The International Management of Internal Conflict in
Africa: The Uganda Mediation, 1985

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For my mother, Annah Nyambura

Abstract

This dissertation examines international mediation as an aspect of the international management of internal conflicts. It explores African perspectives on ethnic and territorial conflict, and the principles, policies and methodology of the Organisation of African Unity (OAU) conflict management. It illustrates certain hypotheses in a case study, the Uganda mediation of 1985.

The study reaches the following conclusions. Firstly, that the notion of ripe moments for mediation can be enlarged, to take into account specifically internal conflict situations. Secondly, that (im)partiality in mediation can be re-interpreted to include psychological explanations. The study finds that the diplomatic and psychological environment of the mediator influences his ability to mediate effectively, and hence on the outcome of mediation. It suggests that the ability of the mediator to apply leverage on the parties determines whether a passive or active strategy is adopted in the mediation: it finds that in the Uganda mediation, the mediator's lack of leverage was responsible for the adoption of a passive strategy.

On a broader theme, the study identifies a new identity of mediator, namely a heterogenous mediator, who it is argued, is not suited to mediate alone in internal conflicts, because of his close relationship with the conflict. It finds that in OAU conflict management to date, track one diplomacy has been resorted to in the management of the inter-state aspects of conflicts, while track two diplomacy has been used to manage their internal conflicts. It concludes that this dichotomous perception of conflict and its management is ineffective, because it leads to only one dimension of conflict being addressed. A dual track one and track two diplomatic approach is suggested as a solution to this problem. Such an approach would utilise both tracks within the same management process, and hence take into account the multi-level nature of conflict, and the complexity of its management.

Finally, the study concludes that the Uganda mediation made a signal contribution to the study and conflict management in Africa. It was a pioneering effort which effectively challenged principles of OAU conflict management, particularly the principle of non-interference. It concludes that involvement in a conflict by way of management does not constitute interference in the internal affairs of states.

Acknowledgments

I owe a great debt to a lot of people for the many good things that have happened in my life. This is not the place to acknowledge all their contributions. Yet, my academic, professional and social life have often intertwined, and in acknowledging thanks and a debt in one, I acknowledge it in the others. Although I have often stepped only to the music that I heard, in retrospect the symphony, silent and non-intrusive, has greatly enriched my endeavours.

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Dr. Andrew Williams first encouraged me to study at Kent. I came and saw, left and returned. I hope that he, at least, has not been disappointed in the outcome of his citizen-to-citizen diplomacy. In recognising that debt, I recall with appreciation the cut and thrust of Kent IR/ICA research seminars, which were an important aspect of my learning. For both, I acknowledge a debt for my adult education with a smile and a handshake.

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however take full responsibility for the views expressed in this study.

Generations of folks from Africa have always left hearth, home and friends to go to far away lands in search of an education. The pleasures of attainment are always attenuated by the knowledge of friends for whom 'Time's winged chariots' stopped by. And so I recall colleagues gone absent during my latest travels. Prof. Nicholas Nyangira of the Department of Government first engaged me in a long discussion on Uganda in April 1992, and helped shape some of my thinking; he was generous with his time, and patient with my ignorance. Dean George Rukwaro of the Faculty of Law first drafted me to teach at the University; he was a pleasant man, and one of the nicest people I have ever known. Dr. Kirimi Mwarania of the Faculty of Commerce first tried to render my ideas on track three diplomacy into a comprehensible formula, and engaged me in many discussions on various aspects of knowledge; he was the most formidably brilliant person I have ever met. I salute their memory: they were the noblest Kenyans of them all.

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indebted to Prof. Kivutha Kibwana. For almost two decades he has been my teacher and friend. By his example, I have learnt that tough battles call for high sacrifice; and that it is possible to acquire profound knowledge, and yet remain humble. He has both in full measure, and although I can match neither, I have been inspired by him, and greatly benefitted from his society.

But it is to the family that sojourners always return, and as much for them that the scars of battle are incurred. The promise of a welcome home, and a smile, unbidden from a long night of labour, have meant much to me, and spurred me on when the journey looked interminable. I am very lucky in my family. Jerusha has been a constant source of support and friendship. Our sons Mwotia and Muchugia were born and learnt to speak (and to dispute orders not to disturb) during my Kentish sojourns. They are a constant and pleasant reminder that it is for the peace, joy and laughter of a coming generation that we must labour without cease.

I have dedicated this work to my mother. Through long and hard years of sacrifice and struggle, she never relinquished the conviction that on *any* playing field, no one could best her children face to face. So now I, the least gifted of the seven, salute a great Kenyan and come home humbly, bringing in these modest sheaves. Annah Nyambura *Ni Kiboko Yao!*

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Abbreviations

AACC	All Africa Conference of Churches
ASEAN	Association of South East Asian Nations
CP	Conservative Party
CSCE	Conference on Security and Cooperation in Europe
DP	Democratic Party
EA	East African Law Reports
EAC	East African Community
ECOMOG	Economic Community of West African States Monitoring Group
ECOWAS	Economic Community of West African States
ELF	Eritrean Liberation Front
EPLF	Eritrean People's Liberation Front
FEDEMU	Federal Democratic Movement of Uganda
FRONASA	Front for National Salvation
FUNA	Former Uganda National Army
GNMO	Group of Neutral Military Observers
IBEAC	Imperial British East Africa Company
ICJ	International Court of Justice
IGADD	Inter-Governmental Authority on Drought and Development
JIC	Joint Implementation Committee
KY	*Kabaka Yekka*
NASA	National Security Agency
NCC	National Consultative Council
NEC	National Executive Council
NRA	National Resistance Army
NRM	National Resistance Movement
OAS	Organisation of American States
OAU	Organisation of African Unity
OFU	Organisation for Free Uganda
PLO	Palestinian Liberation Organisation
PP	Progressive Party
PRA	Popular Resistance Army
SADR	Saharawi Arab Democratic Republic
SSLM	Southern Sudanese Liberation Movement
SUM	Save Uganda Movement
TPDF	Tanzania People's Defence Forces
UAG	Uganda Action Group
UDSG	Uganda Discussion and Study Group
UFF	Uganda Freedom Fighters
UFM	Uganda Freedom Movement
UFU	Uganda Freedom Union
UHRG	Uganda Human Rights Group
UN	United Nations
UNC	Uganda National Congress
UNLA	Uganda National Liberation Army
UNLF	Uganda National Liberation Front
UNM	Uganda National Movement
UNO	Uganda Nationalist Organisation
UNOSOM	United Nations Operation in Somalia
UNRF	Uganda National Rescue front
UPC	Uganda People's Congress

UPM   Uganda Patriotic Movement
URRU   Uganda Reconstruction and Reconciliation Union
WCC   World Council of Churches

Chapter One

Theoretical Considerations

Introduction

The idea that if disputes are to be settled, they should be settled peacefully, is firmly engrained in international relations and in international law. It is enshrined in the Charter of the United Nations,[1] and in the Charters of regional organisations such as the Organisation of African Unity (OAU).[2] Peaceful settlement encompasses certain formal and non-formal devices like judicial settlement, arbitration, mediation, negotiation, and conciliation, not all of which commend themselves to parties in conflict. Increasingly, parties are choosing the less formal, less coercive methods of settling disputes, on the basis that solutions mutually arrived at are likely to be more satisfactory.[3]

The literature indicates that mediation is becoming increasingly the frequent management approach for many parties in conflict.[4] It also suggests that our understanding of the full implications of the mediation

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1 Article 2(3) of the United Nations Charter.

2 Article 3(4) of the OAU Charter.

3 See Bercovitch,J. 'International Mediation' 28 *Journal of Peace Research* (1991) pp.3-6:4.

4 Zartman,I.W. & Touval,S. 'Mediation: The Role of Third Party Diplomacy and Informal Peacemaking' in Brown,S.J. & Schraub,K.M.(Eds) *Resolving Third World Conflict: Challenges for a New Era* (Washington: United States Institute of Peace, 1992) pp.240-261:240.

process is still relatively low, hence disagreements about various aspects of mediation persist

Aims of the Study

This study investigates some of the issues and problems lying at the threshold of the theory and practice of international mediation. In Particular, it examines the following outstanding problems of mediation:

a) the relationship between track one and track two diplomacy in conflict management. The justification for this is that while many studies have examined the process of mediation from either a track one or track two perspective, none except Burton[5] has examined the symbiosis between them in any sustained way.

b) the place and role of power in mediation, and especially the explanations of impartiality as a component of successful mediation. Current theory postulates that because a third party has power to provide acceptable outcomes, impartiality is not indispensable to its acceptability or to successful outcome. This investigation is justified because although some literature suggests that impartiality is not necessary,[6] parties to some mediations and some formal mediators[7] sometimes suggest otherwise. There exists the possibility that in terms of mediation,

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5 See for example, Burton,J. & Dukes,F. *Conflict: Practices in Management, Settlement, and Resolution* (London: Macmillan, 1990); also Burton,J.W. 'Track Two: An Alternative to Power Politics' in McDonald,J.W. & Bendahmane,D.B.(Eds) *Conflict Resolution: Track Two Diplomacy* (Washington: Foreign Service Institute, 1987) pp.65-72; and Burton, J.W. 'Conflict Resolution as a Political Philosophy' in Sandole,D.J.D. & van der Merwe,H.(Eds) *Conflict Resolution Theory and Practice: Integration and Application* (Manchester & New York: Manchester University Press, 1993) pp.55-64.

6 Such as Touval,S. 'Biased Intermediaries: Theoretical and Historical Considerations' 1 *Jerusalem Journal of International Relations* (1975) pp.51-70; also Touval,S. *The Peace Brokers: Mediators in the Israeli-Arab Conflict, 1948-1979* (Princeton: Princeton University Press, 1982).

7 For example, Umbricht,V.H. *Multilateral Mediation: Practical Experiences and Lessons* (Dordrecht: Martinus Nijhoff, 1988) p.243.

practitioners and academics have been perceiving different worlds.

c) the environmental factors that influence the process and outcome of mediation, particularly in internal conflicts. This is important because the continuing, almost intractable, nature of internal conflicts suggests that either the wrong approaches are used in their analysis and management, or that important environmental influences are not considered.

d) the identity of the mediator, especially in his interaction with the conflict system. This is done with a view to finding out the linkage between the mediator's identity and the outcome of mediation in internal conflicts. This is important because the milieu within which the mediator operates is crucial to his ability to mediate successfully.

Hypotheses

The following hypotheses will be illustrated in the case study:

a) in internal conflicts like that in Uganda, there exist a 'false' one and a 'true' ripe moment, which are manifested at different periods during the life cycle of a conflict. The 'false' ripe moment is the conventional, Zartman-type one; the 'true' ripe moment exists prior to this. The 'true' ripe moment differs from the 'false' one in certain material respects, such as that it is not necessarily identifiable by a hurting stalemate. In internal conflicts of the kind under study, successful management depends on identifying the 'true' ripe moment for mediation.

b) the successful management of internal conflict requires much more than just a *militarily* hurting stalemate. In order for the successful management of this type of conflict to be achieved, the parties must also be undergoing an *ideologically* hurting stalemate. Absence of this renders management less amenable.

c)   neither track one nor track two diplomacy individually always provide a suitable diplomatic context within which to manage (internal) conflict. Mediation is a complex and multi-level undertaking, hence the need for a framework that draws upon the strengths of these two tracks, and so appreciates the complexity of the management process.

d) the identity of the mediator and his relationship with the conflict is an important element in his psychological ability to guide the parties to a successful outcome. Where the mediator is heterogenous,[8] the psychological environment renders him unable individually to effectively manage the conflict. He should therefore be balanced by an exogenous co-mediator.

e) Mediator (im)partiality is a salient feature of mediation. It is a fundamental concern for some parties at certain stages of the conflict, but not to the outcome of the mediation. There are however alternative explanations for (im)partiality from those offered by the power theories of mediation. Thus:

i) in an internal conflict where the mediator is heterogenous, impartiality is difficult to deliver, but for psychological rather than power reasons.

ii) in internal conflict, the party which feels itself to be stronger does not insist on mediator impartiality, whereas the party that perceives itself as the weaker one places a great premium on mediator impartiality.

f) the ability of a mediator to apply leverage on the parties to a conflict determines whether he adopts an active or a passive strategy in the mediation. A mediator who is unable to apply leverage on the parties can substitute threats for leverage. However, where the mediator is heterogenous, it is difficult to issue

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8 This term is defined and discussed further later in this chapter, and in Chapter 8.

effective threats: being too closely connected with the conflict system, its primary concern is with its position in the post-mediation structure of relations with the parties, and its own wider individual concerns. Because effective threats might affect that structure, they are neither made with conviction nor taken seriously by the parties. Further, the effective application of leverage depends on the state of the parties and their institutions. Where the institutions have collapsed, it is not possible for the mediator to apply effective leverage because it will have no discernible effect on the parties.

g) the transitional nature of (an internal) conflict does not necessarily condemn its management to failure, although it mitigates the quality of outcome. Of more importance are the perceptions of the parties and the mediator about the conflict. If these are at odds, an enduring outcome cannot be achieved.

Methodology

a) <u>Sources</u>

This study is organised around two main parts. The first part (Chapters One to Four) will examine some important aspects of mediation theory that bear directly on the issues under investigation. It will also outline the background against which the empirical part of the study will be illuminated. This part will draw its sources from secondary materials.

The second part of the study (Chapters Five to Nine) will centre around a case study, namely, the Uganda mediation of 1985. This was a mediation undertaken by President Moi of Kenya. It was aimed at resolving an internal armed conflict for power between contending factions in Uganda, following the second overthrow of Obote. It is expected that this case study, which has not been investigated in the context of mediation before, will yield interesting insights into the process and practice of mediation in internal

conflict. The case study is particularly attractive and worth studying because it displays many of the classic elements of internal conflicts in Africa, as mapped out in Chapter Three. There will be three main sources of data for this case study: interviews with available participants and knowledgeable persons; original documentation from the mediation where accessible, and secondary information, primarily the press, for the contemporary background to the mediation.

b) <u>Theoretical Issues: 'Single Cases'</u>

A lot of problems attend the decision to base a study of this nature on a single case. One problem is the tension (or apparent tension), between the general and the particular: to what extent can a single case study, which necessarily displays certain idiosyncracies form the basis for the formulation of a general theory? Further, if as it is argued here, while displaying generalities conflicts nevertheless reveal certain peculiarities, is it justifiable to resort to general theories in the analysis of such conflicts? Beyond these questions lies the issue of why the researcher chooses a particular case study or case studies: is the choice random, such that if it bears out a hypothesis, then that hypothesis is very probably correct as a general statement? Should the case study precede theoretical generalisations and propositions, or should they precede the case study? In other words, is the rationale behind the choice of case study the expectation that it will bear out the researcher's preconceptions, or is the proof, so to speak, in the investigation? It is posited below that the answers to these questions lie behind a proper appreciation of the essence of case studies.

The Theoretical Background

The 'truth' behind mediation(s) depends on the mediation(s) chosen by the conflict analyst, and on the particular elements of each mediation that he chooses to

highlight. The theorist of mediation must also address the problem whether, having studied a series of different mediations (or single cases), there exists an inherent connection between them, or whether such a connection must be contrived.

The problem is one of colligation: whether, as some philosophers of history argue, "single events are simply 'colligated' to one another and that the historian finds these colligations ready made."[9] In such an event, the analyst would either accept that colligation, or seek to re-colligate the events, or cases. But if, as an alternative school of thought argues, there is no inherent connection between cases, (that is, if there is a gap between historical cases) then it is necessary to bridge the gap between them by resorting to generalisation.[10] In this sense, generalisation can be seen as (the foundation of) a framework for analysis. The connection, if any, between single cases depends on the choice of events within each case, and on the framework adopted in their study and analysis. The analytical framework adopted must be broad enough to permit linkages between different cases, thus revealing the generalities between them.

The Practice

There are three broad categories of case studies. First, there is a single case study which supports certain trends of theorising, and demonstrates certain hypotheses derived therefrom. Secondly, there are a series of case studies (or, which is another way of conceptualising these, a series of single cases) aiming at performing a similar function. Thirdly, there are 'case studies' held in data bases, used to support the

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9 Munz,P. *Our Knowledge of the Growth of Knowledge: Popper or Wittgenstein?* (London: Routledge & Kegan Paul, 1985) p.120.

10 The whole matter here is eventually related to the problem of prediction, for a good analysis of which see, Webb,K. *Prediction in International Relations: The Role of Power, Interest and Trust* (Kent Papers in Politics and International Relations (1992) Series 1, No. 11).

sort of theorising being done by Bercovitch.[11] In the first two categories, the case studies can be derived from primary data, as has been done by several analysts of conflict such as Assefa,[12] and Jabri,[13] or they can be gleaned wholly from secondary data, as Touval did in his seminal article.[14] The data base approach utilises cases derived from whichever of these methods.

The question whether a single case can enhance generalisation and theory development has been answered in the affirmative amongst others, by Bercovitch.[15] A single case can be useful since its findings may be suggestive, and give useful pointers to future directions in practice and research. Similarly, although several cases may be different and peculiar to their circumstances, they enable comparative study, and thus enrich theorising: as Nafziger and Richter argue, "a comparative case study may help to distinguish the idiosyncratic and historically unique characteristics of major political phenomena from the general underlying conditions."[16] Strong views may be held on one side or the other in this methodological debate. But it cannot be gainsaid that, without prejudice to the need for quality research and analysis, whichever method is used

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11 See Bercovitch,J., Anagnoson,J.T. & Wille,D.L. 'Some Conceptual Issues and Empirical Trends in the Study of Successful Mediation in International Relations' 28 *Journal of Peace Research* (1991) pp.7-17.

12 Assefa,H. *Mediation in Civil Wars: Approaches and Strategies-The Sudan Conflict* (Boulder,CO.: Westview Press, 1987).

13 Jabri,V. *Mediating Conflict: Decision Making and Western Intervention in Namibia* (Manchester & New York: Manchester University Press, 1990).

14 Touval,S. 'Biased Intermediaries: Theoretical and Historical Considerations' op.cit.

15 Bercovitch,J. 'A Case Study of Mediation as a Method of International Conflict Resolution: The Camp David Experience' 12 *Review of International Studies* (1986) pp.43-65.

16 Nafziger,E.W. & Richter,W.L. 'Biafra and Bangladesh: The Political Economy of Secessionist Conflict' 13 *Journal of Peace Research* (1976) pp.91-109:91.

develops further insights into the field. Indeed, the view can be taken that whether a single case or multiple cases are chosen is a moot point because in either case, the conflict analyst will be engaged in an endeavour to derive generalisations from the case(s) being studied. None is therefore necessarily superior, although the felicity of each and the usefulness of the results yielded, will depend on the theoretical framework adopted.

A pertinent issue with regard to the use of case studies, (and this is true of all research) is that they reflect the subjective temperament of the researcher. This is especially relevant where the case studies are derived from secondary data. In such cases, theorising and generalisations may be limited by this psychological element. The later researcher, being limited to the questions asked and conclusions reached by the earlier one, may find his theorising restricted.[17] Holsti summarises this succinctly:

> "But how questions are posed, which questions are raised, which are neglected, what assumptions are made about causation, and how we select levels of analysis and individual explanatory variables vitally affect the quality of results."[18]

Although this appears to be an intractable problem, the way out lies in more and more case studies being done. The more studies there are (whether different studies or the same studies from different perspectives), the more points of view will emerge, and the more both theory and practice in the field of research will be enriched.

Analytical Frameworks in Social Science

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17 The later researcher collecting primary data for example through interviews is engaged in an important element of communication and participation, and can therefore appreciate better various contexts and nuances which a later researcher might not. See Jensen,K.B. 'Discourses of Interviewing: Validating Qualitative Research Findings Through Textual Analysis' in Kvale,S.(Ed) *Issues of Validity in Qualitative Research* (Lund: Studentlitteratur, 1986) pp.93-108.

18 Holsti,K.J. *Peace and War: Armed Conflict and International Order, 1648-1989* (Cambridge: Cambridge University Press, 1991) p.2.

The question of the place of analytical frameworks in the social sciences is important. Its centre-piece is the enduring issue of the relationship between methodology and epistemology. It is, in essence, a matter of the criteria of validity to be adopted in trying to explicate either observation of the world, or findings from research.[19] In the field of international relations, especially during the post-behavioural phase, these issues have been at the forefront of the most far reaching disputations. The issues arising from that debate are beyond the scope of this study. This section will only be concerned to explain firstly the central question of the relationship between practice and theory (or methodology and epistemology), and to map out the (admittedly pre-theoretical) boundaries of the analytical framework that will be used to analyse the Uganda mediation.

The Relationship Between Methodology and Epistemology

The development of knowledge about conflict management generally, and international mediation in particular, has taken place on both theoretical and practical planes. The relationship between methodology and epistemology (or, as it has also been characterised, the place of philosophy in the social sciences) is therefore important in this field. Hughes has argued persuasively that philosophy plays a 'liberation' role within the social sciences: that philosophical questions arise in the social sciences in times of disciplinary and methodological crises. Thus, he sees the

> "prodigal social sciences returning to philosophy when there arises a deep uncertainty about what they are about, when human thinking seems to be getting out of hand, when barely articulable questions seem to undermine our most cherished and securely based conceptions. It is at times like these that social scientists, or at least some of them, begin to speak of 'epistemological breaks'

19 For a discussion of this see Salner,M. 'Validity in Human Science Research' in Kvale,S.(Ed) *Issues of Validity in Qualitative Research* op.cit., pp.47-71.

and 'paradigm shifts' or, more prosaically, developments in human thought."[20]

Although Hindess attacks the claim of philosophy to a special kind of knowledge as being "at best dogmatic or else incoherent",[21] his exposition of the relationship between philosophy and methodology is illustrative. In his explanation, methodology specifies the procedures to be used in either generating or testing propositions. Philosophy on the other hand validates those methodological prescriptions. In this relationship,

> "Methodology lays down procedural rules for scientific practice which it derives by means of a 'knowledge' provided by philosophy. Methodology is the product of philosophy and the sciences are the realization of their methodology."[22]

Whereas the relationship between methodology and philosophy has thus been clearly established, there remains the question of which of the two precedes, or should precede the other. A claim for the primacy of methodology has been eloquently made by Rosenau. He argues that any objective truth about the state of the world can only be approximated, and that such estimation is constrained by the empirical materials available to analyse unfolding and persisting patterns. To him, the world that scholars reconstruct is a function of the data they use.[23] Salner on the other hand makes a strong case for the primacy of philosophy over methodology. To her, methodology follows philosophy, which reflects the purposes of research and the particular relationships the researcher is trying to develop. Methodology cannot

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20 Hughes,J. *The Philosophy of Social Research* (London & New York: Longman, 1990) p.10.

21 Hindess,B. *Philosophy and Methodology in the Social Sciences* (Sussex: Harvester Press, 1977) p.5.

22 Ibid., p.4.

23 Rosenau,J.N. *International Studies and the Social Sciences: Problems, Priorities, and Prospects in the United States* (Beverley Hills: Sage Publications, 1973) p.58.

therefore be applied without analysing the world view it presumes.[24] In many ways, the inter-paradigm debate in international relations is an attempt to come to grips with this question.[25] A middle way between those who plead for the supremacy of theory, and those who assert the primacy of methodology, is the Lakatosian point of view, of having both a theoretically and empirically progressive component in any research undertaken.[26]

Back to Mediation: Contending Frameworks of Analysis

In the development of analytical approaches to mediation, two perspectives have striven for mastery. These are the power approach to mediation, and problem-solving. The power approach to mediation was introduced in its pre-theoretical form by Zartman,[27] and was later adopted and developed by Touval,[28] amongst others. The notion of power as a tool for the analysis of conflict and negotiation was later the subject of detailed study, amongst others by Bacharach and Lawler,[29] and Blalock.[30] These various writings pursue the argument that conflict

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24 Salner,M. 'Validity in Human Science Research' in Kvale,S.(Ed) *Issues of Validity in Qualitative Research* (Lund: Studentlitteratur, 1986) pp.47-71:59,66.

25 Nevertheless, some argue that the whole foundation of that debate is misconceived. See, Nicholson,M. *Imaginary Paradigms: A Sceptical View of the Inter-Paradigm Debate in International Relations* (Kent Papers in Politics and International Relations (1992) Series 1, No.7).

26 See Lakatos,I. 'Falsification and the Methodology of Scientific Research Programmes' in Lakatos,I. & Musgrave,A.(Eds) *Criticism and the Growth of Knowledge* (London: Cambridge University Press,1977) pp.91-196; see also, North,R.C. & Willard,M.R. 'The Post Behavioral Debate: Indeterminism, Probabilism, and the Interaction of Data and Theory' in Banks,M.(Ed) *Conflict in World Society: A New Perspective on International Relations* (Brighton: Wheatsheaf Books, 1984) pp.22-38.

27 Zartman,I.W. 'The Political Analysis of Negotiation: How Who Gets What and When' 26 *World Politics* (1973/4) pp.385-399.

28 Touval, 'Biased Intermediaries: Theoretical and Historical Considerations' op.cit.

29 Bacharach,S.B. & Lawler,E.J. *Bargaining: Power, Tactics and Outcomes* (San Fransisco: Jossey Bass, 1981).

30 Blalock,H.M. *Power and Conflict: Toward a General Theory* (Newbury Park: Sage Publications, 1989).

management is greatly, if not entirely, facilitated by the preponderance of power in favour of one of the parties to the conflict, which in this case includes a third party. In terms of mediation, it has been contended that once a third party involves itself in a conflict, it transforms a dyadic into a triadic relationship, and can alter the outcome of negotiation by the use of its power.[31] In technical terms, it has been asserted that such a third party in exercising a mediatory role, must exert some form of leverage if the mediation (as bargaining) is to succeed.[32] Thus, mediation theory in the 'power' school has inclined to the view that where the mediator has power (or leverage),[33] it need not concern itself with displaying characteristics such as impartiality. Yet in classical theory and practice such characteristics were held to be a *sine qua non* of successful mediation.[34]

The problem-solving approach to conflict analysis rejects the introduction of power in conflict management, and denies its emphasis in the analysis of international relations.[35] It postulates that the proper path to conflict management - indeed resolution - lies in the parties to the conflict re-perceiving their conflictual relationship, and in so doing mutually

31 Bercovitch,J. *Social Conflict and Third Parties: Strategies of Conflict Resolution* (Boulder,CO.: Westview Press, 1984).

32 Zartman,I.W. 'Alternative Attempts at Crisis Management: Concepts and Processes' in Winham,G.R.(Ed) *New Issues in International Crisis Management* (Boulder,CO.: Westview Press, 1988) pp.199-223. The literature on this is mentioned in Chapter 2.

33 In the literature, power is often referred to as leverage. It is the ability to move a party in an intended direction. See Zartman & Touval, 'Mediation: The Role of Third Party Diplomacy and Informal Peacemaking' op.cit., p.254.

34 See, Young,O.R. *The Intermediaries: Third Parties in International Crises* (Princeton: Princeton University Press, 1967).

35 Burton,J.W. 'The Relevance of Behavioral Theories of the International System' in Moore,J.N.(Ed) *Law and Civil War in the Modern World* (Baltimore & London: Johns Hopkins University Press, 1974) pp. 92-110; see also, Burton,J.W. *World Society* (London: Cambridge University Press, 1972).

building bridges that lead to a self-sustaining post-conflict relationship. The role of the third party is to facilitate that process. It is based on the ability to inject an analytical perspective in the dialogue between the parties, rather than on the exercise of leverage and power. The problem-solving workshop in its diverse approaches,[36] however labours under the weight of its own inability to define its precise operational parameters. Whereas it is argued that the problem solving workshop can, in itself, lead to the resolution of conflict, it is also seen as a pre-mediation approach[37] that prepares the parties in conflict for formal, track one mediation. Its dominant preoccupation with pre-mediation stages has arguably rendered it unable effectively to challenge the power approach for dominance in conflict management.[38] Consequently, in the analysis of mediation, the power approach has held sway.

From whichever way the power approach is considered, its influence on thinking about mediation has been extremely strong. In a Kuhnian sense, it can be said justifiably that the power approach to mediation represents the 'normal science'[39] of mediation. In a

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36 See, Kelman,H.C. 'Informal Mediation by the Scholar/Practitioner' in Bercovitch,J. & Rubin,J.Z.(Eds) *Mediation in International Relations: Multiple Approaches to Conflict Management* (London: Macmillan, 1992) pp.64-96.

37 Fisher,R.J. & Keashly,L. 'The Potential Complementality of Mediation and Consultation within a Contingency Model of Third Party Intervention' 28 *Journal of Peace Research* (1991) pp.29-42.

38 Although not all problem-solving workshops do this. The Yale and Harvard groups see problem-solving workshops "as a preparation for diplomatic negotiation and as an adjunct to traditional techniques. Burton views the technique as a replacement for conventional procedures, a response to the apparent failure of traditional institutions." See Light,M. 'Problem-Solving Workshops: The Role of Scholarship in Conflict Resolution' in Banks,M.(Ed) *Conflict in World Society* op.cit., pp.146-160:157.

39 See Kuhn,T.S. *The Structure of Scientific Revolutions* (Chicago & London: University of Chicago Press, 1962). To Kuhn, "'normal science' is a characteristic of 'mature sciences', and mature sciences are...dominated by a single paradigm." See Katouzian,H. 'T.S.Kuhn, Functionalism, and Sociology of Knowledge' 35 *British Journal for the Philosophy of Science* (1984) pp.166-173:169. Whether this is true in social science is the subject of an involved debate.

Lakatosian sense, the power theory can be said to be the core, whose variations play only an auxiliary role.[40] In Feyerabend's terms, the power theory has been "a stern and demanding mistress...and...dragon",[41] such has been its suffocating influence. There is thus clearly the need for, if not a new approach to the analysis of mediation, then at least one with different emphases. Such an approach would acknowledge that effective 'listening' and understanding are a prerequisite for relevant and effective analysis. The power theorists of mediation have operated under the severe limitations of what Stanford describes graphically as 'eavesdroppers', or 'phone tappers':

> "Such intruders are not nearly so well placed to understand the message as either the initiator or its recipient, who are likely to have a much better grasp of...usage, conceptual schemes, and context. So often an eavesdropper can hear every word and yet fail to understand the conversation. If this is a well-known fact of everyday life, how much more difficult it is when the conversation is not contemporary...and...is probably incomplete."[42]

The problem for the power analysts of (internal) conflict is that whereas they have listened in to 'conversations' about conflicts, they have not always understood their language of discourse, or appreciated the world view that informed them. Hence, their conclusions about the meaning and import of those 'conversations' have been found wanting. As the number and severity of internal conflicts in the world increases, the conceptual justifications resulting from such incomplete eavesdropping have proved at best to be suspect.

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40 See Lakatos, 'Falsificationism and the Methodology of Scientific Research Programmes' op.cit.

41 Feyerabend,P. 'Consolations for the Specialist' in Lakatos,I. & Musgrave,A.(Eds) *Criticism and the Growth of Knowledge* op.cit., pp.197-230:229.

42 Stanford,M. *The Nature of Historical Knowledge* (Oxford & New York: Basil Blackwell, 1986) pp.119.

In mapping out a framework for conflict analysis, two major methodological approaches must be considered. Firstly the adequacy (or lack thereof) of the 'closed circle' argument (that all "understanding is organized around a central core which is not available for criticism from outside the system and which, from within the system, makes perfectly sound sense " and that "the cores, in all cases, are incommensurable with one another"[43]), and the attendant notion of incommensurability must be looked into. Secondly, the need for a comparative base, which would enable conflicts to be placed within the framework of historical continuity must be addressed. The problem here is one of the role and place of a theoretical framework in the analysis of conflict, and especially how such a framework might bridge the gap between contemporary and contending approaches. These issues are suggested by Munz, who observes that

> "In principle, the claim that paradigms and the knowledge derived from them are incommensurable with all other paradigms and the knowledge derived from them, follows directly from the by now well established recognition that all observation is theory ridden. By this, one means that one cannot simply 'observe': always one can observe only what a certain theory suggests one should observe, or observe what a certain theory leads one to expect to find. Clearly, an observation made and confirmed under one theory cannot be used without a lot of explanation...In short, there are no neutral and absolute observations which float around aimlessly and which can be used for purposes conceived after the observation had been made."[44]

In making this observation, Munz stands at the threshold of a pertinent debate in the methodology of mediation: should the framework adopted for analysis merely mirror preconceived ideas about the nature of mediation, or should it also reflect the beliefs, notions, and indeed

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43 Munz,P. *Our Knowledge of the Growth of Knowledge* op.cit., p.145.

44 Ibid., p.151.

utilities of the parties to the conflict? The power approach to mediation, and the problem-solving approach each straddle opposing ends of this debate, giving the impression that each views the others position as incommensurable with its own. In their resolute state of cognitive blindness,[45] they have unfortunately contributed much to the underdevelopment of mediation theory. The following section suggests a way out of this underdevelopment.

The Integration of Conflict Systems

Both Vayrynen[46] and Mitchell[47] have argued pertinently that each conflict has a life and an anatomy of its own, and that the search for its resolution must lie in understanding its internal dynamics. This argument can be extended to embrace the notion that each conflict (and indeed each mediation), exists as a system which is, so to speak, sufficient in itself. On its own, this view sees each mediation as a closed circle, informed internally by its own particularistic concerns. However, in order to develop a framework for the analysis of mediation systems generally, it is imperative to elevate such closed 'mediation systems' beyond the particular. This can be done by designing an approach by which mediation is perceived from a comparative perspective. In this way the common links between various mediations can be identified. Their analysis can therefore be enhanced from the particular to the general level.

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45 On which see Sandole,D.J.D. 'The Subjectivity of Theories and Actions in World Society' in Banks,M.(Ed) *Conflict in World Society* op.cit., pp.39-55:40.

46 Vayrynen,R. 'To Settle or to Transform? Perspectives on the Resolution of National and International Conflicts' in Vayrynen,R.(Ed) *New Directions in Conflict Theory: Conflict Resolution and Conflict Transformation* (London: Sage Publications, 1991) pp.1-25.

47 Mitchell,C.R. *The Structure of International Conflict* (London: Macmillan, 1981).

This integration of mediation systems approach allows a comparative study of mediations, and permits a general theory of mediation to emerge. Anyang' Nyong'o's plea for regional conflict management in Africa generally, and in the Upper Nile Valley in particular, is an effective application of this approach. Having contextualised the peculiarities of the conflicts in the countries of the Upper Nile Valley, he draws out the generalities between them in pleading (all too briefly) for the necessity of a regional approach to their management.[48] Put differently, the argument is that different mediations in different geographic localities (or even in different states within the same region), can be perceived as a series of genetically similar, but anatomically different activities. But in order to understand them in a historically sound way, their idiosyncratic nature must first be accepted and appreciated, and only then should efforts made to understand their genetic linkages. An attempt to proceed the other way round would inevitably lead to failure, or as in Jimmy Carter's mediation efforts in Ethiopia, to only the settling of procedural issues.[49] There, the parties insisted on an African co-mediator. The proper reading of this is that successful mediation in Ethiopia would have required a heterogenous mediator[50] supported by an exogenous one, like Carter. In that way, because of OAU conflict management

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48 Anyang-Nyong'o, P. 'The Implications of Crisis and Conflict in the Upper Nile Valley' in Deng,F.M. & Zartman,I.W.(Eds) *Conflict Resolution in Africa* (Washington: The Brookings Institution, 1991) pp.95-114.

49 Harbeson,J.W. 'The International Politics of Identity in the Horn of Africa' in Harbeson,J.W. & Rothchild,D.(Eds) *Africa in World Politics* (Boulder,CO.: Westview Press, 1991) pp.119-143:137; see also, Rothchild,D. 'Regional Peacemaking in Africa: The Role of Great Powers as Facilitators' in Harbeson,J.W. & Rothchild,D. *Africa in World Politics* op.cit., pp.284-306:298.

50 This is defined later in the Chapter.

practices,[51] the heterogenous mediator would have operated from track one, while the exogenous one (Carter) would have operated from track two. This would have been a good example of the working of dual diplomacy as suggested in this chapter and in Chapter Nine.

At the heart of this approach is the conceptual problem that has dogged efforts at regional conflict management, particularly in Africa: should efforts at such conflict management proceed *ad hoc*, or should there be an effort towards the general management of conflicts in a region? Indeed, should these processes both be incorporated in conflict management? As Stedman puts it, this entails a decision on whether the level of management should be national, or regional:

> "The interrelationship between conflict at the national and regional level raises the question of sequence and conflict resolution. Does regional conflict resolution presuppose conflict resolution at the national level? Can conflict resolution be pursued simultaneously across levels? Do some solutions to conflict at the national level interfere with conflict resolution at the regional level?"[52]

Stedman raises the fundamantal question of whether conflict management should be seen as a single-level activity, or whether it should be appreciated as a necessarily multi-level undertaking. In terms of mediation, the issue that arises is one, as Deng and Zartman argue, of tactical and strategic choices: for, if in the context of Africa as elsewhere,

> "conflicts...are often linked to other conflicts...must all conflicts be resolved simultaneously, whether autonomously or in a region-wide restructuring of relations, or should conflict management and resolution efforts in, for

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51 See Chapter 4.

52 Stedman,S.J. 'Conflict and Conflict Resolution in Africa: A Conceptual Framework' in Deng,F.M. & Zartman,I.W.(Eds) *Conflict Resolution in Africa* op. cit., pp.367-399:381.

example, Sudan proceed without waiting for parallel initiatives in Eritrea?"[53]

Deng and Zartman are not suggesting that all the conflicts in the continent (much less the world) can be solved all at once, but that note should be taken of solutions adopted in similar conflicts. In the example they give, the suggestion is that since for instance the idea of federation did not work for the Eritrean conflict, it is possible that it would not work for the Sudan conflict, as indeed it did not.

Two connected points of view emerge from this discussion. The first is an appreciation of the complexity of the process of conflict analysis and management. It suggests that the process is multi-level, and that its success depends on the linkages between the different levels. In practical terms, this means that the conflict analyst should not be restricted to one conceptual level of analysis. It also implies that the conflict manager should not seek to impose subjective perceptions of the conflict on the parties. He should draw on the generalities of other conflicts as an aid to effective management and analysis. Accordingly, conflict management and analysis should be treated as a multi-level, multi-approach and hence, complex undertaking.

Secondly, the conflict analyst or manager must necessarily pay attention to the 'closed circle' of the conflict at hand. It is important that the management process be informed by an appreciation of how similar conflicts regionally or further afield have evolved and been managed, and bring that knowledge to bear on the conflict at hand.

The first of these points of view is an attempt to come to grips with the complexity of the process of conflict analysis, and the underlying linkages between the various approaches to conflict management. The

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53 Deng & Zartman, 'Introduction' in Deng,F.M. & Zartman,I.W.(Eds) *Conflict Resolution in Africa* op.cit., pp.1-15:7.

second is a way by which the conflict manager or analyst can, while appreciating the differences between various conflicts, construct a pertinent pattern of strategies and tactics: a way in which, to use Stedman's apt term, such conflicts can be 'bounded'.[54] The case study will illustrate how a mediator's lack of appreciation of these two points can negatively affect the outcome of mediation. It will also be used as a basis to suggest how the marriage between these two points of view could have strengthened the mediator's hand in the Uganda mediation.

Towards an Analytical Framework

The previous section argued that mediation is a wide and complex enterprise. The process is broad, and encompasses different levels of undertaking and activity. This section will propose an analytical framework that takes these concerns into account.

Bordering such an analytical framework is the trite knowledge that conflict analysis suffers greatly if the history of the conflict is ignored. The history of a conflict enables the analyst or manager to understand its genesis, and the concerns and motivations of the actors. It allows the sources of the conflict to be understood, and a comparison with similar conflicts to be undertaken. It might also on that basis suggest pointers as to the most efficient management approach. An understanding of the history of a conflict[55] enables the analyst or manager to get a feel for the negotiating distance between the parties, and hence to formulate a strategy by which that distance can be reduced.

A sound analytical framework for mediation also requires that the diplomatic aspects of the conflict be

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54 Stedman, 'Conflict and Conflict Resolution in Africa: A Conceptual Framework' op.cit., p.384.

55 See Chapter 5.

taken into account.[56] Understanding the diplomatic aspects of the conflict enables the manager or analyst to appreciate the wider relations between the parties, and hence the motivations and interests which drive them to negotiation. Additionally, the diplomatic context points to other parties and actors who have a direct or indirect interest in the conflict. Signally, the diplomatic aspects of the conflict help to unravel the relationships between the conflictants and the third party. The past and current diplomatic relationships between the parties further enable the analyst to determine the current status of the relationship between the third party and the conflict itself. Thus, whether the third party is endogenous, exogenous or heterogenous, can be discerned through an examination of the diplomatic aspects of the conflict.

The historical and diplomatic contexts provide two important levels of analysis. But because mediation is much more complex than these two aspects alone suggest, the analytical framework should take other levels into account. Particularly, the track resorted to in conflict management should be considered. The rationale behind thus broadening the analytical perspective is that different conflicts call for different diplomatic tracks of management, or as is argued in this study, a duality of tracks. Thus, before the technicalities of mediation are gone into, the issue of the most suitable track for management should be addressed. In broad terms, track one conflict management addresses itself directly to the level of the technicalities of negotiation and mediation. Track two focuses on other relations between the parties, such as their perception and attitudes to the conflict, trust and confidence building measures. Neither track individually takes into account the whole

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56 See Chapter 6.

complexity of conflict and its management process.[57] Hence it is suggested that these important components of both tracks should be brought to bear in a dual track management process.[58] The strength of this approach is that once the vision of the whole management process is thus extended, positive outcomes could be generated.

Finally, a sound analytical framework should appreciate that the regional setting[59] of a conflict is an integral part of the process of its analysis and management. If as is argued above there are discernible threads running through the conflicts in a region, these must be pulled together, and their lessons brought to bear on the analysis or management of the conflict at hand. This analytical level ensures that a simplistic view of the conflict is avoided, and that the conflict is viewed as part of a broader regional picture. Thus, strategies and approaches that have not been successful elsewhere in the region can be eschewed, and different and more creative approaches to management and analysis be designed.

This section has described the main components of an analytical framework for mediation. This description emphasises that mediation is not a single-level activity, restricted only to around-the-table negotiation between the parties. It is a complex process which embodies broader concerns, and sees mediation as a more sophisticated, multi-level, activity. The elements of this framework are not, however, different and distinct: each of them contributes to the larger picture that the conflict analyst or manager should have in contemplation. In essence, having this larger picture in mind enables the

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57 This is the case with OAU conflict management as discussed in Chapter 4.

58 See later this chapter, and Chapters 8 and 9.

59 See chapter 3.

dead ends of a single-level approach to be avoided, and for a creative way out of the woods of the conflict to be plotted.

Definitions

This section will define some key terms that recur in this study. The purpose of definitions has been summarised well by Vasquez. He notes that they help to delimit the empirical domain of inquiry. They also provide consistency of usage, since most words have more than one meaning and are therefore open to ambiguity. Definitions enable people within a discipline to talk to each other about the subject, to investigate it, research it, and "see it".[60] The following terms and concepts will be defined or distinguished: internal, international and internationalised conflicts; third party intervention and third party involvement; international management of internal conflict; settlement, resolution and management of conflict; mediation and negotiation; track one and track two diplomacy; and dual diplomacy.

<u>Internal, International and Internationalised Conflicts</u>

The relationship between internal and international conflict has important implications for conflict management and analysis. However, the connection between the two through the process of internationalisation was not always articulated clearly in the earlier writings, many of which tend to conflate the internal and the international,[61] while others maintain fairly hard distinctions between internal and

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60 Vasquez,J.A. *The War Puzzle* (Cambridge: Cambridge University Press, 1993) p.15.

61 See for example, Modelski,G. 'The International Relations of Civil War' in Rosenau,J.N.(Ed) *International Aspects of Civil Strife* (Princeton: Princeton University Press, 1964) pp.14-44; Dhokalia,R.P. 'Civil Wars and International Law' 11 *Indian Journal of International Law* (1971) pp.219-250; Rosenau,J.N. 'Internal War as an International Event' in Rosenau,J.N.(Ed) *International Aspects of Civil Strife* op.cit., pp.45-91.

international conflict.[62] Indeed, even those which attempt a pathology of internal strife in trying to justify humanitarian intervention and the international protection of human rights display the dangers inherent in too inclusive a definition of 'internal', especially where this is based on the relationships of power.[63] These writings suggest that the availability of power to a third party enables it to define the nature of the conflict, and therefore to dictate the approaches to its management. This section will explain how internal and international conflict are conceptually linked through the process of internationalisation, but on a basis other than that of power.

The belief that there is no truly internal, or purely international conflict is based on the judgment that all international conflicts have domestic sources.[64] This view may be justified by the interdependence of international society, which makes it impossible to draw a hard and fast line between the internal and the international. It can also be derived from the argument that since all conflict entails a derogation of human rights whose standards are now international,[65] such diminution cannot be seen purely within the framework of an international and internal dichotomy. This is a rejection of the Realist doctrine that dichotomises the internal and the international, and of the view of the founders of the United Nations

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62 See for example, Deutsch,K.W. 'External Involvement in Internal War' in Eckstein,H.(Ed) *Internal War: Problems and Approaches* (New York: The Free Press of Glencoe, 1964) pp.100-110.

63 Meron,T. *Human Rights in International Strife: Their International Protection* (Cambridge: Grotius Publications, 1987).

64 See for example, Burton,J.W. *Global Conflict: The Domestic Sources of International Crises* (Brighton: Wheatsheaf Books, 1984).

65 See Donnelly,J. *International Human Rights* (Boulder,CO.: Westview Press, 1993).

that 'the scourge of war' meant inter-state war.[66] Indeed, no analysis of internal conflict can ignore its external element: as Duner notes,

> "A complete analysis of [internal] war must...take into account relations of several kinds: first...there is the purely internal constellation (the split within the country), then the relations of the internal parties to the actors in their surroundings, and, finally, the relations between the external actors."[67]

Chapter Three argues that in the conflicts in Africa which have an ethnic and (or) boundary component, an international dimension is necessarily entailed, and is facilitated *inter alia* by contagion.   In Africa as elsewhere, ethnic conflict becomes internationalised by a variety of factors.   These include the existence of ethnic kin in other countries, ideological sympathy by outsiders for one ethnic group (in a conflict), migrations of ethnic communities to other countries, which alters the ethno-demographic balance in both countries, and which may therefore result in conflict.[68] Indeed, "international relations between states becomes 'ethnicised' when *potential* or actual ethnic conflict occurs."[69]

There are also various external causes of internal conflict, such as regional rivalries, and global political and economic trends.[70] The conflict analyst or manager should therefore appreciate the dynamics of the

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66   Bailey,S.D. *How Wars End: The United Nations and the Termination of Conflict, 1946-1964* (Oxford: Oxford University Press, 1985) p.2.

67 Duner,B. 'The Intervener: Lone Wolf or...? Cooperation between Interveners in Civil Wars' 18 *Cooperation and Conflict* (1983) pp.197-213:197.

68   See Stavenhagen,R. 'Ethnic Conflicts and their Impact on International Society' 43 *International Social Science Journal* (1991) pp.117-131:124-127.

69 Ibid., p.127. Emphasis added.

70 Deng & Zartman, 'Introduction' in Deng,F.M. & Zartman,I.W. (Eds) *Conflict Resolution in Africa* op.cit., pp.4-5.

relationship between the internal and the international; for, as Mitchell notes, internal strife is an important element of post-war international conflict.[71] To understand the internal dimension of international conflict resort must be had to the peculiar nature of each conflict. Understanding the international dimension of internal war requires recourse to general principles. As Gurr argues, general theories are useful for the analysis of conflict in Africa, even once distinctly African conditions are incorporated.[72]

The introduction of external actors or factors in an originally 'internal' conflict internationalises it. Such external factors or actors may include exogenous third parties as mediators or facilitators. The internationalisation of conflict raises certain issues, most saliently for internal armed conflict. As both Modelski and Assefa amongst others have noted, the legitimate government will be unwilling to engage in dialogue with the insurgents because in doing so, they may thereby give international standing to the insurgents. Institutional managers of conflict such as the Organisation of African Unity (OAU) have tackled this problem by insisting on dialogue only with the government in power, and reaffirming the principle of non-interference in the internal affairs of states.[73] This approach characterised the OAU's response to the civil wars in Nigeria, Eritrea, and the Sudan. Non-institutional conflict managers must also address the dilemma of how to get the parties to talk, without

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71 Mitchell,C.R. 'Civil Strife and the Involvement of External Parties' 14 *International Studies Quarterly* (1970) pp.164-194:167.

72 Gurr,T.R. 'Theories of Political Violence and Revolution in the Third World' in Deng,F.M. & Zartman,I.W.(Eds) *Conflict Resolution in Africa* op.cit., pp.153-189.

73 Foltz,W.J. 'The Organization of African Unity and the Resolution of Africa's Conflicts' in Deng,F.M. & Zartman,I.W.(Eds) *Conflict Resolution in Africa* op.cit., pp.347-366:358.

appearing to confer legitimacy on those who the government in power considers to be 'rebels'.

Deng and Zartman raise an important issue concerning the internationalisation of conflict through providing humanitarian aid, and particularly the legitimising function of such activity. Their contention is suggestive for the conflict manager, since it points to a nexus between internationalisation of conflict, and legitimisation of one of the parties. They argue persuasively, that since providing humanitarian aid to victims on both sides of the conflict necessarily entails negotiation with both sides, the 'rebel' party thereby becomes *ipso facto* legitimised. In that situation, both parties cannot avoid addressing the reason for the necessity for outside humanitarian aid (i.e. the conflict), and what should be done to remove that necessity (i.e. making peace).[74] This argument is meritorious because by suggesting a way out of the problem of conferring legitimacy, it points to an alternative route to negotiation, through internationalisation by humanitarian aid.[75] Reisman observes that there is the powerful support of history for this argument since "humanitarian interventions in the past have gone beyond exigent succour to the fashioning of more permanent structures of social and political order."[76]

The argument being canvassed here is twofold. First, that although the issues that inform the conflict may be 'internal', they are internationalised by the introduction of an external manager of the conflict.

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74 Deng & Zartman, 'Introduction' in Deng, F.M. & Zartman, I.W. (Eds) *Conflict Resolution in Africa* op.cit., p.8.

75 The Somalia conflict, at least since December 1992 is a good example of this.

76 Reisman, M. 'Humanitarian Intervention to Protect the Ibos' in Lillich, R.B. (Ed) *Humanitarian Intervention and the United Nations* (Charlotsville: University Press of Virginia, 1973) pp.167-195:168.

Secondly, the efforts of such a third party to manage the conflict bring into play other factors which justify involvement and internationalise the conflict further: hence resort to arguments such as the need to protect human rights or to facilitate humanitarian aid. On a practical conflict management level, the internationalisation of conflict enables the conflict manager to draw from a wider range of strategies and repertoires for management. On the analytical level, internationalisation enables the analyst to have a broader view of the conflict and the processes of its management.

Third Party Intervention and Third Party Involvement

The term 'third party intervention' is currently used in conflict management literature to refer to any of the situations where a third party becomes engaged in the conflict, either in the capacity of a court, an arbitrator (or arbitration tribunal), a mediator, a conciliator, a facilitator, or a provider of good offices. Indeed, to Rosenau, a third party's passive attitude to a conflict can also be tantamount to intervention.[77]

But 'intervention' is an unfortunate word to use to describe mediatory activities, because it connotes force and lack of choice on the part of the parties in conflict. Indeed, not only are there now diverse senses in which the term 'intervention' is used,[78] but even its use to refer to the rendering of humanitarian aid[79]

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77 Rosenau,J.N. 'Foreign Intervention as Adaptive Behaviour' in Moore,J.N.(Ed) *Law and Civil War in the Modern World* op.cit., pp.129-151.

78 See for example Moore,J.N. *Law and Civil War in the Modern World* op.cit.

79 As Reisman does; see Reisman, 'Humanitarian Intervention to Protect the Ibos' op.cit.

suggests a certain amount of lack of consultation between the parties in conflict and the intervenor.[80]

The general language of intervention in international relations is the language of interest, power, and the use of coercion.[81] Applied to mediation, it has the effect of reducing (and indeed almost doing away with) the traditional, consensual nature of mediation. As used from a power theory perspective, intervention leads eventually to the unacceptable conclusion that mediation can be imposed on the parties to a conflict through leverage. The term 'intervention' in the international relations of conflict management is borrowed from the international law of conflict management which is preoccupied with the use and limitation of the use of force. This has led to mediation as a form of conflict management labouring under the connotation of violence, and the use of force. As Moore points out, intervention and its consequence of counter intervention can be seen as the counterparts of violence.[82]

From this perspective, intervention is the very antithesis of peaceful settlement of disputes, except perhaps in the very limited sense of empowerment. The current usage of the term intervention leads to the view that because an external party has intervened, it will (through manipulation and leverage) cause the parties to agree to terms of settlement which they may not otherwise have agreed to. This goes against the very grain of a method of peaceful settlement such as mediation, and is the enduring problem with the vocabulary of 'intervention'. Since its etiology is

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80 United States presence in Somalia from December 1992, and its unilateral nature, is a graphic illustration of this.

81 See Nye,J.S. *Understanding International Conflicts: An Introduction to Theory and History* (New York: HarperCollins, 1992) pp.132-139.

82 Moore,J.N. *Law and Civil War in the Modern World* op.cit., p.ix.

deeply coloured by the idea of force, manipulation and violence, its importation into mediation theory has introduced the suspicion of 'forced' mediation.

Consequently, the term 'intervention' will be eschewed in this study. Instead, the term third party involvement will be used. The intention behind this choice of phrase is to plead for a return to mediation as a consensual method of the peaceful management of disputes.

International Management of Internal Conflict

The notion of the international management of internal conflict as used here has close links with the concepts of exogenous and endogenous management of conflict, and with the internationalisation of conflict. On the level of actors, international management encompasses the introduction of exogenous managers into the conflict. On the level of issues, it entails bringing into play external factors, since the exogenous manager brings with him concerns which being peculiar to him, are external to the original conflict. In effect, once issues and actors from outside the conflict are introduced, any management of that conflict will necessarily be international. This is the sense in which Modelski uses the term international *settlement*. The idea of 'settlement' however has certain theoretical implications, in that it ranges itself against the *resolution* of conflict. For that reason the notion of international *management* will be preferred in this study.

International management of conflict is however more complex than just the introduction of external factors into the conflict. It is particularly so when the concept of regional conflict management is imported. The idea behind regional conflict management is the attempt to bring the different conflicts within a region together for the purposes of management. Regional conflict management also concerns the identity of a

regional conflict manager. In the African context, this recognises the claim that regional organisations can, and should play a facilitative role in the management of conflict in the continent. Thus, it has been observed with approval that though not formed with a conflict management agenda in mind, certain regional organisations such as the Economic Community of West African States (ECOWAS) and the Inter-Governmental Authority on Drought and Development (IGADD) have served successfully as facilitative fora for parties in conflict to meet and address their conflictual relationship. For example, the heads of state of Ghana and Togo in 1988, and of Senegal and Mauritania in 1989, met in this way at the ECOWAS annual summit;[83] and in 1988, Djibouti (which hosts IGADD), and the IGADD secretariat acting under the aegis of an IGADD meeting, mediated in the Somalia/Ethiopia conflict.[84] At the time of writing, a committee of IGADD heads of state[85] is mediating in the Sudan conflict.

Regional conflict management has important implications for the international management of internal conflict. Although states, organisations, or even individuals undertaking regional conflict management initiatives are endogenous because they come from the same regional conflict system, they are at the same time exogenous because while coming from the same region, they belong to different territorial units, or states. The duality of third parties who are both endogenous and exogenous is a peculiar feature of regional conflict management: it requires a distinct term, and is characterised in this study as

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83 Lancaster,C. 'The Lagos Three: Economic Regionalism in Sub-Saharan Africa' in Harbeson,J.W. & Rothchild,D.(Eds) *Africa in World Politics* op.cit., pp.249-267:257.

84 Zartman,I.W. 'Inter-African Negotiations' in Harbeson,J.W. & Rothchild,D.(Eds) *Africa in World Politics* op.cit., pp.268-283:273.

85 Of Eritrea, Ethiopia, Kenya and Uganda.

heterogeneous. In terms of the management of internal conflict, heterogeneous involvement is a species of international management of internal conflict. The notion of a heterogeneous third party will later be used to analyse the Uganda mediation of 1985, where it will be contended that President Moi was a heterogeneous mediator. The implications of a heterogeneous mediator in the international management of internal conflict will be examined from that perspective.[86]

Settlement, Resolution and Management of Conflict

Although in common parlance conflict resolution and conflict settlement are used interchangeably, technically a great philosophical divide separates them. Those who believe in the resolution of conflict argue that once the causes of the conflict are removed, it is possible for the parties to resolve the conflict in a permanent, and self-sustaining way. Those who believe in the settlement of conflict assert that human nature being what it is, the best that can be done is to reach accommodations which the parties agree to live with - this does not address the causes of the conflict *per se*. Others argue that 'management' is a distinct methodology which entails seeking either to prevent conflict from erupting into a crisis, or cooling a crisis upon eruption. In this sense, 'management' includes denying each side the means of combat, empowerment, and facilitating discussion rather than fighting.[87] The genesis of this philosophical divide lies deep in the different views taken on the nature of society, its conflicts, and how to attend to them. Realist and World Society approaches stand at opposite ends of this spectrum.

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86 This is discussed in greater detail in Chapter Eight.

87 Zartman, I.W. *Ripe For Resolution: Conflict and Intervention in Africa* op.cit., p.9.

The intellectual history of Realism is informed by the belief that (international) society is anarchical,[88] and is characterised by power, its use, and manipulation.[89] In the Realist view of the world, conflict is an integral part of relationships in society, and can only be tempered by a balance of power (or terror), where in Darwinian terms, only the strong survive. This balance is maintained by the manipulation and if necessary, the implementation of threats, which is the conflict component of Realism.[90] Given the anarchical nature of the international system, conflict can at best only be regulated temporarily through forced readjustments, based on the current power status of the parties involved. Because of the mutual suspicion that characterises such relationships, these readjustments are achieved by bargaining backed by power, through which settlement, which is temporary, is reached. Such a settlement subsists only while the power relations that informed it obtain. Thus, conflict is zero-sum, and in that perspective, can only be settled on the basis of power and coercion.

Unlike Realism, World Society takes a different view of the nature of international society and of man.[91] It regards society as consisting of a cobweb of relationships, in the pursuance of which conflicts may

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88 Bull,H. *The Anarchical Society: A Study of Order in World Politics* (London: Macmillan, 1977).

89 de Senarclens,P. 'The "Realist" Paradigm and International Conflicts' 43 *International Social Science Journal* (1991) pp.5-19, offers a good critique of Realism.

90 See Groom,A.J.R. 'Paradigms in Conflict: The Strategist, the Conflict Researcher, and the Peace Researcher' in Burton,J.W. & Dukes,F.(Eds) *Conflict: Readings in Management and Resolution* (London Macmillan, 1990) pp.71-98.

91 A conscise explanation of which is outlined by Light,M. 'Problem-Solving Workshops: The Role of Scholarship in Conflict Resolution' op.cit., at pp.148-154. Banks puts World Society in its historical context: see Banks,M. 'The Evolution of International Relations Theory' in Banks,M.(Ed) *Conflict in World Society* op.cit., pp.3-21.

arise. In this perspective, conflict is subjective: it does not exist outside the perception of the parties. Conflict may be about values, wants and interests which are negotiable, and which can be the subject of settlement. On the other hand, conflicts about human needs are non-negotiable, and are not susceptible to settlement. Needs, such as recognition and dignity are not in short supply, and therefore satisfaction by one party of the others' needs does not entail their reduction for the other. Hence, conflict is not zero sum. Because both parties can each have their needs satisfied, a self-sustaining solution to the conflict can be mutually arrived at: conflict can therefore be resolved rather than merely settled.

The approach of World Society doctrine is non-power based, and non-coercive. Thus, parties to conflict arrive mutually at a new re-perception and re-definition of their relationship. A new set of values is created which they can pursue in a non-coercive, mutually self-sustaining way. In Burton's explication, there is a distinction between disputes and conflicts: disputes are negotiable interests, and their outcomes can be negotiated or arbitrated, hence, dispute *settlement*. Conflicts are about non-negotiable issues, and hence conflict *resolution* addresses the question of how these inherent (non-negotiable) needs can be satisfied.[92]

Although this summary of these two widely divergent approaches is over simplified, it suggests that to espouse either is to make a deep philosophical and moral

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92 Burton,J.W. 'Conflict Resolution as a Political Philosophy' in Sandole,D.J.D. & van der Merwe,H.(Eds) *Conflict Resolution Theory and Practice: Integration and Application* (Manchester & New York: Manchester University Press, 1993) pp.55-64:55. van der Merwe argues that there is a flaw in this argument, in that it creates an analytical independence between causes and process of management. Thus, "If human needs are seen as an aspect of many real-world conflicts, rather than the defining characteristic of conflicts, processes to deal with this aspect of the conflict can be used in a complementary fashion along with other processes." See, van der Merwe, 'Relating Theory to the Practice of Conflict Resolution in South Africa' in Sandole,D.J.D. & van Der Merwe,H. *Conflict Resolution Theory and Practice* op.cit. pp.263-275:266.

commitment. A third party - and indeed the parties to the conflict - may be unwilling to make such a commitment, but may nevertheless believe in the usefulness of any method by which a reduction of the conflict is attained. Therefore, because the integrity of any practical approach to the reduction of conflict should not be impugned by reason only of its philosophical parentage, the term conflict *management* will be used to refer to diverse efforts to bring parties in conflict together. Similarly, the term international *management* will be preferred to international *settlement* or *resolution* which, in terms of the debate outlined above, might connote preference for a position in a theoretical debate which this study will largely eschew.

Mediation and Negotiation

Unravelling the relationship between mediation and negotiation is important especially in lending conceptual clarity to analysis. Negotiation takes place when two parties attempt to manage their conflict bilaterally: in this sense, the structure is dyadic. When a third party becomes involved it transforms the overall structure into a triad.[93] In this interpretation, the original negotiation between the parties is transformed into a mediated negotiation. According to the power theories of mediation, such a third party invariably has its own interests in the conflict and its outcome. Because the third party also pursues its own interests in this transformed structure, the mediation can be perceived as being transformed into a tryadic *negotiation*. This is essentially a power explanation, but the same conclusion can be reached differently. In the alternative explanation, all conflicts are trilateral since they do not occur in

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93 This notion and the relevant literature are discussed in Chapter Two. See for example, Bercovitch,J. *Social Conflict and Third Parties: Strategies of Conflict Resolution* (Boulder,CO.: Westview Press, 1984) p.112.

isolation from society. Thus, apart from the conflictants, other actors in society also form part of the conflict.

The processes of negotiation and mediation are therefore intertwined, and are best perceived as siamese twins. Depending on the perception adopted in conceptualising them, they are either intertwined and hence connote a triadic negotiation, or they have different 'personalities', and hence imply a mediated negotiation. Therefore, while their genetic linkages are the same, their anatomy is, at some points, different and distinct. Seen in this way, reference to them in the course of analysis depends on the analyst's perspective. Consequently, the terms are sometimes used interchangeably in the literature.

Track One and Track Two Diplomacy

Many analyses of mediation approach it from the basis that parties communicate with each other through either of two channels: track one, which is formal, governmental, and official; or track two, which is non-formal, non-governmental and non-official.[94] The rationale behind this duality of channels is that the parties may, because of official policy, have no contact with each other, and in such cases non-official (though officially sanctioned) communication channels may be utilised through track two. Also, track two may be employed where, because positions that have developed as a result of the conflict have hardened, neither party is willing to make public overtures to the other, lest that be interpreted as a softening of position. In such a case, track two diplomacy may be used to 'test the

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94 These are discussed further in Chapter Two.

water',[95] with the understanding that it could be disowned by either of the parties.[96]

Burton has raised the profile of track two diplomacy by arguing that in the area of conflict resolution, track two is in parallel to track one diplomacy.[97] He explains that track two concerns itself with the same issues as track one diplomacy: the difference between them being that track two practitioners are free from the formal exigencies and limitations of track one diplomacy, including its formal trappings.

Ideally, track two players have no present institutional connections with any government or organisation. But they may have past institutional ties, and often do. In dual diplomacy as it is explained below and in Chapter Eight and Nine, they may or may not enjoy 'national etiquette',[98] while performing their duties.

Dual Diplomacy

Dual diplomacy is postulated in this study as applying (though not necessarily exclusively) to internal conflicts. It is not used in the sense of two or more track one approaches operating in the the same

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95 A good example of this usage is with respect to the recent South African negotiations, where initial contacts between the two main negotiators, Ramphosa of the ANC and Meyers of the Nationalist Party, were arranged through a mutual third party, at a fishing weekend. See, *Time International*, 1 March, 1993 pp.30-31.

96 See, Berman,M.R. & Johnson,J.E. 'The Growing Role of Unofficial Diplomacy' in Berman,M.R. & Johnson,J.E.(Eds) *Unofficial Diplomats* (New York: Columbia University Press, 1977) pp.1-33.

97 Burton J.W. & Dukes,F. *Conflict: Practices in Management, Settlement and Resolution* op.cit., p.139.

98 'National etiquette' is defined as that administrative support a mediator is given by the agencies of his country in the performance of his tasks, without however being answerable to his country's authorities. Such support includes things like availing communications and secretarial help. See Umbricht,V.H. *Multilateral Mediation: Practical Experiences and Lessons* (Dordrecht: Martinus Nijhoff, 1989) p.35.

conflict,[99] or of track one and track two operating in parallel in the same conflict.[100] Nor does it apply to cases where the two tracks operate in sequence but independently. In this study, dual diplomacy means the operation of both tracks simultaneously as part of the same conflict management process.[101]

In internationalised conflicts, dual diplomacy would address simultaneously both their inter-state and internal levels. Track one conflict management would as for example in current OAU practice address the inter-state dimension of conflict, while track two diplomacy would address its internal character. Dual diplomacy would bring these two levels together within a single process of conflict management. In essence, while the track one component of this process would manage the negotiable aspects of a conflict, its track two element would address its non-negotiable aspects, such as attitudes and perceptions. In dual diplomacy the two tracks are not mutually exclusive, but act as valuable components of the same conflict management process.

Burton has argued that the identification of track two as a separate track of conflict management was an important first step in building a theory of conflict resolution. He has further contended that the second and vital step of this theory building process is to

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99 As for instance in the Afghanistan conflict: see Bokhari,I.H. 'Evolution of a Dual Negotiation Process: Afghanistan' in Zartman,I.W.(Ed) *Resolving Regional Conflicts: International Perspectives* (Newbury Park: Sage Publications, 1991) pp.58-68.

100 As for example in Zimbabwe: see Low,S. 'The Owen-Vance Period: 1977-1979' in Bendahmane,D.B. & McDonald,J.W.(Eds) *Perspectives on Negotiations: Four Case Studies and Interpretations* (Washington: Foreign Service Institute, 1986) pp.165-170:165.

101 In its conflict management concerns, dual diplomacy is eventually neither wholly track one nor track two. At a conceptual level, it calls into question whether, as sometimes appears from the literature, both tracks are incommensurable. If it is insisted that they are, but if dual diplomacy nevertheless produces successful outcomes, then a case would be made for dual diplomacy to be identified as a separate track of diplomacy: the term *track three diplomacy* might accurately describe such a track. This matter is however not taken up in this study.

move towards track two as the main track of conflict resolution.[102] Burton's assertion is founded on the rejection of the salience of track one in conflict management. In arguing for a dual diplomatic approach, this study adopts a less far reaching perspective. The literature (and the case study here) reveals the weaknesses of track one conflict management, and the shortcomings of track two are noted elsewhere.[103] It is suggested therefore that a diplomatic approach that draws from the strengths of both tracks ought to be adopted. In this process, the general salience of each track would be emphasised, and brought to bear within a single management process.

The essence of championing a dual diplomatic approach to the management of internal conflict is the realisation that mediation is a complex and multi-level activity, whose concerns may not be realised within the limitations of a purely track one or track two approach. Because of their limitations, these tracks are not able individually to address the whole complexity of the mediation process. Dual diplomacy thus forms a chain between track one and track two that, drawing from both would institutionalise the unacknowledged links between them.

Structure of the Study

This study is organised around two parts, eight substantive chapters, and a conclusion. The present chapter has stated the aims and justifications for the study, and discussed the methodological milieu within which it will be conducted. It has formulated an analytical framework, and defined the major terms that will border the study. Chapter Two will review some of

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102 Burton,J.W. 'Conflict Resolution as a Political Philosophy' op.cit., p.58. He had made this point earlier by arguing that conflict analysis and resolution should supplant official policy: see Burton,J.W. *Dear Survivors* (London: Frances Pinter, 1982) p.107.

103 See Chapter Two.

the main literature on mediation, and spotlight those areas of concern to this study.

Because the general flavour of this study is African, there will be a thematic concern with African perspectives on conflicts in the continent. Chapter Three will try to capture the general African perspectives on conflict in Africa, and bring together the main themes arising therefrom. The efficacy (or lack thereof) of conflict management in Africa is an important theme of the study, hence Chapter Four will examine the policies, practices, and methodology of the OAU's management of the type of conflicts outlined in Chapter Three.

These preceding four chapters will lay the ground for the discussion of the issues that are addressed in the second part of the study, which centres on the conflict in Uganda, and its mediation in 1985. Chapter Five will outline the historical background to the Uganda conflict, and the events that led to its mediation in 1985. Chapter Six will examine the diplomatic context of the mediation, including the reasons that prompted the mediator to involve himself, and those behind the parties decision to go to mediation.

Chapter Seven will focus exclusively on the mediation itself, and will examine it from the pre-negotiation through to the post-negotiation stages. Chapter Eight will offer a critical analysis of the Uganda mediation in the light of the aims and hypotheses formulated in Chapter One. It will endeavour to bring together the main threads identified in the first part of this study in the light of the discussions contained in the empirical chapters. It will also draw some generalisations, within the limitations of the single case study. The conclusions of the study will be carried in Chapter Nine.

Chapter Two

Perspectives on Mediation: A Bibliographical Review

Introduction

Chapter One outlined the theoretical and methodological concerns that will inform this study. Some of the issues raised there have, in varying degrees, been the subject of some of the main literature on mediation. Because the treatment of the various issues in the literature has been uneven, this chapter will engage in a broad ranging survey of the literature, and flag those areas which have been underdeveloped, and which later chapters of this study will engage further either by way of alternative explanation, re-interpretation, or illustration through the case study.

This chapter will trace the intellectual development of the literature on mediation, and explain it in terms of changes of level from the interpersonal to the international. In order effectively to do this, the literature will be categorised under certain headings. This classification is however not water-tight, and certain writings will, with equal justification, fit into more than one category. In spite of this content overlap, this attempt at classification is a useful one for heuristic purposes, and as an aid for the analysis of the main literature on mediation, the burgeoning extent of which is evident from the survey done by Lakos.[1]

Literature Development: From Interpersonal to International

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1   Lakos,A. *International Negotiations: A Bibliography* (Boulder,CO.: Westview Press, 1989).

Much of the earlier literature on mediation was largely devoted to interpersonal conflict. The approaches to mediation propounded in that literature reflected, and were largely informed by, that concern. Walton[2] represents the essential concerns of this type of literature, while Burton and Dukes[3] have ably put the earlier preoccupation of the literature within the context of the management of such disputes.

The concern of this literature with interpersonal conflicts determined the definitions adopted, and the prescriptions offered for the management of such conflicts. Moore sees mediation in that context as being intervention by an acceptable, impartial and neutral third party.[4] Kaufman and Duncan look at the question of third party intervention in conflict from the point of view of interpersonal disputes, but their attempts to extrapolate lessons from intervention in that type of conflict to the international level are laboured.[5] Other literature has recognised the pitfalls of such extrapolation. Thus, Thomas has made a powerful case for a shift from the earlier 'economic paradigm', and suggested that a new paradigm should be concerned less with the rationality of actors and instrumentality of issues, and more with the normative influence by parties in conflict with each other.[6] Almost similarly,

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2 Walton,R.E. *Interpersonal Peacemaking: Confrontation and Third Party Consultation* (Reading,MA.: Addison-Wesley, 1969).

3 Burton,J. & Dukes,F. *Conflict: Practices in Management, Settlement and Resolution* (London: Macmillan, 1990).

4 Moore,C.W. *The Mediation Process: Practical Strategies for Resolving Conflict* (San Fransisco: Jossey Bass, 1986) p.14.

5 Kaufman,S. & Duncan,G.T. 'Third Party Intervention: A Theoretical Framework' in Rahim,M.A.(Ed) *Managing Conflict: An Interdisciplinary Approach* (New York: Praeger Publishers, 1989) pp.273-289.

6 Thomas,K.W. 'Norms as an Integrative Theme in Conflict and Negotiation: Correcting our Sociopathic Assumptions' in Rahim,M.A. (Ed) *Managing Conflict: An Interdisciplinaty Approach* op.cit., pp.265-272:269.

Strauss has argued for a 'negotiation paradigm' that would take into account the negotiation context (i.e. the larger concerns affecting the negotiation and mediation), and the structural context within which negotiations take place. In his view this would help to locate negotiation firmly within the larger social structure.[7] The second edition of Kriesberg's *Social Conflicts* attempts this sort of growth of the canvass of mediation, and especially considers the expanding role of intermediaries and its effect on the development of the conflict.[8]

This increasing concern with perceiving mediation in contexts larger than the purely personal represents a subtle change in emphasis in the literature. Thus, the literature expanded its operational base to take into account a larger canvas of conflicts, particularly labour and industrial ones. Although quite subtle in the beginning, this enlargement is nevertheless important because it marked the first change in emphasis in the literature on negotiation and mediation. Methodologically, this development is significant because it demonstrated the fact that to be useful and more broadly applicable, mediation methods and techniques developed at the interpersonal level must be imbued with a wider social character and concern.

The second change in emphasis in the literature was from the organisational to the international level. Here, methods of mediation which had been tested and tried in organisations were applied to international conflict. This borrowing from the organisational to the international sphere is evident especially in the early vocabulary, and indeed methodology, of international mediation. This extrapolation is especially manifest in

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7 Strauss,A. *Negotiations: Varieties, Contexts, Processes and Social Order* (San Fransisco: Jossey Bass, 1978) p.238.

8 Kriesberg,L. *Social Conflicts* (New Jersey: Prentice Hall, 1982-2nd ed.).

works such as those of Burton,[9] Raiffa,[10] Druckman[11] and Kriesberg,[12] who attempt to create frameworks for conflict analysis on the basis of extrapolation from the methodology of small group conflict to the international level. Others, like Bacharach and Lawler have propounded a theory intended to be applicable to all types of bargaining situations, from the industrial, organisational, to the international.[13] Cot takes issue particularly with Burton's extrapolation of the methodology of small group to international conflict, on the basis that to do so is to underestimate the specificity of international conflict.[14] Questions of methodology aside, the link between the interpersonal and the international is a very real and fundamental one since, as Kelman points out, "[m]uch of what happens in diplomacy takes place at an interpersonal level...whether in meetings...or in negotiating sessions, or at summit conferences."[15] Thus, Rubin emphasises that however complex, formal, or powerful the organisation undertaking intervention in international conflict, mediation is ultimately conducted by, and

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9 For example, Burton,J.W. 'Resolution of Conflict' 16 *International Studies Quarterly* (1972) pp.5-29; also, Burton,J.W. 'Some Further Comments: In Reply to Criticism' 16 *International Studies Quarterly* (1972) pp.41-52.

10 Raiffa,H. *The Art and Science of Negotiation* (Cambridge,MA.: Harvard University Press,1982).

11 Druckman,D.(Ed) *Negotiations: Social-Psychological Perspectives* (Beverly Hills: Sage Publications, 1977).

12 Kriesberg,L. *Social Conflicts* op.cit.

13 Bacharach,S.B. & Lawler,E.J. *Bargaining: Power, Tactics and Outcomes* (San Fransisco: Jossey Bass, 1981).

14 Cot,J-P. 'Critical Remarks on John Burton's Paper on Resolution of Conflict with Special Reference to the Cyprus Conflict' 16 *International Studies Quarterly* (1972) pp.31-39:35.

15 Kelman,H.C. 'Informal Mediation by the Scholar/Practitioner' in Bercovitch,J. & Rubin,J.Z.(Eds) *Mediation In International Relations: Multiple Approaches to Conflict Management* (London: Macmillan, 1992) pp.64-96:68.

between, individuals.[16] Hence, the interaction of individuals represents the common denominator in all types of mediation.

This neat compartmentalisation of the literature into categories of changes in emphasis should however not mask the fact that in many instances, a direct development can be discerned from the interpersonal to the international level. This trend has been noted by Burton and Dukes,[17] and Mitchell,[18] who warns that the application of methods used at the interpersonal level has been much less successful at the international level. Young noted this cross-conflict application of methodology in his seminal work,[19] while Curle's book attempts an integrative approach that takes into account the interplay of interpersonal, institutional, and international conflict.[20] Deutsch's explanation for the various approaches adopted at different times is that they reflect the academic disciplines of those involved in conflict research at particular periods:

> "Theoretical approaches often reflect the academic discipline of the theorists. Psychologists have focused on interpersonal conflict; social psychologists have concentrated on interpersonal and intergroup conflict; sociologists have stressed social, role status and class conflicts; economists have focused on game theory and decision making, economic competition, labour negotiations and trade disputes; political scientists and international

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16 Rubin,J.Z. 'Conclusions: International Mediation in Context' in Bercovitch,J. & Rubin, J.Z.(Eds) *Mediation in International Relations* op.cit., pp.249-272:249-50.

17 Burton,J.W. & Dukes,F. *Conflict: Practices in Management, Settlement and Resolution* op.cit., pp.121-123.

18 Mitchell,C.R. *The Structure of International Conflict* (London: Macmillan,1981) pp.xiv-xv.

19 Young,O.R. *The Intermediaries: Third Parties in International Crises* (Princeton: Princeton University Press, 1967).

20 Curle,A. *Making Peace* (London: Tavistock Publications, 1971).

> specialists have centred their work on political and international conflicts."[21]

This argument is persuasive because it supports the view that the changes in emphasis in the literature observed earlier reflect the rise of conflict research within the social sciences.

General Literature

There is an influential, albeit not very extensive, literature that does not take its place properly within the categorisation outlined above. This literature, mostly classical, examines negotiation and mediation within the framework of diplomatic activity. It is rooted firmly in Realist thought, especially in its conviction that activities such as negotiation fall properly within the sole competence of states.

Nicolson's *Diplomacy* is the leading one in this category. In it, he characterised negotiation as the main diplomatic activity. In defining it as the major concern of diplomacy, he raised negotiation to an exalted height in the diplomatic agenda.[22] Indeed, his other works also extol this function of diplomats.[23] While Nicolson's book was the modern successor to De Calliere's earlier classic,[24] Ikle's is the successor to Nicolson.[25] His treatise is an advance on Nicolson's, because he locates negotiations within the framework of international politics, and examines its processes in

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21 Deutsch,M. 'Subjective Features of Conflict Resolution: Psychological, Social and Cultural Influences' in Vayrynen,R.(Ed) *New Directions in Conflict Theory: Conflict Resolution and Conflict Transformation* (London: Sage Publications, 1991) pp.26-56:26.

22 See Nicolson,H. *Diplomacy* (Washington: Institute for the Study of Diplomacy, 1988).

23 For example, Nicolson,H. *The Evolution of Diplomatic Method* (London: Constable & Co., 1954).

24 See Keens-Soper,H.M.A. & Schweizer,K. (Eds) *Francois De Callieres: The Art of Diplomacy* (Leicester: Leicester University Press, 1983).

25 Ikle,F.C. *How Nations Negotiate* (New York: Harper & Row, 1964).

the broader context of the other interests of states.[26] Lall's book on the other hand was an important contribution in that it considered multilateral negotiation and its processes as they take place within international organisations.[27] To Lall, as to these others, negotiation is essentially confrontational.

Within this general literature is that which places mediation in the perspective of international law generally, and the peaceful settlement of disputes in particular. Bowett's[28] survey is typically legalistic, and describes the various methods of peaceful settlement of disputes enshrined in the United Nations Charter. Northedge and Donelan,[29] and Lachs[30] fall within the same tradition, as does Waldock[31] who, apart from discussing the legal approaches to the peaceful settlement of international disputes, considers settlement in special fields such as labour, culture, and investments. Birnie[32] examines the role of international law in solving environmental conflicts, through the enunciation of general principles and

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26 See Barston,R.P. *Modern Diplomacy* (London: Longman, 1988) pp.77-78.

27 Lall,A. *Modern International Negotiations* (New York: Columbia University Press, 1966).

28 Bowett,D.W. *The Search for Peace* (London & Boston: Routledge & Kegan Paul, 1972).

29 Northedge,F.S. & Donelan,M. *International Disputes: The Political Aspects* (London: Europa Publications, 1971) Ch.14.

30 Lachs,M. 'International Law, Mediation and Negotiation' in Lall,A. (Ed) *Multilateral Negotiation and Mediation: Instruments and Methods* (New York: Columbia University Press, 1985) pp.183-196.

31 Waldock,H.(Ed) *International Disputes: The Legal Aspects* (London: Europa Publications, 1972).

32 Birnie,P. 'The Role of International Law in Solving Certain Environmental Conflicts' in Caroll,J.E.(Ed) *International Environmental Diplomacy: The Management and Resolution of Transfrontier Environmental Problems* (Cambridge: Cambridge University Press, 1990) pp.95-121; also, Birnie,P.'International Environmental Law: Its Adequacy for Present and Future Needs' in Burrell,A. & Kingsbury,B.(Eds) *International Politics of the Environment* (Oxford: Clarendon Press, 1992) pp.51-84.

approaches. She notes that international law and its ability to handle environmental conflicts is a hostage to the political willingness of states to address environmental conflicts. Likewise, Bjorkbom argues that although there is an impressive legal and institutional framework for the regulation of environmental conflicts, it is not a sufficient tool for the conduct of environmental diplomacy. He notes that international environmental problems have been addressed in a multilateral diplomatic context, and examines some of the inherent problems such as coordination, in the multilateral negotiation of environmental issues and problems.[33] Falk[34] and Kremenyuk[35] give an overview of the role of international law in its flexible and organic, rather than in its traditional and more rigid setting, in the management of international conflict.

Theoretical Approaches to Mediation

The question of what is, and what is not theoretical is elusive because it often depends on the subjective definition of the researcher. Pruitt classifies it conveniently into speculative theory and experimental research.[36] To Roger Fisher, negotiation theory needs to be both descriptive and prescriptive, and in either case, generalisations drawn must be tested

33 Bjorkbom,L. 'Resolution of Environmental Problems: The Use of Diplomacy' in Caroll,J.E.(Ed) *International Environmental Diplomacy* op.cit., pp.123-137.

34 Falk,R. 'International Law in a Fragmented World: The Challenge of New Issues and New Actors' in Vayrynen,R.(Ed) *New Directions in Conflict Theory* op.cit., pp.79-107.

35 Kremenyuk,V.A. 'Rules of Conduct in the Settlement of Regional Conflicts' in Zartman,I.W.(Ed) *Resolving Regional Conflicts: International Perspectives* (Newbury Park: Sage Publications, 1991) pp.143-152.

36 Pruitt,D.G. *Negotiation Behavior* (New York: Academic Press,1981) p.10.

against experience.[37] Failing this, practitioners and
theoreticians will continue to see international
mediation in dissonant ways,[38] and both might not be
aware when an important and critical paradigmatic
threshold requiring new ideas has been reached.[39] The
result would be eventually as Banks has warned
forcefully: that empirically, things will happen in the
real world that are not predicted by existing theory;
and normatively, questions will be raised for which
existing theory may have no answer.[40] Therefore,
whatever conception of theory is chosen, there is a need
for it to perform, if nothing else, the two tasks
outlined by Banks. This section will review the
mediation literature that approaches the subject from a
game-theoretic and simulation perspective, and that
which raises important ethical and philosophical issues
about third party involvement in conflict generally, and
mediation in particular.

Ethical and Philosophical Issues

The discourse on ethical issues is rooted firmly in
the views taken on the nature of conflict, and on
whether conflict is perceived as being subjective or
objective. There is now wide agreement amongst conflict
analysts that conflict can be both creative and

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37 Fisher,R. 'The Power of Theory' in Bendahmane,D.B. &
McDonald,J.W.(Eds) *International Negotiations: Art and Science*
(Washington: Foreign Service Institute, 1984) pp.57-68:59.

38 See Winham,G.R. 'Practitioners' Views on International
Negotiations' 32 *World Politics* (1979) pp.111-135:117.

39 Sandole,D.J.D. 'Paradigms, Movements, and Shifts: Indicators
of a Social Invention' in Mitchell,C.R. & Webb,K.(Eds) *New Approaches
to International Mediation* (Westport,CT.: Greenwood   Press, 1988)
pp.219-229:219.

40 Banks,M. 'The International Relations Discipline: Asset or
Liability for Conflict Resolution?' in Burton,J.W. & Dukes,F.(Eds)
Conflict: Readings in Management and Resolution (London: Macmillan,
1990) pp.51-70:65. This is indeed a more general phenomenon: on the
application of this trend in sociology, see, Berger,P.L. 'Sociology:
A Disinvitation?' 4 *Dialogue* No. 102, (1993) pp.38-42.

destructive. de Reuck sees it in that way, by observing that conflict is

> "both a source and a consequence of change. It has innumerable and diverse causes and effects in society, and is not a unitary phenomenon. It is a symptom which accompanies the birth of much that is new in society and frequently attends the demise of whatever is outworn. It also sometimes signals the presence of ills in the body politic. It has therefore both destructive and constructive aspects. It can be both a warning and a promise. It heralds progress and growth as well as death and decay."[41]

In this setting, conflict may be seen as being either subjective or objective.[42] If it is subjective, parties must perceive the conflict for conflictual relations to exist. If it is objective, parties need not perceive it for them to be considered to be in conflict.[43] Conflict management relies for its tools on whether a subjectivist or an objectivist point of view is adopted. If the former, management and eventual resolution will occur through altering the perceptions of the parties about the nature of their conflictual relationship. If the latter, management will take the form of altering the structures that are responsible for the conflict. Although somewhat simplified, this summary locates the source of some ethical and philosophical problems of conflict analysis, as evidenced in the literature.

Curle postulates that one of the components of peacemaking is confrontation, which ranges from revolution to non-violent protest, and through which the weaker party in a conflict attempts to restructure the

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41 de Reuck,A. 'The Logic of Conflict: Its' Origin, Development and Resolution' in Banks,M.(Ed) *Conflict in World Society: A New Perspective on International Relations* (Brighton: Wheatsheaf Books, 1984) pp.96-111:99.

42 On which see, Mitchell,C.R. *Peacemaking and the Consultant's Role* (Westmead: Gower Publishing Co., 1981).

43 A good critique of these two approaches is given by Webb,K. 'Structural Violence and the Definition of Conflict' in *World Encyclopaedia of Peace: Vol.2* (oxford: Pergamon Press, 1986) 431- 434.

conflictual relationship.[44] From a slightly different philosophical basis, Webb argues for a utilitarian perception of mediation. He contends that since all mediators have a value in mediation (i.e. an ultimate desire to end violence), they may, in pursuit of that moral aspiration foment conflict in order to create conditions that lead to the cessation of violence, since in that context, "physical violence is not in itself morally wrong".[45] Vayrynen observes that conflicts should not be seen as static since they change over time in response to the social, economic and political dynamics of society.[46] Therefore, conflicts cannot be resolved for good: the task of the conflict manager is to eliminate the violence in *current* conflicts. Since future conflicts will be founded on new socio-economic transformations, their management must wait for those new transformations to reveal themselves.[47]

Whichever way the third party rationalises its functions, the ethical question whether the third party should foment violence in order to end it has not been satisfactorily answered. Instead, the fomenting of violence has been transformed in appearance but not in substance, by being labelled as empowerment. There, the third party might consider that the existing disequilibrium between the conflictants militates against their search for ways to end the conflict (because one of the parties is too strong and does not therefore see the need to negotiate, and the other is too weak to have any bargaining power). In that case,

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44 Curle,A. *Making Peace* op.cit., p.20.

45 Webb,K. 'The Morality of Mediation' in Mitchell,C.R. & Webb,K.(Eds) *New Approaches to International Mediation* op.cit., pp.16-28:18.

46 Vayrynen,R. 'To Settle or to Transform? Perspectives on the Resolution of National and International Conflicts' in Vayrynen,R.(Ed) *New Directions in Conflict Theory* op.cit., pp.1-25.

47 Ibid., p.23.

the third party may increase the resources of the weaker, or reduce those of the stronger, thereby decreasing the disequilibrium between the two. In effect, empowerment reduces the relative strength of the originally stronger party in favour of the weaker one.[48] Eventually, this means the same thing, and raises equally pertinent ethical and philosophical problems of whether a third party is justified, under the guise of making peace, both to create and cause violence.

The philosophical terrain that is traversed by these issues, and the ethical grounds on which they are rooted, are bordered by the debate on whether conflict is subjective or objective. Thus, the argument is whether the philosophical position that conflict can be both destructive and constructive is a sufficient warrant for fomenting violence. In ethical terms, the debate centres on the basis on which an outsider to the conflict can, for reason only that he rationalises his actions by reference to the objective and subjective dichotomy, exacerbate the conflict by fomenting violence; and particularly whether that should be so in the face of uncertainty as to the result of that violence.[49]

Game Theory and Simulation

The literature on game theory and simulation as they relate to mediation, raises questions of a different category and magnitude. The centre-piece of the issues raised is the problem whether purely theoretical findings serve to develop the field, and if so, to what extent. Thus, if such findings are not found to be useful for the analysis and practice of

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48 See Groom,A.J.R. & Webb,K. 'Injustice, Empowerment and Facilitation in Conflict' 13 *International Interactions* (1987) pp.263-280: they see the problem as being one of making the parties symmetrical, through disempowerment.

49 Webb argues that because of this uncertainty, "only very rarely would the peace worker be justified in advocating behavioural violence to end structural violence." See Webb, 'Structural Violence and the Definition of Conflict' op.cit., p.434.

mediation, then they should be rejected. One side of this issue is stated by Zartman, who warns that theoretical approaches and models "developed independently of the subject can generate counterintuitive insights [which] are not applicable unless they relate to its true nature."[50] On the other side is the argument that whether or not such insights are useful for the practice of mediation, they are nonetheless valuable because they expand the range of inquiry. In so doing, they may illuminate perspectives which real conflict might not have revealed.[51]

Game theory operates on the triple assumptions that conflicts are conducted rationally, that there is no time limit on the players' ability to choose a course of action, and that the players can think through their opponents' moves throughout the game.[52] It takes a zero-sum view of conflict, since it is based largely on a vision of the world wherein the primary end is the struggle for power.[53] Although Schelling[54] tried to reconstruct game theory by including in it a non-zero sum factor such as communication (which lacked in traditional games such as 'Chicken' and 'Prisoner's Dilemma'), this psychological dimension did not help because

> "overwhelmingly...strategic analysis postulates 'actors' whose only psychological traits are those which the strategist finds convenient to endow them with, or those which the strategists, in their

50 Zartman,I.W. 'Negotiation as a Joint Decision Making Process' 21 *Journal of Conflict Resolution* (1977) pp.619-638:619.

51 Rapoport,A. 'Conflict Resolution in the Light of Game Theory and Beyond' in Swingle,P.(Ed) *The Structure of Conflict* (New York: Academic Press, 1970) pp.1-43:39,42.

52 Ibid., p.2.

53 Rapoport,A. *Strategy and Conscience* (New York: Schoken Books, 1969) p.110.

54 Schelling,T.C. *The Strategy of Conflict* (Cambridge,MA.: Harvard University Press, 1960).

professional involvement, imagine themselves to have."[55]

But as Axelrod argues, in an anarchic international society, it is possible to use game theory (through the iterated Prisoner's Dilemma, which takes into account the possibility of mutual gain through cooperation, the possibility that one party will choose to exploit the other, and the possibility that neither party will choose to cooperate), to examine the potential structure of cooperation between actors in the system. In this regard, Axelrod postulates an 'evolutionary perspective' through which the process by which actors in the system select a strategy of cooperation (or non-cooperation) can be identified and analysed.[56]

The literature on conflict studies (especially negotiations) argues that game theory models are of limited use because of their *a priori* assumption that negotiations will end in agreement.[57] Game theory also assumes that every conflict is new whereas in real life, as Rangarajan points out, every conflict has a memory.[58] Supporters of game theory as an aid to negotiation point out that it has increased the precision of the language used in negotiation analysis,[59] and that despite its many problems, its modern developments cannot easily be ignored by policy makers.[60] Zagare has used game theory

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55 Rapoport, A. *Strategy and Conscience* op.cit., p.123.

56 Axelrod,R. *The Evolution of Cooperation* (New York: Basic Books, 1984).

57 Rangarajan,L.N. *The Limitation of Conflict: A Theory of Bargaining and Negotiation* (London: Croom Helm, 1985) p.7.

58 Ibid., p.45. This point is later illustrated with reference to the Uganda conflict: see Chapter 8.

59 Malitza,M. 'Small States and the Peaceful Settlement of Disputes' in Lall,A.S.(Ed) *Multilateral Negotiation and Mediation* op.cit., pp.77-88:78.

60 Binmore,K.G. 'Why Game Theory "Doesn't Work"' in Bennett,P.G. *Analysing Conflict and Its Resolution: Some Mathematical Contributions* (New York: Oxford University Press, 1987) pp.23-42.

to analyse the Paris Peace Talks of 1968-1973; he tries to demonstrate how the study of international relations and diplomatic history can benefit from the insights of game theory, particularly "as an explanatory tool and as an instrument for retrodicting historical events."[61] Others contend that in its modified form as hypergame analysis, it holds much promise for conflict management and resolution.[62]

Nicholson's analysis of game theory is part of a broader defence of rationality as a framework for conflict analysis. While admitting some of the limitations of game theory, he nevertheless considers it an important aid to the study of conflict, because not only do games (non-zero, n-person), provide insight into the nature of complex conflict, but they also serve to clarify ideas about conflict generally. He submits that by analysing conflict in terms of different games, it is possible to gain insight into the basic nature of conflict.[63]

The literature on simulation as an aid to enhancing understanding and knowledge about negotiations takes a trend similar to that on game theory. One of the most enduring criticisms of simulation is well argued by Saunders, who asserts that it is necessary to analyse the pre-negotiation stages in order to establish "useful links between negotiation theory, the conduct of diplomacy, and foreign policy."[64] Simulations fail to do

61 Zagare,F.C. 'A Game Theoretic Analysis of the Vietnam Negotiations: Preferences and Strategies, 1968-1973' in Zartman,I.W.(Ed) *The Negotiation Process: Theories and Applications* (London: Sage Publications, 1978) pp.111-132:132.

62 Bennett,P.G. 'Hypergames as an Aid to Mediation' in Mitchell,C.R. & Webb,K.(Eds) *New Approaches to International Mediation* op.cit., pp.195-218.

63 Nicholson,M. *Rationality and the Analysis of International Conflict* (Cambridge: Cambridge University Press, 1992).

64 Saunders,H.H. 'The Pre-Negotiation Phase' in Bendahmane,D.B. & McDonald,J.W.(Eds) *International Negotiation: Art and Science* op.cit., pp.47-56:48. This theme is taken up further in the critical

this because they concentrate on the last stage of negotiations, where the parties actually sit down to negotiate. Putnam underscores one of the fundamental failings of theoretical writings based on simulations, and one of their most misleading aspects: their assumption that actors in negotiations are unitary.[65] This supposition is heavily censured because it tends to "obscure much of the richness and complexity of the bargaining process."[66] For example, Wittmer *et al* report on a simulated mediation in organisational conflict, and derive therefrom support for Touval's thesis on impartiality. Their abrupt extrapolation from the organisational to the international level, and the fact that they do not take into account the wider implications of mediation render their efforts unconvincing.[67]

Supporters of the simulation process like Smoker, predict that once social scientists develop computer literacy, they will be able to use simulation for the study of complex social processes, and "the symbiosis between complex conflict theory and the new computer technology may well provide a creative confluence for the simulation of international processes."[68] Perhaps the best summary of the shortcomings of game theory and simulations is that offered by Rapoport who, though he

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analysis in chapter 8.

65 Putnam,R.D. 'Diplomacy and Domestic Politics: The Logic of Two Level Games' 42 *International Organization* (1988) pp.427-460.

66 Colosi,T. 'A Model for Negotiation and Mediation' in Bendahmane,D.B. & McDonald,J.W.(Eds) *International Negotiation: Art and Science* op.cit., pp.15-33:17.

67 Wittmer,J.M., Carnevale,P. & Walker,M.E. 'General Alignment in Biased Mediation' 35 *Journal of Conflict Resolution* (1991) pp.594-610.

68 Smoker,P. 'Simulations of International Conflicts' in Bennett,P.G.(Ed) *Analysing Conflict and Its Resolution* op.cit., pp.149-176:150-151. What Smoker fails to note, however, is that in this use, data can be subjectively fed into computers, and hence be manipulated.

did much to develop game theory, did not lose sight of its limitations:

> "The strategist will not get the sort of knowledge he wants because he does nothing to inquire into its underpinnings, namely, the deep commitments of people, their concepts of equity, their real hierarchies of values...and their noble and ignoble impulses, which may invalidate the strategist's entire conceptual system. The strategist will not get the right answers in matters beyond his system of thought because he does not ask the right questions. He cannot ask the right questions because his libidinal commitment...is to power *over* the other, not knowledge *of* the other."[69]

Historical Approaches

There are two classes of historical literature on international mediation and negotiation. The first comprises mainly autobiographical writing, in the form of memoirs of leading actors in various mediations. Although some of these writings are sometimes almost pejoratively referred to as 'anecdotal' in the literature, a fair amount of them are a source of useful information for the student of conflict. They give useful insights into the official, and sometimes non-official, minds of decision makers at the centre of important mediations. Indeed, some writings, such as those of Kissinger[70] have the additional merit of being both scholarly and analytical. While the further charge against this literature as a source of information - that it tends to be self-serving - is often true,[71]this is tempered and counterpoised by the benefit of historical hindsight on the part of the reader.

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69 Rapoport,A. *Strategy and Conscience* op.cit., p.124. He might have added that this problem is compounded within a multilateral setting.

70 See Kissinger,H. *The White House Years* (Boston: Little, Brown, 1979); also,Kissinger,H. *Years of Upheaval* (Boston: Little, Brown, 1982).

71 Such as Haig,A. *Caveat: Realism, Reagan and Foreign Policy* (London: Weidenfeld & Nicholson, 1986); Garba,J. *Diplomatic Soldiering: Nigerian Foreign Policy, 1975-1979* (Ibadan: Spectrum Books, 1987); Riad,M. *The Struggle for Peace in the Middle East* (London: Quartet Books, 1981).

This literature is a particularly rich source of insights into the psychological minds of the participants in past negotiations and mediations. It is of great benefit to the conflict analyst attempting to understand why certain conflicts took the directions that they did. The memoirs of Carter,[72] Sadat,[73] and to a lesser extent those of Carrington[74] are especially rich sources in this regard. Others, like Waldheim, illustrate the gulf that may exist between what practitioners do, and what theoreticians think practitioners do. Waldheim repeatedly points out the need for a mediator, at least one in the position of an international organisation, to be impartial.[75]

The second type of historical mediation literature consists of case studies which attempt an academic analysis of past mediations. There are two types of case studies: those where the data about the cases is carried in data sets, and which because they contain multiple cases enable comparative analysis and study. The second type are those where the researcher collects the actual raw data from the field. While the former is useful because it enables comparative study, the latter has the merit that the researcher is able to ask the particular questions that interest him.[76]

Historical case studies serve a useful function since they enable the development of conceptual thinking about the process of mediation. By allowing a comparison between completed mediations, they permit

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72 Carter,J. *Keeping Faith* (New York: Bantam Books, 1982).

73 Sadat,A. *In Search of Identity* (Glasgow: Fontana, 1978).

74 Carrington,P.A.R. *Reflect on Things Past* (Glasgow: Fontana, 1989). See especially chapter 13 on the Rhodesian negotiations at Lancaster House.

75 Waldheim,K. *The Challenge of Peace* (London: George Weidenfeld & Nicholson, 1980).

76 See Chapter 1.

generalisations across cases, and thus mitigate one of the major pitfalls of idiographism. Some of this literature has on that basis challenged the validity of received wisdom about certain concepts of mediation, such as the requirement of impartiality and the role of power.[77] Others have made useful contributions to mediation theory by highlighting such aspects as the right moment to undertake mediation, and the general management of conflict.[78]

Other case study based literature has made important contributions to mediation theory by displaying the interaction between the conflict system and the third party entering into it.[79] Pioneering insights into the complexities of mediation by non-official third parties in conditions of civil war have also emerged from this category of literature.[80] Rothchild and Hartzel, in their study of the Angolan conflict, have shown that the same conflict can have a dual intra-state and inter-state existence, but that the processes of its resolution, while co-existing, may emphasise different requirements on the part of the intervening third party.[81] A similar point is made by

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77 For example, Touval,S. 'Biased Intermediaries: Theoretical and Historical Considerations' 1 *Jerusalem Journal of International Relations* (1975) pp.51-70. This issue is one of the main concerns of this study, and is addressed in later chapters.

78 For example, Bendahmane,D.B. & McDonald,J.W.(Eds) *Perspectives on Negotiation: Four Case Studies and Interpretations* (Washington: Foreign Service Institute, 1986). The concept of 'ripe moments' is reinterpreted in the light of the Uganda mediation in Chapter 8.

79 Jabri,V. *Mediating Conflict: Decision-Making and Western Intervention in Namibia* (Manchester & New York: Manchester University Press, 1990).

80 Assefa,H. *Mediation in Civil Wars: Approaches and Strategies - The Sudan Conflict* (Boulder,CO.: Westview Press, 1987); also, Assefa,H.'World Council of Churches Mediation and the Sudan Civil War' in Mitchell,C.R. & Webb,K.(Eds) *New Approaches to International Mediation* op.cit., pp.147-167.

81 Rothchild,D.G. & Hartzel,C. 'Great and Medium Power Mediations: Angola' in Zartman,I.W.(Ed) *Resolving Regional Conflicts* op.cit., pp.39-57; for a closer analysis of that conflict, see, Bender,G.J. 'Peacemaking in Southern Africa: The Luanda-Pretoria Tug of War' 11

Bercovitch, who states that mediation is a dynamic process which operates in different contexts of varying complexity, and should therefore be studied systematically.[82] The role of individual personalities and its effect on the process of mediation comes out strongly in Chan's study of the role of the Commonwealth, particularly in the Zimbabwean mediation,[83] while the notion that a mediator should necessarily be an outsider to the conflict is challenged convincingly in a study of the Nicaraguan conflict.[84]

Social, Cultural and Psychological Approaches

As noted earlier, Deutsch made the observation that theoretical approaches to mediation reflect the academic discipline of the theorist. In mediation theory, this was especially true in the late 1960s and early 1970s, when as a result of the growth of the behavioural revolution in international relations and in the social sciences generally, 'scientific' methods became popular across the social sciences. Whereas this did not mean that other approaches ceased to co-exist with these new ones, there was a proliferation of works based especially on 'scientific' rationalisations during that period. Although these approaches did not remain pre-eminent for very long, they are still influential in some quarters. Indeed, they still provide some useful insights into the process of mediation.

Third World Quarterly (1989) pp.15-30.

82 Bercovitch,J. 'The Structure and Diversity of Mediation in International Relations' in Bercovitch,J. & Rubin,J.Z.(Eds) _Mediation in International Relations_ op.cit., pp.1-29.

83 Chan,S. _The Commonwealth in World Politics: A Study of International Action, 1965-1985_ (London: Lester Crook Academic Publishing, 1988).

84 Wehr,P. & Lederach,J.P. 'Mediating Conflict in Central America' 28 _Journal of Peace Research_ (1991) pp.85-98. See further, chapter 8, where this idea is discussed further in the context of the Uganda mediation.

A pioneering text in this area is Druckman's edited volume.[85] He argues that personality is central to the study of negotiation behaviour. To him there is a complex relationship between personality and negotiating behaviour, since personality affects negotiation behaviour during the various stages of negotiation.[86] In this connection, Winham accepts that psychological factors are inputs in the negotiating process, but not significant ones. He advances the view that the greater the complexity of negotiations, the less personality inputs are likely to affect negotiation behaviour.[87] Oppenheim decries the reduced input of psychological approaches in international relations generally, and pleads for its revived role, particularly in the area of decision making.[88]

An important cross-section of the literature on socio-cultural factors examines them against actual negotiations. The conceptual background to these studies is provided by Unterman.[89] He places discussions on cross-cultural influences on negotiation into two theoretical models. One model hypothesises that the volume and intensity of international negotiations has produced a group of people who operate within an 'internationalised culture', and for whom cultural differences have no effect in cross-cultural

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85 Druckman,D.(Ed) *Negotiations: Social-Psychological Perspectives* (Beverly Hills: Sage Publications, 1977).

86 Druckman,D. 'Social-Psychological Approaches to the Study of Negotiation' in Druckman,D.(Ed) *Negotiations: Social-Psychological Perspectives* op.cit., pp.15-44:29-30.

87 Winham,G.R. 'International Negotiation in an Age of Transition' 35 *International Journal* (1979/80) pp.1-20.

88 Oppenheim,A.N. 'Psychological Processes in World Society' in Banks, M.(Ed) *Conflict in World Society* op.cit., pp.112-127. Psychological factors were important in the Uganda mediation, and are discussed in that context in Chapter 7 and 8.

89 Unterman,I. 'Negotiation and Cross-Cultural Communication' in Bendahmane,D.B. & McDonald,J.W.(Eds) *International Negotiations: Art and Science* op.cit., pp.69-75:71-72.

negotiations. The second model posits that although the outward manifestations of international negotiators may be similar, their internal motivations and methodologies may be greatly influenced by their cultures.

Bozeman argues strongly that not only does culture determine the views taken of conflict, but also of the proper methods for its resolution.[90] This theme is adopted by Cohen in his study of Egyptian-Israeli negotiations since 1948. He submits that the process has been hindered by various cross-cultural antinomies, particularly differing views on the role of bargaining, their contrasting legal traditions, and their different civilisations, which have produced a sense of vulnerability in Israelis, and flexibility in Egyptians.[91] Similarly, Blaker traces Japanese approaches to negotiation to certain domestic ideals of conflict resolution, especially harmonious cooperation, and the warrior ethic.[92] Holt, Chang and Steingard[93] suggest that some problems of modern mediation such as the mediator's dilemma (how to settle the dispute while at the same time remaining uninvolved with the parties), are rooted deep in western culture, but might be solved by metaphoric analysis, which in this case would involve the application of the metaphors of Taoist philosophy, whose teachings require the mediator to be indifferent and non-directive.

90 Bozeman,A.B. *Conflicts in Africa: Concepts and Realities* (Princeton: Princeton University Press, 1976).

91 Cohen,R. 'Deadlock: Israel and Egypt Negotiate' in Korzenny,F. & Ting-Toomey,S.(Eds) *Communicating for Peace: Diplomacy and Negotiations* (Newbury Park: Sage Publications, 1990) pp.136-153.

92 Blaker,M. *Japanese International Negotiating Style* (New York: Columbia University Press, 1977); some aspects of Japanese negotiating psychology are also briefly discussed by Kuroda,M. 'Talking Tough About Trade' 7 *Journal of Japanese Trade and Industry* (1988) pp.30-32.

93 Holt,G.R., Chang,H-C & Steingard,D. 'Taoism and the Metaphoric Analysis of International Dispute Mediation' in Korzenny,F. & Ting-Toomey,S.(Eds) *Communicating for Peace* op. cit., pp.118-135.

Malitza has tested some of the psychological theories against an actual case study, the Zimbabwean negotiations. He tests Cross's laboratory findings that negotiators choose their bargaining strategies to optimise their payoffs, and modify those strategies as expectations change;[94] Bartos's theory that negotiators strive to attain the mid-point between their past expectations and present offers,[95] and Spector's theory that negotiating strategies are determined by the interaction of bargainer personalities.[96] His findings indicate that each of these theories covers only partially the real process of negotiation, and at most a "fragment of the truth."[97]

Unofficial Intervention

The literature on unofficial third party intervention in conflict is fairly diverse. This diversity is explicable partly by the fact that the term covers many activities, all linked together only because they are not formal, track one interventions. However, the general thrust of the literature is that this type of intervention plays an important role in the management of conflict, not least because unofficial diplomats sometimes have greater access, and "the potential to follow more effective novel approaches than those of the traditional...mediator."[98] Berman and Johnson trace the development of unofficial diplomacy, and note that its growth and development reflects

94 Cross,J.G. 'Negotiation as a Learning Process' 21 *Journal of Conflict Resolution* (1977) pp.581-606.

95 Bartos,O.J. 'A Simple Model of Negotiation: A Sociological Point of View' 21 *Journal of Conflict Resolution* (1977) pp.565-579.

96 Spector,B.I. 'Negotiation as a Psychological Process' 21 *Journal of Conflict Resolution* (1977) pp.607-618.

97 Malitza, 'Small States and the Peaceful Settlement of Disputes' in Lall,A.(Ed) *Multilateral Negotiation and Mediation* op. cit., pp.77-88:80.

98 Heraclides,A. *The Self-Determination of Minorities in International Politics* (London: Frank Cass, 1991) p.56.

changing perceptions about international relations.
They note that since states are no longer the only
actors in the international scene, a plurality of actors
engaged in various aspects of diplomacy has emerged.[99]

McDonald argues that track two diplomacy is not a
substitute for track one, but operates parallel or in
support of it.[100] To him, phrases such as 'citizen
diplomacy', 'unofficial diplomacy' and 'supplemental
diplomacy' are synonymous with track two diplomacy.
Burton disagrees with this formulation of track two
diplomacy. He contends that such phrases are all-
inclusive, and concern themselves with both
intercommunal and international affairs. Track two
diplomacy, properly stated, deals with matters normally
dealt with at a diplomatic level, but by people who are
not constrained by official ties.[101] Burton argues
further that in working towards building a theory of
conflict resolution, the identification of track two was
an important first step, but that the second and vital
step is to move towards track two as the main one.[102]

Of all the writers on track two diplomacy in any of
its aliases, Burton has made the most sustained effort
at explicating its theoretical basis. Conceptually,
track two is directly opposed to track one, since

> "[track two] is not just about unofficial methods
> within this allegedly political realistic world of
> power politics. Indeed, second track diplomacy has
> its official applications. It is not about
> improved negotiating skills so that 'leverage' and

99 Berman,M.R. & Johnson,J.E. 'The Growing Role of Unofficial
Diplomacy' in Berman,M.R. & Johnson,J.E.(Eds) *Unofficial Diplomacy* (New
York: Columbia University Press, 1977) pp.1-33.

100 McDonald,J.W. & Bendahmane,D.B.(Eds) *Conflict Resolution:
Track Two Diplomacy* (Washington: Foreign Service Institute, 1987) p.1.

101 Burton,J.W. & Dukes,F. *Conflict: Practices in Management,
Settlement and Resolution* op. cit., p. 139.

102 Burton,J.W. 'Conflict Resolution as a Political Philosophy'
in Sandole,D.J.D. & van der Merwe,H.(Eds) *Conflict Resolution Theory
and Practice: Integration and Application* (Manchester & New York:
Manchester University Press, 1993) pp.55-64:58.

> power can be employed more effectively...It is about an altered set of hypotheses about world politics and human behaviour."[103]

The relationship between the two tracks of diplomacy is that track two is exploratory, and eventually moves to an official level: it discovers options that subsequently can be negotiated.[104] Berman and Johnson take a similar view, with the difference that for them, one of the important characteristics of what they term unofficial diplomats is that they can be disowned at any time by those in track one, for whom they were carrying out exploratory functions.[105] Indeed, as Hare recounts from his experiences of unofficial mediation in Cyprus, some track one organisations such as the United Nations would, while supportive of track two efforts, prefer them to have no official affiliation, nor confer on them any official recognition.[106]

Montville has analysed the phases that track two should go through, particularly in the resolution of conflict. To him, there are three interdependent phases: small problem-solving workshops that bring together conflicting groups informally; influencing public opinion, in an attempt at "reducing the sense of victimhood of the parties and rehumanizing the image of the adversary", and a third, (optional) phase, addressing cooperative economic development.[107] The

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103 Burton,J.W. 'Track Two: An Alternative to Power Politics' in McDonald,J.W. & Bendahmane,D.B.(Eds) *Conflict Resolution: Track Two Diplomacy* op. cit., pp.65-72:67.

104 Ibid., p.72. See also Chapter 1.

105 Berman,M.R. & Johnson,J.E.(Eds) *Unofficial Diplomats* (New York: Columbia University Press, 1977) p.74.

106 Hare,A.P. 'Informal Mediation by Private Individuals' in Bercovitch,J. & Rubin,J.Z.(Eds) *Mediation in International Relations* op.cit., pp.52-63:58-59.

107 Montville,J.V. 'The Arrow and the Olive Branch: A Case for Track Two Diplomacy' in McDonald,J.W.& Bendahmane,D.B.(Eds) *Conflict Resolution: Track Two Diplomacy* op.cit., pp.5-20:7-8. The absence of the second of these phases was partly responsible for the outcome of

third of these phases is one way by which the paradox of track two (that it works best with non-official parties, but has less influence on the resolution of conflict because official representatives are not part of the process[108]) can be resolved.

Problem-Solving Workshops

Different writers have examined various aspects of problem-solving workshops. While acknowledging the merits of the problem-solving workshop, Kelman identifies some of its inherent problems, like the problem of transfer (maintaining changed attitudes upon return home), and re-entry.[109] But Kelman is also at pains to explain the special character of problem-solving, and to delineate its distinction from mediation. To him, not to appreciate the difference in their aims and processes leads to unduly harsh conclusions about their place in conflict management. Such conclusions are arrived at by Bercovitch, who views problem-solving workshops as a useful "social innovation, but...too loose and undeveloped...and hence of limited relevance to the study of international conflict."[110]

Kelman submits that participants in problem-solving workshops should ideally have some access to the leadership of their communities, and that informal approval for their participation should be obtained from the authorities. Thus, "participants should be individuals who are generally influential within their

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the Uganda mediation: see Chapter 8.

108 Druckman,D. 'Four Cases of Conflict Management: Lessons Learned' in Bendahmane,D.B. & McDonald,J.W.(Eds) *Perspectives on Negotiations* op.cit., pp.263-288:277.

109 Kelman,H.C. 'The Problem-Solving Workshop in Conflict Resolution' in Berman,M.R. & Johnson,J.E.(Eds)*Unofficial Diplomats* op. cit., pp.168-200:193-198.

110 Bercovitch,J. 'A Case Study of Mediation as a Method of International Conflict Resolution: The Camp David Experience' 12 *Review of International Studies* (1986) pp.43-65:45.

respective societies...and who have potential access to political leaders."[111] In Kelman's view, participants should be influential,[112] while to Burton they are best 'blessed' officially.[113]

Hill considers some of the difficulties of the problem-solving workshop, and notes that while a good source of normative theory, it has serious limitations as a scientific theory, particularly because hypotheses generated cannot be falsified by means of the workshops.[114] Burton has countered this suggestion by asserting that in the complex study of the behavioural relations of humans as persons in open systems, no controlled experiments are possible, or even desirable because such experiments are "too simplistic for such complex realities."[115] Foltz attempts a more general commentary on the philosophy behind problem-solving

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111 Kelman,H.C. & Cohen,S.P. 'The Problem-Solving Workshop: A Social-Psychological Contribution to the Resolution of International Conflicts' 13 *Journal of Peace Research* (1976) pp.79-90:84.

112 This theme is also articulated in Kelman,H.C. 'Interactive Problem-Solving: A Social-   Psychological Approach to Conflict Resolution' in Burton,J.W. & Dukes,F.(Eds) *Conflict: Readings   in Management and Resolution* op.cit., pp.199-215:204-205.

113 See Groom,A.J.R. 'Problem Solving in International Relations' in Azar,E.A. & Burton,J.W.(Eds) *Conflict Resolution: Theory and Practice* (Brighton: Wheatsheaf Books, 1986) pp.85-91:91.

114 Hill,B. 'An Analysis of Conflict Resolution Techniques: From Problem Solving Workshops to Theory' 26 *Journal of conflict Resolution* (1982) pp.109-138:111. This is however a wider problem, and applies albeit to a lesser extent to international mediation, where there is the "difficulty of studying [it] in its natural setting" (Bercovitch,J. 'International Mediation' 28 *Journal of   Peace Research* (1991) pp.3-6:3), knowing "who said what to whom and with what effect" (Zartman,I.W. 'Conflict Reduction: Prevention, Management and Resolution' in Deng,F.M. & Zartman,I.W.(Eds) *Conflict Resolution in Africa* (Washington: The Brookings Institution, 1991, pp.299-319:314) and hence of undertaking a textual analysis of mediation sessions which is difficult because data about them is rarely available (Webb,K. *Third Party Intervention and the Ending of Wars: A Preliminary Approach* (Kent Papers in Politics and International Relations,(1994) Series 3 No.7, p.28).

115 Burton,J.W. 'The History of International Conflict Resolution' in Azar,E.A. & Burton,J.W. (Eds) *International Conflict Resolution: Theory and Practice* op.cit., pp.40-55:49.

workshops,[116] while Doob highlights some of the practical problems encountered in their organisation, and with less than convincing evidence, remains optimistic as to their efficacy.[117] Mitchell observes that, while the usefulness of problem-solving workshops in practical conflict resolution is widely acknowledged, their theory building potential is an equally important area for future, systematic research.[118]

A different kind of problem-solving workshop is third party consultation, as developed amongst others, by Ronald Fisher. This approach attempts to improve communication between the parties in conflict, and to analyse their relationship.[119] In its more developed form, it is intended to play a complementary role to mediation, particularly during the pre-negotiation stages.[120]

Unofficial Intervention By Non-Governmental Organisations

The role of non-governmental organisations in the unofficial management of conflict is little documented. In this regard, Toth offers a very general discussion of the role of the church in conflict resolution.[121] Austin gives a detailed analysis of the Church of England's

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116 Foltz,W.J. 'Two Forms of Unofficial Conflict Intervention: The Problem Solving and the Process Promoting Workshops' in Berman,M.R. & Johnson,J.E.(Eds) *Unofficial Diplomats* op.cit., pp.201-221.

117 Doob,L.W.(Ed) *Resolving Conflict in Africa: The Fermeda Workshop* (New Haven: Yale University Press, 1970).

118 Mitchell,C.R. 'Problem-Solving Exercises and Theories of Conflict Resolution' in Sandole,D.J.D. & van der Merwe,H. (Eds) *Conflict Resolution Theory and Practice* op.cit., pp.78-94:79.

119 Fisher,R. 'Third Party Consultation as a Method of Intergroup Conflict Resolution' 27 *Journal of Conflict Resolution* (1983) pp.301-334:302.

120 Fisher,R. & Keashly,L. 'The Potential Complementality of Mediation and Consultation within a Contingency Model of Third Party Intervention' 28 *Journal of Peace Research* (1991) pp.29-42:37.

121 Toth,K. 'The Role of the Church in Conflict Resolution' in Thakur,R.(Ed) *International Conflict Resolution* (Boulder,CO.: Westview Press, 1988) pp.211-222.

foreign policy as it related to the conflicts in southern Africa,[122] while Yarrow describes the Quaker approach to conflict management, which is said to be founded on the pillars of a humanistic approach, confidentiality, pacifism and consensus.[123] Assefa discusses the role of the World Council of Churches and the All Africa Conference of Churches in mediating the Sudan civil war.[124] He notes that this kind of unofficial intervention is particularly suitable in civil wars, where track one participation may be witheld as a matter of policy, so as not to confer legitimacy and prestige on those parties in the civil war who are not the government in power.[125]

This literature on unofficial intervention reveals that this area is still underdeveloped both in the theory and practice of conflict management. But, although a robust area, modes and practices of its operationalisation are still developing, albeit rather slowly. But they are doing so in ways that will strengthen its contribution especially to the resolution of protracted conflicts.[126]

Mediation By International Organisations

The complexity of the international environment has added unofficial involvement in mediation to that of states, and also led to, and indeed encouraged,

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122 Austin,G. 'The Church of England and Southern Africa During the 1970s' in Chan,S. & Jabri,V.(Eds) *Mediation in Southern Africa* (London: Macmillan, 1993) pp.3-26.

123 Yarrow,C.H.M. *Quaker Experiences in International Conciliation* (New Haven: Yale University Press, 1978).

124 Assefa,H. *Mediation in Civil Wars* op.cit. This mediation is discussed in terms of OAU conflict management in Chapter 4.

125 Assefa, 'World Council of Churches Mediation and the Sudan Civil War' in Mitchell,C.R. & Webb,K.(Eds) *New Approaches to International Mediation* op.cit., pp.156-157.

126 Kelman, 'Informal Mediation by the Scholar/Practitioner' op.cit., p.94. Possible future roles for track two diplomacy in conflict management in Africa are suggested in Chapter 9.

participation by international organisations in mediation or mediation-supporting activities.[127] In this connection, the United Nations publication, *The Blue Helmets*[128]is a rich documentary source of United Nations efforts in this endeavour. Although not about mediation *per se*, it explains the role of peacekeeping as being *inter alia* to create a climate in which peacemaking, which may involve mediation,[129] can prosper, as for example in Cyprus.[130] Writing on the role of the United Nations in the Middle East conflict, Jonah argues that international organisations have certain advantages when they act as third parties, since they have no vested interests in the parties or the dispute.[131] They can also provide a face saving alternative since a party making a compromise does so as a concession to the international community rather than to the adversary. He argues interestingly, that like unofficial diplomats, international organisations can, if necessary, be disavowed by either or both parties to a conflict more readily than an intermediary acting on behalf of a state.[132] Thornton examines the role of regional

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127 Bercovitch, 'The Structure and Diversity of Mediation in International Relations' op.cit., pp.13-14.

128 *The Blue Helmets: A Review of United Nations Peacekeeping* (New York: United Nations, 1990).

129 Boutros-Ghali,B. *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peacekeeping* (New York: United Nations, 1992) pp.20-22.

130 See *The Blue Helmets* op.cit., p.298. On the conflict and peacemaking efforts in Cyprus, including those of the United Nations, see for example, Polyviou,P.G. *Cyprus: Conflict and Negotiation, 1960-1980* (London: Duckworth, 1980); Groom,A.J.R. 'Cyprus: Light at the End of the Tunnel' 9 *Millennium* (1984) pp.245-257; also, Groom,A.J.R. 'Cyprus: Back in the Doldrums' *The Round Table* No.300, (1986) pp.362-383.

131 Jonah has in mind a specifically UN role: but as is argued in Chapter 4, his formulation in this respect is not true of organisations such as the OAU.

132 Jonah,J.O.C. 'The United Nations and International Conflict: The Military Talks at Kilometer Marker 101' in Bercovitch,J. & Rubin,J.Z.(Eds) *Mediation in International Relations* op.cit., pp.176-205:177.

organisations like the Association of South East Asian Nations (ASEAN) in regional conflict management, and notes that their efficiency during the cold war was hampered by super power involvement in those conflicts.[133]

A fair number of the studies on the role of international organisations in mediation (and conflict management generally), have focused on the Organisation of African Unity (OAU). The general tone of many of these studies is represented by Amoo and Zartman, who argue that mediation by regional organisations should not be seen as being undertaken by the organisations as composite actors, but by individual member states of those organisations. They contend that "in most of its mediatory activity, the regional organization is a locus and a flag, not a corporate actor."[134] The point being made here is that regional organisations do not themselves, *qua organisations*, act as mediators, and that therefore, "basic questions of interest and leverage...have to be answered in terms of the member states and not in terms of the organization."[135] The eventual point being canvassed is thus one which Zartman has laboured elsewhere: that neither the sum nor the parts of the OAU can arrive at a successful mediation unassisted.[136] A neatly evasive version of this thesis is postulated by Nye, who while concluding that regional organisations (including the OAU) "merely contribute

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133 Thornton,T.P. 'Regional Organizations in Conflict Management' in Zartman,I.W.(Ed) *Resolving Regional Conflicts* op.cit., pp.132-142.

134 Amoo,S.G. & Zartman,I.W. 'Mediation by Regional Organizations: The Organization for African Unity (OAU) in Chad' in Bercovitch,J. & Rubin,J.Z.(Eds) *Mediation in International Relations* op.cit., pp.131-148:131.

135 Ibid. But see the discussion of OAU conflict management in Chapter 4.

136 See Zartman,I.W. *Ripe for Resolution: Conflict and Intervention in Africa* (New York: Oxford University Press, 1989-updated ed.).

small but useful pieces to the puzzle of peace",[137] finds that regional consensus and impartiality broke down in the cases of internal conflict that he studied.[138]

Foltz's analysis of the role of the OAU in the management of Africa's conflicts is more forthright. Having examined the cornerstones of OAU conflict management (i.e. non-interference, respect for territorial integrity, and African solutions to African problems), he recognises a subtle but important component of OAU peacemaking: that "it is more important that a dispute be resolved *within* the framework of the organization than that it be formally resolved *by* the organization."[139] This distinction has been made elsewhere,[140]but Foltz goes beyond it and concludes that the OAU's system of conflict management is not misguided, but will be more effective once it addresses the question of creating an economically enabling environment. Lancaster's views are not much different: she notes that some sub-regional organisations, even though created for economic purposes, have served as fora for intervention in conflicts between member states. Indeed, she notes that the success of the Economic Community of West African States (ECOWAS) in this respect, in the dispute between Ghana and Togo in 1988, and Senegal and Mauritania in 1989, led to the

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137 Nye,J.S. *Peace in Parts: Integration and Conflict in Regional Organization* (Lanham: University Press of America, 1987) p.199.

138 Ibid., p.159.

139 Foltz,W.J. 'The Organization of African Unity and the Resolution of Africa's Conflicts' in Deng,F.M. & Zartman,I.W.(Eds) *Conflict Resolution in Africa* (Washington: The Brookings Institution, 1991) pp.347-366:357.

140 In Meyers,B.D. 'Intraregional Conflict Management by the Organization of African Unity' 28 *International Organization* (1974) pp.345-374.

mooting of the creation of an ECOWAS Standing Mediation Committee.[141]

Mediation *In* International Organisations

The mediatory role of states and individuals within the multilateral negotiating context of international organisations is important, yet often ignored. In this role, bilateral negotiations, shading into mediation, take place within the overall multilateral context. Zartman sets out the context of mediation in international organisations, by observing that:

> "When parties do not feel equally constrained to negotiate, when power or aims are out of balance, or when trust is elusive, a *mediator* is especially useful. Mediators make communication possible when it breaks down; they think up new formulas for agreement when the parties run out of ideas; they can add side payments when it becomes otherwise hard to come up with a positive sum; they become the vehicle of trust when the parties do not trust each other; and they can provide some pressure to move the parties to agreement. In a large multilateral negotiation, mediation may come from an individual...or from an international organization, such as the Commission for the E u r o p e a n   C o m m u n i t i e s   i n   t h e Lome...negotiations."[142]

Williams's article points out the sort of role small states, particularly 'neutral' ones, can play in breaking a deadlock in multilateral negotiations.[143] Although the body of that article deals with mediation *in* international organisations, the title confuses that role with the potential one that small states can play in mediating conflicts in international relations generally, such as the mediation by Algeria in the

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141 Lancaster,C. 'The Lagos Three: Economic Regionalism in sub-Saharan Africa' in Harbeson,J.W. & Rothchild,D.(Eds) *Africa in World Politics* (Boulder,CO.: Westview Press, 1991) pp.249-267:256-257.

142 Zartman,I.W. 'Conclusions: Importance of North-South Negotiations' in Zartman,I.W.(Ed) *Positive Sum: Improving North-South Negotiations* (New Brunswick & London: Transaction Books, 1987) pp.278-301:294-295.

143 Williams,A. 'Mediation by Small States: Some Lessons From the CSCE' 6 *Paradigms* (1992) pp.52-64.

Iranian hostage crisis, which is analysed in some detail by Slim.[144]

In the multilateral context, Dell analyses the role that groups can play in enhancing the efficiency of multilateral negotiations by 'bilateralising' them. Although he notes that the conversion of multilateral negotiations into one between groups is fraught with difficulties especially where there are divergent opinions within the group, the role of the chairman can be crucial in mediating these types of differences, and thus facilitating agreement.[145]

Slightly differently, Lang points to the role played by interest groups and dominating personalities in mediating differences in multilateral negotiations. They can perform an important role horizontally by facilitating communication between the members, and vertically by mediating dialogue between the conference leadership and individual delegations.[146] Antrim and Sebenius illustrate the point that a chairman who understands the mediation process and is willing to be creative, can be a pillar in the successful outcome of multilateral negotiations. They conclude that Ambassador Koh's ability to foster the development of widely acceptable formulae for trade-off between the negotiating parties, and to create linkages between different and contending issues by personal informal mediation, largely contributed to the successful outcome in the law of the sea negotiating group of which

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144 Slim,R.N. 'Small State Mediation in International Relations: The Algerian Mediation of the Iranian Hostage Crisis' in Bercovitch,J. & Rubin,J.Z.(Eds) *Mediation in International Relations* op.cit., pp.206-231.

145 Dell,S. 'The United Nations Code of Conduct on Transnational Corporations' in Kaufmann,J.(Ed) *Effective Negotiation: Case Studies in Conference Diplomacy* (Dordrecht: Martinus Nijhoff, 1989) pp.53-74.

146 Lang,W. 'The Second Review Conference of the 1972 Biological Weapons Convention' in Kaufmann,J. *Effective Negotiation* op.cit., pp.191-203:198. It is argued later that a third party playing a similar mediatory role at the Moshi Conference might have changed the later pattern of conflict in Uganda: see Chapter 5 and 6.

he was chairman.[147] During the law of the sea conference also, a procedural innovation was put in place, whereby unofficial negotiating sessions, mediated by private initiative, but taking place outside official negotiating framework, helped to produce a draft texts that were generally acceptable, thereby facilitating agreement on many issues.[148]

Zartman's formulation of mediation in international organisations is pertinent. To him, mediators in that setting play a role similar to that of mediators in behavioural conflict, in as far as the technical aspects of mediation are concerned. However, he notes that in mediation in international organisations, mediators may be either partial or impartial. In international economic negotiations, secretariats are best placed to play the role of impartial mediators,[149] whereas in north-south negotiations, partial mediators such as the Commonwealth Secretariat or the Commission of the European Communities are the order of the day. But in spite of being partial, such mediators have a special role to play, in that they are "expected to 'deliver' the party to whom they are partial, as they bring together the two sides to make up an agreement."[150] Such mediators, although having few resources for side payments, and little other than moral leverage over

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147 Antrim,L.N. & Sebenius,J.K. 'Formal Individual Mediation and the Negotiator's Dilemma: Tommy Koh at the Law of the Sea Conference' in Bercovitch,J. & Rubin,J.Z.(Eds) *Mediation in International Relations* op.cit., pp.97-130.

148 Evensen,J. 'Three Procedural Cornerstones of the Law of the Sea Conference: The Consensus Principle, the Package Deal and the Gentleman's Agreement' in Kaufman,J.(Ed) *Effective Negotiation* op.cit., pp.75-92:84.

149 Although some secretariats, such as that of the CSCE are designed to play a purely technical, rather than any political role: see, Lipatti,V. 'The CSCE and Innovations in the Practice of Multilateral Diplomatic Negotiations' 44 *International Social Science Journal* (1992) pp.299-305:302.

150 Zartman, 'Conclusion: Importance of North-South Negotiations' op.cit., p.295.

states, can instead provide communication, formulae, and trust.[151]

The Politics of Mediation

The body of literature on the politics of mediation is significant, and is of great importance to the theory and practice of mediation. Endeavours that have been made to place conflict management in the larger context of international relations theory will be examined under this rubric.

Apart from Groom's masterly treatment of this kind of integration,[152] and Banks's much broader survey,[153] much of the literature operates within the context of a particular paradigm. The effects of this on the discipline have been severe: statements made within the context of a particular paradigm, like Touval's generalisation about impartiality,[154] have come, *ipse dixit*, to be taken as representing the high ground of mediation theory and practice.

There are three main contending schools of thought in conflict management. These are the power (Realist) school of mediation,[155] the Structuralist school,[156]

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151 Ibid. The idea that a mediator who has no means of exercising leverage can nevertheless play an influential role in mediation is examined in the light of the Uganda mediation in Chapter 8.

152 Groom,A.J.R. 'Paradigms in Conflict: The Strategist, the Conflict Researcher, and the Peace Researcher' in Burton,J.W. & Dukes,F.(Eds) *Conflict: Readings in Management and Resolution* op.cit., pp.71-98.

153 Banks,M. 'The International Relations Discipline: Asset or Liability for Conflict Resolution?' in Burton,J.W. & Dukes,F.(Eds) *Conflict: Readings in Management and Resolution* op.cit., pp.51-70.

154 Touval,S. 'Biased Intermediaries: Theoretical and Historical Considerations' op.cit.

155 For example, Touval,s. *The Peace Brokers: Mediators in the Arab-Israeli Conflict, 1948-1979* (Princeton: Princeton University Press, 1982); Zartman, I.W. 'The Political Analysis of Negotiation: Who Gets What and When?' 26 *World Politics* (1973/4) pp.385-399.

156 For example, Curle, A. *Making Peace* op.cit.; Galtung,J. 'Violence, Peace, and Peace Research' 3*Journal of Peace Research* (1969) pp.167-191; also, Galtung,J. 'Cultural Violence' 27 *Journal of Peace Research* (1991) pp.291-305.

and the World Society approach.[157] Although this
paradigmatic plurality in the literature has delineated
sufficiently wide and differing perceptions within which
the schools have contended for mastery, mediation
literature has been dominated by the power school, and
neither the existence of both passionate[158] and
articulate,[159] literature has been able to alter this
perception.

The literature justifying the notion that
impartiality is not necessary for successful mediation
is powerful, if not entirely convincing in its
explanations.[160] In it, the beginning point is the
unconditional rejection of Young's seminal *The
Intermediaries* where he argued that impartiality is an
important source of a mediator's persuasive power, and
a necessary characteristic of successful mediation.[161]
This literature is based on the perception of mediation
as "an integral part of bargaining and negotiation",[162]
in which the original dyadic negotiation relationship of
the parties in conflict is transformed into a triadic
one.[163] In that structure, the compelling motive is self

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157 For example, Burton,J.W. *World Society* (London: Cambridge
University Press, 1972); also, Burton,J.W.*Conflict: Resolution and
Provention* (London: Macmillan,1990); and Banks,M.(Ed) *Conflict   in
World Society* op.cit.

158 Burton, 'Track Two: An Alternative to Power Politics' op.cit.

159 Banks, 'The International Relations Discipline: Asset or
Liability for Conflict Resolution?' op.cit.

160 A different explanation for (im)partiality is offered in
Chapter 8.

161 See also Young,O.R. 'Intermediaries: Additional Thoughts on
Third Parties' 16 *Journal of Conflict Resolution* (1972) pp.51-65.

162 Bercovitch,J. 'A Case Study of Mediation as a Method of
International Conflict Resolution: The Camp David Experience' 12 *Review
of International Studies* (1986) pp.43-65:45.

163 Bercovitch,J. *Social Conflict and Third Parties: Strategies
of Conflict Resolution* (Boulder,CO.: Westview Press, 1984) p.112; a
similar point is made by Touval,S. & Zartman,I.W. 'Introduction:
Mediation in Theory' in Touval,S. & Zartman,I.W.(Eds) *International
Mediation in Theory and Practice* (Boulder,CO.: Westview Press, 1985)

interest, and the motivating credo, power, its use and manipulation.[164] The literature makes it clear that at that point, mediation as a process becomes absorbed into negotiation,[165] where the parties in the triad engage in hard bargaining. To Zartman, the outcome of that bargaining is dependent on the maximisation of power, and hence the tautology inherent in the notion of power becomes evident: "power determines the ability to win, but the ability to win determines who has the most power."[166] As Bacharach and Lawler state more directly in formulating their power theory of bargaining,

> "bargaining power becomes the central element of bargaining, pervading all facets of the bargaining relationship. To understand bargaining, therefore, is to understand how bargainers perceive, use, and manipulate power."[167]

In these circumstances, it is thought that it is unnecessary for the mediator (now an integral part of a *negotiation*), to be impartial, since to be impartial would militate against the pursuit of his self interest. Zartman and Touval consider this logic to be acceptable to the parties in conflict for whom also, in the pursuit of their own self interest, "the question...is not whether a mediator is impartial, but whether it can provide an acceptable outcome."[168]

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pp.7-17:10.

164 Casmir,F.L. 'International Negotiations: A Power and Trust Relationship' in Korzenny,F. & Ting-Toomey,S.(Eds) *Communicating for Peace* op.cit., pp.40-55 gives a useful analysis of power in negotiations.

165 See Chapter 1.

166 Zartman, 'The Political Analysis of Negotiation: Who Gets What and When' op.cit., p.395.

167 Bacharach,S.B. & Lawler,E.J. *Bargaining; Power, Tactics and Outcomes* (San Fransisco: Jossey Bass, 1981) p.ix.

168 Zartman,I.W. & Touval,S. 'International Mediation: Conflict Resolution and Power Politics' 41 *Journal of Social Issues* (1985) pp.27-45:37. This explanation is challenged in Chapter 8.

Umbricht concurs that in certain types of mediation where great power political considerations play a major role, the absence of impartiality does not preclude agreement. In such cases what matters more is the mediator's influence on the parties, the importance of their relations with one another, and the likely adverse consequences for the parties in case of failure. However, he qualifies this by noting that while this is true where a (powerful) government is a mediator, it is not true in cases of an individual mediator who does not represent a government. In such cases impartiality is an indispensable condition for effective mediation.[169]

Technical Aspects of Mediation

There is a vast literature that examines the various technical aspects of the mediation process. It examines such matters as the stages of mediation, the ripe moment for undertaking mediation, its outcome, and structure.

Much of the traditional thinking about mediation (and negotiation generally), conceptualised the process as beginning and ending at the negotiation table. Mediation was not seen as as a complex and protracted process whose life history often long pre-dated the conference table. Modern analyses of mediation reveal that the process of mediation is larger than was realised earlier. Modern literature also shows that the complexity of issues and the diversity of parties and their interests are better understood through an examination of the various stages that a mediation or negotiation goes through. Saunders, who has written at length on this subject, notes that:

> "Crucial as it is, around-the-table negotiation is only a later part of a larger process needed to resolve conflicts by peaceful means. In many

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169 Umbricht bases his writing on his experiences as the mediator in the dispute between Kenya, Uganda and Tanzania over the collapsed East African Community. See Umbricht,V.H. *Multilateral Mediation: Practical Experiences and Lessons* (Dordrecht: Martinus Nijhoff, 1988) p.243.

cases, persuading parties to a conflict to a negotiated settlement, is even more complicated, time consuming, and difficult than reaching agreement once negotiations have began. Those who try to resolve conflict peacefully need to think in terms of a process that deals with the obstacles *to* negotiation as well as the hurdles *in* negotiation. Unless we enlarge our scope to understand why parties to a conflict will not talk, we are not constructing a theory of negotiation most likely to give negotiation a chance."[170]

Such an enlarged framework also has the merit that it enables the right tools to be used in managing the various stages of a conflict.[171] The three main stages of negotiation are the pre-negotiation stages, the negotiation itself,(with which much of the literature deals, and which is the exclusive focus of the literature on simulations), and the post-negotiation (or implementation) stages, which have not received the attention they deserve, and whose importance is demonstrated by Chan.[172] There can, however, exist many more stages. Saunders develops five stages of negotiation: defining the problem, producing a commitment to a negotiated settlement, arranging a negotiation, the actual negotiation, and the implementation stage.[173] Zartman constructs three stages in the actual negotiations: diagnosis, formulating or defining the problem, and applying the principle so derived to the negotiation.[174] Mitchell

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170 Saunders,H.H. 'We Need a Larger Theory of Negotiation: The Importance of the Pre-Negotiation Phases' 1 *Negotiation Journal* (1985) pp.249-262:262.

171 Saunders, 'The Pre-Negotiation Phase' in Bendahmane,D.B. & McDonald,J.W.(Eds) *International Negotiation: Art and Science* op.cit., pp.47-56:49.

172 Chan,S. *The Commonwealth in World Politics* op.cit.

173 Saunders, 'We Need a Larger Theory of Negotiation' op.cit., pp.255-261. A modified form of this classification is used in the analysis of the Uganda mediation in Chapter 7.

174 Zartman,I.W. 'Negotiation: Theory and Reality' in Bendahmane,D.B. & Mcdonald,J.W.(Eds) *International Negotiation: Art and Science* op.cit., pp.1-8:2.

formulates four stages of conflict termination: the decision to compromise, communicating that decision, the negotiations themselves, and the implementation process.[175] Each of these stages of negotiation while interlinked with the others, has uses and functions of its own. The uses of the negotiation stage itself are clear to discern: it may lead the parties to a peaceful outcome to their conflict. The uses of the pre-negotiation stage are much less discernible, but no less important: a significant learning process may take place there, and the parties may derive benefits therefrom that are independent of the outcome of the dispute.[176] The post-negotiation stage is the testing ground in which the parties learn to live together under the new conditions created by the negotiation. But, although the various stages are analytically distinct,[177] they are symbiotic.[178]

The question of when mediation should be attempted, and when the suggestion to negotiate should be made, is one of the problematical aspects of mediation theory and practice. A mediation that is attempted at the inopportune moment is almost certainly doomed to fail, while a party which offers to negotiate before the other side is ready and willing to do so may be perceived as

175 Mitchell,C.R. 'Ending Conflicts and Wars: Judgement, Rationality and Entrapment' 43 *International Social Science Journal* (1991) pp.35-55:35.

176 Stein,J.G. 'Getting to the Table: Processes of International Pre-Negotiation' 44 *International Journal* (1989) pp.231-236:232.

177 Ibid., p.233.

178 A good illustration of this was the mediation between members of the defunct East African Community over its assets. In that mediation, progress on the various issues of negotiation was not simultaneous. While on some issues (such as the future of the East African Development Bank) the post-negotiation stage was reached early, other issues (such as the formula for the distribution of assets and liabilities) were still at the negotiation stage, while on yet others (such as responsibility for pensions), progress was still at a pre-negotiation stage. Eventually, all these aspects once negotiated, were reflected in the Mediation Agreement between the parties. See Umbricht,V.H. *Multilateral Mediation: Practical Experiences and Lessons* op.cit.

weak, and therefore compromise its ability to negotiate a satisfactory outcome. In an attempt to find a way out of this problem, Zartman has designed the concept of 'ripe moments'[179] or 'plateaus and precipices',[180] alias 'windows of opportunity'. In his view,

> "Ripeness is associated with conditions where the parties realise that their attempts to solve the problem and pursue their goals alone are unlikely to succeed at an acceptable price. Therefore they are amenable to looking for jointly established alternatives...A ripe moment may...be characterized as a mutually hurting stalemate with a way out."[181]

Zartman's notion of ripe moments is based on the thinking that conflicts are part of a general process of ripening and unripening: once ripe, they burst, and the ripe moment is thus evident.[182] Ripe moments can also be contrived, by lowering the parties' expectations in such a way that those expectations are "higher than what the...party could get on the conflict track, minus the heightened cost of getting it"[183] Webb points out a flaw in the notion of ripe moments and the associated concept of a hurting stalemate: while it can be either

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179 These are also discussed in other literature. See for example, Haass,R.N. *Conflicts Unending: The United States and Regional Disputes* (New Haven & London: Yale University Press, 1990) pp.27-29, 138-150.

180 See Zartman,I.W. & Touval,S. 'Mediation: The Role of Third-Party Diplomacy and Informal Peacemaking' in Brown,S.J. & Schraub,K.M.(Eds) *Resolving Third World Conflict: Challenges for a New Era* (Washington: United States Institute of Peace, 1992) pp.241-261:251.

181 Zartman,I.W. 'Alternative Attempts at Crisis Management: Concepts and Processes' in Winham,G.R.(Ed) *New Issues in International Crisis Management* (Boulder,CO.: Westview Press,1988) pp.199-223:213.

182 Zartman,I.W. 'Ripening Conflict, Ripe Moment, Formula and Mediation' in Bendahmane,D.B. & McDonald,J.W.(Eds) *Perspectives on Negotiation* op.cit., pp.205-227:205.

183 Zartman, 'Negotiation: Theory and Reality' op.cit., p.5.

subjectively or externally defined, it is rarely the external perception that is important.[184]

Zartman has developed another way of understanding ripe moments, by seeing them as a process of regime change. In this sense, accepted patterns of conduct are challenged, and reach a point where they begin to break down and require to be changed. The notion here is that regimes

> "are continually under challenge and are re-affirmed when they successfully overcome those challenges and reassert their structures and habits. But at times the challenges accumulate and begin to represent growing structural shifts, new issues, or an e x h a u s t i o n   o f   o l d answers...Negotiation is necessary to create the replacement regime and have it accepted..."[185]

Thus, ripe moments will coincide with the stage at which the old regime is so burdened with challenges to it that it is willing to contemplate negotiations about change.

The literature on the technical aspects of mediation suggests that it is extremely difficult to tell precisely when the ripe moment is recognisable. This difficulty exists partly because the ripe moment is essentially a subjective matter within the knowledge of the parties to the conflict.[186] This difficulty notwithstanding, Ott has suggested some objective indicators: these include a relatively even distribution of power among the protagonists, absence of vital national security interests, and absence of intense

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184 Webb,K. *Third Party Intervention and the Ending of Wars: A Preliminary Approach* (Kent Papers in Politics and International Relations: (1994) Series 3, No.7.).

185 Zartman,I.W. 'Conflict and Resolution: Contest, Cost, and Change' in Zartman,I.W.(Ed) *Resolving Regional Conflicts* op.cit., pp.11-22:19.

186 This point is laboured by opponents of the notion of 'ripe moments'. Although this criticism is valid from the point of view of the conflict manager, it is argued in later chapters that the idea of 'ripe moments' is still a powerful tool for the analyst studying the conflict *ex post facto*.

personality conflicts.[187] But even he then falls back on the general statement that:

> "As a rule, conflicts do not remain completely static over any substantial length of time. While few are amenable to mediation at any given point, it seems reasonable that at some time in their life history many protracted conflicts will be susceptible to intervention by a third party. *The task of statesmanship will be to remain alert to such moments and exploit them. With proper timing, the mediator may provide the critical impetus to a settlement.*"[188]

The literature that analyses conflict and its management through an understanding of the structure of conflict is sparse, but powerful. Wall suggests a mediation paradigm, where the mediation environment includes not only the parties to the conflict, the mediator, and their constituents, but also third parties who affect, or are affected by, the process and outcome of the mediated negotiation.[189] Jabri illustrates how third parties come to be drawn into, and become part of, a complex conflict system.[190] Mitchell has fine tuned the paradigm formulated by Wall, and broadened the environment to include the sources of the benefits that the parties, and especially the mediator, derive from the process. This more encompassing view of the negotiating environment identifies the sources of the benefits (and therefore the actors involved), as the conflict itself, the regional environment, other third parties, (i.e. the international audience), and the constituents of the parties to the conflict, including

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187 Ott,M. 'Mediation as a Method of Conflict Resolution: Two Cases' 26 *International Organization* (1972) pp.595-618:618.

188 Ibid., p.618. Emphasis added.

189 Wall,J.A. 'Mediation: An Analysis, Review and Proposed Research' 25 *Journal of Conflict Resolution* (1981) pp.157-180:158.

190 Jabri,V. *Mediating Conflict* op.cit.

those of the mediator.[191] Vayrynen's contribution considers conflict from the perspective of its transformation. In his view, since conflicts are dynamic processes, their analysis must reflect that dynamism. This transformation is evidenced by actor, issue, rule, structure, and interest-structure transformation. To Vayrynen, solutions to conflicts can only be found by addressing the causes and structure of their transformation.[192]

A logical complement to the literature that addresses the broad process of mediation as examined above, is that on the outcomes of mediation. This literature focuses especially on the conditions that facilitate the successful outcome of mediation. Bercovitch has identified three basic conditions that affect the likelihood of the successful outcome of mediation. These are the identity of the parties, the nature of the dispute, and the characteristics of the mediator.[193] Using what he terms the contingency approach (i.e. regarding outcomes as contingent upon certain variables), further but lesser conditions for successful outcomes are identified, such as the power disparity between the disputants, and the nature of the disputants' former relations.[194] The perception by a party that the other is paying a sufficiently high price for the settlement may also contribute to a successful

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191 Mitchell,C.R. 'The Motives for Mediation' in Mitchell,C.R. & Webb,K.(Eds) *New Approaches to International Mediation* op.cit., pp.29-51:36-37. See chapter 6 and 8 for the application of this theorising to the Uganda mediation.

192 Vayrynen,R. 'To Settle or to Transform? Perspectives on the Resolution of National and International Conflicts' in Vayrynen,R.(Ed) *New Directions in Conflict Theory* op.cit., pp.1-25.

193 Bercovitch,J. 'International Mediation: A Study of the Incidence, Strategies, and Conditions of Successful Outcomes' 21 *Cooperation and Conflict* (1986) pp.155-168:160-163.

194 Bercovitch,J., Anagnoson,J.T. & Wille,D.L. 'Some Conceptual Issues and Empirical Trends in the Study of Successful Mediation in International Relations' 28 *Journal of Peace Research* (1991)pp.7-17:7.

outcome, particularly in conflicts of long standing.[195] The importance of thinking about the conditions necessary for successful outcomes is that the mediator may, at the outset of the mediation, know the types of conditions that may lead to a successful outcome in the type of conflict he is mediating. On a practical level, this may provide useful guidelines to the kind of action, such as empowerment, that may inch the mediation towards a successful outcome.

Bercovitch *et al* have also formulated a 'success index' by which the outcome of mediation can be measured. In this formulation, mediation is *fully* successful when it is given credit for making a great difference to, or settling the conflict; it is *partially* successful when its efforts initiate negotiations and some dialogue between the parties; it achieves *limited* success when it attains only a ceasefire or a break in hostility, and is *unsuccessful* when it has no discernible impact on the conflict.[196]

Mediation as Role Playing

The growing literature on the role that the mediator plays is based on the judgment that although mediators may be informed by some element of altruism in deciding to mediate, the true reasons for the decision to mediate are located elsewhere, and outside the mere wish to create peace. Quite beyond the technical roles that the mediator plays once a mediation is underway, there are important issues to be investigated. In particular, why should a party undertake a role that calls for high expenditure in terms of resources, and which might injure the reputation of the mediator should he fail?

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195 Saaty,T.L. & Alexander,J.M. *Conflict Resolution: The Analytic Hierarchy Approach* (New York: Praeger Publishers, 1989) p.9.

196 Bercovitch, *et al* ' Some Conceptual Issues and Empirical Trends in the Study of Successful Mediation in International Relations' op.cit., pp.9-10. The analysis in Chapter 8 adopts this Success Index.

Wall's contribution to knowledge in this area is founded on the point of view that the mediator should be looked at as a symbiotic part of the conflict, and that his involvement begins long before the actual negotiation, in the pre-negotiation stages.[197] Young's more traditional treatment of this subject leads to a formulation of certain roles which the mediator plays: mediatory and conciliatory actions (such as persuasion, enunciation and interpretation); positive actions (such as facilitating communications, and interposition, i.e. providing peacekeeping services); and service activities, such as monitoring the implementation of agreed upon arrangements, and supervising truce regimes.[198] Similarly, Brouillet observes that the mediator may also offer his services once his mission is over, and maintain "a kind of continuous mediation".[199] During the mediation itself, the mediator can also play the role of preventing disagreements arising between *other* parties participating in the negotiation.[200] In environmental negotiations, the mediator's roles include acting as a catalyst, educator, and translator. Significantly for this as for other types of mediation, he can act as a scapegoat, especially when the parties re-enter their domestic environments.[201]

Discussion on the role of the mediator however needs to be looked at in a context wider than just the

197 Wall, 'Mediation: An Analysis, Review and Proposed Research' op.cit.

198 Young,O.R. *The Intermediaries: Third Parties in International Crises* (Princeton: Princeton University Press, 1967).

199 Brouillet,A. 'Mediation as a Technique of Dispute Settlement: Appraisal and Prospects' in Thakur,R. *International Conflict Resolution* op.cit., pp.165-173:172.

200 Stenelo,L-G. *Mediation in International Negotiations* (Malmo: Nordens boktryckeri, 1972) p.8.

201 Bacow,L.S. & Wheeler,M. *Environmental Dispute Resolution* (New York: Plenum Press, 1984) p.188-189. These roles are not, however peculiar to mediation in environmental conflicts.

actual negotiations. Thus, Carnevale argues that the mediator acts within the realities of the wider international system.[202] In this context, the mediator's behaviour is associated with a status that the mediator sees himself as having, and to which he patterns his reactions.[203] Seen in this way, a mediator's behaviour is intended to enable him to achieve a sense of fulfilling certain roles which he sees as his destiny to play.[204] Mitchell's position is succinct: third parties intervening in a conflict choose their strategy (alias their role) "on the basis of some evaluation of the relative costs and benefits of adopting one strategy rather than another."[205] The point Mitchell is making is that the choice of the type of role to play is one amongst a set of repertoires available for managing a conflict. Bercovitch refines this theorising further by envisioning motivation to mediate as being different for official and unofficial mediators. Unofficial mediators may be prompted *inter alia* by the desire to change the pattern of long standing conflict in order to gain access to political leaders, or to enhance their personal standing and professional status. Official mediators might intervene in order to protect their own political interests, preserve a structure of which they

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202 Carnevale,P.J. 'Mediation of International Conflict' in Oskamp,S.(Ed) *International Conflict and National Public Policy Issues* (Beverly Hills: Sage Publications, 1985) pp.87-105:92. This wider context of the mediator's role was evident in the Uganda conflict, and is discussed at length in Chapter 6.

203 Laue,J.H. 'The Emergence and Institutionalization of Third Party Roles in Conflict' in Burton,J.W. & Dukes,F.(Eds) *Conflict: Readings in Management and Resolution* op.cit., pp.256-272:257.

204 Rothchild and Hartzel's analysis of how the Angolan settlement satisfied the needs of the various parties to be seen as playing certain roles illustrates of this point. See, Rothchild & Harzel, 'Great and Medium Power Mediations: Angola' in Zartman,I.W.(Ed) *Resolving Regional Conflicts* op.cit., pp.43-44. This point is demonstrated further in the mediator's perceived role in the Uganda mediation: see Chapter 6.

205 Mitchell, 'The Motives for Mediation' op.cit., p.48.

are a part, or enhance and extend their influence with the parties in conflict.[206]

Quite evidently therefore, the proper analysis of conflict requires a careful consideration of the particular role that the mediator plays. Because mediators also have their own agenda to pursue, the role that they decide to play may affect significantly the direction that the mediation takes, and the very structure of the conflict. Traditional analyses missed this important point: modern analyses are slowly making amends.

Mediation in Civil Wars

Many of the current conflicts in the world are internal conflicts. Given their significant numbers, and the fact that internal wars seem set to remain an important feature of international life in the future, as is clearly evident in the pattern of post-Cold War conflicts, the study and analysis of their processes and management is an important aspect of the study of conflict. A significant set of the literature on mediation has developed knowledge on the question of the management of internal conflict. This section will delve into the most salient aspects of that literature.

Although not specifically on mediation, Modelski's article on the international settlement of internal war has remained influential over the last thirty years.[207] In it, he outlines a carefully crafted anatomy of internal war, and highlights possible outcomes of such wars. These are an outright win, a separation (i.e. avoidance), and settlement, which entails procedural resolution of the war, and which he sees as the best

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206 Bercovitch, 'The Structure and Diversity of Mediation in International Relations' op.cit., pp.8-9. That this is a pertinent observation is illustrated by reference to the Uganda conflict, in Chapter 5 (Nyerere) and Chapter 6 (Moi).

207 Modelski,G. 'The International Settlement of Internal Wars' in Rosenau,J.(Ed) *International Aspects of Civil Strife* (Princeton: Princeton University Press, 1964) pp.131-149.

outcome. Significantly, Modelski places internal war within its international context, and so justifies the taking of international action to end such wars:

> "every internal war occurs in the context of international society; it is a disturbance in the functioning of one member of that society and it cannot but affect other members of the society as a whole."[208]

In his reckoning, there are certain conditions necessary for the settlement of internal war: a well defined identity or personality of the contestants, a certain minimum duration of the conflict, the possibility of third party actors coming into play, and a certain amount of communication between the parties, which includes shared cultural values such as language and other symbols.[209]

Although looking exclusively at international wars, Pillar's book nevertheless provides some useful insights into the termination of internal wars. His typology of war endings consists of absorption, where one party is absorbed into a larger war; extermination or expulsion, where one of the sides is exterminated, or expelled from the theatre of war; and withdrawal, where the war ends by a decision of both parties, but without any specific agreement.[210] In an interesting argument, he sees a package deal as providing the best settlement agreement: in this arrangement, both parties concede on certain issues simultaneously. The further merit of the package deal is that it may serve to avoid a continued stalemate,[211] since issues are agreed on in clusters.

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208 Ibid., pp.126-127.

209 Ibid., p.142.

210 Pillar, P.R. *Negotiating Peace: War Termination as a Bargaining Process* (Princeton: Princeton University Press, 1983) pp.14-15. Withdrawal can be either unilateral (i.e. capitulation), or by negotiation between the parties. In the latter case, the parties may eventually resolve the conflict.

211 Ibid.

Zartman has made one of the most important contributions in this area. He argues that there are different ways of looking at (regional) conflict, but that each way of looking at it suggests a particular method of reducing or managing the conflict.[212] Thus, if conflict is regarded as a clash of wills, its management entails finding a formula that turns a zero-sum into a positive-sum conflict. If the conflict is seen as a 'confrontation' of cost-benefit calculations, then management requires the creation of a ripe moment. Where the conflict is seen as an event in a regime change, management encompasses easing the transition in regimes. If the conflict takes the form of a mutual stand-off, management means the use of power to effect a favourable outcome.[213] Although rather Realist in its substantive orientation, Zartman's idea of linking perceptions of the conflict to possible ways for its management is a valid and elegant contribution to theorising about how to manage this (or indeed any other) type of conflict.[214]

Mitchell's theorising in this area involves a refinement of the model designed by Pruitt and Rubin. Their symmetry model postulated that the behaviour of parties to a conflict (ranging from inaction, contending and yielding, to problem solving), depends on the level of concern by each party for its own goals, and for the well-being of the other party.[215] This model is symmetric in that it explains the behaviour of only one

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212 Zartman, 'Conflict and Resolution: Contest, Cost, and Change' op.cit., p.9.

213 Ibid.

214 Zartman does not, however, address the problem of when the mediator's perception of the conflict is different from that of the conflictants. This complex dimension of his regime change theory renders it inadequate to explain the Uganda mediation, as is argued more fully in Chapter 8.

215 Pruitt,D.G. & Rubin,J.Z. Social Conflict (New York: Random House, 1986) p.29.

party to a conflict. But as Mitchell argues, conflicts are more complex than that: whereas one party may be concerned about the other, the second party may not have such concern, and the situation therefore becomes asymmetric.[216] In his view, therefore, the first step in contemplating the management of conflict, is to search for the areas of asymmetry, which are most likely to be legal, structural, moral, and behavioural.[217]

Mitchell's proposition of the search for asymmetry as the beginning point in attempts to manage conflict echoes Vayrynen's concept of conflict transformation. In the particular case of civil wars, Vayrynen argues that there is more to them than the typical assumption of competing claims for political power, and that

> "[t]he reality is often more complex than that...The conflict issues are multidimensional and the political groups involved are internally divided. The government is, as a rule, more united than the opposition, which is not held together by the glue of power. The inter-elite conflict may intensify, however, when the government starts losing power. In an internal conflict the assumption of unitary actors fighting or negotiating for power sharing in a well defined issue space is seldom justified."[218]

The point that Vayrynen makes, and in very unambiguous terms, is that "while tackling...conflict, scholars and practitioners should not make unwarranted assumptions about the rationality of actors, their internal cohesion or the clarity of conflict situations."[219] This is very well said.

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216   Mitchell,C.R.   'Classifying   Conflicts: Asymmetry   and Resolution' in Zartman,I.W.(Ed) *Resolving Regional Conflicts* op.cit., pp.23-38:26.

217 Ibid., p.30. This is one of the elements which it is argued later, make mediation a complex, rather than a simplistic undertaking. On its relevance to the Uganda conflict, see Chapter 8.

218 Vayrynen, 'To Settle or to Transform? Perspectives on the Resolution of National and International Conflicts' op.cit., p.8.

219 Ibid., p.12.

Assefa's case study of track two mediation of civil wars is a useful pioneering work in this area, and serves to fill a big void in the literature.[220] However, the hypotheses he tests are not particularly creative or reflective of the problems that manifest themselves in internal conflicts. But his study of the process of mediation by non-official third parties in internal wars, is a signal contribution to knowledge, and suggests how diplomatic tracks other than official ones, can collaborate in bringing about peaceful settlement in internal conflicts.[221]

Conclusions: A Comment on the Literature

This chapter has made a broad ranging survey of the literature on mediation, and traced its conceptual genesis in focus, from the interpersonal to the international. It reveals that whereas some of the areas in this field have been attended at length, others have not received the close and sustained attention that they deserve. In this respect, the paucity of literature on unofficial involvement in conflict, particularly case studies thereon, belies the increasing importance of this area of conflict management. The literature on this area of conflict management has not only highlighted its importance, but has pointed out flaws in its application, as it also has for official (track one) conflict management. None of the literature has however formulated a means by which the strengths of these two approaches can be brought together in the service of more effective conflict management.

In addition, although what has been termed here as the 'politics of mediation' is a crucial area in seeking to understand the processes of mediation, its underdevelopment, especially in theory building, does

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220 Assefa,H. *Mediation in Civil Wars* op.cit.

221 Ibid. See also, Assefa,H. 'World Council of Churches Mediation and the Sudan Civil War' in Mitchell,C.R. & Webb,K.(Eds) *New Approaches to International Mediation* op.cit., pp.147-167.

not do justice to its centrality in conflict management. Further, although there is much in the literature by way of theories such as the ripe moment for mediation and impartiality, their explication in the literature is not always convincing, and offers at best only partial explanations. The paucity of commanding literature on the international management of internal wars does not reflect the growing importance of that area, and its increasingly central place in the international relations of various parts of the world, especially in the post-Cold War era. Indeed, the writings on that subject are still at a pre-theoretical level. This study is therefore aimed at making a small contribution in these areas, by attempting to fill in the *lacunae* in the literature.

Chapter Three

African Perspectives on Ethnic and Territorial Conflict

Introduction

The last two chapters examined the broad theoretical perspectives that will inform this study. Chapter One suggested *inter alia* that a sound framework for the analysis of mediation should have as one of its pillars an appreciation of the regional context of the conflict(s) under investigation. Chapter Two surveyed the literature on mediation. While there are some useful studies that analyse conflicts in Africa, few have investigated them within the broad analytical framework formulated in Chapter One. Failure to do this has contributed to the void in the literature noted in Chapter Two.

Analysts from other disciplines such as history, political science, sociology and anthropology, have studied the causes of the conflicts in Africa. Many have identified the ethnic factor, and the problem of the territorial borders inherited at independence, as contributors to the development and continued currency of these conflicts. These findings have not been satisfactorily integrated in an African perpective of the analysis of these conflicts. It has therefo re not been adequately demonstrated how these two factors interact in generating conflict in Africa. This chapter will argue that the interaction of ethnicity and boundaries provides a satisfactory framework from which the analyst of conflict on the continent can proceed with benefit.

This chapter will establish the basis against which the conflict management practices of the Organisation of African Unity (OAU) should be properly analysed.[1] It will identify the dominant type of conflict on the continent, and thus provide a useful background for understanding the reasons behind the OAU's conflict management approaches as discussed in detail in Chapter Four. It will also delineate part of the historical background for the conflict in Uganda carried in Chapter Five. These three chapters will, jointly and severally, inform the analysis of the diplomatic context of the Uganda mediation of 1985.[2]

This chapter will give an historical background of the ethnic and boundary conflicts in Africa. The problem of ethnicity generally, and its application to the development of conflict in Africa, will also be examined, as will the broad question of border and territorial conflicts, and their place on the conflict map of Africa. Lastly, the interaction of these two factors in the crucible of conflicts in Africa will be considered, and a symbiosis attempted. The limited purpose of this chapter is thus to outline the broad background against which the general flavour of this study will be brought out. It will suggest why, faced with the type of conflict outlined, the OAU has adopted conflict management policies that have precluded its involvement in many conflicts in Africa, and notably for the purposes of this study, the Uganda conflict.

Some *caveats* are in order at the outset of this chapter. Firstly, it is a truism that ethnicity is at the heart of many conflicts in different parts of the world,[3] as the current conflicts in former Yugoslavia[4]

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1 This is discussed in detail in Chapter 4.

2 See Chapter 6.

3 See for example the case studies of various ethnic conflicts in McGarry,J. & O'Leary,B.(Eds) *The Politics of Ethnic Conflict Regulation* (London & New York: Routledge, 1993).

and the former USSR clearly demonstrate. However, this chapter is concerned with the African perspective. Because this study has a general African flavour, analysis of the ethnic question will, without prejudice to its generality, concentrate on its manifestations in Africa. But as the literature cited in this chapter suggests, explanations for ethnicity and ethnic conflict elsewhere have a universal impact,[5] and are therefore relevant to the study, explanation and analysis of ethnic conflict in Africa. Indeed, it is true of conflict generally, that the "same problems [in Africa] and the same methods are relevant for much of the Third World, specifically the Middle East and Asia, and also for Latin America."[6]

Secondly, there is a prominent group of scholars in Africa who reject the centrality of ethnicity in the analysis of conflicts in Africa. Subscribers to this school of thought argue that the ethnic problem is no longer, (and in the stronger form, never was), central to an understanding of conflicts in modern Africa. Instead, this school of thought prefers and vigorously champions a class analysis of these conflicts. It contends that the competition between classes is the analytical centrepiece around which conflicts in Africa should be studied. This study does not share that outright rejection of ethnicity as a central explanatory factor of the conflicts in modern Africa. Indeed,

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4 On which see, 'The Future of the Balkans: An Interview with David Owen' 72 *Foreign Affairs*(1993) pp.1-9.

5 See McGarry,J. & O'Leary,B. 'The Macro-Political Regulation of Ethnic Conflict' in McGarry,J. & O'Leary,B.(Eds) *The Politics of Ethnic Conflict Regulation* op.cit., pp.1-40, who note the ubiquity of ethnic conflict and the general problems of its regulation.

6 Zartman,I.W. *Ripe for Resolution: Conflict and Intervention in Africa* (New York: Oxford University Press, 1989) pp.255-256. Wiseman also draws some interesting comparisons between conflict resolution in Central America and in Africa, for example Angola, Mozambique and especially Zimbabwe; see, Wiseman,H. 'The Parameters of the Process of Conflict Resolution in Central America' in Child,J.(Ed) *Conflict in Central America: Approaches to Peace and Security* (London: C.Hurst & Co., 1986) pp.69-87; see also Basil Davidson's excellent *The Black Man's Burden: Africa and the Curse of the Nation-State* (London: James Currey, 1992).

empirical evidence of the vast number of ethnic and border conflicts in Africa,[7] should not be dismissed on the basis only of preference for one theoretical framework over others. The point of view taken in this study is that although class analysis has some explanatory role to play in this respect, it is a secondary and supportive role, rather than a primary one.[8]

Thirdly, although the analysis in this chapter begins with an examination of colonial history and process in Africa, it is not intended to suggest that colonial history is wholly to blame for the conflicts that have riven modern Africa. The argument that post-colonial patterns of governance in Africa have played a big role in shaping the conflict map of Africa is meritorious. The point of view taken here however, is that these post-colonial patterns served largely to exacerbate conditions and patterns received at independence, as indeed the historical basis of the conflict in Uganda as described in Chapter Five reveals. This chapter is therefore informed by the belief that, without prejudice to post-independence developments, the *roots* of post colonial patterns of conflict in Africa are properly traceable to the colonial process.[9] Thus, the analyst of conflicts in modern Africa must begin by establishing where 'the rain began to beat Africa.'[10]

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7 See Asiwaju,A.I.(Ed) *Partitioned Africans: Ethnic Relations Across Africa's International Boundaries, 1884-1984* (Lagos: Lagos University Press, 1984).

8 Shaw notes that it is axiomatic that class and ethnicity co-exist in Africa (as in the developed world), although the relationship and balance between them will change with time. See Shaw,T.M. 'Ethnicity as the Resilient Paradigm for Africa: From the 1960s to the 1980s' 17 *Development and Change* (1986) pp.587-605.

9 A case for the colonial roots of the Uganda conflict has been made for example by Lwanga-Lunyiigo,S. 'The Colonial Roots of Internal Conflict' in Rupesinghe,K.(Ed) *Conflict Resolution In Uganda* (London & Athens,OH.: James Currey & Ohio University Press, 1989) pp.24-43.

10 This graphic phrase is borrowed from Chinua Achebe. He argues that Africa must look back and try to find out where it went wrong, in an attempt to "regain belief in itself and put away the complexes of the years of denigration and self-abasement." See Chinua Achebe, 'The Novelist as Teacher' in Achebe,C. *Hopes and Impediments: Selected*

The view taken in this study is that while it did so before, during, and after colonialism, it did so most eminently during Africa's colonial history.

Historical Origins of Conflict in Modern Africa

The rendition of the histriography of nineteenth century Africa, and the role that colonialism played in shaping modern Africa, has been the bone of contention amongst historians for a long time. While some western historians have generally adopted a stance that is Eurocentric and sympathetic towards the imperial powers, historians in emergent Africa have called for, and embraced, an Afrocentric interpretation of colonial history, one which takes into account the values and concerns of the African people. So deep has this divide been that it has ranged from disagreement on the advent of the scramble for Africa, to the actual impact of colonialism in Africa. At the heart of this disputation, and of immediate concern to the analyst of conflict in Africa, is the question of the root cause of, and part of the explanation for, the pattern of conflict in post-independence Africa.

Although the disputation about the colonial factor in Africa has traversed the terrain of when precisely the scramble for Africa began,[11] the central question concerns the effect of partition on the African communities of the nineteenth century, and later. One school of thought posits that the pre-partition era was foreshadowed by a process of the partition of Africa by Africans, characterised by such epochal events like the consolidation of Shaka's Zulu empire and the *Mfecane* migrations, the creation of the *Trekker* republics by the

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Essays 1965-1987 (Oxford: Heinemann, 1988) pp.27-31:29,30.

11 See for example, Boahen,A.A. *African Perspectives on Colonialism* (London: James Currey, 1987), and Robinson,R. & Gallagher,J. *Africa and the Victorians: The Official Mind of Imperialism* (London: Macmillan, 1981) who offer a different interpretation.

South African boers, and the West African *Jihads*.[12] The conclusion of this school of thought therefore, is that European partition was merely the continuation of a process that was already underway on the continent.

Critics of this view have advanced the counter argument that although these powerful, African based imperialisms took place, that process was already concluded by the time the European partition commenced: and to ignore that fact would be to discount "significant elements of European purposiveness, premeditation and aggression."[13] In this perspective, what the Europeans did instead was to interrupt a series of far reaching economic, social, and intellectual revolutions that were at an advanced stage by 1880, with the effect, as Boahen has argued, that "[b]y the 1900's, in place of the numerous African independent states and polities, a completely new and numerically smaller set of some forty artificially created colonies had emerged."[14]

The Dynamics of Partition

The dynamics of the partition itself reflected the imperial powers' preoccupation with the economic and political realities of the day. The consolidation of the process of bringing Africa into the world capitalist political economy[15] required that the European powers delimit, and take actual administrative charge of, territories they claimed in Africa. Maintaining the European balance of power called for the formalisation of their claims, and a strict delimitation and demarcation thereof. The Berlin Conference of 1884-5 was an exercise in effectuating these goals in a way that would stop the Europeans fighting each other over

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12 Wilson,H.S. *The Imperial Experience in Sub-Saharan Africa Since 1870* (Minneapolis: University of Minnesota Press, 1977) pp.24-30.

13 Ibid., p.50.

14 Boahen,A.A. *African Perspectives on Colonialism* op.cit., p.27.

15 For an account of which see Munro,J.F. *Africa and the International Economy, 1800-1960* (London: J.M.Dent & Sons, 1976).
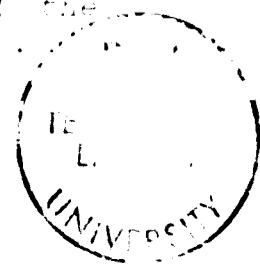
Africa, and induce as little conflict as possible between the various European powers.[16]

The Process of Partition

The process of partition as enshrined in the Berlin Act (1885), was *inter alia* that any of the powers was required to inform the others of an intended claim, in order to facilitate any counterclaims. Successful claims had to be followed by annexation and occupation, in order to formalise their validity. And treaties signed with African rulers were to be accepted as legitimate title to the territory in question.[17]

Boahen has argued controversially that the fact that the European powers entered into such treaty relations in the first place, whatever the status of those treaties in international law, signifies an acceptance of the Africans as equal sovereigns, a fact normally ignored in the ratiocinations of imperial historians. Thus,

> "the phase of actual conquest was preceded by years of negotiation and treaty-making between the imperial powers and African rulers. This phase of negotiation shows that the European powers originally accepted their African counterparts as their equals, and secondly that the former did recognise the sovereignty and independence of the African states and polities."[18]

However, Boahen rather overstates his case. The consequent history of Euro-African relations suggests that the acceptance of "their African counterparts as their equals" was merely a cloak put on by the Europeans for their convenience.

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16 Wilson,H.S. *The Imperial Experience in Sub-Saharan Africa* op.cit., p.100.

17 Boahen,A.A. *African Perspectives on Colonialism* op.cit., p.33.

18 Boahen,A.A. 'Africa and the Colonial Challenge' in Boahen,A.A.(Ed) *UNESCO General History of Africa, Vol VII: Africa Under Colonial Domination, 1880-1935* (London & Paris: Heinemann & UNESCO, 1985) pp.1-18:9. The equality Boahen is talking about is legal rather than political equality. The imperial powers in this view, did not have in mind to challenge the authority of African rulers to sign treaties. Neither did they, for this reason, dispute that those rulers were the legitimate leaders of their various polities.

The Pattern of Partition

The pattern that the partition of Africa followed was threefold. It entailed the conclusion of treaties between the Europeans and the African rulers;[19] their confirmation through bilateral treaties between the European powers themselves;[20] and undertaking actual administration of the territories so annexed. The treaties between the Europeans and the African rulers were political treaties, by which "African rulers either purportedly surrendered sovereignty in return for protection, or undertook not to enter into treaty obligations with other European nations."[21] The treaty and administration stage of this arrangement gave rise to serious jurisprudential problems. With regard to the treaties signed between the colonial powers and the African rulers, Morris has observed that

> "Such treaties were of very different kinds, and ranged from what were, in fact, simple undertakings entered into by often uncomprehending chiefs, whereby sovereignty was handed over, virtually unrestricted, to the protecting power, to elaborate documents such as the Uganda Agreement of 1900, whereby after a long process of bargaining, a careful division of spheres of authority was agreed upon."[22]

The actual validity of such treaties has been the subject of much debate. Some writers like Touval have maintained that the consensual nature of those treaties

19 These were usually in standard form. For some texts, see Kiwanuka,S. *From Colonialism to Independence: A Reappraisal of Colonial Policies and African Reactions, 1870-1960* (Nairobi: Kenya Literature Bureau, 1982) pp.132-146.

20 For example, The Anglo-German Treaty of 1890. For the text, see, Kiwanuka,S. *From Colonialism to Independence* op.cit., pp.122-131.

21 Uzoigwe,G.N. 'European Partition and the Conquest of Africa: An Overview' in Boahen,A.A.(Ed) *UNESCO General History of Africa: Vol.VII* op.cit., pp.19-44:31.

22 Morris,H.H. 'Protection or Annexation? Some Constitutional Anomalies of Colonial Rule' in Morris,H.F. & Read,J.S. *Indirect Rule and the Search for Justice: Essays in East African Legal History* (London: Oxford University Press, 1972) pp.41-70:50. Indeed, as is argued in Chapter 5, the Uganda Agreement of 1900 convinced the Baganda of their separateness from the other ethnic groups of Uganda. This feeling was later to be pivotal in the development of the Uganda conflict.

cannot be doubted, and can be deciphered from the fact that the African rulers signing them also benefitted politically and militarily, since the treaties altered the local balance of power by holding local rivals at bay.[23] The analytical basis of that argument is predicated on a misunderstanding of the whole nature of colonial system and process, and the consultative nature (or lack thereof), of its decision-making. To argue for the consensual nature of colonial treaties is to ascribe a choice to colonial rulers which they did not enjoy, nor indeed in retrospect, imagined themselves to have. That the treaties were obtained fraudulently, is admitted by no less an authority than Lord Lugard, the *guru* of colonial treaty-obtaining. To him, it was clear that confronted with such a document,

> "No man if he understood would sign it, and to say that a savage [sic] chief has been told that he cedes all rights to the company in exchange for nothing is an obvious untruth. If he has been told that the company will protect him against his enemies, and share in his wars as an ally, he has been told a lie, for the company have no idea of doing such a thing and no force to do it if they wished."[24]

Although the colonial occupiers had undertaken at Berlin to accept such treaties as evidence of legitimate title, whenever those treaties were inconsistent with the essence of the colonial status of their African possessions, they were superceded and overruled by legislation promulgated in the metropoles.[25] The logic of that practice was that such 'treaties' did not enjoy a status such as would commend them to the attraction of

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23 Touval,S. *The Boundary Politics of Independent Africa* (Cambridge,MA.: Harvard University Press, 1972) p.5. Bugandan pro-imperial diplomacy was at the expense of the kingdom of Bunyoro,part of which was annexed to the kingdom of Buganda in return. Hence the problem of the 'lost counties' which was an important factor in the development of the Uganda conflict especially in the early years of independence: see Chapter 5.

24 Perham,M. & Bull,M.(Eds) *The Diaries of Lord Lugard, Vol.I* (Evanston: Northwestern University Press, 1963) p.318.

25 Morris, 'Protection or Annexation? Some Constitutional Anomalies of Colonial Rule' op.cit.

the full force and protection of western customary international law of treaties.[26]

The Jurisprudence of Partition

The jurisprudential problems that attended the administration stage of partition concerned generally the nature and function of colonial empire, and particularly for Britain, the requisites of protectorate. The first hurdle was gone over by reference to the social Darwinist theories then current in Europe, the overthrow of the natural law paradigm of international law by positivist legal theory, and by the exclusion from western dogma of colonial states and peoples from the category of those who had attained the requisite 'standard of civilisation',[27] and who would therefore merit recognition as full members of the family of nations.

The second problem was peculiarly British, and arose because the rigours of English law as then stated, did not permit the issue to be swept under the carpet by resort to the paternalism that informed the 'standard of civilisation' doctrine. The legal nicety that exercised the minds of the Victorians was that as the Law Officers of the Crown had consistently ruled, English law did not contemplate the assertion of title over protectorates, confer any title to the soil thereof, or permit the granting of title over such lands to individuals.[28] Because the Berlin Act required occupation and actual administration, this problem assumed great urgency. It was finally resolved through a happy confluence of

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26 This was a view the courts articulated: see for example the opinion of Judge Huber in the *Islands of Palmas Case (The Netherlands vs. United States)* Permanent Court of Arbitration (1928) especially pp.44-45; this case is reported and commented on in Harris,D.J. *Cases and Materials on International Law* (London: Sweet & Maxwell, 1973) pp.176-186.

27 See Jackson,R.H. *Quasi-States: Sovereignty, International Relations and the Third World* (Cambridge: Cambridge University Press, 1990); see also, Gong,G.W. *The Standard of 'Civilization' in International Society* (New York: Oxford University Press, 1984) *passim*.

28 Sorrenson,M.P.K. *Origins of European Settlement in Kenya* (Nairobi: Oxford University Press, 1968) Ch.3.

events. Firstly, there was a fundamental shift in the paradigmatic basis of international law, from natural law to positivism, towards the end of the nineteenth century.[29] Secondly, because of that change, there was a doctrinal metamorphosis in the notion of sovereignty, permitting only those states that had attained the European-determined 'standard of civilisation' to claim sovereignty internationally. Thirdly, perhaps as a result of these developments, the Law Officers of the Crown rendered a ruling that although their earlier opinion was still good law, it did not apply to 'waste and unoccupied land', and that therefore, "exercise of protectorate in an uncivilised country imported the right to assume whatever jurisdiction...may be needed for its effectual exercise."[30] With this ruling, which is a classic example of colonial legal and positivistic instrumentalism, the final hurdle to Britain's acquisition of 'legal' title to its African protectorates was removed. It could henceforth concentrate on the practical problems of their exploitation.[31]

Having solved these problems, the European powers proceeded to formalise their claims to colonial possessions. They did so through the creation of boundaries demarcating their various areas of influence. In doing this, they were unduly preoccupied with completing the exercise with as little friction and conflict amongst themselves as possible. They therefore

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29 On the emergence of which see Oppenheim's seminal 'The Science of International Law: Its Task and Method' 2 *American Journal of International Law*(1908) pp.313-356; Boyle,A.F. *World Politics and International Law* (Duke University Press, 1985); and Kaplan,M. & Katzenbach,N. *The Political Foundations of International Law* (New York: John Wiley & Sons, 1961); Akehurst,M. *A Modern Introduction to International Law* (London: George Allen & Unwin, 1973 - 2nd Ed.) pp.26-28; and Shaw,M.N. *International Law* (Cambridge: Grotius Publications, 1986 - 2nd Ed.) pp.44-56.

30 Wilson,H.S. *The Imperial Experience in Sub-Saharan Africa* op.cit., p.84.

31 Okoth-Ogendo,H.W.O. *Tenants of the Crown: Evolution of Agrarian Law and Institutions in Kenya* (Nairobi: ACTS Press, 1991) pp.10-12.

"put a premium on strict delimitation and demarcation"[32] of those borders. Although they carefully obviated any possibility of conflict amongst themselves over these borders, the arbitrary approach that they adopted in the delimitation exercise ensured that following decolonisation, those borders would become the source of much conflict. As Boahen has written,

> "Had the boundaries of these states been laid down in accordance with any well-defined, rational criteria and in full cognisance of the ethno-cultural, geographical and ecological realities of Africa, the outcome would have been wholesome. Unfortunately, many of these boundaries were arbitrarily drawn on African maps in the chancelleries of the imperial powers in Europe. The result has been that most of these states are artificial creations, and this very artificiality has created very serious problems, many of which have still not been solved."[33]

This view may attract the criticism that it assumes for Africa a great degree of homogeneity, which its very diversity belies. But, while it is true that a great deal of heterogeneity existed on the continent, and still does, it cannot be gainsaid that the operational philosophy of colonialism, and the rationale of the colonial state, was to submerge this innate heterogeneity. As Vail and others show, this was a carefully calculated process.[34] It will be pointed out later that at a subterranean level, colonial policy fuelled negative ethnic identity; and post-colonial states tried to reduce the negative effect of this by reference to the nationalist paradigm.

The rest of this chapter will examine the way in which the arbitrary demarcation of Africa's colonial boundaries bequeathed independent African states with a legacy of ethnic and border conflicts: or why the

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32 Wilson,H.S. *The Imperial Experience in Sub-Saharan Africa* op.cit., p.100.

33 Boahen,A.A. *African Perspectives on Colonialism* op.cit., p.96.

34 Vail,L.(Ed) *The Creation of Tribalism in Southern Africa* (London: James Currey, 1989).

"inevitability of instability"[35] resulted from the artificial frontiers and unresolved ethnic conflicts of Africa.[36]

Ethnic Conflict in Africa: The Intellectual Milieu

The study of ethnicity is a complex undertaking. It cuts across disciplinary borders, embracing the disciplines of anthropology, sociology, political science and international relations. It is also double edged in that it is 'ethnicity' when it is approved of, and 'tribalism' when it is disapproved of.[37] In the African context, the study of ethnicity is of recent origin, and is an offshoot of the 'nationalist paradigm' of the 1950s and 1960s. It emphasised the totality of the transformation of sub-national units and loyalties into a wider polity.[38] That paradigm, which was born of anti-colonial sentiments, appealed to all shades of opinion, but was rendered nugatory by the attainment of independence. With the vacuum so created, it became necessary to address the question of the ethnic problems which arose, in an effort to imbue post-independence states of Africa with a sense of 'nationalism'. Explanations of these problems have spanned all manner of intellectual colour: this section will consider the main ones.[39]

One explanation for ethnicity in Africa that is offered consistently, is the modernisation paradigm,

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35 O'Connell,J. 'The Inevitability of Instability' 5 *Journal of Modern African Studies* (1967) pp.181-191.

36 Thompson observes that these still define the "venue of hostile conflict." See, Thompson,W.S. 'Where History Continues: Conflict Resolution in the Third World' in Brown,S.J. & Schraub,K.M.(Eds) *Resolving Third World Conflicts: Challenges for a New Era* (Washington: United States Institute of Peace, 1992) pp.1-12:1.

37 Vail,L. 'Introduction: Ethnicity in Southern African History' in Vail, *The Creation of Tribalism in Southern Africa* op.cit., pp.1-19:1.

38 Stavenhagen,R. 'Ethnic Conflicts and their Impact on International Society' 43 *International Social Science Journal* (1991) pp.117-131:117.

39 Vail, 'Introduction: Ethnicity in Southern African History' op.cit. gives a summary of these.

which views tribalism as a relic of the distant past, which should have disappeared with the social, political, and economic changes that independence should have brought with it.[40] This view sees ethnicity (in its 'tribalist' garb), as a species of collective irrationality. The shortcomings of this explanation are that it takes the wrong view of (African) man, as an irrational being. In terms of explaining ethnicity, this explanation is wanting because it is tautological: it argues that Africans act tribalistically because they are tribal by nature.

Other explanations of ethnicity have been offered by a range of social scientists spanning the disciplines of sociology, anthropology, and political science. These explanations are characterised by their ahistorical nature, and by their evolutionary view of human history. Being outgrowths of the nationalist paradigm, they assert that the future ought to be better than the past. In their judgment, 'better' means developments associated with nation-building and national unity. They therefore take a negative view of ethnicity, by seeing it as a disrupter of the process of nation building.[41]

Amongst these explanations is one that sees ethnicity as primarily a result of the policies of the colonial state, especially the policy of divide-and-rule. In the opinion of this school, "European anthropologists connived at such policies by specifying 'tribes' culturally within the context of a uniquely colonial sociology, thereby giving the 'tribe' a real but specious identity."[42] But this explanation does not explain why even within the same colonial territory

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40 According to this view, "the process of societal change leads from the traditional to the modern, from the simple to the complex, from 'particularism' to 'universalism'." See Stavenhagen, 'Ethnic Conflicts and their Impact on International Society' op.cit., p.117.

41 Vail, 'Ethnicity in Southern African History' op.cit., p.3.

42 Ibid.

where divide-and-rule tactics were used, ethnic consciousness was uneven in its spread. Neither does it explain why the ethnic problem has persisted for so long after the end of colonialism.

The 'nationalist theory' explanation of ethnicity locates the genesis of the problem in the work place. It claims that as members of the various cultural groups left their rural homes and interacted with others in the industrial and urban areas, they developed stereotypes of themselves and others, and thus sharpened culturally defined distinctions between the different groups. This theory fails to acknowledge that such people's views about their ethnic past, their culture and their language, did not wholly develop in the work place, or in purely urban and industrial settings. Particularly, it fails to take cognisance of the intelligentsia's contribution towards defining the intellectual content of ethnicity.[43]

The false consciousness theory traces the ethnic problem to the uneven development within African colonial territories. It postulates that certain groups of people benefitted comparatively from the education and employment opportunities of colonial capitalism. Therefore, at the end of the colonial era those groups of people mobilised support along ethnic lines, in an effort to continue enjoying that status after independence. To this school of thought, post-independence conflicts in Africa are the result of ethnic groups competing for advantage.[44] In this instance, "Ethnicity...when ordinary people embrace it, is the epitome of 'false consciousness'".[45] Although this theory is useful because it underlines the manipulation of one class by another in post-

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43 Ibid.

44 This is often cited with reference to the Uganda conflict. But see Chapter 5 on the historical background of the Uganda conflict.

45 Vail, 'Ethnicity in Southern African History' op.cit., p.5.

independence African politics, it assumes a certain credulity on the part of ordinary Africans, and hence fails to explain why the ethnic message persists among them so long after independence.

The 'primordialist' school of thought, which is advanced amongst others by Horowitz,[46]and Giddens,[47]seeks explanation for the ethnic problem in psychology. It is based on Durkheim's idea of the importance of the role of the community (*Gemeinschaft*). It argues that because Africans were badly affected by the disruptive socio-economic and political changes of the late nineteenth century, and since the capitalist relations introduced then undermined the pre-capitalist and pre-colonial hierarchies and order of social life, they were deprived of social and psychological security. Consequently, they have sought security through invoking the values of the past. In this conception, ethnicity, as Vail puts it, is a romantic rejection of the present. Although as Vail argues, this psychological explanation is useful in that it captures the "unself-conscious inevitability of ethnic ascription", it fails to take into account the intellectual content of the ethnic drive. Particularly, it does not explain whether the appeal of ethnicity is because it is intrinsically primordial, or whether its discourse has been rendered primordial in order to give it more appeal and currency. Further, in its application to ethnicity in Africa, it errs in attributing to the African people a psychological stasis. Vail argues well that

> "It is simply impossible to accept that Africans, living through some of the most rapid changes that any people have lived through in all human history, have attached themselves blindly, like so many limpets, to a vision of the past that has little relevance to the present and the future just because it is 'comfortable'. As an interpretation,

46 Horowitz, D.L. *Ethnic Groups in Conflict* (Berkeley: University of California Press, 1985).

47 Giddens,A. *The Nation-State and Violence* (Cambridge: Polity Press,1985).

the 'primordialist' explanation of ethnicity, on its own, is simply too ahistorical and non-specific to convince."[48]

The historical perspective attempts to explain the development of ethnic consciousness as a historical creation that took place over time. It takes a broad sweep of developments, especially from the growth of nationalism in Europe in the nineteenth century,[49] and links this, through the colonial state, to the countries of Africa. By this approach, not only were the seeds of ethnicity deliberately planted by agents of colonialism such as missionaries,[50] but they were nurtured by the local intelligentsia after independence, hence the continuity of the ethnic issue after the demise of the colonial state. In historical terms (and in the African context), the development of ethnic ideology took place within the framework, and in the face of colonial policies on land and labour, which encouraged the need to emphasise and maintain "the historical integrity of the tribe and its land, especially the sanctity of the family and its right to land."[51] Apart from this important emphasis on the centrality of land in the development of ethnic ideology, the historical explanation underlines the continuity of the growth of the ethnic issue. Nurtured by the administrative machinery of the colonial state, it later came to be justified by the policies of post-colonial African states. As Papstein shows, these policies, and the deprivation that they have wrought on many African

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48 Vail, 'Ethnicity in Southern African History' op.cit., p.6.

49 On which see for example Hobsbawm,E.J. *Nations and Nationalism Since 1780: Programme, Myth, Reality* (Cambridge: Cambridge University Press, 1990).

50 See for example, Ranger,T.O. 'Missionaries, Migrants and the Manyika: The Invention of Ethnicity in Zimbabwe' in Vail,L.(Ed) *The Creation of Tribalism in Southern Africa* op.cit., pp.118-150.

51 Vail, 'Ethnicity in Southern African History' op.cit., p.14.

peoples,[52] have led many ethnic groups to 'rediscover', and sometimes 'reinvent' their ethnic identities.[53]

Ethnicity, Conflict, and International Relations

In terms of the international relations dimension of the ethnic problem, there is a dearth of significant,[54] analytical,[55] or even general and broad ranging[56] literature. This is also the case with respect to the treatment of the ethnic factor in the international relations of Africa.[57] The writings on the domestic and the international aspects of ethnicity examine different sides of the same coin. There is thus a close relationship between the two, especially where ethnicity is considered in its conflict generating context.[58] Hence, the approach taken to core concepts such as the definition of the ethnic group, and the responses of the authorities to ethnic conflict,

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52 However, ethnic forces are also important elsewhere, and not just in Africa; see for example, Anderson,B. *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London & New York: Verso, 1991 - revd. ed.); also, Smith,A.D. *National Identity* (London: Penguin Books, 1991); and McGarry,J. & O'Leary,B.(Eds) *The Politics of Ethnic Conflict Regulation* op.cit.

53 Papstein,R. 'From Ethnic Identity to Tribalism: The Upper Zambezi Region of Zambia, 1830-1981' in Vail,(Ed) *The Creation of Tribalism in Southern Africa* op.cit., pp.372-394. For the African context see Ranger,T.O. 'The Invention of Tradition in Colonial Africa' in Hobsbawm,E. & Ranger,T.O.(Eds) *The Invention of Tradition* (Cambridge: Cambridge University Press, 1992 ed.) pp.211-262; for the European context see Hobsbawm,E.J. 'Mass-Producing Traditions: Europe, 1870-1914' in Hobsbawm,E. & Ranger,T.(Eds) *The Invention of Tradition* op.cit., pp.263-307.

54 For example, Suhrke,A. & Noble,L.G.(Eds) *Ethnic Conflict in International Relations* (New York: Praeger Publishers, 1977).

55 Such as Ryan,S. *Ethnic Conflict and International Relations* (Aldershot: Dartmouth Publishing Co., 1990).

56 For instance, Moynihan,D.P. *Pandaemonium: Ethnicity in International Politics* (New York: Oxford University Press, 1993).

57 For example, Asiwaju,A.I.(Ed) *Partitioned Africans: Ethnic Relations Across Africa's International Boundaries, 1884-1984* (Lagos: Lagos University Press, 1984).

58 See for example, Samarasinghe,S.W.R. & Coughlan,R.(Eds) *Economic Dimensions of Ethnic Conflict: International Perspectives* (London: Pinter Publishers, 1991), especially Coughlan & Samarasinghe, 'Introduction-Economic Dimensions of Ethnic Conflict: Theory and Evidence' in Samarasinghe,S.W.R. & Coughlan,R.(Eds) *Economic Dimensions of Ethnic Conflict* op.cit., pp.1-15.

determines to a large extent the readiness with which the linkage (both conceptual and practical) between the domestic and the international can be identified.

Relationship Between Ethnic Groups and the State

The definition of ethnic group (or unit) is a major key to understanding the nature of ethnic conflict. Traditionally, when dealing with ethnicity, 'tribe' was habitually substituted for 'ethnic', especially when negative connotations were intended. Therefore, some modern theorists propose that the word 'tribe' should be "banned from social science vocabulary",[59] since it has pejorative connotations,[60] displays the ideological bias of indigeneous elites,[61] and is congruent with ethnocentric usages.[62]

To van den Berghe an ethnic group, or *ethny*, is a group of people who claim common descent and share a common language and culture.[63] Where the ethny develops political consciousness and asserts statehood rights based on the common ethnicity, there are sufficient ingredients for the existence of a nation. The definition of ethnic group has been honed further in later theorising, to include the psychological requirement that members of the group *believe* that they share a common descent and cultural heritage, and are recognised as such by others.[64] Thus, ethnic conflict

59 Berghe,P.L. 'Class, Race, and Ethnicity in Africa' 6 *Ethnic and Racial Studies* (1983) pp.221-236:222.

60 Smith,A.D. *State and Nation in the Third World: The Western State and African Nationalism* (Brighton: Wheatsheaf Books, 1983) p.68.

61 Mafeje,A. 'The Ideology of "Tribalism"' 9 *Journal of Modern African Studies* (1971) pp.253-261:259.

62 Berghe, 'Class, Race, and Ethnicity in Africa' op.cit. p.221. Minorities everywhere, such as in Northern Ireland, are described as 'tribes', although this usage may not have the pejorative overtones of its reference to Africans by non-Africans, which Berghe has in mind. See Walzer,M. 'Modern Tribalism' 1 *Dialogue* No.99 (1993) pp.14-19.

63 Berghe, 'Class, Race and Ethnicity in Africa' op.cit., p.222.

64 Smith,M.G. 'Pluralism, Race and Ethnicity in Selected African Countries' in Rex,J. & Mason,D.(Eds) *Theories of Race and Ethnic Relations* (Cambridge: Cambridge University Press, 1986) pp.187-225.

involves at its source this psychological divergence in identity. It manifests itself in primary loyalty to the nation rather than to the state, which is "a political entity wherein a group of people claim authority over others who are neither kin nor spouses, and over territory occupied by them."[65] The task, therefore, is one of attempting to transfer this loyalty from the nation to the state: making nations states (in Connor's term 'nation-destroying')[66] and vice versa.[67]

States' Responses to Ethnic Consciousness

In plural societies, that is, states with two or more *ethnies* in their composition, the very bringing together of divergent groups within the borders of one state generates enhanced ethnic consciousness.[68] It is suggested, however, that the way in which the authorities react to this enhanced ethnic consciousness within the state will determine not only its *reputed* threat to the state, but also the possibility of internationalising the ethnic problem, should it result in violent conflict.[69] Thus, early approaches to the

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65 Berghe, 'Class, Race and Ethnicity in Africa' op.cit., p.222.

66 Connor,W. 'Nation-Building or Nation-Destroying?' 24 *World Politics* (1972) pp.319-355; also in Stone,J.(Ed) *Race, Ethnicity, and Social Change: Readings in the Sociology of Race and Ethnic Relations* (North Scituate: Duxbury Press, 1977) pp.238-269. In this respect, Lan's account of how, having incorporated spirit mediums into the war of independence on the side of liberation movements, the Zimbabwean state had to subordinate the role of the mediums to that of the new state, is very illustrative. See Lan,D. *Guns and Rain: Guerillas and Spirit Mediums in Zimbabwe* (London: James Currey, 1985).

67 Zartman calls this a back-turning process: he notes that the stability of nations separated by boundaries "depends on the willingness with which a citizen accepts the order to turn his back on a particular neighbour, or the willingness with which a national leader accepts the fact that people in certain areas are turning their backs on him and his leadership." See Zartman,I.W. *International Relations in the New Africa* (Lanham, MD.: University Press of America, 1987) p.106.

68 Mazrui,A.A. 'Ethnic Stratification and the Military-Agrarian Complex: The Case of Uganda' in Glazer,N. & Moynihan,D.P.(Eds) *Ethnicity: Theory and Experience* (Cambridge,MA.: Harvard University Press, 1975) pp.420-449:447.

69 In the conflicts of Africa (but also elsewhere) this internationalisation often occurs through the refugee problem. For example, in the Somalia conflict, Somalis affected by the conflict have sought sanctuary with their kith and kin in Kenya; similarly, the Hutus in Burundi have done the same with their ethnic kin in Rwanda. The

study of plural societies posited the assimilationist theory, which was based on the assumption that ethnic conflict would disappear with modernisation, through which minorities would be assimilated within the mainstream groups.[70]

The assimilationist theory was the product of the optimism of western liberalism. It was found wanting, and was replaced by incompatability theories, whose basis is that multi-ethnic societies cannot be both stable and democratic in the absence of active involvement by the authorities. Incompatability theories are effected in either of three ways: by incorporation, where the dominant group imposes its will on the rest of the society; by consociational democracy, which is an attempt at a grand coalition of the political leaders of all the significant communities; or by hegemonial exchange, where government is undertaken by the coalition of the centre with the various ethnic groups and regions.[71] The difference between consociationalism and hegemonial exchange in this context is that whereas consociationalism aims at the *coalition* of the centre with the *significant* ethnic communities, hegemonic exchange aims at an *exchange* relationship of the centre with *all* the other groups. In this sense, hegemonial exchange is a more encompassing form of consociationalism.

How ethnic conflict is responded to by the authorities depends on their perception of conflict. Where they see conflict as arising by nature, they resort to suppression. If they perceive conflict as arising from nurture, the response is one of cooperation

Rwandese in the current conflict have done the same with their kin in Burundi, Tanzania, and Zaire.

70 Ryan,S. *Ethnic Conflict and International Relations* op.cit., pp.xix-xxii.

71 Ibid., pp.16-19.

and accomodation.[72]   Rothchild articulates this interpretation in different words:

> "Broadly speaking hegemonial state systems, which view open conflict as threatening and possibly unmanageable, seek to control conflict from the top downward; hegemonial exchange systems which tend to perceive conflict as ubiquitous but manageable, are based upon a mutual adjustment of conflicting interest on the part of...authorities. The former regulates the various types of ethnic conflict by strengthening the control which authoritative institutions at the centre exercise over sub-regions; the latter manages conflict by means of reciprocal exchange obligations among state and ethnoregional leaders at the centre of the political system."[73]

It will be argued later that this distinction has considerable implications for conflict management: it is an important conceptual tool in the hands of the conflict analyst or manager who wishes to know at the outset, whether or not a particular conflict is amenable to a general, or any particular approach, to its management.

Inter-State Dimension of Ethnic Conflict in Africa

It is a truism of nineteenth century African history that when the partition of Africa was formalised in Berlin, the Africans, whose nations were the subject of the partition were neither invited to participate, nor consulted.[74] It also cannot be gainsaid that the partition itself was arbitrary from the point of view of Africans, or that

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72 As is argued in Chapter 5, in the Uganda conflict the various governments took the former view, and hence partly, the protracted nature of the conflict.

73 Rothchild,D. 'Interethnic Conflict and Policy Analysis in Africa' 9 *Ethnic and Racial Studies* (1986) pp.66-86:73. This is similar to the conflict theory debate on inherency and contingency, on which see Webb,K. 'Conflict: Inherent and Contingent Theories' *World Encyclopaedia of Peace: Vol.1* (Oxford: Pergamon Press, 1986) pp.169-174:171.

74 Most books written from whatever conceptual perspective note this. But some still take the position that "all interested parties" were represented at Berlin. They do not, therefore consider Africans to have been interested parties. See for example, Chamberlain,M.E. *The Scramble for Africa* (London: Longman, 1974) pp.54-55.

> "when the process of partition was complete, there were within each colony many diverse ethnic groups with their own distinct cultures and political systems, ranging from groups who only knew loose extended families as a system of administering themselves to groups with relatively sophisticated centralized kingdoms...Some of those grouped together in one colonial entity were inveterate enemies in pre-colonial times."[75]

Indeed, not only were heterogeneous groups lumped together, but efforts to create amongst them a "shared sense of belonging, [or] the experience of a common destiny"[76] were generally absent. At decolonisation therefore, many of the newly independent states of Africa contained diverse ethnic communities, while the borders inherited cut across many of these groups. This planted the seeds in those divided communities of conflict between loyalty to the ethnic group or to the state, or loyalty to either part of a divided ethnic group, or loyalty to an ethnic group or a part thereof and one or more states.[77] This pattern of divided loyalty, and the resulting conflict, has coloured much of the international relations of post-independence Africa.[78]

Because of the additionally complicating factor of official attitudes of respect for the territorial

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75   Ibingira,G.S. *African Upheavals Since Independence* (Boulder,CO.: Westview Press, 1980) p.6.

76 Ibingira,G.S. 'The Impact of Ethnic Demands on British Decolonization in Africa: The Example of Uganda' in Gifford,P. & Louis,Wm.(Eds) *The Transfer of Power in Africa: Decolonization, 1940-1960* (New Haven: Yale University Press, 1982) pp.283-304:285.

77 Hence the problem of 'post-colonial' self-determination, which is discussed in Chapter 4.

78   For example, Papstein op.cit., notes that colonial administrative policies in Central Africa divided the Luvale and the Lozi administratively into what at independence became Angola, Congo, and Zambia: the seeds of later conflcit were thus sown. Similar patterns are observeable in other parts of Africa; For example in West Africa, the colonial division of the Ewe people between what later became Ghana and Togo: see, Brown,D. 'Borderline Politics in Ghana: The National Liberation Movement of Western Togoland' 18 *Journal of Modern African Studies* (1980) pp.575-609. The conflict generating aspect of these colonial policies was however also dependent on official policies of post-independence governments, which continued to accept those borders and to consider them sacrosanct.

borders inherited at independence,[79] ethnic conflict in Africa marks as elsewhere, an important interface between domestic and international relations. This can be discerned by identifying the parties involved in particular conflicts, and by considering the type of ethnic conflict (e.g. separatist, secessionist, or irredentist), and thus the motivating force behind it. Although it has been argued that "secession lies squarely at the juncture of internal and international politics, but for the most part separatism can be explained in terms of domestic ethnic politics",[80] the transboundary nature of many ethnic communities in Africa, and their sheer numbers,[81] suggest that since many ethnic communities are divided by international borders, conflict involving them is, *ipso facto*, internationalised.[82] Regarding the motivating spirit behind separatist, secessionist or irredentist conflict, although the former may be motivated purely from within the community, and the latter two as part of official policy as is the case in Somalia,[83] the end result in both will invariably be the acquisition of an international character. Furthermore, the international character of these conflicts may be introduced by raising the issue, as Young does, whether the policy of the OAU (which entails supressing secessionist, irredentist and separatist conflict) does not clash with

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79 See Chapter 4.

80 Horowitz,D.L. *Ethnic Groups in Conflict* (Berkeley: University of California Press, 1985) p.230.

81 See Asiwaju,A.I. 'Partitioned Culture Areas: A Checklist' in Asiwaju,A.I.(Ed) *Partitioned Africans* op.cit., pp.252-255.

82 This is a very specific form of internationalisation of internal conflict. Here, the reasons for internationalisation are created long before the conflict begins. See Chapter 1 for a more detailed exposition.

83 Gurr,T.R. 'Tensions in the Horn of Africa' in Gross,F. *World Politics and Tension Areas* (New York: New York University Press, 1966) pp.316-334:333-334.

the international legal right to self-determination, as enunciated by the United Nations General Assembly.[84]

One of the distinguishing characteristics of ethnic conflicts is their festering quality: they are in turn latent, erupt, and subside again.[85] During this cycle, possibilities for third party involvement are manifest. In Africa, ethnic conflict usually introduces border issues, thus enhancing the possibility of its eruption into armed conflict. Mandel's general findings on the roots of modern inter-state disputes are of useful explanatory value in this regard. He concludes that the frequency of international border disputes is highest between states that have *roughly* equal levels of power, and relatively low levels of technology, and severest when the level of technology is low and the contention is about ethnic rather than resource issues.[86]

This general argument has been noted elsewhere: that where identity or religious issues are involved, they are non-bargainable in a way that economic issues are not. Thus, where there is low technology (and therefore less wealth), the ability of the authorities to pay off dissident elites is accordingly lessened, and hence conflict may erupt. The explanation for these trends is found in the fact that especially in the third world, border territory can still play "an important functional and symbolic role in international relations."[87] Moreover,

> "In the cultural sphere, the rise in consciousness and outspokenness of sub-national ethnic groups has reopened many simmering disagreements over border territory. When geographical boundaries do not

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84 Young,C. 'Self-Determination, Territorial Integrity, and the African State System' in Deng,F.M. & Zartman,I.W.(Eds) *Conflict Resolution in Africa* (Washington: The Brookings Institution, 1991) pp.320-346.

85 Suhrke & Noble,'Introduction' in Suhrke,A. & Noble,L.G.(Eds) *Ethnic Conflict in International Relations* op.cit., pp.1-15:5.

86 Mandel,R. 'Roots of the Modern Interstate Border Dispute' 24 *Journal of Conflict Resolution* (1980) pp.427-454:429.

87 Ibid., p.429.

correspond to ethnic boundaries, tensions emerge which revolve directly around...border demarcation issues. Finally, in many third world countries, territory still appears to play the traditional geopolitical roles that it did prior to the influx of modern technology."[88]

This kind of trend is a common feature of the conflicts in Africa, such as the frequent conflicts between Rwanda and Burundi, the Somalia-Kenya conflict between 1964 and 1967, the Biafran war of secession, and the Western Sahara conflict.

Unfortunately, much of the work done in this area has approached the problem from a state-centric perspective, rather than from the point of view of the "particular African culture areas or ethnic groups which were most immediately affected by...political surgery by being split into two or more colonies and, later, independent African successor states."[89] Such an approach would have helped to explain the emotive and seemingly intractable nature of these conflicts. The conflict analyst would thereby have benefitted from insights as to their apparently zero-sum nature,[90] and hence their amenability, or lack of it, to effective management.

Border and Territorial Conflict

The General Analytical Context

The problem of territorial control, international borders, and the conflicts to which they give rise, can be seen as one about the effect of environmental factors on international relations. Early exponents of the relationship between the environment (particularly geographical) and the actions of states, argued for

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88 Ibid., p.429.

89 Asiwaju,A.I. 'The Conceptual Framework' in Asiwaju, A.I.(Ed) *Partitioned Africans* op.cit., pp. 1-18:2. Asiwaju is making a plea for an approach based on 'grassroots history', or 'history from below', on which see Hobsbawm,E.J. 'History From Below - Some Reflections' in Krantz,F.(Ed) *History From Below: Studies in Popular Protest and Popular Ideology* (Oxford: Basil Blackwell, 1988) pp.12-27.

90 Mandel, 'Roots of the Modern Interstate Border Dispute' op.cit., pp.428-430.

geographic determinism, that is, that a state's policies are determined *inter alia* by its location, resources, and climate.[91] This early rendition of the essence of geographic (and environmental) determinism was influenced by Darwinist theories, but was later rejected with the realisation that even though geographic factors did play a role, state and international behaviour was influenced by factors more complex than determinism suggested. Although Darwinian theories in this context were rejected later, it was not until the mid-twentieth century that pragmatism was given an international dimension by the Sprouts' theory of environmental possibilism, whose main tenet was

> "that the initiative lies with the man, not with the milieu that encompasses him. Possibilism rejects the idea of controls, or influences, pressing man along a road set by nature or other environing condition. The milieu, in the possibilist doctrine, does not direct or compel man to do anything."[92]

In this sort of relationship, the environment "presents limitations as well as possibilities"[93] for state action. But, while the environment plays an important role in determining state action, other factors do too, since "which possibilities will be realised, which deliberately foregone, and which unknowingly or accidentally foregone depends on non-geographic as well as geographic factors."[94]

Boulding postulated the loss-of-strength gradient, by which the further a state moves away from its home

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91 Goertz,G. & Diehl,P.F. *Territorial Changes and International Conflict* (London & New York: Routledge, 1992) p.3.

92 Sprout,H. & Sprout,M. *The Ecological Perspective on Human Relations: With Special Reference to International Politics* (Princeton: Princeton University Press, 1965) p.83.

93 Ibid., p.86.

94 Fox,W. 'Geopolitics and International Relations' in Zoppo,C.E. & Zorgbibe,C.(Eds) *On Geopolitics: Classical and Nuclear* (Dordrecht: Martinus Nijhoff, 1985) pp.15-44:31.

base, the weaker it gets.[95] The milieu within which the loss-of-strength gradient is determined is complex, and involves organisational, psychological and geographical factors.[96] In terms of international conflict, war is likely to break out when the loss-of-strength gradient is at its most strained, at the point where one state's critical boundary (the furthest point of its sphere of influence) is breached.[97] In this sense, it may be said that "geography influences not only the possibility of conflict, but also the likelihood that it will be chosen as an option by the decision maker."[98]

Staar has extended this line of thinking by emphasising the concepts of opportunity and willingness as necessary, but not sufficient conditions, for the decision to go to war. To Staar, the recognition of opportunity and willingness depends on how the perception of the decision makers interacts with the environment: and geography and territory are an important part of the whole conceptual apparatus of opportunity and willingness.[99]

This kind of analysis is adopted in Westing's exploration of the extent to which natural resources, especially those that are in short supply, lead to interstate rivalries, disputes, and war.[100] That approach is greatly finessed by Choucri and North's notion of lateral pressure. In their reasoning, large scale violence is shaped by human population,

95 Boulding,K.E. *Conflict and Defense: A General Theory* (New York: Harper & Row, 1962) p.230.

96 Ibid., p.245.

97 Ibid., pp.264-266.

98 Goertz,G. & Diehl,P.F. *Territorial Changes and International Conflict* op.cit., p.5.

99 Staar,H. 'Opportunity and Willingness as Ordering Concepts in the Study of War' 4 *International Interactions* (1978) pp.363-387.

100 Westing,A.H. 'Environmental Factors in Strategic Policy and Action: An Overview' in Westing,A.H.(Ed) *Global Resources and International Conflict: Environmental Factors in Strategic Policy and Action* (Oxford & New York: Oxford University Press, 1986) pp.3-20.

technology, and access to resources. Thus, advances in technology, and increase in population cause the dilemma of rising demands against insufficient domestic resources. A society in that position will be greatly constrained unless it can find a way of acquiring enough resources to meet the demands. Therefore, in order to acquire such resources, that state reaches out beyond its borders. In doing so, it is constrained *inter alia* by its location and level of technology, and by the resources, technology and power of neighbouring states.[101] The centrepiece of the concept of lateral pressure is that when resources are unavailable domestically, and there is the capability to acquire them, then a disposition to do so is created. If that predisposition is acted upon, conflict may result.[102]

Territorial Borders and Inter-state Conflict

The sum of the various approaches to the interaction of environmental factors and international relations, is that the study of inter-state conflict would be considerably impoverished if the milieu within which the protagonists act was not taken into account. But that notwithstanding, a precise appreciation of the link between borders and conflict enables inter-state conflict to be put against a sharper analytical relief. This section will briefly investigate that relationship.

A major variable in the determination of the opportunity and willingness of states to engage in conflict is geographical possibility, which can be determined *inter alia* by the number of shared borders[103] that a state has. While it has been argued that states experience more conflict with their neighbours than with

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101 Choucri,N. & North,R.C. *Nations in Conflict: National Growth and International Violence* (San Fransisco: W.H.Freeman & Co., 1975) pp.14-15.

102 Ibid., p.17.

103 Or frontiers: borders and frontiers are distinguished by the fact that whereas "a boundary is a definite line of separation, a frontier is a zone of contact." See Taylor,P.J. *Political Geography: World Economy, Nation-State and Locality* (Essex & New York: Longman & John Wiley & Sons, 1989) p.145.

other states because borders increase the number of interactions, and therefore the opportunity for serious conflict,[104] it is not the borders *per se* that cause conflict: thus

> "a border does not necessarily *cause* either conflicts or cooperative international interaction. The argument is...that a border creates a certain *structure* of risks and opportunities in which various interactions appear more or less likely to occur."[105]

This approach is meritorious because while looking at territory as a facilitating agent for inter-state conflict, it also suggests that geography plays a role in the diffusion of conflict. In this regard, general empirical findings have shown that diffusion is more likely amongst highly interacting countries.[106] In Africa, it has been suggested that contagion is contingent on a recent history of domestic strife, polarisation among a few contending groups,[107] and most intriguingly, on colonial structures, which

> "created certain linguistic and communication patterns that have continued to link nations during the post colonial years...[That] argument might suggest that former membership in a given colonial empire - rather than shared borders - could go further towards defining the sets of interacting nations within which conflict is most likely to diffuse."[108]

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104 Goertz,G. & Diehl,P.F. *Territorial Changes and International Conflict* op.cit., p.7.

105 Staar,H. & Most,B. 'The Substance and Study of Borders in International Relations Research' 20 *International Studies Quarterly* (1976) pp.581-620:588. The same point is emphasised in Siverson,R.M. & Staar,H. 'Opportunity, Willingness and the Diffusion of War' 84 *American Political Science Review* (1990) pp.47-68:49-50.

106 Staar,H. & Most,B. 'Contagion and Border Effects on Contemporary African Conflict' 16 *Comparative Political Studies* (1983) pp.92-117:97.

107 This is true for example of the (conflict) relations between Uganda and the Sudan. See Chapters 5 and 6.

108 Hill,S. & Rothchild,D. 'The Contagion of Political Conflict in Africa and the World' 30 *Journal of Conflict Resolution* (1986) pp.716-735:733.

However, territory *can* be perceived of as a source of conflict. Where territory is a source of conflict, the conflict potential revolves around either the intrinsic importance (i.e. availability and control of minerals, and the land itself), or the relational importance (i.e. geographic location, historical importance, or ethnic composition of the population), of the territory.[109] As will be argued later, the relational importance of territory is an important feature of the conflicts in Africa.

A slightly different approach but which concludes that territory is the source of conflict most likely to end in war, has been advanced by Vasquez. He argues that the relationship between territory and war is best seen not in terms of the Realist paradigm, with its preoccupation with power, but in terms of 'issue politics'. Hence, he contends that although all wars begin with issues, not all issues are resolved by war. He notes further that those issues relating to territory (rather than power) have been the underlying and fundamental source of conflict that ends in war. Thus, "it is territoriality...rather than the struggle for power, that is the key to understanding interstate war."[110] Therefore, although territorial issues are not a sufficient condition for war, they are underlying causes of inter-state warfare.[111]

A Critical Analysis of Border Conflicts in Africa

It is part of post-colonial received wisdom that the exercise of demarcating Africa during partition was done arbitrarily by officials with limited expertise, since at that time "European knowledge of the physical,

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109 Goertz,G. & Diehl,P.F. *Territorial Changes and International Conflict* op.cit., pp.14-20. For example, the Biafran conflict. In the Ugandan conflict, the NRM established an interim administration in western Uganda during the mediation. Had that succeeded, it would have been explicable in similar terms: see Chapter 7 for an account of this interim administration.

110 Vasquez,J.A. *The War Puzzle* (Cambridge: Cambridge University Press, 1993) p.124.

111 Ibid.,p.124,133,146.

let alone the human geography of Africa was still rudimentary."[112] This, coupled with the mood of popular colonialism which was abroad in Europe during the period of partition, ensured that complaints by Africans about the defects of colonial boundaries, if they were listened to, were not given much or any, weight. In Hargreaves's graphic phraseology, in the colonial period and after, "the inhabitants of the grass had to learn to endure the trampling of contending elephants - and to cope with other predators as well."[113] The effect of this arbitrary demarcation especially after decolonisation, was to enshrine structural violence based on ethnic and regional competition, encourage secession, irredentism, and border conflicts. Eventually this stimulated political and economic policies favouring some ethnic communities over others.[114] Hence, the endemic nature, and festering quality of, conflicts in modern Africa.

The reactions of African governments to this state of affairs, through the articulation of the three pillars of OAU conflict management (non-interference in internal affairs of states, respect for the borders inherited at independence, and African solutions to African problems), are analysed in detail in Chapter Four. Part of the philosophy behind OAU policy was the belief that conflict would be most likely to arise in those states which were heterogeneous, and some of whose ethnic communities were divided by colonial borders. But as experience was later to show, even those states which were supposedly homogeneous such as Somalia, were affected by ethnically inspired conflict because their apparently homogeneous community was divided between

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112 Hargreaves,J.D. 'The Making of the Boundaries: Focus on West Africa' in Asiwaju,A.I.(Ed) *Partitioned Africans* op.cit., pp.19-27:22. On the borders of East Africa, see McEwen,A.C. *International Boundaries of East Africa* (Oxford: Oxford University Press, 1971).

113 Ibid., p.25.

114 Sommerville,K. *Foreign Military Intervention in Africa* (London: Pinter Publishers, 1990) pp.2-4.

neighbouring states, such as Kenya and Ethiopia.[115] In any case, even so-called ethnically homogeneous states do generate conflict between clans belonging to the same ethnic group.[116] As the current internal conflict in Somalia is bringing to light, given the ethnic map of the region such heterodox tensions invariably diffuse into neighbouring states. Therefore the conclusion is manifestly justified that the territorial boundaries inherited at independence, whether they are between heterogenous or homogenous African states, have bequeathed an inescapable legacy of shared political instability.[117]

Some writers have however tried to minimise the role of borders as conflict generating agents in Africa. Thus, Kapil has argued that the conflict potential of African boundaries is dependent on the discontinuities in interaction caused by superimposed borders, and on the efficiency of administrative controls of those borders. In terms reminiscent of Deutsch,[118] he concludes that

> "Over a period of time, with increasing economic modernisation and social mobilisation around new territorial institutions and symbols, the inherited boundaries will come to designate and to coincide with new regions of movement, circulation, interaction, and identification. The potential for conflict over their location should decline even further."[119]

Mathews, adopting Prescott's classification of the causes of border disputes (that they arise over

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115 See Woodward,P. 'Relations Between Neighbouring States in North-East Africa' 22 *Journal of Modern African Studies* (1984) pp.285-275.

116 Lewis,I.M. 'The Ogaden and the Fragility of Somali Segmentary Nationalism' 88 *African Affairs* (1989) pp.573-579.

117 Woodward, 'Relations Between Neighbouring States in North-East Africa' op.cit., p.278.

118 Deutsch,K.W. *Nationalism and Social Communication: An Inquiry into the Foundations of Nationality* (Cambridge,MA.: MIT Press, 1966).

119 Kapil,R.L. 'On the Conflict Potential of Inherited Boundaries in Africa' 18 *World Politics* (1966) pp.656-673:673.

territory, position, function, or resource development),[120] posits the view that where rivers and lakes represent borders between African states, or are shared, conflicts over the resource development of these will become more common with the increasing need of their exploitation and use.[121] He advances further the view that

> "most African states are characterised by a heterogeneous population and by the absence of any 'national history'. Lacking a guide for territorial revision, they have insisted on preserving the present boundary system and opposed any attempt to alter it. Further disputes of an ethnic and historical nature are not, therefore, likely to develop."[122]

It is difficult to know whether Touval has undergone a transformation or not: the writings of the later Touval appear to have modified the doctrinaire iconoclasm of the earlier one. Yet, these later writings are peppered with references to the earlier, by way of authoritative clarification. In *The Boundary Politics of Independent Africa*, he argued that the expectation at independence that Africa's borders would prove to be the cause of bitter conflict had been proved wrong, (and that it could not be otherwise) since "some of the disputes that did erupt underwent rapid and extreme fluctuation from phases of mild disagreement to phases of violent conflict and reconciliation."[123] He observed further that the majority of divided ethnic communities "have accepted the fact of their division and have not given rise to irredentism or separatism."[124] Later, he was to concede that

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120 Prescott,J.R.V. *The Geography of Frontiers and Boundaries* (London: Hutchinson, 1965).

121 Mathews,R.O. 'Interstate Conflicts in Africa: A Review' 24 *International Organization* (1970) pp.335-360:344.

122 Ibid., p.359.

123 Touval,S. *The Boundary Politics of Independent Africa* (Cambridge,MA.: Harvard University Press, 1972) p.vii.

124 Ibid., p.271.

> "The ubiquity of partitioned groups astride African international boundaries therefore greatly facilitates the spillover of domestic conflict by the addition of an international dimension. It also contributes to the readiness of people to flee from their homes and become refugees in neighbouring states."[125]

He recognises that the potential for inter-state conflict is high in Africa, but proceeds to embellish that concession with a rider that amounts to the same thing:

> "it is not the partition of groups which is the direct cause of conflict, but rather the union of disparate groups - the enclosure of partitioned groups within a single state with others with whom their interests conflict."[126]

Although the conceptual scalpel that the later Touval wields has become somewhat sharper, the hands that hold it have not changed at all. Not surprisingly, his remedy for the state of affairs in Africa is to propose a form of consociational democracy, where, by virtue of skillful management of alliances with others, disadvantaged groups can increase their share of power within their state.[127]

In arguing that conflicts in Africa will not arise as a result of disputes about borders, Kapil, Mathews, Touval, *et al* miss the point completely, and fail to see the wood for the trees. Where internal factors such as ethnic composition generate conflict, and where the ethnic group in question is divided by international borders, such conflict will *necessarily* become internationalised: and part of the reason for that internationalisation will be the arbitrary nature of the colonial borders. For example, the various internal conflicts in Somalia (including the current one) have been generated internally; but Somalia's international

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125 Touval,S. 'Partitioned Groups and Inter State Relations' in Asiwaju,A.I.(Ed) *Partitioned Africans* op.cit., pp.223-232:231.

126 Ibid.

127 Ibid., pp.223-224.

borders divide an ethnic group which has loyalties and family ties across those borders. Once these find expression, the question of the rationality of those borders, and their place in the international relations of the region will, *ipso facto*, arise. Kapil *et al* are right to the extent that the borders *per se* may not be the primary spark of conflict. But, because they fail to appreciate the close conceptual link between borders and internal (especially ethnic) conflict, their interpretation is flawed, and they miss the essential key to understanding this important aspect of conflicts in Africa.

Touval's thesis on the pattern of conflicts in Africa - that they go through fluctuating phases from mild disagreement to violent conflict, and eventually to reconciliation - falls loose at the seams, because it is predicated on a lack of appreciation of the true nature of conflict. He puts too high a premium on behavioural conflict at the expense of structural conflict. To the extent that it refers to ethnic minorities along territorial borders, his *panacea* of consociational democracy for ethnic minorities misapprehends the whole basis of ethnic related border problems. Where an ethnic community is divided by a territorial border, the willingness of such a group to share power will be limited, because attempts at movement towards consociationalism will be visited with suspicion,[128] which may be translated into violent conflict.

The conflict in Burundi is an interesting case in point. There, the minority Tutsi are in power, and since the early sixties, there has been violence directed against the majority Hutus. In 1987, a new government tried to improve relations between the two

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128 As Rupesinghe notes, "Over the years, suspicion and intolerance have increased to a point where minority grievances are met with increased police and military repression. Ethnic claims are often interpreted as...threats to the very security of the state itself." See Rupesinghe,K. 'Internal Conflicts and their Resolution: The Case of Uganda' in Rupesinghe,K.(Ed) *Conflict Resolution in Uganda* op.cit., pp.1-23:4.

ethnic groups. Although on the surface it looked like the conflict was abating, the source of the problem was structural, and this being the case, the mutual hatred persisted. In 1988, the Hutu in the north killed several thousand Tutsis, and in turn about twenty thousand Hutus were massacred by the (Tutsi) army, with the result that about a hundred thousand Hutus ran away to the neighbouring countries, mostly to Rwanda, where the Hutus are in the majority. Nevertheless, in an exercise in consociationalism, the position of Prime Minister was created in Burundi, and given to a Hutu, and the number of Hutu cabinet ministers increased to eleven. Security was restored, and many of the refugees returned home.[129] But the structure of relations, and the underlying potential for conflict did not change. In 1991 and again in 1993, the ethnic killings resumed.[130]

What analysts of the African scene such as Kapil, Mathews, and Touval fail to appreciate, is that in this type of conflict, ethnic and border issues are so closely intertwined that source, cause and effect lose their distinction as separate categories. These analysts perhaps rely too heavily, and embrace too uncritically, notions which without modification, are alien to African realities. Trapped in the prison of their analytical approach, their predictions, extrapolated wholly from a different (and unmodified) experience, are proved to be false. Consequently, they now contemplate balefully the different realities of conflict on the African continent.

Border and Ethnic Conflict: A Symbiosis

The very close relationship between the problem of borders and the ethnic question in Africa, can be discerned from the undertaking of the OAU member states

129 These facts are summarised from Brogan,P. *World Conflicts: Why and Where They are Happening* (London: Bloomsbury Publishing, 1989) pp.14-18.

130 A good analysis of the Burundi conflict is made by Lemarchand,R. 'Burundi in Comparative Perspective: Dimensions of Ethnic Strife' in McGarry,J. & O'Leary,B.(Eds) *The Politics of Ethnic Conflict Regulation* op.cit., pp.151-171.

to respect the territorial borders inherited at independence. The rationale behind the adoption of that policy has been suggested by Brownlie, who observes that

> "If the colonial alignments were discarded, alternative alignments would have to be agreed upon. Such a process of redefinition would create confusion and threats to the peace. Even if the principles on which revision was to be based were agreed upon, *there would be considerable difficulty in applying the principles to the ethnic and tribal complexities of African states.*"[131]

The relationship between borders that divide ethnic groups, and conflict in Africa has been noted elsewhere.[132] The rationale behind an ethnic conflict that assumes an international character is that such internationalisation would not have arisen had the border in question not been arbitrary, and thus divided ethnic communities between two or more states. When an ethnically oriented conflict is complicated by a dividing border, it tends to be severe, since "ethnic in general seems to be the most intractable, most emotional, and most violence-prone of all issues relating to international conflict."[133] Contemporary conflicts such as that leading to the independence of Eritrea, the Sudanese conflict, and historical ones like the Biafran war, are ready illustrations of this point.

Connor notes that loyalty to the ethnic group and to the state are not harmonious. He reports that ethnic consciousness as a political force is on the rise globally, and that this trend has the effect of challenging the validity of the existing state borders.[134] In specific types of ethnic conflict such as

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131 Brownlie,I. *African Boundaries: A Legal and Diplomatic Encyclopaedia* (London: Christopher Hurst, 1979) p.11. Emphasis added.

132 Staar & Most, 'Contagion and Border Effects on Contemporary African Conflict' op.cit., p.104.

133 Mandel, 'Roots of the Modern Interstate Border Dispute' op.cit., p.435.

134 Connor, 'Nation-Building or Nation-Destroying?' op.cit., pp.243-244. He is right, as demonstrated by the realities of Eastern Europe and the former USSR in 1993.

secession, ethnic anxiety plays a particularly significant role although many other factors such as economic ones are also important.[135]

With respect to Africa, Boyd has noted the close affinity in terms of conflict potential between the superimposed boundaries, and what he terms 'ethnic population overhang'. This arises from a situation where ethnic groups are bisected by state boundaries, with parts of the same group being placed on either side of a state border.[136] The conflicts in the Horn of Africa, and historically, conflicts such as that between Ghana and Togo, where the division of the Ewe people between Togo and Ghana led to the efforts of liberation groups to reunify the Ewe people[137] are illustrations of this affinity.

Shorn of the unhappy phraseology of 'population overhang' which imports the connotation of excess populations, Boyd's concept is very pertinent. He explains cogently the dynamics between ethnic conflict and the resultant generation of boundary conflict by referring to the relative strength of particular ethnic groups in the domestic political scene, which may lead to official policy which generates border conflict:

> "If an ethnic group has a particularly significant or pivotal role in the political environment, the likelihood is that its demands for some form of alteration in the boundary *status quo* will result in the formulation of government policy is greater. It may well be that politically unimportant ethnic groups, or ethnic groups which operate in a political environment where ethnicity is not an important factor, have their demands ignored while those with greater political clout will be more successful in their claims. In this case, the presence of population overhang may be of initial importance, *but the factor which is crucial in the*

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135 Horowitz, D.L. *Ethnic Groups in Conflict* op.cit., p.359.

136 Boyd,J.B. 'The Origins of Boundary Conflict in Africa' in DeLancey,M.W.(Ed) *Aspects of International Relations in Africa* (Bloomington: University of Indiana, 1979) pp.159-189:164.

137 See Brown,D. 'Borderline Politics in Ghana: The National Liberation Movement of Western Togoland' 18 *Journal of Modern African Studies* (1980) pp.575-609.

*generation of boundary conflict is the salience of
ethnicity in internal politics.*"[138]

This feature should however be seen alongside the notion
of fomenting boundary conflict as a 'safety valve' for
general domestic turmoil. Thus, governments facing
significant opposition at home may provoke conflict
whose apparent cause is the artificial boundaries: hence
Zartman's statement that any "African state can have
boundary problems if it wants."[139] But even in such
cases, it is the fact that those boundaries divide an
ethnic group(s) between two countries demarcated by the
artificial border that leads to the success of the
'safety valve' policy. This was the case in the Uganda-
Tanzania conflict of 1978/79. In order to obtain some
relief from opposition - especially from some sections
of the military - Amin invaded the Kagera Salient in
Tanzania, on the basis that the pre-colonial border
between Uganda and Tanzania was originally situated
there.

Therefore, cross-border involvement in an internal
conflict is more likely to happen when the internal
conflict is ethnic. The other aspect of this argument
is the idea that if internal borders are interfered
with, this will also affect the external borders of the
state, if only because the area of that state's
sovereignty will be accordingly reduced, thus calling
for a general re-alignment of the international
relations of the region. This was almost the case
during the Uganda conflict. When Museveni's NRM
declared an interim administration in western Uganda
during the mediation,[140] Tito Okello's government

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138 Boyd, 'The Origins of Boundary Conflict in Africa' op.cit.,
p.167. Emphasis added.

139 Zartman,I.W. 'The Foreign and Military Politics of African
Boundary Problems' in Widstrand, C.G.(Ed) *African Boundary Problems*
(Upsalla: Scandinavian Institute of African Studies, 1969) p.79 -
quoted in Boyd, 'The Origins of Boundary Conflict in Africa' op.cit.,
p.160.

140 See Chapter 7.

rejected it *inter alia* on the basis that such declaration would impugn the integrity of Uganda, by interfering with its international boundaries, as well as polarising Uganda into ethnic factions. It is therefore pertinent to argue that perhaps one reason why border and ethnic related conflict in Africa and elsewhere has appeared to be intractable is that ethnic and cultural ties are far stronger than political ties. Writing about Africa, Asiwaju suggests that authorities there will need to get this perspective right in order to formulate policies that will positively address this type of conflict in the future.[141] How the OAU has gone about managing the conflicts of Africa since its inception is the concern of the following chapter.

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141 Asiwaju, A.I. 'The Global Perspective and Border Management Policy Options' in Asiwaju, A.I.(Ed) *Partitioned Africans* op.cit., pp.233-245.

Chapter Four

OAU Conflict Management

Introduction

Chapter One formulated an analytical framework for mediation, and suggested that such a framework should *inter alia* take into account the regional approach to management. It was argued that track one and track two conflict management are not always separately able to cater for the various levels of conflict. Hence it was suggested that a dual diplomatic track ought to be considered.

Chapter Two examined the literature, and concluded that there are certain important areas of conflict management that have not been addressed sufficiently. It was argued that internal conflicts are increasingly becoming the dominant type of conflict in the post-Cold War era, and that an analytical approach that takes into account their complex and multi-level dimension should be adopted.

Chapter Three delineated the general background against which the conflicts in Africa should be analysed. It observed that these conflicts display a dual ethnic and territorial character which internationalises them, and a symbiosis between the two was attempted. It was conceded that these traits are common to conflicts elsewhere. However, it was pointed out that since the general flavour of this study is African, examining these factors from an African perspective would lay a useful general background for the discussion of OAU conflict management in this chapter.

Although it is true that the exercise carried out in Chapter Three is useful in itself, to be more meaningful to the conflict analyst, those conflicts should be examined in terms of the efforts that have been made to manage them. The efforts of the Organisation of African Unity (OAU) in managing Africa's conflicts has received mixed notices.[1] However, many of the writings on this subject have been guided by general parameters of analysis, considering mainly the evolution of the OAU in its political[2] and international[3] setting, but without taking into account the operational philosophy within which the OAU has attempted to manage these conflicts, as Foltz has done so articulately.[4] Very few studies have attempted to analyse OAU conflict management within an analytical framework geared to the improvement of OAU conflict management. Some of the writings of Zartman have attempted to do this.[5] But as even he has been constrained to observe, little "is known about the internal dynamics of African...mediation; there are few records of 'who said

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1 See El-Ayouty,Y. & Zartman,I.W.(Eds) *The OAU After Twenty Years* (New York: Praeger Publishers, 1984).

2 See for example, Amate,C.O.C. *Inside the OAU: Pan-Africanism in Practice* (London: Macmillan, 1986).

3 See for example, Mathews,K. 'The Organisation of African Unity in World Politics' in Onwuka,R.I. & Shaw,T.M.(Eds) *Africa in World Politics: Into the 1990s* (London: Macmillan, 1989) pp.32-63.

4 Foltz,W.J. 'The Organization of African Unity and the Resolution of Africa's Conflicts' in Deng,F.M. & Zartman,I.W.(Eds) *Conflict Resolution in Africa* (Washington: The Brookings Institution, 1991) pp.347-366.

5 See for example, Zartman,I.W. 'Ripening Conflict, Ripe Moment, Formula and Mediation' in Bendahmane,D.B. & McDonald,J.W.(Eds) *Perspectives on Negotiation: Four Case Studies and Interpretations* (Washington: Foreign Service Institute,1986) pp.205-227; Zartman,I.W.*Ripe for Resolution: Conflict and Intervention in Africa* (New York: Oxford University Press,1989-updated ed.); and, Zartman,I.W. 'Conflict Reduction: Prevention, Management, and Resolution' in Deng,F.M. & Zartman,I.W.(Eds) *Conflict Resolution in Africa* op.cit., pp.299-319.

what to whom with what effect.'"[6] In consequence, whereas there

> "are many studies about the nature of current conflicts in Africa...they tend to be either historical or polemical. The first give a thorough analysis of the causes and evolution of the conflict, the second of the rightness of one side. But there is little study of the conflict as a problem, requiring imaginative ideas and propitious conditions for a solution. Solutions are at best added as an afterthought to studies, and are not considered academic since they are unfootnotable."[7]

This chapter will consider the legal and political background against which OAU conflict management operates. It will examine the OAU's attitude to its involvement in internal and inter-state conflicts in Africa. It will be argued that the dichotomy of internal and inter-state conflicts, while logical within the provisions of the OAU Charter, is rendered nugatory in practical conflict management. Track one and track two conflict management within the spirit of the Charter will be examined, as will the reasons for the paucity of non-OAU individual African mediations. It will be suggested that since OAU practice has developed along an internal and inter-state dichotomy which is no longer practically feasible, an alternative (dual) track[8] that is not inspired by that dichotomy should point towards a new direction in African conflict management.

The Legal Background: The OAU Charter

The OAU Charter was born toward the end of the colonial era. It was inspired by different visions of the place, role, and function of independent Africa. In the end, it was a merger and a compromise between these

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6 Zartman,I.W. 'Conflict Reduction: Prevention, Management, and Resolution' op.cit., pp.299-319:313-314;although, as was noted in Chapter Two, some of the historical literature is very revealing in this regard,and therefore ought not to be rejected out of hand as merely anecdotal.

7 Zartman, 'Conflict Reduction: Prevention, Management and Resolution' op.cit., p.319.

8 See Chapter 1.

different views.[9] The Casablanca group[10] demanded the immediate unification of African states, while the Monrovia group[11] advocated a more functional approach to African unity. Against this divergence of approach to African unity were the fears of some states that the idea of self-determination would encourage irredentism. There was also anxiety in some small states that the bigger and more nationalistic ones would interfere with their internal affairs on pan-Africanist or irredentist grounds.[12] Thus, article 3 of the Charter enshrined principles which exemplified the bridging of the philosophical gap between the Casablanca and the Monrovia groups, and catered for the apprehension of some states about their future security.

Principles of OAU Conflict Management

Of the seven principles articulated in the Charter, the first three, namely the sovereign equality of all member states, non-interference in the internal affairs of states, and respect for the territorial integrity of each state, are central to OAU conflict management.[13] So is the principle of 'African solutions to African problems', which though not enshrined in the Charter, has evolved from OAU conflict management practice.

The Principle of the Sovereign Equality of States

The debates preceding the formation of the OAU demonstrate that the founding fathers contemplated an organisation in which none of the members would lay a

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9 The story of this evolution is given in Djaksam,T. *Conflict Resolution in the OAU: A Case Study of Chad* (Ph.D. Dissertation, University of Kent at Canterbury, 1990) Ch.1.

10 Ghana, Guinea, Mali, Morocco, Egypt, and the Algerian Provisional Government in Exile.

11 Cameroun, Central African Republic, Chad, Congo Brazzaville, Dahomey, Gabon, Ivory Coast, Senegal, Upper Volta, Liberia, Nigeria and the Sudan.

12 Umozurike,U.O. 'The Domestic Jurisdiction Clause in the OAU Charter' 78 *African Affairs* (1979) pp.197-209:198.

13 This has recently been reaffirmed by the OAU. See *Interim Report of the Secretary-General on the Mechanisms for Conflict Prevention, Management and Resolution* (CM/1747 (LVII)) p.3

claim to superiority over the others, or in any way claim to be *primus inter pares*. This concern was reflected in the Charter, article 3(1) of which reaffirms the undertaking to adhere to the principle of the sovereign equality of all member states. Indeed, the adherence to this principle differentiates the OAU from other regional organisations such as the Organisation of American States (OAS), in that it was intended to include no dominant state and was instead to be "a partnership of almost equally weak equals."[14]

All member states formally profess adherence to this principle. But the varied pace of development, and the uneven availability of resources in different countries, has predisposed certain countries to want to play a hegemonial role in pan-African, and regional affairs. The role of Nigeria in the Economic Community of West African States Monitoring Group (ECOMOG, which is the peacekeeping force in Liberia) illustrates this. In conflict management terms however, this perceived role of some states has not been clearly discernible. Thus, although intending to play a leadership role in the Liberian conflict, Nigeria has professed to do so under the cover of ECOWAS (Economic Community of West African States). On the other hand, although Kenya's attempt to mediate in the Uganda conflict was partly inspired by its perceived status as a leader in the region,[15] that perception was not shared by all parties in the conflict. Indeed, if anything, it played a complicating role in the mediation.[16]

The Principle of Non-Interference

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14 Northedge,F.S. & Donelan,M. *International Disputes: The Political Aspects* (London: Europa Publications, 1971) p.270. Developments since 1963 have however rendered this observation void. Currently, some members such as South Africa, Nigeria and Egypt are certainly not 'equally weak' with other less developed and less well endowed members.

15 See Chapter 6.

16 See Chapter 7.

The principle of non-interference in the internal affairs of states is best seen as exemplifying "the desire to be left alone, to be allowed to choose one's particular political, economic and social systems and to order the life of one's community in one's own way."[17] Ideally, African governments require by this principle, that they be left alone to deal with any internal problems and conflicts, and only invite outside involvement as an exercise of sovereign choice.[18]

As will be seen later from examples such as the Chad conflict, the OAU's definition of what is and is not internal has not been consistent, or realistic. Three approaches to interpretation explain this. Firstly, the OAU has adopted a very strict and limited interpretation of the principle of non-interference. It considers any involvement, including involvement by way of management, to constitute interference in internal affairs. Accordingly, individual member states have adopted that strict interpretation. Secondly, although article 3(2) of the Charter refers to the internal affairs *of states*, it has been restrictively interpreted to mean non-interference in the internal affairs of OAU *member* states. In truth, the provision was intended to encapsulate a broad philosophical position, and was addressed to the world at large. Its consequent limited interpretation does not accord with the intentions of its drafters, or the spirit of the Charter.[19]

The third problem refers to whether the provision against non-interference was addressed to member states exclusively, or to the organisation as well. The OAU's

17 Elias,T.O. 'The Charter of the Organization of African Unity' 59 *American Journal of International Law* (1965) pp.243-267:248; also, Elias,T.O. *Africa and the Development of International Law* (New York: Dobbs Ferry,1972) p.127.

18 Foltz, 'The Organization of African Unity and the Resolution of Africa's Conflicts' op.cit., p.359.

19 A textual (admittedly positivistic) analysis of article 3 supports this view. The other relevant sub-articles make direct reference to member states where they intend to refer exclusively to them: for example, article 3(1) refers to "all member states"; article 3(3) to "each state", and article 3(5) to "neighbouring states".

interpretation is that it also applies to the organisation. However, the argument that this provision is not coterminously addressed to the organisation has been canvassed persuasively by Tiewul. He argues that the injunction to adhere to the principles of article 3 are addressed to *member states*, unlike a similar provision in the United Nations Charter, which is addressed to both member states and the organisation itself. Since the drafters of the OAU Charter modelled it on the UN Charter, (and indeed had it before them),[20] the omission to extend the provisions of article 3(2) to the organisation could not have been fortuituous. Tiewul therefore concludes that "[far] from prohibiting the involvement of the OAU in the domestic affairs of member states, the Charter charges it with functions the performance of which presupposes such involvement."[21]

The Principle of Territorial Integrity

This principle enjoins OAU member states to respect the territorial borders inherited at independence.[22] More even than the principle of non-interference in the internal affairs of states, (although in many instances in state practice they operate together) it is the principle most cherished by the OAU, and indeed, has been "elevated to an absolute principle."[23] This explains a contradiction in OAU conflict management:

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20 Elias, 'The Charter of the Organization of African Unity' op.cit.

21 Tiewul,S.A. 'Relations between the United Nations Organization and the Organization of African Unity in the Settlement of Secessionist Conflicts' 16 *Harvard International Law Journal* (1975) pp.259-302:294.

22 See AHG/Res.16 (1). This is known as the doctrine of *uti possidetis juris*, on which see Zartman,I.W. *Ripe for Resolution: Conflict and Intervention in Africa* (Oxford & New York: Oxford University Press, 1989-2nd ed) p.15.

23 Kamanu,O.S. 'Secession and the Right of Self-Determination: An OAU Dilemma' 12 *Journal of Modern African Studies* (1974) pp.355-376:360. Shivji agrees, but argues that of the three, self-determination is the primary right, with non-interference and territorial integrity being secondary. In his view the OAU Charter has raised the two secondary elements to the level of principle elements. See, Shivji,I.G. 'The Right of Peoples to Self-Determination: An African Perspective' in Twining,W.(Ed) *Issues of Self-Determination* (Aberdeen: Aberdeen University Press, 1991) pp.33-48:40.

that although as for example in Western Sahara the conflict would have precluded involvement on the basis of non-interference in internal affairs, it nevertheless became engaged there on the basis that the conflict affects territorial borders, and is hence international.

An intense debate on the question of territorial borders and the meaning of African unity (and tangentially therefore, the view taken on secession) prefigured the drafting of the Charter. The Casablanca group adopted a 'United States of Africa' view, and envisaged the political union of all African states to form one government. The Monrovia group championed a 'United Nations of Africa' perspective, and did not contemplate any devolution of sovereignty from individual states.[24] The OAU adopted the Monrovia approach and since then, the view that secessions are inherently incompatible with the goal of African unity has been taken as a truism by African leadership.[25] The reaction of the OAU to the Biafran and Eritrean secessionist conflicts bears this out.

The Principle of 'African Solutions to African Problems'

This principle is one which the OAU has long laboured to affirm.[26] Also known as the 'try OAU first' approach,[27] it is based on the belief that any dispute between member states "should be dealt with as a family quarrel, that should not be taken to any outside body...to settle."[28] It also forms part of the larger debate about regionalism, and the view that regional organisations are more effective conflict managers in

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24 Kamanu, 'Secession and the Right of Self-Determination' op.cit., pp.362-363.

25 Ibid., p.362.

26 See the preamble to AHG/Res.16 (1) which was passed at the Cairo summit.

27 See Andemicael,B. & Nicol,D. 'The OAU: Primacy in Seeking African Solutions Within the UN Charter' in El-Ayouty,Y. & Zartman,I.W.(Eds) The OAU After Twenty Years op.cit., pp.101-119.

28 Amate, C.O.C. Inside the OAU op.cit., p.166.

their geographical region. In this view, because such organisations are geographically proximate, they are more likely to understand the factual background of a conflict, and the norms relevant to its management.[29] The later policies of the United Nations and the United States towards the conflict in Somalia[30] lend support for this view.

Although during the Cold War this principle was not always recognised elsewhere, especially by those with strategic and other interests in Africa, it has recently been affirmed in the aftermath of United States involvement in the Somalia conflict. Thus, United States Secretary of State Christopher explained changing United States policy in Somalia by observing that henceforth, "we're going to try and use the African leaders' assistance *to provide an African solution to what is really an African conflict.*"[31]

OAU Principles and the Problem of Self-Determination

The principles of non-interference in the internal affairs of states and respect for the territorial borders inherited at independence, are the two main pillars on which OAU conflict management is founded.[32] This is not surprising given the political milieu within which they were formulated. But when they are considered alongside the commitment of the OAU to the

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29 See Nye,J.S. *Peace in Parts: Integration and Conflict in Regional Organization* (New York: University Press of America, 1987) p.17. But, consistent with the argument adopted in this study, such organisations are heterogenous managers, and hence may not be able to manage conflict effectively: see Chapters 1 and 8.

30 Some viewed United States policy as being essentially United Nations policy: see Kirkpatrick,J. 'Clinton Does Have a Clear Foreign Policy: Just ask Boutros-Ghali' *International Herald Tribune*, 8 August 1993, p.6; others saw United Nations policy as reflecting United States Policy: see 'For UN Read US' *The Guardian* (Editorial), 15 October 1993, p.3. Others saw a collaboration of policy: see Rosenfeld,S.S. 'A Broader U.S. Vision, or a Setting of Limits?' *International Herald Tribune*, 25-26 September, 1993. The provenance of the policy does not affect the argument here.

31 Reported in *International Herald Tribune*, 11 October 1993, p.1. Emphasis added.

32 And as is argued in Chapter 6, the strict adherence of the OAU to these principles led it to ignore the Uganda conflict.

principle of self-determination, (a major purpose of the OAU, under the rubric of the eradication of all forms of colonialism in Africa)[33] then severe contradictions manifest themselves. Some of the conflicts that the OAU has dealt with, such as the civil wars in Nigeria and Ethiopia, have been secessionist: both the Biafrans and the Eritreans sought self-determination. In both cases, the governments in power pleaded that those conflicts were internal affairs, and the OAU concurred with that view. In both, success of the secessionist movements would have necessarily entailed alterations of the borders of a member state,[34] an eventuality that the OAU considers anathema. Thus, in both, the OAU's support was for the existing territorial borders and states. There is an inherent contradiction in this OAU policy, because while professing to hold the principle of self-determination dear, in practice it seems to value it less than it does these other two principles.[35] In OAU doctrine, self-determination is supportable only when it is from foreign rule, and not from African rule,[36] or as Shivji puts it, when it is external rather than internal.[37] This OAU position has hardened so much that it has impaired the ability of the organisation effectively to manage conflicts such as that in the Ogaden. It also affects the OAU's ability to manage

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33 Article 3(6) of the OAU Charter.

34 In the case of Eritrea, this did eventually happen. Eritrean independence meant a reduction in the territory of Ethiopia. It took the frontiers of the Italian colony, thus preserving the principle violated by Ethiopia.

35 See Young,C. 'Self-Determination, Territorial Integrity, and the African State System' in Deng,F.M. & Zartman,I.W.(Eds) *Conflict Resolution in Africa* op.cit., pp.320-346.

36 Mayall,J. 'Self-Determination and the OAU' in Lewis,I.M.(Ed) *Nationalism and Self-Determination in the Horn of Africa* (London: Ithaca Press, 1983) pp.77-92:82.

37 Shivji, 'The Right of Peoples to Self-Determination: An African Perspective' op.cit., p.40.

conflicts   related   to   "post-colonial   self-
determination".[38]

In the course of the Ogaden conflict, Somali policy
changed from accepting OAU mediation in the hope that
its resistance to Somali irredentism could be thus
contained (1964-69); containing popular irredentist
demands by concentrating on alternative social and
political goals (1969-77); and, pertinently, from 1977,
arguing that the principle of the inviolability of
borders applied to sovereign, but not colonial states.
Since in the Somali view Ethiopia was a colonial state,
the Ogaden Somali had the right to fight for self-
determination and to receive support in that
endeavour.[39] Ethiopia and the OAU rejected this view.
The OAU upheld the principle of the inviolability of
borders, and expressed opposition to any 'subversion'
against the government of a member state. Clearly, "the
OAU [was] not...prepared to jeopardise its existence by
re-classifying one of its member states as a colonial
power."[40]

This OAU policy of supporting the right to external
self-determination (i.e. liberation from another,
external state), while hardening its attitude to
internal self-determination (the right to act against
totalitarian and oppressive local regimes)[41] and to
post-colonial self- determination (the demand for ethnic
communities divided by borders to merge) is hard to
justify. In conflicts such as in the Ogaden, persuasive

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38 In this type of conflict, the demands for self-determination
represent "a conflict between those who live within a territory and
those who are part of a wider ethnic group with members both inside and
outside the territory". See International Alert's Report, *Preventive
Diplomacy: A UN/NGO Partnership in the 1990s* (London: International
Alert, 1993) p.10. See also Chapter 3.

39 Mayall, 'Self Determination and the OAU' op.cit., p.86.

40 Ibid., p.87.

41 On external and internal self-determination, see Michalska,A.
'Rights of Peoples to Self-Determination in International Law' in
Twining,W.(Ed) *Issues of Self-Determination* op.cit., pp.71-90:83-87.

opinion views it as a factually colonial situation.[42] As such, it would attract the test laid down by the International Court of Justice in the *Western Sahara Case*:[43] that self-determination is a fundamental right in contemporary international law, is available to all peoples who are subjugated and *functionally* subjected to colonialism, and can be inferred from such objective factors as geographical, ethnic or cultural distinctiveness. In this case as in others, the OAU has been out of touch with changing realities.

OAU Approaches to Managing African Conflicts

The preceding section identified the legal and philosophical milieu within which the OAU has defined its conflict management capability. Given the confines of that delimitation, the OAU has developed certain distinct, and peculiarly OAU conflict management policies and methodology. The main conflict management *policies* are firstly, that the organisation eschews involvement in internal conflicts. Secondly, the OAU has historically preferred the less formal conflict management device of *ad hoc* mediations, to the more formal arrangements contemplated in the Charter's provision for a Commission on Mediation, Conciliation and Arbitration.

The main *methodology* of OAU conflict management is that mediations are carried out collectively, by a commission appointed whenever a conflict is brought to the attention of the organisation. Three factors render these mediations quintessentially OAU. Firstly, the mediators are composed exclusively of OAU heads of state. Secondly, although collective, the anatomy of these mediations reveals that there runs through them some strands of individual mediation. Thirdly, these individual mediations only take place within the

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42 Reisman,W.M. 'Somali Self-Determination in the Horn: Legal Perspectives and the Implications for Social and Political Engineering' in Lewis,I.M.(Ed) *Nationalism and Self-Determination in the Horn of Africa* op.cit., pp.151-173:164.

43 ICJ Reports (1975).

framework and authorisation of the *ad hoc* commissions. There are thus very few instances of non-OAU individual mediations on record.[44]

These approaches to OAU management of African conflicts have had a twin effect on the structure of conflict management in Africa. Because of the OAU's preoccupation with institutional (track one) conflict management, individual, non-OAU African mediation efforts are barely discernible on the OAU conflict management map. Secondly, track two conflict management efforts on the continent have not been nurtured, if not expressly discouraged. The OAU's response to track two initiatives has been the classic track one response to track two of not formally recognising such efforts, presumably so as not to share any blame should they fail (and to share in their success where that is the outcome).

The following sections will look beneath the veil of these OAU approaches, and seek therein the reasons why the growth and development of individual non-OAU African mediation and track two management has been stultified. The OAU is a conservative organisation, and this makes it difficult for its Charter to be amended. Yet, its approach to conflict management is rigid, and is increasingly becoming less able to provide sufficient direction in the face of the realities of a changing world. It will be suggested that an alternative dual diplomatic approach may point to the direction that conflict management on the continent should aim towards in the future.

The Conflict Management Policies of the OAU

i) <u>Preference for Ad Hoc Mediations</u>

The kind of conflict management preferred historically by the OAU is one of "mediation shading

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44 The Uganda mediation which is examined in detail in Chapter 7 is one of the few, and most prominent examples.

into conciliation."[45] The emphasis has been on informal approaches which are considered to be better suited to the realities of the African context.[46] There has therefore been an almost obsessive championing of the principle of the maintenance of borders inherited at independence.[47] In practice this has meant that disputes have been managed more *within* the organisation, than *by* the organisation.[48] Indeed, the formal institutional machinery contemplated in article XIX of the Charter, which set up the Commission of Mediation, Conciliation and Arbitration[49] was abandoned in practice, in favour of *ad hoc* mediations which are procedurally more informal.[50]

Djaksam gives some reasons why that Commission became moribund. These include the slow speed of its formation which allowed the institutionalisation of *ad hoc* committees, and the bureaucratic politics of competition between the Commission and the Secretariat of the OAU. He also cites the potential clash between the four main organs of the organisation as to which of them were to deal with conflicts, and the unsuitability of the procedure of judicial settlement or arbitration which did not conform to the needs of the continent. Finally, he mentions the lack of African specialists in

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45 Wolfers,M. 'The Organization of African Unity as Mediator' in Touval,S. & Zartman,I.W.(Eds) *International Mediation in Theory and Practice* (Boulder,CO.: Westview Press, 1985) pp.175-196:175.

46 Meyers,B.D. 'Intraregional Conflict Management by the Organization of African Unity' 28 *International Organization* (1974) pp.345-373:369.

47 See Chapter 3 on how these borders were effected.

48 Meyers, 'Intraregional Conflict Management by the Organization of African Unity' op.cit., p.369.

49 On the creation of which see Elias,T.O. ' The Commission of Mediation, Conciliation and Arbitration of the Organization of African Unity' 40 *British Yearbook of International Law* (1964) pp.336-359.

50 Wolfers, 'The Organization of African Unity as Mediator' op.cit. p.177.

international law, and the fact that judicial settlement is slow and expensive.[51]

These reasons however tell only part of the story. Although it is true that the Commission underwent certain problems in getting off the ground, when the Secretary General reported on the need to get the Commission started, the Assembly of Heads of State nevertheless still preferred to set up a *special ad hoc committee* rather than to resuscitate the Commission.[52] The argument that there was a lack of African specialists on international law is only partly pertinent. While it is true that there was a dearth of African specialists on *general international law*, it is also true that specialists on the type of law in question i.e., African regional customary international law based on peculiarly African state practice, did not exist anywhere else since it was still developing. Hence expertise thereon would have to develop with evolving practice and on the job, as indeed it later did. Thus it was not bureaucratic politics, much less a suspicion of western international law that predisposed African leaders in the OAU to ignore the Commission. It was more that, perhaps because of the issues involved in the conflicts in contemplation (especially the matter of borders and non-interference), the leaders did not want any institutionalised and binding forum for their settlement. It was also thought that the Commission, in its present form, is inappropriate. It was envisaged that the Commission would have jurisdiction over states only. In the view of OAU members however, it would be impractical to suggest that this provision be amended to apply to intra-state conflicts, since

> "no sovereign government would readily allow its opponents from within the same country to be

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51 Djaksam,T. *Conflict Resolution in the OAU: A Case Study of Chad* op.cit., p.98-100.

52 See Amate, C.O.C. *Inside the OAU* op.cit.

accorded parity of status in any proceedings of a tribunal. Indeed...[there]...is the need for an approach that...[engages] the parties in a non-accusatory discussion."[53]

In other words they preferred settlement out of court rather than in court.[54]

It remains to be answered why, if this was the case, the provision for a Commission was enshrined in the Charter in the first place. The answer is not far to find. The Charter was drafted by officials, who used the precedent of the United Nations Charter in doing so. Their concession to Africa was to make the Commission an African one, rather than providing for disputes to be taken to the International Court of Justice, as is the case with the UN Charter.

In practice, whenever a conflict is reported, a commitee of heads of state is appointed to look into the dispute. The Assembly lays down the philosophical guidelines within which the committee should operate, usually that the dispute should be settled within the spirit of the Charter.[55] The resort to using heads of state in these committees is a peculiarly OAU practice, and is particularly significant because it has become institutionalised. Its rationale has been suggested by Foltz, who observes that

"The men at the top have greater flexibility in reaching decisions and cutting deals than do their juniors, as well as the prestige to make their decisions stick. This procedural principle has consequences for the way the OAU goes about trying

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53 *Report of the Secretary-General on Conflicts in Africa: Proposals for an OAU Mechanism for Conflict Prevention and Resolution* (CM/1710 (LVI)) p.7. See also Chapter 1, where the fears governments have of legitimising insurgents is discussed.

54 The suspicion with which courts are seen by African leaders was evident later, when the African Charter on Human and People's Rights was being drafted. The suggestion that there be a human rights court in Africa in the style of the European court was rejected, largely because the idea of governments being taken to court was seen as alien to tradition. In truth, they were probably scared that judicial procedures would reveal much that they preferred to hide.

55 See for example, AHG/Res.81 (XII) and AHG/Res.92 (XV) on Western Sahara; AHG/Res.94 (XV) on the Libya/Chad dispute; AHG/Res.199 (XXVI) on the Mauritania/Senegal dispute; and AHG/Res.121 (XX) on Chad.

to resolve disputes, for it virtually requires that
negotiations be conducted under the auspices of
someone who is formally on an equal footing with
the spokesmen for the two sides, which is to say
that he too is a chief of state."[56]

It will be suggested later that this preoccupation with
a quintessentially track one approach is one of the
areas of OAU conflict management that could beneficially
be modified in the future.[57]

ii) OAU Policy of Non-Involvement in Internal Conflicts

That the OAU in practice professes to involve
itself only in inter-state conflicts was a result of the
modification in the thinking of the first crop of
African leaders at the formation of the OAU. Just
before independence, African nationalists argued that
Africa was being balkanised, and that the colonial
borders then existent being artificial, would have to be
re-drawn after independence. However, because of the
suspicion that many leaders had for the notion of
Nkrumaist pan-Africanism, the idea of re-drawing the
borders was abandoned in favour of territorial integrity
within the inherited borders. This was partly due to
the leaders' realisation (which they still hold), that
changing borders would create as many problems as not
changing them,[58] and that the *status quo* provided the
better way out of that dilemma.[59] As a result, the
principles of sovereignty, territorial integrity and
non-interference were given a prominent place in article
3 of the Charter. This change in approach after
independence was informed by the conviction that

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56 Foltz, 'The Organization of African Unity and the Resolution
of Africa's Conflicts' *op cit* p.357.

57 See Chapter 9.

58 This position is being questioned increasingly elsewhere, and
the view is emerging that "Africans must redraw their boundaries not
in blood and chaos, but through tough negotiations with each other and
a vision of Africa's role in the world." See Hoagland,J. 'Cast off
Myths and Redraw the Boundaries of Africa' *International Herald
Tribune*, 18-19 June 1994, p.6.

59 See Chapter 3. Also, Brownlie,I. *African Boundaries: A Legal
and Diplomatic Encyclopaedia* (London: Christopher Hurst, 1979) p.11.

"since most African frontiers divided ethnic communities, it was feared that to concede the demands of one dissatisfied group would open a Pandora's box of similar demands elsewhere. In these circumstances, pressures for external intervention would prove irresistible."[60]

In many ways, OAU involvement in African conflicts has been at its core a defence of these principles. Thus, in post-colonial African thought on secession, the 'domino theory of secessions' has held sway, especially in the official circles of the OAU.

Although the articulation of these principles has great theoretical coherence, it has led to the OAU being unable and unwilling to involve itself in the face of several serious conflicts. It has especially declined involvement in conflicts which though on the face of it internal, had serious international repercussions. The cases of strife in Uganda during the Amin years, the current crisis in Somalia, and the repeated conflicts in Rwanda and Burundi[61] are pertinent cases in point. In the 1972-3 conflict in Burundi for example, when Tanzania appealed to the international community and the OAU to intervene in order to prevent genocide, the OAU Secretary General gave it as the opinion of the OAU that the events in Burundi were its internal affairs, and that the OAU could not therefore get involved.[62] The sending of a Group of Neutral Military Observers (GNMO)

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60 Mayall,J. 'The Hopes and Fears of Independence: Africa and the World,1960-1990' in Rimmer,D.(Ed) *Africa 30 Years On* (London: Royal African Society, James Currey & Heinemann,1991) pp.22-38:25. One explanation offered is that this new policy was as a courtesy to Haile Selassie, who still claimed Eritrea as part of Ethiopia. But Haile Selassie's influence belongs to a quite different issue, namely the observation that the OAU never discusses those conflicts affecting the state of which the current chairman is head of state. In this, Haile Selassie, who was the first chairman of the OAU, may have set a precedent.

61 Although the OAU eventually put in place a "Group of Neutral Military Observers" (GNMO) in northern Rwanda: see *Africa News Report* 8 April, 1993, p.5. This was however more in response to the internationalisation of the conflict rather than to its internal character.

62 Umozurike, 'The Domestic Jurisdiction Clause in the OAU Charter' op.cit., p.199.

to northern Rwanda[63] in 1993 suggested a change in this policy. But the OAU Secretary General's later (after the conflict worsened) statement that the OAU would not accept primary responsibility for sending a peace-keeping force to Rwanda, indicates otherwise.[64] OAU reluctance to be involved in the Rwanda conflict probably stems from its perception of that conflict as an internal rather than an inter-state one.

The doctrine against involvement in internal conflicts went through a metamorphosis from cautious involvement in the early years of the OAU, to the absolutist policy of non-involvement in later years. In 1963, when an internal revolt in Togo led to the assassination of President Olympio, the new government was refused representation at the founding Assembly of the OAU. It was not until elections confirmed the new government that Togo was allowed to join the OAU. In that instance the OAU saw itself as having a legitimate interest in involving itself in the internal affairs of a (member) state. This was in defence of the principle of "unreserved condemnation, in all its forms, of political assassination as well as of subversive activities on the part of neighbouring states or any other states"[65] which the OAU saw as fundamental to its existence.[66]

The involvement in Togo showed an early willingness of the OAU to involve itself in internal African conflicts in defence of cherished principles. But its experiences in the Congo and Nigeria showed that such involvement could also threaten the internal cohesiveness of the organisation. In the Congo

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63 See Cohen,H. 'Conflict Resolution: An Urgent Challenge' *Africa News Report* 8 April,1993 pp.4-6:5.

64 See Secretary General Salim's statement in *Sunday Nation* (Nairobi) 3 May 1994, p.13.

65 Article 3(5) of the OAU Charter.

66 Meyers, 'Intraregional Conflict Management by the Organization of African Unity' op.cit., p.362.

conflict,[67] Tshombe was not allowed to attend the 1964 OAU Council meeting in Cairo as leader of the Congolese delegation or in any other capacity.[68] Unlike on Togo, the OAU was greatly divided on the issue. Some members argued that Tshombe deserved condemnation, while others considered the matter to be purely internal. This sort of division marked future trends whenever the OAU was confronted with internal conflict in a member state. Indeed its failure to involve itself successfully in the Congo was "a bitter blow to the prestige and authority of the OAU"[69] from which it never quite recovered its self confidence, as the Biafran conflict later demonstrated.

The OAU responded to the Biafran conflict[70] by appointing an *ad hoc* commission to visit Lagos "in quest for territorial integrity and peace."[71] The Nigerian government insisted that its actions were a purely police action to quell a mutiny, and that this was an entirely internal affair. The OAU embraced this argument, and reaffirmed the Assembly's "adherence to the principle of respect for the sovereignty and territorial integrity of member states", "condemnation of secession in any member states", and its recognition of the Nigerian conflict "as an internal affair, the solution of which is the primary responsibility of

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67 A detailed, almost day by day account of this conflict is given by Gerard-Libois,J. *Katanga Secession* (Madison, Milwaukee & London: The University of Wisconsin Press, 1966: Tr. Rebecca Young).

68 Amate,C.O.C. *Inside the OAU* op.cit., pp.432-433. It was argued by some that this decision was a peccadillo of the Egyptian foreign minister, rather than an official OAU Council one. The point is moot, as in the event, the Tshombe delegation did not attend.

69 Wiseman,H. 'The OAU: Peacekeeping and Conflict Resolution' in El-Ayouty,Y. & Zartman,I.W.(Eds) *The OAU After Twenty Years* op.cit., pp.123-153:129.

70 On which see Oyinbo,J. *Nigeria: Crisis and Conflict* (London: Charles Knight & Co., 1971).

71 Nye,J.S. *Peace in Parts: Integration and Conflict in Regional Organization* op.cit., p.158.

Nigerians themselves."[72] The Biafran attempt at secession ended in military defeat. The choice of states in the OAU Commission on Nigeria was however illustrative: they were states whose governments were apprehensive of ethnic secession in their own countries.[73]

In the Nigerian civil war, the Nigerian government was not averse to OAU involvement, provided that it took place against the background of the OAU's acceptance of the indivisibility of Nigeria.[74] Although the OAU was divided on the issue, with four states (Gabon, Ivory Coast, Tanzania and Zambia) recognising Biafra, its attitude to the conflict marked a turning point in its thinking and approach to involvement in internal conflicts. In later internal conflicts like those in Ethiopia, Somalia[75] and the Sudan, the OAU studiously observed the policy that was crystallised during the Nigerian civil war, that is

> "to reinforce the orthodox interpretation of the national self-determination principle, namely that it is tied to decolonisation, and cannot be invoked to challenge the legitimacy of an established state."[76]

Problems of the Internal/Inter-state Dichotomy

The notion that the OAU will not involve itself in internal conflicts, but will activate its conflict management mechanisms in respect of inter-state conflicts, is one of the problematic areas of the study of OAU conflict management. An examination of many of the continent's conflicts reveals that in practice, it

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72 Amate,C.O.C. *Inside the OAU* op.cit., p.441.

73 Wolfers,M 'The Organization of African Unity as Mediator' in Touval,S. & Zartman,I.W.(Eds) *International Mediation in Theory and Practice* op.cit., pp.175-196:183. The states represented were Cameroun, Congo Kinshasa, Ethiopia, Ghana, Liberia and Niger.

74 Mayall, 'The Hopes and Fears of Independence: Africa and the World, 1960-1990' op.cit., p.27.

75 See for example CM/Res.1340 (LIV) Rev.1, which reaffirms the "indivisibility and the territorial integrity of the Somali Republic.

76 Ibid., p.27.

is difficult to maintain the internal/inter-state dichotomy in any systematic way. This leads to the conclusion that to the OAU, a conflict is internal if the organisation decides that it is, regardless of whether objective facts reveal otherwise. The conflict in Chad, and the Tanzania/Uganda war of 1978-9 are good illustrations of this dilemma.

a) The Conflict in Chad

Two developments informed the unfolding of the modern conflict in Chad.[77] After the withdrawal of French troops from Chad in 1965, a civil war ensued, and with it the disintegration and collapse of Chad such that "[f]rom the early seventies, Chad became more of a geographical expression than a state."[78] The resulting inter-ethnic animosities permeate this part of the development of the Chad conflict,[79] as do the religious differences between the christians and the animists in the south, and the muslims in the north, which have led to a *de facto* division of the country.[80]

Libyan designs have been an integral part of the development of this conflict. Since he took power, Libya's Gaddaffi has had revolutionary ambitions, and the resources to pursue them. Libyan interests in Chad have been inspired by Gaddaffi's pan-Islamic vision of consolidating power in the Islamic Sahel Belt, gaining access to the uranium deposits in Northern Chad, and by the ambition to turn Libya into a regional power in Africa. Libyan occupation of the Aouzou Strip in

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77 Case studies of this conflict have been done amongst others by, Djaksam,T. *Conflict Resolution in the OAU* op.cit.; and Amoo,S.G. & Zartman,I.W. 'Mediation by Regional Organizations: The Organization for African Unity (OAU) in Chad' in Bercovitch,J. & Rubin,J.Z.(Eds) *Mediation in International Relations: Multiple Approaches to Conflict Management* (London: Macmillan,1992) pp.131-148.

78 Amoo & Zartman, 'Mediation by Regional Organizations' op.cit., p.137.

79 Decalo,S. 'Regionalism, Political Decay, and Civil Strife in Chad' 18 *Journal of Modern African Studies* (1980) pp.23-56.

80 Pittman,D. 'The OAU and Chad' in El-Ayouty,Y & Zartman,I.W.(Eds) *The OAU After Twenty Years* op.cit., pp.297-325.

Northern Chad in 1973, and its support for one or the other of the various factions during the different stages of the conflict, further underline the dual internal and inter-state character of this conflict.

The OAU first got involved in the Chad conflict during the Libreville Summit in 1977,[81] when then President Malloum formally complained against Libya's support for the rival faction led by Oueddei. The Chad/Libya conflict was on the OAU's agenda again in 1978, when it appointed an *ad hoc* committee to mediate in the conflict.[82] On 6 January 1981, Libya and Chad announced a decision to merge the two countries. This galvanised the OAU: twelve heads of state meeting in Togo, issued a communique calling on Libya to withdraw all its forces from Chad.

At the Nairobi summit in June 1981, the OAU Assembly decided to expedite a 1979 decision to send peacekeeping forces to Chad.[83] The conditions given by the Nairobi summit for the OAU to effect that decision were that there be a formal request by the Chad government, and that Libyan troops be withdrawn from Chad. Under pressure from the OAU, (whose chairmanship Gaddaffi was looking forward to assuming in 1982) Libyan forces withdrew abruptly from Chadian territory. The OAU force was put in place by mid-January 1982, but was withdrawn in June that year amidst logistic and financial problems.[84] The OAU *ad hoc* committee was reactivated later, after Hussein Habre took power and complained about Libya's occupation of the Aouzou Strip.

This brief sketch of the Chad conflict demonstrates the difficulties in labelling the conflict as either

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81 See AHG/Dec.108 (XIV).

82 See AHG/Res.94 (XV).

83 See CM/Res.769 (XXXV) and AHG/Res.101 (XVII).

84 See Sesay,A. 'The OAU's Responses to European Military Interventions in Africa' in Sesay,A.(Ed) *Africa and Europe: From Partition to Independence or Dependence?* (London: Croom Helm,1986) pp.153-182:166.

purely internal or inter-state. In that conflict, both these dimensions are so closely interwoven that their distinction almost loses meaning. When the OAU got actively involved to the extent of sending a peacekeeping force, it could not properly or convincingly argue that it was doing so in a purely inter-state conflict, because both dimensions of the conflict were intertwined. Although to its credit the OAU peacekeeping force declined to get involved in the factional fighting in Chad, that has been attributed more to its lack of instructions and direction than to any conscious policy of the OAU. Interestingly, the OAU cited the intended merger of Chad and Libya to justify its proactive involvement in Chad. That merger would have flown in the face of the OAU principle enjoining states to respect the borders inherited at independence. At the same time, OAU involvement can be seen as being contrary to its principle of non-interference in the internal affairs of a (member) state. The major problem with this policy however, is that it has been applied inconsistently in different cases, as the conflict between Tanzania and Uganda in 1978/9 demonstrates.

b) The Tanzania-Uganda War, 1978-79

Following the invasion by Ugandan troops into the Tanzanian Kagera Salient in 1978, Tanzanian forces pushed them out, and drove them back to Kampala, ensuring Amin's downfall in the process.[85] Upon the Ugandan invasion, Tanzania complained to the OAU, and demanded that the Ugandan invasion be condemned as a serious breach of the OAU principle of respect for the territorial integrity of member states. The OAU sent an envoy, who reported that Ugandan forces had already withdrawn from Tanzanian territory. However, Tanzanian

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85 See Chapter 5. Nyerere called the Moshi Conference to ensure that there would be a democratic government in Uganda after Amin, and one sympathetic to Tanzanian interests. This information was supplied by a senior Tanzanian foreign ministry official in an interview with the author, Paris, 23 December, 1993.

forces had already commenced operations to expel the Ugandan forces from Tanzania.

In that conflict, the issues were joined in a very novel way. The Tanzanian invasion of Uganda "was of great significance for the precedent it set on a continent whose geographical and ethnic divisions had hitherto rendered such a violation totally unacceptable."[86] However, Nyerere maintained that the issue was no longer whether or not the Ugandan forces had pulled out of Tanzania, but that the OAU had not condemned the Ugandan invasion in the first place. Nyerere contended that since the OAU had failed to censure Uganda's earlier invasion, it had forgone any right to condemn punitive action by Tanzania against Amin's forces. In that way, the issues were firmly joined, in a way that put an unrelenting spotlight on the whole basis of OAU non-interventionist policy.

At the Monrovia summit in 1979, most OAU member states remained silent on the issue, save for Sudan (whose President Numeiry had been chairman of the OAU during the conflict) and Nigeria, which condemned the action by Tanzanian forces as a gross violation of the OAU Charter. In a brilliant riposte to these two, Nyerere argued that the OAU had put the victim rather than the aggressor in the dock, and that

> "We are unfair in the proposition that when one country has committed an act of aggression against another, has clearly violated the Charter of the OAU, has blatantly attempted the annexation of a piece of land of another country, that to appeal to the OAU to condemn that act...is in itself a violation of the Charter."[87]

c) The Chad Conflict, the Tanzania-Uganda War and OAU Policy

OAU involvement in Chad was founded on the view that the territorial integrity of a member state was

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86 Thomas,C. *New States, Sovereignty and Intervention* (Aldershot: Gower Publishing Co.,1985) p.109.

87 Speech reported in *New African*, September 1979, p.12.

threatened. The OAU's attitude to the Tanzania-Uganda war was based on the argument that Tanzania had interfered in the internal affairs of a (member) state. This sort of distinction does not display any consistency in OAU policy. The OAU's attempt to rationalise its contradictory policies in these two conflicts is not convincing, and indeed flies in the face of the facts.

The Chad conflict has always been an internal conflict internationalised *inter alia* by outside (e.g. Libyan) involvement. The Tanzania-Uganda conflict was an internal Ugandan one, which was internationalised by anti-Amin groups in Tanzania, and most eminently an international conflict when Ugandan forces invaded the Kagera Salient.[88] In both, the distinction between internal and international is hard to maintain, since one dimension feeds into the other. The OAU's failure to affect the outcome of either was due to its attempt to maintain a distinction that could not, on the ground, be properly founded. The result is the engendering of the feeling that the OAU's policy on non-intervention is not based on any rational justifications. It appears to be based on the *ad hoc* calculation of the potential precedent-setting effect of an intervention.

The Methodology of OAU Conflict Management

As noted earlier, one of the most clearly discernible elements of OAU conflict management is the eschewing of the formal approaches enshrined in the Charter provision for a Commission of Mediation, Conciliation and Arbitration, in favour of *ad hoc* committees of heads of state. The broad methodology of OAU conflict management has therefore been correctly identified as collective.[89] Within this broad framework two strands of methodology are discernible: actual

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88 See Chapter 1 on the process of internationalisation of conflict.

89 Wolfers, 'The Organization of African Unity as Mediator' op.cit., p.190.

collective mediation, where the committee conducts the mediation as a group, and individual mediations, where the committee authorises one of its members to conduct the mediation on its behalf, and to report back on progress. To this type of individual mediation should be added those where individual heads of state of the OAU conduct mediations, not on the authority of a committee, but on the direct authority of the OAU. These are sometimes, but not always undertaken by the chairman of the organisation, and represent an exception to the rule, rather than a firm and well established thread of practice.

Collective Conflict Management of the OAU

The first test of the functioning of OAU conflict management machinery was the border conflict between Algeria and Morocco. In that conflict, Algeria based its claims on the OAU policy of respect for the borders inherited at independence, while Morocco founded its claim primarily on the non-existence of such borders.[90] Following the war that broke out between them, several attempts at mediation took place.

Among these was the joint effort of Haile Selassie and President Modibo Keita of Mali.[91] They persuaded King Hassan and Ben Bella to meet at Bamako in Mali under their joint mediation. The Bamako Agreement resulted from that meeting. It called *inter alia* for an extraordinary meeting of the OAU Council of Ministers to create a committee of arbitration to seek for a definitive solution to the conflict. The OAU Council was convened later, and passed a resolution reaffirming the determination of the OAU to operate within the framework, principles and institutions of the organisation. It also created a committee as called for

90 Wild,P.B. 'The Organization of African Unity and the Algerian-Moroccan Border Conflict: A Study of New Machinary for Peacekeeping and for the Peaceful Settlement of Disputes Among Africans' in Tharp, P.A. (Ed) *Regional International Organizations: Structure and Functions* (New York: St. Martin's Press, 1971) pp.182-199.

91 See ECM/Res.1 (1).

by the Bamako Agreement.[92] The Bamako Agreement broke down before the OAU committee could implement it, because eventually Algeria and Morocco settled the conflict bilaterally.

In the Chad conflict, collective mediation by the OAU took place simultaneously with individual mediation. The original OAU involvement was at the Libreville summit, where, following a complaint by Chad against Libya, an *ad hoc* committee was appointed, with a brief to mediate the conflict.[93] This committee met in August 1977, and counselled moderation on the two parties. A second committee was appointed by the OAU in 1978, with instructions to continue in the efforts of the earlier committee.[94] In 1980, the OAU committee organised a conference attended by Oueddei and Libya's foreign minister, but this did not achieve any concrete results. The OAU's next involvement was through the sending of an OAU peacekeeping force to Chad in 1982.

Individual Conflict Management Under the OAU

Although the OAU prefers to mediate in conflicts through *ad hoc* committees, in practice expression is given to individual members of such committees to attempt mediation on their behalf. Some of these individual OAU mediations have yielded positive results. Examples of this are the mediation by Kaunda in the conflict between Somalia and Kenya, where a joint declaration expressing both countries' desire to resolve outstanding disputes in the spirit of the OAU Charter, was signed.[95] In the aftermath of the Nigerian civil war, Haile Selassie mediated successfully between

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92 See ECM/Res.1 (I). The committee comprised Ethiopia, Ivory Coast, Mali, Nigeria, Senegal, Sudan and Tanzania.

93 This committee was made up of Algeria, Cameroun, Gabon, Mozambique, Nigeria and Senegal.

94 See AHG/Res.94 (XV). This one was made up of Cameroun, Niger, Nigeria, and the Sudan.

95 See AHG/St.1 (IV). This is discussed in Amate, C.O.C. *Inside the OAU* op.cit., p. 414.

Nigeria and the four states which had recognised Biafra, thus enabling them to resume diplomatic relations.

Other individual mediations ended in failure. At the beginning of the Nigerian civil war, General Ankrah of Ghana attempted but failed, to mediate between the parties. Although an agreement was reached on the reorganisation, administration and control of the army, and on senior appointments in the army and civil service, it was never implemented.[96] In the Algeria-Morocco conflict, President Nasser attempted mediation by calling a summit meeting with the two parties. However, since he had earlier condemned Moroccan 'aggression committed against Algeria', and had given Algeria military assistance, his mediatory endeavours were unsuccessful.[97] An effort by President Bourguiba of Tunisia to offer his good offices met with similar failure because although Morocco had expressed willingness to attend a meeting called by him, relations between Tunisia and Algeria were strained, following earlier accusations by Bourguiba that Algeria was harbouring Tunisian dissidents plotting to assassinate him.[98]

Nigerian mediation in the Chad conflict is also illustrative. In the Kano conference on Chad, a Peace Accord was reached, which called *inter alia* for the development of a national coalition, a general ceasefire, an independent monitoring commission under the chairmanship of Nigeria, the demilitarisation of N'Djamena for a radius of one hundred kilometres, and a general amnesty for prisoners and hostages. Apart from the fact that many of the armed groups in Chad did not pull out of N'Djamena, Amoo and Zartman ascribe the failure of this Peace Accord to the fact that

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96 Oyinbo,J. *Nigeria: Crisis and Beyond* op.cit., pp.76-77.

97 Wild, 'The Organization of African Unity and the Algerian-Moroccan Border Conflict' op.cit., p.185.

98 Ibid., p.188.

"[c]ompounding the problem, Nigerian troops conducted themselves as an occupying army engendering so much local hostility that they were finally asked to leave by the Provisional Council."[99]

Individual mediations within the OAU do not therefore reflect an overwhelming, or even discernible pattern of success. The reasons for this are evident from the examples given above. In the case of the Egyptian and Tunisian efforts in the Algeria-Morocco conflict, the perception by Morocco that Egypt sympathised with and supported Algeria led to Moroccan rejection of the Egyptian offer. Strained relations between Algeria and Tunisia induced Algerian fears that the Tunisian offer to mediate was not altruistic.[100] In the Chad conflict, Nigerian self-interest (Nigeria was backing one of the factions in Chad) led it to play too heavy a hand during the sojourn of its forces in Chad. These examples support the conclusion that in such conflicts, mediation based too heavily on the self-interest of individual states is unlikely to be successful. As the case study will reveal later,[101] this is true also of non-OAU individual mediations.

Cooperation between the OAU and the United Nations

At the centre of the study of OAU conflict management practices is the question of the relationship between the OAU and the United Nations. As was noted earlier, OAU policy is inspired by the belief that African conflicts should be resolved by Africans. The United Nations takes the view that although primacy in conflict management should be given to regional

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99 Amoo & Zartman, 'Mediation by Regional Organizations' op.cit., p.305.

100 Consistent with the literature surveyed in Chapter 2, mediation is rarely undertaken for altruistic motives. See for example, Mitchell,C.R. 'The Motives for Mediation' in Mitchell,C.R. & Webb,K.(Eds) New Approaches to International Mediation (Westport,CT.: Greenwood Press, 1988) pp.29-51.

101 See Chapters 6-8.

organisations, it retains a general mandate to oversee progress in such management.[102]

This apparent conflict of approach has not affected the cooperation between the two organisations. The United Nations has supported the OAU's primacy in the management of conflicts on the continent. This is based on the United Nation's Charter, which encourages regional organisations to take regional conflict management initiatives.[103] Indeed, whenever some states have attempted to by pass the OAU and take their conflict directly to the United Nations Security Council, they have been referred back to the OAU.[104] The cases also reveal that the United Nations has supported OAU primacy in managing African conflicts. The current conflict in Somalia illustrates how the OAU and UN approaches have come to merge. In that conflict, although the UN through its peacekeeping force (UNOSOM) at first appeared to insist on UN primacy,[105] it later came to accept a primary role for the OAU on the basis that management of the conflict should take a regional approach.[106] Hence the UN's support for the Addis Ababa negotiations.[107]

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102 See Boutros-Ghali, B. *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-keeping* (New York: United Nations, 1992) pp.35-38.

103 Articles 52 and 53 (Ch.8.) of the Charter of the United Nations.

104 Cases of this are for example, the conflicts between Somalia and Ethiopia, Burkina Faso and Mali, and Burundi and Rwanda.

105 See Boutros-Ghali,B. 'UN Multilateralism: A Cure for Ugly New Nationalisms' *International Herald Tribune,* August 21-22, 1993.

106 This was owed largely to changing USA policy on Somalia. See the statement of Warren Christopher, the US Secretary of State, that "we're going to...use the African leaders' assistance to provide an African solution to what is really an African problem." *International Herald Tribune,* 11 October 1993, p.1; earlier, Defense Secretary Aspin had stated that "the United Nations and the Organization of African Unity should now act to bring the parties together on the peace track."*Maoni Ya Amerika* (Nairobi), No.70, September 1993, p.14.

107 The original December 1993 talks in Addis Ababa did not materialise because of the failure of General Aideed to attend. See *The Kenya Times* (Nairobi), 3 December 1993, p.8; also, *The Independent* (London), 30 November 1993.

The Western Sahara conflict is the *locus classicus* of cooperation between the OAU and the United Nations, and the compatability of their views on conflicts in Africa.[108] OAU and United Nations attempts at managing the Western Sahara conflict have gone hand in hand. But in its early stages, Morocco was able to delay progress by shifting the issue from one organisation to the other.[109] The OAU's original involvement was in 1976, when the issue was whether to recognise the POLISARIO Front as the legitimate liberation movement of the Western Sahara. However, Spain's withdrawal from Western Sahara removed the rationale for the recognition of the POLISARIO as a liberation movement. The issue thus became one of recognition of a new state, which would have entailed membership of the organisation. The OAU ruled that recognition was a matter for individual members to decide, but called an extraordinary summit on Western Sahara.[110] That summit formed a 'Committee of Wise Men'.[111] In 1979 this committee recommended that a peacekeeping force be created to monitor a ceasefire in preparation for a referendum, and that Morocco withdraw from the area which was formerly occupied by Mauritania.

By the 1980 summit, twenty three African states had recognised the Saharawi Arab Democratic Republic (SADR), and therefore inevitably the question of SADR's membership arose. Morocco argued that the SADR was neither independent nor sovereign, the two attributes required by the Charter[112] for membership. The issue of

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108 See Zoubir, Y.H. 'The Western Sahara Conflict: Regional and International Dimensions' 28 *Journal of Modern African Studies* (1990) pp.225-226.

109 Damis,J. 'The OAU and Western Sahara' in El-Ayouty,Y. & Zartman,I.W.(Eds) *The OAU After Twenty Years* op cit., pp.273-296:278.

110 By AHG/Res.92 (XV).

111 This committee comprised Guinea, Mali, Niger, Nigeria, Ivory coast, Tanzania and the Sudan.

112 In article 4 which provides that "Each independent sovereign African State shall be entitled to become a member of the Organization."

membership was postponed, but the life of the committee of wise men was extended further. The committee proposed, and the OAU adopted, a two part peace plan for the Western Sahara: a ceasefire to be enforced by United Nations forces, and a referendum to be organised with United Nations assistance. At the OAU summit in 1981, the OAU set up a seven nation *ad hoc* implementation committee to make the necessary arrangements for a 'general and regular referendum of self determination'. It also requested a UN peacekeeping force to maintain peace and security during the referendum and subsequent elections.

These OAU efforts complemented those of the United Nations, including the personal efforts of the Secretary General. In August 1988 the Secretary General proposed a peace plan whose main elements included a cease fire, and a referendum on self-determination. Although Morocco and the POLISARIO accepted this plan, Moroccan acceptance was seen as part of a larger policy to rejoin the OAU, and to restore credibility and regain lost prestige at the United Nations.[113] At the 1988 United Nations General Assembly, pressure was put on Morocco by the Fourth Committee, which underlined the linkage between joint OAU and UN efforts by overwhelmingly calling for direct negotiations between POLISARIO and Morocco. This was seen as the best way to create the requisite conditions for a peaceful and fair referendum under the auspices of the OAU and the United Nations. Although until then King Hassan had consistently declined to hold talks with the representatives of the POLISARIO, such talks were held in Marrakesh in 1989. King Hassan maintained that these were merely 'discussions' rather than negotiations. Nevertheless, those talks marked a turning point in the conflict in Western Sahara, because their real effect was to confer *de facto* recognition by Morocco on the POLISARIO. Indeed,

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113 Zoubir, 'The Western Sahara Conflict' op.cit., p.221.

"Despite Morocco's insistence that the King 'only talked' with the...Polisario representatives in January 1989, the substance of their discussions could well be described as quasi-negotiations, since not only were the details of the referendum raised, but also arrangements for a truce and an exchange of prisoners." [114]

Although only gradually, Morocco had moved towards fulfilling the requirements set by the OAU and the United Nations. Thus, when the United Nations Secretary General visited Algeria and Morocco in March 1990, his discussions centered on proposals for a ceasefire in Western Sahara to be followed by substantial, gradual and appropriate reductions of Moroccan forces. Indeed, Moroccan concerns now centred not on whether a referendum should be held, but on definitional squabbles on the nature of the referendum.

Effect on the Structure of OAU Conflict Management

Although OAU conflict management has registered mixed results,[115] it has had some deleterious effects on the structure of conflict management in Africa. These effects are all linked somehow to the insistence by the OAU that it be at the centre of conflict management on the continent. They also reflect areas which require to be addressed in future.

The most notable of these effects are: several serious conflicts which have remained unattended and unmanaged by the OAU; the paucity, and probably lack of support for, collective and individual, non-OAU African mediations; the existence of fewer bilateral conflict management efforts than when the OAU was formed; and the underdevelopment of track two conflict management in Africa. This section will analyse each of these trends.

<u>Conflicts Where the OAU Declined Involvement</u>

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114 Ibid., p.236.

115 Out of thirty OAU efforts (1963-1983) recorded by El-Ayouty and Zartman, twelve failed, ten succeeded, and eight ended either in victory for one side, or in management whose results are not included in the period. See El-Ayouty,Y. & Zartman,I.W.(Eds) *The OAU After Twenty Years* op.cit., pp.379-383.

The sum of OAU conflict management policy is that it has been selective in the conflicts in which it has involved itself, and been markedly inactive in some of the most festering conflicts in the continent. This attitude of selective neglect is explicable by the role of personal influence in OAU decision making, especially in deciding which conflicts it should be involved in. For example, the OAU rarely discusses those conflicts in the countries from which the chairman in a particular year comes.[116] The OAU also prefers not to be involved in those conflicts in countries where a particularly revered figure, such as Haile Selassie was, is head of state. This has often paved the way for outside powers to intervene, usually by supporting one or the other side in the conflict. The Eritrean conflict[117] was a prime example of this policy of selective neglect.

Several reasons have been advanced for OAU neglect of the Eritrean conflict. The first was the OAU policy that borders inherited at independence are sacrosanct. In the Eritrean case, Haile Selassie manipulated the fear of secession in Africa, and thus managed to keep the Eritrean question off the OAU agenda.[118] By maintaining consistently that the Eritrean conflict was an act of banditry, and therefore an Ethiopian internal affair, he managed to keep the Eritreans from getting a hearing both at the OAU and at the United Nations.[119] Secondly, during the Haile Selassie regime, the first Eritrean liberation movement, the Eritrean Liberation

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116 Amate, C.O.C. *Inside the OAU* op.cit., p.445.

117 For useful analyses of the Eritrean conflict see, Araya,M. 'The Eritrean Question: An Alternative Explanation' 28 *Journal of Modern African Studies* (1990) pp.79-100; also, Pateman,R. 'Liberte, Egalite, Fraternite: Aspects of the Eritrean Revolution' 28 *Journal of Modern African Studies* (1990) pp.457-472.

118 But in contrast, the OAU discussed the inter-state conflict between Ethiopia and Sudan: see for example AHG/Dec.107 (XIV) and AHG/Res.93 (XV).

119 Markakis,J. 'No Longer a Hidden War: Recent Writings on the Eritrean Nationalist Struggle' 19 *Journal of Modern African Studies* (1981) pp.362-366:362-363.

Front (ELF), did not publicise its cause sufficiently. Indeed, it was not until the fall of the *ancien regime* that paradoxically, a split in the ELF produced a second movement, the Eritrean Peoples Liberation Front (EPLF) which realised the need to raise international awareness of the Eritrean cause.[120] The task of the EPLF was made easier by the competition between the USSR and the United States for control of the Horn of Africa, which significantly internationalised the conflicts in the Horn.[121] Thirdly, the personal standing of Haile Selassie in the eyes of his contemporaries in the OAU disinclined them to discuss the Eritrean conflict. From the very first OAU summit in Addis Ababa in 1963, "the African Heads of State...[a]s guests of the Emperor...declined to respond to the Eritrean nationalists."[122] Thus

> "the mythical image of Ethiopia, and the resultant preponderant position enjoyed by Haile Selassie, helps to explain why most African leaders [did] not recognise the right of Eritreans to self-determination...In addition, sub-Saharan governments [were] assiduously reminded of the disruptive impact that Eritrean independence would have on the multi-ethnic nature of their own societies, with Katanga and Biafra still fresh in the memories of all concerned."[123]

The Paucity of Non-OAU African Mediations

What is very striking on examining conflict management in Africa is that there are surprisingly few African non-OAU mediations, either collective or individual. Because of this paucity which makes comparative study difficult, the erroneous conclusion could be reached that these are not a successful method of conflict management in Africa. But as the Kenyan

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120 Ibid., p.363.

121 Laidi,Z. *The Superpowers and Africa: The Constraints of a Rivalry, 1960-1990* (Chicago & London: University of Chicago Press, 1990) pp.123-131.

122 Yohannes,O. 'The Eritrean Question: A Colonial Case?' 25 *Journal of Modern African Studies* (1978) pp.643-669:662.

123 Ibid., p.662.

mediation of the Uganda conflict suggests, this mode of conflict management has great untapped potential in Africa.

The reason for this paucity of either individual or collective non-OAU conflict management in Africa is best found in the OAU Charter, and as noted earlier, in its strict interpretation by the OAU. Given the conditions in 1963, the OAU was right to enshrine its Charter principles. However, conditions have since changed, and the OAU's interpretation of the Charter should reflect this. Unfortunately, the OAU's interpretation of the Charter has been adopted by member states, not least those facing a variety of conflicts, as the Eritrean conflict demonstrated. This has greatly inhibited creative conflict management. Thus, states have preferred to hide their views on conflicts behind the cloak of the official approach of the OAU.

The Paucity of Bilateral Conflict Management

Inexplicably, even states experiencing non-violent conflict have not shown the same keenness for bilateral conflict management that some states did just before the OAU was officially founded. In those pre-OAU years, several boundary conflicts were managed bilaterally in a way that, had the trend continued, would have greatly altered the conflict map of Africa after the formation of the OAU.

This pre-OAU pattern of border conflict management was particularly evident in North West Africa. Thus, the border conflict between Mali and Mauritania was settled diplomatically through a meeting between Presidents Keita of Mali, and Ould Daddah of Mauritania. The conflict between Liberia and Guinea was settled in the same way, when during an official visit to Guinea in November 1958, President Tubman renounced all Liberian claims to the Nimba region of Guinea. The border dispute between Liberia and the Ivory Coast was similarly settled in a bilateral meeting between Presidents Tubman and Houphouet-Boigny, where both

presidents agreed to accept current borders, thus ending Liberia's claims to Ivorian territory.[124]

There have not been such examples of bilateral (i.e. unmediated) conflict management between OAU member states to date. The closest example is the General Treaty of Solidarity and Cooperation and on Boundary Demarcation, signed between Morocco and Algeria in May 1970.[125] But even that was partly mediated by Haile Selassie. Several reasons for this paucity can be hazarded. Neither of two conflicting states is willing to initiate such bilateral discussions, lest that be interpreted by the other side as a concession, or a sign of weakness. Also, as Zang argues, Joint Commissions play an important role in the bilateral diplomacy of African states, and although conflicts (including border ones) may not be resolved, they appear in the agenda of such Joint Commissions.[126] It is possible that in this way, tensions ensuing therefrom have been reduced. While persuasive, this argument does not explain the continued existence of so many border tensions between several African countries.[127] However, it does suggest that joint commissions might prove a useful, though limited[128] tool for the bilateral management of border related conflicts in Africa.

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124 Zartman,I.W. 'The Politics of Boundaries in North and West Africa' 3 *Journal of Modern African Studies* (1965) pp.155-173; also Zartman,I.W.*International Relations in the New Africa* (Lanham,MD.: University Press of America, 1987) ch.3.

125 See Day,A.J.(Ed) *Border and Territorial Disputes* (London: Longman,1982) - section on the Algerian/Moroccan conflict.

126 Zang,L. 'Joint Commissions as a Privileged Tool of African Bilateral Diplomacy' (Paper presented at the Institute of Diplomacy and International Studies (Nairobi) & Geneva Institute of International Relations Seminar on *Thirty Years of African Diplomacy*, Mombasa,Kenya, December,1991).

127 See Asiwaju,A.I. 'Partitioned Culture Areas: A Checklist' in Asiwaju,A.I.(Ed) *Partitioned Africans: Ethnic Relations Across Africa's International Boundaries, 1884-1984* (Lagos: Lagos University Press, 1984) pp.252-259 who counts one hundred and thirty such.

128 There is no evidence that such a commission has helped towards resolving the Cameroon/Nigeria border conflict, which was subsequently put on the agenda of the June 1994 OAU Heads of State and Government Summit in Tunis. See *Kenya Times* (Nairobi), 15 June 1994, p.8.

The Underdevelopment of Track Two Conflict Management

It is surprising that given the number of conflicts there have been in Africa, and the involvement of non-governmental organisations in diverse activities on the continent, there has been so little track two conflict management activity (or little of it that has been documented). This may be partly because some organisations do not consider themselves to be conflict managers.[129] But the real reason probably lies more in the official environment, which may not have been supportive of track two conflict management efforts.

The documented instances of track two conflict management in Africa all involved different aspects of management, and thus their comparative analysis is not easy. Some, like the Quaker involvement in the Biafran conflict contented themselves with offering good offices. Others, like the World Council of Churches in the Sudan conflict undertook full scale mediation. Yet again, the Carter Centre's involvement in the Eritrean conflict, although aimed at full mediation, did not make much headway. The involvement of others, such as the Catholic Church in the Mozambique conflict, while contributing significantly to the success of the mediation, did so amid heavy and diverse track one involvement.[130] All of them revealed certain problems and possibilities for track two conflict management in Africa, which could serve as a base on which such future efforts could build.

In the Eritrean conflict, discussions between representatives of the Ethiopian government and the

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129 For example, the International Committee of the Red Cross (ICRC). See Freymond,J. 'The International Committee of the Red Cross as a Neutral Intermediary' in Berman,M.R. & Johnson,J.E.(Eds) *Unofficial Diplomats* (New York: Columbia University Press, 1977) pp.142-151:142; see also a good discussion on this subject by Umbricht,V.H. *Multilateral Mediation: Practical Experiences and Lessons* (Dordrecht: Martinus Nijhoff, 1989) pp.235-238.

130 Kenya's heavy pre-negotiation involvement there, which was in support of RENAMO is an example. Information on this aspect was supplied to the author in an interview with B.A.Kiplagat, (Permanent Secretary, Ministry of Foreign Affairs, Kenya, 1983-1991), Nairobi, 4 June, 1993.

Eritrean Peoples Liberation Front (EPLF) were organised by the Carter Centre, but these hardly made any advance in terms of managing the conflict. Ottaway argues that this failure was because the conflict was transitional at the time.[131] But it is also true that the parties insisted on there being an African co-mediator, the absence of whom led to only preliminary and procedural matters being discussed.[132]

In the Biafran conflict, although the Quakers were not very ambitious in their intentions, they enjoyed a remarkably high level of access to the leadership of both Nigeria and Biafra.[133] Their impact was limited in the end because both parties to the conflict thought for a long time that they had sufficient outside support and advantages they could pursue using that support. They were consequently reluctant to hold any talks with each other. Each side therefore insisted on preconditions which the other could not accept without giving up its main platform of argument. Moreover, because the Quakers did not appear to have an agenda beyond offering their good offices and trying to facilitate communication between the two parties, they slowly (albeit unwittingly) became hostage to the Nigerian government's strategy of wanting to end the conflict militarily, while at the same time being seen to be open to the possibility of negotiations.

In the Mozambique conflict, the Catholic Church was able to play an influential role despite earlier uneasy relations with the parties - especially the government -

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131 Ottaway,M. 'Mediation in a Transitional Conflict: Eritrea' in Zartman,I.W.(Ed) *Resolving Regional Conflicts: International Perspectives* (Newbury Park: Sage Publications, 1991) pp.69-81. The notion of transitional conflicts in relation to the conflict in Uganda is discussed in Chapter 8.

132 Harbeson,J.W. 'The International Politics of Identity in the Horn of Africa' in Harbeson,J.W. & Rothchild,D.(Eds) *Africa in World Politics* (Boulder, CO.: Westview Press, 1991) pp.119-143:137.

133 See Yarrow,C.H.M. *Quaker Experiences in International Conciliation* (New Haven & London: Yale University Press, 1978).

which went back to the colonial period.[134] But the role of the Church there was rather reduced because of its late acceptance as a viable third party, and due to the very heavy involvement of track one players, and other track two involvements, such as that of Lonrho.

World Council of Churches Mediation in Sudan

The World Council of Churches (WCC) mediation in the Sudan conflict[135] remains the only fully developed track two mediation on record. That mediation went through a series of problems. Their early efforts were frustrated by Joseph Garang, the Minister for Southern Affairs in the Sudan. After the short lived 1971 coup however, he was executed and Abel Alier, the new minister, was more receptive to WCC involvement. As a result, the WCC was able to offer the Sudanese government their services "as a politically disinterested humanitarian organisation."[136]

Once preliminary negotiations between the WCC and the Sudanese government began, some fundamental problems arose. The first of these was similar to the one earlier faced by the Quakers in the Nigerian civil war. While the Sudanese government was receptive to the idea of holding talks with the Southern Sudan Liberation Movement (SSLM), it insisted on doing so only within the framework of a united Sudan. The SSLM, on the other

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134 See Venancio,M. 'Mediation by the Roman Catholic Church in Mozambique,1988-1991' in Chan,S. & Jabri,V.(Eds) *Mediation in Southern Africa* (London: Macmillan, 1993) pp.142-158; see also Birmingham,D. *Frontline Nationalism in Angola and Mozambique* (London: James Currey, 1992) who gives some insights,en *passant*, on the role of the Catholic Church in Mozambiquan history.

135 For a background to this conflict see: Aguda,O. 'Arabism and Pan-Arabism in Sudanese Politics' 11 *Journal of Modern African Studies* (1973) pp177-200; Beshir,M.O. *The Southern Sudan: Background to Conflict* (London: C.Hurst & Co., 1968); Wai,D.M.(Ed) *The Southern Sudan: The Problem of National Integration* (London: Frank Cass, 1973); Wai,D.M. 'Revolution, Rhetoric and Reality in the Sudan' 17 *Journal of Modern African Studies* (1979) pp.71-93; Woodward,P. *Sudan, 1898-1989: The Unstable State* (London: Lester Crook Academic Publishing, 1990); Raghavan,N. 'The Southern Sudanese Secessionist Movement' in Premdas et al, *Secessionist Movements in Comparative Perspective* (London: Pinter Publishers, 1990).

136 Assefa,H. *Mediation in Civil Wars: Approaches and Strategies-The Sudan Conflict* (Boulder,CO.: Westview Press, 1987) p.115.

hand insisted that "the negotiations take place only in an independent non-Arab African state under an agreed African or OAU chairman."[137] This latter posed two problems. It turned out that Haile Selassie had only agreed for the talks to be held in Ethiopia, but not his participation in them. He was advised against chairing them, since doing so would have encouraged Eritrean secessionists to demand a status similar to that of the SSLM, which was unacceptable to the Ethiopian government.[138] OAU policy also precluded its involvement: the OAU maintained that the southern Sudan problem was an internal affair, and therefore,

> "OAU officials...would help unofficially in whatever way they could, even though they would formally stay out of the negotiations because the issue of the conflict was considered to be an internal affair according to OAU policies."[139]

The first problem was solved through some neat diplomacy, where both parties agreed that the leader of the WCC group would act as the 'moderator' of the negotiations. That also took care of the second concern of the SSLM regarding an agreed African chairman. As it turned out, when the negotiations reached an impasse on the question of the integration of the armed forces, the personal intervention of Haile Selassie proved crucial in helping the parties to agree on mutually acceptable percentages for integrated armed forces, consisting of the southern Anya Nya soldiers and those of the Khartoum government.[140]

The role of the WCC in the Sudanese conflict was important in bringing the two parties together. Since OAU policy precluded its involvement, and because individual states such as Ethiopia did not wish to get involved lest they compounded their own internal

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137 Ibid., p.111.

138 Ibid., p.132.

139 Ibid., p.137.

140 Ibid., pp.139-141.

conflicts, the emergence of a third party which was acceptable to both the Sudanese government and the SSLM was crucial. Unlike the Quaker experience in Nigeria, the WCC offer of its services coincided with a change of policy by the Sudanese government from neglect of the southern Sudan problem to one of actively searching for a solution. Besides, the fact that the WCC, unlike the Quakers in Nigeria, was willing to undertake actual mediation, beyond just providing good offices, neatly coincided with the new mood of the Sudanese government, which the WCC was able to exploit. Since in both conflicts the OAU did not wish to get involved because of the policy on non-interference in internal affairs, the willingness actually to mediate contributed to the ability of the WCC to get the parties to negotiate, conclude and sign an Agreement.

A Critique of OAU Conflict Management

A clear pattern emerges from these examples of conflict management in Africa. Firstly, the utility of the OAU doctrines of non-interference in the internal affairs of states and the respect for the borders inherited at independence as the centre-pieces of its conflict management is called into question. The great preoccupation with these doctrines has considerably limited the ability of the OAU to manage conflicts in Africa, where many of the conflicts are internal, but are internationalised *inter alia* by the interaction of ethnicity and territory.[141] The OAU's policy of dichotomising internal and inter-state conflicts has led to its failure to get involved in some of the continent's most acute conflicts, which display equal measures of internal and inter-state identity.

Secondly, this institutional preoccupation with these doctrines has been reflected in the attitudes of individual members who similarly, have not been keen to step in where the OAU has feared to tread. Thus, there have been very few cases of non-OAU collective or

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141 See Chapter 3 for a discussion of this.

individual African conflict management. It is justifiable to argue that the OAU has discouraged the development of this type of conflict management by its religious and even uncritical, adherence to these doctrines.

Thirdly, mostly for the same reasons, OAU members have not resorted to bilateral conflict management as several countries did in the pre-OAU era. The effect of this on the conflict management map of Africa has been to concentrate most conflict management initiatives unduly on the OAU. But because of the doctrinal problems already mentioned, the OAU has been unable to provide sufficiently creative conflict management leadership.

Fourthly, OAU approaches to conflict management have served to discourage track two conflict management in Africa. In OAU official thinking, any involvement is interference, and this has been extended not only to member states, but to non-state conflict managers as well. This very discouragement (or non-recognition of) track two approaches has however served to underline their potential in managing Africa's conflicts. The relative success of the limited instances of track two efforts in Africa demonstrates that these approaches require to receive more attention than they have been accorded so far.

Tracks of Diplomacy and OAU Conflict Management

In terms of conflict management diplomatic tracks, a pattern has emerged whereby track one initiatives have been restricted to the inter-state dimension of conflicts (e.g. in Chad), whereas track two initiatives have been restricted to the internal dimension of conflicts (e.g. in Sudan). This is explicable partly by the fact that the OAU has bound itself to the doctrine of non-interference in the internal affairs of states. Regarding track two diplomacy, its involvement largely in internal conflicts has resulted mainly because, as with the Quakers in Nigeria and the WCC in the Sudan,

conflict management has followed pastoral duties in the countries concerned.

The effect of these developments has been to maintain the internal/inter-state dichotomy which, as was argued earlier, is a false one. This approach has resulted in track one and track two approaches ignoring the potential contributions to effective conflict management developed separately by each of them. This compartmentalisation has very severe limitations, because it leads only to the part management of conflicts. It is quite clear at least in conceptual terms how this state of affairs has resulted. Track one players, being too closely linked to the doctrine of non-interference, have been unable to break from its chains. Conversely, track two players, not being linked to the doctrine, have felt free to address the internal dimension of conflicts. But because of the mistrust that track one reserves for track two, they have not been encouraged to venture into the inter-state dimension of the conflicts. Because neither track one nor track two have operated in cooperation, the benefits and findings of either track have not enhanced the conflict management efforts of the other.

This was clear for example in the WCC mediation in Sudan, where although the question of the composition of the armed forces in a post-mediation Sudan was discussed (indeed with the help of Haile Selassie) an important issue such as neighbouring states (like Uganda) giving aid and comfort to the southern soldiers was not addressed. On the other hand, OAU involvement in Chad presumably dealt only with its inter-state dimension. Therefore, while it addressed the issue of Libyan troops in Chad, it did not consider the question of where the various factions received their sustenance from (e.g. Libya and Nigeria) since to do so would have presumably constituted interference in the internal affairs of Chad. And yet in both cases, the conflict could not be managed effectively until both their internal and inter-state dimensions were taken into account. It is on this

footing that this study proposes a dual diplomatic approach to conflict management.[142]

A Proposal for Dual Diplomacy

Methodologically, dual conflict management approaches its task on the basis that both the internal and inter-state character of a conflict ought to be addressed if a lasting solution is to be envisaged. In this sense, it would borrow from the formal methodology of track one such as around-the-table bargaining, in addressing the negotiable elements of the conflict. It would borrow from the methodology of track two in its concerns with the non-negotiable (e.g. attitudinal and psychological) elements of conflict which track one diplomacy tends to eschew. In this approach, the inter-state dimension of conflict would be managed through track one approaches, while the internal aspects of the same conflict would be managed within the principles of track two conflict management, such as (but not exclusively) problem-solving workshops.

It is suggested later that had a dual diplomatic approach been used in the Uganda mediation, it would have encouraged (indeed enabled) the mediator to approach the process as more than a traditional (simple?) exercise in Realist politics. Thus, while pursuing track one concerns in around-the-table negotiations, track two efforts geared towards reducing the psychological distance and mistrust between the conflictants should have taken place at least simultaneously.[143] In this way, the multi-dimensional character of the conflict would have been brought out, and rendered more salient in the search for a more lasting structure of peace in Uganda.

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142 See Chapter 1.

143 See Chapters 7 and 8.

Chapter Five
An Historical Overview of the Uganda Conflict

Introduction

Chapter One argued the point of view that in analysing conflict, regard must be had for general principles, the historiography of the particular conflict, and its internal content and motivations. That proposition is rooted in the belief that any attempt to manage conflict without taking into account these contexts is likely to founder against the false attractions of one of the perspectives devoid of the other. In this approach, the analyst and manager of conflict must necessarily resort to a general framework of analysis, while bearing in mind the contents of the 'closed circle' of the conflict being analysed or managed.

Chapter Three suggested that it is possible to focus the operational locale of conflicts in modern Africa around the issues of ethnicity and the borders inherited at independence. It noted that although ethnicity and territorial borders are also responsible for conflicts elsewhere, their historical explanations differ. In Africa, colonial policies created the division of ethnic groups between and within territories, and this consequently generated the climate in which many of the conflicts in modern Africa have operated. It was emphasised that locating the foundations of the conflicts in modern Africa in the colonial period does not mean that the full explanation for these conflicts resides entirely in African colonial history. Post-independence political and administrative practices have played a role albeit a catalytic rather

than a causative one. It was noted that the responses of post-independence African governments to conflicts within their territories has affected the direction that those conflicts have taken. Rothchild's distinction between hegemonial interactions (which are coercive), and hegemonial exchange systems (which are accomodative),[1] was thus found to be a useful analytical tool in deciding how the reactions of governments to conflict affect the trend that it takes. It is also a useful conceptual tool for the conflict analyst or manager who wishes to design a methodology for its analysis or management.

Chapter Four examined OAU approaches to continental conflict management. It was observed that OAU conflict management has been track one, and concerned with the inter-state component of conflict. Track two management has been restricted to the internal element of conflicts.[2] It was emphasised that the OAU's dichotomous approach to categorising conflict - and hence its management - has not acknowledged the multi-level nature of conflict, nor appreciated the complexity of its management. Further, it was argued that the internal/inter-state dichotomy is rendered false by the process of the internationalisation of conflict.

This chapter is informed by the belief that only through appreciating the history of a conflict can its various levels, and its complexity, be discerned. It will give an historical overview of the conflict in Uganda, and the developments that led to the mediation of 1985. It will outline the colonial foundations of that conflict, and examine the constitutional bargain

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1 Rothchild,D. 'Interethnic Conflict and Policy Analysis in Africa' 9 *Ethnic and Racial Studies* (1986) pp.66-86:67.

2 Except where there is a conflict of principles, as for example between the principle of non-interference and territorial integrity, for example in Eritrea, or between non-interference and self-determination, for example in Western Sahara. In such cases, the OAU determines on a case-to-case basis which principle it considers more fundamental in the circumstances. This approach   is not 'scientific', and hence remains one of the problem areas of OAU conflict management. See Chapter 4.

that was crafted to enable Uganda to gain its independence when it did. This chapter will further consider how the colonial policies, as reflected in the Independence Constitution, laid the ground for the series of conflicts that eventually culminated in the mediation under study. The historical foundations of that conflict, and the catalysts that exacerbated it after independence are diverse and complex. They are, in essence, a series of complex 'conversations' between the various actors, and often in a language of discourse which, while understood between some of the actors, was not understood or appreciated *inter se*. This chapter will therefore attempt to eavesdrop on these 'conversations'.[3] In doing so, it will endeavour to give an idea of the complexity of the conflict patterns that faced the parties to the mediation of 1985, and with which future managers of conflict in Uganda would have to contend.

Colonial Foundations of the Conflict in Uganda

<u>Colonial Administrative Policies</u>

Once the British colonised Uganda, they established a distinction between the kingdoms of the south and west (Ankole, Buganda, Bunyoro and Toro), and the acephalous nilotic peoples of the east and north. The kingdoms were preserved intact and ruled under 'indirect rule', while the rest of Uganda was brought under direct British administration.[4] Although this differentiation in approach was also determined by climatological factors (the southern region of Buganda was suitable for tea growing, while the eastern grasslands were mainly pastoralist), the different ways in which Uganda was incorporated into the market economy nevertheless had

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3 See Stanford,M. *The Nature of Historical Knowledge* (Oxford & New York: Basil Blackwell, 1986) p.119.

4 Anyang-Nyong'o, P. 'The Implications of Crises and Conflicts in the Upper Nile Valley' in Deng,F.M. & Zartman,I.W.(Eds) *Conflict Resolution in Africa* (Washington: The Brookings Institution, 1991) pp.95-114:108.

serious effects on the development of the conflict in Uganda.[5]

British administration in Uganda was centred in Buganda, which became the pre-eminent kingdom under colonial rule. It has been suggested that the subsequent history of Uganda has therefore been informed by the attempts of other parts of Uganda to emulate Buganda, and limit its political ambitions, which colonial administrative policies nurtured and encouraged.[6] The decision to make the development of the Uganda protectorate coterminous with that of Buganda encouraged Bugandan sub-imperialism which although the British later tried to rein in,[7] was one of the early turning points of the conflict in Uganda.[8]

The colonial administrative system in Uganda comprised the central government from which Africans were generally excluded, and the local government, through which the colonial authorities tried to give the impression of African participation in the administration of their country. Central government operated through the legislative and executive branches, and was the centre of colonial administration. The Legislative Council comprised the Governor, some officials, and some non-officials representing European (and later Asian) commercial interests in the protectorate. It was not until 1946 that the first three Africans were nominated to the Legislative Council. While this was increased to fourteen in 1954, it was not until 1958 that the first African members

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5 Ibid., p.109.

6 Walker,R. 'Uganda: Recent History' in *Africa South of the Sahara* (London: Europa Publications, 1989) pp.1059-1066:1059.

7 In Uganda, the colonial government saw its role as "that of arbiter in inter and intra-ethnic disputes. It only intervened whenever its power appeared to be undermined by local power centres." Mudoola,D. 'Post-Colonial Politics in Uganda: An Interpretation' 6 *Mawazo* (1985) pp.19-29:21.

8 Wrigley,C. 'Four Steps Towards Disaster' in Hansen,H.B. & Twaddle,M.(Eds) *Uganda Now: Between Decay and Development* (London: James currey, 1991) pp.27-35:29.

were actually *elected* to the Council. The executive branch operated through an Executive Council appointed by the Governor. It was not until 1955 when, after introducing a ministerial system of government to replace the Executive Council, three Africans were appointed as part of the five ministers selected from public life.

Colonial local government policy constituted each ethnic group into an administrative local government unit (or district). Where the ethnic groups were not sufficiently large or viable, contiguous groups were aggregated into a single district. African leadership in the districts consisted of carrying out the orders of the colonial district administrators. However, Buganda kingdom was given more latitude in Buganda through the 1900 Agreement, whose effect was to create a 'state within a state'.[9] The other kingdoms of Ankole, Toro, and later Bunyoro, were accorded similar, but lesser latitude in managing their affairs. The effect of these policies was to ensure that the dealings between ethnic groups in various districts were kept to a minimum, through this policy of divide and rule.[10] It has been suggested that this colonial administrative system which operated on the basis of ethnic divisions, denied the Africans the opportunity to meet and formulate policies affecting their common destiny. It has been claimed further that the effect of this policy was later reflected in their inability to respond to the conflicts in Uganda from the standpoint of a common, non-ethnic front.[11]

Ethnic Implications of Colonial Policy

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9 Ogot,B.A. 'The Development of African Politics in the Plural Societies of East Africa' in Anene,J.C. & Brown,G.N.(Eds) *Africa in the Nineteenth and Twentieth Centuries* (Ibadan & Surrey: Ibadan University Press & Thomas Nelson, 1966) pp.487-503:489.

10 Ibingira,G.S. *African Upheavals Since Independence* (Boulder, CO.: Westview Press, 1980) pp.18-19.

11 Ibid., p.14.

The philosophy of colonialism was rationalised as one of a 'dual mandate': to exploit the wealth of the colonies, and to promote the moral and educational progress of the colonised peoples.[12] The manner in which that mandate was effected in Uganda led to the creation of ethnic tensions within the protectorate. These lasted long after independence, and coloured much of the patterns of conflict that ensued.

At the heart of British colonial aspirations towards fulfilling the dual mandate was the uneven treatment of Buganda. Because it was the most developed and most powerful kingdom in Uganda, situated strategically close to the source of the Nile, the British made Buganda the base of their administration.[13] This policy, the administrative device of dividing Uganda into districts along ethnic lines, and the use of Bagandans as administrative hirelings in the northern and eastern parts of the country,[14] had two main effects. It encouraged the Baganda to view themselves as a separate state from the rest of Uganda. It also imbued in other Ugandan groups a sense of relative deprivation, and hence fears as to the security of their ethnic entities after the transfer of power. Indeed, once it was decided that Uganda should become independent, the overriding concern was "who would inherit the mantle of power from the departing colonialists, and what security there would be for each

12 Lugard,F.J.D. *The Dual Mandate in British Tropical Africa* (London: William Blackwood, 1929) p.18. As Brett notes, "The tradition was...one of paternalism...assuming as it did the moral superiority of the governors, the cultural immaturity of the governed, and the organic unity within which they interacted." See Brett,E.A.*Colonialism and Underdevelopment in East Africa:* *The Economics of Political Change, 1919-39* (London: Heinemann, 1973) p.42.

13 Ibingira,G.S. 'The Impact of Ethnic Demands on British Decolonization in Africa: The example of Uganda' in Gifford,P. & Louis,Wm.R.(Eds) *The Transfer of Power in Africa: Decolonization, 1940-1960* (New Haven & London: Yale University Press, 1982) pp.283-304:288.

14 Anyang-Nyong'o, 'The Implications of Crises and Conflicts in the Upper Nile Valley' op.cit., p.108.

of the diverse ethnic groups in the new state."[15] Although other groups feared for their future, the Baganda - whom colonial policies had favoured -had the most to lose from the departure of the British, and were especially fearful.

Ethnicity in the Uganda Conflict

The intellectual milieu of the debate on ethnicity in the African context was discussed in an earlier chapter,[16] as was its relationship to international relations, and the responses of states to ethnic consciousness.[17] Whether or not the ethnic question explains fully the conflict in Uganda is a contentious point amongst scholars and observers of the Ugandan, and African scene.

Broadly, one approach perceives the ethnic factor as absolute, and ignores its class element. The other concentrates analysis on class and downplays ethnicity.[18] With respect to Uganda, scholars of the 'progressive' view postulate that "the real issue at the heart of internal conflict in Uganda is not the question of ethnic balance or imbalance...The issue rather is that of the failure to democratise Ugandan society in a comprehensive way."[19] The thrust of this approach is that since independence, Ugandan politics have been about excluding "ever larger numbers of people...whether defined ethnically or otherwise, from the process of

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15 Ibingira,G.S. *African Upheavals Since Independence* op.cit., p.24.

16 See Chapter 3.

17 Ibid.

18 See Nnoli,O. *Ethnic Politics in Africa* (Ibadan: Vantage Publishers, 1989) pp.11-13.

19 Mamdani,M. 'How Not to Intervene in Internal Conflicts' 20 *Bulletin of Peace Proposals* (1989) pp.437-440:439. This point is also made, but less forcefully, by Barongo,Y. 'Ethnic Pluralism and Political Centralization: The Basis of Political Conflict' in Rupesinghe,K.(Ed) *Conflict Resolution in Uganda* (London & Athens,OH.: James Currey & Ohio University Press, 1989) pp.65-90; and also Komacek,L. 'Pseudo-Resolution of the Uganda Conflicts: A Review of Kumar Rupesinghe's *Conflict Resolution in Uganda*' (Kampala: Centre for Basic Research, 1990, *Mimeo*).

making public decisions."[20] This is beyond dispute. However, there is strong evidence that this post-independence exclusion is explicable more fundamentally by analyses other than class and economic ones. Thus, the 'liberal' view argues that although conflict in Uganda is not a simplistic one of 'north' versus 'south', the ethnic factor is still salient. In this view, the structural imbalances created by colonial policy by which some areas of the country became more privileged than others, were compounded by post-colonial regimes like those of Obote and Amin, which made matters worse by the policy of military recruitment from their ethnic homelands.[21]

These two approaches are not mutually exclusive. It cannot be gainsaid that ethnicity in its crudest form, has contributed to the intensity of much of the conflict in Uganda. However, the continuation of that conflict has largely been because post-independence regimes have been unable, or unwilling, to transcend the ethnic factor in bringing Ugandans into the process of public decision making.[22]

The Territorial Effect of Partition on Uganda

The approach of the imperial powers to the partition of Africa at Berlin was discussed in Chapter Three. The effects of that demarcation on Uganda is fairly representative of the consequences of partition for the other states of Africa.

Internally, British policy centred around dividing the country administratively along ethnic lines. In terms of the borders that were inherited by Uganda at independence, these, as elsewhere, divided certain

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20 Mamdani, 'How Not to Intervene in Internal Conflicts' op.cit., p.439.

21 Gingyera-Pinycwa, A.G.G. 'Is There a "Northern Question"?' in Rupesinghe, K.(Ed) Conflict Resolution in Uganda op.cit., pp.44-64; see also, Gingyera-Pinycwa, Northern Uganda in National Politics (Kampala: Fountain Publishers, 1992).

22 Shaw notes correctly that the two approaches co-exist. See Shaw,T.M. 'Ethnicity as the Resilient Paradigm for Africa: From the 1960s to the 1980s' 17 Development and Change (1986) pp.587-605.

ethnic communities between Uganda and neighbouring East African states,[23] as well as Rwanda, Sudan, and Zaire. The division of some ethnic groups by the Uganda-Sudan border has for example played an important role in the conflicts of both countries. As Woodward observes, it is the existence of the border itself that is the oddity, and

> "Indeed from an ethnic standpoint the existence of cross-border links and a certain capacity for fluidity in identity between the two countries is understandable, bearing in mind that people on either side of the border often have closer links with each other than with other peoples with whom they share 'nationhood'. It is not only that the Acholi in northern Uganda have more obvious ties with Acholi in southern Sudan than with Baganda in Buganda, but that many of the peoples of Equatoria have closer links with northern Uganda than even their fellow southern Sudanese, especially the Nilotics of Upper Nile."[24]

The importance of this division of ethnic groups by the Uganda-Sudan border will become clear in the following sections. But it is worth noting meanwhile that both colonial and post-colonial policies in Uganda and in the Sudan rendered the ethnic groups of northern Uganda, and those of southern Sudan peripheral to their respective centres. In the colonial period the northern and eastern parts of Uganda received different treatment from the other parts of the country. In the Sudan, the British 'southern policy'[25] had a similar effect for the southern Sudan. In both, post-colonial regimes perpetuated the colonial policies. And in both, the activities of these divided communities have had an important bearing on the conflicts within.

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23 Oyugi,W.O. 'The State in Post-Colonial East Africa: An Overview' in Oyugi,W.O.(Ed) *Politics and Administration in East Africa* (Nairobi: Konrad Adenauer Foundation, 1992) pp.3-29:3.

24 Woodward,P. 'Uganda and Southern Sudan: Peripheral Politics and Neighbour Relations' in Hansen,H.B. & Twaddle,M. (Eds) *Uganda Now* op.cit., pp.224-238:226.

25 See Woodward,P. *Condominium and Sudanese Nationalism* (London: Rex Collings, 1979) especially pp.9-12 for a discussion of this policy.

The Military Factor in the Uganda Conflict

The military has been the Achilles' heel of post-independence Ugandan politics. It has also been an important factor in the development of, and reactions to, the conflicts that have riven Uganda in the last thirty years. So pervasive and influential has the role of the military been in the various stages of the conflict in Uganda, that some observers have concluded that the role of the military is key to understanding post-independence patterns of the conflict in Uganda.[26] The military's role in the various phases of the conflict in Uganda will be commented upon in the following sections. But it is important to note that the policy of structuring the military along ethnic lines was inherited at independence. The preoccupation of post-colonial governments with the ethnic composition of the military enabled, and perhaps encouraged, the army to take centre stage in the conflicts that ensued. This position obtains whether as Mazrui argues, the army in Uganda is a social class because of its distinctive institutional interest,[27] or whether as Mamdani postulates, soldiers do not form a social class, but serve social classes.[28]

There were three stages in the formation of a standing army in pre-independence Uganda. The first was the recruitment of soldiers by the Imperial British East Africa Company (IBEAC) to help it achieve its commercial aims in Uganda. The second was during the interim period between the departure of the IBEAC and the declaration of protectorate, when the provisional administration recruited troops, especially from

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26 Such as Prof. Nicholas Nyangira, Department of Government, University of Nairobi, in an interview with the author, Nairobi, April 1992.

27 Mazrui,A.A. 'Ethnic Stratification and the Military-Agrarian Complex: The Uganda Case' in Glazer,N. & Moynihan,D.P.(Eds) *Ethnicity: Theory and Experience* (Cambridge,MA.: Harvard University Press, 1975) pp.420-449.

28 Mamdani,M. *Politics and Class Formation in Uganda* (New York & London: Monthly Review Press, 1976) p.287.

Buganda, to augment Lugard's Sudanese troops in the military campaigns against the *kabarega* of Bunyoro. The third stage came after the declaration of protectorate, when a standing army was established to effect the 'pacification' of the rest of Uganda.[29]

During colonial rule in Uganda, the British colonial administration manned the security apparatus of the colonial state by recruiting soldiers and policemen from the northern and eastern parts of the country, because the ethnic groups there were thought to be "naturally warlike".[30] They laid little emphasis on education, and put a premium on military prowess, height and physical fitness, characteristics with which the northerners and easterners were reputed to be well endowed. Because the British encouraged the southerners, especially the Baganda to be administrators in the colonial regime, many southerners held the army in contempt, and few condescended to join it. In addition, the nucleus of the early colonial army in Uganda was made up of Nubis, who had served in the army of Emin Pasha in the Mahdi's *jihad* in the Sudan, and who had consequently been driven out of there. These remnants of Emin Pasha's army were picked up by Lugard and his successors to form the core of the Ugandan army. For the duration of colonial rule, these Nubis became "a narrowly favoured but broadly underprivileged, hereditary military caste, never fully Ugandan, sometimes treated, and even regarding themselves, as Sudanese foreigners."[31]

This narrow ethnic composition of the army during colonial rule was the precursor of the ethnic

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29 This history is given in great detail by Omara-Otunnu,A. *Politics and the Military in Uganda 1890-1985* (London: Macmillan, 1987) Ch.2.

30 Anyang-Nyong'o, 'The Implications of Crises and Conflicts in the Upper Nile Valley' op.cit., pp.108-109.

31 Southall,A. 'Social Disorganization in Uganda: Before, During, and After Amin' 18 *Journal of Modern African Studies* (1980) pp.627-656:639-40.

arrangements in the Ugandan army after independence. Attempts by post-independence regimes to redress the ethnic imbalance of the army in order to ensure their own security, only ended up creating new imbalances in favour of different ethnic groups; hence the continuing insecurity on the part of groups which did not feel adequately represented in the new 'balance'.

In addition, the years after independence were characterised by the erosion of civilian conflict management mechanisms, and the promotion of the military as the arbiter of political conflicts in Uganda. Thus, having succumbed to the demands of the military in the 1964 mutiny, Obote increasingly came to rely on the army to maintain his party and regime in power. His use of the military to displace the *kabaka* in 1966, and his later dependence on the military as "partners in governance" amply demonstrated this reliance.[32] This, and his continued pampering of the army through rapid promotions and high salaries, inevitably generated within the military "a sense of politico-functional indispensability, relegating to the background the crucial importance of civil political institutions as legitimising instruments."[33] The eight year rule of Idi Amin was marked by the final destruction of civilian institutions in favour of the military as an instrument of domestic policy. In the post-Amin years, the military, having played a crucial role in the defeat of Amin, was pushed further into prominence in the Ugandan political and social landscape. Not surprisingly, it

32 Gingyera-Pinycwa,A.G.G. 'The Militarization of Politics in the African State: The Case of Uganda' in Oyugi,W.O.(Ed) *Politics and Administration in East Africa* op.cit., pp.215-244:223-224.

33 Mudoola,D. 'Communal Conflict in the Military and Its Political Consequences' in Rupesinghe,K.(Ed) *Conflict Resolution in Uganda* op.cit., pp.116-140:129.

played the role of kingmaker in the succeeding regimes.[34]

The Transfer of Power in Uganda

Pre-Independence Politics

The decision that Uganda should become independent is seen by some analysts as one of the important turning points in the development of the conflict in Uganda.[35] Once that decision was made, the colonial administration responded by introducing representation by Africans in the executive, and permitting the direct election of Africans to the Legislative Council. In terms of internal developments that were to have a direct bearing on the later conflicts in Uganda, two contemporaneous developments were especially crucial. These were the emergence of various political parties, and the pushing of the 'Buganda problem' to the fore.

In the early and mid-1950s, three main political parties were formed in Uganda, and propagated various views on the form independence in Uganda should take. They were the Democratic Party (DP), which favoured a unitary Ugandan state after independence, and which was opposed to the traditional Bugandan parliament, the *Lukiiko*. The DP was predominantly professional in leadership, and derived its mass support from the Roman Catholic peasantry in Buganda, and the Roman Catholic immigrants from the south, the Banyarwanda. The Uganda National Congress (UNC), was nationally based and supported a political platform based on universal suffrage and greater African control of the economy in an independent federal state. It was a coalition of mainly farmers' organisations, and its central committee was predominantly professional. The Progressive Party (PP) was deeply conservative, and favoured Bugandan

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34 Ibid. The involved question of the role of the military in politics in Africa is examined in Odetola,T.O. *Military Regimes and Development: A Comparative Analysis in African Societies* (London: George Allen & Unwin, 1982).

35 Wrigley, 'Four Steps Towards Disaster' op.cit., pp.32-33.

autonomy within a federal framework. It was supported largely by professionals outside the traditional Bugandan aristocracy.

Because these parties were formed during the exile of *Kabaka* Mutesa II, they favoured his restoration, and saw him as a convenient symbol of Ugandan nationalism.[36] Paradoxically, the return of the *Kabaka* from exile fragmented this unity between the political parties, and split them on the basis of their different views on the place of Buganda in the future Uganda. Thus, the UNC was split into different factions, two of which merged to form the Uganda People's Congress (UPC), led by Milton Obote. By 1960 the main political forces in Uganda were the DP, the UPC, and the Buganda *Lukiiko*.[37]

These developments acted as catalysts for the generation of fears amongst some ethnic groups. These groups began to feel insecure and uncertain about their identity in a future independent Ugandan state. These fears were greatest in the kingdom of Buganda, which was not only the largest group, but also the most developed region of the protectorate.[38] Thus there developed the 'Buganda problem'. In trying to address it, the colonial administration shaped the national institutions that were inherited by independent Uganda. It also bequeathed it with the immediate causes of the series of conflicts that were to characterise Ugandan politics thereafter.

The 'Buganda problem', which encompassed later demands by the kingdom for separatism, was the result of the early decision of the colonial administration to base its operations in Buganda. For reasons noted earlier, it was perhaps only logical to make an ally of

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36 Walker, 'Uganda: Recent History' op.cit., p.1059.

37 Ibid.

38 Ibingira, 'The Impact of Ethnic Demands on British Decolonization in Africa: The Example of Uganda' op.cit., p.288.

Buganda.[39] In pursuit of this policy, the British concluded the 1900 Agreement with Buganda, which specified *inter alia* how the kingdom would be ruled. The 1900 Agreement gave the Buganda wide latitude in the governance of Buganda, and in effect established a 'state within a state'.[40] As Decalo has pointed out,

> "The primary long-run outcome of the [1900] Agreement was that it appeared to reaffirm the contention of Buganda elites as to their kingdom's uniqueness and pre-eminence in the colony. The fact that Buganda had accepted colonial rule as a result not of military defeat or conquest but of negotiations...had immense consequences for the future of all Uganda. Thus tensions and contradictions between concepts of Bugandan and Ugandan nationalism, or, put differently, Ugandan unity and Ganda separatism were at the root of much of the unrest since the early 1950s"[41]

However, this special treatment of Buganda only increased Bugandan tendencies to view themselves as different from other parts of Uganda. They caused a constitutional crisis in 1953 by demanding separation from the rest of the protectorate. The colonial administration rejected these demands for Bugandan separatism, exiled the *Kabaka*, and declared a state of emergency in Buganda. Under an Agreement reached in 1955, the Governor induced the Buganda *Lukiiko* to accept the demotion of the *Kabaka* to a constitutional monarch. Under that Agreement, "Uganda was to develop as a unitary state in which Buganda would form one of the component parts, albeit in an almost *primus inter pares* relationship with the rest."[42]

This arrangement did not solve the Buganda problem, and was opposed by other Ugandan groups. The emerging

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39 Indeed, the name of the protectorate was derived from 'Buganda'. See Ibingira, Ibid., p.288.

40 Uzoigwe,G.N. 'Uganda and Parliamentary Government' 21 *Journal of Modern African Studies* (1983) pp.253-271:256.

41 Decalo,S. *Coups and Military Rule in Africa* (New Haven & London: Yale University Press, 1990) p.142.

42 Uzoigwe, 'Uganda and Parliamentary Government' op.cit., p.256.

nationalist parties did not all share the 1955 Agreement view of the place of Buganda in an independent Uganda. The smaller ethnic groups feared perpetual domination by the larger, majority ethnic groups, and therefore agitated for their own local administrations. The smaller western kingdoms complicated the equation by emulating Bugandan demands, since in that way they could ensure the safety and integrity of *their* cultural institutions after independence. They therefore supported a federal arrangement. But they were unequivocally opposed to unilateral Bugandan independence, and consequently allied themselves with the nationalist political parties in demanding a unitary Uganda.[43]

These factors made the Baganda even more determined to secede, and on December 31 1960, the Buganda *Lukiiko* declared that Buganda would be independent from 1 January 1961. The secession was not acceptable to the colonial administration, and never materialised. However, it led the administration to devise a constitutional formula for Uganda that was intended to ensure a unitary Uganda after independence, and to allay Bugandan fears as to their security thereafter. The rest of this section will examine the anomalous constitutional bargain that was struck thereby.

The Uganda Constitutional Bargain

The colonial government responded to the Bugandan secessionist demand by calling for the first national elections to be held in Uganda, in March 1961. In an exercise in brinkmanship calculated to strengthen Bugandan demands, the *Lukiiko* boycotted these elections. As a result, the DP won the majority of seats, and its leader was appointed Chief Minister. A Constitutional Conference was to follow this election, in September 1961. Three pre-negotiation developments preceded this first Constitutional Conference. Firstly, because the

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43 Ibingira,G.S. *African Upheavals Since Independence* op.cit., p.26.

new Chief Minister was a catholic, he was unacceptable to the Buganda *Lukiiko*. The Baganda therefore formed the *Kabaka Yekka* (Kabaka Alone) party, whose aims were to uphold the institutions and traditions of the Buganda kingdom.[44] Secondly, the Munster Commission was appointed, with a brief to make proposals that would form the basis of the Constitutional Conference. Thirdly, in preparation for the Constitutional Conference, the *Kabaka Yekka* (KY) and the UPC entered into an alliance. Its terms were *inter alia* agreement by the UPC to support several Bugandan positions, including their federalist demands, a system of indirect elections for Bugandan representatives to parliament, and the postponement of any referendum on the lost counties of Bunyoro.[45] In return, the KY was to support the UPC in its efforts to remove the DP from power.

The Munster Commission reported in June 1961. The Report's recommendations formed the basis of two Constitutional Conferences held in London. The first, in September 1961, was to negotiate a constitution, and the second in June 1962 to review and amend it as necessary, and to agree on a date for the transfer of power.[46] It was agreed at the first conference that Uganda would be granted self-government, but that fresh elections would be held prior to the grant of full independence. In the elections preceding independence, none of the participating parties (DP, UPC, and KY) had a majority of seats. Therefore, in keeping with their earlier agreement, the UPC and KY formed an alliance,

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44 Ibid., pp.29-30.

45 Walker, 'Uganda: Recent History' op.cit., p.1059. During the process of the colonisation of Uganda, Britain, with allies from the south Sudan and Buganda, defeated the Bunyoro in a series of military campaigns. In reward for this alliance, parts of Bunyoro kingdom were annexed to Buganda. Bunyoro's bid to recover these territories later, came to be known as the problem of the 'lost counties'.

46 For a detailed account of these conferences, see Ibingira,G.S. *The Forging of an African Nation: The Political and Constitutional Evolution of Uganda from Colonial Rule to Independence, 1894-1962* (New York: The Viking Press, 1973) Ch.7 and 8.

and formed the government that led Uganda to full independence in October 1962. Under the UPC-KY alliance, *Kabaka* Mutesa II, the King of Buganda, became the President of Uganda, and Obote, the leader of the UPC, became Prime Minister.[47] The alliance between the UPC and KY was based on tactical calculations, and as later events were to prove, it was inherently unstable.[48]

The 1962 Independence Constitution

The independence constitution was a compromise between various interests and groups. Essentially it had to meet two major requirements. It had to ensure that power was shared between the centre and the regions. Although the centre was to be made strong enough to govern, the constitution had to entrench provisions that restricted any misuse of power.[49] In the end, it was "a great compromise...a triumph of hope over experience, whereby the harsh historical realities of conflicts and disintegration were adroitly papered over so that Uganda would achieve its independence."[50]

Under the independence constitution, Uganda became a unitary state on paper, but with strong federalist and monarchical overtones. The Kingdom of Buganda was given exclusive powers to legislate on matters it considered to be peculiarly Bugandan, such as the *kabakaship*. It also had power to legislate for its own public service, and on its traditional and customary institutions. The constitution further gave the Buganda *Lukiiko* the power to elect its members to the Ugandan parliament through

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47 As Nwabueze has demonstrated, this typically Westminster constitutional arrangement of separating the head of state and the head of government, while it works well in the peculiar circumstances of British constitutional history, does not work well, or at all, when transplanted elsewhere. See, Nwabueze,B.O. *Constitutionalism in the Emergent States* (London: C.Hurst & Co., 1973) pp.56-58.

48 Mazrui,A.A. & Tidy,M. *Nationalism and New States in Africa: From About 1935 to the Present* (London: Heinemann, 1986) p.211.

49 Ibingira,G.S. *African Upheavals Since Independence* op.cit., pp.30-31.

50 Uzoigwe, 'Uganda and Parliamentary Government' op.cit., p.254.

an electoral college rather than directly. It also created the constitutional fiction of a Buganda High Court.[51] The other three kingdoms were given exclusive power, similar to that given to Buganda, to control all matters relating to their traditional rulers. In other matters such as the administration of local services, these other kingdoms were for practical purposes treated in the same way as the other districts of Uganda.

Regarding the centre, the independence constitution established a Uganda parliament, but imposed severe limitations on its ability to amend the constitution. Particularly, parliament could only alter or amend the constitutional provisions on the kingdoms by a two thirds majority vote. Although in the circumstances the independence constitution was the best compromise that could have beeen achieved at that stage,[52] it preserved certain potentially conflict-generating structures, such as the anomaly of a state within a state. But in its efforts to please everybody, it did not satisfy fully all the interests involved. Thus,

> "As Uganda joined the international community in 1962 as a sovereign, independent state, few of its inhabitants were really satisfied with their status. The 'first class citizens' of Buganda were resentful because they had lost their fight for a separate sovereignty; the 'second class citizens' of the 'federal states' were upset because the privileges conferred on Buganda were denied to them; and the 'third class citizens' of the non-kingdoms were unhappy they had been granted no concessions."[53]

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51 Fictional because although the court was known as the High Court of Buganda, the appointment of its judges and their tenure was the responsibility of the central government. It also had no jurisdiction in important matters, such as constitutional provisions on fundamental human rights, membership of the national assembly, and interpretation of the Uganda constitution. See, Ibingira,G.S. *The Forging of an African Nation* op.cit., pp.223-226.

52 It attempted "to accomodate as many views, desires, expectations and demands as possible", thus mediating between different interests. See Kiapi,A. 'The Constitution as Mediator in Internal Conflict' in Rupesinghe,K.(Ed) *Conflict Resolution in Uganda* op.cit., pp.91-115:92.

53 Uzoigwe, 'Uganda and Parliamentary Government' op.cit., p.258.

The First Obote Regime and Constitutional Breakdown

As noted earlier, an unhappy alliance between the UPC and the KY rode on the back of Ugandan independence. The unease of this alliance was compounded by the personal distaste between Obote and Mutesa II,[54] and the absence of any solid common ground that would have held the alliance together. The alliance was therefore destined to be short lived. Certain actions by Obote who, as Prime Minister was bent on consolidating his power, hastened its demise.

The concurrent position of the *kabaka* as President of Uganda and King of Buganda would have been a difficult one in any circumstances. But in the conditions of Uganda it never took root. As King of Buganda, Mutesa was the leader of a community whose centrifugal tendencies were historical, and which were undimmed by the compromise at independence. As President of Uganda, he was sworn by the constitution *inter alia* to discourage Bugandan primordial separatist aspirations. This split in loyalty was evident when as President, he declined to ratify the results of a referendum that would have returned the lost counties to the Kingdom of Bunyoro. His position was not helped by the fact that the early years of the coalition were characterised by a test of wills between President and Prime Minister, in which Obote consolidated his position by running Uganda "as if the Presidency did not exist."[55]

Obote's rush to consolidate his power led him to allow the UPC to contest seats in Buganda during the 1964 local government elections. This was in breach of a central pillar of the UPC-KY alliance: that the UPC would not conduct political activities in Buganda. This, together with permitting the referendum on the lost counties (as the constitution required but which Mutesa

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54 Ibid., p.260.

55 Ibid.

objected to), and a series of defections from the DP and KY to the UPC which soon gave the UPC a parliamentary majority, removed the rationale for the coalition with KY, and rendered the alliance effectively dead.

Obote's treatment of the army was of particular relevance to the trend the conflict in Uganda took later. He expanded it greatly along ethnic lines, in search for its personal loyalty to him.[56] This trend was particularly evident in the 1964 army mutiny, one of a series that affected all three East African states. Unlike in Tanzania and Kenya where the mutineers were imprisoned or dismissed from the army, Obote acceded to their demands for higher pay and promotions.[57] He failed to consult the President in that course of action. In the interests of personal survival, he also 'reorganised' the army, weighting it heavily with his fellow northerners. In so ethnicising the army, he helped nurture its political ambitions, and set the scene for future military involvement in the Uganda conflict.

The 1966 Constitutional Revolution

All these developments were leading to an eventual attack on the independence constitution. Obote was uncomfortable with that constitution since it denied the UPC, and him personally, the political pre-eminence and power that he sought. The immediate cause of the 1966 revolution was a motion introduced in parliament charging the Prime Minister, the Minister of Defence, and the Deputy Commander of the Army (one Idi Amin), with using the army to support the insurgents in the Congolese civil war, and of complicity in smuggling gold, ivory and coffee from there. Parliament called for an inquiry, and for the suspension of Amin.

Obote's reaction to these developments was to suspend the 1962 constitution, give Amin the effective

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56 Ibingira, G.S. *African Upheavals Since Independence* op.cit., pp.76-90.

57 Wrigley, 'Four Steps Towards Disaster' op.cit., p.34.

command of the army, dismiss the President and Vice President, and assume emergency powers as President. The 1962 constitution was formally abrogated a month later, and a revolutionary one adopted. This constitution departed fundamentally from the independence one. It abolished the 'federal' status of the monarchies, and made Uganda a unitary state. It also rescinded the special privileges that had been accorded to the monarchies by the independence constitution. In order to obviate the need to seek a mandate from the people for these fundamental changes, the revolutionary constitution postponed elections by prolonging the life of parliament for another five years.[58]

The Baganda were unhappy with these developments which they considered unconstitutional, and which removed any basis for the security which the independence constitution had tried to ensure. The Buganda *Lukiiko* responded by giving the central government notice to remove its headquarters from 'Bugandan territory'.[59] This ultimatum gave Obote an opportunity to deal with the Buganda problem. He did so by dispatching the army to Buganda where, in the Battle of the Palace on 24 May 1966, the Buganda were defeated, the *kabaka* escaped into exile, and a state of emergency was declared in Buganda.

The sum of these developments was that although the anomalous position of 'states within a state' was ended, the supremacy of the executive over parliament was thereby signalled,[60] and was formally recognised later in the 1967 constitution. More ominously for Uganda and the developing conflict, by using the army to help him deal with the constitutional crisis of Buganda, Obote

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58 Kanyeihamba,G. *Constitutional Law and Government in Uganda* (Nairobi: East African Literature Bureau, 1975) pp.94-96.

59 As a result of the colonial policy of centering its administration in Buganda, the central government's headquarters was located in Buganda.

60 Uzoigwe, 'Uganda and Parliamentary Government' op.cit., p.265.

formalised the position of the military as a central player in future developments in the conflict relations of Uganda. He also thereby cemented the 'military-intellectual coalition' that had been formed after the 1964 mutiny.[61] As Low observes, "having turned to the army to cut his Gordian knot, he was now more at its mercy than he would have cared to admit. For Uganda, the bells began to toll."[62]

The 1967 Republican Constitution

The 1966 revolutionary constitution was very much an interim document. It provided that it would remain in force until a new constitution was duly enacted by parliament. In September 1967, a new constitution was passed. The shadow of that constitution was to dog attempts at forming stable governments twelve years later, after the fall of Amin. Some of the provisions of that constitution centralised power in the hands of the President, and made the later trend of the Uganda conflict almost inevitable.

The ostensible reason for a new constitution was given as the need to abolish the monarchies, thereby making Uganda 'one nation' and 'one people'. The actual reason, as is evident from the provisions of the 1967 constitution, was to confer absolute power on Obote. The 1967 constitution abolished the monarchies, with Buganda being divided in such a way that it no longer administratively existed as a kingdom.[63] It also enshrined what Ibingira calls a 'winner take all' philosophy. It gave the central government wide powers to appoint and dismiss principal officers of elected local governments, and the police wide powers of arrest

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61 Mazrui,A.A. & Tidy,M. *Nationalism and New States in Africa* op.cit., p.250.

62 Low,D.A. 'The Dislocated Polity' in Hansen,H.B. & Twaddle,M. (Eds) *Uganda Now* op.cit., pp.36-53:43.

63 Ibingira,G.S. *African Upheavals Since Independence* op.cit., p.161.

and detention in the maintenance of public order.[64] It conferred on the President wide powers to make binding laws when parliament was not sitting, or was dissolved, and gave him powers of detention under the Public Order and Security Act.[65]

The 1967 constitution was enacted when the opposition in parliament was weak and compliant. This was partly the result of defections, detention and exile of opposition leaders, and partly because no bye-elections had been held to fill the vacant seats. Like the revolutionary constitution, it declared that all members of parliament were deemed to be elected for a further five years. What was put in place in 1967 was not only a constitution designed to keep Obote in power, but one which in all but name institutionalised a one party and authoritarian rule. This regime was sustained by the military, which eventually ended its tenure in 1971.

The 1971 Coup and its Causes

Because it relied on force to maintain the regime it created, the effect of the 1967 Constitution was greatly to sharpen ethnic cleavages in the country, and especially in the army. Obote's recruitment policies created considerable anxiety both in the country and in the army. They also made Amin, the army commander, insecure since he suspected that these developments were aimed at getting rid of him. Because of this fear, Amin counter-recruited heavily, this time from the Nubi, Kakwa and southern Sudanese groups.[66] Thus, both Obote

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64 Some of these powers as they affected the freedom of the press and association are discussed in Zie,G. 'Media and Politics in Uganda: The Struggle for Democracy' (Kampala, Centre for Basic Research, Mbp , May,1993) pp.28-33.

65 Indeed, five ministers were detained under this law. In *Ibingira vs Attorney General* (1966) E.A.306, they successfully applied for a writ of *habeas corpus* and were released. But they were re-arrested immediately and detained under these regulations. The Court of Appeal for East Africa rejected their contention that the government had acted in bad faith, and upheld the detentions. This was legal instrumentalism truly at work.

66 Southall, 'Social Disorganization in Uganda' op.cit., p.640.

and Amin had a substantial following in the army, each conditioned for reprisal against the other.

Whereas Obote had been able previously to hold his 'group' in the army together by posing the Buganda (and Bantu) threat, the exile of the *kabaka* in 1966, and the lack of effective opposition in parliament removed that excuse. And while a unifying ideology might have been a replacement, Obote and his government had none.[67] In an effort to create such an ideology, Obote formulated his 'Move to the Left' policy in 1969. But this was rather late in the day, and its implementation was halted by the *coup d'etat* in 1971. Two general explanations can be given for this coup. After the 1967 constitution was promulgated, public support was eroded by the lack of elections, and by the harsh realities of Obote's zero-sum perception of his new found power. Additionally, the army had been introduced to the possibilities of power, and was divided along ethnic lines. In these circumstances, Obote's first regime was not destined to last long. It was overthrown in January 1971 by the army, led by Idi Amin.

The Amin Years: Exile and Consolidation

Amin's rule, which lasted until 1979 when he was overthrown, was one of the darkest periods of Uganda's post-independence history. It entrenched the worst aspects of Obote's first regime, such as sharpening the ethnic cleavages in the armed forces and in the body politic. Worse, it destroyed virtually all the institutions which, although misused and almost strangulated by Obote, were still extant, and could have been salvaged by a more caring regime.[68] For the conflict analyst however, the duration of the Amin regime is important for the development of significant opposition to it by various groups in exile, which

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67 Ibingira, G.S. *African Upheavals Since Independence* op.cit., pp.177-178.

68 See Mudoola, 'Communal Conflict in the Military and its Political Consequences' op.cit., p.131.

eventually participated in its overthrow. The way in which that opposition was consolidated is especially important, because it determined the manner in which the Uganda conflict developed post-Amin, and thus of its mediation in 1985. In many ways, the road to the Nairobi mediation can be seen as having its earliest beginnings in the development of opposition during this period. The following sections will consider the consolidation of that opposition.

Consolidation of the Opposition

One of the notable features of the Amin regime was the absence of significant organised internal civilian opposition to it. There was, however, some intermittent opposition from the army, including some attempted *coups d'etat*.[69] This failure to

> "organise an internal struggle against the Amin regime was at the root cause of the failure to gell together in the post-Amin period a coalition of forces around a programme that could inspire and sustain popular support."[70]

Several reasons can be given for the failure of the development of effective internal opposition to Amin's regime. By the time it was overthrown, Obote's regime had become widely unpopular, and Amin's coup was therefore greated with much goodwill from the population. After the euphoria of the first year or so, the regime became increasingly brutal, and Amin reorganised the security and administrative apparatus, putting loyal army officers, Nubian and Muslim civilians in charge. Internally therefore,

> "This change...naturally hurt those displaced by Amin's policies - the Acholis and Langis, who had always seen the army as their preserve. For the southern Bantu speaking people, it was no more than a changing of the guard. For them, the army remained what it had always been - dominated by northerners, and used by a leader from the north...to subjugate the people of Uganda,

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69 See Mutibwa,P. *Uganda Since Independence: A Story of Unfulfilled Hopes* (Kampala: Fountain Publishers, 1992) Ch.8.

70 Mamdani,M. *NRA NRM: Two Years in Power* (Kampala: Progressive Publishing House, 1988) p.4.

particularly those of the south and west who did not contribute large contingents to the army. The fate of the southerners remained unchanged: harassment, torture and wanton killing at the hands of military thugs from the north."[71]

In these difficult circumstances, it was extremely difficult for significant internal opposition to be marshalled. Finally, a lot of the people who could have organised opposition internally fled into exile, from where they organised external opposition which was not very effective. Indeed, it was not until 1979 when, with Tanzanian prompting, external exile groups effectively got together and joined in the removal of Amin.

Opposition Groups in Exile

From the beginning, there was always some form of opposition to Amin from groups in exile. Among the early notable activity of such groups was the 1972 invasion of Uganda. This was carried out by members of the Front for National Salvation (FRONASA) led by Museveni, and troops loyal to Obote[72] who had fled to the southern Sudan, where the Sudanese army had helped them prepare for the invasion.[73] The invasion was unsuccessful, and the troops were expelled from the Sudan, and relocated in Tanzania. This expulsion was the result of an Agreement between Amin and President Numeiry of Sudan. The Agreement was prompted by southern Sudanese Anyanya guerillas operating from northern Uganda against Numeiry's government, and anti-Amin forces campaigning from the southern Sudan. The two leaders calculated that their survival called for the mutual expulsion of the hostile forces from their respective territories. Amin also agreed to expel the

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71 Mutibwa, P. *Uganda Since Independence* op.cit., pp.108-109.

72 See an interview with Yoweri Museveni, *The Kenya Times*, 3 November 1985, p.4.

73 Woodward, 'Uganda and Southern Sudan: Peripheral Politics and Neighbour Relations' op.cit., p.231.

Israeli mission which had been advising the southern Sudanese in Uganda.[74]

The pro-Obote force that was expelled from Sudan later regrouped in Tanzania under the command of Tito Okello and Oyite-Ojok. Apart from this, there were in the early days amongst others, the Front for National Salvation (FRONASA), led by Yoweri Museveni, which consisted of young exiles, especially from western Uganda. There was also the Save Uganda Movement (SUM) which included several young academicians, and which was responsible for several acts of sabotage in the late seventies. These groups were however not united and differed on important matters, such as the best strategy to remove Amin, who future leaders should be, and ideology. It was not until 1977, and later, 1979, that efforts were made to consolidate the various opposition groups.

Consolidation of Opposition Groups in Exile

The Lusaka Conference, August 1977

The first serious attempt to merge all the existing opposition groups took place in Lusaka in August 1977, where the Uganda National Movement (UNM) was formed. However, not all the movements joined the UNM. Indeed, some individuals like Obote tried unsuccessfully to persuade the Zambian government to cancel the meeting. From the beginning, the UNM was torn apart by ethnic, ideological and organisational differences. For example, the chairman, John Barigye, who as the son of the *Omugabe* of Ankole was of royal birth, was soon accused of being too monarchist, lacking in dynamism, and of using the movement for his own ends. Differences within the UNM membership eventually caused some members including the chairman to resign, leading to the eventual collapse of the organisation.[75]

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74 Ibid.

75 *New African*, March 1979, p.50.

The Pre-Moshi Conference, January 1979

By the beginning of 1979, the leaders of the various opposition groups were under pressure, especially from Tanzania, to drop their differences and come together to design plans to oust Amin, and agree on the governance of post-Amin Uganda.[76] One development that particularly enabled the various groups to come together was the change in emphasis and approach of the Tanzanian government. Unlike in the past, the Tanzanian authorities claimed that they no longer considered Obote to be the only leader capable of restoring peace in Uganda. To emphasise this new approach, a daily broadcast in Luganda was transmitted over Radio Tanzania, in which the Tanzanian authorities denied repeatedly that the government wanted to impose any leader on the Ugandan people, and that Obote was no exception to that policy.[77]

In this changing climate, several groups including the Organisation for Free Uganda (OFU), the Uganda Freedom Union (UFU), the Uganda Human Rights Group (UHRG), the Uganda Action Group (UAG), the Democratic Party (DP), and the Uganda People's Congress (UPC), met in Tanzania to agree on and develop a concerted campaign against Amin. These groups all had different ideologies, and cut across ethnic lines. Perhaps in order to emphasise Tanzania's newly stated policy on Ugandan opposition groups, Obote did not attend this meeting, although representatives of his party did. It was agreed that a committee be appointed to implement the resolutions passed during the conference. The most important of these resolutions called for a National Convention to be attended by two representatives from each group. That Convention would then appoint a

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76 Nyerere is said to have exerted this pressure in order that after defeating Amin militarily in the Tanzania-Uganda war, he was not faced with the problem of being seen to be empire building by imposing a new regime in Uganda. This perspective was given to the author by a former senior aide to Nyerere, in an interview, Paris, 23 December 1993.

77 *New African*, March 1979, p.50.

Commission which would act collectively as a transitional government in exile.[78]

The Moshi Conference, March 1979

The Moshi Conference (or the Uganda Unity Conference) was a follow-up to the January conference, and brought together various Ugandan groups that had been engaged in all aspects of the struggle against Amin: the military, political, and humanitarian fronts. There were in all twenty six groups of varying prominence represented. These included FRONASA, SUM, UHRG, UPC, the Uganda Nationalist Organization (UNO), the Uganda Freedom Movement (UFM), the Uganda Liberation Group (ULG), the Uganda Discussion Study Group (UDSG), the Uganda Reconstruction and Reconciliation Union (URRU), and some individuals, including soldiers from within Uganda, who provided valuable military intelligence.[79]

Two developments at the outset established the tone for the conference, and probably avoided wrangles that might otherwise have wrecked it at that stage. Firstly, the Tanzanian Foreign Minister restated Tanzania's position at the beginning of the conference. This was that the Tanzanian attitude was informed by three principles: that Tanzanian concern was with the sanctity and security of its borders; that although the Tanzanian government had always detested the Amin regime, its replacement was the responsibility of the Ugandan people; and that whereas in the process of fighting against Amin's aggression Tanzania had of necessity, asked for assistance from Ugandans exiled in Tanzania,

> "[i]t is bad for those individuals, and for the reputation of Tanzania for there to be even an appearance that Tanzania is favouring one group of the opponents of Amin rather than others. This is also contrary to the wishes of the Tanzania government and people. Only Ugandans can decide on

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78 Ibid.

79 *New African* , No.141, May 1979, pp.14-15.

their future government should Amin's regime fall."[80]

The second development was that although he was not physically present, Obote was there in spirit, as a letter from him to the participants, read at the beginning of the conference indicated.[81] He said in that letter that he was "willing but unable" to attend the conference, declared his solidarity with it, and assured the participants that he would play his part "in the implementation of positive conference decisions."[82]

Decisions of the Moshi Conference

The different groups and organisations represented at the Moshi Conference merged to form a single organisation, the Uganda National Liberation Front (UNLF). They also established the military arm of the UNLF, the Uganda National Liberation Army (UNLA), which was to be an organ of the UNLF, operating under its command and direction. By the Moshi Declaration, the basic structure of constitutional authority in post-Amin Uganda was set out. An eleven member National Executive Council (NEC) under the chairmanship of Yusuf Lule was formed, as was a National Consultative Council (NCC) composed of one member from each of the organisations and groups represented. Three commissions were also appointed: Political and Diplomatic, Finance and Administration, and Military.[83]

As the Moshi Conference was proceeding, the war between Uganda and Tanzania was well underway, and there was pressure for the UNLA to organise itself and

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80 Ibid., p.16.

81 But this did not dispel fully the belief amongst some participants that Obote had refrained from attending on the advise of Nyerere, who thought that his attendance would frustrate the formation of the UNLF. See, Nabudere,D.W. 'External and Internal Factors in Uganda's Continuing Crisis' in Hansen,H.B. & Twaddle,M. (Eds) *Uganda Now* op.cit., pp.299-312:301.

82 Letter dated Dar-es-Salaam, 22 March, 1979. See full text in *New African* , May 1979, p.15.

83 Tindigarukayo,J.K. 'Uganda, 1979-85: Leadership in Transition' 26 *Journal of Modern African Studies* (1988) pp.607-622:608.

spearhead (or at least appear to), the final march to Kampala that would culminate in unlodging Amin from power.[84] This, plus the diversity of the groups represented, and the absence of a third party to mediate between their diverse interests, meant that some important issues were not discussed sufficiently at this stage.[85] Particularly, the question of the constitutional relationship and division of authority between the chairman of the NEC, who would replace Amin as President, and the NCC, which was to assume legislative powers, was not finalised.[86] Equally important, the crucial decision as to which, between the Moshi Declaration and arrangements thereunder, and the 1967 Republican Constitution would take precedence was not made. As will be evident later, these crucial omissions were to undermine the attempts of the immediate post-Amin regimes to set up stable governments and find an enduring solution to the conflict in Uganda.

Lifting the Veil: Groups in Conflict

The excitement in the popular cause of removing Amin, and the propinquity of a military victory against him, contributed to the papering over of the differences between the participants at Moshi, and in suggesting the common cause of the Moshi Declaration. The absence of a third party to help the participants keep the crucial distance between emotions and the diversity of the interests and issues behind the common cause, drew a veil over the cracks and faults beneath it. Either the participants thought that the 'Spirit of Moshi' would keep the veil permanently over their differences, or they hoped that those disparities would be sorted out, or at least minimised, after the task of removing Amin from power was accomplished. If the latter was the

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84 This pressure was exerted by Tanzania: this insight is owed to an interview with a senior Tanzania Foreign Office official, op.cit.

85 See Chapters 6 and 8.

86 Ibid.

case, it was ill-advised. With the swearing in of Lule
as the interim President under the Moshi arrangements,
the veil of unity was abruptly lifted. Beneath it were
exposed all the ideological, regional, and ethnic
differences that had kept the various groups from unity
in the long years of exile. And thus

> "The main problem facing the country after Amin's
> overthrow was that there were too many liberation
> movements or groups, with varying and often
> contradictory ideologies and aspirations. What had
> united the different groups...completely
> disappeared once Amin was out of the way. [The]
> groups had convened in Moshi...and emerged with
> what came to be known as the 'Moshi Spirit'. It
> was well named because the 'spirit' was left behind
> in Moshi. No sooner did the liberators arrive in
> Kampala, faced with the real problems of a Uganda
> without Amin, than the Uganda National Liberation
> Front (UNLF) started to disintegrate."[87]

Once all the groups returned home after the
liberation, rifts in the social fabric which the Moshi
spirit had overlooked became manifest. Particularly,
there was great bitterness between those who went into
exile during the Amin years and those who did not; those
who "had with great hardship stuck at their desks...and
the exiles, who after often holding well-paid
prestigeful [sic] jobs abroad, came back to be treated
as liberation heroes and given all the top jobs."[88] The
inability (or unwillingness) of post-Amin governments to
address this problem satisfactorily affected their
efforts to form governments of truly national consensus.
For the animosity here was not just philosophical, but
also emotional. Those who had stayed behind especially
resented the assumption which even the governments
seemed to take, that they were, *ipso facto*, Amin
sympathisers. They made the eloquent argument that

> "men...flee or resign themselves to tyranny for
> various reasons. Those who had stayed may have
> felt a revulsion against and fear of Amin's regime,
> yet put family loyalty first: there could be an

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87 Mutibwa, P. *Uganda Since Independence* op.cit., pp.125-126.

88 Southall, 'Social Disorganization in Uganda' op.cit., p.645.

element of opportunism in the motives of both those who stayed and those who fled."[89]

The years between the liberation and the Nairobi mediation were largely preoccupied with finding a solution to these deep seated feelings. Indeed, it can be argued that the unveiling of these differences immediately after the liberation and in the subsequent years, and the inability of the several governments to find an acceptable accomodation between the various parties, laid the groundwork for the mediation of 1985.

After the Liberation: Coups and Counter Coups

The Role of the Tanzanian Forces

The events that led to the war between Tanzania and Uganda, and the responses of the Organisation of African Unity to it, were examined in Chapter Four.[90] What has not always received sufficient attention or analysis is first, how the UNLA was integrated in the final drive to remove Amin, and secondly, the role of the Tanzania People's Defence Forces (TPDF) in Uganda once the liberation of Uganda was effected.

The final military drive to remove Amin was the combined effort of the TPDF and the UNLA. Initially, after the TPDF had driven Amin's army from the Kagera Salient, Tanzania was keen to stress that it had no intention to overthrow Amin itself.[91] It therefore emphasised the partnership with the UNLA in the battles leading to the fall of Kampala. But the seniority in the partnership between the TPDF and the UNLA was evident from the strategies that Tanzania and the TPDF adopted in this leg of the campaign. Firstly, in order to capture Kampala, the forces had to go through Buganda: and to gain the support of the Buganda, one of

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89 *New African*, No.144, August 1979, p.57.

90 See also Chapter 6.

91 Because Nyerere did not want his war with Amin to be seen as motivated by empire building:interview with a former senior aide to Nyerere, op.cit.

their number (Lule) was chosen as Chairman of the NEC, and would replace Amin as President once the campaign succeeded. Had Obote, a northerner, or a UPC person been appointed instead, the passage through Buganda would have been extremely difficult. Thus

> "[i]t made sense for Nyerere, and even for Obote and his UPC, for Obote to stand aside and let everyone believe that the man about to take power was Lule...a member of the Baganda tribe, the now traditional enemies of Obote."[92]

Secondly, at Moshi Museveni was given command of the western wing, to fight the battle from the west. His intention however, was to reach Kampala before the TPDF forces did, and hence take power himself.[93] Thirdly, rather than the expected march on Kampala, the decisive battle was fought at Entebbe on April 7 1979, when with the help of the Tanzanian Air Force, Entebbe was taken. This not only effectively crushed any resistance by Amin, but also pre-empted Museveni's triumphant entry into Kampala, which would have rendered the Moshi arrangements void.

After the fall of Kampala, a security threat was posed by the retreating Amin forces. Thus, the point of view emerged in official circles in Kampala and Tanzania, that the TPDF would need to remain in Uganda for much longer, until the UNLA was 'properly constituted'. Consequently, in his inaugral address President Lule officially invited the TPDF to remain in Uganda. Nyerere reiterated later that those forces would remain in Uganda only for as long as the Ugandan government required them.[94] The decision to invite the TPDF to remain in Uganda was one that Lule was to regret two months later, when he was overthrown in what smacked of a Tanzanian instigated 'palace coup'. Nyerere's

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92 Mutibwa, P. *Uganda Since Independence* op.cit., pp.127-128.

93 This is the analysis of Dr.A. Mukwaya, Department of Political Science, Makerere Univesity, in an interview with the author, Kampala, June, 1993.

94 *Africa* No.93, May 1979, p.15.

assurance came to be seen as being based on the belief, contrary to Tanzanian official pronouncements, that the immediate post-liberation governments in Uganda were only holding brief for Obote.[95]

The role that the TPDF played in Uganda after the liberation underlined the deep divisions within the UNLF. Lule's complaints about the TPDF will be considered in the next section. Meanwhile, it is worth noting that the composition of the leadership in Uganda (in the UNLA, the NEC and NCC), suggested a longer term plan for the return of Obote to power. Thus, while the command of the UNLA and its membership included Tito Okello and Oyite-Ojok, leadership of the NCC included people like Paolo Muwanga. All these were staunch Obote supporters. They later played crucial roles jointly and severally, in Obote's return to power, maintaining his second regime, and in the events leading to the Uganda mediation after his second overthrow in 1985.

The Lule Presidency, April-June 1979

Although Lule came to power with a mandate from the Moshi Conference of a maximum of two years within which elections were to be held, his incumbency lasted barely two months. Many reasons have been advanced for the brevity of this tenure. These were both internal and external. The internal explanations revolved around the difficulty of balancing the diverse interests that the Moshi Spirit had veiled, and which led to the constitutional debate about the source of presidential power. The external reasons concerned Tanzanian attitudes regarding their status in post-liberation Uganda.

Internally, one of the most intractable problems that Lule faced was the reorganisation of the army. He realised that the problem was created originally by the colonial policy of recruiting predominantly from the north, and made worse by post-colonial policies of

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95 See Mutibwa, P. *Uganda Since Independence* op.cit., p.128.

recruitment along ethnic lines.[96] Lule therefore tried
to create a new army, and a new police force.
Accordingly, he set out to recruit from all regions of
Uganda, in proportion to the size of each region's
population, so that no single ethnic group would any
longer have ascendancy in the armed forces.[97] It was
thought that the new army should be loyal to the people,
and should for that reason be a 'political army', one
that understood the policies and programmes of the UNLA.
In these two policies, Lule had the support of ministers
in Kampala. They argued that a widely based army was
less likely to be manipulated by a civilian or military
dictator than a narrowly based one.[98] There was also an
educational qualification requiring that men of the new
army have at least seven years of education, and at
least 'O' level education for officer cadets, who were
both to be trained by Tanzania. The UNLA was to be
disbanded once the recruitment of the new army was
complete, although its members would be given priority
in filling the regional quotas in the new army.[99]

These policies created two problems for Lule. The
educational requirement caused insecurity amongst the
ranks of the UNLA, many of whom saw it as a plan to
dispense with their services in a country where
unemployment was rife. The quota system led to
accusations that Lule was designing a way to ensure
Bagandan supremacy in Uganda since being the largest
ethnic group in Uganda, the Baganda would have had a
numerical superiority in the new army.

The second internal problem that Lule faced
concerned the allocation of public offices. Although
Lule at first appointed ministers from all significant

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96 Lule interviewed: *New African*, No.141, May 1979, pp.18-20:19.

97 Tindigarukayo, 'Uganda, 1979-85: Leadership in Transition' op.cit., p.610.

98 See *New African* July 1979, p.49.

99 *New African*, June 1979, p.30.

parts of the country,[100] only a few of these were people who had not gone into exile. A constitutional problem also arose when, without consulting the NCC, Lule reshuffled his cabinet, demoting three non-Baganda ministers and appointing Baganda ones in their place. It had been agreed at Moshi that in an emergency, the chairman of the NEC could co-opt and fill vacancies in the executive, subject to later ratification by the NCC. In all other cases, the NCC had power to fill such vacancies. The question therefore was which between the NEC and NCC was constitutionally subordinate to the other.

Two schools of thought emerged on this issue. The first, supported by the majority in the UNLF, argued that the NCC alone could fill vacancies in the executive. The second, to which Lule and some of his supporters subscribed, contended that the chairman of the NEC alone was empowered to make appointmnts to public office. In support of this claim, Lule put forward the legal case that, since he and his cabinet derived their authority from the 1967 Republican Constitution under which they had been sworn into office, "on the strength of this national constitution...I have made and will continue to make all the appointments to public office."[101] Most members of the UNLF saw this argument as a renunciation of the consensus that had been reached at Moshi, under which consensual and consultative arrangements leading to conditions conducive to the holding of free and fair elections would be created.[102] Hence, the first school of thought held sway, and a vote of no confidence, based

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100 Low, 'The Dislocated Polity' op.cit., p.49.

101 *New African*, No.145, September 1979, p.15.

102 Ibid.

on the fear of Lule assuming dictatorial powers,[103] was eventually passed against him.

The developments leading to Lule's ouster should be seen against the background of external influences, which were taking place contemporaneously. After he was overthrown, Lule revealed in an interview that there had been a strong Tanzanian influence in that process.[104] Not only did Tanzania appoint a Resident Minister stationed in Kampala after the liberation, but it also opposed some of Lule's appointments, especially those to the crucial ministries of Defence, Foreign Affairs, Home Affairs, Communications, and the Chief of Staff. The basis of this opposition was that they were too 'rightist'.[105] Alternative appointments to these were suggested, and when Lule resisted them on the basis that Tanzanian objections amounted to interference in the internal affairs of Uganda, he was summoned to Moshi, where as he revealed later, Nyerere asked him to invite Obote to join his cabinet in the capacity either of Vice President, or Minister for Foreign Affairs.[106] Lule's refusal to do this was closely linked to, and followed by, later developments where the NCC, a substantial number of whose membership was under the influence of Tanzania,[107] voted him out of office, and elec ted Godfrey Binaisa to the Presidency.

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103 And, in the Tanzanian view, that he was acting as though he had been popularly elected, which was not the case since there had not yet been elections in Uganda. This perspective was given to the author by a senior Tanzanian foreign office official in an interview in Paris, December 1993.

104 Lule interviewed: *New African*, No.145, September 1979, pp.12-13.

105 Ibid., p.13.

106 Ibid. Lule however offered Obote the post of Permanent Representative to the United Nations in New York, provided Obote went there directly, without first visiting Uganda. See Ingham,K. *Obote: A Political Biography* (London & New York: Routledge, 1994) p.157.

107 As is argued in Chapter 6, Tanzanian influence later complicated the issue of who should mediate in the Uganda conflict, and the venue of the mediation.

The Binaisa Presidency, June 1979-May 1980

Binaisa's presidency was a difficult one. He inherited some of the intractable problems that Lule had attempted unsuccessfully to grapple with. He eventually also had to confront the constitutional problem of the source of his authority. This question again revealed the deep divisions within the UNLF, and led to Binaisa's consequent overthrow.

Regarding the military, Binaisa faced the problem whether the policy of regional representation did not conflict with the larger aim of creating a truly national army. His stated policy was that regionalism was gone forever from army recruitment, and that people would be recruited not because they belonged to a particular ethnic group, but because thay subscribed to the aims and policies of the UNLF.[108] This policy was reminiscent of Lule's, but rang hollow. As he was making it, the UNLA was being enlarged, mainly by untrained recruits and ethnically based *militias* in the northern provinces. It was also being divided between factions loyal to Oyite-Ojok, Museveni, and others.[109] This, plus the deteriorating relations between the TPDF, the UNLA and the civilian population, made it difficult to implement a coherent and generally acceptable military policy.

Like Lule, Binaisa had to address the problem of the allocation and distribution of assets abandoned by Amin's fleeing supporters. Unlike Lule whose approach to this problem led to accusations that he was favouring his close political allies, and especially the Baganda, Binaisa's allocation policies offended "those who had stayed and suffered under Amin's rule, [who] increasingly resented the allocation procedures, arguing

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108 Binaisa interviewed: *New African*, No.145, September 1979, p.15.

109 Walker, 'Uganda: Recent History' op.cit., p.1063.

that returning exiles were taking the lion's share."[110] Under Binaisa, not only did the unity and cohesion between the UNLF and UNLA begin to disintegrate, but cleavages of bitterness within the civilian population became evident. His announcement that elections would be held in December 1980, but that candidates would only be permitted to participate under the umbrella of the UNLF (the so-called 'politics of the umbrella') only served to alienate further sources of potential support, such as political parties like the DP and the UPC.[111]

Binaisa also attempted to neutralise the still powerful NCC by expanding its membership to include representatives elected by district electoral colleges. This move was calculated to reduce tensions within the country. These had developed because the NCC was composed largely of exiles, and led to the sprouting of clandestine political groups opposed to their monopoly of the NCC.[112] The last straw for Binaisa however came when, using arguments similar to those Lule had articulated earlier, he dismissed Paolo Muwanga as Minister for Internal Affairs (re-appointing him as Minister for Labour), and transferred Museveni from the Ministry of Defence to the Ministry of Regional Cooperation. And when in May 1980 he tried to dismiss Oyite-Ojok as Chief of Staff, UNLA soldiers put him under house arrest. On 12 May 1980, the UNLF Military Commission assumed power, under the chairmanship of Muwanga, with Museveni as Deputy Chairman, and Oyite-Ojok and Tito Okello as members.

The Military Commission, May-December 1980

The Military Commission took power in Uganda just a year after the military dictatorship of Amin had been overthrown. This demonstrated two things that were to

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110 Tindigarukayo, 'Uganda, 1979-85: Leadership in Transition' op.cit., p.611.

111 Walker, 'Uganda: Recent History' op.cit., p.1063.

112 See New African, No.98, October 1979, p.33.

become even more evident later during the Nairobi mediation: that the efforts to domesticate the military in Uganda had failed at a crucial moment, and that the military still retained the "veto power to determine which political rulers it preferred."[113]

The membership of the Military Commission was largely pro-Obote, and was later seen as having taken over power in order to pave the way for his return to office.[114] Its tenure was mainly preoccupied with organising elections. It announced that these would be held in 1980, (originally in September, later in December), and that all interested political parties were at liberty to participate, thus reversing Binaisa's earlier policy. The main political parties that took part in the elections were the Obote-led UPC, which based its campaign on political reconciliation and the rehabilitation of the economy; the DP, led by Ssemogerere, which was Baganda dominated, and whose main platform was the need to defeat Obote's party; the Conservative Party (CP) led by Mayanja-Nkangi, which wanted to restore the former kingdoms, and the Uganda Patriotic Movement (UPM), led by Museveni, which emphasised the restoration of the rule of law.[115]

The UPC was announced as the winner of the 1980 election, and Obote was sworn in as President of Uganda for the second time in his career. But it was a Pyrric victory, which some of the other parties like the UPM did not accept, on the basis that the elections were rigged. The election result marked the end of the Moshi Spirit of consolidation and reconciliation. Uganda was once again plunged into civil war, and the next attempt

113 Mudoola,D. 'Political Transitions Since Amin: A Study in Political Pathology' in Hansen,H.B. & Twaddle,M. (Eds) *Uganda Now* op.cit., pp.280-298:294.

114 Low, 'The Dislocated Polity' op.cit., p.50.

115 Tindigarukayo, 'Uganda, 1979-85: Leadership in Transition' op.cit., p.613.

to restore peace was the Nairobi mediation, five years later.

The Second Obote Regime and Internal War

The results of the 1980 election were bitterly disputed by the other contestants,[116] and the manner of its announcement did not encourage them to believe in its fairness. The announcement of the results was halted by Muwanga, who was the returning officer, just when it appeared that the returns were signalling a DP victory.[117] In the event, the result was later announced as a slight victory by the UPC over the DP: Museveni's UPM won only one seat.[118]

The dissatisfaction with the general conduct and outcome of the elections led several groups to begin a guerilla war against the second Obote regime. The earliest and most prominent of these was the Popular Resistance Army (PRA) commanded by Museveni.[119] This was later joined by the Uganda Freedom Fighters (UFF) under Yusuf Lule. The National Resistance Movement (NRM) was formed by the merger of these two, with Lule as the Chairman, and Museveni as the Vice Chairman. The armed wing of the NRM was the the National Resistance Army (NRA) and Museveni was the Chairman of its High Command. On Lule's death, Museveni became Chairman of the NRM as

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116 The Commonwealth sent an Observer Group which reported that the elections were free and fair: see Commonwealth Observer Group, *Uganda Elections December 1980: The Report of the Commonwealth Observer Group* (London: Commonwealth Secretariat, 1981). This was not a view that many subscribed to, as Chan notes in a brief but pungent critique, in Chan,S. *The Commonwealth in World Politics* (London: Lester Crook Academic Publishing, 1988) pp.51-52. The problem, as Chan notes elsewhere,is that the Commonwealth Observer Group confirmed convenient results, rather than truthful ones: see Chan,S. *Twelve Years of Commonwealth Diplomatic History* (Lewiston, Queenston & Lampeter: Edwin Mellen Press, 1992) p.129.

117 See *Africa* No.113, January 1981, p.10.

118 Twaddle,M. 'Museveni's Uganda: Notes Towards an Analysis' in Hansen,H.B. & Twaddle,M. (Eds) *Uganda Now* op.cit., pp.313-335:316.

119 It has been argued that given the 'abysmal performance' of Museveni's party in the elections, the flaw in those elections was not the only reason Museveni waged a civil war against Obote's second regime: see Ingham,K. *Obote: A Political Biography* (London & New York: Routledge, 1994) pp.177-178. This is true, but Ingham's book is very sympathetic of Obote, and it is unlikely he would admit to any merits in an alternative explanation.

well.[120] The NRA waged a five year 'protracted people's war',[121] culminating in its assumption of power in January 1986.

Apart from the NRM/NRA, there was also the Uganda National Rescue Front (UNRF) led by Moses Ali, a former minister in the Amin regime. There was also the Former Uganda National Army (FUNA) composed of Amin supporters active in the West Nile district. There were further the Uganda Freedom Army (UFM) and the Federal Democratic Movement of Uganda (FEDEMU), which like the NRM/NRA, derived substantial support from the Buganda area.[122] As the civil war later gained ground, the support base of the NRA expanded. It drew support from people in several parts of Uganda. These included disaffected southern Ugandans, people from the Luwero Triangle which Obote's government later de-populated in order to deprive the NRA of civilian support,[123] and defectors from the UNLA.

Obote's second regime was characterised by several internal conflicts. Apart from the military groups mentioned above, his rule was also opposed by certain sections of the civilian population. These included the Baganda, his traditional enemies, in whose constituencies Obote's UPC was denied even a single seat in the 1980 election. There were also supporters of the former political leaders, who alleged that Obote had rigged his way into power, and the southerners, who bitterly hated the still northern dominated army. Thus, "all this opposition made it difficult for Obote to

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120 See Kisekka,S.B.M. 'Forward' to Museveni,Y. *Selected Articles on the Uganda Resistance War* (Kampala: NRM Publications, 1986-2nd ed) p.7.

121 See Museveni,Y. 'Why We Fought a Protracted People's War' in Museveni, Y.*What is Africa's Problem? Speeches and Writings on Africa* (Kampala: NRM Publications, 1992) pp.129-141.

122 Omara-Otunnu,A. *Politics and the Military in Uganda, 1890-1985* op.cit., p.157.

123 Walker, 'Uganda: Recent History' op.cit., p.1064.

acquire his needed legitimacy."[124] The dynamics of these various conflicts and Obote's "almost paranoid fear of a southern resurgence", led his second regime to be characterised by "policies verging on genocide."[125]

The response of Obote's government to this disaffection of large sections of the population was, in Rothchild's term, one of hegemonial interaction.[126] The coercive element of this response was evidenced *inter alia* by the formation of the National Security Agency (NASA), whose members were ill-trained, indisciplined and brutal. Together with the UNLA, they unleashed a brutality on the civilian population which, by many accounts was as brutal, if not worse, than the earlier, unlamented one of Idi Amin.[127]

There also existed conflicts within the ruling group. Particularly, differences developed between Obote and some members of his cabinet who opposed some of his appointments, and who would have preferred to negotiate with the guerillas. Their views conflicted with Obote's, since he preferred continued confrontation with the guerillas in search of a military victory.[128] Secondly, the old Ugandan problem of the military and its ethnic composition began to cause unrest within the UNLA, where some feared that Obote was appointing and promoting his fellow Langi tribesmen at the expense of

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124 Tindigarukayo, 'Uganda, 1979-85: Leadership in Transition' op.cit., p.616.

125 Decalo, S. *Coups and Military Rule in Africa* op.cit., pp.182-183.

126 Rothchild, 'Interethnic Conflict and Policy Analysis in Africa' op.cit. See also Chapter 3.

127 See Furley,O. 'Britain and Uganda from Amin to Museveni: Blind Eye Diplomacy' in Rupesinghe,K.(Ed)*Conflict Resolution in Uganda* op.cit., pp.275-294:287-291. Some sympathisers of Obote argue that Obote was not to blame, since these acts were committed by 'rebels' in UNLA uniforms: See Ingham,K.*Obote: A Political Biography* op.cit. There is little evidence for this view; and even if true, Obote was still the commander-in-chief and president, and the buck must properly stop with his government.

128 Tindigarukayo, 'Uganda, 1979-85: Leadership in Transition' op.cit., p.617; see Chapter 6 and 7 on similar conflicts in the Military government during the mediation.

the Acholi part of the alliance. These intra-UNLA tensions between the Langi and the Acholi led to the disintegration of the ethno-military alliance that kept Obote in power, and consequently to his second overthrow.

Obote's second downfall began in December 1983, when on the death of Oyite-Ojok, a fellow Langi who was his Chief of Staff,[129] he appointed another Langi, Opon-Ocak, as his replacement, bypassing more senior Acholi officers such as Basilio Okello. Although Obote promoted a large number of Acholi officers in compensation, the appointment of Opon-Acak meant that after the impending retirement of the ageing General Tito Okello there would be no Acholis in key military positions in the army. Opon-Acak was also a poor leader of men, and was accused of favouring the Langis in the army, and of ordering only Acholi soldiers to the front line in the fight against the guerillas.[130] This led to Acholi soldiers refusing to obey orders, and to Acholi-Langi ethnic fights within the ranks of the army. In these circumstances, Brigadier Basilio Okello mobilised a substantial portion of the army from his Gulu headquarters, and marched into Kampala. Once again, Obote fled into exile.

The Military Government, July 1985-January 1986

General Tito Okello announced the formation of a Military Council on 27 July, 1985. The Military Council faced two problems from the outset, which were to render its tenure of office a brief one. Firstly, although the official reason for removing Obote from office was given as being "to stop the bloodshed in the country, and to create conditions for viable peace, unity and

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129 According to Ingham, Oyite-Ojok was totally loyal to Obote, and had been running the army almost single-handedly, and was 'impossible' to replace. His death therefore "left Obote with a great feeling of loneliness and some of his own fire and drive seemed to die with his chief of staff." See Ingham,K. *Obote: A Political Biography* op.cit., pp.198-199.

130 Omara-Otunnu,A. *Politics and the Military in Uganda* op.cit., pp.160-163.

development, and the observance and promotion of human rights",[131] the real reason was the Acholi-Langi rivalry in the army.[132] In spite of this, the Military Council that was announced after the coup was composed entirely of Acholis. Secondly, while the inter-ethnic struggle had been going on in the UNLA during Obote's regime, the NRA had been gaining ground, and its campaign had reached a decisive stage when Obote was overthrown.[133] Although the Military Council reacted to this by enlisting the aid of UNRF troops from the west Nile district, the Acholi-West Nile alliance was inherently unstable, and evidently so under military pressure. Because the UNRF troops were neither controllable nor efficient in the field, fighting broke out between them and the UNLA troops they had been drafted to assist. Also, apart from the NRA's control of the main towns in the west and south of Uganda, its control of the southern parts which produced most of the cash crops, placed an economic stranglehold on the impoverished military government of Tito Okello.[134]

Clearly therefore, the Military Council was in an untenable position. It had to make either of two decisions: to stage a last military stand against an NRA force that was gaining in support and confidence, or to negotiate with them. As Low observes on the state of forces at that time,

> "For a while, the principal ethnic groupings in northern and southern Uganda now became quite explicitly represented by two armed forces, Okello's essentially northern, Acholi-led army on the one side, and Museveni's essentially southern supported NRA on the other. They could either now fight, or Okello could provide the southern elements, not only with a major place in a

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131 Ibid., p.165.

132 See Museveni, 'After Obote: What?' in Museveni, Y. *Selected Articles on the Uganda Resistance War* op.cit., pp.76-83:79.

133 See Museveni, 'Who Is Winning the War?' in Museveni, Y. *What Is Africa's Problem?* op.cit., pp.143-147.

134 Walker, 'Uganda: Recent History' op.cit., p.1064.

political settlement, but in a new Uganda army as
well."[135]

As will be seen in the following chapter, faced with
this dilemma, the Military Council chose reluctantly to
negotiate.

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[135] Low, 'The Dislocated Polity' op.cit., p.51.

Chapter Six

The Diplomatic Context of the Uganda Mediation

Introduction

Chapter One argued that the Uganda (or any) mediation is best analysed *inter alia* in terms of the diplomatic and the mediation contexts, which are two sides of the same coin. The diplomatic one is an important context because it reinforces the truism that no mediation takes place in a vacuum. It also supports the proposition that the motivations, actions, and strategies adopted during mediation are part of the larger background of the relationships between the parties.[1] In the case of the Uganda mediation, they are part of a wider pattern of the international relations of the East African region. As was pointed out in Chapter Three, the broad diplomatic context of this study is the African one. It will be evident later in this chapter however, that this does not preclude the influence of non-African players.

Apart from this broad diplomatic canvass, several other factors influenced the diplomatic context of the Uganda mediation. The first was the broad African perspective on the conflicts in Africa as discussed generally in Chapter Three, and the historical background of the Uganda conflict narrated in Chapter Five. The second factor was OAU conflict management as set out in Chapter Four, especially as it is related to the Uganda conflict. The third factor was the diplomacy of the region as it broadly informed the mediation. The fourth factor relates the diplomatic concerns that

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1 See Chapter 5 on the historical basis of these.

permeated the developments immediately leading to the mediation itself.

This chapter will examine firstly the effects of OAU conflict management policies and practices on the development of the Uganda conflict. Secondly, aspects of the diplomacy of the East African region, particularly as seen through the bilateral diplomatic relations between Uganda, Kenya and Tanzania will be surveyed, and an explanation offered as to how the choice of mediator evolved within that background. The politics surrounding the decision on the venue of the mediation will also be discussed in this context. Finally, the diplomacy of the 1985 mediation itself will be considered. In this regard, a strategic map of the actors involved, and of those with broader interests in the outcome of the mediation will be drawn, and an analysis made of the factors influencing the decision of each of the parties to agree to the mediation.

The Uganda Conflict in the OAU

The four pillars of OAU conflict management were discussed in an earlier chapter.[2] These are the principle of non-interference in the internal affairs of states, the principle of the sovereign equality of member states, the principle of respect for the territorial borders inherited at independence,[3] and the principle of African solutions to African problems.[4] The

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2 See Chapter Four.

3 See Young,C. 'Self-Determination, Territorial Integrity, and the African State System' in Deng,F.M. & Zartman,I.W.(Eds) *Conflict Resolution in Africa* (Washington: The Brookings Institution, 1991) pp.320-346:327-328. OAU involvement in such conflicts as in Western Sahara and Eritrea may not seem to accord with this principle because it was precisely the borders inherited at independence which were under challenge. Those conflicts underline the fact that where borders are involved, the OAU will become involved regardless of the 'internal' nature of the conflict, and hence that between the principles of non-interference and sanctity of borders, it holds the latter more dear. Those conflicts are also an exemplar of the continuing validity of the notion of internal self-determination (Western Sahara) and 'post-colonial' self-determination (Eritrea). See Chapter 4.

4 See Foltz,W.J. 'The Organization of African Unity and the Resolution of Africa's Conflicts' in Deng,F.M. & Zartman,I.W.(Eds) *Conflict Resolution in Africa* op.cit., pp.347-366:354-361.

OAU's strict interpretation of these principles, especially of non-interference in internal affairs of states, has led to various problems in practice. The most difficult is the creation of an internal/inter-state dichotomy, by which the OAU decides which conflicts it will manage, and ones in which it will not be involved. In this practice, as was illustrated in Chapter Four, OAU conflict management has concentrated on inter-state conflict, and eschewed involvement in those conflicts it considered to be internal.

With respect to the conflict in Uganda, except for two brief periods - during the skirmishes of 1972, and the Uganda-Tanzania war of 1978/9 - the OAU considered consistently the conflict to be an internal affair of Uganda. Thus, apart from the occasion when Nyerere complained about Uganda's bombing of Bukoba, and when Idi Amin complained to the OAU about Tanzania's invasion in response to Uganda's earlier one of the Kagera Salient in Tanzania, the OAU considered the conflict in Uganda to be purely internal. In keeping with the policy of involvement only in inter-state conflict, it never attempted to manage this conflict, nor indeed officially to involve itself in it. Apart from its non-involvement on conflict management terms, the OAU could have justified involvement on the bases of human rights violations and the existence of violent conflict, but declined to do so.

The OAU and Human Rights Violations in Uganda

During the long years of the Uganda conflict there were massive violations of human rights.[5] However, the OAU did not at any time condemn these violations,[6] and

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5 See the three reports by Amnesty International: *Uganda: Evidence of Torture* (AI Doc.AFR.59/06/85); *Uganda: The Human Rights Record* (London: Amnesty International, 1989); and, *Death in the Countryside: Killings of Civilians By the Army in 1990* (AI Doc.AFR.59/15/90).

6 It is noteworthy that during the height of Idi Amin's human rights excesses in 1976, the OAU condemned "Israeli aggression against the territorial integrity of Uganda" and "the deliberate killing and injury of people and wanton destruction of property" by the Israelis, but said nothing against the Ugandan government's killing of its own citizens or the destruction of their property. See AHG/Res.83 (XII).

indeed was taken to task for not doing so, first by President Binaisa in 1979, and later by President Museveni who, when he assumed power in 1986, observed the contradiction in OAU policy:

> "The reason for not condemning such massive crimes has, supposedly, been the desire not to interfere in the internal affairs of a member state, in accordance with the Charters of the OAU and the United Nations. We do not accept this reasoning because in the same charters, there are explicit laws that enunciate the sanctity and inviolability of human life."[7]

In the case of Uganda as elsewhere, the OAU adopted a strict interpretation of the Charter provision on non-interference in the internal affairs of states. This justification for non-involvement operated much to the detriment of human rights principles and their observance.[8]

It has been argued that OAU ineffectiveness in this respect derives from the lack of legal power to deal with human rights violations, and that therefore,

> "for legal reasons alone, the opportunities for the OAU to become involved in questions of human rights are exceptionally slight: it has no legal power to deal officially with problems of human rights concerning specific incidents in individual states."[9]

However, this absence of legal power is insufficient to explain OAU ineffectiveness, because the same situation prevailed even after the normative framework established by the African Charter on Human and Peoples' Rights was established to deal with the protection of human rights

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7 Museveni,Y. 'Most of Africa Kept Quiet...' Address at the OAU Summit, Addis Ababa, July 29, 1986: in Museveni,Y. *What is Africa's Problem? : Speeches and Writings on Africa* (Kampala: NRM Publications, 1992) pp.168-171:168; Museveni's statement about silence was directed specifically at the OAU. Other organisations such as the UN and the Commonwealth did speak out against human rights violations in Uganda.

8 Oloka-Onyango,J. *Armed Conflict, Political Violence and the Human Rights Monitoring of Uganda: 1971-1990* (Kampala: CBR Working Paper No.12, 1992) p.14.

9 Kunnig,P. 'The Protection of Human Rights by International Law in Africa' 25 *German Yearbook of International Law* (1982) pp.138-168:143.

in Africa.[10] The reason for OAU non-involvement in Uganda and elsewhere in Africa was not so much legal, as doctrinal. By elevating the principle of non-interference to an 'absolute norm',[11] and insisting on the dichotomy between internal and inter-state conflict, the OAU effectively tied its own hands. In so doing it missed an opportunity to justify its involvement in, and management of, the Uganda conflict. It could have asserted with merit that human rights violations, and the genocide these engendered in Uganda, were a matter of international concern, and thus justified involvement regardless of the strict letter of the Charter. Had the OAU argued that way, it would have concluded that the human rights violations had sufficiently internationalised the conflict in Uganda.[12] This would have given it international rather than internal characteristics, and thus rendered it one which, even in its own terms, the OAU could have involved itself in.

The OAU and Armed Conflict in Uganda

In terms of armed conflict, the OAU has generally "been a much more prominent actor on the scene...in Africa than it has in the question of political violence."[13] This was eminently the case with the Uganda conflict. It was not until the skirmishes of 1972, when the OAU designated Somalia as a mediator, and later when the Uganda-Tanzania war of 1978-79 was underway and Amin complained that Tanzania had invaded

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10 Oloka-Onyango, J.Armed Conflict, Political Violence and the Human Rights Monitoring of Uganda op.cit., p.16; for useful commentaries on the African Human Rights Charter and its mechanisms, see, Umozurike,O. 'The African Charter of Human and People's Rights' 77 American Journal of International Law (1983) pp.902-912; Welch,C.E. 'The African Commission on Human and People's Rights: A Five Year Report and Assessment' 14 Human Rights Quarterly (1992) pp.43-61.

11 Kamanu,O.S. 'Secession and the Right of Self-Determination: An OAU Dilemma' 12 Journal of Modern African Studies (1974) pp.355-376:360.

12 The issue of human rights as a factor that can internationalise a conflict is discussed in Chapter 1.

13 Oloka-Onyango, J. Armed Conflict, Political Violence and the Human Rights Monitoring of Uganda op.cit., p.17.

Ugandan territory, that the OAU invoked its conflict management mechanisms. In the latter case, the OAU designated Ethiopia and Kenya as mediators in the conflict.[14] However, Amin was overthrown before the mediators could commence their task.

During Museveni's protracted war against the second Obote regime, and later against Tito Okello's regime, the OAU considered the conflict to be purely internal, and did not involve itself in it. As was argued earlier, the OAU could have construed this and earlier stages of the conflict to be sufficiently internationalised to justify involvement on human rights grounds alone. This apart, the diplomatic efforts of the Obote and Okello regimes - and of the NRM - to solicit financial support and arms from abroad should have been sufficient evidence for a keen OAU, that the conflict had become internationalised, and hence no longer purely internal. But being wedded to the principle of non-interference, and to its own version of the internal/inter-state dichotomy, the OAU did not contemplate any action that would have seemed to put its fidelity to those principles at risk. Indeed, because individual states have come to espouse the OAU's strict interpretation of non-interference,[15] and since many African leaders have much to hide internally, there is unlikely to have been any consensus or majority for intervention in any OAU Assembly. Hence the continued decision to pursue the policy of non-involvement.

Diplomacy and Conflict in East Africa

Relations between the three East African countries of Kenya, Uganda and Tanzania, have historically blown hot and cold. Multilaterally, these relations were characterised by the high point of the East African Community years, and the low point of the disagreements

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14 Ibid., p.17.

15 See Chapter 4.

following the collapse of the Community.[16] Indeed, in the early years of independence, so optimistic were these relations that the idea of federation was for a while pursued actively by the three countries.[17] Bilaterally, the common purpose of East African multilateral diplomacy has never been achieved, and indeed strained bilateral relations partly caused the collapse of the Community. A detailed exposition of that diplomacy is beyond the concerns of this study. This section will examine the broad bilateral relations between the three East African countries, and will especially explain how that pattern of relationships was related to, and affected the conflict in Uganda. Particularly, an elucidation will be given as to how the choice of mediator in the 1985 mediation evolved from that diplomatic environment.

An Overview of Uganda-Kenya Relations up to 1985

Relations between Kenya and Uganda, although generally friendly, have been characterised by intermittent tensions.[18] The changes from hostility to friendship have largely mirrored the development of the conflict in Uganda. The shifts in policy in both countries have therefore reflected uncertainties in the face of changing patterns of the conflict. Uganda-Kenya relations have also reflected the wider politics of East Africa, especially the competition for leadership in the region between Kenya and Tanzania. In this wider struggle, Uganda served to balance the power in the region. The policies Kenya and Tanzania adopted on the conflict there were directed, in essence, at winning the

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16 This was the subject of a mediation on the distribution of the Community's assets. See Umbricht,V.H. *Multilateral Mediation: Practical Experiences and Lessons* (Dordrecht: Martinus Nijhoff, 1988).

17 See Rothchild,D.(Ed) *Politics of Integration: An East African Documentary* (Nairobi: East African Publishing House, 1968).

18 See Okoth,P.G. 'Intermittent Tensions in Uganda-Kenya Relations: Historical Perspectives' (Staff Seminar No.6 of 1989/90: Dept. of History, University of Nairobi); see also, Okoth,P.G. 'The Foreign Policy of Uganda Toward Kenya and Tanzania Since Independence' in Oyugi,W.O.(Ed) *Politics and Administration in East Africa* (Nairobi: Konrad Adenauer Foundation, 1992) pp.359-394.

support of the various regimes that came and went during the Uganda conflict.[19]

Some commentators have considered the relations between Uganda and Kenya to be based almost wholly on economics, with the Kenyan economy playing a mediating role between the Ugandan economy and the world capitalist market.[20] In this reckoning, and especially during the Amin regime when the Ugandan economy was in poor condition, imports of producer goods declined sharply, while imports from Kenya increased correspondingly, thus "rendering the Kenyan connection more and more important to Uganda."[21] Further, it is argued that since the Kenyan economy is not independent, Kenya only fronted for foreign, and especially British interests in Uganda, such that deteriorating Uganda-Kenya relations were "often but a reflection of the deterioration in relations between UK and Uganda."[22] This is partially so, but as the rest of this section shows, relations between Uganda and Kenya have also been significantly informed by extra-economic considerations.

During the period under review, two important factors informed the foreign policy relations between Kenya and Uganda, and both had an important bearing on the development of the conflict in Uganda. The first was strategic, and the second concerned regional leadership. Strategically, especially since the early 1970s during the period of uncertainty and assessment in

19 Kenya saw the mediation as an opportunity to "draw Uganda closer to Kenya". This insight is owed to B.A.Kiplagat (Permanent Secretary, Ministry of Foreign Affairs, Kenya, 1983-1991) in an interview with the author, Nairobi, 4 June 1993.

20 Mamdani,M. *Imperialism and Fascism in Uganda* (London: Heinemann, 1983) p.95.

21 Ibid., p.97.

22 Ibid., p.99. An interesting analysis of the relations between Uganda and Britain is made by Furley,O. 'Britain from Amin to Museveni: Blind Eye Diplomacy' in Rupesinghe,K.(Ed) *Conflict Resolution in Uganda* (London & Athens,OH.: James Currey & Ohio University Press, 1989) pp.275-294.

Kenyan diplomacy,[23] Kenya was concerned about its 'socialist encirclement' in the region. Fears of this mounted in 1969, when a coup in Somalia brought the military dictatorship of Siad Barre to power. Apart from espousing a Greater Somalia policy, that regime forged a close alliance with the USSR. In the same year, a coup in Sudan brought to power a regime that temporarily espoused a socialist philosophy. Later, the 1974 coup in Ethiopia overthrew Haile Selassie who was an ally of Kenya, and the new regime declared Ethiopia to be a socialist state, thus creating serious prospects for Soviet dominance in the Horn of Africa.[24] In Uganda, Obote had expelled Kenyan workers from Uganda in 1966 and 1969, and in his 'move to the left', had nationalised several companies, some of them Kenyan based.[25] Obote's overthrow by Amin did not give relief for long, since Amin soon began to rely heavily on the Soviet Union and Libya, especially for arms. Thus by 1974, the regional equilibrium which had existed in the region, and which Kenya had hoped to maintain, had disintegrated.

In terms of regional leadership, the collapse of that regional equilibrium challenged the leadership status which Kenya had exerted. It also exacerbated the ideological differences and the struggle for regional domination with Tanzania. Thus, in the narrow East African context, the inter-state system which was hitherto characterised by the policy of co-existence also broke down. Part of the reason for this collapse was the hostility between Amin and Nyerere: this antagonism had a wider fallout because Tanzania expected

23 See Makinda,S. 'From Quiet Diplomacy to Cold War Politics: Kenya's Foreign Policy' 5 *Third World Quarterly* (1983) pp.300-319:307-308.

24 Orwa,K. 'Foreign Policy, 1963-1986' in Ochieng,W.R.(Ed) *A Modern History of Kenya, 1895-1980* (Nairobi: Evans Brothers, 1989) pp.219-244:234.

25 Okoth, 'Intermittent Tensions in Uganda-Kenya Relations: Historical Perspectives' op.cit., p.8.

Kenya too to denounce the military regime in Uganda. When Kenya failed to do so, and indeed continued normal diplomatic relations with Uganda, relations with Tanzania deteriorated, causing the heightening of the ideological war between them, the outcome of which was a mutual suspicion of intent.[26] Therefore, Uganda-Kenya relations after Amin came to power were based not only on economic concerns, but also on considerations of strategy and hegemony. Orwa observes correctly that:

> "Kenya's policy towards Uganda may have been influenced by a number of considerations. First, economic self-interest. Under Amin, Uganda's economy increasingly became a hostage of Kenya. Second, realism cautioned against interference in the internal affairs of other countries as long as the equilibrium remained undisturbed. Thus to Kenya, the military coup and all the accompanying atrocities were matters better left to the Ugandans themselves. Finally, ideological considerations may have also played a part. Obote had been more pro-Nyerere and he had leaned towards socialism. Amin ended this trend and acted as a check against the spread of Tanzania-type socialism in the region."[27]

Although there were several tensions between Kenya and Uganda during the Amin years, relations were on the balance, normal.[28] This contrasts sharply with Tanzanian policy, which supported anti-Amin groups in Tanzania, and later spearheaded his removal. Kenya was generally silent on the conflict in Uganda during this period, and indeed professed neutrality during the 1978-79 Uganda-Tanzania war.[29] By 1979 when Amin was overthrown,

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26 Orwa, 'Foreign Policy, 1963-1980' op.cit., p.234.

27 Ibid., p.235.

28 Commercial transactions between Kenya and Uganda continued during the Amin years: only when the security of Kenya and its citizens (for instance in 1976) were involved did the relations   experience a strain. See Orwa,D.K. 'Continuity and Change: Kenya's Foreign Policy from Kenyatta to Moi' in Oyugi,W.O.(Ed) *Politics and Administration in East Africa* op.cit. pp.297-330:312.

29 But, for example, Tanzania requested Kenya to limit oil supplies to Uganda: Kenya's reply was that Uganda would be able to get all the oil they wanted, provided they paid for it: see, *Keesing's Contemporary Archives,* July 17-22, 1979 p. 29670. Okoth argues that Kenyan policy was misguided, in that it supported Amin during the war, and that in doing so, Kenya lost chance to play a positive role in

Tanzania seemed set to play an influential role in the conflict, and Kenya appeared to be relegated permanently to the backyard. Kenya's relations with Uganda in the post-Amin years were inspired by attempts to regain the lost momentum, and these efforts culminated in what Kenya considered to be a singular foreign policy triumph, its mediation of the Uganda conflict in 1985.

After the fall of Amin, Kenya worried about Tanzanian influence in Uganda, and therefore assiduously cultivated the Ugandan leadership. Indeed, during Lule's presidency Kenya not only gave Uganda generous economic assistance, but also agreed to extradite several Ugandan fugitives from Kenya. During Binaisa's tenure, several summits between Presidents Moi and Binaisa took place. In the belief that misunderstandings between the two countries were caused by inadequate diplomatic representation, High Commissions were opened between the two countries for the first time.[30] Relations between Uganda and Kenya during the Military Commission's tenure in 1980 were however tense, especially because Kenya protested against the continued presence of Tanzanian troops in Uganda. The return of Obote to power in Uganda surprisingly heralded cooperative relations between Uganda and Kenya, with Presidents Moi and Obote meeting several times. At these meetings they agreed on economic cooperation, and appointed a joint inter-ministerial commission to streamline local movements, and facilitate prevention and quick investigation of customs offences. Uganda also pledged to improve internal security, and to stop the harassment of Kenyan truck convoys en route to

Uganda's future affairs. See, Okoth, 'Intermittent Tensions in Uganda-Kenya Relations' op.cit., p.13.

30 See Okoth, 'Intermittent Tensions in Uganda-Kenya Relations' op.cit., p.14. Hitherto, it had been argued that the existence of the East African Community, with its common legislature and cabinet, rendered separate bilateral diplomatic missions unnecessary.

Zaire, Rwanda, and Burundi.[31] During Obote's second regime, Uganda's policy towards Kenya consisted of trying to get the Kenya government to curb Ugandan exiles' activities in Kenya, and doing nothing that might provoke Kenya into closing the border. Kenya's policy was reciprocal, in that it avoided doing anything that might excite Uganda, and thereby ruin the emerging equilibrium.[32] In these circumstances therefore,

> "Surprisingly, after Obote's second overthrow, Kenya announced that it would play a direct role in political developments in Uganda by hosting the peace talks between the new military government and Museveni's National Resistance Army (NRA). The explanation from Nairobi was that this demonstrated friendly neighbourliness, although the real reason was more self-interest. After years of fence-straddling, the Kenyans had eventually realised the importance of having a direct stake in Ugandan affairs."[33]

An Overview of Uganda-Tanzania Relations up to 1985

There are three broad phases of the relationship between Uganda and Tanzania between their independence and 1985. The first phase lasted until Amin's coup in 1971, and was characterised by close bilateral relations, and increasingly, close ideological affinity. The second phase spanned Amin's rule, and was informed by extremely chilly relations, based partly on the personal antipathy between Nyerere and Amin. During this phase, Tanzania played an important role in the Uganda conflict, especially by giving comfort to anti-Amin groups which had taken refuge in Tanzania, and eventually launching Amin's removal. This period also witnessed the Uganda-Tanzania war of 1978-79. The third

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31 The situation in Uganda affected adversely these Kenyan trade routes, and trade with those countries fell significantly. Kenyan businesses such as Kenya Breweries and East African Industries were also affected. Hence, Kenya viewed these developments with concern. This analysis is owed to Mr. Stephen Loyatum, (formerly Head of Africa and OAU Division, Ministry of Foreign Affairs, Kenya) in an interview with the author, 30 September 1993.

32 Okoth, 'Intermittent Tensions in Kenya-Uganda Relations' op.cit., p.16.

33 Ibid., p.16.

phase spanned the years between the Lule administration, and the beginning of the brief rule of the Military Commision after Obote was overthrown in July 1985. This stage witnessed the waning of the great influence that Tanzania had wielded in Ugandan affairs after the overthrow of Amin, and its apparent rejection as the broker in the Ugandan conflict, in favour of Kenya.

During the first phase, Uganda and Tanzania were very close, particularly as they saw themselves as the less advantaged compared to Kenya under the East African Community arrangements. Nyerere and Obote were also close personally and ideologically, and their domestic and foreign policies converged on many points, as witnessed by Tanzania's *Arusha Declaration* (1967), and Uganda's *Common Man's Charter* (1968), which were seen as attempts to build socialism in the two countries.[34]

After Amin took power in 1971, Uganda-Tanzania relations went through their most tense period. Tanzania refused to recognise the Amin regime, or to have normal diplomatic relations with Uganda. This also affected trilateral Community relations, because Nyerere also refused to acknowledge Amin's nominees to posts in the Community. Although this latter problem was solved through Kenyatta's mediation, relations between Uganda and Tanzania did not improve since Tanzania continued to recognise Obote as the legal head of state of Uganda.[35]

These tense relations resulted in armed action on three occasions during this period. In August and September 1971, there was a series of border clashes; although the Commonwealth Secretary-General offered to mediate, the offer was not taken up, and the clashes continued until October 1971. In September 1972, there was an armed conflict between Uganda and Tanzania, when Obote's supporters invaded Uganda. Although these were easily defeated by Ugandan forces, Uganda retaliated by

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34 Mathews,K. & Omari,A.H. 'Uganda-Tanzania Relations, 1971-1980' 3 *Journal of International Relations* (1980) pp.41-68:42.

35 Ibid., pp.44-5.

bombing the Tanzanian town of Bukoba. Perhaps because Tanzania did not deny sponsoring the invasion into Uganda, its appeals to the OAU for condemnation of Uganda as the aggressor did not get much support. However, Tanzania's later calls for mediation were taken up, and Somalia acted as the mediator.[36] This mediation resulted in the Mogadishu Agreement of 5 October 1972. By that Agreement, Uganda and Tanzania undertook to withdraw their forces to at least six miles from their common border, cease all military activity against each other, refrain from harbouring or allowing subversive forces to operate in the territory of either state, and to return all nationals and property captured from each other.[37] The high point of these strained relations was the Uganda-Tanzania war of 1978-79, through which Amin was removed from power with the aid of Tanzanian forces. This marked the beginning of the third phase in Uganda-Tanzania relations.

The role of Tanzania and its forces after the liberation of Uganda was examined in Chapter Five. What needs to be considered here is the effect of that role on Uganda-Tanzania relations, and especially how Tanzania attempted to use its pre-eminent place in that relationship to secure a role for itself as *the* broker in the Uganda conflict. On assuming power Lule confirmed that Tanzanian soldiers were in Uganda pursuant to a formal invitation by the sovereign government of Uganda.[38] The Ugandan government also reiterated that the TPDF (Tanzanian Peoples Defence Forces) and the UNLA (Ugandan National Liberation Army) were allies in a common cause. However, it soon became clear that in the new pattern of Uganda-Tanzania relations, Tanzania considered itself to be very much the senior partner. Thus, although the new relationship

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36 See *Keesing's Contemporary Archives*, Vol.18 (1972) pp.25543-45.

37 Ibid., p.25545.

38 See Chapter 5.

was based on 'cooperation and collaboration', this was to be on vastly different terms than was the case earlier.

After the liberation of Uganda, Tanzania was intent on playing a central role in Ugandan affairs. As a result, the TPDF became an important feature of Ugandan political life.[39] In maintaining its troops in Uganda for what some states like Kenya considered to be an unconscionably long time, Tanzania was not just continuing its role of the good Samaritan, but was pursuing wider policy interests of its own. The long sojourn of the TPDF in Uganda was calculated to ensure certain things. These were that Amin did not stage a comeback in Uganda, to assist in Obote's return to power, and ascertain that the leader and party that took power in Uganda after elections was friendly to Tanzania. As there was also great fear that the Democratic Party (DP) which was viewed as pro-Kenya would come into power, Tanzania wished to stay longer in Uganda in order to determine the course of events there. More importantly, Tanzania had suffered great economic hardship as a result of heavy expenditure in the war with Uganda. It therefore wanted the large number of troops which it could no longer maintain to remain in Uganda, thus lessening its financial burden on the treasury.[40] Indeed, the question of war debts was part of the later reasons for the souring of personal relations between Nyerere and Obote.[41]

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39 Nevertheless Tanzania did not want to be seen internationally as an occupation force. Interview with a senior Tanzanian Foreign Ministry official, Paris, 23 December, 1993.

40 Bwengye,F.A.W. *The Agony of Uganda: From Idi Amin to Obote* (London: Regency Press, 1986) p.166.

41 Interview with Mr. Ralph Ocan, Kampala, 27 May,1993. Ocan was at the time Obote's Chief of Protocol at State House, Entebbe. But also, the perception that Obote was "singularly inadequate for the task of providing political leadership in Uganda" was prevalent in Western donor circles and by Nyerere, who by 1985 had lost confidence in Obote. See, Sathyamurthy,T.V. 'Uganda's Political System, 1962-1990: The Balance Between External and Internal Influences' in Oyugi,W.O.(Ed) *Politics and Administration in East Africa* op.cit., pp.503-536:520-521.

Thus, the high point of Tanzania's involvement and influence in the conflict in Uganda was in the immediate post-liberation period. This influence was especially pervasive during the Lule and Binaisa regimes. As Lule disclosed after his ouster, it included trying to determine the composition of the Ugandan cabinet. After Binaisa came to power, his attempt to dismiss Oyite-Ojok as Chief of Staff of the UNLA ran counter to the wishes of Obote, who wanted to come back to power with the support of the army. It was also counter to the wishes of Nyerere who, together with Obote had arranged to have Oyite-Ojok made Chief of Staff, in order to control Ugandan politics with the gun if the need arose.[42]

But at the same time, Kenya was trying to place itself in a position of influence in Uganda, and to dislodge Tanzania from its pre-eminent position. The gradual souring of relations between Obote and Nyerere, and the policy of cooperation between Obote's second regime and Kenya, ensured that although relations after the 1985 coup were at first chilly, Kenya was in a position to play an increasingly influential role in the Uganda conflict. In this way, Kenya hoped to dislodge the edifice of influence that Tanzania had so carefully constructed in Uganda over the years.

An Overview of Kenya-Tanzania Relations up to 1985

Relations between Kenya and Tanzania were never close. This was due to fundamental ideological differences between them and their conviction that each was best suited to exercise leadership in the region.[43] Both Kenya and Tanzania tried at various times to solicit the support of Uganda. Their differing policies during the various phases of the conflict in Uganda illustrates this struggle for hegemony.

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42 Bwengye,F.A.W. *The Agony of Uganda: From Amin to Obote* op.cit., p.48.

43 This factor is emphasised by Dr.Philip Mwanzia (Kenyan ambassador to Sudan, and formerly Head of the Economic and Trade Division of the Ministry of Foreign Affairs, Kenya), in a communication with the author dated 10 October 1994.

Ideologically, Kenya and Tanzania chose widely differing paths to national development, with Tanzania embracing socialist policies, and Kenya more capitalist oriented ones. This espousal of different ideologies made Kenya wary of the commitment to socialism which Tanzania moved to implement in the 1970s. Tanzania in turn was suspicious of Kenya's capitalism and its increasing integration into the international capitalist economy.[44] Tanzania also articulated the view in the early 1960s when talk of federation was rife, that Kenya had developed at the expense of the other East African regions during the colonial period. Tanzania therefore saw one of the benefits of federation as being to rectify this uneven pattern of development of the East African countries.[45] Kenya, on its part, was always concerned with directing its foreign policy towards maintaining the highly favourable level of inter-regional trade and the regional infrastructure inherited at independence.[46] By 1968, Tanzania had found an ideological ally in Obote, who shortly before his first overthrow propounded his 'move to the left', as articulated in the Common Man's Charter.

This move towards socialism by Uganda increased Kenya's fears that it was being encircled by a 'socialist circuit'. Thus, the overthrow of Obote by Amin, who professed an aversion to socialism, was greated with relief in Kenya, and negatively by Tanzania, who saw it as a weakening of its position in the ideological map of East Africa. Consequently, while

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44 Johns,D. 'Tanzania' in Shaw,T.M. & Aluko,O.(Eds) *The Political Economy of African Foreign Policy: Comparative Analysis* (Aldershot: Gower Publishing Co., 1984) pp.263-282:269.

45 See Rothchild, D. *Politics of Integration* op.cit., p.78; later, Tanzania increasingly came to question the *raison d'etre* of intra-East African Community trade, which she saw as basically benefitting the foreign investors operating in Kenya, at the expense of Uganda and Tanzania. See, Adar,K.G. & Ngunyi,M. 'The Politics of Integration in East Africa Since Independence' in Oyugi,W.O.(Ed) *Politics and Administration in East Africa* op.cit., pp.395-425:411.

46 Howell,J. 'An Analysis of Kenyan Foreign Policy' 6 *Journal of Modern African Studies* (1968) pp.29-48:42.

Tanzania supported anti-Amin forces, Kenya continued to have normal relations with the Amin regime.[47] Indeed, while Tanzania repeatedly condemned the Amin regime in African diplomatic fora, Kenya insisted that the conflict in Uganda was an internal affair, thus echoing official OAU policy.

In terms of regional leadership, Tanzania had for long cultivated an image of the champion of liberation in Africa,[48] and indeed the OAU Liberation Committee was headquartered in Tanzania. Tanzania and Uganda were also members of the OAU Liberation Committee, which monitored the problems and progress of liberation in southern Africa,[49] and the Mulungushi Club.[50] With regard to the Uganda conflict, Tanzania's policy was that Uganda under Amin was in a position similar to areas still under colonial rule, like Angola and Mozambique; hence during this period, Uganda became part of Tanzania's liberation agenda.[51] This view was articulated to the outside world, especially in the OAU, where Nyerere often noted the contradiction between the OAU's condemnation of human rights abuses in places like South Africa, but remained silent about similar (or worse) abuses in member states like Uganda. For example in a memorandum circulated at the OAU Assembly in 1975, he warned that the OAU

> "will deserve the condemnation of the world and of the people of Africa as an organisation of hypocrites, if it acquiesces, or appears to

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47 There were occassional hiccups, such as in 1976 when Amin claimed much of western Kenya as Ugandan territory: however, he quickly retracted that claim.

48 This is discussed at length by Kiondo,A.S. 'Tanzania's Foreign Policy: The Socio-Economic Context' in Oyugi,W.O.(Ed) *Politics and Administration in East Africa* op.cit., pp.331-358.

49 Mathews & Omari, 'Uganda-Tanzania Relations, 1971-1980' op.cit., p.42.

50 Under the Mulungushi Club Agreement between Tanzania, Uganda and Zambia, the three countries were to cooperate closely, especially at the ruling party level.

51 Mathews & Omari, 'Uganda-Tanzania Relations, 1971-1980' op.cit., p.44.

acquiesce, in the murders and massacres which have been perpetrated [in Uganda]."[52]

After Amin was ousted, Tanzania was placed in a position where it could influence developments in Uganda, and indeed tried to do so.

However, Kenya realised that having until then played a passive role in the Uganda conflict it had lost some influence in Uganda. Therefore Kenya attempted to cultivate closer relations with post-Amin regimes in an effort to dislodge Tanzania from its influential position in Uganda. In this spirit, Kenya protested the continued presence of Tanzanian troops in Uganda after the overthrow of Binaisa in 1980, and President Moi declined to attend an East African summit in protest against the continued presence of Tanzanian troops in Uganda.[53]

Because the personal closeness and ideological affinity between Obote and Nyerere would have ensured a friendly regime in Uganda, once Obote was installed back in office Tanzania seemed to have considered its task in Uganda to be completed.[54] Therefore, not only was Kenya able to cultivate close relations with Obote, but could thus place itself centrally by offering to mediate the Uganda conflict in 1985. In doing this, Kenya's intention was to redress the regional leadership balance. Because of Tanzanian involvement in the southern African conflicts of Namibia, Angola and Mozambique, this balance had tilted in Tanzania's favour in the years preceding 1985.[55] Ironically Kenya was aided in this policy by Tanzania: Nyerere's antipathy to

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52 Text quoted in *New African*, September 1979, p.11.

53 Okoth, 'Intermittent Tensions in Uganda-Kenya Relations' op.cit., p.15.

54 That Tanzania also withdrew its troops from Uganda in the first part of 1981 lends further authority for this proposition. See *The Weekly Review* (Nairobi) 28 August 1981, p.4.

55 Interview with B.A.Kiplagat, Permanent Secretary, Ministry of Foreign Affairs, Kenya, 1983-1991: Nairobi, 4 June,1993.

military regimes did not predispose him to play a mediating role in that phase of the Uganda conflict, despite Tito Okello's efforts to persuade Tanzania to do so. Indeed, as will be contended later, Tanzania's military support for the NRA during the mediation partly explained its eventual outcome. The closure of the Kenya-Tanzania border also meant that an alternative route for Kenya's central African trade was closed. As this affected Kenya's businesses, it regarded mediating in the Uganda conflict as a way of alleviating these hardships.[56]

Diplomacy and Conflict in Uganda

The two major diplomatic highlights during the Uganda conflict were the Moshi Conference of 1979, and the mediation by Kenya in 1985. Both should be seen as part of the wider struggle between Tanzania and Kenya to play an influential role in the conflict. In Moshi, the motivating role was Tanzanian, while Kenya played a central role in the mediation. The Moshi Conference was considered in some detail in Chapter Five. This section will examine the wider diplomatic implications of the Conference especially in terms of Tanzania's involvement in the Uganda conflict. It will also comment on the background to Kenya's involvement in the conflict, through its mediation in 1985.

The Diplomacy of the Moshi Conference

In Tanzania's view, the non-condemnation by the OAU of the atrocities endemic during Idi Amin's tenure,[57] and its later refusal to condemn Uganda's invasion of the Kagera Salient, denied the OAU any moral right to condemn any actions that Tanzania took in self defence against Uganda.[58] On the other hand, having decided to punish Amin's invasion of the Kagera Salient by deposing him, Tanzania did not wish to take sole responsibility

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56 Loyatum, op.cit.

57 See Nyerere's statement in *New African* September 1979, p.11.

58 This is discussed in Chapter 4.

for that action. Instead it wanted to be seen as supporting Ugandan Liberation Forces in their bid to remove Amin, rather than spearheading such an action.[59] It was against this background that at the height of the Uganda-Tanzania war, Tanzania prevailed upon anti-Amin groups in Tanzania and elsewhere, to convene a conference at Moshi, to unite in drawing up the modalities of removing Amin, and to work out and agree on the governance of post-Amin Uganda.

The time was ripe for such action. By 1978, although some trade continued with the west, the Amin regime was under heavy criticism for its human rights abuses.[60] In July 1978, the United States Senate voted to end all trade with Uganda, and that embargo became law in October 1978. Its effect was to present Amin with a serious dilemma because

> "A super-power had signalled to its allies that it was ready to sponsor a suitable replacement to Amin's regime, while, internally, the unity of the regime was crumbling fast; coup attempts were now combined with open, large scale mutinies in the ranks."[61]

Amin's invasion of the Kagera Salient was designed to alleviate his internal problems by occupying the mutinous troops with the invasion.[62] But there was no guarantee that this would alleviate the problems of his regime, which were by then very acute.

Although it had summoned the Moshi Conference, Tanzania had to tread a careful diplomatic line. On the one hand, it did not want to be seen to be dictating future developments in Ugandan affairs. On the other,

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59 Information supplied to the author by a senior Tanzanian Foreign Ministry official, op.cit.

60 See Furley, 'Britain from Amin to Museveni: Blind Eye Diplomacy' op.cit., who however notes that trade between Uganda and Britain continued, especially the notorious 'whisky run'.

61 Mamdani, M. *Imperialism and Fascism in Uganda* op.cit., p.106.

62 This illustrates the policy of fomenting boundary conflict as a 'safety valve' for general domestic turmoil: this is discussed in Chapter 3.

Tanzania was keen to ensure that the regime that took over power from Amin was sympathetic to Tanzanian interests. On this latter view, it has been argued that Tanzania's interest (and policy) was to ensure that Obote returned to power in post-liberation Uganda.[63] Thus, the centrepiece of the diplomatic edifice that Tanzania tried to fashion at Moshi was to create the impression that its action against Amin was purely part of the war between the two countries, aimed at reaffirming the sanctity of Tanzanian borders and its sovereignty. Nevertheless it argued that the action to remove Amin from power was primarily an action of Ugandans themselves, in which Tanzania lent some help.[64]

This stage of the Ugandan conflict was significant because it marked an important turning point: for the first time, diverse Ugandan groups came together determined to play a central role in ending the conflict. It was also important because for the first time Tanzania used *both* diplomatic and military means to ensure the downfall of the Amin regime which it abhorred. However, the haste with which very diverse groups were called upon to reconcile their differences ensured that the unified spirit of Moshi collapsed as soon as the liberators arrived in Kampala, and were faced with the problem of governing Uganda.[65] The collapse of the 'Moshi Spirit' also signalled cracks in the diplomatic arm of Tanzanian involvement in the Uganda conflict. It will be contended later that had the Moshi Conference been mediated, its results would have proved to be an important turning point in the Uganda

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63 In an interview with the *Kenya Times*, Museveni was categoric that Tanzania backed Obote's return to power. He said of Obote: "...definately the Tanzanian army in Uganda backed him...I don't know whether some commanders were bribed but the Tanzanian army backed him." See an interview with Museveni, *The Kenya Times*, 3 November 1985, p.4.

64 See the speech by the Tanzanian Foreign Minister at the opening of the Conference, where he reaffirmed this view: *New African*, No.141, May 1979, pp.14-15.

65 Mutibwa,P. *Uganda Since Independence: A Story of Unfulfilled Hopes* (Kampala: Fountain Publishers, 1992) pp.125-126; See also Chapter 5.

conflict, and indeed might have created conditions that could have obviated the 1985 mediation.

Background to Kenya's Mediation

There were several factors that prompted Kenyan mediation in the Uganda conflict, and they were connected to three broad considerations on the part of the Kenyan establishment. Firstly, as was argued above, Kenya was losing the competition for regional leadership with Tanzania, and wanted to restore the lost balance. Secondly, the Kenyan foreign policy establishment felt a need to realign Kenya's image internationally.[66] Thirdly, President Moi was keen to consolidate the image of peacemaker, which in his view was established during his two term tenure as Chairman of the Organisation of African Unity. The first two of these considerations will be examined in this section: the third will be the subject of the following section.

In the years preceding 1985, the rivalry between Kenya and Tanzania for pre-eminence in the region had tilted sharply in Tanzania's favour. This higher Tanzanian profile was especially buttressed by Tanzanian involvement in the conflicts in southern Africa: in South Africa, Namibia, Mozambique, Angola, and indeed, in Uganda itself. In undertaking to mediate in the Ugandan conflict, Kenya's intention was to redress that imbalance,[67] and if possible, to undercut Tanzania's growing international image. Kenya also felt that it was being sidelined in the region, and the Kenyan establishment saw the increasingly close ties between Tanzania and Uganda as evidence of this. Kenya saw as further evidence of this the close personal ties between Nyerere and Obote, and the fact that Museveni, who had

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66 See Chapter 2 for the literature on roles and motives for mediation, especially Mitchell,C.R. 'The Motives for Mediation' in Mitchell,C.R. & Webb,K.(Eds) New Approaches to International Mediation (Westport,CT.: Greenwood Press, 1988) pp.29-51; and Bercovitch,J. 'The Structure and Diversity of Mediation in International Relations' in Bercovitch,J. & Rubin,J.Z.(Eds) Mediation in International Relations: Multiple Approaches to Conflict Management (London: Macmillan, 1992) pp.1-29.

67 Kiplagat, op.cit.

been educated in Tanzania, was ideologically close to Tanzania's brand of socialism. Consequently, Kenya judged that mediating in the Ugandan conflict would help to draw Uganda away from Tanzania, and correspondingly closer to Kenya.[68]

The Kenya government had other interests in undertaking the mediation. These were related to the internal stability of the Moi regime. Kenya had earlier experienced an attempted coup in 1982, and Moi's position, although consolidated in the 1983 elections, was still not very secure.[69] In Moi's perception prior to the mediation, Museveni was a person who had waged a war against an 'established' government.[70] In undertaking the mediation, Moi hoped to understand Museveni's intentions, and thereby learn how best to domesticate such a revolution should it happen in Kenya.[71]

In undertaking to mediate in the Uganda conflict, Kenya also had an international audience in mind. For some time, Kenya's stand on sensitive international issues, such as on South African had been at best inconsistent. While supporting freedom fighters in South Africa verbally, they were not for a long time allowed to open offices in Kenya. Also, while supporting international sanctions against South Africa, Kenya nevertheless permitted planes destined for South Africa to refuel in Nairobi and Mombasa, contrary to OAU

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68 Ibid.

69 This is suggested by his appointment of a judicial commission of inquiry by Legal Notice No.2749 of 29 July 1983 (*Kenya Gazette* 29 July 1983), to inquire into the (political) conduct of former minister Charles Njonjo. Among the allegations in that inquiry was that he had planned to overthrow President Moi. See various issues of *The Weekly Review*, for example of March 16 and March 30, 1983.

70 In his view, coups and the guerilla wars which follow them "rob the OAU of the continuity of experienced and senior advice and the service of devoted governments and statesmen." See Moi,D.T. *Kenya African Nationalism: Nyayo Philosophy and Principles* (London: Macmillan, 1986) p.159.

71 This interesting analysis was articulated by Dr. A.Mukwaya, Dept. of Political Science, Makerere University, in an interview with the author, Kampala, 24 May,1993.

resolutions.[72] Kenya was therefore viewed as being reactionary by those in the international community who supported a more 'progressive' view on such issues.[73] There was thus an awareness in the Kenyan diplomatic establishment that Kenya's international image was sufficiently dented to warrant corrective measures. Kenya was keen to correct that image, and to enhance its credibility internationally (and regionally) by playing the role of regional peacemaker. Mediating in the Uganda conflict was seen as an opportune moment to begin that process.[74]

The philosophical rationale for this policy was the argument that there was a need to make the statement internationally that Africans were capable of managing their own conflicts: that, not only had Africa come of age, but that Africans understood the conflicts in the continent better, and were thus best placed to manage them.[75] This latter rationalisation was aimed primarily at the OAU, where Kenya's image had suffered especially on the South African question. In restating OAU policy against foreign intervention and 'African management of African problems',[76] Kenya had an eye on its detractors in the OAU, who were becoming increasingly vocal. Kenya's decision to mediate in Uganda was, in essence, an exercise in diplomatic 'damage control'.

There were other reasons which, although not stated explicitly, informed (and perhaps encouraged), Kenya's

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72 Khapoya,V.B. 'Kenya' in Shaw,T.M. & Aluko,O.(Eds) *The Political Economy of African Foreign Policy* op.cit., pp.145-164:153.

73 Kenya wanted to correct the image it had acquired over the South African issue, of being "too rightist": this view was communicated to the author by Kiplagat, op.cit.

74 Kiplagat, op.cit.

75 See Chapter 4 on the OAU's policy of African solutions for African problems; see also Chapter 8, where the role of an exogenous mediator in internal conflict is considered.

76 This was official OAU policy then, as it is now: see statement by OAU Secretary General on this issue, that 'Africa must assume its responsibility of playing a central role in resolving its own conflicts.' *The Kenya Times*, 8 August,1993, p.8.

decision to mediate in the conflict. The first of these was economic: trade between Uganda and Kenya had always been in Kenya's favour.[77] Kenya therefore preferred to have a regime in Uganda which would maintain this strong balance of trade in favour of Kenya.[78] Undertaking mediation of the conflict in Uganda was intended to ensure this eventuality. In this view, because Kenya's economic and commercial activities are central to her relations with the other East African states, and since this regional commerce is a major variable in Kenya's economic development,[79] Kenya has pursued a 'conservative' and 'legitimist' foreign policy with regard to her relations with the other East African states.[80] The furtherance of Kenya's economic interests therefore relies on stability in the region. Hence, Kenya's mediation of the Uganda conflict was a foreign policy response to the need to ensure (and contribute) to such stability.

This concern with regional stability did not concern Uganda alone. During the reconstruction of southern Sudan, Kenya had done well in terms of exports, and employment opportunities for Kenyans. But the resumption of hostilities in Sudan in 1983 adversely affected Kenya's economy since it could no longer reap the economic benefits it had enjoyed hitherto. Hence Kenya's mediatory efforts in Uganda were a way by which it tried to ameliorate these adverse economic effects.[81]

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77 See figures in Mamdani, M. *Imperialism and Fascism in Uganda* op.cit., p.97 & 98; also, Orwa, 'Foreign Policy, 1963-1986' op.cit., p.231 & 240.

78 This is an argument beloved in Ugandan officialdom, for example Prof. Tarsis Kabwegyere, Director of External Affairs, NRM Secretariat, Kampala, in an interview with the author, Kampala,   25 May, 1993.

79   Orwa,K.   'Diplomacy   and   International   Relations'   in Ochieng,W.R.(Ed) *Themes in Kenyan History* Nairobi: Heinemann, 1990) pp.218-229:225.

80 Howell, 'An Analysis of Kenyan Foreign Policy' op.cit., p.37.

81 This view was conveyed to the author in a discussion with a senior Kenyan Foreign Office official, 30 September 1993. Although the current Sudanese mediation is being conducted under the auspices of

The other reason that encouraged, and supported Kenya's mediation had to do with the interests of western business concerns. These had an interest in the region, and indeed, some were still owed vast sums of money by Uganda.[82] As these western business concerns did not want their interests further compromised, they supported Kenyan mediation efforts in Uganda.[83] In this perspective, Kenyan mediation in the Uganda conflict was *inter alia* an act in the service of these various business interests.

The Choice of Mediator

In pushing for mediation in the Ugandan conflict, there was another compelling need on Kenya's part. This was President Moi's wish to promote and consolidate his image as a regional peacemaker.[84] During his tenure as Chairman of the OAU, he had had a high profile in the OAU's efforts to manage some of Africa's more intractable conflicts[85] such as the Chad conflict and

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IGADD, the sessions have taken place in Kenya. Kenya's interests are the same as they were in 1985. In both mediations, the search is for broad regional stability, which is in Kenya's interests. Kenya's role in the Sudan mediation gives credence to Amoo and Zartman's view that in mediations conducted under regional organisations, the role of individual states is paramount, and the organisation merely provides "a locus and a flag" for such activities. See Amoo & Zartman, 'Mediation by Regional Organisations: The Organisation for African Unity (OAU) in Chad' in Bercovitch,J. & Rubin,J.Z.(Eds) *Mediation in International Relations: Multiple Approaches to Conflict Management* (London: Macmillan, 1992) pp.131-148:131.

82 See Mamdani, M. *Imperialism and Fascism in Uganda* op.cit., p.98.

83 Kabwegyere, op.cit. He argues that people like Tiny Rowland were influential behind the scene players in the mediation.

84 See Chapter 2 on undertaking mediation as a way to achieve a certain image, especially, Carnevale,P.J. 'Mediation of International Conflict' in Oskamp,S.(Ed) *International Conflict National Public Policy Issues* (Beverley Hills: Sage Publications, 1985) pp.87-105; also, Rothchild,D. & Hertzell,C. 'Great and Medium Power Mediations: Angola' in Zartman,I.W.(Ed) *Resolving Regional Conflicts: International Perspectives* (Newbury Park: Sage Publications, 1991) pp.39-57.

85 See Chazan,N., Mortimer,R., Ravenhill,J. & Rothchild,D. *Politics and Society in Contemporary Africa* (Boulder,CO.: Lynne Rienner, 1992-2nd ed.) p.356.

Western Sahara.[86] He felt a void in this high profile once he relinquished the Chairmanship of the OAU. In order to fill the void left after he vacated the chairmanship of the OAU, he felt that the time was ripe to try and assert his personality - and his imprint - on the international relations of the region. The Uganda conflict provided him with an apt opportunity to pursue this goal.[87]

However, the view of Moi as regional peacemaker was not subscribed to by all the Ugandan parties. Some Ugandan officialdom felt that Uganda was being used as a pawn in Moi's need to construct a *Pax Nairobiana* which in his vision would consolidate his role in history.[88] Although there was the impression amongst others that he was genuine in his perception of himself and his role as an honest broker for peace, contending influences around him eventually destroyed that image, and in so doing influenced negatively the mediation itself.[89] There were broadly two such contending influences, both part of the bureaucratic politics of Kenya. One was a group of officials close to Moi, who took the view that the Ugandans should be left alone to their own devices if they were unwilling to negotiate an agreement to end their conflict: this group was not interested in the Uganda conflict as a regional or diplomatic problem, and had no interest beyond the immediate environment of Kenyan power politics. The second was a group of officials who had business interests in both countries, and who saw a negotiated settlement of the Uganda conflict as the only way to maintain that business edge.

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86 For example, the Nairobi sesssion of the Implementation Committee set up by the OAU Assembly in June 1981 by Resolution AHG/Res.103 (XVIII), which President Moi chaired, was acclaimed as "a tremendous achievement of the OAU" by Tanzanian Foreign Minister Salim Salim. See *The Weekly Review*, 28 August 1981, p.13.

87 Kiplagat, op.cit.

88 Ocan, op.cit.

89 See Chapter 8 on the influence of Kenyan bureaucratic politics on the conduct of the mediation.

The bureaucratic wrangling between these groups[90] served to send conflicting signals to the Ugandan parties,[91] and inevitably this dented the image that Moi was endeavouring to create.

There also arose the feeling amongst some Ugandan parties that Moi's interest was purely the personal one of promoting his image, and that therefore, he could not see or appreciate the pitfalls, complexity, and diversity of the conflict. This was a view held dear by some quarters in the NRM, who thus saw Moi's approach to the mediation as being simplistic, and one which in their view, suited General Okello, whose modest educational and professional background made him prone to being simplistic. Thus Moi's personal interest in the mediation appeared to be more than his interest in any solutions to the conflict,[92] and hence rendered him at best, an unsuitable mediator.

Tanzania, Nyerere and the Mediation

Despite these misgivings on the part of some Ugandan parties, the choice of Moi as mediator eventually evolved from the situation. It was especially given a boost by Nyerere's reluctance to mediate in the conflict, and his non-acceptability to some of the Ugandan parties. There are several reasons why Tanzania, and Nyerere personally, were not pre-disposed to involve themselves in the mediation, and this section will examine each of them in turn.

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90 There were however sub-groups within these two: see Chapter 8 for a detailed analysis.

91 An articulate analysis of how Kenyan bureaucratic politics influenced the perception of the Ugandan parties was made by Ralph Ocan in an interview with the author. The observations on Kenyan politics coincides with the author's own. For example, the defection of the Ugandan ambassador in Kenya during the mediation brought to light many irregular financial dealings that could not have been undertaken without collaboration from influential quarters in Kenya. See *Daily Nation*, 10 November 1985, p.1, 28.

92 This is the analysis of Kabwegyere, op.cit. As *The Weekly Topic* editorialised later, the "assumption is that the peace that Moi can offer has become as much Moi's affair as that of the Military Council and the NRM/NRA." See *The Weekly Topic* (Kampala) 2 December, 1985, p.3.

Firstly, the internal situation in Tanzania and its commitments elsewhere on the continent made the choice of Tanzania as mediator difficult. Domestically, Tanzania was in a stage of transition, and was preoccupied with the change of guard from Nyerere to Mwinyi. Since Nyerere was busy winding up his long tenure in office and installing his succcesor, the time was inopportune for him to involve himself with the mediation. Internationally, Tanzania was getting exhausted from its involvement in the conflicts in southern Africa. As Tanzania was thus heavily involved both economically and militarily in places such as Namibia and Mozambique (and Uganda where it had soldiers stationed), it was not ready to take on other diplomatic commitments like the Uganda mediation.[93]

Secondly, although some of the parties in the conflict, such as Tito Okello (who had spent his years of exile in Tanzania, and knew it and the people well), would have preferred to have Nyerere undertake the mediation, certain factors militated against this. Tanzania had become increasingly deeply involved in Ugandan affairs after the liberation. It was therefore felt by some of the parties that Tanzania would neither be the best venue, nor Nyerere the most suitable mediator in the conflict. Further, Nyerere was a supporter of Obote, and was greatly antipathetic to soldiers in politics. Therefore the view emerged that for these reasons, Nyerere considered it bad policy, and detrimental to his image to involve himself with the Okellos.[94] In this analysis, Nyerere preferred to keep

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93 Kiplagat, op.cit.

94 Tito Okello who was Chairman of the Military Council and Head of State, and General Basilio Okello who was Chief of the Defence Forces, and who had carried out the coup against Obote.

his distance,[95] and probably encouraged Kenya's mediation.[96]

<u>The Politics of the Venue</u>

The search for a mediator in the Uganda conflict was coterminous with the search for a venue for the mediation. As all three parties (the Okello government, the NRM and the mediator) had in mind different venues, there was intense political lobbying before the choice of Nairobi was eventually reached.

Tito Okello had indicated an earlier willingness to meet the NRA in any neighbouring country, and had mentioned Kenya, Tanzania, Sudan and Zaire as possible venues.[97] However both he and the Military Council would have preferred the mediation to take place in Tanzania, because having lived there during his exile, he knew Tanzania and its people well, and would have been comfortable, and probably enjoyed some support there. But for reasons mentioned earlier, Tanzania was not very keen to host the negotiations, and therefore this venue did not materialise. Indeed, the proposed talks between the military government and the NRM which Okello had scheduled to take place in Dar-es-Salaam, aborted because the NRM did not show up.[98] The NRM claimed that their non-attendance at those abortive talks was because they had not been consulted on the venue, which was not one of their preferred choices, and that in any event, their flight was denied landing rights

95 Kabwegyere, op.cit. Indeed, Tanzania's official position as stated by its Foreign Minister, was that Tanzania's position on Uganda was "neutral, observant, and cautious": see, *The Weekly Review* (Nairobi), August 23, 1985, p.13.

96 For example, the Tanzanian High Commission in Kampala worked closely with its Kenyan counterpart on the mediation. This information was supplied to the author by a senior Kenyan foreign office official in a communication with the author dated 18 November 1994.

97 See *The Kenya Times*, August 2, 1985 p.1.

98 *The Weekly Review* (Nairobi) August 16, 1985, p.15; see Chapter 7 for details.

in Dar-es-Salaam by the Tanzanian aviation authorities.[99]

The NRM had, on the other hand, made their choice of venue clear earlier on. In a press statement, the NRM had stated that:

> "We are ready to attend the talks at any of the following venues: Arusha, Bungoma, Tororo or any other neutral venue provided satisfactory security arrangements are made for all parties. Tororo would be the ideal venue as it is within Uganda."[100]

But although it so stated its preferred venue for the mediation, the NRM's position on this issue was not dogmatic, and was probably intended to move the Okello government away from the choice of Dar-es-Salaam, which the NRM, fearing Nyerere's influence, was not keen on. Indeed, as is argued below, the NRM was only reluctantly persuaded to accept Nairobi as a venue. They accepted Nairobi eventually for tactical reasons: since most of the NRM's supporters were resident there, it was an acceptable venue to them for the mediation.[101]

On the other hand, as part of Kenya's efforts to construct a *Pax Nairobiana*, it was keen that the mediation should take place in Nairobi, and lobbied heavily for it.[102] Ironically, although Kenya was keen to play the role of peacemaker, it almost lost the initiative to Tanzania by being officially non-commital about the new government in Uganda after Obote was overthrown. Indeed, it was not until Okello had visited Tanzania twice officially that he held his first talks with President Moi.[103] Because of this silence, and

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99 NRM Press Statement, 14 August, 1985.

100 NRM Press Statement, 9 August, 1985.

101 Information from an interview with Ambassador Joseph Tomusange, Ugandan Ambassador to Kenya, Nairobi, 7 May, 1993.

102 According to a senior Kenyan official, in a communication with the author dated 18 November 1994, the mediation was initiated by President Moi.

103 See *The Weekly Review* (Nairobi) August 23, 1985 p.13.

since it was almost a month after the coup before Okello paid Kenya an official visit, Kenya saw its opportunity to play a central role in a Ugandan peace slipping away, and was thus galvanised into action.

The Diplomacy of the 1985 Mediation

The pre-mediation stages of the 1985 mediation also evolved their own narrower diplomatic concerns.[104] These partly reflected the interests of the other actors involved, and suggested the broad strategies that each party intended to adopt at the mediation itself. They also to some extent reflected the differing philosophies of the NRM and the Okello government. A strategic map of the actors in the Uganda mediation will be drawn in the following section. This will be a useful prelude to an examination of the reasons why each of the parties in conflict chose to go to mediation.

A Strategic Map of the Actors

The interests of Kenya and Tanzania in Uganda and its conflict have been mentioned above. But apart from these two neighbouring states, others had interests in Uganda, and influenced the mediation.[105] Prominent among these was the United Kingdom. The relationship between the United Kingdom and Uganda was historical,[106] but the United Kingdom also had commercial interests in the region, which continued conflict in Uganda had put in jeopardy. Indeed, after the liberation of Uganda in 1979, the United Kingdom government had allocated assistance to help the new Uganda government restore law and order,[107] and was involved in several Commonwealth

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104 The pre-mediation stages of the Uganda mediation are discussed at length in Chapter 7.

105 That is, the audience: see Chapter 2, notably, Mitchell, 'The Motives for Mediation' op.cit.; and Wall,J.A. 'Mediation: An Analysis, Review and Proposed Research' 25 *Journal of Conflict Resolution* (1981) pp.157-180.

106 See Mukwaya,A.K.K. *Anglo-Ugandan Relations With Special Reference to the Period Following Uganda's Independence* (Ph.D. Dissertation, University of Durham, October, 1987).

107 Ibid., p.453.

operations to restore peace to Uganda. In keeping with this policy, it also made an offer to help restore law and order after the Okello coup in 1985. But this did not materialise because the conditions attached, namely that Tito Okello first put his house in order and establish a stable political system were impossible to implement in the prevailing conditions of Uganda. Not only was the UNLA losing ground to the NRA, but the safety of the British personnel envisaged in the offer could not be guaranteed.[108] Nevertheless the United Kingdom was an important actor in the mediation, and played a role in trying to move the parties to an agreement, thereby strengthening Moi's hand during the mediation. This was done by sending a top military commander to advise both sides about redeployment and training of the military forces of both parties once an Agreement was concluded.[109] Secondly, the United Kingdom issued a statement through the Foreign and Commonwealth Office that although aid to Uganda had been suspended, its wish was for the aid to resume as soon as security improved: and that it could only be assured that any aid was used for the benefit of the people of Uganda if there was a political settlement to the conflict.[110]

Egypt played a very important role in the whole process of the mediation. Egyptian foreign policy towards Uganda is based on the politics of the River Nile of which both countries are co-riparians,[111] and has been always to support the regime in power in Uganda. Because of this policy, Egypt not only sided with the military government in the conflict, but also

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108 Ibid., p.454.

109 *Daily Nation*, 7 December 1985, p.24.

110 Ibid.

111 See Odidi Okidi,C. 'International Law and the Lake Victoria and River Nile Basins' in Odidi Okidi,C.(Ed) *Natural Resources and the Development of Lake Victoria Basin of Kenya* (Institute for Development Studies, University of Nairobi: Occassional Paper No. 34 of 1979) pp.101-158, who has made a detailed survey of the development of the legal regime of the Nile.

supplied the regime with arms. As will be seen in Chapter Seven, Egyptian supply of satellite intelligence to the Tito Okello regime during the mediation[112] effectively ended any commitment that the military government had to negotiating with the NRA.

Apart from these major actors, the cast also included others who played a lesser and sometimes passive role. These included the United States, which, being a supplier of arms to Egypt must have been privy to Egyptian supply of military hardware to the Okello regime. Cuba, on the other hand, supported the NRM, and welcomed their victory in 1986, and observers thought it highly likely that a Cuba-NRM line was opened during the mediation.[113] Cuban support for the NRA was in part sentimental, based on empathy because of the historical similarities of their revolutions, and the means by which they came into power. Israel, which was busy trying to reverse the OAU embargo against its members having diplomatic links with it, wanted to play an active role, and indeed offered the Okello government military and economic aid.[114] However, the offer for aid was rejected by the Tito Okello regime, which considered it impolitic to accept aid from *both* Egypt and Israel.

Zaire was also keenly interested in a peaceful Uganda because, being a neighbour with shared borders and some ethnic communities, any instability in Uganda necessarily affected the stability of Zaire. Probably as a result of this fear, President Mobutu invited Museveni to Zaire in early August 1985, and impressed on him the need to reach a reconciliation with the Okello regime.[115] He also met Tito Okello during the mediation,

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112 Ocan, op.cit.

113 The Okello regime thought so, according to Ocan, op.cit.

114 Ibid.

115 See *Mission to Freedom* (Kampala: NRM Publications, 1986) p.301.

and this may have formed part of the pressure on Tito Okello to attend the mediation, which he later did.[116]

Libya also had interests in the Uganda conflict, and in the mediation. Libyan interests in Uganda had reached a high peak during Amin's regime. Not only was Libya one of the Amin regime's source of funds, but it also encouraged Amin's Islamisation policy, by which Amin claimed (in response to Libyan military and economic aid) Uganda to be a Moslem state.[117] Also during the civil war (1980-1986), Libya was one of the states which funded the NRA. The outcome of the mediation was therefore important to Libya because were it favourable to the NRM, Libya would thereby be ensured of a friendly regime in post-mediation Uganda.[118]

Sudan, which shares both borders and ethnic communities with Uganda, and which has for that reason been a constant factor in the Ugandan conflict,[119] was also an interested party in the mediation. Not only had the Anya Nya traditionally used Uganda as a base for their operations, but it was to the Sudan that Obote's supporters ran after the 1971 coup, as did Amin's supporters after his downfall in 1979. With its own severe civil war, and the prolonged conflict in Uganda, there was always a spillover of conflict between the two countries.[120] In addition, the Okellos had recruited

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116 See *Weekly Topic* 25 November, 1985, p.2.

117 Even though only about 5.6% of the Ugandan population was Moslem. See Rowe,J.A. 'Islam Under Amin: A Case of Deja Vu?' in Hansen,H.B. & Twaddle,M.(Eds) *Uganda Now: Between Decay and Development* (London: James Currey, 1991) pp.267-279:267.

118 Indeed, after the NRA's victory in 1986 Uganda strengthened its ties with Libya, and received generous assistance in loans, oil, and military expertise. See Throup,D. 'Kenya's Relations with Museveni's Uganda' in Hansen,H.B. & Twaddle,M.(Eds) *Changing Uganda: The Dilemmas of Structural Adjustment and Revolutionary Change* (London: James Currey, 1991) pp.187-196:193.

119 See Woodward,P. 'Uganda and southern Sudan: Peripheral Politics and Neighbour Relations' in Hansen,H.B. & Twaddle,M.(Eds) *Uganda Now: Between Decay and Development* op.cit., pp.224-238.

120 See Woodward,P. 'Uganda and southern Sudan 1986-9: New Regimes and Peripheral Politics' in Hansen,H.B. & Twaddle,M.(Eds) *Changing Uganda* op.cit., pp.178-186:179. See also the discussion on territory

heavily from Amin's old supporters in the Sudan in the fight against the NRA.[121] Thus, Sudan must have hoped that a settlement in the Uganda conflict would be reached, as much for Uganda's benefit as for its own.

The Decision to Negotiate: The Military Government

During Obote's second tenure between 1980 and 1985, he had consistently refused to negotiate with the NRA and other groups fighting against his government, preferring instead to pursue a military victory against them.[122] As many of the people who had been in Obote's cabinet were also in Tito Okello's, it was surprising that the Okello government agreed to negotiations so soon after taking over power. There are however a complex of both domestic and external reasons why the military government was eventually constrained to attend the negotiations in Nairobi.

The first domestic reason had to do with Tito Okello's relationship with power, and with the office he assumed after the 1985 coup. The coup itself was carried out by General Basilio Okello, who in deference to Tito Okello's seniority and age, persuaded him to be head of state: thus Tito Okello was a 'reluctant president'.[123] He took over the presidency because he thought he could halt the fighting then going on in Uganda by forming a broad based government. However, having taken over power, he realised that a change of government alone was insufficient to bring about peace. Mamdani describes graphically the situation then obtaining:

> "The Lutwa-Okello regime wanted both power and peace. But its social base was too narrow; it could not have both. It had to choose. To keep power it was willing to unite with all forces whether politically organised...or simply organised

and conflict in Chapter 3.

121 Woodward, 'Uganda and southern Sudan: Neighbour Relations and Peripheral Politics' op.cit., p.237.

122 See Chapter 5.

123 This apt phrase belongs to Ocan, op.cit.

as armed gangs, and allow them to maintain their organisational harmony. From this partial autonomy of armed factions in the nominal national army of the Obote period, the Lutwa-Okello coup of July 1985 gave Uganda totally liberated and autonomous armed factions. As the regime was transformed into a coalition of independent armed gangs, Kampala increasingly came to resemble Beirut, with each faction controlling its own territory, and the brutality of civil-military relations increasingly evoked comparisons with Haiti."[124]

In these circumstances, Tito Okello[125] was therefore easily persuaded that attending the mediation in Nairobi was the best way to seek a solution to the prevailing state of chaos.

In coming to the decision to attend the mediation however, there were important influences operating on Tito Okello. The most powerful of these was the Foreign Minister, Olara Otunnu, who was also his nephew. Two views emerge as to the basis of Olara Otunnu's influence on Okello. The first is that he manipulated Okello in pursuit of his own personal agenda, whose centrepiece was that the success of the Okello government in the negotiations would place him in a position to later claim power by 'inheritance.'[126] This view is disputed because although Otunnu had great influence on Tito Okello, the system and institutions that Okello inherited were too weak to carry an arrangement whereby leadership changed hands by 'inheritance'. Further, it was unlikely that a person from the West Nile area would

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124 Mamdani,M. *NRA/NRM: Two Years in Power* (Kampala: Progressive Publishing House, 1988) p.5.

125 The two main players in the 1985 coup were both called Okello, and they are sometimes distinguished in the literature by reference to their middle names. Mutibwa observes wryly that on seizing power the Okellos set about addressing the challenges the new administration would face in the next few months, and "[f]irst of all, they promoted themselves, thinking about their names in particular. Tito soon discovered that he had always had a third name - Lutwa - which he now began to use; at the same time, Bazilio remembered he had been called 'Olara', which he threw in as his second name. General Tito Okello-Lutwa was the Chairman of the Military Council and the head of state, while...Bazilio Olara Okello was Lieutenant-General and Chief of the Defence Forces." See Mutibwa,P. *Uganda Since Independence*, op.cit., p.168.

126 This is the view of Kabwegyere, op.cit.

have been able to take power in Uganda so soon after Amin.[127] The second and better view is that Otunnu's influence on Okello was based on his own strongly held beliefs. He believed that soldiers could not work towards peace, and therefore the only way to restore stability in Uganda was through negotiations. He also considered a pacific approach through negotiations to be the only way to stem the bloodshed in Uganda. From his diplomatic experience as Ugandan ambassador to the United Nations, he was also convinced that the Okello cabinet under Muwanga, which had also served under Obote and was therefore privy to the atrocities of that regime, would attract no credibility domestically or internationally. Therefore that cabinet had to be disbanded, and new arrangements negotiated in Nairobi. Muwanga's sacking on the eve of the negotiations is used as authority for this proposition.[128]

The second domestic reason that prompted Tito Okello to choose negotiations was that his regime was politically and militarily weak. Not only had the ethnic tensions between the Acholis and the Langis, which had began during Obote's regime and led to his overthrow not abated, but they also rendered Tito Okello's regime insecure. The coup also brought in a new and inexperienced team to the ruling Military Council. This altered the chemistry between the personalities in the ruling group *inter se*, and did nothing to enhance their solidarity. The military government also lacked overwhelming support amongst the population. By overthrowing Obote, they lost the support of the UPC, whose stronghold was in the western parts of Uganda, while the Baganda in the south were lukewarm in their support because they saw the Okellos as

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127 Ocan, op.cit.

128 See *The Kenya Times*, August 26 1985, p.1. There was also speculation that Muwanga's dismissal was in response to one of the pre-conditions set by the NRM for their participation at the negotiations. Both elements were likely considerations in the decision of the military government.

northerners, and therefore hostile. Thus, Okello's regime had severe internal political problems, which in their view, negotiations would help to ease, if not to solve.

Militarily, the UNLA was in a very weak position. Soon after the coup, the NRA captured the town of Masaka, cutting off supplies to Okello's soldiers and supporters in the north.[129] Although the Egyptians airlifted supplies to the north, Okello's position on the ground nevertheless remained untenable. Accepting to go to mediation was therefore a response to, and an attempt to ease these military realities.[130] Despite this position however, there were still some in the Military Council, such as Basilio Okello, who urged for a military solution to the conflict.[131] Particularly, Basilio Okello had a personal score to settle with Museveni, against whose NRA he had fought since 1980, and who had accused him of being a murderer. To him, the whole peace process only served to obscure, and interfere with that desire. Although Tito Okello's view prevailed, these differences in perception[132] later affected negatively the ability of the Military government's delegation to negotiate effectively in Nairobi.[133]

The Tito Okello regime's lack of support domestically was reflected internationally. Tito Okello's inability to explain his case and the July coup

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129 See further, Chapter 7.

130 Some, like Ambassador Tomusange op.cit., consider the NRA's strong military position to have been the major factor that influenced the military government to agree to negotiations.

131 This group of "aggressive military colleagues" maintained strong pressure on Tito Okello throughout the mediation. See *The Kenya Times* 9 December 1985, p.1.

132 According to one observer of the Ugandan conflict at that time, while Tito Okello and Museveni were not 'sworn enemies', there were serious differences between Museveni and Basilio Okello. This insight was communicated to the author in a letter dated 18 November 1994.

133 See Chapters 7 and 8.

internationally greatly hindered international support for his regime. His inability to articulate his cause has been blamed on his illiteracy: not only was the only international language he commanded (and poorly at that) kiswahili, but his lack of education and training made him unable to see the larger picture: he became the victim of his own inadequacies.[134] Agreeing to attend the negotiations in Nairobi was thus a means by which the military government would to try and garner international legitimacy.

The Decision to Negotiate: The NRM

The strategy that the NRA adopted in their war against Obote's government was a protracted people's war. This goes through three phases: guerilla warfare, mobile warfare, and conventional warfare.[135] By the coup in 1985, this war was in the final stage, that of conventional warfare. The NRA was therefore on the last leg of attaining power, and by their own account, had the upper hand in the civil war.[136] There was little incentive for the NRM to attend the Nairobi negotiations. That they did so was prompted mainly by tactical and diplomatic considerations, which are examined below.

Once the idea of mediation was suggested and the Okello government had indicated its willingness to attend the mediation in Nairobi, the NRM was pushed into a position where it could potentially have appeared to be the obstacle to peace in Uganda. It could therefore have declined to attend the negotiations, and be seen as the obstacle to peace, or it could have attended, and thus convinced the world, and especially its supporters,

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134 And as Prof. Kabwegyere argues correctly op.cit., those inadequacies should have disqualified him from office in the first place.

135 Museveni,Y. 'The Progress of the People's War' in Museveni,Y. *Selected Articles on the Uganda Resistance War* (Kampala: NRM Publications, 1986) pp.8-23:11.

136 See Museveni's assessment in 'Who Is Winning the War?' in Museveni,Y. *What Is Africa's Problem?:Selected Speeches and Writings on Africa* op.cit., pp.142-147.

that it was willing to work towards peace. Diplomatically, the NRM was pressured into a position whereby it could not have declined to attend the negotiations.[137] Particularly, Museveni understood that he would later need the support of the west in rebuilding Uganda. And because the signals he was getting from the NRM's western supporters encouraged negotiations, it could not decline to negotiate and still retain that support in future.

The NRM also felt that since the negotiations in Nairobi were said to be about sharing power, it had nothing to lose by participating in such talks.[138] This view is partly supported by the NRM's demands at the negotiations themselves. The demand of parity in representation with the UNLA in the Military Council, which is examined in detail in the next chapter, was indeed one of the difficult points during the mediation.[139] There were also some forces within the NRM, especially the smaller groups affiliated to it, which felt strongly that the NRM should participate in the negotiations. These groups were unsure of the broader aims of the NRM agenda, partly because they did not understand NRM policy fully. They therefore saw the negotiations as a means of guaranteeing their own interests, hence the pressure they exerted on NRM leadership to attend the negotiations.[140]

During the whole pre-negotiation period, the NRM emphasised that Uganda was in a state of terror, and that the bloodshed had to stop. The further position of the NRM was that the people then ruling Uganda, especially in Tito Okello's cabinet, were the very

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137 See Museveni, 'Ours is a Fundamental Change' in *What Is Africa's Problem?* op.cit., pp.21-27:23 who states that pressure from the international community played a part in this decision.

138 Kabwegyere, op.cit.

139 For a list of NRM demands and proposals, see *Mission to Freedom* op.cit., pp.310-314.

140 Mukwaya, op.cit.

people who were responsible for the bloodshed going on in Uganda. In the NRM's view, it was morally wrong to sit and negotiate with such people, whom it considered criminals. However, because the negotiations were about peace in Uganda, "in [the] spirit of reconciliation and peace...[the] NRM accepted to go to the conference table with these people who have presided over the killing of tens of thousands of fellow countrymen since independence."[141] In agreeing to attend the Nairobi mediation, the NRM intended to seize the diplomatic initiative, and put the military government on the defensive.

It has been claimed that by attending the Nairobi negotiations, the NRM merely intended to buy time, in order to prepare itself for the eventual taking of power militarily.[142] This view is also popular in the Kenyan establishment, where it is argued, *ex post facto*, that Museveni's antipathy towards his interlocutors compelled him to remain at the negotiating table for diplomatic reasons, while waging a relentless war against the military government.[143] However, the better view is that in agreeing to mediation, the NRM hoped that the problem of peace could be resolved by negotiation. It especially expected that the proposal that people who had blood on their hands should not be included in any future Ugandan government would be accepted. The germ of the decision to settle the matter militarily was planted during the mediation, and matured in the period immediately after the signing of the Agreement.[144] As Museveni has noted, during the mediation and soon after,

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141 *Mission to Freedom* op.cit., p.304.

142 Kabwegyere, op.cit.

143 Interview with a senior official, Ministry of Foreign Affairs, Kenya: Nairobi, 15 May, 1993.

144 See Chapter 7 for a discussion of the tension between the political and the military track in the Uganda mediation.

"I saw then that the whole process was a farce. We tried peacefully to push the case that the Amin elements, and people like Bazilio Okello, who had killed people in broad daylight, must be excluded from government...We therefore made our position very clear: we were not going to take part in any government which included and involved criminals. Unfortunately these people believed they had tricked us. Tito Okello, for instance, came back saying that my signing of the agreement showed that they had removed the teeth from the *salambwa* (poisonous snake)."[145]

In addition, the NRM constantly warned during the negotiations that it would 'liberate Uganda' should the negotiations fail.[146] It would therefore seem that the decision to resort to military means was one that was not so much pre-determined, as one that evolved in the course of the mediation.

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145 Museveni, 'Ours is a Fundamental Change' op.cit., p.23.

146 See for example, *The Daily Nation* (Nairobi) 17 November 1985, pp.1,5.

Chapter Seven
The Uganda Mediation, August-December 1985

Introduction

The view that the proper analysis of the Uganda, or any other, mediation requires that both its diplomatic and mediation aspects be taken into account was canvassed in Chapter One. In this regard, Chapter Six examined the diplomatic context of the Uganda mediation, including *inter alia*, the pattern of relationships between the parties, the OAU's position on the conflict, the background to Kenya's mediation, the choice of mediator, and the reasons behind the parties' decision to attend the negotiations.

This chapter will examine the mediation context of the Uganda peace negotiations of 1985. To facilitate analysis, the negotiations will be divided into three basic stages: the pre-mediation, mediation, and post-mediation (or implementation) stages. Certain technical aspects of the mediation stage will be considered, particularly the strategies and tactics adopted by the parties, the negotiating environment, the threats by the mediator, and the problem of re-entry. The difficulties of implementation, and a critical comment thereon will also be offered. A critique of the Uganda mediation process will be the subject of Chapter Eight.

To appreciate fully the 1985 mediation, it should be viewed against the historical perspective of earlier attempts at negotiating the political future and peace in Uganda. In this context, the Uganda mediation of 1985 had some historical precedents, which are mentioned below.

The Lancaster House negotiations of 1961/62, and the Moshi Conference of 1979 were earlier attempts by Ugandans to negotiate their political future.[1] The 1985 mediation can be distinguished from these earlier attempts on fundamental grounds. The Lancaster House negotiations through which the UPC-KY alliance which had been forged earlier was formalised,[2] were about the terms on which independence was to be realised, as much as about the constitutional safeguards for some of the ethnic communities of Uganda, such as the kingdoms. At Lancaster House, unlike in Nairobi twenty four years later, the negotiations did not take place against the backdrop of civil war.[3] While Lancaster House was about the collapse of colonial institutions, Nairobi was about collapsed national institutions. Whereas Lancaster House was about the creation and protection of emerging national institutions, Nairobi was about their rebuilding.

The Moshi Conference and the arrangements it reached, was about unifying diverse opposition groups, and creating a common front through which the Amin regime could be removed and succeeded. As was argued in Chapter Five, Moshi failed signally to address important issues about constitutional authority and division of power after Amin, leading to the eventual collapse of the Moshi arrangements. Lancaster House involved

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1 See Chapter 5.

2 Okoth argues that like the UPC-KY alliance which was a fifty-fifty arrangement, the Nairobi Peace Agreement had little chance of working. See Okoth,P.G. 'The Foreign Policy of Uganda Toward Kenya and Tanzania Since Independence' in Oyugi,W.O.(Ed) *Politics and Administration in East Africa* (Nairobi: Konrad Adenauer Foundation, 1992) pp.359-394:379.

3 The point is sometimes made that the way in which Uganda attained independence can help to explain the trend the conflict later took. Unlike Kenya which engaged the British in the Mau Mau war and thus learnt the horror and meaning of conflict, Uganda did not go through a similar experience before its independence. Hence, not having felt the full weight of bloody conflict, Ugandans did not seek to avoid it after independence, thus the post-independence pattern of conflict in Uganda. This analysis was suggested by Prof.A.Nsimbambi (Director, Makerere Institute of Social Research) in an interview with the author, Kampala, 24 May 1993.

negotiations between the colonial government and its greatest political challengers. Unlike Moshi, Nairobi involved negotiations between an incumbent government and its greatest military challenger. In Nairobi, the interlocutors had since Moshi seen their common purpose collapse, and found themselves on opposing sides of the table, and the battleground. The Moshi Conference took place against the backdrop of the Tanzania-Uganda war, which Tanzania was winning decisively,[4] and of which the participants at Moshi were encouraged to take advantage. Nairobi took place amid an internal war, in which the parties involved had fought each other if not to a stalemate, then to near exhaustion. Whereas Moshi was about hopes of how the dreams of the exiles could be crystallised and saved for posterity, Nairobi was about broken dreams and differing perceptions about how they could be recreated.

The Parties and the Negotiating Agenda

As was noted in Chapter Five, the parties whose conflict was mediated in Nairobi in 1985 were the Military Government of Tito Okello which came to office through a coup in July 1985, and the National Resistance Movement (NRM) led by Yoweri Museveni, whose military arm, the National Resistance Army (NRA) had since 1980 engaged Obote's second regime, and later Tito Okello's government in a protracted people's war. As will be indicated in this chapter, during the month between the coup on 27 July, and the commencement of the mediation on 26 August, the military government co-opted the other fighting groups and the political parties by giving their leaders ministerial posts and later, during the mediation, seats in the Military Council. The NRM had declined to be co-opted, and being the largest and most successful of the fighting groups, was able to insist that the negotiations be between it and the government.

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4 Arend,A.C. & Beck,R.J. *International Law and the Use of Force: Beyond the UN Charter Paradigm* (London & New York: Routledge, 1993) p.123.

Three major issues were at the heart of the mediation. These were 'Disarmament and Ceasefire'; 'Composition, powers and procedure of the Military Council'; and 'Security', especially the creation and composition of a new national army. Other matters like the creation of an observer force, the length of the interim period between the conclusion of the mediation and the holding of elections, prosecution of persons who served under Amin, and the holding of a national conference, were discussed under these three broad items.

The two parties began with widely divergent positions on the three major items of the agenda. Regarding the Military Council, the NRM proposed that representation therein be divided equally between it and the UNLA, that the Vice Chairman be a member of the NRM, and that the powers of Head of State should only be exercised by the Chairman in Council. Further, the NRM proposed that the co-option of members of the other fighting groups and the political parties that participated in the 1980 elections be decided subsequent to the mediation and on criteria to be determined by the fully constituted Military Council.[5]

The military government maintained that parity of representation in the Military Council was unacceptable, and initially offered the NRA six seats. It also proposed that the question of the vice-chairmanship be considered by the fully constituted Military Council, as should the representation of the political parties. But it also maintained that for peace and reconciliation to be achieved in Uganda, all fighting groups should be represented in the Military Council.[6]

These opposed positions underlined the fact that in the view of both parties, the Military Council would be

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5 See *Mission to Freedom: Collected Issues of Uganda Resistance News, 1981-1985* (Kampala: NRM Publications, 1990) pp.311-312.

6 See Government *Aide Memoire*, dated Nairobi, 27 September 1985: reproduced in *Weekly Topic* (Kampala) 18 October 1985 p.4.

the primary source of power in the interim period. They were each intent on placing themselves in such a way that the balance of representation would fall in their favour. Thus, the NRM, aware that the other fighting groups had been co-opted to the cabinet, preferred at this stage that the representation of these others in the Council be decided later by the fully constituted Military Council. In that way, the NRM could hope to block the future representation of these other groups in the Military Council should the balance of power there appear to lean in favour of the UNLA. The military government preferred that the details of the representation of the other fighting groups be determined at the negotiations, since in this way it would be ensured of an inbuilt and formalised core of their supporters in the Military Council, even were they to accept the notion of parity during the negotiations.

The question of disarmament and ceasefire was also complicated by the different motives of both parties. During the pre-negotiation period the two parties had agreed on a ceasefire on 24 August 1985, in order to allow the 'process of peace' to be pursued more seriously.[7] This ceasefire held until September. The ceasefire that was the subject of negotiations was however the one which would obtain after the conclusion of the negotiations. The positions of the two sides were again initially divergent on this.

The NRM was agreeable to putting into effect and observing a ceasefire, but attached stringent conditions to this undertaking. These were that the UNLA should stop recruiting ex-Amin soldiers, demobilise them, and disarm those they had already armed. Further, that no soldier or other personnel under the command or control of the military government should engage in robbery, rape or murder, or any act in violation of the human rights of the civilian population. It also demanded that all security personnel under the military government who

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7 NRM Press Release, 24 August 1985.

had committed crimes since the coup should be disciplined immediately, and that such disciplining should become a routine practice. It further required that the UNLA should not mobilise and deploy their troops without first seeking and securing the NRA's agreement. The NRM also insisted that the military government should stop the importation of arms from outside Uganda, and that all NRM political detainees should be released immediately. Furthermore, it urged that all these conditions should be widely publicised throughout the country.[8]

The government agreed that all parties should observe an immediate and effective ceasefire upon the conclusion of the agreement. But it insisted that in the interim, all commanders should ensure strict discipline within their forces, and particularly that the "harassment of civilians, attacks on police posts, hijacking of vehicles, robbing of banks, blocking of roads etc"[9] should stop forthwith. Additionally, the government stipulated the conditions that all parties should stop recruitment, mobilisation and deployment of forces, ensure that there were no non-Ugandans in their ranks, and that the acquisition of arms should cease.[10]

These differing conditions for effecting a ceasefire were framed carefully, in order to reflect the relative military position of both parties. The NRM, feeling stronger militarily, set conditions such as those on recruitment, securing their agreement before mobilisation and deployment of troops, and the importation of arms which the UNLA could not implement and remain a viable fighting force, and hence a serious interlocutor in the negotiations. The military government felt greatly the military and political pressure resulting from NRM military activities such as

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8 *Mission to Freedom* op.cit., p.311.

9 *Aide Memoire*, 27 September, 1985.

10 Ibid.

attacks on police stations (a source of arms for the NRA) and the robbing of banks (a source of revenue for the NRA),[11] and accordingly sought an arrangement for a ceasefire that would ease that pressure.

On disarmament and the creation of a new national army, the government insisted on the complete disarmament of all the fighting forces, and required the NRM to make a firm commitment to disarm. On the new national army, the government argued that although Uganda needed a new national army, a mere merger of the current fighting forces would only compound the problem of factionalism in the military. It therefore proposed that only some of the present fighting forces be incorporated into the army, in proportions that the Military Council would deem appropriate. The NRM rejected the position that complete disarmament of all the fighting forces was a precondition for a genuine peace. They contended that since the government controlled the other coercive instruments of the state such as the police force, prison and security services, complete disarming of the fighting forces would effectively leave the military government still armed, and the NRA completely disarmed.[12] Hence the NRM tabled the proposal that since the NRA already had in the field a well organised and disciplined force, it should be utilised in the formation of the new national army, by integrating it in part or in whole with the good elements from the UNLA and the other fighting forces. The NRM proposed further that the new army be composed of four thousand soldiers from the NRA, and a similar number from combined UNLA and other fighting forces.[13] Thus, whereas the government's preoccupation was with looking for ways to render the NRA force ineffective,

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11 See 'Interview with an NRA Commander' *Weekly Topic* (Kampala) 9 October 1985, p.6.

12 *Mission to Freedom* op.cit., p.312.

13 Ibid.

the NRM was concerned with maintaining its strength and military advantage, which would continue to ensure a strong bargaining position during the negotiations and after.

Military versus Political Issues

One of the early complicating matters in the Uganda mediation was the disagreement between the parties on whether the negotiations should be centred on military or political matters.[14] Right from the pre-negotiation period, the NRM had argued that the negotiations should primarily be about a military rather than purely political solution.[15] The NRM's rationale for this demand was that since it did not recognise Okello as Head of State, he and his representatives should only attend the negotiations as members of the UNLA, and not as the Uganda Government.[16] The military government rejected this demand, and insisted that the negotiations were about the search for a political solution to the conflict. The NRM's attitude was informed by its strong military position in the period leading to the mediation. But as one editorial observed,

> "...in this country's present situation, it may well border on naivity (sic) to hope and clammer for a 'political solution' as the political groups without military wings have so far been marginalised in the peace process. But our recent history at least teaches us that the purely military or military-brokered solution has never been able to deliver a popularly desired democratic result."[17]

The NRM also considered that it had the support of the Ugandan people, and therefore felt able to pressurise the government on this issue. In this regard, the NRM enjoyed all the circumstances that can prevent a shift

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14 This is a broader statement of the problem discussed in Chapter 6, of whether or not the NRM attended the negotiations merely to buy time.

15 *The Weekly Review*, (Nairobi) 30 August 1985 p.3.

16 *Keesing's Contemporary Archives* Vol.31, No.12 (1985) p.34025.

17 *Weekly Topic* (Kampala) 27 September 1985, p.3.

from the military to the political arena in a conflict, namely

> "the irrepresible belief in the righteousness of one's cause; the assurance of one's own survival and victory; the determination to pursue victory at whatever cost...to the opposition; the certainty of omnipotence that sheer power will overwhelm and destroy the opposition; the conviction that external resources and support will be forthcoming no matter what difficulties arise; the certainty that the people's interests are being well served and that their fervour and loyalty to the cause will survive all trials and tribulations; the absolute refusal to recognise the legitimacy of the other side; the deep suspicion that any conciliatory manoeuvre of the other side is devious, a tactic to confuse or gain time or some other advantage; and the belief that once a degree of military superiority is gained then the other side will be compelled to negotiate on one's own terms"[18]

The military government did not wish the negotiations to take place within a military context, since to have done so would have enabled the NRM to raise the sensitive question of its legitimacy. It would also have been a bad strategy because it would have enabled the NRM to negotiate on its own terms, and press its military demands. To avoid this eventuality, neither Tito Okello the Head of State, nor his Chief of Staff, Lt.General Basilio Okello attended the negotiations. The government delegation was composed of people who were only competent - and mandated - to negotiate political matters.[19] Although this was a clever tactic to adopt at that stage, it will be argued later that Tito Okello's non-participation was not a wise move in terms of the overall negotiations. Indeed, the negotiations were later prevented from breaking down partly because Tito Okello was consequently pressurised to participate in the later stages of the mediation.

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18 Wiseman, H. 'The Parameters of the Process of Conflict Resolution in Central America' in Child,J.(Ed) *Conflict in Central America: Approaches to Peace and Security* (London: C.Hurst & Co., 1986) pp.69-87:73.

19 *The Weekly Review*, 30 August 1985 p.3.

Stages of the Uganda Mediation

The literature surveyed in Chapter Two revealed that modern analyses of mediation have departed from traditional ones, particularly in the recognition that the process of mediation is larger than just across-the-table negotiation. Thus, various writers have identified several stages of negotiation which, although analytically distinct, are symbiotic. For analytical purposes, there can be various stages in the whole protracted negotiation process such as Saunders's five stages,[20] or various stages within each major one, such as Zartman's three stages of the actual negotiation,[21] or Mitchell's four stages of conflict termination (i.e. the decision that compromise is preferable to continued conflict, communication of this willingness to negotiate, the negotiation itself, and the implementation process.)[22] An adapted form of Saunders's formulation will be used to analyse the Uganda mediation. Hence, three main stages in that negotiation process will be referred to. The pre-negotiation stage (which includes the first three of the stages outlined by Saunders, namely, defining the problem, producing a commitment to a negotiated settlement, and arranging a negotiation); the actual negotiation, and the post-mediation or implementation stage. These last two are the same as the fourth and fifth stages in Saunders's formulation.

One of the characteristics of the Uganda mediation was the large number of adjournments that took place, ostensibly to enable the parties (especially the military government delegation whose leader was absent

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20 Saunders,H.H. 'We Need a Larger Theory of Negotiation: The Importance of the Pre-Negotiation Phases' 1 *Negotiation Journal* (1985) pp.249-262:255-261.

21 Zartman,I.W. 'Negotiation: Theory and Reality' in Bendahmane,D.B. & McDonald,J.W.(Eds) *International Negotiation: Art and Science* (Washington: Foreign Service Institute, 1984) pp.1- 8:2.

22 Mitchell,C.R. 'Ending Conflicts and Wars: Judgment, Rationality and Entrapment' 43 *International Social Science Journal* (1991) pp.35-55:35.

for much of the mediation), to return home for consultations. This characteristic is noteworthy because significant developments, both political and military, took place during those adjournments, and were often responsible for progress (or sometimes lack of it) at the negotiating table. Indeed, it would be true to argue that during the negotiation stage and after, the Uganda conflict developed along two paths. One path consisted of negotiating sessions where the parties tried to work out a political solution to the conflict. In the other, which was interspersed between these sessions, and then contemporaneous with them, the parties tested each other militarily, weighing the possibilities of a military solution to the conflict. However, these two paths were not entirely parallel, since they crossed at times during the mediation. This feature of the Uganda mediation will be discussed later in the sections on the negotiation and post-negotiation stages.

The Pre-Negotiation Stages

Some of the developments during the pre-negotiation stages of the Uganda mediation formed part of the diplomatic context of the conflict in Uganda, and were discussed in Chapter Six. This section will analyse only those developments during this stage which were directly related to the negotiation phase of the conflict. Most important amongst these were the formulation by both parties of a programme for the recovery of Uganda; Tito Okello's co-option of the political parties and minor fighting groups; attempts at making peace during the pre-negotiation period, namely the calls for a round table conference and the aborted Dar-es-Salaam talks; the appointment and dismissal of Paolo Muwanga as Executive Prime Minister; and the military position of both parties at the commencement of the mediation.

<u>Programmes for the Recovery of Uganda</u>

It has been claimed that one of the reasons why the military government has come to be perceived as the 'loser' in the Uganda mediation is because Tito Okello,

the nominal leader of the government delegation at the mediation, lacked vision.[23] By this it is normally meant that having taken over power in Uganda, he had no clear idea as to its future. Conversely, Museveni is often seen as having had an ideologically coherent and sophisticated vision for the future of Uganda.[24] This difference between the two parties was evident during the pre-negotiation stages, and was responsible for some of the disagreements between them in the negotiations.

During its tenure, Tito Okello's government did not produce a policy document outlining its vision for the future of Uganda.[25] However, on 10 August 1985 Tito Okello made his first policy statement since taking power. That speech outlined a Six Point Programme of the aims of his administration. The main priorities were ending the fighting between the factions in Uganda, establishing unity and reconciliation, preventing revenge and victimisation as a result of the change of government, resettling refugees and displaced persons, re-establishing law and order, and bringing about economic recovery.[26] In contrast, the NRM had formulated a Ten Point Programme, which included such aspects as the strict observance of human rights, setting up an international commission to investigate crimes - especially genocide - committed during the Amin and Obote regimes, drawing up and enforcing a leadership code, rehabilitating the economy, and basic social services.[27] The NRM insisted that the programme should

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23 Such as Ralph Ocan in an interview with the author, Kampala, 27 May, 1993.

24 For example, Prof. Kabwegyere, in an interview with the author, Kampala, 25 May, 1993.

25 See, 'Interview with an NRA Commander' *Weekly Topic* 9 October 1985, p.6.

26 *Keesing's Contemporary Archives* Vol.31 No.12 (1985) p.34025.

27 See *Mission to Freedom* op.cit., pp.313-314. Many of these are reflected in the constitution being discussed currently in Uganda: see *The Draft Constitution of the Republic of Uganda* (Kampala, 1992).

form part of any agreement reached in Nairobi, and thus be binding on all parties.

The amount of detail in each programme suggests the relative seriousness with which the parties considered the problem of, and the basis for Ugandan recovery. For the NRM, the restoration of peace and democracy, and respect for human rights were "the cardinal principles which must form the basis of the peace talks",[28]with other matters being secondary. For the Military government, problems like the protection of human rights could be addressed later, once the new Military Council was constituted, and should not therefore be discussed in detail during the mediation. These differing, and indeed polarised perceptions on the future of Uganda, which crystallised as early as the pre-negotiation stage, were to colour the background against which the mediation took place.

The Military Government's Co-Option of Other Groups

Having taken over power in July 1985, the military government was aware, as Tito Okello pointed out in his speech on 10 August, that "recent history had shown that no single group could succeed in bringing peace to Uganda."[29] The military government therefore realised that to achieve peace, and to remain in power, it was necessary to get support from the other fighting groups, and the political parties. Towards this end, the military government set about trying to build a broad based government. This process took the form of co-opting these other groups into the Military Council and the Cabinet.

With the exception of the NRA, all the fighting groups were willing and indeed keen, to be so co-opted. This was formalised in an Agreement between them and the military government on 19 August 1985. The timing of this Agreement, following so soon after Tito Okello's

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28 NRM Press Statement, 9 August 1985.

29 See *Keesing's Contemporary Archives* op.cit., p.34025.

August 10 speech which was made at a ceremony releasing thousands of prisoners, is significant given the state of the four groups with whom the Agreement was concluded. Although it had earlier been engaged in the war against Obote, the Uganda Freedom Movement (UFM) was by 1985 largely non-operational, and was therefore agreeable when Okello made his offer. Not only was their leader appointed to the Military Council, but its ranks were boosted significantly when hundreds of the released prisoners joined it.[30] The Federal Democratic Movement (FEDEMU) was also not significantly effective by the 1985 coup. Its ranks too were greatly expanded by the released prisoners, who on joining were issued with UNLA uniforms and armed.[31] The Uganda National Rescue Front (UNRF) which consisted mainly of Amin's Nubian supporters, also joined the UNLA, and their two top leaders were rewarded with seats in the Military Council.[32] The Former Uganda National Army (FUNA) was, together with the UNRF, one of the two parties formed to fight Obote after the fall of Amin. It too was made up mostly of Nubians, and after the Agreement with the military government, it recruited several hundreds of men from the south Sudan to help in the fight against the NRA. Significantly, their leader Wilson Toko, was made Vice Chairman of the Military Council.[33] Later, in the absence of Tito Okello, he led the government's delegation at many of the sessions during the mediation in Nairobi.

Although the NRA had stated that it would "reply positively"[34] to the government's appeal to join the new

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30 Mutibwa,P. *Uganda Since Independence: A Story of Unfulfilled Hopes* (Kampala: Fountain Publishers, 1992) p.170.

31 Ibid.

32 Ibid., p.171.

33 Ibid., p.172.

34 See *Keesing's Contemporary Archives*, Vol.31 No.12 (1985) p.34024.

coalition, it never did so. The intended marriage between the NRA and the UNLA failed because the military government did not meet the NRA's conditions for such a merger. These were equal representation in the Military Council,[35] full consultation between the NRA and UNLA on all decisions regarding the setting up of an interim administration including political appointments, and that people who were involved in the atrocities during the Amin and Obote eras not be appointed.[36] These conditions remained on the NRM agenda and were raised later during the mediation. The inability of the NRA and the military government to reach agreement on them meant that by the commencement of the mediation, all the other fighting forces were ranged against the NRM at the negotiations.

The leaders of the political parties were rewarded with ministerial posts on allying themselves with the military government. Prior to this, they too had laid down certain conditions. These were that the Military Council be committed to negotiations geared towards the cessation of fighting in Uganda; that all political prisoners be set free; that the Military Council be committed to, and work towards holding a general election within one year, and that those serving in the interim administration be creditable and acceptable to all parties.[37]

The biggest of these political parties was the Democratic Party (DP). The DP had not enjoyed power since they won the 1962 elections and formed the interim government prior to independence.[38] They acclaimed the overthrow of Obote whom they considered an enemy, and welcomed the opportunity to regain the political prominence which the rigging of the 1980 election had

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35 *Weekly Topic* 5 August 1985 p.2.

36 NRA Press Statement, 6 August 1985.

37 *Weekly Topic,* 5 August 1985 pp.1-2.

38 See Chapter 5.

denied them.[39] The other two parties, the Uganda People's Movement (UPM) and the Conservative Party (CP) also joined the military government, and their leaders were rewarded with ministerial posts.[40] Although the co-option of the fighting groups and the political parties should have isolated the NRA/M, the military government was aware that any arrangements which excluded the NRA/M were at best weak. Indeed, far from weakening the NRA/M, the coalition between the government, the fighting groups, and the political parties rendered it a more determined, and as the negotiations later were to prove, a formidable negotiating partner.

Earlier Attempts at Negotiation

The mediation in Nairobi was the culmination of a longer process of the search for a peaceful solution to the Uganda conflict. The roots of this process lay in the pre-negotiation stages. As was noted in Chapter Five, during his second tenure Obote had rejected resolutely any suggestions that the conflict be settled peacefully, and pressed instead for a military solution. However, once he was overthrown in July 1985, suggestions that negotiations be attempted were renewed by diverse sources. This led to two developments which reflected the shape of the Nairobi mediation, and underlined the view evinced in the Nairobi Peace Agreement[41] that a national convention would be ultimately necessary to cement the terms of any peace the parties reached in Nairobi.[42] The two developments were the calls for a round table conference, and the Dar-es-Salaam fiasco.

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39 Mutibwa, P. Uganda *Since Independence* op.cit., p.171. See also Chapter 5.

40 Ibid.

41 In full, *The Uganda Peace Talks Agreement for The Restoration of Peace to The Sovereign State of The Republic of Uganda* (Nairobi: Government Printers, Kenya, 1985).

42 See Article 15 of the Nairobi Peace Agreement.

Calls for a Round Table Conference

The first mention of a round table conference after the July coup was in an 'ultimatum' issued on 2 August by the Uganda Democratic Redemption Union (UDRU), which consisted of people like former president Godfrey Binaisa who were opposed to the new military regime. The ultimatum was contained in a statement calling for the dissolution of the military government and the appointment of a caretaker administration. It also proposed that the military rulers convene a round table conference outside Uganda, to be attended by all parties and forces "that have participated in nation-building since 1962."[43] Furthermore, in a letter to Tito Okello on 29 July 1985, the Secretary-General of the Uganda Patriotic Movement (UPM), Bidandi Ssali proposed that the Government of National Unity which the military government was in the process of forming be

> "very temporary, only serving as a prelude to a 'National Unity Conference', for the purpose of harnessing all shades of political philosophy and hammer out a working relationship that should form the basis for a truly national government."[44]

The UPM had in mind a forum along the lines of the Moshi Conference, albeit a more systematic and elaborate version of it.[45] In agreeing to work with the military government, the Democratic Party (DP), also issued conditions (which were adopted also by the Conservative Party (CP)), requiring that the Military Council be committed to negotiations aimed at the cessation of fighting in the country.[46]

These other parties agreed to cooperate with the military government pending the convening of such a round table (or national) conference. Unlike them, the NRM issued conditions which it insisted be accepted *in*

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43 *Kenya Times*, 3 August 1985 p.1.

44 Letter reproduced in *Weekly Topic*, 5 August 1985 p.8.

45 Ibid. See Chapter 5 for details of the Moshi Conference.

46 *Weekly Topic*, 5 August 1985 p.1.

toto before it could attend such a conference, which it supported in principle. It insisted that for there to a lasting peace, proper mechanisms had to be worked out by all political groups, but primarily by "the two principal opponents: UNLA and NRA"[47] It also argued that the 'instruments of force' could no longer be left in the sole control of the UNLA. It submitted that since the NRA was primarily responsible for overthrowing Obote, it should be given fifty per cent of the seats in the Military Council.[48] Further, because the NRM was irked by not being consulted in the formation of the Military Council after the coup and in subsequent appointments, it required that the military government cease to make further appointments without consulting it.[49] Clearly therefore, the NRM did not envisage attending such a conference in a subsidiary role to the UNLA.

The Aborted Dar-es-Salaam Talks

The conditions stipulated by the NRM would have meant that it would have attended any round table conference as an equal partner with the military government. But the military government did not contemplate any arrangement whereby its pre-eminence would be submerged. It was nevertheless clear that no lasting solution could be attained without the participation of the NRA/NRM. Consequently, Tito Okello offered to meet the NRA in any neighbouring country such as Kenya, Tanzania, Sudan or Zaire.[50] This offer underlined two things. It marked the shelving of a multilateral approach to peace in Uganda, and signalled the Okello government's recognition that the NRM/NRA was a force to be contended with. Hence, any serious peace

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47 *Mission to Freedom* op.cit., pp.293-294.

48 *Kenya Times*, 7 August 1985 p.1.

49 *Mision to Freedom* op.cit., p.295.

50 *Kenya Times*, 2 August 1985 p.1.

process would have to be primarily bilateral, between the NRM and the military government.[51]

The offer for bilateral talks by Tito Okello was a small but significant victory for the NRM in its fight against marginalisation in Uganda politics.[52] The NRM pressed its advantage by announcing that it was willing to hold talks with the military government, provided three conditions were met. These were that the UNLA did not participate in the talks as a government delegation, nor was Tito Okello to attend as Head of State, but as the leader of the UNLA since in the NRM's view the UNLA was only partly responsible for the overthrow of Obote. Secondly, the NRM required that Kenya and Tanzania be fully involved on an equal basis in all the preparations and processes of such peace talks. Thirdly, the NRM expressed its readiness to attend such talks in Arusha (Tanzania), Bungoma (Kenya), Tororo (Uganda), or at any other neutral venue, provided satisfactory security arrangements were made for all parties.[53]

Tito Okello, one of whose first acts on taking power was to call on President Nyerere in Dar-es-Salaam,[54] announced on 10 August that he would meet the NRM's leaders in Dar-es-Salaam on 13 August. That announcement did not mention whether the NRM's pre-conditions had been accepted. There followed an exchange of telexes in which the NRM complained to the UNLA about the arbitrary nature of the announcement and its silence on the conditions. The NRM advised the UNLA leadership finally that it could not attend the proposed talks in those circumstances. The UNLA leaders replied that they would proceed to Dar-es-Salaam anyway, and hope to meet

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51 The question of whether a bilateral or multilateral approach would have been better is discussed later in this chapter.

52 See *Mission to Freedom* op.cit., p.310.

53 NRM Press Statement, 9 August 1985.

54 See *The Weekly Review*, 30 August 1985 p.3.

the NRM there.[55] The UNLA delegation travelled to Dar-es-Salaam and waited for the NRM delegation in vain.

The NRM failed to attend the Dar-es-Salaam talks because given Tanzania's pervasive involvement in Ugandan politics since the liberation, it could not count on Nyerere to be "an entirely neutral front in peace talks between the two parties."[56] Museveni also believed that he was only prevented from taking power after the liberation by Tanzanian influence in favour of Obote,[57] and was therefore not keen on Tanzanian mediation. Thus, having got Tito Okello's government to agree on holding talks, the NRM intended to press their advantage by holding out for a different venue. And because the government did not respond to the pre-conditions demanded earlier, the NRM expressed its unwillingness to hold open ended talks.

The Dar-es-Salaam talks thus not having materialised, but still realising that he had to come to terms with the NRA, Tito Okello went back to the drawing board to search for an alternative venue acceptable to the NRM. He held his first meeting with President Moi in Nairobi on 19 August supposedly to brief him on "the strategy [they] were adopting to bring about reconciliation among Ugandans".[58] There followed a meeting between Olara Otunnu, the Ugandan Foreign Minister and Museveni in Nairobi on 20 August, to "arrange as soon as possible for talks to take place".[59] Both these were a successful search for Nairobi as an alternative venue, with the NRM's acceptance of it.[60]

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55 NRM Press Statement, 14 August 1985.

56 See The Weekly Review, 30 August 1985, p.3.

57 This is a view expressed by Dr. A. Mukwaya, Dept. of Government, Makerere University, in an interview with the author, Kampala, 27 May 1993.

58 Kenya Times, 20 August 1985 pp.1,20.

59 Kenya Times, 21 August 1985 p.24.

60 See Chapter 6 on the politics surrounding the venue.

Muwanga's Dismissal as Executive Prime Minister

Ever since the coup in July, the NRM had insisted that no appointments to high public office should be made without its consultation. In the absence of such consultation, the NRM adopted a policy of non-recognition of the "Military Council, Tito as Head of State, Muwanga as Prime Minister and other appointments and decisions the...junta has been making."[61] The appointment of Muwanga as Executive Prime Minister on 31 July especially irked the NRM leadership. As Chairman of the Military Council in 1980, he had presided over the rigged elections which brought Obote back to power.[62] As Obote's Vice President and Minister for Defence, he had presided over mass killings especially in the Luwero Triangle[63] at the height of the war against the Obote regime. To the NRM, people like Muwanga and others who had served in earlier regimes would only perpetuate the brutal policies of those governments,[64] and therefore did not merit appointment to high public office.

The Military Council and the cabinet were also divided about Muwanga's appointment.[65] His dismissal as Prime Minister on the eve of the mediation on August 25, was seen by some as a response to the NRM's demands for his removal.[66] It was also evidence that the cut and thrust of negotiation had commenced in earnest as early as the pre-negotiation stage.

In terms of the mediation, Muwanga's dismissal had dual significance. It can be viewed as an attempt by the military government to attend the talks as a united

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61 *Mission to Freedom* op.cit., p.296.

62 See Chapter 5.

63 Mutibwa, P. *Uganda Since Independence* op.cit., p.184.

64 NRM Press Statement, 21 August 1985.

65 *Weekly Review*, 30 August 1985 p.3.

66 *Kenya Times*, 26 August 1985 p.1.

group, undivided by the appointment of Muwanga.[67] In terms of negotiating strategy, this was a sound move, given that the spirit in which the military government negotiated could determine its future. The dismissal can also be seen as a concession to the NRM.[68] Viewed as such, its effect was to exert psychological pressure on the NRM at the outset of the negotiations, because having thus made a major concession the government could thereby put pressure on the NRM to do the same. It could also give the military government a big diplomatic boost, since its international constituency[69] would view the concession as a sign of its intention to negotiate in good faith, and thus encourage the NRM to demonstrate concretely a similar intention by making a comparable compromise.[70]

The Military Position, August 1985

One of the things that characterised the Uganda mediation was the continued fighting between the UNLA and the NRA during much of the mediation. Although the two parties had agreed on a ceasefire during the pre-mediation period on 24 August, it only held until September. The informality of the August ceasefire probably best explains why it broke down.[71] A formal ceasefire to obtain *during* the mediation was not discussed or agreed on at the outset of the mediation. This might explain why the parties felt at liberty to back their negotiating demands by military action.

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67 *Weekly Review*, 30 August 1985 p.3.

68 Ibid.

69 On which see Mitchell,C.R. 'The Motives for Mediation' in Mitchell,C.R. & Webb,K.(Eds) *New Approaches to International Mediation* (Westport,CT.: Greenwood Press, 1988) pp.29-51. See also Chapter 2.

70 This depends on whether or not the NRM perceived the dismissal as a conciliatory gesture, and whether the action by the government fulfilled all the ingredients of a successful conciliatory gesture. On conciliatory gestures, see, Mitchell,C.R. 'A Willingness to Talk' (George Mason University, Centre for Conflict Analysis and Resolution: Occassional Paper No.4, 1990).

71 The status of the ceasefire and its consequences for the mediation is discussed later in this chapter, and in Chapter 8.

Because military activity between the parties influenced the trend of the mediation, this section will outline the military balance between them at the outset of the mediation.

The NRA was convinced that Obote's overthrow was only possible because of the success of its military activities since 1980, and that the UNLA's takeover was merely the *coup de grace*.[72] Therefore, the NRM argued that the refusal to accede to their demands (especially about equal representation in the Military Council and consultation before appointments to public office were made), was evidence of the coup leaders' intention to continue reaping where they had not sown. To them, the Nairobi mediation was all about how this primacy of their contribution to Obote's ouster could be formally recognised in post-mediation Uganda.

In the run-up to the mediation, the 'protracted people's war' had entered the stage of conventional war.[73] Although the NRA could count numerous military successes,[74] the UNLA was still to be reckoned with, and had recently been boosted when the smaller fighting forces joined up with it in August 1985. There was a temporary stalemate as witnessed by the ceasefire of 24 August. But it was one which both parties hoped (and probably intended) to break during the negotiations, as the resumed fighting between them during the mediation suggested. That Museveni could also issue a series of ultimata to the government to proceed to the negotiations or face further fighting, lends additional support for this view.[75] It also gives some credence to

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72 Museveni,Y. 'After Obote: What?' in Museveni, Y. *Selected Articles on the Uganda Resistance War* (Kampala: NRM Publications, 1986) pp.76-83:76-77.

73 See Chapter 6; also Museveni,Y. 'Who Is Winning the War?' in Museveni, Y. *What Is Africa's Problem? Speeches and Writings on Africa* (Kampala: NRM Publications, 1992) pp.142-147:146.

74 Ibid., p.145; see further, Chapter 5.

75 See *The Kenya Times*, August 22 1985 pp.1,20; also 24 August, 1985 pp.1,20.

the proposition that neither the UNLA nor the NRA had an unequivocal commitment to a political solution at the outset of the negotiations.[76] Indeed, the opinion has been expressed that the NRM saw its control of western Uganda as a military advantage to be consolidated during the negotiations.[77] In that view, the success of that consolidation led it later to abrogate the Nairobi Agreement in order to "complete the war".[78]

The Mediation Stage

The actual mediation of the Uganda conflict took place in five phases, between August 26 and December 17 1985. This section aims to outline the discussions that took place during each of the five phases, and to comment on the developments that occurred during the adjournments in between them. It will also comment on the main issues arising from this stage in terms of the process of negotiation and mediation. The first of these tasks will enable an assessment of what the parties gained or lost in the mediation relative to their initial positions. The second will facilitate a technical assessment of the whole process.

The First Phase

The first phase of the mediation stage was preceded by separate informal consultations between the two groups,[79] and was devoted to preliminary statements, and a discussion of the agenda. The parties also restated their positions. Those of the NRM were already public and had been widely publicised, while the government articulated its proposals for the first time. As outlined earlier in this chapter, the positions of the two parties differed in several material respects.

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76 See Ocan, op.cit., and Kabwegyere, op.cit.

77 For example as discussed later in this Chapter, the NRM's declaration of an interim administration in western Uganda in November, during the course of the mediation.

78 Ambassador Joseph Tomusange, Ugandan Ambassador to Kenya, in an interview with the author, Nairobi, 7 May, 1993.

79 *Kenya Times*, 27 August 1985 p.1.

These differences were not on the identity of the main items, but on the divergent views on how they should be effected.

The negotiations adjourned on the second day, in order to give both parties time to hold further consultations. No date was set for the resumption of the mediation,[80] but both parties were quick to emphasise that the negotiations "had not reached a deadlock...but had simply been postponed."[81] No significant developments took place during this first adjournment, and indeed the ceasefire of 24 August held throughout. There is also no record that at this stage the consultations involved any third party.

The Second Phase

The second phase of the mediation was preoccupied with the difficult question of representation in the Military Council. The NRM's demand for parity of representation in the Military Council[82] was resisted strenuously by the military government. Their differing positions reflected earlier developments and views that had been articulated during the pre-negotiation stage. But the UNLA now stated explicitly its view that it was the major military force in Uganda and should therefore be allocated half the seats in the Council. It submitted that although among the other fighting groups the NRM was *primus inter pares*, that position should only be reflected in the distribution of the other half of the seats in the Military Council. Tito Okello was absent during this phase, and the government delegation was not authorised to make any major decision on military matters. Hence it sought an adjournment to facilitate further consultations in Kampala,[83] and thus the second phase was adjourned on 5 September.

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80 See *Kenya Times*, 28 August 1985 p.1.

81 *Weekly Review* 6 September 1985 p.18.

82 *Weekly Review*, 20 September 1985 p.15.

83 *The Weekly Review*, 13 September 1985 p.19.

The second adjournment witnessed several significant developments. The most important was the collapse of the ceasefire of 24 August, and the resumption of fighting between the UNLA and the NRA.[84] These developments ensured that the mediation could not resume as planned, and was thus further postponed. During this fighting, the NRA attacked government positions at Kawanda and Mubende north of Kampala,[85] and cut off the town of Masaka[86] and the whole of western Uganda, thus setting the ground for a major confrontation between it and the UNLA.[87] Both sides blamed each other for this resumption of hostilities.

During this second adjournment, the military government reiterated that it had no intentions of sharing power with the NRM on the basis of equal representation in the Military Council.[88] While this might have been taken as a normal tactic during negotiations, it was followed by a major development on 14 September, when the military government expanded the Military Council from twelve to sixteen members. The four new members were the leaders of the four fighting groups[89] which had signed a separate Agreement with the government during the pre-negotiation stage. This action was intended further to isolate the NRM from the other military and political groups, whose alliance with the government still held. Indeed, these other groups issued separate statements in support of the government. FEDEMU criticised the NRM's demand for equal representation, and argued that Museveni had no alternative but to work out a solution with the government, and that "it is not

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84 Ibid.

85 *Sunday Nation* (Nairobi), 15 September 1985 p.28.

86 *The Sunday Times* (Nairobi), 22 September 1985 p.24.

87 *The Weekly Review*, 20 September 1985 p.15.

88 Ibid.

89 See *Sunday Nation*, 15 September 1985 pp.1,28.

membership of the Military Council that is a crucial matter at the present, but the formation of a new national army..."[90] Similarly, the Democratic Party issued a statement urging for the peace talks to resume. It stated further that Uganda's problems were political, and could not be solved militarily.[91]

A significant political development was the entry of Tanzania into the Uganda peace process, through a series of meetings between Nyerere, Ugandan Prime Minister Waligo, and Museveni in Dar-es-Salaam.[92] According to an *Aide Memoire* issued by the military government during the third phase of the mediation, at these meetings Museveni undertook to drop the demand for parity, and accept six seats in the Military Council.[93] While the NRM's continued insistence on parity during the third phase might not appear to bear this out, it is likely that Museveni had made such an undertaking, but reconsidered it later when the Military Council was arbitrarily expanded from twelve to sixteen members. Apart from these meetings, Nyerere also held discussions later with Tito Okello and Foreign Affairs minister Olara Otunnu in Dar-es-Salaam, and accompanied Tito Okello to a meeting with President Moi thereafter.[94] The mediation resumed soon after these meetings.

The Third Phase

The third phase of the mediation was the longest and most intense. Unlike the earlier two phases, it took place amidst continuing fighting between the two parties. Ironically, although both leaders of delegation did not participate in the negotiations during this important phase, preferring to leave their deputies in

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90 *The Weekly Review*, 13 September 1985 p.19.

91 *The Weekly Review*, 20 September 1985 p.15.

92 See *The Kenya Times*, 15 September 1985 p.1.

93 *Aide Memoire* dated Nairobi, 27 September, 1985.

94 *The Weekly Review*, 27 September 1985 p.15.

charge, for the first time the positions of the two parties became modified somewhat, paving the way to eventual agreement. Apart from military developments, the adjournment after this phase also witnessed two important political developments which had a bearing on the mediation. These were a joint statement by Presidents Nyerere and Moi, and a threat by the mediator to pull out of the mediation.

During this phase of the mediation, the issue of representation in the Military Council was discussed further. The questions of disarmament, and the fate of ex-Amin soldiers was also discussed. On representation in the Military Council, the government now increased its offer of seats to the NRM from four to six.[95] Thus out of a proposed twenty seats, the UNLA would have eight excluding the Chairman's, the NRM six seats, with the remainder to be shared by the other four fighting groups.[96] For the first time, the NRM accepted the idea of the representation of the other fighting groups, but with the proviso that they should be acceptable to all the parties involved.[97] It also concurred with the proposal that Tito Okello remain as Head of State, with the *caveat* that in return, the NRM would secure the Vice Chairmanship of the Council.[98] On representation, the NRM counter-proposed that the UNLA and the NRM take seven seats each, excluding the seat for the Chairman.

Disarmament remained a contentious issue. The government suggested the disarming of all fighting groups, and proposed that the governments of Kenya, Tanzania, and the United Kingdom be requested to provide a peacekeeping force to assist in the process of disarmament. In its view, once these matters were agreed upon, all other pending issues could be discussed later

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95 *Weekly Topic*, 27 September 1985 p.1.

96 *The Weekly Review*, 4 October 1985 p.13.

97 *Weekly Topic*, 27 September 1985 p.1.

98 *The Weekly Review*, 4 October 1985 p.13.

in Kampala, by the fully constituted Military Council.[99] The NRM however disagreed on the modalities of disarmament, and on the philosophy of a peacekeeping force. It argued that to disarm all the fighting groups without doing anything about the other coercive organs of state would effectively leave the military government armed, and the NRA disarmed. It argued further that the notion of a foreign peacekeeping force was not consistent with the status of the conflict as an internal affair.[100] Although the government revised its proposal on disarmament to cover all the other coercive organs of state, the NRM still rejected the idea. It reiterated that its strongest political base was the army, and to disarm it would in effect politically disarm the NRM.[101]

The NRM also rejected the government's proposal that all other outstanding issues be discussed and agreed on later by the fully constituted Military Council. It raised the issue of ex-Amin men, their recruitment and punishment. That the NRM should raise this issue was not surprising: it had consistently criticised the government for recruiting these into the UNLA, despite the atrocities they had committed during Amin's regime. This proved to be a difficult point in the negotiations. The government argued that like the UNLA, the NRA had recruited ex-Amin men to its ranks. More fundamentally, it raised the pertinent issue of the criteria to be used in deciding what was to define an ex-Amin man. The definitional issue arose whether a soldier was to be deemed an ex-Amin man on the basis of how long he had served that regime, or on the basis of the rank he had held.[102] Agreement could not be reached

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99 Ibid.

100 This echoed OAU policy, and contradicts Museveni's later blame of the OAU for not getting involved in the Uganda conflict. See Chapter 4.

101 *The Weekly Review*, 11 October 1985 p.21.

102 *The Weekly Review*, 11 October 1985 pp.21-22.

on these issues. The parties agreed to hold further consultation on them during the adjournment that followed.

The vexed question of the composition of the new army was also raised during this phase. The NRM proposed that the nucleus of the new army be composed of four thousand men and officers from the NRA, and a similar number from the the UNLA and its allies. The government rejected this proposal. It argued that the mere merger of current forces would compound the problem of factionalism. It proposed instead that the new army be composed of some elements from the present forces in numbers that the Military Council would deem appropriate. It also insisted that the specific representation of the other fighting groups in the new national army be specified during the negotiations.[103] A committee of eight was formed to reconcile these positions and report back during the next phase.[104]

The two parties continued fighting during this third phase of the mediation. The UNLA conducted several operations in the Luwero Triangle area,[105] and regained control of the main road to the north of the country, between Kampala and Gulu. The NRA on the other hand captured the army barracks at Kisajjagirwa on the outskirts of Masaka.[106]

During the adjournment following the third phase, two developments that had a bearing on the mediation took place. The first was a Joint Communique issued following a meeting between President Moi and President Nyerere, who had travelled to Nairobi to pay a farewell courtesy call on President Moi. In that meeting, Nyerere and Moi agreed that no East African Country would intervene militarily in the Uganda conflict. They

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103 *Weekly Topic*, 1 November 1985 p.1.

104 Ibid.

105 *Sunday Nation*, 29 September 1985 p.32.

106 Ibid., p.1.

stated the joint position that Kenya and Tanzania were not prepared to intervene militarily in Uganda's civil war. They also warned that unless the Ugandans laid down their arms, and an agreed Ugandan government asked for help in training a new national army, no East African country, either singly or jointly, would participate in a peacekeeping force in Uganda.[107]

Two things need to be noted about this Kenya-Tanzanian carrot and stick policy. The 'carrot', that neither country was 'prepared' to intervene militarily, was a very mild one indeed. The 'stick' was stronger: by saying that they would not participate in a peacekeeping force in the absence of a request by an agreed on government of Uganda, Kenya and Tanzania gave a clear signal that if the Ugandan parties failed to agree, neither of the two countries would involve itself in the conflict any longer.

The second significant development during this adjournment was the first threat by the mediator that unless the parties reached an agreement during the fourth session, he would cease to be a party to the mediation.[108] This threat is discussed later in this chapter, but it is worth noting that the reason advanced for the threat were the numerous adjournments requested by the negotiating parties.[109]

The Fourth Phase

Agreement was virtually reached on the outstanding issues during the fourth phase, which took place during the heaviest fighting between the two sides. Significantly, both Tito Okello and Museveni attended this session: Okello for the first time, and Museveni for the first time since the second adjournment. The

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107 Text of the communique is reproduced in *Sunday Nation*, 27 October 1985 p.5; see also p.1 on a press conference by Nyerere.

108 *The Weekly Review*, 25 October 1985 p.9.

109 See *The Weekly Review*, 25 October 1985 p.9; indeed, the fourth session failed to begin as scheduled because most of the Uganda government delegates involved were said to be attending the Commonwealth summit in Bahamas: *Weekly Review*, 25 October 1985 p.9.

issues negotiated during this phase were representation in the Military Council, disarmament and a peacekeeping force, the status of the other fighting groups, a ceasefire, and ex-Amin soldiers.

For the first time, the government accepted the notion of power sharing with the NRM in an expanded Military Council.[110] It offered Museveni the Vice Chairmanship of the Military Council, and seven seats for the NRA in the Council. The government was however still keen on some foreign 'assistance' to monitor the process of complete disarmament and the building of a new national army. Indeed, it proposed an expansion of such foreign forces to include Nigeria, India and Canada.[111] It also maintained the position that the new national army should be broad- based and representative of the country as a whole, rather than being a simple merger of existing forces. In its view, all the fighting groups should also be represented in the Military Council, since "the exclusion of certain groups from the political process had bedevilled the country's recent history."[112] For the first time also, the government floated the proposal that a national conference representative of the whole country be convened later to discuss such key issues as the future constitutional framework, elections, and the length of the interim period.[113]

The NRM accepted the seven seats offered by the government provided the UNLA had a similar number, but took a hard position regarding the other fighting groups. The NRM now argued that the situation had changed since the last phase. In its view, since the other groups had taken up arms against the NRA, they had

110 *Keesing's Contemporary Archives*, Vol.31 No.12 (1985) p.34025.

111 *The Weekly Review*, 1 November 1985 p.4.

112 Ibid.

113 Ibid.

become effectively "enemies of the NRM".[114] It therefore submitted that the *de facto* position on the ground was that there were two belligerents on the field: the NRA on the one hand, and the UNLA supported by the other fighting groups on the other, and "[in] this case, the fighting groups had forfeited their privilege of being represented on the Military Council as separate entities."[115] Hence its proposal that there be one seat for the Chairman and Head of State, seven seats each for the UNLA and the NRM, and that the fully constituted Military Council should later consider co-opting the other groups.

The NRM maintained its position that complete disarmament was not necessary to achieve a genuine peace. It suggested that the nucleus of the new army comprise an equal number of carefully selected officers and men from the NRA and the UNLA: and that while that nucleus army should be armed, all other fighting groups and security forces would be disarmed, and placed in specified assembly points awaiting their absorption into other security organs, or a return to civilian life.[116] It maintained its earlier position on ex-Amin men. But it softened its position somewhat by arguing that while in principle officers who had served under Amin should not serve in the new army, they could be allowed to serve if that was necessary to fill in places, provided that they were carefully vetted and screened. At this stage, the NRM dropped its objection to foreign forces, but insisted that such forces should be observers rather than peacekeeping forces. In their view, "history has shown that peacekeeping forces are not effective",[117] and a foreign peacekeeping force would impinge on the sovereignty of Uganda.

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114 Ibid., p.5.

115 Ibid.

116 Ibid.

117 Ibid.

The NRM offered to effect an immediate ceasefire, but attached a qualifier, and two stringent conditions to the offer. It stated that the ceasefire should only be for the duration of the current phase; that it should only be implemented after the dismissal from the armed forces of troops formerly loyal to Amin, and the court martial of those of them who had been accused of committing crimes against civilians since the July coup.[118] Further, and even more stringent, the NRM stated that such a ceasefire should be implemented in a way that did not change the *de facto* position of the two forces on the ground. Furthermore, the ceasefire should not be construed to require the opening of roads and removing of mines, and should be limited to actual fighting and the immediate cessation of all acts in violation of the human rights of the civilian population.[119]

Not surprisingly, the government delegation found these demands difficult, and in its view unrealistic. The greatest difficulty, was with the ex-Amin soldiers, and the exclusion of the other fighting groups from the Military Council. On the former, it argued that since the July coup, many Ugandan soldiers had returned from exile in Zaire and the Sudan, and being citizens were entitled to join the army if they wished. On the latter, the government delegation argued that to demand for the exclusion of the other fighting groups in effect escalated the conflict to another level. It therefore considered the demands of the NRM to be unrealistic, and not "based on any objective criteria."[120] With the positions of the two parties thus stalemated, the fourth phase of the mediation was adjourned to facilitate consultations. However, the points of disagreement had

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118 *Keesing's Contemporary Archives* op.cit., p.34025.

119 *The Weekly Review*, 1 November, 1985 pp.4-5.

120 Ibid., p.5.

sufficiently narrowed for a joint drafting committee to be formed to draft what had already been agreed upon.[121]

During this adjournment, heavy fighting between the UNLA and the NRA continued, leading *inter alia* to the siege of Mbarara.[122] The most dramatic development however, was the announcement by Museveni on 4 November, that the NRM had set up its own interim administration in those areas already under its control, pending an agreement with the military government.[123] The NRM explained this action as purely humanitarian, and disclosed that it had already appointed a Chief Administrator, and established seventeen departments to deal *inter alia* with finance, education, and minerals.[124] The military government responded by alleging that Museveni and the NRM were seeking to polarise Uganda, to divide it into Bantu and Nilotic factions, and exploiting their differences in order to gain power in Uganda. It also accused Museveni and the NRM of having no respect for the internal and international boundaries of Uganda. The DP also issued a statement in which it attacked Museveni of trying to divide Uganda, and of frustrating progress in the Nairobi mediation.[125]

The Fifth Phase

The fifth phase of the mediation took place over several sessions, in between which part of the government delegation travelled back and forth to Kampala to hold consultations with the Military Council. In this phase, agreement was reached on future representation in the Military Council. The NRM agreed eventually on the representation of the other fighting

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121 *The Weekly Review*, 8 November 1985 p.16.

122 See *Sunday Nation*, 17 November 1985 pp.1,5.

123 *The Weekly Review*, 8 November 1985 p.16.

124 *Keesing's Contemporary Archives* op.cit., p.34026.

125 *The Weekly Review*, 8 November 1985 p.16.

groups in the Council, and accepted the government's proposals that there be one seat for the Chairman and Head of State, seven seats each for the UNLA and NRA, two seats for FEDEMU, and one each for FUNA, UFM and UNRF.[126] In addition, it was agreed that the composition of the new national army consist of 3,700 men for the UNLA, 3,580 men for the NRM, and 1,200 for the other four fighting groups.[127] Although the NRM would have preferred strict parity in the representation of the NRA in the new national army, its proposal that recruits be vetted was accepted by the government.[128] Most of the discussion that followed during the rest of this phase was concerned with the technicalities of drafting.

Military developments however did not reflect the terms reached at the negotiations. During this phase and in the period after, fighting escalated to such an extent that it was thought that the whole peace process would collapse.[129] This escalation of hostilities even as the negotiators were hammering out a final agreement, reflected the concurrent military and political tracks that had co-existed uneasily throughout the mediation. The NRM's declaration of an interim administration in those parts of the country under its control was an early indicator that the NRM was beginning to lean towards the military track, as was Museveni's statement at a press conference on December 1 that the talks must be over by the end of that week, and "[i]f they do not end then there are other ways of solving problems."[130]

Several signing ceremonies in Nairobi failed to take place because of the non-attendance by the military government delegation, which was said to be holding

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126 See Article 2(1) of the Agreement.

127 See Article 7(1) of the Agreement.

128 See Article 7(2) of the Agreement.

129 See *The Weekly Review*, 6 December 1985 pp.10-11.

130 *Daily Nation*, 2 December 1985 p.1.

meetings to discuss the draft Agreement with the army commanders in Kampala.[131] This suggested that the military government was divided as to which of the two tracks to follow. This is the background of uncertainty against which the mediator issued the second of his ultimata, when he told the two parties to "[e]ither sign the treaty...or go back to Uganda and continue fighting"[132] The effect of this threat and Museveni's response to it will be considered in a later section. But it is worth observing that the response was responsible for the cool relations between the two for the rest of the mediation, and indeed, even after Museveni took over power in Uganda.[133]

New Demands and the December 13 Consultations

The signing of the Nairobi Agreement was postponed several times. During the periods in between, the two parties engaged in major military battles,[134] and blamed each other for the delay in signing the Agreement[135] and of raising fresh demands through the press.[136] It was not, however, until 11 December that the Military Council, significantly through a press release, raised three "outstanding issues" which it required the NRM to act on before the Agreement could be signed.

The first issue was that the NRM dissolve its interim administration in western Uganda, since such an administration constituted a "grave threat to the integrity of Uganda".[137] The government further required the NRM publicly to revoke its administration there.

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131 See *The Weekly Review*, 6 December 1985 p.10.

132 Ibid.

133 This insight was conveyed to the author in an interview with a senior Kenyan foreign service official, Kampala, 20 May, 1993.

134 See *The Weekly Review*, 6 December 1985 p.11.

135 See for example, *Daily Nation*, 7 December 1985 pp.1,24.

136 *Daily Nation*, 9 December 1985 pp.1,24.

137 *Daily Nation*, 12 December 1985 p.1.

The second issue was that the ratio of recruitment to the new national army that had been agreed on during the negotiations should not necessarily be followed in future recruitment. The Military Council argued that the Agreement formula had been accepted only for the purposes of making an "immediate start", and could not be extended beyond the initial period. It contended further that if the Agreement formula was to be made permanent, it would negate the importance of creating a broad based and representative national army.[138] The third issue was that the details of the operations of the Joint Implementation Committee (JIC) be deferred and dealt with by the fully constituted Military Council after the Agreement was signed.[139]

These issues were the subject of a negotiating session held on 13 December. This session reached compromises on some of the issues. There is no record that the NRM *publicly* revoked their interim administration, or at all. However, the terms of the Nairobi Agreement suggest that an accommodation was worked out on the ratio of recruitment into the new national army after the initial period. There is thus provision for the formulation of a new defence policy to determine the functions, *size*, *nature*, name and *composition* of the new national army.[140] On the subject of the JIC, the Agreement dropped reference to a joint implementation committee, and instead placed the responsibility for implementation on the Military Council.[141] While this was a concession to the government, the later provision that in the process of such implementation the Military Council would not be bound by the two thirds majority rule, but by consensus, was a concession to the NRM which had wanted to have a

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138 Ibid.

139 Ibid.

140 Article 1(a). Emphasis added.

141 Article 17(1).

joint implementation council.[142] The importance of this session however, lies not so much in the accommodation that was reached, but in two events which indicated the nature of the military government's decision making, and suggest why the mediation dragged on for so many months.

Although Tito Okello was present at the December 13 meeting, he left before the session was over, and was said to have done so in order "to telephone his Military Council colleagues in Kampala to discuss the obstacles that had held up the signing of the accord."[143] Secondly, although the signing was scheduled to take place the following day, this did not happen because of the "non-arrival later in the day, of two members of the Ugandan delegation who had left early in the morning for further consultations with other members of the Military Council in Kampala".[144] These two events suggest that either the military government's preparation for the mediation and its general decision making were erratic, or that there was a fear within the ranks of the negotiators of a problem of re-entry, or both.

A Technical Assessment of the Mediation Stage

There are certain factors regarding the mediation stage which, because they affected the conduct and outcome of the negotiations, merit further discussion. These are the strategies adopted by the parties, the cohesiveness of the delegations, the threats by the mediator, and the negotiating environment.

The Strategies Adopted by the Parties

Two main strategies marked the Uganda mediation. These were the non-attendance of the leaders of both delegations at many of the sessions, and the use of adjournments as a negotiating tactic.

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142 Article 17(2).

143 *Daily Nation*, 14 December 1985 p.1.

144 *Sunday Nation*, 15 December 1985 p.1.

Tito Okello's rationale in not attending the negotiations failed, because not only were military matters discussed in the negotiations, but questions were also raised about his good faith, leading to Museveni's decision not to attend some of the sessions. Thus, when Tito Okello stayed away from the mediation, the NRM saw this as evidence that the military government was not taking the mediation seriously enough. After Tito Okello failed to attend the second phase of the negotiations, Museveni also decided to stay away. The NRM argued that Tito Okello was staying away because he was too busy preparing his forces, and in those circumstances, Museveni concluded that he too had to go back and mobilise his own forces.[145]

Adjournments as a Negotiating Tactic

Tito Okello's non-attendance was linked to the adoption by the government side of adjournments as a negotiating tactic. There are two ways of interpreting the government delegation's resort to adjournments. Firstly, that because their chairman was not present at most of the sessions, they needed the adjournments in order to consult him. Secondly, that the true authority in Uganda was the Military Council, and the delegation had no power to agree on anything without clearance by the Council.[146] The second of these arguments is the more compelling. Evidently the locus of power in Uganda resided in the Military Council since Tito Okello himself was forced to consult it before binding the government, as was suggested by his telephoning Kampala during the crucial December 13 session. Tito Okello was also operating from a very weak position. Although the decision to negotiate was partly aimed at placating those in the Military Council who favoured negotiations,

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145 See *The Weekly Review*, 25 October 1985 p.9.

146 As Bercovitch notes, if representatives lack power or authority to take decisions or make concessions, the process of meaningful conflict settlement becomes difficult. See Bercovitch,J. 'International Mediation: A Study of the Incidence, Strategies and Conditions of Successful Outcomes' 21 *Conflict and Cooperation* (1986) pp.155-168:160.

some of these wanted Tito Okello to stay in power for some time, pending their establishing themselves in a position where they could take over power from him.[147] There were however some diehards in the Military Council, such as Basilio Okello, who were convinced that the NRA could be defeated militarily.

Because of this disunity in the Military Council, developments at the negotiations needed to be debated in the Council as the mediation proceeded. Although Tito Okello tried to placate the NRM and some in the Military Council by dismissing Muwanga on the eve of the mediation, his hands nevertheless remained tied by the dissension within the Council. Tito Okello's great weakness was in not being able to read the nuances of the power play amongst members of the Council. As he was unable to do this, his own later attendance did not help, and the negotiations became extremely difficult to conduct[148] because of the need to conduct 'negotiations within negotiations' in the Military Council during the adjournments.

Cohesiveness of the Delegations

The internal cohesion of a party, and whether it can be maintained has been identified a crucial variable in determining the outcome of mediation.[149] Not surprisingly, the disunity in the Military Council was reflected in the government delegation to the mediation,[150] and in this they played into the NRM's hands. The government delegation's hands were already tied for lack of a clear line of authority and decision making back home. Therefore, it resorted to requesting

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147 See Chapter 6.

148 See Mukwaya, op.cit.

149 See Mitchell,C.R. *The Structure of International Conflict* (London: Macmillan, 1981) p.187.

150 According to a Kenyan participant in the mediation in a communication with the author dated 18 November 1994, the military government's delegation had a "motley of interests", and was hence the less well organised of the two.

frequent adjournments for consultations, and thus risked being seen as the one delaying progress in the mediation. The NRM took advantage of this by engaging in brinkmanship, particularly by insisting on taking positions which appeared inflexible. It was able to do this because unlike the government side, the NRM had a clear line of authority. Museveni's presence at many of the sessions meant further that decisions could be reached without the need for further consultations. There is evidence that the NRM's brinkmanship was not uninformed, and was backed by 'intelligence' about the thinking of the government delegation. Thus, the NRM delegation made inroads into the government delegation, by establishing contacts with some of its members. Hence, the NRM was able to avail itself of vital intelligence provided to it by contacts in the government delegation.[151]

The Threats by the Mediator

There were two threats issued by the mediator during the whole mediation. The first was on 20 October, when President Moi warned the parties that unless they reached a settlement during the fourth phase, he would withdraw from the mediation.[152] The second was issued on 2 December, when he told the parties either to sign the Agreement or go back to Uganda and continue fighting.[153] These threats were made out of frustration with the parties, whom Moi thought were taking too long to reach an agreement, and were not showing a sufficient commitment to the peace process.[154]

The reason given for the first threat in October was that there were too many requests for adjournments. That apart, during this period the fighting in Uganda

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151 See Ocan, op.cit.

152 *The Weekly Review*, 25 October 1985 p.9.

153 *The Weekly Review*, 6 December 1985 p.10.

154 This insight was gained from B.A.Kiplagat (Permanent Secretary, Ministry of Foreign Affairs, Kenya, 1983-1991) in an interview with the author, Nairobi, 4 June 1993.

intensified, and the mediator was forced constantly to urge the parties to observe a ceasefire in order to give the mediation a chance to work.[155] The continued fighting raised questions in the mediator's mind as to whether the parties were in earnest about working out an agreement, or whether they had decided on a military option.[156] It is significant that after this threat was issued, the parties came back to the negotiating table, and made significant progress during the fourth phase.

The second threat was issued after the signing of the Agreement had been postponed several times by the non-attendance of the government delegation. This non-attendance was explained by the fact that the government delegation was still busy consulting with the Military Council in Kampala, and on one occasion, because some in the delegation were said to be away attending the Commonwealth summit in the Bahamas. The second of the mediator's threats was made on the same day that the NRM "threatened to return to the battle front if a peace agreement from the Nairobi talks is not signed by the end of [the] week."[157] It is difficult to tell which of these two threats worked: but significantly, after the second threat, Tito Okello sent a special message to President Moi, carried personally by General Basilio Okello,[158] and a final negotiating session was held on 13 December, with the Agreement being signed eventually on 17 December 1985.

What is illustrative here however, is Museveni's response to the second threat issued by the mediator.

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155 This problem has also arisen in the current (1994) Sudanese mediation being held under the auspices of IGADD (Inter-Governmental Authority on Drought and Development) chaired by President Moi. His call for a ceasefire as the mediation was continuing resulted in the formalisation of one from July 25 1994. But the Sudanese government may have accepted it for tactical reasons only. See *The Standard* (Nairobi) 24 July, 1994, p.6.

156 Ibid.

157 *Daily Nation*, 2 December 1985 p.1.

158 See *The Kenya Times*, 3 December 1985 p.1.

His response was that "We did not force President Moi to chair the talks...It is an honour for him to be the vanguard of this peace process...I am not going to be intimidated by that...We can go back home and talk there."[159] This response suggests that at that stage the NRM felt confident that it could pursue the military option to ending the conflict. Furthermore it suggests that the negotiating environment had been damaged irreparably, and in a way in which the parties lost their faith in the whole process, and possibly also in the mediator.

The Negotiating Environment

From October 1985 onwards, the tempo of military engagement between the two parties increased significantly. This raised doubts as to whether the parties were committed to a peaceful solution to the conflict, or whether they had decided on a military solution. Indeed, the threats by the mediator to pull out are best seen in this light. The escalation in fighting was partly responsible for negatively affecting the negotiating environment. From the point of view of the NRM, Tito Okello's continued non-attendance while the UNLA repeatedly engaged NRA forces rendered the negotiating environment almost irrevocably unsuited to serious negotiations. From the Military Council's point of view, fears that the NRM was not committed to a negotiated solution were heightened by intelligence supplied by the Egyptians.

Egypt supplied arms to Okello's troops in the north.[160] It also provided the Okello regime with satellite intelligence, which showed arms from Tanzania being delivered to the NRM by ship to Masaka, which the NRA captured soon thereafter.[161] This latter development convinced the Military Council that the NRM was not

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159 *The Weekly Review*, 6 December 1985 p.11.

160 Kiplagat, op.cit.

161 See Ocan, op.cit.

committed to a peaceful solution, and may explain why the fighting increased at that stage of the mediation.

Taken together, these external influences on the negotiating environment led to the conclusion amongst the parties that this environment was irremediably poisoned. They therefore lost faith in the whole process, as was witnessed by the resumed fighting between them during the mediation.[162] Indeed, by the conclusion of the mediation, neither party expected anything useful to come out of it,[163] or indeed, had any intention of abiding by any agreement reached.[164] In the end, the parties only attended the signing ceremony as a personal courtesy to President Moi.[165]

The Implementation Stage

Once the Agreement was signed on 17 December 1985, the problems of its implementation became manifest. These were complicated because by then, the commitment of the parties to its success was less than full. In turn, this was further compounded by the whole bilateral nature of the process, which occasioned severe problems of re-entry. This section will summarise the main terms of the Agreement, and consider the problems and efforts at its implementation, and its eventual breakdown. A critical comment on the Agreement will be offered thereafter.

The Nairobi Peace Agreement

The Nairobi Peace Agreement (or The Uganda Peace Talks Agreement) is a fairly brief document, containing eighteen articles, and four substantive annexes. It covered the main items of the agendas proposed by both parties at the beginning of the mediation. It provided for a ceasefire to be effective on the day of signature, and included many of the terms of the ceasefire proposed

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162 Ocan, op.cit.

163 Ibid.

164 Kabwegyere, op.cit.

165 Ocan, op.cit.

by the NRM during the fourth phase of the mediation. For example, it provided that all members of the security forces or any combatant forces who had violated human rights since 27 July 1985 would be punished, and such disciplining would become a routine practice.[166] It also established the representation in a twenty member Military Council, with the Chairman and Head of State having one seat, the UNLA seven seats, the NRA seven seats, FEDEMU two seats, and the FUNA, UNRF and UFM having one seat each.[167] The Agreement provided further that the Head of State at the time of signing would be the Head of State and Chairman of the Military Council,[168] that the Chairman of the High Command of the NRA would be the Vice Chairman,[169] and that at no time should the Chairman and Vice Chairman be members of the same political party or combatant force.[170] It further provided that all powers of the Head of State should be exercised by him in Council,[171] and that decisions of the Military Council would be by consensus, except in matters affecting the provisions of the Agreement, the interim period and its programme, political appointments and promotions including those to the security services, review of decrees, rehabilitation of war ravaged areas, violations of human rights, promulgation of a new constitution, and the admission and dismissal of members to the Military Council, which would be decided by a two thirds majority, reached by secret ballot.[172]

Article 6 of the Agreement provided for the formulation of a National Code of Conduct, to prescribe

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166 Article 1(g) of the Agreement.

167 Article 2(1) of the Agreement.

168 Articles 3(1) and 3(4) of the Agreement.

169 Article 1(5).

170 Article 1(7).

171 Article 4(2) of the Agreement.

172 Article 1 (a) to Article 1(g).

the qualifications for membership of the Military Council, the Cabinet, and other public offices. Pending the formulation of such a code, it provided that the provisions of articles 41 and 42 of the 1967 constitution would apply.[173] The provisions regarding the new national army, its size and representation reflected, but only barely, the preoccupation of the UNLA with its pre-eminence. Thus the Agreement provided that the new 8,480 man army would be composed of 3,700 soldiers from the UNLA, 3,580 from the NRA, and 1,200 from FEDEMU, UFM, UNRF and FUNA.[174] In addition, the personnel of the new army would be selected and vetted by a committee established by the Military Council.

The Agreement provided for a Monitoring or Observer Force, to monitor the implementation of the ceasefire, assist in disarmament, monitor the movement of troops to agreed assembly points, assist in the collection of arms from demobilised soldiers, and in the recruitment and training of the new national army.[175] Such a Monitoring or Observer force would be invited by the Uganda government from four Commonwealth countries, namely, Kenya, Tanzania, the United Kingdom and Canada.[176] Significantly, of these four, only Kenya and Tanzania had indicated their willingness to participate subject to the conditions mentioned earlier. There is no evidence that Canada was approached, and the United Kingdom declined to send a force to Uganda on the basis that it was not party to the Agreement, and that it was for the Ugandans themselves to supervise any peace.[177]

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173 These are on qualifications for appointment to the cabinet and public offices. This is interesting, given the problems of the 1967 constitution: see Chapter 5.

174 Article 7(1) of the Agreement.

175 Article 10(1)(a) to Article 10(1)(g).

176 Article 10(1).

177 *The Kenya Times*, 19 December, 1985 p.9, quoting the Minister of State in the Foreign and Commonwealth Office, Malcom Rifkind. This legalistic response masks the United Kingdom's unease in its relations with Uganda. It had had its fingers burnt before in Amin's expulsion

It did, however, send six military advisers to liaise with both sides, and to advise on redeployment and training once the Peace Agreement was signed.[178]

In what was a significant victory for the NRM, the Agreement provided that persons who served in Idi Amin's regime and who were known to have committed "atrocities and other heinous crimes" would be punished, and that persons who had served in the State Research Bureau in Amin's regime should be ineligible to join the new national army. It also provided that soldiers who served in the army during Amin's rule, but who did not fall into these two categories, would be vetted and screened before being allowed to join the new national army.[179] It is noteworthy that although this was a bilateral agreement between the military government and the NRM, the Agreement provided in article 15 that a national convention would be convened to discuss *inter alia*, the tenure of the interim government, the future constitutional framework, elections, and the national army. Participation at such a convention would consist of representatives from all districts, national institutions, political parties, religious groups and the Military Council.

Obstacles to the Implementation of the Nairobi Agreement

Although it was on the face of it as reasonable a document as could be hoped for in the circumstances, the implementation of the Nairobi Peace Agreement encountered several difficulties which led eventually to its abrogation and to the resumption of hostilities between the parties. Probably the biggest impediment to its implementation was the fact that although negotiated

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of the Asians in 1972, and humiliated in the Dennis Hill affair: See Kyemba,H. *State of Blood: The Inside Story of Idi Amin's Reign of Fear* (London: Corgi, 1977). But it had nevertheless continued trading with Uganda even during the human rights excesses of the Amin and Obote regimes. It therefore probably feared that if the Agreement failed, its relations with Uganda would worsen.

178 See *Daily Nation*, 7 December 1985 pp.1,24.

179 Article 13 of the Agreement.

over so many months, the Agreement did not manage to break the psychological barriers that existed between the two parties.

There is some evidence that the military government moved fast in trying to implement the provisions of the Agreement. Thus, the Reconnaisance team which was to assess the requirements of the Monitoring and Observer team was invited with dispatch, and arrived in Kampala on 21 December.[180] In addition, the military government began taking steps, like establishing identities, towards the release of NRA/NRM political prisoners, in accordance with article 1(h) of the Agreement.[181]

However, the implementation of the Agreement required cooperation between the two parties, and this was slow in forthcoming. For example, by the end of December, the full Military Council was not yet constituted because the NRA had yet to name its nominees to the Council.[182] Although the military government claimed that the ceasefire required under the Agreement was in place and holding,[183] there were press reports that the violence in the country was continuing unabated: and that the UNLA was to blame for this violence, since Tito Okello could not control his troops.[184] There is evidence that UNLA troops were responsible for some of the looting and terrorising of civilians after the Agreement was signed. It was suggested that they did this in the belief that the signing of the Agreement would signal the end of their employment in the Uganda army. That Tito Okello requested the international community for three hundred

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180 See *Sunday Nation*, 22 December 1985 p.1.

181 See *The Kenya Times*, 23 December 1985 p.1.

182 According to the Foreign Minister, Olara Otunnu in an interview in *The Sunday Times*, 29 December 1985 p.4.

183 Ibid.

184 See *Weekly Topic*, 30 December 1985 p.1; also, *The Sunday Times*, 24 December 1985 p.24.

million dollars to resettle the disarmed and demobilised soldiers lends credence to this view.[185] The NRM considered these activities of the UNLA soldiers to constitute a breach of the Agreement, and indeed called on Okello to resign or face 'action' by the NRA in "defence of suffering Ugandans".[186] But the government also accused the NRA of breaching the Agreement especially by launching offensives against government troops, and refusing to open a key road to the south-west of Uganda. Tito Okello and his government saw these actions as a violation of the letter and spirit of the Nairobi Peace Agreement.[187]

Apart from the problem of re-entry which both parties faced, there was also a psychological and a military reason why the Agreement failed to be implemented. The psychological reason was that the NRM did not believe that the government had accepted it in good faith: and that therefore the military government would continue to perpetrate terror in Uganda, thus rendering the marriage between them unworkable.[188] Further, during the implementation period the NRM came to the conclusion that both it and the government still had a different vision of a peaceful Uganda, and that there was no common purpose between them.[189] Therefore, the NRM considered itself compelled to abrogate the Agreement, in order to continue and complete the war, thereby putting in place its own policies in Uganda without the obstacle of the accommodations reached in Nairobi.[190] This psychological divide between the two parties was sharply illustrated by a speech which Tito

185 *The Weekly Review*, 3 January 1986 p.11.

186 Ibid.

187 Ibid., pp.11-12.

188 Ambassador Tomusange, op.cit.

189 Ibid.

190 Ibid.

Okello made upon return from the signing, in which he referred to the *salambwa* (poisonous snake) being finally tamed.[191] This, more than anything else contributed to the loss of confidence within the NRM that peace would be achieved just because an Agreement had been signed, and that

> "the peace pact was a trap for the NRA/NRM, who were called in to join the round table in a room where the doors would be locked once they had entered. It was the same old game again: bring in your opponents, use them for as long as you need them, and then eliminate them."[192]

The military reason which operated against the implementation of the Nairobi Agreement had its roots in the negotiation period. During that period, the two sides were not willing to agree on fundamental issues, hence the many delaying adjornments. Museveni was aware that Tito Okello was not leading a very stable regime, and that he was therefore using the negotiations to buy time to stabilise his regime. But the NRM was also using the negotiations to consolidate their military position. Given these circumstances, neither side eventually believed fully in the mediation as a means of attaining peace in Uganda. Thus, at the back of both their minds was the belief that the sure solution to the conflict in Uganda was a military one. Hence the fighting which continued during the negotiations. During that fighting, the NRA captured and controlled a substantial part of Ugandan territory, and felt confident enough to form an interim administration in western Uganda. In these circumstances, the NRM saw no reason to abide by the terms of the Agreement.[193]

The Problem of Re-Entry

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191 See Museveni's swearing in speech on 29 January, 1986: in Museveni,Y. *What Is Africa's Problem? Speeches and Writings on Africa* op.cit., p.23.

192 Mutibwa, P. *Uganda Since Independence* op.cit., pp.174-175.

193 These views are partly articulated by Mukwaya, op.cit.

Apart from these psychological and military factors, the implementation of the Nairobi Peace Agreement was greatly hampered because both sides experienced problems of re-entry. Although both parties experienced this problem in varying degrees, neither of them managed to convince their constituencies as to any merit in the arrangements made under the Agreement.

The military government had the more severe problems of re-entry, which were experienced on two fronts. As was mentioned above, the ordinary soldiers were unwilling to surrender arms, because of the fear that implementation of the Agreement would leave them not only demobilised, but also unemployed. The other fighting groups which had allied themselves with the UNLA and the military government also began to question the whole philosophy behind a peace in Uganda based solely on a bilateral agreement between the government and the NRM.

The other fighting groups had for some time argued that the agreement being negotiated in Nairobi was purely a negotiation between the military government and the NRM. Their perception of the Uganda peace process was therefore that any agreement reached between the government and the NRM was only one of what would be a series of bilateral arrangements between the government and all the parties involved.[194] In their opinion, as expressed in a statement of 31 October 1985, their agreement to be co-opted by the government was without prejudice to 'final agreements' about their full respective representation in the Military Council.[195] In their view therefore, the Nairobi negotiations between the government and the NRM were only a limited forum for peace in Uganda. The pressing for a national conference by the government during the talks, and the provision

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194 The only difference to them was that it had taken the NRM longer to reach a bilateral agreement with the military government. This view was expressed for example by FEDEMU's publicity secretary, interviewed in the *Weekly Topic* 30 December 1985, p.12.

195 *Weekly Topic*, 1 November 1985 p.1.

for such a conference in article 15 of the Agreement was intended to cater for this problem. This however does not seem to have settled the problem of these other groups, because they announced in November that since they were not party to the Nairobi negotiations, they would not be bound by the outcome.[196]

With this kind of conceptual problem unresolved, it is not surprising that, like the government, the other fighting groups also experienced their own problems of re-entry, and were unable to sell the Nairobi Peace Agreement to their soldiers.[197] Hence like those of the UNLA, these soldiers completely declined to lay down their arms, and those of FUNA and the UNRF categorically refused to be demobilised.[198] Thus, with its own troops and those of its allies refusing to lay down their arms and continuing their looting and killing of civilians, "the regime could not implement the peace agreement in the area of security, which happened to be its most important part."[199]

The NRM also had its own problems of re-entry, whose sources were some of the fighting men in the NRA, and the public in the areas controlled by the NRA. The NRM's propaganda against the Obote and Tito Okello regimes during the war, was that the war was aimed at cleaning the system of those who had been responsible for the collapse of national institutions, and the killing of thousands of Ugandans. That this propaganda was effective was evident because some officers and men of the NRA insisted that there be a thorough sweep of

196 Mirambo,K. 'The Juridical Basis of the Uganda Peace Talks' *Weekly Topic*, 25 November 1985 pp.4,11:4.

197 Tito Okello's statement at the signing ceremony that "There is no victor or vanquished under this settlement...The arrangement entered into and the various responsibilities assigned within the Agreement do not represent an equation of power" was probably a realisation of this problem, which he hoped thus to stem. See Tito Okello's speech at the signing ceremony in *The Kenya Times* 18 December 1985, p.5.

198 Mutibwa, P. *Uganda Since Independence* op.cit., p.175.

199 Ibid.

the whole system. They maintained that the arrangements worked out in Nairobi would arrest this cleaning up process. They were therefore opposed not only to the negotiations, but also to any attempt by the NRM to implement the Nairobi Agreement.[200]

In addition to these, the citizens in the southern areas of Uganda which were controlled by the NRA made two representations. They maintained that it was now time to end the domination by northerners in Ugandan politics, and that the NRM should not therefore agree to any arrangements that would frustrate that process.[201] They also argued that for the NRM to abide by the Nairobi Peace Agreement would open up their areas to government soldiers, whose notoriety for killings and other atrocities against civilians was nationwide. There was therefore great pressure from this constituency of the NRM not to abide by the terms of the Nairobi Peace Agreement.[202] The NRM was therefore caught in between being seen to implement the Agreement, but at the same time avoid giving the impression to its constituents that it had entered into an arrangement that was a "sell out."[203]

Comments on the Nairobi Peace Agreement

A critical analysis of the Uganda mediation will be carried in Chapter Eight. But some comments on the process leading to the signing of the Nairobi Peace Agreement are in order, particularly in an effort to understand why, since it was meant to provide for peace in Uganda, it was abrogated within two months of its signature.

Firstly, as the re-entry problems the military government experienced suggest, the participants at the mediation were too narrowly based. While it is true

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200 See *Weekly Topic*, 25 November 1985 p.12.

201 Ibid.

202 Ibid.

203 Mutibwa, P. *Uganda Since Independence* op.cit., p.173.

that the government and the NRM were the two major forces, and although some of the political parties were represented through their leaders (such as Ssemogerere of the DP, and Toko of the UNRF, who were part of the government delegation), the negotiations might have stood a better chance had all the political parties and fighting groups been incorporated into the peace process. Such a multilateral approach would have ensured that the interests of different parts of the Ugandan community were represented, and that the peace arrived at was truly comprehensive. Moreover, a multilateral framework might have reduced the psychological problems that the government and the NRM experienced with each other.

Secondly, the eventual fate of the Nairobi Peace Agreement represented a failed strategy on the part of Tito Okello and his government. Their strategy was essentially, one of 'divide and rule'. They hoped by co-opting the political parties and the other fighting groups to isolate the NRA/NRM, and thereby to put pressure on it to reach an agreement. The great failure of this strategy lay in its conceptual ineptitude. It was an attempt to enforce a framework for peace that was both bilateral and multilateral, but with little input from one to the other, and hence the re-entry problems that the government later experienced with the fighting groups. Since the government insisted on the bilateral approach, a more sophisticated arrangement might have been to construct a series of bilateral agreements between itself and the other parties, with the terms of such agreements being ratified eventually at a multilateral forum.[204] This would have been more time consuming, but with the active involvement and

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204 Something in the nature of the negotiations between Italy and Yugoslavia over Trieste, where separate bilateral negotiations between Britain and the United States with first, Yugoslavia, then Italy, were later ratified at a multilateral forum between all of them. See, Novak,B.C. *Trieste,1941-1954: The Ethnic, Political and Ideological Struggle* (Chicago & London: University of Chicago Press, 1970) p.450.

participation of the mediator, it might have availed a more lasting path to peace.

Thirdly, and this point will be touched on in the next chapter, the parties did not formalise a ceasefire to obtain *during* the mediation, and this contributed to the eventual fate of the Agreement. Instead, they operated on a ceasefire which because of its informality they did not feel constrained to observe. Neither, for that matter, did the mediator have a solid basis on which to insist that the parties cease hostilities, and concentrate on the political track to peace. In such a situation, one of the mediator's strong points is that he confers legitimacy and credibility to any agreement the parties may reach. Had the mediator insisted on a formal ceasefire, he would thereby have improved the likelihood of the parties' compliance with it, since the adversaries would have had an obligation to him.[205] Furthermore, had there been a formal ceasefire at the outset of the mediation, the parties may have felt less constrained to test each other militarily, which led to their conclusion that a military solution was possible. And their refusal to formalise a ceasefire may have prompted the mediator to withdraw at an early stage, since it would have suggested their lack of commitment to the mediation.

Fourthly, proceeding directly to negotiation on complex technical matters ignored the need to try and bridge the psychological gap that existed between the parties. As was later evident in the implementation stage, this psychological barrier stood between the parties and the implementation of the Agreement. Tactically therefore, had the first sessions of the mediation been devoted more to breaking down (or at least reducing) these psychological barriers, than in

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205 See Kriesberg,L. 'Formal and Quasi-Mediators in International Disputes: An Exploratory Analysis' 28 *Journal of Peace Research* (1991) pp.19-27:25.

delving into highly contentious and complex matters,[206] this might have contributed to the greater success of the mediation.

Lastly, it may be true that as Kabwegyere has argued, the approach to the mediation was simplistic.[207] By this criticism should be understood not just the conceptual approach, but the whole structural apparatus of the mediation. Conceptually, the conduct of the mediation was not particularly sophisticated. Because the *raison d'etre* of the whole exercise was seen as agreeing on, and signing (any) document, the complexity of the mediation process, and the multi-level character of the issues and process were not sufficiently taken on board, or at all. One of the criticisms levelled against the Agreement was that it was mainly concerned with perpetuating the regime in power in Uganda.[208] This is perhaps not surprising, given that the mediator was not only a neighbouring Head of State, who probably looked on the NRM as rebels, but was also heterogenous.[209] The Uganda mediation, and its outcome, might have been different had it been undertaken not by a lone heterogenous mediator, but by multiple mediators, at least one of whom was exogenous.[210] This idea is developed in the next chapter: but it needs noting here that as it was, the structural set up of the mediation, and the identity of the mediator probably created psychological barriers to recognising both parties as equal in the mediation, hence the perception about the Agreement noted above.

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206 See further, Chapter 8.

207 Kabwegyere, op.cit.

208 Mutibwa, P. *Uganda Since Independence* op.cit., p.174.

209 This concept is developed in the next chapter. Briefly, it means that he is exogenous because he is an outside party, but is at the same time endogenous because he is from the same conflict system, and is therefore directly affected by the conflict.

210 This idea is mooted in Chapter 1.

Chapter Eight

A Critical Analysis of the Uganda Mediation

Introduction

The analytical framework formulated for this study in Chapter One was based on the argument that in analysing conflict, more than just the process of mediation itself should be examined. It was posited that a proper analytical framework should also take into account the regional background of the conflict in question (Chapter Three); the institutional milieu within which the management of conflicts in the region takes place (Chapter Four); the historical background of the particular conflict (Chapter Five); its diplomatic context (Chapter Six), and its mediation context (Chapter Seven). It was suggested that only by having this background in mind can the nuances and interplay of different levels in the process of a particular mediation, and its complexity be understood and appreciated.

Chapter Seven carried a detailed account of the Uganda mediation, and considered its development from the pre-negotiation to the post-mediation stages. It was noted that although the Uganda mediation resulted in the signing of a Peace Agreement between the parties, it was abrogated within two months of its signature. That stage of the conflict ended effectively when the NRA seized Kampala, and Museveni was installed as President on 26 January 1986.[1]

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1 This study is concerned with the Uganda conflict until its management in the 1985 mediation. There were post-mediation conflicts because as Vayrynen notes, future conflicts are founded on new socio-economic transformations, and their management must wait for these to reveal themselves. See Vayrynen,R. 'To Settle or to Transform? Perspectives on the Resolution of National and   International

Several reasons were advanced for the brevity of the life of the Nairobi Peace Agreement. These include the problem of re-entry, poor choice of strategy on the part of the military government, and tactical failure especially to formalise a ceasefire to obtain during the mediation, and to take time, before engaging in negotiation of technical matters, to bridge the psychological gap that existed between the parties. It was also suggested that usage of a single track of diplomacy, and the identity of the mediator may have contributed significantly to the outcome.

This chapter will pull all those, and other threads together, in a critical assessment of the Uganda mediation. At the outset, a comment will be offered on mediation outcomes and on whether the Uganda mediation was a success or a failure. Such an assessment involves more than simplistic judgmentalism: for, although the sum of a particular mediation may be judged to be a failure, some of its parts may still contain positive elements. Thus, the contribution of a particular mediation to knowledge does not rest only on the positive judgment as to its outcome.[2]

Certain other matters will be analysed under three broad headings: the technical aspects of the Uganda mediation (the question of impartiality, the technical conduct of the mediation, and the ripeness of the conflict for mediation); the environmental factors influencing the mediation particularly as they concern the mediator, and the diplomacy of the Uganda mediation. This latter will consider whether the correct diplomatic track was used in the mediation, and what an alternative approach might have been.

Outcomes of Mediation

Conflicts' in Vayrynen,R.(Ed) *New Directions in Conflict Theory: Conflict Resolution and Conflict Transformation* (London: Sage Publications, 1991) pp.1-25:23.

2 This point is also made by Haas,R.N. *Conflicts Unending: The United States and Regional Disputes* (New Haven & London: Yale University Press, 1990) pp.18-27.

Bercovitch has identified three conceptual and methodological difficulties in the study of outcomes, which he argues is the most difficult part of the study of third party involvement in conflict. The first is the temporal problem of when intervention terminates, that is, at what time an examination of outcomes should commence. The second is the problem of the criteria used for determining outcomes, since conflict outcomes rarely manifest themselves in clear-cut phenomena. The third is the problem of the perception of outcomes, which arises because outcomes that appear satisfactory to one party may be perceived by the other as containing the seeds of future conflict: and outcomes that are considered useful at one moment may subsequently be perceived as less useful.[3] To these, Kriesberg adds the further difficulty that while the mediation may have been excellent, the background circumstances may have been unsuitable; and whereas the mediation may have been clumsy, the conflict may still have moved towards a solution, the moment being ripe for resolution.[4]

Bercovitch further identifies five outcomes that may be considered successful. These are stopping hostilities, abating, isolating, restraining or settling conflict.[5] More succinctly, Bercovitch *et al* have formulated a 'success index' for successful mediation. By this, mediation is fully successful when it is given credit for making a great difference to, or settling a dispute; it is partially successful when its efforts initiate negotiations and some dialogue between the parties; it achieves limited success when it attains only a ceasefire or a break in hostilities; and is

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3 Bercovitch,J. *Social Conflict and Third Parties: Strategies of Conflict Resolution* (Boulder,CO.: Westview Press, 1984) pp.112-113.

4 Kriesberg,L. 'Formal and Quasi-Mediators in International Disputes: An Exploratory Analysis' 28 *Journal of Peace Research* (1991) pp.19-27:20.

5 Bercovitch, J. *Social Conflicts and Third Parties* op.cit., p.114.

unsuccessful when it has no discernible impact on the conflict.[6]

Kriesberg offers a more parsimonious 'success index', namely that a successful outcome is one in which there is further movement in the course of a conflict, such that it moves from escalation to de-escalation; or where negotiations have moved towards an agreed upon settlement; or where a settlement contributes towards an enduring solution.[7]

To Burton, a successful outcome is one in which resolution, rather than mere settlement, is achieved. In this view, traditional modes of dispute settlement address negotiable interests, while conflict resolution involves shared values such as identity and recognition, which are not negotiable.[8] Conflict resolution assumes that "given a full understanding of the shared goals, and an appreciation of the environmental constraints, the...parties would...resolve their conflict."[9] While settlement involves power bargaining and is likely to be short lived,[10] resolution is based on the parties' analysis of the causes of their conflict, leading to resolution, which is positive for all, and hence more enduring.[11] Burton also refers to a 'special' meaning of settlement, where parties in power bargaining circumstances accept an agreement which does not satisfy

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6 Bercovitch, J., Anagnoson,J.T. & Wille,D. 'Some Conceptual Issues and Empirical Trends in the Study of Successful Mediation in International Relations' 28 *Journal of Peace Research* (1991) pp.7-17:9-10; see also Chapter 2.

7 Kriesberg, 'Formal and Quasi-Mediators in International Disputes' op.cit., p.19.

8 Burton,J.W. 'Conflict Resolution as a Political Philosophy' in Sandole,D.J.D. & van der Merwe,H.(Eds) *Conflict Resolution Theory and Practice: Integration and Application* (Manchester & New York: Manchester University Press, 1993) pp.55-64:55.

9 Burton,J.W. 'Unfinished Business in Conflict Resolution' in Burton,J.W. & Dukes,F.(Eds) *Conflict: Readings in Management and Resolution* (London: Macmillan, 1990) pp.328-335:329.

10 Burton,J.W. *Conflict: Resolution and Provention* (London: Macmillan, 1990) pp.188-193.

11 Ibid., p.196. See also Chapter 1.

expectations, demands, or the requirements of justice. Because such a settlement may be acceptable *in the circumstances*, the dispute could be said to be 'resolved'.[12]

The Outcome of the Uganda Mediation

In Burtonian terms, the Uganda conflict was settled, not resolved. This is not surprising since the mediation was undertaken within a power political framework. The three conceptual problems outlined by Bercovitch are manifest in the Uganda mediation, although in varying degrees. Thus, although an Agreement was signed on 17 December 1985, the temporal problem arose from the provision that there was to be third party presence to monitor its implementation, hence the involvement of the third party was to continue after the mediation was over. The second problem is less manifest, because the parties were fairly well agreed as to the outcome they wanted, namely an Agreement that laid out the future structure of peace in Uganda, within a power sharing framework. The problem of perception of the Agreement also arose, since although the parties were *ad idem* when they concluded the Peace Agreement, they (especially the NRM) came to view it later as an unsatisfactory basis on which to guarantee peace in Uganda.

Quite clearly, the Uganda mediation was not fully successful: because of the temporal problem, it cannot be said whether the mediation can be "given credit for making a great difference to, or settling the dispute".[13] It created a structure of settlement which was short lived. However, the mediation was not wholly unsuccessful, because it cannot be argued that it made no discernible impact on the conflict. Although the

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12 Burton,J.W. & Dukes,F. *Conflict: Practices in Management, Settlement and Resolution* (London: Macmillan, 1990) p.177. This idea of 'resolution' is akin to the layman's understanding of the term: see Chapter 1.

13 Bercovitch *et al*, 'Some Conceptual Issues and Empirical Trends in the Study of Successful Mediation' op.cit., p.9.

Agreement negotiated broke down soon after the mediation, nevertheless the parties had sat down and engaged in dialogue for four months. And although the ceasefire that the parties had agreed upon before the mediation broke down during the negotiations, the resumed hostilities can be seen as a tactic by the parties to enhance their bargaining position, and partly as a consequence of the technical conduct of the mediation. Additionally, whereas the perceptions of the parties as to the felicity of the outcome later diverged, there is no doubt that at the completion of the mediation, they shared broadly similar perceptions on the utility of the outcome.[14] The judgment on the Uganda mediation which is consistent with these considerations is therefore that it was partially successful. This conclusion is different from that commonly reached in the few writings on the Uganda peace process. The rare literature that even mentions the Uganda mediation does so *en passant*, and considers it a failure without presenting evidence.[15] These writings overlook the fact that

> "failure is not easy to identify in actuality.
> Failure is always relative, depending on the goal
> that was sought and not attained. Various parties
> to a fight have different objectives, and those
> objectives shift in the course of a conflict and
> its settlement."[16]

Technical Aspects of the Uganda Mediation

This section will analyse three main technical issues arising from the Uganda mediation. These are the question of impartiality (or lack of it) in mediation,

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14 See the speeches of Tito Okello and Yoweri Museveni at the signing ceremony of the Agreement. *The Kenya Times* 18 December 1985 pp.5-6, 21. This view is also subscribed to by some senior Ugandan officials interviewed by the author.

15 See for example, Nabudere,D.W. 'External and Internal Factors in Uganda's Continuing Crisis' in Hansen,H.B. & Twaddle,M.(Eds) *Uganda Now: Between Decay and Development* (London: James Currey, 1991) pp.299-312:311.

16 Kriesberg, 'Formal and Quasi-Mediators in International Disputes' op.cit., p.19.

the notion of ripe moments for mediation, and the technical approach to the mediation.

(Im)partiality and the Uganda Mediation

The theme that impartiality is not necessary for the success of international mediation has since Touval's article,[17] come to be taken as an important element in the analysis of mediation. In the power approach to mediation, all the parties are concerned with the pursuit of their own self interest, and hence the question is one not of whether a mediator is impartial, but of whether it can provide an outcome acceptable to all the parties and their constituencies.[18] Thus, the mediator need not be impartial since the relationships in the process are based on power, and delineated by the parties ability to bargain.[19]

In re-assessing the centrality of impartiality in international mediation however, three interconnected factors need to be taken into account. Firstly, the theoretical framework used is of the essence: if, as is the case with Touval, Zartman and others, the framework used is one of power politics, then the idea that impartiality is not necessary can be coherently defended. Secondly, the nature of case study used in arriving at that formulation requires closer attention. If the case studies used are based on secondary sources, then the analyst is necessarily limited in his theorising and generalisations. Hence, the results arrived at are affected by the questions posed, those raised, and those neglected, and by the assumptions made

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17 Touval, S. 'Biased Intermediaries: Theoretical and Historical Considerations' 1 *Jerusalem Journal of International Relations* (1975) pp.51-70. See further, Chapter 2.

18 Zartman,I.W. & Touval,S. 'International Mediation: Conflict Resolution and Power Politics' 41 *Journal of Social Issues* (1985) pp.27-45:37.

19 See for example, Bacharach,S.B. & Lawler,E.J. *Bargaining: Power, Tactics and Outcomes* (San Fransisco: Jossey Bass, 1981). See also Chapter 2.

about causation[20] by the earlier researcher.[21] Thirdly, at the heart of generalisations about impartiality should be the question about the type of mediator. Whether the mediator is exogenous, endogenous, or as is argued in this study, heterogenous,[22] is an important consideration in the whole issue of (im)partiality. Taken together, these factors suggest that impartiality is not so central to the success of international mediation. They also imply that where the mediator is not impartial, it could be for reasons different from those advanced by the power school of mediation.

Within a non-power political framework, the management process is informed by a different set of assumptions, especially the analytical thrust which makes power irrelevant.[23] In a non-power approach, mediation is non-coercive and non-decision-making. The third party's role is to promote communication between the parties,[24] and to help them analyse their relationship and so discover options for a re-perceived relationship.[25] It does not define the problem, or take normative positions:[26] it "is wholly supportive of all

20 Holsti,K.J. Peace and War: Armed Conflict and International Order, 1648-1989 (Cambridge: Cambridge   University Press, 1991) p.2.

21 See Chapter 1 for a discussion of this element.

22 See the following sections of this chapter, and Chapter 1 for a discussion of this classification.

23 See Burton,J.W. & Dukes,F. Conflict: Practices in Management, Settlement and Resolution op.cit., p.144.

24 See Burton,J.W. Conflict and Communication: The Use of Controlled Communication in International Relations (London: Macmillan, 1969).

25 Burton,J.W. Conflict: Resolution and Provention op.cit., pp.195-196.

26 For a third party to define the problem is implicitly to accept the power framework of one party. But it takes all parties to define a problem, since "The aim is to maximise goals not at   the expense of others but in the context of others." See Groom,A.J.R. 'No Compromise: Problem-solving in a Theoretical Perspective' 43 International Social Science Journal (1991) pp.77-86:83,85.

actors and adopts a no-fault, neutral position."[27] This
is unlike mediation within power politics, where the
mediator maintains his role and does not "allow the
parties to solve their own conflict themselves."[28]

Was Impartiality Expected in the Uganda Mediation?

In the Uganda conflict, the question of
impartiality was important in deciding the venue for the
mediation. But once that was decided, it became less
so. Thus, although Tito Okello and the military
government would have wanted the mediation to take place
in Dar-es-Salaam, the NRM rejected that venue (and
Nyerere as the mediator) because of past Tanzanian
involvement in the conflict. In their view, this
rendered Nyerere not impartial enough, and the venue not
sufficiently neutral, hence the NRM's decision not to
attend the abortive Dar-es-Salaam talks.[29] During the
early pre-negotiation stage, the Tito Okello government
felt itself sufficiently strong to try and impose a
mediator on the conflict. That mediator would in their
view, (given the past history of the conflict, and
especially Tanzanian involvement in the liberation and
after),[30] have lent his weight in their favour. This is
precisely the formulation that the NRM rejected.

Once a different venue was agreed on, the focus of
impartiality shifted since by then, the NRM felt itself
to be the stronger party. Having caused the mediation to
move from Dar-es-Salaam to Nairobi where the environment
was more conducive to it, the NRM was less interested in
the question of impartiality of the mediator.[31] On the

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27 Burton,J.W. *Conflict: Resolution and Provention* op.cit., p.204.

28 Touval,S. & Zartman,I.W. 'Introduction: Mediation in Theory'
in Touval,S. & Zartman,I.W.(Eds) *International Mediation in Theory and
Practice* (Boulder,CO.: Westview Press, 1985) pp.7-17:11.   Touval and
Zartman discuss mediation within a power political framework.

29 See Chapter 7.

30 See Chapter 6.

31 In an interview with Prof. T. Kabwegyere he argued that at this
stage, the NRM were not concerned so much with impartiality, as in
having the mediator endorse the justice of their position.

other hand, the Tito Okello regime - or some people in it - were convinced that because of the close relations Kenya and the second Obote regime had forged in the latter part of the conflict, Kenya was too self-interested to deliver any form of impartiality. Okello's regime was however under great military pressure from the NRM, and found no way out of agreeing to the venue. It insisted on bringing Nyerere into the peace process by holding consultations with him during the mediation. This suggests that it saw that role of Nyerere as protection against the mediator's supposed partiality.

Was Impartiality Delivered?

The mediator in the Uganda conflict does not fit into the typology of endogenous or exogenous,[32] since he displayed characteristics of both. He was exogenous because the conflict was in a different country from his own, and was in that sense an 'outsider'. But he also had endogenous attributes because although the conflict was in a territorially different state, it was one that affected relations within the whole region.[33] As Kenya was closely involved in the conflict in terms of territorial contiguity and shared ethnic groups,[34] it had more than passing endogenic characteristics vis-a-vis the Uganda conflict.[35] Hence, the mediator in the Uganda conflict was also an 'insider'. This type of mediator, who is both endogenous and exogenous, has been identified in this study as heterogenous. This notion possesses some elements of the idea of an 'insider

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32 See Bercovitch, J. *Social Conflict and Third Parties* op.cit., p.11. See also Chapter 1.

33 See Chapter 6.

34 See Chapter 3 for a discussion of these factors.

35 This broadens the definition of an exogenous mediator offered by Bercovitch,J. *Social Conflicts and Third Parties* op.cit., To him, endogenous conflict management is undertaken by the parties to a conflict when they negotiate bilaterally. But once the conflict is seen in wider terms, as a system that involves parties other than just the ones in violent conflict, then others (such as Kenya in the Uganda conflict) can be considered to have endogenic characteristics.

partial' as developed by Wehr and Lederach: that is a mediator

> "from within the conflict whose acceptability to the conflictants is rooted not on distance from the conflict or objectivity regarding the issues, but rather in connectedness...with the conflict parties. [This] comes partly from the fact that the mediators do not leave the post-negotiation situation. They are part of it and must live with the consequences of their work. They must continue to relate to the conflictants who have trusted their commitment to a just and durable settlement."[36]

This differs slightly from the idea of a heterogenous mediator in that the 'insider-partial' contemplates a mediator who is endogenous, and whose authority is based almost wholly on trust and a personal relationship with the parties.[37] But it captures nicely the notion of such a mediator being connected to the parties by more than just the conflict, as is the case with an exogenous mediator. In this respect, because he does not leave the post-negotiation situation, the insider-partial can engage in a 'continuous mediation'.[38]

Being so closely connected with the conflict, a heterogenous mediator cannot deliver impartiality. Unlike an exogenous mediator, whom the power school of mediation have in mind in rejecting impartiality as a requirement for successful mediation, the reasons why a heterogenous mediator (or, indeed, an endogenous one) cannot deliver impartiality are explicable not only by power or self-interest: they are also psychological. In the Uganda mediation, because of this psychological factor, the mediator could not be fully impartial, and therefore tended to lean towards the party it felt to

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36 Wehr,P. & Lederach,J.P. 'Mediating Conflict in Central America' 28 *Journal of Peace Research* (1991) pp.85-98:87.

37 Ibid., p.87.

38 See Chapter 2, especially Brouillet,A. 'Mediation as a Technique of Dispute Settlement: Appraisal and Prospects' in Thakur,R.(Ed) *International Conflict Resolution* (Boulder,CO.: Westview Press, 1988) pp.165-173:172.

have a stronger case on the various issues.[39] Thus quite clearly, depending on the theoretical perspective taken, the questions asked of the parties, and the nature of the mediator, there is sufficient basis to argue that mediator (im)partiality is related to factors beyond those of power and the mediation structure it contemplates.[40] It will be submitted in this chapter that the place of one of the other pillars of the power theories of mediation, namely leverage, can be similarly re-interpreted.

'Ripe Moment' and the Uganda Conflict

Chapter Two noted that the literature envisages the device of ripe moments, or windows of opportunity, by which a third party can gauge whether the time is ripe for mediation. A ripe moment exists when the parties to a conflict mutually decide that they cannot pursue their goals unilaterally at an acceptable price, and therefore become amenable to the search for a joint solution. Such a ripe moment is characterised by a mutually hurting stalemate, with a way out,[41] or a formula. The hurting stalemate begins when one side considers itself unable to resolve or win the conflict by itself, and it peaks when the other side arrives at the same conclusion. When the stalemate begins to hurt, and neither party can run away from it, there is a 'costly dead end', and

> "Each party must begin to feel uncomfortable with the costly dead end that it has reached. This plateau must be perceived by both sides not as a momentary resting ground, but as a flat, unpleasant terrain stretching into the future, providing no later possibilities for decisive escalation or graceful escape."[42]

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39 This insight is owed to Ambassador B.A. Kiplagat, and was communicated in an interview with the author.

40 See Chapter 1 and Chapter 2.

41 Zartman,I.W. 'Alternative Attempts at Crisis Management: Concepts and Processes' in Winham,G.R.(Ed) *New Issues in International Crisis Management* (Boulder, CO.: Westview Press, 1988) pp.199-223:213.

42 Zartman,I.W. & Touval,S. 'Mediation: The Role of Third-Party Diplomacy and Informal Peacemaking' in Brown,S.J. Schraub,K.M. (Eds) *Resolving Third World Conflict: Challenges for a New Era* (Washington:

Zartman has further introduced the notion of 'regime change', which is an apparently more elegant rendition of this trend of thinking. In Zartman's 'regime change' theory, conflict is seen as "an earthquake, a shifting of structures and relations that produces strains to the point where a specific restructuring is required."[43] Regimes are generally challenged continuously, and are reaffirmed when they overcome those confrontations successfully and reassert their structures. But,

> "at times the challenges accumulate and begin to represent growing structural shifts, new issues, or an exhaustion of old answers...Negotiation is necessary to create the replacement regime and have it accepted since there is no authority or decision rule in international relations to formalize a new order."[44]

Zartman argues ultimately that the method chosen for conflict management depends on how the conflict is perceived. If it is seen as a clash of wills, its management requires finding a formula that turns a zero-sum into a positive-sum conflict. If it is considered to be a confrontation of cost-benefit calculations, its management involves the creation of ripe moments. If the conflict is judged to be an event in a regime change, its management calls for easing the transition of regimes. Finally, if it is reckoned to be a mutual standoff, its management entails the use of power to reach a favourable outcome.[45]

These approaches are somewhat problematic when tested against the Uganda mediation. Although the ideas

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United States Institute of Peace, 1992) pp.241-261:251.

43 Zartman,I.W. 'Conflict and Resolution: Contest, Cost, and Change' in Zartman,I.W.(Ed) *Resolving Regional Conflicts: International Perspectives* (Newbury Park: Sage Publications, 1991) pp.11-22:18.

44 Ibid., p.19. The Zimbabwe conflict is given as an illustration of this: there was a change from the old colonial (Rhodesian) regime to a new one, represented by an independent Zimbabwe. The transition was effected through the Lancaster House negotiations.

45 Zartman, 'Conflict and Resolution: Contest, Cost, and Change' op.cit., p.21.

can be made to fit into the Uganda mediation, the fit is rather loose. This suggests that the notion of ripe moments (and indeed that of hurting stalemate) needs to be treated carefully. Further, the ripe moment contemplated by Zartman is evidenced only through a presumably protracted conflict, whereas the hurting stalemate is largely military. Thus, if Zartman's formulation is adopted, it would be difficult to explain why the Uganda mediation was at best only partially successful. The rest of this section will examine these issues in greater detail.

The Uganda Mediation: Contest, Cost, and Change

In positing that the way in which a conflict is perceived can determine its method of management, Zartman has made a useful contribution. However as the Uganda conflict demonstrates, it is one which is not always applicable in complex situations. Zartman does not elucidate whether the operative perception of the conflict is that of the mediator, or of the parties. Therefore, his formulation does not explain satisfactorily what would happen in a complex situation, where the perception of each conflictant is different from that of the mediator, and where the perception of the parties *inter se* differs. Such situations render his general formulation inadequate as a basis from which to proceed.

In the Uganda conflict the mediator and the parties looked at the conflict through different conceptual lenses. There could therefore have been little agreement as to the approach to be adopted, contrary to Zartman's formulation. Some in Tito Okello's government like Basilio Okello, saw the conflict as a clash of wills, as did Museveni to a lesser extent.[46] Others, especially those who had a personal stake in Tito Okello's survival,[47] perceived it in terms of a cost-benefit

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46 See Chapter 6.

47 See Chapter 5 for details.

calculation. In contrast, the NRM considered the conflict (and the mediation) in terms of a regime change. This is clearly evident from the positions it adopted during the mediation, and in the statements it made during the pre-negotiation stages and after.[48] Finally, the mediator viewed the conflict as a mutual stand-off between the military government and the NRM. Hence his adoption of a Realist strategy which as was argued in Chapter Seven, was also simplistic in that it saw *any* peace treaty as a sufficient solution.[49]

Consequently, because the differing perceptions of the parties and the mediator rendered the conflict more complex, it would have been difficult to choose one amongst the strategies suggested by Zartman. A more useful approach would have been as Mitchell has argued, to search for areas of asymmetry between the parties. Having identified them, an approach to the management of the conflict that took these into account could have been devised.[50]

Ripe Moments and the Uganda Mediation

The ripe moment for the mediation of the Uganda conflict was considered to be the period following the coup in July 1985. Upon a cursory examination, that period provided all the ingredients of a militarily hurting stalemate, and hence, the moment was thought to be ripe for mediation. There was also a formula, namely the power sharing framework that was finally negotiated, which can be seen as an attempt to ease a regime change in Uganda. But upon closer analysis, this neat package contains fool's gold. The stalemate that existed was

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48 See Chapters 6 and 7.

49 It was not the Realist strategy *per se* that was simplistic, but his application of it. That even a Realist strategy can be a highly complex undertaking is evident in Pillar,P.R. *Negotiating Peace: War Termination as a Bargaining Process* (Princeton: Princeton University Press, 1983).

50 Mitchell,C.R. 'Classifying Conflicts: Asymmetry and Resolution' in Zartman,I.W.(Ed) *Resolving Regional Conflicts: International Perspectives* op.cit., pp.23-38. The question of asymmetry in the Uganda conflict is discussed later in this chapter.

one which had developed during the 1980-85 civil war. The parties between whom it had developed were the NRA and the second Obote government. No stalemate had yet developed between the NRA and the Okello regime. Had the Obote regime survived, there would have been a hurting stalemate, which might have created a ripe moment for negotiation. Moreover, the regime that was changing was the Obote, rather than the Tito Okello one. Although the Okello government proclaimed itself as a new regime, its composition and indeed the entire civil service structure, was that of the predecessor regime.[51] This created a perceptual problem. While the Okello government proceeded to the mediation on the basis that the aim was to absorb the NRM into that structure, the NRM participated in the negotiations in order to facilitate a transition from one regime (Obote) to another (NRM) one. Thus, applying Zartman's notion of ripe moments and a hurting stalemate to this conflict suggests that their formulation, as it stands, can be misleading.

A further problem is that the literature seems to suggest that Zartman-type hurting stalemates are primarily discernible militarily. However, a military stalemate is only one of the ingredients of a stalemate. There should also be an economic, social, ideological and diplomatic hurting stalemate. In the Uganda conflict, the military stalemate that was developing when Obote was overthrown was also accompanied by a social, diplomatic and ideological stalemate. Neither party could explain its position in the conflict fully to the outside world. Particularly, Obote's earlier ability to do that had dissolved in the negative publicity that his government had attracted over human

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51 As Ralph Ocan pointed out to the author in an interview, those officials who ran into hiding during the July coup were invited back by the Okello government to continue with their duties: the Okello government was therefore not concerned with creating new structures, or even a new philosophy, but continued with the old.

rights abuses,[52] and in the perception internationally
that he was not equal to the task of leading Uganda.[53]
Although Tito Okello's government had the chance to
explain itself internationally and thus counter the
NRM's stronger ideological and diplomatic basis,[54] Tito
Okello's personal inability to articulate the policies
of his government[55] made this difficult.

Enlarging the Notion of Ripe Moment in Internal Conflict

The period after the July 1985 coup was a false
ripe moment for the mediation of the Uganda conflict,
and this best explains the short life of the Nairobi
Peace Agreement. There are many reasons that can be
adduced to explain the failure of Peace Agreements.
Writing about Peace Agreements in international
conflict, Pillar observes that

> "Most provisions of a peace agreement other than
> the ceasefire itself cannot be implemented
> immediately. Given the usual level of distrust
> between two warring states, there may be
> considerable doubt as to whether they will be
> implemented at all. Therefore, governments
> negotiating a peace agreement usually try to assure
> that they will have sanctions to impose on the
> adversary if he does not keep his part of the
> bargain...The greatest sanction is to start a new
> war."[56]

52 See Furley,O. 'Britain From Amin to Museveni: Blind Eye
Diplomacy' in Rupesinghe,K.(Ed) *Conflict Resolution in Uganda* (London
& Athens,OH.: James Currey & Ohio University Press, 1989) pp.275-294;
also, Amnesty International, *Uganda: Evidence of Torture* (London: Doc:
AFR 59/06/85).

53 See chapter 5 and 6; also Sathyamurthy,T.V. 'Uganda's Political
System, 1962-1990: The Balance Between External and Internal
Influences' in Oyugi,W.O.(Ed) *Politics and Administration in East
Africa* (Nairobi: Konrad Adeneur Foundation, 1992) pp.503-536.

54 For example through the appointment of people like Olara-
Otunnu, who was then Uganda's Permanent Representative to the United
Nations in New York, but who had not lived in Uganda during the Obote
excesses.

55 Ocan, op.cit., Kabwegyere, op.cit., and Kiplagat op.cit., all
note this inability of Tito Okello to articulate his cause. See also
Chapter 6.

56 Pillar,P.R. *Negotiating Peace: War Termination as a Bargaining
Process* op.cit., p.231.

This is true, and can also be used to explain the failure of the Nairobi Peace Agreement to endure. But Pillar's formulation is meritorious only when the conflict was mediated, or otherwise managed within the framework of ripe moments as set out by Zartman. In the conditions of some internal conflicts,[57] the 'true' ripe moments are likely to appear long before those postulated by Zartman, which are evidenced by war between the parties. The Uganda conflict illustrates this submission.

During the Uganda conflict, diverse groups which were opposed to the Amin regime met in Moshi in March 1979,[58] at the behest of President Nyerere, who wanted to remove Amin from power as the logical conclusion to the Tanzania-Uganda war, which Tanzania was winning decisively.[59] However, Nyerere did not want to be seen as being responsible for the removal of another head of state, and therefore wanted Ugandan opposition groups in exile to be at the forefront of that process.[60] These groups therefore met in Moshi, and drew up a framework for the government of Uganda after Amin.[61] This structure was in place for barely a year, during which, as the overthrow of the Lule and Binaisa administrations discussed in Chapter Five show, the mechanisms of its functioning were severely tested. The Moshi arrangements failed *inter alia*[62] because there was no 'disinterested' third party to help these diverse groups

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57 Such as in Uganda, and later in Ethiopia: these are discussed later in this chapter.

58 See Chapters 5 and 6 for details of the Moshi Conference.

59 Arend,A.C. & Beck,R.J. *International Law and the Use of Force: Beyond the UN Charter Paradigm* (London & New York: Routledge, 1993) pp.123-124.

60 This information was conveyed to the author by a senior Tanzanian diplomat in an interview, Paris, 23 December 1993.

61 These are discussed in detail in Chapter 5.

62 Other reasons for the failure of the Moshi Arrangements are discussed in Chapter 5.

work out lasting arrangements that would take into account their manifold differences. Such a third party would also have helped to initiate and formulate ideas on important aspects such as the basis of constitutional authority,[63] which would have avoided the eventual collapse of the Moshi arrangements.[64]

Moshi would have been the ripe moment for some form of third party involvement.[65] At Moshi, the parties involved were preoccupied with working out the basis of the post-Amin government of Uganda. Because there was little doubt that Amin would be overthrown, they had the opportunity of creating a structure for peace from a clean slate. Indeed, because Amin's falling government was not involved in this Conference, the participants were not burdened by the need to accommodate a regime that was internationally abhorred. There was also considerable unity amongst those groups in Moshi, even though being based on euphoria, it later disintegrated. During the Moshi Conference it was recognised that any future structure for peace in Uganda could not be created by the participants individually, but had to be a consensual effort. Moshi was a unique moment in the whole history of the Uganda conflict, and one truly ripe for third party involvement.

Had a third party been involved at Moshi, the question of the identity of such a third party, and the role it would have played, would have arisen. Tanzanian reluctance to be engaged in the discussions at Moshi indicated that such a party could not have been a state,

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63 This can be contrasted with the Lancaster House negotiations on Rhodesia, where the question of the constitution was seen by the mediator as a primary issue to be resolved. See Lord Carrington, *Reflect on Things Past: The Memoirs of Lord Carrington* (Glasgow: Fontana, 1989) Chapter 13.

64 Prof. Kabwegyere was the Chairman at Moshi, but being Ugandan, and an interested party (i.e. endogenous), he could not effectively have played such a third party role.

65 The pre-Moshi Conference in January 1979 (See Chapter 5) could also have been. However, too few parties in the conflict were represented then for any arrangements to be discussed meaningfully. But a third party could have helped formulate an agenda for the conference proper.

which would have been hampered by the OAU principle forbidding interference in the internal affairs of states.[66] In those circumstances, track one participation at Moshi would not have worked. Track two diplomacy might have worked at Moshi. It would have enjoyed the merit of not being hampered by OAU official doctrine about non-interference in the internal affairs of states.[67] However, in the Moshi situation, track two diplomacy might have encountered problems convincing the participants about the need for its involvement at that stage of the conflict.[68] Besides, track two diplomacy may have lacked the authority and the standing to make a cogent case for participation.[69]

These reservations may not have been sufficient to condemn track two diplomacy had it been tried in Moshi. Because one of the greatest complaints of post-Amin governments in Uganda has been that the OAU kept silent during the Amin years,[70] it is possible that a track two framework, based on the participation of both endogenous

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66 See Chapter 4 for a discussion of this OAU principle.

67 See Chapter 2; also, Burton,J.W & Dukes,F. *Conflict: Practices in Management, Settlement and Resolution* (London: Macmillan, 1990) p.139, who argue that one of the merits of track two diplomacy is that people engaged in it are not constrained by official ties: see for example the World Council of Churches mediation in the Sudan civil war, discussed in Chapter 4: see in this respect, Assefa,H. *Mediation in Civil Wars-Approaches and Strategies: The Sudan Conflict* (Boulder,CO.: Westview Press, 1987); also, 'World Council of Churches Mediation in the Sudan Civil War' in Mitchell,C.R. & Webb,K.(Eds) *New Approches to International Mediation* (Westport,CT.: Greenwood Press, 1988) pp.147-167.

68 As Kabwegyere op.cit. noted, they would have had "no business involving themselves in a Ugandan affair." But this knee-jerk reaction does not necessarily represent the reactions of the Conference had such a suggestion been mooted.

69 These arguments are for example also also relevant to the 1994 conflict in Rwanda.

70 See Chapter 6.

and exogenous actors,[71] might have been able to make the kind of *entre* that track one was unable to make.

The role of track two at that stage of the conflict need not have been an ambitious one. It would have been restricted to suggesting ideas and formulae for the future constitutional basis of leadership in Uganda. It could also have helped identify the different levels of the conflict, and the complexities of their interconnections. It would thus have enabled the parties at Moshi to see the conflict from a larger perspective, and hence define their problem more clearly. More importantly, it would have carved a future role for itself in the conflict. This would have entailed undertaking supportive (consultative) efforts in implementing the arrangements reached, once the parties went back and became involved themselves in the business of governing.[72] Had such a supportive role in the form of a 'continuing mediation'[73] been available, it is possible that the conflict would not have developed in the ways that it did after the liberation.

The ripe moments being suggested for internal conflict are evident before a conflict changes its character, and develops into a full scale armed conflict. As with all ripe moments however, it is difficult to tell when precisely they are manifested.[74] In the Uganda conflict, it would have been difficult to

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71 As is clear for example from the views of Ambassador Tomusange as expressed to the author in an interview on 7 May 1993, there would need to be some Africans in a mixed group, including exogenous actors. Mazrui's suggestion of eminent African persons including community leaders, women and clergy (see Mazrui,A.A. 'Managing Conflicts from Within: An African Agenda' (Paper presented at the OAU Workshop on *The OAU and Conflict Management in Africa*, Addis Ababa, 19-22 May 1993.) is one idea for the endogenous and heterogenous component. People with 'influence' as discussed in Chapter 9 are an example of the exogenous component of dual track conflict management.

72 This is a relevant component of the role of track two diplomacy of giving early warning, as suggested in Chapter 9.

73 Of the sort mentioned by Brouillet, 'Mediation as a Technique of Dispute Settlement' op.cit.

74 See Chapter 2. Although this difficulty might be a problem for the conflict *manager*, there is no such problem for the conflict *analyst*.

tell accurately when the Amin regime was finally in the last stages of collapse. But as Ott argues,

> "conflicts do not remain completely static over any substantial length of time. While few are amenable to mediation at any given point, it seems reasonable that at some time in their life history many protracted conflicts will be susceptible to intervention by a third party. The task of statesmanship will be to remain alert to such moments and exploit them. With proper timing, the mediator may provide the critical impetus to a settlement."[75]

This difficulty in determining precisely when such a ripe moment exists in internal conflict may have been partly responsible for the failure of Jimmy Carter's mediation efforts in the Eritrean conflict. The Eritrean conflict at that stage resembled in many respects the Ugandan conflict in 1979. In both, the governments in power were falling, and were not expected to last long. In both, the parties wanted to meet and formulate an agenda for the structure of peace after the incumbent regimes fell. In the Eritrean conflict however, the Carter involvement included the Mengitsu government in the deliberations and not surprisingly, his efforts to mediate failed. He had identified the ripe moment to intervene in that type of conflict, but purported to play a role which was wrong for the prevailing circumstances. This is a further explanation for Carter's failure, to that offered by Ottaway, who argues that the effort failed because the conflict was transitional.[76] The following section argues that the notion of a transitional conflict may also be used to explain why the Uganda mediation was only partially successful.

The Uganda Conflict as Transitional

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75 Ott,M. 'Mediation as a Method of Conflict Resolution: Two Cases' 26 *International Organization* (1972) pp.595-618:618.

76 Ottaway,M. 'Mediation in a Transitional Conflict: Eritrea' in Zartman,I.W.(Ed) *Resolving Regional Conflicts: International Perspectives* op.cit., pp.69-81:78.

A transitional conflict "is by definition not stalemated. What makes it transitional is precisely the fact that new elements have been added and thus the balance of forces among the parties has been altered."[77] In a transitional conflict, prevailing conditions make negotiations unfavourable, and a clear-cut victory is not possible because the goals of the parties are in a state of flux.[78] In a transitional conflict, conditions like a hurting stalemate are absent. Thus, third party involvement in the conflict at that stage can either be seen as coming too early (i.e. before the 'new' conflict has defined itself), or too late (i.e. long after the ripe moment in the old conflict has come and gone).[79] This concept can be used to explain the Uganda conflict, and its partially successful outcome.

In the Uganda conflict, the NRA had since 1980 waged a civil war against the Obote regime, following the rigged elections of that year.[80] Although in the earlier stages some other groups, such as the Uganda Freedom Movement (UFM) and the Federal Democratic Movement (FEDEMU) had taken part in the war against Obote's government, by 1985 the NRA was the pre-eminent fighting group, and was more or less singlehandedly spearheading the war.[81] By the 1985 coup, the NRA and the Obote forces were heading towards a stalemate. But the coup arrested this process. Until the coup, the war and the issues to be settled were bilateral between the Obote government and the NRA. Following the coup, the military government professed to have broken from the Obote regime which it had overthrown. Moreover, the

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77 Ibid., p.80.

78 Ibid.

79 Ibid., p.70.

80 For a comment on the 1980 elections, see Chan,S. *The Commonwealth in World Politics* (London: Lester Crook Academic Publishing, 1988) pp.51-52.

81 See Chapter 7.

fighting forces which had until the coup been virtually moribund reappeared, and laid some claim for reward for participating in the war against Obote. Thus following the coup the conflict map changed somewhat. Since these other players now re-entered the picture, the conflict required to be managed multilaterally, to take their interests into account.[82]

By the start of the mediation just one month after the coup, the conflict was in a state of transition. The old bilateral conflict between the NRA and the Obote government had been overtaken by events (the coup), and thus any earlier ripe moment for its mediation was no longer operative. The conflict also became multilateral, and because this was a new development, its parameters were still unfolding. Indeed, the military government was undecided on whether it should adopt a bilateral or multilateral approach to ending the conflict.[83] In August 1985 when the mediation began, the conflict was still in a state of transition, and this reduced the chances for a fully successful mediation.

One of the problems that further confused the whole mediation was the perception of the parties about the transitional conflict. The NRM asserted that there was no difference between the Tito Okello government and the Obote regime which it had fought over the years. It also argued that the other fighting groups had no stake in any negotiations on a structure of peace, since they had not contributed to Obote's downfall. In the NRM's perception, the old bilateral structure had not changed by virtue only of the coup. The military government on the other hand considered that the structure of the conflict had been changed by the coup and by the entry

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82 See Chapter 7 where it is argued that one reason why the Uganda mediation was only partially successful was because a bilateral approach was adopted in a conflict that required a multilateral solution.

83 It tried to form a broad based government by co-opting the other political parties and fighting groups, while at the same time laying the groundwork for bilateral negotiations between it and the NRA/M.

of the other fighting groups into the equation. To them, the negotiations were a basis for easing the process of transition, hence their talk about building a broad based coalition.

The mediation itself came too late to find a solution to the old conflict, and too early to address effectively the issues of the new one, which was still developing. It was not fully successful because *inter alia*, this conceptual problem was not addressed at the outset. Consequently, most of the mediation revolved around the old bilateral conflict, and failed to address the emerging issues of the new, multilateral one. Not surprisingly, the military government could not sell the agreement to its multilateral partners who declined to be disarmed. This pushed the solution of the conflict eventually to the military track.[84]

The Technical Conduct of the Mediation

It was argued earlier that the positive, or negative judgment about the sum of a particular mediation is not the only delineation of its usefulness. Whatever the judgment might be, the contribution of a completed mediation to knowledge can lie as much in the things that were done properly, as in those that were not. The former permits comparisons with other mediations, and the latter can suggest pitfalls to be avoided in similar cases.[85] Both can form equally validly the basis for formulating future research programmes.

In that spirit, this section will examine some of the technicalities of the mediation stage that had an

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84 The continuing tension in the Uganda mediation between the political and military track is discussed in Chapter 7.

85 A comparison between the Uganda mediation and the current mediation of the Sudanese conflict, both undertaken by the same mediator, would for example be a very valuable exercise. Some officials participating in the current Sudan mediation (such as Ambassador Philip Mwanzia, in a communication with the author dated 10 October 1994; and Mr.M.Kahende in a communication with the author dated 18 November 1994), argue (wrongly) that there is little to compare between the two conflicts. That such a strong idiosyncratic view exists only underlines the need for more and more comparative studies to be undertaken, as was suggested in Chapter 1.

important bearing on the outcome of the Uganda mediation. The focus will be from the perspective of the mediator, and the approach he took to some of the problems that arose during the mediation. In this regard, the question of leverage and its relationship to the mediation will be analysed, as will the threats issued by the mediator and their impact on the process of the Uganda mediation. The important issue of the psychological barriers between the parties and the mediator's response to them will be commented upon. It will be suggested that in technical terms at least, the Uganda mediation can be summarised as a case of the 'missing' mediator.

The Influence of Leverage: Active and Passive Mediation

The language of 'leverage' is the language of the power theories of mediation. In them, power in mediation is often referred to as leverage.[86] There are four sources of leverage in mediation: the ability to portray an alternative future as better than the continuing conflict; the ability to produce an attractive position from each party's needs; the availability of resources that the mediator commands, and the availability of resources that the mediator can add to the outcome.[87] The whole essence of leverage "is to worsen the dilemma of the parties that are rejecting mediation and to keep them in search of a solution."[88] Because the mediator also has interests in the mediation which he would like to protect,[89] leverage is also used to ensure that those mediator concerns are realised as much as possible. But not all leverage can guarantee these results, and some of its forms, such as economic leverage can, because of intertwined international economic relationships, fail

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86 Zartman & Touval, 'Mediation: The Role of Third-Party Diplomacy and Informal Peacemaking' op.cit., p.254.

87 Ibid.

88 Ibid., p.255.

89 See chapter 6 on the mediator's interests in the Uganda conflict.

to induce the required response. Indeed they can produce perverse results, and thus be counterproductive.[90]

The Uganda mediation suggests that leverage can be conceived as a tool in the hands of the mediator, who wields it depending on whether he chooses to be an active or a passive mediator. Whether or not a mediator adopts an active or a passive role is different from describing him as 'powerful' or 'powerless'. These latter characterisations depend largely on the negotiating environment, and on whether the parties perceive the mediator in those terms. The former depend on the mediator, and on whether he chooses activity or passivity from the repertoire of strategies open to him, and depending on the interests he wants to protect.[91]

The mediator in the Uganda conflict had limited sources of leverage. While he could persuade the parties that their proper future lay in a negotiated settlement (which he did, by addressing not only the parties, but their constituencies and his own in many public statements), he could not effectively 'worsen the dilemma' of a recalcitrant party. This was not a failure on the mediator's part, nor indeed solely a matter of limited sources of leverage. Kenya's, and President Moi's own interests in the mediation lay in creating a structure for peace in Uganda that would maintain the primacy of Kenya's interests. And Moi's personal interests would be served by his being acclaimed as the broker of the peace in Uganda.[92] The realisation of these interests lay in an outcome in which *both* conflictants participated without coercion, and the

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90 Hormats,R.D. 'The Politics and Limitations of Economic Leverage' in Kipper,J. & Saunders,H.H.(Eds) *The Middle East in Global Perspective* (Boulder, CO. & Oxford: Westview Press, 1991) pp.233-253:233.

91 See Mitchell,C.R. 'The Motives for Mediation' in Mitchell,C.R. & Webb,K.(Eds) *New Approaches to International Mediation* op.cit., pp.29-51.

92 See Chapter 6 for a discussion of these aspects.

Nairobi Agreement reflects this concern. Within that structure, the mediator could not worsen the dilemma of one party alone, since any such attempt would have had to apply to both parties simultaneously. In that situation, any action against either conflictant would automatically have hurt the other equally. This would have threatened Kenya's post-mediation relationship with whichever government came to power in Uganda.[93] As will be argued later, although there could have been the possibility of applying leverage on the military government, the bureaucratic politics of Kenya made this difficult for Moi to do. Also, the Ugandan economy was near collapse, and its institutions had broken down. The concern of the Ugandans was with the basics of life, which they were fulfilling locally rather than in the international market place. In this view, leverage would not have worsened Uganda's dilemma.[94] These are two contexts in which the mediator's threats can be seen.

Because of these limitations on the mediator's use of some important sources of leverage, he resorted to a passive strategy in mediating the Uganda conflict. This choice of strategy can be contrasted to President Carter's strategy in the Camp David Negotiations.[95] In that mediation, Carter was able effectively to use leverage on both parties but without the severe limitations on his ability to do so that faced Moi in the Uganda mediation. Thus, Carter was able to choose an active strategy as the one best suited to ensure United States' interests in the Middle East, and his own

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93 As Zartman and Touval note, the mediator is also motivated by his own position in the area, and therefore seeks "to maintain close ties with one side while improving ties with the other." See Zartman,I.W. & Touval,S. 'Conclusion: Mediation in Theory and Practice' in Touval,S. & Zartman,I.W.(Eds) *International Mediation in Theory and Practice* (Boulder,CO.: Westview Press, 1985) pp.251-268:257.

94 This felicitous argument was communicated to the author by Mr. Stephen Loyatum (formerly Head of the Africa and OAU Division, Ministry of Foreign Affairs, Kenya), in an interview with the author on 30 September 1994.

95 On which see Bercovitch,J. 'A Case Study of Mediation as a Method of International Conflict Resolution: The Camp David Experience' 12 *Review of International Studies* (1986) pp.43-65.

personal preoccupations (especially with his reputation, on which he had staked the success of the mediation).

Deadlines and the Mediator's Threats

It has been suggested above that applying leverage on the parties jointly would have threatened interests that the mediator wanted to preserve. Because the mediator's environment militated against his application of leverage on either party individually, he resorted to the use of threats. In this view, the threats were intended to have an effect similar to that of leverage. However, there is another more traditional perception of the role of threats in mediation: their use as a shock device to break a deadlock, and to instill a sense of urgency on the parties. In either case, the threat is only as effective as the parties' perception of its seriousness. Only if they take it seriously can the threat galvanise them into action.[96] This section is concerned with this technical aspect of the use of threats.

The Uganda mediation dragged on for four months, during which the parties - especially the government delegation - requested numerous adjournments to facilitate consultations with higher authorities. Indeed, more time was spent in adjournments during the four months of the mediation stage than on actual around the table negotiations.[97] In the course of the mediation, the mediator issued two threats. The first was issued on 20 October 1985, when the third adjournment had lasted so long that there was speculation on whether the mediation had broken down. The second was issued on 2 December, after the negotiations had been concluded, and after the signing ceremony had been postponed several times by the non-

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96 This is comparable to the related notion of deadlines, which Zartman and Berman see as "the commonest way of formalising time costs and of providing an external constraint". See Zartman,I.W & Berman,M.R. *The Practical Negotiator* (New Haven & London: Yale University Press, 1982) pp.191-192.

97 This statement is made without prejudice to the view that even adjournments can be considered as an integral part of the negotiations.

attendance of the military government's delegation.[98] The first threat was accompanied by a deadline, but had loose objectives since it only required the parties to 'make progress' at the forthcoming fourth phase, failing which the mediator would withdraw from the process.[99] The second threat also had a deadline, whose essence was that unless the parties signed the Agreement by the third of December, they could go back to Uganda and fight it out.[100]

The first threat seemed to have the desired effect, since the parties resumed negotiations, and indeed made substantial progress during the subsequent phase. This may also have been because the parties experienced a military deadlock at about that time, even though this was not quite a hurting stalemate. The second threat had little effect on the parties since even after its deadline, the signing was postponed several times until it was eventually signed on 17th December. Two examples demonstrate that the second deadline had little effect. Firstly, Museveni's response to the threat was to argue that the mediator was not being forced to play that role, and that the Ugandan parties could as well go back and settle their problems in Uganda.[101] Secondly, the threat did not stop the military government re-opening issues, since it proceeded to give conditions which it insisted the NRM had to fulfil before the signing could take place. Indeed, a special session was convened on 13 December to discusss these concerns of the military government. These developments lead to the conclusion that by December, the parties considered the role of the mediator to be complete, and therefore the threat had no effect. The mediator's passive role may by then have suggested to the parties that the threat could not be

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98 See Chapter 7 for the details.

99 See *The Weekly Review* 25 October 1985 p.9.

100 See *The Weekly Review*, 6 December 1985 p.10.

101 Ibid., p.11.

backed effectively, and hence that they could ignore it safely.

This use of mediator threats in the Uganda mediation can again be compared and contrasted with their use during the Camp David mediation. One big difference was that the Camp David negotiations were set to last for thirteen days, whereas the Uganda mediation was more open ended, and in the event lasted for four months. Because there was a time limit to the Camp David negotiations, the threat issued by Carter (that he would withdraw unless the parties reached an agreement the following day[102]) was effective not because the process was taking too long, but because the time limit was expiring. In Camp David the mediator adopted an active strategy because he had leverage, and therefore his threat was taken seriously, and worked. In the Uganda mediation, the mediator was passive because he could not exercise serious leverage,[103] and therefore the success of the first threat was qualified, and the second had little or no effect. The lesson to be derived from this is that where a mediation is open ended in terms of time limit, a mediator's threat is less likely to be effective than where the duration of the mediation is limited. Also, although the threat itself should be accompanied by a time limit, its effect on the parties depends on whether or not they consider the mediator to have sufficient power to back the threat with positive action.

Psychological Barriers Between the Parties

As was suggested in the last Chapter, the fact that the psychological barriers separating the parties at the beginning of the mediation were still present - and probably more pronounced - at the end of it contributed

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102 Bercovitch, 'A Case Study of Mediation as a Method of International Conflict Resolution' op cit pp.57-58.

103 According to a participant in the mediation, the mediator did not even threaten to apply any leverage at any time during the mediation. This information was communicated to the author in a letter dated 18 November 1994.

to the breakdown of the Nairobi Peace Agreement. Consequently, during the post-negotiation stage, neither party was convinced of the good faith of the other. This can be attributed largely to the failure of the process to give the parties room to explore their differences and overcome these barriers. The failure of this to happen illustrates the view that the inability to leave attitudes altered is one of the fundamental weaknesses of conventional mediation.[104] There was clearly a need for the parties in the Uganda mediation to go through a process of 'confirming': that is, a dialogue between them that would have led to an acceptance of each others' fundamental values and self-worth.[105]

There are two ways by which the process of changing parties' perceptions about each other can be effected. One entails initially going through a process of interactive problem-solving, or something in the nature of what Montville calls a 'walk through history'. The purpose is to "elicit specific grievances and wounds of the groups...in conflict which have not been acknowledged by the side responsible for inflicting them".[106] In essence, this calls for the transformation of victimhood psychology through interaction between the parties, thereby shaping a new political and social contract between previous enemies.[107] This process can take place prior to the mediation, and is geared to

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104 See Mitchell,C.R. *The Structure of International Conflict* (London: Macmillan, 1981) pp.312-313.

105 See Montville,J.V. 'The Healing Function in Political Conflict Resolution' in Sandole,D.J.D. & van der Merwe,H.(Eds) *Conflict Resolution Theory and Practice: Integration and Application* (Manchester & New York: Manchester University Press, 1993) pp.112-127:115. This is an idea that Montiville had developed earlier: see Montville, 'The Arrow and the Olive Branch: The Case for Track Two Diplomacy' in McDonald,J.W. & Bendahmane,D.B.(Eds) *Conflict Resolution: Track Two Diplomacy* (Washington: Foreign Service Institute, 1987) pp.5-20.

106 Montville, 'The Healing Function of Political Conflict Resolution' op.cit., p.115.

107 Ibid., p.120.

overcoming psychological barriers. It is not aimed at resolving the conflict, since

> "[a] settlement must ultimately take place at the political level, through political and diplomatic processes. But to the extent that such barriers can be overcome, new possibilities may be created for negotiations on the basis of objective conditions and current interests. As long as these barriers persist, the parties are locked into rigid assumptions and postures rooted in past history."[108]

This approach is not always feasible because to be effective, it needs to have taken place prior to the negotiations, yet often the parties wish to go to mediation immediately. It also has the drawback that the increased communication it contemplates may serve to increase the areas of disagreement rather than reduce them.[109]

The alternative approach accomodates such a process within the context of the mediation itself, or at least runs contemporaneously with it. This is the process of what Saunders has termed 'squaring the circle'.[110] It involves balancing the conflicting needs to concentrate on the (technical) negotiation process and get results from it, and the need to take into consideration the wider political and psychological factors. As Saunders notes, a process that concentrates exclusively on negotiations risks two dangers. It runs the risk of becoming so absorbed in the technical aspects of negotiation, that the impression is given that the ultimate purpose of creating a new relationship is being ignored. Secondly, concentrating on the mediation process requires the parties to have a clear picture of

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108 Kelman,H.C. 'Interactive Problem-Solving: A Social-Psychological Approach to Conflict Resolution' in Burton,J. & Dukes,F.(Eds) *Conflict: Readings in Management and Resolution* (London: Macmillan, 1990) pp.199-215:203.

109 Bercovitch, 'A Case Study of Mediation as a Method of International Conflict Resolution' op.cit., pp.44-45.

110 Saunders,H.H. 'A Broader Peace Process for the Middle East' in Kipper,J. & Saunders,H.H.(Eds) *The Middle East in Global Perspective* op.cit., pp.300-341:303-304.

their destination without "shaping political debate to change perceptions in important constituencies and to build support for that picture."[111] Thus, effective mediation requires not only that the technical dimension be taken into account, but also the political (and psychological) dimension, through which the fundamental fears and hopes of the parties are addressed.

Serious psychological barriers separated the parties in the Uganda conflict. To Tito Okello, the NRA represented the biggest hindrance to his efforts to rebuild Uganda. Both he and his supporters in the Military Council were convinced that an NRM government would be bent on revenge against them.[112] They were also persuaded that should Museveni take over power, he would seek to redraw the ethnic balance especially in the UNLA and the Military Council, that was at that time in favour of the Acholis, who had overthrown Obote.

On his part, Museveni believed that the military government was composed of criminals and murderers, who had served during the brutal Amin and Obote regimes. To Museveni and the NRM, a new Uganda could not be built under the supervision of people who had blood on their hands, and who had participated in the prolongation of Uganda's darkest days. Neither did Museveni believe that the military government was dedicated to the kind of fundamental changes which he had espoused in his vision for Uganda.

In these circumstances, any agreement reached was bound to encounter serious difficulties in implementation. This psychological gulf could not be bridged by technical negotiations alone. Rather, it called for an opportunity for both parties to explore the basis of each other's perceptions, and to appreciate

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111 Ibid., p.304.

112 Indeed, in his first policy speech after taking over power, Tito Okello stated one of the aims of the military government as being to prevent "revenge and victimisation as a result of the change of government". See *Keesing's Contemporary Archives*, Vol.31, No.12 (1985) p.34025. See also Chapter 7.

that perhaps they shared a common purpose, which they could be committed jointly to fulfil. The failure of the Nairobi mediation in this respect was in concentrating on the negotiation process and on concluding an Agreement, without addressing the fundamental question of whether the parties appreciated each other's commitment to make it work. Devoid of this limb, the Agreement could not endure.

The Question of Personality

These psychological barriers between the parties were also reflected in the very different personalities of the parties to the Uganda mediation. As Druckman has argued, there is a clear relationship between personality and negotiation behaviour.[113] In his findings, personality affects the negotiation behaviour of the parties during the various stages of a negotiation.

In the Uganda mediation, the personalities of the main protagonists could not have been more different. Tito Okello was an old man, and an old soldier. He had joined the colonial army during the 1940s, and was promoted to officer rank only after independence. But for this, Tito Okello could never have become an officer, much less a General of the Ugandan army. The army he had joined emphasised in its African recruits not intellectual, but martial qualities,[114] physical fitness, and respect for authority. Accordingly, skills which a modern statesman finds useful for his task, like communication and the ability to see the larger picture were not a highly developed or cultivated part of Tito Okello's personality. He was a simple man, unintellectual and unassuming, and not at home in the world of modern diplomacy.

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113 Druckman,D. 'Social-Psychological Approaches to the Study of Negotiation' in Druckman,D.(Ed) *Negotiations: Social - Psychological Perspectives* (Beverley Hills: Sage Publications, 1977) pp.15-44. See Chapter 2 for further discussion on psychological approaches.

114 See Chapter 5 on this colonial policy.

Yoweri Museveni on the other hand, had in abundance all those qualities which Tito Okello lacked. A much younger, articulate, and intellectual man, Museveni had won his revolutionary spurs in the rough and tumble of Dar-es-Salaam University politics in the early 1970s, and in the Mozambiquan war of liberation where he served an apprenticeship.[115] He had a broad sense of history, and saw himself very much as the Ugandan statesman-in-waiting. His execution of a guerilla war had been in pursuit of making an ideological mark in Africa. He saw himself as having a mission - and a vocation - to accomplish this dream.[116]

Given these divergent personalities and the inevitable clash between them, the mediation was never going to be an easy exercise. The mediator's task in this situation should have been to understand the personalities of the main interlocutors in the negotiation, and formulate a strategy by which they would both have come to see the value of working towards a common purpose. Instead, the personality gap between them was allowed to grow, and in the end, was just as pronounced (if not more) than it had been at the beginning. Indeed, the problems encountered in the negotiations themselves, and especially in the implementation period, owed much to this factor.

The Case of the 'Missing' Mediator

The last section considered some of the technical problems that faced the mediator during the Uganda mediation. It argued that because the mediator was restricted in his ability to exert some leverage on the parties, he chose a passive strategy in the belief that it best suited the circumstances. It was also contended that since the mediator's hands were tied in this way, the closest he could have come to exerting some form of

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115 See an interview with Yoweri Museveni, *The Kenya Times*, 3 November 1985, p.4.

116 This insight was communicated to the author by Ambassador Kiplagat in an interview with the author.

leverage was to issue threats to the parties. The point was made further that the mediator in the Uganda mediation did not provide (or insist on) an opportunity for the parties to try and bridge the vast psychological and personality gap that divided them. Thus, the structure for peace agreed on by addressing only technical issues later encountered severe problems of implementation.

It has been argued that President Moi's approach to the Uganda mediation was 'simplistic', in the sense that in the pursuit of his own goals (particularly the wish to construct a *Pax Nairobiana*, and consolidate his image as a regional peacemaker), he overlooked the underlying causes and issues in the Uganda conflict.[117] This is unduly harsh, and not a little revisionist. The valid criticism that can be made about the conduct of the Uganda mediation, is that the mediator's conceptualisation of its technical aspects was not founded on a sufficiently profound view of the diversity and complexity of the mediation process.[118] The view that seemed to have been adopted was that the conclusion of an Agreement was *the* goal to secure. In this perspective, its successful conclusion was to be the yardstick by which the mediator's reputation would be measured, and assured.

This was not a belief all the parties shared. The repeated postponing of the signing of the Agreement lends some weight to the claim that the parties were not convinced fully that the Agreement would work: and hence that their eventual attendance and signature of the Agreement was merely a courtesy to the mediator.[119] The

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117 This is an opinion strongly expressed by Prof. Kabwegyere, in an interview with the author.

118 Which as Bercovitch has illustrated, is very diverse indeed: see Bercovitch,J. 'The Structure and Diversity of Mediation in International Relations' in Bercovitch,J. & Rubin,J.Z.(Eds) *Mediation in International Relations: Multiple Approaches to Conflict Management* (London: Macmillan, 1992) pp.1-29.

119 Ocan op.cit. See also Chapter 7.

choice of a passive strategy, although it has its own theoretical justifications, was probably not eventually best suited to a mediation of this type of conflict. That strategy gave the parties to the conflict a lot of room to call the shots, even those that were clearly in the mediator's province. For instance, as was noted in Chapter Seven, the parties were not encouraged to formalise a ceasefire to obtain during the mediation. Because the operative ceasefire was unilateral,[120] they felt able to break it during the mediation, and to step up their military engagement with each other. Had a formal ceasefire been arranged, it would have imposed an obligation on the parties to observe it.[121] Since this was not done, the mediator was reduced to a bystander as the parties moved the process from negotiation to the military track.

Furthermore, the failure to appreciate the different levels on which the process should proceed meant that the important question of the psychological basis of the parties' relationship was not addressed. In the event, the divergence in their perception of the conflict and of each other's motives rendered the Nairobi Agreement difficult to implement. The problem therefore, was that the choice of strategy chosen by the mediator gradually led to the loss of the mediator's initiative, and with it eventually, to the perception by the parties (as witnessed by their ignoring the second threat by the mediator), that the mediator had lost control of the process. The problem with the technicalities of the negotiation stage of the Uganda

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120 In that the conflictants agreed on it on their own. This is comparable to the situation obtaining in the current (August 1994) mediation of the Sudan conflict: in that conflict the Sudanese government announced a 'unilateral ceasefire' beginning 27 July 1994, following a general appeal by the Chairman of the mediation group (President Moi) while opening the third round of talks. However, it is noteworthy that the ceasefire coincided with the start of the rainy season, during which the movement of northern (government) troops in southern Sudan would in any case be impeded greatly. See *The Standard* (Nairobi), 24 July 1994, p.6.

121 See Kriesberg, 'Formal and Quasi-Mediators in International disputes' op.cit., p.25.

mediation was therefore not so much one of an inept mediator, as one of the 'missing' mediator.

Environmental Influences on the Uganda Mediation

This section will consider the environmental milieu within which the Uganda mediation took place. It will argue that apart from the economic, military and social environment[122] there were three other categories of environmental influences on the mediator: the diplomatic, the bureaucratic, and arising from this, the psychological environment.[123] It will be submitted that there are two types of psychological environment: that of the parties which was discussed earlier, and that of the mediator. It will be suggested that the interplay of all these environmental influences on the mediator in the Uganda mediation merits the conclusion that there should be more than one mediator in the mediation of internal conflicts.

The Diplomatic Environment

An early rendition of the environment of mediation was Wall's mediation paradigm. In it, he perceived mediation as a triangular bargaining process involving not only the intermediary and the parties, but interaction between the intermediary and the constituents of the adversaries, between the intermediary and his own constituency, and between one or both of the adversaries and the intermediary's constituency.[124] This 'paradigm' was found to be restrictive, and was honed and developed further by Mitchell. To him, there is interaction with a wider

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122 The mediator appreciated the influence of these, especially the loss of human life resulting from the conflict, and drew the parties attention to them in public speeches: see for example his speech on Kenya's *Jamuhuri* (Independence) day: text reproduced in *Daily Nation*, 13 December 1985, p.27.

123 These have been an important factor in other mediations: for example, their influence in the Rhodesian negotiations is clearly detailed in Chan,S. *The Commonwealth in World Politics* o p . c i t . , pp.36-39.

124 Wall,J.A. 'Mediation: An Analysis, Review and Proposed Research' 25 *Journal of Conflict Resolution* (1981) pp.157-180. See further literature in Chapter 2.

audience before which the conflict is enacted. This audience comprises governments or organisations acting in support of either of the adversaries (i.e. patrons or allies); groups with a direct interest in some specific value deriving directly from the adversaries, or in some general good they wish to see preserved (i.e. affected others); and those with no immediate or direct interest either in the dispute itself or in the regional system affected, but who have a general interest in the preservation of international stability and the upholding of shared values.[125]

In the Uganda conflict, the allies or patrons included countries such as Egypt, which supported the Okello government, and Tanzania, which later on during the mediation was said to have supported the NRM.[126] The affected others included countries like the Sudan and Zaire, which wanted the conflict in Uganda to be settled lest it diffuse into their terrritories.[127] The audience with an interest in preserving international stability or upholding shared values included organisations such as the United Nations, and the Organisation of African Unity.[128]

Mitchell has argued cogently that mediation can be seen as one strategy amongst many that the third party adopts in its endeavour to fulfill certain roles. He has further posited that the choice of strategy may be limited by the resources available to the third party.[129] As was pointed out in Chapter Six, Kenya wanted to play several roles in undertaking the Uganda

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125 Mitchell,C.R. 'The Motives for Mediation' in Mitchell,C.R. & Webb,K.(Eds) *New Approaches to International Mediation* (Westport,CT.: Greenwood Press, 1988) pp.29-51:36; see also Chapter 2. On the diplomatic environment of the Uganda conflict, see Chapter 6.

126 Ocan op.cit., and Chapter 6.

127 See Chapter 3 for a discussion of diffusion of conflict.

128 See Chapter 4 on the cooperation between the UN and the OAU in the management of conflicts in Africa.

129 Mitchell, 'The Motives for Mediation' op.cit., pp.48-49.

mediation. In the regional diplomatic environment, mediation was seen as a vehicle for enhancing Kenya's (and President Moi's) image as a regional peacemaker. Kenya also expected to reap some rewards from Uganda in terms of resources and alliance against Tanzania in the regional balance of power. Thus, in undertaking the mediation Kenya was responding to the regional diplomatic environment, in which it wanted to exclude, or at least counter, the influence of Tanzania which had been on the rise at least since the liberation of Uganda.

The Bureaucratic Environment

In terms of the mediator's constituency, the part of the domestic environment that affected the conduct of the Uganda mediation was not so much the larger public, as the ruling elite, and the bureaucratic fights amongst them.[130] Although President Moi considered that undertaking the Uganda mediation would also enhance his reputation at home, his 'landslide' election as President in 1983 left him with no opponents with whom he felt a need to compete for domestic influence, or a domestic audience which he wanted particularly to impress. The concern therefore was to consolidate his reputation as an international statesman. In this field, in the view of some, he had won his spurs as Chairman of the OAU in the early 1980's, and in his involvement in that capacity in the management of the conflicts in Chad and Western Sahara.[131]

But within the bureaucratic politics of Kenya, his attention as mediator was divided, and this had an important bearing on the conduct (and possibly the outcome) of the Uganda mediation. Within the Kenyan establishment, four main groups strove for pre-eminence in influencing the mediator. The first consisted of

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130 For example, Mitchell has noted that the intensity of intra-party struggle is a crucial determining variable in the process of the termination of the conflict. See Mitchell,C.R. *The Structure of International Conflict* op.cit., p.187.

131 This is discussed in Chapter 6.

figures in the foreign policy establishment, who had a professional interest in the mediation, and who were keen that it should succeed. The second were a sub-set of this group; they had an interest in the mediation because they also had interests, especially business ones, in Uganda, which they wanted to preserve. The third group was outside the foreign policy establishment, and consisted of those who, although their business interests in Uganda had flourished during the years of conflict, were experiencing difficulties in getting their money remitted; they were therefore keen on a solution to a conflict which was adversely affecting their interests.[132] Lastly, there were those in the establishment who were close to the centre of power, and whose main concern was not related to the conflict in Uganda as a regional and diplomatic problem, but with the dynamics of Kenyan power politics. This group was concerned to ensure that their local influence was not submerged into the process of the conduct of diplomacy. On that basis they countered or opposed recommendations made about the mediation by those interested in its successful outcome.[133]

Permeating these various groups were individuals within the Kenyan bureaucratic and business establishment whose ties and connections with Uganda were sentimental. A large cross-section of these had been educated in Uganda's premier institutions such as Budo College and Makerere University. These old school ties with Uganda (and Ugandans) gave this group of people a personal interest in the stability of Uganda. They had many friends in Uganda inside and outside the political establishment, and had indeed suffered the

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132 For some in these groups, the ties were also personal. Those of them who came from the areas around the Kenya-Uganda border, had had their ethnic communities (and in some cases families) divided by the border. For them, their interests were not just business ones, but family ones as well. See Chapter 3 on the relationship between ethnic communities and the borders that separate them.

133 The author owes this insight on the influence of Kenyan bureacratic politics on the Uganda mediation to the elegant analysis of Ocan, op.cit. His own observations support this analysis.

personal loss of friends during the conflict. They therefore hoped for, and encouraged any process that would restore peace to Uganda.[134]

The Psychological Environment

At the centre of this interplay of bureaucratic politics was the mediator, who not surprisingly, was faced with often conflicting advice as to which policy to follow.[135] He therefore had to deal with a psychological environment that was not conducive to the creative conduct of mediation. This complex psychological environment, and the bureaucratic politics that engendered it, were compounded by the fact that the various groups were also represented in the Kenyan delegation to the mediation.[136]

Two results followed from this. Not surprisingly, the Ugandan parties noticed and became affected by the strains of this environment. They came gradually to the view that the negotiating environment was irremediably poisoned,[137] and that the mediation could not proceed as it should. In this perception, having reached that conclusion, their interest in the whole process waned and they continued only as a courtesy to the mediator. The mediator also became emotionally tired, and impatient with the progress of the mediation, hence the threats he issued to the parties.[138] This gives rise to the question whether it is not preferable to have multiple mediators in this sort of conflict. The following section addresses this issue.

The Case for Multiple Mediators

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134 This pertinent analysis was offered by Loyatum, op.cit.

135 He was personally and politically close to individuals within each of these four groups.

136 See The Uganda Peace Talks Agreement for the Restoration of Peace to The Sovereign State of the Republic of Uganda (Nairobi: Government Printers, 1985) Annexture 'E', p.20.

137 Ocan, op.cit.

138 Kiplagat, op.cit. He attributes the emotional fatigue to the fact that the process was dragging on too long; however both factors played a role in this, and were probably indivisible.

The Uganda mediation supports the view that it is preferable to have more than one mediator. There are several reasons why multiple mediators are considered to be advantageous. Where there are multiple mediators, individual mediators have the opportunity to unburden themselves emotionally, such that all the problems are not carried on one set of shoulders. In this way, the mediators can keep a proper perspective on the mediation, and on the issues arising.[139] Multiple mediation is also collaborative: issues and approaches are discussed by more than one person. Furthermore, multiple mediators can rein in any tendency of a lone mediator to take sides with one of the parties. Because there would be more than just one point of view, multiple mediators can be more innovative than a single mediator. Multiple mediators also widen the structure of the conflict, and hence of the mediation process. Where multiple mediators are exogenous, that identity automatically widens the mediation environment. Further, whatever their identity, multiple mediators bring different perspectives, and can thus expand the agenda and hence enrich the discussions. They can contribute different points of view and bring their varying experiences to bear on the proceedings. Multiple mediators can also curb or discourage any tendency of a single mediator to stick to a failing strategy either because of bureaucratic inertia, or because his credibility may be on the line.[140] Consistent with the earlier discussion of the psychological environment, multiple mediators would also be less prone to be affected by the demands of a particular bureaucratic or psychological environment. Where the other mediators are

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139 Kiplagat, op.cit.

140 These last four are discussed in Spiegel,M.A. 'The Namibia Negotiations and the Problem of Neutrality' in Touval,S. & Zartman,I.W.(Eds) *International Mediation in Theory and Practice* (Boulder, CO.: Westview Press, 1986) pp.111-139:119-120.

exogenous, they are not hostage to the vicissitudes of the power politics of a particular country.[141]

There are however disadvantages of having multiple mediators, the most salient being that such mediators could slow negotiations down, because of the need for consultations at each stage and on each strategy.[142] Also, disagreements on policy or approach, and divergencies in interest between collective mediators can lead to the collapse of the whole process.[143]

There was a single mediator in the Uganda conflict. As argued earlier, his heterogenous nature militated against any impartiality to which he may have aspired, curtailed his effectiveness, and could have contributed to his emotional fatigue. The question that arises therefore, is what type of co-mediator would be most effective. The view subscribed to here is that a co-mediator should not also be heterogenous, because that would only compound the problems experienced by a like mediator. As Wehr and Lederach[144] contend, there is much to commend an 'insider-partial' (a species of endogenous third party) especially in the type of conflicts in Central America. Nevertheless, a stronger case can be made for an exogenous co-mediator in internal conflicts. Although such a co-mediator may start with the disadvantage of not understanding the various nuances of an internal (or even regional) conflict, (s)he could still make an invaluable contribution to the mediation process, because (s)he would bring experience and

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141 This latter can also be an advantage of a lone exogenous mediator, and is noted by Umbricht,V.H. *Multilateral Mediation: Practical Experiences and Lessons* (Dordrecht: Martinus Nijhoff, 1988).

142 Spiegel, 'The Namibia Negotiations and the Problem of Neutrality' op.cit., p.120.

143 This point is illustrated in Jabri's discussion of the Western Contact Groups's coalition mediation in the Namibian conflict. See Jabri,V. 'European Involvement in the Western Contact Group: The Stress and Convenience of Coalition Mediation' in Chan,S. & Jabri,V.(Eds) *Mediation in Southern Africa* (London: Macmillan, 1993) pp.60-72.

144 Wehr & Lederach 'Mediating Conflict in Central America' op.cit.

knowledge from other conflicts. And such diversity could enhance the profile of, and enrich the mediation process.

Tracks of Diplomacy and the Uganda Conflict

One of the themes pursued in several parts of this study[145] has been that the two currently known tracks of diplomacy exhibit certain problems when they are resorted to individually in conflict management. It has been argued that track one diplomacy, because of its formality and its connections with official policy, is not always a suitable, or indeed always an acceptable track from which to proceed.[146] It was noted that whereas track two diplomacy has registered some important successes in conflict management in Africa, notably in the Sudan mediation of 1972, it displays certain structural weaknesses, mostly to do with its very unofficial character. It was observed that in OAU practice for example, these approaches have appeared to be mutually antipathetic, and hence the strategies of one have not been brought to the aid of the other.[147]

Consequently this study has proposed that it is useful to formulate dual track diplomatic approach which would build on the strengths of track one and track two, and seek to avoid their weaknesses.[148] It has suggested that such an approach would enrich conflict management by bringing out the multi-level nature of conflict, and the complexity of the mediation process.

The Operative Track in the Uganda Mediation

The Uganda mediation was managed exclusively within track one, and at no time during the Uganda conflict was track two used, or even contemplated. Although it was managed through track one, the Uganda mediation is an important contribution to conflict management in Africa.

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145 See especially Chapter 1 and Chapter 4.

146 See Chapter 2.

147 See Chapter 4 for a discussion of this problem.

148 See chapter 1 and Chapter 4.

It is significant because it is one of the very few track one, non-OAU African mediations. It was suggested above that by using the sucess index formulated by Bercovitch, the Uganda mediation can be judged to have been partially successful. However, important aspects including the type of mediator and its technical conduct, conspired against its emergence as a fully successful mediation. Indeed, the Agreement it gave rise to was short lived, and this must necessarily temper any judgments as to the quality of its outcome. It will therefore be argued that a different diplomatic approach might, in the particular conditions of the Uganda conflict, have registered a more enduring outcome.

Track Two Diplomacy and the Moshi Conference

The idea that the notion of a ripe moment needs to be enlarged to encompass different periods in the life cycle of a conflict from those suggested by Zartman, was addressed earlier. It was suggested that in the Ugandan kind of internal conflict it is possible for such a true ripe moment to be discerned at a stage long before the conventional Zartman-type one becomes evident. In the Uganda conflict, such a ripe moment was evident during the Moshi Conference in 1979. What marked that stage of the conflict was the fact that it was then common knowledge that the Amin regime would soon fall. Thus, the Amin government was not invited to participate. The deliberations at Moshi were not a negotiation between the Amin government and its opponents, but a negotiation *between his opponents* about the structure of the system *when* they took over power.

Two reasons explain why the moment was ripe for some kind of third party involvement at Moshi. Although the participants shared a common purpose at that time, there were nevertheless conflicts between them, born of the diversity of ideological, ethnic, and other considerations. The involvement of a third party who was not part of the euphoria would thus have helped the participants to direct their minds to those issues which were potentially conflict generating. One such issue was

the constitutional basis of future power,[149] which indeed later proved to be the undoing of the 'Moshi spirit'.[150]

Although the participants at Moshi were not then overtly in conflict, the very nature of the role they intended to play upon their return to Uganda (they were, in Kelman's term, political actors[151]) made them potential candidates for violent conflict.[152] Indeed, this turned out to be the case within twenty months of their return. Thus, some third party involvement at that time might have helped them to focus on the major issues, and possibly avoided the violent conflict that followed. Such third party involvement at that stage would for instance have been devoted to reducing the asymmetry[153] that later led to the next phase of the Uganda conflict.

Asymmetry and the Moshi Conference

The proceedings at Moshi were conducted as though the participants' similarities of concern would prevail after the liberation. But right from the Lule regime, it became clear that the unity of Moshi concealed an asymmetry on what each considered to be the major political agenda and goals, and how they should be attended to.[154] It was also clear that the Moshi

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149 Some observers (like Dr.A.Mukwaya of the Department of Political Science, Makerere University, in an interview with the author on 24 May 1993), consider that this question should have been discussed more thoroughly than it was.

150 See Chapter 5.

151 Kelman, 'Interactive Problem-Solving: A Social-Psychological Approach to Conflict Resolution' op.cit., p.205.

152 Consistent with the objectivist perspective discussed in Chapter 1 and Chapter 2, there was structural conflict which they did not however need to perceive for it to be existent.

153 See Mitchell, 'Classifying Conflicts: Asymmetry and Resolution' op.cit.

154 Mukwaya, op.cit., notes that the Moshi resolutions did not reflect the key issues facing Uganda at the time (e.g. health, education, and institution building). He concludes not entirely with tongue in cheek that the Moshi Conference "was the most fictitious form of conference".

Conference had failed to take into account the expectations of the population of Uganda, which had different views as to the form and structures of government and decision making in post-Amin Uganda. The leadership also became insecure and vulnerable because their perception of the legal structures, especially the constitutional basis of their authority, were not shared by all: hence the collapse of the first two post-liberation governments.[155]

A track one involvement at the Moshi stage of the Uganda conflict would not have been feasible. Although the Amin regime was falling and illegitimate, it was still the government in power. Hence official policy would not have allowed another state to become involved. Indeed, the OAU Charter, which enjoins member states not to interfere in the internal affairs of other states, expressly prohibited such involvement.[156] Therefore, although the moment was ripe for third party involvement, it would have had to be restricted to tracks other than official ones. .

The Roles of Dual Diplomacy

As was argued earlier,[157] dual diplomatic conflict management is based on the cooperation of track one and track two in the management of the same conflict. Its major concern would be to bring out and address the multi-level nature of the conflict, and the complexity of its management process. For instance, whereas the track one approach of the OAU to conflict management predisposes it to deal only with inter-state conflicts,[158] and whereas track two conflict management in Africa has addressed itself only with internal

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155 See Chapter 5 for a detailed discussion of these.

156 See Chapter 4 for a discussion of this policy.

157 See chapter 1 and Chapter 4.

158 At least in OAU practice: see Chapter 4.

conflict,[159] dual diplomacy would address both aspects of conflict simultaneously since, as Rothchild and Hertzell have shown, many conflicts possess a dual inter-state and intra-state character.[160]

In addressing this complexity of conflict, dual diplomacy would play certain roles. It would play an analytical role, and hence those involved should include people with diverse knowledge of conflict and its analytical processes.[161] This analytical role would take into account *both* the inter-state and intra-state character of conflict, and put at the disposal of the parties an awareness of the complexities involved in each of these dimensions. It would seek to analyse the plurality of players and their multi-dimensional concerns, while emphasising that conflicts and the actors involved in them are not static.[162] It would also operate on the basis that the conflict could have resulted from an asymmetry of the parties interests and perceptions, and would therefore identify and analyse the areas and nature of asymmetry in a particular conflict.[163] Finally, in its analytical role dual diplomacy would fit these concerns within a regional context because as was argued in Chapter One, conflict management that does not take a regional perspective is unlikely to be effective.

Secondly, dual diplomacy would play a supportive role. In this role, it would address the psychological, personality, and perceptual concerns that affect the

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159 Ibid.

160 Rothchild,D. & Hertzell,C. 'Great and Medium Power Mediations: Angola' in Zartman,I.W. (Ed) *Resolving Regional Conflicts: International Perspectives* op.cit., pp.39-57.

161 See Chapter 9.

162 See Chapter 2; also, Vayrynen,R. 'To Settle or to Transform? Perspectives on the Resolution of National and International Conflicts' op.cit., pp.1-25.

163 See Mitchell, 'Classifying Conflicts: Asymmetry and Resolution' op.cit.

relationships between parties in conflict. It would thereby have an important pre-negotiation function in the style of Ronald Fisher's third party consultation.[164] Instead of operating as distinct process, track one and track two processes would be organically linked to the formal processes of one dual track. Thus, rather than being two distinct processes, consultation and mediation would be integral limbs of the same diplomatic track. Hence, dual diplomacy would embody a process by which, under the same umbrella, parties to a conflict can 'take a walk through history'[165] while at the same time negotiating a solution to their conflict.[166]

Thirdly, dual diplomacy would play a monitoring role. It would be concerned not only to get the parties eventually to agree, but also to remain within the conflict system and perform a sort of institutionalised continuous management of the conflict.[167] In rendering a consultative role to the parties after the completion of the mediation, the track two component would be the more dominant one in this relationship. The rationale for this is that since conflicts transform and re-emerge in different shapes,[168] dual diplomacy in this role would monitor the nerve (and pulse) of a conflict as it evolves.[169] In this context, dual diplomacy would

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164 See Chapter 2; also, Fisher,R. & Keashly,L. 'The Potential Complementality of Mediation and Consultation within a Contingency Model of Third Party Intervention' 23 *Journal of Peace Research* (1991) pp.29-42.

165 Montville, 'The Healing Function in Political Conflict Resolution' op.cit.

166 See Chapter 9.

167 In the style suggested by Brouillet, 'Mediation as a Technique of Dispute Settlement' op.cit., p.172.

168 See Vayrynen, 'To Settle or to Transform? Perspectives on the Resolution of National and International Conflicts' op.cit.

169 And hence, for example, provide an early warning of when the conflict is getting out of hand.   See Rupesinghe,K. 'Early Warning and Preventive Diplomacy: A Discussion Paper' (London: International Alert, 1993).

provide the optimum mix for the concerns of track one and track two diplomacy in conflict management.

Dual Diplomacy and the Uganda Mediation

Although as was noted earlier the operative track of diplomacy in the Uganda mediation was track one, it is possible in hindsight to pinpoint aspects of that mediation that would have been conducted differently had an alternative approach been adopted. This section will mention some of these.

In the Uganda mediation, there was *some* awareness of the international character of the conflict, and hence the choice of the mediator's role, or strategy. However, there was little recognition by the parties and the mediator that neither the conflict nor the players were static, nor an appreciation of its transitional character. There was also the assumption that the interests of the military government and those of the NRM were symmetrical, and hence the single minded pursuit of an Agreement to be signed at the end of the mediation. Further, the awareness of the internationalised character of the conflict was not developed and put in the context of regional conflict management. Had this been done, comparisons with other similar conflicts like the Sudan one, and its mediation in 1972 would have pertinently informed the mediation.[170] This would have raised the profile of the mediation to a level where the parties would have been encouraged to address the issue of *how* after the Agreement was reached and signed, it could have been made to endure, unlike the Sudanese one.

Because the parties approached the Uganda mediation from a power political framework, not all the parties interested in the conflict were identified. This is a major pitfall of the legalistic approach of track one

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170 Although the WCC mediation in the Sudan conflict was a track two approach in its inception, which used track one methodology in reality. And equally pertinent to the point being made, the Uganda mediation should have served as a guide to later mediations like the current Sudanese one, which is indeed being mediated by the same mediator.

diplomatic conflict management. In the Uganda conflict, apart from the military government and the NRM, diverse other parties and interests were involved in the conflict. These included other military groups, the political parties, and churches. Because they were not involved in the mediation, severe problems of re-entry were experienced, leading to the eventual abrogation of the Nairobi Peace Agreement. The track two component of dual diplomacy could have been invaluable in this regard. It would have helped to identify and involve all the other parties and constituencies, without whom a self-sustaining resolution could not be reached.[171]

The Uganda mediation did not address the psychological environment within which the conflict was taking place. Particularly, perhaps because he saw the parties as unitary,[172] the mediator did not address the multi-dimensional threads that linked Tito Okello's military government and the NRM to the wider interests over which the Uganda conflict had developed over time.[173] A walk through the history of the Uganda conflict could have enabled the psychological gap between the parties to be identified and bridged, or at least lessened. It would also have highlighted the truism that every conflict has a memory.[174] A realisation of this would have enabled the mediator to influence the discourse during the mediation in a

171 See Groom,A.J.R. 'No Compromise: Problem-solving in a Theoretical Perspective' op.cit.

172 As Putnam has shown, actors in negotiations are not unitary. See Putnam,R.D. 'Diplomacy and Domestic Politics: The Logic of Two-Level Games' 42 *International Organization* (1988) pp.427-460.

173 See Chapter 5.

174 See Rangarajan, L.N. *The Limitation of Conflict: A Theory of Bargaining and Negotiation* (London: Croom Helm, 1985) p.7. In other words, "[t]he shared and accumulated experience...built up of memory of various trials and errors (which) becomes part of the stock of knowledge of a community and forms...the background against which new...claims are evaluated." Salner,M. 'Validity in Human Science Research' in Kvale,S.(Ed) *Issues of Validity in Qualitiative Research* (Lund: Studentlitteratur, 1986) pp.47-71:54.

direction that would have taken cognisance of each of the parties relationship with that history.

Finally, although the Nairobi Peace Agreement provided for monitoring activities,[175] these were track one type monitoring activities which were directed at 'enforcing' observance of the peace. They were not part of a self-sustaining arrangement, and could not therefore have ensured an enduring peace in Uganda. In this respect, the mediator's hands were tied by the track of diplomacy employed. Because track one is concerned with settlement of a conflict,[176] it could not engage in the kind of monitoring activities contemplated in the previous section. Hence, as the implementation stage of the Uganda mediation revealed, it was difficult to carry out a continuing mediation within the conceptual framework and political confines of a purely track one approach.

In all these instances, a dual diplomatic approach could have made a significant contribution to the process of the Uganda mediation, and indeed to its eventual outcome. Had such a diplomatic approach been adopted, Uganda may well have enjoyed a different kind of peace.

The Uganda Mediation and African Conflict Management

Although this critique of the Uganda mediation is necessarily *ex post facto*, it should not however mask one of the most significant achievements of that mediation. As was noted in Chapter Four, the OAU's strict interpretation of the principle of non-interference in the internal affairs of states, has also been embraced fully by its member states. It has led the OAU to ignore many of Africa's most serious conflicts. The result has been that even third party involvement by way of conflict management has come to be interpreted as constituting interference in internal affairs of a

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175 See Article 10 of the Agreement.

176 See Chapter 1.

(member) state.[177] In this setting, the fear of African leaders has been that such involvement would necessarily be condemned by their peers as interference. Hence, they have preferred not to involve themselves in intra-African conflict management. The Uganda mediation shows this fear to be unwarranted.

The Uganda mediation of 1985 gives the lie to the perception that involvement by way of conflict management would necesssarily be seen as interference in the internal affairs of a state. By mediating in the Uganda conflict, Kenya ran the risk - given the OAU principle of non-interference - of being condemned for interfering in Uganda's internal affairs. No such criticism or condemnation was forthcoming from either Uganda, the OAU, or any member state. The OAU position was to the extent of this single case, demonstrated to be unfounded. The lesson of the Uganda mediation is that the OAU principle of non-interference ought to be revised or re-interpreted. Once this is done, the principle of 'African solutions to African problems' would be given new meaning, and a new lease of life. Because it was a pioneering undertaking, the Uganda mediation is of great value as a precedent. It represents a starting point on which future African non-OAU conflict management can build.

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177 See Chapter 4.

Chapter Nine
Conclusions: Conflict and Diplomacy in Africa

Introduction

This study has investigated and analysed the Uganda mediation of 1985. It has done so within a broad analytical framework as specified in Chapter One. The flavour of the study is African, and its particular locale the internal conflict in Uganda leading to the 1985 mediation. However, the conclusions drawn from that experience are relevant to internal conflict elsewhere. The broader application of the generalisations drawn might be mitigated because of the single case study. But as was argued in Chapter One, the way out lies in more (single) case studies undertaken. These would eventually enable the comparative analysis of their findings, and hence provide greater impetus for disciplinary growth and development.

This chapter will draw conclusions on the broad analytical context of conflict management in Africa. It will note that there is currently a conceptual crisis about conflict management in Africa, and outline its implications for the theory and practice of mediation. Drawing from the conclusions reached in Chapter Eight, suggestions will be made as to how that crisis can be resolved in the interests of more efficient conflict management.

Retrospect: The Analytical Context of Conflict Management

Whether conflict analysts engage in the textual analysis[1] of a particular mediation, and hence investigate "who said what to whom and with what effect",[2] or whether their analysis is more general, attention must be paid to a broader analytical background. This study noted that this background includes the regional context of the conflict and its management,[3] its historical context,[4] the diplomatic context of the conflict,[5] and its mediation context.[6] Of these, the diplomatic and mediation contexts are the most salient for management, because they suggest the tools that can be used for efficient conflict management.

The Diplomatic and Mediation Contexts

The broad diplomatic context involves investigating the wider international relations dimension within which a conflict is situated.[7] This context permits the identification of the diverse actors in a conflict, and suggests *inter alia* the strategies that a mediator can adopt,[8] and the extent of the internationalisation of conflict.

The mediation context considers the narrower diplomatic milieu within which the process of management

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1 See Webb,K. *Third Party Intervention and the Ending of Wars: A Preliminary Approach* (Kent Paper in Politics and International Relations, (1994) Series 3, No.7) p.28.

2 Zartman,I.W. 'Conflict Reduction: Prevention, Management, and Resolution' in Deng,F.M. & Zartman,I.W.(Eds) *Conflict Resolution in Africa* (Washington: The Brookings Institution, 1991) pp.299-319:314.

3 See Chapters 3 and 4.

4 See Chapter 5.

5 See Chapter 6.

6 See Chapter 7.

7 See Chapter 6 for this context of the Uganda conflict.

8 See Mitchell,C.R. 'The Motives for Mediation' in Mitchell,C.R. & Webb,K.(Eds) New Approaches *to International Mediation* (Westport,CT.: Greenwood Press, 1988) pp.29-51.

is carried out, and identifies *inter alia* the diplomatic track resorted to in management, and the stages and phases of the mediation process. As was noted in the study,[9] confining management of certain types of conflict to particular diplomatic tracks leads eventually to only one level of conflict being addressed, and to the richness and complexity of the conflict management process being ignored. As the following sections will show, the approach of the Organisation of African Unity (OAU) to conflict management is based on the myth of non-interference, and on the consequent creation of a false dichotomy between internal and inter-state conflicts, and hence of the diplomatic tracks of their management.

The Myth of Non-Interference

Article 3(2) of the OAU Charter enjoins members not to interfere in the internal affairs of states. It has been widely interpreted in OAU circles to mean that any kind of involvement would constitute interference in the internal affairs of states. It has also come to be construed to mean that even involvement by way of management should be condemned as interference. The fear of being accused of involvement contrary to that principle has affected adversely the structure of OAU and African conflict management. There are thus, for example, very few non-OAU African mediations on record. But as the Kenyan mediatory involvement in the Uganda conflict demonstrated, involvement by way of management need not give rise to such condemnation.

If the OAU is to enhance its conflict management capabilities, article 3(2) must be reviewed critically, with a view to its amendment, or at least re-interpretation. Such a review would take into account the fact that international conflict has domestic sources.[10] It would also reveal that even what may

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9 See Chapter 4.

10 See for example, Burton,J.W. *Global Conflict: The Domestic Sources of International Crises* (Brighton: Wheatsheaf Books, 1984).

appear upon a cursory look to be an internal conflict is eventually internationalised by the multiplicity of actors and interests, the permeability of borders and shared ethnic communities,[11] and the internationalisation of human rights.[12] Further, the very introduction of a third party into the conflict (including official statements of the OAU disavowing involvement in a particular conflict) in itself internationalises conflict and therefore renders the non-interference rationale nugatory.[13]

The False Dichotomy

The OAU's fidelity to a strict interpretation of the Charter provision on non-interference has led it to construct a false internal and inter-state dichotomy of conflict. In practice this dichotomy has been extended to the diplomatic tracks used for management. Because it professes to be bound not to interfere in the internal affairs of states, the OAU has declined to be involved in those conflicts which it considered to be internal. The result has been that track one (OAU) conflict management has been restricted to conflicts which it defined as inter-state, while those it

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11 See Chapter 3. Chapter 6 demonstrates the role of these in influencing Kenya's decision to mediate in the Uganda conflict.

12 See Chapter 1.

13 By the *Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World* (1990), the OAU Heads of State and Government authorised the Secretary-General to investigate means of achieving a speedy resolution of all conflicts in Africa. As was noted in Chapter 4, in the OAU's view, the problem with managing intra-state conflicts is that member states are unwilling to accept their opponents from within the same country being accorded parity of status in any proceedings. See *Report of the Secretary-General conflicts in Africa: Proposals for an OAU Mechanism for Conflict Prevention and Resolution* (CM/1710 (LVI)) p.7. The OAU is searching for a rationale for its engagement in internal conflicts, but in a way that will preserve the non-interference principle. The concept of internationalisation of conflict may provide a way out of this problem.

considered to be internal have fallen to be managed through track two diplomacy.[14]

As the examples cited in Chapter Four show, this dichotomy is false. Conflicts such as that in Chad had clear characteristics of both elements. In Biafra on the other hand, there was considerable international involvement, and the conflict could not thus be dismissed purely as an internal affair.

This approach has had deleterious effects on the development of conflict management in Africa. It has meant that conflicts have only been managed through one diplomatic track, even when their complexity demanded alternative or dual management tracks. Worse, it has meant that the lessons from one track of diplomacy have not been used in the service of the other. It also suggests another more serious false dichotomy: the different methodologies of track one and track two conflict management have been considered to be distinct, even though as was suggested with respect to the Uganda mediation, extrapolation of some elements of one track to the other could contribute to successful conflict management.[15]

Yet, because every conflict operates at different levels, its proper management is necessarily a complex undertaking. In the negotiations over Zimbabwe's independence for example, although a solution was

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14 See Chapter 4. Nevertheless there are conflicts in which the OAU involved itself in although on the face of it they were internal, such as the Western Sahara conflict. The OAU's rationale is that although they are internal, such conflicts offend another principle which the OAU holds more dear, namely the principle of the sanctity of the borders inherited at independence. This principle is enshrined in article 3(3) of the Charter as the respect for the sovereignty and territorial integrity of each state. In Eritrea, the OAU considered the conflict to be an internal affair of Ethiopia (see Chapter 4). The Eritrean revolution especially after the fall of Mengitsu presented the OAU with a *fait accompli*,in which the OAU had no choice but to recognise the new Eritrean state. As Kamanu notes, the principle of territorial integrity has been "elevated to an absolute principle" by the OAU: see Kamanu,O.S. 'Secession and the Right of Self-Determination: An OAU Dilemma' 12 *Journal of Modern African Studies* (1974) pp.355-376:360.

15 See Chapter 8.

reached through track one at Lancaster House,[16] track two diplomacy also made its own unheralded input.[17] In the Sudan conflict, settlement was reached through track two diplomacy using track one methodology, and with a reluctant helping hand from track one through Haile Selassie's intervention.[18] Unlike these two, the Uganda mediation took place exclusively within track one diplomacy, and this could explain its outcome.

The Uganda mediation suggests that neither track is equipped individually to address this multitude of levels and complexity of conflict management. The future way out lies in adopting a dual approach that brings the methodologies of track one and track two diplomacy into the service of the management of the same conflict. Because track one actors are still the dominant players in the international system,[19] it is unlikely that their role in conflict management will be reduced.[20] On the other hand, important elements like psychological and perceptual ones are unlikely properly to be catered for through track one diplomacy. Indeed, the methodologies of track two diplomacy are designed to address these very issues. As Chapter Eight suggests, the way out is not as Burton proposes, to elevate track

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16 See Chan,S. *The Commonwealth in World Politics* (London: Lester Crook Academic Publishing, 1988) Ch.4 for an account of the Lancaster House negotiations leading to Zimbabwe's independence.

17 See for example, Elliot,H.P. 'Informal Contributions Toward Settlement' in Bendahmane,D.B.& McDonald,J.W.(Eds) *Perpectives on Negotiations: Four Case Studies and Interpretations* (Washington: Foreign Service Institute, 1986) pp.188-193.

18 See Aseffa,H. *Mediation in Civil Wars: Approaches and Strategies - The Sudan Conflict* (Boulder,CO.: Westview Press, 1987).

19 This is not to admit that they are the only players in that system, but to accept a fact of international life.

20 Indeed, track one players such as the United Nations contemplate an enhancement of their role in conflict management: see Boutros-Ghali,B. An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-keeping (New York: United Nations, 1992).

two to be the main conflict management track,[21] but to move towards a dual track one and track two conflict management.

Prospects: Dual Diplomacy in Conflict Management

Certain hypotheses which were investigated in the case study lend credence to the view that a dual diplomatic approach to conflict management could be the most efficacious. A dual diplomatic approach as conceptualised here means one that brings track one and track two diplomacy together in the management of the same conflict. It is not 'dual' in the sense used elsewhere of two track one approaches operating simultaneously in the same conflict.[22] Neither does it imply merely the independent presence of both tracks in the field.[23] The beauty of a dual diplomatic approach lies in the possibility of addressing the various levels of the same conflict, and further enriching the complexity of the mediation process.

Identity of the Third Party

The traditional classification of mediators as either endogenous or exogenous[24] is unsatisfactory. In (internal) conflicts, once the larger context of the conflict is taken into account it becomes clear that as was the case with the mediator in the Uganda conflict, a third party can have a more complex character than in

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21 Burton,J.W. 'Conflict Resolution as a Political Philosophy' in Sandole,D.J.D. & van der Merwe,H.(Eds) *Conflict Resolution Theory and Practice: Integration and Application* (Manchester & New York: Manchester University Press, 1993) pp.55-64:58.

22 As was the case in the Afghanistan conflict: see Bokhari,I.H. 'Evolution of a Dual Negotiation Process: Afghanistan' in Zartman,I.W.(Ed) *Resolving Regional Conflicts: International Perspectives* (Newbury Park: Sage Publications, 1991) pp.58-68.

23 As in Zimbabwe, where Low notes that between 1977 and 1979 "at least five tracks were being followed simultaneously at official governmental levels. There were also five or six unofficial tracks." See Low,S. 'The Owen-Vance Period: 1977-1979' in Bendahmane,D.B. & McDonald,J.W.(Eds) *Perspectives on Negotiations* op.cit., pp.165-170:165.

24 See for instance in Bercovitch,J. *Social Conflicts and Third Parties: Strategies for Conflict Resolution* (Boulder,CO.: Westview Press, 1984) p.11.

this classification. The characterisation of a third type of mediator, a heterogenous one, was devised in this study to cater for this complexity.[25]

However, it was demonstrated that although the parties may choose a heterogenous mediator, his complex relationship with the conflict renders him unsuited to address some of the more important aspects of conflict management such as the attitudes and perceptions of the parties. The tension between his endogenous and exogenous personality complicates this task. In this tension, the exogenous aspect (mediation) calls for a track one orientation, while the endogenous aspects (creative decision making[26]) call ideally for track two approches. This is especially so when the parties require to 'take a walk through history', discover the true causes of their conflictual relationship, and acknowledge mutual responsibility for the conflict.[27] In this latter respect, his endogeneity and its wider connections with the conflict system make him an integral party to the conflict, from which, like Moi in the Uganda mediation, emotionally he cannot distance himself. Hence, this study suggested that a heterogenous mediator should be supported preferably by an exogenous one.

The co-mediator should be exogenous because functions such as encouraging the parties to explore the psychological dimensions of their conflict, cannot be undertaken effectively by either an endogenous or heterogenous mediator. Being so closely connected to the conflict, they may be unable to see the wood for the trees. The level at which the exogenous co-mediator should perform is at the level of attitudes, and this is

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25 See Chapter 1 and Chapter 8.

26 See Bercovitch,J. *Social Conflict and Third Parties* op.cit., p.11 (figure 1.3).

27 See Montvilee,J.V. 'The Healing Function of Political Conflict Resolution' in Sandole,D.J.D.& van der Merwe,H.(Eds) *Conflict Resolution Theory and Practice* op.cit., pp.112-127:115.

ideally a track two function. Therefore the exogenous co-mediator is best a track two player. Bringing the knowledge and methodology of track two to bear could eventually contribute to a successful outcome.[28] As Zartman and Touval note,

> "As long as they coordinate their activities, several mediators are usually...better than one. Although official mediators are usually needed as the chief actors and coordinators, unofficial (that is, non-state) mediators may be effective persuaders and they may be useful in helping to re-orient the perceptions of the parties' values and opportunities."[29]

Environmental Influences on Mediation

Environmental influences on mediation are diverse and complex. Whether they relate to the bureaucratic politics of which a track one mediator is a part, or whether they are perceptual, the Uganda mediation suggests that these cannot be managed within the confines of a purely track one approach.

It was suggested that one of the problems with the Uganda mediation was the inability of the parties to bridge the psychological gaps that separated them, and hence address the conflict at the level of attitudes. They were unable to do this because the conceptual apparatus of track one diplomacy lays little emphasis on this important environmental element. But if a track two component had been included in the mediation, it could have been possible for this dimension to be addressed, contributing eventually to an enduring outcome, and possibly even the resolution of the conflict. This process could, for example, have been effected through a process in the nature of Ronald

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28 For example, in the process leading to the signing of an Israeli-PLO Agreement in 1993,important track two diplomacy was undertaken by a Norwegian team, and this facilitated the successful re-entry of the process to track one. See Rosenfeld,S.S. 'Clever Oslo Can Play an Ongoing Role' *International Herald Tribune*, 18-19 September 1993, p.6.

29 Zartman,I.W. & Touval,S. 'Mediation: The Role of Third Party Diplomacy and Informal Peacemaking' in Brown,S.J. & Schraub,K.M.(Eds) *Resolving Third World Conflict: Challenges for a New Era* (Washington: United States Institute of Peace, 1992) pp.241-161:257.

Fisher's third party consultation, which attempts to improve communication between the parties and to analyse their relationship,[30] and in a more developed form, to complement mediation especially in the pre-negotiation stages.[31]

Complementing Track One: Knowledge as Influence

The relationship between mediation and leverage within a power political framework is well documented.[32] Leverage is a source of mediator power, and has been described as the "ticket to mediation".[33] Through it, the mediator is able to induce the parties towards an outcome that is acceptable to all of them. The mediator's source of leverage in this approach lies in his ability to manipulate the parties by shifting his weight in favour of either, and in the parties interests in the side payments that the mediator can offer or withold.[34]

Non-power (track two) diplomacy on the other hand has a completely different source of 'leverage' on the parties. This is not manipulative, and is not based on a power relationship, and hence is better described as 'influence'. This influence lies in the third party's knowledge and expertise. This knowledge is not of the

30 Fisher,R. 'Third Party Consultation as a Method of Intergroup Conflict Resolution' 27 *Journal of Conflict Resolution* (1983) pp.301-334.

31 See Fisher,R. & Keashly,L. 'The Potential Complementality of Mediation and Consultation within a Contingency Model of Third Party Intervention' 28 *Journal of Peace Research* (1991) pp.29-42.

32 See for example, Touval,S. & Zartman,I.W. 'Introduction: Mediation in Theory' in Touval,S. & Zartman,I.W.(Eds) *International Mediation in Theory and Practice* (Boulder,CO.: Westview Press, 1985) pp.7-17; Zartman,I.W & Touval,S. 'Conclusion: Mediation in Theory and Practice' in Touval,S. & Zartman,I.W.(Eds) *International Mediation in Theory and Practice* op.cit., pp.251-268:263; Zartman,I.W. & Touval,S. 'International Mediation: Conflict Resolution and Power Politics' 41 *Journal of Social Issues* (1985) pp.27-45:40-43.

33 Zartman & Touval, 'International Mediation: Conflict Resolution and Power Politics' op.cit., p.40.

34 Ibid.

technicalities of mediation, or of the conflict[35] but lies

"in the human relations skills of sharing feelings and perceptions, understanding the dynamics of social relationships and being knowledgeable of the sources and processes of conflict and resolution methods."[36]

As Burton notes, track two diplomacy offers a menu

"that signals no prejudice, no fault, no value judgments, no pre-conditions, no selected ingredients, but...whatever ingredients are required to satisfy the...values and human needs of all concerned."[37]

In a power framework, although the mediator possesses sources of leverage such as economic ones, his relationship with the conflict system could militate against his resort to them. Where the mediator is heterogenous, this problem is compounded because the effects of that leverage may affect adversely his post-mediation relationship with the parties. In the Uganda mediation, although some track one sources of leverage (such as the ability of Kenya to effect a blockade on Uganda which is landlocked), were available, the mediator was loath to use them because in the nature of the conflict, and the relationship of the mediator with it ,this would have hurt both parties equally. More importantly as was noted earlier, the situation in Uganda was not conducive to any effective use of leverage.[38] Being trapped within a track one framework, any influence the mediator may have had with the parties was rendered ineffective, not least because of Kenyan bureaucratic environment mentioned in Chapter Eight

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35   See   Light,M.   'Problem-Solving   Workshops: The   Role   of Scholarship in Conflict resolution' in Banks,M.(Ed) *Conflict in World Society: A New Perspective on International Relations* (Brighton: Wheatsheaf Books, 1984) pp.146-160:154.

36 Fisher, 'Third Party Consultation as a Method of Intergroup Conflict Resolution' op.cit., p.305.

37 Burton,J.W. *Conflict: Resolution and Provention* (London: Macmillan, 1990) p.222.

38 See Chapter 6 and Chapter 8.

which led the parties to conclude that the negotiating environment was irretrievably poisoned.

In this kind of situation, the management process would have been enriched had the mediator been supported by those with the sort of influence noted earlier, which is not based on manipulation and power, but on knowledge about conflicts and the analytical processes of their resolution. This kind of knowledge is highly developed in track two diplomacy,[39] and can usefully supplement a mediator's limited sources of leverage. Bringing this source of influence to bear on track one conflict management is a useful way through which track one and track two diplomacy can collaborate in the endeavour to seek more meaningful and enduring outcomes to conflict.

Managing Transitional Conflicts

The argument that conflicts which are transitional cannot be successfully managed[40] is disproved by the Uganda mediation. Like the Eritrean conflict in 1990, it too was transitional. However, this statement is tempered by the fact that the Uganda mediation was only partially successful.[41] The reasons for its partial success however are related to the mode of management, rather than to the transitional character of the conflict. Perhaps because of its very transitional character, the Uganda conflict required a more complex, dual diplomatic approach to its management, the modalities of which have been suggested above. The transitional nature of such a conflict means that the

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39 See for example Burton,J.W. *Conflict: Resolution and Provention* op.cit.; also, Burton,J.W. & Dukes,F. *Conflict: Practices in Management, Settlement and Resolution* (London: Macmillan, 1990). In international mediation, the mediator can be motivated by his own position in the area, and thus seeks "to maintain close ties with one side while improving ties with the other." :Zartman & Touval, 'Conclusion: Mediation in Theory and Practice' op.cit., p.257. But in the Uganda mediation, the conflict was internal, and the mediator wanted to maintain close ties with both sides: Kenya wanted its ties with Uganda to be assured whichever side 'won'. See Chapter 6 for a discussion of this.

40 See Ottaway,M. 'Mediation in a Transitional Conflict: Eritrea' in Zartman,I.W.(Ed) Resolving *Regional Conflicts* op.cit., pp.69-81.

41 See Chapter 8 for a discussion of the outcome of the Uganda mediation.

parties are still coming to terms with their conflictual relationship. In such a case, the methodologies of track two diplomacy, which explore conflict from the level of attitudes, can be brought to bear usefully in that process. Eventually, this would greatly enhance the ability of the track one component of this dual approach to help the parties settle those matters which are negotiable. This is illustrated for example in the current negotiations between Israel and the PLO.

Dual Diplomacy and the Problem of Re-Entry

One of the problems of the mediation process is the concern whether the parties will be able to re-enter their domestic environments successfully, and 'sell' the outcome of the mediation to their constituents. This problem has two related levels: shaping the parties' perceptions by getting them to have a commitment to implementing the Agreement, and shaping the perceptions of their constituents so that they can 'buy' the Agreement, and hence legitimise it. As both Wall[42] and Mitchell[43] emphasise, parties in mediation are not unitary: they have wider constituencies and audiences which they must have in contemplation. They must therefore ensure that they "do not get so far ahead of the parade that they can no longer hear the music."[44]

In the Panama Canal negotiations for example, such a consensus was built through delegation members undertaking a "massive public relations campaign" in the country and in Congress, during and after the negotiations.[45] In the Uganda mediation, the Nairobi

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42 Wall,J.A. 'Mediation: An Analysis, Review, and Proposed Research' 25 Journal of Conflict *Resolution* (1981) pp.157-180.

43 Mitchell, 'The Motives for Mediation' op.cit.

44 Colosi,T. 'A Model for Negotiation and Mediation' in Bendahmane,D.B. & McDonald,J.W.(Eds) *International Negotiation: Art and Science* (Washington: Foreign service Institute, 1984) pp.15-33:19.

45 See Druckman,D. 'Four Cases of Conflict Management: Lessons Learned' in Bendahmane,D.B. & McDonald,J.W.(Eds) *Perspectives on Negotiations* op.cit., pp.263-288:284.

Peace Agreement was abrogated within a few weeks of its signature because neither party could sell it to their constituents. This re-entry problem could have been eased by adopting a dual diplomatic approach. This has already been suggested with respect to the level of perception of the parties. Had track two diplomacy been incorporated in the process, it could have complemented track one by identifying all the parties to the conflict,[46] and engaging in grassroots conflict management. This entails undertaking the education of the constituents at the grassroots level about the peace process, its meaning and expectations.

Track Two Diplomacy and Conflicts in Africa

This plea for a dual diplomatic approach does not mean that the two diplomatic approaches must be submerged permanently into each other. As was noted in Chapters Two and Four, track two diplomacy in Africa is still underdeveloped, and there is room for its further growth. Indeed, providing that the present OAU conflict management structures remain, track two diplomacy will continue to enjoy vast potential for conflict management in Africa.

This is not a mystic hope. As Chapter Four showed, there are still many conflicts in Africa which the OAU under its present principles declines (and presumably will continue to decline) to manage, on the basis that they are the internal affairs of the states concerned. In these cases, track two can go where track one fears to tread. It has been suggested for example that a track two involvement at the Moshi Conference[47] could have made a great difference to the future trend of conflict in Uganda.

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46 Since as Groom notes, all parties necessary for the self-sustaining resolution of the conflict must be present. See Groom,A.J.R. 'No Compromise: Problem-solving in a Theoretical Perspective' 43 *International Social Science Journal* (1991) pp.77-86:85.

47 And indeed at the pre-Moshi conference, where the agenda for the Moshi conference was drawn. See Chapter 5.

Perhaps the strongest case to be made for the relevance of track two diplomacy to conflict management in Africa is that it would bring with it a perspective that current leaders in Africa lack. As Mujaju notes,

> "far too many [OAU] heads of state lack the...stature and disposition to perform a mediating role in the continent. Many...are burdened by recurrent crises at home, while others with a military background may lack the...disposition to handle diplomatic tasks. They do not exercise it in their own countries; they cannot so easily cultivate it abroad."[48]

Track Two Diplomacy and Non-Interference

Although the urgent need for the OAU to review its Charter generally and the provision on non-interference in particular was suggested earlier in this chapter, it is unlikely that this will happen soon. The OAU's innate conservatism, and the skeletons in the (internal) cupboards of many regimes in Africa will see to this.[49] As long as this trend prevails, the dual diplomatic track suggested above can not be realised fully, since member states will still plead non-interference and hence neither follow Kenya's example in its mediation of the Uganda conflict, nor agree to methodologies which may bring their legitimacy to the fore.

Nevertheless, track two diplomacy can make a valuable contribution to conflict management in Africa. The continuing expansion of the bases for internationalisation of internal conflict will mean that even though notionally track two diplomacy could still be restricted to the management of apparently internal

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48 Mujaju,A.B. 'Internal Conflict and its International Context' in Rupesinghe,K.(Ed) Conflict *Resolution in Uganda* (London & Athens,OH.: James Currey & Ohio University Press, 1989) pp.249-274:272.

49 The *Declaration on the Political and Socio-Economic Situation in Africa*, op.cit., made some kind of conceptual breakthrough in recognising that internal conflicts also need to be addressed by the OAU. But it had in mind only situations where complete order has broken down like in Liberia and Somalia, and where the conflicts have diffused into neighbouring countries. What the OAU is working towards is a lego-normative framework through which intervention in such cases can be justified in its Councils: see *Report of the Secretary-General on Conflicts in Africa*, op.cit., p.12.

conflict (like the WCC in the Sudan), international awareness of such conflicts, and their entry into the domain of public discourse will provide track two diplomacy with valuable support for its conflict management endeavours.

There is also evidence that in future, conflicts in Africa and elsewhere will be predominantly internal.[50] As the conflicts in former Yugoslavia, Rwanda and Liberia suggest, these are likely to have a strong bias towards self-determination. Two emerging notions of self-determination will colour the international conflict map. The first is internal self-determination, which as Michalska writes,

> "is directed against authoritarian regimes...not only against external interference but mainly against internal interference. This is a right to struggle against all forms of arbitrary oppression of peoples."[51]

The second notion of self-determination is loosely termed 'post'colonial' self-determination, which is an

> "idea of self-determination within areas such as the former Yugoslavia and Cambodia. In...these...cases, self-determination represents a conflict between those who live within a territory and those who are part of a wider ethnic group with members both inside and outside the territory."[52]

With the settlement of the South African conflict,[53] the OAU has lost the crutch it used hitherto

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50 See for example, Rupesinghe,K. 'Early Warning and Preventive Diplomacy: A Discussion Paper' (London: International Alert, 1993); see also, International Alert, *Internal Conflicts in Africa*   (London: International Alert, 1994).

51 Michalska,A. 'Rights of Peoples to Self-Determination in International Law' in Twining,W.(Ed) *Issues of Self-Determination* (Aberdeen: Aberdeen University Press, 1991) pp.71-90:83.

52 International Alert, *Preventive Diplomacy: A UN/NGO Partnership in the 1990s* (London: International Alert, 1993) p.10. The salience of this kind of conflict and its continuing potential in Africa is noted in Chapter 3.

53 That conflict was settled, not resolved. Only now are the parties (especially at the grassroots level) going through a process of 'confirming' (engaging in dialogue which would lead to an acceptance of each others fundamental values and self-worth: see Montville,J.V. 'The Healing Function of Political Conflict Resolution' op.cit., p.115)

to support the argument that self-determination refers only to external, and not to internal self-determination.[54] It will be faced increasingly with both these emerging claims to self-determination, whose human rights content will further internationalise them. But, as with non-interference, these are not concepts which the OAU or its member states are likely to embrace keenly. Hence, the internal and inter-state dichotomy will probably prevail for some time. But the internationalised nature of these emerging claims to self-determination could mean that if track two diplomatic efforts are directed to the identification and management of such conflicts, there will be wide international recognition and support for such endeavours. In this respect, an important aspect to which track two diplomacy can contribute is in giving early warning, and hence anticipate such conflicts before they become genocidal, as in Rwanda. This essentially requires a re-interpretation of the concept of ripe moments, as is suggested in the folowing section.

Track Two and Re-Interpreting Ripe Momemts

Zartman-type ripe moments[55] are identifiable *inter alia* by stalemates which hurt the parties, and which they cannot escape from, forcing them to choose between negotiation and escalation. The problem for the

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through the setting up of a Truth Commission: see McGreal,C. 'Time to Dig up the Hatchet' *The Guardian* (London) 10 June 1994, p.2. But as was evident in a discussion between the author and a senior South African diplomat (Paris, May 1994), the Commission is viewed with a lot of suspicion in some South African quarters. However, this underlines the importance of such a process as a means by which psychological gaps can be eliminated.

54 Islam notes for example that the emergence of Bangladesh as an independent state in 1971 challenged the proposition that self-determination has no relevance beyond colonial contexts. See Islam,M.R. 'Secessionist Self-Determination: Some Lessons from Katanga, Biafra and Bangladesh' 22 *Journal of Peace Research* (1985) pp.211-221:211.

55 See Chapter 2 and Chapter 8.

conflict analyst or manager is thus one of synchronisation: timing the third party's entry to coincide with the parties readiness to compromise or negotiate.[56] Ripe moments and hurting stalemates are essentially creatures of power politics and of track one diplomacy. They are felt only once the conflict becomes violent. In the OAU approach, the principle of non-interference and the resulting internal and inter-state dichotomy of conflict means that only when the conflict has diffused into neighbouring states (and hence once states experience the hurting stalemate) does the OAU invoke its conflict management mechanisms. This is unsatisfactory: therefore, such ripe moments will be termed 'false' ripe moments.

In some internal conflicts, the ripe moment can be discerned long before the model formulated by Zartman becomes evident. At an earlier stage, third party involvement could make all the difference to the pattern of the conflict. A case in point is the Uganda conflict at the stage of the Moshi Conference of 1979. That conflict (and the conference) was considered by the OAU to be an internal affair of Uganda.[57] In the context of OAU conflict management, track one involvement by the OAU or individual member states would have been construed as offending the Charter. Yet the conflict at the Moshi stage was ripe for third party involvement. It was an almost classic situation for the engagement of track two diplomacy, which could have probably made a great difference to the future conflict in Uganda. Internal conflicts such as in Uganda (1979) and Ethiopia (1990) displayed 'true' ripe moments, which were however ignored because they were manifest at a stage when the conflicts were still considered to be an internal affair, and hence ones in which the OAU and its member

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56 Zartman & Touval, 'Conclusion: Mediation in Theory and Practice' op.cit., p.260.

57 Even though the fact that the conference was summoned by Tanzania, which was at war with Uganda, had already internationalised the conflict.

states choose not to involve themselves. But track two diplomacy is not tied by such doctrinal baggage. It can help by managing conflict at that true ripe moment, or giving an early warning that the conflict is ripe for management.

Conclusion

This study has examined the management of internal conflict in Africa. In doing so, it has adopted an analytical framework that takes into account the diverse contexts within which such conflicts are manifested, and in which they should be analysed and managed. The theme running throughout the study is that conflict analysis and management must take into account the multi-level nature of every conflict, and hence the complexity of the management process.

The locale in which this study is anchored is Africa and its internal conflicts, which like those elsewhere, are becoming internationalised at an increasingly early stage. The locality of the mooring does not however suggest peculiarity, or endorse an idiosyncratic view of the conflicts of a particular region. But it suggests the vastness of the sea of conflict, and the commonality of problems of the tempest-tossed human beings whose lives are lost or thrown adrift.

The present chapter has made some suggestions about how the process of conflict management can be enriched further. This can be done by taking into account the reality of the various levels of a conflict. This is in recognition of the fact that rather than being a simple exercise in power bargaining, conflict management is a much more multi-dimensional and complex undertaking.

Despite differences in historical causes, generalisations about conflict in one location can still be of value in enhancing knowledge about conflict and its management elsewhere. This might help to develop the discipline of conflict managment further. This study was aimed at making a modest contribution to that process.

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