.” This issue of security as included in the state and human security should not only be the absence of conflict but must also be defined by an all-inclusive governance that adhere to the role of law, proper accountability and equitable distribution of various state resources.

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106 A. L. Bennett (1991), pp. 218-219
107 Ibid
109 Lippmann (1999), p.195
110 J. Nye (2005), pp. 222-223
111 Wolfers (1999), p. 195
112 Bellamy (2002), p. 58
1.8.8 Collective Security
In this study, collective security is by nature a "result of attempts to preserve the security of each and every state which come together against a common enemy". Collective security was represented in the covenant of the League of Nations which was part of the treaties that ended the First World War. Collective security was propounded by Woodrow Wilson who examines the politics of balance of power as not an opening way for democracy and peace. Wilson believed that organising international security will be a practical move toward world politics. He understood that paper agreement and treaties would not solve the problem, but advocates that an international organisation with rules was needed to implement these agreement and treaties; and enforce the rules. Alyson Bailes and Andrew Cottee argued that the rule of collective security is to prevent or control conflict by declaring a reaction to any act of belligerence or danger to peace among its states. Adetula argues that collective security systems in regional and international primarily materialised for the protection of the states instead of the citizens; but contemporary dialogue on collective security norms have included the protection of people; and hence, human security has been included into collective security.

1.8.9 Sovereignty
The Oxford Advance Learner Dictionary defined sovereignty “as the state of being a country with freedom to govern itself”. This freedom to govern enables the state to protect its people from any external attacks. The current international law defined sovereignty as “the basic international legal status of a state that is not subject, within its territorial jurisdiction, to the governmental, executive, legislative or judicial jurisdiction of a foreign state or to foreign law other than the public international law”. From the perspectives of international law sovereignty has both negative and positive consequences. For example, Robert H. Jackson defined “negative sovereignty as from outside interference”. Negative sovereignty form the core standard of traditional law. It can be viewed as the legal foundation upon which a polity of independent formally equal states

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114 Ibid., pp. 88-89
fundamentally rests. On the other hand, “positive sovereignty similarly presupposes capabilities which enable governments to be their own master”. Positive sovereign government does not only benefit from the rights of non-intervention and other immunities; but also have the means to offer political commodities for its populations. He further argued that the international community can provide governments with negative sovereignty through the act of general recognition, but this cannot be true with positive sovereignty which solely depends on the actions and resources of government and its citizens.

1.9 Organisation of the Research

Chapter One: Introduction to the study
This chapter contains the background of the study, problem statement, theoretical framework, literature review, research methodology, and definition of terms and the scope of the work.

Chapter Two: From the OAU to AU
This chapter involves the formation of OAU, the failures of the OAU, the OAU and the principle of Non-Interference, the paradigm shift from the OAU to AU, and investigates the principle of Non-Indifference.

Chapter Three: The DRC conflict as the case study
This chapter involves the Historical background of the DRC conflict and its impacts in the region and global politics.

Chapter Four: The AU-SADC joint efforts and principle of non-indifference in the DRC conflict -This chapter includes the application of AU principle of non-indifference in the DRC conflict, the SADC involvement in dealing with the DRC conflict, the AU-SADC role in resolving the DRC conflict.

Chapter Five: Lessons Learned: This chapter consists of highlighting possible lessons for policy makers, and scholars learnt from the AU, together with SADC involvement in ending conflict in the DRC.

119 R. H. Jackson, (1990), pp. 26-27
120 Ibid, p. 29
121 Ibid, p. 30
Chapter Six: Conclusion and Recommendations - The chapter will conclude the study and offer practical recommendations. It will also highlight important lessons from the DRC case especially about the role of regional integration in working together with the AU in addressing problems facing this continent.
CHAPTER TWO
FROM THE OAU TO AU

2.1 Introduction

The first chapter gave a general background of the study and the definition of terms that are used throughout the analysis. The second chapter undertakes an examination of the shift from the OAU to the AU. Hence, the purpose of this chapter is to explore the literature on the OAU in order to document developments that led to the paradigm shift from the OAU to the AU. So, the chapter begins by exploring the formation of OAU, its mandate, its non-interference policy in the domestic affairs of its member states. The chapter also examines the reasons that saw the formation of the AU.

The question this chapter sets out to answer is: Why was the formation of the AU necessary, and what kind of identity and role is the AU expressing through its principle of non-indifference? In answering the above question, the chapter is structured into four main sections. Section one consists of an investigation of the formation of OAU, while section two consists of an examination of the “OAU’s principle of non-interference” and its repercussions on conflict management in Africa. Section three consists of an analysis of the formation of AU and its principle of non-indifference. In this section the viability of the AU’s principle in resolving African conflicts will be examined with the challenges and shortcomings of the principle discussed. The last section consists of the concluding remarks of the chapter.

2.2 The formation of the OAU

The OAU was formed in 1963 with the aim of advancing the ideology of Pan-Africanism. The formation of the organization was based on propagating the unity and prosperity of the people of the African continent. Padmore points out that “Pan-Africanism was a response to the oppression of the black people and racial doctrines since the period of slavery and slave trade”. Esedebe states that Pan-Africanism was an “African homeland ideas that geared to bring about solidarity among people of African descent, African personality, rehabilitation of Africa’s past, and glorious future for Africa”. Mkhandawire notes that, it

\[122\] Padmore (1956), pp. 10-30
\[123\] Esedebe, (1982), p. 3
was an excellent strategy for solidarity as well as cultural, political and economic liberation on the continent.\textsuperscript{124} After independence, “thirty-two independent African states with authentic hopes and aspirations for the continent came together in Addis Ababa to form the Organisation of African Unity (OAU)”.\textsuperscript{125} Esedebe acknowledges that Pan-Africanism is not an emotional or racial movement but, a political and cultural observable fact that consider Africans and African offspring overseas as a component. Esedebe further asserts that the aspiration for unity and African values did not change from the beginning.\textsuperscript{126} Tesema Ta’a notes that the Fifth Pan-African Congress (PAC) was a strong foundation in the history of Pan-Africanism because Africa was ready to take its rightful place in international relations and to contribute to the wellbeing of its people. Pan-Africanism laid a concrete land mark for a closer cooperation among African peoples.\textsuperscript{127} In fact, it was the Manchester Congress that inspired decolonisation in Africa with the anticipations and apparitions for a united continent after independence.\textsuperscript{128} In 1963, Nkwame Nkrumah published a book title “Africa Must Unite”, “Which mainly dealt with OAU under the umbrella of Pan-Africanism putting more emphasis on its political aspect of meaningful unity than on its historic roots”.\textsuperscript{129}

Nkrumah also noted that the 1958 All African Peoples Conference (A.A.P.C.) in Ghana was to discuss Africa issues, most importantly the independence of the African states and Africa unity.\textsuperscript{130} Nye points out that the Ghana Conference strongly accepted the achievement of African unity through the formation of a regional organisation.\textsuperscript{131}

Nkrumah to a certain extent demonstrated the formation of a regional organisation between Ghana and Guinea (later joined by Mali) in the same year as a corner stone of his “vision for a United States of Africa (US of A)”.\textsuperscript{132} In an effort to build a strong and prosperous African continent that would not be exposed to external manipulation, President Kwame Nkrumah stressed the need for immediate continental unity and solidarity.\textsuperscript{133} In 1960, the

\textsuperscript{124} T. Mkhandawire (2004)
\textsuperscript{126} Esedebe (1982), pp. 5-21
\textsuperscript{127} Tesema (2014), pp. 63-77
\textsuperscript{128} Ibid
\textsuperscript{129} Nkrumah (1963), p. 132.
\textsuperscript{130} Nkrumah (1963), pp.136-137
\textsuperscript{131} Nye (1965), p. 15
\textsuperscript{132} Nkrumah (1963), pp. 141-142
\textsuperscript{133} Ibid
Conference of Independent African States (C.I.A.S.) took place in Addis Ababa, Ethiopia. Ajala notes that the war in Algeria, Apartheid in Southern Africa, and the agenda for African Unity were the main concern in the conference programme.\(^\text{134}\) Ajala also observed that, although the representatives at the C.I.A.S agreed on the formation of a continental organisation, there were some differences in terms of approach this would take and the time-limit for unification. Ghana and Guinea were in favour of abrupt political unity, Nigeria and some other states opposed it.\(^\text{135}\) The idea of the radical formation of African Unity propounded by Nkrumah divided the 32 independent African states into three blocs; the Casablanca, Brazzaville and the Monrovia blocs. In this light, Nyerere, points out that,

“For the sake of all African states, large and small, African unity must come and it must be real unity. Our goal must be a United States of Africa. Only this can really give Africa the future her people deserve after centuries of economic uncertainty and social oppression. This must be achieved, and it does not matter whether this is done by one step or by many, or through economic, political or social development”.\(^\text{136}\)

The Casablanca bloc was launched in 1961 and led by President Kwame Nkrumah of Ghana. This bloc supported an instantaneous United States of Africa, identified by others as a radical approach.\(^\text{137}\) The countries in this bloc were: “Ghana, Mali, Guinea, the United Arab Republic and Algeria”. The Brazzaville bloc was centrally made up of the former French colonies such as “Central Africa Republic (CAR), Cameroon, Côte d’Ivoire, Congo, Mauritania, Gabon, Burkina Faso, Senegal, Niger, Chad and Madagascar”. This bloc “advocated for a gradualist approach to the ideological concept of the African Unity; beginning by building regional economic and cultural co-operation”.\(^\text{138}\) The Monrovia bloc also believed in Pan-Africanism but not at the outlay of nationalism and independent statehood.\(^\text{139}\) This bloc consists of “Nigeria, Sierra Leon, Liberia, Togo, Somalia, Tunisia, Ivory Coast, Cameroon, Senegal, Chad, Burkina Faso, Congo, Gabon, and CAR”.\(^\text{140}\)

Ethiopia being the neutral state at that time decided to mediate between the two groups to bring them together through their Foreign Minister, Ato Ketema Yifru, as strong Pan Africanist following the abandonment by the League of Nations of Ethiopia in the 1935

\(^{134}\) A. Ajala (1973), pp. 26-27

\(^{135}\) Ibid

\(^{136}\) J.K. Nyerere (1963), p. 1


\(^{138}\) Legum (1962), p. 50


invasion by Italy. In January 1962 Ato Ketema Yifru received an invitation from the Casablanca and Monrovia bloc. He diplomatically succeeded in persuading the emperor to agree and advocate for the Pan African foreign policy which brought about the African Unity. This put his Pan African agenda to the top.

The Monrovia Summit in Lagos, Nigeria turn to be one in which Yifru started to lobby for members to accept his ideas to hold the next sitting in Ethiopia capital against all odd being put forward by Governor General Azikiwe of Nigeria against the ideology advanced by the Casablanca block. Yifru who has the ambition of bringing the two groups together wanted to get the approval from the Monrovia group while bearing in mind that he is going to negotiate with the Casablanca group to attend the conference that would be held in Ethiopia. Yifru mission actually worked out and all the Monrovia conference participants agreed to his proposal that the next Monrovia summit will be held in Addis Ababa, Ethiopia. With the general acceptance for the next summit to be held in Addis Ababa the Foreign Minister of Ethiopia quickly sent a telegram to the Emperor informing him that it would be of great importance and interest for him to attend at least one day of the summit with the greater ambition to be part of the participant. On arriving in Ethiopia, the foreign minister quickly briefed the Emperor on how the summit went on and also informed him on the next Monrovia conference that was scheduled to take place in Ethiopia.

On the other hand, the Casablanca block had planned for the summit to take in Egypt for June 1962. Yifru who wanted to bring these two opposing blocs together decided to come out with a negotiation strategy starting with the President Seku Toure of Guinea who was one of the members of the Casablanca faction. Yifru advised the Emperor to invite President Seku Toure in Ethiopia. Yifru main point to bring Seku Toure to Ethiopia was that he wanted Seku Toure to help him achieve his dream. The invitation given to Seku Toure to visit Ethiopia was an opportunity given to exchange views concerning the division that exist between the two groups. In June 28, 1962, the Guinean President Seko Toure granted the invitation and adhered to the Emperor and his foreign minister “in Asmara where the Emperor was attending the ceremony for the Naval Academy graduation”. Yifru noted that the disputing views between Monrovia and the Casablanca groups if not handled with care.

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141 K. Y. Makonnen, (2013)
142 Ibid
may lead to everlasting separation of the African continent. He then advised the delegation from Guinea that it would be in the continent’s best interest to resolve this problem and stop this division and preach the gospel of unity amongst our fellow Africans. After a long deliberation, the Guinea delegation agreed with him that, the time has come for them to end this division. President Seku Toure after the meeting still has a talk with the Emperor to give his word to unite the two groups.

The reaffirmed talks between the two governments set the ball rolling for the May 1963 Summit Conference that was made for Monrovia group in Addis Ababa. However, this was then transformed to independent African States Summit Conference. With reference to the accord made by the both heads of state, a communiqué was issued for an all African conference that took place in Addis Ababa. The reason given to unite these groups was that both groups were planting the seed of enmity and division amongst the African States. This is the reason which led to the government of Ethiopia and Guinea to call upon a summit that resolved the differences between the two groups.

The accord that was reached between the Ethiopia and Guinea governments gave the go ahead for the Ethiopia government to take the lead and invite all the other African states to the summit conference in Ethiopia. Yifru then travelled the continent selling the emperor’s letter of invitation, and persuading other African leaders to attend the organised conference. He then traveled to most African states capital for about two weeks to exchange ideas on how the issues would be handle and the agenda for the summit. His tour was devised to encourage all the African states to attend the all African Summit in Addis Ababa. Yifru in his tour ensured that he got a positive feedback from the president before leaving the country to another. Yifru was single-minded to compose the summit a success. Some of the leaders that Yifru met in his tour were; “President Kwame Nkrumah of Ghana, Gamal Abdel Nassar of Egypt, Prime Minister Tafawa Balewa of Nigeria, HIM King Hassan II of Morocco and President Julius Nyerere of Tanzania”. In the event of Yifru tour all over the African continent some leaders gave their words

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144 The creation of Organisation of African Unity (OAU) (1963)
145 Ibid.
146 Ibid.
148 Ibid.
149 Ibid.
immediately to him that they are ready to attend the May 1963 Summit that was scheduled in Ethiopia, Addis Ababa. The Summit was arranged to be attended by all the thirty-two independent states. It was accepted that “the Summit would begin with the Foreign Ministers Conference; so as to sort out certain issues and the drafting of a Charter”.\textsuperscript{150}

In 1963 the Summit began with the Conference of the Foreign Ministers in Addis Ababa. The conference started on the 15\textsuperscript{th} May, 1963 and Yifru was elected as the Chair and Dr. Tesfaye Gebre-Ezgy, the Ethiopian Permanent Representative to the United Nations (UN) as the Secretary General. The role of the Ministers was to draft a Charter that would be the cornerstone for the future of the organisation.\textsuperscript{151} Ethiopia, Ghana and Nigeria had drawn up a draft Charter that could possibly build the foundation for the talk. However, the Ghana and Nigeria Charters represented the agenda of the Casablanca and the Monrovia groups respectively; while the Ethiopian Charter represented the views of the both groups.\textsuperscript{152}

The Ethiopia’s draft Charter included:

“The establishment of an Organisation of African States, with a Charter and a permanent secretariat; Cooperation in areas of economy and social welfare, education and culture and collective defense; the eradication of colonialism; means of combating racial discrimination and apartheid; possible establishment of regional economic grouping and disarmament”.\textsuperscript{153}

Yifru was asked to call for a meeting of the Foreign Ministers so that they could draw up the Charter that would be signed by all the Presidents in the Conference that was scheduled for the 22\textsuperscript{nd} May 1963.\textsuperscript{154} The ministers meeting then came out with the final charter accord that the leaders would sign. Yifru then handed the Charter to the Heads of State and in doing so he said that,

“I wish to repeat that all the documents before you were worked out by long discussions and compromise. All our meetings were conducted in a spirit of brotherhood and there was complete agreement on all decisions. If there were differences, these were limited to questions of procedure, approach of tactic, but never on substance or the destiny of our peoples. It is therefore my bounden duty to express my appreciation for the wisdom of the Foreign Ministers and to ask this august body, in the name of all our peoples, to adopt these measures formally and to sign your name in history. As his Imperial Majesty remarked at the

\textsuperscript{150} Ibid.
\textsuperscript{151} http://www.oau-creation.com/Part%20Three_files/haliesig.jpg, accessed on the 13th November 2015
\textsuperscript{152} Ibid.
\textsuperscript{153} Ibid.
\textsuperscript{154} K. Makonnen (2013)
outset of the conference, if we fail, surely history will never forgive us, for it shall not give us another occasion. Thank you very much.\textsuperscript{155}

Following the Conference discussions and deliberations, the thirty-two Heads of State signed “the OAU Charter in Addis Ababa, on the 25\textsuperscript{th}, May 1963”. These countries include, “Algeria, Benin, Burundi, Burkina Faso, Cameroon, Central Africa Republic, Congo Brazzaville Congo-Leopoldville, Egypt, Ethiopia, Gabon, Ghana, Guinea, Ivory Coast, Liberia, Libya, Madagascar, Mali, Mauritania, Morocco, Nigeria, Niger, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Tanzania, Togo, Tunisia, and Uganda”. Emperor Haile Selassie, in May 1963 remark in his speech that:

"This Conference cannot close without adopting a single Charter. We cannot leave here without having created a single African organization possessed of the attributes we have described. If we fail in this, we will have shirked our responsibility to Africa and to the people we lead. If we succeed, then, and only then, will we have to justify our presence here"?\textsuperscript{156}

One can see that the effort of the Ethiopian Foreign Minister and the meeting of the government of Ethiopia and Guinea yielded fruits.

The formation of OAU had come and passed. The time was for the leaders to locate the Headquarter of the newly born organisation. Yifru told the Emperor and the Prime Minister that “we have fought to unite the two factions and the formation of the organisation it is now time to lobby for the Headquarter to be in Ethiopia”.\textsuperscript{157} He then quickly suggested to them to send out three delegations to tour in the continent to convince member states that the Headquarter of the organisation should be in Addis Ababa, Ethiopia. He agreed to head one of the delegations. He also made them to understand that if the organisation Headquarter is not based in Ethiopia it means their struggle have been in vain. He proposed the names of other top officials to head the other two delegations.

In August 1963, some fifteen states were having a Foreign Ministers Conference in Dakar, Senegal to hold talks on the Headquarter of the OAU. This conference was held to discuss the plans for the Headquarter not to be in Addis Ababa. Yifru attended the Conference with a delegation of eight; and when it was time for deliberation, the Senegal and Nigeria wanted the business to starts as quickly as possible. Yifru on his part as the head of the

\textsuperscript{155} A. Yifru, Ketema (1963)
\textsuperscript{156} Emperor Haile Selassie (1963)
\textsuperscript{157} K. Y. Makonnen, (2013)
delegation has not lobbied Yifru; Ketema Ato (1963); Ethiopia, Foreign Minister any one to support his desire for the Headquarter of OAU to be in Addis Ababa.\textsuperscript{158} The political committee elected the Benin’s foreign minister, Emile Zinsou, as its chair. The Senegal minister started by offering his capital Dakar; while Nigeria and Zaire came after to offer their respective Capital as good sites for the OAU headquarter. The Guinea delegation in person of Ishmael Toure nominated Addis Ababa given his reason that; it was a historical site for OAU.\textsuperscript{159} After a long deliberation the OAU headquarters was placed in Ethiopia, Addis Ababa.\textsuperscript{160} Nonetheless, the Ethiopian Foreign Minister, Ato Ketema Yifru ambition of building the OAU headquarter in Ethiopia capital Addis Ababa was achieved.

2.2.1 Reasons for the formation of OAU
The main reasons for the formation of OAU lie in the unity of the African states to deal with the continental issues such as colonialism, slavery, racial discrimination and apartheid in Southern Africa. It was for this reason that President Kwame Nkrumah noted the purpose of African unity in his speech in May 1963 when OAU was formed. He said that:

"From the start, we have been threatened with frustration where rapid change is imperative and with instability where sustained effort and ordered rule are indispensable. Neither sporadic act nor pious resolution can resolve our present problems. Nothing will be of avail, except the united act of a united Africa. We have already reached the stage where we must unite or sink into that condition which has made Latin America the unwilling and distressed prey of imperialism after one-and-a-half centuries of political independence. As a continent, we have emerged into independence in a different age, with imperialism grown stronger, more ruthless and experienced, and more dangerous in its international associations. Our economic advancement demands the end of colonialist and neo-colonialist domination of Africa...African unity is, above all, a political kingdom which can only be gained by political means."\textsuperscript{161}

The OAU Charter also outlined some of the purposes for the Organisation in its Article 2(1) that, “the Organisation shall promote the unity and solidarity of the African states; coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa; defend their sovereignty, territorial integrity and independence; eradicate all forms of colonialism from Africa; and promote international cooperation, having due regard to the Charter of the UN and the Universal Declaration of Human Rights”.\textsuperscript{162}

\textsuperscript{158} http://www.oau-creation.com/Part\%20Four\%20files/27.jpg, accessed on the 13th November 2015
\textsuperscript{159} Ibid
\textsuperscript{160} Ibid
\textsuperscript{161} K. Nkrumah (1963),
\textsuperscript{162} OAU (1963), Charter of the OAU; Article 2(1)
2.2.2 The OAU Principle of Non-Interference

Despite the formation of the UN and regional organisation such as OAU, the evidence points to the unsuccessful efforts of collective security; unjustifiable infringements of peace and security recorded in the history of world politics since 1945.\textsuperscript{163} It was perceived that, the collapse of Berlin Walls would radically decrease the prevalence of conflicts on the African continent, but there are clear indications that aggressive conflicts have persisted and even became more rapid across Africa.\textsuperscript{164}

The end of Cold War has transformed the outlines of international relations. According to McNamara, “there was a resurgence of the idealist school on how to manage the way states relate to one another in a new world order.”\textsuperscript{165} This new thinking sought to redefine international relations, not in terms of old power politics or the use of force; rather presented a new system of collective security that would require the great powers to renounce both the use of force in conflicts among themselves and unilateral action in the regional conflicts.\textsuperscript{166} It would require the UN Security Council (UNSC) agreement that regional conflicts endangering territorial integrity will be dealt with through economic sanctions and if necessary military action”.\textsuperscript{167}

Furthermore, the new world order has created an avenue for military neutrality in the developing countries through great powers and these great powers would end the support of military conflicts on the African continent. Instead, support the concept of collective security that would assure territorial integrity with the instrument for resolving conflicts on the continent that would increase technical and financial aids to the African countries.\textsuperscript{168} As far as the OAU Charter is concerned the idea of collective security could not be observed on the platform of resolving or managing intra-state conflicts because the OAU could not interfere in the member states domestic affairs in the respect of their sovereignty. This was a big challenge for the agency when handling conflicts on the continent.

The practice of this idealist concept in respect to conflict resolution in Africa is warranted to be understood and/or examined. OAU’s objectives are to take the lead in resolving all

\textsuperscript{163} Victor, A. O. Adetula (2008)
\textsuperscript{164} Ibid.
\textsuperscript{165} Ibid.
\textsuperscript{166} A.O. Adetula, Victor (2015), p. 73
\textsuperscript{167} S. R. McNamara (1992), pp. 98-99
\textsuperscript{168} Ibid., p.99
conflicts and problems the continent was encountering. The regional approach has made things easy for the OAU to adjust with this new idealism. Nonetheless, the OAU has found it very difficult to hold on to this idealist concept not only because of the lack of political will and institutional capacity; but also, the respect for “sovereignty and territorial integrity of member states” as stated in Article 3(3) is another factor that led to high level of human right violations and impunity in conflict affected areas on the African continent. Staurt Elden points out that during the post Second World War, the global political system was configured on the basis of three cardinal characteristics, (1) “equal sovereignty of states; (2) internal competence for domestic jurisdiction and (3) territorial protection of the existing boundaries”. This is further safeguarded in the Charter of the United Nations Article 2(4), which holds that “all members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any manner inconsistent with purposes of the United Nations”.

Tim Murithi posits that the suffering and the intractability of the African conflicts stems from the OAU failure to violate the sovereignty to rescue citizens from the hands of dictators. Olonisakin points out that “the OAU has been operating within the framework of, and in strict adherence to its state-centric principle of sovereignty, territorial integrity of states and non-interference”. As a result of the OAU’s principle of non-interference and sovereignty the UN was also very reluctant to issue Security Council resolutions that could be seen as intervening in the sovereignty of a member states internal affairs. Example of intra-state conflicts across the Africa continent include: Angola, CAR, DRC, Sierra Leone, Somalia, Sudan, Burundi, and the 1994 Rwanda genocide. Sam Ibok also acknowledges that the creation of the OAU in 1963 was to offer the continent regional support “for collective action and strategic planning in the areas of regional security, peace and stability as well as the promotion of economic development through economic cooperation and integration”.

Ibok further notes that the OAU was mainly concerned with resolving conflict arising from “the boundary disputes, territorial claims and ideological confrontations and its greatest

170 UN Charter, (1945), Article 2(4)
171 T. Murithi (2009)
172 Olonisakin (2000), p. 42
173 Ibid.
174 S. Ibok (2000)
achievement is recorded in the area of decolonization of Africa and the liberation struggle in Southern Africa; apartheid and institutionalised racism in South Africa”. Georges Nzongola-Ntalaja also points out that the OAU did have some positive achievements in the area of conflict resolution, particularly with respect to mediation in border disputes, the major area of interstate conflict in Africa. However, most of the armed conflicts in Africa since independence have been internal rather than interstate.

Although the Charter of “the OAU provided for the Mechanism for Mediation, Arbitration and Reconciliation in Article 19, Ibok argues that, the commission has been silent in resolving conflicts that affect the growth and development of the continent due its doctrine of non-interference and non-intervention”. Elias argues that the institution of the doctrine of non-interference and the respect for sovereignty was linked to the concerns of European imperialism and for the protection of small and weak states in Africa against the stronger and larger states. The non-intervention in the member states domestic affairs by the OAU, however, bred dictatorial regimes that further led to increase in conflicts on the African continent. Furthermore, the bipolarity that existed between the United States and the Soviet Union during the Cold War era actually brought a shift of physical violence in Africa due the external support from the US and other European states give to most African leaders who later become dictators. The Cold War conflict between the two superpowers was an ideological conflict. The spread of the liberal democracy and capitalism against communism by the US and its allied in Africa and other part of the globe actually posed a leadership problem. For example Mobutu who was high supported by the West against Patrick Lumumba who was later assassinated and this began the era of Mobutu tyranny in Democratic Republic Congo during and after the Cold War. Most of these conflicts were left in the hands of sub-regional organisations such as Economic Community of West African States (ECOWAS), Inter-Governmental Authority on Development (IGAD) and Southern African Development Community (SADC). For example, the first intervention that was carried by these sub-regional organisations took place in West Africa with the deployment

175 Ibid.
176 Georges, Nzongola-Ntalaja (2014), p. 31
177 Ibid.
178 T. O. Elias (1965)
179 M. Cox, (2007), pp. 121-146
180 G. Sørensen, (1998)
of Economic Community of West African States Monitoring Group (ECOMOG) forces in Liberia, Sierra Leone and Guinea Bissau, the SADC intervention in Lesotho and Mozambique and the IGAD in Sudan and Somalia.

The increase number of conflicts in African during and after the Cold War indicated that the OAU failed to resolve the conflicts that have ravaged the continent due to the policy of non-interference. This policy actually brought about dictatorial regimes on the continent whose leaders became human rights abusers, failed to uphold and practice democratic principle. This policy actually was one of the many reasons that contributed to the rise of the dictatorial regime on the continent. More so, violence conflict and tyranny can be witness in the area of electoral malpractice in most African states election. A majority of the elections that are been held in most Africa states are full of irregularities because of the witnesses of the weak electoral commission and unreliable constitutional judicial system which are put in place to run the elections.¹⁸¹ Members of this commission and the judiciary are appointed by the ruling party so as to maintain their position of their leaders in power whether they are the winners of the election or not.

2.2.3 The Failures of the OAU

As discussed earlier, the underlying causes of the failure of the OAU to resolve the African conflicts that have wreaked havoc on many countries, include from the lack of political will by African leaders, the principle of sovereignty and the respect for territorial integrity non-intervention enshrined in the Charter of the OAU and the weak structures of the OAU

2.2.3.1 Lack of political will

The lack of political will by the African leaders indicates a leadership without any idealistic vision for regional activities but has a clear prove of bad governance and human rights abuses on the continent¹⁸². The unwillingness of the member states to contribute their own pledges to fund the organisation had actually led to its failure.¹⁸³ Asante asserts that an important obligation for a flourishing regional integration is based on a strong political will

¹⁸¹ J. Murison, (2013), pp. 492-508
by African.\textsuperscript{184} The lack of political will of some Africa leaders can be traced from the fact that some of these leaders are either direct or indirect involved in the conflict for their own selfish interests. For instance the interest that has accorded the Rwanda, Uganda and Burundi to participate in the DRC conflict may give them a reason not to financially support the process of conflict resolution in the DRC.

2.2.3.2 The principle of non-interference enshrined in the OAU’s Charter

El-Ayouty points out that the OAU’s new goals in the Post-Cold War period were to promote economic integration, development and human rights, but the Organisation continued to maintain its unchanged principles, concerned with independence and non-interference, on which it was founded regardless of the changes in its goals.\textsuperscript{185} Foltz argues that it is clearly indicated that neither the organisation nor any other state was allowed to violate the sovereignty.\textsuperscript{186} Indeed, OAU member states were required to put a stop to any intervention by neighbouring states in the domestic affairs of another member states as provided in the OAU Charter Article 3(2 and 3); which states that “no states should intervene in the internal affairs of another and each state should respect the sovereignty and territorial integrity of another”.\textsuperscript{187}

Although these principles aim to promote state security from neighbouring stronger states; the OAU failed to make peace sustainable on the continent. The principle of non-interference was in accordance with the Charter of the United Nations Article 2(4), which states that “all members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any manner inconsistent with purposes of the United Nations”.\textsuperscript{188} Okoth observes that the maintenance of the non-interference principle and not considering the internal conflict conditions, limited the OAU’s capacity to engage in many conflict resolution actions, most especially in the case of civil wars and inter-communal conflicts that violated people’s human rights.\textsuperscript{189} The OAU could only intervene when invited by the state concerned where the conflict was

\textsuperscript{184} K. B. S. Asante (1977), p. 72
\textsuperscript{185} Y. El-Ayouty (1994)
\textsuperscript{186} W. Foltz (1991)
\textsuperscript{187} Ibid.
\textsuperscript{188} UN Charter, (1945), Article 2(4)
\textsuperscript{189} G.P. Okoth (2008)
happening, a thing which never happened because the state killing its people therefore could not call upon the OAU to intervene.

### 2.2.3.2 Principle of Sovereignty and the respect for territorial integrity

The sovereignty and the respect of territorial integrity was an additional principle that restricted the OAU from carrying out conflict resolution on the continent. Oguonu and Ezeibe assert “that the supremacy to intervene in conflict circumstances in Africa was constrained by prominent respect for sovereignty, territorial integrity and independence of the member states”.\(^\text{190}\) The OAU continued to uphold the territorial boundaries that were established during independence. It was made clear in the OAU Charter Article 3(3) “no state had the right to intervene in such areas where there is a conflict of secession or territorial division regardless of the marginalisation or oppression of those seeking secession”.\(^\text{191}\) Da Costa underscores that the OAU aspired to promote peaceful settlement of conflict between its members, at the same time had distaste for interfering in the sovereign affairs of its members. However, the organisation did resolve territorial conflicts between Ethiopia and Eritrea.\(^\text{192}\)

### 2.2.3.4 The weak structures of the OAU

In examining the OAU and its fragile performance in the area of conflict resolution, one needs to examine the OAU’s organisational policy-making structures together with its Charter. What comes to mind is whether the OAU was an autonomous body that can make its own decision or it was solely depending on its member states before undertaking any major activities. According to Musifiky the “failure of the structural mechanisms for conflict prevention, management and resolution was resulted not really from its institutional weaknesses but as a result of a restraining mandate enforced by the member states with a constricted liberty”.\(^\text{193}\) Okoth notes that, the OAU structure suffered from several

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\(^{190}\) C.N. Oguonu and C.C. Ezeibe (2014), p. 326

\(^{191}\) R. OdeK (2008)

\(^{192}\) P. Da Costa (1995),

\(^{193}\) M. Musifiky (2008), p. 45
institutional weaknesses that limited its autonomy and its ability to conduct conflict resolution activities.\textsuperscript{194}

Saxena says that the OAU Charter actually gave more power to “the Assembly of Heads of State and Governments that met once in a year to make decisions. The Council of Ministers was responsible for the implementation of the Assembly decisions, while the Secretary General was to supervise the implementation of these decisions”.\textsuperscript{195} This actually made OAU Secretary General weak because he/she had little or no authority. The Secretary General had no power to act on his/her own proposal and thus was reduced to a mere pen pusher instead of a significant factor in many areas of work.\textsuperscript{196}

Jonah further notes that, the Secretary General was further weakened in the area of conflict resolution, which was supposed to be handled by the office of the Secretary General, but this task was regularly undertaken by the Heads of State on an ad hoc basis.\textsuperscript{197} For example, the Commission for Mediation and Conciliation that was put in place to mediate conflicts in Africa was ignored, and absolutely lacked authority.\textsuperscript{198} Layachi admits that the Assembly was too cumbersome in its decision-making process to be successful with over fifty members, and it was difficult to achieve a consensus because member states wanted to protect their national interests rather than regional or sub-region interests.\textsuperscript{199} The existence of division amongst the African leaders for their own selfish interests makes things difficult for the members to achieve a consensus. Furthermore, the OAU early warning system that was put established to prevent conflict in Africa was not developed and this led to an increase of un-prevented conflict in Africa.\textsuperscript{200}

The above-mentioned pitfalls or shortcoming of the organisation in dealing with African conflicts and the promotion of good democratic governance saw the move towards the formation of the.

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{194} Op. cit. p. 26
\item \textsuperscript{195} S. C. Saxena (1993)
\item \textsuperscript{196} Ibid.
\item \textsuperscript{197} J.O.C. Jonah (1994)
\item \textsuperscript{198} A. Sesay (1982)
\item \textsuperscript{199} A. Layachi (1994)
\item \textsuperscript{200} M. Musifiky (2008), p. 47
\end{itemize}
\end{footnotesize}
2.3.1 Shift from OAU to the AU

The failure of the OAU to bring about sustainable peace in Africa in the aftermath of the Cold War actually prompted African leaders, such as President Olusegun Obasanjo of Nigeria, President Muammar Gaddafi of Libya, and President Thabo Mbeki of South Africa to advocate for the paradigm shift which led to the formation of the AU. Murithi points out that the shift from the OAU to AU “was to lead Africa into a new era of continental integration, which will further lead to a deeper unity and resolution of its problems”.201

The long journey in the formation of the AU began with the historic signing of the Abuja Treaty in 1991 to strengthen the African Economic Community (AEC), which came into existence in 1994. The Abuja Treaty granted the establishment of the Pan African Parliament (PAP).202 In the Extraordinary Summit of the Heads of State and Governments held on the 9th September, 1999 in Sirte, Libya, the summit proposed to “amend the OAU Charter in order to increase the efficiency and effectiveness of it institutions of conflict prevention, resolution and management of the OAU under the theme: Strengthening OAU capacity to enable it to meet the challenges of the new millennium”.203

The 1999 Sirte Declaration aim at:

“effectively addressing the new social, political and economic realities of Africa and the world, fulfilling the people's aspiration for greater unity in conformity with the objectives of the OAU Charter and the Treaty establishing the African Economic Community, revitalising the continental Organisation to play a more active role in addressing the needs of the people; eliminating the scourge of conflict; meeting global challenges and harnessing the human and natural resources of the continent to improve the living condition of the African people”.204

The Sirte Summit called for the transformation of the OAU to AU, rather than reforming its aim and objectives. Kay Mathews points out that the transformation of the OAU to AU will “represent a qualitative improvement in the evolution of the intra-African cooperation and integration; which will impact positively on the living conditions of African and this will in turn

201 T. Murithi (2008), p. 4
203 OAU Declaration (1999)
204 Ibid
led to the political and economic union of the continent in the long run”.\textsuperscript{205} In this regards Desmond Orjiako acknowledge that,

“The transformation of OAU to AU is a political, economic and social project aimed at creating a democratic space across Africa, promoting economic development and for reflecting a common African identity; which was been propagated by many Africans, past and present which had been kept in trust since the decade of independence”.\textsuperscript{206}

In 2000 the OAU/AEC Assembly of Heads of State and Government congregated in Lome, Togo for the adoption of the Constitutive Act (CA) of the AU in terms of the Sirte Declaration of September, 1999. The Constitutive Act was ratified by the various independent states as the legal document for the AU. In July 2002, “the Heads of State and Government gathered in Durban, South Africa to inaugurate the AU as the principal Pan-African institution, aiming to unify its 53 member states politically, socially and economically, and attract foreign aid and investment through the promotion of democracy, good governance, rule of law and the respect for human rights”.\textsuperscript{207} In the inauguration speech, President Thabo Mbeki who served as the first Chair of the AU specified that:

“The first task is to achieve unity, solidarity, cohesion, cooperation among peoples of Africa and African states. We must build all the institutions necessary to deepen political, economic and social integration of the African continent. We must deepen the culture of collective action in Africa and in our relations with the rest of the world.”\textsuperscript{208}

Brain-Vincent and Dauda point out that

“the adoption of the AU Constitutive Act in 2000 by the African leaders signified that they were conscious of the fact that the scourge of conflicts in Africa constituted a major impediment to the socio-economic development of the continent, and there is the need to promote peace, security and stability as a prerequisite for the implementation of development and integration agenda.”\textsuperscript{209}

As a result of this success the Constitutive Act posed the following objectives in Article 3. It states that:

“the Union shall achieve greater unity and solidarity between the African countries and the people of Africa; defend the sovereignty, territorial integrity and independence of its member states; accelerate the political and socio-economic integration of the continent; promote and

\textsuperscript{205} Kay Mathews (2008)  
\textsuperscript{206} D. Orjiako (2005)  
\textsuperscript{207} M. Carbone (2002), pp. 30  
\textsuperscript{208} T. Mbeki (2002)  
\textsuperscript{209} I. Brian-Vincent and J. Dauda, (2011)
defend African common positions on issues of interest to the continent and its people; encourage international cooperation, taking due account of the Charter of the United Nations and the Universal Declaration of Human Rights; promote peace, security and stability on the continent; promote democratic principles and institutions, popular participation and good governance; promote and protect human and peoples’ rights in accordance with the African Charter on Human and Peoples’ Rights and the other relevant human rights instruments”.

The AU is in search for the promotion of a more integrated and cooperative continent; and it has “the right, mandate and power to intervene in the internal affairs of its member states in grave circumstances, such as war crimes, genocide and crime against humanity or in the case of request for intervention by a member states in situation of instability Article 4 (h and j)”. It is tasked to “ensure the respect for democratic principles, rule of law, good governance and human rights; reject impunity, political assassination and the acts of terrorism; and condemns and reject unconstitutional changes, Article 4(m, o and p) of the Constitutive Act”. This transformation of the continental organisation has given hope to the African people to improve their livelihood in a peaceful and stable environment.

The emphasis given to political, social and economic integration of the continent prompted the AU to establish the Peace and Security Council (PSC) in 2004, as a central organ of the Organisation to resolve the numerous conflicts that act as an impediment to socio-economic development and integration of the continent.

The PSC of the AU is made up of 15 member states and is linked to other bodies, such as the Continental Early Warning System (CEWS), the Panel of the Wise, the African Standby Force and a special fund. These institutions are established to help the AU resolve both intra-state and inter-state conflicts affecting the continent through its doctrine of non-indifference. For the AU to carry out its tasks of intervention in African conflicts through its doctrine of non-indifference. This requires the African leaders need to commit themselves to deal with the challenges the continent is facing. Moreover, these leaders need to authorise and furnish the AU and the regional security machinery with predictable and sustainable resources that will permit the AU and the regional economic communities (RECs); such as the Common Market for Eastern and Southern Africa (COMESA), the

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210 African Union (AU), (2000), Constitutive Act, Article 3
211 African Union (AU), (2000) Constitutive Act, Article 4 (h, j, m, o and p)
213 Ibid.
Community of Sahel-Sahara States (CEN-SAD), the Eastern African Community (EAC), the Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS), the Inter-Governmental Authority on Development (IGAD), the Southern African Development Community (SADC), and the Arab Maghreb Union (UMA) to be more engaged in conflict prevention on the continent.\(^{214}\)

### 2.3.2 The AU’s Principle of Non-Indifference

The transition from the OAU to AU has led to the paradigm shift from the OAU’s principle of non-interference to the AU principle of non-indifference. It was expected that the AU’s principle of non-indifference would help deal with African conflicts and proffer strong political will would address African problems in general.\(^{215}\) The inception of the non-indifference principle was seen by the leaders as a new way of resolving conflicts and problems in Africa. It was believed that the non-indifference principle was a move that would resolve and prevent conflicts faster than the old non-interference principle of the OAU. In his analysis Landsberg points out that “the African calabash is half full as far as new norms and principles are concerned”. He further argues that over the next decade and beyond the major challenge will be to implement these plans and to operationalise these new institutions. African leaders would have to “muster the political will to encourage and cajole each other to live by these new norms, values and principles that they have articulated and agreed to”.\(^{216}\)

Musifiky views that the right of non-indifference, as personified in Article 4h and j of the Constitutive Act, is the main deep-seated shift from the old OAU to the new AU.\(^{217}\) The principle of non-indifference of the AU was legalised and made legitimate in the Constitutive Act (CA). Although the CA of the AU still retained some of the OAU principle such as “the sovereign equality of member states, non-interference in member states domestic affairs, respect for the sovereignty and territorial integrity of each state and for its inalienable right to independent Article 4 (a, b and g) of the CA”. But Article 4 (h and J) has mandated the AU with the right to “intervene in a member states pursuant to a decision of

\(^{214}\) Op. cit
\(^{215}\) T. Murithi (2009)
\(^{216}\) C. Landsberg (2002), p. 140
\(^{217}\) M. Musifiky (2008), p. 43
the Assembly in respect of grave circumstances”, namely: “war crimes, genocide and crime against humanity, and the right of member state to request intervention from the Union in order to restore peace and security”. 218 In this regard, the AU principle of non-indifference is being applied in situation of gross human right abuse, crime against humanity and genocide. For example the AU principle of non-indifference was applied in Burundi, Kenya and Zimbabwe. These ugly situations permit the union to apply its principle of non-indifference without sparing sovereignty and territorial integrity of its member states.

Angela Muvumba notes that, “the norm of peaceful, democratic transition of power is strengthened in the additional legal instruments such as the AU’s Charter on democracy, elections and good governance, which commits African governments to ensure popular participation in governance”. 219 She also argues that African leaders should refrain from the unconstitutional change of leadership, rather embrace the democratic governance and hold regular transparent, free and fair elections to avoid eruption of conflicts that would require the implementation of the non-indifference principle. 220

Murithi argues that the capacity of the organisation to protect African citizens from all human rights atrocity is clearly stated in the AU Constitutive Act and the protocol establishing the PSC. 221 Powell points out that AU’s principle of non-indifference in conflict resolution has some important limitations on the sovereignty of a state. This is supported on the assertion that sovereignty is uncertain if the state has failed to protect its citizens from human rights violation. 222 This means that the organisation will be left with no option to intervene and provide protection to the citizens as provided in Article 4h of the AU Constitutive Act and 4j of the PSC Protocol. 223 In 2003 the AU’s member states made an amendment to Article 4h that extends the right to intervene in circumstances that pose a “serious threat to legitimate order to restore peace and stability in the member states upon the mandate given by the Peace and Security Council”. 224 Mwanasali contends that, the

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218 African Union (AU), (2000) AU Constitutive Act, Article 4 (a, b and g) ; and Article 4 (h and J)
219 S. A. Muvumba (2013)
220 Ibid
221 T. Murithi (2009)
222 Powell, K (2005)
223 Ibid.
224 Ibid.
emerging principle of non-indifference is an important attribute of the AU’s advancement to conflict prevention, and it necessitates both practical and a moral imperative.\textsuperscript{225}

\subsection*{2.3.3 African Union Peace and Security Council (AUPSC)}

The official launch of the AUPSC as a new guiding institution to replaced the Central Organ Mechanism for Conflict Prevention, Management and Resolution (COMCPMR) of the OAU. The launch of the PSC was seen by many African leaders and governments as a sign of achieving “Pax African”, a peace defined and maintained by the African themselves.\textsuperscript{226} This will commit the continent’s leaders to “the promotion of stable, secure, peaceful and developmental aspiration to assume a greater role in the maintenance of peace and security in Africa”.\textsuperscript{227}

The AUPSC is an institution established by the AU with the mandate of managing conflicts and ensuring peace in Africa. For the organisation to achieve sustainable peace through its policy of non-indifference there is need to institutionalise peace and security mechanisms. The AU’s Article 2 (1 and 2) of the Protocol establishing the PSC states that, the Council will act; “as a standing decision-making organ for the prevention, management and resolution of conflicts. The PSC shall be a collective security and early-warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa. It shall be supported by the Commission, a Panel of the Wise, a Continental Early Warning System (CEWS), an African Standby force and a Special Fund”.\textsuperscript{228}

The entrance into force by the PSC Protocol in 2003 was a significant in the enunciation of the principle of non-indifference.\textsuperscript{229} The objectives of the PSC include:

“Promotion of peace, security and stability in Africa, in order to guarantee the protection and preservation of life and property, the well-being of the African people and their environment, as well as the creation of conditions conducive to sustainable development, anticipate and prevent conflicts”.\textsuperscript{230}

\begin{flushleft}
\textsuperscript{225} M. Musifiky (2008)  
\textsuperscript{226} M. Musifiky (2008), p. 41  
\textsuperscript{227} African Union (AU) Statement of Commitment (2004)  
\textsuperscript{228} AUPSC Protocol (2002), Article 2 (1 and 2)  
\textsuperscript{229} Op.cit, p. 44  
\textsuperscript{230} AUPSC Protocol, 2002, Article 3 (a and b)
\end{flushleft}
Moreover, in situations where conflicts have occurred the PSC shall:

“Have the responsibility to undertake peace-making and peace-building functions for the resolution of these conflicts; promote and implement peace-building and post-conflict reconstruction activities to consolidate peace and prevent the resurgence of violence; co-ordinate and harmonise continental efforts in the prevention and combating of international terrorism in all its aspects; develop a common defence policy for the Union, in accordance with article 4(d) of the CA; promote and encourage democratic practices, good governance and the rule of law, protect human rights and fundamental freedoms, respect for the sanctity of human life and international humanitarian law, as part of the efforts for preventing conflicts”.\textsuperscript{231}

The PSC acts in accordance with the above objectives in maintaining regional and international peace on the continent. In the observance of these objectives the Council is tasked with the following functions:

“Promotion of peace, security and stability in Africa; early warning and preventive diplomacy; peace-making, including the use of good offices, mediation, conciliation and enquiry; peace support operations and intervention, pursuant to Article 4(h and J) of the CA; peace-building and post-conflict reconstruction; humanitarian action and disaster management; any other function as may be decided by the Assembly”.\textsuperscript{232}

It is vital to note that the PSC Protocol Article 9 warrants that the PSC:

“Shall take initiatives and action it deems appropriate with regard to situations of potential conflicts. The PSC shall also take all measures that are required in order to prevent a conflict for which a settlement has already been reached from escalating; it shall use its discretion to effect entry, whether through the collective intervention of the Council itself, or through its Chairperson and or Chairperson of the Commission, the Panel of the Wise and in with the Regional Mechanisms (RMs)”.\textsuperscript{233}

It was believed that the structural design of AUPSC would make the organ good enough to respond adequately and on a timely basis to “collective aspirations regarding peace and security as enshrined in the Constitutive Act of the AU”,\textsuperscript{234} and address imminent threats to human lives through the implementation of non-indifference policy to intervene in the domestic affairs of member states. This is in the case of an impending threat to peace, and

\textsuperscript{231} AUPSC Protocol, (2002), Article 3  
\textsuperscript{232} Ibid., Article 6  
\textsuperscript{233} Ibid., Article 9  
\textsuperscript{234} Obasanjo, O. (2004);
propensity of genocide outbreak.\textsuperscript{235} It was argued that the non-indifference policy needed a legal justification to legitimise the AU’s intervention in the domestic affairs.\textsuperscript{236}

Article 7 (1) of the PSC Protocol echo the functions of the PSC as to handled matters of peace and security in Africa. In reverence to conflict prevention, management and resolution:

“the PSC has the authority to anticipate and prevent conflicts, as well as policies that lead to genocide and crimes against humanity; undertake peace-making and peace-building functions to resolve conflicts where they have occurred; authorize the mounting and deployment of peace support missions; propose to the Assembly, pursuant to Article to 4(h) of the Constitutive Act, intervention, on behalf of the Union, in a member states in respect of grave circumstances, namely war crimes, genocide and crime against humanity, as stipulated in relevant international conventions and instruments; institute sanctions whenever an unconstitutional change of government takes place in a member state, as provided for in the Lome Declaration; promote close harmonisation, co-ordination and co-operation between regional mechanisms and the Union in the promotion and maintenance of peace, security and stability in Africa; and follow-up, within the framework of its conflict prevention responsibilities, the progress towards the promotion of democratic practices, good governance, the rule of law, protection of human rights and fundamental freedoms, respect for the sanctity of human life and international humanitarian law by member states”.\textsuperscript{237}

Murithi points out that the establishment of APSA is to ensure peace and stability and the prosperity African livelihood. He further says that the AU can now be seen playing a major role in ensuring sustainable peace on the continent, through its PSC.\textsuperscript{238}

The PSC then has the right to take action and organise the AU’s collective intervention when there are serious human rights abuses and unconstitutional changes of government. More than two thirds of the AU’s member states have worked in the PSC, which has ordered mediation, consultation, sanctions and peace operations on the continent. For example, the AU mediated peace accords in the Zimbabwe crisis, and the deployment of peacekeepers to Burundi in 2004, Darfur in 2004, the Comoros in 2006, Somalia in 2007, Mail and the Central African Republic in 2013.\textsuperscript{239} In the area of unconstitutional changes, the PSC approved the suspension of the membership of the Central African Republic (CAR), Guinea-Bissau, Madagascar, Mauritania and Togo. The government of CAR,
Guinea-Bissau and Madagascar were banned from attending the AU’s 21st Summit in 2013. This point to the role of the PSC and its institutions in the implementation of the non-indifference policy in conflict affected areas in African.

2.3.4 AU Standby Force (ASF)

In order for the AU PSC to facilitate African peacekeeping, five regions (North, East, West, South and Central) were selected to open a military brigade. According to Dersso the role of these military brigades were is to prevent conflicts on the continent. They are also used for deployment and peacekeeping where conflict has occurred. Moreover, they play a major role in “post-conflict settings such as peace building, post-conflict reconstruction, disarmament, demobilisation and reintegration of armed combatants, and humanitarian assistance as well”. It is essential to argue that these regional brigades are already in various parts of Africa, in North, East, West, South and Central. The important question one can ask is to know whether these regional brigades are operational.

For example, the Southern African Development Community brigades (SADCBRIG); the Eastern African Standby Brigade (EASBRIG); the North African Standby Brigade (NASBRIG); the Economic Community of West African States Brigade (ECOBRIG); and the Economic Community of Central African States Brigade (ECCASBRIG). Dersso argues that each of these ASF brigade consist of five thousand (5,000) personnel making a grand total of twenty five thousand (25,000) personnel. There is, however, an overlap in the five regional brigades because some of the AU member’s state belongs to two or more sub-regional organisations. Chingono and Nakana observed that regional overlapping among member states of different RECs has twisted confusion, competition and duplication; and more so comprise a burden on the taxpayers. For example, the DRC belongs to SADC and ECCAS. This will pose a big challenge to the PSC when it comes to the building and distribution of personnel in the various regions.

241 Solomon (2014), p. 21
242 Dersso (2008), p. 1
243 Ibid
244 Dersso (2010), p.7
245 M. Chingono & S. Nakana, (2008), pp. 404
2.4 AU’s Intervention in Conflict Affected Areas in Africa

Since its inception, the AU has applied its principle of non-indifference to different cases of conflicts in Africa. For example, in 2008, the AU demonstrated its commitment in addressing electoral conflict in Zimbabwe that arose between the Zimbabwe African National Union-Patriotic Front (ZANU-PF), headed by President Robert Mugabe, and the two Movement for Democratic Change (MDC) leaders, Morgan Tsvangirai and Arthur Mutambara. The AU appointed the former President of Mozambique Joaquim Chissano as the AU mediator to Zimbabwe Crisis.246

The deployed mediator’s task was to conduct a peaceful negotiation between the government of Zimbabwe and the leaders of the opposition party. Nevertheless, the AU mediator was rejected by the government of Zimbabwe on the ground that the main opposition leaders Morgan Tsvangirai and Arthur Mutambara were strongly supported by the United Kingdom.247 However, the AU mandated the Southern African Development Community (SADC) to carry out the negotiations in the Zimbabwe political crisis. The mandate that was given to SADC shows that AU and its RECs are involved in the implementation of the non-indifference policy in conflict areas on the continent.

In an annual Summit of the Heads of State and Government, held in Sharm-el Sheik in Egypt, in 2008, all the parties involved in the Zimbabwe conflict were invited to agree on ways to institute peace and national reconciliation; and these parties were also asked by the AU to adopt an inclusive government approach.248 On this note, the AU supported the SADC mediation plan led by South African President Thabo Mbeki. At the end of the negotiations, on the 15th September 2008, the government of national unity headed by President Mugabe and the two MDC opposition leaders, namely Morgan Tsvangirai and Arthur Mutambara, was established. While Tsvangirai was made Prime Minister, Mutambara was made Deputy Prime Minister.249

The Zimbabwe case points towards the AU commitment to the maintenance of peace through the implementation of its non-indifference policy in Africa. The principle of non-

246 Stella Mapenzauswa (2005)
247 Op.cit, p. 95
248 Ibid.
249 Ibid.
indifference was also applied in the resolution of the electoral conflicts in Kenya in 2007/2008. The Kenyan post-election conflict of 2008 was negotiated by under the leadership of the AU Panel of Eminent Persons (AUPEP). The AUPEP was led by the former UN Secretary General Kofi Ata Annan of Ghana.\textsuperscript{250}

The negotiation of the Kenyan post-election conflict by Kofi Annan brought together all the key stakeholders involved in the election conflict (Party of National Unity (PNU) led by former president Mwai Kibaki and the Orange Democratic Movement (ODM) led by Raila Odinga) for a peaceful dialogue. This peaceful dialogue ends up in a power sharing accord with the entire representative as signatories of the accord.\textsuperscript{251} The AU has also shown its level of commitment to its principle in the area of responsibility to protect. The concept of the responsibility to protect can be traced as far back in 1864 with the institution of the International Red Cross. The establishment of the organisation was aimed at assist victims of conflict, war and the downtrodden. In December 1948, the UN adopted resolution 260 in the convention on the \textit{Prevention and Punishment of the Crime of Genocide}.\textsuperscript{252} This was in response to assist people who are been abused in conflict situation or the downtrodden. The AU first peace mission in 2003 was in Burundi, which was known as the African Union Mission in Burundi (AMIB),\textsuperscript{253} was solely managed by the AU’s member states.\textsuperscript{254} More than 3000 troops deployed in Burundi were contributed by South Africa, Ethiopia and Mozambique to observe the peace process and make sure that participants in peace process are given protection.\textsuperscript{255} Despite the limited resources at the disposal of the AU, the new organisation has been making tremendous effort to maintain peace, security and stability on the Continent. Other areas of peacekeeping can be seen in the figure below.

\begin{thebibliography}{99}
\bibitem{250} T. Murithi (2009), p. 97
\bibitem{251} \textit{Ibid.}
\bibitem{252} \url{http://www.unric.org/en/responsibility-to-protect/26981-r2p-a-short-history}, access on the 14\textsuperscript{th} July 2017
\bibitem{253} T. Murithi, (2008)
\bibitem{254} O. A. Mohammed (2000)
\bibitem{255} T. Murithi (2005)
\end{thebibliography}
2.5 Conclusion

This chapter highlighted the paradigm shift from the OAU to the AU which necessitated the shift from the non-interference to non-indifference policy. This was linked to the failures of the OAU in bringing peace and security on the continent and the commitment to non-interference in the domestic affairs of its member states. This saw little action taken against gross human rights violations. As African conflicts became intractable, it was argued that the OAU’s principle on non-interference was a major problem that hindered conflict resolution and management on the continent.

The shift to the new principle was inspired by the idea that Africans must take charge of resolving their own problems in their own way. It can therefore be argued that the AU and its new principle were formed in a bid to bringing about sustainable peace, security and stability that would lead to the prosperity of the continent. Having explained the formation of the OAU, its failures and understood the transition to AU and its bid to promote sustainable peace, the next chapter examines the historical origins, effects and the causes of the DRC

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256 Williams, P. D. (2013)
conflict. It also investigates how the AU's principle on non-indifference was applied in the DRC case.
CHAPTER THREE
THE CONFLICT IN THE DEMOCRATIC REPUBLIC OF CONGO: A CRITICAL EXAMINATION

3.1 Introduction

The second chapter examined the transition from the OAU and its principle of non-interference, to the AU and its new principle of non-indifference in conflict affected areas in Africa. It also explained how the OAU and its principle of non-interference failed to manage African conflicts and promote sustainable peace in Africa. This therefore, warranted an urgent need to reform the OAU into AU with the shift from non-interference to non-indifference principle. This required a rapid shift that would allow the organisation to intervene in any member state, regardless of the principle of sovereignty and territorial integrity, in preventing mass atrocities and crimes against humanity. The aim of this chapter is to examine the DRC conflict and how this conflict was posing threats to the maintenance of the national, regional and international peace.

Furthermore, the chapter also investigates the manner in which the non-indifference policy was applied by the AU to end the crisis. In order to address this, it lays down justifiable facts that provide an understanding on why the AU, and later the SADC, had right to intervene regardless DRC consent. The chapter is structured into four sections. Part one examines the historical background of the DRC conflict, its root causes and actors involved in the conflict, its triggers, its effects on the region and international peace. The second section consists of an examination of the effects the conflict has on political, economic, environment, and social life in the country. The fourth section consists of concluding remarks of the chapter.

3.2 Background of the DRC Conflict

The DRC is one of the largest states in terms of the geographical area and population size on the African continent with tremendous natural resources. It has an estimated population of about 77,433,744 million inhabitants.\(^{257}\) It a country with vast equatorial rain forest which makes it rich in timber. The DRC as a former Belgium colony has rich mineral deposits as well as a large river that can generate electricity to power the whole of the African

\(^{257}\) Central Intelligence Agency (CIA) (2014)
continent. Despite, all the natural resources found in the DRC, the country has remained with lack of infrastructural development and fragile. For this reason, the country is amongst the underdeveloped countries on the continent. Moreover, it has been ravaged by conflicts that have led to about five million people dead and hundreds of thousands displaced.\textsuperscript{258} These conflicts are both inter-state and intra-state following independence in 1960. Danfulani argues that these conflicts have been as a result of weak government institutions, lack of the rule of law and democratic government, and failure to uphold the dignity, integrity and human rights.\textsuperscript{259} Danfulani further says that after independence in 1960, conflict broke out because of power struggle between the Marxist Prime Minister Patrice Lumumba and the President Joseph Kasavubu.\textsuperscript{260} For example, Moise Tshombe of Kantanga Province advocated for secession from the new leadership in Congo.\textsuperscript{261}

Nest, Grignon and Kisangani note that the state's territorial control and coercive monopoly were seriously challenge by the Katanga secessionist movement.\textsuperscript{262} This challenge was due to the interests of the Belgian government and the local government political actors that were focused on ensuring the continued foreign control of the mines in the Katanga province.\textsuperscript{263} The collapse of the police and military subsequently to independence led to the one sided decision by the Belgian government to return their troops to protect Belgians and their properties.\textsuperscript{264} It was anticipated that Lumumba who was the first democratic elected leader of the legislature advocated for a legitimate emerging state and this further threatened the interest of the Western powers and the local politicians in the DRC.

Truman says that most of the Europeans who remained in the country after independence later left to their various countries, and this gave room for the Congolese to take over the military and administration positions.\textsuperscript{265} On September 14\textsuperscript{th}, 1960, Patrick Lumumba was

\begin{itemize}
\item \textsuperscript{258} S. Anup, (2010)
\item \textsuperscript{259} J. Danfulani (2011)
\item \textsuperscript{260} \textit{Ibid.}
\item \textsuperscript{261} Time Congo, Jungle shipwreck (1960)
\item \textsuperscript{262} Nest, Grignon and Kisangani (2006), p. 17
\item \textsuperscript{263} \textit{Ibid.}, p. 17
\item \textsuperscript{264} \textit{Ibid.}
\item \textsuperscript{265} Trueman (2016)
\end{itemize}
unconstitutionally sacked from his office as Prime Minister by President Joseph Kasavubu and this led to leadership crisis.\textsuperscript{266}

The root causes that led to this conflict and ultimately the death of Lumumba were the ideological differences.\textsuperscript{267} As a result of this difference, Belgium, France, US Central Intelligence Agency (CIA), and the local defense forces conspired to arrest Lumumba.\textsuperscript{268} Lumumba was arrested by the Congolese forces led by General Joseph Mobutu, and in January 1961, he was finally handed over to the Katanga authorities to be executed by the Belgian-led Katangese troops.\textsuperscript{269} The execution of Lumumba in 1961 gave way for president Kasavubu to hold on to power but he was unable to stabilise the social unrest that was ravaging the country.\textsuperscript{270}

Adam Habib argues that the failure of president Kasavubu to stabilise the country and bring stability led to the end of his leadership through a “military coup d’état” organised by General Joseph Mobutu in 1965.\textsuperscript{271} In 1971 Gen. Joseph Mobutu adopted a new name as Mobutu Sese Seko. The revolution also saw the changes of people’s names, towns and the country were anointed with a new name called Zaire, while cities like Kisangani and Lubumbashi experienced the same thing.\textsuperscript{272}

President Mobutu’s 32 years of administration was marked by bad governance, corruption, oppression, human rights violations, repression, clientism, predation, tribalism and as well as nepotism.\textsuperscript{273} However, Oregun postulated that, “Mobutu’s long stay in power, despite not providing total stability or respect for human rights, was because of the politics of the Cold War era, a situation that supports clients irrespective of their democratic and undemocratic credentials”.\textsuperscript{274} Oregun also notes that Mobutu’s maladministration was not taken into account by the Western powers because they were interested in preventing the spread of Communism on the continent.\textsuperscript{275} Pike notes that, Mobutu gained his high financial support

\begin{thebibliography}{99}
\item \textsuperscript{266} M. W. Doyle & N. Sambanis (2006), p.175
\item \textsuperscript{267} J. Danfulani, (2011)
\item \textsuperscript{268} Ibid.
\item \textsuperscript{269} Linda, S. (2001)
\item \textsuperscript{270} Ibid
\item \textsuperscript{271} H. Adam (2007)
\item \textsuperscript{272} Ibid.
\item \textsuperscript{273} Ibid.
\item \textsuperscript{274} P. S. Oregun (2002)
\item \textsuperscript{275} Ibid
\end{thebibliography}
from world leading International Financial Institutions (IFIs) such as the World Bank (WB) and the International Monetary Fund (IMF) together with some bi-lateral facilities given under illegal and unknown guidelines and actions of the CIA and the Western security departments.\textsuperscript{276}

The end of the Cold War in the early 1990s, which led to triumph of the capitalism, demanded transformation in foreign policies and the adoption of ethics and norms of liberal democracy. Dictatorial leaders like Mobutu were asked to transform their political philosophy to good governance, and the promotion and upholding of democratic norms.\textsuperscript{277} For this reason, Mobutu was asked to open up the democratic arena that would accommodate other political and social entities, “respect human rights, rule of law, promote good governance, and uphold the principle of liberal democracy”.\textsuperscript{278} Mobutu refused to heed to the Western democratic system of governance and this led to the US, France and Belgium withdrawing their political and financial support.\textsuperscript{279}

The IFIs and other donor agencies, also withdrew their financial aid, leaving Mobutu's Zaire in political and financial isolation.\textsuperscript{280} Richard and Christian note that, Mobutu's dictatorial regime in Zaire for three decades reduced the country’s Gross Domestic Product (GDP) because the economy collapsed and state’s funds and owned enterprises were mismanaged and misused.\textsuperscript{281} However, one cannot forget that “before independence the Belgian colonial power had introduced a strategy of divide and rule”. This strategy divided people of Congo along ethnic and regional lines. During the great effort for self-government the colonial power had actively discouraged the surfacing of national political parties.\textsuperscript{282} When Mobutu took power, the ethnicity and regionalisation of political affairs were merged for almost 34 years of his dictatorial rule.\textsuperscript{283} This is captured by Mpangala who notes that the 1996 conflict that led to death of about five million people has been depicted as the African First World War\textsuperscript{284}, and other scholars refer to it as Africa’s Great Wars. The conflict

\begin{enumerate}
\item J. Pike (2006)
\item J. Danfulani (2011)
\item C.T. Young (1985)
\item H. Weiss (2000)
\item \textit{Ibid.}
\item T. Richard & A. Christian (2005)
\item Institute of Security Studies (ISS) workshop report (2002), p. 7
\item \textit{Ibid.}
\item G. P. Mpangala (2002)
\end{enumerate}
in the DRC linked to the colonial power and the divide and rule strategy that was imposed.\textsuperscript{285}

2.2.1 The First Phase of the DRC Conflict in the Post-Cold War era began in 1996

The first phase of the DRC’s conflict that claimed the lives of millions of people in Post-Cold War era began in 1996 as a result of the insecurity in the DRC. This paved the way for continued violation of human rights by militia clusters and government armies. This conflict was marked by two important factors, the weak state legitimacy and the intervention by border countries such as Rwanda and Uganda.\textsuperscript{286} The late Laurent Kabila took advantage of this insecurity in violently opposing the Administration of Gen. Mobutu starting from the Eastern part of Congo. Disobedience of the police and military order frequently played out in “the streets of Kisangani, Kinshasa, and Lubumbashi”. The situation became worse as Mobutu’s own army became disorganized and disoriented. Many of the soldiers joined the rank of protesters and mutinied.\textsuperscript{287}

Laurent Kabila, as the rebel leader, gained most of his support from neighbouring countries like Burundi, Rwanda and Uganda. He then formed a military alliance which he named the “Alliance of Democratic Force for the Liberation of Zaire (AFDL)”.\textsuperscript{288} He mobilised the Tutsi community of Rwandan origin who were staying in a place called “Murenge” in Eastern Congo. These Tutsi had fled Rwanda in 1959 during the Hutu revolution and were staying in Murenge as refugees. This is the reason why they were called the “Banyamulenge” of Eastern Congo, named after the region they were staying in. These Tutsi refugees had been “threatened by Mobutu to forcefully be repatriated to Rwanda, they develop hatred towards him and when Kabila rose against Mobutu, they were at the forefront in the fight to overthrown Mobutu’s regime”.\textsuperscript{289} Adam Habib argues that with all this hatred and fear they joined Kabila to remove Mobutu’s government.\textsuperscript{290} President Museveni intention to join Laurent Kabila was to get rid of Mobutu’s government because Mobutu had allowed the Uganda opposition groups to launch an attack on the Uganda People’s Defence Force

\textsuperscript{285} C. Hendricks (2015), p. 20
\textsuperscript{286} Centre for Conflict Resolution (2016), p. 2
\textsuperscript{287} H. Adam (2007)
\textsuperscript{288} Ibid
\textsuperscript{289} Ibid
\textsuperscript{290} Ibid
(UPDF) from the Zaire territory.²⁹¹ The Rwanda Patriotic Army (RPA) and UPDF organised AFDL Alliance and was led by Laurent Kabila. At the centre of the AFDL were members of the Tutsi community from Rwanda (Banyamulenge and Banyarwanda) polities who were anti-Mobutu.²⁹² Furthermore, the dethronement of the Mobutu regime by Kabila was successful because, he gained a lot of external support from the Angolan government who accused Mobutu of supporting União Nacional Para a independência Total de Angola (UNITA) forces and offered it haven to operate against the Angolan government.²⁹³

Bangura points out that, “as Kabila’s democratic forces attacked Mobutu’s regime in the streets through various forms of civil disobedience his biggest enemy and intransigent Lumumbaist Comrade Laurent Desire Kabila was assembling fighters with the support of his DRC’s three neighbours Burundi, Uganda and Rwanda”.²⁹⁴ These neighbouring countries did not only provide combatants to Kabila’s democratic forces, but they provided logistical support. They also offered Kabila’s army adequate force that enabled his forces to move from Kivu bordering their countries all the way to Kinshasa.²⁹⁵ This conflict led to the ousting of Mobutu and the ushering in of Laurent Kabila as president in the DRC in 1997.

### 3.2.2 The Second Phase of the DRC Conflict began in 1998

The second phase of the war started in 1998 when the armed forces in the eastern region of the DRC, led by the Tutsi community (Banyamulenge) of Rwanda origin supported by the Rwanda regime, instigated an armed revolt to overthrow Laurent Kabila’s regime and take power from him.²⁹⁶ This was in a bid to establish a “HIMA-Tutsi-empire” in the Great Lakes Region of Africa, meaning an empire led and controlled by the Tutsi community. This is because while they helped Laurent Kabila, they saw the weak nature of the security system of his regime, where Kabila had formally given out some of the important administrative and security positions to the Uganda and Rwanda military officials as compensation for their support in overthrowing Mobutu’s regime.²⁹⁷ When the Congolese

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²⁹¹ Clark (2001), pp. 261-287
²⁹² M. Nest (2006), p. 23
²⁹³ Ibid., p. 25
²⁹⁴ Y. Bangura, (1999)
²⁹⁵ Ibid.
²⁹⁷ J. Danfulani (2011)
realised that these foreign combatants were spying on Kabila’s government with the purpose of overthrowing his regime, coupled with the fact that these allies of Rwanda and Uganda officials were of Tutsis origin anger arose. Congolese people claimed that the presence of these foreigners in the DRC government was a threat to stability, therefore must be sent back to their home countries.\textsuperscript{298}

Most of the Congolese saw themselves relegated to the bottom, and this clearly indicated that Kabila’s government did not take into consideration the issue of ethnic or regional balance in his appoints of top officials. Thus, his regime was not different from the Mobutu’s regime. President Kabila decision to accommodate his foreign combatants into his regime was a fatal mistake in the stability, security and peace of the entire country. This point is captured by Baregu who argues that, for Kabila to successfully remove his foreign friends from his government, he needed to first build his military which he did not have.\textsuperscript{299} Baregu further notes that instead Kabila decided to first sign a military agreements with China, Angola and Zimbabwe to help him build about six hundred thousand (600,000) troops that would offer enough internal and external security.\textsuperscript{300} Lanotte also argues that, for the DRC to have extra security momentum, Kabila decided to join the Southern African Development Community (SADC) which offered him collective security privileges from SADC member states.\textsuperscript{301}

Furthermore, as the Congolese kept on mounting pressure on Kabila’s regime, he then took a decision to dismiss his foreign supporters and remove them from their positions. Kagame and Museveni viewed Kabila as an ungrateful servant who decided to “bite the fingers that feed him”.\textsuperscript{302} They instantly formed a rebel group and supported it to dethrone Kabila in the same way that they did to Mobutu, and took power from him.\textsuperscript{303} The newly formed rebel movement instigated the banner of Congolese Rally for Democracy (RCD). However, after starting their mission the leaders of the rebel movement discovered that their war plans could not work because they were using the same strategy that was used to dethrone Mobutu. Moreover, the RCD lacked a popular support from the native Congolese.

\textsuperscript{298}Ibid.

\textsuperscript{299}M. Baregu (2002)

\textsuperscript{300}Ibid.

\textsuperscript{301}O. Lanotte (2005)

\textsuperscript{302}Ibid.

\textsuperscript{303}Ibid
As the rebels, continuous to move towards Kinshasa, the capital city, and had captured it, Kabila then invited Angola, Namibia and Zimbabwe to help. The capture of Kinshasa by the rebels did not materialize because of the tremendous support and rapid intervention offered by Zimbabwe, Angola and Namibia in support of Kabila’s government.\(^\text{304}\) This intervention was justified and “legitimised by the principle of providing assistance to any member state of the SADC embedded in its charter”. The 1999 Lusaka Ceasefire agreement ended the conflict.

However, after the Lusaka ceasefire agreement, conflict still broke out in the DRC involving various groups in the North and Eastern parts of the country. These included anti-Kabila coalition groups emerging from local population. The many groups that arose from the crisis in Congo did have the same interests. For example, the Mayi-Mayi interest in the crisis in Congo was to push out the Rwandan, Ugandan and Burundian forces from the DRC territory. As a result, the Mayi-Mayi and the Kinshasa administration agreed to join together and pushed out these forces from their territory. In the course of continuous fighting the RCD was divided into two rebel factions that is, the Rwanda and the Uganda fraction.\(^\text{305}\) The Rwandan fraction was the RCD Goma and the Ugandan fraction was the RCD of Kisangani. At a particular point in time, the two fractions fought against each other and this offered more advantage to the Kabila government to seal their victory.\(^\text{306}\)

In January 2001, President Kabila was assassinated while arranging to attend a foreign summit. After due consultation and series of negotiations in Kinshasa, President Kabila son, Joseph Kabila who was the commander in the army in one of the regions in the DRC was asked to succeed his father.

### 3.3 The Causes of Conflict in the DRC

The seed of disputes on the African continent were implanted in colonialism era:

> “Firstly, colonialism formed and merged the divisive ideologies of ethnicity, racialism, regionalism and religious opposition among the African people.”\(^\text{307}\) Vail pointed out that, colonialism created and invented ethnicity and promoted ethnic consciousness among the colonised people, such creations and inventions were also true with racialism, regionalism

\(^{304}\) J. Punungwe (1998)
\(^{305}\) Op. cite, p. 6
\(^{306}\) Ibid
\(^{307}\) G. P. Mpangala (2000)
and religious animosity. Secondly, colonialism divides people through the strategy of “divide and rule” which was carried out by the British; and the policy of assimilation which was carried out by French; and the creation of artificial borders between colonies. That is, the colonial, the post-colonial and the contemporary era. He emphasised that the colonialism was accountable for the post-independent conflicts in the DRC, and many other African countries.

It is vital to know that the partition and colonialism had impact on the DRC and Rwanda. For example, Banyarwanda before the partition and colonialism, which was under the supremacy of the Kingdom of Rwanda, was later divided. One part remained in Rwanda while the other part went to colonial Congo. All these divisions and the artificial borders came up because of the quest for mineral resources. Rwanda was first divided by “the German and later by the Belgian colonial powers into antagonistic ethnic groups of the Tutsi, Hutu and Twa”.

Post-independence relationship between DRC and Rwanda also was faced by Neo-colonial forces. It is basically a “new form of extending the same imperialist economic interests by controlling the economies of the independent African countries”. This was expressed itself in the way that colonial masters ensured the establishment of puppet governments and administrations. The DRC is a typical case of these forces twisted events in post-independence and created instability through the assassination of Patrick Lumumba in 1961 and the enthronement of Mobutu.

Neo-colonial interests in the DRC are part of the underlining reasons for the crisis or conflict in the DRC. Uniquely from other African countries, the DRC has a very high “agricultural potential due to its fertile soil and favourable climate for the production of both food and cash crops. It produces a variety of crops including coffee, cotton, palm oil, rubber, sugarcane, maize, groundnuts, tea, tobacco, cassava, and bananas”.

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308 L. Vail, (1989)
309 Op.cite
311 H. Assefa, (1996)
312 Ibid.
313 Ibid.
314 P. M. Gaudens (2004)
Gaudens argued that “he who controls DRC dominates Africa; and therefore, if the West loses hold over DRC, they will sooner or later lose grip over the whole of African continent. Since independence in 1960, the DRC has had little or no peace”.\textsuperscript{315} It can be argued that poverty and underdevelopment caused by the conflict is an issue that leads to violence, conflict and rebellion in the DRC.

Furthermore, there is a lack of legitimate leadership to build strong institutions in the DRC. Both the Mobutu and Kabila regimes were much more interested in amassing wealth for themselves. The wealth generated from the mineral resources was distributed along party loyalties, and the majority of the people were left with little or nothing. Hence, poverty and hunger in the population developed,\textsuperscript{316} leading to conflict. Most centralised states have always ‘neutralized’ political opposition.\textsuperscript{317} In a centralised state the executive arm of the government will always by-pass the other two arms of the government (the legislature and the judiciary) and even the local government in order to serve their party elite.\textsuperscript{318} Thomas Callaghy argues that Africa is suffering from “neo-patrimonial regime”. He propounded that “neo-patrimonialism is a hybrid regime consisting of exterior modern, formal and rational-legal state-like apparatus of patrimonial spoils network in which centralise elites mobilise political support by using their public positions to distribute jobs, rent-seeking opportunity and resources for personal favours.”\textsuperscript{319}

3.4 Major Actors in the Eastern DRC Congo

The main foundation of instability in the DRC is as a result of many armed groups. Weiss argues that, African conflicts have affected the continent and it in interlocking alliances motivated by the principle of the “enemy of my enemy is my friend”.\textsuperscript{320} In examining the actual neo-realist approach holds important description or illustration to power. Zeev Maoz et al note that, “neo-realist actually illustrated that; enemies of allies are considered enemies because, even if such actors have not been directly hostile to the focal state, its allies may draw it into an intended or unintended conflict. Likewise, states view allies of enemies as potential enemies, because they perceive themselves as potential targets of

\begin{itemize}
\item \textsuperscript{315} Ibid.
\item \textsuperscript{316} A.P. Clément, Jean (2004)
\item \textsuperscript{317} Ibid
\item \textsuperscript{318} C.M. Fombad (2005), p. 341
\item \textsuperscript{319} T. Callaghy, (1988), p. 88
\item \textsuperscript{320} H. Weiss (2000)
\end{itemize}
alliances forged by their enemies, thus they act to counterbalance potentially hostile alliances or initiate preventive conflict against them”.

The most active armed groups in the DRC are: The Movement for the Liberation of Congo (MLC), the M23 Rebellion, the Democratic Forces for the Liberation of Rwanda (FDLR), the National Congress for the Defense of the People (CNDP), the Lord’s Resistance Army (LRA); the Mayi-Mayi Militia, and Allied Democratic Forces (ADF). Eastern Congo has been fought with conflict because of the armed groups from Uganda and Rwanda, and to some extent from Burundi, since 1998.

Rwandan intentions to intrude in the DRC conflict were to eradicate or do away with Interahamwe or FAR which were situated on the Rwandan border in the Eastern Congo. Longman views that, Rwanda’s intention in the DRC was a combination of “opportunities for personal and national enrichment; and the aspiration to be a regional power”. For over 15 years the FDLR has been carrying out operations in Rwanda against the Congolese civilians in Eastern Congo. The FDLR has been getting support and direction from the Rwandans in the diaspora in Europe, Africa and the US. The government of Rwanda tendered a list of FDLR, “Interahamwe” and other militia leaders in 2008 to the US government officials for the application of international sanctions, but few of these leaders still live in the US except of Callixte Mbarushima, who was the top leader in FDRL and was arrested by French security in Paris in 2010. However, in 2008, the National Congress for the Defense of the People (CNDP) under the control of Gen Laurent Nkunda instigated the most important attacks against the DRC Armed Force (FARDC) in the Eastern Congo, few days after the attacked, the CNDP took control over a number of small towns while the Congolese forces had a bigger control in large towns in that region.

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321 Zeev Maoz, G. Lesley Terris, Ranan D. Kuperman, and T. Ilan (2007)
322 Ian, Fisher (1998)
323 L. W. Timothy (1998)
324 Congressional Research Service (CRS) (2011)
325 Ibid
326 CRS (2006 and 2007)
3.4.1 Movement for the Liberation of Congo (MLC)

The Movement for the Liberation of Congo (MLC) was under the leadership of Jean Pierre Bemba. The Congolese armed forces and Bemba’s militia went into confrontation in 2007 in Kinshasa. The tension between the Congolese army and Bemba’s militia army in Kinshasa did not materialise because of the absence of Bemba who was the supreme commander of the MLC party. In the cause of this confrontation Bemba escaped to seek refuge in the South African Embassy in Congo. He was later allowed to travel to Portugal with his family.\(^{327}\)

3.4.2 The National Congress for the Defense of the People (CNDP)

The CNDP is a DRC base rebel group which had the obligation to protect the Tutsis population in the Great Lakes Region, most especially Tutsis people in the Eastern Congo against the FDLR.\(^{328}\) In 2009, the Congo and Rwanda undertook a joint attack on the CNDP rebels and after the extinction of this rebel group some of its members were integrated into the Congolese armed forces and some joined other militia groups.\(^{329}\)

3.4.3 The Allied Democratic Forces (ADF)

The Allied Democratic Forces (ADF) was a Uganda Muslim rebel group which had an influence in Uganda and DRC. Their role was observed in the Beni District near the border of Uganda in 2010. In the same year, the Congolese armed forces opened a military attack known as “Rwenzori against the ADF and its allies in Beni; and Kabila’s inability to restore peace led to Uganda attacking the DRC”.\(^{330}\) Furthermore, Kabila had a strong relationship with Khartoum that has been in support of the ADF, West Nile Bank Front (WNBF) and the Lord’s Resistance Army (LRA) that actually fought against the Kampala government.\(^{331}\) Most of the main airports in Eastern Congo were seized by the Ugandan forces as a way to prevent the Sudanese from using them against the Ugandan regime.\(^{332}\) Clark points out that, Ugandan’s assessment to intrude in the DRC conflict was because of the value of the

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\(^{327}\) CRS (2007)  
\(^{328}\) Op.cit  
\(^{329}\) Ibid.  
\(^{330}\) Ibid.  
\(^{331}\) C. Williams (2013)  
\(^{332}\) A. De Waal (2004)
Rwandan-Ugandan coalition and above all, there was economic interest in mineral trading in the DRC.333

3.4.4 The Mayi-Mayi

The Mayi-Mayi militia group is a group from the Congolese militia that has persistently requested political demands from their Kinshasa government. The Mai-Mai were committed for the defense of their communities against external intrusion from Burundi, Uganda and Rwanda in 1999.334 Their target was the civilians and the United Nations peacekeeping forces in Eastern Congo. In 2010, the Congolese and the UN peacekeeping forces in the DRC apprehended the Mayi-Mayi militia leader who was believed to be coordinating mass rape in the DRC.335 The leader of the Mayi-Mayi group Lieutenant Colonel Mayele Cheka was apprehended in the North Kivu province.

3.4.5 Lord’s Resistance Army

Another actor in the DRC conflict was the Lord’s Resistance Army which was a Ugandan rebel group that had existed since the mid-1980s.336 This rebel group was under the command of Joseph Kony. The LRA has performed its mission in Northern Uganda, the DRC, the Central African Republic (CAR), and the South Sudan. This rebel group only targeted the civilian population, especially women and children. The rebel group actually obtained its support, protection and facilities for training from the government of Sudan, to instigate attacks in the Northern Uganda and Southern Sudan.337 The separation of Sudan, actually gave the government of Southern Sudan the power, through the Sudan People’s Liberation Movement to cut-off the LRA operations in South Sudan.338

3.4.6 M23

The conflict that broke out in Eastern DRC in May 2012 was led by the armed rebellion known as the M23. The intensive pressure placed on the M23 rebels by the regional

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333 Ian, Fisher (1998)
335 Ibid.
336 Ibid.
337 State Department press release (2008)
338 Ibid.
leaders led to withdrawal of the M23 from the regional capital Goma. \(^{339}\) This group also took control of the North Kivu. \(^{340}\) In early 2013 the Armed Forces of the Democratic Republic of Congo (FARDC) went into confrontation with the faction of the M23 rebels. In the same year, the government of DRC organised a peace talk with the M23 rebels, and the peace talk did not go well because the M23 faction controlled by Commander Sultani Makenga and his contender Bosco Ntaganda went into serious confrontation. This confrontation led to fighting between the two factions, and this fighting led to the escaped of Bosco Ntaganda to Rwanda where he submitted himself to the US Embassy. \(^{341}\) On the 22\(^{nd}\) March 2013, the US Embassy handed him over to the International Criminal Court (ICC). The UN was immediately informed about the situation in the DRC.

The UN responded and deployed intervention unit as part of the UN Stabilisation Mission in the DRC (MONUSCO) to stabilise the conflict situation in the DRC. \(^{342}\) However, six MONUSCO trucks were hijacked; a media and open letter communiqué were issued by the M23 rebels warning the UN and countries that are donating soldiers to the intervention brigade. \(^{343}\)

In August 2013, the UN Intervention Brigade (UNIB) launched an attacked on the M23 rebel group that has been attacking the FARDC in Goma. In the course of this confrontation eight civilian and one Tanzanian soldier were killed, and on the 28 August FARDC then confronted M23 rebels with full force with an active backing from the UNIB. \(^{344}\)

The last round of fighting between the government’s armed forces and M23 rebels ended the conflict in October, 2013. The success of the FARDC was viewed from the support that they gain from MONUSCO’s Intervention Brigade, and the M23 were removed from all the main towns that were formally controlled by the M23 rebels. These town include; Kibumba, Rumangabo, Rutshuru, Kiwanja and Bunagana. In November 2013, the DRC government

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\(^{339}\) ICGLR Communiqué (2012)

\(^{340}\) UN-Secretary-General Report (2013)

\(^{341}\) J. Hogg (2013)

\(^{342}\) UN-Secretary-General Report (2013)

\(^{343}\) P. Khadija (2014)

\(^{344}\) The Telegraph (2013)
finally declared their conquest over the M23 rebels when they finally dumped their last position in Runyonyi and Chanzu.\textsuperscript{345}

3.4.7 Angola

Angola’s intrusion in the DRC conflict was to support the Kabila regime. President Jose Eduardo dos Santos agreed to support Kabila in order to secure his regime from invasion by the UNITA.\textsuperscript{346} His reasons for supporting the Kinshasa regime were: firstly, to defeat the Angolan rebel group UNITA, and secondly, the leaders of the UNITA were always visiting Rwanda and Uganda in their support to dethrone dos Santos’ regime.\textsuperscript{347} Finally he was out to preserve the security of his own country and the oil-rich fields.\textsuperscript{348}

3.4.8 Zimbabwe

Zimbabwe interest in the intervention in the conflict was to support the Kinshasa regime because of economic and ideological aspects. Kabila’s regime had taken large loans from Zimbabwe businessmen, so there was a great fear that if Kabila was dethroned, then these Zimbabwean businessmen would lose their business. Some of these businessmen had already negotiated huge contracts with the mining companies in the DRC based on the idea that Kabila’s regime would remain in power for their personal interest.\textsuperscript{349} Reyntjens points that, “Mugabe saw the Congolese conflict as an opportunity to reassert some of his leadership ideology in the region and the continent”.\textsuperscript{350}

3.4.9 Namibia

Namibia’s intervention in the DRC conflict was as a result of a good friend allocating the same ideology with another friend. The then Namibia President Sam Nujoma was a close friend to President Mugabe, sharing the same Marxist philosophy as dos Santos of Angola, Mugabe and Kabila.\textsuperscript{351} Despite all the personal motives portray by Angola, Namibia and Zimbabwe in the intervention of DRC conflict in support of Kabila regime, it was legally

\textsuperscript{345} Mail & Guardian (2013)
\textsuperscript{346} C. Williams (2013)
\textsuperscript{347} T. Turner, (2002)
\textsuperscript{348} Ibid.
\textsuperscript{349} F. Reyntjens (2006)
\textsuperscript{350} Ibid.
\textsuperscript{351} Fischer et al. (1999)
substantiated that, their involvement in the Congo conflict was through the SADC which DRC is a member. Laurent Kabila’s DRC “officially invited the SADC’s Inter-State Defense and Security Committee (ISDSC) to protect Congo from Rwandan and Ugandan forces”.

3.5 The Triggers of the DRC conflict

In every conflict, there are always a number of factors that trigger it. Unfortunately, many people confuse root causes and triggers of a conflict. However, triggers are rooted in the root causes of a conflict. In the DRC conflict the following triggers were found:

3.5.1 Marginalisation

The marginalisation of some ethnic groups in many regions or communities that felt left behind and not recognised by the government triggered the long standing conflict in the DRC. This became a problem when the late President Laurent Kabila compensated foreign combatants from Rwanda, and Uganda to top positions. This raised animosity in the entire country and many people started seeing the Laurent Kabila regime as the previous Mobutu regime.

3.5.2 Ethnicity

The ethnic conflict that arose in the DRC in 1972, 1973, 1985 and 1996 between the Hema and the Lendu could be marked out from the colonial era. In this regard, the Belgium colonial leadership in Congo was based on the policy of “divide and rule” among the Hema and the Lendu people who were associating together and intermarried with one another. The Belgian “divide and rule” policy created ethnic tension among the two tribes because their leaders supported the Hema, which saw a distinction in education and wealth difference. Collier acknowledged that social grievances, such as inequality, a lack of democracy and ethnic divisions have seen rebel’s spring up as spirited heroes to fight against injustice. The inflow of the Hutu refugees into the DRC was another challenged

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352 M. Rupiya (2006)
353 Ibid.
355 Ibid
that triggered the conflict in the DRC. By 1998 the conflict between the Hema and Lendu escalated to a regional conflict.\textsuperscript{357} The Orientale Province in the Northern DRC was under the occupation and ostensible power of the intruder Uganda People’s Defense Force (UDPF) and “the Ugandan-backed Kisangani faction of the rebel Rally for Congo Democracy (RCD-K) under the administration of Ernest Wamba”.\textsuperscript{358}

\textbf{3.5.3 Corruption and Violation of Human rights}

Corruption and human rights violations have never been the greatest issue in the DRC conflict since 1888 when King Leopold II was assigned by the Belgian government to rule the Congo-Belgian colony. Marty Jezer illustrated that King Leopold II actually cause crimes against humanity in the equatorial rainforest of Africa.\textsuperscript{359} Hochschild depicted that King Leopold II and his military travelled to the hinterland holding women hostage and forcing their men to go into the tropical rain forest to tap the native rubber trees. The men who defied were gunned down by machine-gun. The handful of men who opposed this forced labour was beheaded or had their hands cut-off.\textsuperscript{360} Women who were held hostage were raped and mistreated by King Leopold’s military and the indigenous communal construction was shattered.\textsuperscript{361} One can argue that there was no difference between King Leopold II era with that of Mobutu and Kabila’s. King Leopold promised to bring civilisation to Congo but this turned out to be an exploitation of mineral resources, manpower through coercive method for the benefit of Belgium; while Mobutu and the Kabila ran the country for their own personal enrichment while the masses died in poverty. This indicates that from Leopold, Mobutu and Kabila, the DRC has been under serious impunity and impoverishment. Corruption also led to illegal extraction of the mineral resources in the DRC. The illegal activities also led to the involvement of some multinational corporations and all the countries around the Great Lakes region.

\textbf{3.5.4 Mismanagement of natural resources}

There is an illegal exploitation of mineral resources headed by a network of top military officers and businessmen. The illegal exploitation of the mineral resources in the DRC

\textsuperscript{357} Ibid.
\textsuperscript{358} D. Gough (2012)
\textsuperscript{359} Marty, Jezer, 2001
\textsuperscript{360} Hochschild (1998), p. 366
\textsuperscript{361} Marty, Jezer (2001)
forms the basis for the persistence conflict situation in this country which is affecting the citizens in the DRC in one way or the other.

There are great natural resources that can provide a good standard of living to the population in the DRC, but most of the people there still die of poverty and hunger. It is estimated that about 75% of the population in the DRC lives on less than one dollar a day. With these rich natural resources in the country, some areas still lack access to drinking water, poor transport networks, poor infrastructures, and high infant mortality rate. The DRC’s natural resources remain the most strategic resources in the international market today. For example, “Coltan is a mineral resource that is used for the manufacture of mobile phones” and its demand in the international market is so high that if control in an appropriate manner the economy of DRC will be well placed.

3.5.5 Colonialism and Neo-colonialism

The colonial era was scored by “predation, dictatorship, political oppression, crime against humanity, impunity, range of injustice by the colonial master and the Congolese people fight for freedom, human dignity and social justice”. Muzona acknowledged that King Leopold II actually implements force labour and slavery to the Congolese people; and these labourers were expected to bring a certain quantity of Ivory and rubber to the King’s agents. Brutal punishment was given to those who did not measure up to the quantity expect of them. Some limbs were cut off, others killed and some brutally bitten. He further noticed that in “the advent of the Belgian Congo only saw a marginal improvement in the well-being of the Congolese people as forced labour, economic exploitation and oppression continued under Belgian rule”.

The neo-colonial interest comprised a trigger for the Congolese conflict since independence. The country has rich minerals deposit which are extracted and exported to their various countries. The minerals are Coltan, diamond, copper, gold, uranium, and cobalt. The “natural resources in the DRC have been the reason for fighting and the means

363 G. Muzona (2008), p. 3
364 Ibid, Pg. 4
365 M. Rupiya (2006)
through which conflict has been sustained, and they have been largely neglected in peace accords and post-conflict reform".366

3.6 The Effects of the Conflict in the DRC

The DRC conflict has been considered the deadliest crisis since World War II in Africa. It is estimated that about 5.4 million to 6.9 million people have been killed.367 The war in the eastern part of Congo has led to the displacement of thousands of Congolese to neighbouring countries and others are displaced internally. Most of the population is exposed to the danger of diseases and malnutrition. The effects of the conflict in the DRC range from the political, economic, social and as well as environmental.

3.6.1 Political effects

The Mobutu and Kabila regimes were illegitimate because “both regimes came to power through a military coup d’état”;368 and were made of political institutions; and most of the state’s resources were been distributed along loyalties, military and elites line.369 Both regimes were interested in amassing state resources to the detriment of the Congolese population instead of building a strong Congo with democratic principles, rule of law and strong military sector that would protect the state’s natural resources from foreign and illegal extraction. Their regimes were full of bad governance, weak institution and corruption.370 The weak political and military institutions have been the core of the conflict in Congo with the raising military and armed groups; and this has instigated tension among the marginalised groups that has not gain anything from the sharing of the national resources and governance.371

3.6.2 Economic Effects

One of the economic effects is the Ugandan army’s economic strategy of “military commercialisation”. The eastern DRC is faced with exploitative taxation, unfair competition, and the untaxed import of Ugandan products into this region has added to the total

366 E. Nibishaka (2011)
367 B. Coghlan & P. Ngoy (2007)
368 B. Todd (2006)
369 Op.cit
370 B. Guenther (2008)
destruction of the eastern DRC economy. As a result, this has only benefited Ugandan commercial interests. It is reported that, leaders in the region force the Congolese businessmen to pay taxes in advance before they can bring in their goods while the Ugandan businessmen are doing business without any problem because they are connected to UPDF leadership.\textsuperscript{372} The taxes and custom duties collected from businesses are not reaching the appropriate authorities, and not even benefitting the DRC government. Most of these taxes are collected by the armed militia groups instead of the right tax officers of the government. Militia groups use the money collected from the taxes to purchase weapons and pay their combatants.\textsuperscript{373}

The conflict has led to the devaluation of the Congolese franc and raised of the cost of living in the country. For example, the widespread inflation and currency devaluation in 2001 have made investments unattainable for small businesses.\textsuperscript{374} Furthermore, the conflict has momentously reduced local food production in the DRC. As a result most of the food products in the DRC are imported from the neighbouring countries at a higher cost.

3.6.3 Social Effects

A large part of the population of the Congo does not have equal opportunity in social development. As a result of this many of the people do not have access to education, healthcare, land and most young people are forced to join the militias by the rebels'.\textsuperscript{375}

According to the Human Rights Watch, women are exposed to sexual abuse which includes “gang rapes and sexual slavery of women and girls, and the sexual violence has led to a disastrous health, social and psychological effects on the victims”.\textsuperscript{376} However, the military personnel that were stationed in DRC away from their homes tend to engage themselves in unprotected sexual relationship which increases the high risk of contracting HIV amongst the soldiers and the Civilians.\textsuperscript{377} The UNAIDS press release in 2000 viewed that, “soldiers involved in the conflict in the Great Lakes Region reportedly raped women of their enemy side, with the high intention of infecting them with HIV”, they also used “sexual

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\textsuperscript{372} Amnesty International Report (2003)
\textsuperscript{373} Ibid.
\textsuperscript{375} United Nations High Commission for Refugees (2010)
\textsuperscript{376} Human Right Watch (2009)
\textsuperscript{377} Amnesty International (2008)
violence and rape as a weapon of war in the eastern DRC”. Goodwin and Nolen point out that, this strategy was used by the armed groups as a tactic to weaken their enemies. However, rape has been taken as a “cheap weapon of war, and the bullets and repeated gang-rapes on the same victims has been a revenge strategy each time a city or community changes hands from being under the control of one armed group to another”. The Human Right Watch also observed that, women who were captured and used as sex slave by the Commanders.

3.6.4 Environmental Effect

The National Park that is home of gorillas and other animals are often over-run because of the exploitation of minerals and timber resource. It is imperative to know that DRC conflict aggravated poverty and hunger from bad to worse. It also made people to nomadic running away from their homes for safety, others moving into the forests for the search of minerals, hunt wildlife, such as apes, for bush meat. This led to Gorillas, for example be declared as already endanger species in the DRC.

3.7 Conclusion

The conflict in the DRC, which began as an ethnic conflict trigger by the colonial policy of divide and rule, has gain some complex political momentum which has involved foreign militaries in the great lakes region. The divide and rule policy was engaged along ethnic division which resulted into hatred among the Hema and Lendu tribes, and Banyamulenge and Mai-Mai groups that were first living and intermarriage with one another; then turn to be enemies as a result of land distribution conflict. However, the post-independence era was marked by gross impunity articulated by Mobutu regime that ran the country’s economy for his personal gain while the rest of the population died in poverty. As a result of this, there was an inequality in the distribution of the national cake, gross human rights violation, insecurity, lack of democratic principle and the rule of law instigated conflict that led to his dethronement.

379 J. Goodwin (2003); Nolen, S. 2005
381 C. Moyround and Katanga J. (2002).
Laurent Kabila reign was also marked by another conflict instigated by favouritism against the population who were relegated in the sharing of the national wealth, insecurity, corruption and mismanagement of state resources. The illegal extraction of some of these natural resources was found as the one of the factors that triggered the conflict. The chapter found that this quest for the natural resources was a trigger which led to neighbouring states such as Rwanda, Burundi, Uganda, Angola, Namibia, Zimbabwe and Sudan to get involved in the conflict. Ndikumana and Kisangani explored that the DRC conflict had a series of interconnected conflicts caused by mismanagement of land and resources, “the acquisitive goals of rebel groups, predatory neighboring states; ethnic and political grievances all help explain the outbreak and complexity of the conflict in the DRC”.\textsuperscript{382}

Having examined the conflict in the DRC, and understood its root causes, triggers, and the repercussions it has had on regional peace, the next chapter will explore the AU and SADC intervention in conflict resolution in the DRC. It will also further examine how the AU and SADC jointly apply the AU principle of non-indifference in the DRC case.

\textsuperscript{382} L. Ndikumana and Kisangani E. (2005).
CHAPTER FOUR
THE SADC AND AU’s DOCTRINE OF NON-INDIFFERENCE: FAILURE OR SUCCESS

4.1 Introduction

The third chapter explained the historical background of the DRC conflict, and showed how the conflict became regional and continental, to the extent that it was referred to as Africa’s great conflict. The conflict threatened the foundations of both regional and global peace therefore necessitated the AU and SADC joint interventions. The AU is the regional body mandated with promoting peace on the continent; however, the SADC as a sub-regional organisation also intervened along with the AU in ending the conflict. This chapter aims at documenting whether the DRC conflict was resolved by the SADC or whether its resolution was as a result of the joint effort between the AU and SADC fulfilling the principle of non-indifference.

This helps understand the viability of the AU’s principle of non-indifference in working with “sub-regional organisations in conflict management in Africa”. Furthermore, it helps to understand whether the AU’s non-indifference principle can only work if the organisation works with the RECs where the conflict is occurring. The question this chapter sets out to answer is: how did the AU apply the principle of non-indifference when working with SADC in the resolution of the DRC conflict? In other words, was the DRC conflict resolved by the AU/SADC joint effort, and to what extent was the AU principle of non-indifference exercised in the presence of the SADC?

To conceptualise this argument and attempt answer to the research question, the chapter is structured in three sections. These means that the conflict was jeopardising the peace and security in the DRC, hence the AU had to exercise its right to interfere in the domestic affairs of the DRC to rescue civilians who were vulnerable. Therefore the essence and applicability of the AU’s principle in DRC conflict makes up this section. The second section consists of examining reasons that necessitated the AU and SADC’s intervention in the DRC conflict. Section three consists of concluding remarks of the chapter.
4.2.1 OAU/AU in 1998/2002 Intervention in the DRC Conflict

The AU’s intervention in the DRC conflict was a negotiation and mediation processes between the disputing parties. In a global perspective negotiation and mediation are the best methods used to deal with conflicts and preventing them from erupting into violence. These methods are also useful in managing and resolving conflicts that are already in progress.\textsuperscript{383} Hence, negotiations in this study are understood as a method of preventing, managing and resolving conflict through peacemaking, peacekeeping or enforcement and peace-building.\textsuperscript{384} Conflict resolution analysts believed that “intra-state armed conflict was in the past” and often observed it as a “zero-sum game”. The end result of this type of situation could be something not more than “win or lose” were essentially out of the usual run of things.\textsuperscript{385} Fischer points out that, “the prolonged social conflicts are often rooted in the frustration of basic needs, such as rejection of recognition, participation or distributive justice”.\textsuperscript{386} Jönsson and Aggestam provide that this type of conflict need to be resolve through negotiation.\textsuperscript{387} They point out that, negotiation is the most prominent practice that can resolve such conflict because it is linked with diplomacy.\textsuperscript{388}

Zartman argues that, “analyst are today more inclined to see intra-state conflicts as something that can be traced back to legitimate grievances and normal politics gone bad, and that such conflicts can and should be resolved through negotiations processes”.\textsuperscript{389} Eban added that for conflict resolution to rely on diplomatic negotiation policy-makers must have trust in the institution and the diplomats as agents of conflict resolution.\textsuperscript{390} According to Pruitt the inspiration and cooperation behaviour of political leaders is by and large defined by the goal of achieving mutual cooperation.\textsuperscript{391} However, optimism about a jointly negotiated outcome is necessary since the danger of unilateral conciliatory efforts might be exploited by the opponent and viewed as weak or even disloyalty by one’s supporter. For example, South Africa illustrated an important combination of diplomatic leadership and

\textsuperscript{383} W. Zartman (2009), p. 322  
\textsuperscript{384} Ibid., p. 323  
\textsuperscript{385} T. Ohlson and M. Söderberg (2002)  
\textsuperscript{386} R. Fischer (1993).  
\textsuperscript{387} C. Jönsson, and K. Aggestam, (2009), p. 34  
\textsuperscript{388} Ibid.  
\textsuperscript{389} W. Zartman (1995)  
\textsuperscript{390} Eban (1983), p. 343  
\textsuperscript{391} Pruitt (1997), pp. 239-240
political willingness when practicing conflict resolution. De Klerk surprised the world by announcing the release of Nelson R. Mandela and his plan to negotiate in good faith the end of apartheid. Mandela on the other hand responded with courage by calling for national reconciliation and embracing white leaders with no sign of bitterness.\footnote{Sisk (2001). p.107} The OAU Charter, Article 3(4) indicated that:

“The settlement of any conflict should be carried out in peaceful manner through the process of negotiation, mediation, arbitration or conciliation, while Article 4(e) of the AU Constitutive Act mandates the organisation to carry out a peaceful resolution of conflict among its member states through an appropriate means as may be decided upon by the Assembly.”\footnote{OAU Charter (1963). Article 3(4); AU, (2002); Constitutive Act : Article 4(e).}

The first mediator that was deployed to conduct mediation process in the DRC conflict was former President of Botswana, Ketumile Masire. Apuuli acknowledged that, in 1998, the OAU/AU appointed the former President of Botswana, Sir Ketumile Masire to head the mediation process in the DRC conflict that has taken away the lives of millions of Congolese and displaced hundred thousand of them.\footnote{K. Apuuli (2004).} He was accompanied by the Late President Mummar Gaddafi of Libya and SADC officials. The mediation process started with the engagement of a number of Summits. The first mediation talk was held on the 7th and 8th of August, 1998 at the Victoria Fall, Zambia; and it was attended by the SADC Chairperson, the President of Rwanda and Uganda, who participated in the negotiation process of the Ceasefire Agreement.\footnote{G. P. Mpangala (2004).} These negotiations came at the very point when some African leaders had called for intervention into a member state domestic affair where there were gross human right violations and crime against humanity. It can be viewed that the negotiations were also in line with the paradigm shift from OAU and its “principle of non-interference” to AU and its “principle of non-indifference”.

In July 1999, the Lusaka Ceasefire Agreement was signed by the parties involved. This agreement attempted to address the internal and external fears, and recognised the actual matters that were interconnected to the different programmes.\footnote{Ibid.} The mediation of the DRC conflict included the parties in conflict, the mediator, and the process of mediation and the
context of mediation.\textsuperscript{397} The Lusaka Agreement enclosed certain constituents that are associated with domestic and regional elements of the conflict. These constituents included: the agreement reiterated that Congo’s territorial integrity is a goal that would be achieved through the withdrawal of foreign troops on the Congolese soil and an agreement that ensured the security of Congo’s neighbours. The agreement also provided for an international force that would disarm the rebel groups operating in the DRC and domestic parties were recommended to begin national reconciliation talks known as the Inter Congolese Dialogue (ICD).\textsuperscript{398}

The objective of the ICD was to institute a transitional administration in the DRC pending the holding of the democratic elections.\textsuperscript{399} As stated in the Lusaka Ceasefire Agreement, the main aim of the ICD was to facilitate the implementation of four issues related to power-sharing in the DRC: 1) “the formation of a new Congolese army, 2) the future institutions of the country, 3) the organisation of general elections, 4) and the interim constitution and institutions that would govern the DRC during the transitional period”.\textsuperscript{400} Significantly, the transitional government should comprise all the Congolese stakeholders and it should govern the country based on the principle of consensus. All “parties were expected to participate with equal status in the talks. These talks took place under the auspices of a neutral facilitator who would be responsible for organising the negotiations, consulting the parties and conducting the discussions.”\textsuperscript{401} Even though the Lusaka process had entrusted confidence in Ketumile Masire’s negotiation process and nominated him to lead the mediation work for the ICD, President Laurent Kabila rejected negotiating with the rebels. When he was assassinated in January 2001, his successor, Joseph D. Kabila accepted the ICD and the Masire mediation.\textsuperscript{402}

Masire’s mediation expanded the diplomatic process to include elderly statesmen such as Nyerere of Tanzania and Mandela of South Africa. However, Masire maneuvered in the state of affairs where other actors became in the same way outstanding in influencing the procedure and results. In excess of the track of the negotiations, Masire’s assignments

\textsuperscript{397} J. Bercovitch (2009), p. 343  
\textsuperscript{398} G. Khadiagala (2006). Pp. 60  
\textsuperscript{399} Lusaka Ceasefire Agreement (1999), pp. 8-9  
\textsuperscript{400} Ibid.  
\textsuperscript{401} Ibid.  
\textsuperscript{402} G. Khadiagala (2006).p. 60
required harmonising with key players, remarkably regional states, the United Nations, and Western envoys. Between July and August 2001, Masire held a preparatory mediation meeting in Gaborone, Botswana to draft the agenda for the peace talks and laid down the foundation for the transcribe information to the three main belligerents’ groups, that is, the government, the Congolese Rally for Democracy (RCD) and Movement for the Liberation of Congo (MLC).

In October 2001, the dialogue took place in Addis Ababa, Ethiopia.\textsuperscript{403} The negotiations did not go well as some of the representatives were disputing the presence and absence of some of the representatives. For example, the Kinshasa government queried “the absence of the Mayi-Mayi religious denominations, political parties and the Rassemblement Congolais pour la Démocratie -Kisangani-Mouvement de Libération (RCD-ML) delegates”.\textsuperscript{404}

The negotiation talks of the ICD warranted the Western envoys to bring forward a proposal to improve the professional competence of Masire’s mediation, and this further mounted more pressure on the mediator. In 2002, Masire, the UN and international donors met in New York to evaluate the future of the negotiations. However, it was further argued that, Masire’s mediation team should be replaced with international mediators but the UN concession led to the addition of two envoys to harmonise with Masire. Moustapha Niasse a formal Senegalese Prime Minister and Hail Menkerios a former Eritrean ambassador associated to the UN secretariat.\textsuperscript{405} In the same year, the Sun City negotiations took place in South Africa, and the process lasted for 45 days due to the differences over the approved representatives. The peace negotiation resumed few days after the wrangled between the President Joseph Kabila’s supporters and the rebel representatives.\textsuperscript{406} The outcome of the negotiations instituted a transitional government in the DRC. However, the transitional government was contested by the rebel representative of the RCD-Goma that Kabila should not remain as the President.\textsuperscript{407}

\textsuperscript{403} International Crisis Group (2001), pp. 5-7
\textsuperscript{404} K. Apuuli (2004), p. 70
\textsuperscript{405} UN Integrated Regional Information Network (IRIN) (2002)
\textsuperscript{406} Ibid.
\textsuperscript{407} Ibid.
In 2002, an imperative peace accord was signed in Pretoria and its significance was to address matters of the Lusaka Accord especially in the area of implementation. Moreover, this accord commanded “Rwanda to withdraw its troops from DRC and for the DRC government to sustain the disarmament, demobilization and repatriation of the Army for the Liberation of Rwanda (ALiR)”.

ALiR I and II, the two “factions was seen in the Lusaka Accord as negative forces” and the deficiency to reach into agreement on the issue of power-sharing lead to “the failure of the ICD and the continuation of conflict in the DRC”. As a result of this failure the chief mediator Ketumile Masire, who was facilitated the ICD, requested South African President Thabo Mbeki to complete the last minute negotiation deal prior to the Sun City. The awareness created by some African leaders to shift away from the non-interference to principle non-indifference in the member state internal affairs in the areas where there is gross human right violations or crime against humanity. In this light therefore, the appointment of Sir Ketumile Masire by OAU/AU as the chief mediator to negotiate the Inter Congolese Dialogue (ICD) is a clear indication of the application of the non-indifference doctrine in resolving the DRC conflict in a peaceful manner as stipulated in the AUPSC Protocol of 2002 Article 4(a).

4.2.2 Failures of Masire’s Mediation Process

In order to understand the way, the non-indifference principle of the AU was applied in this case; it is important to investigate the failures and challenges the mediation team encountered under Masire. According to Khadiagala, the coordination of many actors that were involve in the DRC conflict actually posed a big challenge to Masire’s negotiation process because of its small secretariat which failed to contain all the actors involved in the conflict resolution. These actors were the representatives from Kinshasa government, political oppositions, armed oppositions and civil society groups. He further points out that the multiplicity of political representatives and civil society actors coupled with the complex

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409 E. Roger (2004), p. 31
410 Ibid.
nature of the conflict in the DRC; and a small secretariat made Masire negotiation of the Inter Congolese Dialogue (ICD) very problematic.\textsuperscript{411}

Furthermore, the intrusion of the Western diplomats who did not fully recognize Masire’s mediation task also posed a challenge to his mediation process. This situation has mounted a lot of pressures on the Masire’s mediation process in the DRC conflict.\textsuperscript{412}

Masire’s mediation process lacked sufficient funds. This challenged the sustainability and continuity of the negotiations process. It was further noted that his mediation process failed to accommodate all the representatives of the disputant parties. The negotiation processes relied on the external donors who pledged to finance the peaceful negotiation process at the tune of $5 million only $250,000 was available.\textsuperscript{413} However, it is important to note that only 1/20 was provided to Masire’s mediation work.

DRC being a French speaking country, language barrier was another challenge for the smooth transition of the mediation process. This is because; Masire did not have any grasp of the French language. He therefore found it very difficult to communicate with delegates of the DRC conflict. He always relied on the interpretation from a third party. This prevented his ability to go into details of the conflict before and during negotiations process.\textsuperscript{414}

However, with the above challenges, he gained much supports from the UN diplomats. He managed to handle the ICD to a certain degree of compromised outcome. A few days later, he handed over the mediation process to then South African President Thabo Mbeki to continue the process. One can argue that the involvement of the SADC stemmed from their numerous supports given to Masire’s mediation team by South Africa, and rapid intervention by Angola, Namibia and Zimbabwe to support Kabila’s government from the hands of the rebels.

South Africa was really ready to keep the impetus as a result of its financial support to the ICD; secondly, South Africa as the sub-regional power in Southern Africa, were anxious to bring about a successful peaceful negotiation while preserving their image as peace maker in the continent and lastly, South Africa being a military power in SADC region feared to

\textsuperscript{411}G. Khadiagala (2006), p. 61  
\textsuperscript{412}Ibid.  
\textsuperscript{413}K. Apuuli (2004), p.70  
\textsuperscript{414}Ibid.
give room for any peacekeeping initiative in a dangerous environment like that of the DRC.\textsuperscript{415} This gives a clear reflection that the AU and SADC were working in collaboration to implement the AU’s principle of non-indifference in resolving the DRC conflict. Article 7 (j) of the Protocol establishing the Peace and Security Council warranted the AU to work in close collaboration, co-ordination and co-operation with the regional mechanisms to advance and maintain peace, security and stability on the continent. Having explained the AU mediation in the DRC, the next section examines the SADC’s role in the mediation and SADC military intervention in the DRC conflict under the auspice to the AU.

4.2.3 AU Peace Enforcement in the DRC

The negotiations that resumed in 2009 were as a direct result of the failure of the Nairobi and Goma peace processes that lead to the outbreak of conflict in North Kivu in between August and November 2008.\textsuperscript{416} Although the DRC has witnessed the collection of conflict intervention among various actor, such as UN, EU and RECs and AU has taken into cognition that for its principle of non-indifference to be implemented in the DRC AU need to work together with SADC to maintain peace and security in the DRC. AU has to assume tactics of correlating with SADC and other sub regional organisation such as ICGLR to guarantee that there is a complemented approach to the resolve the conflict in the DRC. A significant effort to pick up peace process throughout this period came with the appointment of Nigeria’s former President, Olusegun Obasanjo, as the UN Secretary General’s Special Envoy for the Great Lake Region (GLR) and the AU appointed former Tanzania president Benjamin Mkapa. In a summit meeting in Nairobi, Kenya; Kabila, Kagame, Ban Ki-Moon, the Chairperson of the AU Commission, and the presidents of Burundi, Kenya, South Africa, Tanzania and Uganda, Obasanjo was required to look into “the challenges to peace and security posed by the presence of illegal armed groups in the Eastern part of the DRC”.\textsuperscript{417}

The summit also commissioned Obasanjo and Benjamin Mkapa, former President of Tanzania to play a leading role in mediating a political solution as stated in the Nairobi Communiqué and the Goma accord. Obasanjo committed himself and make a diplomatic

\textsuperscript{415} E. Roger (2004), p.31
\textsuperscript{416} International Crisis Group (2009a)
\textsuperscript{417} International Crisis Group (2009b)
tour in the GLR while pleading for an everlasting termination of conflict. His meeting with Kabila in Kinshasa, Kagame in Kigali and Nkunda in his home town, Jomba, led to an immediate ceasefire. Boshoff points out that, “on 4th December 2008 the representatives of the DRC and Rwanda signed the so-called” Four on Four Agreement “that made provision for the FARDC, supported by the Rwandan Defence Force (RDF) to forcefully disarm the FDLR. The idea of forcefully disarming the FDLR had come a long way and even formed the basis of the Nairobi Agreement signed in 2007”.

In February 2013, there was the signing of a new peace agreement known as the Peace, Security and Cooperation Framework (PSCF) for the DRC. The peace deal that was drafted by UN in Ethiopia Capital, Addis Ababa was signed by Eleven African countries. These countries included: the DRC, Angola, Republic of Congo, South Africa, Tanzania, Uganda, CAR, Burundi, Rwanda, South Sudan and Zambia. The aims of this framework are to stabilise the eastern region and to address the root causes of the conflict in the same region. The conflict in the DRC weakened the governance and security systems. Governance was also weakened by the regular interference of the neighbouring countries such as Uganda and Rwanda, who violated sovereignty of the DRC. “Despite these challenges, the recent conflict has created a window of opportunity to address the root causes of conflict and put an end to recurring cycle of violence and noting increasing recognition that the current path is untenable”, but the peace agreement is committed to stability of the country. The agreement has also pledged to the government of DRC to show a complete commitment in the area of Security Sector Reform (SSR) predominantly in the army and police so that they can command authority in the eastern DRC, and not to intervene in the internal affairs of the neighbouring states domestic issues or provide support of any kind to armed groups.

To the 11 signatories of the framework an additional four were added in a good faith. They include: 1) “the UN Secretary General, 2) the Chairperson of the AU Commission, 3) the Chairperson of the International Conference on the Great Lakes Region (ICGLR) and 4) the

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418 Ibid.  
419 H. Boshoff (2009)  
420 G. Swart (2013), p. 79  
421 Ibid  
422 AU Peace and Security (2013), p. 1  
423 Op.cit., p. 79
Chairperson of SADC as the underwriters of the 11+4 mechanism,\textsuperscript{424} responsible for monitoring the progress in the “implementation of the regional dedications as stipulated in the agreement”.\textsuperscript{425} The 11+4 mechanism was understood as a regional effort that was closely supported and linked to “the AU, ICGLR, SADC, and other international partners such as the European Union (EU), Belgium, France, the UK and the US”. The AU collaboration and harmonisation with UN, RECs and other international actors led to the implement of the AU principle of non-indifference as an effort to the pave away for the enforcement of Peace, Security and Cooperation Framework agreement in the DRC conflict. The agreement also made provision for Joseph Kabila to put in place the \textit{national oversight mechanism} that “supervised the implementation of the national commitment for reform as stated in the PSCF agreement with adequate support of the UN, AU, World Bank (WB), African Development Bank (AfDB) and other bilateral partners of the AU that has supported in the realization of the principle of non-indifference in the DRC conflict.\textsuperscript{426} It is also stated that the national oversight mechanism would operate in full respect of the national sovereignty of the DRC”.\textsuperscript{427}

\textbf{4.3 The SADC intervention in the DRC Conflict}

Mbuenda argues that SADC involvement in the DRC conflict can be understood in two segments: “the Military interference by some SADC member states (Angola, Namibia and Zimbabwe) and the diplomatic negotiation, which was spear-headed by South Africa and Zambia”.\textsuperscript{428}

\textbf{4.3.1 Southern African Development Community (SADC)’s role in the DRC conflict}

The increasing intricacy of member state’s work, and the acceptance of the Abuja Plan of Action for tackling the rising economic predicament in Africa, led to the institution of the Southern African Development Coordination Conference (SADCC) in 1980. SADCC was founded by nine states, namely Angola, Botswana, Malawi, Mozambique, Lesotho, Swaziland, Tanzania, Zambia, and Zimbabwe. Namibia joined SADCC in 1989, after

\textsuperscript{424} G. Swart (2013), p. 80
\textsuperscript{425} \textit{Ibid.}
\textsuperscript{426} \textit{Ibid.}
\textsuperscript{427} AU Peace and Security (2013).p. 5
\textsuperscript{428} Mbuenda (1998)
achieving independence. The SADCC emerged as a regional organisation for resolving the internal and external conflict that occurred within the region during the Cold War. The SADCC also played a role through its members who formed part of the Frontline States (FLS) opposing apartheid destabilisation, and decreasing its member’s economic dependence on South Africa and coordinating foreign aid and investment in the region. In January 1992, SADCC was transformed into a more centralised organisation with its transformation into the Southern African Development Community (SADC) through the adoption of the Windhoek, Namibia Treaty.

SADC established “the SADC Organ on Politics, Defense and Security Co-operation (OPDSC)” in 1996 to act autonomously from other SADC structures. Its main goal as stipulated in Article 2 (1) “is to promote peace, security and stability in the region”. Article 2(2) states that, “the Organ shall protect the people and safeguard the development of the region against instability arising from the breakdown of law and order, intra-state conflict, inter-state conflict and aggression”. The “institution of the SADC Organ resulted in the outer shell of a formal regional security mechanism out of an informal and an ad hoc approach of the FLS which eventually helped the SADC member states to institutionalise political and security cooperation of the OPDSC”. As regard to the above decision, SADC was seen to have two Summit levels; one for the SADC and the other for OPDSC without any understandable trustworthy relationship amongst the leaders of the member states. As a result of this, there was a bone of contention amongst South Africa and Zimbabwe. South Africa wanted the Organ to be subordinate to the SADC Summit, while Zimbabwe wanted the Organ to be self-governing security mechanism. Breytenbach argues that, situating the OPDSC tasks outside the SADC framework would lead to two separate organisations with two independent chairpersons. This means that the institutional apparatus of SADC and security was not well structured to complement and manage the job between SADC and the OPDSC.

430 M. Malan (1999).
431 Windhoek Treaty (1992)
432 SADC Organ PDSC Protocol (2001)
433 Ibid.
434 SADC Organ PDSC Protocol (2001)
435 Breytenbach (2000a), pp.85-95
The functioning of the OPDSC is perceived by some as borrowed from “the OAU Central Organ of the Mechanism for Conflict Prevention, Management and Resolution”. Nonetheless, SADC was formed for the purpose of socio-economic and cultural development; the organisation has made enormous contributions in disputes resolution, management, prevention and settlement in its sub region through OPDSC; knowing fully that “without peace and stability there can be no development”. SADC method of resolving conflict is through negotiation in the presence of a mediator.

It is important to understand that the inclusion of the SADC into the process was due to the fact that the DRC is a member of the organisation; therefore SADC was to show solidarity and assist its member that was going through conflict. Secondly, the SADC got involved in the resolution of the conflict; because as per the AU charter, the regional organisation where the conflict is taking place must work hand in hand with the AU in the process of bring back stability and security. Lastly, the DRC conflict was affecting stability of the entire SADC region and soon the conflict was going to turn into a regional conflict thus affecting regional peace.

4.3.2 SADC’s Military interference in the DRC conflict

The first intervention of the SADC in the Democratic Republic Congo (DRC) was in August 1998 when Angola, Zimbabwe and Namibia offered assistance to the late President Laurent Kabila. The call to respond to the crisis in DRC was made by the Zimbabwe President Mugabe. This interference made by some SADC countries to defend Kabila became a controversial issue between late President Nelson R. Mandela of South Africa, as the SADC Chairperson, and Zimbabwe President Robert Mugabe, as the appointed Chair of the SADC Organ on Politics Defence and Security Co-operation. Mandela called for a peaceful dialogue and negotiated settlement as stipulated in the Article 11(3a) of the SADC that the “organisation shall prevent, manage, and resolve conflict by peaceful means with the inclusion of preventive diplomacy, negotiation, conciliation, mediation, good office, arbitration and adjudication by an international tribunal;” while the Zimbabwean President, Robert Mugabe’s priority was to defend Kabila’s regime with military forces. Angola took advantage of the intervention to neutralise its own rebels who used Congo’s

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436 Cillier (1992), p. 2
437 Ruppel (2009)
438 SADC Organ Protocol (2001), Article 11(3a)
territory to destabilized Angola, whereas Namibia also sought to neutralise its own rebels who were using Congo territory to fight the government. This indicates that individual SADC countries had their own motives and interests in intervening in the DRC. The entry of the three countries in the DRC conflict became a contested issue in SADC.

At the extraordinary Summit of SADC leaders in Pretoria on 23rd August 1998, SADC member states recognized the legitimacy of the government of the DRC and they called for an instant cease-fire, to be followed by a political dialogue. On the 3rd of September 1998, President Mandela in a Press Conference openly declared that, “SADC had jointly supported the military intervention by its member states in the DRC”. Although Mandela did not in no way support the military approach to resolve the conflict in the DRC. His opinion from the beginning was support and appeal to the actors in the conflict, and the member states in the SADC region to use diplomatic negotiations to resolve the conflict. It can argue that President Mandela change of mind can be observed from the South African military intervention in Lesotho electoral conflict in 1998 for economic purposes. Muller point Lesotho is the source of water to South Africa and South African intervention in the Lesotho conflict was to preserve their water as powerfully noted by a South African authority.

4.3.3 SADC Mediation in the DRC Conflict

The SADC mediation process in the DRC conflict took place in two parts, 1) the appointment of the President Chiluba Frederick of Zambia to negotiate the Ceasefire in the DRC and, 2) the appointment of the then South African President Thabo Mbeki by Masire to complete the negotiation of the Inter Congolese Dialogue.

4.3.3.1 SADC (Chiluba) Negotiation of Ceasefire in the DRC Conflict

In September 1998, the SADC Heads of State and government of the member states met in Lusaka, Zambia to affirm their plan to resolve the conflict that has seen considerable loss of life and displaced hundreds of thousands of people in the DRC. President Fredrick Chiluba of Zambia was authorised by SADC to negotiation the Lusaka Ceasefire

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440 M. Muller, (1998), p. 28
Agreement (LCA) of the DRC conflict.\textsuperscript{441} Ngoma notes that the SADC Summit in Mauritius in September 1998 congratulated Angola, Namibia and Zimbabwe for acting well on behalf of SADC in a military intervention, and nominated the President Chiluba of Zambia to negotiation the peace initiatives.\textsuperscript{442}

The LCA, under the auspices SADC, was finally signed in 1999 by all parties concern in the DRC conflict. These parties include Angola, Burundi, Namibia, Rwanda and Uganda with Zambian government, OAU, SADC and UN as witnesses to the accord.\textsuperscript{443} The agreement stresses the rule of sovereignty and territorial integrity of the DRC making allusion to the AU and UN Charters. The LCA also made condition for an “all-inclusive national dialogue” with the endeavor to reach a national reconciliation and a fresh political indulgence in the country. The core realisation of this agreement was the institution of the Joint military Committee (JMC) with the duty to monitor the execution of the ceasefire and the withdrawal of foreign troops and disarming the militias, armed group and Congolese civilians.\textsuperscript{444}

4.3.3.2 The Pitfall of the Lusaka Ceasefire Agreement (LCA)

The Lusaka Ceasefire Agreement had a complexity which quickly discloses itself as a stumbling block to its realisation. Weiss “termed it as a very complicated plan for peace”.\textsuperscript{445} In the SADC summit meeting of the Heads of State and Government held in Blantyre, Malawi in 2002, Joseph Kabila critiqued the complex nature of the LCA. He went ahead to confirmed that the LCA itself is an obstruction and obstacle for it accomplishment. He argued that the LCA had put a lot of emphasis to the internal dimension of the conflict rather than the external factors involving Rwanda and Uganda that were busy exploiting the country.\textsuperscript{446}

Mangu also argued that “titling of the Agreement as DRC Ceasefire Agreement was also misleading since it was designed to achieve far more than the official designation suggested”.\textsuperscript{447} He further argued that, identifying the presence of aggressive foreign

\textsuperscript{441} L. Nathan (2004), p 13
\textsuperscript{444} Ibid., pp. 260-261
\textsuperscript{445} H. Weiss (2006)
\textsuperscript{446} J. Kabila (2002)
\textsuperscript{447} A.M.B. Mangu (2003), p. 246
soldiers in DRC territory did not oblige these soldiers to “an unconditional withdrawal. Instead the agreement gave an equal treatment to the Rwanda and Uganda as the case with the DRC government allies."\textsuperscript{448}

Koko in turn points out that the failure of the “Lusaka Agreement is due to lack of commitment on the part of its signatories as well as the absence of an authority entrusted with its enforcement”.\textsuperscript{449}

\textbf{4.3.3.3 AU and SADC Appointed Mbeki as the Chief mediator}

The agreement on power sharing which was the main subject in the ICD actually led to the failure of Masire’s mediation process; and this led to the continuation of war in the DRC. As a result of this failure, Sir Masire requested the South Africa President Thabo Mbeki to complete the last-minute negotiation deals in the DRC;\textsuperscript{450} the handing over of the mediation process by Masire to Mbeki indicate the applicability of the AU policy of non indifference by the RECs. The successful mediation endeavour by South Africa in the DRC conflict is noteworthy in the area of financial investment in promoting the ICD. Through the appointment of Mbeki, South Africa as a hegemonic power in SADC region, and Africa as whole, was enthusiastic to achieve success that would enhance its prestige and strengthen its representation as peacemaker on the continent.

In October 2002, Mbeki resumed the mediation talks which ended with the signing of an All-Inclusive Agreement on the Transition in the DRC in Pretoria; this agreement provided for a transitional government and elections in 30 months. The Pretoria Agreement set up the final peace talk on the installation of the elected government and the finalization of the new constitution.\textsuperscript{451} The Global and All-Inclusive Agreement on the transitional government in the DRC was signed in Pretoria on the 17\textsuperscript{th} December 2002 by the main Congolese parties that are involved in the DRC conflict. The main parties are the DRC government, RCD-Goma, MLC, RCD-ML, RCD-N and the Mayi-Mayi.\textsuperscript{452} It was stated in the Agreement that President Kabila would be the Head of State and Supreme Commander of the Armed Forces and will be assisted by four vice presidents in charge of government commissions

\textsuperscript{448} Ibid.
\textsuperscript{449} S. Koko (2007), p. 35
\textsuperscript{450} E. Rogier (2004), p. 31
\textsuperscript{451} Ibid., p. 33
\textsuperscript{452} Ibid.
and each consisting of ministers and deputy ministers; following the one plus four (1+4) formula that was put forward by President Mbeki of South Africa. The political commission was chaired by the leader of the RCD-Goma, Azaria Ruberwa; Abdoulaye Yerodia Ndombasi a member in Kabilia’s government, chaired the commission for reconstruction and development; Jean-Pierre Bemba leader of the MLC was chairing the commission for economic and finance; and the commission for social and culture was chaired by Arthur Z’ahidi Ngoma.\footnote{Ibid.}

Finally, there were element of achievements in this period, the negotiations accords and the national dialogue in common led to the removal of Uganda and Rwanda forces in the DRC territory and the ceasefire accords and disarmament. Emeric points out that the Agreement called for an inclusive transitional administration, including other opposition parties as well as representative from the civil society.\footnote{Ibid.} All parties represented in the must have equal status. Hoddie Matthew and Hartzell Caroline observe that “Power sharing provisions in peace settlements have a demonstrated ability to provide a sense of security to former combatants facing the immediate prospect of working together peacefully after a severe conflict such as a civil war”.\footnote{M. Hoddie and C. Hartzell, (2005), p. 103} They further argued that both military (grand coalition) and territorial (federalism) power-sharing have a positive role to play in fostering post-war peace”.\footnote{Ibid} In the case of Africa the application of territorial power sharing is always premature because either the combatant or the government in power doesn’t follow the agreement of power sharing. Solomon and Swart underscore that “the idea of an ICD was a continuation of the national dialogue thwarted initially by Mobuto Sese Seko and thereafter by Laurent Kabila”.\footnote{G. Swart (2004), p. 20}

\textbf{4.3.5 SADC Peace Enforcement in the DRC}

The current Peace, Security and Cooperation Framework in the DRC were held on the 24\textsuperscript{th} February 2013 in Addis Ababa, Ethiopia. The UN draft peace accord was signed by Eleven African Countries which are; DRC, Angola, Republic of Congo, South Africa, Tanzania, Uganda, Rwanda, Central Africa Republic (CAR), South Sudan, Burundi and Zambia in the
presence of the good offices of the UN Secretary, the Chair of the AU Commission, the Chair of the International Conference on the Great Lakes Region and the Chair of SADC.\footnote{AU Peace and Security (2013), p.5}

However, the current Chair of SADC, President Armando Guebuza of Mozambique pledges that SADC will persist in supporting the search for a durable solution to the DRC conflict. He warned that “the agreement is not, in itself, a solution to the Congolese second war; rather, it was an important step to this country turn a new page in its turbulent history, which everyone would like to see relegate to the past”.\footnote{E. A. Guebuza, (2013)} He also points out two characteristics of the DRC crisis; the administration of the Congolese armed forces and the international intrusion by other countries in the region. In the last August summit of SADC in Maputo, the leaders condemned Rwanda for supporting the M23 rebels.

According to Alexis Arieff the M23 conflict in the Eastern DRC called for the international awareness and diplomatic endeavours to that gain some momentum. Firstly, was the institution of the “UN-facilitated Framework Agreement” that tasked the DRC government, the Border States to DRC and the donors to end the conflict in the Eastern DRC in February, 2013; secondly regional leaders were asked to respect the territorial sovereignty of the DRC as one of the independent states on the continent; and not to provides support of any kind to the DRC armed group; whereas the DRC government should be dedicated to carryout institutional reforms, the expansion of the state power in the Eastern DRC, political decentralisation and national reconciliation; and thirdly, it was generally agreed by all the parties involves should pursue regional economic integration.

More so, President Jacob Zuma of South Africa actually accepted the framework agreement and assured the government and the people of DRC that they are going to respond to the pressing challenges of development. President Zuma articulated South Africa’s willingness to work with the DRC on significant “challenges such as reconciliation, post-conflict reconstruction and development covering areas such as Security Sector Reform (SSR), institutional capacity building and economic development”.\footnote{J. Zuma, J. 2013.} The new UN Special Envoy also applauded South Africa’s role to foster its economic partnership with the DRC.
South Africa’s contribution in the DRC peace procedure has a diverse result and highest achievement. Its forecasted operation to the eastern Congo is what could be seen as the first belligerent long-term commitment by the army since 1994. The SADC indicated earlier in February 2013 “that it required only an authorisation from the United Nations Security council to go ahead with the operation of the intervention forces which South Africa have played a greater role”. South Africa, Tanzania and Malawi have been the primary troops contributing countries for the intervention brigade of 3069 soldiers authorised the UN Security Council Resolution 2098 of April 1st, 2013.461

De Wet and Mataboge view that, “the M23 rebels are also like to be considered with and whether SADC (under SADC Brig) is authentically organised for a mission of such a nature and scale is questionable, given that its lack cohesion as a force. In the mid-April indications began to emerge that M23 rebels could potentially attack South African forces in the DRC as preparations to get ready for battle are still taking place”.462 As a result of this the M23 rebels have send a warning signals to the South African forces that they will not be responsible for any mutual mass destruction if they attack on their home and the same warning have been given to the UN forces that they will continue to face deadly combat. However, both the South African and the UN Troops are intensifying their action while waiting for the M23 rebels.

4.3.6 SADC’s Role in Peacekeeping in the DRC

In the advent of peacekeeping in the DRC, some SADC member states have supplied peacekeepers and logistical support to MONUC and these states includes, South Africa, Madagascar and Zambia; although their peacekeepers are having limited peacekeeping experience. The SADC is also facing a problem of be deficient in financial resources for peace-building.463 Nevertheless, the SADC richest state South Africa in the sub-region has made an enormous contribution in support of the DRC for peacemaking and peacekeeping process by providing considerable logistical and financial contributions. South African was seen as the most influential and effective state in DRC in their transitional deals for

461 Swart, G. 2014.
462 De Wet, P. & Mataboge, M. 2013b.
government. South Africa donated about 1268 personnel to MONUC. The DRC 2006 presidential and 2007 provincial elections were highly sponsored by South Africa through the South Africa’s Independent Electoral Commission (IEC); the South African IEC was working hand in gloves with Congolese counterpart. These two combined institutions were then called South Africa-DRC Bi-National Commission. South Africa provided financial, human and logistical support to DRC to carry out their elections without any difficulty.

4.3.7 Peace-Building in the DRC

The AU and SADC understood the need to institutionalise structures that foster the process of peacebuilding and reconstruction. However, SADC has instituted a combined “office with the AU in Kinshasa”. It is vital to note that South Africa, the leading state in the SADC “has made available important logistical and financial support for peacemaking and peacekeeping in the DRC, terminating in the Global and All-Inclusive Agreement of December 2002”. South Africa has also made a “huge contribution of 1,268 personnel to MONUC and donated financial, human and logistical support for the DRC’s 2006 presidential and 2007 provincial elections”. South Africa keeps playing an imperative role in the Congolese peace building endeavours through the “South African-DRC Bi-National Commission (BNC), which was first summoned in Kinshasa in August, 2004; and South African Companies remain engaged in the DRC’s economy”.

4.4 Conclusion

The SADC military intervention and diplomatic negotiation by Chiluba that led to the LCA indicates SADC commitment to resolve the DRC conflict. However, SADC interest in resolving the DRC conflict is observe as; 1) DRC is a member state in SADC and required the sub-organisation to intervene in the conflict to bring back stability in DRC and the entire region; and 2) the objectives of SADC is to promote regional economic integration and co-operation development in the region. And for SADC to achieve these economic and co-operation development the region need peace and security for development to follow.

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467 M. Mutisi (2016)
469 Ibid., p.7
The appointment of Masire as the mediator by the OAU/AU to negotiate the ICD was an indication of the applicability of the principle of non-indifference. One can argue that it is because the AU took the matter before it escalates, and initiated initiatives to resolve it. The AU did not spare the sovereignty of the DRC country, but rather intervened quickly a move that shows the practicality of its non-indifference principle. Thirdly, the appointment of Thabo Mbeki by Masire to complete the last deal of the negotiation that led to a successful 2006 presidential election in the DRC; also indicate the applicability of the AU principle of non-indifference by SADC. It is essential to argue that with the mediators coming from the SADC region, and both the AU and SADC worked together in resolving the conflict. The literature presents no disagreement or any opposing behavior during the process. This is therefore the indication that proves that AU and the SADC were in total collaboration and harmonisation. Furthermore, both did not spare the sovereignty of the DRC rather they saw the conflict affecting the region and the continent as whole. Hence, one can argue that the non-indifference principle played a major role to resolve the DRC conflict.

It was also demonstrated that the principle was applied alongside with the SADC in the DRC conflict resolution process with the appointment of Masire as the main mediator in the process. Although he was faced with series of challenges, his mediation process saw the signing of some significant agreement. It is also evident that Masire’s mediation process help to bring about the ICD dialogue though it was not concluded on the area of power sharing. The AU together also applied its principle of non-indifference in the North Kivu in 2008 through a peaceful negotiation which led to the signing of PSCFW in the DRC.

However, it was evident that SADC played a greater role in resolving the DRC conflict through the South Africa President Thabo Mbeki who was appointed by the head of the AU’s mediation team Masire to complete the last-minute deal. Mbeki’s idea of a president and four deputies actually led to a successful power sharing which was the main point in the ICD dialogue; and subsequent transparent election in 2006. It can be argued here that, AU and SADC complemented their mediation work while applying the AU principle of non-indifference to resolve the DRC conflict since President Mbeki was appointed by the AU mediator to complete the job that he has left uncompleted.

Having recognised the achievement of the SADC/AU joint efforts in peace processes in the DRC conflict in a bid to restore peace, the next chapter will consist of an investigation of the
lessons learnt from the case study. It also examines the strength and the challenges of the AU and SADC joint efforts in peace processes in the region.
CHAPTER FIVE
LESSONS LEARNT

5. Introduction

The fourth chapter of this study examined the applicability of the AU’s principle of non-indifference in jointly resolving the DRC conflict with SADC. SADC involvement in the DRC conflict resolution was for the maintenance of peace, security and stability in the sub-region in order to foster economic development and integration in the region. In examining the lessons learnt, the chapter investigates possible strengths and challenges that the AU and SADC encountered and how some of these challenges were overcome. The chapter is divided into four sections with section one examining the strengths of the AU and SADC during the process of dealing with the DRC conflict and preventing the occurrences of mass atrocities and crimes against humanity. Section two explains the challenges faced by the AU and SADC encountered during the process of finding an African solution to the DRC conflict. The third section consists of an investigation of lessons learnt from the DRC case study, and the last section consists of concluding remarks of the chapter.

5.1 The Strength of the AU

In the process of dealing with conflict, especially on the continent, the AU has a number of strengths that have led to the success of the process. There have also been the weaknesses which in many cases hampered the process. The strengths of the AU in peace-building and conflict resolution on the continent are stemmed from the Protocol that provides an all-inclusive peace and security architecture, known as the APSA, housed by the PSC, together with the RECs, also known as the Regional Mechanism for Conflict Prevention, Management and Resolution. One can see that the AU’s strengths emanate from the Organisation’s support it gets from the APSA and RECs. The AU’s Article 2(1) of the PSC is “a standing decision-making organ for the prevention, management and resolution of conflicts. It speculated in the AU Charter that the PSC shall be a collective security and early warning arrangement to facilitate timely and efficient response to conflict and crisis situation on the continent”.

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470 S. Alhaji, Bah et al (2013), p. 33
471 AU PSC Protocol, (2002), Article 2 (1)
Furthermore, Article 2 (2) of the PSC Protocol identifies the elements of the “APSA that maintains the work of the PSC. These elements include:

“1) The AU Commission, 2) Panel of the Wise, 3) Continental Early Warning System (CEWS), and 3) African Standby Force and a Special Fund.\(^{472}\) The articles 8 and 16 provide for the Military Staff Committee and Regional Mechanisms for Conflict Prevention, Management and Resolution as additional elements of the APSA”.\(^{473}\) In addition, the PSC, the CEWS, the Panel of the Wise, the African Standby Force, and the Special Fund are the backbone of the APSA”.

Moreover, the Protocol establishing the PSC, article 4 (j and k), and the AU Constitutive Act Article 4 (h and j) respectively mandated:

“the organisation with the right 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, and the right of Member States to request intervention from the organisation in order to restore peace and security”.\(^{474}\)

All the above-mentioned strengths stand as the pillar to “the implementation of the AU’s principle of non-indifference” in dealing with African conflicts and bring about durable peace.

5.2 The Strength of the SADC

The SADC has been involved in peacemaking, peacebuilding and peacekeeping in Southern Africa region. This is because the SADC has a common agenda which seeks to promote common political values in democratic governance, legitimate and effective governance within its member states. The strengths of the SADC emanate from its Strategic Inductive Plan of the Organ (SIPO). The SIPO is the SADC’s five years’ development plan for the implementation of the “Protocol for Politics, Defence and Security Cooperation which has its focus on the member states politics, defence and state security, good governance and human security”.\(^{475}\) The SIPO plays a vital role in strengthening the SADC in the area of conflict prevention, resolution, management and peacebuilding in the Southern Africa region.\(^{476}\)

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\(^{472}\) *Ibid.*, Article 2(2)
\(^{473}\) *Ibid.*, Article 2 (2), Article 8 and 16.
\(^{474}\) *Ibid.*, Article 4 (j and k); AU (2000), Constitutive Act, Article 4 (h and j)
\(^{475}\) Strategic Indicative Plan for the Organ (SIPO) (2004), p. 6
\(^{476}\) L.M. Fisher and N. Ngoma (2005), p. 2
The other strengths of the SADC in conflict resolution and peacebuilding can be seen in its objectives which include:

“protecting the people; promoting political, security and defence cooperation; developing foreign policy approaches” and “a collective security capacity to respond to external threats; peacekeeping and resolving intra- and inter-state conflicts; promoting democratic situations in member states; implementing UN, AU and other international conventions; upholding international law; developing cooperation between police and security services in combating domestic and cross-border crime; and disaster management with the support from the sub-committees; such as the Inter-State Politics and Diplomacy Committee (ISPDC) and the Inter-State Defence and Security Committee (ISDSC)”.477

The SADC strengths on conflict resolution, prevention and management also come from the 2003 Mutual Defence Pact (MDP) which originated from the rapid intervention by Zimbabwe, Angola and Namibia in the DRC in 1998 to lay support to the government of Laurent Kabila.478 These three states acted on the provisions of Article 51 of the UN Charter on collective defence and the principles of the AU.479

The intervention in the DRC by these three member states was also in compliance with Article 2(a) of the SADC’s Protocol on Politics, Defence and Security Cooperation which gave room for the protection of the people of the region from external attack.480 Article 6(1) of the MDP states that, “an armed attack on any member state shall be met with immediate collective action”.481 In addition, South Africa has been the benchmark in strengthening the SADC’s efforts in conflict management by helping member states and Africa at large achieving peace, security and stability through diplomatic negotiation and military deployment.482

5.3 AU Challenges in implementing the Principle of Non-Indifference

5.3.1 The Exclusion of the Mayi-Mayi Group

For mediation or negotiations processes to be successful, it must be inclusive.483 Inclusive, in this study means that “all the parties to a conflict must be involved in the mediation process” and their plea must be heard and understood. However, in the application of the

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477 SADC Organ Protocol on PDSC (2001)
478 Essuman-Johnson (2009), pp.409-422
479 K. D. Hwang (2006), p.171
480 C. Hull and D. Markus (2009), pp.34
482 Ikenberry (2004), p. 2
483 P. Romo, & M. Smeets, (2015), P. 4
AU principle of non-indifference by the AU and SADC in the DRC conflict, the Mayi-Mayi militia group was excluded in the negotiation process. Hence, the first challenge that AU and SADC encountered especially in the Lusaka agreement was a result of the failure to include the Mayi-Mayi militia group in the process. It should be understood that this militia group had been supported by the Kinshasa government because their mission was to fight against all foreigners who were fighting against the government. Although the Mayi-Mayi militia group was fighting one common enemy with the government, it does not mean that both government and the militia group had a common goal or motive in the conflict. The AU and SADC interventions failed to acknowledge that this militia group would hamper the process. As a result, the group turned to be a thorn in the negotiation process because they were grieved and decided to continue the fighting. Therefore, the mediation and negotiation processes were handicapped.

5.3.2 The Rejection of the Masire as Mediator by Laurent Kabila

The other challenge that the AU and SADC’s intervention encountered in the DRC conflict was the fact that Laurent Kabila reiterated his rejection of Masire as the chief mediator who was the ICD’s catalyst. Carayannis argues that “Kabila never accepted the actual implementation of the agreement’s provision that all parties, including the Kinshasa authorities, would enjoy the same status in the ICD.” He further argues that Laurent Kabila quarreled with Masire over the starting date of the negotiations, and eventually shut down the facilitator’s office in Kinshasa. It is also argued that Kabila tried to exploit the Anglophone and Francophone contentions in Africa by accusing Masire (who is an Anglophone) of supporting Uganda and Rwanda, therefore demanded for the appointment of another mediator from a French speaking country.

5.3.3 The Language Barrier

Language was another hindrance that made the Masire’s mediation and negotiation processes complex. His inability to speak French almost downgraded him to a “figure head” as most of the actual negotiations were taking place outside the negotiation conferences.

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484 T. Carayannis (2009). pp. 9
485 Ibid.
486 Ibid.
487 Ibid.
and often late in the evening. And more so, out of sight of the negotiation staff. This led to Masire allow Kabila’s stand strategies persistently to overturn the negotiation process.\footnote{Ibid., p.10}

5.3.4 Inadequate funds

The lack of adequate funds for the Masire’s facilitation task was another setback. Rupiya debunk that the main challenges faced by the AUPSC is the funding of the ASF, because AU member states are not committed to the payment of their annual dues which is amount to about 50 million US dollars per year.\footnote{M. Rupiya (2006), p. 86} Kent & Malan point out that since the establishment of the AUPSC, the calculations show that only six percent of the AU budget which is about three million US dollars can be seen as the ASF straight financial dedication from donations by the AU member states and the rest is raise through aids from foreign contributors and exercise fundraising organised by the PSC.\footnote{Kent & Malan (2003), p.74}

5.3.5 Lack of Political Will

The lack of political will of the African leaders to carry out effective conflict resolution was another challenge that the AU and SADC’s involvement faced during the process. Russell highlights that, “the political ideals in Africa must be based on the ideals for the protection of individual life and the respect for human rights, and the aim of politics should be to make the lives of individuals as good as possible”.\footnote{B. Russell (1977), p.9} During the DRC case, the African political leaders lacked the willingness to support the AU and SADC’s mediation and negotiation processes. In the case of DRC for example, countries such as Rwanda, Burundi, and Uganda will be very reluctant to support AU and SADC in maintain peace, security and stability in the DRC because of the selfish interests.\footnote{Da Silva, I.C. and Brancher, P.T.L., (2015), pp. 33-49} Hence, this will handicap the effort of the AU and SADC in conflict resolution in the DRC.

It can be argue that it is not only in the DRC case but throughout the continent; the African political leaders have lacked the willingness and zeal to uphold human rights, help deal with African conflicts and avoid human atrocities. African leaders always have less willingness
and commitment in addressing and dealing with African conflicts, and have equally failed to uphold to the AU financial contribution and military support to resolve African conflicts.

5.3.6 African Poor Leadership

Lack of good and inclusive leadership is a major problem that has been deepening poverty thus, triggering political violence in many parts of Africa. Ibrahim underscore that the poor performance of African leadership is due to the fact that; African leaders have failed to separate personal interests from those of their country by using state funds for their personal use while the rest of the population remain in poverty. More so, African leadership has been masked with high level of corruption, dictatorship and lack of public accountability. It is imperative to point out that Mobutu leadership in the DRC was filled with corruption, dictatorship and mismanagement of state resources for his personal interest while the Congolese people died in poverty.

This is because violence and crimes feed on poverty especially in the DRC. For example, Igwe says that after the late former President of South Africa, Nelson Mandela, no other African leader can be rated as a role model whose conduct and examples can be emulated. African states need leaders who will work for peace, unity and equitable development; and above all promote good governance, democratic values, respect the rule of law and fundamental human rights. Agu terms this lack of good leadership and leaders as sad commentary on political leadership in Africa. Agu further argues that “African leaders have remained in love with power and realist paradigms of politics which means that the current political ideals in Africa still dwell rather excessively on power, force, and combatant mechanisms of conflict resolution”. This is because DRC conflict has never been at peace.

5.3.7 The failure of AU to Prevent the Conflict

Abonyi argues that, “AU should be able to step into conflict situations before the conflict explode into full-fledged wars. In the event of escalation such conflicts to violent classes, an African High Command, guided by the AU, should step in to restore normalcy to such

493 Mo Ibrahim (2014), p.1
494 S. Igwe (2010), p. 120
495 S. Agu (2013), p. 286
Article 12 (1) of the Protocol establishing the PSC has provided the CEWS to investigate threats to security and conduct preventive measures. But the AU has failed in the implementation of this Article 12, in such a way that the AU always applies the principle of non-indifference only when human population has lost their lives in conflict situation. This was the case in the DRC conflict. The AU waited until people have lost their lives and property. Moreover, the current case of Burundi, where the AU only intervened in the conflict when many people have lost their lives and its intervention meant absolutely nothing because the Presidential third term bid and his emergence as a dictator in the GLR was not stopped. Because the AU’s failure in conflict resolution has been intensifying conflict, so, seriousness in implementing the principle of non-indifference should be vital. As Agena argues “the African Union should have a Standby Force with a clear mandate for peace enforcement on the continent”.

5.3.8 The Slow Establishment of the AU Standby Force

Mathiasen also views that, AU Constitutive Act has made provision for the establishment of the AU Standby Force with stations in the five regions on the continent. These regions include: The East, West, North, South and Central. However, these institutions are neither operational nor functional because of the lack of political will of the African leaders to establish this AU structure. Because the lacks of commitment of African leaders who love conflicts and thrive on them, AU has been very incapable to establish a standby force. The increase in economic interest in the DRC shown by Rwanda and Uganda, it is practically difficult for these two countries to show high level of commitment in the realisation of the AU Standby Force.

5.3.9 AU Inconsistencies to deal with the unconstitutional changes

The AU inconsistencies to deal with the leaders who ascend to power unconstitutionally is a set-back for conflict resolution process in Africa. For example, Engels and Porto argue that, “the current practice of the AU on unconstitutional changes of government demonstrates some hand full of inconsistencies. In the same year Algerian President
Abdelaziz Bouteflika pushed through parliament a change of the constitution to allow him a third term in office." The two above situations indicated how AU remains mute when African leaders are violating democratic principles.

The current cases of Burundi and Rwanda show that the AU is absolutely toughness and in its own is a stumbling block to peace and security in Africa. President Pierre Nkurunziza of Burundi is presently forcing people of Burundi to allow him to go for the third term and President Paul Kagame of Rwanda has forcibly changed the constitution to allow him stay on power till death, and the AU stays quiet in the whole process of unconstitutional changes. The same is happening in the DRC, the President is equally changing the constitution in order to stay on power forever, and still the AU stands watching his move.

5.4 SADC Challenges in Conflict Resolution

The SADC as a regional organisation has its own exclusive self-motivation that influences its capability to carry out successful peace-building. It also combines forces with the AU and UN on mutual endeavours. Nathan views that:

"an organisation’s effectiveness in peacemaking is sole dependent on whether the member states truly have the political will to make the organisation effective and whether enough political unity exists to create a lasting and sufficiently strong accord on peace and security in the region. There must be more than just a plain external accord that peace in this is value pursuing. For intra-regional peacemaking to be successful, states must share an internal common sense with a normative agreement that allows them to operate with close political collaboration on a set of contribute to powerful norms".

It is therefore vital to note that this widespread value is very important to help states rise above their disputes, mold confidence and perform with a common intention when encountered with conflict. Hence, the absence of common values and unity member states of the SADC sub-organisation has prevented the organisation efficiency in its conflict resolution endeavours.

Hammerstad says that, “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 and solidarity”. Furthermore, Adebajo argues that “there is even an

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500 Ibid
501 L. Nathan (2010) b
502 A. Hammerstad (2005)
understanding that 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." The division between the two leading states leaders with two different approaches to attempt the conflict resolution situation in DRC is the most impeding problem. For example, in the case of DRC conflict, while President Mugabe of Zimbabwe wanted a move towards military solution, the then late President Mandela of South Africa was on the motion of diplomatic negotiations. The disagreement between the two leading countries in the region created a lot of tensions. This is captured by Williams that, “their differences were manifest in SADC’s 1998 intervention in the DRC, where SADC acted as a ‘bipolar’ entity, adopting two compatible strategies led by the two sub-regional powers”.

During the conflict resolution in the DRC conflict, SADC found itself deeply involved in endless conflicts in the Central Africa. Amazingly, the two states that invaded the DRC in 1998, Rwanda and Uganda, are not members of SADC, but SADC did nothing to halt their invasion. However, Mandela actually thought that SADC could participate positively in conflict resolution in the DRC, by trying to prevent forest fire of instability in the sub-region, but the organisation demonstrated that they were not up to the task due to it inadequate span of authority in the Central African region. One can see that the fact that states are members of multiple regional organisations makes conflict resolution and peacebuilding more complicated and even more difficult.

Furthermore, the formation of the regional initiative in the GLR has led SADC to promise to cooperate with this regional organisation, but literature has contended that, SADC is very reluctant to provide military intervention but maintain its position in the achievement and consolidation of peaceful initiative that South Africa has propounded. Van Nieukerk argued that, during the conflict resolution process in the DRC, SADC decided to leave the negotiations in the hands of the UN due to the complexity of the conflict in DRC. He further mentions that the AU and SADC decided to withdraw because of the widespread

503 A. Adebajo (2010)
504 P.D. Williams, (2010), pp. 97-105
505 G. Khadiagala (2009)
506 Ibid
507 Ibid
508 International Crisis Group (2010c)
509 A. Van Nieukerk (2004), p. 46
dedications and resources that process was requiring.\textsuperscript{509} However, the SADC’s early intervention in the DRC conflict had surely spoiled its status and reputation and integrity.\textsuperscript{510}

5.5 Lessons Learnt

The study proves that, the high quest for “Pax Africana” a peace that is maintained and defined by the Africa herself\textsuperscript{511} prompted African leaders to establish the AU with the aim of the agency to overcome the challenges that engulfed its predecessor the OAU. Their ideas led to the shift from the OAU and its principle to the AU and its new principle. Following the adoption of the AU’s principle; the RECs were strengthened to pave a way for the RECs to assist the AU in its mandate of ensuring peace and prosperity on the continent. These RECs are commissioned to work alongside with the AU in the process of resolving African conflicts. For instance, the AU and SADC momentum in the DRC conflict was stemmed from the AU’s principle of non-indifference.

Hence the first lesson learnt from this study is that the formation of the AU is indeed a major development in the search for “Pax Africana”, a peace defined and maintained by Africans themselves. This means that while the OAU was overwhelmed by many challenges and that many leaders became dictators and human rights violators, through the non-interference in the domestic affairs of member states, with the AU and its principle of non-indifference, it is possible to maintain peace and security in the DRC.

The second lesson learnt is that there are still leaders who are sympathetic to fellow leaders who causes unnecessary conflict and violence, and who may influence the AU not to implement its non-difference in the area of human rights abuse and mass atrocities. This means that the AU was established not for the entire continent and its prosperity but only for the political leaders. This was proved by this study in the way the AU failed to take serious measures to the late president Desire Kabila. It was also explained in the cases of Namibia, Zimbabwe, Angola, Uganda, Rwanda and Burundi.

The third lesson learnt is that the non-indifference principle played an important role in managing the DRC conflict. The study argues that the AU’s principle of non-indifference if

\begin{footnotes}
\item[509] Ibid.
\item[510] Ibid.
\item[511] A. Mazrui (1967). p. 203
\end{footnotes}
supported by the RECs where the conflict is occurring can help deal with African conflicts. However, this will by and large depend upon the willingness and political will of member states of the AU and of the RECs where the conflict is occurring. This will help scholars and practitioners understand the challenges surrounding the AU and its non-indifference principle in the search for “Pax Africana”.

Therefore Africans, particularly African leaders and scholars should know that responsibility to ensure peace and stability lies on their shoulders. Both must bear and accept that responsibility without waiting any external intervention or aid. The African continent is endowed with natural resources which used and managed properly are in a position to fund all the peace processes and uproot poverty. Though the application of the AU principle of non-indifference in the presence of the SADC seems to be unclear, it can be argued that the principle was applied when the AU mandated former President of Botswana, Ketumile Masire to negotiate the Inter Congolese Dialogue (ICD). This was done in the bid to resolve the conflict in the DRC and prevent further gross human rights abuse, crime against humanity and possible genocide.

The fourth lesson learnt from this study is the fact that the AU lacked the policies that would guide the process of recruiting peace practitioners and conflict resolution experts. For example, the selection of former political African leaders is a major problem that leads to the intractability of conflict on the continent. This is because these leaders support their fellow leaders in power and therefore would not take harsh measures to enable peace to be found or reign in the region where conflict is occurring. Their consciences are not free given that they were dictators and human rights violators when in power, therefore actors in the conflict would not take them seriously, neither will their advice be taken into consideration. This is the typical example of the former President of Tanzania Benjamin Mkapa who is conducting peace process in the current political violence in Burundi. He praised president Pierre Nkurunziza when he assumed a third term in power, a statement that made him lose credibility in the eyes of Burundians who lost their loved one because of the third term, and the opposition political party as well. In this manner, entrusting former African presidents in the search for peace in African is equal to making the African conflict intractable.

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512 Konare (2007)
5.6 Conclusion

The success recorded by AU and SADC intervention in the DRC conflict resolution has proven that the AU can collaborate and work best with RECs in implementing the AU’s principle non-indifference. This can be hold true if and only if the various RECs had a hegemonic power that can stand strong behind the AU as South Africa did in the DRC conflict resolution. More so, the AU can work best in conflict prevention, management, and resolution in collaboration, harmony and co-operation with RECs to implement the AU’s principle of non-indifference in maintaining peace, security and stability in conflict affected areas in Africa.

Finally, SADC at the early stages of the conflict, managed to put an end to the conflict, but failed to examine the underlying problem of the conflict before attempting to provide a solution to the conflict. One can, therefore, argued that in situations of conflict resolution through peaceful negotiation, the parties involved must first understand the root cause of the problem before attempting to bring about a conflict resolution or peacemaking. Having understood the strength and challenges of the SADC/AU joint efforts in the mediation process in the DRC conflict to end the conflict, the last chapter of this study is an overall conclusion that will include some practical recommendations of the study.
CHAPTER SIX
CONCLUSION AND RECOMMENDATIONS

6.1 Introduction
The fifth chapter explained the lessons learnt from the AU and SADC role in resolving the DRC conflict. This chapter consists of concluding remarks and practical recommendations. As indicated in chapter one, that the aim of this thesis was to examine the AU and SADC intervention while testing the AU principle of non-indifference in conflict resolution in the DRC. The study proves that the failures that resulted from the principle of non-interference enshrined in the OAU charter made it unable to resolve conflicts on the continent. This necessitated the creation of the AU and the non-indifference policy. The AU was as well created in the bid to overcome the failures and anomalies of the OAU and end African conflicts to promote sustainable peace on the continent.

The study found that during the establishment of the AU and its principle; sub regional economic communities (RECs) are empowered to help the organisation in its tasks of resolving problems caused by conflicts on the continent. This means that the AU succeeds in conflict resolution and the maintenance of peace when working with sub-regional organisation where the conflict is occurring. This was confirmed through this study as the AU and the SADC worked together in the DRC conflict and the non-indifference had its way in the entire process.

As the continental conflicts became intractable, it was found that that the OAU’s principle on non-interference was a major problem that hindered the prospect of “conflict prevention, resolution and management on the continent”. The pervasiveness of conflicts in Africa and the need for peace, security and development inspired most African leaders and scholars on the continent and in the diaspora, to call for a shift from “the principle of non-interference to the principle of non-difference”. Therefore, one can argue that the configuration of the AU and its principle of non-indifference became significant in the search for sustainable peace and development in the present-day Africa. The shift to the new principle was inspired by the ideology of “African solutions to African problems”.

The AU’s principle is to resolve the African conflicts that have hindered the economic growth and development on the continent. It can therefore be argued that the AU and its
principle of non-indifference is a key in the bid to make peace and security in Africa a reality.

In the case of DRC conflict, which began as an ethnic conflict trigger by the colonial policy of divide and rule and assimilation has gain some multifarious political impetus which has involved foreign soldiers in “the Great Lakes Region”. It was found that the assimilation and divide and rule policy was connected along ethnic division which effected into abhorrence among the Hema and Lendu tribes that were living and intermarriage with one another. The lack of economic opportunities to sustain the livelihood of the people was another problem. The communal society was then turn to became enemies as a result of land distribution conflict incited by the colonial government.

The post-independence epoch was spotted by gross human right violation articulated by Mobutu regime that used it to run the economy of the country for his personal interest. This led to bad governance and the mismanagement of the natural resources. It also created inequality in the distribution of the state resources, gross human rights violation, and insecurity. This in turn created many grievances, resentments that led to the creation of many rebels’ movements and guerrilla wars. Of course, the study found that lack of democratic principle and the rule of law initiated conflict in the DRC that finally led to Mobutu being overthrown. Laurent Kabila’s government was also characterized by another dispute initiated by favouritism of perceived outsiders, insecurity, corruption and mismanagement of the national resources.

The unlawful extraction of mineral resources was seen as the one of the factors that triggered the conflict. The high demand for the DRC’s mineral resources attracted neighbouring states such as Burundi, Rwanda and Uganda to get involved in the DRC and this has made the conflict very complex. One can argue that the aforementioned countries fueled the conflict and became the spoilers of the peace process which was initiated by the AU and SADC. The impunity cause by the rebels and government of DRC was of concern for the AU and the SADC and led to the intervention to stop the mass atrocities cause by groups of militias.

The intervention in the DRC conflict by the AU and SADC was significant because it brought back stability in the country, and stopped a conflict which was to spread and entire
region. The selection of Masire as the main mediator by negotiation the OAU/AU to negotiate the ICD demonstrated the practical applicability of “the AU’s principle of non-indifference” in resolving the DRC conflict. Due to the challenges faced by Masire in negotiating the ICD; he then mandated Thabo Mbeki to complete the last deal of the ICD which later led to a successful presidential election in 2006. The transfer of mediation responsibility from Masire to Mbeki is a clear indication that AU and SADC have a transferred responsibility to apply the principle of non-indifference to resolve the DRC conflict. The AU and SADC together also applied principle in the North Kivu in 2008 through a peaceful negotiation which led to the signing of “Peace, Security and Cooperation Framework (PSCFW)” in the DRC.

Despite the pitfalls of the AU and SADC negotiation of the ICD, these organisations managed to apply the principle of non-indifference during the peace processes that ended the DRC conflict.

### 6.2 Recommendations

Several recommendations for future researches drawn from the DRC case study are suggested for future AU peace practitioners and peace research scholars, and for any other stakeholder that deal with conflict resolution in Africa. These recommendations are significant in order to understand the role AU is playing in its tasks of dealing with the problems Africa is facing. They also help to understand that the AU needs the support from the sub-regional organisations in the search of a Pax Africana.

#### 6.2.1 Recommendation for AU Policy Makers

The study found and indicated that the joint efforts between “the AU and the RECs” in the process of dealing with conflicts in Africa are still ambiguous. Therefore, there is need for the AU and RECs to institutionalise policies and structures that help the joint efforts. These policies should also guide and lead the entire process till peace is found.

The study showed that appointing African leaders and entrusting them with the task of conflict resolution is intensifying conflicts on the continent. There is need for professionalism in conflict resolution. There is also a need for them to establish rules and conditions that recruit experts in the field and these rules should make them accountable...
when perceived favoring leaders in power at the cost of ordinary citizens. The AU and sub-regional economic communities should include civil society organisations and women in conflict prevention, resolution and management on the African continent. This will help develop strong partnerships when searching for durable peace.

The political will from the AU and RECs member states to support the process should be a norm. The members should pay their annual dues for the organisations to perform their task diligently. The AU should stop depending on foreign donors to contribute funds for their operations because this will undermine the independence of the organisation in their political, economic and socio-cultural decisions. The AU Commission Chair of PSC should develop new strategy that will enable the organisation to carry out fundraising for the organisation.

6.2.2. Recommendation for SADC Policy Makers

Co-operation and Coordination: In the area of co-operation and coordination (CEWS), the Early Warning System desires bigger harmonisation with the Regional Mechanisms (RMs) such as ECOWAS, IGAD and SADC. The coordination of the AU’s CEWS and the sub-regional mechanisms will help in shaping the smooth resolution of the conflicts that are affecting Africa.

6.2.3 Recommendations for other stakeholders

The role of the larger regional states in the process of resolving conflict cannot also be overlooked. For example, regional powers such as Egypt, Kenya, Nigeria, South Africa, and others should take the leading role in influencing and running the AUPSC. They should also encourage African leaders to respect the rules, norms and principles enshrine in the AU Constitutive Act and the Peace and Security Protocol as some African leaders do not adhere to the above documents.

6.2.4 Recommendations for Future Studies

More research should be carried out to understand the challenges facing the partnership between the AU and the RECs in conflict resolution in Africa. This research can play a critical role in helping both peace scholars and practitioners to deal with African problems and create a space that can lead this continent to peace. As the study shows, it is clear to
mention that the joint effort of AU and SADC in the DRC conflict such that it is easy to understand the manner in which the non-indifference principle of the AU was applied in the DRC.

There should also be more studies in understanding the applicability of the no-indifference principle of the AU. This is because as many cases of conflicts on the continent have shown, there is resurgence of the same conflicts in the areas where the AU had conducted peace processes. This means that instead of resolving the conflict from the root causes, the AU and its non-indifference principle buries conflict or postpones it.

6.2.5 Recommendation for African scholars

African scholars in the areas of peace and conflict research should also engage the AU policy makers in drafting workable policy. They should offer political orientation to the leadership of Africa on ways to deal with many conflicts that arise on the continent. The leaders should also be encouraged and orientated to show their political will, because this is a prerequisite in solving African problems. In order for the AU to do its work and the principle of non-indifference to work towards success, political will of the African leaders is inevitable. These leaders should know that African conflicts must be only solved by the Africans themselves, and sustainable peace is found and maintained by the Africans.

6.3 Conclusions

Post- Cold War intensified conflicts on the continent, and conflicts which were once fought between the boundaries of states changed into intra-state conflicts, and the emergence of terror attacks in Africa. The AU commitment to implement its principle of non-indifference together with the RECs proved workable. Although DRC conflict was not completely resolve but there was an element of peace that led to 2006 democratic elections in the DRC. In the case of conflict resolution in the DRC, the AU and SADC practically applied the principle of non-indifference in resolving the conflict in a peaceful manner as stipulated in the AU charter. Furthermore, the application of the AU’s principle of non-indifference in the DRC conflict resolution by the AU and SADC is affirmed in Article 4 (h and j) and Article 4 (j and k) of the PSC of the AU respectively.
SADC did not only join its effort with AU to apply the AU’s principle of non-indifference to negotiation the ICD; but SADC was the first to intervene in the DRC conflict. SADC’s first intervention in the DRC conflict was the military support given to back Laurent Kabila government by some SADC member states. SADC second intervention came when President Chiluba Frederick of Zambia was mandated by SADC Heads of state and government to negotiation the Ceasefire Agreement which paved the way for ICD and peacekeeping operation in the DRC by the UN peacekeepers.

The success of the ICD negotiation was heavily supported by South Africa which was seen as the hegemonic power in SADC and even Africa. It can be noted that AU success in negotiating the ICD was greatly supported by SADC as South Africa came in to be the major rule player in the whole negotiation process. Therefore, AU success in applying its principle of non-indifference was achieved because AU and SADC jointly work together to bring a relative peace in the DRC conflict, which was later, converted to free, fair and transparent election in 2006. Although, AU and SADC have shown a greater level of collaboration in implementing the AU’s principle of non-indifference in the DRC conflict; the two organisations failed to monitor the peace and security cooperation framework that was signed by four organisations and eleven countries known as 11+4 mechanism.
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