

THE RESTORATION OF PEACE AND STABILITY IN SOMALIA: THE CRITICAL ROLE OF THE AFRICAN UNION MISSION IN SOMALIA (AMISOM)

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ABSTRACT

There has been a civil war in Somalia ever since the central government collapsed in 1991 which means there has been more than twenty years of domestic violence. To stop the fight, the United Nations Missions and other forces authorised by the UN Security Council have been deployed to Somalia such as the United Nations Operations (UNOSOM) and United Task Force (UNITAF), but none of those missions and forces have bore fruit and the civil war in the country has not come to an end. Furthermore, United Nations thought it has failed militarily whatever caused in Somalia but politically it has been present because immediately after its withdrawal from the country United Nation Office in Somalia (UNPOS) was established in 1995 in neighboring country in Kenya. However, in 2006 the situation deteriorated further when there was a bloody conflict between Islamic Courts and the Transitional Federal Government (TFG) heavily supported by Ethiopia which later resulted in military defeat of the former

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and two years presence of Ethiopian contingent in Somalia. Consequently, the situation came under the spotlight of African Union which later established African Union Mission in Somalia (AMISOM) which is currently operating in Somalia with the approval of the UN Security Council under its Resolution 1744. The idea of creating AMISOM is to assist (TFG) as well as to promote peace and stability in Somalia.

Keywords: Somalia, Peace, Stability, Resolution 1744, AMISOM, AU, Somali Transitional Federal Government (TFG).

PEMULIHAN KEAMANAN DAN KESTABILAN DI SOMALIA: PERANAN PENTING MISI KESATUAN AFRIKA DI SOMALIA (AMISOM)

ABSTRAK

Satu perang saudara telah berlaku di Somalia sejak kerajaan pusat tumbang pada 1991, bermakna sudah dua puluh tahun keganasan domestik berlaku. Untuk menghentikan peperangan, Misi Pertubuhan Bangsa-bangsa Bersatu dan lain-lain angkatan bersenjata yang diberikan kuasa oleh Majlis Keselamatan PBB telah dihantar ke Somalia seperti Operasi Pertubuhan Bangsa-bangsa Bersatu (UNOSOM) dan Pasukan Tugas Bersatu (UNITAF), tetapi tiada misi dan angkatan bersenjata yang membuahkan hasil, dan perang saudara di negara tersebut belum lagi berakhir. Pertubuhan Bangsa-bangsa Bersatu berfikir ia telah gagal secara ketenteraan walau atas sebab apa sekalipun di Somalia, tetapi ia hadir secara politik kerana sebaik ia berundur dari negara tersebut Pejabat Pertubuhan Bangsa-bangsa Bersatu di Somalia (UNPOS) telah ditubuhkan pada 1995 di negara jiran, Kenya. Walaubagaimanapun, pada 2006

situasi menjadi semakin buruk apabila berlaku pertempuran antara Mahkamah Islam dan Kerajaan Persekutuan Peralihan (TFG) yang kuat disokong oleh Ethiopia, berakhir dengan kekalahan pihak yang pertama dan kehadiran kontinjen Ethiopia selama dua tahun di Somalia. Akibatnya, situasi menjadi tumpuan Kesatuan Afrika yang kemudiannya menubuhkan Misi Kesatuan Afrika di Somalia (AMISOM) yang sedang beroperasi di Somalia dengan kelulusan Majlis Keselamatan PBB di bawah Resolusi 1744. Cadangan penubuhan AMISOM adalah untuk membantu TFG selain daripada memupuk keamanan dan kestabilan di Somalia.

Kata kunci: Somalia, kestabilan, Resolusi 1744, UNOSOM, AMISOM, AU, Kerajaan Persekutuan Peralihan Somalia (TFG).

INTRODUCTION

African Union Mission in Somalia (AMISOM) is a regional arrangement mission authorized by AU Peace and Security Council and subsequently approved by the UN Security Council in accordance with the UN Charter, more specifically under Articles 52 and 53 of the charter. African Union Peace and Security Council is an organ which deals with the maintenance of peace and security, particularly in war-torn areas in Africa. AMISOM is not the first of its kind deployed as African peacekeepers. There have been other missions deployed to other areas of conflict on the continent such as African Mission in Sudan (AMIS). Since devastating civil wars are categorized as a threat to international peace and security, AMISOM is formed for the purpose of resorting to international peace and security and it is therefore relevant to the situation in Somalia.

This paper examines whether AMISOM can bring solution to Somalia despite the current situation in the country. First, it reflects on the deteriorating situation in Somalia followed by the relationship between the United Nations and African Union in relation to the maintenance of international peace and security in light of the UN Charter. The study analyses the legal justification for regional arrangements under the UN

Charter in general and specifically examines the legal establishment of AMISOM under the Authorization of the Security Council Resolution 1744 (2007). The paper argues that although the mandate of AMISOM is clear, its implementation is rather complex. It does not disregard the humanitarian success of the Mission, but debates more or less on whether AMISOM has achieved the most vital part of its mandate which is restoration of peace and stability in Somalia through ‘dialogue’ among Somalis. The paper concludes that the *bottom approach* (starting the reconciliation process) from grass-root as a mechanism could be used in order to synthesise future peace and stability in the country.

THE WORSENING SITUATION IN SOMALIA

Since 1991 when Somali statehood was lost in the civil war and chaos, Somali people ceased to enjoy sustainable peace and stability; rather they have been living under constant fear, internal or external displacements as well as foreign interventions including the UN Operations which fueled the situation until it becomes complicated and messy.

At the security level, the current situation of Somalia is worsening on a daily basis despite attempts of the Somali Transitional Federal Government (TFG) together with the African Union Mission in Somalia (AMISOM) to restore peace in the country. Although the TFG and AMISOM are both backed by the international community, insecurity and instability are still prevalent issues. Re-building the nation is far from the minds of the Somalis. Currently, there are two main challenges and threats to stability and political process in the country, particularly in central and southern Somalia. They are discussed in the following paragraphs.

The first challenge is insurgence arm conflict which is primarily represented by two main groups notably Al-Shabab and Hizbul-Islam. Both are against TFG as well as the presence of AMISOM in Mogadishu. Due to that, the fighting and bloodshed including indiscriminate attacks, assassinations, suicide bombings against the Somali people as well as TFG and AMISOM, particularly in the Mogadishu areas of the country were recently discussed at the 245th African Peace and Security Council meeting on 15 October 2010, in Addis Ababa, Ethiopia.¹ Prior to that,

¹ <<http://www.amisom-au.org>> (accessed 24. Nov. 2010).

African Peace and Security (at its 194th meeting on 15 June 2009 in Addis Ababa, Ethiopia) accused both Al-Shabab and Hizbul-Islam of engaging in such violent activities as well as having close links with international terrorists.² The UN Security Council shows its deep concerns about Somalia's volatile situation based on the report of the General-Secretary on Somalia. The Council further expresses the "continuing insecurity that had hampered United Nations Operations in Somalia by limiting freedom of movement for United Nations staff and contractors."³ There is an argument that says that TFG will achieve something on the ground if there is political solidarity among TFG leadership and they could form national forces such as police and military with the help of AMISOM. That could be considered a valid argument.

The second security challenge is the problem of piracy in both territorial seas and high seas which stem mainly from lack of a functioning central government in Somalia. The growing number of pirates is specifically related to the collapse of the fishing industry, the increase of poverty and corruption.⁴ Moreover, there is no doubt that pirate acts off the Somali coast rightly reflect a severe instability in the country and it also has a negative impact on maritime freedom of navigation.

From the humanitarian aspect, the insecurity in Somalia is increasing dramatically everyday which causes the situation to worsen and the constant political unrest is a growing concern. In terms of internally displaced persons (IDPs), in 2010 there was an estimated 3.2 million in south central Somalia alone according to the Food and Nutrition Unit (FSNU)⁵ and this figure may continue to increase as far as the situation is concerned. It is also worth noting that the IDPs in Mogadishu and its outskirts are most vulnerable; as of 25 May 2009 more than 60,000 people have been displaced from Mogadishu to the northern parts of the country and humanitarian workers have been facing difficult conditions such as

² <<http://africaunion-psc.org>> (accessed 24 Nov. 2010).

³ See report of Secretary – General on Somalia, 9 Sep. 2010, at 4. <http://unpos.unmissions.org> (accessed 5 Oct. 2010).

⁴ The changing Security Situation in Somalia: Implications for Humanitarian Action, A seminar hosted by the Brookings Institution-University of Bern Project on International Displacement, January 12, 2010, at 2.

⁵ See Somali: Displacement and Worsening Humanitarian Situation as a Result of on Going Violence and Conflict, <http://www.unhcr.org/> (accessed 2 October 2010).

illegal detention and arbitrary arrests.⁶ This eventually forces thousands of Somalis to end up in refugee camps in neighbouring countries, notably Kenya, Djibouti and Yemen. UNHCR has registered an estimated 3,289 refugees in Kenya, Djibouti and Yemen in hard conditions due to overcrowding and limited basic services.⁷

UN-AU RELATIONSHIP

Broadly speaking the general collaboration between regional arrangements apart from Chapter VIII of the Charter is designated in the “Declaration on the enhancement of cooperation between UN and regional arrangement in the maintenance of International Peace and security” adopted by the General Assembly with Resolution 49/57 on 9 December 1994. In fact, such cooperation between the UN and regional organisations makes the UN system effective and more legitimate to deal with international crisis especially the Security Council’s issuance of binding decisions as well as delegation of some power to the regional bodies since the Security Council cannot involved in all global crises at once.⁸ On the other hand, an agenda for peace introduced by former Secretary-General of the UN Boutros Boutros Ghali in 1992 addressed⁹ the relationship between regional agencies and UN especially the Security Council in relation to restoring international peace and security. In the *agenda for peace*, Mr Ghali further specified the role of the regional arrangement saying “regional action could lighten the burden of the Council, constitute sense of participation, consensus and democratisation in the international affairs.”¹⁰

The UN AU relationship could be translated as a matter of collaboration between the two bodies regarding restoration of peace and

⁶ < <http://africaunion-psc.org>>

⁷ See *Somalia - Complex Emergency, Situation report*, February 2010 <http://www.usaid.gov> (accessed 2 October 2010).

⁸ Noah Blalostozky, “Overcoming Collective Action Failure In the Security Council: Would Direct Regional Representation Better Protect Universal Human Rights?” (2009) *Buffalo Human Rights Law Review*.10.

⁹ <<http://www.un.org>> (accessed 14 Oct. 2010).

¹⁰ Matthew S. Barton, “Ecowas and West African Security: The New Regionalism,” (2000) *DePaul International Law Journal*. 11.

security in the African continent. Article 17 (1) of AU Peace and Security Council (PSC) protocol is a convincing example of the relationship between the two organizations, in particular in the areas of peace and stability. In relation to that, the Article clearly codifies that “the Peace and Security Council shall cooperate and work closely with United Nations Security Council.” This means that the relationship between the UN and AU is complementary and supplementary in nature in circumstances where something is endangering the continent since the continent has been suffering a series of disasters such as civil war and political instabilities.

There are occasions where the UN provided assistance for a number of AU missions in Africa such as the African Mission in Sudan (AMIS) where the UN Security Council Resolution 1706 requested the Secretary General “to take necessary steps to help strengthen AMIS allowing them to use existing UN resources...”¹¹ Afterwards, the AU/UN Hybrid Operation in Darfur UNAMID was established by the UN Security Council Resolution 1769 which authorised UNAMID to protect its “personnel, facilities, equipment” and improve “security” as well as to protect “humanitarian workers,” to assist “Darfur Peace Agreement” by hampering any disturbance “to its implementation” and to protect civilians.¹²

The African Mission in Burundi (AMIB) is another example of the UN / AU relationship which was deployed due to widespread ethnic violence in Burundi.¹³ The Mission was initially established by AU whose agenda was to observe ceasefire and freedom of movement and was subsequently approved by the UN Security Council under its Resolution 1545¹⁴ and transitioned AMIB mission in the UN operation in Burundi (ONUB) which completed its mandate in 2006 and succeeded by the United Nations Integrated Office in Burundi (BINUB) established by the Security Council Resolution 1719.¹⁵

¹¹ S/RES/1706 (2006) of 13 August 2006. <<http://www.responsibilitytoprotect.org>> (accessed 22 Nov. 2010).

¹² S/RES/1769 (2007) of 31 July 2007.

¹³ Suyash Paliwal, “The Primacy of Regional Organizations in International Peacekeeping: The African Example,” (2010) Virginia Journal of International Law 19.

¹⁴ S/RES/1545 (2006) of 21 May 2004 <<http://www.un.org/en/peacekeeping/missions/past/onub/>> (accessed 23 Nov. 2010).

¹⁵ S/RES/1719 (2006) of 25 October 2006.

Currently, in order to address the situation in Somalia AU has deployed African Mission in Somalia (AMISOM) which is mandated by the Security Council Resolution 1744. This indicates how much the UN / AU jointly cooperate to reduce conflict and maintain international peace and security. The distinctive feature of AMISOM mission is that it is not under the auspices of the UN, but the AU.

LEGAL JUSTIFICATION FOR REGIONAL ARRANGEMENT UNDER THE UN CHARTER

Regional arrangement means an establishment of forces that primarily aim at taking part in restoring international peace and security on the authorization by the UN. The UN Security Council is the principal organ and regulatory body in relation to maintenance of international peace and security pursuant to Article 24 of the Charter.

The legality of regional peacekeeping operations comes under the ambit of Chapter VIII, more specifically in Articles 52 and 53 of the Charter. Article 52 (1) is a foundation stone for the legal justification of regional involvement in restoring international peace and security which reads, “Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security...” provided that they are within the “purpose of the UN Charter.” Article 53 (1) of the Charter clarifies under which organ of the UN regional peacekeepers operate in respect of dealing with international peace and security as follows; it states “The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council...” A number of important issues could be formed under Article 52 (1) and Article 53 (1).

First, the role of the regional arrangement in terms of maintenance of international peace and security is clearly manifested. Second, actions taken by the regional arrangement towards peace and security should be consistent with the purposes and principles of the UN Charter. Third, there should not be enforcement whatsoever unless prior authorization is obtained from a competent authority which is of course the UN Security

Council. Article 54 further states that the Security Council should be “fully informed” of any peace activity.

The fundamental question is whether Chapter VIII is relevant only when there is threat to international peace and security as is the case under Chapter VII. Some scholars assert that it is not necessary to satisfy elements articulated in Article 39 of the Charter regarding threat to international peace and security, aggression and breach of peace, while others argue that the requirements laid down in Article 39 must be fulfilled.¹⁶ Others argue that the authorization given to the Regional Organization contains both use of force as well as other types of sanction articulated in Chapter VII of the Charter.

We need to examine how AMISOM operations in Somalia are in line with the requirements established by Chapter VIII of the Charter. On 19 January 2007, the Peace and Security Council authorized AMISOM’s deployment to Somalia for the purpose of “stabilization of the situation in the country.”¹⁷ In this regard, AMISOM as a regional peacekeeping force was established to restore international peace and security in pursuance of the “principles and purpose of UN” as provided in Article 52 of the Charter. In addition, AMISOM, under Article 53 satisfies the “authorization” element by the Security Council under its Resolution 1744. Therefore, AMISOM’s presence in Somalia is legitimate in the eyes of the UN Charter.

THE ESTABLISHMENT OF THE AFRICAN UNION MISSION IN SOMALIA (AMISOM) UNDER THE AUTHORISATION OF THE SECURITY COUNCIL RESOLUTION 1744 (2007)

Since UN missions have generally failed to improve the Somali situation, the African Union (AU) as a regional organization has launched its peace operations in the continent especially in areas mostly affected by internal conflicts and civil wars. Like the UN Security Council, AU itself has its council which is called AU Peace and Security Council (PSC). Since its establishment in 2004, is mandated to interfere in the domestic affairs of

¹⁶ Supra n. 13.

¹⁷ <<http://www.amisom-au.org/>> (accessed 24 Nov. 2010).

another state in respect to war crimes, genocide and crimes against humanity enshrined in Article 4 (h) of the AU Constitutive Act.¹⁸ The PSC also has the authority to intervene under the invitation of a member state facing serious threat to security.¹⁹ As mentioned above, the insecurity in Somalia has become rampant. As a result, African Union has decided to intervene in Somalia in the form of a Peacekeeping mission called the Africa Union Mission in Somalia (AMISOM).²⁰

On 19 January 2007, the African Mission in Somalia was created by the African Unions' Peace and Security Council to replace Ethiopian troops in Somalia. Around 8,000 African peacekeepers were needed by AU as African Mission in Somalia. Four states initially expressed their willingness to provide troops to the Mission. Although Uganda offered 1600 troops, Nigeria 850, Ghana 350 and Burundi up to 1600 troops, only two countries fulfilled their pledges, namely Uganda and Burundi. The others have not deployed any troops mainly due to financial constraints. The context and purpose of the mission is one of AU's peacekeeping missions across the continent since 2003 in missions deployed to Burundi (AMIB), (AMIS) and others.²¹

In February 2007 the UN Security Council adopted Resolution 1744 which approved the current African Mission in Somalia (AMISOM) comprising 8, 000 African peacekeeping forces as earlier discussed.

Now we turn to the legal aspect of AMISOM's presence in Somalia concerning the use of force in accordance with the Constitutional Act of African Union as well as in the UN Charter. In the Constitutional Act of African Union, "peaceful solution of conflicts among member states," "prohibition of use of force or threat" as well as "non-interference by member states in the internal affairs of another" are among the core principles which are clearly specified in Article 4 (e), (f) and (g)

¹⁸ Ben Kioko, the Intervention under the African Union's Act: From non-interference to non-intervention, *IRRC*, December 2003 Vol. 85, No. 852, at 815.

¹⁹ Peter Kagwanja, "Power and Peace: South Africa and Refurbishing of Africa's Multilateral Capacity for Peacekeeping," *Journal of contemporary African Studies*, Vol. 24, issue 2, May 2006, at 173.

²⁰ <<http://africaunion-psc.org>> (accessed 3 October 2010).

²¹ See African Mission In Somalia, Exemplifying African Union Peacekeeping Challenges, at 10. <<http://www.foi.se/upload/projects/Africa>> (accessed 6 Oct. 2010).

respectively. Basically, both Uganda and Burundi whose contingents form the AMISOM, together with hosting nation Somalia, are parties to the treaty and they are bound by the principles mentioned above.

However, Article 4 (h) of the Constitutional Act permits the Union to intervene in the domestic affairs of member state in “grave circumstances,” namely war crimes, genocide and crimes against humanity. Some may wonder whether the term “grave circumstances” in paragraph (h) is confined to the three aforementioned categories of crimes or if there is a possibility of extending to them other severe circumstances such as civil wars, humanitarian crisis and so on. If the emphasis is only on war crimes, genocide and crimes against humanity how will AMISOM operation in Somalia be justified according to the Constitutional Act. The answer can be found in Article 7 (c) of the *Protocol relating to the establishment of the Peace and Security Council of the African Union* which reads “The Peace and Security Council shall authorize the mounting and deployment of peace support mission.”²² That means the Peace and Security Council (PSC) is the organ empowered by the protocol to restore peace and stability across the continent and authorize peacekeeping missions.

The establishment of AMISOM has a legal basis in the UN Charter, more specifically in Article 52 (1) that allows regional troops to take part in restoring peace and security provided it is authorised by the Security Council. The establishment of the AMISOM is legal because the Security Council acting under Chapter VII has passed Resolution 1744 authorizing AMISOM to carry out the function of maintaining peace and security in Somalia.

The mandate has undergone several expansions by the Security Council Resolutions.²³ Resolution 1964 is the last Resolution extending

²² <<http://www.africa-union.org>> (accessed 13 Oct. 2010).

²³ Resolution 1744 decided under Chapter VII of the Charter authorized “member states of African Union to maintain a mission in Somalia for six month period.” In February 2008, Resolution 1801 was enacted under Chapter VII also decided “to renew authorization of member states of the African Union to maintain AMISOM in Somalia for a further period of six months.” Moreover, in August, the same year, Resolution 1831 under Chapter VII renewed “the authorization of member states of the African Union to maintain a mission in Somalia for a further six month period. In addition, in January 2009, Resolution 1863 acting under Chapter VII also authorized member states to

authorization of African Union Mission in Somalia until 30 September 2011.²⁴ These successive resolutions passed by the Security Council have been marked as the foundation for the legality of AMISOM.

THE MANDATE OF AMISOM

AMISOM has been given a mandate by the African Union's Peace and Security Council with the approval of the UN Security Council Resolution 1744 to carry out its duties within the given framework of the mandate. According to the mandate, AMISOM shall assist through dialogue and reconciliation among Somalis and to safeguard the continuation of national reconciliation in Mogadishu. Secondly, they are to protect federal institutions and other key infrastructures which enable TFG to conduct its functions properly. Thirdly, they are to help with "national security and stabilization" as well as "re-establish an effective national forces" in the country. Fourthly, they are to provide "humanitarian assistance." Finally, they are to safeguard its personnel in terms of their movements, installations and equipment.

The question whether this mandate is achievable or not depends on whether the consent of the conflicting parties is obtained. If a deployment of UN peacekeeping operations demands the consent of the parties concerned, the regional peacekeeping operations would also be required. The overall mandate of the AMISOM may not be attainable because of AMISOM's failure to get the consent of the warring factions. It is understood that AMISOM received consent from the Transitional Federal Government but it is crystal clear that the Islamic Union Courts objected to the deployment of foreign troops. Although the issue of consent is debatable, TFG as the legitimate government consented but it was

continue to stay in the mission in the country "up to six months." In May 2009, Resolution 1872 acting under Chapter VII authorized "the member states of the African Union to maintain AMISOM until 31 January 2010 to carry out its existing mandate. On the other hand, Resolution 1910 was adopted by the Security Council acting under Chapter VII which authorized "the member states of the African Union to maintain AMISOM in Somalia until 31 January 2011.

necessary to obtain the consent of the Islamic Union Courts since they are not a legitimate organization through democratic process.

Although the mandate of the Mission is clear and the operation of the Mission is on going in Mogadishu, most reports indicate that, AMISOM is acting outside its mandate by attacking populated areas, although they argued that it is the self-defense principle designated in Article 51 of the UN Charter. Of course AMISOM has the right to defend itself as well as its personnel if there is an armed attack by opposition groups: this is also one of the mandates given to AMISOM. There are, however, two important limitations laid down in the self-defense principle under customary international law, namely necessity and proportionality.²⁵ AMISOM is accused of indiscriminately killing civilians by overlooking the two principles mentioned. On 22 October 2009, opposition groups including Al-Shabab and Hizbul-Islam launched motor attacks on government installations and AMISOM. That actually resulted in indiscriminate counter attacks by AMISOM forces on *Pulotecnico*, a populated area and camp of the internally displaced people for nearly 18 years, killing three.²⁶ In addition, around 30 civilians were also killed and 60 to 70 injured by AMISOM shells in the *Bakaraha* market.²⁷ Even though Major *Barigiye Bahuku*, the spokesman of AMISOM denied the allegation, there is no doubt that AMISOM was the only force that had used such sophisticated weapons which were primarily inappropriate for use in civilian populated areas. Though both parties of the armed conflict failed to protect civilians, our main concern is the responsibility of AMISOM towards innocent civilians who are not part of the conflict. AMISOM had not acted in accordance with the principle of proportionality because although the opposing groups fired two motors, AMISOM responded with 20 motors without discrimination across the city (Mogadishu).

Meanwhile, on 23 November 2010 AMISOM soldiers opened fire on civilians on the street between km 4 and Aden Adde airport while the AMISOM contingent was passing through the same road and the action resulted in the death of two persons with seven others wounded.

²⁵ See 'Abdul Ghafur, *Public International Law: A Practical Approach*, (Prentice Hall, Malaysia, 2th.ed., 2007) at 449.

²⁶ See *No End in sight: the ongoing Suffering of Somali Civilians*, Amnesty international, at 3. (Accessed 11 Oct. 2010).

²⁷ *Ibid.*

Though AMISOM's spokesman General Barigye Ba-hoku²⁸ condemned the ugly action and also assured that the soldiers involved were in the custody of AMISOM, condemnation is not the solution for indiscriminate killings of innocent civilians. An appropriate investigation should have been done and AMISOM should be accountable for their actions. Killing of innocent civilians is not part of AMISOM's mandate and does not fall within the ambit of self-defense.

THE MISSION STRUCTURE

The Mission is headed by the Special Representative of the Chairperson of the African Union for Somalia (SRCC), Ambassador Boubacar Gaoussou Diarra. His deputy is Hon. Wafula Wamunyinyi. The mission consist of three main components. The Military Component is headed by the Force Commander Major General Nathan Mugishu, who is assisted by the Deputy Force Commander Major General Cyprien Hakiza. The Police Component is headed by Police Commissioner Hudson Benzu, who is assisted by Deputy Police Commissioner Oliver Somasa. The Civilian Component is supervised by the SRCC and / or the Deputy SRCC, who is jointly responsible for political affairs, civil affairs, humanitarian affairs as well as public information, among others. The Chief Administrative Officer supports other components of the mission such as administration, personnel, finance and budgeting, logistics and procurement, among others.

MILITARY, POLICE AND CIVILIAN DIMENSIONS

There are three big components of AMISOM's mission in Somalia, namely military, police and civil components. Each of the three components has a special task to achieve in the framework of the overall mandate of the mission.

The military component is the most important compared to the other two in terms of accomplishing the large scale of the mission's mandate. Furthermore, there is the component's chief staff Colonel

²⁸ <<http://somalitalk.com>> (4 accessed December 2010).

who has two commanders, one each from Uganda and Burundi. It is a military set-up which currently comprises approximately 6,200 troops from Uganda and Burundi.²⁹ Its actual mandate is to support and seek stability as well as provide workable conditions for humanitarian program mainly conducted by UN humanitarian agencies. AMISOM protects TFG including the presidential place (Villa Somalia) and its key infrastructures such as Mogadishu seaport and airport as well as its personnel, installations and equipment.

There are four phases of AMISOM's operations in Somalia:³⁰

- 1) Phase I is the initial deployment of nine infantry battalions in Mogadishu (Sector 2). This will involve execution by the Head of the Military Component, the AMISOM Force Commander (FC AMISOM), who will ensure the monitoring of the AMISOM Headquarter (HQ) and also provide a secure and safe environment in and around Mogadishu.
- 2) Phase II is one of the missions by deployment of predominantly military units to other sectors.
- 3) Phase III is the Consolidation Phase. This will involve comprehensive execution of AMISOM's mandate and key tasks as decided by the AU PSC.
- 4) Phase IV is the exit phase to coincide with a foreseen handover to the UN.

The Police Component is one of the three significant components in the AMISOM mission of peacekeeping. Its mandate is to train, mentor, monitor and advice the Somali police force (SPF).³¹ The AMISOM Police component is currently headed by Commissioner *Husson Bezun* who has vast experience in peacekeeping operations and its deputy police commissioner is Oliver Samasa.³² There are 600 certified police officers who were selected through the Selection Assistance Test (SAT) conducted

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ *Ibid.*

³² *Ibid.*

by their respective countries and they are responsible for accomplishing the mandate of the component.³³

The civil component of the AMISOM is currently limited to humanitarian tasks.³⁴ The humanitarian mandate of the AMISOM provides repatriation, reintegration of the refugees and resettlement of internally displaced persons (IDPs). Similarly, the mandate also requires AMISOM's humanitarian affairs unit to work closely with the UN humanitarian agencies such as the UN Office for Coordination of Humanitarian Activities (UNOCHA), United Nations Children's Fund (UNICEF)–Somalia, UNHCR-Somalia and other NGOs. In addition, AMISOM should cooperate with relevant Ministers including the minister of Humanitarian Affairs and Resettlement and the Minister of Health.

THE SUCCESSES AND FAILURES OF AMISOM

The deployment of AMISOM in Somalia since 2007 is a regional attempt to intervene in a country which had not seen peace and stability since 1991, waving a flag to support stability and peace in the country.

Successes: The AMISOM has done certain tasks in certain areas, which can be considered achievements since its inception.³⁵

National Reconciliation Conference: Since deployment, AMISOM has successfully facilitated the convening of the first ever National Reconciliation Conference in Somalia in July-August 2007 attended by over 2,000 delegates.³⁶ The theme was to protect and support the TFG in order to sustain its legitimacy over Somalia apart from securing the safety of the key infrastructures and international entry points as well as areas surrounding AMISOM's deployments. However, the said National Reconciliation Conference did not produce fruitful results and did not bring peace to the Somali people.

Promotion of Dialogue: A landmark meeting was held in March 2008 in AMISOM's compound at their base in Mogadishu airport.³⁷ The meeting was between Prime Minister Hassan Adde and the opposition

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ <<http://www.africa-union.org>> (accessed 15 Oct. 2010).

³⁶ *Ibid.*

³⁷ *Ibid.*

leaders and elders of the *Hawiye* clan since they form the majority in Mogadishu. It was believed that this meeting opened a new chapter in the political history of Somalia. Due to this meeting, AMISOM attempted to initiate a negotiation for peace and stability in the country

Humanitarian Assistance: Since the collapse of the central Government, the humanitarian crisis has been one of the pertinent issues causing the Somali population to suffer due to war and famine. In areas like health care, Somalis have not received adequate health care facilities since the war began, though some private hospitals are in place. AMISOM has played a key role in facilitating medical services as it is running two hospitals located in Mogadishu which have the capacity of serving almost 2,000 patients per week from all over Somalia.³⁸ In terms of safe water AMISOM provides about 60,000 liters to communities surrounding AMISOM force headquarters.³⁹

Failures. First, AMISOM has failed to fulfill its pledge to deploy military personnel. The number of troops pledged by member states to the African Mission for the AU peacekeeping mission in Somalia was 8,000. So far, only 6,200 have been deployed in Somalia. This failure could be related to lack of financial support since the mission requires a lot of funds in order to carry out its task.

Secondly, AMISOM has failed to protect the TFG's key infrastructures. As discussed protection of key infrastructures of the TFG such as Aden Adde Airport and seaport in Mogadishu are among the mandate of the AMISOM as provided in para. (4) (b) of Resolution 1744 of the Security Council.

Several attacks had been launched on the airport which led to deaths and injuries despite AMISOM's heavy presence in the area. Further, on Thursday, 09 Sep. 2010, Al-Shabab followers carried out a suicide attack on the Aden Adde Airport using two vehicles laden with explosions that traversed through checkpoints in the Airport and exploded themselves, killing at least 21 people comprising four Somalis 17 AMISOM peacekeepers including AMISOM Deputy Force Commander Major General Juvenal Niyoyunguruza and injuring 40.⁴⁰ The attack was launched at the time when a high level meeting between AMISOM and

³⁸ See *AMISOM Bulletin*, issue 4, 15 April, 2010 <<http://amisomau.org>> (accessed 21 October 2010).

³⁹ *Ibid.*

⁴⁰ <<http://www.africa-union.org>> (Accessed 21 Oct. 2010).

TFG was going on at the airport. This could be inferred as a significant failure of AMISOM in protecting the most important infrastructure of the TFG.

THE FUTURE OF PEACE AND STABILITY IN SOMALIA

The civil war gained momentum in Somalia in the last two decades, it is therefore not surprising that restoring peace in Somalia has become difficult over that long period of time. Numerous attempts have been made to scrutinize the situation in the country. What is happening in Somalia is a worse form of human conflict. There are two important elements to resolve any types of conflict, particularly for future peace and stability in Somalia. Those elements are nature of conflict, and mechanisms of the conflict resolutions.⁴¹ Exploring the nature of conflict is recommended before getting involved in finding the solutions for such conflicts. There are many ways to identify the nature of the conflict.

To understand the nature of any conflict, there are many aspects to look at. The first aspect is the duration of the conflict which means the longer a conflict exists, the more difficult it is to resolve it. For example, to resolve a fresh conflict that is going on in Libya may not likely take two decades in terms of duration. In terms of settlement, Somalia may require more time and resources than Libya. The second aspect is to identify whether a conflict is violent or non-violent. For instance, the conflict in Somalia is a violent one whereas the conflicts in Tunisia and Egypt are peaceful ones so each scenario demands different solutions and the more bloodshed in the conflict, the more complex it is to reach out for solution. The third aspect is whether the conflict is internal or international. The conflict in Somalia is internal which is absolutely different from international conflicts like the conflict between Thailand and Cambodia over a temple. The idea is, dealing with internal conflicts is not the same with international ones in terms of resolution. So the Somali case should be resolved locally. The fourth aspect is to verify whether the conflict is legitimate or not. The conflict can be considered legitimate when its objective is to liberate a country from a colonial power

⁴¹ Gaudens P. Mpangala, *Conflict Resolution and Peace Building in Africa As Progress, Case Studies of Burundi and the Democratic Republic of Congo*, University of Dar es salaam, April 2004, at 4.

for instance such as in Palestine. The current conflict in Somalia is illegitimate because the rationale behind the conflict is competition of power, not liberating Somali territory. The fifth aspect is to identify the causes of the conflict as it can help to settle disputes in a proper and effective manner. The root causes of the Somalia conflict include collapse of the central government and war between Ethiopia and Somalia in 1977.

The sixth aspect is to identify the main actors in the conflict. To know the parties involved in the conflict is part and parcel of the conflict resolution especially when the main actors may have a political agenda in the conflict. Since we have already categorized the type of conflict in Somalia as an internal one, the main actors in the conflict are the Somali Federal Government (TFG) and Al-Shabab.

To know which mechanisms could be relevant to Somalia's long term-conflict, we need to diagnose the nature of the country's conflict. The conflict in Somalia is internal and the primary objective of the conflict is political as all the stakeholders are competing to take over power in the country. The power sharing mechanism might play an effective role in finalizing the conflict in order to reach durable peace in the country. *Hartselle* describes power sharing as "how decisions are to be made within divided societies and distribution of decision making-power rights within state."⁴² Accordingly, Somali people are a divided society and that disunity has resulted in an ugly face of Somalia which goes back to lack of good leadership since independence in 1960 whereby clan affiliation and kinship were common in the offices of the Somali governments without equal distribution of Somali resources and decision-making. However, the question is how can power sharing be practiced in the Somali context to avoid past mistakes? There are a number of strategies often used in conflicts that have the same scenario but we will discuss only two of them which are the top-down approach and bottom up approach.

The *Top-Down approach* focuses on "top level leaders, be it political, military and religious"⁴³ for conflict resolution. In other words,

⁴² Jeremy. L. Levitt, "Illegal Peace? An Inquiry into Legality of Power-sharing with the Warlords and Rebels in Africa" (2006) Michigan Journal of International Law 11.

⁴³ See Violent Conflict and Democracy, Risks and Opportunities, Proceedings of a Conference and workshops, Collegium for Development Studies, Uppsala University, April 1-8, 2005, at 19.

a unified solution could be initiated through the top-down approach without giving much attention to the grassroots level of the society. For this approach to be effective, the military, political or religious leaders who represent the communities concerned must have the respect and legitimacy of their societies.⁴⁴ This strategy has been applied in many of the Somali reconciliation conferences starting from the UN sponsored conference in Addis Ababa in 1993 until the 2002 IGAD sponsored Somali national reconciliation conference in Kenya which formed the so-called current Transitional Federal Government.⁴⁵ This strategy has given more weight to warlords than other components of the Somali community such as clan elders, civil society groups, women as well as other categories of the Somali people in the sense that negotiations and peace talks between warlords could overcome the Somali crisis. For instance, in the Addis Ababa Conference, the majority of the Transitional drafting committee were appointed by the warlords and the same occurred in the 2002 conference in Kenya where the majority of MPs were approved by the warlords after they were selected by clan elders. None of those conferences succeeded because there were top level leaders at those conferences who had never won the hearts and minds of the Somali people and due to that, their representation was an illusion and illegitimate in the eyes of the Somalis.

On this account, an appropriate representation should be given priority and selection must be based on who has respect in the midst of the Somali society if in the future any reconciliation is to be conducted through top-down approach. The reason why this approach could be visualized in the Somali context is because of lack of military or political leaders who enjoy a certain degree of legitimacy in Somalia, and if we talk about the warlords as military or political leaders, the above mentioned conferences are significant examples.

The *Bottom Up approach* is to “empower local populations at the bottom of the society by allowing them to consolidate and develop.”⁴⁶ This approach, unlike the top-down approach, attempts to impart conflict resolution at the grassroots level of negotiations such as among the local

⁴⁴ *Ibid.*

⁴⁵ *Ibid.* at 20.

⁴⁶ Huseyn ‘Aliyev, “Peace-Building from the Bottom: A Case Study of the North Caucasus” *Caucasian Review of International Affairs*. Vol. Issue, 4 (2010): 327.

community leaders. Those at the grassroots level category are the most vulnerable people who are affected by the atrocities of the civil conflict and have also experienced animosity in the community.⁴⁷ The former Somali Ambassador to Uganda and Kenya supported this bottom-up approach which is in favour of empowering local authorities (Every region should have its own council of elders...).⁴⁸ The majority of the representatives in the 2000 National Reconciliation Conference held in Djibouti were from the grassroots level but this had no positive result as the Transitional National Government formed at the conference failed to move towards state building. This approach can work in Somalia if traditional clan leaders together with religious figures are nurtured and given power to organize clan members without warlords because warlords have no reputation among the Somalis. It is obvious that Somalis are clan based societies and the civil war is clan-based, therefore clan leaders must negotiate and have direct talks with one another and agreements among themselves must be supported by the international community.

Moreover, the issue of federalism may not work in Somalia but rather create division among Somalis; so the most important thing is to build a unitary government through the bottom-up approach. Stability in Somalia should be the central issue at the moment, and the federal system is not an option because of the civil war. The challenge is how to measure federalism when the Somali people are divided into tribes and one tribe may be controlling more regions than others. Somalia comprises of 18 regions which are not equally sufficient in terms of resources and the current Transitional Federal Government (TFG) is not capable enough to develop the poorer regions.

It is suggested that before deploying of future peace missions, be it UN missions or regional arrangements peacekeeping, intellectual and traditional local Somalis should be consulted by using *bottom-up approach* mechanism. Secondly, in case deploying any peacekeeping mission is needed, leadership of the missions should have no political influence in Somali leadership to preserve political integrity in the country.

⁴⁷ Ezechiel Sentama, *Peace Building in Post Genocide Rwanda: The Role of Cooperatives in the Restoration of International Relationship*, (Ph.D thesis, University of Gotham Burg, 2009), at 27.

⁴⁸ Hussein 'Ali, Dualeh, *From Barre to Aided Somalia: The Agony of a Nation* (Stellagraphics Ltd, Nairobi, Kenya, 1994), at 155.

CONCLUSION

For more than two decades, Somalia has not witnessed stability which has caused loss of lives and displacement of many others internally and abroad. However, in 2006 the Somali situation dramatically deteriorated so much so that the African Union in collaboration with the UN introduced African Mission in Somalia (AMISOM) to replace Ethiopian contingents and assist a weak Somali Transitional Federal Government. Since 2007 AMISOM is currently operating in Somalia but nothing has changed on the ground which is the central issue of the study.

The study found that AMISOM can assist the Transitional Federal Government (TFG) but it may not be possible for AMISOM to impose peace in Somalia because internal issues need to be settled internally in the first place. Therefore, it is recommended that Somalis must resolve their problems through peaceful dispute resolutions in a way that encourages AMISOM to play a positive role in the Somali context. In order for reconciliation to be effective, the principle of *bottom up approach* should be followed where traditional leaders of each tribe must organize themselves and select among themselves those who have legitimacy in the eyes of the Somalis, of course warlords whatever they are named are an exemption. It is also suggested for future peacekeeping deployment in Somalia, Muslim peacekeepers should be given priority since Somali people are Muslims. Peacekeepers from Muslim countries such as Malaysia, Indonesia and Turkey who enjoy military capabilities and do not have political interest in Somalia should be chosen to help the Somalis achieve peace and stability in their country.