

Course of

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Academic Year

Dedication

This work is dedicated to the Almighty God for his guidance and protection till this present day, and to my Father, Mr. Fagbohunlu Sunday for his love and effort towards my academic so far. Being here today is based on his efforts and struggles. I am grateful for the love you shown me all through my Masters degree program. Love you Daddy.

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Abstract

The late 1980s marked the emergence of Armed conflict in West Africa. Armed conflict continually faced the region which is often linked to bad governance, ethnic marginalization, and poverty. The increased state of these conflicts led to the increased role of ECOWAS in peacekeeping and peacebuilding in West Africa. This study therefore explored the role of ECOWAS in restoring peace to West Africa and most importantly the legality of these peacekeeping missions. The cases explored are conflict in Liberia, Sierra Leone, Guinea Bissau, Ivory Coast.

The legality of ECOWAS intervention remains questioned putting into consideration its legal instruments even though it continually acts in protection of human rights. It is also inferred in the study that the evolution and the survival of ECOWAS is hugely determined by Nigeria's leadership role and has also been consistent even with the economic problem facing the country.

List Of Abbreviations

AFRC - Armed Forces Revolutionary Council.

AU - African Union

CCJ - ECOWAS Community Court of Justice.

COW - Council of Wise.

CP - The Community Parliament.

CPLP - Portuguese-speaking Countries Community.

DSC - Defense and Security Commission.

ECOMOG - Economic Community of West African States Monitoring Group.

ECOWAS - Economic Community of West African States

ECPF - ECOWAS Conflict Prevention Framework.

EFCC - Economic and Financial Crime Commission.

EPDGG - ECOWAS Protocol on Democracy and Good Governance.

ES - Executive Secretariat.

EU - European Union.

EWS - Early Warning System.

IAC - International Armed Conflict.

ICRC - International Committee of the Red Cross.

ICTY - International Criminal Tribunal for the former Yugoslavia

IHL - International Humanitarian Law

IO – International Organisation

LON - League of Nations.

LURD - Liberian United for Reconciliation and Democracy.

MFDC - Mouvement des forces démocratiques de Casamance.

MINUCI - UN mission in Ivory Coast

MINUGUA - UN mission in Guatemala in 1996

MODEL - Movement for Democracy in Liberia.

MOJA - Movement for Justice in Africa.

MPCI - Mouvement Patriotique de Côte d'Ivoire.

MPCI - Patriotic Movement of Ivory Coast

MPIGO - Mouvement Populaire Ivoirien du Grand Ouest.

MSC - ECOWAS Mediation and Security Council.

NATO - North Atlantic Treaty Organization

NGO - Non-governmental Organization

NIAC - Non international armed conflict.

NPFL - National Patriotic Front of Liberia.

OMC - Observation and Monitoring Centre

ONUSAL - UN missions in El Salvador

PAL - Progressive Alliance of Liberia

PMAD - Protocol on Mutual Assistance on Defense

PPP - Progressive People's Party

R2P - Responsibility to Protect.

RUF - Revolutionary United Front.

SOFA - Status of Forces Agreement.

THE MECHANISM - Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security

UEMOA - West African Economic and Monetary Union

UN - United Nations

UNAMSIL - United Nations Mission in Sierra Leone.

UNAVEM - United Nations Angola Verification Mission

UNDESA - United Nations Department of Economic and Social Affairs.

UNGA - United Nations General Assembly.

UNIDO - United Nations Development Industrial Organization.

UNOGBIS - United Nations Peacebuilding support office of Guinea Bissau.

UNSC - United Nations Security Council

UNTAG - United Nations Transition Assistance Group

WAEMU- West African Economic and Monetary Union.

WAMZ - West African Monetary Zone

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Introduction

Security issues continually characterize the world ranging from terrorism, civil and ethnic conflicts. The 90s was a significant decade when considering security issues in the Balkans and Africa related to armed conflicts. These conflicts led to a significant loss of lives and properties and suffering experienced by millions of people. A typical outplay of these humanitarian crises was the Srebrenica massacre and Rwanda genocide, with 7000 Bosnians massacred and over 800 000 slaughters of Hutus and Tutus, respectively.

The United Nations as states in its Charter, is primarily responsible for maintaining peace and security in the international system with the UN Security Council at the fore front¹. The growing trend of conflicts and a need for a robust peace keeping missions has changed the face of conflicts and also the led to the increasing role of regional and subregional organizations. An important and evident change that captured the attention of the international community after the end of cold war was the continual increase in outplay of intra-state conflicts².

Since the 90s, Particularly, West Africa's political experience has been characterized by violent conflict, *coup d'état*, and other humanitarian crises. As devastating as these conflicts has been, the international community in the early 90s has been slow and lacked efficiency in responding to violent conflicts which later led to the humanitarian intervention doctrine known as the Responsibility to Protect(R2P).

In response to these various conflicts and other security issues, the United Nations played more of a passive role in curbing the repetition of conflicts in Africa, as well as aiding in stopping violence that characterized many West African countries. An important flaw of the United Nations in the 90s was the UN charter, relating to international law, institutional setting, and the global governance to respond to the international crisis by sustaining international peace and security after the cold war. This challenge can be well linked with the most important principles of the post-World War 2 UN charter based on the principle of state sovereignty and non-use of force and respect for human rights. The difficulty in resolving the tension between state sovereignty and human rights protection has been a significant challenge to the United Nations.

During the Cold war, most efforts towards peace keeping in the international system was characterized by political rivalry and competition between the United States and USSR considering they both promoting their economic and political principles in their allies' regions. The United Nations proved not supportive of the

¹ Charter of the United Nations, 24 October 1945, 1 UNTS XVI.

² PARIS (2004:10)

involvement of the two superpowers in the domestic political and economic affairs of their allies, with a huge consciousness of the need for all states to maintain its integrity and principles³. The ideology of the UN on the state sovereignty affected the was level of supported from United States and USSR, as they were both reluctant the UN initiative if their national interest cannot be satisfied. This in effect has limited the involvement of UN in peace keeping in Africa, considering the UN does not have an army.

After the Cold War, intra state conflict became a critical issue affecting security at the regional level. Considering that the two superpowers started withdrawing from Africa, various African countries had to deal with instabilities. During the cold war, the two blocs provided financial and military support to allies to support political administrations. The end of cold war therefore led to a reduction in external support, which led to various political problems, degradation of social, economic and security issues in various African countries cumulating into internal conflicts. As earlier stressed, the 90s is a significant period when it comes to armed conflict in Africa regarding Somalia, Algeria, Liberia, Sierra Leone, Guinea-Bissau, etc. The surge of civil conflicts grew to be burdensome to the United Nations. United Nations was unable to intervene in a timely and effective manner to restore peace in Africa and reduce the impact of these civil war. The failure to tackling the conflicts led to regional and subregional organizations in Africa, such as the Organization of African Union (OAU), Economic Community of West African States (ECOWAS), to tackle various violent conflicts and ensure peace and stability.

ECOWAS has recorded a lot of success when in terms of restoring peace and security, as one it is organs ECOWAS Mediation and Security Council (MSC) often been regarded as the regional replica of the United Nations Security Council. The MSC has been a central decision-making body of ECOWAS in terms of peace and security related issues in the subregion. Though it has been designed for the West Africa integration but still remains similar to the UNSC.

ECOWAS which a major focus of this research emerged as an important regional actor in dealing with security issues in West Africa. Though ECOWAS was created to entirely focus on economic development of the subregion but has been very active in peace keeping in West Africa. ECOWAS has also been more active in peacekeeping missions considering its intervention in Liberia, Sierra Leone, Guinea, and Ivory coast. For a more effective ECOWAS, various transformations were put in place to foster peace and stability in West Africa. Firstly, was the creation of conflicts Economic Community of West African States Cease-Fire Monitoring Group (ECOMOG) in 1990, a framework for peacekeeping and conflict resolution to strengthen West Africa's democratization. ECOMOG over

³ PARIS (2004:15)

the years has been the most important and active non-UN peace keeping operation considering its role in restoring peace in conflicting states such as Liberia (1990 - 1997), Sierra Leone (1998 - 2000), and Guinea-Bissau (1998 - 1999). The involvement of ECOMOG in conflicting West African states was a first experience for an organization that lacked experience, external support, and financial strength. The peacekeeping missions were carried out without vital security and legal frameworks which was a major setback in justifying intervention even though the operations were successful⁴.

In response to the setbacks at the early stages of ECOWAS involvement in peacekeeping and actualizing this objective, ECOWAS adopted various legal frameworks such as the 1999 Protocol related to the Mechanisms for Conflict Prevention, Conflict Management, Resolution, Peacekeeping, and Security, which led to the creation of the ECOWAS Mediation Security Council. This framework was further developed in 2001, which brought about a more comprehensive framework in sustaining democracy in West Africa. The Mediation and Security Council (MSC) in 2008 further developed a framework for identifying, designing, and implementing programs for the operation and structure of conflict prevention within ECOWAS member states. ECOWAS continually grows with an interest to sustain democratic principles in West Africa and managing conflicts.

Therefore, this thesis will explore the role ECOWAS has played overtime in the quest for regional peace and security considering its role in Liberia, Sierra Leone, Ivory Coast and Guinea. This thesis also tends to give a critical examination of the success and challenge of the community in maintaining peace and security in West Africa.

The legality of ECOWAS intervention in conflict has been a subject of analysis overtime. In the early years of ECOWAS creation, peace keeping, and conflict resolution has been guarded by two legal instruments which were the ECOWAS Protocol on Non-Aggression which was adopted in April 1978 and the ECOWAS Protocol Relating to Mutual Assistance on Defense adopted on 29 May 1981. Furthermore, the UN Charter has been an important legal instrument and international law principles ECOWAS recognized in terms of principle of state sovereignty, principle of collective security/ self-defense and Principle of nonintervention. Nevertheless, the legality of ECOWAS intervention has been developed by ECOWAS in response to various humanitarian crises and conflicts in West Africa. This challenge of legality was responded to following the first revision of the 1975 treaty which was adopted on 24th July 1993. Following this was the ECOWAS adoption of the Mechanism for Conflict Prevention,

⁴ FLEITZ & FLEITZ JR (2002: 111)

Management and Resolution, Peacekeeping and Security on 10 December 1999⁵. These instrument forms the legal basis for ECOWAS intervention in conflicts. The legal frameworks regarding ECOWAS intervention are subject to this thesis as it will be used to explore the legality of ECOWAS intervention in West African conflict. The analysis of the activities of ECOWAS in Liberia, Sierra Leone, Ivory Coast and Guinea will be central to this research, as well as the legality of ECOMOG activities in terms of the scope of enforcement under article 53 of the UN charter.

Furthermore, the role of states in the creation and operation of an IO is very important. Nigeria has overtime been central to the operation of ECOWAS. Therefore, the role of Nigeria which played a key role in the formation of operations of the community will be critically examined.

Research Questions

ECOWAS has, over time, been instrumental in conflict resolution and prevention in West Africa. This research intends to answer the following questions:

- 1) What is the role of ECOWAS in restoring peace and security to conflict in Liberia, Sierra Leone, Guinea Bissau, and Cote d'Ivoire?
- 2) What is the legal basis for ECOWAS intervention in Liberia, Sierra Leone, Guinea Bissau, and Cote d'Ivoire?
- 3) What is the role does Nigeria in the formation and success of ECOWAS?

Research Objectives

The objectives flow directly from the research question. The objectives are as follows.

- 1) To examine the role of ECOWAS in restoring peace and security to conflict in Liberia, Sierra Leone, Guinea Bissau, and Cote d'Ivoire.
- 2) To examine the legal basis of ECOWAS intervention in in Liberia, Sierra Leone, Guinea Bissau, and Cote d'Ivoire?
- 3) To examine the role of leadership Nigeria in the formation and success of ECOWAS.

The research will further analyze the features of ECOWAS legal framework for preventing and managing conflicts and highlighting the relationship between ECOWAS and the United Nations Security Council. Furthermore, the thesis intends to explore the success the failures of ECOWAS in a quest to restoring peace and democracy in West Africa.

⁵ ECOWAS Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, 10 December 1999, A/P.1/12/99, Lomé, Togo.

Research Methodology

By research methodology, we mean the various means by which the suited information required for this study are gotten from for the purpose of this research work. The method used which was embraced in gathering the required data is mainly the secondary source of data collection. The data are therefore gotten from test books, magazines, newspapers, journals, internet material seminars, debates and seminars publications and international organizations legal instruments.

Chapter 1

Conceptual clarification on Peace Building, Peace Keeping and Democratic Consolidation

1.1. Peacekeeping and Democratic Consolidation

Peacekeeping is an important peace brokering instrument that has been utilized by the United Nations (UN) in attaining its goal of maintaining world peace and promoting democratic principles. This activity has often been described as a UN-sponsored action primarily aiming at maintaining international peace and security⁶. As an important tool for brokering peace, it entails armed forces monitoring and observer missions' operations with the consent of parties involved⁷. Traditionally, peacekeeping is oriented at containing conflict by adopting a form of neutral assistance in form of military operation or mediation purposed at encouraging conflicting parties to disengage⁸.

Peacekeeping has generally been an instrument of the UN in achieving its aim of saving the new generations from another war, even though the Charter does not clearly contain a provision for peace brokering operations⁹. Notwithstanding, the UN is at the fore front when it comes to maintaining international peace and stability and conflict management in warzones. According to the UN, peacekeeping operations is a mission that is "involving military personnel, but without enforcement powers, undertaken by the United Nations to help maintain or restore international peace and security in areas of conflict"¹⁰. The process of peacekeeping in the quest to stop conflict entails actions centered at stopping a growing or full-blown civil war to stabilize the warring environment and to begin a ceasefire process.

The United Nations' goal of maintaining peace and security in the international system has often been promoted with the use of force in conflicting societies and unarmed diplomatic means. In attaining peace, various instrument are used such as peacekeeping, peacemaking and peacebuilding, but it is important to note that these tools are different even if they are intertwined¹¹. The growing debate on the definition of peacekeeping has made it vaster in meaning. Though there is no single definition to peacekeeping, but thus there are various scholarly contributions to the definition which has given room to more flexibility in

⁶ HAMMAN & OMOJUWA (2013: 2).

⁷ AGWU (2007: 30).

⁸ DOKUBO (2005: 253).

⁹ CARRIÈRE (2010: 2).

¹⁰ UN. Department of Public Information, June 1990, ST/DPI/1065, *The Blue Helmets: A Review of United Nations Peacekeeping*.

¹¹ STEAN & TSHIBAND (2010: 2).

meaning, beyond just military actions to maintaining peace¹². Furthermore, the continuing evolution of peacekeeping operations has expanded its activities beyond just military-centric to a more multidimensional, involving the military but also civilians, police, and diplomatic practices such as dialogue. Considering this perspective, the UN define peacekeeping as:

“[...] a technique designed to preserve the peace, however fragile, where fighting has been halted, and to assist in implementing agreements achieved by the peacemakers. Over the years, peacekeeping has evolved from a primarily military model of observing ceasefires and the separation of forces after inter-state wars, to incorporate a complex model of many elements’ military, police, and civilian working together to help lay the foundations for sustainable peace”¹³.

According to part of the literature, peacekeeping can be defined as an act of hindering, suppressing, restraining, and terminating conflicts, by a third party, usually directed internationally with the use of transnational forces of soldiers, national police, and civilians in restoring and sustain peace¹⁴. This definition encapsulates the strategies of peacekeeping to manage conflicts and not resolve them in total. The aim of this is to foster peace and stability by preventing escalation ‘when there is no active escalation’, prevent future escalation ‘in an existing conflict zone’ or avoid new outbreak of violence. This is attained by creating an enabling environment for peacebuilding through peacekeeping.

Furthermore, peacekeeping has subsequently developed from simply checking the execution of peace agreements with the expectation of making conditions helpful in addressing the underlying foundations of a conflict, to incorporate more activities such as organization of humanitarian help, protecting civilians and their rights, and most importantly restoring democratic principles in terms of rule of law. A peacekeeping activity is alluded to as ‘multidimensional’ when its range of tasks goes past the military to incorporate police and citizens: all of them cooperate, however each of them has its unique competences and capacities. Albeit, peacekeeping is time-restricted, it tackles further issues identified with the conflict. Having established that peace-keeping missions involve the use of military ‘armed or unarmed’ which can also include civilians, there are various categories of peacekeeping missions. Some authors identified four categories of peacekeeping¹⁵.The first one includes observation missions: these entail deployment of a small, unarmed military, sometimes with civilian observers, with the goal of monitoring ceasefire and the withdrawing of troops and monitoring agreements reached, which can be to hold a free, fair, and peaceful election. This

¹² STEAN & TSHIBAND (2010: 29)

¹³ Document of UN Department of Peacekeeping Operations and Field Support, 18 January 2008
United Nations Peacekeeping Operations, Principles and Guidelines. New York: United Nations

¹⁴ DIEHL (1993: 5).

¹⁵ FORTNA, JARSTAD & SISK, (2008: 39–79).

peacekeeping operation simply entails observing and reporting what was observed¹⁶. An example of this is the peacekeeping missions in Angola in 1991 (UNAVEM II). The second one concerns interposition missions: these are also known as the traditional peace mission which involve the deployment of a slightly armed troop. They also have an observer role in a warring society and report the compliance of the society to the agreement reached. The traditional peacekeeping mission expands its sphere toward disarmament as it demobilizes and disarm conflicting parties. Examples of these are the UN missions in Angola in 1994 (UNAVEM III) and the UN mission in Guatemala in 1996 (MINUGUA). The third one covers multidimensional missions: these incorporate both military and civilians in attaining and implementing an inclusive and comprehensive peace settlement. The task here can extend to organizing elections, reforming the police, human rights monitoring, democratic institution-building, and economic development. This was the case of the UN mission on Namibia (UNTAG) in 1989 and the UN missions in El Salvador (ONUSAL) in 1991. Finally, the fourth category deals with peace enforcement missions: these entails heavy use of force. In such missions, personnel can use force to attain peace and security and are mandated to use force for purposes other than self-defense and involve significant military contingents providing security, safeguard innocent citizens and ensure compliance with a cease-fire. This can be multilateral, as it can consist of both civilian components and the military. This was the case of ECOMOG in Sierra Leone in 1999 and the United Nations Mission in Sierra Leone (UNAMSIL) in 1999-2006.

Democratization, democratic consolidation and maintaining international peace and security in a warring country has been the major goal of the international community since the end of the cold war. These goals have been achieved over time in warzone areas through peacekeeping and peacebuilding. Peacekeeping as an important tool has been carried out by deploying a unilateral or multilateral military and personnel sponsored by the UN or other regional organizations like ECOWAS, to manage conflict and foster transition from war to peace. Though peacekeeping is a pathway to restoring peace and, in the long run, creating an enabling environment to restore democracy, this task has also been difficult for actors and the task tends to face challenges. Far from these challenges, the international community's goal is attaining democratization when undertaking peacekeeping missions¹⁷. Peacekeeping missions overtime entail a significant democratization component which includes election monitoring, human and civil rights protection, promoting civil society and democratic political institutions. Various scholars have also argued that, though peacekeeping can aim at promoting democratization, it can still be instrumental in undermining democracy.

¹⁶ DIEHL (1993: 3)

¹⁷ *Ibid*: 3

The efficacy of peacekeeping in attaining democratization can as well be debatable. According to some of such scholars, peacekeeping through interventions in warring countries can foster democratization¹⁸. Similarly, other authors stressed the role of external anchoring in democratization through imposition.

In such views, imposition is when an authoritarian regime is overthrown by an external anchor with the use of the military, with an attempt to install or restore democratic government or building conditions as a strategy for the post-conflict State reconstruction effort¹⁹. Impartiality is another element to be considered for successful peacekeeping²⁰. However, peacekeeping can facilitate, as well as impede democratization and democratic consolidation, as in the case of soviet policy towards Eastern Europe during the cold war. According to some scholars, there is no positive effect of an intervention²¹. Intervention under the auspices of peacekeeping aimed at building democracy can be detrimental to the advancement of strong democratic institutions but can be altered if post-conflict parties can be left to develop an internal democratic institution, while incorporating internal democratic culture in recovering. Therefore, peacekeeping limiting its goal to providing peace and stability can foster autonomous democratic recovery rather than imposition.

1.2. Peace Building and Democratic Consolidation

Peacebuilding, on the other hand, is a term that received huge attention starting from the 90s especially within international organizations. In those years, peacebuilding became a priority for the UN to sustain peace in the international system. Former UN Secretary-General, Boutros Boutros-Ghali prioritized peacebuilding as an agenda of the UN following its inclusion in the 'Agenda for peace' document released in 1992²². This move was to improve peace-keeping operations, as peacebuilding was regarded as a continual activity even after cease-fire, aimed at the reconstruction of affected society and preventing the outbreak of another conflict. According to (Brahimi, 2000), peacebuilding "involves activities undertaken on the far side of the conflict to reassemble the foundations of peace and provide the tools for building on those foundations something more than just the absence of war"²³. The UN definition of peacebuilding is hugely

¹⁸ HOWARD, DOYLE & SAMBANIS, (2006: 401-403).

¹⁹ MORLINO (2012: 146)

²⁰ WANTCHEKON (2004: 17-33).

²¹ MESQUITA, BUENO, & DOWNS. (2006: 627, 49).

²² BOUTROS-GHALI. (1992: 7).

²³ Report of the UN General Assembly and Security Council, 21 August 2000, A/55/305, S/2000/809, *Report of the Panel on United Nations Peace Operations*.

influenced by the work of Johan Galtung on positive peace and his three approaches to peace²⁴. Therefore, the UN notion of peacebuilding is seen beyond the eradication of violence but instead, based on addressing change in the arrangements of society to tackle the root causes of violent conflict.

Peacebuilding has overtime been discussed from a liberal point of view. Since 1990, the implementation of democratic practices and institutions has hugely been dependent on peacebuilding especially in previously conflict societies.

Brahimi Report Democratization in the context of peacebuilding can be defined as means taken by external anchors with the aim of plainly and directly establishing, consolidating, and defending democracy in each country²⁵. Through peacebuilding, democratization or democratic consolidation can be achieved by developing aid projects and diplomatic requests as well as the use of the military. As earlier stated in the definition of peacebuilding, the external anchors carrying out peacebuilding are most times international, regional, and sub-regional organizations. In the process of giving democratic assistance to affected countries, peacebuilding activities include delivery of economic assistance and foreign aid, supporting the democratic development of political institutions, strengthening political parties, political process, and civil society. Furthermore, peacebuilding aids in democratization to attain peace. Therefore, peacebuilding can aid in attaining peace and solidify democratization.

Furthermore, democracy, which is the goal of peacebuilding, can positively impact a long-lasting peace. A first point to note is that a successful peacebuilding process is hugely dependent on a good institution. According to UNDESA, “State- or nation-building is the central objective of every peacebuilding operation and is dependent upon the reconstitution of sustainable governance structures”²⁶. From an election point of view, election has overtime served to legitimately install a democratic government. In short, during peacebuilding in the early 1990s, elections were used as an instrument for peace accords, as adequate provisions were made to determine the post-conflict political leaders²⁷. However, electoral assistance is a peacebuilding activity aimed organizing the post-conflict election to build a sustainable democracy without any future international involvement. Civil society is also an important target of peacebuilding as it is seen as an important pillar in any democracy. Peacebuilding ideals tend to attain incorporation of the civil society into the political settings, considering that the

²⁴ CRAVO (2017: 49)

²⁵ WOLFF (2016: 73-90)

²⁶ Document of the United Nations Department of Economic and Social Affairs, November 2007, *Governance Strategies for Post Conflict Reconstruction, Sustainable Peace and Development*

²⁷ KUMAR, (1998:5)

civil society plays an important role in articulating citizens' interest which gives room for citizens' political participation.

Theoretically, democracy which can be attained by peacebuilding can aid in the moderation of potential future conflicts as democratic principles can help in transforming the process and alleviating its potential by tackling the source of conflict. Peace guarantees democracy which gives room to transparency, rule of law, transparent succession, checks and balances, and distribution of power which gives access to various groups within a society to influence government policy and participate in decision making²⁸. Consequently, the support for democratization has been a major push in international peacebuilding since the 90s.

On the contrary, peacebuilding can also be instrumental in impeding democracy. Peacebuilding in quest of democratization or democratic consolidation tends to utilize nondemocratic means. In this context, international organizations and other external actors often implement peacebuilding with the use of coercive power, as it happened for instance in the case of Libya, and several ECOMOG and UN peace-building missions. In the case of Libya, a state coalition led by NATO began a military intervention in Libya on 19th March 2011 with the aim of implementing the United Nations Security Council Resolution of 1973 as a reaction to the first Libyan civil war. The aim was for an imminent ceasefire between conflicting parties, put an end to the attacks and killings on civilians which constitutes a crime against humanity, a no flight zone on the country's airspace and a sanction in Gaddafi's regime. The aim of this therefore was to restore peace in Libya. In the case of ECOMOG, the West African military force has been instrumental in stopping bloodshed and crimes against humanity in various West African civil wars like Liberia in August 1990 and Sierra Leone in 1995.

Furthermore, in quest of democratization and democratic consolidation, external actors' activities may contrast most important democratic core values such as sovereignty and self-determination.

“[...] both liberal peacebuilding and democracy promotion pursue their liberal and/or democratic objectives by using illiberal and/or non-democratic means. This is very clear in cases of peacebuilding and democracy promotion programs that are implemented by external authorities with coercive powers such as in the cases of Afghanistan, Bosnia-Herzegovina, or Kosovo, but it is also true in the more benign cases. Given the international power asymmetries on which both peacebuilding and democracy promotion are based, any external activity that aims at exerting a significant influence upon the political regime in a given country – i.e., that aims at

²⁸ HÖGLUND, JARSTAD, & KOVACS (2009: 530–557)

“making a difference” – clashes with liberal and democratic core values such as autonomy and self-determination”²⁹.

In distinguishing between the concept of peacekeeping, peacebuilding, and peacemaking, Galtung came up with a tripartite typology in differentiating these terms. In this conception, peacekeeping entails third-party intervention in a conflict aimed at separating warring parties from the violent act and maintaining the non-violent act. Peacekeeping constitutes a ‘dissociative’ approach aimed at creating and promoting a ‘social vacuum’ between conflicting parties with the help of third parties. A major setback to this approach is the aim which is mainly to maintain a non-confrontational violent act between conflicting actors which can contribute to structural violence. Thus, it is important to note that structural violence fuels direct violence and in a long run, an open conflict. On the other hand, peacemaking is a process in restoring peace that is more diplomatic in orientation which involves a negotiation process between decision-makers and third parties (mediator) purposed at attaining an official resolution to specific conflicts³⁰. Peacemaking represents a broader approach centered more on conflict resolution with an aim beyond hauling aggression between parties but instead to focus on potent ways to ameliorate good relations between parties by eradicating discrepancies and paradoxes between parties³¹. Furthermore, peacemaking is very much dependent on the conflicting parties. By this it means that conflicting parties need individual conviction to settle conflict mostly due to their experiences during conflict. The consciousness of the need to resolve conflict is therefore the starting point of peacemaking. The coming together of parties to resolve their differences can be further formalized by signing and ratifying the decisions that are being agreed upon.

Thirdly, Galtung’s further stress the differences between the peacemaking, peace keeping and peacebuilding considering that peace building is often misunderstood as peace making and peacekeeping. Though the goal of peace keeping, peacemaking and peace building is attaining peace but the idea of later is positive peace while peace making and peace keeping is negative peace. By negative violence, this mean stopping the violence and by positive peace, it means creating a long-lasting peace. But it is important to note it is almost impossible to start creating a long-lasting peace without first of stopping the violence which makes peace keeping and peace building two ‘inseparable partners. The stopping of the violence is attained with two different tools; For peacemaking, it means stopping the violence; creating peace. And then there is peacekeeping which means preventing violence from breaking out; this can also be describes in two different

²⁹ WOLFF (2016: 74)

³⁰ GALTUNG (1975: 282)

³¹ *Ibid*: 295

forms; the ‘dissociative negative piece’ whereby conflicting armies are being kept apart which can be done by creating walls and fences and having a referee army in the middle of them. Secondly, there is there is ‘associative negative peace’ which means getting conflicting parties to start talking with each other and creating peace treaties and prisoner exchanges and cultural exchanges. These are necessary steps often before you can start peace building which is the building of long-term lasting peace. There are three different areas where we can create long term peace which are; individual positive peace which is done through training and education and often therapy which enables and helps an individual change orientation of choosing violence to choosing nonviolent solutions, making a commitment to nonviolent solutions and train them in all sorts of methods of more effective communications and empathy³². On the other hand, there is structural positive piece which has to do with changing laws from laws of oppression and exploitation in unfairness into laws that are about equality and justice and creating equal opportunity for all³³. Finally, peace building spreads towards transforming from cultures of violence, that glorify guns, that are discriminatory, into cultures of peace, of nonviolence, equality, and inclusion.

Furthermore, as earlier stated that the goal of peacebuilding is centered on creating a framework of peace centered on positive peace, thus tackling the primary causes of conflict for they become more uncertain later in the future. An example of the manifestation of positive peace was western Europe after WWII, where after the atrocities of the war, European States realized that the need to work together which can be much more fruitful for the continent. This laid the foundation of the now European Union (EU), which helps in fostering the idea of positive peace and trying to eliminate the underlying issues between States. Furthermore, this idea of positive peace which is the goal of peace building is manifest in the EU whereby when States even go into conflict, there is no direct violence between the parties i.e., European State not going to war with one another anymore even if it takes leaving the EU entirely as in the case of Great Britain.

Therefore, what is needed in the creation of a long-lasting peace? There are six important things for a long-lasting peace which are “Equity, Entropy, Symbiosis, Broad scope, Large domain and Super structure”³⁴. What these means that for a long-lasting peace there is the need for respect for human rights, a system of justice, equality, clear communications, and cooperation and that there is need for an infrastructure that supports on going work on lasting peace for example a regular schedule of conferences. Therefore, all these things working together can create a sustainable and lasting. The UN ideas about what is needed for a lasting

³² GALTUNG (1975: 290)

³³ *Ibid*: 292

³⁴ GALTUNG (1975: 290)

peace relates to culture i.e., there is need for cultural peace for lasting peace and here is what they consider to be a feature of a culture of peace are Compassion, cooperation, and responsibility³⁵. The resolution emphasizes the importance of all segments of society working together to maintain the peace which includes the academia, business, civil society government, cultural institutions, religious institutions, and other segment of the society as cooperation is needed from every segment of society to maintain the peacefulness³⁶.

In conclusion, Peacebuilding's approach to resolving conflict is broader compared to peacekeeping and peace making. It incorporates the goal of positive peace while aiming at elimination conflict or violence by understanding of the cause of the conflict (direct, structural, and cultural) and hence tries to cope with these causes. Therefore, the understanding of the root causes of the conflict aids in the eradication of the root causes achieved by prioritizing 'equity' as against 'horizontal domination and exploitation', 'entropy' as against 'elitism and towards a more inclusive democracy' and 'symbiosis' as against 'isolation and towards a sense of interdependence'³⁷. The UN is at the forefront of peacekeeping and peacebuilding in the quest to attaining a more stable and peaceful international system. In west Africa, ECOWAS has also been active in peacekeeping and peacebuilding since the 90s following the various conflicts in West Africa emerging mostly from citizens' fight against authoritarianism.

1.3. Conceptual clarification of international, regional, and sub-regional organizations

An international organization is formed when States come together to form an entity for specific purposes i.e., economic, security or political. An important question to ask is 'is an international organization different from regional and sub-regional organizations?'. It is correct to state that both regional and sub-regional organizations are international organizations because they integrate international members across borders.

International organization prominent in the 18th and 19th century developed with a goal of monitoring international political order. The term 'international organization (IO)' is a technical term that has often been mistaken with a different term, that is 'non-governmental organization' (NGO). Distinguishing IOs from NGOs. When talking about IOs, activities are purely governed by international

³⁵ Resolutions Adopted by the UN General Assembly, 6 October 1999, A/RES/53/243 *Declaration and Programme of Action on a Culture of Peace*.

³⁶ Resolutions *Declaration and Programme of Action on a Culture of Peace*.

³⁷ ALMEIDA (2018: 7).

law; for example, UN, but when activities of an organization is governed by domestic laws, they are non-governmental organizations; examples of an NGO is Amnesty international or Greenpeace. Though the activities of an NGO may be international in character and may even carry out tasks under the confines of international law, but they do not meet the criteria of an international organization which will be stressed when discussing the attributed of an IO³⁸. The emergence of State consciousness on the need to cooperate in international organizations began when States realized the indispensable nature of international cooperation in some areas of common interests. The disaster of WWI taught States to accept higher political issues i.e., the need for a military cooperation. By establishing the League of Nations, the old idea of institutionalized collective security was finally realized as the League was the first international organization designed to make States cooperate towards a secured international system. The emergence of WWII, which led to the collapse of the League of Nations (LON), brought about a better international arrangement, today known as the UN with the aim of saving the world from the scourge of another war³⁹.

In the study of international law scholars consensually define an IO as an organization established by a treaty or other legal instrument of another international organization, governed by international law and possessing its own international legal personality⁴⁰. An organization fits into the status of an international organization when it fulfills some basic characteristics which it must possess. Firstly, an international organization is created by States. There is no maximum number of States that can join an IO but, in some cases, IOs can limit its membership to a particular region or economic/military base. Furthermore, an international organization that limits its membership to a particular region is called a 'regional organization' or sub-regional organization. An example of regional organization is the African Union while ECOWAS is a sub-regional organization. The difference between these two organizations even though they are both African's prominent organization is that; AU is open to all African countries which makes it regional, while on the other hand ECOWAS as it names reads is a sub-regional organization open to just West African States with its operations limited to West Africa alone. International organization can further be classified along its function. International organization's function can either be economic e.g., ECOWAS or security and military alliance e.g., North Atlantic Treaty Organization (NATO). Furthermore, international organization sometimes can expand their sphere of primary goal e.g., ECOWAS created for economic development of West Africa now very active in Security and democratic development. Another classification can be seen from the membership perspective

³⁸ KLABBERS (2018: 7-13)

³⁹ Charter of the United Nations, 24 October 1945,

⁴⁰ KLABBERS (2018: 6-15)

which tends to give a distinction to the subject under analysis i.e., what characterizes a regional and sub-regional from an international organization. Some international organizations are universal considering that membership is open to all if States interested in joining can meet certain requirements different from geographical location⁴¹. Example of an international organization more universal is the UN often called an 'open' organization. A regional organization only differs from a universal organization because it organizes the affairs of States in a particular geographical location which makes it open to only States in that region. Therefore, a regional organization is that established by treaty or other legal instrument subject to international law, possess its own legal personality and not open to all but serves the interest of a particular region. The definition of a regional organization fits into a sub-regional organization, but in this case, a sub-regional organization is only open to States within the part of a region. For instance, ECOWAS is open to West African States only. In conclusion, regional and sub-regional organizations are international organizations because they integrate two or more sovereign States across borders even if they are in same continent.

Another attribute of an international organization is that it is established by a treaty or other instruments governed by international law. Another element for the creation of an IO is the treaty that establishes it, sometimes called also as 'charter'. International organizations are established by international agreements which are subject to signature and ratification by the respective States and/or other entities seeking membership. Moreover, a treaty is a written agreement, governed by international law. The creation of an international organization is carried out by a legal act in form of a treaty, usually written and governed by international law⁴². Though an international organization may be established by treaty, not all need to be created in this way. Furthermore, some international organizations are not the result of a treaty but instead a creation of a legal act of an existing organization, for example the United Nations development industrial organization (UNIDO) created by the United Nations General Assembly⁴³. Another important characteristic of an international organization is the ability to generate its own distinct will through its autonomous organs. This will of an international organization is distinctively different from the will of its member States. Another element is the 'association', an international organization is an association of States and sometimes can be part of another IO such as EU in WTO.

⁴¹ KLABBERS (2018: 24)

⁴² KLABBERS (2018: 11)

⁴³ SCHERMERS (2011: 45)

In conclusion, the importance of peace keeping, and peacebuilding is central to continual sustenance of peace and security in conflict prone areas. As clearly stated, in as much as these tools are very instrumental in sustaining peace, it is important to note that they are they are not same as explained earlier considering that peace keeping in most cases entails just involvement of the military to halt conflict process or to bring ensure cease fire. On the other hand, peace building incorporates a broader perspective which goes beyond peacekeeping and aims at achieving a long-term peace by understanding the root cause of conflict and put in place necessary measures including both military and nonmilitary. Though these strategies are very keen on attaining peace and democratic consolidation, but still intervention continually impede democracy. The concept of peacebuilding and peacekeeping is remains important to understanding ECOWAS role in attaining peace in West Africa which will be analyzed in subsequent chapters.

Chapter 2

Conflict in West Africa

2.1. Conceptual Clarification on Conflict

Conflict is as old as humanity. It is a remarkable component of humans and their interaction within society. Conflict is almost unavoidable in any society, as it has been evident in history that even in the most ideal environment, conflicts still exist. Furthermore, men have always conflicted and will always engage in conflict with or without violent tools; stressing the political thought of Hans Morgenthau, he highlighted that man will still engage in a fistfight even in the absence of arms⁴⁴. The difference in choice of human can also be seen as a major source of conflict. Considering the fact that difference in interest of human surely lead to conflict of interest which in effect can grow to be a conflict in course of human relations. This therefore makes conflict an integral part of the society considering that human makes the society.

The study and conceptualization of conflicts especially developed after the Cold War following the wave of intrastate conflicts. Conflict can be defined as a manifestation of hostility, antagonism, and rivalry between parties. Conflict can also be defined as a disagreement emerging from two or more entities, groups, States, or institutions with the intention of each party to impose its view over the other. Various scholars have also concurred with the prior thinking on conflict; according to Colser (1964), conflict emerges from every interaction amongst men considering that the interaction that exists between men is a “sociation”⁴⁵. Correspondingly, Levine (1961) argues that conflict is not separatable from a society occupied by man. When utilized positively, it is vital for the cultural advancement and environmental needs of the society⁴⁶. According to Gluckman (1956), Gulliver (1963), and Nanda (1994), conflict is a part of society and the part of human social life, making the society incomplete devoid of it⁴⁷.

Furthermore, there is a multidimensional explanation for conflicts. According to Mayer (2000), there are three dimensions to conflicts which are ‘conflict as perception,’ ‘conflict as feeling’ and ‘conflict as action’⁴⁸. “As a perception, it entails wants, interests, and beliefs are conflicting with another person. As a feeling, conflict manifests in form of fear, anger, anguish, hopelessness, or

⁴⁴ MORGENTHAU (1948: 4-15)

⁴⁵ LEWIS (1957: 197-207)

⁴⁶ LEVINE (1961:15)

⁴⁷ GLUCKMAN (1956: 422-423); GULLIVER (1963: 306); NANDA & WARMS(1994); OTTERBEIN (1994:7)

⁴⁸ MAYER (2012: 30)

sometimes a blend of all. Conclusively, conflict entails actions in form of violence and destruction⁴⁹.

Conflict in the field of international relations and as defined in international law, has always been either between States or among groups in a State, or a group against the State. Conflict tends to occur when two States or groups within a State struggle over a claim, resources, or power, whereby each conflicting actor aiming at repressing or destroying the other⁵⁰. Furthermore, conflicts in the international system also arise due to incompatibility of goals between States, a typical example of this was the cold war from 1945-1990, between the US and USSR, pursuing democracy and communism, respectively. Though it important to note that the conflict between the US and USSR was more of a cold conflict considering that it utilized more of diplomatic, economic, and political confrontations means more than the use of arms.

There are various types of conflict but for this study, intra-state conflict and inter-state conflict are the most important conflicts to differentiate. Intra-state conflict is that which occurs within a sovereign State. Regarding the intrastate conflict, the root causes are often economic and political, related to the fight for resources, revenue sharing, territories/lands, and most common in west Africa against a corrupt government. On the other hand, inter-state conflict occurs between two States which sometimes get full-blown into a war. The most common reason for an inter-state conflict in the past was due to territorial issues. This was the case of Nigeria and Cameroon over the northern Nigeria border and Bakassi peninsular, which almost led to a violent conflict. Another case of a full-blown inter-state conflict which resulted in a war was the Iran-Iraq of 1980-1988 and the USA-Afghanistan War.

International organizations at the forefront of conflict resolution, peacebuilding, and peace enforcement have also given explicit definition of conflict. According to ECOWAS, conflict is defined as “contradictions inherent in power relations and which manifest themselves in individual and group interactions with one another and with nature in the pursuit of limited resources or opportunities”⁵¹.

Furthermore, the International Committee of the Red Cross (ICRC) has given the most explicit definition of conflict. The ICRC has contributed to promoting the development of International Humanitarian Law (IHL). Following the 1949 Geneva Conventions, States parties to the conventions gave the ICRC the

⁴⁹ ANNAN (2014 :2)

⁵⁰ JEONG (2017: 31)

⁵¹ Regulation of the Mediation and Security Council of the Economic Community of West African States, 1 January 2008, MSC/REG.1/01/08, *The Ecowas Conflict Prevention Framework*

responsibility “to work for the understanding and dissemination of knowledge of international humanitarian law applicable in armed conflicts and to prepare any development thereof”⁵². This is the basis for the ICRC current legal perspective on the definition of ‘international’ and ‘non international armed conflict’ in accordance with the international humanitarian law which governs armed conflict. The reason for this is to understand what conflict are and the difference between and IAC and NIAC as well as knowing when there is a violation of IHL during any of the two types of conflicts mentioned above.

International humanitarian law (IHL) identifies two types of armed conflict ‘international armed conflict (IAC)’ and ‘non international armed conflict (NIAC)’. IAC exists between two or multiple sovereign States while the NIAC exists between government forces and a group within a sovereign State or between two or more groups within a sovereign State. International humanitarian law defines NIACs under two major legal instruments; Article 3 common to the four 1949 Geneva Conventions and Article 1 of the Additional protocol II. The Geneva conventions of 1949 in common Article 3 characterize a NIAC stating that: “In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum [...]”⁵³. Furthermore, Article. 1 of Additional Protocol II States that:

“[...]covered by Article 1 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) and which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol”⁵⁴.

From the above, NIAC is that conflict between government forces and a group(s) within a sovereign State. By this it is correct to State that NIAC can occur between the governmental and non-governmental armed forces. Based on the circumstances, governmental armed forces and non-state armed groups may experience rivalry. A NIAC can be called one when it fulfils other criteria stated in the Article 3, relating to the intensity of violence by the groups⁵⁵. In this context, the conflict must reach a particular threshold of violence before the government

⁵² The Four 1949 Geneva Conventions, Statutes of The International Red Cross and Red Crescent Movement, 12 August 1949, *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Art. 5, Para. 2(G)*.

⁵³ *Ibid: Article 3*

⁵⁴ Additional Protocol II to the Geneva Conventions, 8 June 1977, *Relating to the Protection of Victims of Non-International Armed Conflicts*.

⁵⁵ *Ibid: Article 3*

can resolve to the use of military force against the insurgent groups instead of the use of police. A major threshold is when the non-governmental group who are parties to the conflict have been confirmed to have a structured command, controlling a part of the territory and have the military capability to carry on military operations⁵⁶.

Conversely, international humanitarian law defines an international armed conflict (IAC) under Article 2 common to the 1949 Geneva Conventions. It states that:

“In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the State of war is not recognized by one of them. The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance”⁵⁷.

According to this provision, IACs exist when one or more States resolve to the use of armed force against another State. Here also, the relevant IHL rules still apply without the presence of an aggression. Furthermore, the possibility to apply IHL to any situation of conflict, either of international nature or non-international armed conflict. Furthermore, a commentary of the 1949 Geneva convention as it relates to IAC also states that:

“any difference arising between two States and leading to the intervention of armed forces is an armed conflict within the meaning of Article 2, even if one of the Parties denies the existence of a state of war. It makes no difference how long the conflict lasts, or how much slaughter takes place”⁵⁸.

Additional Protocol I also defines IAC to include:

“armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations”⁵⁹.

From the above, an international armed conflict also exists when people fight against colonialisms, and racism from a regime to push for their rights against domination and to reach self-determination.

⁵⁶ Judgement of the International Criminal Tribunal for the Former Yugoslavia, 30 November 2005, Case No. It-03-66-T, *The Prosecutor V. Fatmir Limaj*.

⁵⁷ The Four 1949 Geneva Conventions, in particular see the *Convention on the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*, Article 2

⁵⁸ *Ibid*

⁵⁹ Additional Protocol I to the Geneva Conventions, 8 June 1977, *Relating to the Protection of Victims of International Armed Conflicts*.

In terms of case law, the International Criminal Tribunal for the former Yugoslavia (ICTY) provided an explicit definition of an armed conflict. This definition was proposed during the *Tadic* case, on 2 October 1995: “armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State”⁶⁰. Therefore, from the case law above, armed conflict can exist between two or more sovereign States, also between the States armed forces and an armed organized group within the State, and thirdly between organized armed groups within a State. Often, such conflicts manifest as ethnic ones.

2.2. Theoretical Explanations to Conflict

Various contemporary theories clarify the idea of conflict with its religious, ideological, political, or economic differences. These theories also clarified the roots of conflict, its causes, the manifestation, and the implications. Theories of conflict tend to answer some questions which are: why and how conflict occurs and who the actors are. Though conflict theories also try to answer other questions, the ones previously stated are the most common one that conflict theories intend to answer. Regarding the ‘why’ question, one must ask: why do people, groups, or States go into conflict? In the field of international relations, scholars stress that States do not have the same interest without any form of contradiction. States can even form an international organization, but still pursue different interests within a unifying organization. Therefore, as earlier stressed, when two or more States or individuals have contrasting interests and no possibility of having anything in common, there is a likelihood of conflict.

For this study, two theories of conflict in international relations that explain why conflict occurs will be analyzed. These theories are classic realism and the frustration and aggression theory.

2.2.1. Classic realism

The realist theory emerged in reaction to the liberal traditional known as liberalism. Realism in international relations is that which is antithetical to the idealist theory which emphasizes morality being a basis at which the international system is being run. The realist theory is rooted in power politics or high politics as an instrument used by a State to pursue its national interest. The realist theory has some core and major assumptions which are as follows:

⁶⁰ Judgement of International Criminal Tribunal for the Former Yugoslavia, 2 October 1995, Case No. IT-94-1-A, *The Prosecutor V. Dusko Tadic*.

First of all, States are the most important actors in international politics or global/world stage. This theory can be regarded as state-centric because of its emphasis on the State as the only actor in the international system⁶¹. Secondly, the entities called the States are territorially based units and by this, they have a territory over which they have supremacy. This assertion means that a State has the element of sovereignty and is capable of acting as an autonomous entity⁶². Third, realists place huge importance on the role of power in international politics. This power is also understood in terms of military capability. States pursue their national interests in the international system and everything a State does in the international system is to protect and maintain her power in relation to other States⁶³. Finally, the international system is anarchical. An anarchical system is that which lacks a governing authority or a universal government. Basically, in the international system, States usually follow a self-help strategy to protect and pursue their national interest, which is defined as a struggle for survival and territorial defense⁶⁴.

From the above assumptions, it can be deduced that the realists believe that the primary actors in the international arena are the States and that all decisions made in the international system are a product of the State. Realism views the State as a principal actor on the world stage and as such, it is sovereign and capable of acting as an autonomous entity and there is no higher authority than the State⁶⁵. The realist school also stresses that the international system is anarchical and not harmonious. An anarchical system is that whereby each State is forced to fend for itself and give priority to its nation, and basically, struggle characterizes the international system. The place of power is also stressed by realist theory. By power, the realist meant High Power which has to do with military capability. The use of power in terms of military stresses the use of coercive strategies which is utilized in accomplishing national interest or avoid actions that will impede the actualization of national interest. Here power is a major instrument for State survival in the international system.

Furthermore, States tend to pursue their interest with or without the thought of creating a detriment to their neighbor. The means put in place in attaining this interest also tend to shape the identity of the State in the international system. National interest is at the forefront of the realist theory.

In the context of conflict, it is true to state that conflict is by nature the attribute of States when relating in the international system, considering that no two State

⁶¹ AJINDE & ADEDIRE (2012: 54)

⁶² *Ibid*: 54

⁶³ *Ibid*: 54

⁶⁴ *Ibid*: 55

⁶⁵ *Ibid*: 30

totally has the same interest. The realist theory in the 19th and 20th centuries gave a lot of focus to alliance and deterrence which is a key instrument States use in pursuing their interest. To the realist ‘alliance’ is formed by States to maintain dominance considering that the political relevance of a State is closely linked to their economic and military power which can be developed through alliances⁶⁶. Deterrence on the other is centered on the concept of balance of power which States use in checking excesses within the international system but can still create a rise in tension amongst States or groups⁶⁷. According to Tunkunbi (2017), from a realist perspective,

“[...] conflicts are likely to emerge when there are: 1) Lack of trust among nation-states; 2) Imbalance of power among nations or a powerful nation has lost resources and the capacity to maintain the balance of power; it could be that one power is increasing in power much faster than other powers in the same region or sub-region; 3) Over-balancing and under-balancing of power; 4) Lack of sufficient communication among nations; 5) Poorly defined national interests, and 6) The rise of modernization or the shifting of power through its instruments”⁶⁸.

Realism also explains the conflict in relation to the attributes of a human being. The realist theories stress that people are by nature selfish. In attaining selfish interest man tends to infuse emotions which can lead to conflict with his counterparts in process of attaining his selfish interest. Furthermore, from an economic perspective, the insatiable nature of man and the scarcity of resources led to a competitive environment where man seeks to control and comfort which makes conflict inevitable. The selfish nature of man therefore which always leads to achieve his goals and interest through any means is a primary reason for conflict. This is evident in various cases of conflict in the international system as States want to exercise their interests over the other with the help of their economic and military strength and in intrastate, groups seeking to dominate another group which tends to escalate into conflict.

2.2.2. Frustration and Aggression theory

Frustration and aggression theory is that which has been applied to a different field of study. The frustration and aggression theory was propounded by John Dollard, Doob, Miller, Mowrer, and Sear in 1939. According to them, “the occurrence of aggressive behavior always presupposes the existence of frustration and, contrariwise, that the existence of frustration always leads to some form of aggression”⁶⁹, and frustration here is understood as “an interference with the occurrence of an instigated goal-response”⁷⁰. The summary of the ‘frustration and

⁶⁶ DWIVEDI (2012: 224-237)

⁶⁷ *Ibid*: 230

⁶⁸ LUMUMBA-KASONGO, (2017:35)

⁶⁹ DOLLARD ET AL (1939: 20)

⁷⁰ *Ibid*: 15

aggression theory' is that aggression is a direct result of deprivation of an individual in accomplishing an objective or approaching an essential need. Frustration is depicted as the inclination we get when we do not get what we need, or when something meddles with humans acquiring an ideal objective, as demonstrated on account of Nigeria Niger Delta militant. The Niger Delta case started in 1990 in the southern part of Nigeria. Frustration of the organized group known as the 'Niger Delta militant' arose due to the exploitation and deprivation from the Federal government of Nigeria and international oil companies in term of access to basic facilities. The Niger Delta region which happens to be the richest oil location in west Africa has often the degraded due to oil exploration activities without any form of compensation or cleaning of the environment. This has been a major reason for frustration of the sect and now developed into a full blow aggression of the Niger Delta militant who resort to kidnapping and killing of government officials and international oil company workers.

Furthermore, Aggression infers feeling frantic because of frustration, while aggression alludes to glimmers of anger⁷¹. The frustration-aggression theory expresses that aggression is brought about by frustration as vividly illustrated in Niger Delta case. At the point when somebody is kept from arriving at his objective, he gets baffled and frustrated. Frustration therefore can transform into anger and afterward aggression.

2.2.3. Post-colonial theory

The post-colonial theory explains the effect of the previous condition of colonialism and external domination on the State, even after independence. The post-colonial theory is among the most mainstream speculations utilized in characterizing both the idea of conflict and its outplay overtime. It is a multifaceted theory that aims at explaining the various situations of a State after colonial rule i.e., such as economic, political, and societal happenings. This situation, therefore, is that which has been manifest in former African colonies which are linked to the reason for conflicts.

According to the argument of this theory, conflict arises first on the recognizable proof of the attributes of colonial domination i.e., a new form of colonialism This has been a case in Africa, albeit the European frontier powers have truly left the colonized territories, yet the political system, which is put in place, as well as institutions put in place, are still very functional and most times follow the colonial handbook of operation in place during the colonial period. Considering that the main reason for independence was for nationalistic reasons and a reaction towards unfavorable conditions amongst the citizens, therefore, the colonial heritage still tends to remain in political institutions. The present circumstance creates an

⁷¹ VALVINCENT, USAR & THOMAS (2005: 483–487)

enabling environment for institutional conflict, and in the long run due to citizen discontent which often leads to conflict with political institutions which can further result in violent conflict.

2.3. Historical Background and Causes of Conflicts in West Africa

Conflict at the intra state level was a major problem in West Africa before the 90s. After the wave of democratization in the 60s, west African States faced more economic backwardness and a rising security issue. The end of the 80s led to a new form of challenge in west Africa which also needs a more proactive solution. In the late 80s and 90s, west African States began to deal with intrastate conflicts mostly because of the defunct political system and as a reaction against authoritarianism. Though West African's first intrastate conflict happened in Nigeria from 1967 till 1970, there has been arise of intrastate conflicts after then, such as the cases in Liberia, Ivory Coast and Guinea Bissau, which also posed a greater security challenge in West Africa generally considering that these conflicts had a spillover effect on other parts of the subregion. Though not all conflicts are extremely violent, most west African conflicts have overtime been violent⁷². Such conflicts in west Africa were more prevalent in Liberia, Ivory Coast, Guinea-Bissau, and Sierra Leone which impaired these States considering the loss of human lives and properties⁷³. Conflicts in Africa have often been attributed to various reasons such as poverty, corruption, bad governance, human rights abuse, ethnic marginalization, and arm proliferation⁷⁴. These causes will be discussed in the next section.

2.3.1 Causes of conflict: The West African context

2.3.1.1 Poverty

Poverty has been a major challenge facing West African States. As stated by the UNDP human development report, about 50% of Africans live in poverty⁷⁵. Despite African countries being some of the fastest-growing economies in the world, particularly sub-Saharan west African countries, poverty is still an integral feature of the continent⁷⁶. Poverty has therefore been one of the major causes of conflicts in Africa. West Africa is not resistant to poverty ulcer and, just as the rest of Africa, it is not oblivious of its effect on peace. With more than 60% of its populace living on less than US\$1 per day, common agitation in form of civil unrest and complaints has become endless. Therefore, agitation against the

⁷² TAIWO (2009: 59–66)

⁷³ AFOLABI (2009: 24)

⁷⁴ FITHEN (1999: 35)

⁷⁵ Report of the UNDP, 2012, *Africa Human Development Report 2012 Towards a Food Secure Future*

⁷⁶ FITHEN (1999: 37)

government overtime is viewed as a channel to castigate it for its inability to ease poverty⁷⁷. In the case of Liberia, before the conflict, 30% of the Liberian population were extremely poor, making poverty a major driver of the Liberian conflict⁷⁸. Comparative affirmations have additionally been made concerning the contentions in Guinea-Bissau and Nigeria⁷⁹. Furthermore, in Voz di Paz 2010 report, poverty was expressed as one of the significant reasons for the Bissau-Guinean conflict, as there was food insecurity, poor infrastructure, and lack of access to basic social amenities⁸⁰. The case of Guinea Bissau stressed the link that exists between poverty, hunger, and conflict considering an adage common to Guineans that ‘in homes where there is no bread everyone fights, and no one is right’. Therefore, poverty, lack of economic growth and development, generate a great likelihood of civil unrest and violent conflicts.

2.3.1.2 Bad Governance and Corruption

The post-independence political spectrum has overtime been characterized by various challenges. One of the most prevalent of these challenges is bad governance and corruption. This has overtime been a major problem of west Africa and is manifest in terms of government mismanagement of State resources and a defunct and weak State’s institution. This has also often been attributed to the reason for growing poverty in Africa. This has also been considered among the major reasons for the escalation of conflicts in Africa over time. Furthermore, these two seeds of destruction have also been a major reason for civil unrest and violent conflict in West Africa. There has been a consensus amongst various scholars regarding the conflict in west Africa that bad governance and corruption are inseparable from the causes of violent conflict and the growth of this is fueling more conflict in west Africa. Most West African countries such as Nigeria, Liberia, Ivory Coast, and others have a huge level of corruption and bad governance⁸¹. Sierra Leone’s conflict was also linked with bad governance, corruption, and poverty as a root cause⁸². Nigeria for example who plays a giant role in west Africa has been characterized by in-depth poverty which various citizens come out openly to affirm which has also caused several conflicts like the famous Niger Delta militancy issue and most recently the surge of Boko Haram insurgency⁸³. The case of Nigeria happens to be very ironic considering that Niger Delta is the heart of Nigeria’s economy due to the large concentration of oil in the

⁷⁷ Report of ECOWAS Executive Secretariat and WAEMU, December 2006, *Regional Integration for Growth and Poverty Reduction in West Africa: Strategies and Plan of Action*

⁷⁸ HEGRE, ØSTBY AND RALEIGH: 2009

⁷⁹ EJIBUNU (2007).

⁸⁰ VOZ DI PAZ (2010: 10)

⁸¹ ANNAN (2014 1-16)

⁸² *Ibid*: 19

⁸³ BROCK (2012:1)

region. The Niger Delta area is one of the poorest and degraded regions in Nigeria and this situation has often been attributed to the high level of corruption in Nigeria leading to a deprivation of wealth and opportunities to the oil-rich region. The Nigerian Economic and Financial Crime Commission (EFCC) in its 2003 report stated that 70% of oil earnings in 2003 amounting to over US\$ 14 billion was embezzled by highly placed Nigerian political leaders⁸⁴. This is a similar case with Guinea Bissau as bad government and corruption were present in the social, political, and economic system. In response to this, the population rose against the government, and these uprisings usually involve violence. According to the 2010 joint report on *Root Causes of Conflict in Guinea-Bissau: The Voices of the People*, international NGOs, and peacebuilding institutions, reported on Guinea-Bissau locals complaints regarding corruption and conflicts⁸⁵. Some citizens were quoted saying that:

“The President steals. The Governor steals. The minister and even the Prime Minister steal. The administrator steals. Who will not steal? The country Is being destroyed by the President. It was there that the destruction began. If the President takes twenty-four billion (CFA), what is left?”⁸⁶

In the context of lack of facilities because of bad governance, another expressed that:

“The health centers do not have anything; patients have no bed and no sheets. The leaders go to build buildings. It is not the people that are spoiling them. The people are united, but the State does not want our unity. They are pitting us against each other. We are told, ‘That person is not worth anything. That lineage is not worth anything.’ So, we fight while they will sit and eat together, laugh and clap”⁸⁷.

Furthermore, corruption has resulted in a huge level of impunity, which is also supported by the Guinean police. In this respect, another citizen expressed himself saying:

“The police are here to formalize the robbery. Because when we catch a thief, we take him to the police, and the next day we see him back on the street. There are cases that the thief bribes the police with 100,000 francs and then complains about you. We have three of these lawsuits here in court”⁸⁸.

With the continuation of these issues’, conflict was bound to emerge in Guinea Bissau.

2.3.1.3 Ethnic Marginalization

⁸⁴ ANNAN (2014: 7)

⁸⁵ *Ibid*: 6

⁸⁶ VOZ DI PAZ (2010: 7)

⁸⁷ VOZ DI PAZ (2010: 52)

⁸⁸ *Ibid*: 53

The concept of ethnicity explains the unequal relationship among ethnic groups in societies, which emanates from segregation of one by the other⁸⁹. The existence of several ethnic groups has led to ethnic marginalization which has been a major cause of west African conflict. Nevertheless, mere existence of several ethnic and religious groups is not the cause of the conflict in societies⁹⁰. However, for a region ethnically vast like West Africa, ethnicity has manifested overtime to be the cause of violent acts and civil unrest among communities. Studies conducted in West Africa have revealed that ethnic diversity is a root cause of the violent crisis within the region. In Liberia for instance, 49% of the population attributed the causes of Liberian civil wars to ethnic divisions⁹¹. Typically, under the leadership of Samuel Doe, ethnic unrest due to a feeling of preference of the Krahn and Mandingo ethnic groups over other ethnic groups led to the rebellious invasion of Charles Taylor, which instigated a civil war that overthrew Doe's administration in 1996⁹². Despite the United Nations efforts at ensuring peace in Liberia, the ethnic division and marginalization are almost as old as the State itself⁹³. Other countries in West Africa facing similar issues are Côte d'Ivoire, Guinea-Bissau, and Nigeria⁹⁴. In Guinea-Bissau, ethnic fragmentation is embedded in all levels of their State and has caused several civil unrests. Unlike Guinea Bissau, where the conflict is in all areas of the State, Ghana is faced with ethnic divisions in its northern region between Andanis and Abudus tribe even though it has not it has not resulted into violence. The antagonisms between these two ethnic groups remains threatening to the peace of the entire country.

2.3.1.4 Human rights abuse

The rate of human rights abuses and violations in West Africa is alarming and thus has manifested as a reason for the violent conflicts and civil unrest in the region. Several forms of human rights violations are inherent in the west African case, as it extends across "sexual and gender-based violence, reprisal killings, beatings, impunity for State officials and institutions, high social injustice, repressive and brutal leadership, unequal distribution of State resources among others"⁹⁵. These issues have been either the spark for a war or the repercussions of same. In the case of Nigeria, human rights violations were a major reason for the Niger Delta Militancy that has ensued over the years⁹⁶. The environmental

⁸⁹ ANNAN & DANSO (2013: 74-93)

⁹⁰ FEARON & LAITIN, (2003:5-90)

⁹¹ VINCK, PHAM & KREUTZER (2011: 45)

⁹² *Ibid*: 11

⁹³ ANNAN (2014 1-15)

⁹⁴ OGWANG, (2011:10)

⁹⁵ Report of the Human Rights Watch, 20 June 2003, *The regional crisis, and human rights abuses in West Africa: A briefing paper to the U.N. Security Council*

⁹⁶ EJBUNU (2007: 17)

pollution and economic marginalization caused by several oil companies particularly in the Niger Delta region as well as ignorance feigned by the government towards these violations have resulted in several violent conflicts; the killing of peaceful protesters in Bonny is one of the many instances⁹⁷. Nigerian Federal Government has also committed violent acts against her citizens by taking sides with oil companies by arresting and killing peaceful protesters as it was recorded in 1993⁹⁸. Guinea-Bissau's government like Nigeria is guilty of human right violation in form of State led violence against her own people causing the country's destabilization in 1998⁹⁹. The issue of State led violence and ethnic rivalry is still on the rise and at the brink of it was notable in Guinea-Bissau in the violence that ensued in 1998 and 2010 resulting in a *coup d'état* in 2012¹⁰⁰. The frequency and severity of the ethnically triggered violent conflicts in West Africa is higher in countries with less democratic structures, governed by authoritarians compared to the few democracies which makes the region an area of potential violence and conflicts. According to a Freedom House Report (2011), Equatorial Guinea and Ivory Coast are regarded as part of the twenty most political underdeveloped countries in the world¹⁰¹. The Teodoro Obiang Nguema Mbasogo regime in Equatorial Guinea for instance is characterized by corruption, human rights violations, political thuggery, violence, impunity, violation of rule of law, among others¹⁰². Also, Alhaji Yayha Jammeh's leadership of the Gambia is guilty of human rights violations¹⁰³. Although, there has been some efforts to containing the violence to avoid a full-blown war, but the political and ethnic tension remains high¹⁰⁴. Consistently, conflicts in West Africa are caused by the reasons stated above. Thus, it is important to note that civil conflict in west Africa is always in form of a military *coup d'état* (Mali) insurgency (Liberia). Therefore, for the purpose of this study, four major conflicts in west Africa will be analyzed.

2.4. Conflicts in West Africa

For the purpose of this study, four cases of conflict in west Africa will be examined. They are Conflict in Liberia, Sierra Leone, Guinea Bissau, and Ivory Coast.

⁹⁷ ADEYEMI & MUSA (2015:18)

⁹⁸ *Ibid*: 17

⁹⁹ *Ibid*: 50

¹⁰⁰ ZOUNMENOU & OKEKE (2012:11)

¹⁰¹ Report of the Freedom House, June 2011, *Worst of the worst: The world's most repressive societies, Freedom House: Annual Global Survey of Political Rights and Civil Liberties.*

¹⁰² USDS (2011:1)

¹⁰³ *Ibid*: 1

¹⁰⁴ MCSHERRY (2006: 8)

2.4.1. Liberian Civil War (1989)

Conflict in west Africa is very central to the Liberian case. Liberia became more international know in the 90s due to several violence and during internal armed conflict. Giving a vivid history of Liberia is very important in understanding the political spectrum which is hugely related to the reason for the conflict in Liberia.

In 1822 the US dispatched over two or three thousand liberated captives to a land parcel that later became Liberia. The recently showed up Americo-Liberians, as they came to be called, became the *élites* of Liberia, and attempted to transform the new society into a replica of the US society¹⁰⁵. The US political system manifested a lot in the Liberia's republican government and national symbol. The natives who are also known as the 'ancestral' Liberians were for all intents and purposes colonized by the Americo-Liberians. Furthermore, the previous slaves became slave owners, forcing political, economic, and social frameworks over the natives¹⁰⁶. Even though the Americo-Liberians were about five percent of the total population, they dominated the country of Liberia for over 130 years¹⁰⁷.

“The indigenous Africans consisted of several ethnic groups of which the largest are Kpelle (298,500), Bassa (214,150), Gio (130,300), Mano (125,540), and Kru (121,400). Other smaller groups consist of: Grebo (108, 099), Gola (106,450), Loma (60,840), Bandi (30,870), Kissa (25,500), Vai (24,000), Krahn (18,464), Mandingo (over 10,836), Del (7,900), and Belle (5,386)”¹⁰⁸.

The League of Nations International commission of enquiry report stressed the state of subjugation in Liberia following its description of Liberia as a ‘Republic of 12,000 citizens with 1,000,000 subjects’¹⁰⁹. This became a continuum till the 20th century considering that in the 19th century political environment gave room to only the Americo-liberian to vote during elections. In 1944, William Tubman emerged as the first president under the True Whig Party with the aim of promoting integration of the natives into the political affairs of Liberia. In his quest to attain this, he pursued liberal economic policies which attracted more foreign direct investment. Despite these economic potentials, the general wellbeing and economy of Liberia was still stalled¹¹⁰. The death of William Tubman in 1971 led to the emergence of William Tolbert as the new president. Tolbert continued the Tubman's policies, considering that he was the vice president to the past president. Tolbert promoted the natives by giving room to inclusiveness of natives in the governmental offices.

¹⁰⁵ WIPPMAN (1993: 156–203)

¹⁰⁶ NMOMA (1997: 101–125)

¹⁰⁷ *Ibid*: 116.

¹⁰⁸ *Ibid*: 120

¹⁰⁹ WILE (2012: 41)

¹¹⁰ MARINELLI (1964: 91–98)

Though Tolbert tried to allow the involvement of the natives in the political system, representation was not enough. In April 1980, Samuel Doe led a *coup* which brought to the assassination of President Tolbert. The opposition against Tolbert comprised two major revolutionary bodies known as the Progressive Alliance of Liberia (PAL) and the Movement for Justice in Africa (MOJA). These two revolutionaries were radical organizations formed to fight against the Tolbert government. PAL was formed in 1975 by some Liberians in USA with the goal of bringing a revolution to Liberia violently or nonviolently. The MOJA which was formed in 1973, comprised of students in University of Liberia, who had the goals like the PAL. The PAL was also the first opposition political party after it was legalized in 1990. Though the PAL changed its name to the Progressive People's Party (PPP), to compete against the Tolbert government in presidential and legislative elections. The political challenge from the PPP made the Tolbert government devise means to frustrate the effort of the opposition as a way of destabilizing the political party. The major move by the Tolbert administration in quest to frustrate the opposition party was the increase of the price of rice by 50 percent. The increase in price of food, in corruption and unequal standards of living, led to protests in Liberia¹¹¹. In response to this, the army was used by the president to repress the demonstrations. The army often resorted to the use of force as firearms were used on demonstrators leaving 400 wounded and over 50 people killed¹¹². This continual unrest led to a *coup* led by Samuel Doe in 1980, with some other Liberian army to oust the Tolbert administration, with the aim at bringing a halt to the domination of the natives by the True Whig Party. This *coup* led to the execution of 13 cabinet members as well as the assassination of Tolbert. Though this *coup* did not have much devastating effect on the citizens considering that it did not lead to any form of internal displacements¹¹³.

The April 1980 *coup* was very much supported by the public, but Doe was not different from the previous government. Doe's government violated human rights and was deep in corruption as government funds were mismanaged leaving Liberia poor and in about two billion dollars debt¹¹⁴. Doe was also responsible for tribalism, as he favored the people within his tribe known as the Krahn and the Mandinka people, that many saw as foreigners. The Liberian government post and military was dominated by the Krahn which caused a flair with other tribes within the armed forces¹¹⁵. According to the interview of Lafayette Harmon Diggs, the former Liberian Ambassador to Nigeria:

¹¹¹ HARRIS (1999: 432)

¹¹² KIEH, (1988: 203-219)

¹¹³ KIEH, (1988: 203)

¹¹⁴ NELAN (1990)

¹¹⁵ SAWYER (1992: 5-15)

“Every Krahn that was educated and aligned with Doe had a position in the government. In every office, Doe had a Krahn 'spy' who will approach you and say, 'Krahn by tribe; what is your tribe.' In fact, Krahn became almost the language of the governing circle in Liberia. If you did not speak Krahn, you are outside”¹¹⁶.

He selected specific members of his ethnic group to high-ranking government positions. Doe similarly appointed and promoted fellow Krahns within the armed force, which indeed fueled ethnic rivalries within the army. The power domination of the Krahn cumulated to discrimination within the country and various human right violations during Samuel Doe’s regime. In response to the discrimination and violation of other tribes, particularly the Gio and mano tribe retaliated. The response to this retaliation was mass killing of about 2000 Gios and Manos including civilians and military personnel.

Meanwhile, in 1983, Doe had dismissed Charles Taylor from his cabinet on the grounds of embezzlement, after which he absconded to America where he was later apprehended but in 1985, Taylor succeeded in escaping from prison and left for Libya where he was trained by Gaddafi to make guerrilla warfare. Then, he moved to the Ivory Coast where he formed an army of mainly Mano and Gio people who had fled Liberia. This army was known as the National Patriotic Front of Liberia (NPFL).

The Liberian civil conflict began in December 1989, following an invasion of Liberia by Charles Taylor and the NPFL. This attack was carried out from the NPFL base in Ivory Coast. The NPFL attack started in the northern part of Liberia called Nimba, which is very close to Ivory coast, as shown in the map below.

¹¹⁶ NMOMA (1997 :107)



Source: BBC 2019¹¹⁷

The goal of the NPFL invasion and attacks under Taylor's leadership was to create an opposition and overthrow the Samuel Doe's dictatorship. The first phase of NPFL attack was majorly on the military and the government officials. In response to the Taylor's attacks, Doe ordered mass arrest, torture, and killings of the Gio and Mano who were the major supporters to Taylor. This led to a mass displacement as about 13,000 people in the mano and Gio ethnic group fled to Guinea in 1989¹¹⁸. Doe's retaliation led to a fresh attack on the Krahn and Mandingo group which led to a full blow conflict, which made about 160,000 flee to Ivory Coast and Guinea¹¹⁹.

The war in Liberia continually escalated because of the struggle for power between the Doe and Taylor factions. Though the civil war started to overthrow the dictator government of Doe, it grew to an ethnic massacre. The war also was against the law of armed conflict, which prohibits attacks on noncombatants, as the war which was initially between the combatant later grew to be a slaughter ground for innocent civilians. The international community intervened in curbing the mass murder and restoring peace in Liberia. The first civil conflict ended after Samuel Doe was murdered, followed by an election that brought Charles Taylor as the head of government. The emergence of Taylor and hope for restoration of

¹¹⁷ BBC (2019), *Liberia illicit Gold Mine Collapse: Five bodies found*, in British Broadcasting Corporation News, available *online*

¹¹⁸ NMOMA (1997: 13)

¹¹⁹ Report of the Human Rights Watch, 26 October 1990, *Liberia: A Human Rights Disaster Violations of the Laws of War by All Parties to the Conflict*

peace was cut short following his self-centeredness and his lack of respect for human rights. This led to the rise of Movement for Democracy in Liberia (MODEL), and Liberian United for Reconciliation and Democracy (LURD), that continually fought against Taylor regime. In the next chapter, the role of ECOWAS in peacekeeping in Liberia will be explored.

2.4.2. Sierra Leone Civil War (1991)

The Sierra Leone conflict followed almost the same pattern with that of Liberia. The colonial background of Sierra Leone also cumulated to the escalation of the conflict. After independence in 1961, a minority ethnic group that was favored during colonial rule, dominated the economic and political environment in Sierra Leone. Apart from the ethnic marginalisation, from independence, corruption has been dominant in the political system of sierra leone. This advent of corruption after independence started from the government of Sir Milton Margai who was the first prime minister in 1964. During his administration, corruption and mismanagement of state resources was a major core value of the State which in effect led to the collapse of the education system and a toothless civil society. The emergence of Siaka Stevens in 1968 made no deference, as after a seventeen-years rule, Sierra Leone continually grow in poverty. The Steven's administration which was also known as the "17-year plague of locusts"¹²⁰ led to destruction and deeper corruption of the political institution. An outplay of corruption was the undermining of the power of the parliament, the bribery of judges which led to a high level of injustice, and the inability of the State to finance projects due to the bankrupted treasury¹²¹. The continuous decline in Steven's administration led to his step down, with power transferred to Major General Joseph Momoh who continued in the same light as the previous administration¹²². Momoh's government was the beginning of the conflict in Sierra Leone. His seven years in office led to a growth in corruption and collapse of the economy as government workers had a salary backlogs while the top ranked government workers resolved to looting government funds¹²³. The economy continued to collapse as the salary of schoolteachers could no longer be paid leading to a collapse in the education system. During this period, only the rich families could afford education for their children through private tutors while majority of the youths roam the street¹²⁴. Furthermore, the mismanagement of the State's resources by the ruling class led to economic difficulties in the country. Economic difficulties became a valid reason for a protest against the government which in the long run led to a full-blown violent conflict. Apart from the internal demonstrations from people in

¹²⁰ GEORGE (2012:30)

¹²¹ GBERIE (2005:45)

¹²² KELSALL & ABDULLAH (2008: 14)

¹²³ NKWEDE & USONKA (2019:3)

¹²⁴ GBERIE (2005; 54)

Sierra Leone, the spillover effect of the Liberian conflict also contributed hugely to the situation. The spillover of the Liberian civil conflict was repressed by Joseph Momoh who was Sierra Leone president during this period. The repression was carried out by the military against the NPFL.

In 1991, Revolutionary United Front (RUF) was formed as a rebel group against the government. The group included the Sierra Leone and some Liberian fighters from the NPFL, who had had military training in Libya¹²⁵. RUF came under the leadership of Foday Sankoh, as succession of attacks were executed against the government of Joseph Momoh. The goal of the RUF to bring a better political and economic wellbeing to Sierra Leone gradually shifted to personal needs, considering that Sankoh was motivated by the access to diamonds. The State of Sierra Leone political instability led to a huge advancement for the RUF as they advanced in the acquisition of territories that are natural resource rich.

Most importantly, the Sierra Leone was never void of a Head of State. In 1992, Captain Valentine Strasser led a *coup* against the civilian government of Momoh. During the Strasser's administration there was a huge escalation of violence between the military and RUF, because the military government wanted to take possession of the RUF occupied diamond mines. The continuous clash between the parties led to various human rights violations, sexual molestation, and recruit of child soldiers¹²⁶. In January 1996, Brig. Gen. Julius Maada Bio, spearheaded another *coup* against Captain Valentine Strasser. The new military Head of State after this *coup* promised a return to civilian rule which brought about installation of Ahmad Tejan Kabbah as the president in March 1996. Following the return to civilian rule, the RUF leader Sankoh and President Kabbah in October 1996, signed a peace agreement popularly known as Abidjan Agreement.

The defunct implementation of the Abidjan agreement led to another *coup d'état* against Ahmad Tejan Kabbah on May 25, 1997. The military *coup* was led by Major Johnny Paul Koroma who formed and appointed himself leader of the Armed Forces Revolutionary Council (AFRC) which became a close ally to the RUF. The continually opposition of the regime led to continual increase in hostility and violence in Sierra Leone.

The Liberia civil war had a spillover effects on Sierra Leone as the RUF and NPFL leaders became close allies as both Taylor and Sankoh continually instigated rebellions in their respective countries. The RUF and NPFL continually move across Liberia and Sierra Leone borders freely. Taylor's continually grew more interest in Sierra Leone due to the richness in diamonds. Therefore, access to diamonds became a basis for the continued relationship. Taylor continually engaged in trade as he provided rebels and arms to the RUF in exchange for

¹²⁵ ADEKEYE (2002: 82)

¹²⁶ BELMAKKI (2005: 12)

diamonds¹²⁷. The role of diamond in the Sierra Leone conflict is also non avoidable when talking about conflict in the region. There is a continuous argument on whether there is a link between diamond and the conflict in general. It will be argued in most cases that diamond does not have a direct link to the surge of conflict in Sierra Leone. Though this conflict is hugely linked to the fight for diamond and will probably never have happened without the fight for the domination of diamond mines. Diamond played a huge role for the RUF as it was used in sustenance and most importantly purchasing army and arms and ammunitions from Charles Taylor.

The link between diamond and the Sierra Leone conflict can be seen in two phases: Firstly, diamond played a huge role in the failure of the state which led to the outburst of conflict and secondly led to a prolonged conflict. In relations to the state failure, three perspectives can be ascertained. In political context, diamond was a source of resources accessed by political leaders which was used for personal enrichment instead of used for state development. This therefore is very instrumental in the gradual creation of a corrupt political system. Economically, diamond was the backbone of Sierra Leone economy considering that diamond was also used for trading. Since these diamonds were mismanaged and end up in political leaders' reserves, the State continually wallow in economic instability. Thirdly, security issues are linked to diamonds. The surge of lawlessness emanated from the mining provinces gradually developed into violence, which led to the creation of security agencies to protect mining companies¹²⁸. The act of illegally mining of diamonds created an enabling environment for violence that further led to the violent conflict in Sierra Leone. The illegal miners at the beginning start of the security issues ended being part of the RUF. A notable and famous name was Sam Bockarie. The access to the diamond helped the RUF in increasing their network and they were able to use diamond in exchange of possession of arms and ammunition¹²⁹.

The intervention of ECOMOG in this Sierra Leone conflict in 1997 led to end of the conflict after the death of thousands of people. In the next chapter, the role of ECOMOG in restoring peace in Sierra Leone would be explored.

2.4.3. Guinea Bissau Civil War (1998)

The history of West Africa conflict would be incomplete without the mentioning the case of Guinea Bissau. On 7th June 1998, Guinea Bissau went into a violent conflict which was reportedly caused by a power struggle between President Joao Nino Viera and his chief commander of armed force, Ansuman Mane. The conflict, which lasted for 11 months, also emerged due to the charges against

¹²⁷ ERO & NDIRA-MUVUMBA (2004: 231)

¹²⁸ SMILLIE (2000: 24-31)

¹²⁹ RICHARD (2003 : 22)

Ansuman Mane on his involvement in arms trafficking to the *Mouvement des forces démocratiques de Casamance* (MFDC), which was a militia in the Casamance, Senegal.

The war initial outplay was a power tussle between Viera and Mane because of the dismissal of his indictment on the trafficking arms which led to his dismissal from the military and Guinea Bissau's cabinet. The fear of imprisonment and a total loss of power led to Mane's attempt to carry out a *coup d'état* after he was freed from a house arrest in 1996. Due to the pressure from Senegal and domestic opponent who blamed Mano for the continuous human rights abuse caused by the MFDC, President Viera suspended Mane in February 1998. Mane dismissal led to a turbulence between the followers of the president and Mane. In response to this, Mane staged a *coup d'état* with the support of 1500 veteran military who agreed to get rid of president Viera and his accomplice. The military action against the president dwelled on the need to unseat the president due to his incompetence which created a 'power keg' and could explode if he remains in office¹³⁰. The success of the *coup* was also due to the political instability in Guinea Bissau which arouse after the 1994 election and the unrest from citizen protesters against the bad economic condition. Senegal and Guinea responded to the *coup* as 1300 and 400 were deployed respectively to reinstate Viena's government¹³¹. The civil conflict continued between the opposing military bodies with few volunteers fighting for Mane's military in reaction to the human right violations committed by the foreign troops against the Guinea-Bissauan. Throughout this conflict there was no move for cease until ECOWAS involvement in 1999 which did not last but instead there was continuous conflict and military government in Guinea Bissau until the total restoration of democracy in 2014 after ECOWAS intervention.

2.4.4. Ivory Coast Civil War (2002)

The civil conflict in Ivory Coast was hugely linked to the ethnic inequality that existed in ivory coast which was closely linked to colonialism. Ethnic inequality led to political and economic degradation in the northern part of ivory coast which led to a violent conflict in September 2002¹³². The north south divide continues after independence, as Ivory coast was the best economy in west Africa in the early 2000s. Independence brought about a democratic government under the rule of President Felix Houphouet-Boigny whose policies also continually favored the southern part of ivory coast economically and politically. After thirty-years rule, he died in 1993. This, in effect, aggravated into a problem for Ivory coast. The division further aggravated under the administration of the new president Bedi,

¹³⁰ PADRÃO (2008: 245–263)

¹³¹ DUVAL (1998)

¹³² OGWANG, (2011: 1)

whose administration further favored the southern part of the country. This conflict was further fueled due to the ban on Alassane Ouattara to contest in the presidential election in 2000 because his parents were not Ivorians even after meeting his citizenship requirement. The 2000 election brought in Laurent Gbagbo as the president. This led to crisis and xenophobic attacks in Ivory coast against the northern Ivorians seen as foreigner and the reason for economic problems¹³³. This led to the rise of rebel groups both from the North and Southern part of Ivory Coast. While the *Mouvement Patriotique de Côte d'Ivoire* (MPCI) dominant in the north, *Mouvement Populaire Ivoirien du Grand Ouest* (MPIGO) and the Movement for Justice and Peace (MJP) emerged in the south western part of the country with the support of Gbagbo. By September 2002, Abidjan was a ground of conflict as the country continually suffer from ethnic divide. This conflict further triggered the international community leading to various peace keeping missions, especially by ECOWAS. The role of ECOWAS in resorting peace in Ivory coast will be discussed in the next chapter.

Final remarks

In concluding this chapter, it is important to note that armed conflicts take two forms i.e., IAC and the NIAC, with the major differences stressed earlier. Furthermore, armed conflict in west Africa context has been a NIAC, considering that it has majorly been a fight by a rebel groups against the government. These causes of these conflict in the west Africa context cut across human right abuse, ethnic marginalization and bad governance which mostly cumulates into poverty due to misuse of State resources by the government officials. Theoretically the above causes overtime leads to frustration of the polity as in the case of Liberia, Ivory coast, Sierra Leone, and Guinea Bissau which in effect aggravates into the use of violence as a voice against various deprivations. The conflict in west Africa often follows the same pattern as rebel fight against the government who is either misappropriating state funds, violating human right or marginalizing an ethnic group in favor of another which was the case of Liberia. These conflicts do not naturally stop, but ECOWAS were very instrumental in resolving conflict by fostering peace in the cases earlier stated. Subsequent chapter will further examine the actual role ECOWAS played in peacekeeping and peacebuilding in west African conflicts.

¹³³ KOHLER (2003)

CHAPTER 3

The creation of ECOWAS and its Mechanisms for Conflict Prevention, Management, and Resolution

3.1. Formation of ECOWAS

The West Africa colonial period in history is linked to the emergence of sub-regional cooperation within West Africa. The colonialists pioneered diverse cooperative arrangements and institutions that served multiple colonies in their different territories. Thus, for the British colonies, there were the West African Cocoa Research Institute (WACRI), the West African Airways (WAA) and the West African Currency Board (WACB). In advancing West African economies, States saw integration as a good strategy in attaining development. In pursuit of this, in 1975, following a meeting of West African leaders, the Economic Community of West African States (ECOWAS) was formed, with the aim to integrate economies and foster development of the region. ECOWAS is an important African umbrella organization with membership restricted to West African countries. The community is a political-economic union that comprises 15 sovereign States with a communally landmass of 5.12 million square kilometers with approximated population of about 386.91 million people¹³⁴. The creation of ECOWAS was a result of various efforts by the West African elites to create an economic space across divided West Africa caused by cultural diversities, differences in colonial leaders and language barriers within West Africa¹³⁵.

The formation of ECOWAS stems back to the initiative of General Yakubu Gowon, former Nigeria's Military Head of Government. He conceived the thought of ECOWAS in 1970, quickly after the devastating civil conflict that immersed Nigeria from 1967 to 1970. Yakubu Gowon communicated the craving to attain a unified West Africa beyond African Union (AU). Gowon stressed the need, to begin with economic integration in West Africa to aid economic development. In advancing this initiative, Gowon asked for the cooperation of Senegal and Togo in 1972. The agreement between Togo, Senegal and Nigeria led to the gradual birth of the community and drafting of a proposition for developing a single market that created ECOWAS in the long run.

On May 28, 1975, the Treaty of Lagos led to the creation of ECOWAS after 16 Head of States in West Africa signed this agreement with the goal of advancing economies, and independence in West Africa. ECOWAS well stated goal and

¹³⁴ World Data Info; Economic Community of West African State, available online.

¹³⁵ ABRAHAM & ADEKOLA (2014: 19).

mission is for economic integration and promotion. A major development relating to this was the revised version of the Treaty, which was signed and agreed upon on July 24, 1993, in the Ivory Coast. The following are sixteen states that formed ECOWAS: Republic of Benin, Burkina Faso, Cape Verde, Ivory Coast, Gambia, Ghana, Guinea Bissau, Liberia, Guinea, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, and Togo. However, Mauritania withdrew membership in December 2000. With the total number of members now 15, it is essential to note that all current members are founding members in 1975, apart from Cape Verde that joined in 1977.

The aims and objective of ECOWAS is well stated Article 3 of its Revised treaty which states that

“1. The aims of the Community are to promote cooperation and integration, leading to the establishment of an economic union in West Africa in order to raise the living standards of its peoples, and to maintain and enhance economic stability, foster relations among Member States and contribute to the progress and development of the African Continent”¹³⁶.

In achieving the stated aim and objectives, the community developed relevant strategies such as harmonization of member State national policies for the purpose of protecting and protecting the West Africa community. The community also prioritized the establishment of a common market which automatically liberalize trade and abolish all tariffs paid on import and export good within West Africa¹³⁷. The aims and objectives as indicated above are to attain an economic joint development of the region and the member states through the creation of a single market and developing a trade union. In achieving this economic development, the community also shared the goal of having a single currency and common market. Since the inception of ECOWAS, its goals continually grow as it has infused peace and security as part of its objectives. Indeed, ECOWAS has been very active in maintaining peace and stability in the region by providing military assistance to West African States characterized by political instability. The outplay of this were the cases of Liberia, Ivory Coast, Guinea Bissau, Mali, and Gambia. The revised Treaty also gave room for an increase in the level of political cooperation. Regarding this, various mechanisms were also put in place to tackle issues relating to peace and security in West Africa such as the ECOWAS Mechanism on Conflict Prevention, Management and Resolution and other which has been explored within this chapter.

¹³⁶ Revised Treaty of the Economic Community of West African States (ECOWAS), 24 July 1993, Article 3

¹³⁷ *Ibid.*, Article 3

Furthermore, ECOWAS developed as a multilingual organization, divided into blocs. These blocs include two sub-regional areas: the West African Economic and Monetary Union (UEMOA) and the West African Monetary Zone (WAMZ). The UEMAO was created following the Dakar treaty signed on January 10, 1994. The treaty was signed by the heads of Government of Benin, Burkina Faso, Ivory Coast, Mali, Niger, Senegal, and Togo. On May 2, 1997, Guinea Bissau became the organizations' 8th member State. UEMAO is an important organization created with the goal of promoting economic integration amongst the francophone members of ECOWAS that spend CFA franc. The objective of this organization is majorly "to strengthen the economic and financial competitiveness of the Member States in an open and competitive market environment and within a streamlined and harmonized legal context"¹³⁸.

The UEMAO has been promising and playing a huge role in the improvement of the economic wellbeing of West Africa and Africa at large. ECOWAS remains an important player to the survival of the UEMAO and plans are carried out strategically to attain trade liberalization and a development of a good macroeconomics policy convergence¹³⁹. The Organization also agreed on standard terms and rules of origin to enhance trade, and ECOWAS agreed to adopt customers declaration forms and compensation mechanisms¹⁴⁰. As it relates to the Anglophones ECOWAS member states, WAMZ was created as a replica of the UEMAO. The WAMZ was formed in 2000 by six Anglophones countries within ECOWAS: Gambia, Ghana, Guinea, Nigeria, Sierra Leone, and Liberia; with that, plans to introduce a common currency called ECO. Its major aim was also for economic development of the six Anglophone countries by creating a stable exchange rate.

3.2. ECOWAS Institutional Structures and Functions

ECOWAS structure is made of three main bodies which are the traditional Executive, Legislative and Judiciary. Furthermore, Article 6 of the ECOWAS Revised Treaty clearly stated the institutions' structure of ECOWAS. According to Article 6:

"The Institutions of the Community shall be a) the Authority of Heads of State and Government; b) the Council of Ministers; c) the Community Parliament; d) the Economic and Social Council; e) the Community Court of Justice; f) the Executive

¹³⁸ Amended Treaty of the West African Economic and Monetary Union (WAEMU/UEMAO), 11 January 1994, Article 8.

¹³⁹ Report of the International Monetary Fund, 1 March 2019, 19/91, *West African Economic and Monetary Union*.

¹⁴⁰ Amended Treaty of the West African Economic and Monetary Union (WAEMU/UEMAO), 11 January 1994, *Additional Act No01/2015/CCEG/UEMOA Instituting a Stability, Growth, Solidarity and Convergence Pact among WAEMU Member-States*.

Secretariat; g) the Fund for Cooperation, Compensation and Development; h) Specialized Technical Commissions; and i) Any other institutions that may be established by the Authority”¹⁴¹.

3.2.1. The Authority of the Heads of State and Government

The ECOWAS treaty of 1975 established the Authority as the leading institution of ECOWAS, made up of the community head of State and Government. Article 7(2) of the ECOWAS Revised Treaty signed in 1993 clearly states that “the Authority shall be responsible for the general direction and control of the Community and shall take all measures to ensure its progressive development and the realization of its objectives”¹⁴². The responsibility of the Authority is well stated in Article 7 of the revised treaty which entails determining the general policy of the community and as well oversee the operations of other institutions¹⁴³. They also appoint the Executive secretary, Council and External Auditors¹⁴⁴. Furthermore, they can also request advisory opinion on any legal issues from the ECOWAS Court of Justice¹⁴⁵ and as well refer when;

“[...]it confirms that a Member State or institution of the Community has failed to honor any of its obligations, or an institution of the Community has acted beyond the limits of its authority or has abused the powers conferred on it by the provisions of this Treaty, by a decision of the Authority or a regulation of the Council”¹⁴⁶.

3.2.2. The Council of Ministers

The Council of Ministers is an important part of ECOWAS, which the revised Treaty established. Article 10, 11 and 12 of the ECOWAS revised treaty provide for everything that concerns the Council in terms of its establishment, functions, and composition. The Council of Ministers has often been regarded as the operational arm of the Authority. It comprises two representatives from each member State, and it is headed by a chairman, elected on an annual rotational basis amongst members. The Council perform the functions of overseeing the implementation and execution of all objectives and programs of ECOWAS. The specific functions of the Council as stated in Article 10 of the revised treaty. As stated, the Council makes recommendations that are vital to the running and attainment of the objectives of the community. They carry out other community administrative functions such as “adopting the Staff Regulations and approve the

¹⁴¹ Revised Treaty of ECOWAS, 24 July 1993, Article 6.

¹⁴² Revised Treaty of ECOWAS, 24 July 1993, Article 7(2)

¹⁴³ *Ibid.*, Article 7 (2a)

¹⁴⁴ *Ibid.*, Article 7(2c)

¹⁴⁵ *Ibid.*, Article 7(2h)

¹⁴⁶ *Ibid.*, Article 7(3)

organizational structure of the institutions of the Community; approve the work programmes and budgets of the Community and its institutions”¹⁴⁷.

The above objectives are discussed twice a year when the Council of Ministers meets. Article 11 states the following about the meeting of the Council:

“1) The Council shall meet at least twice a year in ordinary session. One of such sessions shall immediately precede the ordinary session of the Authority. An extraordinary session may be convened by the Chairman of Council or at the request of a Member State, provided that such request is supported by a simple majority of the Member States. 2) The office of Chairman of Council shall be held by the Minister responsible for ECOWAS Affairs of the Member State elected as Chairman of the Authority”¹⁴⁸.

3.2.3. The Community Parliament (CP)

The Community Parliament was established to serve the primary purpose of the consultation, dialogue and represent west Africa internationally in promoting integration. Member States are well represented with a minimum of five seats each. Other responsibilities of the Community parliament are well spelt out in Article 13 of the 1993 revised treaty.

3.2.4. Executive Secretariat (ES)

The ES is the central body of ECOWAS with a daily administrative responsibility of the community, its organs, and institutions. The ES is headed by the Executive Secretary through appointment made by the Authority. The executive appointment is for four-year tenure and renewable for an extra four years. The executive secretary carries out functions with the assistance of two deputy executive secretaries, financial controller and other officers who are also appointed by the Council of Ministers. They are also in charge of implementing pronouncements taken by the Authority and appliance of the Council's regulations”¹⁴⁹. The functions of the Executive Secretary are stated in Article 19 of ECOWAS revised treaty. They continually carry out administrative activities with the goal of ensuring the smooth running of the community. The ES also executes the decisions taken by the Authority¹⁵⁰.

3.2.5. The ECOWAS Community Court of Justice

The ECOWAS Community Court of Justice (CCJ) is a judicial arm of ECOWAS responsible for ensuring compliance of member States with the provision of the treaty the CCJ was created in line with the Revised Treaty of the Economic

¹⁴⁷ Revised Treaty of ECOWAS, 24 July 1993, Article 10

¹⁴⁸ *Ibid.*, Article 11

¹⁴⁹ *Ibid.*, Article 18

¹⁵⁰ ECOWAS Revised Treaty Article 19 (3).

Community of the West African States of 1993, with headquarters in Nigeria. The functions of the CCJ were detailed in the ECOWAS 1991 protocol on the CCJ, which was signed by member States, and made the Court fully operational. The Court is made up of seven judges who serve on a five-year term. Also, it is essential to note that two judges cannot be citizens of the same State.

In terms of jurisdiction, generally speaking, the CCJ is responsible for settling any dispute “between the Member States or between one or more Member States and the Institutions of the Community on the interpretation or application of the provisions of the Treaty”¹⁵¹. The CCJ jurisdiction is well set out under Article 9 of the 1991 protocol, which asserts that CCJ “shall ensure the observance of law and the principles of equity in the interpretation and application of the provisions of the Treaty”¹⁵².

The Court also has jurisdiction over cases related to human rights violations, which was codified by the ECOWAS supplementary protocol of 2005 which gave the Court the jurisdiction to hear case regarding human rights and resolve disputes between individuals and their member states¹⁵³. The amendment also made the CCJ a four in one Court serving as Court of Arbitration, ECOWAS Administrative tribunal, Tribunal for Interstate dispute resolution and Human Rights Court. The Court will accept complaints brought forward by the specific individuals and entities as stated in Article 9 of the 1991 ECOWAS protocol that created the CCJ:
From

“Individuals on application for relief for violation of their human rights; Individuals and corporate bodies to determine whether their rights have been violated by an ECOWAS official; Member states and the Executive Secretary, to bring an action against a state for failure to fulfil treaty obligations; Member states, the Council of Ministers, and the Executive Secretary for determination of the legality of any action related to ECOWAS agreements; ECOWAS staff who have exhausted remedies under ECOWAS Rules and Regulations; and Member states' national courts who may request to refer an issue related to the interpretation of ECOWAS agreements to the CCJ”¹⁵⁴.

The admissibility of a case to the CCJ is not dependent on the need to exhaust the domestic remedies before applying to the CCJ. Application to the CCJ regarding cases related to the violation of human rights should not be anonymous must not be already before another international court. Finally, the decisions of the court

¹⁵¹ ECOWAS Protocol on the Community Court of Justice, 6 July 1991, A/P1/7/91, *The Community Court of Justice.*, Article 9(2),

¹⁵² *Ibid.*, Article 9.

¹⁵³ ECOWAS Supplementary Protocol, 21 December 2005, A/SP.1/01/05, *Amending the Preamble and Articles 1, 2, 9, 22 and 30 Of Protocol A/P.1/7/91 relating to the Community Court of Justice and Article 4 Paragraph 1.*

¹⁵⁴ ECOWAS Protocol on the Community Court of Justice A/P1/7/91, Article 9.

are binding, as stated under the 1991 protocol. The ECOWAS member states and institutions are also responsible for taking necessary measures in ensuring the execution of the Court's rulings. According to Article 24 of the 2005 protocol, the declaration made by the Court should be communicated in the form of 'Writ of Execution', which should be submitted to the member state in question by the Chief Registrar¹⁵⁵.

3.3. The Development of ECOWAS Political, Legal, and Institutional Framework

The goal of ECOWAS remains well stated in its Charter. The summary of the goal is to foster cooperation amongst the West African States and, in effect, attain a multidimensional development in different areas where West Africa setbacks were evident after colonialism. These include agricultural issues, cultural matters, monetary policy, trade and commerce, natural resources, social issues, and the one that grew to be an important goal of the Community, that relates to security and good governance¹⁵⁶. The ECOWAS project employed various tools that include the removal of trade barriers within the West Africa region, which aimed to make the West African environment more attractive for foreign direct investment and boost development. The reason stated earlier was why member States saw the integration of the national market as an essential tool in attaining the ECOWAS aims and objectives¹⁵⁷.

ECOWAS grew to be a new sub-regional organization that mimicked the European Community (now European Union) over the years. But the Treaty of 1975 that created ECOWAS had a legislative body that was hugely controlled by the member states¹⁵⁸. The central Community institutions are the Authority of the Heads of State, which is the apex decision making body of ECOWAS; the Council of Ministers played an advisory role to the Authority of Head of states; and the Executive Secretariat with the administrative responsibility of the Community. In principle, the Community bodies are committed to carrying out their responsibility for the smooth running of ECOWAS and the attainment of the aims and objective the Community wants to achieve¹⁵⁹.

A major problem the Community has is the legal framework needed in executing policies. The 1975 treaty left the national sovereignty of the member state intact with no legal binding force of the decisions on the member States. Instead, any

¹⁵⁵ ECOWAS Supplementary Protocol A/SP.1/01/05, Article 24.

¹⁵⁶ Treaty of the Economic Community of West African States, May 28, 1975, 1010 UNTS 17, 14 ILM 1200.

¹⁵⁷ KUFUOR (2006: 2-8).

¹⁵⁸ ALTER, HELFER & MCALLISTER (2013: 741).

¹⁵⁹ JEBUNI (1998:489-493).

decisions made by the Council of ministers and the Authority are only legally binding on the institution with no legal force on the member States. The absence of legal obligatory force and the lack of a decision-making power led to the formulation of unanimously adopted protocols, giving each member State the power of decision related to the ratification and execution that can only enter into force with majority ratification. This complexity led to a slacken and insufficient law-making mechanism in the Community¹⁶⁰. Another more profound reason for the need to integrate West African States is closely related to geographical proximity. Due to geographical proximity, there is a possible spillover effect of instabilities of one State to the other member States, which can gradually destabilize the whole region. But still, the division and contrast amongst member States have not been eradicated, making intraregional trade more costly over the years¹⁶¹. This is evident as the West African French colonies remain closely linked to their colonial master's economy and its political system, mandating the colonies to contribute for approximately 50% of the State's income into the French foreign reserve. Also, the Anglophone countries with a particular focus on Ghana and Nigeria, which are the major economies, have an individual and different goal in their economic activities as their key trading partners are outsiders in the West African region. However, there are some intra-regional trade activities amongst the ECOWAS member states in agricultural product, natural resources, and other consumable goods¹⁶².

Both poor and rich countries hugely supported regional integration, which was a major move in building a common market in west Africa and the conception of ECOWAS. The creation of ECOWAS brought to the consciousness of the less developed countries that Nigeria plays the "big brother" role in the region, considering its economic strength and its massive contribution to the Community. Though it was a way for Nigeria to consolidate its hegemony in the West African Community, the poorer nations saw it as a positive point as they could benefit from Nigeria's oil wealth due to the free movement and market access¹⁶³. Furthermore, Nigeria's wealth was also an important aspect considering that this country contributes the most due to the requirement for the contribution that makes states contribute to ECOWAS in proportion to countries' GDP and per capita income. Apart from this, Nigeria continues to contribute to the Community heavily to date.

ECOWAS continually developed its areas of interest beyond just the economic aspect. The 1980s marked the changing focus of ECOWAS for merging

¹⁶⁰ ASANTE (1986: 70).

¹⁶¹ AGU (2009: 445-458).

¹⁶² BURFISHER (1987: 185-213).

¹⁶³ ABEGUNRIN (2009: 42).

economic, political and security development as a goal of the Community. Considering that Nigeria is a massive contributor to ECOWAS, the collapse of oil price and the mismanagement of revenue resulting from corruption, led to a drastic reduction of Nigeria input in the Community as it continually focused more on internal advancement¹⁶⁴. This also followed the expelling of illegal workers from Nigeria, especially after the 'Ghana must go' campaign. Though the internal development goal of Nigeria during this era led to a better economy and gave more jobs to the Nigerian citizens, the 'big brother' was violating the ECOWAS policy of free movement¹⁶⁵.

The changing patterns in the international system also affected ECOWAS. Most importantly, the end of the Cold War led to a more genuine liberalization of West African States' economies which was a condition for accessibility to loans from the IMF and World Bank. This also led to the possibility for the community member states to gain access to the European economy and the possibility to join the World Trade Organization (WTO). The cold war factor had a significant influence on ECOWAS regional integration and increased the attractiveness of integration of West Africa¹⁶⁶.

The 1993 revision of the ECOWAS treaty led to an expansion and a more committed West African integration. This revision led to various structural change in achieving the aims and goals of the Community. The 1993 protocol authorized the adoption of ECOWAS decisions by a two third majority of member States' vote, which automatically becomes binding. Another aspect of the 1993 treaty was the focus on good governance, human rights related issues and security. Though, prior to the 1993 revised treaty, the Community stressed the interest in promoting regional security and good governance. This can be seen in the case of the non-aggression protocol of 1978, the Protocol on the mutual Assistance of Defense in 1981, which also provided a legal basis for the intervention of the ECOWAS Monitoring Group (ECOMOG) in west African conflicts. These protocols were also aimed at curbing foreign intervention into the political and security affairs of West Africa as the Community established a defense council that continually oversees the regional security schemes¹⁶⁷.

The surge of conflict in the region, especially due to the Liberian civil war, led to the establishment of the ECOMOG, which became a complete fled military intervention tool used to restore peace and democratic principles in West Africa¹⁶⁸. The intervention of ECOMOG in Liberia was hugely credited

¹⁶⁴ AGBOOLA (1991: 40-41).

¹⁶⁵OKOLO & WRIGHT (1990: 19).

¹⁶⁶KUFUOR (2006: 2-8).

¹⁶⁷JENKINS (2006: 333).

¹⁶⁸ *Ibid.*, 335-336.

considering that it restored peace in the State. However, ECOMOG grew to be an essential instrument in restoring peace but has faced severe allegations regarding violation of human rights¹⁶⁹. The continual intervention of ECOMOG in armed conflicts in various West African States like Ivory Coast and Liberia in 2003, Guinea Bissau in 1999 and Sierra Leone in 1997, led to the increase in interest of ECOWAS in good governance, humanitarian practices and respect for human right. This led to the creation of the 1999 conflict prevention protocol that encapsulates the community's Conflict Prevention mechanism. The resolution, management, peacekeeping, and peace building, as a result of this giving importance to the safeguarding of human rights and giving legality to ECOWAS intervention in West African conflict¹⁷⁰. This Protocol gave the foundation to the legality of ECOWAS intervention in the conflict and contributed to the growing narrative in the respect for human rights. ECOWAS interest in human rights-related issues also led to the expansion of the power and jurisdiction of the CCJ to matters relating to human right violations.

The 1993 revised treaty also led to more inclusion of the public in the affairs of ECOWAS. By this, the civil society was given access to engaging in the various activities within ECOWAS. Other actors played important roles in ECOWAS. At the initial stage NGOs were excluded from the community policymaking while the civil society groups plays an observer role in public meetings¹⁷¹. The access of civil society in ECOWAS encouraged the creation of advocacy bodies for the ECOWAS citizens. Furthermore, by 2001, NGOs were much more involved in ECOWAS through the West African Human Rights Forum that was accredited to influence the Community's policy making. Another significant expansion was the CCJ which was an imperative foundation for the transformation of Court which was grounded following the 2001 protocol on Democracy and Good Governance adopted by member States to deter military *coup* and any undemocratic and unconstitutional change in government¹⁷². The Protocol gave immense importance to human rights as an integral part of the aspiration to promote democracy, good governance, transparency, accountability, and the rule of law¹⁷³. This Protocol included a clause which expanded the jurisdiction of the CCJ,

¹⁶⁹ ARTHUR (2010: 86–87).

¹⁷⁰ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, 10 December 1999, A/P.1/12/99, *protection of fundamental human rights and freedoms and the rules of international humanitarian laws*.

¹⁷¹ ECOWAS Decision, 6 August 1994, A/DEC.9/8/94, *Establishing Regulations for the Grant to Non-governmental Organizations (NGOs) the Status of Observer Within the Institutions of the Community*.

¹⁷² Protocol on Democracy and Good Governance, 21 December 2001, A/SP1/12/01, *Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security*.

¹⁷³ TAMARABRAKEMI (2010: 100-102).

stating that the court “shall be reviewed to give the Court the power to hear, inter-alia, cases relating to violations of human rights, after all, attempts to resolve the matter at the national level have failed”¹⁷⁴. This was a significant starting point that led to the jurisdiction of the CCJ on issues relating to human right violation. Most importantly, the role of ECOWAS in peacekeeping and peacebuilding is one of the most interesting areas of development of the Community.

3.4. ECOWAS Mediation and Security Council (MSC): a regional replica of the UNSC to guarantee peace and security in West Africa

The UNSC is at the forefront of maintaining peace and security in the international system. Furthermore, the ECOWAS Mediation and Security Council (MSC) is a vital decision-making organ of the Community on peace and security issues in West African region. In fact, the MSC is one of the most important organs as it relates to peace and security in the international system, though it was designed to address these issues in the West African context. In as much as it has focused more on West Africa security, it has often been regarded as a replica of the UNSC¹⁷⁵.

The power of the UNSC arose because of the continued goal of the UN of fostering peace in the international system. In attaining this goal, the UN member states gave the UNSC the authority to maintain peace and security in the global system. The member states also agreed that carrying out duties regarding peace and security, and the UNSC acts on their behalf¹⁷⁶. Therefore, the UNSC has the power to authorize the threat of the use of force or the actual use of force in maintaining and impose peace in the international system, and consequently have a legal bindingness on member states¹⁷⁷.

Furthermore, there is a growing relationship between the UNSC and ECOWAS. This relationship is well stated in Chapter 8 of the UN Charter. Specifically, Article 52 of the Charter states that:

“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 as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations”¹⁷⁸.

The above simply implies that when it comes to matters that relate to maintaining peace and security, nothing in the Charter impedes the regional agreements.

¹⁷⁴ Protocol on Democracy and Good Governance, A/SP1/12/01.

¹⁷⁵ SPAIN (2012: 20).

¹⁷⁶ Charter of the United Nations, Article 24.

¹⁷⁷ SPAIN (2012: 20-384).

¹⁷⁸ Charter of the United Nations, Article 52.

Furthermore, Article 53 stresses that “the Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority¹⁷⁹”. Article 52 further stresses that the regional arrangement should be used “provided that such arrangement or agencies and their activities are consistent with the Purposes and Principles of the United Nations”¹⁸⁰. The existence of this provision in the Charter is a legal basis for the efforts of regional organizations in maintaining peace and security. Priority was also given to the regional agreements when resolving a dispute in the region before the involvement of the UNSC as stated in Article 52 (3).

“the Security Council shall encourage the development of the pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council”¹⁸¹.

Furthermore, even with the establishment of primacy of the regional arrangement in local conflict resolution, the UN charter still limits the power of the regional actors regarding the use of force or the threat to use force in maintaining peace and stability in West Africa. In this context, Article 53(1) stresses that:

“enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council”, with exceptions to that which “measures against any enemy state, (...) in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state”¹⁸².

The aforementioned has been seen over time as a significant challenge to peace in Africa. But it is important also to note that the primary threat to peace in west Africa is intrastate conflicts that have often been attributed to ethnicity issues, government unaccountability, human rights violations, and lack of basic facilities. Furthermore, ECOWAS, which happens to be an obviously developed regional organization in Africa, deals with most of these limitations. A significant move of ECOWAS was establishing its security governance following the creation of the 2008 ECOWAS protocol on conflict promotion. By security governance, this means:

“coordination with different actors and through other forums that remains a necessary precondition for attempts to provide security in a globalized and

¹⁷⁹ Charter of the United Nations, Article 53.

¹⁸⁰ Charter of the United Nations, Article 52.

¹⁸¹ *Ibid.*, Article 52 (3).

¹⁸² *Ibid.*, Article 53 (1).

interdependent world, in which general abstention or a simple resort to state-centered and military-focused models will not suffice”¹⁸³.

Furthermore, the development of a security council like the UNSC in ECOWAS can be traced back to the 1999 Protocol on the Mechanism on Conflict Prevention, Management, Resolution, Peacekeeping and Security. This Protocol also gave legality to creating MSC and the legitimacy of ECOWAS intervention on West African conflicts. In terms of membership, Article 8 states that nine-member States shall become the only members of the MSC, inclusive of the ECOWAS chairman, immediate chair and seven other members elected by the ECOWAS assembly. In terms of decision making at the MSC, a two-third majority has to be reached to decide on any issue¹⁸⁴. But practically speaking, all member States decide at the MSC platform, with decisions often made unanimously¹⁸⁵. This is an outplay of ECOWAS's commitment to liberal democracy even while maintaining security and achieving security and peace by all means¹⁸⁶.

Giving close attention to this Protocol, Article 25 explicitly stated the conditions that give legitimacy to the intervention of the Community in conflicts. Article 25 below clearly states the situation for the application of the mechanism.

“Conditions for Application: The Mechanism shall be applied in any of the following circumstances: In cases of aggression or conflict in any member state or threat thereof; In case of conflict between two or several member states; In case of internal conflict: a) that threatens to trigger a humanitarian disaster, or, b) that poses a serious threat to peace and security in the sub-region; In event of serious and massive violation of human rights and the rule of law; In the event of an overthrow or attempted overthrow of a democratically elected government; Any other situation as may be decided by the Mediation and Security Council”¹⁸⁷.

The responsibility of the MSC in terms of resolving conflicts entails the authorization of intervention and a decision on deploying a political and or military, also approve mandates of the mission and carry out reviews on the progress of any intervention. The MSC is also responsible for appointing the ECOWAS council of the Wise, which is an important organ in mediation in conflicts and serves as representatives of the ECOWAS president. The Council of the Wise is also very instrumental during fact findings regarding elections¹⁸⁸. Article 41 of the 1999 protocol further stresses ECOWAS cooperation with the

¹⁸³ EHRHART, HEGEMAN, & KAHL (2014: 145– 146).

¹⁸⁴ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, A/P.1/12/99, Article 9 (1).

¹⁸⁵ HARTMANN & STRIEBINGER (2015: 68-83).

¹⁸⁶ *Ibid.*, 75.

¹⁸⁷ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, A/P.1/12/99, Article 29.

¹⁸⁸ AFOLABI (2009: 24).

African Union (AU) and UN¹⁸⁹. ECOWAS, therefore, has been able to consult the UN to reach an agreement that will aid in preventing conflict and maintain peace and security in West Africa.

Peace and security have been attained in the West African context in term of intra state conflicts even though terrorism is the most recent security threat. The international Community continually shows confidence in ECOWAS, following the success recorded in west Africa¹⁹⁰.

The growing integration amongst West African states as well as the growing vulnerability to conflicts, due to various internal issues ranging from poverty, ethnic discrimination, and other factors, as well as the vulnerability of the region remain important points to note for a continual response of ECOWAS to security issues. The free movement of people established as a result of the creation of ECOWAS is a more important reason why conflict spill overs are more likely to occur. Considering also that ethnic diversities are an integral part of every ECOWAS member State, it is important to note that conflict can spring up at any time if proper preventive measures are not put in place. The importance of a framework to prevent conflicts therefore was a major concern for ECOWAS, which led to creation of the ECOWAS Protocol Relating to its Conflict Prevention Framework aimed at addressing issues relating to conflict in West Africa.

3.5. ECOWAS Mechanisms on Conflict Prevention, Management and Resolution: a regional legal basis for intervention

The Peace Treaty of Westphalia is an important turning point regarding the respect of sovereignty. After its enactment in 1648, State ability to govern itself without external interference has been an important feature of the international community. This principle has not just been a doctrine for States to respect, but also IOs like UN and African Union (AU) continually respect this principle.

ECOWAS followed suit these IOs as the Community recognized these principles in the Treaty¹⁹¹. But in reality, over time, the changing goal of the Community on peace and security contradicts the principle of sovereignty and non-intervention. Though the initial creation of ECOWAS was primarily for economic advancement, due to ongoing internal crises, making the Community's objective greatly threatened. This, in effect, led to the shift in a focus oriented to regional peace and security from the initial goal of economic development.

¹⁸⁹ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, A/P.1/12/99, Article 29.

¹⁹⁰ OBADAN (2015: 2-20).

¹⁹¹ ECOWAS Revised Treaty (1993) Article 4.

The response to the security issues in West Africa led to the revision of the 1975 ECOWAS treaty in 1993. This revised Treaty was the background for creating various mechanisms related to intra and interstate conflict prevention, management, and resolution in West Africa¹⁹². Though before establishing the revised Treaty, the community has been active intervention in Liberia and Sierra Leone. This intervention was regarded as non-effective and illegal at the beginning due to the absence of the legal bases and framework for operation under the Charter. Furthermore, the revision of the ECOWAS treaty led to the enactment of various protocols that are currently instrumental in promoting peace and security with well-defined legality and operational framework. ECOWAS enacted three major instruments in promoting peace and security in West Africa, which are: “Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security”; the ECOWAS Protocol on Democracy and Good Governance” (EPDGG)¹⁹³; and “ECOWAS Conflict Prevention Framework (ECPF)”. These protocols are the basis for the role of ECOWAS in peace and security moves through interventions and human right protections.

3.5.1. ECOWAS Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security

The “Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security” popularly known as (the Mechanism) was enacted by heads of State and government of ECOWAS in December 1999 in Togo. The Mechanism was also known for the creation of three main ECOWAS institutions which are: the Authority, the Executive Secretariat (ES) and the Mediation and Security Council (MSC) as well as three other organs which play a supportive role to the main institutions created by the Protocol. These supporting organs are Council of Wise (COW), the Defense and Security Commission (DSC), and the ECOWAS Cease-fire Monitoring Group (ECOMOG)¹⁹⁴. The Authority operates in matters regarding peace keeping, peace building, humanitarian issues, transnational crimes and arms issues and other security-related mechanisms stated in the mechanism¹⁹⁵. In most cases, the Authority's functions are sometimes delegated to the MSC, to take suitable verdict as a way to foster administrative efficiency¹⁹⁶. As it relates to the MSC, the responsibility of the security council entails decision making on peace and security issues. The MSC executes all

¹⁹² ECOWAS Revised Treaty (1993), Article 58.

¹⁹³ ECOWAS Protocol on Democracy and Good Governance, December 2001, A/SP1/12/01, *Supplementary to the Protocol relating to the mechanism for conflict prevention management, resolution, peacekeeping, and security*.

¹⁹⁴ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, A/P.1/12/99, Article 17.

¹⁹⁵ *Ibid.*, Article 6.

¹⁹⁶ *Ibid.*, Article 7.

policies relating to conflict, peace, and security related issues; they also give authorization to all form of peacekeeping missions in terms of military deployment in conflict-prone society; the MSC also carry out a periodical review on peacekeeping missions and appoint the force commander of ECOMOG following the recommendations from the Executive Secretary¹⁹⁷.

Furthermore, as it relates to the Executive Secretariat, decisions made here are also related to security issues. The president of the ECOWAS commission is also the head of ES, vested with the authority to instigate actions for conflict management., prevention and resolution as well as peacekeeping in West Africa. These actions also include mediation, negotiation, fact-finding and reconciling conflicting parties¹⁹⁸. They also recommend the MSC on the appointment of the representative and ECOMOG force commander; they are also in charge of the appointment of the COW members; the ES also organizes regular report relating to the actions of member states and the MSC; in charge of the deployment of mediation and fact-finding missions and carry out the implementation of the MSC decisions¹⁹⁹.

The COW deals with conflict situations in West Africa after being mandated by the president of the commission or the MSC. In relating with conflict situations, the COW is expected to carry out mediation, conciliation and facilitation in conflicting societies while maintaining neutrality, objectivity, and impartiality²⁰⁰.

The Sub-Regional Peace and Security Observation System is also known as the ECOWAS Early Warning System (EWS), another vital organ created by the Mechanism. They are responsible for gathering intelligence and report prospective conflict in West Africa. Intelligence is carried out on a regional basis through Observation and Monitoring Centre (OMC) situated at ECOWAS Secretariat and all monitoring locations. Therefore, the reports gather to the headquarters²⁰¹, which the Authority and the MSC use in acting against any potential conflict in the sub-region.

ECOMOG and DSC are the enforcement organs of the Mechanism comprised of civilian and military structures with five military task force groups positioned in the country of origin and deployed if the need arises²⁰². According to Article 22 of the Mechanism, ECOMOG is specifically responsible for monitoring the

¹⁹⁷ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, A/P.1/12/99 Article7(1).

¹⁹⁸ *Ibid.*, Article 15.

¹⁹⁹ *Ibid.*, Article 15(1).

²⁰⁰ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, A/P.1/12/99, Article 20.

²⁰¹ *Ibid.*, Article 23.

²⁰² *Ibid.*, Article 21(2).

compliance with peace agreement; monitoring ceasefire and related peace agreements; peacekeeping and peacebuilding activities; disarmament and demobilization; intervention to protect human rights; control of transnational crimes and other operations authorized by the MSC²⁰³.

On the other hand, the DSC plays an advisory role to the MSC. They provide administrative and technical assistance to the MSC regarding issues related to military intervention and peacekeeping. In terms of composition, it is made of Chiefs of Defense of the member States, security experts and think tanks of the ministry of foreign affairs of member States, Ministers for internal affairs and heads of paramilitary agencies relevant to peacekeeping and conflict resolution. The DSC has a specific function carried out in assisting the MSC, that is designing the ECOMOG mandate, appointing the monitoring group commander, estimating the requirement needs for peacekeeping missions, and determining the structure of the monitoring group for each peacekeeping mission.

The Mechanism also provides for cooperation between ECOWAS and influential international organizations. It offers a legal basis for ECOWAS to cooperate with the AU and the UN, as well as other IOs relevant to attaining the community objectives. The organs created by the Mechanism are expected to fully integrate the AU mechanisms on conflict, peace, and security and most importantly, must inform the UNSC before any military intervention, being fully compliant with chapters VII and VIII of the UN Charter²⁰⁴. As it relates to intervention, the Mechanism can be invoked when any member State is experiencing a clear case of conflict and hostility; also, when this conflict has a potential of initiating a humanitarian tragedy; threatening West Africa peace and security; a threat or violation of human rights and the rule of law; a threat to topple a democratically elected government; and other issues approved by the MSC²⁰⁵.

The Mechanisms usually follow a specific procedure in terms of their application. When there is an existing condition that necessitates the application of the Mechanism, the first line of action is for the Executive secretary to bring to the consciousness of the MSC and consult the ECOWAS chairman before taking the necessary actions²⁰⁶. The MSC also takes appropriate measures regarding intervention considering the various options proffered. These measures are well stated in the conflict management protocol which cut across fact finding, mediation and military intervention. The MSC might also request its president to

²⁰³ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, A/P.1/12/99, Article 22.

²⁰⁴ *Ibid.*, Article 52.

²⁰⁵ *Ibid.*, Article 25.

²⁰⁶ *Ibid.*, Article 27.

create a well-defined mission. By creating this, the president appoints a specific principal officer, for example, the ECOMOG force commander and the Special Representative of the Executive President. This follows the drafting of a report on the State of affairs being carried out by the MSC, which will be submitted to the UN and AU.

Thus, the Mechanism explicitly shows three centrals to conflict prevention, resolution, management, and peacekeeping facts. It also favors diplomatic means as well as the use of the military. Therefore, the use of the military is always the last option, after all other peaceful options provided by the Mechanism have been exhausted with no trace of success. Most importantly, this Protocol is not designed to work in isolation but in cooperation with the UN and AU.

3.5.2. ECOWAS Protocol on Democracy and Good Governance

The EPDGG is a unique protocol created to promote democracy and good governance which are seen as necessary for a peaceful West Africa. The Protocol was adopted on December 21, 2001, by ECOWAS heads of State to serve as a complementary tool to the Mechanism by promoting internal democracy and good governance in every member State, which would prevent any surge of conflict. The rationale that forms the foundation for the adoption of EPDGG is premised on the conception that adheres to the tenets of good governance; the rule of law; and democracy with respects to individual rights and autonomy is a necessary sine qua non for maintaining social security equilibrium and preventing the eruption of violence. The Protocol considers the wanton destruction of lives and property that has emanated from the flagrant disregard and adherence to the principles of democracy and the indices that embody the proper workings of good governance. To this end, the Protocol offers a preemptive approach by extolling the virtues and imperative of good governance, democracy, and adherence to the rule of law rather than waiting for the total deterioration of these instruments, which can degenerate into a crisis that might require military intervention. In line with the protocol objects, it proposes a basic constitutional framework applicable to member States to safeguard the government's actions and its agents in compliance with democratic best practices. These constitutional principles include; well respected separation of power amongst between the legislature executive and judiciary; respect for free and fair elections, freedom of the press, constitutional accession of power, neutrality of State in religious matters²⁰⁷. These principles which are purely democratic also stress the need for political participation and the decentralization of power across all levels of governance. Most importantly, the principal stress State respect for human rights and further

²⁰⁷ Protocol on Democracy and Good Governance, A/SP1/12/01. Article 1

stress “freedom of association and the right to meet and organize peaceful demonstrations”²⁰⁸.

The Protocol further provided a standard regulation regarding the acts of the security and armed forces while relating with the civil population, whereby these relations should be well-guarded and in line with democratic standards. By this, all security, and armed forces are obliged to continually abide under the authorities of the civilian government²⁰⁹ and “shall be non-partisan and shall remain loyal to the nation”²¹⁰

The Protocol further advocates that the act of armed and security forces should be reasonably bridled according to constitutional injunctions. This includes proscribing the use of arms in peaceful civil gathering, meetings, and demonstrations. However, in violent demonstrations, utilization of a minimal force, proportional and commensurate with the violence, may be required²¹¹. In achieving this, the protocol advocates for the inclusion of training instructions into the national constitution according to ECOWAS principles regarding human rights, humanitarian law, and democratic principles²¹². The Protocol also advocates for training sessions, periodic and regular seminars, and symposia to ensure compliance with the constitutional provisions²¹³.

The Protocol, under Article 45, also provides enforcement measures in the violation of the principles contained therein. This includes sanctions from ECOWAS and its member States²¹⁴.

“The sanctions which shall be decided by the Authority may take the following forms, in increasing order of severity: Refusal to support the candidates presented by the Member State concerned for elective posts in international organizations; Refusal to organize ECOWAS meetings in the Member State concerned; Suspension of the Member State concerned from all ECOWAS decision making bodies”²¹⁵.

In as much as the Protocol prescribes total adherence of member States to its objective, it is essential to note that even when there is a sanction against defaulting States, ECOWAS, therefore, will continually play a monitoring role in the defaulting State and also assist in returning to a democracy that adheres to all the principle of the EPDGG²¹⁶. Essentially, the gravamen of the Protocol is to

²⁰⁸ Protocol on Democracy and Good Governance, A/SP1/12/01 Article 1.

²⁰⁹ *Ibid.*, Article 19.

²¹⁰ *Ibid.*, Article 19(1).

²¹¹ *Ibid.*, Article 22.

²¹² *Ibid.*, Article 23

²¹³ *Ibid.*, Article 23(1).

²¹⁴ *Ibid.*, Article 45.

²¹⁵ *Ibid.*, Article 45 (2).

²¹⁶ *Ibid.*, Article 45(3)

build a strong foundation for good governance and democracy as a mechanism to obviate or forestall the violent conflicts whilst striking a diplomatic balance with States that violate this Protocol to ensure their compliance.

3.5.3. ECOWAS Conflict Prevention Framework (ECPF)

ECOWAS, through the protocols earlier discussed, has been able to establish several conflict prevention organs to fulfil its mandate. The Organs include the EWS, the MSC, Office of the Special Representative, the COW and Special mediators. However, the lack of a strategic approach has made it difficult to implement the preventive aspects of these instruments²¹⁷ that are believed to be fraught with various weaknesses ranging from underutilization, weak internal coordination, misdirection of existing human capacities and the use of limited instruments²¹⁸. More importantly, the development of a strategic framework became expedient, especially in light of the perceived weakness inherent in the distribution of roles and responsibilities between Member States, ECOWAS and organs, the civil society, and ECOWAS external partners²¹⁹. The MSC, after a series of deliberations with experts on this issue, adopted a set of regulations, that became crucial for the creation of ECOWAS Conflict Prevention Framework (ECPF) on January 16, 2008. The ECPF was designed more specifically to present a strategic focal point on the execution of the principles encompassed in the Mechanism and EPDGG. ECPF was created to creatively transform the society with the instrumentality of

“a comprehensive operational conflict prevention and peacebuilding strategy that enables the ECOWAS system and Member States to draw upon human and financial resources at the regional (including civil society and the private sector) and international levels in their efforts to creatively transform conflict”²²⁰.

The Protocol also gives room for cooperation amongst other ECOWAS organs that deal with issues related to conflict prevention. It further promotes and develops an ECOWAS process based on collaboration with other regional and international organizations and civil societies, private sectors, and other partners with a centered goal on conflict prevention. As stated by the ECPF, it intends to adhere to;

“A guide for enhancing cohesion and synergy between relevant ECOWAS departments on conflict prevention initiatives to maximize outcomes and ensure a more active and operational posture on conflict prevention and sustained post-conflict reconstruction from the ECOWAS system and its Member States. Within

²¹⁷ Regulation of the Mediation and Security Council of the Economic Community of West African States, 1 January 2008, MSC/REG.1/01/08, Section II, *The Ecowas Conflict Prevention Framework*

²¹⁸ *Ibid.*, Article 2.

²¹⁹ Regulation of the ECOWAS MSC, MSC/REG.1/01/08, Article 1.

²²⁰ *Ibid.*, Article 7

the ECOWAS Commission, it is primarily the Office of the Commissioner for Political Affairs, Peace and Security (PAPS) that bears primary responsibility for operational conflict prevention policy and initiatives”²²¹.

The ECPF, in agreement with its enabling instrument, places more stress on conflict prevention instead of conflict management; it highlights the responsibility of ECOWAS to ensure peace and security which should be sustainable, and the ECPF implements new procedures and schemes that go beyond managing conflict, to also include peacebuilding. This ideology is consistent with the view that the military intervention should be tantamount to only specific and extreme issues. This should be a last resort action taken to attain sustainable peace and security. The goal and tenor of this is that

“[...] emphasis should now be placed on prevention and peacebuilding, including the strengthening of sustainable development, the promotion of region-wide humanitarian crisis prevention and preparedness strategy and the culture of democracy”²²².

Furthermore, the ECPF also continually relies on several regional and international frameworks, including the AU Constitutive act, ECOWAS treaty and related protocols and UN treaties, and its other instruments. Consequently, the legal instrument proves to be an important basis for justification for intervention. The ECPF also stress the moral obligation of States to act in any internal conflict in West Africa considering that the framework has zero tolerance for conflict because of its possible spill over across the subregion which can be devastating to economic development²²³. The ECPF gives ECOWAS the power and legitimacy to intervene for human security. The ECPF clearly states that.

“Thus, ECOWAS is vested with the necessary supranational powers (acting on behalf of and in conjunction with Member States, the AU and the UN), as well as the legitimacy to intervene to protect human security in three distinct ways, namely:

- (a) the responsibility to prevent—actions taken to address the direct and root causes of intra- and inter-state conflicts that put populations at risk.
- (b) the responsibility to react —actions taken in response to grave and compelling humanitarian disasters; and
- (c) the responsibility to rebuild actions taken to ensure recovery, reconstruction, rehabilitation, and reconciliation in the aftermath of violent conflicts, humanitarian, or natural disasters”²²⁴.

In achieving the above stated, alongside with its overall nine objectives²²⁵, the ECPF came up with strategies which are in place to actualizing these objectives. These initiatives consist of fourteen strategies which is aimed at strengthening

²²¹ Regulation of the ECOWAS MSC, MSC/REG.1/01/08, *Article 7*

²²² *Ibid.*, *Article 26*.

²²³ *Ibid.*, *Article 41*

²²⁴ *Ibid.*, *Article 42*

²²⁵ *Ibid.*, *Article 28*.

human security, operational and structural conflict prevention activities, and peace building. These activities span entails;

“[...] Early Warning; Preventive Diplomacy; Democracy and Political Governance; Human Rights and the Rule of Law; [5] Media; [6] Natural Resource Governance; Cross-Border Initiatives; Security Governance; Practical Disarmament; Women, Peace and Security; Youth Empowerment; ECOWAS Standby Force; Humanitarian Assistance; and Peace Education (The Culture of Peace)”²²⁶.

These initiatives stated above continually remain interconnected and play an important role for ECOWAS and its member States in preventing conflict in the region, in the short and long term, and help ECOWAS and its organs not resolve the use of the military in intervention.

3.6. ECOWAS Mechanisms on Conflict Prevention, Management and Resolution and Responsibility to Protect (R2P): Divergence and Convergence

The international system has been keen on the protection of human rights, especially right after the end of the Second World War. State sovereignty also became central to international law. The concept of State sovereignty is inseparable from international law. State sovereignty is a constant which is a necessary legal and political attribute of any State. As a way of conceptual clarification of State sovereignty with in international law context, the renowned definition by Tunkin, stress State sovereignty as “... the inherent supremacy of the State in its territory and independence in international relations”²²⁷. The concept further received clarification in judgement of Max Huber regarding the Island of Palmas case between the UN and Netherlands where it was stated that “sovereignty in the relations between states means independence. Independence in relation to area of the globe is the right to exercise his functions within the state, excluding any other State”²²⁸. A remarkable development in defining State sovereignty is linked to the necessity to abide by the rules of international law on sovereign rights of States. Furthermore, in quest of States relation, it is essential for States not to intervene in the affairs of another, especially in their domestic issues. This principle of sovereignty, therefore, continually guarantees external equality and, most notably the internal competences²²⁹. This implies the right of a State to carry out internal affairs with no third-party intervention.

²²⁶ Regulation of the ECOWAS MSC, MSC/REG.1/01/08, *Article 42*.

²²⁷ TUNKIN (1974: 15)

²²⁸ Reports of International Arbitral Awards, 4 April 1928, Volume II pp. 829-871, *Island of Palmas case (Netherlands, USA)*

²²⁹ HUMES-SCHULZ (2008: 105)

Sovereignty and non-intervention are two major principles of the UN. As clearly stated in the Charter, Article 2(1), “the Organization is based on the principle of the sovereign equality of all its Members”²³⁰, and as explicitly stated in Article 2(4), “all Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations”²³¹. Another evidence of the UN respect of these principles was stated in Article 2(7)

“Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter, but this principle shall not prejudice the application of enforcement measures under Chapter VII”²³².

These crucial principles got more clarity in the UN resolution 2131 (XX) which stress that the UN condemnation of any act of direct or indirect intervention into the affairs of a State. The resolution further condemns nonmilitary and military intervention or threatens the political, economic, and cultural personalities of a State. The resolution further stress that “every State has an inalienable right to choose its political, economic, social, and cultural systems, without interference in any form by another State”²³³. The resolution 2131 condemn nonintervention, it also emphasizes that States should respect human right without any pressure from the international community²³⁴. As stated verbatim in the resolution;

“All States shall respect the right of self-determination and independence of peoples and nations, to be freely expressed without any foreign pressure, and with absolute respect for human rights and fundamental freedoms. Consequently, all States shall contribute to the complete elimination of racial discrimination and colonialism in all its forms and manifestations”²³⁵.

Nevertheless, the UNSC responsiveness to the principle of sovereignty and non-intervention has also been a significant controversy. The UNSC, with the powers entrusted to it by the Charter can take actions such as collective intervention and the use of force in the quest to maintain international security and peace, when there is a threat²³⁶. The intervention of the UN has also been to halt human rights violation and other humanitarian issues. But still, there have been many critics regarding UNSC intervention or non-intervention in various issues that have risen

²³⁰ Charter of the United Nations, Article 2(1)

²³¹ Charter of the United Nations Article 2(4).

²³² Charter of the United Nations, Article 2(7)

²³³ Resolution of UN General Assembly, 21 December 1965, 2131 (XX), *Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty*.

²³⁴ *Ibid.*

²³⁵ *Ibid.*

²³⁶ Charter of the United Nations, Article 42

over time. In terms of non-intervention, the UNSC has been hugely criticized for failure to act, which resulted at times in massive humanitarian disasters, while the intervention of the UNSC has also questioned, especially for reasons of legitimacy. The 1999 Kosovo intervention, for example, has raised a lot of queries regarding the legality of the use of military intervention in a sovereign state²³⁷.

On the other hand, non-intervention has been too costly, as seen in the case of Rwanda genocide in 1994 where 800,000 Rwandans were killed because they were Tutsi. The costly nature of non-intervention is seen in the case of Rwanda considering that the UN for example who misread the conflict and paid little or no attention to it. The security council most importantly was believed to have over stretched, also the killing of the 10 Belgian paratroop peacekeepers led to the UN withdrawal from Rwanda. Though there were information already on ground regarding the possible genocide but still the UN reduced its involvement in Rwanda also considering that key UNSC key members were not willing to provide troops in an efficient manner²³⁸. Overtime, the lack of response from the international community has been considered as a key factor that allowed the genocide to go on, without acting to avoid the massacre. This dramatic event most especially was a contributing factor to the birth of the Responsibility to protect principle to tackle the atrocities against human rights and the inability of the global system to act.

The combination of the UN inconsistencies in intervention in issues that have led to huge violation of human rights and also the humanitarian disasters of the Nineties led to a changing orientation toward sovereignty. This move was supported by the former UN Secretary-General, Kofi Annan, who advice States to see the need for an 'individual sovereignty' which is rooted in the protection of fundamental human rights and freedom of the citizen²³⁹. The call for change from Kofi Annan on State's perspective to sovereignty and the need for States to look at the concept of 'individual sovereignty' led to the elaboration of the notion of Responsibility to protect. The Canadian government, in response to the need to consider a new concept of sovereignty as proposed by the former UN secretary-general, led to the promotion of the convention of the "International Commission on Intervention and State Sovereignty" (ICISS). The commission membership was very international with different continents represented. The commission was intentional in developing a reliable, trustworthy, and enforceable strategy in terms of intervention during a period of mass atrocities against human rights. This marks the birth of the principle of R2P.

²³⁷ KONSTANTIN. (2015: 1176-1189)

²³⁸ WILLARD (2018: 146)

²³⁹ CATER & MALONE (2016: 6).

Furthermore, the original doctrine of R2P is linked to the ICISS, there have been various debates on the origin of the doctrine. The philosophical aspect regarding the origin of R2P has been linked to some scholars' policy contributions. For example, Bernard Kouchner's thoughts of *devoir d'ingérence* sometimes get the credit of the origin of the doctrine²⁴⁰. The former UN Secretary-General Kofi Annan is also not left out, considering his speech on response to human rights violations also gets some recognition regarding the philosophical origin of the doctrine of R2P.

R2P is built on two major principles in are well stated in the ICISS report. These principles state that

“State sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the State itself. Where a population is suffering serious harm, as a result of internal war, insurgency, repression or State failure, and the State in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect”²⁴¹.

The report also further states three main responsibilities that are associated with the R2P. The first layer of responsibility is the right to prevent which stress the need to for a prevention of an escalation of conflict that can fuel violation of human rights. Secondly, is right to react which entails the responsibilities to act in response to situations which compels human need with proper actions taken which may entail, coercive actions such as like sanctions and international trial, and in as a last resort, military intervention. Finally, is the responsibility to rebuild which entail full support for state being intervened especially militarily. These rebuilding responsibilities involves “full assistance with recovery, reconstruction and reconciliation, addressing the causes of the harm the intervention was designed to halt or avert”²⁴².

Prevention was a major aspect that the report honored, i.e., there should be room to prevent any form of violation of human rights. And before intervention can be considered, prevention should be exhausted. As stated in the report, "prevention options should always be exhausted before intervention is contemplated, and more commitment and resources must be devoted to it"²⁴³. Nevertheless, there is a threshold that must be met before resorting to military intervention after prevention has failed. For military intervention,

²⁴⁰ Report of the United Nations Secretary-General to the General Assembly, 6 September 1991, Doc A/46/1, *UN GAOR 46th Session Supp No 1*.

²⁴¹ Report of the International Commission on Intervention and State Sovereignty, December 200, *The Responsibility to Protect, XI Paragraph 3*

²⁴² ICISS Report, Pg. XI Paragraph 4(a)

²⁴³ ICISS Report, Pg. XI Paragraph 4(a)

“there must be serious and irreparable harm occurring to human beings, or imminently likely to occur, of the following kind: A). large scale loss of life, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation; or B). large scale 'ethnic cleansing', actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape”²⁴⁴.

Following a long-term negotiation, the UN endorsed the R2P in September 2005 which also led its review and modification of the doctrine at the 2005 UN world summit. Paragraphs 138 and 139 of the outcomes of the summit on R2P stress the responsibility of States to protect its population from crimes against humanity while putting into considering responsibilities to prevent. The report also stresses UN intention to act in protection of human rights and crimes against humanity. In carrying out these responsibilities the UN stress the need for the international community to act through the UN by utilizing diplomatic means to protect population of affected States when they fail in protection against these crimes²⁴⁵. In the report the UN commit itself to the R2P course as stated thus;

“We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity and to assisting those which are under stress before crises and conflicts break out”²⁴⁶.

Comparing the R2P to the ECOWAS mechanisms on the protection of human rights and conflict management, prevention, resolution, and generally good governance, it appears that various instruments earlier stressed appears to be a sub-regional form of R2P. There are multiple similarities and differences between R2P and the west Africa mechanisms.

Regarding the shared similarities between the ECOWAS mechanism and the R2P, both instruments recognize the importance of prompt intervention to protect human rights. Though it has been argued that the R2P is majorly keen on intervention when affected states are failing in their responsibility to protect their citizens. But arguably, this is not the case as it has been argued that,

“R2P is about taking effective preventive action, and at the earliest possible stage. It implies encouragement and support being given to those States struggling with situations that have not yet deteriorated to the point where genocide or other atrocity

²⁴⁴ ICISS Report, *paragraph 1*

²⁴⁵ Resolution of the United Nation General Assembly, 16 September 2005, A/RES/60/1, *2005 World Summit Outcome*

²⁴⁶ *Ibid.*, para. 139.

crimes are a reality, but where it is foreseeable that if effective preventive action is not taken, with or without outside support, they could so deteriorate²⁴⁷.

Furthermore, regarding prompt intervention still, R2P pushes for a quick intervention which should initially be non-military, when trying to avoid multiple crimes against humanity. ECOWAS's mechanisms, on the other hand, also utilize various preventive measures against crimes against humanity. These measures cut across the promotion of democratic principles, early warning, mediation, sanctions, deployment of the COE. This role of ECOWAS regarding prompt intervention for the protection of human right is well stated in the ECPF,

“ECOWAS is imbued with the necessary supranational powers... and the legitimacy to intervene to protect human security [which inevitably encompasses the four atrocity crimes] in three distinct ways, namely: (a) the responsibility to prevent actions taken to address the direct and root causes of intra and inter-state conflicts that put populations at risk²⁴⁸.

In reality, the international Community has been prompt in intervening in conflict before they exploded in full, which can aggravate human rights violations. The UN efforts, AU and ECOWAS in Ivory Coast were strategic and are believed to have helped the conflict situation from developing into a full-blown war, where possible consequences of human rights violations would surface²⁴⁹.

Another important convergence between the ECOWAS mechanisms and the R2P is that both would instead subscribe to a preventive intervention over a military intervention which is more reactive. As stressed by the ICISS report, before the use of the military force in intervention,

“Every diplomatic and non-military avenue for the prevention or peaceful resolution of the humanitarian crisis must have been explored. The responsibility to react with military coercion can only be justified when the responsibility to prevent has been fully discharge²⁵⁰.

Nevertheless, it is essential to note that R2P is a continuous effort of States in protection of their citizens, also a constant effort of the international community to assist States in fulfilling this objective and finally, the responsibility of the R2P and UN to respond timely when a State is failing in its responsibility to protect its population. On the other hand, this principle of the R2P stated above is in line with the ECOWAS mechanisms and instruments. In this context, the ECPF is an important mechanism that was created in fostering sustainable peace and security through various measures void of the use of violent means; therefore, the place of military intervention is considered as a last resort within the big picture of peace

²⁴⁷ GARETH & SAHNOUN (2002: 99-110)

²⁴⁸ Regulation of the ECOWAS MSC, MSC/REG.1/01/08, *Section VII (2)*, Article 41

²⁴⁹ GARETH & SAHNOUN (2002: 135)

²⁵⁰ ICISS Report, XI Para 4.37.

and security management²⁵¹. As stated, in the legal procedures followed in using the ECOWAS instruments, the legitimate use of force is allowed only when all diplomacy means has been exhausted and failed²⁵².

Another significant similarity that shows the convergence between the ECOWAS mechanisms and instrument compared to the R2P can be seen regarding the recognition of other international actors, especially the UN and AU, in carrying out any form of intervention. While the R2P recognizes the role of regional arrangements, the ECOWAS instruments also recognize the international community in carrying out a preventive or reactive intervention. Apart from the provision for this in the legal instruments of ECOWAS, i.e., the condition in various conflict management mechanisms, ECOWAS has engaged the international community in this context, like the case of the Ivory Coast crisis with the United Nations operation in Ivory Coast (UNOCI) in 2002. On the other hand, the WSOD endorsement of R2P cumulated to prevention and enforcement regarding protecting of human from R2P quadruplet crimes to carried out with a collaboration with the regional arrangement. The regional arrangement regarding the R2P is that the Community can play an important role in helping states in the region prevent crimes that are against humanity and can prompt the R2P action at the international level. The regional and subregional arrangements can also give early warning signals to member states when there is a possibility of human rights violations, therefore helping fulfil their R2P responsibilities²⁵³. Reality shows that ECOWAS has been an effective regional arrangement in promoting the objective of the R2P and UN in terms of peace and security. The ECOWAS instruments have utilized the preventive, reactive, and even the reconstructive organs to attain this goal. For example, EWS continually play a complementary role to the UN in terms of providing relevant reports regarding a potential conflict in the region and helping to avert a possible human rights violation situation. Also, ECOMOG has been a major reactive intervention tool for enforcing peace and security in the region. Regarding this, ECOWAS has been a significant example and a model of a regional arrangement in terms of peacekeeping, enforcement, and building²⁵⁴. Example of ECOWAS regional security enforcements carried out on behalf of the international Community are the intervention in Liberia in 1990, Sierra Leone in 1997, ECOMIL in 2003 and ECOMICI in 2002. However, these interventions have been heavy questioned considering that there was no UN authorization²⁵⁵.

²⁵¹ Regulation of the ECOWAS MSC, MSC/REG.1/01/08, Article 26.

²⁵² Resolution of ECOWAS Authority of Heads of State and Government, 25 March 2011, A/Res.1/03/11, *ECOWAS on the Crisis Situation in Ivory Coast*.

²⁵³ LUCK (2008: 5)

²⁵⁴ Yoroms (1993: 84-91)

²⁵⁵ *Ibid* 533

Finally, the R2P and ECOWAS mechanisms both see the UNSC as the supreme organ of the UN and therefore any military intervention to protect human rights or management of conflicts in general is subject to the authorization of the UNSC. For the ICISS, as stated in the principles and of the R2P regarding the right Authority, the

“Security Council authorization should in all cases be sought prior to any military intervention action being carried out. Those calling for an intervention should formally request such authorization, or have the Council raise the matter on its own initiative, or have the Secretary-General raise it under Article 99 of the UN Charter”²⁵⁶.

Chapter VII of the UN Charter clearly prohibits any form of regional military enforcement arrangement without the authorization of the UNSC²⁵⁷. The Mechanism also are in tandem with the R2P regarding this subject matter. The Mechanisms stress in Article 52 that it is mandatory to 'inform' the UNSC before any military intervention can be taken in accordance with the UN Charter²⁵⁸. Consequently, there has been a growing debate on the necessity of the UN authorization in African intervention in its conflict. Africa's choice to intervene in conflict which tampers with sovereignty of States and creation of various instruments for intervention was due to the inaction of the international community in intervening in Africa's conflicts. Again, the African Community, which is practically free from colonialism, has been very cautious regarding motivations behind the intervention of the international community²⁵⁹. Even though it is clearly stated by the UNSC, yet the African intervention initiative continually rethink the authorization considering that the UNSC member continually politicize interventions²⁶⁰. This Africa's sentiment has further been clouding the narratives of various African international law scholars leading to different justification for African intervention without UNSC authorization.

According to Dan Kuwali argument, the UN Charter stressed in Article 53(1) the need for the UNSC authorization before any regional intervention²⁶¹. The AU, on the other hand, regarding the right of intervention stated in Article 4(h) of the Constitutive Act of the African community stress that intervention results from the consent of all member States that are sovereign, which makes it a unanimous decision. The exact section of the AU Constitutive Act also entails the right to intervene in a State for the purpose of preventing war crimes, genocide, and crimes

²⁵⁶ ICISS Report, Pg. XII Para 3(b).

²⁵⁷ Charter of the United Nations, Article 53.

²⁵⁸ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, A/P.1/12/99, Article 52.

²⁵⁹ WYSE (2018: 295)

²⁶⁰ *Ibid* 297

²⁶¹ KUWALI (2010: 15)

against humanity. These actions are also consistent with the aims and objectives of the UN and invariably should not require any form of authorization from the UN²⁶². He further argues that the practice of the UNSC regarding giving approval to most subregional intervention of ECOWAS has been more of an *ex post facto* nature; except for the case of Ivory Coast which was approved before the intervention of ECOWAS. Therefore, the case of ECOWAS seeking approval from the UNSC is arguable. Considering that Article 52 of the UN Charter only stresses that regional organizations are only required to inform the UN on its decisions regarding military intervention²⁶³, this directly does not make ECOWAS obliged to seek approval from the UNSC before embarking in any military intervention.

The R2P and the ECOWAS mechanisms as stated above clearly show some areas of convergence. However, there are some areas of divergence which exist. Firstly, the understanding of a divergence starts from exploration of its origin and evolution. ECOWAS mechanisms, on the one hand, were developed in response to the internal crisis with States in West Africa, which has in effect led to the decline in the fulfilment of the economic objectives that the Community was initially created for and also independence of the Africa State from the international community intervention²⁶⁴. On the other hand, R2P was a response from the international community regarding the delay in taking well-timed and crucial decisions and actions in saving humans from mass atrocities and human rights violations heavily influenced by the doctrine of international law.

The ECOWAS instruments, therefore, are reaction to regional problems which are more diverse and encompassing as they entail objective covering preventive, reactive and reconstruction. The mechanisms goals also span across respect for human rights, regional security, good governance and democratic principles, the rule of law, gender base empowerment and many others.

The case of R2P is very much different from that of ECOWAS, considering that its objectives are narrowed to protection from four major atrocities which are genocide, war crimes, crimes against humanity and ethnic cleansing. Furthermore, the operational scheme encourages the protective and reactive instruments which are provided in the UN and other regional and subregional systems to protect humanity from the four major international atrocities and crimes stressed by the R2P. Considering the objectives and line of actions of the R2P and ECOWAS mechanisms, a significant divergence can be seen in the scope of intervention or protection, considering that the ECOWAS mechanisms are broader in scope than

²⁶² KUWALI (2010:15)

²⁶³ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, A/P.1/12/99, *Article 52*.

²⁶⁴ WYSE (2018: 536)

the R2P. Therefore, the scope of R2P is constrained to four-fold crimes against humanity. At the same time, the ECOWAS mechanisms agenda exceeds the protective plan of the former as it includes human security alongside a wider area of regional peace and security.

Furthermore, while the R2P exemplifies the use of perspectives relating to human security public policies²⁶⁵, the ECOWAS mechanisms, on the other hand, also priorities human security²⁶⁶, with an intermediate goal of promoting a cooperation within West Africa and the international Community for the purpose of conflict prevention, peace keeping, peacemaking and peace building. The aims also span to promoting member State's political agenda in such a way that will enable an apt act to neutralize and abolish any possible and/or tangible threats to human security²⁶⁷. Suitably the ECPF fourteen components which is more encompassing,

“[...] span the chain of initiatives designed to strengthen human security and incorporate conflict prevention activities (operational and structural) as well as aspects of peacebuilding; these components are [1] Early Warning; [2] Preventive Diplomacy; [3] Democracy and Political Governance; [4] Human Rights and the Rule of Law; [5] Media; [6] Natural Resource Governance; [7] Cross-Border Initiatives; [8] Security Governance; [9] Practical Disarmament; [10] Women, Peace and Security; [11] Youth Empowerment; [12] ECOWAS Standby Force; [13] Humanitarian Assistance; and [14] Peace Education (The Culture of Peace)”²⁶⁸.

As a consequence, what may justify intervention under the ECOWAS instruments may not accomplish the R2P limits for intervention. As stated above, the protective, preventive, and reactive agenda of the ECOWAS mechanisms regarding intervention are broader in perspective than the R2P. Therefore, a critical examination of the grounds for intervention stressed in all ECOWAS mechanisms shows that intervention is to protect human rights and security when there is an:

“aggression or conflict in any Member State or threat thereof or internal conflict that threatens to trigger a humanitarian disaster or poses a serious threat to peace and security in the sub-region; where serious and massive violation of human rights and the rule of law have occurred or are occurring; in the event of an overthrow or attempted overthrow of a democratically elected government; and any other situation as may be decided by the Mediation and Security Council”²⁶⁹.

Furthermore, regarding ECOWAS mechanisms, intervention is also justifiable when there is an outplay of disrupting democracy by any means or a violation or

²⁶⁵ KUWALI (2010: 2)

²⁶⁶ Regulation of the ECOWAS MSC, MSC/REG.1/01/08, Article 5.

²⁶⁷ Regulation of the ECOWAS MSC, MSC/REG.1/01/08, Article 27

²⁶⁸ *Ibid* Article 42

²⁶⁹ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, A/P.1/12/99, Article 25.

threat of a breach of human rights²⁷⁰. It is important that various intervention carried by ECOWAS might not have a justification if carried out under the umbrella of R2P. The case of the intervention on Ivory Coast post-election crisis is a suitable example that will be regarded as illegitimate if carried out under the umbrella of R2P, considering it was a post-election crisis that had not reached the level of threshold of the R2P crimes. The intervention of ECOWAS was, therefore, to restore democracy and also avoid possible genocide.

Over time, the intervention of ECOWAS is characterized as a reaction linked to an unconstitutional change of government, i.e., all intervention carried out by the Community is due to conflict situations that led to an unconstitutional change of government.

The late 20th century and the early 21st century have been a significant period of unconstitutional change of government in West Africa as noticeably, more than 80% of conflicts in the region is as a result of the lack of respect for democratic practices and unconstitutional change of power. As stated in the previous chapter, the case of Liberia, Sierra Leone, Ivory Coast and Guinea Bissau are all linked to an unconstitutional change of government. The important role of good and democratic governance and political stability in sustaining security, peace and preventing conflict informs the reason why ECOWAS continually push for it.

In conclusion, the ECOWAS mechanisms have overtime manifested to be instruments used to tackle West Africa security challenges. These instruments continually aim at protecting the ECOWAS member States and their population from any form of security threat, including the ones stated in the R2P quadruplets atrocities. As it has been established, it is impossible to equate the R2P with ECOWAS mechanisms considering that a legitimate intervention under ECOWAS can be illegitimate if carried out under the auspices of R2P and *vice versa*.

²⁷⁰ Protocol on Democracy and Good Governance, A/SP1/12/01. Article 45

CHAPTER 4

The role of ECOWAS in peacekeeping in West Africa

This chapter explores the role of ECOWAS in restoring peace in Liberia, Sierra Leone, the Ivory Coast, and Guinea Bissau. It further explores the legality of the ECOWAS intervention under the community's protocols relating to peace and security. Furthermore, the UN remains an important reference when carrying out peacekeeping missions, as stated in Art. 53 of the UN Charter, which stresses the need for the authorization of the UNSC regarding intervention by regional arrangement. Therefore, this section looks specifically at ECOWAS interventions and the UN Charter, focusing on Articles 52, 53, and 103. Finally, this section also explores the success and constraints of ECOWAS involvement in peacekeeping in West Africa and the leadership role of Nigeria.

4.1 The establishment and functions of the ECOWAS Monitoring Group (ECOMOG)

Peacekeeping and peacebuilding are central to the role of ECOWAS in the development of the region. As we have already seen, conflicts have been a significant issue in the West African environment. Conflicts in the region led to the community's consciousness on a need to promote peace and security for economic development, which remains ECOWAS's primary goal at creation.

The mid-1980s marked a new threat to development in West Africa. The cold war uprisings and the growing trend of insecurity during this period made ECOWAS realize the possible nexus between economic growth and security. After creating ECOWAS, security issues became a massive threat to the region's development as Liberia and Sierra Leone experienced conflict in 1989 and 1991, respectively. The conflicts were triggered by the growing rate of poverty, corrupt and bad governance, human rights violations, and ethnic marginalization. This led to the realization that the ECOWAS Protocol of Non-aggression which was aimed at safeguarding State sovereignty²⁷¹ and promoting non-interference would be inadequate in resolving conflicts in West Africa. The Non-aggression protocol also did not give any provision for interference in intrastate conflicts but just interstate conflicts²⁷². Due to the threat of the disputes and the absence of a legal framework for intervention in intrastate conflicts, ECOWAS member states saw

²⁷¹ ECOWAS Protocol on Non-Aggression, Lagos, Nigeria, 22 April 1978.

²⁷² *Ibid.*

the need to create a permanent framework to tackle conflict issues. This led to the formation of ECOWAS Monitoring Group (ECOMOG) in 1990.

The creation of ECOMOG was linked to the conflict in Liberia in 1989. In resolving the civil war in Liberia, ECOWAS chairman, General Ibrahim Babangida, led an ECOWAS meeting of the Head of State in the Gambia in 1990, which led to the proposal of the creation of a Standing Mediation Committee (SMC) for the settlement of disputes arising within west Africa²⁷³. The approval of the formation of the SMC kick-started ECOWAS's role in mediating conflicts in west Africa. The SMC was made of five members: Togo, Nigeria, Mali, Ghana, and Gambia. The SMC met with the conflicting parties in Liberia, with the intention of restoring normalcy and peace in the region. As part of the move to attain peace in Liberia, the community agreed to establish a ceasefire between warring parties by creating ECOMOG. The creation and deployment of ECOMOG to Liberia in 1990 aimed to resist groups that rebelled against the government and monitor the Liberian election held in 1997. ECOMOG has played an important role in peacekeeping operations and ensuring compliance to cease fire and protect human rights.

4.2 ECOMOG Intervention in Sierra Leone, Liberia, Ivory Coast, and Guinea Bissau

4.2.1 ECOMOG in Liberia

The civil conflict in West Africa has, over time, been central to the case of Liberia. As already mentioned, the Liberia conflict led to a massive displacement and a high entry of refugees from Liberia to the neighboring countries. This conflict was a huge threat to the security of West Africa, considering that it had a spillover effect in other neighboring countries²⁷⁴.

In response to the conflict, regional and international actors were instrumental in halting the conflict to prevent further escalation and violation of human rights. ECOWAS, the key actor in West Africa integration under the leadership of Nigeria, played a significant role in tackling the conflict in Liberia. Following the May 1990 meeting, SMC was created to settle the dispute in Liberia and other future conflicts in the region, which influenced the efficiency of ECOWAS operations²⁷⁵. The efforts of the SMC in resolving the Liberian conflict led to the

²⁷³ PITTS (1999: 3)

²⁷⁴ FRANCIS (2009: 94)

²⁷⁵ NWACHUKWU & OBIOZOR (1991: 104)

creation of ECOMOG, which served as a peacekeeping force²⁷⁶. Also, the effort led to a peace agreement between conflicting parties to deescalate and establish political party representation and an *interim* administration in Monrovia, pending a deal on the election²⁷⁷. Due to continuous killings and continued conflict in Liberia after the effort of the SMC, the ECOWAS Council of Ministers authorized military intervention in Liberia, which was justified following the ECOWAS report to the Security Council regarding the creation of ECOMOG and its intervention. In this justification, ECOWAS stated that

“ECOMOG is going to Liberia first and foremost to stop senseless killing of innocent civilian national and foreigners and to help the Liberian people to restore their democratic institution. The ECOWAS intervention is in no way designed to save one part to punish another”²⁷⁸.

The ECOMOG forces were deployed to carry out peacekeeping between the warring parties and to prevent further escalations. Arguably, the Liberian conflict is more like a power tussle considering that it took place between factions seeking political power. With the ECOMOG’s arrival in August 1990, there was a swift success which led to the Cotonou peace agreement in 1993. The agreement also entailed the community’s request for international support which led to the creation of a UN observer mission in Liberia (UNOMIL)²⁷⁹. However, due to continual disagreement between the conflicting parties on establishing a transitional government, the Cotonou agreement collapsed. Such collapse was also due to the lackadaisical attitude of the UN regarding the support for peacekeeping as UN refused to prioritize and fulfill the financial and logistic support promises to ECOMOG. In the further effort of ECOWAS in peacekeeping and peacebuilding in Liberia, a revised agreement known as the Abuja Accord²⁸⁰ was signed on 19th August 1995 in Abuja, which went through a smooth process because of the relationship between Nigeria military leader General Ibrahim Babangida and Liberia war lord Charles Taylor. Another reason for the agreement’s success was the warning and threat of sanction, including travel restriction, exclusion from electoral participation, and possible expulsion from

²⁷⁶ Report of the ECOWAS Standing and Mediation Committee, 2 July 1990, ECW/SMC/FM90/3, *Final Report of the ECOWAS standing Mediation Committee Ministerial Meeting on Liberian Conflict*

²⁷⁷ PITTS (1999: 6-8).

²⁷⁸ Report of the United Nations Security Council, 10 August 1990, S/21485, *Letter from the Permanent Representative of Nigeria to the United Nation to the Secretary General on Conclusion of ECOWAS Standing Mediation Committee on the Conflict in Liberia.*

²⁷⁹ Resolution of the United Nations Security Council, 22 September 1993, S/RES/866 (1993), *Resolution 866 (1993) Adopted by the Security Council at its 3281st meeting.*

²⁸⁰ Report of the United Nations Security Council, 28 August 1995, S/1995/742, *Abuja Agreement to Supplement the Cotonou and Akosombo Agreements as subsequently clarified by the Accra Agreement.*

West Africa on any actor who obstructed the peace agreement²⁸¹. Also, warring factions were fed up and very conscious of the human and material loss as well as the needs to sustain a war in the future²⁸².

The conflict was continued on a low level after the election that made Charles Taylor President. It is important to note that Taylor was convicted himself for various crimes which includes his act of upholding fourteen years civil war in Liberia. Also, Taylor was guilty of recruiting children soldiers and continuous violation of human rights. Therefore, due to these crimes, by 1999, other movements, such as the Movement for Democracy in Liberia (MODEL) and the Liberia United for Reconciliation and Democracy (LURD) continued to terrorize Taylor's administration. Attacks were strategically targeted at Taylor, which led to his asylum granted in Nigeria on 11 August 2003. Taylor fleeing to Nigeria led to his resignation, as well as another agreement that was signed in Accra. This agreement led to the creation of a National Transition Government of Liberia under the leadership of Gyude Bryant, who was the democratic Head of Government till 2006²⁸³. During Taylor's reign, he was not just guilty of upholding conflict in Liberia but was also involved in the Sierra Leone civil war considering that traded guns and rebels in exchange for diamond. However, Taylor was also not only guilty for aiding revolt but was also aiding horrific brutalities such as rape and amputation of limbs.

A major question to ask regarding the effort of ECOWAS intervention in Liberia is the legality of such intervention, considering that the 1999 Mechanism on conflict prevention was not in force before the intervention in Liberia. Also considering that the most recent legal foundation for the intervention of ECOWAS in a conflict such as "the Mechanism, EPDG, and ECPF" cannot be used to justify the legality of ECOWAS intervention in Liberia, because these protocols were ratified after the Liberian conflict.

A significant problem in justifying the Liberian intervention is related to the transparency in the decision of the SMC to authorize such intervention, considering that only five member States, Nigeria, Mali, Gambia, Ghana, and Togo can take decisions²⁸⁴. In contrast, a major justification for intervention was the SMC decision taken on 7 August 1990, stressing that the community was concerned about the situation in Liberia and, most especially, about the fact that

²⁸¹ OMORAGBON (2014: 230).

²⁸² ANNAN (2014: 4).

²⁸³ FOSTER, HEINS, KALLA, MCKENZIE, O'NEAL, PARK, PHILLIPS, PRESTHOLDT, SIRLEAF AND YOUNG (2009: 57).

²⁸⁴ HOWE (1996: 151).

law and order were not respected²⁸⁵. As stated in ECOWAS's final *communiqué* of the first session in 1990, the description of the conflict in Liberia stressed that it was a stage of destruction of lives. As stated, verbatim, "the result of all this is a state of anarchy and the total breakdown of law and order in Liberia. Presently, there is a government in Liberia which cannot govern while contending factions are holding the entire population as hostage"²⁸⁶. The SMC further stressed that the possible spillover of the Liberian conflict to other West African States and the fear of refugee influx across the subregion remained a justification for its decision to intervene in the Liberian conflict.

According to the ECOWAS decision on the deployment of ECOMOG to Liberia, the monitoring group shall

"Assume their responsibility of ensuring that peace and stability is maintained within the sub-region and in the African Continent as a whole, for they believe that the tragic situation in Liberia poses a threat to international peace and security ... [SMC] decided to take the following immediate actions aimed at restoring peace and stability in Liberia"²⁸⁷.

Furthermore, the justification for the ECOWAS intervention can also be looked at from the perspective of resolution of humanitarian issues caused by the conflict and that of tackling the threat to international peace, which is in line with the broader UN's objective of promoting international peace and security. ECOWAS mentioned the need for the international community to support its course to intervene in the Liberian conflict and support humanitarian actions. The letter sent to the UN Security Council requesting for the help of the UNSC stressed the humanitarian reason as a core for intervention.

"ECOMOG is going to Liberia first and foremost to stop the senseless killing of innocent civilian nationals and foreigners and help the Liberian people to restore their democratic institutions. ECOWAS's intervention is in no way designed to save one part or punish another"²⁸⁸.

ECOWAS further justified intervention referring to restoration of normalcy amongst the Liberian people. Liberia was in disarray during this conflict, making the people not being regarded as one population during the intervention, considering that the conflict had divided the people along ethnic lines. Though, Samuel Doe was still the president, but his role as a president was not respected because he was just a president in theory and did not have the power to bring normalcy. This was because Samuel Doe's political responsibilities were not felt

²⁸⁵ Final Communiqué of ECOWAS Standing Mediation Committee, 7 August 1990, A/DEC.1/8/90, *Decision on Ceasefire and Establishment of an Ecowas Ceasefire Monitoring Group for Liberia*.

²⁸⁶ Final Communiqué A/DEC.1/8/90.

²⁸⁷ *Ibid.*

²⁸⁸ UN Security Council Document, S/21485.

by Liberians considering that his administration was unable to stop killings and continuous violation of human rights and also due to the fact that Charles Taylor had majority support amongst the Liberian people. On the other hand, Charles Taylor could also not be regarded as representative of the people even though he had majority support during this time²⁸⁹. From this, it can be deduced that the Liberian State was in disarray as there was no united group to be called the Liberian people.

In further justifying the intervention, various reasons have been given, including the host State's consent or invitation. Indeed, the intervention has been justified in this context because Samuel Doe wrote a letter to ask for the intervention of ECOWAS in the Liberian conflict²⁹⁰. Nevertheless, the host requested for ECOWAS intervention which validated consent, even though the letter requesting for intervention was addressed to the wrong decision-making body. Doe addressed the letter to the SMC, which was contrary to the provision of the PMAD, which stressed that the chairman of the ECOWAS authority should receive requests related to the aforementioned²⁹¹.

The legality of ECOWAS intervention in Liberia has often been linked to the Protocol on Mutual Assistance on Defense (PMAD), framed by ECOWAS in 1981 to prevent member States from aggression amongst themselves or an external entity²⁹². But still, the critical analysis of the PMAD does not fully justify the intervention. The preamble of the PMAD is a point of reference that clearly announces that States' sovereignty is crucial and should be respected²⁹³. Furthermore, as stressed over time in international law, a preamble is an essential aspect of any international agreement which encapsulates the purpose and objective of the treaty. From the PMAD preamble, it can be inferred that non-interference is a major principle of the Protocol. Therefore, it is correct to say the community did not totally act in respect of the objective of the PMAD because it intervened in the Liberian State. Apart from this aspect, another provision of PMAD is a reference point regarding the justification of the intervention. In Article 2, PMAD also provided intervention in conflicts but did not authorize intervention in intrastate conflict; instead, intervention is envisaged in interstate conflicts and when there is any threat to the use of violence on a member State by an alien²⁹⁴. The case of Liberia is, however, an intrastate conflict; therefore,

²⁸⁹ HARRIS (1999: 431–455).

²⁹⁰ WELLER (1994: 98).

²⁹¹ VAN WALRAVEN (1999: 86).

²⁹² OKOLO (1983: 177).

²⁹³ ECOWAS Protocol Relating to Mutual Assistance on Defense, 29, May 1981, A/SP3/5/81 29, Freetown Liberia.

²⁹⁴ *Ibid.*: Article 2.

legally, the ECOWAS was not justified to intervene in this conflict considering the PMAD principles.

Regarding the justification for ECOWAS intervention in internal conflict, PMAD remains the closest motivation considering that neither the 1975 treaty creating ECOWAS or the Non-Aggression protocol of 1978, included any provision relating to conflict intervention. The community's claim regarding the intervention remains unjustified internally, considering that the legal instruments guiding the community at that time did not provide for intervention in intrastate conflict.

Another aspect to explore is the reaction from the international community with a specific focus on the UN. The UN was very quiet on the issue for more than twelve months after the conflict started. The first reaction of the UNSC was the comment made to commend the ECOWAS operation on a quest to foster peace and security in Liberia, which encouraged all parties of the community to cooperate in curbing the menace²⁹⁵. In conclusion, in as much as the UN recognized the role of ECOWAS in fostering peace in Liberia, justification under ECOWAS legal instrument remains wanting.

4.2.2 ECOMOG in Sierra Leone

The conflict in Sierra Leone has often been regarded as a spillover of the Liberian conflict. As earlier stressed, the RUF continually fought against President Kabbah's democratically elected government. The conflict, which lasted for many years, reached a ceasefire agreement in January 1996, leading to the return of democracy and civilian rule²⁹⁶. In effect, the March 1996 election made Ahmad Kabbah the democratically elected president²⁹⁷. This development led to a peace agreement between President Ahmad Kabbah and the RUF leader known as the Abidjan accord. The accord was aimed at disarming the RUF and integrating the rebel group into the military²⁹⁸. The defunct implementation of the Abidjan agreement led to 25 May 1997 *coup d'état* by Major Johnny Koroma, who formed the Armed Forces Revolutionary Council (AFRC), which became a close ally of the RUF. The continual opposition of the regime led to a constant increase in hostility and violence in Sierra Leone.

In response to this, ECOWAS intervened, intending to end the conflict. In ending the conflict and military rule in Sierra Leone, ECOWAS took peaceful means at

²⁹⁵ Report of United Nations Security Council, 22 January 1991, S/22133, *Note by the President of the Security Council on the situation in Liberia*.

²⁹⁶ HOOPER (1997: 91-93).

²⁹⁷ HECHT (1996: 6).

²⁹⁸ Report of the United Nations Security Council, 11 December 1996, S/1996/1034, *Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone*.

the early phase of intervention as the community tried to engage diplomatically with the AFRC. A remarkable implication of this negotiation was the Conakry Accord, which entailed a peace plan negotiated with the AFRC representatives²⁹⁹. The accord stressed a six-point peace plan devised for Sierra Leone to return to a constitutional democratic government. These plans were agreed upon and signed by both the AFRC representative and the Sierra Leone Minister of Foreign Affairs. This agreement includes the cessation of hostilities; humanitarian assistance to all affected citizens and refugees, restoration of constitutional Government to President Kabbah; reintegration of combatants and a guarantee of immunities and amnesty to all AFRC member and ex *coup* leaders³⁰⁰.

Despite the Conakry agreement, the effort of ECOWAS to bring peace through diplomatic solutions was not respected by the AFRC. This led to ECOWAS resolving to use force against the AFRC in February 1998. The intervention was also at the request of President Kabbah on the need to end the AFRC human rights violations. ECOMOG intervention in Sierra Leone led to the collapse of the AFRC as ECOMOG took control over Freetown which led to the return of President Kabbah to his presidential duties in March 1998. The international community endorsed the intervention of ECOWAS, as the UNSC “commends the ECOWAS and its Military Observer Group (ECOMOG), deployed in Sierra Leone, on the important role they are playing in support of the objectives related to the restoration of peace and security”³⁰¹.

In as much as ECOWAS was instrumental in restoring peace in the sub-region, the legality of the intervention is an important subject to be discussed. The legal foundation for ECOWAS intervention in Sierra Leone is well suited to the ECOWAS Protocol on the Mutual Defense and Assistance (PMAD) and the Protocol on Non-Aggression, which was also applicable to the case of Liberia analyzed previously. Furthermore, the legal backing of ECOWAS intervention, apart from humanitarian purposes, can be seen in two perspectives: treaties ratified by Sierra Leone, which made the country a member of ECOWAS. Secondly, from the perspective of State invitation/ consent.

Firstly, the ECOWAS revised treaty did not provide the community’s right to intervene in the Sierra Leone conflict. Therefore, the legitimacy for intervention

²⁹⁹ Report of United Nations Security Council, 5 December 1997, S/1997/958, *Second Report of the Secretary-General on the Situation in Sierra Leone*.

³⁰⁰ Report of United Nations Security Council, letter from the Permanent Representative of Nigeria to the United Nations to the President of the Security Council, 28 October 1997, S/1997/824, *Communiqué issued at Conakry on 23 October 1997 at the conclusion of the meeting between the Ministers of Foreign Affairs of the Committee of Five on Sierra Leone of the Economic Community of West African States and the delegation representing Major Johnny Paul Koromah*.

³⁰¹ Resolution of the United Nations Security Council, 17 April 1998, S/RES/1162, *Resolution 1162 (1998) Adopted by the Security Council at its 3872nd meeting*.

cannot be found in the revised treaty. Though Article 58 (1 and 2) of the ECOWAS Charter stated that

- “1. Member States undertake to work to safeguard and consolidate relations conducive to the maintenance of peace, stability, and security within the region.
2. In pursuit of these objectives, Member States undertake to cooperate with the community in establishing and strengthening appropriate mechanisms for the timely prevention and resolution of intra-State and inter-State conflicts, paying particular regard to the need to: ... establish a regional peace and security observation system and peacekeeping forces where appropriate”³⁰².

From the above provision, ECOWAS appears to have the legal authority to intervene in West African conflicts, which led to the deployment of ECOMOG in Sierra Leone to restore democracy and peace. Nevertheless, Article 58(3) stated that “the detailed provisions governing political cooperation, regional peace and stability shall be defined in the relevant Protocols”³⁰³. But it is important to note that while ECOWAS intervened in the Sierra Leone conflict, the protocol referred to in Article 58 was yet to be signed by ECOWAS member States until December 1999³⁰⁴. Also, Article 58 of the treaty does not apply to PMAD because this only provides intervention in the interstate conflict and not conflicts of an intrastate nature. Therefore, it is correct to state that Article 58 does not justify intervention in Sierra Leone because no exact protocol was mentioned in the ECOWAS revised treaty.

Furthermore, various comments on legality refer to the Status of Forces Agreement (SOFA), between Sierra Leone and Nigeria as a legal basis for intervention of ECOWAS. The SOFA, which was a bilateral military agreement, gave Nigeria the right to utilize force in restoring peace and maintain the territorial integrity of Sierra Leone. In short, this was the initial reason why General Sanni Abacha ordered Nigerian troops into action in Sierra Leone. However, it is important to note that ECOWAS intervention cannot be justified with the SOFA bilateral agreement between Nigeria and Sierra Leone. This is because Nigeria was the one in the SOFA with Sierra Leone and by no means transfers such right to ECOWAS, even though Nigeria is the most influential party under ECOWAS. Consequently, the intervention of ECOWAS under the SOFA cannot be devised as legality for intervention.

The consent of the State is another crucial aspect of the legality of intervention under international law. Sure, ECOWAS was invited by President Kabbah, which shows that there is no violation of international law since the legitimate head of

³⁰² ECOWAS Revised Treaty, Article 58.

³⁰³ *Ibid.*, Article 58(3).

³⁰⁴ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, A/P.1/12/99.

State had requested the intervention. But another perspective to this is that there is a possible question to ask when a government that is not supported by the largest portion of the military seeks external assistance. A major flaw of the State's consent was also that Kabbah fled Sierra Leone before asking for the support of ECOWAS. Therefore, without his control of the Government, ECOWAS could not possibly carry out a legal intervention in a country where the rebel was already in control of the capital and practically ruling the State. Considering that Kabbah's request for military assistance was made while Kabbah was no longer in control remains a setback for the legality of ECOWAS intervention in Sierra Leone.

In conclusion, Sierra Leone's ECOWAS intervention remains unjustifiable in connection with the Treaty, considering that Article 58 of the ECOWAS revised treaty does not stipulate an exact protocol even though the treaty mentioned peacekeeping and the current protocol that permits intervention was not ratified during the ECOWAS occupation in Sierra Leone. Also, the PMAD and the Protocol of Non-Aggression do not allow intervention in intrastate conflict but only in interstate conflicts. Therefore, ECOWAS legal justification remains on the ground of restoring peace and security, which is the tenets of the UN and as well justified under humanitarian grounds because it acted to stop the violation of human rights and prevent future human suffering.

4.2.3 ECOMOG in Guinea Bissau

The conflict in Guinea Bissau was due to the *coup* against President Viera's government in June 1998. The conflict escalated following the accusation of General Mane for illegally trading arms, which was fueling more conflict in the State. This led to Mane's confrontation in form of a military *coup* against the government of Viera. The *coup* led to ECOWAS intervention following the request of the Bissauan President in 1998. In response to this conflict, ECOWAS held a meeting of member States with delegates from Burkina Faso, Ivory Coast, Gambia, Guinea, Ghana, Nigeria, and Senegal in July 1998 to strategize on restoring peace in Guinea Bissau. Before ECOWAS intervention, the Portuguese-speaking Countries Community (CPLP) was already active in restoring peace in the region. The intervention of CPLP was a move to challenge Nigeria's hegemon and French influence in West Africa³⁰⁵. ECOWAS, alongside CPLP cooperation on bringing peace to Guinea Bissau, led to the ceasefire agreement between Viera and Mane, signed in Praia, Cape Verde, in August 1998³⁰⁶. This agreement did not end aggression as more escalation grew between the government forces and Mane's group. This made ECOWAS intervene by mediation, which led to another peace agreement in November 1998, and the deployment led the ECOMOG

³⁰⁵ OBI (2009: 127).

³⁰⁶ RUDEBECK (2001: 21–24).

peacekeeping force to monitor the new ceasefire agreement. However, the ECOMOG operation did not record any success this time, even with colossal support and funding from the international community, for instance by States such as France and Portugal. The failure of the operation is also linked to the lack of involvement of overburdened Nigeria in the peacekeeping mission, which led to the failure of the mission considering that Liberia and Sierra Leone were successful with Nigeria leadership³⁰⁷. Even with the presence of ECOMOG, confrontations between Viera and Mane continued, which led to the defeat of Viera and the entrance of Mane as the illegitimate military leader. In response to this defeat, Viera left Guinea Bissau, which led to the withdrawal of ECOWAS forces. The importance of Nigeria in West Africa peacekeeping missions was well spelled out after the failure of the ECOMOG to broker peace in Guinea Bissau.

The withdrawal of ECOWAS led to UN intervention in the form of authorization of peacebuilding through the United Nations Peacebuilding support office of Guinea Bissau (UNOGBIS) in 1999³⁰⁸. UNOGBIS could not successfully restore peace and normalcy to Guinea Bissau, considering there was limited support in human and material needs to disarm the conflicting parties and reform the military. The lack of complete peace led to a new intervention of ECOWAS in 2004 after the adoption of the Mechanism and EPDG ratified in December 1999 and December 2001, respectively. These protocols served as a legal basis for ECOWAS second intervention in Guinea Bissau. This time, ECOWAS decided to be more active and established the special representative of the executive secretary, actively collaborating with the international community and the national authorities to bring peace and democratic government back to Guinea Bissau³⁰⁹. ECOWAS played an essential role from 2004 till 2009 in maintaining stability, which prevented escalation of violence³¹⁰.

The Guinea Bissau case, however, continued with a *coup* in 2010. The *coup* led to the relaunch of the ECOWAS mediation process in partnership with CPLP to restore democratic practices. This process also failed due to the contradictions between the two partnering mediating bodies which further hampered the reform of the military and restoration of democracy³¹¹. Though there was a short democratic elected government, still military *coup* continued. The relaunch of

³⁰⁷ OBI (2009: 128).

³⁰⁸ Report of the United Nations Security Council, 1 July 1999, S/1999/741, *Report of The Secretary-General Pursuant to Security Council Resolution 1233 (1999) relative to the Situation in Guinea-Bissau*.

³⁰⁹ Report of the Secretary General, 15 December 2004, S/2004/969, *The situation in Guinea Bissau and activities of the UN Peace Building Support Office in Guinea Bissau*.

³¹⁰ Policy Briefing of the International Crisis Group, 25 June 2009, Africa Briefing N°61, *Guinea-Bissau: Beyond Rule of the Gun*.

³¹¹ Policy Briefing of the International Crisis Group, Africa Briefing N°61.

military *coup* in 2012 led to the community decision to deploy a military operation known as the ECOWAS Mission in Guinea Bissau (ECOMIB) to restore democracy and constitutional practices. In the quest of keeping and building peace in Bissau, ECOWAS deployed military authorities and security experts across West Africa to reform the Bissauan military sector. Nevertheless, ECOWAS continued an unending effort to restore democracy to Guinea Bissau and faced many challenges but successfully reformed the military. ECOWAS's success in reforming the military, led to Guinea-Bissau's 2014 elections which transformed the country governance into a democratic one after long military rule. Since then, the country remains a democracy but continually faces internal issues related to corruption, drug trafficking, and organized crime.

The legality of ECOWAS intervention in Guinea Bissau remains an important aspect to explore. Before the December 1999 Mechanism was ratified, the initial intervention of the community remained unjustifiable under the legal instrument of the community, which is similar to the case of Liberia and Sierra Leone. As stressed in these two cases, the ECOWAS treaty does not provide for intervention, even though Article 58 stressed peacekeeping as an instrument to restore peace in the sub-region³¹². Though PMAD and the Non-Aggression protocol remain the only provision but still does not allow for ECOWAS intervention in the intrastate conflict. Therefore, as already recalled, there is no legal justification for intervention under ECOWAS legal instrument before 1999. In as much as ECOWAS legal instrument has no provision for intervention, justification remains under the auspices of protecting human rights and protection on human from the quadruplet's atrocities stressed by the R2P doctrine.

The second phase of ECOWAS intervention in 2004 and 2012, which ended with success in restoring peace and democratic practices in Guinea Bissau, can be justified with the ECOWAS mechanism signed in December 1999. The applicability of Article 58 of the revised treaty stated the objectives of the Mechanism which is aimed at "[...] prevention and resolution of intra-State and inter-State conflicts, paying particular regard to the need to: ... establish a regional peace and security observation system and peacekeeping forces where appropriate"³¹³. Article 25 of the Mechanism further states that ECOWAS may carry out intervention and enforcement action in any member State internal conflict;

“[...] that threatens to trigger a humanitarian disaster or pose a serious threat to peace and security in the subregion; (2) where there has been a serious and massive

³¹² ECOWAS Revised Treaty, Article 58.

³¹³ ECOWAS Revised Treaty, Article 58.

violation of human right and the rule of law; and (3) when there has been an overthrow or attempted overthrow of a democratically elected government³¹⁴.

ECOWAS intervention can also be justified with the ECOWAS Protocol on Democracy and Good Governance, which offers a preemptive approach by extolling the virtues and imperative of good governance, democracy, and adherence to the rule of law rather than waiting for the total deterioration of these instruments, which can degenerate into a crisis that might require military intervention³¹⁵.

In conclusion, ECOWAS intervention in Guinea Bissau remains hardly unjustifiable in the first phase of intervention in 1998. Intervention from 2004 onward remains justified because Guinea Bissau is a party to the Mechanism on conflict signed in 1999 and as well signatory to EPDG.

4.2.4 ECOMOG in Ivory Coast

The conflict in Ivory Coast took place due to the discontent on the result of the September 2000 election that made Gbagbo the president. Due to the unsatisfied result of the election, General Guei, the military head of State before the election, tried to remain in power. This led to a continual clash in the Ivory Coast that led to the death of over 300 people. This conflict grew gradually as few soldiers from the northern part of the Ivory Coast attacked the military government of Guei and another rebel group known as the Patriotic Movement of Ivory Coast (MPCI), which was operating in the northern half of Ivory Coast.

In resolving this crisis, ECOWAS intervened speedily after the September 2002 summit that was led to a diplomatic means to solving the dispute. The meeting led to the deployment of the ECOWAS troops to the Ivory Coast. ECOMOG's official deployment started in January 2003 after a ceasefire agreement was first reached in October 2002 following the mediation of ECOWAS³¹⁶.

The ECOWAS Dakar summit, which was held in 2002, led to the official installation of President Gbagbo as the President of Ivory Coast³¹⁷. The summit

³¹⁴ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, A/P.1/12/99, Article 25.

³¹⁵ Protocol on Democracy and Good Governance, 21 December 2001, A/SP1/12/01 *Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security*.

³¹⁶ Final Communiqué of ECOWAS Standing Mediation Committee, 7 August 1990, A/DEC.1/8/90, *Decision on Ceasefire and Establishment of an Ecowas Ceasefire Monitoring Group for Liberia*.

³¹⁷ Report of the United Nations Security Council; 19 December 2002, S/2002/1386, *Final Communiqué, Extraordinary Summit of Heads of State and Government of ECOWAS, Dakar, Senegal, annex to letter from the Permanent Representative of Senegal to the United Nations addressed to the President of the Security Council*.

also authorized the involvement of ECOMOG to monitor the ceasefire agreement reached. The summit also further saw the need for the UN to support the course of ECOWAS, which led to the Security Council presidential statement, which supported the role of ECOWAS in restoring peace in the Ivory Coast³¹⁸. ECOWAS course continued after the deployment of ECOMOG forces birthed by the agreement in the Dakar Summit by December 2002³¹⁹. The ceasefire gave room for further monitoring by ECOWAS and the UN mission in Ivory Coast (MINUCI). In the quest for total peace and restoration, the *Linas-Marcoussis* Agreement, which was brokered by France³²⁰, was signed on 23 January 2003. This agreement supported a ceasefire and establishment of Government of National Reconciliation that assisted ECOWAS, the UN, and France in fulfilling the monitoring task and ensuring parties' compliance to cease fire³²¹. The conference in Paris, which birthed the *Linas-Marcoussis* Agreement, further conveyed the UN's need to adopt a resolution regarding the Ivory coast ceasefire. The summit expressed the

“[...]the hope that the Security Council will affirm, in accordance with the Charter of the United Nations, the right of ECOWAS forces and the forces supporting them to take the necessary steps to ensure the security and freedom of movement of their personnel and to ensure, without prejudice to the responsibilities of the Government of National Reconciliation, the protection of civilians immediately threatened with physical violence within their zones of operation, using the means available to them”³²².

The above request from the conference was endorsed and adopted by the UNSC in February 2003. The UN Resolution 1464 approved the *Linas-Marcoussis* agreement and supported the deployment of the ECOMOG in the Ivory Coast to foster peace in the region and implement the peace agreement³²³. As stated in paragraph 9 of the resolution 1464, the UNSC

“[...]authorizes Member States participating in the ECOWAS forces in accordance with chapter VIII together with the French forces supporting them to take the necessary steps to guarantee the security and freedom of movement of their personnel and to ensure, without prejudice to the responsibilities of the Government of National Reconciliation, the protection of civilians immediately threatened with

³¹⁸ Report of the United Nations Security Council, 20 December 2002, S/2002/42, *Statement by the President of the Security Council on the situation in Ivory Coast*.

³¹⁹ *Ibid.*

³²⁰ Report of the United Nations Security Council, 27 January 2003, S/2003/99, *Annex I and II to the letter from the Permanent Representative of France to the United Nations addressed to the President of the Security Council*.

³²¹ *Ibid.*

³²² Report of the United Nations Security Council, 27 January 2003, S/2003/99, Paragraph. 13.

³²³ Resolution of the United Nations Security Council, 23 February 2003, S/RES/1464, *Resolution 1464 (2003) Adopted by the Security Council at its 4700th meeting*.

physical violence within their zones of operation, using the means available to them, for a period of six months after which the Council will assess the situation³²⁴.

An important aspect to further explore regarding the crisis in Ivory Coast is the legality of ECOWAS intervention from the community perspective. This legality can be analyzed with the 1999 Mechanism, which all ECOWAS member States are party to, including Ivory Coast³²⁵. The Mechanism is keen on promoting peace, security, democracy, and good governance, which is seen as a catalyst for the West African States' economic and political development³²⁶. A departure regarding the legality of ECOWAS intervention in the Ivory Coast is well stated in the objective of the Mechanism³²⁷, which is keen on the protection of democratic States from an attempt to overthrow a democratically elected government. Article 2 of the Mechanism further upholds the responsibility of the community to promote and consolidate democratic principles and institutions in all member States, restoration of collapsed democratically government and the protection of human rights³²⁸. This Mechanism remains the legal backings for the intervention in Ivory Coast considering that the State was controlled by the military government of Guei who refused to respect the election that brought Gbagbo as the democratically elected President of the State. The legality is also supported considering that ECOWAS prevented further escalation and resolved the internal conflict in the Ivory Coast, which is in line with Article 3 of the 1999 Mechanism of conflict prevention³²⁹. In restoring the internal crisis in Ivory Coast, ECOWAS MSC had legal justification for authorizing interventions, including military use, which is stressed in Article 10 of the Mechanism³³⁰.

Furthermore, the intervention of ECOWAS in the Ivory Coast can also be justified looking at human rights violations that took place. As reported by the Human Rights Watch (HRW), the Ivorian security forces and rebels violated unarmed citizens' rights by using force, extortion, unlawful arrest, and the destruction of properties, in a quest to seek information about the counterpart³³¹. The Red Cross report stresses that the conflict had over 12000 displaced people, including

³²⁴ Resolution of the United Nations Security Council, S/RES/1464, paragraph 9.

³²⁵ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, A/P.1/12/99.

³²⁶ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, A/P.1/12/99, Article 1.

³²⁷ *Ibid.*, Article 1

³²⁸ *Ibid.*, Article 2.

³²⁹ *Ibid.*, Article 3.

³³⁰ *Ibid.*, Article 10.

³³¹ Report of Human Rights Watch, November 2002, Vol.14, No. 9(A), *Government Abuses in Response to Army Revolt*.

international and national personnel, and over 2000 deaths³³². Evidently, there was a violation of human rights, which can also lay the foundations for ECOWAS intervention. As stated in Article 25 (2), the Mechanism says that the community can take enforcement action in the form of intervention where there has been a “[...] serious and massive violation of human rights and the rule of law”³³³. Therefore, as stated above, it is justifiable to affirm the legality of ECOWAS intervention in the Ivory Coast.

Another point of contention regarding the justification of ECOWAS intervention in the Ivory Coast conflict is regarding the authorization of the UNSC. According to the framework under analysis, ECOWAS only requires informing the UNSC before carrying out intervention³³⁴, but due to the supremacy of the UN Charter over any regional arrangement³³⁵, the ECOWAS intervention in the Ivory Coast has often been regarded as illegitimate because the community did not get the authorization of UNSC. Therefore, ECOWAS intervention might want to justify considering that Ivory Coast acceded to the Mechanism but still might be regarded unlawful under Article 53 of the UN Charter because this enforcement action did not get authorization from the UNSC³³⁶. On the contrary, ECOWAS continually refers to Article 52 of the UN Charter, which automatically supports any regional arrangement intervention so far it is carried out in consistency of UN principles and purposes³³⁷. However, authorization was granted concerning ECOWAS intervention in Ivory Coast after ECOWAS has already intervened. But it is important to note that ECOWAS was acting under its legal instrument and also acting in actualizing the aims and objectives of the UN, which was endorsed in Resolution 1479 of UNSC which gave “full support for the efforts of the ECOWAS, ... to promote a peaceful settlement of the conflict, and reiterating its appreciation for the efforts of the African Union to reach a settlement”³³⁸. ECOWAS also was granted further authorization even after it has already intervened following the UNSC Resolution 1527, that decided “to renew until 27

³³² Information Bulletin of the International Federation of Red Cross and Red Crescent societies, 8 October 2002, N° 01, *Cote D’Ivoire: Internal Unrest*.

³³³ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, A/P.1/12/99, Article 25.

³³⁴ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, A/P.1/12/99, Article 52.

³³⁵ Charter of the United Nations, Article 103.

³³⁶ *Ibid.*, Article 53

³³⁷ Charter of the United Nations, Article 52.

³³⁸ Resolution of the United Nations Security Council, 13 May 2003, S/RES/1479 (2003), *Resolution 1479 (2003) Adopted by the Security Council at its 4754th meeting*.

February 2004 the authorization given to the Member States participating in ECOWAS forces together with French Forces supporting them”³³⁹.

In conclusion, the Mechanism created a legal framework that justifies the intervention of ECOWAS in the Ivory Coast. This is further evidence that ECOWAS may justify intervention in the Ivory Coast under the UN’s support and acting in line with the UN’s aim of fostering peace and fighting against human right violation in the international system.

4.3. The Legal Basis for ECOWAS intervention in conflict under the UN Charter

Based on the hierarchy of law, a fundamental question is to clarify, between the UN and the ECOWAS legal instruments, which supersedes the other or which legal basis should be respected if there is a clash? A clear answer to this dilemma is stated in Article 103 of the UN Charter, which states that

“In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail”³⁴⁰.

The above provision entails supremacy of the UN Charter obligations over regional agreements. Referring to the ECOWAS 1975 Treaty, which created the community, no provision provides intervention or peacekeeping operations. Nevertheless, subsequent protocols enacted by the community introduced legal instruments aimed at maintaining peace and security. An example of these was the Protocol on Non-aggression of 1978, the Protocol of Mutual Assistance on Defense (PMAD) of 1981, and the most recent Protocol of Conflict Management enacted in 1999. Nevertheless, there has been a continual growing debate on the legality of ECOWAS interventions in the conflicts in relation to the obligations of the UN Charter.

First, Article 52 of the UN Charter supports regional arrangements for intervention into any form of operation aimed at restoring peace and security in the international system. As stated in Article 52

“1. 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 as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

³³⁹ Resolution of the United Nations Security Council, 4 February 2004, S/RES/1527 (2004), *Resolution 1527 (2004) Adopted by the Security Council at its 4909th meeting*.

³⁴⁰ Charter of the United Nations, Article 103.

2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.
3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council³⁴¹.

ECOWAS can be seen as a regional agreement that has been at the forefront of restoring peace in West Africa. So, the above can be looked at as a form of clearance to its intervention in the conflict in Liberia, Sierra Leone, Ivory Coast, and Guinea Bissau.

An important aspect to note is that the UN is primarily devoted to peace and security, as clearly stated in its objectives. Therefore, the UN provides a system of collective security, which is a way to prevent conflict from escalating and fostering peace and security in the international system, which the UNSC fully guards. Furthermore, Article 53 states that

“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 agreements or by regional agencies without the authorization of the Security Council³⁴².”

ECOWAS intervention in the West African conflicts has, over time, been done without the authorization of the UNSC. While this can be regarded as a violation of the UN Charter, Article 53, the Mechanism stresses that ECOWAS is only required to inform the UNSC before carrying out any form of intervention³⁴³. The UN has also supported various interventions without authorization, apart from laying claims to the ECOWAS legal instrument in justifying its act of not getting approval before intervention. The UN report of the High-level Panel on threat, challenges, and change recognized that regional arrangement is an essential part of the multilateral system of peace and security and “authorization from the security council should in all cases be sought for regional peace operations, recognizing that in some urgent situations that authorization may be sought after such operations have commenced³⁴⁴”. In actualizing the ECOWAS objective of a more secured West Africa and the UN goal of a secure international system, Nigeria, a leading actor in the community, referred to Article 52 of the UN Charter

³⁴¹ Charter of the United Nations, Article 52.

³⁴² *Ibid.*, Article 53.

³⁴³ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, A/P.1/12/99, Article 52.

³⁴⁴ Report of the United Nations General Assembly, 2 December 2004, A/59/565, *Fifty-ninth session Agenda item 55 Follow-up to the outcome of the Millennium Summit*.

in the use of regional arrangements and also claimed to represent the UN objectives of peace and security³⁴⁵. ECOWAS, in previous peacekeeping activities, received assistance from the international community and the UN, which confirms that the community is not contradicting and challenging the power of the UNSC³⁴⁶.

The UN continually sees ECOWAS as a necessary regional arrangement for promoting peace and security in the international system. In conclusion, ECOWAS role in peacekeeping in West Africa remains important as it continues to work in line with its objectives and that of the UN of ensuring a peaceful and secured international system.

4.4. The Leadership Role of Nigeria in ECOWAS

Nigeria played a forefront role in the formation and the evolution of ECOWAS aimed at economic integration within the sub-region. It was due to Nigeria's effort that ECOWAS was established on 28 May 1975. This has often been seen as the reason why the headquarters are situated in Abuja, Nigeria (formerly Lagos). As a principal actor in the formation of ECOWAS, Nigeria has played a leading role in funding the sub-regional body, making the country the backbone of the community. Economically Nigeria remains the highest contributor to ECOWAS³⁴⁷. It has also played a leading role in peacekeeping and democratic consolidation in affected areas like Liberia, Sierra Leone, Guinea Bissau, Ivory Coast, and Mali. By 1999, it was estimated that Nigeria had already committed over 13 million US dollars to peacekeeping operations in West Africa³⁴⁸. Hence, Nigeria has been able to donate significantly to the burdens of peacekeeping and to develop West Africa.

Firstly, Nigeria played a leadership role in forming the community, considering that West Africa is an area of great contrast and diversity in cultures³⁴⁹. The effort in the formation of ECOWAS was a joint initiation of Nigeria with the assistance of Togo. Nigeria was able to do most of the grass-root endeavors to promote the West Africa integration. Still, because of the contrast in language within West Africa, Nigeria needed the confidence of all West African States to unite, irrespective of language differences. A solution to this was Nigeria's choice of Togo as a significant companion in the initiation of ECOWAS for regional legitimacy. Nigeria's political leadership played a crucial role in the formation and evolution of ECOWAS for economic integration within the sub-region. Due

³⁴⁵ IHONVBERE (1994: 35-71).

³⁴⁶ OMORAGBON (2014: 229).

³⁴⁷ IFEDAYO (2013: 6).

³⁴⁸ NUHU (2007: 68-109)

³⁴⁹ NWAOKAEIFOR (2011: 30)

to Nigeria's great efforts under the leadership of General Yakubu Gowon, ECOWAS was formed.

Secondly, Nigeria has been active and plays a leadership role in peacekeeping and democratic consolidation. During the vulnerable conflict years of West Africa, Nigeria was under military rule but still played a crucial role in promoting democracy and restoring peace in other regions. Before the emergence of the civilian government by Obasanjo in Nigeria, various conflicts occurred in West Africa. These conflicts were majorly characterized by undemocratic practices such as ethnic marginalization, human rights violation, corruption, and other anti-democratic conduct of the political administrations. The conflicts are also customized with authoritarianism and segregation, which became a reason for viciousness and ethnic preference that distanced and undermined certain groups. Over time, Nigeria has recognized the role of democratic practices as an invention of sub-regional peace. The link between democracy and security continually guided the country's actions towards democratic consolidation within West Africa, where Nigeria contributed heavily to ECOMOG to restore democratic practices. To accomplish this objective of a democratic West Africa, Nigeria ventured into electoral assistance to Liberia, Sierra Leone, Togo, Niger, and others³⁵⁰. Nigeria's dedication to conflict resolution as a way to promote democracy within West Africa is greatly influenced by the political leaders who believed that Nigeria is playing an excellent role in reaffirming its international commitment to advance its good governance. This strategy has been potent and has given Nigeria an edge in the international community³⁵¹. The outplay of Nigeria's leadership role in democratic consolidation was the evidence in the case of Sierra Leone. Nigeria's intervention in the Sierra Leone conflict was primarily aimed at restoring the democratic government of Ahmed Tejjan Kabbah after a long period of military rule. The 25 May 1997 a bloody *coup* in Sierra Leone by dissident military officers under the leadership of Major John Koroma was the primary reason for the ECOMOG intervention in 1998, spearheaded by Nigeria's military aimed at the restoration of the government of Ahmed Tejjan Kabbah. Nigerian heavy contribution and leadership role in intervening in various conflicts can be seen from two perspectives: Nigerian desire to promote regional peace and the fact that General Sanni Abacha, who was a military head of State wanted a good image and international legitimacy for his military regime³⁵².

With the advent of the first civilian rule after years of military rule in Nigeria, making Olusegun Obasanjo the president, Nigeria's contribution to the community dropped. During this period, Nigeria contributed with 13,000 troops

³⁵⁰ ALLI (2012: 56).

³⁵¹ *Ibid.*, 59.

³⁵² HAMMAN (2014: 67).

to keep and restore peace and democracy in Sierra Leone. By July 1999, Obasanjo's government was still the highest contributor to democratic consolidation in Sierra Leone as the disputants signed an agreement in Togo to end the conflict. The Nigerian government also donated 500,000 dollars during Obasanjo's administration to support the January/ May 2002 general election in Sierra Leone³⁵³. Nigeria's involvement in the donation of the fund was a way to support an end to the conflict which finally led to the restoration of the dethroned democratic government.

As part of Nigeria's effort in democratic consolidation, Nigeria was also involved in the Liberian crisis to bring about peace and restore democracy in the region. During Obasanjo's administration, before the involvement of UN troops in Monrovia in August 2003, Nigeria had already sent troops to Liberia under the auspices of ECOWAS. In further restoring democratic principles, Nigeria fostered the creation of an interim government in Liberia between September 2003 and January 2004. President Obasanjo sent Abdulsalam Abubakar to intervene in the Liberian conflict as a Special Mediator³⁵⁴. In preparation for the 2005 election, a crisis occurred among the political parties due to election tensions, and this made the Nigerian government, under the rule of Obasanjo to invite the upset party leaders to Abuja for dialogue. Former Military leader Abdulsalam Abubakar was also sent during the presidential election to reduce the tension amongst the political leaders. Due to further pressure in the region, Nigeria had to grant Charles Taylor asylum, which can be seen as a method for constraining the extension of the emergency and war in Liberia³⁵⁵. It was sure that if Taylor were not granted asylum, he would battle until the last man, and invariably extending the conflict³⁵⁶. Nigeria played a hegemon role in the Liberian conflict, considering that the formation of ECOMOG in the first place was a huge effort of Nigeria and primarily aimed at halting the Liberian conflict. Nigerian government continued to heavily contribute to the peace and democratic consolidation course, considering that over 10 billion dollars were spent on the Liberian mission and contributed around 80 percent of the total military forces and equipment of ECOMOG³⁵⁷.

Nigeria was also very instrumental in financing elections in West Africa. For example, due to the economic fall and bankruptcy of Guinea Bissau in 2004 during election years, the Nigerian government intervene by rendering financial aid. During Obasanjo's democratic administration and his shuttle diplomacy foreign policy. Obasanjo's administration provided 500,000 dollars as an assistance for

³⁵³ HAMMAN (2014: 67).

³⁵⁴ ALLI (2012:64).

³⁵⁵ IFEDAYO (2013: 30).

³⁵⁶ ALLI (2012:64).

³⁵⁷ ADIBE (1997: 471-488)

the arrangements for election and 1 million dollars to pay the compensations of government workers, and a total estimate of \$8.5 million spent on restoring peace and election's success³⁵⁸.

In essence, Nigeria has played a massive role in peacekeeping and democratic consolidation before and during Obasanjo's regime. It has made a strong contribution in countries with a political crisis and lacking democratic rule, as explained above. Nigeria keeps on giving fleeting help to nations in trouble to fortify democratic government and advance security, peace, and economic development³⁵⁹.

In conclusion, Nigeria was an important actor in establishing the community and the military monitoring group. Nigeria has, over time, portrayed itself as dominant in the community in various ramifications. Its richness in the economy, natural resources, military, and population has been linked to why this country is at the center of West Africa integration. The previously stated reasons remain why this State will continually play a leadership role for the community's success in peace, security, and economic development. Therefore, it is important to note that Nigerian leadership in terms of finance, military, and political input to ECOWAS in peacekeeping and democratic consolidation is a huge determinant for the success and effectiveness of the community when addressing any security-related issues. Nevertheless, Nigeria's role continually remains under threat due to the State's internal weaknesses, which are related to corruption and mismanagement of government funds by previous military administration, and a continual deficit in democratic accountability.

4.5. Assessing the Achievements and Constrains of ECOWAS Peacekeeping missions

ECOWAS has overtime recorded success, and various constraints relating to the community's activities. Apart from peacekeeping, it is vital to take a general look at the success and the constraint of ECOWAS. The achievement of the community has been centered overtime on political unity, though, there are other economic achievements.

4.5.1. The success of ECOWAS Peace Keeping Missions

The first consideration is how the West African States with different colonial backgrounds decided to integrate and remain together after forty-six years since the community was conceived, which can be seen as a significant accomplishment. Another major achievement is creating the ECOWAS

³⁵⁸ ALLI (2012: 65).

³⁵⁹ ALLI (2012: 65)

Monitoring Group (ECOMOG), which has successfully brokered peace in various West African States like the case studies explored previously. Before going into the analysis of the peacekeeping achievements, other achievements of ECOWAS should be explored.

Firstly, it is the case of the free movement of people, goods, and capital within West Africa. This can be seen as a significant success of West Africa integration. The effectiveness of economic integration has often been determined by the free flow of individuals, goods, and services³⁶⁰. The importance of this was further stated in Article 27(1) of the ECOWAS treaty, which allowed the openness of economic interaction between West African States with the belief that it would bring about development in the region³⁶¹. Article 27(1) also grants the status of community citizenship to all citizens in each member State, which brought eradication of member States constraints to the freedom of movement within the community. From 1980, the protocol identifying the right of entry and nullification of visa was executed. In 1986, the Right of Residence was signed while the hosting State remains the one to decide on the criterion. Also, in 1990, the right of the establishment was adopted. The third enactment was conceived to give a chance to ECOWAS citizens to access financial activities and set up and manage enterprises in any State, following the enactment of the host State as pertinent to its nationals. However, the right to allow any individual's entry is still under the State's legitimacy when any of such individuals have a questionable character. To achieve the objective, ECOWAS, in May 2001, agreed to launch a passport that categorizes individuals into three groups. The diplomatic individuals use the red passport, blue passports are employed for the individuals on service at the ECOWAS platform, and green for all other persons³⁶². As much as the only necessity for movement is a valid travel document and vaccination, strict immigration exercises such as checkpoints still make the community citizen subject to administrative harassment and extortion³⁶³.

Secondly, the establishment of ECOWAS as a West African integration body aims to eliminate tariffs on the exchange of goods. As stated in Article 3 of the revised treaty, the community aimed at creating a single market through liberalization of trade and abolition of tariffs and custom duties on imports and exports³⁶⁴. In accomplishing this, the ECOWAS Trade Liberalization Scheme (ETLS) was created and operational in 1979. The execution of this system was arranged in stages. The main stage is for the quick and full liberalization of trade in naturally

³⁶⁰ AGYEI & CLOTTEY (2007: 15).

³⁶¹ ECOWAS Revised Treaty, Article 27.

³⁶² Report of the ECOWAS Executive Secretariat, November 2002, *ECOWAS Silver Jubilee Anniversary Achievements and Prospects, 1975 – 2000*.

³⁶³ EYITAYO, IREWUMI, OLADIMEJI, OLURANTI, & OLUSEGUN (2012: 76-85)

³⁶⁴ ECOWAS Revised Treaty, Article 3(2d).

unprocessed goods and traditional handicrafts. On the other hand, liberalization of trade in industrial products³⁶⁵. Over time, this has been a partway to the region's economic development even though West Africa remains poor, due especially to political reasons.

As related to this study, a significant success of ECOWAS is its ability to foster peace in the sub-region, i.e., peacekeeping, which has led to success, especially in promoting good governance and democratic principles. It is important to note that ECOWAS peacekeeping architecture stands out in Africa and has influenced other regional arrangements with Africa. The ability of the community to influence other regional arrangements in Africa can be seen as a significant success.

However, the treaty of Lagos that created ECOWAS was with no intention on conflict management, resolution, and good governance but majorly for economic development. Still, the major achievements are related to conflict resolution and management. ECOWAS has been an important actor in fostering peace in West Africa through peacekeeping missions in various affected States. The community in quest of peacekeeping missions has brought peace by reducing conflict and supporting the installation of a democratic government when the need arises. There are various instruments and protocols put in place in achieving success in peacekeeping. A starting point is the Non-Aggression Protocol of 1978 and the convention that identifies with the Mutual Assistance on Defense (1981), pioneering ECOWAS tools in addressing conflicts in West Africa. Other instruments which have been analyzed previously are the "Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security", the "Protocol on Democracy and Good Governance", and "ECOWAS Conflict Prevention Framework", which are very instrumental in ECOWAS contemporary peacekeeping.

Amid the 1990s, as we have seen, West Africa had various internal conflicts that required ECOWAS to mediate by sending a regional military power, ECOMOG, to Liberia and Sierra Leone. Regarding the Liberian conflict, with the intervention of ECOMOG, the conflict was successfully resolved, which later brought in Charles Taylor as the president of Liberia. In numerous regards, the Sierra Leone struggle was a flood of the Liberian civil war³⁶⁶, and was also immensely tackled by the ECOMOG, bringing about peace to the State. In democratic consolidation, ECOWAS suspended Guinea, Niger, and the Ivory Coast after various *coups*, and worked tenaciously to eradicate conflicts in those States³⁶⁷. ECOWAS also bolstered the Ivory Coast presidential election in 2002 and 2010, which was contested by rebels. ECOWAS has fully expressed its commitment to democracy

³⁶⁵ ECOWAS Revised Treaty, Article 36(2).

³⁶⁶ OYEWALE (2012: 320).

³⁶⁷ EYITAYO, IREWUMI, OLADIMEJI, OLURANTI, & OLUSEGUN (2012: 76-85).

and good governance as peace operations were carried out in promoting democracy, considering that the community monitored elections in Liberia, Sierra Leone, Guinea Bissau, Ivory Coast after peace was restored.

The success of ECOWAS peacekeeping can also be seen in the area of human security. The community's attention to good governance and human safety is a significant point to note regarding its success. EPDG and the Mechanism stress the need for security in the region and with huge importance to protecting human rights as its violations have often characterized conflicts in West Africa. This has been a significant focus of ECOWAS peacekeeping and has been successful in protecting human rights. ECOWAS also further stresses zero tolerance for a military *coup* in the EPDG³⁶⁸, and therefore continually sanctions States that frustrate the community effort in promoting democracy, like Guinea and Ivory Coast being suspended after a *coup* ousting the democratic government. In response, peacekeeping aided the promotion of good governance, which is linked to the reason why Guinea Bissau and Ivory Coast are now democracies. Therefore, the success of peacekeeping is democratic consolidation and good governance, as well as the eradication of violation of human rights.

In sum, the success of ECOWAS peacekeeping has brought peace in the region, considering that the community has been able to tackle various intrastate conflicts, violation of human rights and other non-democratic practices. Though a reasonable amount of success has been recorded regarding the ECOWAS peacekeeping mission, it is essential to note that the various challenges and constraints still affect ECOWAS and its peacekeeping activities.

4.5.2. Challenges of Ecowas Peacekeeping

ECOWAS has been seen as a successful regional arrangement in peacekeeping and possesses a robust conflict management framework. ECOWAS peacekeeping activities, however, still suffer some constraints and setbacks in restoring and sustaining peace. The challenges cut across the inability to adequately safeguard civilians in conflict zone areas, human rights violations committed by troops, funding issues, neutrality issues due to natural resources benefit in conflict zone areas, and others.

The most devastating challenge facing ECOWAS peacekeeping and conflict management is the lack of finance, logistics, and material needs. The ECOMOG forces which feed on the member State's national security equipment have been challenged because most national security forces are as well challenged with an insufficient armory. This invariably affects ECOMOG operations due to limited

³⁶⁸ Protocol on Democracy and Good Governance, A/SP1/12/01.

logistics to fully disarm confrontational groups³⁶⁹. Finance, on the other hand, is another major setback challenging the peacekeeping of ECOWAS. Over time, West Africa's financial conditions have hindered member States' possibility to contribute to peacekeeping missions that require substantial expenses. The issue of finance was evident in Liberia's first civil war, even though ECOMOG successfully restored peace in the first intervention in 1996. After the restoration of peace in 1997, the conflict resurged in 1999 because of the lack of finance to purchase military armories, leading to further conflict³⁷⁰. The ECOWAS peacekeeping finances, and support continually remain dependent on the international community sponsorship such as the UN, EU, and other States like the US, France, and other European countries whose support is linked to their personal interest³⁷¹.

Furthermore, political rivalry between the Anglophone and Francophone ECOWAS member States hinders the community's operation because of the inability to reach a swift consensus. An outplay of this was during the conflict in Sierra Leone and Liberia. Francophone countries tend to contradict the Anglophone and, sometimes in disguise, support the rebels against the ECOWAS forces. A typical example of this was the case of Liberia in 1989 when Charles Taylor used Ivory Coast as an abode for invading Liberia. Also, in the Sierra Leone conflict, the UN confirmed that Liberia was actively fueling the conflict. In the summary of the UNSC report concerning Sierra Leone, it was stated that

“In Sierra Leone, the RUF depends almost exclusively on light weaponry, although it does have access to more sophisticated equipment. It has captured many weapons during confrontations with the Sierra Leone Army, ECOMOG, and UNAMSIL forces. The Panel, however, found unequivocal and overwhelming evidence that Liberia has been actively supporting the RUF at all levels, in providing training, weapons and related matériel, logistical support, a staging ground for attacks and a safe haven for retreat and recuperation, and for public relations activities”³⁷².

Regarding the case of support from ECOWAS member States, Burkina Faso was accused of supporting Liberia in fueling the Sierra Leone conflict. As stated in the same report of the UNSC

“In short, Liberia is actively breaking Security Council embargoes regarding weapons imports into its own territory and into Sierra Leone. It is being actively assisted by Burkina Faso. It is being tacitly assisted by countries allowing weapons

³⁶⁹ ANNAN (2014: 1-16).

³⁷⁰ OBI (2013: 57-73).

³⁷¹ BAMFO (2013: 12-23).

³⁷² Report of the United Nations Security Council, 20 December 2000, S/2000/1195, *Note by the President of the Security Council, annex, Report of the Panel of Experts appointed pursuant to Security Council resolution 1306 (2000), paragraph 19, in relation to Sierra Leone.*

to pass through or over their territory without question, and by those countries that provide a base for the aircraft used in such operations³⁷³.

The continual lack of consensus of West African States on security in the sub-region is a significant constraint of ECOWAS peacekeeping activities. This contradiction remains political most times and a limitation to ECOWAS activities. Bias interest continually remains a hindrance to decision-making regarding the deployment of ECOMOG, considering that interest remains different and tends to limit peacekeeping³⁷⁴. In reality, a successful military *coup* in any French-speaking West African State, supported domestically and with French backing, will be almost impossible to experience an Anglophone State-led ECOMOG intervention³⁷⁵. Additionally, the continual inflow of illegal migrants remains a threat to West African peace and continually makes ECOWAS prioritize peacekeeping over other economic vitals. Though the free movement protocol aimed at economic development remains a security problem, considering that it has cumulated to the escalation of contemporary conflict. For example, currently in Nigeria, the Fulani Herdsmen move from neighboring countries such as Niger, Mali, and Lake Chad into Nigeria, is currently causing a growing conflict in Southern Nigeria even though, ECOWAS is yet to give attention to this. Most importantly, peacebuilding has been lacking from the study of ECOWAS peace operation, considering that the community has not successfully engaged in building long-lasting peace by understanding society and utilizing more diplomatic means. This has been a major setback of the ECOWAS peace process because mediation and facilitation, which are important peace processes, remain lacking amongst the Council of the Wise and other ECOWAS mediating bodies³⁷⁶. Thus, the absence of sufficient mediating skills for ECOWAS conflict mediators remains a significant problem in attaining a long-lasting peace and remains the reason why the community is swift to deploy the military in any peacekeeping and building effort³⁷⁷. Peacekeeping remains challenging for ECOWAS as new conflict emerges in the region. ECOWAS has been unable to broker peace significantly since the surge of terrorism in West Africa, as Boko Haram remains a threat to peace in the sub-region. Therefore, the above challenges remain an underlying hindrance to peacekeeping, as the end of violent conflict in the region remains challenging.

³⁷³ Report of the United Nations Security Council, S/2000/1195

³⁷⁴ GBERIE (2003: 147-154).

³⁷⁵ *Ibid.*, 150

³⁷⁶ ONWUKA, ABDALLA, KARBO, & MURITHI (2009: 77-81).

³⁷⁷ AFOLABI (2009: 24-30).

Final Remarks

The surge of conflict in West Africa remains the main reason why ECOWAS saw the need to infuse security goals into the economic objective, which was the basis for its creation. ECOWAS remains the pioneering and most developed regional arrangement in Africa to start peacekeeping, to maintain West Africa's peace and security. The attainment of the security goal remains the reason for creating ECOMOG, which has been very active in restoring peace and security in West Africa, as seen in Liberia, Sierra Leone, Guinea Bissau, and the Ivory Coast.

ECOWAS intervention remains justified under humanitarian grounds in Liberia and Sierra Leone, considering the continual mass killings. Justification under ECOWAS legal instrument remains problematic considering that the community treaty and its protocol of Non-Aggression do not envisage peacekeeping. Another legal instrument the community might have fallen back on would be PMAD which gave room for intervention in interstate conflict. Therefore, the intrastate nature of these conflicts makes intervention unjustifiable utilizing the PMAD. In contrast, the case of Ivory Coast and Guinea Bissau remain justifiable on humanitarian grounds and under the ECOWAS 1999 Mechanism and EPDG which gave room for intrastate conflict intervention.

The leadership role of Nigeria in ECOWAS also remains central to the reason for the community's success, considering that Nigeria contributes the highest financial and human resources to the community. Success has been an integral part of ECOWAS in peacekeeping and the community, considering its active role in restoring peace and democracy in any affected State. ECOWAS also remains a standard for most African regional arrangements. Regarding the challenges, a major problem of the community in terms of peacekeeping is financing. The continual antagonistic attitude between Anglophone and Francophone West African countries also remains a challenging to economic, political, and security policies.

In conclusion, the UN continually supports the role of ECOWAS in fostering regional peace. The recognition of ECOMOG by the UNGA, the approval and consent of the UNSC, and most importantly, the fact that ECOWAS continually acts following the UN principles and objectives of fostering international peace and security, remains a reference point for the justification and legality of ECOWAS role in peacekeeping and peacebuilding in terms of the UN Charter.

CONCLUSION

The significance of peace keeping remains a vital instrument in sustaining peace and security in any conflict zone. Peacekeeping appears to be the first phase used by any third-party organization aiming to stop conflict when present. It is important therefore to note that peace support operations can be seen in form of peacekeeping and peacebuilding. While peacekeeping entails the use of both diplomatic and military to stop a conflict that has escalated or with the threat to escalate, peace building aims at achieving a long-term peace by taking into consideration the need to understand the root cause of the conflict as way to tackle any activity impeding peace. Peace building can utilize both military and nonmilitary in pursuit of peace. These strategies have been handy for the international community in quest to foster peace in any affected State, but the place of State Sovereignty remains threatened.

After the wave of independence, the West African regions gained lesser attention compared to the colonial era, though the likes of Nigeria still maintained relevance due to its richness in oil. Armed conflict therefore remains a major issue that brought region into limelight against especially due to the Liberian conflict. Firstly, it is important to note that armed conflict takes to form as shown in the research i.e., International Armed conflict (IAC) and Non-International Armed Conflict (NIAC), with the major differences being that the former exists between States and the later between groups in a State or between the State and group(s). Furthermore, armed conflict in West Africa context has been of NIAC nature. In Liberia, it was a conflict between the State and the National Patriotic Front of Liberia (NPFL), in Sierra Leone between the State and RUF, and in Ivory coast active rebel groups were *Mouvement Patriotique de Côte d'Ivoire* (MPCI) dominant in the north, *Mouvement Populaire Ivoirien du Grand Ouest* (MPIGO) and the Movement for Justice and Peace (MJP).

The conflict in Liberia, Sierra Leone, Guinea Bissau, and Ivory coast as discussed have major similarities regarding their causes. These causes of these conflict in cut across human right abuse, ethnic marginalization and bad governance which mostly cumulates into poverty due to misuse of State resources by the government officials. Theoretically the above causes overtime leads to frustration of the polity as in the case of Liberia, Ivory coast, Sierra Leone, and Guinea Bissau which in effect aggravates into the use of violence as a voice against various deprivations. The conflict in West Africa also often follows the same pattern as rebel fight against the government who is either misappropriating State funds, violating human right or marginalizing an ethnic group in favor of another.

As stressed also in this research, conflict management has been the sole responsibility of ECOWAS since its inception. Though the community was created for economic integration and development of West African States in 1975 but due to the surge of conflict in the sub region, there a shift to a security objective considering that ECOWAS tagged security and peace as vital for economic development. This led to the creation of various frameworks such as the protocol of Non-Aggression, Protocol on Mutual Assistance and Defense, Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (The Mechanism), ECOWAS Protocol on Democracy and Good Governance and ECOWAS Conflict Prevention Framework (ECPF) which remains the legal basis for the intervention of the ECOWAS in conflicts within the region. Furthermore, peace keeping in West Africa has been a sole responsibility of ECOWAS considering that the community was active in the restoration of peace and security in Liberia, Sierra Leone, Guinea Bissau, and Ivory Coast. ECOWAS conflict management framework has manifested to be a guide in tackling the West Africa. These instruments continually aim at protecting the ECOWAS member States and their population from any form of security threat, including the ones stated in the Responsibility to Protect (R2P) quadruplets atrocities.

The attainment of the security goal also remains the reason for creating ECOMOG, which has been very active in restoring peace and security in West Africa, as seen in Liberia, Sierra Leone, Guinea Bissau, and the Ivory Coast. The intervention of ECOMOG in the conflicts analyzed can firstly regarded as justified considering that the community continually acted in quest to stop the violation of human right, especially the right to life of noncombatants. The question of legality of ECOWAS intervention can also be seen as two sided when putting the ECOWAS legal instrument into consideration. As clearly stressed, the of 1975 which created ECOWAS did not give any provision conflict management and peace keeping because it was initially aimed at just economic development. The revision of the treaty as well as the subsequent protocols relating to conflict prevention and management can been seen as a starting point regarding the legality of ECOWAS intervention. But still Justification under ECOWAS legal instrument remains problematic considering that the protocol of non-Aggression do not provide for peacekeeping as well but rather need to member States to respect the principle of sovereignty. Another legal instrument to fall back on would have been PMAD, but still remains lacking because the protocol only gave room for intervention in interstate conflict. Therefore, the intrastate nature of the conflicts in Liberia and Sierra Leone makes intervention unjustifiable utilizing the PMAD. In contrast, the case of Ivory Coast and Guinea Bissau remain justifiable on humanitarian grounds and under the ECOWAS 1999 Mechanism and EPDG which gave room for intrastate conflict intervention considering that these

protocols allow for both military and nonmilitary intervention of the community in both intra state and interstate conflicts. The reason why the ECOWAS 1999 Mechanism and EPDG legal instrument cannot be used in justification of the community intervention in the case of Liberia and Sierra Leone remains the fact they were signed after these conflicts.

In line with UN charter, a major point to note is that ECOWAS peacekeeping continually contradict the Article 53 of the UN charter which stress authorization before enforcement by any regional arrangement. But still the UN continually supports the role of ECOWAS in fostering regional peace. The recognition of ECOMOG by the UNGA, the approval and consent of the UNSC, and most importantly, the fact that ECOWAS continually act following the UN goal and objectives of fostering international peace and security, remains a reference point for the justification and legality of ECOWAS role in peacekeeping in terms of the UN Charter.

Subsequently, the peacekeeping activities of the community has recorded success and as well constrained. A significant success if the fact that, the ECOWAS has been able to restore democratic principles in the community member States even though most West African states are face with a lot of internal political issues linked to government corruption. There has also been an awareness on human rights which the community usually uphold in its peacekeeping activities. On the other hand, finance remain a constraint to the community as well as the continual contradiction between the francophone and anglophone member States.

Finally, study has also shown Nigeria's huge role in bringing about an integrated West Africa. Due to various reasons cutting across population size, national endowment, financial resources and military capabilities, Nigeria continually playing a leadership role in ECOWAS. Nigeria continually contributes hugely to various aspects including the security affairs of the community i.e., provision of troops, material and diplomatic powers in peacekeeping, mediation, and democratic consolidation. Therefore, at whatever time, if Nigeria does not take an interest or back a specific security arrangement activity, this strategy will undoubtedly fizzle as it was evident in the first phase of Guinea Bissau conflict. In view of the examination of Nigeria's leadership role in both ECOWAS and ECOMOG, it can be inferred that without the association and duty of the sub-regional power, ECOWAS peace and security exercises will be observably constrained, with the thought that ECOWAS has no standing armed force nor any military logistical offices and fully depends on member states, specifically, Nigeria for military and human related resources.

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SUMMARY OF THE THESIS.

Introduction

The West African society has overtime been characterized with various security issues such as intrastate conflict, transnational crime, and terrorism. The manifestation of intrastate conflict in West Africa can be seen in the case of Liberia, Sierra Leone, Guinea Bissau, and Ivory coast which were explored in detail. The conflicts in West Africa had similar triggers such as ethnic marginalization, human right violations and post-colonial effects.

Economic Community of West African States (ECOWAS) which expanded its goals from economic to a more political and security oriented one, has been at the forefront of restoration of peace and security in West Africa. In achieving this goal ECOWAS revised its treaty in 1993 and enacted various protocols as legal ground for conflict management and peacekeeping. These protocols include Protocol on Mutual Assistance and Defense (PMAD) adopted in 1981, Protocol on Non-Aggression, Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (The Mechanism) adopted in 1999, Ecowas Protocol on Democracy and Good governance (EPDG) adopted in 2001 and Ecowas Conflict Prevention Framework. Furthermore, the UN charter also remains an important legal instrument ECOWAS recognizes in terms of principle of collective security/self-defense and principle of non-intervention. Nevertheless, ECOWAS legal instruments on peacekeeping has overtime been developed in response to various humanitarian crisis and conflicts in West Africa.

This research seeks to explore the role of ECOWAS in restoring peace and security to conflict in Liberia, Sierra Leone, Guinea Bissau, and Cote d'Ivoire. The legality of ECOWAS intervention in these conflict under the community legal instruments remains subject to this study. The legality of ECOWAS intervention will further be explored in relations to the UN charter. Furthermore, it is important to note that Nigeria has overtime been central to the operation of ECOWAS. Therefore, the role of Nigeria which played a key role in the formation of operations of the community will be critically examined.

Conceptual clarification on Peace Building, Peace Keeping and Democratic Consolidation.

As a form of departure, it is important to clarify key concepts that are related to this study. Firstly, peacekeeping remains a vital instrument for brokering peace which has often been utilized by the United Nations whose goal is also centered on attaining a more secured world and also promoting democratic principles. This activity has often been described as UN-sponsored action primarily aiming at

maintaining international peace and security¹. As an important tool for brokering peace, peacekeeping entails armed forces monitoring and observer missions' operations with the consent of parties involved². Traditionally, peacekeeping is oriented at containing conflict by adopting a form of neutral assistance in form of military operation or mediation purposed at encouraging conflicting parties to disengage³. Peacekeeping has often been characterized as military operation, but it is important to note that it is multidimensional in nature. A detailed definition which put into consideration its multidimensional nature was defined by the UN as “[...] a technique designed to preserve the peace, however fragile, where fighting has been halted, and to assist in implementing agreements achieved by the peacemakers”⁴. The UN definition further stressed that peacekeeping has developed from military centric model of monitoring ceasefire to that which has infused other element such as the use of the police, civilians, and military working hand in hand while also considering dialogue to help in sustaining peace⁵. In the process of peacekeeping, the main goal is a lasting peace and in process of attaining this, cease fire agreements are monitored. Peacekeeping has also developed overtime and aids in addressing other issues which can make up the foundation of the conflict, most commonly, human right violations and resorting democratic principles and promoting rule of law. Furthermore, peace building remains a different concept from peacekeeping even though it has been overtime used interchangeably. The report of the UN lays a foundation to the definition of peacebuilding which was hugely influenced by the work of Johan Galtung on peace. According to the UN, peacebuilding “involves activities undertaken on the far side of the conflict to reassemble the foundations of peace and provide the tools for building on those foundations something more than just the absence of war”⁶. Peacebuilding therefore can be seen as beyond just monitoring ceasefire but instead aimed at promoting a long-lasting peace. By so doing, the cause of the conflict is put into consideration as a starting point to understanding the conflict and proffering suitable solution that will help in attaining a long-lasting peace which Galtung described as positive peace⁷. Finally, peace building spreads towards transforming from cultures of violence that glorify guns and are discriminatory into cultures of peace, nonviolence, equality and inclusion.

¹ HAMMAN & OMOJUWA (2013: 2).

² AGWU (2007: 30).

³ DOKUBO (2005: 253).

⁴ Document of UN Department of Peacekeeping Operations and Field Support, 18 January 2008 *United Nations Peacekeeping Operations, Principles and Guidelines*. New York: United Nations

⁵ *Ibid*

⁶ Report of the UN General Assembly and Security Council, 21 August 2000, A/55/305, S/2000/809, *Report of the Panel on United Nations Peace Operations*.

⁷ GALTUNG (1975: 290)

More so, it is important to note that while both peacekeeping and peacebuilding aims at attaining peace, it has been instrumental in protecting human rights which often characterized conflicts in West Africa. They are also means taken by external anchors to plainly and directly establish, consolidate and defend democracy in each country. These peace operations overtime entail a significant democratization component which includes election monitoring, human and civil rights protection, promoting civil society and democratic political institutions. Various scholars have argued that, though peacekeeping can aim at promoting democratization, it can still be instrumental in undermining it. The efficacy interventions of whatever kind aimed at attaining democracy can also undermine it as well⁸. Intervention under the auspices of peacekeeping or peacebuilding aimed at building democracy can be detrimental to the advancement of strong democratic institutions but can be altered if post-conflict parties can be left to develop an internal democratic institution, while incorporating internal democratic culture in recovering.

Another important concept which is key to this study is the concept of international organisation. In the study of international law scholars consensually define an IO as an organization established by a treaty or other legal instrument of another international organization, governed by international law and possessing its own international legal personality⁹. Furthermore, an IO is established when States come together to form an entity for specific purposes i.e., economic, security or political. An important question to aspect to note is that there are classifications of IO such as the universal IO which is open to all and also regional IO which is only open to States in a particular area; an example of this ECOWAS which is only open to West African States which is often regarded as regional or subregional organisation.

Conflict in West Africa

West Africa has overtime been characterized with Conflict especially beginning from the later 1980s. To explore further, it is important to define conflict and its types. Conflict can be defined as a disagreement emerging from two or more entities, groups, States, or institutions with the intention of each party to impose its view over the other. In the study of international relations, conflict is often between States or among groups in a State, or a group against the State. Conflict also tends to occur when two States or groups within a State struggle over a claim, resources, or power, whereby each conflicting actor aiming at repressing or destroying the other¹⁰. The International Criminal Tribunal for the former Yugoslavia (ICTY) provided an explicit definition of an armed conflict during

⁸ DOYLE & SAMBANIS, (2006: 401-403).

⁹ KLABBER (2018: 6-15)

¹⁰ JEONG (2017: 31)

the *Tadic* case, on 2 October 1995 as that which “exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State”¹¹.

Putting into consideration the different types of armed conflict which are the International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC). IAC exists between two or multiple sovereign States while the NIAC exists between government forces and a group within a sovereign State or between two or more groups within a sovereign State. International humanitarian law defines NIACs under Article 3 common to the four 1949 Geneva Conventions stating that: “In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum [...]”¹².

Conflicts in West Africa were caused by ethnic marginalization, human right violation, poverty and bad governance. Firstly, poverty remains a major cause attributed to conflict in West African countries. As stated in UNDP report, 50% of the African population lives in poverty¹³. Poverty overtime remains one of the major causes of conflicts in Africa. West Africa which is not resistant to poverty ulcer has often faced the issue of armed conflict because of poverty. In reaction to a state of poverty, the population utilize agitations against the government on its inability to ease poverty¹⁴. In the case of Liberia, before the conflict, 30% of the Liberian population were extremely poor, making poverty a major driver of the Liberian conflict¹⁵. Furthermore, in Voz di Paz 2010 report, poverty was expressed as one of the significant reasons for the Bissau-Guinean conflict, as there was the presence of food insecurity, poor infrastructure, and lack of access to basic social amenities¹⁶. Ethnic marginalization has also often been regarded as a reason for conflicts in West Africa. The favorable treatment of an ethnic group above the other has overtime been attributed as the major reason for conflict in West Africa. Conflict is used as an instrument by the segregated ethnic group against the government or the body carrying out segregation. In Liberia for instance, 49% of the population attributed the causes of Liberian civil wars to

¹¹ Judgement of International Criminal Tribunal for the Former Yugoslavia, 2 October 1995, Case No. IT-94-1-A, *The Prosecutor V. Dusko Tadic*.

¹² The Four 1949 Geneva Conventions, Statutes of The International Red Cross and Red Crescent Movement, 12 August 1949, *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*, Art. 3.

¹³ Report of the UNDP, 2012, *Africa Human Development Report 2012 Towards a Food Secure Future*

¹⁴ Report of ECOWAS Executive Secretariat and WAEMU, December 2006, *Regional Integration for Growth and Poverty Reduction in West Africa: Strategies and Plan of Action*

¹⁵ HEGRE, ØSTBY AND RALEIGH: 2009

¹⁶ VOZ DI PAZ (2010: 10)

ethnic divisions¹⁷. Thirdly, Bad governance has also often been attributed to the cause of conflict in West Africa. A reaction to bad governance often led to protest against the government and sometimes leads to escalation against the government which later result into a NIAC. There has been a consensus amongst various scholars regarding the conflict in West Africa that bad governance and corruption are inseparable from the causes of violent conflict and the growth of this is fueling more conflict in West Africa.

As it relates to the study, conflict in Liberia, Sierra Leone, Guinea Bissau, and Ivory Coast will be vividly examined. Firstly, the Liberian conflict which was of an intra state nature started in 1989 till 2003. The conflict can be regarded as a bloody one which took thousands of lives before and during the intervention of ECOWAS and the UN. The conflict has an undertone of ethnic marginalization as President Doe actively marginalized the Gio and Mano while favoring the Krahn tribe. The power domination of the Krahn cumulated to discrimination within the country and various human right violations during Samuel Doe's regime. In response to the discrimination and violation of other tribes, particularly the Gio and mano tribe retaliated. This gave the foundation for the civil conflict which in history is incomplete without mentioning Charles Taylor who became the warlord against the Liberian government. Taylor formed the National Patriotic Front of Liberia (NPFL) which battled to topple the government of Samuel Doe. By 1990, Monrovia was already captured by Taylor and his militia which led to the death of Samuel Doe. The international community intervention led to various peace agreements which led to an election in 1997 which made Charles Taylor the president. The emergence of Taylor and hope for restoration of peace was cut short following his self-centeredness and his lack of respect for human rights. This led to the rise of Movement for Democracy in Liberia (MODEL), and Liberian United for Reconciliation and Democracy (LURD), that continually fought against Taylor regime before ECOWAS intervened and led to Taylor exile to Nigeria.

The case of Sierra Leone is overtime regarded as a spillover of the Liberian conflict. In response to the gradual spillover to Sierra Leone, President Momoh deployed troops to the Sierra Leone boarder to resist the Liberian rebels. The poor conditions experienced by the Sierra Leone troops led to a *coup* that ousted Momoh making General Strasser the military head of government. Before the emergence of Strasser, the corrupt government of president Momoh has already started receiving opposition of Revolutionary United Front (RUF) a Sierra Leone rebel group closely linked with NPFL. RUF came under the leadership of Foday Sankoh, as succession of attacks were executed against the government of Joseph Momoh. The goal of the RUF to bring a better political and economic wellbeing

¹⁷ VINCK, PHAM & KREUTZER (2011: 45)

to Sierra Leone gradually shifted to personal needs, considering that Sankoh was motivated by the access to diamonds. The State of Sierra Leone political instability led to a huge advancement for the RUF as they advanced in the acquisition of territories that are natural resource rich. This also continued during the military rule of Strasser and subsequent government until ECOWAS intervened in 1997.

In the case of Guinea Bissau, it was a conflict that arose due to *coup* against President Viera's government in June 1998. The conflict escalated following the accusation of General Mane for illegally trading arms, which was fueling more conflict in the State. The accusation and the fear of the penalty led to a military *coup* spearheaded by general Mane against the government of Viera.

The civil conflict in Ivory Coast was hugely linked to the ethnic inequality that existed in ivory coast which was closely linked to colonialism. Ethnic inequality led to political and economic degradation in the northern part of ivory coast which led to a violent conflict in September 2002¹⁸. The division further aggravated under the administration of the president Bedi, whose administration further favored the southern part of the country. This conflict was further fueled following the ban on Alassane Ouattara to contest in the presidential election in 2000 because his parents were not Ivorians even after meeting his citizenship requirement which is still linked with ethnic marginalization. By September 2002, Abidjan became a ground of blood as conflict continued and the country sank more in ethnic divide. The further escalation of the conflict led to the intervention of ECOWAS in the conflict.

The role of ECOWAS in Peacekeeping

In curbing these conflicts stressed above, ECOWAS has played an important role so far in restoring peace and stability in West Africa. It is important to note that even though ECOWAS remained a peacekeeping actor in West African conflict, the community's initial creation was not for this purpose. The goal of the community at creation was to advance economies, standard of living and promote independence in West Africa¹⁹. The surge of conflict in West Africa brought to the consciousness of the community the link between economic development and security. A major development relating to this was the revised version of the Treaty, which was ratified on July 24, 1993, in the Ivory Coast. In achieving the goal of a peaceful West Africa established ECOMOG, which is a military intervention tool in West Africa²⁰. A further development in relations to

¹⁸ OGWANG, (2011:1)

¹⁹ Revised Treaty of the Economic Community of West African States (ECOWAS), 24 July 1993, Article 3

²⁰ JENKINS (2006: 333).

peacekeeping led to the creation of the 1999 conflict prevention protocol that encapsulates the community's Conflict Prevention mechanism. This Protocol gave the foundation to the legality of ECOWAS intervention in the conflict and contributed to protection of human rights.

ECOWAS has been active in peacekeeping in Liberia and Sierra Leone even before the revision of the community treaty. These interventions have often been regarded as illegal due to the absence of the legal bases and framework for operation under the community treaty. Furthermore, the revision of the ECOWAS treaty led to the enactment of various protocols that are currently instrumental in promoting peace and security with well-defined legality and operational framework. ECOWAS enacted three major instruments which are: Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (The Mechanism); the ECOWAS Protocol on Democracy and Good Governance (EPDG); and ECOWAS Conflict Prevention Framework (ECPF). These protocols are the basis for the role of ECOWAS in peace and security moves through interventions and human right protections. The Mechanism was enacted by heads of State and government of ECOWAS in December 1999 in Togo. Thus, the Mechanism explicitly shows three centrals to conflict prevention, resolution, management, and peacekeeping facts. It favors diplomatic means as well as the use of the military in the quest of fostering peace. In applying the specific procedure in terms of their application of the protocol in conflict resolution, while the mechanism remains, a legal framework followed, the use of the military is always the last option after all other peaceful options provided by the Mechanism have been exhausted with no trace of success. Most importantly, this Protocol is not designed to work in isolation but in cooperation with the UN and AU. Furthermore, the EPDG remains another legal foundation for the intervention. The protocol remains a unique one created to promote democracy and good governance which are seen as necessary for a peaceful West Africa. The Protocol was adopted on December 21, 2001, as a complementary tool to the Mechanism by promoting internal democracy and good governance in every member State, which would prevent any surge of conflict. The rationale that forms the foundation for the adoption of EPDG is premised on the conception that adheres to the tenets of good governance; the rule of law; and democracy with respects to individual rights and autonomy is a necessary sine qua non for maintaining social security equilibrium and preventing the eruption of violence. To this end, the Protocol offers a pre-emptive approach by extolling the virtues and imperative of good governance, democracy, and adherence to the rule of law rather than waiting for the total deterioration of these instruments, which can degenerate into a crisis that might require military intervention. Furthermore, ECPF which is a general framework to be followed also complements the

Mechanism as it aims at strengthening human security, operational and structural conflict prevention activities, and peace building.

Therefore, peacekeeping remains the central responsibility of ECOWAS as a way to foster development in the West Africa considering that rise of conflict. ECOWAS played a key role in restoring peace in the conflict explored above i.e. in the case of Liberia, Sierra Leone, Guinea Bissau and Ivory Coast. In quest of carrying out peacekeeping responsibilities, ECOWAS Monitoring Group (ECOMOG) was created in response to the Liberian conflict in 1990. ECOMOG stands as the military organ of ECOWAS which is made up of troops from member States.

The pioneering responsibility of ECOMOG was its intervention in Liberia conflict in 1990. As stressed earlier, the Liberian conflict which arose due to marginalization in the society led to Charles Taylor's reaction, carried out by fighting against the government which led to mass killings by the NPFL rebel group under Taylor's control. ECOWAS played a key role in restoring peace in Liberia in the early stage of the war as the ECOWAS Mediation and Security Council (MSC) in resolving the conflict led to the creation of ECOMOG, which served as a peacekeeping force²¹. Also, the effort led to a peace agreement between conflicting parties to deescalate and establish political party representation and an *interim* administration in Monrovia, pending a deal on the election²². Due to continuous killings and continued conflict in Liberia after the effort of the MSC, military intervention was authorized in Liberia, which was justified following the ECOWAS report to the Security Council regarding the creation of ECOMOG and its intervention²³. The deployment of ECOMOG led to various agreements between the NPFL and the Liberian government. These agreements include Cotonou peace agreement in 1993 which failed due to the lack of proper execution and the in compliance of the NPFL action regarding escalation. The continual effort of ECOMOG led to another ceasefire agreement known as the Abuja accord signed in August 1995. This led to the election making Charles Taylor the president of Liberia in 1977. The continuation of human right violation during Charles Taylor administration led to rise of the other rebel group such as Movement for Democracy in Liberia (MODEL) and the Liberia United for Reconciliation and Democracy (LURD) who fight against Taylor government. This led to another intervention of ECOWAS, and an asylum status of Taylor in

²¹ Report of the ECOWAS Standing and Mediation Committee, 2 July 1990, ECW/SMC/FM90/3, *Final Report of the ECOWAS standing Mediation Committee Ministerial Meeting on Liberian Conflict*

²² PRTS (1999: 6-8).

²³ Report of the United Nations Security Council, 10 August 1990, S/21485, *Letter from the Permanent Representative of Nigeria to the United Nation to the Secretary General on Conclusion of ECOWAS Standing Mediation Committee on the Conflict in Liberia.*

Nigeria as well as another ceasefire agreement in Accra which marked the end of the Liberian conflict. The important question to ask as it relates to this is study is the legality of ECOWAS intervention in the conflict. Firstly, the ECOWAS treaty did not give a legal basis for intervention considering that the community's 1975 treaty did not provide for peacekeeping but instead only economic development related issues. Also, it is important to note that the intervention of ECOWAS in Liberia is not justifiable under the ECOWAS revised treaty of 1993 considering that even though the 1993 revision gave foundation to peacekeeping mission under the Article 58, there was no specific protocol in force which can possibly be applied the provision of Article 58 which states that "the detailed provisions governing political cooperation, regional peace and stability shall be defined in the relevant Protocols"²⁴. Most importantly, the relevant protocol which could have been a justification for ECOWAS intervention in Liberia known as the 1999 Mechanism was not ratified at the time ECOWAS intervened in Liberian conflict. Furthermore, another important protocol which could have been applied to justify ECOWAS intervention in Liberia was the Protocol on Mutual Assistance on Defense (PMAD) ratified in 1981 to prevent member States from aggression amongst themselves or an external entity²⁵. In Article 2, PMAD provided for intervention in conflicts but did not authorize intervention in intrastate conflict; instead, intervention is envisaged in interstate conflicts and when there is any threat to the use of violence on a member State by an alien²⁶. The case of Liberia is, however, an intrastate conflict; hence, legally, the ECOWAS was not justified to intervene in this conflict considering the Article 2 of PMAD. Therefore, the justification of ECOWAS intervention in Liberian remains on grounds of stopping mass killings and violation of human right which is in line with the R2P and also to promote democratic governance in West Africa.

Furthermore, ECOWAS also played an important role in peacekeeping in Sierra Leone conflict which was considered as a spillover of the Liberian conflict. The intervention of ECOMOG was a move to stop the conflict between the RUF and the President Kabbah's democratically elected government. The intervention of ECOMOG in 1996, led to a ceasefire agreement (Abidjan Accord). The accord aimed at disarming the RUF and integrating the rebel group into the military²⁷. The defunct implementation of the Abidjan agreement led to 25 May 1997 *coup d'état* by Major Johnny Koroma, who formed the Armed Forces Revolutionary

²⁴ ECOWAS Revised Treaty, Article 58(3).

²⁵ OKOLO (1983: 177).

²⁶ ECOWAS Protocol Relating to Mutual Assistance on Defense, 29, May 1981, A/SP3/5/81 29, Freetown Liberia, *Article 2*.

²⁷ Report of the United Nations Security Council, 11 December 1996, S/1996/1034, *Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone*.

Council (AFRC), which became a close ally of the RUF. The continual opposition of the regime led to a constant increase in hostility and violence in Sierra Leone. In response to this, ECOWAS intervened, intending to end the conflict. In ending the conflict and military rule in Sierra Leone, ECOWAS took peaceful means at the early phase of intervention as the community tried to engage diplomatically with the AFRC. A remarkable implication of this negotiation was the Conakry Accord, which entailed a peace plan negotiated with the AFRC representatives²⁸. The accord stressed a six-point peace plan devised for Sierra Leone to return to a constitutional democratic government. These plans were agreed upon and signed by both the AFRC representative and the Sierra Leone Minister of Foreign Affairs. This agreement includes the cessation of hostilities; humanitarian assistance to all affected citizens and refugees, restoration of constitutional Government to President Kabbah; reintegration of combatants and a guarantee of immunities and amnesty to all AFRC member and *ex coup* leaders²⁹. Despite the Conakry agreement, the effort of ECOWAS to bring peace through diplomatic solutions was not respected by the AFRC. This led to ECOWAS resolving to use force against the AFRC in February 1998. The intervention was also at the request of President Kabbah on the need to end the AFRC human rights violations. ECOMOG intervention in Sierra Leone led to the collapse of the AFRC as ECOMOG took control over Freetown which led to the return of President Kabbah to his presidential duties in March 1998. The legality of Sierra Leone remains an important subject matter.

The legality of intervention in Sierra Leone is similar to the case of Liberia explored above. Sierra Leone's ECOWAS intervention remains unjustifiable in connection with the Treaty, considering that Article 58 of the ECOWAS revised treaty does not stipulate an exact protocol even though the treaty mentioned peacekeeping and the current protocol that permits intervention was not ratified during the ECOWAS occupation in Sierra Leone. Also, the PMAD and the Protocol of Non-Aggression do not allow intervention in intrastate conflict but only in interstate conflicts. Therefore, ECOWAS legal justification remains on the ground of restoring peace and security, and under humanitarian grounds because it acted to stop the violation of human rights and prevent future human suffering.

In the case of Guinea Bissau, ECOWAS intervention was a request from Bissauan President in 1998 after Mane's *coup*. ECOWAS initial intervention led to the

²⁸ Report of United Nations Security Council, 5 December 1997, S/1997/958, *Second Report of the Secretary-General on the Situation in Sierra Leone*.

²⁹ Report of United Nations Security Council, letter from the Permanent Representative of Nigeria to the United Nations to the President of the Security Council, 28 October 1997, S/1997/824, *Communiqué issued at Conakry on 23 October 1997 at the conclusion of the meeting between the Ministers of Foreign Affairs of the Committee of Five on Sierra Leone of the Economic Community of West African States and the delegation representing Major Johnny Paul Koromah*.

mediation between President Viera and Mane which led to the Praia Agreement signed in August 1998³⁰. The noncompliance to ceasefire after the agreement led to the deployment of ECOMOG in November 1998 to monitor the ceasefire agreement. However, the ECOMOG operation did not record any success this time, even with colossal support and funding from the international community. Overtime lack of success in the case of Guinea Bissau has been linked to non-participation of Nigeria which is the largest contributor to ECOWAS peacekeeping missions. Continual confrontations between Viera and Mane led to the defeat of Viera and the entrance of Mane as an illegitimate military leader. ECOWAS operation was restored in 2004 with the aim of restoring democracy to Guinea Bissau and halt violation of human right. From 2004-2009, ECOWAS continually played a key role in maintaining stability, which prevented escalation of violence, with a short democratic rule which was also cut short following the 2010 *coup*³¹. ECOWAS goal further shifted to reforming the military of Guinea Bissau which led to the ECOWAS Mission in Guinea Bissau (ECOMIB) to restore democracy and constitutional practices. In attaining the goal of restoring peace and democratic rule in Bissau, ECOWAS deployed military authorities and security experts across West Africa to reform the Bissauan military sector. Nevertheless, ECOWAS continued an unending effort to restore democracy to Guinea Bissau and faced many challenges but successfully reformed the military. ECOWAS's success in reforming the military, led to Guinea-Bissau's 2014 elections which transformed the country governance into a democratic one after long military rule. Since then, the country remains a democracy but continually faces internal issues related to corruption, drug trafficking, and organized crime. Furthermore, the legality of intervention in Guinea Bissau before 1999 remains unjustified as analyzed in the case of Liberia and Sierra Leone, considering the PMAD only allowed for intervention in interstate conflict. But still, ECOWAS continually remained justified considering the community actions upholds the peace and security objectives of the UN and also continually act in quest to protect human right that characterized the West African conflicts. Furthermore, the intervention of ECOWAS in the second phase of the *coup* in 2004, is justifiable under the Article 58 of the revised treaty which stated the objectives of the Mechanism which centers on "[...] prevention and resolution of intra-State and inter-State conflicts, paying particular regard to the need to: ... establish a regional peace and security observation system and peacekeeping forces where appropriate"³². The Article 25 of the Mechanism further legalizes ECOWAS intervention as the article provides for the community intervention in member

³⁰ RUDEBECK (2001: 21–24).

³¹ Policy Briefing of the International Crisis Group, 25 June 2009, Africa Briefing N°61, *Guinea-Bissau: Beyond Rule of the Gun*.

³² ECOWAS Revised Treaty, Article 58.

State when there is a possible violation of human right, a threat to rule of law and an unconstitutional change of government³³.

The role of ECOWAS in Ivory coast also started in September 2002 which birthed the Dakar summit. The community utilized a diplomatic means to promote ceasefire amongst the conflicting parties resulted to the deployment of ECOMOG in January 2003 to monitor the cease fire agreement reached in October 2002³⁴. The Dakar Agreement led to the installation of President Gbagbo as the constitutional head of State and Government of Ivory coast. In the quest for total peace, the *Linas-Marcousis* Agreement, was brokered by France³⁵, on 23 January 2003. This agreement supported a ceasefire and establishment of Government of National Reconciliation that assisted ECOWAS, the UN, and France in fulfilling the monitoring task and ensuring parties' compliance to cease fire³⁶. This agreement led to a massive decline in hostility and also the restoration of peace back to Ivory Coast. The legality of ECOWAS interventions in this case, can be analyzed referring to the 1999 Mechanisms which is keen on promoting security, democracy, and good governance³⁷. A departure regarding the legality of ECOWAS intervention in the Ivory Coast can be seen in Article 2 of the Mechanism which upholds the responsibility of the community to promote, restore and consolidate democracy as well as protection of human rights³⁸. This Mechanism remains the legal backings for the intervention in Ivory Coast considering that the State was controlled by the military government of Guei who refused to respect the election that brought Gbagbo as the democratically elected President of the State. The legality is also supported considering that ECOWAS prevented further escalation and resolved the internal conflict in the Ivory Coast, which is in line with Article 3 of the 1999 Mechanism of conflict prevention³⁹. Apart from ECOWAS legal instruments, the community was also acting in quest to protect human rights that characterized the Ivorian conflict. ECOWAS also acted in accordance with the UN aims and objective of fostering peace and security intervention. Apart from this, UN endorsed the ECOWAS intervention in Resolution 1479 of UNSC which gave "full support for the efforts of the

³³ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, A/P.1/12/99, Article 25.

³⁴ Final Communiqué of ECOWAS Standing Mediation Committee, 7 August 1990, A/DEC.1/8/90, *Decision on Ceasefire and Establishment of an Ecowas Ceasefire Monitoring Group for Liberia*.

³⁵ Report of the United Nations Security Council, 27 January 2003, S/2003/99, *Annex I and II to the letter from the Permanent Representative of France to the United Nations addressed to the President of the Security Council*.

³⁶ *Ibid.*

³⁷ Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, A/P.1/12/99, Article 1.

³⁸ *Ibid.*, Article 2.

³⁹ *Ibid.*, Article 3.

ECOWAS, ... to promote a peaceful settlement of the conflict, and reiterating its appreciation for the efforts of the African Union to reach a settlement”⁴⁰.

A major important aspect of legality of ECOWAS intervention in compliance with the UN. ECOWAS continually serve as a regional arrangement which is active in fostering security in West Africa, which is also supported by the Article 52 of the UN charter⁴¹. The major problem regarding the legality of ECOWAS intervention is the fact the community carry out intervention without seeking authorization which contradicts Article 53 of the UN Charter which stress authorization before enforcement⁴². But still the UN report of the High-level Panel on threat, challenges, and change granted authorization after intervention as it was stressed that “authorization from the security council should in all cases be sought for regional peace operations, recognizing that in some urgent situations that authorization may be sought after such operations have commenced”⁴³.

The role of Nigeria remain central to the existence of ECOWAS considering that the West African big brother spearheaded the creation of the community. Nigeria also remains a huge contributor the community military operations. Nigeria has, over time, portrayed itself as dominant in the community in terms of financing the operations of ECOWAS. Nigeria’s wealth in the economy, natural resources, military, and population has been linked to why this country is at the center of West Africa integration. Therefore, it is important to note that Nigerian leadership in terms of finance, military, and political input to ECOWAS in peacekeeping and democratic consolidation is a huge determinant for the success and effectiveness of the community when addressing any security-related issues. Nevertheless, Nigeria’s role continually remains under threat due to the State’s internal weaknesses, which are related to corruption and mismanagement of government funds by previous military administration, and a continual deficit in democratic accountability.

In conclusion, ECOWAS remains an example to various regional arrangement in Africa in terms of peace keeping. The community has recorded success in all peacekeeping mission and has been able to promote democratic governance within West Africa. The challenge that continually face ECOWAS in all its operations remain finance and continual contradiction between the Francophone and Anglophone member States which affect policy enactment.

⁴⁰ Resolution of the United Nations Security Council, 13 May 2003, S/RES/1479 (2003), *Resolution 1479 (2003) Adopted by the Security Council at its 4754th meeting*.

⁴¹ Charter of the United Nations, Article 52.

⁴² *Ibid* Article 53.

⁴³ Report of the United Nations General Assembly, 2 December 2004, A/59/565, *Fifty-ninth session Agenda item 55 Follow-up to the outcome of the Millennium Summit*.