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Foreword

The International Peace Support Training Centre (IPSTC) is a research and training institution focusing on capacity building at the strategic, operational and tactical levels within the framework of the African Peace and Security Architecture (APSA) and has developed into the regional Centre of excellence for the African Standby Force (ASF) in Eastern Africa. It addresses the complexities of contemporary UN/AU integrated Peace Support Operations (PSO) by describing the actors and multi-dimensional nature of these operations. The research conducted covers a broad spectrum ranging from conflict prevention through management to post-conflict reconstruction. The Centre has made considerable contributions in training and research on peace support issues in Great Lakes region and the Horn of Africa through design of training curriculum, field research and publication of Occasional Papers and Issue Briefs; the Occasional Papers are produced annually, while the Issues Briefs are produced quarterly. The issue briefs significantly contribute to the vision and mission of IPSTC.

Peace and Security Research Department (PSRD) of the IPSTC presents third quarter issue brief number 5 of (2013) on two titles on peace and security in the Great Lakes region and Horn of Africa: *Eastern Africa Contribution to African Union Peace and Security Agenda* and *Reconciliation or Impunity: The Role of PSO in Transitional Justice*. The Issue Briefs provide insight into pertinent peace and security issues in Eastern Africa that are useful to policy makers and aims to contribute to the security debate and praxis in the region. The articles in the Issue Briefs are also expected to inform the design of training modules at IPSTC.

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Brig. Robert G Kabage
Director, IPSTC

Acronyms

ACOTA	Africa Contingency Operations Training and Assistance
AFRICOM	United States Africa Command
AMIB	African Union Mission in Burundi
AMISOM	African Union Mission in Somalia
APSA	African Peace and Security Architecture
AU	African Union
ASF	Africa Standby Force
CADSP	Common African Defence and Security Policy
CEWS	Continental Early Warning System
CEWARN	Conflict Early Warning and Response Network
COMESA	Common Market for East and Southern Africa
DRC	Democratic Republic of the Congo
EASF	Eastern Africa Standby Force
ECOSOCC	Economic Social and Cultural Council
IGAD	Intergovernmental Authority on Development
MSC	Military Staff Committee
OAU	Organization of African Unity
PSC	Peace and Security Council
RCST	Regional Conflict and Security Theory
REC	Regional Economic Community
SADC	Southern Africa Development Community
UN	United Nations

Introduction to the Issue Briefs

Eastern African Contribution to African Union Peace and Security Agenda

This study has assessed the contribution of the Eastern Africa to African Union peace and Security Architecture (APSA). Although various institutions and policy frameworks have been formed in the region to echo the continental security mechanism, challenges still exist in implementing APSA for the prevention of conflict in the Great Lakes Region and the Horn of Africa. A number of countries have overlapping membership of Regional Economic Communities (RECs) and there are interstate issues which hinder effective operation of APSA mechanism. This study has analysed these relationships and challenges and also provided options for better implementation of APSA framework in the region. The study has also provided recommendations for enhanced regional peace and security framework. Continuous improvement of mandate and operational structures among RECs to reflect APSA and also to harmonize the work of different RECs in the region is required. The East African Standby Force (EASF) has made significant strides and is poised to be the first point of call for peace support operations in the region by 2015.

Reconciliation or Impunity: The Role of Peace Support Operations in Transitional Justice in East Africa

The study has examined and analyzed how Countries in East Africa have implemented Transitional Justice. The study has explored the experiences of Burundi, Rwanda, and Uganda to understand how successful the process has been. In addition, it has also looked into the obstacles,

challenges, and opportunities for Transitional Justice. Equally important, it located the role of peace support operations within Transitional Justice in East Africa. The study argues that for the process of Transitional Justice to be successful, East Africa needs to consider home grown solutions and build on local support.

The paper recognized that context is fundamental in designing Transitional Justice and concludes that Transitional Justice is not homogenous. A critical concern running across East Africa was the tension between local mechanisms and western liberal forms of justice, such as the case of ICC. The paper recommends that in such scenarios there needs to be negotiations and trade-offs; which should factor the long and short term implications and whether the needs of victims will be catered for. Other issues raised on this paper include timing and sequencing of Transitional justice, structural challenges such as lack of resources, institutional pitfalls and lack of political will.

Eastern African Contribution to African Union Peace and Security Agenda

Joseph Kioi Mbugua

Introduction

The main objective of this study is to assess the contribution of Eastern African region to African Union peace and Security Architecture (APSA). This study is organized into four sections. The first section is the introduction; section two is theoretical framework; and section three discusses African Union peace and security architecture, including implementation and challenges of APSA in Eastern Africa. Finally, section four provides the conclusion and recommendations.

The African Union was founded as the Organization of African Unity (OAU) in 1963 when most African countries had gained their independence. After identifying the weakness of the OAU in conflict prevention, management and resolution, the Assembly of Heads of State and Government in Sirte, Libya formed the African Union in 2002. The revitalized AU came up with a number of strategic documents and institutions to implement the new African Peace and Security Architecture (APSA). The Common African Defence and Security Policy (CADSP) and Peace and Security Council are some of the most conspicuous institutional pillars of the revitalized AU.

African countries have been major contributors of troops to global peace support operations. In 2012, fourteen African nations were contributing to United Nations Peace Support Operations (PSO) with

six countries each deploying more than 2000 troops. Five of the ten largest troop contributing countries were from Africa; Egypt, Ethiopia, Ghana, Nigeria and Rwanda.¹

Under the APSA, each of the five continental regions is supposed to implement a regional peace and security agenda that reflects the AU's structure. A number of institutions such as Intergovernmental Authority on Development (IGAD), Common Market for Eastern and Southern Africa (COMESA), East African Community (EAC) and East African Standby Force (EASF) are implementing APSA agenda in the region.

Recurrent conflicts in the Great Lakes region and the Horn of Africa requires the emergence of a strong regional peace and security infrastructure. South Sudan is gradually establishing governance structures while the Federal Government of Somali Republic is slowly reaching to communities beyond Mogadishu.

This study has reviewed the progress of implementation of APSA in the Eastern Africa region. There are still many gaps in harmonizing the continental and regional structures. There are also overlapping institutions and different loyalties among member countries. There are also challenges of interstate rivalry, poor internal states governance, weak institutional capacity, non-strategic security conceptualization and extra regional involvement in security matters.

However, the region has a great potential in establishing a dynamic peace and security infrastructure. Given the success of IGAD in mediation for Sudan and Somalia and political goodwill of East African Community, there are opportunities for effective replication of continental APSA in the region. Continuous improvement of mandate and operational structures to reflect APSA and also to harmonize the work of different

1 United Nations Peace Keeping Report, 2013, www.un.org/peacekeeping/resources/contributors.shtml

Regional Economic Communities (REC) in the region is required. A strong mediation team is also required to create goodwill among member countries and to prevent wasteful conflicts.

The East African Standby Force (EASF) has made significant strides and is poised to be the first point of call for peace support operations in the region. The IGAD-CEWARN early warning system is yet to encompass the broad array of conflict indicators and to link early warning to response capacity in the region.

Focus and Scope of the Study

The study examines how Eastern African region, regional economic communities (RECs) and member countries, are contributing to the implementation of Africa Peace and Security Architecture (APSA).

Objectives

- To assess the performance of Eastern Africa region in achieving the African Union peace and security agenda.
- To assess the performance of specific countries contribution to peace support operations in Eastern Africa.
- To identify opportunities for effective regional and local participation in peace support missions.

Statement and Significance of the Problem

Africa has been plagued with various internal and interstate conflicts since independence. These conflicts have caused thousands of death, destruction of property and environment and diverted resources for development. The United Nations has not been successful in managing

a number of conflicts in Africa, including the Democratic Republic of Congo (DRC) since the 1960s, the Rwandan genocide in 1994 and Somalia 1992-95 conflicts.²

The Organization of African Unity (OAU) equally did not fair very well in managing conflicts in the continent. This situation implored upon African leaders to think about better methods of managing conflict in Africa. With the creation of African Union (AU) in 2002, there was heightened interest in building a continental infrastructure for conflict management. The African Peace and Security Architecture (APSA) was a response to this challenge. There was a felt need for Africa to be at the fore front of providing solutions to the African problems.

Effective participation of countries in implementing APSA regional initiatives is necessary to enhance regional cooperation through knowledge sharing, cultivation of good will and creating avenues for networking and communication. Countries of Eastern Africa are expected to make a contribution by participating in Peace and Security Council (PSC), providing support to Conflict Early Warning System (CEWS) through regional warning system (IGAD-CEWARN), and also by providing a member of Panel of the Wise (POW) as well as contribute to the African Peace Fund (APF).

There is a need for all the countries covered by the Eastern Africa Standby Force (EASF) to participate in peace support operations so that the region can develop capacity for emergency response in peace support operations as envisioned in the AU peace and security architecture.

2 Paraphrasing Ambassador Sam Iboke, in Powell, Kristiana (2005) *African Union Emerging Peace and Security Regime: Opportunities and Challenges of Delivering on the Responsibility to Protect*, Ottawa, North-South Institute, p.38

Identification of areas where some countries do well is useful for providing specific skills and services during peace support operations. This exercise can also help to identify areas where some countries can improve their skills and services in peace support operations. The implementation of the African Union's Peace and Security Architecture (APSA) in all the regions presupposes that all the countries will provide meaningful participation in the programme. This is expected to improve continental and regional post conflict stabilization capacity.

Theoretical framework

There are a number of theories that support the formation of collective security institutions. This section examines the theoretical basis of the African Peace and Security Architecture.

Regional Security Complex Theory (RSCT)

Regional Security Complex Theory (RSCT) is a relatively new concept in International Relations, first introduced by Barry Buzan in; 'People, States and Fear', in 1983. The concept was later advanced as a theory by Barry Buzan and Ole Waever in, 'Religions and Powers', 2003. RSCT adds an analytical value through introduction of other lenses of international relations other than military-political; such as economic, environmental and societal sectors.

According to RCST, the world consists of regional security complexes, insulator states (states that do not participate in regional security frameworks) and global level powers. RCST recognizes shifting national, regional and global power dynamics. States can form alliances or strengthen regional networks.³

3 El Ghassim, Wayne. *Regional Security Complex Theory and Insulator States: The Case of Turkey*, University of Tasmania, 2012, p.20

The Eastern African region is a regional security complex and can be well analyzed using this lens. This study has examined the role of individual states, regional organizations and global powers in peace and security stabilization in Eastern Africa.

Globalization

Advocates of globalization assert that there has been significant advancement in technology that has enabled countries that may be far from each other to collaborate. The easy flow of information increases transactional value for economic and other activities. This geostrategic shift has reduced the pre-eminence of the state as a major actor in peace and security. Therefore regional linkages have acquired a new impetus (Ripsman, N and T.V Paul, 2005, p.6). Regional mechanisms are seen as viable vehicles for both economic development and peace and security.

As regions develop as zones of peace, chances of interstate conflicts are reduced. There is enhanced flow of information, shared values and experiences that raises the capacity for conflict prevention, management and resolution (Eric Brahm, 2000, p.4-6).

The globalization theorists assert that the national security state has weakened under the impact of powerful global social forces (Lipschutz, 2000, p.7), Eric Brahm, 2000, p. 1-5, Ripsman, N and T.V Paul, 2005). There has been a decline in major interstate wars, a decline in military expenditure, emergence of transnational actors, and proliferation of non- traditional security challenges such as terrorism, drug trafficking and environmental threats. Traditional state centred responses to such threats are inappropriate (Debora, A. and Virginia, H. 2009). Cooperative security framework in the region or at the continental level therefore becomes a viable option.

Institutional Theory

This theory examines how institutions are created or changed to maintain social order (Scott, 2004b). Institutional theory examines micro and macro/global institutional framework. The institutional environment is dynamic and therefore institutions become organic. Institutions are regulative, normative and cultural-cognitive. – They are not always aligned and may conflict with one another (Sewell, 1992).

The process of institution building is often informed by top down and bottom up approaches (Scott, 1995, 2001).

According to Zucker 1988, *Institutional Patterns and Organizations: Culture and Environment*, the worth of institutions is not measured by persistence. Like all systems, institutions are subject to entropy and therefore they must be rejuvenated to prevent decline and decay. Construction and deconstruction of institutions is a normal and healthy process.

The introduction of open system model of institutional evaluation provides a much better lens (Scott, 2003b). This model recognizes the importance of the environment in which organizations operate. Institutional theory is important for understanding the relation between structure and behaviour, the relationship between ideas and interests and the tension between freedom and order.⁴ The APSA can be evaluated as an institutional model of peace and security in Africa using the institutional theory. Through this approach one can examine the emerging structures, values, interests and relationship at the continental and regional level.

This study will apply the various theories reviewed as lenses through which to assess the development of an Eastern Africa peace and security architecture that reflects the goals of APSA.

4 Scott, R.W (2004) *Institutional Theory: Contributing to a Theoretical Research Program*, Stanford University, p.30

African Peace and Security Architecture (APSA)

The African Union (AU) came into being through bold steps taken by African leaders in 1999 to transform the Organization of African Unity (OAU) into a more effective continental mechanism of conflict prevention, management and resolution. The new AU not only encompassed an executive, judicial and legislative arm, but also had a strengthened secretariat (AU Commission). For the first time, the input of African civil society was recognized with the creation of Economic Social and Cultural Council (ECOSOCC).⁵

The African Union (AU)'s highest body is the *Assembly of Heads of State and Governments*, which comprises of heads of state of all member countries. The *Executive Council* comprises of all ministers of foreign affairs of member countries and advises the assembly. The Administration of the AU is the AU Commission, which is made up of Commissioners covering different areas of AU activity. The Pan African Parliament is an indirectly elected parliamentary assembly with no legislative powers. There are also financial organizations, the Economic, Social and Economic Council and the Peace and Security Council (PSC). The head of AU Commission and the PSC are in charge of all peace and security action and policy.⁶

The Constitutive Act of the African Union (2000) established 17 key institutions. The Act gives the AU the right to intervene, responsibility to protect in situations of war crimes, crimes against humanity and genocide. The African Union Peace and Security Council was established through the protocol relating to the establishment of the Peace and

5 Statutes of the Economic, Social and Cultural Council of the African Union, Article 2, Objectives, www.au.int/en/sites/files/ecosoc_statutes-english.pdf

6 Solemn Declaration on a Common African Defense and Security Policy, www.peaceau.org/uploads/declaratation-cadsp-en.pdf

Security Council (PSC) of the African Union that entered into force on 26 December, 2003.⁷

The African Union Peace and Security Architecture (APSA) is the structure that provides guidelines for managing issues of peace and security in the continent. APSA establishes diplomatic, military, information and economic ways to address peace and security challenges. The structure has several organs as defined in the Common African Defence and Security Policy (CADSP); the Peace and Security Council (PSC), Continental Early Warning System (CEWS), the African Standby Force (ASF) and Military Staff Committee (MSC). Other organs are the Panel of the Wise (POW) and the African Peace Support Fund (APF). The PSC is composed of 15 member countries, 10 of whom are elected on a 2 year term and 5 of whom are elected on a 3 year term. The mandate of the PSC is to⁸:

- Promote peace, security and stability.
- Anticipate and prevent conflicts.
- Combat terrorism on the continent.
- Develop a common defence policy for Africa.
- Promote democratic policies, good governance and respect for human rights.

APSA has implemented a number of strategic plans to build internal capacity. The latest planning document runs between 2011 and 2015. This strategic plan improves conceptualization of security in Africa through recognition of maritime security. Full operation capability of the regional brigades is envisaged to be fully achieved in 2015. There

7 Protocol relating to the establishment of the peace and security council of the African Union, Durban, July 2002

8 Omar A. Touray *The Common African Defence and Security Policy*, African Affairs, 2005, Vol. 104, No. 417 p.10

will be a continent wide field exercise to test the capability of these brigades in 2014.⁹ Below are the constitutive organs of APSA:

Common African Defence and Security Policy (CADSP)

Article 4 (d) of the AU charter describes the mission to develop the Common African Defence and Security Policy. The CADSP was adopted by the AU Assembly of Heads of States and Government in 2004. The policy aims to deal with conflict through preventive diplomacy and rapid intervention in conflict zones. The policy outlines African Defence and security challenges and the measures proposed to address them.¹⁰ CADSP is a strategy based on a set of principles, objectives and instruments that aims at promoting and consolidating peace and security in Africa. This broad and ambitious policy framework set the parameters of collective security in the continent. CADSP provides strategic direction for the African Peace and Security Architecture and is a fundamental pillar of the structure. The success of this policy will depend on political will and commitment among African leaders.

The Peace and Security Council (PSC)

During one of the first AU sessions held in Durban in 2002, the new African Union established a mechanism for conflict prevention, management and resolution.

The AU adopted, *'The Protocol Relating to the Establishment of the Peace and Security Council (PSC) of the African Union'* (*PSC Protocol*) in 2002. In 2004, members of the African Union agreed on a Common African Defence and Security Policy (CADSP). The Protocol and the defence policy are the two major pillars of peace and security governance in Africa.¹¹

9 AU Experts Meeting, Road Map for the Operationalization of the African Standby Force, Addis Ababa, March 22-3, 2005, (EXP/AU-RECs/ASF/4(1).

10 Solemn Declaration on a Common African Defense and Security Policy, www.peaceau.org/uploads/declaratation-cadsp-en.pdf

11 Omar A. Touray *The Common African Defence and Security Policy*, African Affairs, 2005, Vol. 104, No. 417 p.10

The Peace and Security Council of the African Union (PSC) was established as a standing decision making organ. Consequently the PSC protocol came into force in 2003 with 27 signatories. The PSC mandate is managing collective security and providing early warning and response capacity. The PSC works collaboratively with the AU Commission and the peace and security division. The PSC is also charged with the responsibility of implementing the Common African Defence and Security Policy (CADSP).¹² Fifteen countries are elected by the AU Executive Council to serve on the commission.

The PSC collaborates with the United Nations and the United Nations Security Council in managing the African conflict. However under the UN Chapter VIII, the PSC can deploy peace support missions with express authority from the UN Security Council which has the primary responsibility of maintaining international peace and security. A number of other organs were established to assist the PSC in implementation of peace and security activities in the continent.

With authority from the UN Security Council, the PSC has established a number of peace support operations including AU Mission in Burundi (AMIB), 2003, AU Mission for Support to the Elections in the Comoros (AMISEC), 2006, AU Mission in Sudan (AMIS), 2004 and AU Mission in Somalia (AMISOM), 2007. The AU is currently planning a mission to the Central Africa Republic (CAR) following conflict in that country.

The African Standby Force (ASF)

The African Standby Force (ASF) is set to be the African rapid reaction force capable of deployment anywhere in the continent by 2015. The force is divided into five regions – North, South, East, Central and West. The force has a military, police and civilian component. The regional forces will provide a brigade comprised of 6,500 military, police and

¹² Alex Vines, A Decade of African Peace and Security Architecture, *International Affairs*, 89: 1, 2013, p.9

civilian component. The ASF is supported by Military Staff Committee (MSC) comprising senior military officers from PSC member countries.¹³

The ASF undertakes observation and monitoring, preventive deployment, peace keeping and multi-dimensional peace keeping, intervention in gross violations of human rights such as genocide and engaging in post conflict reconstruction activities such as DDR.¹⁴ The ASF also has a mandate to protect civilians, especially vulnerable groups, namely women, children and the aged in armed conflict.

The ASF framework has developed in different paces; with Eastern, West Africa and Southern Africa doing better than Central and North Africa for varied economic and political reasons. Despite international skepticism on the ability of African countries to maintain such a force due to economic and political considerations, ASF is set to be operational and regional brigades are already developing their capacity.¹⁵

The Military Staff Committee (MSC)

The MSC provides military and security advice to the PSC and is drawn from the same countries as the PSC. MSC is mandated to perform a variety of functions depending on the conflict situation. The MSC has provided advice with regard to AU missions in Burundi, Sudan (Darfur), Comoros and currently Somalia. MSC does not address police or civilian issues and therefore it cannot address issues of peace support operations comprehensively.¹⁶ There have also been concerns about command structures regarding who controls the agenda of MSC. However, a number of efforts have been made to streamline the administration and command structure of MSC in relation to PSC.

13 African Union, *Draft Framework for a Common African Defense and Security Policy*’ Adopted by the African Ministers of Defense and Security, Addis Ababa 20-23, January, 2004

14 Kristiana, Powell, (2005) *African Union Emerging Peace and Security Regime: Opportunities and Challenges of Delivering on the Responsibility to Protect*, Ottawa, North-South Institute, p.16

15 Ibid, p.20

16 EU (2010) *Moving Africa Forward: Africa Peace and Security Architecture*, Assessment Report, p.30

The Continental Early Warning System (CEWS)

CEWS helps to anticipate and prevent conflict. The department compiles reports based on open sources about factors influencing peace and security in the continent. Within CEWS, analysis of the significance and potential effects of these factors is undertaken. Each ASF division has regional conflict early warning systems that provide information to CEWS. Analysis and dissemination of final report is done at the continental level. This information guides the decisions taken by PSC and the deployment of ASF.

The Panel of the Wise (POW)

The POW is comprised of five highly respected and influential leaders in Africa selected from the five regions. Each region provides one member to the POW and they serve for a three year term. The main purpose of POW is conflict prevention and resolution. They may act on the advice of PSC, the AU Commission or on their own. The panel takes action in support of PSC objectives and provides advice on peace and security issues.¹⁷

They have provided early warning such as during the African Peer Review Mechanism in Kenya, 2007 or mediation between parties in conflict such as Kenya during the post election violence of 2007/8. The POW also provides behind the scenes advisory on sensitive political matters that may be difficult for serving heads of states to handle. The Panel has been active in mediating conflict in Mali, Ivory Coast, Libya and Egypt, though with mixed success given extra regional involvement in these conflicts. Some of the members of the Panel since 2010 are; Ahmed Ben Bella (former president of Algeria), Ahmed Salim (Tanzania), Mary Chinery Hesse (Ghana), Kenneth Kaunda (Zambia) Marie M.K Ngoy (DRC).

¹⁷ African Union, Protocol Relating to the Establishment of the Peace and Security Council of the African Union, 2002

The African Peace Fund (APF)

A special fund was created to fund the peace and security activities. The fund was established through the AU's regular budget and also receives contributions from member states and other fund raising activities. Since inception the fund has raised about US\$ 96 million, a quarter of which came from member countries and three quarter from outside donors.¹⁸ During the 2007 audit of the African Union, it was concluded that 'there is a cause for concern regarding the funding of peace operations in Africa'. Only 6% of the AU budget is allocated to the peace fund. The AU Commission resolved to look for resources within the continent to increase the fund to 12% in 2012.¹⁹

There have been proposals to introduce an airline levy as part of the fund raising sources. The funding is also being coordinated from the regional level to the AU headquarters.

African Union Regional Framework in Eastern Africa

Eastern Africa comprises about 11 countries from the Great Lakes region and the Horn of Africa stretching from Eastern DRC to Eritrea and Comoros. This is a region bedevilled by various types of conflicts and insecurity.

Though the African Union base its division of security administration zones on Regional Economic Commissions (RECs), they do not always correspond to the existing organizations. In Eastern Africa, there is the East African community (EAC) and Common Market for Eastern and Southern Africa (COMESA). These two organizations focus more on economic union than security. Therefore the responsibility of RECs

18 Ulrich, G. (2004) *Africa's Evolving Security Architecture*, Maputo, Friedrich Ebert Foundation (FES), p.8

19 EU Assessment Report *Moving Africa Forward: Africa Peace and Security Architecture*, P.60

was given to Intergovernmental Authority on Development (IGAD) brings together Kenya, Uganda, Djibouti, Sudan, South Sudan, Ethiopia and Eritrea. Seychelles and Rwanda are not members of IGAD but they are members of the AU regional peace and security structure.

The political differences between Ethiopia and Eritrea and the long cordial relationship between Kenya and Ethiopia, has made Eritrea view EASF as an Ethiopian leaning entity.²⁰

Eastern Africa Peace and Security Mechanism

The Eastern African Peace and Security Mechanism (EAPSM) has been undergoing the process of restructuring to harmonize the work of IGAD, EAC and COMESA. Unlike Nigeria in West Africa and in SADC in South Africa which are regional hegemonies respectively; Ethiopia and Kenya compete for regional dominance.

Therefore the motto for integration is spread across other commonalities such as Kenya's and Ethiopia's interests in political transformation in Somalia and Uganda and Kenya's interests in a stronger East African Community (EAC).

Inter-Governmental Authority on Development (IGAD)

The Intergovernmental Authority on Development (IGAD) was designated by AU as the regional structure for peace and security architecture.²¹ IGAD covers seven countries in its original formation but it accommodates more countries in the AU regional security structure.

IGAD has a peace and security mandate and has developed conflict prevention, management and resolution mechanism. IGAD has developed capacity to monitor conflict through IGAD-CEWARN,

²⁰ Alex Vines, A Decade of African Peace and Security Architecture, *International Affairs*, 89: 1, 2013, p.14

²¹ Wolf Kinzel, (2008) *The African Standby Force of the African Union, An Intermediate Appraisal*, SWP Research paper, German Institute for International and Security Affairs, p.18

an early warning and response unit based in Addis Ababa. The focus of CEWARN was however limited to pastoralists based cross border conflicts.

IGAD has also demonstrated capacity to handle regional conflicts through mediation such as the Comprehensive Peace Agreement (CPA), for Sudan and the Djibouti and Kenya based inter party negotiations for peace in Somalia. Through the Regional Center for the Control of Small Arms and Light Weapons (RECSEA) and IGAD Capacity Building Program against Terrorism; IGAD develops capacity in the management of arms proliferation and control of terrorism. However IGAD does not have the capacity to respond militarily to conflict situations, though the East African Standby Force (EASF) is geared to provide that capacity.²² IGAD also does not have a mandate to intervene in internal conflicts of member countries. This provision might have to be reviewed in light of the APSA.

Though there is a vibrant civil society in Eastern Africa, there has not been significant participation of CSOs in the affairs of AU peace and security agenda. More engagement of ECOSOCC with CSOs in the region can raise their level of participation in African peace and security. Development partners have also not provided much incentive to CSOs to develop regional peace and security programming.

Due to its success in addressing conflicts in Sudan and Somalia and its recognition in the AU peace and security framework; IGAD has acquired legitimacy to set the agenda of peace and security in the sub region. However, the success of IGAD has been hampered by the rivalry between Ethiopia and Eritrea, Sudan and South Sudan and state failure in Somalia. IGAD is yet to streamline its mandate and structures to reflect the current APSA.²³

22 Mwaniki, Njuki *Implementation of IGAD Peace and Security Architecture (PSA)*, 2012, p.24

23 EU Assessment Report *Moving Africa Forward: Africa Peace and Security Architecture*, , 2010, p.24

The East African Standby Force (EASF)

The East African Standby Force (EASF) with a secretariat based in Nairobi is the Eastern African peace support operations force under the AU peace and security architecture. The force is comprised of 3000 strong troops who are based in member countries. The force brings together members of IGAD, East African Community and the Indian Ocean Commission. The 11 member countries are; Kenya, Uganda, Djibouti, Sudan, Comoros, Burundi, Ethiopia, Eritrea, Somalia, Rwanda and Seychelles.

The mandate of EASF is to provide military advice to a political mission, participate in complex multidimensional peace keeping missions, with deployment of military elements and be ready for deployment by the AU when the international community fails to act, for example over genocide.²⁴ The EASF supports various aspects of PSO capacity building including training on rule of law, security sector reforms, and protection of civilians, logistics, human rights and post conflict reconstruction. EASF has not been tested enough on the ground though it has offered invaluable support to AMISOM.

AMISOM has conducted itself with professionalism and decorum and won substantive goodwill among the Somalis. Given the Somali sensitivity to external interventions, the relative acceptance of AMISOM gives credence to discipline, human rights observation and protection of civilians/vulnerable groups in Somalia. Relationship with other regional organizations such as IGAD, EAC and COMESA with regard to implementation of APSA has not yet been well defined. The conflict between Ethiopia and Eritrea could prevent smooth operations of EASF in the Eastern Africa region. Operations of EASF will be highly dependent on global powers Interests and the political situation in the region and the interstate relations among key regional powers.

24 Kristiana, Powell, (2005) *African Union Emerging Peace and Security Regime: Opportunities and Challenges of Delivering on the Responsibility to Protect*, Ottawa, North-South Institute, p.26

Common Market for Eastern and Southern Africa (COMESA)

The Common Market for Eastern and Southern Africa (COMESA) was founded in 1993 in Kampala, Uganda. One of the objectives of COMESA is to cooperate in the promotion of peace, security and stability among its member states. The peace and security agenda was included in 1999 after the effects of many interstate conflicts that engulfed the Great Lakes region and the Horn of Africa.²⁵ A structure for dealing with preventive diplomacy was established in 2000. This structure was built on existing national and regional capacity. Therefore, COMESA did not want to compete with other organizations dealing with peace and security but would provide another wider forum for dealing with regional security.

COMESA established war economy and regional maritime security programs to cover economic/resource based conflicts. Therefore the organization found a niche in specializing on resource based conflicts. There is collaboration with other Regional Economic Communities (RECs) such as IGAD, EAC and SADC to prevent duplication. An early warning system was also established in line with the CEWS of the AU. Since its Inception, a comprehensive framework for dealing with piracy and money laundering has also been established.²⁶

COMESA bridges the gap between SADC, EAC, IGAD and the Maghreb Union in implementation of peace and security agenda. Since inception, COMESA has provided mediation in many conflicts from Burundi, DRC, Madagascar, to Eritrea/Ethiopian conflict.²⁷ The organization has also proposed a number of state based principles including non-aggression agreement and the peaceful resolution of disputes between member states.

25 Elizabeth, M. *COMESA and the Programme on Peace and Security*, National Defense College, 2012, p.84

26 Ibid, p.85

27 Ibid, p.78

COMESA seems to have aligned some of its institutions to reflect the AU peace and security architecture. The organization set up a civil society and private sector forum. There is also an Inter parliamentary Forum and the COMESA committee of elders. These organs contribute to enhanced regional peace and security and the implementation of APSA.²⁸

The East African Community (EAC)

Tanzania, Uganda and Kenya form the bedrock of the East African Community (EAC) having been former colonies of Britain and speaking Kiswahili as a regional *lingua franca*. EAC has incorporated Rwanda and Burundi into the Union. Tanzania is not a member of the security arrangement within EAC since it is connected to the SADC security mechanism. The EAC peace and security system is linked to IGAD in line with the APSA. EAC has a Memorandum of Cooperation on Defence and has a unit to spearhead control of proliferation of small arms and light weapons. This memorandum is being developed into a protocol. The EAC has a Council of Eminent Persons to spearhead mediation among member countries. Members of the council can be drawn from outside the region.

EAC is also making efforts to harmonize its security instruments with the one of COMESA and IGAD.²⁹ EAC also conducts joint operations for peace support operations training, counter terrorism and disaster management. The East Africa Peace and Security Protocol was signed by member states in February, 2013. The protocol is undergoing ratification. This framework sets the region in sound footing as far as peace and security agenda is concerned. COMESA, EAC and IGAD have a joint Conflict Prevention Management and Resolution (CPMR) program for East Africa. The RECs have a Regional Political Integration and Human

28 Makumi, M. *Rules, Standard Operating Procedures and Mediation Guidelines for the COMESA Committee of Elders: Explanation, Rationale and Philosophy*, 2012, p.86

29 African Union (AU) *Experts meeting on the relationship between the AU and the Regional Mechanisms for Conflict Prevention, Management and Resolution: Road Map for Operationalization of the African Standby Force*, EXP/AU-RECS/ASF/4 (1)

Security Support Program (RPI HSSP), on democracy, governance and human security. The three organizations also have a strategy on responding to piracy along the East African coast.³⁰ These initiatives are bringing the peace and security agenda in Eastern Africa in a common forum.

International Conference of the Great Lakes Region

The International Conference of the Great Lakes region (ICGLR) was created under the auspices of the African Union in 2004.³¹ It has been spearheading negotiations for conflict in Eastern DRC. This organization provides an opportunity for the neighbouring countries to determine the direction of the UN and AU intervention in peace and security in the region. The interests of member countries however hinder effective intervention in regional conflicts where it is appropriate. ICGLR offers legitimate diplomatic window for member countries to address their conflicts. Like COMESA, ICGLR offers an extra outfit for addressing conflict in the region.

Civil Society

There are a number of civil society organizations in Africa which are engaged in peace and security research that advances the AU agenda. The Institute of Security Studies (ISS) that is based in South Africa has an office in Nairobi and Addis Ababa. ISS produces research products that review the advancement of APSA and regional preparedness in meeting the desired peace and security goals. The Africa Peace Forum (APFO) has been involved in mediation for Sudan and Somalia. Through intensive analysis of security issues in the continent, Civil Society Organizations (CSOs) are able to provide professional policy advice to AU.

30 EU (2010) Moving Africa Forward: Africa Peace and Security Architecture, Assessment Report, p.65

31 <https://icglr.org/spip.php?article> 1 accessed July 25th, 2013

The establishment of ECOSOC provided mainstreamed CSO participation in AU peace and security affairs. A number of joint AU/CSO collaborative activities have been carried through this forum.³² The African Union established the Economic and Social Council (ECOSOC) to assist civil society to collaborate with various organs of the AU. However, due to the AU's state centered tradition, civil society organizations are yet to be felt in peace and security administration in Africa.

There has been an improvement in the collaboration between Regional Economic Community's (RECs) and the African Union. RECs maintain liaison officers at AU Headquarter. The various organs of the PSC are also reflected at the regional level. There is a need for Eastern Africa region to generate its own funding. ECOWAS generates about 80% of its funding through 1% tax levelled on all exports.³³ Too much dependence on donor funding may compromise AU agenda or delay implementation of its activities.

There have been calls for APSA to take into consideration a broad interpretation of security that includes human security. Promotion of democratic governance as well as development, are seen as vital elements that may not have been captured in the APSA state centered approach to security. Structural conditions of poverty and inequality can also be addressed in a more human security sensitive APSA framework. There are calls for a strategic document that links APSA with other AU development policies such as agriculture, education and health.

APSA is not only a set of institutions but also a set of norms and values. It encompasses most of the AU principles on democracy, governance, corruption, border issues and human rights.³⁴

32 In Kenya, peace and security CSOs have held meeting convened by Green Belt Movement (GBM) to discuss ECOSOC issues in Eastern Africa, GBM is the convener of ECOSOC in the region

33 Kwesi Aning, *Ensuring Peace and Security in Africa: Implementing the new Africa-EU Strategy*, KAIPTC, p.24

34 El Ghassim, Wane, *EU-Africa*, AU Commission, Department of Peace and Security, p.30

Contribution of Member Countries

Kenya

Kenya has a long history of global involvement in international peace and security. Kenya has contributed military, police and civilian contingents to many peace missions in Africa and the rest of the world since 1989. In the African Union framework, Kenya hosts the headquarters of the East African Standby Force (EASF). It is one of the countries that have been participating in preparing the capability of the regional brigade. Kenya has also developed Kenya Rapid Deployment Capability towards operationalization of APSA.

The International Peace Support Training Centre (IPSTC) based in Kenya has been training troops destined for peace support operations in the region, including AMISOM and UNMISS in collaboration with EASF. So far more than 7000 troops have been trained on various aspects of safety, demining, human rights, rule of law and protection of civilians.

IPSTC is also a member of the African Peace Support Trainers Association (APSTA), an organization that promotes cooperation of peace support training institutions, professionalization and standardization of PSO training in Eastern Africa.

Ethiopia

Ethiopia is an active member of EASF and has been participating in preparing the capability of the regional brigade. The logistical base of EASF is based in Addis Ababa.

Ethiopia is the fourth largest contributor of troops (6514) to the United Nations.³⁵ Ethiopia invaded Somalia in 2006 under the global war on

³⁵ Patrick Ferras (2013), Security Stakes and Challenges in the Horn of Africa, p.56

terror framework and also to protect its Ogaden region. Ethiopia is a key player in political stabilization of Somalia and the Horn of Africa. The strategic alliance between Ethiopia and Kenya towards peace and security in Somalia has created an important fulcrum for stability in the region. The conflict with Eritrea continues to be a major challenge for Ethiopian consolidation of peace and security in the region.

Uganda

Uganda is a key player in peace and security in the region. Uganda supported the Sudan People's Liberation Army/Movement (SPLA/M) during its long struggle for liberation of South Sudan. Together with Rwanda, Uganda assisted rebels in Eastern DRC to overthrow Mobutu Sese Seko of DR Congo in 1997.³⁶ Uganda was the first country to send peace keeping forces in Somalia for political stabilization of the country after the formation of a transitional federal government in 2006. Uganda is both a key member of COMESA, IGAD and EAC and is a leading advocate for political federation of East Africa.

Burundi

Burundi is a beneficiary of a revitalized AU. The African Union deployed AU Mission in Burundi (AMIB) to prevent escalation of the conflict in the Great Lakes region in 2003. AMIB consisted of about 3000 troops from South Africa, Ethiopia and Mozambique. Peace initiatives were led by former Tanzanian president Julius Nyerere, Nelson Mandela and Thabo Mbeki. This culminated into the signing of the Arusha Agreement in 2000 that brought together Burundian political parties, the government and the national assembly. Though the main rebel groups CNDD-FDD and PALIPEHUTU-FNL, were not included in the process, the agreement created space for further negotiations.

³⁶ BBC, Democratic Republic of Congo, A Chronology of Key Events: Aftermath of Mobutu, www.bbc.co.uk/news/world-Africa.13286306

CNDD-FDD later joined the government in 2003. A referendum was held to pass an interim constitution in 2005.

The good performance of AMIB has been replicated by the UN Integrated Mission in Burundi (BINUB).³⁷ The implementation of the PSC protocol in Burundi was an important step to register better performance of the AU in managing peace and security issues. Burundi provides early evidence of ‘African solutions to African problems’.³⁸ Burundi also joined Uganda to form the first contingent of AU Mission in Somalia (AMISOM) where Burundi soldiers made significant sacrifice to liberate parts of Mogadishu from Al Shabaab.

Rwanda

Rwanda acquired a new political identity after the 1994 genocide. The country has registered impressive economic development record since the civil war. The Rwandan government was unhappy with the international community’s indecision during the genocide. Rwanda has demonstrated commitment to prevention of genocide in the region being the first country to send peace keeping troops to Darfur. The Rwandan army participates in EASF operations. Rwanda was admitted into the East African Community. Peace and security in Rwanda is still challenged by organized armed groups operating in Eastern DRC. The participation of Rwanda in Eastern Africa conflict prevention framework is important to resolve conflicts in Eastern DRC.

Eritrea

Eritrea has been a source of conflicts in the Horn of Africa. The border dispute with Ethiopia ended up in a war that claimed between 50 000 and 100 000 people.³⁹ A cold war ensued after the war where Eritrea

37 Kristiana, Powell (2005) *African Union Emerging Peace and Security Regime: Opportunities and Challenges of Delivering on the Responsibility to Protect*, Ottawa, North-South Institute, p. 84

38 Statement of the African Summit of the Great Lakes Regional Peace Initiative on Burundi, 2003

39 Patrick Ferras, *Security Stakes and Challenges in the Horn of Africa*, 2013, p.53

supported armed groups in Somalia against Ethiopian forces from 2006. Eritrea has been a reluctant member of IGAD due to perceived Ethiopian influence in IGAD. Eritrea also has a conflict with Djibouti over their colonial boundary. This conflict is being handled through the mediation of Qatar.⁴⁰ Eritrea will continue to be a challenge to security in the Horn of Africa due to low levels of living standards of its citizens and governance crisis.

Sudan

Sudan has undergone significant political transformation in the recent past. The country ended a conflict that was a major drain to its economy. Sudan was perceived by the Western powers as a sponsor of international terrorism but it has transformed and it's actively engaged in Eastern Africa peace and security framework. The alleged genocide in Darfur has been another thorn in the flesh of Sudan's political challenges. Sudan is a key player in regional peace and security and has developed mediation capacity due to participation in the Comprehensive Peace and Agreement (CPA) and subsequent negotiations with South Sudan. Sudan is a member of IGAD and the Nile Basin Initiative (NBI).

South Sudan

South Sudan acquired independence in 2011 after a protracted conflict with north Sudan that lasted for more than 20 years. The nation is yet to consolidate internal peace and security due to governance crisis and development. There are communities that were more marginalized than others during the war as manifested in access to education and health services. The state of Jonglei continues to be a microcosm of the modern South Sudan conflict. The relationship between the Centre at Juba and the periphery has not yet been resolved. There is also a tendency to use military solutions to complex political problems. South

⁴⁰ Ibid, p.61

Sudan is a member of IGAD and it has applied for membership in the East African Community. Due to the resource potential and security needs, South Sudan is a vital member of EASF. However the country is expected to look more inward due to internal security challenges. Membership in IGAD and EASF can be used to enhance management of pastoralist's conflicts and relationship with Sudan.

Djibouti

Djibouti has made significant contributions to the search for peace in Somalia. In 1999/2000, Djibouti hosted the Arta Peace Conference for Somalia that began a significant turning point in the resolution of the Somalia conflict. Djibouti provides the main sea port for Ethiopia. Djibouti also hosts American and French military bases in the region. The border conflict with Eritrea is a challenge for peace and security in the country. Djibouti is providing peace keeping forces in Somalia and enjoys significant goodwill among the Somali. Djibouti hosts the headquarters of IGAD. Djibouti's contribution in the peace and security consolidation in Somalia is vital to regional peace and security.

Tanzania

Tanzania is a member of EAC and SADC, and it is also a signatory of the memorandum establishing the SADC brigade.⁴¹ Tanzania has not been participating in the affairs of EASF. This overlapping however does not have to pose security challenges but provides more leeway to some countries to choose their areas of engagements. Given its membership in the East African Community and having signed a number of peace and security pacts with members of EAC, Tanzania has significant influence in the Eastern Africa peace and security structure. Membership in SADC can be harmonized with the rest of eastern Africa through various peace and security instruments of COMESA.

41 Alex Vines: Review of AU, p.14

Role of Global Powers

The global powers, especially Western Europe and the United States of America have significant interests and influence in the African peace and security issues. It is important to understand how their contribution hinders or advances the African peace and security agenda.

European Union (EU)

The European Union recognized the potential of the AU and APSA to provide a strong peace and security infrastructure. The EU Council therefore entered into a strategic partnership with AU in 2007. The two regions have several areas of commonalities and strategic interests including the Mediterranean zone that links the two continents.⁴²

The European Union has provided assistance to build capacity of the AU to implement the new security framework. The EU established the African Peace Facility which had provided about 500 million Euros by 2012. The EU has been providing capacity building to Somalia security services since 2009. More than 3000 Somalia troops have been trained so far.⁴³

France and Britain, as former colonial powers in Africa have extensive interests and initiatives for supporting peace keeping operations in Africa. Netherlands has provided peace keeping training to ECOWAS. Belgian collaborated with the US in the African Crisis Response Initiative (ACRI).⁴⁴

Defining the role of NATO in peace and security in Africa with respect to EU's collaborative policy in African peace and security structure, is necessary to harmonize extraregional intervention with AU peace and security agenda.

42 Wolf Kinzel, The African Standby Force of the African Union, p.8

43 Patrick Ferras (2013), Security Stakes and Challenges in the Horn of Africa, p.52

44 The African Crisis Response Initiative (ACRI) is a predecessor of ACOTA. These are United States peace and security capacity building projects for Africa

United States of America (USA)

The United States has maintained a number of regional and bilateral military cooperation with Eastern African countries. Though there have been controversial perceptions about the role of AFRICOM in Africa, continued diplomatic and military adaptation has made African countries less resistant to its role in African peace and security agenda. The USA maintains a military base in Djibouti from where some military activities to combat terrorists in Somalia have been conducted. The US military has been running programs to train AMISOM officers on various aspects of peace support operations through a project called ACOTA. The US has also offered advice on structuring the ASF according to the ‘best and brightest’ administrative strategy, though some of those ideas have not been incorporated in the new structure.⁴⁵ The US positively views the development of a strong ASF/EASF as a tool of avoiding future ‘Somalis’ and ‘Rwandese’⁴⁶

The United States has interests in the Eastern African Seaboard being a major international sea lane for the global shipping industry. The projected sourcing of about 25% of American energy imports from Africa also means that the transport routes have to be safe from piracy and international terrorism.⁴⁷

The international community has a role in advancing various aspects of the AU peace and security agenda. Assistance to the ASF capacity in strategic airlift, early warning, technical and logistical capacity, command and control has been identified as an area of comparative advantage.⁴⁸

45 Mike, D. (2005) *A Prayer for Marie: Creating an Effective African Standby Force*, p.115

46 ACOTA was preceded by ACRI as the United States projects for peace and security stabilization in Africa, Ibid, p.116

47 The current US National Security Strategy (NSS) stipulates that the current conflict situation in Africa is a threat to American core values of maintaining international peace and security through fighting terrorism

48 Vanessa Kent and Mark Malan, *The African Standby Force, Progress and Prospects*, ISS, p.73

China

China has raised its engagement in Africa economically, politically and strategically. China established strategic dialogue mechanism with AU in 2008.⁴⁹ The *'Africa Cooperation Framework'* spells out China's security position in Africa geared to *'conform to the changing international situation'*.⁵⁰ China has supported AMISOM and UNAMID peace support operations. Peace support personnel have also been trained at the Peace and Security Department in China. A number of senior officers from African military go for training in China.⁵¹

China registered its strong relationship with the African Union through the construction of AU headquarters in Addis Ababa. There has been an upsurge of sourcing of military hardware from China. It is important to understand how this military cooperation arrangements between China and African military translate to enhanced AU peace and security agenda. Looking at a broader conception of security, China has a great opportunity in assisting African countries develop their agricultural potential, having lifted about 300 million Chinese out of poverty in the recent past.⁵²

49 Debay Tadesse (2012) Sino-African Union cooperation in peace and security in Africa, ISS, p.8

50 China Africa Cooperation Forum, 'Creation of the Forum,' <http://www.china.org.cn/english/features/China-Africa/82047.htm>, accessed July 16, 2013

51 Tadesse, Debay, ed. (2012) *Sino-African Union cooperation in peace and security in Africa*, Addis Ababa, Institute of Security Studies (ISS), p.iii

52 Chin Hao, Researcher, Stockholm International Peace Research Institute, EU-Africa, P.28

Challenges of APSA Implementation in Eastern Africa

Poor Governance

A number of countries in the Eastern Africa region are in different levels of political and economic development. Eritrea and Somalia continue to be a challenge for peace and security in the region. South Sudan is still a country in formation with very low indicators of development, including health and education.⁵³ Rwanda has registered impressive

economic development but it is still embroiled in the Great Lakes region conflict. Burundi managed to have a working coalition government, though it is still beset by intra and inter party schisms.⁵⁴ The Eastern Democratic Republic of Congo (DRC) remains volatile and the overlapping international interventions have hardly made any headway. The recent defeat of M-23 by the UN Force Implementation Brigade (FIB) and the Congolese army ushers a new era for the United Nations in the region. If this operational victory is followed by subsequent dialogue and mediation, a new chapter could be in the offing in the region.

Kenya and Uganda have not yet consolidated democracy in the conduct of political affairs. While Uganda predominantly retains quasi-military one party state system, Kenya has a fragile ethnic coalition based democracy. Ethiopia also still maintains an

State-centric system where freedom of speech and assembly are curtailed by the ruling party, especially during elections. Improvement of governance and respect for human rights are cardinal requirements in the region.

⁵³ UNDP Human Development Index, South Sudan , 2012

⁵⁴ Zenon, Manirakiza, National Coordinator, International Alert, Interview, May 13th, 2013, Bujumbura, Burundi

A number of governments in the region got into leadership through military coups or guerrilla take-over of governments. This is the case with Ethiopia, Rwanda, Burundi, Uganda, Eritrea, Sudan and South Sudan. Though most of these leaders have been popularly elected, there is still a tendency to respond to conflict through military lens. This pre-occupation prevents the emergence of a comprehensive approach to security management in the region.

Lack of Strategic Conceptualization of Security

There is still no proper conceptualization of a regional security ideology and strategy. IGAD is yet to transform as an AU regional peace and security anchor. The mandate of IGAD should have been reviewed once it was designated as an AU structure. Responses to the conflict in the region require strategic approach geared at reforming national, regional structures to conform to internal and external threats.⁵⁵ Due to conflict among some members of IGAD, it has been difficult to have a common security vision.

The IGAD security framework was based on the old model of state based security.

Therefore IGAD's security strategy does not correspond to the prevailing security challenges in the region. Many of the conflicts in the region are intrastate rather than interstate. Many communities in the region engage in conflict as they try to eke out a living in the dry lands or during political mobilization of general elections.

Therefore peace and security infrastructure should factor individual/human security based approaches. The regional peace and security infrastructure should correspond to nature of the conflict, root causes and structures that sustain the conflict. There has been over emphasis on pastoralist conflict in a region faced with other conflict dynamics.

55 Mwaniki, Njuki (Lt. Gen.) (2012) *Implementation of IGAD Peace and Security Architecture (PSA)*, p.24

Weak Institutional Capacity

The APSA in Eastern Africa is still not yet strong and effective. The institutions are not yet well established and geared to achieve APSA agenda.⁵⁶ There are still a number of states in the region such as Somalia, Eritrea and South Sudan which are facing peace and security challenges of their own. Conflict between Ethiopia and Eritrea has often hampered the smooth operations of IGAD. Tanzania has not been participating in implementation of EASF activities preferring to work with SADC.

IGAD lacks resources to implement Peace and Security Architecture (PSA) in the region due to low level contribution by member states. Between 2008 and 2011, African countries contributed only 2% to the Africa Peace Fund (APF); the rest of the money came from international donors.⁵⁷ The current AMISOM in Somalia is dependent on UN and EU funding.⁵⁸ Much of the funding of African Union activities comes from Nigeria, South Africa, Egypt, Algeria and Libya. There has also been more focus on Angola and Equatorial Guinea because of their large oil revenue and the crisis in the Maghreb.⁵⁹ IGAD has low capacity to fund large missions such as AMISOM.

Overlapping Jurisdiction

There are overlapping Regional Economic Communities (RECs) in Eastern Africa such as EAC, IGAD, COMESA, Arab League, Organization of Islamic States, Indian Ocean Rim-Association for Regional Cooperation (IOR-ARC) and SADC. Tanzania has not been participating effectively in regional peace and security initiatives outside

56 Franke B.F (2007) *Competing Regionalisms in Africa and the Continent's Emerging Security Architecture*, African Studies Quarterly, Vol. 9 Issue 3, p.32

57 Alex Vines, A Decade of African Peace and Security Architecture, International Affairs, p.19

58 Judith Vorrath, *Imbalances in the African Peace and Security Architecture*, SWP Comments, No.29, September, 2012, p.1-2

59 Powell, Kristiana (2005) *African Union Emerging Peace and Security Regime: Opportunities and Challenges of Delivering on the Responsibility to Protect*, Ottawa, North-South Institute

the EAC framework because it is not a member of IGAD and is a member of SADC. Tanzania played a key role in the Liberation of a number of Southern African countries such as South Africa, Zimbabwe, Namibia, Mozambique and Angola. The nation therefore has strategic interests in maintaining membership in SADC. Harmonizing the EAC peace and security framework with IGAD can enhance Tanzania's participation in the Eastern African peace and security system.

Extra Regional Involvement in Peace and Security

There is a strong involvement of foreign actors in Eastern Africa, a factor that complicates regional security operations.⁶⁰ Due to the strategic location of the region, potential resource wealth and proximity to the Middle East in relation to the war on terror, Eastern Africa has attracted interests among global powers of the West and the East.

Harmonizing the diverse interests of these countries with the Africa peace and security agenda requires substantial diplomatic prowess. Assistance from development partners in peace and security does not necessarily follow the African Union agenda. There is little assistance going to the most deserving cases such as Eritrea and Somalia for various reasons including insecurity, religious affiliation and lack of democratic space. There is still a lot to be done in creating synergy between regional organizations, international development partners' support and African Union peace and security agenda.

Conclusions and Recommendations

Given the findings of this study, Eastern Africa has still a long way to go before APSA can be well established in the region. However unlike some regions such as Central Africa and North Africa, the region has institutions, values, principles and norms that reflect AU agenda in place.

⁶⁰ Xiao Yuhua, *Security Situation in the Horn of Africa and the Role of China*, Institute of African Studies, Zhejiang Normal University, 2012, p.29

Despite a number of challenges, the African Peace and Security Architecture is gradually emerging in Eastern Africa. There is heightened political will among leaders in the region to adapt a common voice in peace and security. A lot is yet to be done on rationalization, harmonizing and coordinating and integrating the diverse integration mechanisms for alignment with APSA. An effective regional peace and security system is predicated on political legitimacy acquired through good governance and respect for human rights.

With alignment of the mandate of IGAD and other regional organizations with APSA, an effective regional peace and security architecture is bound to emerge. Given the expanded role of IGAD and other regional economic communities, Governments in the region are expected to increase their contribution to the RECs for effective implementation of peace and security programs. It is expected that the AU Military Staff Committee will eventually incorporate the police and civilian aspects of peace support operations.

Previously IGAD-CEWARN was concentrating on limited early warning indicators, largely based on cross border community conflicts. The CEWS must continuously include other factors such as level of democratization, human development indicators, rate of desertification, environmental degradation, water scarcity, resource depletion, national and regional economic performance and structural change, population growth and distribution, among many other factors. Data on corresponding national and regional capacity for response must also be captured. This will enable the continent to enhance early warning and response capacity and thereby save lives and improve quality of life.

The current conflict in the Great Lakes region and the Horn of Africa can hardly wait for an effective regional peace and security architecture. The ongoing UN/AU peace and security consolidation in Eastern DRC and Somalia require strong and urgent regional participation and support.

Recommendations

- Civil society should be more involved in peace and security issues in the region. Though there have been a number of AU ECOSOCC consultations, the network is still weak in the region.
- The private sector and academia should actively participate in the African peace and security agenda through ECOSOC and other lobbying forums. Both of these sectors have a lot to offer in terms of resources, skills and knowledge.
- Despite the African Union and Regional Economic Communities' memorandum of understanding of 2011; there is still a need for enhanced and regular consultations in high decision making levels.
- The AU and RECs should strive towards sustainable internal funding of their activities to enhance independence and efficiency of projects implementation
- The Eastern Africa region should build capacity of mediation using the AU Panel of the Wise and EAC Council of Elders model in order to prevent, manage and resolve regional conflicts.
- Specialization and rationalization among EAC, COMESA, ICGLR and IGAD is necessary to derive comparative advantage and to prevent duplication. The IGAD can work together with the Arab League and Organization of Islamic States to overcome its interstate rivalry and to exploit religious goodwill.
- The East African Standby Force should achieve the AU expected operational status by 2015 in order to provide more peace support operations capacity in the region

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Reconciliation or Impunity? The Role of Peace Support Operations in Transitional Justice in East Africa

Nancy C. Muigei

Introduction

The mechanisms and interventions to address the rising abuse of gross human rights violations and mass atrocities have been established and Transitional justice represents this new model. Agreeably, it is an ostensibly new field and has grown remarkably over the past 30 years (Andrieu 2010:2, Nagy 2008:2). As a field of practice and theory, Transitional Justice was not heard of prior to the end of the bi-polar war (Turner 2013:193).

Equally, it was through the trials of the Japanese and German officials in Tokyo and Nuremberg that the world came close to Transitional Justice after the World War II (WWII) (Huyse 2008:2). Africa has also had its share since the 1990's, and has seen the establishment of International Criminal Tribunal in Rwanda, Truth Commissions, domestic trials and local traditional reconciliation mechanisms which have been applied in Rwanda, Uganda and Mozambique (Dragovic-Soso 2011:185).

This paper seeks to examine and analyze how countries in East Africa have implemented Transitional Justice. It explores and examines the experiences of Burundi, Rwanda,

Uganda and Kenya while seeking to fulfill the following objectives;

- Assess the role of Peace Support Operations in Transitional Justice Processes.
- Identify the challenges of Transitional Justice.

- Identify the opportunities for using Peace Support Operations in Transitional Justice.

In addition the paper will seek to address the following questions;

- How successful has Transitional Justice been achieved in East Africa?
- What hinders effective Transitional Justice in East Africa?
- What is the place of Peace Support Operations in Transitional Justice?
- How can Transitional Justice be leveraged for peace and security in the region?

The paper contends that, for Transitional Justice to be successful the solutions have to be bottom up and homegrown. The paper advocates for a situation where victims, perpetrators and members of the community equally participate and retributive and restorative justice mechanisms are complementary to each other. Rebuilding and repairing the divisions in the society is a daunting task which requires a bottom up approach that enjoys ownership.

The paper explores the role of Peace Support Operations (PSO) in Transitional Justice. It observes PSOs have been pivotal in the transition from war to peace. Their role within Transitional Justice has been well documented and this paper explores avenues through which PSOs can be engaged. PSOs have been resourceful in the Transitional Justice process. They played a key role in East Timor, Liberia, El Salvador and Guatemala included vetting, administration, supervision and coordination of the process.

This paper is organized as follows; the first section provides general discussion on Transitional Justice and its challenges. Second section examines the role of PSOs in Transitional Justice. Third section situates

the Transitional Justice process within East Africa and examines each country context and how Transitional Justice has played out. The fourth section provides thematic approaches to Transitional Justice and spells out the challenges, success and obstacles. The paper ends with conclusions and recommendations.

Limitations and Scope

In East Africa, less is said about the role of PSOs in Transitional Justice. Therefore, to address this shortcoming the researcher will highlight previous experiences of other PSOs.

Transitional Justice

Transitional Justice has transformed how global politics is understood and practiced (Call 2004:101). Its contribution towards accounting for gross human rights violations has been commendable. The world has witnessed how powerful leaders can no longer go scot free owing to the globalized justice system. Leaders such as the former Rwanda Prime Minister, Jean Kambanda, former Liberian president, Charles Taylor, Slobadan Milosevic and Saddam Hussein have faced trials, unlike in the cold war where many escaped accountability (Call 2004:102). However, Transitional Justice has to prove its worth such as the case of Apartheid in South Africa, the dictatorial regimes in Latin America and the post-cold war transitions in Eastern and Central European states (Sriram 2009:3).

Transitional Justice has been adapted as a normative framework among societies emerging from post-conflict or authoritarian rule. Its goal has been to consolidate peace after protracted conflict and hold perpetrators accountable whilst recognizing the victims (Wolfson 2005:55). It has also served the purpose of restoring the rule of law and democracy. It has also been credited for strengthening and reforming institutions through its recommendations. Transitional Justice has been used to deal with atrocities committed in the past and enable interrogation and investigation

of human rights violations using approach restorative or retributive approaches (Lundy & McGovern, 2008: 267). The underlying purpose is to rebuild and repair the social divisions in society. It also helps post conflict societies transition from war to peace or repression to democracy (Quinn 2006:31). Its main goals include Justice, Reconciliation, Truth and a break from a repressive and non-democratic past (Barahona de Brito 2010:360).

Transitional Justice offers different approaches for states emerging from protracted conflict. They include Truth Commissions, Tribunals, Hybrid Courts, Reparations, Memorials, Lustrations, the International Criminal Court, Traditional justice mechanisms and Vetting (Srinam 2009:1). These approaches can be implemented concurrently or in isolation, but all is dependent on the context and unique needs of a society. It is not a one size fits all. Some countries have had mixed systems that complement the local justice system, while others have had Truth Commissions or International Criminal Tribunals. At the end of the day, success is determined by whether the goals of Transitional Justice are met. Sierra Leone, East Timor, South Africa, Rwanda and Kenya are some of the Countries where mixed approaches have been applied. However, not all have been successful.

An effective transitional justice mechanism does not rely only on the question of, 'domestic or international trial, or a truth commission versus an international trial, or a cultural alternative as opposed to a traditional trial. Rather the process should consider what is most beneficial to the people whose lives have been disrupted or even destroyed by the perpetrators of violence' (Fletcher et al 2009:165). Rwanda presents an excellent case where in its initial stages it experienced challenges of capacity. The prison and justice system was unable to deal with the suspects of genocide leading to delay of justice. With over 120,000 suspects and only 5 judges and 50 lawyers, Rwanda had to consider designing and implementing a practical Transitional Justice mechanism (Malan 2008:135).

Challenges of Transitional Justice

The Practice and Theory of Transitional Justice

The proponents and detractors of transitional justice have had a lot to say about its practice. Its normative framework has roots in international humanitarian, criminal and human rights law (Bell 2009 cited in Rubli 2013:4). An issue that has drawn debates from its critics. They claim Transitional Justice is rooted in Western Liberalism and has been 'heavily influenced by the international legalist paradigm, which focuses on generating elite and mass compliance with international humanitarian norms'(Nagy 2008:5). For non-western societies, Transitional Justice has been perceived as abstract distant and alien. In Uganda for instance, the case of the LRA and ICC brewed a lot of discomfort from the Acholi elders opposed to the justice. The elders were up in arms against the investigations and indictments by ICC claiming it would interfere with existing local mechanisms of reconciliation. The tension between Western forms of justice and African has been challenging and has conflicted with reconciliatory efforts.

This paper observes that Transitional Justice in East Africa has not been presented with a quick fix. Rather it has been a fragile, complex and costly process. East Africa has been faced with constraints of meeting the expectations demanded by the societies affected by the violence or war. The challenges have been both internal and external in nature. Issues arising from lack of political will, lean resources, lack of legitimacy and tensions between western forms of justice and African forms of justice abound and are common. Achieving local level reconciliation has also been a crosscutting hurdle for the states in the region. Additionally cyclic violence and issues around impunity continue to loom.

Transitional Justice needs to be further examined and scrutinized, as it suffers from serious flaws. Credited for peace building, Transitional Justice can also be an impediment to peace making process (Srinam 2009:2). Although viewed as a dominant approach and prerequisite to peace building, the mechanism has been faced with challenges, tensions and complexities in theory and practice. Transitional Justice Approach is viewed as narrowly constructing ‘human rights violations’ which in effect excludes issues such as structural violence or gender based violence. Equally it fails to consider challenges experienced by women during war such as poverty, widowhood and HIV/AIDS (Nagy 2008:3). Laplante (2008:332) also notes the narrow definition of justice and violations has axed out historical inequality and violations of economic social and cultural rights.

The Politics of Transitional Justice and Funding

Transitional justice as a process has been politicized and hijacked by politicians to serve their own interests. In some cases, it has proved difficult to prosecute some leaders as they hold positions of authority. In other scenarios, commissions of inquiry have been established but have failed to challenge the status quo. In Haiti and Uganda, the truth commissions failed to complete and circulate their reports respectively (Call 2004:104). Transitional justice approach has been blamed for being selective thus promoting the victors justice. In Rwanda, the Gacaca courts have come under scrutiny for failing to address crimes committed by the Rwanda Patriotic Front (RPF). Therefore the mechanism has been hampered by structural problems stemming from the nature of its political environment.

Other challenges experienced within Transitional Justice include structural issues, typical of countries beset by protracted conflict. These countries find themselves with no resources, mechanisms or even

state structures to deal with suspects of gross human rights violations. Complexities arising from lean resources interfere with the transitional justice process. At the extreme end is the question of how to repair social divisions and ensure Justice, Truth, Peace and Reconciliation prevail. Despite these challenges, societies must find ways of breaking away from the past if they have to move forward. Otherwise, when the past is not dealt with, chances of cyclic violence is possible as a culture of impunity is engrained.

Transitional Justice and Regionalized Crime

As an emerging field of practice and theory, Transitional Justice mechanism struggles to achieve its goals and objectives. Critics of Transitional Justice, Ross and Srinam (2012:3), lament the mechanism fails to tackle regionalized crime spilling across borders. They bemoan it focuses on crimes committed by national actors. For instance, Charles Taylor was tried for the crimes he committed in Sierra Leone but not those in Liberia, and the LRA were indicted for the crimes they committed in Uganda and not outside its borders. This points to some of the limitations of Transitional Justice, and Srinam and Ross also claim they create zones of impunity.

Transitional Justice and Gender

It has been difficult to operationalize gender within Transitional Justice, although the International Criminal Tribunal for the former Yugoslavia (ICTY) set precedence in recognizing rape as a war crime. This was not automatic for the International Criminal Tribunal for Rwanda which had to contend with pressure in order to address the plight of the rape survivors (Nowrojee and Ralph 2000:163). The South African Truth Commission has also been criticized for failing to critically examine

how women were affected by apartheid and their experiences thereafter (Srinam 2009:11) .

Role of Peace Support Operations in Transitional Justice Processes

Peace Support Operations (PSOs) have been fundamental in the implementation of Transitional Justice. Moreover, not all PSO's have had the mandate to oversee Transitional Justice processes. It is important to understand specific PSO mandates, as this will put into perspective what each PSO can and cannot do. Some of the PSOs that have been key in overseeing Transitional Justice include the United Nations Interim Administration Mission in Kosovo, United Nations Transitional Administration in East Timor, United Nations Observer Mission in El Salvador, United Nations Verification Mission in Guatemala, United Nations Mission in Côte de Ivoire, United Nations Mission in Liberia and United Nations Stabilization Mission in Haiti.

The PSOs often play different roles depending on their expertise and needs of a country. Nations emerging from war sometimes lack adequate human resource, capacity and resources to rebuild and reconstruct. PSOs can avert this crisis by addressing existing gaps. In Kosovo and East Timor, the PSO were directly involved in the administration of judiciaries, police and prison services. In El Salvador, Guatemala, Liberia, Côte de Ivoire and Haiti they were pivotal in the rule of law and justice processes.⁶¹ Not all PSOs have the mandate to oversee Transitional Justice Processes, and those that have had the opportunity such as the ones above, have been fundamental in aiding states in transition. The mandates accorded to each PSO may differ depending on the needs of each country and availability of resources Past PSOs such as those

61 http://www.unrol.org/files/TJ_Guidance_Note_March_2010FINAL.pdf: accessed on 28th August 2013 see also <http://www.unrol.org/files/2004%20report.pdf>

of the United Nations have aided host nations by setting up tribunals, truth commissions and reparation programmes. At the UN headquarter level; PSOs have been fundamental in undertaking needs assessments, planning and deployment of staff with specialized expertise. PSOs have been a key contribution to the host nations. In the field, some of their duties have included facilitation, coordination and capacity building. Moreover they have been pivotal in resource mobilization, record keeping, monitoring and evaluation. Henceforth PSOs play an important role in collecting and documenting information on human rights violations. The information they provide is therefore useful to whatever justice system is set up as evidence against perpetrators and identification of victims and witnesses.

The East African Context

Burundi

Gaining its independence in 1962, Burundi experienced genocide and civil war, in 1972 and 1993 respectively (Curtis 2012:74). Its problematic past has been characterized by cyclic violence, authoritarian rule, oppression and impunity (Taylor 2013:450). Ethnic divisions, competition and exclusionary politics became a norm (Curtis 2012:72).

Interventions to consolidate peace were reached upon after the signing of the Arusha Peace Agreement in 2000. The Agreement recommended the establishment of a Truth and Reconciliation Commission, an International Judicial commission of inquiry (IJCI) and an International Criminal Tribunal (Rubli 2013:4).

To date, only the TRC has been set up and the other judicial processes are yet to see the light of the day. The engagement of former rebel groups into politics makes it impossible to implement Transitional Justice. Provision of accountability and justice to the victims is severely curtailed. In 2005 and 2010 former rebel group CNDD-FDD, and now a political party, won the elections (Curtis 2012:74).

They were accused for privileging their interests and using TJ for their own purposes (Rubli 2013:3). This has in effect resulted in lack of political will and explains the slow TRC process. Although the underlying goal of the Arusha Agreement was to combat impunity, little progress has been seen towards this (Taylor 2013:452). This has prompted doubts in the process.

Uganda

Attaining its independence in 1962 from the British, Uganda was faced with a tumultuous start that went on till 1986 when the Museveni National Resistance Movement (NRM) Party took over. Uganda's history was characterized by violence, coups, riots and armed attacks. It suffered hugely in 1962-71 under Obote, 1971-79 under Idi Amin, and 1980-85 under the return of Obote (Quinn 2006:32). During the reign of Museveni, the government set up a commission of inquiry into violations of human rights committed from 1961 to 1986 (Quinn 2004:401). Completed in 1995, the report examined gross human rights violations committed by opposition groups, cases of torture, murder, arbitrary arrests among many other atrocities (Hayner 2006:300). The Truth Commission was however seen to serve the victors justice, as the commission failed to address the question of reconciliation (Srinam 2009:3).

All was not well in the Northern part of Uganda after Museveni took over in 1986.

Protracted conflict ensued for over two decades in what scholars, Okello and Hovil (2007:433); claim was retaliation against Museveni's regime. The period saw the rise of militia groups such as the Holy Spirit Mobile Forces (HSMF) by Alice Lakwena and the Joseph Kony led Lord Resistance Army (LRA) (Meier 2013:27). The impact of the war has seen many civilians abducted, raped maimed or displaced by either the LRA or government in counter insurgency attacks (Okello and Hovil 2007:434, Baines 2007:95). They are blamed for causing chaos and mayhem in the region rendering Northern Uganda anarchic and lawless (Sinclair 2010:1).

The LRA has been accused of abduction of children and the young (Borzello 2007:387), most of whom were either used as sex slaves or

recruited into the LRA army (Baines 2007:95). The LRA have been associated with instability, bloodshed and poverty in Northern Uganda (Sinclair 2010:1). According to Baines (2007:95), 30,000 children and youth have been abducted in the last 20 years in the conflict between the LRA and the Ugandan government. Young people have been willingly recruited to join either the Uganda People's Defence Force (UPDF) or forced to join local militia groups to fight the LRA and protect the communities affected (Baines 2007:95).

In 2000, an Amnesty Act was passed in Uganda and a commission was set up with the goal to encourage LRA members to come forward. By 2005, 14,695 applications for amnesty had been received by the amnesty commission (Quinn 2006:33). Prior to that, the government had in 2004, invited the Chief Prosecutor of the International Criminal Court, Moreno Ocampo to initiate investigations into the case of the LRA (Baines 2007:96), and in 2005 five leaders were issued with indictments. This did not sit well with the elders of Acholi land and the rebels. The elders advocated for Acholi local justice mechanisms which were already underway (Baines 2007:96).

Uganda's case was unique and complex. The presence of the ICC in Uganda was strongly opposed by the Northern Ugandan leaders claiming they would deal with the LRA rebels using local mechanisms. The chief prosecutor on the other hand had been invited by the government in January 2004 and had already initiated investigations on the LRA (Baines 2007:96). Pulling out of the case would result in impunity, while remaining in Uganda would interfere with the reconciliation process. At the center of this were the rebels who refused to disarm if indicted by the ICC (Baines 2007:91). This case points to how local restorative justice mechanisms and international retributive justice approaches can come at loggerheads.

Kenya

Kenya's woes can be traced to the British colonial legacies of oppression, impunity, authoritarianism and policies perpetuated by the erstwhile regime of Jomo Kenyatta, Moi and later Kibaki (Musila 2009:447). In her article appearing in *Pambazuka*, Prof. Wangari Maathai said that 'impunity in Kenya started with the explorers and early settlers who demonstrated no respect for the rule of law of the people they encountered' (Pambazuka 2009). The British Colonialists who ruled Kenya from 1895 to 1963 designed oppressive laws that exploited and appropriated the Country's resources.

The Kenyatta (1963-1978) and Moi (1978-2002) regimes did little to change the status quo. Rather, they continued with the same style of leadership and structures as the colonial period. Little effort was made to address the historical injustices by the colonial predecessors thus planting the seed of impunity. The new leaders committed crimes of the same or worse magnitude like the former colonial masters (KHRC et al 2010:15). Over the years Kenyans experienced grievances over land access and politicians used this to mobilize militias during electioneering periods following the introduction of multi-party politics in Kenya (Huggins 2009:107). Cyclic violence during election times became common and many were displaced and never to be resettled in 1992, 1997 and later 2007.⁶²

Kenya's defining moment was after the post-election violence of 2007. Characterized by the flawed elections, the country was rocked by unprecedented political violence threatening the nation-state and resulted in over 1,100 deaths and 600,000 displacements (Kanyinga 2011:85). A peace accord mediated by Kofi Annan gave way to the power

⁶² IDPs displaced during the PEV of 2007 have recently been replaced by the Jubilee government

sharing deal and recommended a couple of reforms which included the set-up of a Truth Justice and Reconciliation Commission. It was mandated to investigate historical injustices and recommend measures to be undertaken to redress the human rights abuses committed from December 12, 1963 to February 28, 2008 (Kimathi 2010:13).

The commission experienced a lot of challenges ranging from legitimacy issues, funding and delay of its report. Commenting on the commission, Lynch (2009:95) was critical of the kind of truth it would produce. She acknowledged there was an overreliance on the TJRC to resolve underlying issues in Kenya, while in reality, it lacked adequate resources and had a huge mandate. In agreement with her was Musila (2009:453), who thought the commission had far-reaching obligations that would be difficult to implement.

Alongside the TJRC was the ICC process. Following the failure of Kenya to set up a special local tribunal to address the 2007 post-election violence, the ICC prosecutor opened charges against Kenyan leaders. Moreno Ocampo, the ICC prosecutor, was granted permission by the courts to investigate crimes against humanity in Kenya (IPI 2013:45). The process is ongoing and has been one of the most controversial cases in Africa.

Rwanda

In 1994, Rwanda experienced genocide for three months where over one million Tutsi and moderate Hutus were killed. Faced with the challenge posed by the genocide, Rwanda had to find ways to achieve reconciliation, end impunity and address hatred. Citizens in Rwanda were affected part either as perpetrators or victims (Wielenga and Harris 2011:15). Over 800,000 people had been accused to have participated in the genocide directly or indirectly and were awaiting trial (Ibid). Initially,

Rwanda prosecuted suspects of genocide but was faced with capacity issues both in the prisons and judiciary. With only 5 judges and 50 lawyers, it was impossible to try the suspects through ordinary criminal justice system.

Setting precedence in Africa, Rwanda employed 3 approaches of Transitional Justice; on the international, national and local level. On the international front was the International Criminal Tribunal of Rwanda based in Arusha whilst on the national level was the ordinary criminal justice through the local courts in Rwanda and finally at the grassroots was the Gacaca courts representing the local traditional reconciliation mechanisms (Clark 2010:137).

In 1994, the United Nations Security Council through resolution 995/1994 recommended the setting up of the ICTR (Clark 2008:331). It was mandated to prosecute those who committed genocide and other gross human rights violations (IPI 2013:32). Additionally, it was mandated to play the dual role of contributing to reconciliation and peace (Stefjla 2012:2). Compared to the ICTY, the ICTR mandate was narrower (Barria and Roper 2005:349). Both tribunals were established to deal with the worst atrocities since World War II. This was in addition to restoring justice to victims and holding perpetrators accountable that otherwise could not be tried in national court processes (Humphrey 2003:495).

The Gacaca was set up to address local level crimes and it utilized traditional reconciliation mechanism to resolve conflict. Serving the purpose of instilling social harmony, the Gacaca court utilized both retributive and restorative forms of justice (Malan 2008:135). They were set up to ‘guarantee accountability, promote rule of law, and to speed up the prosecution of those accused of genocide crimes’ (Longman 2009:304). Given the challenge of capacity, the Gacaca courts helped

speed up trials and provided the society with the opportunity to participate in the process. Despite the success celebrated by Gacaca, many issues have been raised concerning the court. The court is blamed for failing to hold the RPF accountable for their crimes, and perceived as serving interests of the government thus representing the victors justice (Longman 2009:304).

The Case of Transitional Justice in East Africa

Achieving durable peace through implementing Transitional Justice has been one of the quests of East Africa. The region has had its share in the experimentation of Transitional Justice, and witnessed the entry of the international community through indictments and investigations by the ICC. Additionally, other approaches such as Truth Commissions,

International Criminal Tribunals and local reconciliation mechanisms have been set up and implemented. Examining the contributions of Transitional Justice in East Africa, one can say the region has not been homogenous and Transitional Justice is not a one size fits all. Each country has had its unique challenges, successes and tensions. Some cases, such as Rwanda have been novel and continue to set examples for other African states and the international community.

Unlike the time of the cold war where impunity reigned and top leaders were not held accountable for human rights violations, recent developments have made it virtually impossible for leaders to escape trials. Rwanda made it possible when it convicted its prime minister in the International Criminal tribunal for Rwanda in Arusha (Call 2004:105). Also important was that those responsible for genocide were known and easily identifiable (Steffja 2012:1). Additionally, the criminal

tribunal and court have contributed towards deterrence. In the recent 2013 elections of Kenya, pundits argued the elections were peaceful as a result of the ongoing cases at the ICC presence.

Despite the contributions of Transitional Justice, not all has been rosy in the region and there is need for critical analysis of the practice. A huge amount of literature has been produced examining Transitional Justice in Rwanda with little attention and focus towards Burundi. In Kenya and Uganda, there has been a growing body of literature with recent focus towards the ICC situation although all this is work in progress. A survey into the literature indicates the tensions and serious flaws with Transitional justice in the region. The subsequent section seeks to examine and assess the successes, challenges and situation of Transitional Justice in East Africa. It will examine the various approaches of Transitional Justice applied so far such as the commissions, tribunals, the ICC and traditional local mechanisms.

Tribunals

The UN mandated ad hoc International Criminal Tribunal for Rwanda was the first of its kind in East Africa. Established in 1994, a year after the ICTY, the tribunal set to address atrocities that could otherwise not be handled nationally (Humphrey 2003:495). In line with the goals of retributive justice, they sought to prosecute those most responsible⁶³ for genocide (Clark 2008:331). Although the tribunal was hailed for prosecuting some high profile leaders, many criticisms have been raised against it.

First, the Arusha based court was based miles away from Rwanda making it difficult for locals and victims to connect with the process. Although they set up outreach advocacy offices in Rwanda, this was not sufficient and impact was not much. It was blamed for being

⁶³ This also includes individualizing guilt

inefficient, too much red tape and costly (Steffja 2012:3). According to (Steffja 2012), the tribunal seemed focussed on an international audience than the locals in Rwanda. With close to 800 staff, the tribunal managed to indict 92 persons and arrest only 78 persons. By 2009, they had completed close to 44 cases with 24 in progress (IPI 2013:32). Compared to the Gacaca courts this number was quite low and process proved much slower.

The detractors of the Tribunal raised questions about the process and practice. Call (2004:105), notes that in its ninth year the tribunal had only managed to acquit one person and convict twelve others. Their eight year budget was equivalent to 6% of Rwanda's annual GDP, equalled 43 million USD for each case (Ibid.). This was a huge amount of money that could have been used to rebuild and strengthen the national judicial system in Rwanda (Srinam and Pillay 2009:3). Conversely, the body seemed to struggle to meet its goals. It lacked local ownership and was considered remote thus failing to generate national interest in Rwanda. As Lederach would put it, reconciliation ought to be participatory whilst generating a sense of ownership and responsibility within the society (Lederach 1998).

Truth Commissions

Little known Uganda's Truth Commission of the 70s, was the first of its kind in East Africa and was sanctioned by the Idi Amin regime, with another following suit in 1986 sanctioned by the Museveni regime although it was never circulated (IPI 2013:27).

According to (Quinn 2006:33), former Truth Commission suffered from 'timing difficulties, lack of political will and institutional constraints'. An analysis of the entire process indicates it failed to challenge the status quo and realize positive peace and reconciliation. Uganda's case also raises questions around its purpose, and effectiveness. Call

(2004:104), highlights how in Uganda the report was never made public, and there were indications that all was not well. The 1986 commission has also been seen as a body used by the government to serve its own interests rather than promote reconciliation (Srinam and Pillay 2009:3).

In Burundi and Kenya, similar problems as those in Uganda have been witnessed. The Burundi process of establishing TRC is still ongoing and has had teething issues. As noted earlier by Rubli (2013:3), Burundi's political class used Transitional Justice as a vehicle to serve their own purposes. The parties to the peace agreement that led to the formation of the TRC include former rebel leaders turned politicians, who had vested interests. Kenya's case is unique and controversial. For close to a year, the commission was unable to run smoothly owing to integrity questions surrounding the chair. After going over hurdle, without necessarily addressing it, the commission was again beset with issues of funding, lack of cooperation from some witnesses and it failed to consolidate civil society support. Although the report was recently made public via its website, it has failed to generate sufficient interest. The body also had to request for an extension of term due to constrains of time and resources.

Truth Commissions struggle from internal constraints such as their temporality and lack of mandate to prosecute, therefore depend solely on political will for their success, (Hayner 2001:14, Kimathi 2010:4). Their success is therefore hinged on the willingness of the political class to address the recommendations proposed. Daly, a critic, warns governments to be cautious in promising more than truth can deliver (Daly, 2008:23-24). Truth commissions socially construct truth and what they produce is not monolithic but rather versions of reality (Chapman &Ball, 2001:8). The underlying logic by Chapman and Ball points how truth can be contested and the politics surrounding use of

truth. The South African model, as Mamdani laments, failed to challenge the apartheid regime and thus failed to open a social debate. As (Salih 2012:23), suggests the liberal peace paradigm does not challenge social problems.

The question of reconciliation has also been contentious and complex to address. Chirwa (2010:479), examines this complexity and probes whether national healing is plausible. He asks, ‘Can nations, like individuals, be reconciled to their past and be cured of their ills by working through traumatic events, by telling and hearing the truth? Whose truth is it? Can nations cleanse their past and start again? More important, perhaps, can they ensure ‘never again?’ As these challenges portray; there is a need to examine what constitutes a successful Truth process.

Phil Clark admits the complexity of the contours of Transitional justice citing the challenge of interpreting reconciliation, peace, justice, healing, forgiveness and Truth (Clark et al 2008:381). Reconciliation is bound to many interpretations and definitions (Clark 2012:56). Other critics have raised questions on the incompatibility of both truth and reconciliation. For instance, If a commission is after truth it will name its perpetrators so that victims and the public learn what happened, and if it is after reconciliation it will not name them (Rushton 2008:138). At the heart of this matter, questions of whether these notions of Truth Justice and Reconciliation can address structural violence and lead to positive peace arise. In other words, narrating of truth can lead to construction of new narratives.

The International Criminal Court

Critics have contended that the institution has tended to witch hunt African leaders, citing the fact that majority of their current cases are from Africa (Srinam and Pillay 2009:3, IPI 2013:47). However, African

states such as Uganda, DRC and the Central African Republic extended invitations to the Hague based court (Srinam and Pillay (2009:15). In the Kenyan case, the prosecutor had to open investigation due to the failure of Kenya to establish local mechanism to address Post- Election Violence (PEV) (IPI 2013:45). The experiences and context of Kenya and Uganda have been quite different and unique as regards their engagement with the ICC.

In Kenya, the process has been politicized and a section of politicians are lobbying the withdrawal from the Rome statute. Efforts to convince The Hague based court to bring the cases to Arusha have been futile. The ICC has also been hit with challenges; most of its witnesses have pulled off out of fear and others for unknown reasons. As early as 2010, after the naming of the ‘Ocampo 6’, parliament passed a motion to withdraw from the Rome Statute (ICTJ 2013:2) and set up a local accountability process, this too did not see the light of the day. In January 23, 2012, the Pre-trial Chamber II confirmed charges against William Ruto, Joshua Sang, Uhuru Kenyatta, and Francis Muthaura, and later during the year dropped the Muthaura case (ICTJ 2013:2).

Some key issues raised on the Ugandan case was the asymmetrical nature of the ICC, choosing to focus only on the LRA leaving the government out, Mamdani observes that, ‘while seeking to bring the rebels to justice, the ICC is contributing to the continuation of the northern war, rather than its resolution.

The elders of Acholi felt that local mechanisms such as ‘*Mato Oput*’ were enough and could deal with the situation. Unlike in Rwanda, where the National, International and Traditional mechanisms complemented each other, the Ugandan case proved difficult and impossible. According to the AU panel of the wise, the LRA continued to cause destruction in Darfur, Eastern DRC and Southern Sudan despite being indicted. In

what would point to the inability of Transitional Justice to deal with regionalized crime, such as that spilling beyond Northern Uganda, the LRA were indicted for crimes committed in Uganda (Ross and Srinam 2012:3).

Truth Justice and Reconciliation Commission (Kenya)

The Truth Justice and Reconciliation Commission (TJRC) in Kenya was established in 2008 after the successful Kenya National Reconciliation Dialogue that brought parties into the post election violence together, TJRC had a mandate to address past human rights atrocities and seek redress for the victims. TJRC has done a commendable job to bring to light some of the wounds that have been festering in society. The government is supposed to implement the recommendations subject to parliamentary approval. Currently parliament is looking into the report submitted by TJRC in May 2013 in a bid to change some sections that some members don't consider appropriate. One hopes that parliament and the executive will not water down or undermine the recommendations so that the country can come to terms with its past.

Traditional Mechanisms

Rwanda and Uganda have majorly utilized traditional reconciliation mechanisms. In Rwanda, the Gacaca grassroots courts were revived from pre-colonial times, having been used to resolve conflicts then. They were established by the government to address the challenge of trying over 120,000 suspects of genocide. Additionally, they served the purpose of mending the social fabric and ensuring reconciliation and group relationships were in place (IPI 2013:25). The Gacaca court came into law in 2000 and was modified in 2001 by the Transitional Assembly of Rwanda (IPI 2013:34).

Steffja (2012:4), argues that most of the criticisms against the Gacaca courts are from external actors. These actors have questioned its approach to justice. The courts have been blamed for failing to meet the minimal international standards (IPI 2013:35). Other concerns range from its failure to try the RPF and is perceived to represent the victors justice (Srinam and Pillay 2009:14). The Human Rights Watch and Amnesty International have also pointed the non-consideration of human rights and raised question around professionalism (Steffja 2012:4).

In Uganda, reconciliation mechanisms by the Acholi such as *mato oput* (drinking the bitter herb), *nyouo tong gweno* (welcome ceremony where an egg is stepped on over an opobo twig) have been used to deal with former combatants (Quinn 2006:34). It is not clear whether these local mechanisms are able to address all the parties of the conflict. Just like the Gacaca, the Ugandan traditional mechanisms fail to meet minimal international standards, and like the ICC process in Uganda, its one sided and only targeted at the LRA and not the government.

Peace Support Operations

The East Timor case was successful although it had the most qualified staff; the role of the PSOs in vetting the officials was hailed (Call 2004:108). Probably, they were able to execute this owing to their neutral status.

PSOs can be incorporated into the vetting process as they have harnessed and developed relevant capacity and can also assist in administering the process. Although PSO engagement in Transitional Justice is pegged on their mandate, their role cannot be under estimated and future PSOs can leverage on this. In many ways, they can contribute towards building public support by undertaking outreach programmes and utilizing

creative ways to make communities understand their purpose and that of Transitional Justice.

Conclusions and Recommendations

Conclusions

This paper sought to examine and analyze how Countries in East Africa had implemented Transitional Justice. It explored the experiences of Burundi, Rwanda, and Uganda and sought to understand how successful the process had been. In addition, it also looked into the obstacles, challenges, and opportunities for Transitional Justice. Equally important, it located the role of Peace Support Operations (PSO) within Transitional justices by citing examples of past PSOs out of East Africa. Another observation was the tension between local mechanisms and western liberal forms of justice, as the case of ICC. This paper observed, in such scenarios there needs to be a negotiation and tradeoffs. This does not mean diverting from the international standards; rather such interventions should consider the long and short term implications and whether the needs of victims will be catered for.

This paper has pointed out the various roles of PSOs in other parts of the world and what they were assigned and mandated to do. It observes that in Eastern Africa their mandate has been minimal and not specific to administering transitional justice processes. Possibly, this could be due to the nature of PSOs and how they are deployed to various regions during peace enforcement or peace-making. Eastern Africa has been unique in the sense that the timing and implementation of Transitional Justice has not been solely a transitioning period, although some have. This study however, did examine their roles and possible future functions, factoring the context and needs on the ground.

Some of the challenges experienced within East Africa ranged from issues of timing and sequencing of Transitional justice. The study argues that for the TJ process to be successful, East Africa need to consider homegrown solutions to Transitional justice and build on local support. Others, included structural issues such as lack of resources, institutional challenges and lack of political will. The paper recognized that Transitional Justice was not a one size fits all, and although the paper looked into East Africa as a region, it concluded it was not homogenous. Thus, context is fundamental to designing the needs of TJ process. Additionally, consultation and inclusion of societies involved was vital.

Recommendations

Considering that potential for Transitional Justice to leverage peace and security in East Africa is fundamental, there is a need to strengthen transitional justice mechanisms. As it is, Transitional Justice has only managed to address reconciliation at the global level and national level but states still struggle to attain local level reconciliation. There is a need for East Africa to develop ingenious strategies in order to achieve durable peace. Coming up with homegrown solutions will be key and also important for ownership. On another level, societies with local reconciliation mechanisms can be revived and developed to serve the purpose of local level reconciliation.

The design of Transitional justice processes ought to factor structural issues that would otherwise not be addressed in a normative model. As pointed out earlier, issues such as structural violence, poverty and even cultural violence hide underneath and could be one of the causes of cyclic violence, as they often fail to feature in the process. Still on this, addressing the question of inclusiveness and local ownership is vital. For TJ processes to meet its goals, all parties of the conflict and

members of the society ought to understand, take responsibility and participate in the process.

While issues such as victor's justice and vested interests take the core in transitional justice in the region, lack of effective transitional justice has implications on other aspects of the nation-state such as development. As a result, this could affect the progress of a nation as they have to address their past to move forward. Therefore, building strong mechanisms and drawing on past successes on Transitional Justice is fundamental to move this debate forward.

Given the cross border nature of conflict and violence in the region, East Africa Community needs to consider mooted a policy that will address transitional justice. In order to address border spillovers EAC should set up accountability measures to hold rebels who move beyond national borders, so as to end impunity. A show of commitment by the states in Eastern Africa will be vital, and also financing the EAC body in order to strengthen its judicial capacity. Capacity building and establishment of EAC/Civil society partnership for regional outreach and advocacy work at the community level is important to gain local support.

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Highlights of Key Messages in Eastern Africa

Eastern African Contribution to African Union Peace and Security Agenda

- The African Peace and Security Architecture (APSA) in Eastern Africa is well on course with institutions such as IGAD, EAC, COMESA and EASF leading the implementation of the agenda.
- There is heightened political will among leaders in the region to eschew a common voice in peace and security. However there is a lot yet to be done on rationalization, harmonization, coordination and integration of the diverse regional mechanisms for alignment with APSA.
- There are still major challenges of peace and security in Eastern and the Horn of Africa that requires enhanced implementation of APSA in the region.
- There are number of factors such as overlapping jurisdiction and conflicts among member states that continue to hinder fast implementation of APSA.
- With alignment of the mandate of IGAD and other regional organizations with APSA, an effective regional peace and security architecture is bound to emerge.
- The region has a great potential in establishing a dynamic peace and security infrastructure, given the success of IGAD in mediating peace and security stabilization for Sudan and Somalia.

Reconciliation or Impunity: The Role of Peace Support Operations in Transitional Justice in East Africa

- Transitional Justice in East Africa has not presented a quick fix. Rather it has been a fragile, complex and costly process.
- East Africa has been faced with constraints of meeting the expectations demanded by the societies affected by the violence or war.
- Achieving local level reconciliation has also been a crosscutting hurdle for the states in the region.
- Successful solutions to Transitional justice have to be bottom up and homegrown.
- Rebuilding and repairing the divisions in the society is a daunting task which requires a bottom up approach that is widely bought in and enjoys local ownership.
- For Transitional Justice processes to meet its goals, all parties to the conflict and members of the society ought to understand, take responsibility and participate in the process.
- The study recommends the formulation of a policy framework by the East African Community to address gaps of crimes beyond national borders.



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