

OAU AND AU'S MECHANISMS OF CONFLICTS MANAGEMENT

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Abstract : This work is about the OAU and the AU's mechanisms of Conflict management. My central question was to know how African institutions manage African Conflicts from 1963 to the present. Based on the OAU, this part, scrutinizes its policy of conflict management. Here, I have discovered that its failure was due to the principle of non-interference to internal matters. Such was the case of Rwanda (1994). Then, the AU was created. Based on the AU, this part examines its policy of conflicts management. Here I have also noticed that in spite of the principle of non-indifference, the AU is also limited. For example, I have quoted the case of Libya (2011). So, the EU and the UN prevented the AU to intervene. Finally, I think that despite the principle of non-indifference, the matter is not yet solved.

Key Words: Conflict, management, OAU, AU, mechanisms, policy.

Résumé : Ce travail est à propos des mécanismes de gestion des conflits de l'OUA et de l'UA. La question centrale était de savoir comment est-ce que les institutions africaines gèrent les conflits africains à partir de 1963 jusqu'à présent ? Basé sur l'OUA, cette partie examine sa politique de gestion des conflits. Ici, j'ai remarqué que son échec relevait du Principe de non-ingérence aux affaires internes. Tel est le cas du Rwanda (1994). En suite, l'UA a été créée. Basé sur l'UA, cette partie examine sa politique de gestion des conflits. Ici, j'ai également constaté que malgré le principe de non-indifférence, l'UA est aussi limitée. Par exemple, j'ai cité le cas de la Libye (2011). En fin, L'UE et L'ONU lui avaient interdits de ne pas intervenir. Finalement, je pense que malgré le Principe de non-indifférence, le problème n'est pas encore résolu.

Mots Clés: Conflict, gestion, OUA, UA, mécanismes, politique.

Introduction

For many years African people have followed the way of political dependence conducted by Europeans and their systems. They believed in white men and their politics as the way of their emancipation. Later on, they noticed that it was not the case, and it was not unnecessary for them to organize their own continent.

However, the present study is to situate readers to the main purpose when reading African events in general, and issues of conflicts management in particular. The OAU and the AU are the main concern of our work. It is in this sense that our work is entitled: OAU and AU's mechanisms of conflicts management. As we can see, the current topic raises an interesting question that we hope to examine in this study. How African conflicts are managed from the OAU to the AU?

Concerning the review of literature, lots of research papers cover a wide range of opinions which hold truth concerning the policy of conflicts management in Africa and also some reasons which justify the creation of African institutions of conflicts management.

The available academic works are most of them related to the study of the Organization in the angle of Law or Social Sciences.

We can cite the most significant of them: the thesis of PopaulFalaMayuMuleel, entitled *L'UnionAfricaine: bilanet perspectives2001-2008*, defended in 2008 at the University of Lubumbashi, (DRC)

If there are conflicts and institutions of conflicts management in Africa in general and in sub regions of Africa in particular, it is necessary to investigate completely mechanisms of these conflicts management in Africa by the OAU and the AU.

About methodology, these issues will be examined through a historical approach, taking into account the nature of conflicts occurring in the society.

And this approach will be used in an exclusive way in the sense of the word (the relating of past events). I am going to enrich this work with a socio-anthropological vision, in order to fully understand the living of African people and their issues.

It is admitted that African issues have historical, sociological, and political connotations. Consequently, African institutions of conflicts management were created in order to unify the continent and also to face imperialism in the continent.

In this respect, we shall start by examining the OAU and conflict management. First of all we are going to study the Principle of Non-Interference in the International Affairs of States. Then, we are going to scrutinize transnational conflicts. Here, we are going to study

the OAU and the management of the conflict between Ethiopia and Eritrea. Finally, the OAU and the management of the conflict in Rwanda will be seen as the last step of this part. Then, the AU and conflict management will constitute the second part of this study. Here, we shall start by the adoption of the principle of Non-Interference (Direct AU Intervention in case of crimes against humanity such as genocide mass human Violation...). Finally, the last section will deal with the Arab Spring: The AU and the management of the conflict in Libya.

1. The Organisation of African Unity and Conflict Management

Before discussing this issue, it is important to understand first of all the vision behind the creation of the Organisation of African Unity (OAU). It was on the eve of 1960s that the political will amongst the leaders of the newly independent African countries was based on three matters: first, the continental political unity, second, nation building, and third, the decolonization of the remaining colonized countries and also the one which was under the apartheid domination.

Indeed, conflict was not considered as a matter which was of great importance or which will become important, apart from inter-state conflicts for which a committee of Mediation, conciliation and Arbitration was set up but it disappeared immediately just after it was created. The African vision of political unity came to be validated as a long term objective and to work for it through the building blocks of creating sub-regional organisation; nation building was given priority, but its setting up was soon gave up without giving up its ideology. The following section will analyse the principle of Non-Interference in the Internal Affairs of States.

2. The Principle of Non-Interference in the Internal Affairs of States

This principle was established in the Charter of the continental institution. Known as the non-interference principle, this was encouraged by the aspirations of the institution to keep its members united as they were afraid of interfering with the weak African states which were just liberated from the yoke of the colonial powers.

In addition, this norm is written to other countries located beyond the continental boundary to leave African countries to be involved in their nation building and development. The addition of this principle was not a departure from other international principles as that was established in the UN Charter which embraces it; however the explanation of this principle was seen as the major point of disagreement.

OAU's severe and firm interpretation signified that internal conflicts could not be managed essentially. However the charter did not prevent the institution from its own implication itself.

In addition, the OAU's mandate could not be completely performed without its own implication in the way of conflict management of a member state internal conflict. The International character of conflicts and the explanation of internal conflicts by the OAU conducted to its failure to act when the Organisation arrived to manage internal conflicts.

While the OAU argued on a severe distinction between internal and interstate conflicts, it has emerged via the works of certain scholars such as Burton and many others that there are internal sources of international conflicts and vice versa which make it clearly hard to identify them. The transparent line between internal and international conflicts has been established not irrelevant on the grounds of universal human rights, the view that all conflicts have domestic sources, the implication of outside organism, the mass media, refugees, humanitarian aid and new technologies.

The international character of conflicts was mixed together with the severe explanation of article 3(2) which negatively influenced the OAU's situation. The changes occurring in the world that put an end to the Cold War importantly decrease the number of inter-state conflicts but increase the number of internal conflicts arising from fights over unsatisfactory resources and the non implication of the major powers.

The norm of non-interference was worsened by rebels fighting a legitimate government where in diverse cases, clandestinely received support from other member states this is the case of civil wars in Biafra (Nigeria), Southern Sudan and Eritrea (Ethiopia) there was no severe sanctions from the OAU in order to render such issues less violent.

Here, it is not unnecessary to stress on the territorial integrity saying that this norm enshrines the legitimacy of borders inherited from the colonial period no issue how perverse or arbitrary they were. The norm was clearly written in the article 3(3) of the OAU's Charter.

The territorial integrity was considered as the backbone norm of the OAU that went further than the UN counterpart by preventing any activity that could weaken the territorial integrity; not only activities which constitute the use of force as the UN Charter declared, but conducted to the principle of keeping war gains (*Uti possidetis*) with regard to state borders. This principle however, brought solutions to lots of issues facing the continental institution just after independence, as it kept the source of great collection of ills firmly locked in contrast; it also brought a lot of nosy disturbance.

The norm got support in two manners. The first was the need and search of the African elite who emerged from the colonial rule to control transfers across their borders. The second was the international system which provided juridical assistance to statehood of weak states from being dismembered or divided by strong neighbours.

The practice of this norm or principle in solving African conflicts was put into practice in Western Sahara, namely: in Chad and Libya conflicts, Kenya, Ethiopia and Somalia conflicts. To some degrees, the norm or principle solved the dispute honestly satisfactory particularly the interstate ones.

However, in some cases where the *utipossidetis* itself is struggled for instance where there are disagreements over the precise border for the lack of identifiable separation, the norm provided a lot of acrimony.

African borders are widely permeable as communities living from one side of them, to the opposite side therefore their interaction with strict adherence to *utipossidetis* compound the matters of these communities living in frontier areas or districts for instance; it prevented good communication especially in the case of communities considered as nomadic communities.

3. Transnational Conflicts

To make this clear, by transnational conflict here we mean conflict over borders or conflict between two countries. Since our aim is not to make the review of all transnational conflicts in Africa, one case is enough for this study. In this respect, the following section is about the conflict between Ethiopia and Eritrea.

3.1. The Organisation of African Unity and the Management of the conflict between Ethiopia and Eritrea.

First of all, we have to mention that the conflict between Ethiopia and Eritrea was considered as one of the major preoccupations of the 68th Ordinary Session of the OAU Council of Ministers and the 34th Ordinary Session of the Assembly of Heads of State and Government held in Ouagadougou, Burkina Faso, from 1-10 June, 1998.

Indeed, the escalation of the conflict, especially the use of air strikes, was a source of serious concern for the Heads of State and Governments. So, after having been extensively briefed by the Ministers of Foreign Affairs of Ethiopia and Eritrea on the positions of their respective countries and following its deliberations on the issue, the Assembly expressed deep concern over the escalation of the conflict; endorsed the relevant Resolution of the 68th Ordinary Session of the Council of Ministers on the conflict between Ethiopia and Eritrea.

And urgently it appealed to the two parties to, concurrently and simultaneously, put an end to all hostilities, accept and implement the recommendations of the Facilitators decided to send, to Ethiopia and Eritrea, a delegation of Heads of State and Government of the Central Organ lead by its former Chairman.

Afterwards, during a meeting of the Central Organ held at the Summit level, immediately after the closing of the Thirty-fourth Ordinary Session of the Assembly, it was agreed that the OAU High Level Delegation would be led by the former Chairman, and comprise the Heads of State of Djibouti, Zimbabwe and Rwanda as well as the Secretary General of the OAU. Then, this Delegation visited Ethiopia and Eritrea on 18 and 19 June 1998.

In undertaking its mission, the OAU High Level Delegation was guided not only by the letter but also by the spirit of the Summit's Resolution, whose ultimate target was to ensure that everything was done to put an end to the hostilities, bring about a peaceful solution to the dispute and restore a climate of cooperation and friendship between the two sisterly countries. We have to stress that in both countries, extensive discussions were held with the former Prime Minister Meles Zenawi and the former President Isaias Afewerki respectively, who stated the positions of their respective countries and expressed their disposition to seek a peaceful solution to the conflict.

In that regard, the Ethiopian side reiterated its acceptance of the proposals of the Facilitators which, among others, provided for the redeployment of the Eritrean Forces from Badme to positions held prior to May 6, 1998, and for the demilitarization, delimitation and demarcation of the common border.

On the other hand, The Eritrean side stated that, as far as it was concerned, the Facilitation process was over. It made it clear that it considered OAU's efforts as a new initiative. Eritrea also submitted proposals which focused on the demilitarization and demarcation of the entire border between both countries.

We have also to mention that during the visit of the OAU High Level Delegation, the leaders of both countries expressed support and pledged their full cooperation to ensure the success of OAU efforts. Finally, at the end of its discussions with the leaders of both countries, the High Level Delegation issued the following statement:

"There is no need to recall the circumstances which prompted the OAU Summit in Ouagadougou to send a High Level Delegation of Heads of State to Ethiopia and Eritrea." The OAU High Level Delegation, Ouagadougou, Burkina Faso 17 - 18 December 1998

It may be useful, however, to recall the Summit Decision on this grave issue:

-The Summit expressed its deep concern over the escalation of the conflict;

-The Summit urgently appealed to the two parties to, at the same time and simultaneously, put an end to all hostilities, accept and implement the recommendations of the Facilitators;

-The Summit decided to send to both countries a delegation of Heads of State and Government. We have to mention that the OAU High Level Delegation was led by Blaise Compaore the former president of Burkina Faso, also the former Chairman of the OAU. It included Robert MUGABE of Zimbabwe, also the former President of Rwanda, and President Pasteur BIZIMUNGU, the former Minister of Foreign Affairs of Djibouti, representing President Hassan Gouled APTIDON, former Chairman of IGAD; and the former Secretary General of the OAU.

Then, the Delegation held, a meeting with MelesZenawi the former Prime Minister of the Federal Democratic Republic of Ethiopia. It then proceeded to Asmara, where it met with Isaias Afwerki the former President of the State of Eritrea. The Delegation also had another meeting with the former Prime Minister MelesZenawi.

The Delegation also listened carefully to both Parties which articulated their respective positions. It welcomed the disposition reiterated by both Parties to seek a peaceful solution to the conflict and avoid further escalation of the conflict. It also welcomed the former climate of restraint and cessation of hostilities observed by both Parties.

It is necessary to recall that the Facilitators put forward some proposals to both Parties as a way of bridging the gap between them. These proposals were supported by the Ouagadougou Summit.

During its discussions with both countries, the Ethiopian side reiterated its acceptance of the proposals of the Facilitators. The Eritrean side stated clearly that the Facilitation was over.

From this point of view, therefore, the Delegation was unable, at this juncture, to make headway with respect to the Facilitators recommendations. The OAU would nonetheless

continue with its efforts. The issue was too serious and grave and deserved the continued attention of the Organization of African Unity.

The OAU Delegation continued, therefore, to be seized with the matter. It would continue with its efforts at the levels of Ambassadors of the members of the Delegation, Ministers and Heads of State. It would seek the cooperation of both parties to help them reach a peaceful solution. In this endeavor, the OAU Delegation would build on the areas where there was convergence of approach and views between both parties.

Furthermore, In the meantime, the OAU Delegation urged both Parties to continue to exercise maximum restraint and avoid taking any action which could escalate the tension and further harm the future relations between the two countries. (Addis Ababa 19 June 1998.) As a follow-up to the decision of the OAU High Level Delegation, a Committee of Ambassadors was established. It adopted the following Terms of Reference deriving from the directives of the High-Level Delegation:

- a. to collect information from both countries on the development of the conflict and on any other additional view they would have on the ways and means to solve the conflict;
- b. to collect, from the two parties or any other appropriate International Organization and Agency, information which would make it possible to determine the authority which was administering Badme before 12 May 1998.
- c. to reiterate the appeal made to the two Parties by the OAU Delegation of Heads of State during its visit so that they:

Continue to observe the moratorium on air strikes; - maintain the present situation of non hostilities; refrain from any action which could worsen the situation and harm further the relations between the two countries (making the civilian population and socio-economic infrastructures the targets; measures against the nationals of each country). The OAU High Level Delegation, Ouagadougou, Burkina Faso 17-18 December 2018

On 24 June 1998, the OAU's General Secretariat addressed a Note Verbal to the Ministries of Foreign Affairs of Ethiopia and Eritrea, informing them of the Terms of Reference of

the Committee and seeking the cooperation of the concerned Authorities of both countries in carrying out its tasks.

On June 25, the Secretary General received a communication from the former Minister of Foreign Affairs of the State of Eritrea regarding, among other things, paragraph (b) of the terms of Reference on the Administration of Badme prior to May 12. In the communication, the Minister declared that:

"We fail to see the rationale of this task. It must be borne in mind that Badme is one of several Eritrean towns "contested" by Ethiopia, although we do not as yet know the totality of Ethiopia's claims other than what can be inferred from the map of Tigray Administrative Region that carves large swathes of Eritrean territory. [...] We, therefore, request that point No. 2 be deleted from the tasks as it can be accommodated within task Number 1." The OAU High Level Delegation, Ouagadougou, Burkina Faso 17-18 December 2018

Following this communication, the Committee judged it necessary to have a meeting with the Ambassador of Eritrea to Ethiopia so that he could provide further clarity on his Foreign Minister's letter. During the meeting, the Committee made it clear that the Terms of Reference were entrusted to it by the Heads of State and not by the Parties. Therefore, neither the parties nor the Committee could change the Terms of Reference.

It was further indicated that the issue of Badme was included in the Terms of Reference because of the doubt which surrounded the matter during the discussions that the OAU High Level Mission had with the President of Eritrea. And to clear the doubt, the Heads of State had decided to entrust the Committee with the task of ascertaining which Administrative Authority was in place before the events of 12 May 1998.

Concerning the Ambassador of Eritrea, it affirmed that his country felt that, within the spirit of transparency, it should inform the Committee of its reservations before its Members traveled to Asmara, Eritrea. He indicated that the Committee should not focus exclusively on Badme since there were other contested areas, where clashes occurred in July and August 1997. He, however, pointed out that the reservations of his country should not be taken as an attempt by Eritrea to impose a precondition on the visit of the Committee to Asmara.

One should keep in mind that during a subsequent meeting of its members, the Committee decided to take note of the reservations of Eritrea. However, it was made clear that it would not be appropriate for the Committee to negotiate its Terms of Reference with either Party.

It was, therefore, decided that the Committee should strictly stick to its mandate as formulated by the Heads of State and organize the information collected from both parties and other relevant sources in a way that it would meet the expectations of the Heads of State.

They finally, agreed that more political work was still required and, in that regard, felt that more time was needed. Commonly, they also agreed that it would be premature at that point to submit the recommendations to the Parties, noting that it was up to the members of the OAU High-Level Delegation to do so in view of the mandate entrusted to them. At last, they had an arrangement on the content of a Communiqué to be read out to the Parties and which was subsequently circulated to the mass media That Communiqué was in the following way:

The Ministerial Committee of the Member States of the OAU High-Level Delegation on the dispute between the State of Eritrea and the Federal Democratic Republic of Ethiopia met in Ouagadougou, Burkina Faso, from 1 to 2 August, 1998, under the chairmanship of Mr. Ablasse Ouedraogo, Minister of Foreign Affairs of Burkina Faso. The meeting was attended by Dr. Stan Mudenge, Minister of Foreign Affairs of Zimbabwe; Mr. Mohamed Moussa Chehem, Minister of Foreign Affairs of Djibouti, as well as by Dr. Salim Ahmed Salim, the OAU Secretary General. [...] The Committee briefed the Current Chairman on the outcome of its meeting. The OAU High Level Delegation Ouagadougou, 2 August, 1998

4. The Organisation of African Unity and the Management of the conflict in Rwanda.

As we know, the endemic Rwandan has remote and immediate causes, which are inextricably intertwined. These causes have ethnic and historical roots, which have led to many decades of interethnic hostilities in the country.

To speak of remote causes, we have to say that the upsurge of violence that accompanied the death of the Rwandan President has roots in the history of Rwanda (and Burundi) and the relationship between the Hutu and Tutsi. The crisis in Rwanda reflects a history of social relations between two ethnically “mobilized” groups, with circles of victimization and reprisals for decades, kept alive in the collective memory to prompt confrontation in episodic instalments.

It is in this way that ElechiAmadi writes: *“These attitudes are still deeply ingrained in the minds of the people and it will take several generations to erase them.”* A brief historical review of these hostilities shows that series of ethnic massacres have taken place to consolidate the emergence of a class society with the Hutu who are the majority as servant and a Tutsi minority aristocracy.

By the time Rwanda obtained independence in July 1962 ethnic identity had become the main source of the political division. The Hutu in power led several ethnic cleansing in Rwanda, which resulted in persecution, massacre, mass exodus and exile of the minority Tutsi into Uganda, Tanzania and Zaria. It is in this way that Chinua Achebe defines tribalism in the following way:

What is tribalism? [...] For practical purposes let us say that tribalism is discrimination against a citizen because of his place of birth. Everyone agrees that there are manifestations of tribal culture which we cannot condemn; for example, peculiar habits of dress, food, language, music, etc. In fact many of these manifestations are positive and desirable and confer richness on our national culture. But to prevent a citizen from living or working anywhere in his country, or from participating in the social, political, economic life of the community in which he chooses to live is another matter altogether. Our constitution disallows it even though, like its makers, it manages to say and unsay on certain crucial issues. Chinua Achebe, 1984 p.7

Subsequently the minority Tutsi acquired increased dominance in Burundi through the military to the detriment of the majority Hutu. The Tutsi refugees and their offspring did not give up their Rwandan identity, or their right to return, to their Rwanda.

The exclusion of the Tutsi from public life and their elimination during periods of political tension led to an uprising in September 1990, which was crushed but not without bloodshed. The genocide and mass displacement of Rwanda people in 1994 is the result

of the invasion of the Tutsi refugees from Ugandan who have been excluded from political power for a long time.

Then, concerning the immediate causes, we have to mention that following the September 1990 uprising an estimated force of 10,000 guerillas called Rwandese Patriotic Front (RPF) headed by Paul Kagame a former head of Ugandan Army Intelligence, launched an invasion into Rwanda from the Uganda border.

The RPF occupied north Rwanda and for three years conducted a guerrilla operation for the “Liberation” of the country. The event, which triggered off the 1994 exodus of Rwandan people, was the death of the President and his Burundian counterpart in a plane crash. This gave a cause celebre to the Hutu extremist of the Presidential Guard, backed by other troops and militia (Interhamure) to hunt and kill Tutsi and moderate Hutu.

This intensified the war between the RPF and the Rwandan National Army resulting in thousands killed and approximately two million went into exile in neighboring countries.

During the same time, SiadBarré fought in 1990 and eventually fled Somalia in January 1991, the Rwandese Patriotic Front (RPF), consisting of mostly Tutsis, invaded Rwanda from the northern border it shared with Uganda. The group intended to force forwards sharing of political power between the two main ethnicities in Rwanda.

The OAU sent a neutral military observer contingent (MOC), but the military contingent consisted of troops from Burundi, Uganda and DR C was not considered neutral enough, and fail abruptly. Simultaneously, the OAU launched a number of mediation efforts and a new peacekeeping mission, which eventually gave results.

In 1993, the RPF and the government of Rwanda signed two protocols of agreement; one on the repatriation of refugees, and the second on powersharing. This peace agreement was known as the Arusha agreement, and came into place after mediation efforts from the OAU, United States, and several European countries.

A United Nations peacekeeping force was sent in October, and NMOG was incorporated into that force. The main reason was the challenge the Organisation of African Unity faced with maintaining and financing the force. In 1994, following the flight crash and death of the late President Juvénal Habyarimana, here violence showed the parts separated in the country (Rwanda.)

The UN received a new mandate on a peace keeping force, but fought to secure it. To that purpose the Security Council asked the African countries to provide troops for a mission in Rwanda, a mission which the Organisation of African Unity actually agreed to, and gave 6000 troops. That was linked to the condition that the West covered logistics and equipment, which it failed to do, resulting in a five month delay, clarifying that the challenges felt in Chad years ago were still verifiable. In the same period, the job became extremely large for the United Nations Assistance Mission for Rwanda (UNAMIR), which was retired.

The Organisation of African Unity voted a lot of resolutions and urged the international society to take care of the disaster, as seen in the organizational documents, but to little use. What is worth noting through resolutions such as CM/RES.1514-1552 from June 1994, is that in the same document, both the financial problem in the Organisation of African Unity and the issue in Rwanda are written, precisely express the need of the international society and African states to contribute. In the meantime, the UN Security Council adopted resolution 925, where the Council declared that it was

Welcoming the cooperation between the United Nations and the [...] (OAU) and the contributions of the countries of the region, especially that of the facilitator of the Arusha peace process, and encouraging them to continue their efforts.
<https://books.google.cg/books?>

That genocide well known all over the world presently killed nearly 800.000 thousand to 1.000.000 million people within three months. It was cruel, and shocked the world.

The genocide can be explained as a motivation behind the involvement and non-indifference the organisation proved in Burundi. The violence in Rwanda was considered as a new stage for the African states, something they had not experienced yet.

This may have been seen as an incentive for the OAU to act, being aware of the chances for the violence to become more and more serious. These three last conflicts of this chapter, which occurred early in the 1990s, shocked many people in the world.

Contrary to some varied efforts from the Organisation of African Unity Mechanism in mediating in the conflicts, it failed to mediate arrangement securing lasting peace. On the other side, the implication of the Organisation of African Unity is worth mentioning, as it really agreed to provide peacekeeping forces in Rwanda, even if it was not completely done because of the lowness from the UN and their own financial challenges to prevent the genocide.

In fact, it worked hard and made lots of efforts in the mediation process in Burundi, and managed to come up with an arrangement, via violence which suddenly developed again later on. That was also essential for the involvement in the international talks on the supreme authority of each state member versus the responsibility to protect, a talk that the Organisation of African Unity also took place in.

The most important idea behind the responsibility to protect doctrine is that human rights sometimes trump supreme authority, as protected in the Charter 2, article 7, with a danger eye turned on the non-interference system in internal conflicts. According to the non-interference system, normally, each state member is responsible to protect its own population from war crimes, genocide, crimes against humanity and the violent elimination of an ethnic group.

The debate that took place after these different conflicts namely, in Somalia, Burundi, Rwanda and the Balkans may have put a certain pressure on the Organisation of African Unity to revise their policy of non-interference. The brutality of the conflicts was an eye-opener, and their failures in these countries quoted above may have been motivational so that they may revise their policy. This is what part II will deal with.

5. African Union and Conflict Management

To introduce this we have to mention that the 1990s was known as the particular period of turbulent and challenging time for Africa. All over the continent, violent conflicts dramatically and simultaneously erupted almost the whole continent. Namely, In Sudan, Rwanda, Burundi, Liberia, DRC, Somalia, Sierra-Leon, Angola to name only these, civil conflict and sporadic fighting threatened the political survival of the states and the stability of the regions.

Regrettably, the Organisation of African Unity (OAU) was unable to react because of its Charter which provided for the respect of the sovereignty and territorial integrity of member states. This means that the organization of African Unity (OAU) could intervene in a conflict issue within the territory of a member state only if it was invited by the two parties involved.

Unfortunately, most of the conflicts issues were intrastate and so the Organisation of African Unity (OAU) was effectively restrained because its principle of non-intervention viewed such disputes as internal conflicts and the exclusive preserve of the governments concerned.

However, just after the massacre in Rwanda, it become more and more obvious to many that the principle of non-interference provided by the Charter of the Organisation of African Unity had become archaic and counter-productive and has to be taken off. Unless, the Organisation of African Unity (OAU) was going to make any progress in solving lots of conflicts threatening to destroy the whole continent.

Then, the matter about the prevalence of armed conflicts in Africa, it seems, and the fact that no single internal factor has contributed more to socio-economic decline on the continent and the suffering of the civilian population more than the scourge of conflicts within and between (African) states, eventually convinced African Heads of States to reject the obsolete principle of non-intervention.

To that purpose, it was not surprising that the African Union (AU), from inception refused to consider the principle of non-interference and embraced the “covenant of non-indifference” (Peen Rodt, 2011). This means that while the African Union (AU)

respects the national sovereignty, territorial integrity and independence of its members, it assumes a self-imposed responsibility to intervene in the internal affairs of its member states, "in circumstances where war crimes, genocide and crimes against humanity are perpetuated" (Constitutive Act of the African Union, 2002: 4-h).

It is also in this sense that the definition of humanitarian intervention according to the Danish Institute of Foreign Affairs says:

Coercive action by states involving the use of armed force in another state without the consent of its government, with or without authorization from the UN Security Council, for the purpose of preventing or putting to a halt gross and massive violations of human rights or international humanitarian law. Danish Institute of International Affairs, Denmark, 7 December 1999

This quotation sounds right if we consider the under which the AU was created. Now, for the purpose of evaluating the performance of the African Union we are going first of all to study the Principle of Non-Indifference.

5.1. Adoption of the Principle of Non-Indifference (Direct AU Intervention in case of Crimes against humanity such as genocide, mass human Violation...)

In relation with the failure of the international community by the 1990s to decisively deal with the issues in Africa, especially the genocide in Rwanda by 1994 and state act of falling down suddenly in Somalia, African countries determined to devise their own solutions to the issues occurring on the continent. "This marked the origin of the notion of "African solutions to Africa's problems which was later to become one of the founding principles of the AU" (Apuuli: 2012:1).

Indeed, the idea of African solutions to African issues was also forced by the lack of enthusiasm of the Western countries to bring support in order to resolve, or to intervene in African conflicts following the American humiliating failure in Mogadishu against the forces of General Mohamed Farah Aidid in 1992. In spite of the fact that the setting up of the OAU in 1963 represented the institutionalism of pan-African ideals, "the organization

was impotent in its efforts to positively influence national politics, monitor the internal behavior of member states, and prevent human rights atrocities" (Apuuli: 2012:1).

The OAU Charter contained the provision "to defend the sovereignty, territorial integrity and independence of member states which came to be translated into the norm of non-intervention." (Apuuli, 2012:1). To that purpose, the transformation of the OAU to the AU was meant to be a policy shift by which the new organization would become an effective mechanism to deal with the numerous problems afflicting the continent. Apuuli says:

The AU leaders recognised the failures of the OAU in the area of conflict resolution. Due to the doctrine of non-intervention, the OAU became a silent observer to the atrocities committed by some of its member states. A culture of impunity and indifference was cultivated and became entrenched in the international relations of African countries. Thus, learning from the lessons of the OAU, when the Africa leadership decided to establish the AU, they adopted a much more interventionist stance in the organisation's legal frameworks and institutions. Apuuli, 2012:1

The AU is thus meant to be a reformed and reinvigorated institution, which replaced the OAU in 2002 (Sturman: 2012:1). In this way, the establishment of the AU ushered in a normative change to the Pan-African peace and security agenda, particularly regarding parameters of sovereignty and intervention for humanitarian ends.

The transformation of the OAU into the AU generated a great sense of optimism (Murithi, 2011:5), and enthusiasm, the criminal evidence act at which the AU made a preliminary plan and validated ground breaking principles of humanitarian protection, then the African leaders looked to be in a hurry in order to cure or at least limit the endemic African security disasters. The pledges joined by rhetoric assessments increased trust and great expectations from African persons.

Consequently, the concept of 'non-interference' was substituted by that of 'non-indifference', signifying that member states of the AU should be involved in events occurring in the neighborhood. Just after the genocide in Rwanda and in relation with the international community's failure to intervene, the UN's former Secretary General Kofi Annan asked the question, when does the international community intervene for the sake of protecting populations?

In response, while they were transforming the OAU into the AU, African leaders gave the legal form to the Article 4(h) of the AU Constitutive Act, which gives Member States the prerogative or the privilege to intervene in a Member State on prescribed grounds. The relevant part of Article 4 (h) requires:

[T]he right of the [AU] to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity. Apuuli, 2011 : 2

The AU makes available unprecedented powers of intervention in a Member State as an exception to the principle or the way of working of state sovereignty. The AU's right of intervention under the Article 4(h) and (j) of the AU Constitutive Act requires as prior condition an exception to the whole prohibition on the act of using force in international relations.

This kind of intervention to have a real humanitarian quality, the intervening State might not act out of any separate part of self-interest and, to that purpose, those who receive the mission to intervene must not be nationals of the intervening state. This AU's mandate which progressing gradually reflects the AU's Member States' official recognition of the notion of 'sovereignty as responsibility' including the political obligation of the 'responsibility to protect' (R2P), which was formally approved by the 2005 World Summit result.

R2P is the cosmopolitan concept that the international community has a responsibility to intervene to protect populations at risk from mass atrocity crimes if governments abdicate their sovereign responsibilities (Sunga: 2006: 44 - 45). The AU Act is the first international agreement to recognize a right of intervention to protect populations at risk of mass atrocity crimes (Puley: 2005:9).

Having no earlier arrangement among the AU's Member States to limit their own traditional norms of absolute sovereignty in Article 4(h) and departure from the earlier norm of non-intervention in each others' affairs became to be known under the 'doctrine of non-indifference.' Indeed, the AU also accepted the "Ezulwini Consensus" in March

2005 to embrace R2P and acknowledged the authority of the UN Security Council to choose the use of force for the prevention of mass extreme cruelties.

Despite the fact that the AU does not use the exact language of the R2P, the standards framework validated in the AU Act of 2000 is the same to the political responsibility took by the UN Member States in the 2005 Summit Outcome Document. While it sounds that protection of human rights of citizens should predominate on state sovereignty, the matter was that stimulating the concept of sovereignty also is equivalent to the act of questioning the fundamental importance of the Charter of the United Nations in its Articles 2(1), 2(4) and 2(7) that give assurance of *inter alia*, territorial sovereignty of all Member States and unlawful war.

Through the transformation from the OAU to the AU, the AU has committed itself to a new culture that places respect for human rights, democracy, the rule of law and good governance enshrined in the Constitutive Act at the heart of the Organization's principles (Yusuf, 2012:47).

6. The Arab Spring: African Union and the management of the conflict in Libya 2011.

First of all we have to mention that at the beginning Libya was not only seen as a simple member of the AU, but also as a strong member mainly because of its important role played as one of the spearheads of the transformation of the OAU to the African Union (AU). Here, we have to stress that inspite of his egocentric reasons; Colonel Muammar Gaddafi the former leader of Libya played a crucial role in the transformation of the regional institution.

As it can be seen, until the moment of the conflict, Libya was always considered as a key member of the African Union (AU) and its former leader the late Colonel Muammar Gaddafi was a permanent financier of African Union (AU) and also a dependable donor for several African countries. We have also to notify that Muammar Gaddafi was also the Chairman of the African Union (AU) Assembly of Heads of State and Government from 2009 to 2010.

Indeed, the Libyan conflict started in December 2010, when the people of Libya, namely those in the city of Benghazi started agitating for change, demanding realization of basic human rights and democratic reforms in the country. The people of Libya were essentially inspired by the successful revolution in the neighboring Tunisia and Egypt.

This agitation by the people of Libya initially started as peaceful demonstrations which later gathered momentum to threaten what they considered as the dictatorial regime of the former President Colonel Muammar Gaddafi. So, the Colonel Gaddafi reacted to the peaceful demonstrations by using excessive use of force to calm the demonstrations and silence the demonstrators.

Finally, the former President Colonel Muammar Gaddafi's reaction to the peaceful protests was captured by the regional and international mass media. It alarmed the international community and the African Union (AU).

That reaction to demonstrators necessitated the attention of the African Union (AU), the Arab League and the United Nations (UN). The United Nations Security Council in its Resolution of 1970 disapproves "the gross and systematic violation of human rights, including the repression of peaceful demonstrators, expressing deep concern at the deaths of civilians, and rejecting unequivocally the incitement to hostility and violence against the civilian population made from the highest level of the Libyan government."

Here, we have to mention the fact that the Security Council required "an immediate end to the violence and called for steps to fulfill the legitimate demands of the population." Furthermore, the Security Council urged the countries' (Libyan) authorities in order to:

- (a) Act with the utmost restraint, respect human rights and international humanitarian law, and allow immediate access for international human rights monitors;
- (b) Ensure the safety of all foreign nationals and their assets and facilitate the departure of those wishing to leave the country;
- (c) Ensure the safe passage of humanitarian and medical supplies, and humanitarian agencies and workers, into the country; and
- (d) Immediately lift restrictions on all forms of media. United Nations Security Council 1970, UN Doc. S/RES/1970 (2011)

To make it clear, there were many atrocities which were committed in Libya by the country's government against its own civilian people. That matter called for the implementation of Article 4(h) of AU Constitutive Act by the AU, intervention as well as the R2P by the international community.

Considered that Libya is seen as a member of the AU, the AU as a supranational continental body had uncontested legitimacy to be ahead to intervene in Libya, particularly on the basis of the Article 4(h) of the Constitutive Act of the AU. Now, to stress on the African (AU)'s response to solve the Libyan conflict At its 26th meeting held on the 10th March 2011, the AU held a summit at the level of Heads of State and Government and established a High Level Ad hoc Committee to examine the issue of Libya and find the way forward (AU Assembly: 2011).

The High Level Ad hoc Committee was constituted of the president of the Republic of the Congo, Mauritania, Mali, South Africa as well as Uganda. The High Level Ad hoc Committee of the AU, which was in charge of the South African President Jacob Zuma, agreed on a roadmap for solving the Libyan conflict. The AU road map demanded:

- a) Immediate cessation of hostilities;
- b) Cooperation of the concerned Libyan authorities to facilitate the timely delivery of humanitarian assistance to needy populations;
- c) Protection of foreign nationals, including the African migrant workers living in Libya;
- d) humanitarian aid; and
- e) Dialogue between the Libyan parties and establishment of a consensual and inclusive transitional government. African Union, AUHL Communiqué, 2011

The PSC set up yet another ad hoc committee to follow up on the setting up of the AU Roadmap (PSC: 2011). The aim of the AU was to resolve the Libyan crisis in a diplomatic way in order to avoid killing or injuries.

On the 17th March 2011, Later on, namely seven days after the AU summit of Heads of State and Government, including the United Nations Security Council (UNSC) met and voted the resolution of 2011, which was actively encouraged by all African representatives in the Security Council. The UN Security Council Resolution of (2011)

allowed the use of all essential means in order to protect civilians in Libya. The applicable part of this resolution can be read as follows:

Authorizes Member States that have notified the Secretary-General, acting nationally or through regional organizations or arrangements, and acting in cooperation with the Secretary-General, to take all necessary measures, notwithstanding paragraph 9 of resolution 1970 (2011), to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi, while excluding a foreign occupation force of any form on any part of Libyan territory, and requests the Member States concerned to inform the Secretary-General immediately of the measures they take pursuant to the authorization conferred by this paragraph which shall be immediately reported to the Security Council; (African Union see above)

At the same moment, the AU High Level Ad hoc Committee was planning to enter Libya and get meetings with the participant parties in law in order to resolve the crisis. But, they were not allowed to entry into Libya because the troops of the North Atlantic Treaty Organization (NATO) established a no fly zone in Libya, significantly by the manner of implementing the UN Security Council resolution 1973.

In these conditions, the AU was excluded and the AU roadmap was entirely ignored. To expose the problem, it is not unnecessary to clarify that after elaborating of the Roadmap, the AU proved the good will to intervene in the Libyan crisis.

However, the reaction by the AU was simply took away or removed by NATO's troop's intervention in Libya. Despite the political will to intervene in the Libyan crises, it is evident from the demonstration of concern in the decision-making series of actions of the AU that the AU's action was uncertain.

Indeed, it is that uncertain reaction of the AU that is the matter in this section. In this way, this section seeks to explore difficulties that the AU met in order to intervene early and showing an ability of making decisions quickly in Libya.

Because of that, to make things clear, there is a need to determine and address the difficulties that the African Union met in the Libyan crisis in order to be able to intervene early and making definite decisions to avoid the similar scenario in the coming days, months or years.

Indeed, the concept of non-indifference is surely one major policy change or move that characterizes, or makes difference between the AU and the OAU. It introduced in a possible way of an intervention phase in the continental management of peace and security.

This one is evidently the only manner for the AU to interfere in the internal conflicts of member states in the issues of great intentions which may cause trouble to peace, Security and Stability. It proposes the operational modalities and institutions allowed to take preventive measures on behalf of the AU.

The concept of non-indifference is closely linked with the principle of protecting in the Article 4(h) of the Constitutive Act. One of the important principles of the dead OAU was of course the principle of non-interference into the internal affairs or crises of Member states.

With the concept of non-interference, African states were simple spectators when the genocide in Rwanda was taking place. Nevertheless, the AU escorts in different period of time, with the principle of intervention established in the Article 4(h) of the AU Constitutive Act, it affirms that the AU has voted an interventionist attitude and has adopted a logic of non-indifference to face genocide, war crimes and crimes against humanity in Africa.

Certain of the most eminent proposers of the principle of non-indifference dated from the former OAU' Secretary-General, known under the name of Salim Ahmed Salim, including the First Chairman of the AU Commission, Alpha Ouma Konare. These eminent personalities deeply believed that it was no longer reasonable for African states to be silent in front of atrocities existing in the neighboring states.

For instance, non-intervention section in the OAU Charter should not be considered as expression of indifference. Salim Ahmed Salim personally claimed that there was no section in the OAU Charter that granted African governments the rights to kill or let their citizens to be killed.

Actualizing the ideal of Pan-Africanism means that African countries can no longer remain indifferent to the suffering and plight of their neighbours (Bah: 2005:41).

Conclusion

As a conclusion, it is necessary to remind that by working on the OAU and the AU's mechanisms of *Conflicts Management*, my goal has been to provide an answer to the following central question: How do African institutions manage African Conflicts from 1963 to the present day?

The present paper aims to find out African mechanisms of conflicts management from the creation of the organization of African Unity up to now.

In this respect, my investigation on African issues reveals the nature of African conflicts and also the recurrent policy implemented by African institutions of Conflicts management from 1963 until now. So, in spite of modern mechanisms, I would like African conflicts to be managed as far as African first jurisdiction of conflicts management is concerned, that is to say Bantou's tradition in matter of conflicts management.

Indeed, my hypothesis in this study is also that the management of conflicts in Africa can also be considered as one of the best ways to implement African traditional policy of conflicts management. That is to say African traditional mechanisms in terms of conflicts management.

I would like African Union to implement strategies which may denounce all forms of imperialism in Africa.

The exploration of the institutions' management of African conflicts in this work has demonstrated that divers strategies of conflicts management in Africa have negatively influenced African traditional mechanisms of conflicts management. And the African current way of conflicts management has become a very dangerous activity since they implement European's mechanisms of conflicts management instead of African traditional mechanisms of conflicts management.

This is due to the financial and material assistance they provide for the management of conflicts in Africa.

(The striking example of this is the presence of *casques bleu* in DRC since more than twenty (20) years but no solution until now) According to the African customs, people have to sit under a “conflict tree” in order to discuss and look for the solution instead of using Western methods which consist of using weapons. It is in this respect that MalvenLumson asserts that:

Besides institution building in a conflict torn society it may be necessary to rebuild social structures in order to break the repetitive cycle of violence. Building social structure is both the individual and collective social relations. Establishing power structures is needed to rebuild society, but belief in authorities and believing that a new situation is being created to the benefice of the individual as well as of groups can be necessary. This extended approach to reconciliation expends the mission for peace support operations in time. MalvenLumson, 1999:pp131-133and p150

So the African genius and customs are not used. The most predominant methods of conflicts management currently recognized in Africa are arbitration which, sometimes, is overwhelmed by selfish interests according as the country in conflict is a powerful one economically or the head of that country is a money purveyor.

And I do deplore the fact that African traditional mechanisms are not applied in their own conflicts. If I could make a few suggestions regarding the management of conflicts and peace building in Africa, I would try to take another track marked by customs and traditions. As a matter of fact, while having my research, I have not found any document on traditional policy about conflict management based on African traditions.

What are available are books which propose modern strategies using juridical schemes and military technology. These mechanisms are seen as unsatisfactory and have also proved to be inadequate not only to the management of intra-state or transnational conflicts but also in addressing the underlying causes and facilitating peace building and reconciliation of African people among themselves.

Naturally, it is difficult for a human being to say exactly which efficient policy a continental institution such as the African Union can implement to solve conflicts that recurrently occur in the region. Now, conflicts in Africa are taking birth not because of the lack of institutions, but because of modernism that brought a division in the sharing

of power. Here the democratic perspective of “who wins is who governs” takes Africa out of the intrinsic values bequeathed by the ancestors.

The failure of these procedures can be explained by the shift from the OAU's doctrine of non intervention to the AU's doctrine of non indifference. Also the failure of the AU to deal with the conflict in Libya was largely criticized as the way of exposing the weakness of the method to act as a 'one-stop shop for security issues in Africa'

The final perspective of this work is to aim at pursuing research for further academic program which may lead to more developed studies in the field of African civilization. We have to confess that we have not yet achieved our goal but we are certain to have added another contribution to the understanding of the continental institutions.

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