TRACK-ONE DIPLOMACY AND POST-CONFLICT RECONSTRUCTION: KENYA'S MEDIATION OF THE SOMALI CONFLICT AND STRATEGIC INTERVENTION AVENUES

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I whole-heartedly dedicate the small contribution that this work will make to those whose work it is to facilitate peace.

ABBREVIATIONS AND ACRONYMS

ADB	African Development Bank
AEC	Africa Economic Commission
AFL	Armed Forces of Liberia
AMISOM	African Union Mission in Somalia
APFO	Africa Peace Forum Organization
APSA	African Peace and Security Architecture
ARPCT	Alliance for the Restoration of Peace and Counterterrorism
ARS	Alliance for the Re-liberation of Somalia
ASF	African Standby Force
AU	African Union
BBC	British Broadcasting Corporation
BICC	Bonn International Conversion Center
CEWS	Continental Early Warning System
CGD	Centre for Global Development
CIA	Central Intelligence Agency
COMESA	Common Market for Eastern and Southern Africa
CNDP	National Congress for the Defence of the People
CPA	Comprehensive Peace Agreement (Sudan)
CSIC	Council of the Somali-Islamic Courts
DCHA	Bureau for Democracy, Conflict and Humanitarian Assistance
DFID	Department for International Development
DPA	Darfur Peace Agreement
DRC	Democratic Republic of Congo

EAC	East African Community
EASBRIG	East African Standby Brigade
EASF	East African Standby Force
EASFCOM	East African Standby Force Command
EC	European Commission
ECOMOG	ECOWAS Ceasefire Monitoring Group
ECOSOCC	Economic, Social and Cultural Council of the African Union
ECOWAS	Economic Community of West African States
EU	European Union
FCO	Foreign and Commonwealth Office
FSI	Foreign Service Institute
FY	Fiscal Year
HD	Henry Dunant Centre for Humanitarian Dialogue
IC/GLR	International Conference on the Great Lakes Region
ICG	International Contact Group
ICG	International Crisis Group
ICRC	International Committee of the Red Cross
ICU	Islamic Courts Union
IDEA	Institute for Democracy and Electoral Assistance
IDRC	International Development Research Centre
IGAD	Intergovernmental Authority on Development
IGADD	Intergovernmental Authority on Draught and Development
IMB	International Maritime Bureau
IOM	International Organization for Migration
IPSTC	International Peace Support Training Centre

IRIN	Integrated Regional Information Network
ISS	Institute for Security Studies
IWA	Institute of World Affairs
KDF	Kenya Defence Forces
KNBS	Kenya National Bureau of Statistics
LPI	Life and Peace Institute
LRA	Lord's Resistance Army
MPs	Members of Parliament
MSC	Military Staff Committee
MSF	Medicins Sans Frontieres
NEPAD	New Partnership for Africa's Development
NFD	Northwest Frontier District
NGO	Non-governmental Organisation
NIF	National Islamic Front
NMMU	Nelson Mandela Metropolitan University
NPFL	National Patriotic Front of Liberia
OAU	Organization of African Unity
ODI	Overseas Development Institute
OECD	Organization for Economic Co-operation and Development
OFDA	U.S. Foreign Disaster Assistance
PDD	Presidential Decision Directive
PDRC	Puntland Development Research Centre
POC	Protection of Civilians
POW	Panel of the Wise
PRST	Presidential Statement

PWC	Post-Washington Consensus
RECSA	Regional Centre on Small Arms and Light Weapons in the Great Lakes and the Horn of Africa
RRA	Rahanweyne Resistance Army
SADC	Southern Africa Development Co-operation
SAMO	Somali-African Muki Organization
SDM	Somali Democratic Movement
SJ	Society of Jesus
SNM	Somali National Movement
SNRC	Somali National Reconciliation Conference
SNU	Somali National Union
SPLA	Sudan People's Liberation Army
SPLM	Sudan People's Liberation Movement
SPM	Somali Patriotic Movement
SRRC	Somali Reconciliation and Restoration Council
SSDF	Somali Salvation Democratic Front
TFG	Transitional Federal Government
TNA	Transitional National Assembly
TNG	Transitional National Government
UN	United Nations
UNAMID	United Nations – African Union Mission in Darfur
UNDP	United Nations Development Programme
UNDPKO	United Nations Department of Peacekeeping Operations
UNECA	United Nations Economic Commission for Africa
UNHCR	United Nations High Commissioner for Refugees

UNITAF	United Nations Task Force
UNOCHA	United Nations Office for the Co-ordination of Humanitarian Affairs
UNOSOM	United Nations Operation in Somalia
UNPOS	United Nations Political Office for Somalia
USA	United States of America
USIP	United States Institute for Peace
USAID	United States Agency for International Development
USC	United Somali Congress
WFP	World Food Programme

ABSTRACT

This study focuses on the Kenyan mediation of the Somali conflict and strategic intervention engagement between 2002 and 2012. The core aim of the study was to establish and evaluate the role and effects of track-one diplomacy on conflict management and post-conflict reconstruction as pertains to the Somali conflict and on the basis of the Kenyan experience.

A qualitative approach was followed in this study. It employed a descriptive, explanatory and analytical case-study method. The data were collected through interviews and documentary analysis. The twenty-two participants in the study were drawn from the Kenyan Foreign Ministry, the Inter-Governmental Authority on Development (IGAD), the Regional Centre on Small Arms and Light Weapons (RECSA), the International Peace Support Training Centre (IPSTC), the East African Standby Force Co-ordination Mechanism (EASFCOM), the African Union Mission in Somalia (AMISOM), the United Nations Political Office for Somalia (UNPOS), the African Peace Forum Organization (APFO), and selected respondents representing the Somali people.

The documents comprised policy treatises, protocols, treaties, and communiqués highlighting the actions of the Kenyan government and other track-one actors in the Somali peace endeavour. Other scholarly research on official diplomacy, soft-power and conflict management by small States – in particular African case studies – were also utilised.

The study revealed that Kenya's diplomatic and stabilisation efforts had their own dynamics and challenges. This is especially so with regard to the preferred policy option of exercising diplomacy that utilises soft-power resources. This diplomacy had to contend with the challenges of dealing with sensitive aspects of the process. These sensitive aspects involved a recognition of and complicated engagement with the Somali conflict-constituencies, and a complex mapping of various actors and their respective interests. Contrary to the expected outcomes, interests and issues

proliferated, and the original peace-making agenda was consistently slowed down and complicated.

The study also revealed that Kenya ought to have exercised a non-directive role in dealing with the different Somali conflict players. This role provides that such an "*interested mediator*" ought to exercise some considerable influence over the mediation environment. It also emerged from the study that as pertains to the current peace-making developments in Somalia that began in 2005 onwards to 2012, it is important that different intermediary co-operative roles be recognized and utilised.

Towards this end, the study recommends that Kenya's diplomacy should adopt a strategy of co-operation with those regional regimes that it helped to establish. A case in reference is the diplomatic opportunity of utilising regional arms control and disarmament diplomacy. This is Kenya's intermediary co-operative role with RECSA, which is mandated to support arms control and disarmament implementation efforts in the East African region.

The study also recommends that strategic foreign policy and regional actions by Kenya should be taken up given its new lease of engagement, noting that it was officially integrated into AMISOM in 2012. The study posited that in the ongoing engagement environment there would be a 'revisiting' of the experiences and complexities of the first phase of engagement (2002-2004). It is, therefore, recommended that Kenya should seize this opportunity and continue with its 'facilitative and enabling role' in its peace diplomacy, while utilising the lessons learnt in past engagements.

Key words: Track-One Diplomacy; Conflict-Management; Mediation; Soft Power; Small States; Arms Control and Disarmament Diplomacy; Peace-Building; Post-Conflict Reconstruction; Intermediary Roles and Co-operation Theory.

CHAPTER 1

GENERAL INTRODUCTION

1.0 Introduction

There have been numerous attempts to consolidate and realise peace in Somalia, most notably by intergovernmental organisations and States. Such efforts have been futile. Within sub-regional approaches, entities like the Intergovernmental Authority on Development (IGAD) have been seriously and negatively affected in their conflict-management efforts by conflicts among member states. In regard to Somalia, IGAD member States have been divided over the issue of mediation. Apart from the political incompatibilities, sub-regional organisations also act on a legal basis that is poorly defined. In particular, this is true when it comes to attempts at managing intrastate conflicts.

Track-one strategies by individual States – in the form of intermediary roles – have consequently been taken up. Soft-power (Nye 2001: 353)[1] interventions, particularly by small States, have thus been utilised. Through the implementation of soft-power diplomatic approaches, these small States have been able to achieve the desired outcomes through their appeal. To some extent, the Kenyan mediation of the Somali conflict, albeit within a complex, protracted process, has tried to make its power legitimate in the perception of others, and has given leeway for actors to define their interests in compatible ways – without expending as much as the other track-one diplomacy entities with regard to the traditional economic costs and other hard-power resources, as utilised by some of the strong States.

Kenya's mediation, possible post-conflict reconstruction, and transitional ordering roles in the Somali situation were the main concerns of this study. The study considers two engagement focus periods. The first phase of the study critically investigates and analyzes Kenya's official engagement in the Somali peace process

[1] The concept of *soft power* is further and solidly discussed in chapter 2 of this thesis. A working definition at the onset is provided by Joseph Nye who asserts that soft power is the ability to achieve desired outcomes through attraction, rather than by coercion, because others want what you want.

from 2002 to 2004, when a new Transitional Federal Government (TFG) was negotiated and formed.

The second phase of the study will be based on Kenya's diplomacy and engagement in the Somali conflict after 2004 right up to the focus period of 2012. The latter will provide a strategic intervention lens of Kenya's possible mediation and diplomatic continuum in attempting to remedy the Somali conflict. In essence, this is a case study of Kenya's track-one diplomatic intervention, and its strategic peace-building engagement avenues pertaining to the Somali conflict.

This chapter, therefore, serves as an introduction to the study; and it does this by: providing a critical background to the study, the problem statement, the aims and objectives of the study, research questions to be considered, the motivation of the study, the limitations and structure of the study. However, in order to contextualize the Somali case study, it is important to first understand the conflict-beleaguered country of focus in terms of its social, political and historical context. This is within Somalia itself; and it comprises an integral part of the politics of the Horn of Africa conflict system. This will provide a basis for understanding the Somali conflict in context, conflict- management complexities and post-conflict or stabilization engagement. It should also open up the discourse over understanding the particular background of the problem, and the role of track-one diplomacy in peace building, post-conflict reconstruction, and generally in the conflict management of Somalia.

1.1 Understanding Somalia, its politics and conflict

1.1.1 Brief geographical context

Somalia is situated in Eastern Africa, between Ethiopia to the West, Kenya to the southwest, Djibouti to the northwest, Yemen on the Arabian Peninsula to the north and the Indian Ocean to the east. Somalia is strategically located in the Horn of Africa[2], which dominates the sea lanes of the Red Sea and the Gulf of Aden, the key corridors between the Middle East and Africa (see Figure 1.1).

[2] See Appendix F, which gives a map representation of the Horn of Africa on page 443 of this thesis.

It should be noted that Somalia has the longest coastline in Africa, stretching from Kenya in the South to Djibouti in the North, where a large U.S. task force is now based (UNHCR 2008: 9). Somalia has a land area of 637, 540 square metres, and its terrain consists mainly of plateaus, plains and highlands.

(***Figure 1.1***)



(Source of Figure 1.1 : CIA Maps and publications 2010, in https://www.cia.gov/library/publications/cia-maps-publications/maps/803385.jpg) [15 September 2011]

1.1.2 The Somali people

In 2010, the population of Somalia was estimated at 9.36 million by the United Nations (UN) F.C.O (Foreign & Commonwealth Office 2012b). It is important to note that limited by various constraints including serial refugee movements and the fact that a large number of people are nomads, the last official census undertaken by the government was in 1975. The population growth rate is also estimated at 2.3% (Margolis-Pacque et al. 2011: 3).

Several ethnic groups with Cushitic ancestry, such as the Oromo people, populate Somalia. Nevertheless, for the last 2,500 years, Somalis have been the most dominant ethnic group - comprising 85% of the population. Bantu and other non-Somali ethnic groups, including Arabs, account for the rest of the population. The Somali people are Sunni Muslims; and Somali is their official language. However, Arabic, English and Italian are also widely spoken in the country (UNHCR 1998: 9).

Underpinning the Somali society is their lineage, with divisions defined along clan and sub-clan lines[3]. The main clan families of Darod, Dir, Isaaq, Hawiye, and also Rahanweyn, traditionally constitute Somali society, along with minority clans. In the peace processes, though (in Arta, which is in Djibouti, Eldoret and Mbagathi, both in Kenya), the four major clan families of Darod, Digil-rahanweyn, Dir (within which Issaq is recognised as the largest clan) and Hawiye, along with the minority clans, namely, Barawans, Bajuni and Bantu, were and still are considered to represent Somalia (World Bank 2005:8).

The Somali population consists largely of pastoral or nomadic groups and agricultural communities, with a significant number engaged in trade, businesses and fisheries (in coastal areas). The rate of urbanisation has, over time, increased rapidly, with groups migrating to the more developed areas in search of employment (UNDP/World Bank 2003).

[3] A general representation of the Somali clan map, including the clan representation in the larger Horn of Africa, can be accessed in this thesis in 'Appendix E' of Page 442.

Demographically, the protracted war has to some extent changed the clan settlement patterns[4]. Valuable urban and agricultural realty (real property or land) and personalty (personal property or possession), have been occupied by strong clans (Leonard 2008: 23 – 26). In the urban and arable areas, such as Shabelle, Mogadishu and the Juba Valley, the patterns of clan settlements have changed. This is due to heavy infusions of non-resident clans, supported by their militias. Many clan groups, particularly those originally from Puntland[5], migrated voluntarily to their traditional clan territories, in order to escape the conflict. From Puntland, a good number of clan members transited through Yemen to settle in Australia, America and Scandinavia; but an equally large number became increasingly involved in local businesses or trade in Puntland (ICG 2003: 4-6).[6]

In South-central Somalia, valuable agricultural land, urban realty and personalty, as well as seaports, were taken over by armed clans for economic gains. These stronger marauding clans took over rich plantations and realty owned by agricultural clans and indigenous groups, often leading to their displacement or, worse still, to their enslavement. The displaced were forced to move out of traditional lands into new areas, thus changing the demographic constitution in such areas (ICG 2003: 6-11).

Competition for control of power and resources has, therefore, significantly changed clan boundaries in many parts of Somalia, with new clans consolidating their position on occupied lands (ICG 2003: 12). It is also important to note that Somalia is geographically located in the Horn of Africa, bordering the Gulf of Yemen. In addition, the Somali Republic (1960–1991) constituted the former Italian colonies of South-central Somalia and Puntland, in addition to the former British protectorate of Somaliland. It was after the collapse of the State in 1991, that Somaliland unilaterally

[4] A map representation of Somalia, its regions and settlements is attached in this thesis as Appendix D, Page 441. It can also be accessed in United Nations, www.un.org/Depts/Cartograpjic/map/profile/somalia.pdf, as accessed on 15 September 2011.

[5] Puntland is an arid region of north-east Somalia that declared itself an autonomous State in August 1998. The move was, in part, an attempt to avoid the clan warfare engulfing Southern Somalia. Unlike its neighbour, breakaway Somaliland, Puntland says it does not seek recognition as an independent entity, wishing instead to be part of a Federal Somalia. For more insights on Puntland, see: British Broadcasting Corporation (BBC) News Africa, '*Puntland profile*', In, http://www.bbc.co.uk/news/world-africa-14114727. Also see, '*Puntland State of Somalia*', In, http://www.puntlandgovt.com/puntland-state-of-somalia/ [accessed on 24 July 2009[.

[6] See also the *Draft report on socio-economic assessment in Puntland*, April 2004, UNDP/World Bank, produced by the PDRC (Puntland Development Research Center) in Garowe.

declared independence; however, it was not given recognition by the UN. A more critical analysis of the historical and contemporary context of the Somali conflict and politics will be further discussed in the forthcoming chapters.

1.1.3 The Balkanization of Somalia

In historical context, as early as the first century AD, Greek and Roman sailors traded with Somalia through the ports of ancient Opone and Mosylon-Badar Gori. From the beginning of the third century until the seventh century, the North-Western part of Somalia was controlled by the kingdom of Aksum. Islam had obtained a strong foothold in the early medieval period (A.D. 700 – A.D. 1200), particularly during the foundation of Mogadishu in A.D. 900. Other city-states and kingdoms came up during the late medieval period (A.D. 1201 – AD. 1500).

In the late 1400s, powerful multi-ethnic States, such as the sultanate of Adal, led by Ahmad ibn Ibrahim al-Ghazi, and consisting of Afars, Somalis and Hararis were able to conquer as much as three quarters of Ethiopia – until they were defeated by the Ethiopian-Portuguese forces during the battle of Wayna Daga in 1543. The Ajuuran Sultanate was another influential State that reached its peaks during the 14th and 17th centuries.

After the era of prominent States, Somalia saw the slow and gradual rise of numerous States, such as the sultanates of Bari, Hobyo and Eastern Sanag until 1884, which heralded the beginning of the colonial invasions, and with them the start of a modern era (UNHCR 1998: 10).

The partition of Somali lands by colonial powers began in the late 19th century, when the French, the British and the Italians came to Somalia, following the Berlin conference of 1884, which tried to regulate the imperialist competition between European States in their scramble for Africa. In 1889, the British declared British Somaliland to be a protectorate; the southern part of Somalia turned into Italian Somaliland, and the northern part of the country was incorporated into the French territories of Afars and Isaa, thus becoming French Somaliland – until this area gained its independence as Djibouti (UNHCR 1998: 10).

During World War two, under Mussolini's expansionist colonial policy, Italy invaded Ethiopia, thereby defeating the British, who had conquered British Somalia. Great Britain however launched a fierce counterattack against the Italians, and managed to regain British Somaliland, as well as to conquer Italian Somaliland. As a protectorate of Italy since 1949, Somalia did not obtain its independence until 1960 (UNHCR 1998: 10).

It was only after the collapse of the Somali government in 1991 that the country was balkanised into Somaliland (the North-West), Puntland (North-East), the Bay/Bakool regions (the South-West) and South-central Somalia.

1.1.4 Early Somalia – Horn of Africa relations and border politics

After independence, Abdullahi Issa formed a government; and Aden Abdullah Osman Dar became Somali's first president. In late 1969, General Mohammed Siad Barre took over power through a military coup. Somalia had a vision of liberating and uniting the Somali lands divided during the colonial era; and initially, it tried to convince Kenya and Ethiopia of the right of self-determination for ethnic Somalis living in the two countries. However, when Somali's diplomatic negotiations failed, it entered into war with Ethiopia from 1977 to 1978, demanding that the Ogaden region had to be integrated into Somalia.

The Somali army was eventually defeated by Ethiopian troops; and Ogaden remained under Ethiopian rule (UNHCR 1998: 10). To this day, the border and Ogaden question has animated much of the politics of Somalia and the Horn of Africa. This does – to some extent – explain the historical roots of Somali's relations with its neighbours.

1.1.5 Tracing the Somali conflict

The key causes of conflict in Somalia are complex and dynamic. During various phases of the conflict, shifting regional rivalries and wider international interests have been intertwined with internal power struggles, and more often than not have been redirected towards historical woes (see Samatar 1998:137).

One could single out the first major episodes of conflict as being those of the 1977 and 1978 Ogaden war with Ethiopia, as mentioned. The war started with the intervention of Somali forces in the Ogaden region of Ethiopia to support Ethiopian-Somali rebel fighters in a liberation attempt. Somalia lost the war, and this fuelled future internal conflicts, as it provoked the rise of a number of Somali liberation movements aiming to overthrow the Siad Barre regime considered responsible for the defeat. This will be discussed in the later chapters of this thesis in more detail.

A second phase was after 1978. Many Somalis in this period became disappointed by Siad Barre's totalitarian and oppressive military regime, which eventually weakened and collapsed in 1991, leading the country into civil war. This second major armed struggle started when the Somali military opposed the Somali National Movement (SNM) for the control over North-East Somalia. The SNM was formed in 1981 by members of the Issaq clan following the Ogaden war; and it increasingly gained strength when the Barre regime placed the North-East under military control, and used the military to crack down on the Issaq – and then dispossessed them of their businesses.

The harshness of the government's response triggered Issaq demands for secession, resulting in the creation of the self-declared State of Somaliland in 1991. The third wave before State collapse in 1991, pitted government forces against various clan-based liberation movements from 1989-1990. This is also discussed in some depth later in this research. In addition to these wars, many other legacies of the Barre regime continue to fuel conflict in contemporary Somalia. Firstly, the oppressive nature of the Siad Barre regime, and its monopoly on resources, land and economic assets, strongly engrained the idea of the State as a predatory entity in Somali society,

leading to high levels of distrust characterising power sharing and reconciliation attempts, as well as a zero-sum game mentality with regard to politics in general.

Secondly, the regime strongly politicised and manipulated clan identity over two decades of divide-and-rule politics, leading to deep clan divisions and grievances. Thirdly, the episodes of conflict coincided with the height of cold war superpower competition for the control of the Horn of Africa. The Barre regime, as client of the Soviet Union, and later the United States, could tap into massive unconditional military and economic resources. With the end of the cold war, however, the level of expenditure especially to maintain the bloated bureaucracy became unsustainable; and this is what precipitated the fall of the regime.

The fall of the Barre regime was not followed by a replacement regime, but by a protracted period of violence and anarchy. Civil armed conflict between clan-based militias raged across Somalia. The conflict, which started as a struggle for control over the State, quickly degenerated into greed-driven war for control over valuable real estate, resources and infrastructure, with especially highly intense fighting in Mogadishu – for dominance of the capital.

Another defining cause of Somalia's protracted civil conflict and State collapse was the division of Somali society along clans and lineages. Manipulation and politicisation of clan identities, as mentioned, by the Somali elite over resource competition since independence mutated clan ties into a violent and destructive force. In short, the division of Somali population into clans gave way to manipulation of clan identities to divide and exacerbate hostilities, and to a strong politicisation of clan identities.

Other root causes of the conflict, which could be clearly identified, were intertwined with international terrorism links and activities, and the pursuit of proxy wars based on regional rivalries and grievances.

1.1.6 Interventions, diplomatic engagement and interests pertaining to the conflict

A number of peace-making interventions cutting across peacekeeping to diplomatic engagements have been attempted as regards the Somalia situation. There was the deployment of a peace-keeping operation force under the name of the United Nations Operation in Somalia (UNOSOM) with the conflict, however, continuing even with a Multilateral United Force (UNITAF) engagement under the United States of America (U.S.) leadership in December 1992.

By early 1993, most of the U.S troops withdrew; while in June 1993, militias loyal to Somali warlord, Farrah Aideed, attacked UNOSOM peace-keeping troops in Mogadishu – causing casualties – and eventually leading to the 1995 withdrawal from Somalia. There have also been track-one diplomatic initiatives, including interventions by the Ethiopian government and the Djibouti government, as well as international diplomatic initiatives by the United Nations (UN), the European Commission (EC), and other major powers. These latter engagements will be discussed further in Chapter 5 of this thesis.

However, major engagement processes, after the withdrawal of UN troops from Somalia in 1993, were convened by the Ethiopian government in Sodere-Ethiopia in 1996[7]; by Egypt in Cairo in 1997[8]; and in Arta by Djibouti in 2000. These attempts were all futile. The Kenyan-led Somali-peace process that commenced in 2002, however, made considerable progress, and had some success. The convening of the Somali-peace process by Kenya in 2002 was the most ambitious process. This peace process and the engagement focus period from 2002 onwards is the main concern of this study.

[7] The first round of the Somali-peace negotiations was convened by Ethiopia in Sodere in 1996, following the UN's departure from Somalia; and this led to the signing of an accord by various factions to establish national institutions. However, Aideed, leader of the Somali National Allliance, did not agree with the conclusions of this conference.

[8] Egypt subsequently attempted unsuccessfully to convene the same factions that participated in the Sodere process in Cairo in 1997, in order to reconcile them with Aideed, but the process was also an elusive quest.

It is also essential to note that governments and entities had consequently adopted a disengagement policy, because of the general failure of such interventions in Africa (Hussein 2002:179–184). By 2001, the Somali conflict had escalated into a regional one, and particularly in the Horn of Africa conflict system. There had been, in this early period, different belligerent and warring clans and groups receiving support from different countries, including Eritrea, Ethiopia, Djibouti, Egypt, and even Kenya.

Each country had its own interests and concerns that could explain their involvement in this conflict. These interests will be briefly discussed below.

1.1.7 Ethiopia's Interests

Ethiopia's interest in Somalia is traceable to the history of the two countries. Two former Emperors of Ethiopia – Haile Selassie and Menelik II – annexed portions of Somalia. Emperor Menelik II, who ruled Ethiopia from 1889 to 1913, laid claim to the Ogaden in the late 19th century. It was during this period that Ethiopia and the Italian protectorate of Somaliland claimed the Ogaden. Menelik II, having defeated the Italians at the battle of Adwa in the North in 1896, forestalled them in the East by occupying the Ogaden with his army (Lewis 1989: 575).

Disagreement about the boundary remained, however. Emperor Selassie, who ruled Ethiopia from 1930 to 1974, persuaded Britain to cede most of the Ogaden region to Ethiopia. This happened between 1948 and 1954 (Lewis 1989: 573-579). In addition to these historical determinants, Ethiopia now shares a 2 000 km border with Somalia, which explains its strategic interests and security concerns. Ethiopia, which had fought a major war with Somalia over the Ogaden in the late 1970s, was careful to create a friendly government, so as not to revive these hostilities.

Another consideration was that Prime Minister Meles Zenawi[9] of Ethiopia had taken refuge in Somalia for a long time in the 1980s to early 1990[10]. During this period, he

[9] Prime Minister Meles Zenawi was Ethiopia's Prime Minister from 1991 to August 2012.
[10] Meles Zenawi led an armed struggle against the 'Derg' or 'Military junta' of the former president of Ethiopia, Mengistu Haile Mariam (1977-1991). Zenawi led the Tigray People's Liberation Front

sought alliances with some of the faction leaders in Somalia – in an attempt to secure his power base (Kamudhayi 2004:117–118).

1.1.8 Kenya's Interests

Kenya's interests in the Somalian situation can also be understood from its geographic position. It shares an estimated 1 000 km borderline with Somalia; and consequently, huge numbers of refugees have streamed into Kenya; and this has caused heavy financial burdens for the State; and it has also posed a threat to the environment. The war in Somalia has led to an increase in concerns about security through small-arms infiltration and proliferation.

A brief analogy to explain Kenya's interests in relation to the Somali conflict and its effects on the country will further explain this point. It is of immediate relevance to understand the relationship between the conflicts in Somalia and the state of security [or insecurity] in Kenya. Of immediate concern to understanding this relationship is the militarisation of Somali society, itself a product of the political experience of Somalia during the cold war and after the collapse of the Somali State (Murunga 2005: 141).

The collapse of Barre's rule was accelerated by, and led to an increase in free-floating guns in unauthorised hands. How then does the situation affect Kenya? That is to say the conflict effects of Somalia to Kenya? These are the implications of a war-ravaged Somalia on security in Kenya.

The dominant view in Kenya holds the Somali conflict responsible for increased crime. This view focuses on post-1991 Somalia; and it blames the war for escalating trafficking into Kenya of illicit products – including, most importantly, small arms and light weapons – many of which were sophisticated. These, it is argued, have contributed to the increased insecurity in North-Eastern Kenya (which is the immediate area directly proximate to Somalia's border) and Eastleigh in Nairobi, where most urban refugees of Somali origin settle.

(TPLF) which took over power in 1991. The TPLF was also operating in exile and specifically in Somalia from the 1970s to the early 1990s.

A case in point to capture this was former Kenyan President Moi's policy and decisions on the Somalia situation, and the effect these had on Kenya. President Moi, in a 28 July 2001 presidential statement gave credence to this assumption, when he ordered the Kenya-Somali border to be closed. He explained that armed refugees had entered Kenya, and had contributed to the increased incidence of insecurity and crime in Nairobi (Murunga 2005: 144).

In banning border trade, President Moi noted that 'although Kenya showed hospitality by accommodating refugees from Somalia, they [the refugees] abused their welcome by bringing illegal firearms into the country'. For him, 'the Somalis were to blame for the current state of insecurity in Kenya' (Sunday Standard 29 July 2001: 1). However, Moi's view on insecurity calls for a historical caveat, as argued by Murunga (2005: 145). The Somali 'refugee' problem dates back to the colonial era. This is particularly true with reference to the border demarcations that saw a large Somali populace balkanized as 'Kenya-Somalis' – with the large majority of them having settled in the North-Eastern frontier area of Kenya. This latter area was historically predominantly Somali-settled territory, and the partition of Africa did not spare this division.

This colonial legacy has always been a problem of State security in Kenya, owing to a continued and indiscriminate interaction between Somalis within Kenya's territory, and those in Somalia, or fleeing Somalia. Unfortunately, criminal elements have penetrated this relationship, thereby challenging the security of the country, true to Somali's anarchic situation and the political economy of war.

Thus, while considering Kenya's interests pertaining to the Somali situation, it is important to bear in mind the relationship currently drawn between refugees and security problems in Kenya. This needs to be understood in the context of the historical partition of Somalia and its legacy: a context that repudiates the one-sided focus on Somali refugees (Asiwaju 1985: 21-32). The very nature of the Kenya-Somali border, which is commonly regarded as the North-Frontier District (NFD) – from the Kenyan side – is due to the extent that it remains a remote and marginalized place. It overlaps more with Southern Somalia than with the rest of Kenya.

The Northern frontier and the related border with Somalia have a remoteness that is susceptible to criminal networks and gangs interested in illicit trade, including arms, and human trafficking. Furthermore, the Kenya-Somalia border is not adequately policed (Kamenju, Singo & Muchai 2003: 22-35).

Consequently then, the nature of the border and the surrounding environment has allowed over time for the Somalis to easily cross between these territories. In the process, they carried with them goods (and continue to do so) across the border that they then circulated without serious restrictions. It is in the context of this movement, that individuals, including transnational criminal networks, have taken the opportunity to traffic with arms in Kenya. The baseline point also is that the nature of the border zone has made Kenya an easier choice for refugees fleeing the war in Somalia; and with them, criminal elements take advantage of the situation (Murunga 2005: 148).

There are other reasons why Kenya became a favoured settlement destination for Somalian refugees. The Somali presence in Kenya, many of which were relatives of migrating refugees, explains not just the ease with which Somali refugees entered, mingled, and settled in Kenya, but also how they became invisible (to a State intent on regulating their movement).

In Kenya, as in Somalia, the refugees were at 'home'. Though they moved under changed circumstances – those who crossed actually moved into a familiar territory and by a familiar process (Lewis 1993: 63). The process of their movement also broadly resembled their transhumance (seasonal-migratory pastoralism) mode of livelihood. Indeed, their migration to Kenya entailed the paradox of 'refugees at home'. The paradox was that 'these pathetically uprooted war victims [became] refugees in a State, based on their own ethnic identity: they, therefore, [became], as it were, refugees at home' (Lewis 1993: 68-69).

The invisibility of the migrating refugees facilitates arms trafficking across the border. The demand for these weapons in far-flung areas, like Nairobi, has also facilitated the rise of criminal networks that specialise in acquiring weapons from war-torn areas and supplying them to criminal gangs in Nairobi and other towns. These criminal networks get weapons from neighbouring countries, especially those

with a history of internal conflict like Somalia. The ease with which these weapons cross the Kenya-Somali border is attested to by the fact that the border region is well within a 1000 kilometre radius, and it is inadequately policed, as pointed out above (Kamenju et al: 49 & Daily Nation July 29 2004: 11).

Another basis for Kenya's interest pertaining to the Somali situation has to do with the threat of international terrorism within its [Kenya's] borders. The threat of terrorism has also recently, and in time, defined Kenya's attitudes, relations and foreign and defence-policy posture considerations relating to Somalia. The bombing attacks by suspected Somali fundamentalist operatives on the US embassy in Nairobi in 1998, and on an Israeli hotel and plane in 2002, have spurred increased scrutiny by Kenyan disciplined forces (including the intelligence) of refugees from Somalia and visitors from the Middle East (Chacha 2004: 61-64).

It is believed that supporters of the al-Ittihad al-Ismalia, which is a 'Somali-terrorist organization with links to 'al-Qaeda', have infiltrated some of the refugee camps in the North-Eastern province of Kenya, and made their way to Mombasa (the coastal region of Kenya, and the second largest city in Kenya) and Eastleigh, the Nairobi quarters of Somalis (East African Standard 2003: 6 & Saturday Nation July 7 2012: 8-9).

Continued violence in Somalia, and especially between 2006 and 2012, has also seen a great surge of refugees into Kenya; and this has actually strained the hosting capacities of two major refugee camps located in the North-Eastern province of Kenya, namely: the Daadab and Kakuma-refugee camp. It was in this period that the capacity for hosting refugees in these world-renowned and large refugee camps was over-ridden by Somali refugees. This also has severed relations between refugees and original host communities residing in the North-Eastern region of Kenya.

These considerations, and the effects of the Somali conflict on Kenya, have also not been isolated from the other events in the Horn of Africa, which also has a complex conflict system, with other conflict areas proximate to Kenya, namely, Sudan, and pastoralist conflicts involving border countries, such as Uganda and Ethiopia. This explains Kenya's continued engagement in the diplomacy of conflict management, in

order to appease its unstable border neighbour countries. Kenya's interests can also be explained by its concern, especially during the Moi[11] era, to remain as the leading peacemaker in the region's geopolitical and strategic realities (Kamudhayi 2004:118).

1.1.9 Djibouti's interests

Djibouti's interests are to be understood in the light of the extent that it sought to influence the results at the Somali National Reconciliation Conference (SNRC) in 2000, in order to keep the former transitional national government president, Abdikassim, in office. In the SNRC, external actors were strongly involved in determining the outcome of the conference. Within the region, Djibouti and other actors, led to the failure of the SNRC conference. Djibouti was, in this early period of 2000 involved in peace talks, for different reasons.

It was important for Djibouti to influence the talks and results of Arta. A friendly Somali government – led by Abdikassim, as mentioned, would be useful to Djibouti for economic reasons. It is important to note that Djibouti lacks resources, and has a population of 300 000; and thus, it cannot sustain a viable market for a business-oriented economy (Kamudhayi 2004:117).

In 1991, following the fall of the Siad Barre and Mengistu governments in Somalia and Ethiopia respectively – an estimated 100,000 refugees of both countries went into Djibouti. In 2000, a three-year drought brought in 50,000 more Somalian refugees. The number of refugees in Djibouti has doubled since 2006, with approximately 12,000 now being registered with the UNHCR – predominantly from Somalia and Ethiopia (US State Department 2011).

These humanitarian situations also determined much of Djibouti's interests and foreign-policy considerations on the Somali question. Djibouti has been the victim of Somali piracy attacks that are a predominant security challenge off the coast of Somalia. Piracy has often disrupted one of the main economic activities at the port of Djibouti.

[11] This was during President Daniel Arap Moi's presidency.

1.2 Eritrea's Interests

Eritrea viewed the peace process as a perfect opportunity to settle scores with Ethiopia, with which it has a long-standing border dispute. While struggling to settle these scores, Eritrea found perfect allies in Djibouti, which bears a personal grudge against Ethiopia, and Uganda; and it sought to match Kenya's ambitions to regain regional supremacy (Kamudhayi 2004:119).

These interests by the different regional actors on the Somali situation have also, in turn, affected the efforts of sub-regional and regional organisations to carry out effective conflict-management operations. These different interests, and those actors who attempted to influence the peace processes and the wrangling have affected effective mediation and facilitative efforts by organizations like IGAD. It is with this situation in the background that sub-regional efforts, and in particular the Intergovernmental Authority on Development (IGAD)[12] processes, require complementary assistance to address all the legal and strategic issues in these regional political disputes. In this case, Kenya has been recognised as having soft-power legitimacy , which appeals to a number of role-players in the Somali peace processes or attempts. This is largely because Kenya's interests were, and are still, considered as reflecting the ideals of a regional peace and security restatement in the region.

The country's [Kenya] mediation of Horn-of-Africa conflicts, like Sudan, Uganda and countries in the Great Lakes like the Democratic Republic of Congo, have provided its status as a regional peacemaker. Connected to this is the fact that the bedrock of

[12] An introductory statement of *IGAD* and its background will situate the analysis clearly – especially on the inter-governmental oriented track-one diplomatic and post-conflict reconstruction engagement. The Intergovernmental Authority on Development (IGAD) in Eastern Africa was created in 1996 to supersede the Intergovernmental Authority on Drought and Development (IGADD) that was founded in 1986. The recurring and severe droughts between 1974 and 1984 caused widespread famine, ecological degradation and economic hardship in the Eastern Africa region. In 1983 and 1984, six countries in the Horn of Africa: Djibouti, Ethiopia, Kenya, Somalia, Sudan and Uganda – took action through the United Nations to establish the Intergovernmental body for development and drought control in their region. In April 1995 in Addis Ababa, the Assembly of Heads of State and Government made a declaration to revitalize IGADD and to expand co-operation among member States. On 21 March 1996 in Nairobi the Assembly of Heads of State and Government signed the 'Letter of Instrument to Amend the IGADD Charter/Agreement' establishing the revitalized IGAD with a new name: "The Intergovernmental Authority on Development". For more on IGAD, see, http://igad.int/index.php?option=com_content&view=article&id=93&Itemid=153 accessed on 21 March 2009.

soft power, as exemplified by small-State diplomatic initiatives, rests on the ability to achieve the desired outcomes through the attraction and acceptance of its legitimacy. Kenya's regional actions in pursuit of peace and economic recovery have provided the necessary attraction and legitimacy as the right candidate, for it to steer the Somali peace process.

The Kenyan mediation of the Somali conflict – which officially began in 2002 – has been carried out in an environment where track-one diplomacy is perceived as relevant, while utilising the capabilities of track-two entities and parties directly affected by the conflict. Through its mediation efforts, it has provided an environment in which the scuttling of talks can be avoided by collaborating with and enabling track-two and unofficial initiatives that work towards sustainable peace and development in Somalia. Practising the soft-power tool of diplomacy is difficult without a concerted intermediary effort, whereby track-one diplomacy enables track-two diplomacy to provide its complementary strengths or capabilities in the intermediatory process.

At the outset of the civil war in Somalia in the early 1990s, the world had to deal with the peculiarities of a collapsed State (Hussein 2002:172).[13] It was recognised that any conflict-management intervention would have to take into account the socio-cultural mapping of Somalia, which involves the recognition and participation of the diverse clans, sub-clans and groupings. This would determine whether a process would provide a sustainable and positive peace outcome (Laremont 2002:172–173).

This study has sought to explore the Kenyan mediation in the Somali conflict, which recognised and utilised diverse clans, sub-clans and groupings in the peace process. It has also critically looked at the challenges associated with this role of enabling many varied actors to participate in the reconciliation process.

The role of the Kenyan track-one mediation, post-conflict reconstruction, and the transitional ordering processes pertaining to the Somali situation are the foci of this

[13] Adam asserts that around January 1991 and during the ensuing months, Somalia experienced a cataclysmic event, virtually unforeseen since the Second World War. Somalia witnessed complete State collapse: it was not simply a military coup or a revolution. Somalia's collapsed State represented the literal implosion of state structures and of residual forms of authority and legitimacy.

study. Kenyan track-one-enabling activities and post-conflict reconstruction/ stabilization processes in Somalia are, therefore, to be analysed in this study.

Having provided a solid background of the conflict dynamics, the actors and their interests, it is essential to take a critical look at why different track-one interventions have failed in managing the Somalian conflict, and why Kenya entered the process as the main intermediary actor. It is in this context that the background of the problem will be further developed.

1.3 Background to the problem

There have been numerous attempts to consolidate and realise peace in Somalia, most notably by inter-governmental organisations and States. Such efforts have been largely futile. When a chaotic political situation evolved after the ousting of the Siad Barre regime in Somalia in 1991, and the humanitarian catastrophe began to unfold as a result, the world community had to react to the new phenomenon of a 'collapsed or failed State'. A multinational force, the United Task Force (UNITAF), and later the UN Operation in Somalia (UNOSOM), spearheaded by the USA under UN authorisation, launched "Operation Restore Hope" (Laremont 2002:179).[14] Despite the initial success in providing protection to the humanitarian transports that ostensibly avoided further starvation (UN 1996: 214),[15] UNITAF/UNOSOM failed with regard to security stability and political settlement in Somalia.

In fact, the Somalia experience was so disastrous that it precipitated the re-evaluation of the 'interventionist' policy. The West, and other big powers for that matter, adopted a policy of disengagement in Africa (Clarke & Herbst 1997:207–208).[16]

[14] It should be noted that Security Council resolution 794 of 3rd December 1992 authorized the United States to lead a United Task Force (UNITAF) code named Operation Restore Hope under Chapter VII of the U.N. Charter.

[15] Security Council Resolution 794, December 1992 gave UNITAF the right, "to use all necessary means to establish as soon as possible a secure environment for humanitarian relief operations".

[16] An ominous shadow was cast on Somalia, when the Clinton Staff and the Commander-in-Chief in May 1994 issued Presidential Decision Directive 25 (PDD25). This superpower had to "wisely retreat from the overly sanguine expectations held by the administration when it began its term". Rwanda was the first real test of the policy. One Foreign Service officer stated that "it was almost as if the Hutus had read it". The new restrictive guidelines made it possible for the U.S. not only to remain on the sidelines, but also to prevent others from getting involved in cases like Somalia and Rwanda.

Precipitated by deadlocks in the Democratic Republic of Congo (DRC), and Angola for example, the UN Security Council initiated – and has been initiating – debate on the use of regional approaches in managing conflicts. It is within the regional track-one approaches that legal and strategic difficulties hinder effective conflict management. Non-interference in internal affairs still continues to be the most adhered-to principle; and as far as the then Organization of African Unity (OAU) was concerned, constitutes a legal hindrance in addressing intrastate conflicts.

Accordingly, the then OAU never took the initiative to intervene in an internal crisis of an African country. The most it has done so far is to diplomatically support multinational intervention undertaken by sub-regional organisations, such as in Liberia and Cote d'Ivoire (Conciliation Resources 2008)[17] by the Economic Community of West African States (ECOWAS) Ceasefire Monitoring Group (ECOMOG), in Lesotho by the Southern Africa Development Co-operation (SADC) and in the Sudan and Somalia by IGAD (Mazrui 1997:9–10). The current presence of African troops – courtesy of the African Mission in Somalia (AMISOM) – is a contemporary positive input by the African Union (AU), albeit with strategic and operational challenges. Another contemporary case pertains to the Hybrid United Nations-African Union Mission in Darfur (UNAMID). It also faced the same challenges cutting across strategic and operational orientations of initial African Union engagement capabilities.

Within sub-regional approaches, entities like the IGAD have been seriously and negatively affected in their conflict-management endeavours by conflicts among member States. The uneasiness and even confrontational relationship that Uganda, Eritrea and Ethiopia entertained with the Sudanese government paralysed past IGAD initiatives in that particular conflict (Deng 2002:82). The conflict between Eritrea and Ethiopia exacerbated the sub-regional political situation that led to a more hostile active engagement of the sub-regional organisation IGAD.

[17] See Conciliation Resources 2008. *International interventions in Cote d' Ivoire: in search of a point of leverage*. In.http://www.c-r.org/our-work/accord/incentives/cote-d-ivoire.php as accessed [18 August 2009]

With regard to Somalia, IGAD member states have been divided over its mediation. Ethiopia, Djibouti and even Egypt, although the latter is not a member of either IGAD or the Technical Committee, sporadically operated behind the scenes within the Somali National Reconciliation Conference (SNRC) and worked at cross-purposes, backing their respective proxies, rather than seeking a way forward (ICG 2002a: 6). Apart from the political aspects, sub-regional organisations have also acted on an unclearly defined legal basis, in particular when it comes to attempts at managing intrastate conflicts. The IGAD has also reaffirmed the principle of non-interference in the internal affairs of member States.

Track-one approaches by individual States in intermediary roles have been taken up pursuant to soft power, particularly by small States, which are able to achieve the desired outcomes through attraction and appeal to conflict protagonists and other actors (Ottaway 1991:69–81). To some extent, the Kenyan mediation in the Somali conflict, though within a complex, protracted process, had the intention of legitimising its power in the perception of others. Such mediation effected leeway for others to define their interests in compatible ways. In its [Kenya's] mediation interventions in the Somali conflict, Kenya has not expended as much as the other track-one diplomacy entities when it comes economic costs and even military resources, which are used and over-utilised by mediatory strong States that apply hard power.

At this stage, it is important to point out that the contemporary development of the utilisation of Kenya's hard-power resources from 2011 to date – 2012 – is connected to Kenya Defence Forces KDF' official integration process into the African Union peace-keeping Mission in Somalia – AMISOM through UN Security Council resolution 2036. Kenya has, however, largely and principally relied on soft-power capabilities with the diplomacy of conflict management or peace diplomacy being a major strategy in its policies.

This has been exemplified by Kenya in past and continuing mediation roles, namely, in the delivery of the Sudan Comprehensive Peace Agreement (CPA) and also in the

Nairobi peace process that brought Museveni[18] and his movement to power in Uganda. Such intermediary roles by small States have ameliorated the difficulties encountered by sub-regional organisations. How they do it is the main concern of this study – both in the mediation process and in the post-mediation process of peace building and transitional ordering.

1.3.1 Problem statement

This study will investigate the mediation environment within which track-one diplomatic initiatives are implemented. This study seeks to describe the enabling role of track-one diplomacy in recognising and collaboratively supporting other multi-track initiatives for a sustainable mediatory effort.

The role of the small State as a mediator is investigated with regard to the problems of, and the need for recognition of such States' soft-power capability to achieve the desired outcomes. The appeal of soft power, as utilised by small States, and its attraction to conflicting parties and their constituencies will be investigated. This is also in recognition of the legitimacy of the soft-power status of the mediator and the difficulty in using this kind of power directly without the participation of civil society and other non–governmental entities.

It is in the light of the failed peace and reconciliation processes in the protracted Somali conflict that the 14th and most successful mediation attempt elicited great attention. This 14th attempt started in 2002, and was concluded in 2004, with the creation of the transitional federal institutions in Somalia. This process was largely executed by Kenya, a track-one entity whose capabilities cannot rival international organisations such as the UN or strong States. The only leverage that Kenya utilised and still has is soft power. Therefore, the main question that elicited the researcher's attention was: "What and how did track-one diplomacy, as practised by Kenya, provide for the conflict management and transitional ordering of the Somali conflict? And how was this soft power utilised?"

[18] President Yoweri Kaguta Museveni was at this time at the pinnacle of the liberation struggle for Uganda, and was then a major protagonist and leading actor in the peace process that was mediated by Kenya in the late 1980s. He came to power through a negotiated settlement, and after a stalemate.

The study, therefore, entails an analysis of the Kenyan-led Somali peace process from 2002 to 2004. In addition, it looks at Kenya's engagement after 2004 to 2012, and at those strategic intervention avenues it can adopt and follow in addressing the on-going Somali process. The purpose of this study is to, therefore, investigate the role that Kenya played and continues to play as a track-one entity in the mediation of the Somali conflict – as well as the possible diplomatic, peace-building and stabilisation engagement roles it could employ in the post-settlement period.

1.3.2 Aims and objectives

The broad objective was to establish the role and effects of track-one diplomacy on conflict management and post-conflict reconstruction. The specific objectives were the following:

- To investigate the role of track-one diplomacy, as practised by Kenya in the mediation process of the protracted Somali conflict;
- To examine the relationship of track-one diplomacy to track-two diplomacy in the mediation and peace-building process;
- To examine the role of track-one diplomacy, as practised by Kenya in providing opportunities for multi-stakeholder activities in the mediation and peace-building process or development diplomacy;
- To investigate the role of Kenya, as a small State, in the mediation of the Somali conflict and the effects of its soft power in conflict management and transitional ordering or stabilization processes;
- To critically investigate strategic intervention avenues that Kenya's diplomacy could adopt in addressing the Somali conflict;
- To critically examine conflict management and peace building through the utilization of regional arms control and disarmament diplomacy by Kenya.

1.3.3 Research Questions

Research questions are important to the research process in that, apart from providing the research focus, they guide the search and review of literature, the conceptual and

theoretical framework, the choice of research methods and the data-analysis instruments, as well as the structure and presentation of the research findings (Bryman 2001). As Yin (1994:20-21) indicates, questions, such as "Who, What, Where, How and Why" provide important clues regarding the most relevant research strategy to be used.

The study, therefore, utilised different research questions that sought to address the different concerns within the research topic. These are tentative questions that were equally subjected to the research findings of the study. These were as follows:

To what extent did the utilisation of soft-power capabilities by Kenya, as a track-one diplomacy entity, influence the mediation of the Somali conflict?

To what extent did the Kenyan-led mediation, emphasising the diplomacy of human rights, lead to transitional ordering or stabilization and support sustainable peace in Somalia?

To what extent did Kenya's recognition of the Somali constituency and internal actors lead to the success of track-one diplomatic mediation processes, and to transitional ordering in the post-settlement period in Somalia?

How does track-one leadership facilitate effective conflict and development management in protracted conflicts?

To what extent has Kenya's diplomacy adopted and utilized other strategic intervention avenues to address the continued protracted Somali conflict?

To what extent has Kenya utilized regional arms control and disarmament diplomacy as a conflict management and peace-building avenue?

1.3.4 Study Motivation

Cox (1981: 128) noted that "knowledge is always for someone and for some purpose." Generally, this study is considered significant, since it was conducted

during the post-Cold War period, when most parts of the Third World, particularly Africa, were afflicted by numerous protracted, devastating and regional conflicts. Of importance is the fact that the Somali conflict has been one of the most protracted conflicts in the world, and has been characterised by cycles of escalation. Countless mediation and intermediary efforts by the international community, regional and sub-regional actors and super powers or strong States have failed to resolve the Somali debacle.

The conflict itself has not left room for an expedited and successful mediation process, owing to the internal political and security dynamics, as well as the lack of a well-defined State structure in Somalia. This study has focused on the role of track-one diplomacy in the mediation processes of such a protracted conflict – to provide critical insights into the intermediary role of an official approach and its relationship to, and effects on, multi-track approaches to sustainable peace.

Intergovernmental organisations, especially the UN, regional and sub-regional organisations, and also strong States and small States should find the results of this study of major interest in their endeavours to provide better mediation assistance to constituents of a protracted conflict zone; and it could possibly establish guidelines for diplomacy of conflict management-oriented approaches to sustainable peace.

Little has been researched on the role of small States, especially on their soft-power capabilities within the diplomacy of conflict management, and as effective and legitimate intermediaries. Little has also been researched on the enabling efforts provided to track-two diplomacy by effective track-one diplomacy – and vice versa, which recognises the importance of the intermediary roles of the two tracks and their symbiotic nature.

1.3.5. Significance of the Study

The study has also been conducted within the established political reality that the Security Council's peace-making and peace-keeping efforts in the continent have drastically dwindled. The international community and the United Nations have shifted the responsibility of maintaining regional peace and security to the different

regional organisations. As Archaya (1994: 79) correctly observed: "The end of the Cold War has brought about fundamental shifts in global and regional alignments, calling for new approaches to peace and security."

The reluctance by the international community has sharpened African leaders' resolve to take the responsibility of peace-making, peace-keeping and security in the continent by strengthening regional organisations' security mechanisms – to conduct preventive diplomacy and peace-keeping missions. The continued roles of the Intergovernmental Authority on Development (IGAD), continued track-one support by mediating states, like Kenya, have subsequently taken place in response to the above-stated dynamics in international politics and governance.

Therefore, the study's findings will be of significance to the following:

- The Kenyan diplomatic and foreign-policy establishment through a critical analysis of the strategic variables and realities to be taken into account in any mediation-engagement exercises of protracted conflicts. This is essential in the foreign-policy pillar of the diplomacy of conflict management or peace diplomacy.
- The Kenyan defence and security-policy establishments – through the critical analysis and policy architecture realities of recognizing the role of soft-power diplomacy in enhancing regional security and peace, and by extension, the country's own national security.
- African regional organisations, particularly the Intergovernmental Authority on Development (IGAD), by providing strategies and mechanisms of conflict prevention, management and resolution within a track-one diplomacy/capability framework.
- Regional organisations, policy-makers and planners, peace and conflict resolution practitioners and preventive diplomacy-institutional and security administrators through information on the strategies and measures for the effective prevention, management and resolution of conflicts.
- The African Union Mission in Somalia (AMISOM) political and security establishments in peace-support operations, as this would establish where they might be going wrong, the missed opportunities, and to provide

recommendations on what they should be doing in view of the Somali mission.

- Civil society organisations on what role they should play along track-one mediating states, and regional organisations in conflict prevention, management, resolution, post-conflict reconstruction and development.
- Academics and peace practitioners, as this would provoke further (future) research on the roles of track-one diplomacy in conflict management and peacebuilding.
- Finally, it is hoped the study will augment available research and information bases on African led track-one conflict management efforts and intricacies, particularly in the Somali case study and the Horn-of-Africa conflict system. The existence of a gap in the academic literature on African track-one diplomacy, and peacebuilding-stabilization initiatives does exist, and it is envisaged that this study should contribute some insights and close some of the informational gaps existing in the available literature.

1.3.6 Limitations of the Study

Every research study has its limitations, which may affect the original plan and method of data collection, analysis and presentation. The following are some of the limitations (constraints) of this study:

Firstly, as a case study through the qualitative paradigm, its findings may not be generalised and/or applicable to all track-one mediation interventions in Africa, as each diplomatic, conflict-management and peace-building effort has its own unique environment, peculiarities, complexities regarding issues of conflict, and their resolution. Neither can the Kenyan mediation and continued engagement in the Somalia case study be regarded as representative of conflict interventions, as each conflict context has its unique requirements and challenges which dictate diplomatic, peace-building, strategic and conflict-management outcomes.

As Bradshaw (2007: 23) observes “outside of a laboratory situation, and without pre- and and post-test opportunities, it is always difficult to know whether outcomes are

the results of specific interventions, or whether they are the result of extraneous factors in the broader environment."

Secondly, the Somali situation is ever-changing, and the contemporary political developments and challenges connected to it, and systemically [as defined by the international system and events] have a bearing on any intervention exercise. This study does recognise and take this into consideration, and has attempted, as far as possible, to provide a necessary thread that links the current challenges, engagement dynamics and diplomatic processes within the experiences, as are faced by Kenya.

Thirdly, the record of track-one diplomacy engagement by small States and Africa, for that matter, on Somalia is a relatively recent one; and therefore, the empirical basis for an elaborate assessment may be somewhat constrained.

Finally, the data were collected through interviews and document studies, and as such the findings may not be absolutely representative of the different diplomatic processes pertaining to Somalia and conducted by different actors, since it has actually limited its scope to the Kenyan engagement.

1.4 Structure of the Study

The study is divided into nine chapters. Each chapter is organised in terms of sequential and relevant topics and sub-headings.

Chapter One provides a general introduction to the study. It situates Somalia in its political, social and security-conflict space and complexes. Other important components of this chapter include: a critical review of the background to the problem, an evaluation of the problem statement, a review of the aims and objectives of the study, the research questions to be explored, the study motivation, the significance of the study, the limitations of the study, and an evaluation of the structure of the study.

Chapter Two critically discusses the discourse on conflict, third-party intervention and peace building. It opens out the debate by engaging in the discourse on conflicts

or wars of a third kind. It also investigates the essence of small-State utilization of soft power in track-one diplomatic activities, and in reality to conflicts of a third kind. Finally, it situates the general debate within the constructs of conflict management, development and peace building. This chapter also explores the meanings of the different terms used in the study.

Chapter Three critically discusses the theoretical framework applied in the study. This research consolidates a theoretical framework and tests the same within the growing fields of peace and conflict research, on one hand, and peace building and development, on the other hand. The study is also based on a critical analysis of conflict management from a track-one diplomacy and peace-building perspective. It, therefore, borders the specific area of interventions aimed at post-war economies. This chapter, therefore, investigates the theoretical framework that would address and embrace the different tasks and roles of intermediaries involved in such interventions. The intermediary roles and co-operation theory, and its development, are considered in this section.

Chapter Four serves as the background to the Somali conflict and its progression. It looks at the pre-colonial and colonial status of Somalia; it looks at the relics of early political and social cultural set-ups in Somalia; it scans the early development and economic determinism of Somalia; and it seeks to untangle the conflict, the Somali social matrix and the early stages of State collapse. The chapter also critically analyzes the politics and conflict in post-colonial Somalia. It also discusses the inception of the collapsed-State phenomenon, as well as its politics and mode of operation. Early international initiatives to remedy the Somali conflict and their effect are also discussed in this chapter.

Chapter Five investigates the dynamics, politics and practice of track-one diplomacy. It looks at track-one diplomacy, as practised by global institutions, and as espoused by strong States. The chapter also teases out the practice of track-one diplomacy with regard to conflict management by the United Nations and the associated problems or dilemmas. It evaluates African regional track-one diplomatic efforts and failures, and it also discusses sub-regional peace diplomacy efforts and their politics. Other peace process attempts pertaining to the Somali conflict are also discussed, since these also

cut across: the European-Union attempts; the Djibouti deliberations of June/July 1991; the Addis Ababa national reconciliation process of 1993; the Sodere conference of 1996/97; the Cairo conference of 1997, and the Arta peace process of 2000. It finally looks at the lessons learnt from the different elusive track-one initiatives.

Chapter Six provides a framework of Kenya's entry and engagement in the Somali conflict. The themes covered cut across: situating Kenya's good offices, an evaluation of Kenya's foreign policy and security concerns pertaining to the Somali state of affairs and regional dynamics, a critical analysis of Kenya's status as a heterogeneous third party; and an evaluation of the Kenyan facilitated Declaration of Cessation of Hostilities of 27 October 2002. Finally, the chapter teases out the intricacies of the Transitional National Charter, which is important in this part, and which situates the debate. The very nature of the Transitional Federal Government is also discussed here.

Chapter seven explores the research design and methodology applied. It looks at the qualitative research application of the study. It also evaluates the case-study approach that was adopted, the sampling procedure and measuring instrument utilised. Other components of the chapter are: the data collection and analysis, the data-collection procedures, an evaluation of the utilisation of documents, the data-analysis techniques utilised, the delimitations or scope of the study, the assumptions, ethical considerations, the essence of informed consent, confidentiality and privacy concerns and principles, and the research focus period or timetable of the study.

Chapter Eight provides a discussion and analysis of the research findings. It provides a synthesis of the responses and views from track-one diplomatic actors and other players engaged in Somalia's peace process. The first phase of the chapter discusses and analyzes the responses of actors engaged in Kenya's initial engagement with the Somali conflict in its peace diplomacy with official processes kickstarting in 2002, and proceeding to 2004, with the establishment of a government for Somalia. The second phase of the chapter critically investigates and analyses Kenya's diplomatic continuum and strategic engagement alternatives in the post-2004 period, and up to 2012.

This later phase, therefore, looks into the strategic avenues opened up by conflict management through the utilization of arms control and disarmament diplomacy. Important themes covered in the chapter cuts across the following issues: a critical look at aspects that enhance and provide substance to diplomacy, like the utilisation of human rights and arms-control management, and the role of regional arms control regimes and disarmament diplomacy in arresting the arms flow into Somalia.

Chapter Nine provides a summary, the conclusion, and recommendations of the study, as well as an analysis of future strategic avenues or scenarios for Kenyan engagement in the Somali situation. This chapter takes into account the past and present missed opportunities and weaknesses in Kenya's peace-diplomacy efforts. Current developments, which have a heavy underlying future effect on Kenya's and other actor's projections of providing a positive peace pertaining to the Somali polity and stabilization are critically discussed here. Of interest are the post 2011/2012 stabilization efforts courtesy of an expanded and multi-nationally rehatted AMISOM and the renewed international commmunity re-engagement and interest in ordering Somalia. It is also based on the lessons learnt, the shortcomings in Kenya's peace diplomacy, and the contemporary developments of Kenya's future strategic role in Somali's peace and stabilization efforts are teased out in this chapter. This will conclusively provide both conceptual and policy recomendations for any future engagement and post-conflict stabilization efforts pertaining to Somalia.

1.5. Conclusion

This chapter has sought to situate the debate and the thesis of the research from a general state of affairs. It has attempted to thin it down to the specific objectives of the study. The next chapter looks critically at the changing nature of conflict, especially after the end of the cold war, the processes of mediation, and how they address 'new conflicts or conflicts of a third kind', and the role of track-one diplomacy, and soft-power efforts, as practised by small States to address these 'new wars or conflicts'. The chapter will, therefore, set the stage for the other chapters in terms of understanding and incorporating the important lenses of contemporary conflict, third-party intervention debates and peace building.

Chapter 2

PROTRACTED CONFLICT, THIRD-PARTY INTERVENTION AND PEACE BUILDING

2.1 Introduction

The exploration of theories and phenomena in this study and chapter is to provide frameworks, perspectives and insights into the dynamics of protracted conflict, the underlying factors that trigger, fuel and sustain conflicts in their different settings and manifestations, and to also critically analyse third-party intervention strategies as they are applied to manage conflicts. In this case, the conflict in focus is Somalia, and one that is understood as a '*conflict or war of a third kind*'.

In the case of Somalia, it is essential to understand the nature of the "protracted conflict", its complexities and dynamics. This also has a bearing on the kind of conflict-management strategies to be adopted. Towards this end, this chapter will look at the changing nature of conflict, especially after the end of the cold war, the processes of mediation, and how they address 'new conflicts or conflicts of a third kind' and the role of track-one diplomacy and soft power, as practised by small States to address these 'new wars or conflicts'. The chapter will, therefore, set the stage for the other chapters in terms of understanding and incorporating important lenses of contemporary conflict debates, third-party intervention debates and peace building.

This chapter is divided into five sections. Section 1 will comprise a brief unpacking of the principal concepts and the terms that are applied in this research, and also in this chapter. This first section is an important exercise, since it will provide a working picture of the different terminology applied and adopted from the fields of conflict management, development and international relations. Section 2 seeks to further examine the nature of the phenomenon of conflict, especially with regard to its changing form and manifestation, particularly after the end of the Cold War.

This concerns what Mary Kaldor (2007:7–11)[19] refers to as "new wars" or "wars of a third kind". The manifestation of wars of a third kind has a direct impact also on the strategies to be applied in conflict management, and especially as regards mediation. Section 3 deals with the process of mediation and how it is conducted, especially with reference to conflicts of the third kind, as will be explained later in this study. Section 4 looks at track-one diplomacy, especially as conducted by small States. This part deals with the soft-power capability on which States rely and have exercised. The concept of hard power will also be discussed in this section. Section 5 attempts to sew or connect all previous sections and related concepts through a review of the conflict management, peace building and development debates. This section addresses the role of track-one diplomacy and the avenues it requires to streamline conflict management, peace-building, development and transitional order in protracted social conflicts.

In answering the dissertation's theoretical and research questions, it is first necessary to explain the meanings of the different terms to be used in the study. It is therefore necessary to have a good idea of the conceptual meanings and orientation of these terms.

2.2 Section 1: Unpacking principal concepts and terms used in the study

This study is in the field of conflict management, the understanding of conflict and diplomatic interventions. It also has a multi-disciplinary orientation and utilises certain concepts and terms that have their grounding in the fields of international relations and diplomacy, development and conflict management. Duryea (1992: 30) comments: "The first task of the researcher is to clarify operational definitions of terms and concepts". Conceptual and operational definitions bring clarity to the discussion that allows scholars to debate the advantages and disadvantages of different perspectives. Every discipline has it own terminology. The different principal terms utilised in the study are, therefore, exhaustively discussed below.

2.2.1 Conflict

Before discussing what 'protracted conflicts' are, it is important to first have an understanding of the 'conflict' phenomenon itself. The word " conflict" is derived from the Latin word "*confligere*" which means: "to strike together" (Wright 1951:16 ; Tillet 1991: 3, as cited in Petronio 2007: 29). It is also important to note that in societal setting, the epistemology of conflict is understood more specifically from an actor's point of view. For example, professionals in the legal fields and those who have an adversarial stance view conflicts as disputes, technical arguments and dissension. In the corporate and trade-setting, conflict is perceived as a contestation of product values, a competition and assertion of comparative advantages. In a general setting, conflicts could also be perceived as frictions, the resort to war, strife and contestation.

The term 'conflict' has therefore been used in various ways, and has been traditionally characterised "by competition for resources, value differences and adversarial relationships" (Deutsch, in Jeong 1999: 12). Conflict can be defined as a difference in preferred outcomes in a bargaining situation. Mitchell (1981:15) defined it as a situation in which two or more human beings desire goals that they perceive as being obtainable by one or the other, but not by both. This compact definition can be expanded and clarified by saying that there must be at least two parties; each party is mobilising energy to obtain a goal, a desired object or situation; and each party perceives the other as a barrier or threat to the attainment of that goal.

Most scholars propose the idea that a conflictual relationship emerges as parties pursue different goals and engage in adversarial tactics, and as they struggle to acquire resources or positions for the satisfaction of their needs. Thus, whether it involves either interpersonal or intergroup relations, the term 'conflict' denotes an incompatibility of goals between parties (Anstey 1991; Dougherty & Pfaltzgraff 1990; Kriesberg 1982).

In a "struggle over values and claims to scarce status, power and resources" the aim of the opponents is to "neutralise, injure or eliminate their rivals" (Coser 1956: 8). This widely used definition of conflict focuses on the idea of scarcity (values, status, and

power) as the cause of conflict, and it also emphasises conflict's manifestations: ‘struggle’ implies tactics, such as aggression, coercion and violence.

Another widely cited definition states that "conflict means perceived divergence of interest, a belief that the parties' current aspirations are incompatible" (Pruitt & Kim 2004: 8). The emphasis in this definition is on perception and belief. For latent conflict to become manifest the divergence of interests, motives and attitudes has to be perceived by the individuals concerned. Neither the occurrence nor the outcome of conflict is completely and rigidly determined by the objective circumstances (Deutsch 1969, 1973, 2000). Conflicts exist psychologically for the parties involved, and this does not always mean that perceptions are verifiable, or that actual incompatibilities are perceived. Whenever people are involved in relationships, they are interpreting and attributing meanings to events. They do this as individuals and as members of groups. These meanings are used to direct decisions about behaviours. The psychological processes of perceiving and evaluating are involved in turning objective conditions into experienced conflict. Psychological processes can cause conflict to take a destructive course – even under the most favourable, objective circumstances (Deutsch 2000).

There has been much controversy concerning whether ‘external' or objective factors, such as scarce resources and poverty are the primary causes of conflict, or whether cognitive or ‘subjective’ factors are the main causes. Scholars agree that both factors play an important role in most conflicts; and in each case the relative importance of each factor may vary. The separation of the ‘external’ and cognitive factors is an artificial distinction. External factors and the meanings attributed to external factors, and to the ‘self’ in relation to them, interact in a dynamic way in the process of most conflicts (Northrup 1989:60, cited in Snodgrass 2005: 19-38).

In essence, therefore, a number of versions for the definition of conflict abound, and there is no one definition where all practitioners converge and agree to its adequacy (Bradshaw 2007). In order to adequately address such a complex concept as conflict, Bradshaw (2007) suggests that a number of definitions help to capture the extent of diversity in this field.

Following this line of thought, for example, Vecchio (1995, cited by Lourens, 2002: 4) defined conflict as a process that emanates when one person or a group of people perceive that another person or group is frustrating or about to frustrate an issue they consider to be important.

Sullivan (2003:11) suggests that conflict is a struggle between different groups in society to gain control of, and have access to scarce societal resources that are considered valuable. Harper (1995: 6) defines conflict as the result of a process whereby the "haves" have striven, often successfully, to enhance their favoured position in society at the expense of the "have-nots". Burton (1988), defines conflict as a relationship in which each party perceives the other's goals, values, interests or behaviour as being antithetical to its own.

Webne-Behrman (1998) defined conflict as a disagreement through which the parties involved perceive a threat to their needs, interests or concerns. Almost similar to Vecchio's definition, Robbins (1998) defined conflict as the process beginning with the perception by one party that another party has negatively affected, or is about to negatively affect, something that the first party cares about. He further postulates that the parties to the conflict should perceive the conflict involved, and that whether or not conflict exists, is a matter of perception. This concurs with Stuart, Klein and Ritti (1984) whose views are corroborated by Bradshaw (2007), who in support of Galtung and Mitchell, stated that conflict is characterised by situations, attitudes, perceptions and behaviour.

An additional lens of what conflict entails is presented by Mitchell's triadic conflict analogy. Mitchell (1981) asserts that all conflicts present three dimensional characters of interconnected components, which transcend the common understanding of the concept of '*conflict*' as mere violent behaviour between two or more parties. The triadic conflict structure argues that "efforts to analyse disputes must take into account the existence of [the following] three components: A conflict situation, conflict behaviour, and conflict attitudes and perceptions" (Mitchell 1981: 16-17).

In this approach, conflicts erupt from a situation of perceived goal incompatibility between two or more parties in a given society. Put differently, when parties

consciously desire and pursue goals that are mutually incompatible, and therefore can only be achieved at the expenses of one or the other, we are in the presence of a conflict situation.

Goal incompatibility itself results from the 'mismatch between social values and social structures' (Mitchell 1981: 18), whereby certain goods are deemed more desirable than others by the value system, thus creating a situation of scarcity and competition over their appropriation. Mitchell (1981: 22-23) went on to distinguish between positive or assertive goals (desiring a specific outcome or objective) from negative goals (the avoidance of undesirable future states or outcomes). According to him, conflicts involving negative goals from all sides offer more alternative future states or situations that could be mutually accepted as compromises by all the parties.

The second important component in Mitchell's typology is 'conflict attitudes' or "those psychological states or conditions that accompany (and frequently exacerbate) both conflict situations and resultant conflict behaviours" (Mitchell 1981: 25). He adopts an instrumental approach to the question of the role of psychological considerations in conflict. In his view, psychological factors do not constitute the prime cause of conflicts, as claimed by some scholars; instead they are only emotional orientations and perceptions that result from one's involvement in a conflict situation. However, they may cause the exacerbation of the conflict situation and its later escalation.

Similarly, conflict behaviour also results from the initial situation of conflict (goal incompatibility). Parties will, therefore, attempt to pursue their own agenda, while trying to make their adversaries abandon or modify their goals through various actions (in the broader sense, including actions on oneself or inaction, as long as it is aimed at influencing the behaviour of the other parties).

The arguments around the definition and causes of conflict indicate that conflict is multi-faceted and multi-layered. According to Northrup (1989: 54-55), it can be viewed as a "psychological process". The intrapersonal processes of the individuals involved in the conflict interact with the social processes that occur in the course of the conflict. In addition, the social and psychological processes are affected by the

greater social, cultural and historical context of the conflict. The climate of any organization has an impact on the conflict, as do the characteristics of the culture, the socio-economic, ethnic or race group of the parties, as well as the nation and the world in which they live.

John Burton (1988b: 17), one of the leading scholars in the field of conflict resolution has asserted that the analysis of conflict requires the study of the totality of human relationships, for it is human motivation and values that are involved. These motivations and values are conditioned holistically by the environment – economic, political, social and ecological – in which these relationships occur.

It is in the Somali conflict that the operationalization of conflict is seen as that of a protracted nature. Parties are involved in mobilising energy to obtain different goals; these parties in Somalia are different warlords, factions and entities, whose desired object is advocated – not only through overt violence – but also through a balkanised scramble for influence and gained advantages. Different actor motivations and interests have a bearing on the Somali conflict, and also have a direct relevance to any conflict management taken up to remedy the situation.

Understanding the conflict from a multi-layered and multi-faceted perspective goes a long way in providing sustainable peace-making efforts, as will be discussed in later chapters. Opening out the phenomenon of conflict, Burton (1990) made a salient distinction between conflict and disputes – arguing that whereas disputes are endemic in all social relationships and a normal feature of often-collaborative interactive networks – conflicts constitute a deeper phenomenon, and are rooted in the frustration of basic human needs. He further argues that disputes are open to negotiation and settlement through compromise and arbitration; but in conflicts, tensions cannot be dealt with in the same manner, as they frequently centre on threats to fundamental human needs, which are neither open to compromise, nor to bargaining.

In this case, resolution requires major environmental and policy restructuring to facilitate transformative relations. Galtung (1996) advocated the restructuring of social structures that deprive parties of fundamental human needs and perpetuate structural conflict or violence. He is concerned about structures that allow other

sections of the society to be denied their rights through an oppressive system itself. Consistent with Galtung, Lederach (1997) proposed a conceptual framework with comprehensive approaches to the transformation of conflict that addresses structural issues, social dynamics of relationship-building and the development of a supportive infrastructure for peace (Lederach 1997: 21). In such a case, one of the most effective conflict-resolution strategies is to overhaul the structures and improve on the relationships.

Having these epistemologies of conflict in focus, it becomes apparent that most scholars working in the field of conflict and its management present a set of various conflict types, characterised by certain distinguishing characteristics. There is considerable variation and disagreement among these scholars concerning how to categorise the various conflict types (Bradshaw 2007: 52). As Miall, Ramsbotham and Woodhouse assert: "There are as many typologies as there are analysts, and the criteria employed not only vary, but are often mutually incompatible" (1999: 29).

Dennis Sandole (2003), for example, has worked extensively on the development of a schema to capture the complexity of conflict. He asserts that accurate classification is important, as a failure to capture the complexity of conflict, "…well-intentioned but nevertheless one-dimensional, simplistic efforts to do something about them may only make matters worse" (Sandole 2003: 52).

2.2.2 Protracted or Intractable Conflict

The above schema of conflict opens out the intractable conflict or protracted conflict manifestation and argument. The conflict-resolution school of thought focuses on a series of long-standing conflicts around the world, that have proved to be resistant to resolution by traditional or conventional approaches over a long period of time. Perennial examples of such conflicts, often cited in the literature, are the Somali conflict, the Israeli-Palestinian conflict, Sri-Lanka, Northern Ireland, and South Africa, among others.

Edward Azar (1990: 2-12) provided the best description of such conflicts, which he has called "protracted social conflict". The term denotes hostile interactions between

the communal groups that are based on deep-seated racial, ethnic, religious and cultural hatreds, and that persist over long periods of time with sporadic outbreaks of violence (Azar 1990:2–12). These conflicts are also sometimes called ‘internal wars’ (as they are not typically conflicts between States) or otherwise ‘contemporary conflicts’ that display the following characteristics: They have a strong communal element; they display an element of human-needs frustration, in which human needs are not ‘evenly or justly’ met; they entail ‘distorted’ modes of governance, in which the authorities serve the interests of dominant communal groups; and finally, they develop international ramifications, associated with economic dependence and political and military client relationships with foreign countries (Azar 1983:81–99).

Bar-Tal (2007: 1432) discussed the phenomenon of intractable conflicts. He maintains that conflicts between societies or nations, which erupt when their goals, intentions, and/or actions are perceived as mutually incompatible, cannot be viewed as a unitary phenomenon. There are different types of conflicts, which are classified in different ways; and one of the more meaningful classifications focuses on their security and longevity. This type of long-lasting, severe conflict has serious implications for the involved societies and the world community; therefore, understanding its dynamics is a special challenge for social scientists (Coleman 2003: 1-37; and Kriesberg 1999: 332-342).

There are characteristics of these severe conflicts on the basis of Kriesberg’s work. Kriesberg (1993: 417-421; 1998: 332-342) suggested elaborated criteria for classifying conflicts on the intractable-tractable continuum. Kriesberg (1998), as cited in Bar-Tal (2007: 1432-1433) suggested certain necessary features that would characterize intractable conflicts. The first aspect is that intractable conflicts persist for a long time, at least a generation, meaning that at least one generation did not know any other reality. Their long duration implies that the parties in conflict have had many confrontation experiences; and as a result, they have accumulated animosity and hostility. The duration of intractable conflict forces society members to adapt their lives to face the ongoing stressful situation.

The second feature is that intractable conflicts involve physical violence, in which society members (soldiers and civilians) are killed and wounded in either wars, small-scale military engagements, or terrorist attacks. The consequences of physical violence, especially the loss of life, have an immense emotional impact on all society members. They perceive the violence as intentionally inflicted by the opposing party, as unjustified, sudden and untimely, and especially as violating the sanctity of life. The third characteristic is that members of society involved in intractable conflict do not perceive any possibility of resolving the conflict peacefully. Because neither side can win, both sides expect the conflict to continue and involve violent confrontations. They take all the necessary steps to prepare themselves for a long conflict, and this requires major adjustments on the part of the societies involved.

The fourth characteristic is that parties in an intractable conflict employ vast material (that is military, technology and economic) and psychological investments to cope successfully with the situation (Kriesberg 1993: 417-421; 1998:332-342).

In addition to the above four features proposed by Kriesberg, Bar-Tal (1998) proposed necessary characteristics that further elaborate on the nature of intractable conflicts. The first characteristic is that intractable conflicts are existential from the point of view of the participating parties. They are perceived as being about essential and basic goals, needs, and/or values that are regarded as being indispensable for the society's existence. In addition, they are often of a multi-faceted nature, involving various spheres, such as territory, self-determination, statehood, economy, religion or culture.

The second characteristic is that intractable conflicts are all-out conflicts, without compromises, and with steadfast adherence to all the original goals. Each side focuses only on its own needs and adheres to all the goals, perceiving them as essential for its survival; and therefore, neither side can consider compromise and/or make any concessions. In addition, parties engaged in intractable conflict perceive any loss suffered by either side as their own gain; and conversely, any gains of the other side as being their own losses.

The third characteristic is that intractable conflicts occupy a central place in the lives of the individual society members and the society as a whole. Members of the society are involved constantly and continuously with the conflict. This means that thoughts related to the conflict are easily accessible and are relevant to many decisions that society members make – for both personal and collective purposes. The centrality of the intractable conflict is further reflected in its high resilience on the public agenda. The media, leadership, and other societal institutions are greatly and continuously preoccupied with the intractable conflict (Bar-Tal 1998: 22-50). In the case of Somalia, these attributes of the conflict could be observed, and bearing in mind that the situation has received a lot of attention in the Horn of Africa, its politics, and also internationally.

Gray, Coleman and Putnam (2007: 1415) further argue that past approaches to the study of intractable conflict focus on a variety of variables that contribute to and sustain destructive social systems. They argue that although rich in case analyses, such extant literature often treats these variables in situ, and typically disassociated from each other. They examine the causes and conditions of intractable conflicts through exploring relationships among complex processes. They assert how the processes of institutionalization and de-institutionalization relate to intractable conflicts. Rather than being unregulated or unorganized, intractable conflict exhibits 'institutionalized' patterns of destructive behaviour that become entrenched, taken-for-granted, and resilient over time.

Therefore, studying the enduring and hard-to-change features of intractability and the mechanisms by which these patterns are reproduced may be a key to deciphering the interdependencies among complex elements. Through examining the regularized patterns that render intractable conflicts unresolvable, scholars might discover new approaches to dismantling intractable systems (Coleman et al. 2007: 1420).

Coleman et al. (2007: 1456) further note that, "Most protracted conflicts do not begin as intractable, escalation, hostile interactions. [But] sentiment, and time [may] change the quality of the conflict". Thus intractable conflict becomes institutionalized over time as the disputants' behaviours reflect repetitive, habitual patterns of actions that are reinforced by social consensus. Campbell also interrogates the concept of

intractability from the perspective of environmental disputes. Campbell also treats intractability as a complex construct. She argues that unlike other disputes that might revolve around a central issue (or issues) and have a smaller number of disputing parties, environmental and also public-policy conflicts typically involve multiple parties, have potential stakeholders, who are difficult to represent at the table, and are riddled with complex and highly technical issues that sometimes have significant spill-over effects (Campbell 2003: 367; Susskind and Ozawa 1983: 255-279).

These kinds of disputes can be very difficult to resolve, and as Glavovic et al. (1997: 269-292) and Dukes (1996), for example, suggested, they may bring greater responsibilities upon the mediator than those that attend to less-complicated disputes. The Somali case is a complicated conflict, with multi-faceted issues of concern, and proliferated interests. These pose a challenge to peacemakers seeking to manage the conflict.

Olson (2001) also addresses intractable protracted conflicts from the perspective of identity and interactive conflict resolution. Olson argues that approaches focusing on the resources or their interests of the parties could be appropriate methods of resolution in conflicts – where such resources and interests are the only issues at stake. However, conflicts raging today often contain issues of identity. These identity-based, ethno-political conflicts are often resistant to traditional resource-and-interest-based resolution methods. Olson, therefore, suggests a different approach, one that emphasises the needs, and in particular, the identities of the conflicting parties. Such a focus is essential in working towards resolution in many of the deeply rooted conflicts in today's world (Olson 2001: 289).

To this end, conflicts are indeed intractable, so long as we rely on outmoded means of analysis (for example State-centric) and methods of management (for example, power politics). The new emphasis on identity issues through interactive conflict resolution may have more ways that decrease the virulence of the 'new-class' of conflict the world has witnessed particularly in the last two decades (Olson 2001: 303).

Connected to the manifestation of intractable conflicts is the aspect of *violence*. As a major effect of most, if not all intractable conflicts, an investigation of the *somatic and psychosomatic manifestation of violence* can give a picture of the consequences of protracted conflicts. Violence, in its simplest form, has to do with injuring, or harming people. Variants on the violence theme include direct, structural, and cultural forms of violence (Snodgrass 2005: 19-38; King & Sall 2007: 98).

It should be noted that peace researchers are interested in the structural and institutional conditions for violence that cause so much conflict and suffering in society. Cook-Hoffman (2002: 41, cited in Snodgrass 2005: 19-38) notes that conflicts are still created by the 'age-old issues' of extreme poverty, socio-economic inequalities, human-rights violations and the exploitation of environmental resources. "In both the international and domestic arenas, people, system structures, and cultural values intertwine to create cultures of violence and cultures of peace".

In a large body of work, Galtung (1969, 1975-88, 1996) has distinguished three separate types of violence that are important to any discussion of conflict: direct, structural and cultural violence. When an actor intends violence to occur, for example killing, maiming, sieges and violent sanctions, then 'direct violence' is inferred. This kind of violence means actual or threatened physical or psychological injury to another person. It involves murder and physical abuse – whether they happen in war or in interpersonal situations (corporal punishment, domestic violence, child abuse).

Direct violence also involves various forms of verbal and psychological abuse. Direct violence works "fast and dramatically. It is personal, visible, manifest and non-structural" (Jeong 2000: 20). Jeong cites Galtung (1996), who said that it traumatises and damages the body, mind and spirit; and these residual effects remain over time (Snodgrass 2005: 19-38).

Structural violence is a situation where there is no actor that commits the violence. This instead comes from the girders of the social structure itself – forces at work between humans or societies or sets of societies. Structural violence involves processes. It is also referred to as indirect violence or institutionalised violence. Two major forms of structural, or indirect, violence are well-known from politics and

economics: repression and exploitation. This manifests as unequal power and resources, and consequently, unequal decision-making power and unequal life chances (Galtung 1996: 24-36).

This type of violence, therefore, refers to the destruction and conflict that results from unjust, repressive and oppressive social, political and economic structures in society. It should be noted that central to peace studies is the fact that violence can be direct and personal, but also systemic, due to the way in which political, economic, and social institutions are structured (Christie 1999:4, cited in Snodgrass 2005: 19-38).

Cultural violence refers to the justification for applying physical or structural, violence or another form of violence. This is, for example, through religion and ideology (nationalism, sexism), and language, art and even empirical science (Galtung 1990: 291). It produces hatred, fear and suspicion that lead to other types of violence (Jeong 2000: 23). Cultural violence includes all ethnic conflicts worldwide, where one group sees itself as superior to another group in terms of race, language or culture, and consequently seeks to dominate the other group.

Following this chronology of definition of terms is the important concept of 'conflict management', which will now be discussed below.

2.2.3 Conflict management

The term 'conflict management' could be used to refer to any management process through which parties to the conflict are encouraged to come together and do something about their conflict (Mwagiru 2000 (b): 43). It is important to note that a wide variety of procedures exist to manage conflict. Hence, any simple description of 'conflict-containing' procedures is by no means easy. The boundaries of the field are hardly well-defined, and relevant processes and methods are not classified in any straightforward manner. As such, the generic title of 'conflict management' is often used interchangeably with other terms, such as 'conflict control', 'conflict regulation' and 'conflict resolution' (Mitchell 1981:256).

This is also echoed and recognised by Mwagiru, as earlier mentioned, who asserts that the language, philosophy and methodologies postulated by settlement and resolution are inclusive enough to cover almost any management effort to which third parties might resort. He further asserts that the field is complicated enough without the introduction of another category. To suggest this usage of the term 'management' is, therefore, an attempt to avoid further complexities. The term 'conflict management' is, therefore, to be used as a term referring to a whole range of techniques (see Figure 1.2 below) employed in any society to prevent the development of conflict situations; or, once these have developed, to prevent them from resulting in disruptive and widely destructive conflict behaviour; or, once this has arisen, to halt the undesired conflict behaviour, or remove its source, through some form of settlement or resolution of the conflict.

One such 'conflict management' process, by which parties to the conflict are encouraged to come together, is the Somali National Reconciliation Conference, which will be investigated in this study. This is the process that started late in 2002 and ended in 2005; a process whereby the Somali people were encouraged and given a chance to do something about their conflict. A critical analysis of the post-2004/05 mediation and intermediary processes will also be conducted, especially in terms of contemporary Somali politics and diplomacy.

It is also important to note that conflict-management theorists see violent conflicts as the inevitable consequences of differences of values and interests within and between communities. The propensity to violence arises from existing institutions and historical relationships, as well as from the established distribution of power. Resolving such conflicts is viewed as unrealistic: the best that can be done is to manage and contain them; and occasionally, to reach a historic compromise in which violence may be laid aside and normal politics resumed (Miall 2004:3).

Conflict management is, therefore, also seen as the art of appropriate intervention to achieve political settlements, particularly by those powerful actors having the power and resources to put pressure on the conflicting parties, in order to induce them to settle. It is also the art of designing appropriate institutions to guide the inevitable conflict into the appropriate channels. In the words of Bloomfield and Reilly (1998):

"Conflict management is the positive and constructive handling of difference and divergence. Rather than advocating methods for removing conflict, [it] addresses the more realistic question of managing conflict: how to deal with it in a constructive way, how to bring opposing sides together in a cooperative process, how to design a practical, achievable, cooperative system for the constructive management of difference" (Bloomfield and Reilly 1998: 18).

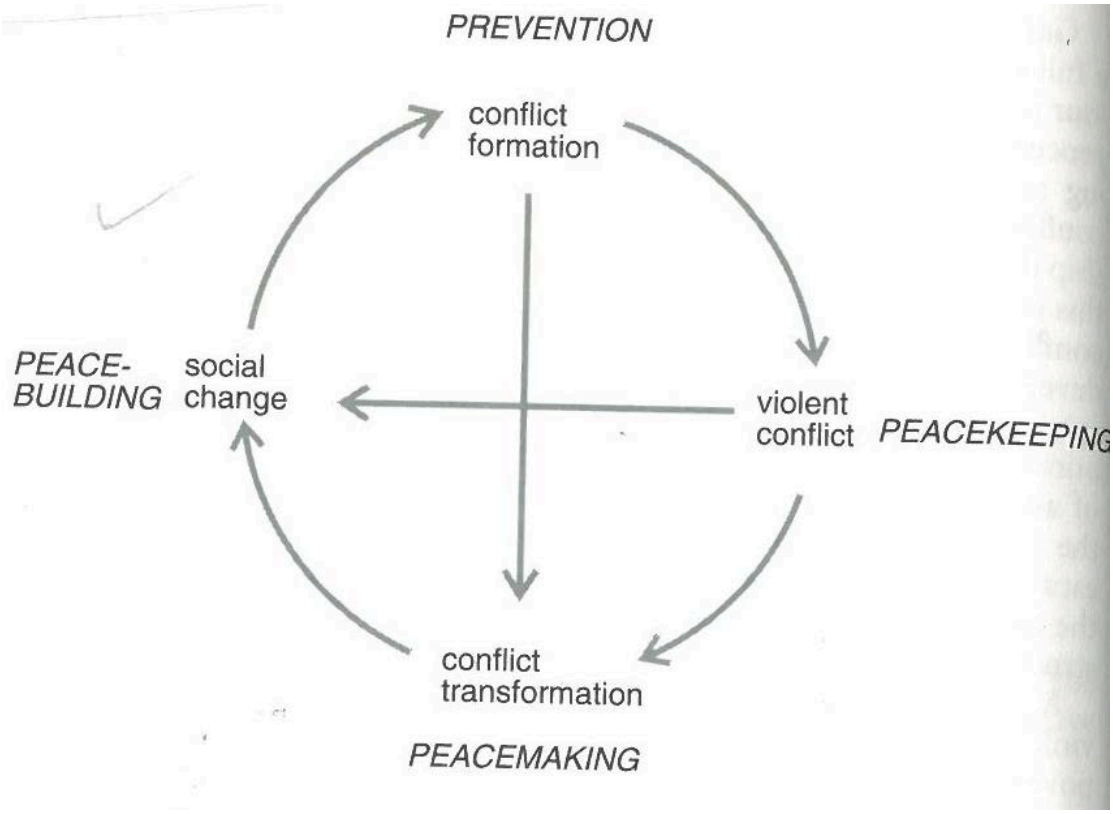


Figure 1.2: Conflict dynamics and conflict resolution adapted from Miall et al. (2000:16)

2.2.4 Human security

Another concept utilized in this study is 'human security', which is closely connected to the already-discussed phenomena above. The new definition of security represents a shift from military concerns to other aspects of human existence, including personal safety, access to basic needs, and the right to exercise basic freedoms. This new focus is perhaps better captured by the two-fold definition of human security established by the UNDP (1994: 23). It firstly views human security as the protection of people from

chronic maladies, such as disease, famine, oppression and other conditions. It secondly, also highlights the need for what Muloongo, Kibasomba and Kariri (2005:43) describe as "protection from sudden and hurtful disruptions in the patterns of daily life" (see also Rankhumise, Shai & Maphunye 2008:116).

Simply put, this form of security is loosely defined as "freedom from fear" and "freedom from want", as respectively illustrated in the above statements.

2.2.5 Track-one diplomacy

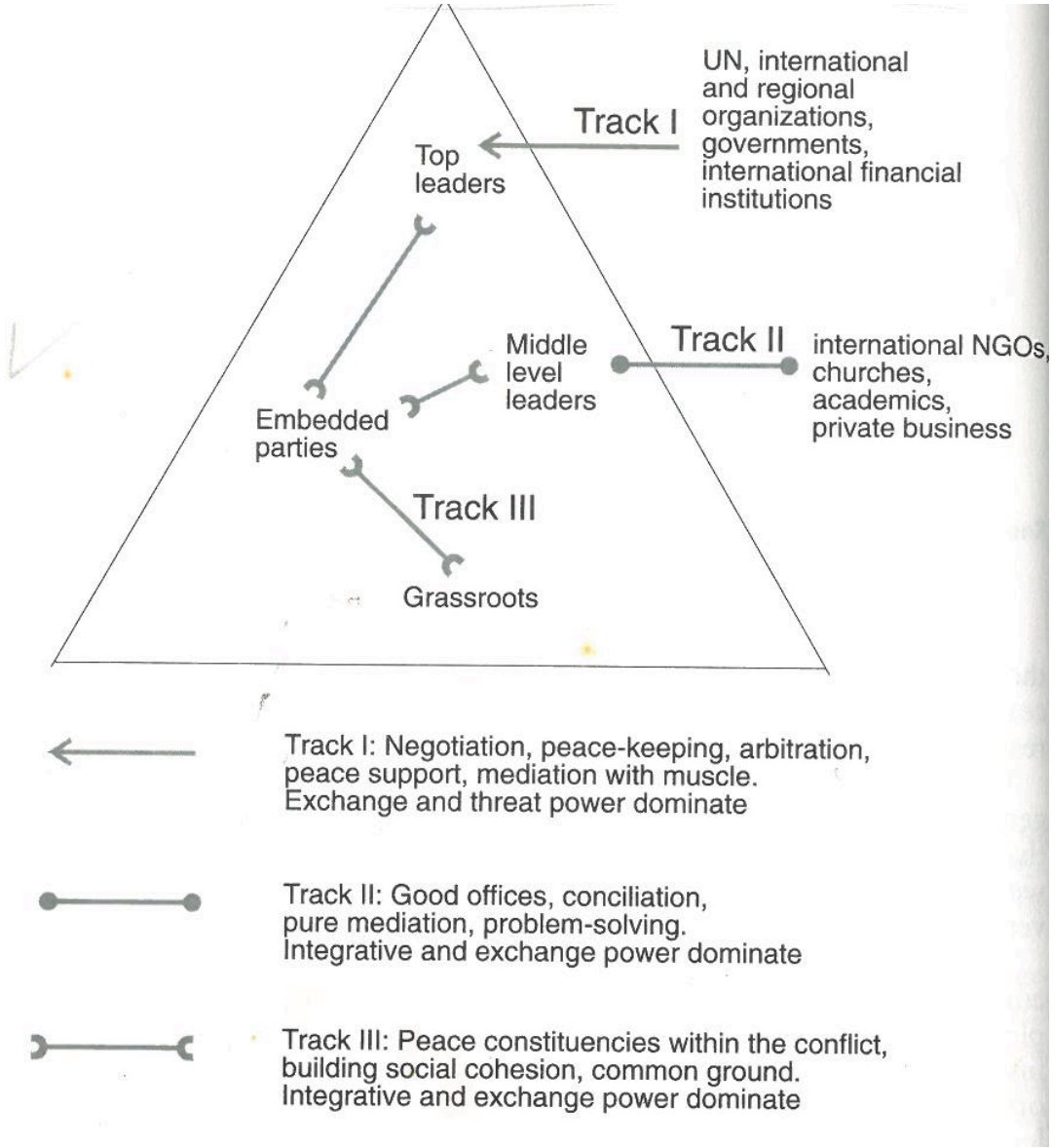


Figure 1.3, Source: Miall (2000: 20)

The aspect of track-one diplomacy is also predominantly used in this research. This is the kind of diplomacy practised by States and international organisations. It is characterised by formal rules, some legal and others based on practice, to which all states and international organisations agree. Track-one diplomacy is also based on formal operating procedures (Figure 1.3 above) and formalised relationships (Mwagiru 2000 (b): 123). This study entails the observation of track-one diplomacy as practised by Kenya, as the main point of interest. This practice is also observed within the UN and IGAD. Within IGAD, there are member states that also individually have this diplomatic capacity.

2.2.6 Track-two diplomacy

Another manifestation of diplomacy is 'track-two diplomacy'. This is a term that was first coined officially by a Foreign Service officer in the US State Department. Montville (1982:145–157) described it as an unofficial, informal interaction (see Figure 1.3) between members of adversary groups or nations with the aim of developing strategies, influencing public opinion and organising human and material resources in ways that might help resolve their conflict. This diplomacy is evident to the extent that in the Somali National Reconciliation Conference, the Somali House of Elders (Guurti) was recognised in one committee as representing an important constituent towards peace, and was present and consulted in the whole process. This is a track-two entity or role.

2.2.7 Track-three diplomacy

In track-three diplomacy, unofficial third parties work with people from all walks of life and sectors of their society, to find ways to promote peace in settings of violent conflict. This work is aimed at rebuilding broken relationships across the lines of division among ordinary citizens, in communities in a range of sectors. The premise of track-three diplomacy is that peace can and must be built from the bottom up, as well as from the top down (see grassroots section in Figure 1.3 above).

For any negotiation or settlement to be achieved, a "*peace constituency*" must exist. Likewise, for any settlement/peace agreement that is eventually reached, there must

be support and some capacity for its implementation (Chigas 2003). Another manifestation of diplomacy that is closely connected to this study is 'multi-track diplomacy'.

2.2.8 Multi-Track Diplomacy

Multi-track diplomacy is a conceptual way to view the process of international peacemaking as a living system. It looks at the web of interconnected activities, individuals, institutions and communities that operate together in the achieving of a common goal. The multi-track system originated due to the inefficiency of pure government mediation. Moreover, increases in intrastate conflict in the 1990s confirmed that track-one diplomacy was not effective enough to secure international co-operation or to resolve conflicts. Rather, there needs to be a more interpersonal approach, in addition to government mediation. The term multi-track diplomacy, therefore, incorporates all aspects of mediation from the ground-level work of private citizens to the top-level meetings of State heads. Multi-track diplomacy utilizes all levels of society, in order to determine the needs and to facilitate communication between all levels of society (Diamond and Mc Donald 1996: 1-6). Another term that is adopted in this research is 'small States'.

2.2.9 Small States

The idea of small States has been adopted in this study. To qualify the reason why Kenya could be viewed as a '*small State*' it would be constructive to look at what this idea of a State is understood to be. The definitions of what comprises a small State are several: A small State could be viewed as a State that is not a great power, or in terms of capabilities, that is the possesser of relative or absolute power, or by a combination of objective (material) and subjective (based on perceptions) factors (Thorhallsson and Wivel 2006: 652-655).

However, a caveat could be observed pertaining to the discourse on small States, as considered in fields of international relations, conflict and development studies – the small State has seen varied definitions, and may have escaped a consensus on its actual definition. In fact, there is a substantial disagreement even over what type of

criteria, quantitative or qualitative, are most appropriate to characterize the small State. One could argue that such fundamental disagreement over what makes a State small has actually benefited the areas of small State analysis by providing it with conceptual flexibility to match different research designs, as well as the quite substantial variations among actual small States in the world. In short, in the discipline and practice of international relations and international development studies, more than one definition of the small State does, and should, exist.

2.3 Post-conflict reconstruction

Before discussing 'post-conflict reconstruction', it is essential to understand the 'post-conflict' phenomenon. The concept 'post-conflict' refers to the period following the end of a conflict in any given country. Despite its apparent simplicity, this concept has two definitional problems. The first is the determination of the beginning of a post-conflict period. It is often impossible to determine a precise date when a conflict is supposed to have ended. Even after the signature of a peace agreement by belligerents, low-intensity hostilities might still continue (Nkurunziza 2008:4).

One might use two major events to determine the beginning of a post-conflict period. The first is the immediate period following a landmark victory by either of the warring parties. This could be the fall of the capital city, the seat of political power, following a long protracted war. For example, the long war between Ethiopian government forces under the so-called "Derg regime", headed by Colonel Mengistu Haile Mariam and rebel forces, led by Meles Zenawi, is known to have ended when Addis Ababa fell on 29 May 1990 (Nkurunziza 2008: 5).

The second major event used to determine the official end of a war is the date of signature of a comprehensive agreement between the warring parties. Even when such an agreement does not necessarily end all acts of violence, it reduces them dramatically. Hence, it is easier to take the date of the signature of a ceasefire agreement as being the end of the conflict, and the beginning of the post-conflict period.

For example, the war in Burundi ended officially when the government signed a comprehensive ceasefire agreement with the main rebel group on 29 November 2003, even if some sporadic violence by other small groups persisted until the middle of 2008 and upto this focus period on a small scale. Other lenses of the term "post-conflict" have been used to explain the phenomenon. Handrahan (2004) looks at the phenomenon from a gender and ethnic dimension. In this line, post-conflict is generally referred to as the period when predominantly male combatants have ceased to engage in 'official war'. Because conflict is still perceived through male paradigms by both international and national community leaders – by and large men – the 'formal' period of fighting and conflict is what the international development community focuses on.

Once such fighting has stopped, a conflict is perceived to have moved beyond conflict. Although the new phase is not without violence, there is no more 'official' conflict. Apart from isolated incidents, the threat of violence is apparently over (Handrahan 2004: 429). Or so the dominant perception would have it.

A feminist analysis, Handrahan argues, defines such a situation otherwise. Handrahan argues that while it can take a war for personal security to become an issue in most men's lives, insecurity is all too common for women, regardless of war. Female insecurity is so prevalent that it becomes invincible, and is accepted as the norm. Building on a substantial body of feminist literature that has been documented, for the past thirty years, the levels of violence committed against women, largely by men, during so-called non-conflict periods in the developing and the developed world, feminists started to ask what happens to women's security during wartime, if such levels of male violence are tolerated during non-conflict periods.

They found that violence remains a common denominator in many women's lives, but that gender identities shift during war; and this, in effect, changes the type and intensity of violence (Handrahan 2004: 430). Her thesis is that solutions to the terror that people experience during and after conflict have roots in the under-explored linkages among gender, ethnicity, patriarchy and conflict. Such an analysis problematizes the complexities of social realities, the concepts of community and any understanding of conflict and post-conflict dynamics.

Opening out this debate, is the aspect of "*post-conflict reconstruction*". The topic of post-conflict reconstruction is currently one of the most relevant policy issues in the world, with major efforts under way in Afghanistan and Iraq, for example. Kumar (1997: 17-22) asserted that post-conflict reconstruction involves building or rebuilding both formal and informal institutions. Coyne Christopher (2006: 325-328) asserts that, specifically, it involves the creation and restoration of physical infrastructure and facilities, minimal social services, and structural reform and transformation in the political, economic, social and security sectors. It is also often argued that ultimate success in the reconstruction process is defined as the achievement of a self-sustaining, liberal, democratic, economic and social order that does not rely on any outside assistance.

The New Partnership for Africa's Development (NEPAD) understands post-conflict reconstruction as a complex system that provides for simultaneous short-medium and long-term programmes to prevent disputes from escalating, to avoid a relapse into violent conflict, and to build and consolidate sustainable peace (NEPAD 2005: 6). Post-conflict reconstruction starts when hostilities end, typically in the form of a cease-fire agreement or peace agreement. It requires a coherent and multi-dimensional response by a broad range of internal and external actors, including government, civil society, the private sector and international agencies.

These various actors undertake a range of interrelated programmes that span the *security, political, socio-economic and reconciliation dimensions* of society, and that collectively and cumulatively address both the causes and consequences of the conflict; and in the long term, establish the foundations for social justice and sustainable peace and development (Japan International Co-operation Agency, JICA, 2004).

Other lenses of post-conflict reconstruction are provided by Damon, Deckro and Wiley (2004). They define post-conflict reconstruction as the process of putting the pieces of civil society back together after a conflict. It includes the rebuilding of both the physical infrastructure and the re-establishment of the intangible socio-economic institutions that make civilized society possible (Damon et al. 2004: 201).

The establishment of the rule of law, good governance, and social and economic wellbeing all fall within the purview of post-conflict reconstruction (Harme & Gordon 2002: 85-96). Damon et al. (2004: 202) use the example of the United States of America's involvement in post-conflict reconstruction operations, to explain the attributes and essence of this activity. They assert that since World War two, the U.S. has become involved in a number of post-conflict reconstruction operations.

These operations range from the larger efforts of post-war Germany, Austria and Japan, to the smaller and more limited operations, and others like them. It is over the years that these operations, and others like them, have been studied. An important lesson in these efforts is that security must be established for a successful post-conflict reconstruction operation. "*Play to Win*", the final report of the Bi-Partisan Commission on Post-Conflict Reconstruction, concluded that security is essential to post-conflict reconstruction, pointing out that while "every case is different, there is one constant – if security needs are not met, both the peace in a given country and the intervention intended to promote it are doomed to fail" (Bi-Partisan Commission on Post-Conflict Reconstruction 2003).[20]

In certain instances also, military interventions or operations aimed at bringing about this security are termed as 'stability operations'. The development of security institutions is, therefore, essential for the protection of the fundamental rights that make a free and fair civil society possible. Without a sense of personal safety, refugees, and internally displaced persons will not return home; former combatants will not lay down their arms and reintegrate into civilian life; farmers and merchants will not engage in food production or business activity; and parents will not send their children to school or seek economic opportunities (Bi-Partisan Commission on Post-Conflict Reconstruction 2003).

Another interrogation of the nature and extent of post-conflict reconstruction or post-war reconstruction in Africa is provided by Olawale (2008: 259-279). He considers this activity from a '*power-elites*' perspective. He asserts that post-cold war conflicts

[20] See *Play to Win: Final Report of the Bi-Partisan Commission on Post-Conflict Reconstruction*. 2003. In. http://www.pcrproject.org/PCRFinalReport.pdf. As accessed on 12 October 2012.

in Africa have accentuated the emergence of war-making power elites, as 'executors' and 'trustees' of peace treaties, or 'peace celebrities' with considerable leverage on the course and outcomes of post-war reconstruction (Olawale 2008: 259).

Post-war reconstruction, which is also termed 'post-conflict reconstruction' represents a subset of peace building, defined as a whole gamut of activities undertaken for the purpose of preventing, alleviating or resolving violent or potentially violent conflicts (Stedman, Rothchild & Cousens 2002: 4). It involves 'the rebuilding of the socio-economic framework of society and the reconstruction of the enabling conditions for a functioning peacetime society [to include] the framework of governance and [the] rule of law' (World Bank 1998, cited in Hamre and Sullivan 2002: 89).

The contemporary post-war reconstruction agenda is founded on a quadruple reform of the security, economic, political and justice (or reconciliation) systems. To connect this to Olawale's thesis on the role of power elites, it is normally the case in the continent that the major players in theatres of post-war reconstruction include a consortium of international aid agencies, international organizations, international non-governmental organizations and local non-governmental organizations and '*favoured political elites*' (Olawale 2008: 273).

2.3.1 Peace

Another phenomenon or concept worth interrogating is '*peace*'. Elias and Turpin (1994: 1-7) asserted that just as war is seen in peace studies as a pervasive aspect of society as a whole, so can peace be reconceptualised in a broader way. According to peace-study scholars, peace should be defined as more than just the absence of war. The mere absence of war does not guarantee that war will not recur. As Kant pointed out, each peace treaty ending a European power struggle in the sixteenth century merely set the stage for the next war (Kende 1989: 233-47; Goldstein 2001: 153). Nor can the absence of power struggles in the cold war be considered true peace: third-world proxy wars killed millions of people; while a relentless arms race wasted vast resources.

Goldstein (2001: 153) asserts that because the realist school of thought, for example, assumes the normalcy of military conflicts, it recognizes only a *negative kind of peace* – the temporary absence of war.

In contrast to this, *positive peace* refers to a peace that resolves the underlying reasons for war. Such peace that is not just a cease-fire, but also a transformation of relationships. Proponents of the positive-peace approach see broad social and economic issues – assumed by realists to be relatively unimportant – as inextricably linked with positive peace (Goldstein 2001: 153-154). There is, therefore, a classification of peace as either '*negative peace*' or '*positive peace*' from this analogy.

An early variant of this dichotomy of peace may be seen in Johann Galtung's (1969: 167-191) seminal work exploring the distinction between "negative peace" and "positive peace". *Negative peace* is simply defined as the absence of war; while positive peace is defined as the absence of structures of domination and exploitation in society, which generally underlie war.

Positive peace is the cessation of direct and structural violence; and this attained by replacing large-scale poverty with relative prosperity, inequalities with social justice, and political alienation with democratic participation. Jeong (2000) cites Galtung (1969), who maintained that positive peace would not be possible without the development of just and equitable conditions associated with the elimination of inegalitarian social structures. The concept of positive peace, based on a broad understanding of social conditions, means the removal of structural violence – beyond the absence of direct violence (Snodgrass 2005: 19-38).

2.3.2. Peace-building

For the purpose of this study, and following the reconceptualised view caused by paradigm shifts, peace building is treated as a construct of the development debate and research. This concept is an emerging paradigm in the development and conflict management field. Schellhaas and Seegers (2009: 2) assert that ever since the early 1990s, a growing emphasis on peace building has marked the international

community's responses to conflicts. Supporters of peace building have promoted it as a new international idea, usually tracing it back to the then United Nations Secretary-General, Boutros Boutros-Ghali's: *An Agenda for Peace* in 1992, in which he proposed responsibilities and responses for the UN and the international community.

Peace building is expressed in different forms – a set of policies, a humanitarian agenda, or a way of conflict resolution – but all involve the idea of efforts made to prevent a relapse into conflict[21]. Based on the work of Roland Paris (1997:55), peace building can be further defined as supporting structures that tend to strengthen and solidify peace. The term 'peace building' suggests a connection between security and development. The new element in the peace-building paradigm is the focus on peace in developing countries. At the heart of all peace-building efforts are development and security concerns. It is with this kind of shift that developmental policy has been incepted in conflict-management processes and 'development assistance', and is hereby given a role as a means of conflict prevention and resolution.

The context of track-one diplomacy will measure the track's potentials in the mediation process and capacity to develop assistance in protracted conflicts, such as in Somalia. Peace building is, therefore, treated as the sum total of development assistance practices by all actors, and as part of an important instrument, together with security and military measures available for policy-makers in relation to handling conflicts, especially in the developing world.[22]

In essence then, it is worth noting that the post-conflict reconstruction image has been broadened by the peace-building concept. The term has notably broadened with time to encompass the overlapping agendas for peace and development in support of conflict prevention, conflict management and post-conflict reconstruction (Tschirgi 2003).

[21] See Boutros Boutros-Ghali, 1992. *An Agenda for Peace,* in http://www.un.org/docs/SG/agpeace.html (accessed 12 August 2011).

[22] Peace building here is treated as a construct of conflict management, development-assistance management and generally a human security treatment of the variable. There has been a huge academic and political debate on the implications of the strengthened interaction between developmental, diplomatic, security and military measures towards this end.

Lederach (1997: 24) further emphasised the importance of seeing peace building as a dynamic process, which has to be closely linked to "the experiential and subjective realities shaping people's perspectives/needs". He asserts that every situation of protracted conflict is unique, and has its own characteristics. Peace building, therefore, has to adapt to different situations. He concludes: "The conceptual paradigm and praxis of peace building must shift significantly away from the traditional framework and activities that make up statist diplomacy" (Ibid: 24).

He further asserts that there are two essential things every peace builder must keep in mind:

- "Peacebuilding is about seeking and sustaining processes of change, rebuilding relationships, and finding new ways to be in relationship.
- Peace building requires changes across multiple levels and perspectives. We must understand, create, and sustain the space for change along a continuum that includes personal, relational, structural and cultural dimensions" (Lederach 1997: 135).

A more comprehensive and normative definition of peace building, is provided by Spence (2001: 137-138). Spence defines peace building as those activities and processes that focus on the root causes of the conflict, rather than just the effects; support the rebuilding and rehabilitation of all sectors of the war-torn society; encourage and support interaction between all sectors of society, in order to repair damaged relations and start the process of restoring dignity and trust; recognize the specifics of each post-conflict situation; encourage and support the participation of indigenous resources in the design, implementation and sustainment of activities and processes; and promote processes that will endure after the initial emergency recovery phase has passed.

Spence concludes by asserting that, "the process of peace building calls for new attitudes and practices: ones that are flexible, consultative and collaborative, and that operate from a contextual understanding of the root causes of conflict" (2001: 145).

The United Nations Department of Peace-keeping Operations (UNDPKO) (2008:18) also concludes that peace building involves a range of measures targeted to reduce the

risk of lapsing or relapsing into conflict – by strengthening national capacities at all levels of conflict management, and by laying the foundation for sustainable peace and development. The department also asserts that peace building is a complex, long-term process of creating the necessary conditions for sustainable peace.

It works by addressing the deep-rooted, structural causes of violent conflict in a comprehensive manner. Peace-building measures address core issues that affect the functioning of society and the State, and seek to enhance the capacity of the State to effectively and legitimately carry out its core functions.

Another term closely related to peace building is '*peace making*'. The term "peace making" is used in different ways. According to the UN, peace making is "action to bring hostile parties to agreement, essentially through such peaceful means as those foreseen in Chapter VI of the Charter of the United Nations; Pacific Settlement of Disputes". In this sense, peace making is the diplomatic effort intended to move a violent conflict into non-violent dialogue, where differences are settled through representative political institutions (Ouellet 2003:1).

Anstey (1993: 3) defines peace making as a process involving third-party interventions in negotiations between decision-makers at leadership level, and that are directed at building bridges between parties for purposes of creating solution searches and problem-solving. The point of peace-making efforts (diplomatic and otherwise) is to get the opponents to the bargaining table, at which point peace-keeping units can help to guarantee any agreed-upon ceasefire.

Peace making is the process of diplomacy, mediation, negotiation, or any other form of peaceful settlement that is arranged to end disputes and resolves issues that led to it. Peace making is necessary and important in cases where war crimes and other devastation demand the attention of outside forces. In the latter two cases, peace making implies the threat of violent intervention as an act of last resort. In the third case it may demand violent intervention sooner rather than later. This opens up the debate towards a consideration of two related terms which are also utilised in this study, that is *peace keeping* and *peace enforcement.*

Peace keeping is a technique designed to preserve the peace, however fragile, where fighting has been halted, and to assist in implementing agreements achieved by peace makers. Over the years, peace keeping 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 civilians – all working together to help lay the foundations for sustainable peace (UNDPKO 2008: 18).

Peace enforcement involves the application, with the authorization of the Security Council, of a range of coercive measures, including the use of military force. Such actions are authorised to restore international peace and security in situations where the Security Council has determined the existence of a threat to the peace, breach of the peace or acts of aggression. The Security Council may utilize, where appropriate, regional organizations and agencies for enforcement action under its authority (UNDPKO 2008: 18).

2.3.3 Transitional order

Another term or concept utilised in the study is a 'transitional order'. A transitional order refers to a field of activity and inquiry focused on how societies address legacies of past human-rights abuses, mass atrocities, or other forms of severe social trauma, including genocide or civil war, in order to build a more democratic, just or peaceful future (*Encyclopaedia of Genocide and Crimes against Humanity* 2004:1045).

In Somalia, it is apparent that this kind of justice is not yet realised, and in itself may define the sustainability of peace in this polity. Transitional order and transitional justice are sometimes used concurrently and are of the same genre. The concepts draw on two primary sources to make a normative argument in favour of confronting the past (if one assumes that local conditions support doing so). Firstly, the human-rights movement has strongly influenced the development of the field, making it self-consciously victim-centred. Transitional justice practitioners tend to pursue strategies that they believe are consistent with the rights and concerns of victims, survivors and victims' families (*Encyclopedia of Genocide and Crimes against Humanity*, 2004:1046).

Another source of legitimacy derives from international human rights and humanitarian law. Transitional order and justice rely on international law to make the case that States undergoing transitions are faced with certain legal obligations, including halting ongoing human-rights abuses, investigating past crimes, identifying those responsible for human-rights violations, imposing sanctions on those responsible, providing reparations to victims, preventing future abuses, preserving and enhancing peace, and fostering individual and national reconciliation (*Encyclopedia of Genocide and Crimes against Humanity*, 2004:1047).

It is with this in mind that transitional order is viewed primarily from the point of view of dealing with current impunity activities – not only by the sitting authority, but also by other actors who are proving to be a force to be reckoned with. This also involves current activities defying international order imperatives and laws, in this case, of external actors with interests in Somalia.

Transitional justice will, therefore, be treated as a construct that aims to remedy past injustices and current activities defying human security in Somalia. It is by doing this that the study seeks to show a correlation between order and justice with sustainable peace or successful mediation processes. In essence then, this concept of transitional order/justice will be treated as part of the mediatory and conflict-management efforts towards sustainable peace in the analysis of the situation in Somalia.

These attributes of such justice will architecture the concept of the diplomacy of human rights through arms-control diplomacy as a mode of mediation and dealing with both exogenous and endogenous actors in the Somali conflict. This will be in direct interface to the actors' omissions and status in upholding principles that may be defined as ones that are on a par with international justice and order imperatives. This will, therefore, form the basis of the perceived justice that legitimises a positive peace. The main focus, however, will be justice during transition (Kritz 1995), which generally has come to be accepted as the normative dimension of this genre of justice.

2.3.4 Failed States

A concept that is closely related to this research is 'failed States'. Potter (2004: 3) asserts that one of the first problems in dealing with failed States is in defining exactly who and what they are. Scholars in the field have developed several definitions. Rothberg offers one definition of the concept. Rothberg (2002: 85-96) asserts that failed States are temporal territories that are tense, deeply conflicted, dangerous, and bitterly contested by warring factions. Another definition is provided by Robert Jackson (1998: 6-9). His assertion is that failed States are States, which cannot or will not safeguard minimal civil conditions, that is peace, order, security, and domesticity.

Spanger (2000: 1-3) asserts that failed States can be defined in terms of their demise from the practical operation of governmental functions, in order to attain to an internationally recognised State.

Olson (1993: 8-12) suggests that the list of failed States could be expanded if one were to include States facing serious "internal problems that threaten their continued coherence or significant internal challenges to their political order". Peters (1998: 36-47), while not actually defining a failed State as such, notes that globalisation demands conformity to the practices of the global leaders. In addition to the traditional indicators of failure, he notes that new predictive tools have emerged, which are based on culture.

These indicators are the restrictions on the free flow of information, the subjugation of women, the inability to accept responsibility for individual or collective failure, the extended family or clan as the basic unit of social organisation, the domination by a restrictive religion, the low valuation of education, and the low prestige assigned to work.

On the other hand, Dorff (2002) notes that State failure need not be reserved for cases of complete State collapse, either into civil war or anarchy, but can also be understood as a process involving the weakening of a State's capacity to provide legitimate governance.

Supporting this assertion, Rotberg (2003) notes that States succeed or fail, according to their effective delivery of crucial political goods, and that strong States may be distinguished from weak States, and weak States from failed or collapsed States. Taking this further, Porter (2004:4) asserts that it may be beneficial to consider State failure as a continuum, which ranges from weak States through failed States to collapsed States. In this case, a failed State is one that meets a specific set of conditions and excludes States that only meet some of the criteria, which would then be classed as weak or failing States, depending on the extent of their decline.

A collapsed State is, therefore, an extreme version of a failed State, where there is a total vacuum of authority. Only a few of the world's States can be described as failed or collapsed, but there are many dozens more that are weak and possible candidates for total failure. They generally share some of the following negative characteristics:

- A loss of control over their borders;
- Ethnic, religious, linguistic or cultural tensions or hostilities;
- Poor communications and transport infrastructure;
- A weak economy and declining levels of gross domestic product per capita;
- High levels of corruption;
- A weak health system, with high levels of infant mortality, and low levels of life expectancy;
- Limited education opportunities;
- And a degraded environment.

2.3.5 Summary of section 1

This section has attempted to provide the contextual meanings of the different principal terms that are a dominant feature in this study. These have a bearing on the area of investigation and their very use does provide definitional, philosophical and conceptual meanings. This exercise was useful to the extent that the terms feed into a solid understanding and grasp of the theoretical framework applied in this study, and to also address the research inquiry in clear and succinct terms. The next sections critically discuss and map out the contemporary '*third-kind conflict*' debates, while at

the same time, connecting the same to the dynamics of third-party interventions and peace building in general.

They will provide the 'symbiotic enterprise' that treats conflict, third-party intervention through to mediation and peace building as a *connected venture.*

2.4 Section 2: Conflicts or wars of a third kind

Following the previous critical unpacking of the principal terms and concepts utilized in this study, it important to open up the debate and consider in-depth the very nature of Somali's conflict and its manifestation, bearing in mind the mentioned intricacies of changing dynamics of contestations; changing intervention dynamics, and how these factors affect the conflict-management horizon. The Somali conflict could be defined as a '*conflict or war of a third kind*'.

Certain guiding questions will direct this section of the chapter: How are these wars to be understood? Do such wars define the structure of the intermediary processes or inputs?

At this stage, it is important to first and foremost understand the "*environment*" in which track-one diplomacy works, and how it impacts the mediation strategies undertaken in addressing protracted conflicts. This is especially so in Africa, where these conflicts have an intrastate component and encompass different characteristics or wars of a third kind. This, in turn, affects any mediation approaches. In essence, Cornwell (2002:357) asserts that [it] is not the only cause of sub-Saharan Africa's current plight, but it surely counts among the principal ones. It is a principal factor, considering the nature of conflicts found within the Horn of Africa and the Great Lakes conflict systems.

Often considered as facing 'the greatest challenges to peace and stability', the African continent has consequently seen 10 high-intensity conflicts in the past 25 years, suffering casualties ranging between 5 000 000 to 6 800 000 people, and an astounding 155 million people directly or indirectly affected by the war (Joao 2002:2).

According to the Heidelberg Conflict Barometer, as of 2010, the number of conflicts in Africa amounted to a total of 85 cases (Heidelberg Institute for International Conflict Research 2010:23). Whereas 2007 had seen a deescalation of conflict in Africa, the number of highly violent conflicts rose from 9 to 12 in 2008. Three of these were wars: those in Chad, which involved skirmishes between various rebel groups; Sudan, particularly the conflict in Darfur; and Somalia, with the activities of the Union of Islamic Courts and al-Shabaab. The latter two, it should be noted, had already been classified as wars in 2007 and 2006.

As the severe crises were situated in Mali, Nigeria, Southern Sudan, the DRC, Burundi and Kenya, and additional crises were situated in Niger, the Central African Republic and Ethiopia (which was also involved in the war in Somalia), a zone of interrelated conflicts and conflict systems was distinguishable, constituting a 'constellation of crises' ranging from the Gulf of Guinea, across Central Africa and the Great Lakes conflict system to the Horn of Africa conflict system (Heidelberg Institute for International Conflict Research 2008:25–44).

This alarming situation has over time elicited the attention of the international community, especially intergovernmental organisations, such as the United Nations (UN), the European Union (EU), and the African Union (AU), and also sub-regional organisations and big powers (Hussein 1995:70–85; Illing 1997). On the other hand, intervention efforts have been frustrated owing to the new manifestations of conflicts of a third kind in these zones. Intermediary efforts have had to contend with what Holsti (1996:16–18) and Kaldor (1997) call '*conflicts of the third kind*'. These are conflicts within which communities and identities have adopted the mystique of Statehood as the ultimate and final political format.

Mary Kaldor (2007) conducted an analysis of *wars of a third kind*, or *new wars*, or conflicts. She asserts that new wars can be contrasted with earlier wars in terms of their goals, the methods of warfare, and how they are financed. The goals of new wars are about identity politics in contrast to the geopolitical or ideological goals of earlier wars. By identity politics she means the claim to power, on the basis of a particular identity – be it national, clan-related, religious or linguistic. She further asserts that in

contrast to the vertically organised hierarchical units that were typical of ‘old wars’, among the units that fight these wars is a disparate range of different types of groups; for example, paramilitary units, local warlords, criminal gangs, police forces, mercenary groups and also regular armies, including breakaway units from regular armies (Kaldor 2007: 7-11).

In organisational terms, they are highly decentralised and they operate through a mixture of confrontation and co-operation, even on opposing sides. In this case, the contours of legitimate actors in a conflict become blurred, causing any conflict management effort to be a herculean task because of a myriad of players. Somalia has all these qualities rolled into one.

Because of these problems, official intermediary players have to recognise which conflicts have taken on an ethnic, clan-related or tribal identity. Kaldor considers this inevitable in contexts generally characterised by the phenomenon of the weakening of the State, and in some extreme cases its disintegration, which often leads to the erosion of the monopoly of legitimate organised force (Kaldor 1999:6). It is in this light that Zartman (1991:5–10) acknowledges the phenomenon of a collapsed or failed State; and here we have the example of Somalia, which has defied a good number of peace efforts and interventions.

2.5 Section 3: Mediation strategies in wars and conflicts of a third kind

This section will look at the mediation strategies that are utilized in addressing the new wars or conflicts; but before embarking on its discussion, it is essential to provide an analogy of what international mediation is understood as, and to provide some understanding of its dynamics. It can be seen, as Bercovitch (1996:2) asserted, as an ideal way of dealing with differences and settling conflicts between antagonistic and fiercely independent states. Touval and Zartman (2001:427) define it as a form of third-party intervention in a conflict and State. It also differs from other forms of third-party intervention in conflicts in that it is not based on the direct use of force, and it is not aimed at helping one of the participants to win. Shaw (1998:723) asserted that mediation implies the active participation in the negotiating process of the third party itself.

In order to understand the essence of mediation, it is important to have a grasp of the process that leads to the utilisation of this alternative dispute-resolution avenue. It should be noted that the failure of negotiations to end protracted violent international conflicts is typically attributed to a variety of factors, including most commonly the pursuit of irreconcilable aims by the major antagonists, obdurate political leadership, and the stage of the conflict (Darby & MacGinty 2008: 63).

The connection between negotiation and mediation is that mediation is "assisted negotiation": when negotiation fails, a third party might assist the antagonists to rebuild the communication, in order to try and establish a common interest in the dispute.

Just as conflict is a part of everyday life, mediation can and is practised every day and everywhere. It is a way of reaching decisions in a co-operative, non-hierarchical way, allowing for clear and open communication processes. Conflicts can be resolved in a formal manner through courts, arbitration, ombudsmen, diplomacy and mediation, or in an informal manner through religious groups, community leaders, as well as dialogue (Herrberg 2008: 4).

Anstey (2006: 11) defines mediation as a form of third-party intervention in disputes, directed at assisting disputants in finding a mutually acceptable settlement. Although mediators operate from a high or low power base, they are not accorded authoritative decision-making powers, but are empowered to facilitate settlement through the use of the negotiation process.

Bercovitch (1997: 130) defines mediation as "a process of conflict management, related to, but distinct from, the parties' own negotiations, where those in conflict seek the assistance of, or accept an offer of help from, an outsider (whether an individual, an organization, a group, or a State) to change their perceptions or behaviour, and to do so without resorting to physical force, or invoking the authority of law". Within this broad definition, mediators may adopt a variety of roles and approaches.

Christopher Honeyman and Nina Yawanarajah (2003: 1) define mediation as a process in which a third-party neutral assists in resolving a dispute between two or more other parties. It is a non-adversarial approach to conflict resolution. The role of the mediator is to facilitate communication between the parties, assist them in focusing on the real issues of the dispute, and to generate options that meet the interests or needs of all the relevant parties – in an effort to resolve the conflict.

Berridge (2002: 187-188) further asserts that mediation is a special kind of negotiation, designed to promote the settlement of a conflict. In such negotiation, a distinctive role is played by a third party, that is, one not directly involved in the dispute in question. The third party must have a special characteristic, in addition to an inclination to behave in a special way. To be precise, it must be substantially impartial in the dispute, at least once the negotiation has started, and on the issue actually on the agenda. However, a closer look through contemporary lenses of international mediation reveals that the notion of impartiality being indispensable for mediation success is being treated as an outdated and redundant notion (Bercovich 1996: 6; Touval and Zartman 2001: 432; Kydd 2003: 598). Gilady and Rusett (2002: 402), for example, see "no clear linear relation between partiality and mediation success". A partial mediator can more easily obtain information from his ally, and thus evaluate the situation far better (although he can access less information from the other side) (Gilady and Russet 2002: 399).

More importantly, he can use his influence on the side that he supports, to steer it in a direction that is favourable to a solution, while at the same time earning credibility by the other side for doing just that (Vorgelegt 2006: 31-32). Hence, a 'partial insider', who is already involved and familiar with the conflict, can, if he is accepted and respected by all parties, be more successful than a 'neutral outsider' (Wehr and Lederach 1996: 55; Maiese 2005: 4). Rohner (2006: 33) argues that determining the impartiality of the mediator objectively is difficult, because it refers to the mediator's true attitude towards the conflict parties and towards the outcome, as well as to his actions and performance.

Even an experienced and skilled mediator can be biased toward one party, but would not necessarily show this in the course of the mediation process. Hence, the decisive

factor is not the mediator's objective degree of impartiality, but how the parties perceive his position and performance (Kloiboer 1996: 369).

Connecting these mediation attributes to the Somali peace process, it could be argued that the different issues have been observed in the process or talks; and they have been exuded through third-party status and participation by IGAD and its member states, most observably Kenya.

The manifestation of the conflicts of a 'third kind', as explained, has intermediary effects. Conflict-management processes that seek to remedy or reverse the effects of these conflicts, therefore, possess certain attributes that take into account the complexity of the conflicts, and the varied actors and interests within these conflicts. Bercovitch and Houston (1992:15) asserted that as a social process, mediation may be as variable as the disputants themselves. To be successful, mediation must be, above all, adaptive and responsive. It must reflect different problems, different parties and different situations, as captured in the above analogy.

The protracted Somali conflict indicates that there is a desperate need for an enabling environment for effective mediation that recognises and legitimises the intermediary roles and conflict agendas of the parties involved. This is a situation where track-one diplomacy can give credence to, or enable track-two diplomacy efforts to build a process that is mutual and complementary. This is captured by Bercovitch and Langley (1993) in what they refer to as the 'contingency approach'. This approach stipulates variables with specific operational criteria, each of which may have an impact on mediation effectiveness.

At the heart of this approach are clusters of context, process and outcome variables. Each cluster refers to the specific characteristics of the party, the dispute, the mediator/s and the outcome. Mediation outcomes, whether successful or not, are logically seen as a result of the interaction of context and process (Bercovitch & Langley 1993:670–691).

The character of a track-one intermediary is important, to the extent that an outcome reflects it. As is evident in the Somali situation, strong and superpower States with

their hard-power capabilities risk non-acceptance, due to their lack of legitimacy to both parties and the different constituents of a conflict. This was experienced by the USA in 1991 (Crocker, Hampton & Aall 2001:353–354). This has also been experienced by organisations, such as the UN in past interventions. Clearly, a mediation or official mediatory third party seeking to use economic carrots or military sticks requires considerable effort to acquire legitimacy of intervention.

This is clearly shown by the failure of the United Nations Task Force in Somalia (UNITAF) and the United Nations Operation in Somalia (UNOSOM) in their intervention bids, where there were simply not enough hard-power efforts to legitimise their intervention, later in the same year, for eventual acceptance by the conflicting parties in Somalia (Zartman 1991:77–87).

At this point, Kenya entered the scene, and as a small State, devoid of hard-power capabilities, was able to recognise that legitimacy is a power reality. This was because its only capability, soft power (Nye 2001:356),[23] was to a large extent accepted, owing to the fact that as a mediator its contingency approach was one that was founded on taking account of the opinions of others, as well as their intermediary roles.

2.6 Section 4: Small-State utilization of soft power in track-one diplomatic activities, and in reality to conflicts of a third kind

Before commencing discussions in this section, it is important to provide a working definition of what is referred to as power, from both a 'soft-power' lens and a 'hard-power lens'. In his seminal work on the '*Concept of Power in the study of International Relations*', Holsti (1964: 179-194) argued that "students of international politics have for years posited that the concept of power can be used as a fruitful approach in studying processes in international systems – unfortunately, there has

[23] The concept of soft power and its operationalization is well expounded by Nye (2001).

been little systematic examination of the concept, so that, like the balance of power, its meaning has remained ambiguous" (Holsti 1964: 179).

Goldstein (2006: 57-58) suggests that power is often described as the ability to get another actor to do what it would not otherwise have done (or not to do what it would otherwise have done). A variation of this idea is that actors are powerful to the extent that they can affect others more than others can affect them. These definitions treat power as influence. If others get their way a lot, they must be powerful. One problem with this definition is that we seldom know what a second actor would have done in the absence of the first actor's power.

There is a danger here of circular logic: power explains influence and influence measures power. Thus, it is hard to use power to explain why international events occur (the aim of realism). A related problem is that common usage treats power as a thing rather than a process: States "have" power. These problems could be resolved if one were to view power as not influence in itself, but the ability or potential to influence others. Such potential is based on specific (tangible and intangible) characteristics or the possessions of States – such as their size, level of income, armed force, and so forth. This is power as capability. Capabilities are easier to measure than influence; and they are less circular in logic (Goldstein 2006: 57).

The above lenses of power open up the debate in considering manifestations of the same in the 'soft-power and hard-power' contexts. Joseph Nye (2001:353) defines '*soft power*' as the ability to achieve desired outcomes through attraction, rather than by coercion, because others want what you want. Soft power works by convincing others to follow you, or getting them to agree to norms and institutions that produce the desired behaviour. Soft power can rest on the appeal of one's ideas, or culture, or the ability to set the agenda in ways that could shape the preference of others (Nye 2001:354).

Nye further asserts that soft power and States, using this kind of capability, need to be legitimised by the conflicting parties within intermediary engagements. Legitimacy is, therefore, a soft-power reality. This soft-power ability has been shown by Kenya, for example, in past initiatives, most recently within the Somali peace process and the

Sudan peace process; and in the past, in its soft-power capabilities in its foreign policy and practice, it has seen a deliverance of peace in Uganda in the Nairobi peace process.

'*Hard power*' can be defined as the ability of an entity to do what it otherwise would not do, through threat of punishment or promise of reward. Whether by economic carrots or military sticks, the ability to coax or coerce has long been the central element of hard power (Haass 1998:2–4). Hard power is observed in the military activities that were characteristic of both the US-led UNITAF, and also in the later UNOSOM.

With the above definitions of power is the consideration of 'soft power' by track-one entities as utilized towards managing conflicts of the third kind. These are the soft-power intermediary approaches in peace diplomacy, and are generally utilized by small States. The importance of intermediary approaches that cater for a wider variety of other opinion holders and with a soft power orientation in a mediation process is emphasised by Mwagiru (2000b: 123). This author provides the link between track-one diplomacy and track-two diplomacy. He asserts that in the field of conflict management, track-one and track-two diplomacy intermediaries are concerned with the same ultimate outcome – a sustained, successful peace process. The difference between them lies in the procedures they adopt, the different philosophies underlying those procedures, and the processes adopted in their approaches to conflict management (Mwagiru 2000b : 123).

Mwagiru's analogy reflects the mediation options and strategies that States with limited power capabilities adopt. States whose foreign policy emphasises the diplomacy of conflict management have to contend with the important link between the strengths of track-one and track-two co-operation. These States' track-one diplomatic initiatives have to adopt co-operative approaches that recognise this strength.

This intermediary strategy has been adopted by small States, with the utilisation of soft-power capabilities that focus on the diplomacy of conflict management. Their foreign policies have adopted these strategies to help them navigate the complex

environment of the diplomacy of conflict management. These strategies also provide the necessary environment for third parties to take into account the strengths and opportunities displayed by other actors in a conflict situation. Actors better understood as social-cultural resources of conflict and conflict management are provided opportunities to be involved in mediation and conflict management exercises in such soft-power relationships.

Therefore, a track-one actor's influence and success in a conflict-management process is improved and facilitated by approaches and strategies that recognise these important players in a process. As Lederach asserts, these form an important component in complementing official diplomatic processes (Lederach 1999: 3).

To provide a good basis for this point, one could consider Samuel Huntington's contention about soft power, hard power and their roles in managing conflicts. Samuel Huntington asserts that soft power is power only when it rests on a foundation of hard power (Huntington 1996:92). One could, however, discount his claims and the assumption that soft-power-mediated processes should be nourished on hard power. Different systemic situations and scenarios could support this. As a good example, the soft power of the Vatican did not wane as the size of the Papal States diminished, as explained by Araujo and Lucal (2004:17–57).[24] Another example is that of Canada, Sweden and the Netherlands, which champion popular social issues; they tend to have more influence than some other States with more powerful economic or military capabilities.

Slim (1992:206–231) was one of the few people to acknowledge that other small States, like Algeria, acted within a track-one diplomatic mode as enablers of effective mediation. Algeria successfully mediated the Iran hostage crisis.

[24] The two authors whose abbreviation S.J. (Society of Jesus) connotes they are Jesuit priests have given a chronology in their Vatican diplomacy and their early diplomacy treatise of the Holy See's diplomatic engagement in international affairs, and essentially so within a changing phase of the international system. They have also served in the Vatican Diplomatic Service, and so have experience of both the world of diplomacy and priesthood. In their chapter, 'The Holy See and the ages of Christendom, absolutism, and the nation State', they assert that by the end of the 19th century, the security of the Papacy and its temporal possessions were at risk. Still, the Holy See with its soft-power capability continued to play important, but altered roles, in the world of flux. Its status as an international player, whose goal of peace, remained largely intact was evidenced by its activities in international diplomatic exchange, arbitration and continuing contributions to the development of legal concepts.

Mwagiru echoes Slim's perceptions of the role of small States in mediation, and their successful utilisation of soft-power capability. Mwagiru describes an acknowledged situation in the Kenyan foreign policy establishment, where its mandarins came to realise that there was a need to re-conceptualise the country's diplomacy, as well as its foreign policy. The automatic alternative to other foreign policy modes was the soft-power exposition of the diplomacy of conflict management.

In the world of international relations, soft power, as utilised by Kenya in the Sudan, Uganda and other conflicts, accentuates the notion that this is the appropriate role that small and poor States have undertaken as conflict managers at little financial cost to themselves (Mwagiru 2000 (a):179–180). This study, therefore, examines Kenya's soft-power applications of intermediary roles that have facilitated the mediation processes in Somalia, both currently and in the past. Such intermediary roles seem to be more relevant in managing conflicts of a third kind, and in providing some positive inputs into post-conflict reconstruction.

Kamudhayi (2004:107–110) gives an overview of the Somali peace process, and most importantly, the 14th Somali National Reconciliation Conference. He, however, looks at the modus operandi, as perpetuated within the consolidated sub-regional organ of IGAD, under whose auspices it fell. A critical analysis of Kenya's role as chair of the IGAD Facilitation Committee has not been dealt with, although this is understandable because his analysis is based on the procedural elements of the Somali entities themselves. This study, therefore, seeks to give an overview of Kenya's enabling role as a mediator and as a consistent member of the IGAD Technical Committee, later renamed the Facilitation Committee, which Kenya continued to chair under its continued mandate of hosting the 14th, and no doubt most important, mediation attempt.

This study provides an analysis of the enabling collaborative efforts by Kenya in its track-one and track-two co-operation initiatives. It also explores the innovative soft-power intermediary role that Kenya consciously or unconsciously applied, and that complemented the role of other entities or actors. It also seeks to explore the correlation between track-one diplomacy in the immediate mediation process, and its

enabling role in peace building and post-conflict reconstruction. This is the enabling role of track-one entities in providing a legitimate environment for development actors, or track-two entities to work towards positive peace and transitional justice in Somalia. This, therefore, emphasises the need to critically and holistically examine development-oriented initiatives as components of peace building.

2.7 Section 5: Conflict Management, Development and Peace-building

This section integrates the other three sections and seeks to provide the conceptual link and orientation of this study. In other words, it seeks to consolidate the link between conflict management, development and peace building. An important task of this study is to situate the conflict-management discourse within an integrated approach to the peace, and development paradigms. It is thus also important to evaluate the different theoretical debates concerning development in peace building, as well as the human-needs approach in peace research**.** A short synthesis below and expanded in subsequent chapters provides a basis for this argument.

Burton, Azar and other scholars associated with the school of thought of conflict resolution developed a conceptualisation of peace that would fulfil the theory of human needs (Burton 1997:120)[25], and thus lead to addressing the deep-rooted dynamics of conflict. This involved the universal drive to satisfy basic needs, including security, identity, recognition and participation. Azar's notion of protracted social conflict recognised the prolonged struggle of communal groups for their basic human needs, which tend to be obscured by the State-centric nature of the international system.

He identified the repression of human needs as the root of protracted conflicts, and pointed to the role of structural factors, such as underdevelopment (Azar 1979:123–143; Azar & Moong 1986:390–396)**.** This is the entry point of the connection between development and peace building in Somalia. Thus, Azar equates development with

[25] A synthesis on the human needs approach in conflict resolution can be accessed in Burton (1997:120).

peace, further expanding the concept of peace, and dealing with conflicts of a third kind, as stipulated above.

This study, therefore, treats human-centred development, as conceptualised above, as a major component of the overall Somali post-conflict governance regime. As Ogbaharya (2008:395) asserts, post-conflict governance is an increasingly important aspect of development assistance in sub-Saharan Africa, where the weakening and disintegration of the State undermine sustainable human development. A major challenge in post-conflict reconstruction and peace building in sub-Saharan Africa concerns the incorporation of other actors, from track-one, track-two to grassroots or track-three actors, into the post-conflict governance apparatus. This entails incorporating sub-national, non-State structures and informal institutions into the apparatus.

In this sense, this research will investigate the roles of these actors within the peace-building or post-conflict development apparatus. The way in which a neutral, recognised and legitimised mediator, such as Kenya, brings all these actors and related roles to realise peace in a protracted social conflict, such as that in Somalia, is a major objective of the study.

In order to tackle this, more theoretical and empirical research is needed into the nuanced roles and contributions of the post-conflict State actors (both informal and formal), and third-party roles in particular, in reconstituting governance and rehabilitating communities through transitional order mechanisms. This research undertaking, therefore, has sought to investigate the situation within a Post-Washington Consensus (PWC) framework, which is an emerging development approach that seeks to *re-introduce the role of the State in development and in post-conflict reconstruction and stabilization situations* and polities.

The researcher will thus embark on an exploration of an interdisciplinary framework, a nexus of convergent paradigms that examines the dynamics of conflict management, peace building and the development approaches. The way in which all these approaches are synthesised in the mediation process and the enabling roles of third parties, such as Kenya, will be investigated. This integrative outlook is well-addressed

in Ball and Halevy (1996) who provide a *framework for post-conflict contexts* in which they identify two phases: *cessation of conflict*, including negotiation, mediation and cessation of hostilities, and *peace building*, covering transition and consolidation.

This second phase has traditionally been split between humanitarian agencies that respond to the immediate emergency needs of the civilian population in a post-conflict environment and development agencies that focus on the longer-term development goals, such as building political institutions, economic and social revitalised units focusing on this transitional stage and increased communication and planning among humanitarian and development organisations working in such environments (Ball & Halevy 1996; Cutter 2005:779).

The way to bridge this co-ordination disconnect was a major component of this dissertation, and was approached by investigating what role mediating and third-party States can play in both the conflict management and the post-conflict stabilization or reconstruction stage. This is tackled by providing a co-ordinated approach for transitional ordering and peace building through the leadership roles of co-ordinating the mentioned actors' roles in peace and development.

This study also seeks to examine the gaps captured in the Report of the UN Secretary General's High Level Panel on Threats, Challenges and Change (UN 2004). The report, christened "*A more secure world: Our shared responsibility*", identifies peace building and post-conflict development architectures, as practised as an institutional deficit in the UN system. It claims that the large number of States recovering from conflict places an obligation on this intergovernmental body to tend to the unique needs of these countries (UN 2004).

However, a disengagement policy has been embraced by the world body with regard to conflict management, peace building and development initiatives, which have subsequently been delegated to regional organisations, such as IGAD, which have observably not taken the challenge due to political complications, legal inconsistencies and mandates and capacity vacuums that cannot fully address the challenges encountered in Somalia. This poses the question: What roles then do

legitimate third-party countries, such as Kenya play in mediation, and peace building and development co-ordination strategies?

2.8 Conclusion

This chapter has highlighted the shifting sands related to the discourse development of conflict as a social phenomenon, the evolution of intervention avenues and the growth and dynamism of peace building or post-conflict reconstruction mechanisms. It is apparent that conflict management is still experiencing major shifts in terms of normative growth, and by having a multi-dimensional and disciplinary context. The next chapter will, therefore, critically discuss the essence of a theoretical framework adoption to the study, and one that consolidates these shifts or realities.

CHAPTER 3
INTERMEDIARY ROLES AND CO-OPERATION THEORY

3.0 Introduction

Cohen and Manion (1994: 36) maintain that for professional scientists, science is seen as a way of comprehending the world – as a means of explanation and understanding, of prediction and control. For them, the ultimate aim of science is theory. Theories are expressed in the form of statements, and by extension frameworks, that is by theoretical statements and theoretical frameworks.

Theory varies greatly in status and quality, depending on the type of discipline or subject area considered. In the well-established natural sciences, for example in chemistry, theories tend to be highly developed and refined, while in other fields, for example, in the social sciences, they tend to be relatively underdeveloped, less widely accepted and of more uneven quality (Walliman 2001:83). This is true of the theoretical underpinnings of mediation, conflict management and post-conflict reconstruction studies.

In the specific area of conflict, conflict management and transformation, for example, there is as yet no widely accepted general theory explaining the phenomena. There are instead a number of competing theoretical perspectives, each with its own valuable insights and its own shortcomings. Because the field is what Kenneth Boulding (1979:xiii) termed an "inter-discipline", rather than a discipline, it has become the focus of not only most of the social sciences, but of many other theoretical pursuits as well.

Therefore, the researcher followed the following argument of Dougherty and Pfaltzgraf (Dougherty & Pfaltzgraf 1990:187) (this is also cited in Bradshaw 2007:36):

> No single general theory of conflict and war exists that is acceptable to social scientists in their respective disciplines, or to authorities in other fields from which social scientists borrow insights. If a comprehensive theory was to be developed it will probably require inputs from biology,

> psychology, social psychology, anthropology, history, political science, economics, geography, theories of communications, organization, games, decision-making, military strategy, functional integration, and systems as well as philosophy, theology and religion.

In the social sciences, Silverman (1998:103) regards theories as living entities, developed and modified by good research. However, because they instruct us to look at phenomena in particular ways, theories, and the concepts on which they are based, are self-confirming, meaning that they can never be disproved, as in natural science, but only found to be more or less useful. The nature of a theory is, therefore, strongly influenced by the level of maturity of the particular specialisation.

The early stages of a science must be dominated by empirical work, that is, the accumulation and classification of data. Only as a discipline matures can an adequate body of theory be developed. It is within this background that the researcher of this study strongly believes that the areas of peace, conflict and development studies have been maturing with credible research and schools of thought streamlining the fields. There is, therefore, a plethora of theoretical insights that builds on the field of peace, development and reconstruction.

It should be noted that Peace and Development research has a tradition of theoretical growth and application, albeit it in a scattered and multi-disciplinary manner. This research consolidates the theoretical framework and tests the same within the growing fields of peace and conflict research, on the one hand, and peace building and development, on the other hand. It is also important to note at this stage that this study is based on a critical analysis of conflict management from a track-one diplomacy and peace-building perspective. It, therefore, borders the very area of interventions aimed at post-war economies.

This chapter thus investigates the theoretical framework that would address and comprehend the different tasks and roles of mediators or intermediaries involved in such interventions. The *intermediary roles and co-operation theory*, and its development are considered in this section.

3.1. Contemporary intervention dynamics

Interventions aimed at peace building and reconstruction within post-conflict economies are of growing interest internationally. This is particularly evident in the conceptual and practical dimensions of the related disciplinary fields of development studies, international development, conflict studies and international relations. There is also a growing appreciation that actual and potential interventions within post-conflict economies and societies should be more explicit, comprehensive and sophisticated – in both their conceptualisation and implementation (Sasvari 2009: 1; Necla 2003: 18-25).

As an example, the Department for International Development (DFID), the UK government's international development aid agency, has prioritised a new wave of policy research looking at, inter alia, the development-conflict-security nexus and the economics of social conflict (UK Government 2006: 15-17).

Scholarly literature on the intimate relationship between conflict resolution, development, security, and economic policies and processes, is creating new avenues of research (Sasvari 2009: 1; UK Government 2006: 27-32). This study takes heed of the increased convergence of scholarly discourses with regard to post-conflict reconstruction and stabilization. Important historical examples and touchstones in these ideas involve the discourses on the iconic Marshall Plan for post-war Europe (which fed into the early variants of development theory in the 1950s and 1960s, and the emergence of the development studies discipline) and the economic-recovery plan for Japan after the Second World War (Hopper & Hopper 2007: 91 - 108; UN 2007,a: 21-24).

A further key emphasis is the need to integrate peace-building initiatives and mediation efforts more directly with the deployment of economic development and human-security strategies, especially at local and community levels in post-conflict contexts (Cliffe, Guggenheim & Kostner 2003: 4 - 11). The Canadian government's foreign finance and development unit, IDRC (the International Development

Research Center),[26] has a special Peace, Conflict and Development programme examining these issues.

The UK government's International Development Committee in the period 2005/6 provided some useful contextual guidelines for the need to formally contextualise economic reconstruction within a matrix of peace building, security and mediation activities (UK Government 2006: 53).

Further international events, such as for example, the post-9/11 security and development lenses provide a stronger link. Current efforts to regenerate the post-9/11 Iraqi political and economic situation after the fall of Saddam Hussein and its underlying social networks are obliging consultants and policy advisors, and their critics, to look beyond orthodox neoclassical economic models and solutions to more multi-disciplinary avenues (Cliffe et al. 2003; UN 2007).

The articulation between human needs-oriented conflict management and the deployment of humanistic-development economics has been gaining momentum and has its proponents (e.g. Cliffe et al. 2003; Sen 1999). Post-war Somalia[27] presents an interesting case study regarding the need to operationalise diplomatic, demilitarisation and reconstruction efforts within a more integrated approach (UNHCR 2008: 37 -47). This integrated approach also legitimizes the different intermediary roles that ought to be espoused by different actors when addressing contemporary conflicts.

3.2 Intermediary co-operation in conflict management and development

As explained briefly above, the world of conflict management and development has changed, and has assumed certain dynamics over time. A common feature and phenomenon in this growth is based on recognition of the complementary features of these activities towards one common goal, namely sustainable positive peace. How do the different proponents of intervention, namely, those in development practice,

[26] See http://www.idrc.ca/peace/

[27] Post-war Somalia in this case refers to the situation in the country especially between 2004 to date. This is representative of the transitional period that started with the formation of Transitional Federal Government administration in Somalia, and after the official peace process as spearheaded by Kenya between 2002 and 2004.

diplomacy and conflict management work together in synergy towards a common goal? Having this question in mind, the framework employed sought to analyse this in the Somali mediation and intervention case study.

It is apparent that although members of the diplomatic, conflict resolution and development communities share a growing recognition of the potential synergies of their work, efforts to co-operate are often frustrated by differences in interests, assumptions, professional culture and identity, lexicon and perceptions of relative power. This lack of co-operation might translate into significant lost opportunities for synergy. Intermediary co-operation might, therefore, be a possible strategy to be applied in such situations.

Intermediary co-operation, for the purposes of this section of the analysis, is any interaction between official (track-one) diplomats and practitioners, non-governmental and other track entities that is intended to contribute, directly or indirectly, to the effectiveness of each others' work, or to the achievement of the complementarity between such efforts (Strimling 2006:93).[28]

This study adopted a theoretical framework that is based on the multi-disciplinary fields of conflict management, diplomacy, peace building and development reconstruction. In this respect, Kenya's mediation and diplomacy in the ongoing Somali conflict is viewed from a multi-disciplinary theoretical framework grounded in theories of intermediary co-operation and intermediary roles. Intermediary co-operation or co-ordination in conflict management and peace building is also an issue attracting growing attention among scholars of international relations, negotiation and conflict resolution, development, humanitarian relief and security, as well as among the practitioners engaged on the frontlines of efforts to prevent and resolve conflicts (Nan & Strimling 2006:2).

This attention reflects the recognition that the complexity of post-Cold War intrastate conflicts requires: new and far more integrated approaches to political and social change, as well as the fact that co-ordination has proved very difficult to achieve. This

[28] This definition and analysis could be expanded to other intermediaries, including those working in complex emergencies. For further insights, see Strimling (2006).

is captured in the changing dimensions of the 'new wars' in the post-Cold War period, as was discussed in the previous and first chapters of this research.

The growing body of literature on intermediary co-operation or co-ordination in conflict management and peace building includes analyses of the interactions and roles, and among several sub-sets of actors, including civil-military co-ordination in so-called post-conflict, stabilisation and reconstruction operations; co-ordination between track-one (official diplomats) and track-two (non-official conflict-resolution professionals); and co-ordination between non-governmental organisations (NGOs), especially through networks and alliances (Chataway 1998; Kriesberg 1996).

Co-operation between track-one (or official) and non-official actors of diplomacy, development and peace-building activities cannot be fully comprehended before exploring the theoretical application of terms and debates related to this undertaking.

3.3 Intermediaries: Track-one (official) and non-official actors

Again, for the purposes of this analysis, the term 'intermediaries'[29] refers to individuals or entities who, independently, or on behalf of their organisation of government, work with parties to a complex conflict with the goal of resolving the conflict and building peace (Strimling 2006:93). As captured in the first chapter of this research, the term 'track-one' diplomacy, or official diplomacy, refers to the undertaking by intermediaries who are engaged, on behalf of their government or coalesced entities (for example intergovernmental organisations), in pre-negotiation efforts, mediation of official negotiations, and the implementation of negotiated agreements.

Joseph Montville originally defined track-two diplomacy as involving unofficial interactions between members of adversarial groups or nations that are directed towards conflict resolution through addressing the psychological factors (Davidson & Montville 1982). Later on in his tracks analysis, Montville defines track-two

[29] It should be noted that there are many intermediaries working in protracted conflicts, for example, military personnel. However, this research concentrated on intermediaries focused primarily on conflict resolution, peace building and development efforts.

diplomacy as "unofficial, informal interaction between members of adversary groups or nations, which aims to develop strategies, influence public opinion, and organize human and material resources in ways that might help resolve the conflict" (Montville 1987:7). The term 'non-official actors' also refers to those working independently or under the auspices of non-governmental organisations – who also facilitate dialogue processes before, during and/or after formal negotiations.

3.4. Mediation and intermediary activities

Mediation refers to an approach to conflict management in which a third party, which is not a direct party to the dispute, helps disputants through their negotiations and does so in a non-binding fashion (Bercovitch & Houston 1993:298).

Kressel and Pruitt (1989: 145) assert that mediation is generally understood as the arrangement of an agreement by talking to two separate people or groups involved in a disagreement. The key characteristic of mediation towards this end is that it is non-adversarial, meaning that mediation does not use force in any way, and it is ultimately non-binding. The mediation process is owned by the conflict parties alone, and the outcome is strictly their responsibility. Honeyman and Yawanarajah (2003) assert that it is the mediator's role merely to facilitate communication, to outline and clarify the issues of the dispute, and possibly to make suggestions and provide ideas for a solution.

Princen (1992: 3) defined mediation as a non-coercive intervention by a third party in a dispute between two or more political entities. It should be noted that the intervening third party does not have to be a State. It can be, and often is, an international governmental or non-governmental organization, or even an ad hoc group of individuals. The political entities engaged in conflict do not have to be States either, and mediation is a common means of intervention in intrastate violence.

In essence, Diehl and Bercovitch (1997: 299-320) asserted that mediation in itself is by some measures the most common type of intervention in international disputes. According to Rauchhaus (2006: 207-241) and Dixon (1996: 671), mediation is also one of the most effective types of intervention in international disputes.

Skjelsbaek and Fermann (1996: 76) also asserted that mediators typically use a variety of non-coercive tactics, but are generally understood to not promise rewards, threaten punishment, or deliver services or goods to the disputants. One explanation for how mediators help settle conflicts in the absence of coercion, is that mediators can bring information to the table of which the disputants are not aware.

If conflict onset or escalation is the result of uncertainty and disagreement about the gains each disputant can expect to reap, then mediators can help resolve disputes by providing information that alleviates this uncertainty (Young 1972: 56-57). Fisher (1995: 41) also distinguished between "Pure Mediation" in which the mediator has no leverage to use " promised rewards or threatened punishments to motivate the parties toward a settlement", and " Power Mediation" (or "Mediation with muscle"), which is really an example of triadic bargaining.

Chris Mitchell further defines mediation as any "intermediary activity […] undertaken by a third party with the primary intention of achieving some compromise settlement of the issues at stake between parties, or at least ending disruptive conflict behaviour" (Mitchell 1981:287). It should, therefore, be noted that different definitions of mediation reflect the complexity and dynamism of the process.

For example, although mediation can be classically viewed as a foreign policy tool used by States only (Touval 2003: 91-95), a wide range of actors serve as mediators in intrastate and international conflicts. These include individuals who are not government officials or representatives of international organisations, such as the UN or Red Cross, among others (Bercovitch 2007:178–182). Increasingly, track-two actors, for example NGOs and development agencies, are playing vital intermediary roles at different levels of conflict-resolution attempts, including mediation, particularly in the context of their growing links with transnational organisations and their professed interests in human-security issues (Orellana & Bercovitch 2009:180).

Each intermediary has different strengths and shortcomings in different contexts, and each brings different resources and capabilities, and has varying power and leverage (Bercovitch & Houston 1993: 297-321). Intermediary activities and processes in

third-party intervention or mediation thus encompass a very wide range of activities and touch upon the roles that mediators and other actors play in all the different aspects of a conflict situation.

While all these various efforts have been made to define what mediation is, there is an observed common trait. All perceive mediation as an intervention in a dispute by a third party whose task is to assist disputants themselves to reach a settlement. However, some differences emerge as to whether this third party should be neutral or impartial; how much power a mediator has or should wield; and what tasks or techniques may be used. Anstey further interrogates this latter situation and his definition of mediation captures the same issues. Anstey, as briefly mentioned in the previous chapter, defines mediation as:

" *A form of third-party intervention in disputes, directed at assisting [the] disputants to find a mutually acceptable settlement. Although mediators may operate from a high or low power base, they are not accorded authoritative decision-making power, but are empowered to facilitate settlement searches through the use of the negotiation process*" (Anstey 2006: 245).

He argues that mediation has been used in many dispute situations, including international relations, community-conflict management, hostage crises, domestic and divorce situations, environmental conflicts and labour-relations management. Several debates have arisen over its use – as a result (Anstey 2006: 245). He cites several key debates that cut across:

- Whether the mediator ought to be neutral and impartial;
- Whether late entry to a dispute is preferable to early intervention;
- On what basis one could judge the effectiveness of mediation;
- The sources of power that a mediator has, and how this should be exercised;
- What techniques the mediator could use and objectives affiliated to them.

He posits that many of these questions could be addressed at least in part in the debate surrounding *mediator acceptability*. Mediator acceptability is crucial to successful intervention (Moore 1986: 6; Kressel 1972: 10-13; Kressel and Pruitt 1985: 179-198).

Considerable debate surrounds the issue of what factors might contribute to this. On the other hand, there are those who suggest that mediators are often interested parties who are in fact not neutral, but have a direct interest in the outcome of a dispute or a particular network of social relations (Zartman and Touval 1985; Gulliver 1979).

Gulliver (1979: 214-218) clarifies the debate by distinguishing two types of mediators – those with a *disinterested status*, and *those with interests* in a conflict.

3.4.1 Disinterested mediators

According to Gulliver (1979: 214-217), and as cited in Anstey (2006: 246), a disinterested status may arise from a number of sources:

- An institutionalised role in society, such as a mediation agency;
- Acknowledged prestige or ability of an individual or agency not directly concerned with the issues or outcome of a dispute;
- Expertise on the issues at stake;
- Social status as a distinguished or socially eminent person; and
- Position in relation to the social network involved in a conflict.

Moore (1985: 203) proposed that neutrality and impartiality are basic to mediator acceptability, the former referring to the relationship with the disputants, the latter to the attitude with which a dispute is approached. To remain neutral, a mediator should not have had a relationship with either of the disputing parties, or at least not one in which they have directly influenced the rewards or benefits for one – to the detriment of the other. No special favours, benefits or payments should be received as compensation for favours in the conduct of the mediation. Impartiality requires a capacity on the part of the mediator to direct the parties to find a solution of their own to a problem that is separate from the mediator's personal opinions.

This is best carried out by a focus on procedural, rather than substantial elements of the process – by advocating fair process rather, than any particular outcome.

3.4.2 Interested mediators

While low-power individuals with the status of neutrals may carry out mediation, on some occasions a mediator performs it with interests and influence in a situation (Kressel and Pruitt 1985: 179-186). Researchers in the fields of anthropology (Gulliver 1979: 214-217) and international relations (Zartman and Touval 1985) vigorously challenge the emphasis on neutrality as a prerequisite for acceptability. Gulliver (1979) argued that the roles and aims of mediators are far more varied in real life than traditional thought suggests; and that they might turn dyadic disputes into triadic interactions introducing the interests, values and perceptions of their own into the process, which may not coincide entirely with those of the disputants.

"*Therefore he is not, and cannot be, neutral and merely a catalyst. He not only affects the interaction but, at least in part, seeks and encourages an outcome that is tolerant to him in terms of his own ideas and interests."*

"*He may even come into conflict with one or both parties. The strong, Western, cultural stereotype and moral notion of the purely impartial mediator is neither invariably correct in practice in our own society, nor valid cross-culturally*" (Gulliver 1979: 213-214).

Gulliver suggests that mediators' own interests may be affected by the continuation of a dispute. In such instances, a mediator may care less about the outcome of a dispute than about the termination of a disruptive conflict. The mediator may be a direct participant in the network of social relations incorporating the adversaries, and may have a known partiality As a consequence of these factors the mediator may be able to intervene on the basis of a perceived ability to influence one or both parties in the engagement. Alternatively, the mediator may not be directly involved in the network of relations, but might be a community representative anxious to extend personal influence, or for opportunities to express a value system.

Zartman and Touval (1985) extend the argument of mediators as interested parties into the field of community relations, proposing that mediators are 'players' in the

process. They posit two types of interest: defensive interests – where continued conflict threatens the mediator's own interests – and influential interests where, although not directly threatened by a conflict, a party may offer to intervene, in order to extend influence over the parties concerned or in a particular region.

Zartman and Touval (1985) proposed that:

"Mediators are seldom indifferent to the terms being negotiated …[they] are likely to seek terms that will increase the prospects of stability, deny their rivals opportunities for intervention, earn them the gratitude of one or both parties, or enable them to continue to 'have a say' in the relations between the two adversaries … third parties are accepted as mediators only to the extent that they are thought capable of bringing about the acceptable outcomes" (Zartman and Touval 1985: 30).

Anstey (2006:248) argues that adversaries may choose or accept an interested mediator for a variety of reasons:

- In the hope that a mediated outcome might produce an outcome more favourable in the balance than continued conflict or through direct negotiation;
- As a form of guarantee for the process and its outcome, that is, by reducing the risks of violation of procedures or agreements by the adversary; and
- In view of the risks to future relations with the mediator if intervention is not accepted and/or the conflict is not settled.

According to Zartman and Touval (1985), partiality does not mean that a mediator can push the interests of one party in a dispute, while ignoring those of another. His skill is to turn his partiality into an asset in the process – by facilitating communications, developing creative proposals, converging positions, and ultimately 'delivering' to the party to which he is closest. The mediator cannot be seen to be so close to one party as to preclude an agreement, but must, like disinterested mediators, be perceived as having a primary interest in achieving a settlement acceptable to both sides.

In summary, the argument from this perspective is that the central issue that renders the mediator acceptable is not impartiality, but a perceived capacity to provide an acceptable outcome.

Huntington (1998) was blunt in his view of the potential for disinterested mediation in civilizational conflicts:

"*Fault-line wars are almost never halted by direct negotiations between primary parties ahead, and only rarely by the mediation of disinterested parties. The cultural distance, intense hatreds, and mutual violence they have inflicted on each other make it extremely difficult for the primary parties to sit down and engage in productive discussion looking forward to some form of ceasefire……Conflicts between countries or groups with a common culture can at times be resolved through mediation by a disinterested party who shares that culture, has recognized legitimacy within that culture, and hence can be trusted by both parties to find a solution rooted in the values of that culture … In conflicts between groups from different civilisations, however, there are no disinterested parties. Finding an individual, institution, or State whom both parties think trustworthy is extremely difficult. Any potential mediator belongs to one of the conflicting civilisations or to a third civilisation with still another culture and other interests, which inspire trust in neither party to the conflict*" (Huntington 1998: 292).

As a consequence, he argues that fault-line wars are ended not by disinterested individuals, groups or organizations, but by interested secondary and tertiary powers that have rallied to the support of their kin and have the capability to negotiate agreements with their counterparts, on the one hand, and to induce their kin to accept those agreements on the other (Huntington 1998: 292). Secondary and tertiary actors in such disputes often prolong the dispute through resourcing their kin, but they also have the capability and often the interest to bring a halt to hostilities to preserve the interests of their own.

If one were to compare Huntington's view with that of Laurie Nathan (1999), the latter argues that:

"The experience of peace making in African civil wars suggests that international mediators are ineffective, if not counter-productive, when they deviate from the logic of mediation and apply undue pressure on the parties. Individuals and groups tend to resist coercion especially where [the] disputants are in conflict over issues related to freedom, identity, justice, security and survival. While external pressure may be unavoidable because of a disputant's intransigence or aggression, a mediator who threatens a party will lose that party's trust, and inhibit the resolution of the conflict (Nathan 1999: 23). And:

……..international mediators should acquire greater proficiency in the art and science of mediation through comprehensive training; by deploying qualified mediators alongside prominent personalities involved in peace making; and by establishing expert mediation units within the UN and OAU (now the AU)" (Nathan 1999: 23; and as cited by Anstey 2006: 250).

Nathan further argues that: "The concept of 'confidence-building' provides a better analytical basis than 'power brokerage' for understanding the function of mediation, the role of the mediator and the approach most likely to bear fruits in civil wars…the concept explains the achievements of non-powerful mediators…[and]…the application of techniques to facilitate communication, understanding and accommodation. The strategic thrust is to promote the parties' confidence in each other, in negotiations and in the mediator.

"The solution has to be found in a new relationship between the parties. The mediators [should] concentrate on developing mutual recognition and respect, rather than relying on outside leverage to push the parties together. The first step is to begin a dialogue between the parties that could open the way to reconciliation. Eventually, the parties could agree on their own solutions" (Nathan 1999: 25).

In the above two quotes lie key differences in thinking about the usefulness of mediation in international dispute settlement, and the types of mediation required for effective outcomes, Huntington argues that impartial mediation by a disinterested outsider is unlikely and impractical. Nathan sees leverage mediation by powerful and often interested outsiders as contributing to, rather than alleviating the tensions. In the

case of Kenya's mediation in the Somali conflict, it could be argued that it has been an "interested intermediary".

This status in Kenya's peace diplomacy is explained to the extent that the Somali situation has had a direct impact on its security. These issues cut across the effects of the conflict epicentre in terms of small arms infiltration into Kenya, the huge refugee influxes and hosting of the same, and also threats and vulnerabilities posed by the Somali situation as experienced in a number of terrorist attacks in the Kenyan territory. It is also an interested mediator – to the extent that a great deal of the country's peace diplomacy has been directed towards looking for a sustainable peace in Somalia since 2002.
A continuation of the process not only supports regional peace and security, but also ensures Kenya's role as a "regional" peace broker and as a "regional power African driver".

3.4.3 Acceptability and mediation

Another important aspect of mediation is '*maintaining acceptability*'. Anstey (2006: 250-251) argues that the relevance of clarifying factors that contribute to mediator acceptability extend beyond identifying who might be invited to undertake the task, or who might be accepted to do it. The mediator ought to remain acceptable, once the process has been initiated. The reasons why a mediator is acceptable to the parties provides an indication as to the type of influence that might be exercised in an intervention. It is reasoned here that the criteria that the parties use to choose a mediator signal their expectations of the process and mediator behaviour.

Kressel (1972: 22-26) indicated that mediators spend time in the opening phases of an intervention on what he terms "reflective" tactics, which are designed to make the mediator an effective instrument for dispute resolution. Essentially, the strategy is to:

- Gain the trust and confidence of the parties;
- Achieve rapport with them;
- Discover the real issues in a dispute; and
- Get a feel for the dynamics of the situation.

Kolb (1985:11-26) indicated how this is done on the basis of her participant observation in a series of labour mediations. She concluded that mediators actively try to convey messages about themselves – expressive tactics – to the parties at this stage. They try to impress parties with their skills and abilities, their trustworthiness, experience, relevance, understanding and empathy, and contacts with significant others.

In brief, mediators do not cease to be concerned about their acceptability once they have been agreed to by the parties in dispute. They must reassure them that the choice was a correct one, and build a powerbase from which to operate or orchestrate the process. The extent to which expressive tactics will be successful would be dependent on what is likely to impress the press – which refers to the consideration on why they chose the mediator in the first place. Disinterested mediators have little direct power over relations. Anstey asserts that they are temporary sojourners (2006: 251) in the social network of adversaries. Power then is usually ascribed to them on the basis of the parties' perceptions of them as impartial, neutral, expert, prestigious or socially distant.

Expressive tactics should then be directed at maximising these sources of power, or at least preventing their erosion. Interested mediators may have some of those sources of power possessed by neutrals, but they are usually more powerful in terms of direct influence in a social network. Thus, the parties may have a dependency relationship on the mediator, or be subject to the mediator's capacity to reward or coerce their behaviour (Anstey 2006: 251). As a consequence, interested mediators would direct expressive tactics differently, than would their disinterested counterparts.

3.4.4. Contemporary mediation

Despite the above self-evident importance of international mediation, it has however not been conducted and developed in a systematic and professional manner. Mediation of violent national or intra-state conflict has long been undertaken by the United Nations (UN), the African Union (AU), other multilateral organisations, and States. In Africa alone, over the past three decades, mediators have laboured to end

deadly conflicts in Angola, Burundi, the Comoros, the Democratic Republic of Congo (DRC), the Ivory Coast, Kenya, Lesotho, Liberia, Madagascar, Mozambique, Rwanda, Sierra Leone, Somalia, Sudan, Uganda and Zimbabwe.

The stakes are very high in these situations: the success or failure of the mediation determines whether the country remains locked in strife or is able to embark on a path of reconciliation and reconstruction. In the case of Rwanda, the negotiations mediated by Tanzania in 1992-3 broke down – and were overwhelmed by the genocide. In Kenya, by contrast, the mediation led by Kofi Annan in 2008 prevented a descent into protracted violence. In other cases, such as the DRC, the results have been mixed with both war and peace prevailing in different parts of the country (Nathan 2010: 1).

Given the above situations of mediation successes and failure, a question that is now predominantly posed in contemporary mediation discourse is: 'What conditions are necessary for successful mediation?' Bercovitch 1996 (4) argued that there might be no straightforward answer, as mediation is a dynamic, complex and flexible process, where generic principles do not always work, and adaptability is often 'a source of strength for the practitioner'.

Because of this context-derived nature, the structure of a conflict, its context, the presence or absence of other actors, political pressures rising from within, and the overall relations between the parties – all these have a considerable impact on the outcome of the mediation process. To answer the mediation question, it is important to distinguish the qualities of good mediators, their approach to mediation, and their motives for their involvement (Avineri 1982: 19-23).

Nathan Laurie (2010) argues that where mediation is successful, the content of the peace agreement has a major bearing – for better or worse – on justice, security, power, governance, and respect for human rights, and the potential for violent conflict in the post-war society. Mediations and negotiations are thus the bridge, sometimes tenuous and sometimes robust, between *war termination* and long-term *peace-building and State-building* (Nathan 2010: 1)

Where international, regional, sub-regional organizations and other actors mediate in situations of actual or imminent violence, the goal should not be conceived simply as averting or ending hostilities. In order to ensure sustainable peace and stability in the long term, it is also essential to address the original causes of the conflict. This has been captured in the previous chapter of this dissertation. This is extremely difficult in civil wars or 'wars of a third kind', because the causes are frequently multiple, complex and deep-rooted, and the belligerents are bent on defeating rather than accommodating each other.

Against this background, international mediation has suffered from an acute lack of professionalism, expertise and rigour (Antje 2008: 21-22). A comparison with the military could be instructive in this regard. Like the conduct of warfare, mediation is complicated, volatile, unpredictable and risky. Yet, unlike professional armed forces, the field of international mediation has placed no emphasis on training and education, on developing doctrines, strategies and operating procedures, on the setting and maintaining of standards, on appointments based on clear criteria and proven ability, and on learning from past experience, in order to improve performance and to avoid mistakes in the future. In recognition of this challenge, Nathan Laurie (2010) seeks to look at the critical dimensions of international mediation that ought to be considered by investigating why this state of affairs of mediation has been the norm in practice.

He asserts that a number of concerns arise following this line of thought:

- That the appointment of high-level mediators has not always taken account of their peace-making ability and experience. As a result, some of those appointed have been poor mediators and have created confusion and even exacerbated conflicts.
- That international organizations, States and other actors, have repeatedly deployed mediators in complex and protracted conflicts without adequate political, technical, administrative and financial support.
- That over time, insufficient attention has been paid to training and nurturing international mediators; and there are few opportunities to undergo such training. The pool of proficient senior mediators is, therefore, small – and is not growing.

- That there has been no systematic effort to evaluate mediation cases, identify lessons, adapt methods accordingly and establish a central repository of know-how. Consequently, there has been no accumulation of knowledge and improvement in mediation over the course of time.
- That there is no coherent concept and strategy of international mediation in national conflicts. The style of mediation is largely dependent on the personality of the mediator and the habit of repeating what has been done in the past (Nathan 2010: 2).

However, there have been some observed positive steps towards addressing this situation. For example, the world body – the UN – has set up a Mediation Support Unit, a standby team of mediation experts for rapid deployment[30]. In 2004, the UN Secretary General's High-level Panel on Threats, Challenges and change recognized the positive contributions of mediation. It took note that the demand for the good offices of the UN mediation had "skyrocketed" (UN 2004: 100-103). With a view to strengthening its mediation capacity, the UN as noted, established the Mediation Support Unit of its Department of Political Affairs. Four years later, on 23 September 2008, the Secretary General, Ban Ki-Moon, requested that the Security Council of the UN member states invest in further mediation activities applied in different conflict scenarios and contexts, and insisted on the need to co-ordinate and harmonize these efforts (Antje 2012: 4-5).

In 2009, the UN Secretary-General issued a seminal report on international mediation, which was debated enthusiastically by the Security Council (UN 2009: 4). This ensuing 2009 Report of the Secretary General on Enhancing Mediation and its Support Activities acknowledged: "…the practice of mediation has received remarkably little attention or support. Instead, our efforts have been concentrated on the more costly tasks of dealing with the scattered remnants of devastated lives, communities and institutions of State, while the daunting challenge of reconstruction has absorbed resources that could have gone into early conflict resolution (UN 2009: 4-5).

[30] See specialist website entitled "UN Peace maker" in, http://peacemaker.unlb.org/index1.php as accessed on 8 April 2012.

The report recognizes mediation as a professional tool for conflict resolution; it emphasizes that the practice of mediation requires specific skill sets and expertise, and signals to the international community that acquiring and applying these techniques require substantive efforts, both in financial terms, but also in terms of systematized learning as to its practice (Antje 2009: 5). Initiated by Finland and Turkey, which have created a UN Group of Friends of Mediation, a UN General Assembly conclusion in June 2011 stressed the continued need for resources, capacity building, and the professional practice of mediation.

The African Union (AU) also lately embarked on a programme to strengthen its mediation capacity in the formation of a Mediation Unit. Similar interest in building mediation capacity has been expressed by the European Union, the Southern African Development Community, the Economic Community of West African States, the Intergovernmental Authority on Development, and by the East African Community.

Another positive development in international mediation could be seen in progressive architectures of 'preventive mediation efforts'. This can be observed in the growth of preventive action in the different stages of diplomacy. There is indeed a new appetite amongst United Nations member states and agencies to invest in preventive action. It has a certain economic appeal. The idea of devoting a relatively modest amount of resources to preventing violent conflict – rather than investing drastically in more costly humanitarian, peace-keeping, reconstruction or stabilisation operations makes practical sense in a world facing a tumultuous economic slowdown (Gowan 2011: 4-7; Zyck & Muggah 2012: 68).

In 2011, the United Nations Development Programme (UNDP) established its Bureau for Crisis Prevention and Recovery (Zyck & Muggah 2012: 68-69); and in 2011, the UN Secretary-General, Ban Ki-Moon, released his report on "*Preventive Diplomacy: Delivering Results (2011")*, which highlighted the growth of preventive diplomacy and called for more predictable and generous financial support, enhanced capacity building and the formation of partnerships to strengthen the work of 'preventive diplomats' (UN 2011: 18-23).

The UN was not alone in advancing preventive action. Other international organizations have followed suit. The World Bank's World Development Report in 2011 highlights 'fragility' and 'resilience' as themes, with the latter encapsulating countries' ability to channel chronic violence into less violent directions, whether before armed conflict breaks out, or in its aftermath. What is more, the World Bank's new '*Hive*' serves as a platform for the mitigation of fragility, conflict and violence; and it has implications for conflict prevention, albeit not in the more orthodox diplomatic tradition (World Bank 2011: 99-112).

Nathan Laurie (2010: 2-3) recognizes that such notable developments could create the potential for a substantial improvement in the quality and effectiveness of peace making. This potential could only be realised, however, if the organizations, States and other actors engaged in mediation undertake certain measures. He asserts that the actors should implement a rigorous system of appointing and evaluating mediators; provide adequate support to mediators in the field; develop a learning culture based on review, assessment, research and adaptation; and adopt a confidence-building model of mediation in national conflicts.

Griffith (2005: 6-8) also argues that for conflict stakeholders and conflicting parties, the strength or weakness of mediators is not a matter of their institutional capacity, but of their potential functional contribution. Towards that end, conflicting parties gauge the acceptability of a particular mediator against the benefits and risks they expect from their involvement. Likewise, linkages to mediators, such as the heritage of the past, cultural affinity or political and religious affiliations, may positively or negatively affect decisions to accept others, or to call upon mediators (Greig and Regan 2008: 769).

Different actors may serve in facilitating or supporting roles: State and non-State actors, private and business actors, international organizations, external or insider mediators (Slim 2007: 2; Cousens 2008: 70; Griffith 2005: 15). For the conflict parties, it is seen as strength if they have a variety of others from which to choose; and they might choose different actors for different functions. For third parties, it is therefore key to understanding that they are working in a broader mediation system, albeit with different functions, but with a potentially high level of complementarity.

In terms of the general qualities of a third-party mediator, the conflict parties refer to their: Competence; Personal Commitment; Respect and Integrity; Empathy; Patience; Independence; Flexibility; and tradecraft skills (Giessmann 2009: 7-8). A further discussion on the directions that the '*new international mediation*' could be taking becomes essential.

3.4.4.1 Mediator appointments and evaluation

On their work related to finding an international mediator in international commercial dispute situations, McIlwrath et al. (2010: 1) argue that one of the most challenging aspects – or part of international mediation – is identifying candidates and selecting a mediator. The obvious predisposition would be for protagonists in a dispute or conflict to prefer a mediator candidate who possesses the qualities and skills they perceive would be helpful in achieving a resolution of the dispute. The International character of a dispute would only magnify the difficulties that the parties already face in locating someone each side could trust and respect.

Unfortunately for the parties, the identification of suitable candidates and agreement on the appointment of mediators remains firmly embedded in precedent set on such appointments. This is precedent of appointment based on imperfect and unresearched information about the credentials and proven track record of the success of the mediator in past enterprises, and through what can be gleaned from public profiling of such candidates. Although there are some hopeful indications that this will change – and has been changing – as international dispute resolution and international mediation grows, it is through these admittedly unreliable channels that parties, international organizations and actors engaged in international conflict resolution must generally weigh their considerations about a mediator's suitability (Mc Ilwrath et al. 2010:1).

There is, therefore, a need to consider the criteria for appointing mediators and to weigh the talent and experience of those appointed. The current practice and approach

of deploying serving or retired heads of State and diplomats, without any regard to their aptitude for peacemaking should be deemed unsound. Laurie (2010: 2) suggests that to the greatest extent possible, the mediators should meet certain criteria. He asserts that a competent mediator will not always be successful, but stands a much better chance of success than an inept mediator.

Where senior peacemakers are not well acquainted with mediation techniques, technical experts should be assigned to assist them. He also looks at the issue of credibility and relates it to stature, seniority, experience, competence and to the integrity of the mediator. A mediator who lacks credibility among the parties should not be trusted and taken seriously by them. He also asserts that language is also an important aspect of consideration. Proficiency in at least one of the languages spoken by both of the parties is another attribute that mediators ought to possess. It is bad practice to attempt peace making via translation.

This impedes communication and inhibits the building of sound relationships with the parties. Another criterion that mediators should meet is connected to their availability for full-time deployment. In high intensity conflict it is insulting to the parties and obviously absurd to appoint a mediator who can only engage in peace-making efforts intermittently.

Laurie (2010: 2) also asserts that another criterion for appointments and the evaluation of mediators is connected to the personal attributes of the peacemaker. He asserts that effective mediators tend to have empathy, analytical ability, excellent political judgement and problem-solving skills, superb communication and facilitation skills, and a sense of quiet confidence and authority.

3.4.4.2 Collaborative support to mediators

International mediators are confronted by conflicts that are highly complex and volatile. Typically, the conflict is violent; it has many structural and proximate causes; it involves several disputant parties, most of which are intransigent and some of which are divided within their own ranks; and it encompasses a range of external

actors, some of whom play a harmful role, and some of whom have to be co-ordinated in the peace process.

Therefore, in response to the growing complexity of contemporary conflict situations, there has been a proliferation in a variety of mediation approaches that focus on such issues as identity (Rothman & Olson 2001: 289-305), culture (Kimmel 1994: 179-196), intergroup conflict (Fisher 1994: 47-66) and religious or philosophical traditions (Weber 2001). To deal with this expanded range of issues and methods, non-State actors, especially non-governmental organizations, and increasingly think tanks, play heightened roles in mediation processes (Lindberg & Bryant 2001: 223-230).

Hence, track-two and track-three diplomacy (that is respectively, formally private, even if officials discuss in their private capacities, versus completely non-State in which communities only consider), while not exactly new stages are being used more frequently, and increasingly in conjunction with track-one (that is formal, inter-State regime approaches).

Laurie (2010:2) asserts that in such circumstances, mediators need considerable support, which he categorises as follows:

- Mediation expertise is needed to design and run the process of dialogue and negotiations, and to advise the parties' leaders and negotiators.
- Country and regional expertise is needed to ensure a deep understanding of the parties and their internal factions, the cultural practices of local communities, the key groups in civil society, and the history and dynamics of the conflict.
- Monitoring and analytical expertise is needed to discern and interpret evolving conditions on the ground, shifts in the parties' positions, and changes in the relationships between various actors.
- Thematic expertise is needed on a range of topics, such as constitutions, cease-fire arrangements, land reform, wealth sharing, human rights and gender issues.
- Communication expertise is required to communicate with external actors, the parties' constituencies, and the public at large in the conflict zone

- Management, administrative and financial expertise are needed to ensure that the mediation process is run efficiently, and that the mediators are not burdened with administrative and financial duties.

3.4.4.3 A Mediation-learning culture

Another contentious aspect that could help improve mediation and make it more effective is connected to the development of a learning-culture of mediation. Laurie (2010: 3) argues that the world of international mediation has not been characterised by any notable degree of learning and improvement over time. It is idiosyncratic and ad hoc, overly determined by power politics, deadlines and organisational tussles. If mediation is to become more successful, strong States, small States, the UN, other multi-national and regional bodies need to develop a learning culture based on a couple of components. He asserts that:

- Active mediations should be reviewed periodically, in order to analyse the changing dynamics of the conflict, to evaluate the efficacy of the mediation strategies, and to decide whether adjustments should be made. He argues that the chief mediator should lead these reviews.
- All mediations should be evaluated thoroughly on their completion – with the aim of identifying lessons for future endeavours. These evaluations should be designed, facilitated and recorded by the organizations' mediation units.
- Because national conflicts have common features and challenges, much can be learnt from comparative research with a thematic focus. Detailed mediation case studies could also be extremely useful, as they would enable a close examination of the complexities of the process.
- For the reviews, evaluations and research outputs to be productive, they must be written up and disseminated in a fashion that is helpful to the mediators and their political principals. Most important, it is necessary to set up systems to ensure that the identified lessons lead to changes in strategy, techniques and procedures.

3.4.4.4 Mediation success through confidence-building approaches

De Waal (2007: 22-23) argues that international mediation in national conflicts relies too much on power-based diplomacy, attempting to make progress by exerting pressure on the disputant parties through declarations, admonitions, threats and punishment. This has previously been mentioned in this chapter. These strategies should be replaced by a confidence-building approach to mediation. It seems painfully obvious that deep-rooted national conflict cannot be solved quickly or easily. Nevertheless, international mediators and donor governments frequently make the mistake of seeking a quick fix.

In doing so, they overestimate their influence, underestimate the complexity of the conflict, and ignore the parties' visceral feelings of hatred and mistrust. Flouting the imperative that the parties must own the settlement, they push hard for rapid results. An illustrative example is what happened at the AU mediation for Darfur in 2005/6. These peace talks were driven by '*deadline diplomacy*', with a stream of unfeasible deadlines emanating from AU headquarters, the UN and the donors. The rebels and the Sudanese government ignored the deadlines; but the mediators were obliged to adhere to them.

This inhibited a programmatic effort to build momentum gradually over time, leading instead to an ad hoc process that proceeded in fits and starts. The deadlines also prevented the mediators from communicating with the people of Darfur. Instructed to end the talks quickly, the mediators put more effort into writing the Darfur Peace Agreement (DPA) than into mediating between the parties. The parties consequently had no sense of ownership of the agreement. In the final days of the talks, African and foreign leaders put immense pressure on the rebel leaders to sign the DPA, berating them and threatening them with sanctions.
One of the leaders, Minni Minawi, succumbed, but the others held out. The coercion undermined the AU's authority, compromised Minawi, intensified popular suspicion of the DPA and contributed to its demise (De Waal 2007: 8-10).

In essence, whereas power-based diplomacy or deadline diplomacy, as captured above, tries to bully the parties into a settlement, confidence-building mediation seeks to 'build' their confidence in each other, in negotiations and in the peacemaker. It entails a lengthy process of shuttle diplomacy, consultation and facilitated negotiation

in which the mediator helps the parties to engage in collaborative problem-solving and to accommodate each other's concerns and needs. The parties' common trust in the mediator offsets their mutual distrust and raises their confidence in negotiations.

Confidence-building thus captures the essential logic and utility of mediation. Building confidence between the protagonists in a national conflict is vital for several reasons: a negotiated settlement necessarily entails compromises and mutual accommodation by the parties; and this will not happen while they remain locked in enmity; the implementation of agreements demands the parties' co-operation; and stable governance in the long term depends on their ongoing co-operation.

Given these factors, confidence building is not a luxury. It is a pragmatic imperative and should be a paramount goal of the mediator (Laurie 2010: 3-4).

3.5. Tracing intermediary processes, activities and roles

It is with the above critical analysis of the nature, character and contemporary nature of international mediation that intermediary activities and roles could be deduced, and especially so in the field of international relations and conflict management. Intermediary activities and processes were quite early expounded by Alan James (1969:36), when he argued that a mediation process takes the position of the parties as its starting point and tries to establish enough common ground to support a solution. This may involve no more than a third-party offering to act as a medium of communication, so as to get the parties concerned talking to each other.

It may lead to proposals being put forward by the intermediary for the consideration of the parties; or it may result in much to-ing and fro-ing by the mediator, as it tries to persuade one of them to agree to a formula, which holds out some hope of acceptance by the other.

Pruitt (1971:205–239) also argues that the activities of third-party intervention actors include trying to persuade each party to accept the concessions the other has made. In a systematic analysis of intervention in conflicts, Young (1972:51–66) suggested that third parties' roles in conflicts can be described as informational: for example,

offering information and increasing communication; tactical, for example, offering services including liaison services; supervisory, for example monitoring agreement; and conceptual, in this case, offering new ideas for a settlement.

Bercovitch (1984:95) asserted that the scope of third-party behaviour and the role depend, in part, on the objectives attached to the intervention. Efforts to get the parties to negotiate constructively may take a form different from other efforts. When the parties' conflict has already manifested itself in a costly and destructive manner, the third parties' primary role is, undoubtedly, to reduce costs and arrest destruction. When, however, the parties become involved in a non-destructive, but nonetheless unsuccessful, conflict-management interaction (as has been happening on and off within the Somali debacle), third parties can affect this interaction by simplifying a complex environment by providing information, facilitating communication and directing efforts towards a salient and acceptable agreement.

This conception of intermediary roles is what Bercovitch refers to as the reflective and non-directive intermediary behaviour Reflective behaviour here means that the role of a mediator is receiving, transmitting and interpreting messages and signals, which denote the parties' attribution of meaning to their conflict and perception of the situation. This is in view of the fact that States, as international actors interact within a system of heterogeneous values, competing ideologies and different belief systems; these become particularly salient in conflict situations.

To simplify the situation and ensure that parties operate within a mutually accepted set of aspirations, a third party engages in 'reflective behaviour' on its role conception (Bercovitch 1984:96).

Concerning the latter conception of the non-directive behaviour of mediators, Bercovitch (1984:97–98) asserted that this conception is designed to help the parties' conflict-management efforts by exercising some influence over the physical and social structure within which the mediation process is being waged. Exercising some influence over the environment of conflict management can increase the parties' motivation to negotiate in earnest and to strive to reach an agreement.

This non-directive intermediary role conception is also realised through the control of publicity. The effective execution of conflict management is often challenged by being linked to a significant degree of publicity through which each party's performance and behaviour is monitored by domestic constituents. Interacting publicly tends to be dysfunctional for conflict management, as it can distort positions, generate misconceptions, and produce a more rigid type of behaviour, all of which have deleterious consequences for conflict management and negotiation (Bercovitch 1984: 99).

By shielding disputants from various audiences and constituents, a third party can increase their willingness to negotiate earnestly and their preparedness to make concessions (Bercovitch 1984:100). Lee (2002:4) asserts that non-directive strategies also encompass a situation whereby intermediaries empower the disputants to take responsibility for the negotiation process and to reach their own agreements. This ownership of the process increases the ultimate legitimacy and authority of the outcome, which is determined by the parties' own efforts (Lee 2002).

A similar intermediary role conception was also provided by Holsti (1983:116) in his 'national role' conception – the policy-makers' definitions of the general kinds of decisions, commitments, rules and actions suitable to their State and of the functions their State should perform in a variety of geographic and issue settings. He explains role conceptions of both strong States and small States, the latter having few foreign policy options. In this study, his conception of the roles of States with few foreign policy options will be of importance.

He investigated the intermediary role concepts, of the 'mediator-integrator' and 'regional-subsystem collaborator'. The latter are soft-power capabilities and roles that Kenya has historically applied and played within its diplomacy of conflict management or peace diplomacy.

The *mediator-integrator role* is used within a situation in which a number of States perceive themselves as capable of, or responsible for, fulfilling or undertaking special mediation tasks to reconcile other States or groups of States. They see themselves as

either “regional” or “global fixers” (Holsti 1983:117). With regard to Somalia, the relationship of Kenya with other IGAD states is evaluated in this perspective.

The *regional-subsystem roles* concept does not merely envisage occasional interposition in areas or issues of conflict; it indicates, rather, far-reaching commitments to co-operative efforts with other States to build wide communities and to coalesce, co-operate or integrate with other political units (Holsti 1983:118). A more systemic indicator of this intermediary role is also seen in the growth of the role of States and other track-one entities in peace-building and human security, especially in dealing with fragile and failed states, such as Somalia.

As a salient example, the African Development Bank (ADB) saw it necessary to elucidate the essence of intermediary roles and the support of States that engage in third-party interventions in such States. This is particularly captured in one of its treaties entitled: “Assistance linked to internationally co-ordinated strategies that assist to reverse the fragile State phenomenon”. Through the new Fragile States Unit of the ADB, and as stipulated in the ADB Strategy for Enhanced Engagement in Fragile States (ADB 2008:4), the intermediary roles of mediating States in addressing the nexus between peace, security, humanitarian assistance and sustainable development is recognised.

Such co-ordinative roles through international co-ordination strategies are strongly recognised by the ADB; and Kenya has, albeit minimally, utilised this role, especially with regard to the co-ordination of development efforts by the many development partners, States and regional organisations working on providing sustainable peace and development in Somalia. How Kenya appropriates and practises this co-ordinative role will be investigated in this study.

The ADB further asserts that effectively addressing the challenges of State fragility requires a clear recognition that peace, security and economic and social development issues are intertwined. This context was used in this dissertation to evaluate Kenya’s role in spearheading a rational peace-building process through intermediary co-operation. A good application of this is the utilisation of disarmament diplomacy and

the support of arms-control regimes like the Regional Centre on Small Arms and Light Weapons (RECSA), which will be discussed in later chapters.

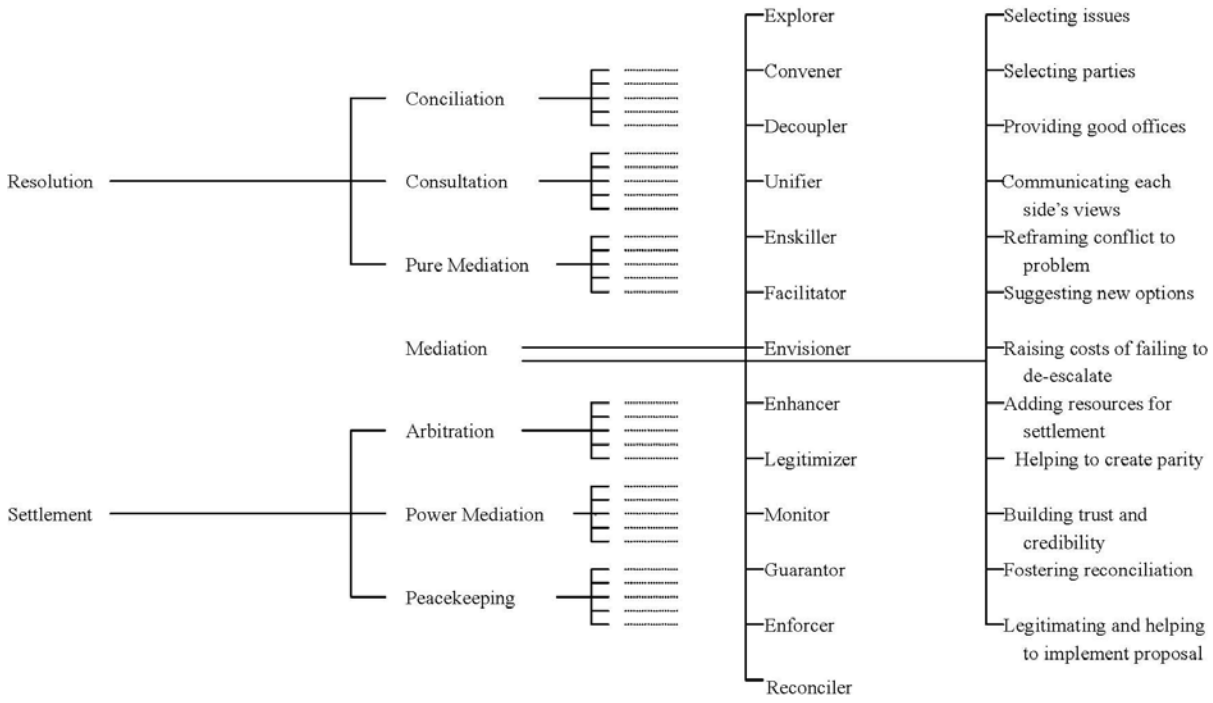
The efforts of the international community to help create a solid basis for durable emergence from conflict or State fragility must, therefore, be seen as part of a combined and tightly co-ordinated programme. The ADB asserts that its enhanced engagement with fragile States will be strategically anchored in such efforts, and will be undertaken in close concert with other relevant parties, including UN agencies, the AU and multilateral and bilateral agencies, with clear divisions of roles and responsibilities (ADB 2008:4).

Following this basis of thought, the intermediary co-operation and roles theory was used to shed more light on how Kenya could enable, and may have enabled, other actors in the Somali peace process to carry out their activities. This also included a critical analysis of how track-one actors enable track-two actors and a peace and development process to move forward.

Mitchell (1993:147) has expanded the conception of intermediary co-operation and roles theory with his typology of roles and functions of external peace-makers (Figure 1.4).

Figure 1.4: Typology of roles and functions of external peacemakers[31].

[31] Adapted from Fuchinoue Hideki. 2009. *Toward a better understanding of multiparty mediation in international relations*. (In Hiroshima Peace Science 31. Tokyo: Ritsumeikan Asia Pacific University Press, p. 143), and adapted by the dissertation author following Mitchell's typology of roles and functions of external peace-makers.



He asserts that the concept of mediation may be increased if treated as a complex process to which many entities may contribute, simultaneously or consecutively, rather than as the behaviour of a single intermediary actor. The roles forwarded are unifier, enskiller (empowerer), envisioner, guarantor, facilitator (moderator) and legitimizer (endorser). This is illustrated in Figure 1.3, as above. Unpacking the intermediary roles is important to understand what Mitchell postulates.

Mitchell suggests an alternative conception for understanding third-party action, developing a list of intermediary roles as above that can be carried out by different third parties (Mitchell 1997: 147). He, however, asserts that it is not always feasible to expect a single intermediary actor to fulfil all the necessary roles and functions associated with the concept of a particular strategy. Following this line of thought, he assigns a set of intermediary roles to four different stages of the mediation process: the pre-negotiation stage, the negotiation stage, the post-agreement stage, and the final reconciliation stage.

For example, the roles of explorer (sounds out adversaries' willingness to talk and consider alternative solutions) and enskiller (provides adversaries with opportunities

and capacity enhancement in negotiation and diplomatic skills) are conceived to be enhanced at the pre-negotiation stage, while the facilitator (facilitates face-to-face talks between adversaries by chairing meetings) and envisioner (offers new information ideas, and possible alternatives for solution) are seen as the roles for the negotiation stage. And the roles of monitor (reassures parties about implementing agreement through verification) and enforcer (policies parties' post-agreement behaviour and imposes sanctions in case of non-compliance) are assigned to the post-agreement stage and the reconciler role (undertakes long-term actions to build new relationships between adversaries) to the final reconciliation stage.

And as for some of these third-party roles, he suggests types of actors who could possibly enact them, rather than strictly relating a particular strategy to a particular actor. For instance, the envisioner role is seen as open to third-party organizers of problem-solving exercises or gatherings, and the enforcer role to those with leverage. Therefore, the picture Mitchell's model presents is that more than one third party is active at each stage of the mediation process, enacting different intermediary roles.

In the pre-negotiation stage, for instance, such roles as explorer, convener, decoupler, unifier and enskiller could be pursued by a wide variety of third parties, including church groups, NGOs, governments and international organizations. Importantly, the model allows for the possibilities that a single role may be performed jointly by multiple actors, and also that a single actor may carry out multiple roles. For example, track-one diplomatic players, such as IGAD, RECSA, the EC, or other intergovernmental entities, and also non-governmental bodies providing a track-two conception could play a guarantor role.

It is within the guarantor intermediary role that a vital function is to ensure that adversaries do not suffer overwhelming costs from entering into an intermediary process (Midlarsky 1992:140). There is also provision for insurance against possible breakdown of the process (Mitchell 1992:140).

3.6 Intermediary co-operation and roles theory in peace-building

The epistemology of intermediary roles and co-operation theory is also quite relevant and has a direct effect on the ever-evolving field of peace-building, reconstruction of post-conflict and war-torn economies and development efforts (included in this aid co-ordination). To explain the relevance of intermediary co-operation and the roles theory in the delivery of the public good of 'peace-building', it is important to provide the current shifts of thematic focuses with determinants of the activity [peace-building].

Emerging with increased intensity since the 1990s, peace-building and reconstruction of post-conflict and war-torn societies has become central to today's international relations, peace and development research, humanitarian assistance and security-strategy agendas.

Practically all bilateral and multi-lateral international development agencies have established units to address post-conflict transitions and socio-economic rehabilitation as complements to their long-standing humanitarian and emergency-response programmes. Such efforts have been as a result of recognition that peace-building is a complex undertaking – especially while dealing with protracted situations. In addressing new manifestations of conflict, multi-dimensional efforts have come to define the 'new peace-building' enterprise.

With reference to dealing with State failure, which is the extreme manifestation of 'new conflicts or conflicts of a third kind' virtually all spheres of governance have to be collaboratively dealt with. This cuts across transformation or development of the security sector, to economic reconstruction and dealing with new forms of security and development threats like terrorism. The roles of intermediaries that are tasked to manage conflicts and realise peace-building efforts are, therefore, exponentially expanded.

State failure and collapse have also been viewed as major causes of the 'new wars or conflicts' and their complicated manifestations like 'terrorism'. State failure in this line has an effect of intermediary roles of actors providing conflict management and peace-building co-ordination assistance. Garnering considerable attention in the wake of the 'war on terrorism', failed States have been viewed as 'sleeping giants', which

harbour threats that require concerted attention by different policy-players (Center for Global development, CGD,: 2004; and Brinkerhoff 2005:3).

The security variable has, therefore, also challenged not only peace, but also development. Thus, the rationales for mediation and conflict management have expanded beyond humanitarian and development objectives to encompass national and global security (Koppell & Sharma 2003; Rice 2003).

The role of State failure as cause and consequence of conflict and civil war has highlighted the importance of governance in establishing peace, pursuing State reconstruction and avoiding conflict in the first place. While practitioners and scholars have generated substantial knowledge and experience-based lessons for building governance in countries with functioning governments and relative stability, the state of knowledge and practice regarding the establishment and/or reconstitution of effective governance in post-conflict and war-torn societies is still in its infancy.

The challenges endemic to all efforts at institutional design and institution building are particularly salient in failed and failing States. There is an imperative to construct new institutions or to reconstruct weakened or collapsed ones, and a sense of urgency to do so quickly (Jackson 2009: 9-12). The nature of intermediary-directed governance of failed States and related conflict situations is important, especially in the Somali case study.

It should, however, be noted that peace-building, reconstruction and conflict-management activities have in situations of collapsed or failed State structures been conducted by many actors. In most of these cases, and especially so in the Horn of Africa, these efforts have not been rationalised and co-ordinated. Given the complexities of failed societies and the history of non-accepted intervention efforts by the many actors, the question of the legitimacy of third-party actors arises. To what extent does a legitimately accepted mediating or track-one actor undertake to carry out peace-making, peace-building and reconstruction roles?

This is the governance question that abounds in many development and conflict-management efforts; and the answers may lie in focusing on reconstruction by

mediators with a cultural proximity or legitimacy (Brinkerhoff 2005: 9-13). Kenya has certainly been unfortunate to be sandwiched in an intractable geopolitical system. The Somali conflict epicentre has challenged Kenya's very active non-refoulement policy of hosting refugees; it has challenged the security posture of the country regarding the proliferation of small arms and light weapons; and it has also defined the country's foreign policy orientation with regard to the diplomacy of conflict management. All these foreign policy and security considerations legitimise Kenya's taking up of intermediary roles that target both the mediation stage and the post-conflict reconstruction and development stages of Somali's peace process. One should also bear in mind the relative success, challenges, and dynamics in Kenya's early diplomacy of the Somali conflict from 2002 to 2004.

Kenya's early diplomacy on Somalia (2002-2004) is covered in later chapters to provide the intricacies that are involved in small-State diplomacy and peace-building efforts. Therefore, intermediary roles and efforts that are seen as remedying issues of underdevelopment also create an environment in which security is strengthened in a national sense and in terms of human security generally. One of the chapters in this thesis has looked at the role of disarmament diplomacy and arms control as effective conflict management mechanisms.

This creates a good environment in which mediation can be conducted and peace-building is concurrently being executed. Intermediary co-operation mechanisms are essential – given the many players involved in Somali's sustained peace, development and stabilization efforts. This is also considered in later chapters.

3.7 Intermediary roles in the "new-governance, development and security environment"

It could be posited that the growing fields of conflict resolution, development and reconstruction have expanded the very roles of mediators and peace-makers in these processes. There is a growing concern about the human security imperatives of statecraft, and terms such as 'governance' have been closely related to this. Following expansion in the growth and practice of peace-building and development in post-

conflict societies, intermediary roles and co-operation have been given a more solidified and equally 'expanded' playing field.

This may be observed in the definitions and norms of terms in governance or development and conflict management. This expansion in 'fields' has also been necessitated by a changing security and development environment, especially in the post-Cold War era, as mentioned above. These issues actually relate to the contemporary security-development challenges and manifestations. A systemic factor, as briefly described above, that has challenged almost all sites of governance and widened the peace-building and mediations tasks is the phenomenon of failed states and their manifestations.

In general, a failed State like Somalia is characterised by the breakdown of law and order, where State institutions lose their monopoly on the legitimate use of force and are unable to protect their citizens – and by extension the State itself; institutions are used to oppress and terrorise citizens; such States have weak or disintegrated capacity to respond to citizens' needs and desires, or to provide basic public services, to assure citizens' welfare, or to support normal economic activity; and at the international level, there is the lack of a credible entity that represents the State beyond its borders (see Milliken & Krause 2002; Rotberg 2002; Thurer 1999).

Clearly, a key issue is the degree to which a given State exhibits these characteristics. The label 'failed State' has been employed to describe extreme cases of collapse, such as those of Somalia or Liberia, where civil and social authorities have disintegrated and a Hobbesian anarchic clash of "all against all" prevails (Carment 2003: 407-427). Many more countries, however, confront less drastic situations and vary in the extent to which they have failed or risk failing to provide for the welfare of their citizens, to supply basic security, or to facilitate equitable economic growth.[32]

At this less extreme, opposite end of the spectrum, State failure becomes nearly indistinguishable from the status of many, if not most, poor countries, which suffer from institutional weaknesses and capacity gaps. Various analyses posit more

[32] For example, the World Bank uses the term 'low-income countries under stress (LICUS)' to describe this situation. See <www.iris.umd.edu/PPC_IDEAS/Revolutionizing_Aid/typology.asp>

discriminating terminology, allowing for finer-grained categorisation. The US Agency for International Development (USAID), for example, has sought to clarify distinctions among failed, failing, fragile and recovering States – through development of a performance-based typology (USAID 2005: 5-9). It is with these considerations of failed-State situations that the task, roles and issue areas of concern for intermediaries become more complex.

Another governance growth-related dilemma that determines much of the intermediary role tasks of mediators and peace-building practitioners is related to conflict progression, especially towards dealing with protracted situations like Somalia. Post-conflict scenarios rarely mean that violence and strife have ceased at a given moment in all corners of a country's territory. In practice, most post-conflict reconstruction efforts take place in situations where conflict has subsided to a greater or lesser degree, but is ongoing or recurrent in some parts of the country.

As Doyle and Sambanis observed, "no peace is perfect. Public violence … never gets completely eliminated … One should thus consider peace to be a spectrum ranging from insecure to secure" (1999:1). Conflict should also be considered as cyclical, and it has its progression. The peace-building literature has evolved into a more nuanced perspective on conflict, moving away from a linear conception, similar to the recognition of the artificiality of the relief-to-development continuum (De Zeeuw 2001).

A greater understanding of conflict dynamics has led, in turn, to intervention designs that recognise this new and contemporary complexity. This has, therefore, also impacted on the diplomats' and mediators' roles in a conflict-management exercise to be equally complex. For example, Leatherman, DeMars, Gaffnew and Vayrynem (1999:8) argued that conflict interventions require "a rehabilitative dimension oriented to the past, a resolutive dimension oriented to the present, and a preventive dimension oriented to both the present and future".

This classical definition provides in itself the nexus between conflict and development, and a nexus between conflict-management roles and the developmental roles of intermediaries in conflict cycles.

Finally, the growth, or the 'new governance and development', needs some clarification. This attempt will summarize intermediary roles and engagement as determined by these 'new' understandings of the phenomena. Governance connected to development and post-conflict reconstruction has been subject to multiple definitions and interpretations. Some definitions concentrate on technical government functions and how they are administered. For example, the World Bank (2000) views governance as economic policy-making and implementation, service-delivery and accountable use of public resources and of regulatory power.

Other definitions address how government connects with other sectors and with citizens. For example, USAID considers governance to 'pertain to the ability of government to develop an efficient, effective, and accountable public management process that is open to citizen participation and that strengthens rather than weakens a democratic system of government'[33]. The DFID describes it as "how institutions, rules and systems of the State – executive, legislature, judiciary, and military – operate at central and local level, and how the State relates to individual citizens, civil society and the private sector" (2001: 11).

The UNDP (1997) sees governance as 'the exercise of economic, political and administrative authority to manage a country's affairs at all levels'. The latter definitions explicitly connect the political dimensions of governance to the more technocratic elements of macro-economic management and public administration, operational capacity; and they are reflected in how governance is addressed in failed States. These integrative definitions point towards how the intermediary roles of diplomatic mediation are needed, are essential, and seek to address complex security and development issues in protracted conflict societies, and in a co-ordinated manner.

The tasks of intermediaries among the mediators who have been accepted as major third parties and post-conflict reconstruction guarantors are, therefore, expanded considering these governance-oriented realities of rebuilding and re-ordering disrupted States.

[33] This can be accessed and is from, www.usaid.gov/our_work/democracy_and_governance/technical_areas/dg_office/gov.html.

3.8 Roles as a construct of conflict management, peace-building and development

With the above analysis of dynamics impacting on intermediary roles, it could be argued that for the processes of *conflict-management*, *reconstruction* and *development* to take effect in society, it is expected that a number of tasks should be conducted in a complementary way, and should take centre stage. Intermediary roles and co-operation strategies are provided in a working environment by the very correlation of conflict to development in general. In their ground-breaking book on conflict and development, MacGinty and Williams (2009:92–93) provide a case for intermediary roles to be taken up by contemporary States that have strength in mediation and the diplomacy of conflict management.

They critically look at the terms 'reconstruction', 'delivery of aid' (or short-term development aid or humanitarian assistance, as otherwise referred to), or other peace-building attempts. They assert that these peace-building attempts cannot be separated from attempts at conflict resolution or 'transformation' after wars or during hostilities, as is the case with Somali in this current period (2012).

They assert that they may take place sequentially, or simultaneously, while the violence continues at varying levels of intensity[34] (Keashley & Fisher 1990). Equally, each of these concepts, they assert, 'is a matryoshka doll of other concepts – disarmament, demobilization and reintegration" (MacGinty & Williams 2009:92–93).

Disarmament and arms control will be critically investigated in the Somali case study as postulated by MacGinty and Williams, as a mode of developmental diplomacy and conflict management. This study therefore treats 'disarmament diplomacy' as a 'development support' and a 'mediation-intermediary-support mechanism' in its analysis of the Somali conflict.

[34] The "*contingency debate or view*" is a key element in understanding the interconnected and the multiple nature of third-party interventions. It occupies a main role in the Fisher-Keashly model of third-party intervention. Their model works in such a way that appropriate methods of third-party intervention are matched to particular developmental stages of a conflict. This is a sequential application of intervention strategies.

3.8.1. Intermediary roles theory and human security

Following the above analogy, the intermediary roles theory is a construct of different roles, for example, as stipulated by Mitchell that a mediator needs to fulfil in working towards peace and development. This is corroborated by analysis, as stipulated by the Organization for Economic Co-operation and Development (OECD) in their Handbook on Security System Reform (OECD 2007), which has observed some contentious developments of the intermediary roles provisions created by the link between conflict, sustainable peace and development in general.

The handbook observes that recent debates in the international community have centred on the challenge of insecurity and conflict as barriers to political, economic and social development. It further observes that if States are to create the conditions in which they can escape from a downward spiral, where insecurity, criminalisation and underdevelopment are mutually reinforcing, the socio-economic and security dimensions must be tackled simultaneously. The traditional concept of security is being redefined, to include not only State stability and security of nations (national security), but also a clear focus on the safety and wellbeing of their people (OECD 2007: 28-29).

Therefore, this simultaneous and mutually reinforcing treatment of socio-economic and security dimensions puts third-party players and mediators at the extreme end of actually conceptualising the mediation role. This is a role that realises the ideals of human security. Human security, as widely defined, therefore, provides a situation in which the different pillars that could bring sustainable peace and development should be taken into context in the intermediary role and the co-operation tasks of mediators, as discussed above. In short, intermediary roles and cooperation tasks do not exist in a vacuum; they have to address human security concerns as widely defined in a conflict management and transformation effort.

3.8.2. Intermediary roles, co-operation theory and symbiotic-track diplomacy

The aspect of co-ordination among multiple conflict-resolution interventions has become an increasingly important issue for the fields of conflict management, peace-

building and development. The number and variety of interveners has proliferated beyond traditional diplomatic and state actors or track-one actors. As Chester Crocker and his colleagues point out in their ground-breaking work on multiparty mediation (Crocker et al. 2001), a wide range of intermediaries now engage in conflict management and resolution work, including intergovernmental organisations, national governments, coalitions of States and a diverse collection of NGOs in the conflict resolution, humanitarian, development and religious domains.

The issue that immediately arises is how these very different sets of actors might co-ordinate their diverse activities in conflict resolution and development or humanitarian aid efforts, so that overall efficiency and effectiveness are enhanced rather than diminished by their multiple efforts. This is most certainly a dilemma, and a situation in which the Horn of Africa conflict system, and particularly Somalia, have found themselves.

The researcher, through firsthand experience, has formatively observed this dilemma of the complexity of co-ordinating conflict management and development efforts. It is hoped that the intermediary co-operation and roles theory, as outlined, might provide a strategic input into co-ordination of post-conflict reconstruction and conflict-management efforts. This will be explored in the Somali situation. How a small State, such as Kenya, could utilise this soft-power reality by assuming intermediary roles in its mediation efforts and foreign policy, and thus enable other actors to provide their expertise in the Somali peace process is the focus of this study.

Intermediary roles and co-operation theory as constructs in the effective symbiotic or a co-operation-oriented diplomacy will be investigated. This means that track-one activity is viewed as an enabling and facilitative avenue for track-two activity in a multi-track engagement where other actors' roles become visible and operational in a co-ordinated conflict management and development or humanitarian aid/assistance effort.

Conflict-transformation strategists, such as Louis Kriesberg, were the first to address the issue of co-ordination in peace-making efforts, with a particular focus on intervention in ethnic, religious or other communal conflicts, which can be more

complex and deep-rooted than traditional interstate rivalries (Kriesberg 1996). He identified the challenge of co-ordination in a succinct manner as follows: "[W]e need to better understand how different sets of intermediary activities can be co-ordinated in various sequences and combinations, so as to maximize their effectiveness in constructively resolving conflicts" (Kriesberg 1996:342).

This co-ordination, it should be noted, can be enhanced through the novelty of track-one diplomatic entities that could assume the role of a co-ordinating capacity in a conflict management and peace-building undertaking. This is essentially implicit in third-party actors who have been *accepted*[35] as legitimate mediators by the protagonists. Kenya's short history of the diplomacy of conflict management might have propelled this status, as seen in early mediation roles in both the Horn of Africa and the Great Lakes conflict systems.

The intermediary roles theory and intermediary roles, as assumed by a mediation process can avert the fears of Kriesberg (1996) and Crocker et al. to the extent that they see a number of difficulties and liabilities in multiple disjointed peace-making, reconstruction and development efforts. These includes, mixed messages that raise different expectations among adversaries, and competition among interveners to avoid blame for failure, or to gain resources or recognition for success. However, through the assumption by third parties of intermediary roles and the management of effective co-ordination, the hope is that the different actors would be able to make complementary contributions in either a simultaneous or a sequential manner (Fisher 2006:66).

As noted by Crocker et al. (2001), different interveners may be more successful at gaining entry at particular stages; some are more able to open new avenues for dialogue, while others have more resources to create leverage, and still others are better geared to build supportive peace constituencies in civil society.

3.8.3. Symbiotic diplomacy

[35] See the analogy of "mediator acceptance" as presented in this chapter.

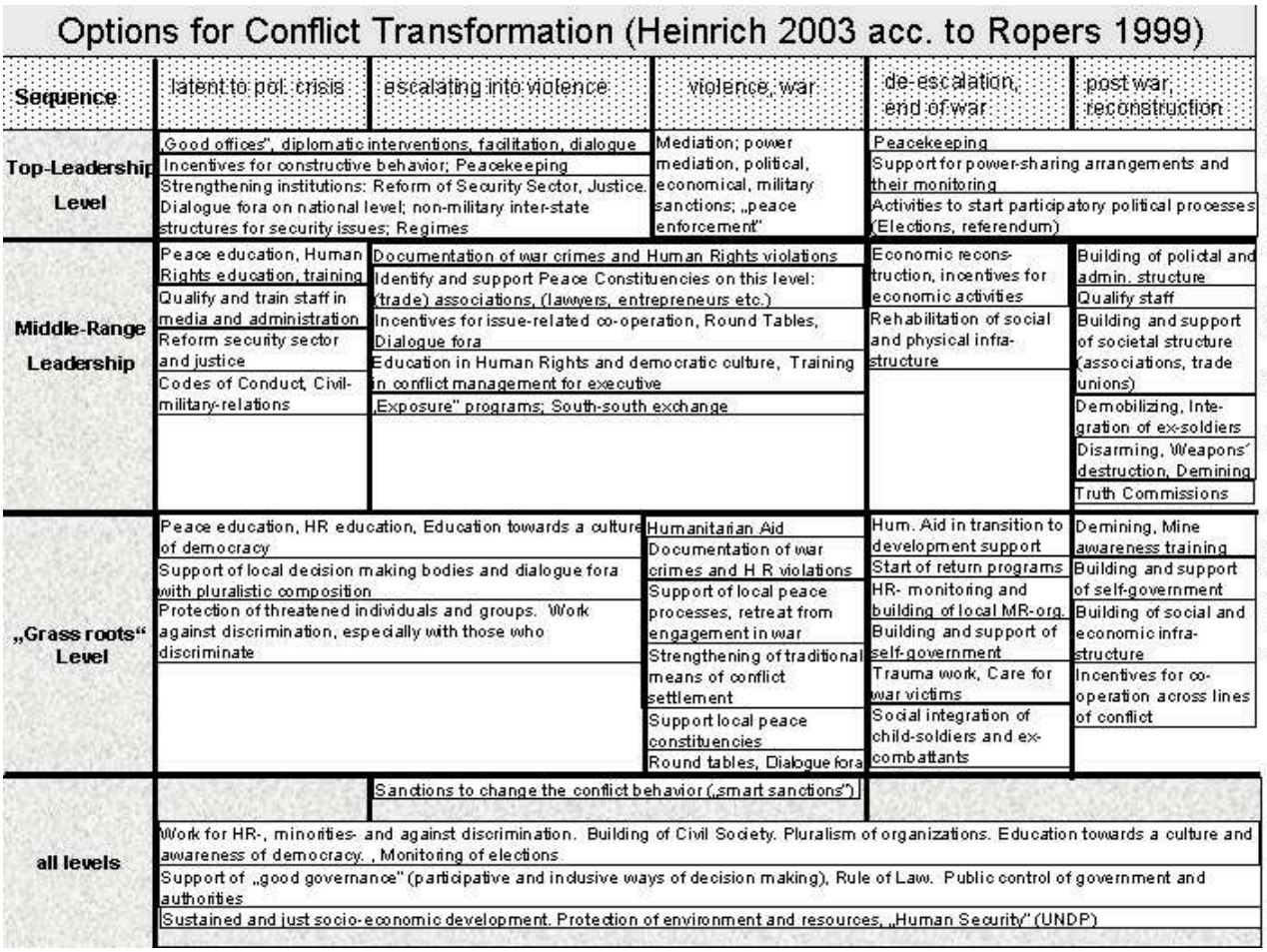
The idea of sequential and complementary interventions by different interveners in mediation was described by Fisher and Keashley (1991: 29-42). Essentially, they posited that different forms of intermediary interventions (categorised as conciliation versus power mediation) would be more effective, as essential co-intervention strategies at different stages of conflict escalation. This led intermediary intervention to be followed by other specified interventions to de-escalate the conflict to a level where the antagonists can deal constructively with their own issues.

Following this line of argument, the researcher in later chapters of this work examines specific intervention strategies whereby diplomatic intermediary roles, namely the diplomacy of human rights and disarmament diplomacy, are investigated and posited as possible development and diplomatic momentum escalators. This, it is argued, could bring some semblance of order and justice in Somali society, since these are important for sustainable peace and the streamlining of development efforts.

The intermediary roles and the co-operation theory are, therefore, consolidated within this contingency model. The model posits that some third parties are more predisposed and equipped to carry out certain interventions than others. For example, unofficial or track-two organisations are better positioned to organise and facilitate dialogues and problem-solving workshops (identified as third-party consultation), while track-one actors or official actors have the resources to engage in the use of leverage and to co-ordinate all other actors in a coherent diplomatic and peace-building agenda (identified as power mediation and, in the case of small-State mediation efforts, such as that of Kenya, as soft-power diplomacy).

A graphic representation of contingency processes and the roles of third parties as widely defined and matched to different levels and types of conflict is presented by Heinrich (2003), as stipulated in Figure 1.5 below.

Figure 1.5: (This diagram is illustrated in Schweitzer (2009: 40)



A similar approach to contingency thinking is provided by Crocker et al. (2001). Their analysis links types of third-party assistance to differing levels of violence in the conflict cycle. In addition, Crocker et al. (2001) specify the identity of the third parties best equipped to offer different kinds of assistance, as well as their official (track-one) or unofficial (track-two) nature and capacity. They also indicate, for multi-party efforts at different levels of escalation, whether the third-party actions are best carried out in a simultaneous or a sequential fashion.

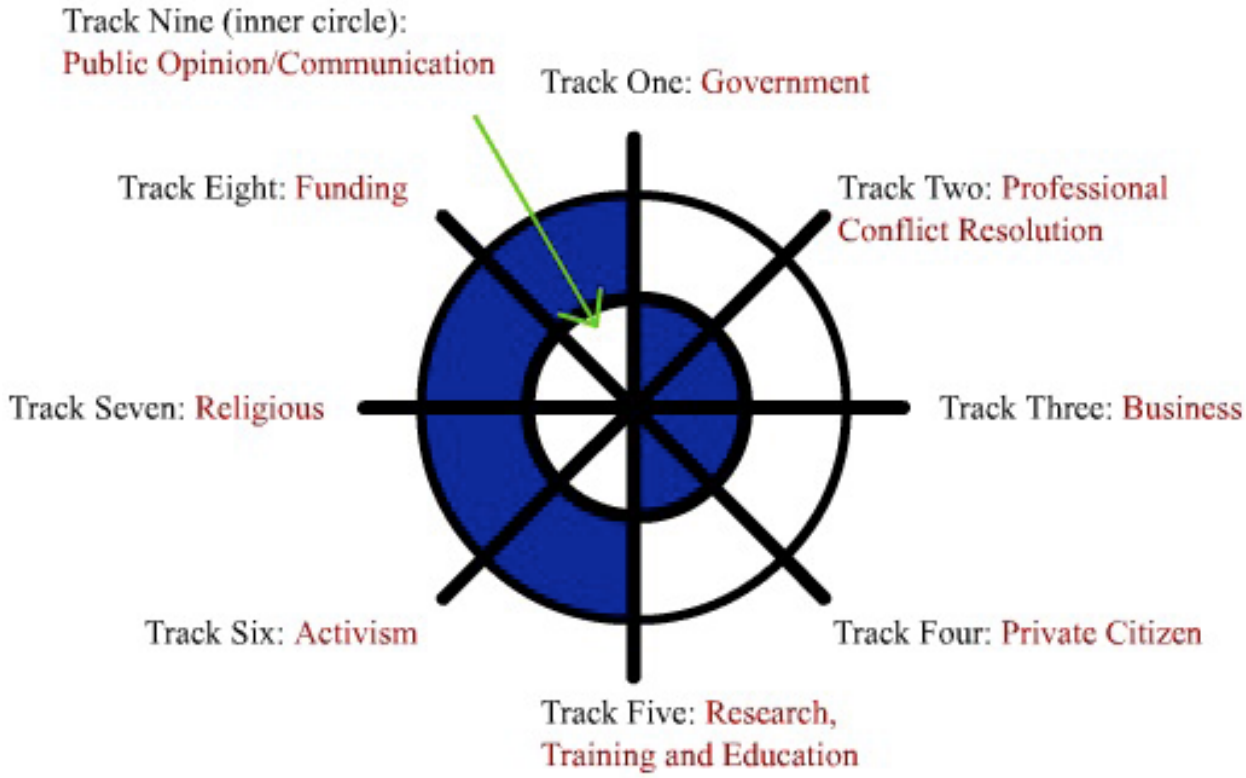
Saunders (2001: 483) provides a broad context for understanding the need for co-ordination among multiple interveners in his conception of the multi-level peace process. Based on his years of experience in both official and unofficial realms, Saunders contends that peace-making cannot focus solely on the negotiation of agreements between representatives, but must involve changing relationships among societies. Thus, many other activities need to occur prior to, during, and after

negotiation and mediation, in order to secure lasting and comprehensive peace, particularly in deep-rooted human conflicts, such as in Somalia, where people will not negotiate about their identities, historic issues and other grievances.

Saunders posits an overall peace process consisting of four arenas. One is the official track-one diplomacy process, which is at the core, in which representatives of governments (or intergovernmental organisations) work to reshape the political, economic and security environment in addition to security agreements. The second is the quasi-official process, track-one and a half or track-two diplomatic process. This is a situation where unofficial groups closely related to the official process engage in issues in ways that support negotiations.

The third is the public peace process, in which unofficial actors bring influential antagonists together in sustained dialogue to analyse the conflictual relationship, to generate the necessary wellbeing to change it, and to develop scenarios and action steps for moving the peace process forward. The fourth is the role of civil society, in which citizens and NGOs work in a variety of domains to reconnect all the sinews of society that have been severed by destructive conflict, and to rebuild a peaceful and developmental reality. Suanders' use of the concept of the "multi-level peace" process as a frame of analysis for government and non-governmental cooperation is also similar to Diamond and Mc Donald's (1993, 1996) multi-track diplomacy framework, as succinctly illustrated by Figure 1.6 below.

Figure 1.6: Multi-track diplomacy and the multil-level peace process[36]



(Source: Diamond and Mc Donald, The Institute for Multi-Track Diplomacy [IMTD])

Saunders notes that identification of these four streams of the overall peace process calls for the development of a comprehensive strategy based on the complementarity of the activities associated with each stream. Clearly, this requires a great deal of co-ordination among the various actors engaged in peace-making and peace-building, and this co-ordinating role is one that sums up the intermediary roles adopted by accepted third-party track-one actors in the reality of conflict complexes. Kenya, to a large extent, adopted this strategy. How this was realised is critically investigated in this study.

[36] See Diamond, Louise & John Mc Donald. 1993. *Multi-track diplomacy: a systems approach to peace*. Washington DC: Institute for Multi-track diplomacy.

3.9. Conclusion

This study critically investigates arguments and the practical application of intermediary roles and intermediary co-operation theories, which have been conceptually discussed in this chapter. The complexity of the process within which many entities might be enabled to contribute, simultaneously or consecutively, as posited by Mitchell's framework of intermediary roles is investigated. This framework is, therefore, adopted in this study, and with a special focus on the mediation process in the Somalian situation. It is, therefore, within this context that the theoretical framework used in this study is based on *the* ***intermediary roles and co-operation theory***.

To be able to fully comprehend how intermediary roles and co-operation strategies are adopted and practised by third parties in protracted conflicts, it is important to have a solid understanding of the 'conflict'. This is from the background of hostilities to the 'progression of conflict'. The next chapter will look at the background of the Somali conflict and the issue of conflict progression.

CHAPTER 4

A BACKGROUND TO THE SOMALI CONFLICT AND THE DYNAMICS

4.0 Introduction

It is important to understand, and have an overview of the Somali conflict and its causes, as this would ensure full cognisance of the conflict-management and peace-building efforts required, of what is at stake – and of what efforts should be applied in terms of procedural and substantive inputs of interventionist peace processes. This chapter complements the short demographic overview of Somalia and the background to the problem, as stipulated in Chapter 1 of this research. Out of the more than 40 years that Somalia has been independent, it has experienced more than 20 years of civil war since 1991.

A timeline of the key events in Somali's contemporary armed conflict history provides a picture of the civil strife, human security, and political-security dilemmas in this polity since 1991, as laid out below:

Table 1: Somali political-security timeline of key events since 1991[37]

No.	EVENT YEAR	KEY EVENT
1.	1991	*(The State Implosion stage)* • The long-term ruler: Mohammed Siad Barre, who has ruled the Somali Democratic Republic from 1969, is forced to flee when the capital of Mogadishu, but is captured by rival clan militias.

[37]The timeline has been adopted from different sources and the author's own listing of events, as presented in this thesis. Consolidated timelines and sources are provided on wider humanitarian, development and security events in Somalia from the following: See the *Somali Historical Chronology*, as revised on 20 April 2012, in UN Security Council Publications on Somalia, accessible through-<http:www.securitycouncilreport.org/site/c.glKWLeMTTsG/b.2876199/k.3DCA/Somaliabr_Historical_Chronology.htm> as assessed on July 23 2012. Also see, *Timeline of key events-Annex C* in. The Inter-Agency Standing Committee (IASC). 2011. *Evaluation of the humanitarian response in South Central Somalia*, 2005-2010. P 66 as accessed in, http://www.oecd.org/countries/Somalia/49335639.pdf [accessed on 30 November 2011].

		• A power struggle ensues between the two warring clan lords, Mohamed Farah Aideed and Ali Mahdi Mohamed. The latter declared himself President of the Republic. • The State collapses, as factions fight over territory and economic control. • Following a peace agreement in May 1991 among the northern clans, the Somali National Movement (SNM) proclaims the secession of the former British Protectorate of Somaliland, and declares unilateral independence
2.	1992	• An estimated 350,000 Somalis die of disease, starvation, or civil war. Images of famine and war are shown on international news networks. Owing to public pressure and public opinion, U.S. President George H.W. Bush orders emergency airlifts of food and supplies to Somalia. • In March 1992 there is a UN-mediated ceasefire between rival warlords Ali Mahdi Mohamed and General Mohamed Farah Aideed. • UN Security Council approves a military mission, "*Operation Restore Hope*", led by the United States to try to help the starving country by protecting food shipments from the warlords. • On March 1992, UN Security Council approves Resolution 751 to establish a limited unarmed observer mission in Somalia, known as UNOSOM.

		• In December 1992 amidst alarm at the growing famine in Somalia and attacks on aid convoys, the UN authorises the deployment of US-led International Task Force (UNITAF) in support of UNOSOM. • US Marines land near Mogadishu ahead of a UN peacekeeping force.
3.	1993 to 1995.	(*Early peace-keeping missions compromised*) • On March 26 UN Security Council Resolution 814 authorises the establishment of a large civilian and military peace support operation UNOSOM II, to oversee the reconstruction of Somalia. • In October 1993, US Army Rangers are killed when Somali militias shoot down two US helicopters in Mogadishu. A battle ensues in which hundreds of Somalis die. The US announces it is withdrawing its troops from Somalia. • In March of 1994 the US Mission formally ended. It cost the US over $1.7 billion and left 43 US soldiers dead and another 153 wounded. • In 1995 the last UN peace-keepers left, having failed to achieve their mission and to restore a government.
4.	1996	• In this year Somalis suffer heavily under Mohamed Farah Aideed's reign and from subsequent fighting among warlords. • The warlord, Mohamed Farah Aideed, dies of his wounds, and is succeeded by his son, Hussein Aideed.

5.	1997	• In November of 1997 floods affected some 1,230,000 people
6.	1998	• In this year, the Puntland region declared autonomy with Abdullahi Yusuf as president.
7.	1999	• In this year, Ethiopian forces invaded and captured the regional capital of Garba Harre, which lay 250 miles northwest of Mogadishu, in order to try to suppress fighting among rebel groups.
8.	2000	(*Political and humanitarian challenges)* • A cholera outbreak, due to unsanitary water killed hundreds of Somalis in this year. • In August of 2000, clan leaders and senior figures meeting in Djibouti elected Abdulkassim Salat Hassan president of Somalia. • In October 2000 Hassan and his newly appointed prime minister Ali Khalif Gelayadh arrived in Mogadishu. Gelayadh announced his government to the country's transitional administration. • In the same year, drought affected more than 1.2 million people.
9.	2001	• In April 2001 Somali warlords backed by Ethiopia, announced their intention to form a national government within six months, in direct opposition to the country's transitional administration. • In August of 2001 the UN appealed for food aid for half a million people in the drought-hit South.

		• In the same year, the UN declared that it would be pulling its international staff and aid workers from Somalia because of the dangerous fighting conditions and attempts at kidnapping.
10.	2002	(*Dialogue, Mediation and reconciliation processes phase)* • In October of 2002, a national reconciliation conference, facilitated by the Intergovernmental Authority on Development (IGAD)[38], started in Kenya to produce a successor to the Transitional National Government (TNG). • In December of the same year, Somaliland held the first multi-party elections in 30 years for district councils.
11.	2003/ 2004	• In this focus period, there is the 14th attempt since 1991 to restore central government in Somalia. An interim government is inaugurated in Kenya. Colonel Abdullahi Yusuf was elected interim president by the new governing body, and in 2003 the government functions in exile in neighbouring Kenya. • In October 2004, a Transitional Federal Charter in Somalia is adopted and a

[38] IGAD was created in 1996 to supersede the Intergovernmental Authority on Drought and Development (IGADD), which was founded in 1986. The recurring and severe droughts and other natural disasters between 1974 and 1984 caused widespread famine, ecological degradation and economic hardship in the Eastern African region, prompting the formation of IGADD. The protracted conflicts in the region and its history of conflict cumulatively led to the refocusing of IGAD to generally specialize in conflict management, but also to cover developmental concerns affecting the wider region. IGAD's member States are Djibouti, Ethiopia, Kenya, Uganda, Sudan and Somalia. It is important to not that Eritrea pulled out because of disagreements over the Somali conflict. For more on IGAD, see http://www.igad.org/ (accessed 21 October 2010).

		Transitional Federal Government (TFG) is formed with Abdullahi Yusuf as President. • On December 26th Tsunami waves generated by an undersea earthquake off Indonesia hit the Somali northern coast and the Island of Hafun. Hundreds of deaths are reported; tens of thousands of people are displaced.
12.	2005	• In this year, the transitional government began to return to Somalia, but there were still bitter divisions among members. There were divisions over where in Somalia the new parliament would sit. • Violence ensues upon the return of the new government. An assassination attempt was made on interim Prime Minister Ali Mohamed Ghedi. • In this year, food shipments began being hijacked off the coast of Somalia by rebel forces. Food aid programs, including the UN's World Food Program (WFP) were suspended.
13.	2006	*(Politics, Security and Islamism)* • On February 2006, the Transitional government met in Somalia-in the central town of Baidoa-for the first time since it was formed in Kenya. • A militia-backed rival entity to the TFG, called the Islamic Courts Union (ICU) seizes control of most of Southern Somalia and captures Mogadishu from U.S. backed warlords.

		• From March to May the same year more than 300 people were killed, hundreds injured and thousands displaced as a result of fierce fighting between Mogadishu's Islamic Courts Union (ICU) and the Alliance for the Restoration of Peace and Counter-terrorism (ARPCT). It is the worst violence in Mogadishu in almost a decade. • In the same year, the ICU emerges victorious with Sheikh Sharif Ahmed as its leader. • In the same year Ethiopian troops re-enter Somalia and are reported in the country. • In July of the same year The Council of the Somali Islamic Courts (CSIC)-previously known as ICU-gains control of most of Mogadishu and calm returns to the city. • In September 2006, the TFG and CSIC began peace talks in Khartoum. In this period, Somali's first-known suicide bombing targets president Yusuf outside parliament in Baidoa. • On September 2006, the African Union Peace and Security Council adopted a resolution in support of an IGAD peace-keeping Mission that was to be deployed by October 1, and aimed at providing support for TFG institutions. • In the same year, the CSIC did not support a regional intervention, vowing to oppose the 8,000 planned troops.

		• In October of 2006, about 35 000 Somalis escaping drought, strict Islamist rule and the possibility of war, fled to Kenya. This had begun earlier in 2006. Many refugees flock to the Daadab refugee camp in Kenya, which has since become the largest refugee camp in the world. • In the same year, Prime Minister Meles Zenawi of Ethiopia asserted that Ethiopia was technically at war with the Islamists because they had declared jihad on his country. • In December of 2006, Ethiopia invaded Somalia in support of the TFG, following the failure of talks between the TFG and CSIS. Thereafter, Ethiopian and TFG forces engaged the Islamists in battle.
14.	2007	(*Conflict progression and challenges of protection of civilians in Somalia*) • In this year, the transitional government regained control. President Abdullahi entered Mogadishu for the first time since 2004. • In the same year, a U.S. airstrike killed Aden Hashi Ayro, the leader of the Al-Shabaab insurgent group • After negotiations with the Somali government, the U.S. began strikes in Southern Somalia where Al-Qaeda suspects were allegedly hiding. • In the same year, a state of emergency was declared in Somalia. • In this focus period, the UN Security

		Council approved a six-month African Union Peace-keeping mission that would include 8,000 troops from neighbouring countries. • The AU deployed a limited peace-keeping force of Ugandan soldiers to secure Mogadishu's airport and port. • In March 2007, African Union peace-keepers landed at Mogadishu amid pitched battles between insurgents and government forces backed by Ethiopian troops. • In November 2007, a national reconciliation conference was opened in Mogadishu and came under mortar attack. Islamist leaders stayed away from the talks. Refugee exodus grew amid an upsurgence in violence. • In August 2007, the Human Rights Watch accused Ethiopia, Somali and insurgent forces of war crimes, and the UN Security Council of indifference during the conflict in that focus period. • In September 2007, opposition groups formed a new alliance to campaign for a military and diplomatic solution to the Somali conflict. • ICU leaders met in Asmara, Eritrea to establish the Alliance for the Re-Liberation of Somalia (ARS). • In October of 2007, Ethiopian forces fired on demonstrators in Mogadishu protesting at the presence of foreign invaders.

		Ethiopians moved reinforcements into the city. • On October 29th Prime Minister, Ali Mohamed Ghedi resigned. • In the same focus period aid agencies warned that a catastrophe was unfolding in Somalia. • By the end of the year, UN Special Envoy Ahmedou Ould-Abdallah described Somalia's humanitarian crisis as the worst in Africa, and suggested using international justice to curb the violence. • On November 24, Nur Hassan Hussein, also known as Nur Adde, was sworn in as new prime minister. • In the same year, the number of Somali refugees hits one million, with nearly 200,000 fleeing the capital in only two weeks. • By the end of this year, Ethiopian troops left the key central town of Guriel.
15.	2008	• In this year, Burundi became the second nation to contribute troops to the African Union peace-keeping force, sending 440 soldiers to Mogadishu. • Early in 2008, the US launched missile strikes on the Southern town of Dhoble, targeting suspected al-Qaeda members wanted for the 2002 bombing of the coastal-based Israel-owned hotel in Kenya. Islamist-led insurgents continued to spread in this focus period. • In April 2008, US airstrikes killed Aden

		Hashi Ayro, a leader of the Al-Shabaab insurgent group. Al-Shabaab in this focus period declared all foreigners as legitimate targets. • In this year, Mogadishu suffered the worst fighting in months between TFG/ Ethiopian and armed opposition groups, resulting in over 50 civilians dead and 120 wounded, together with credible reports of atrocities, increased lawlessness, and looting by armed elements wearing TFG and Ethiopian uniforms. • In May of the same year, the UN Security Council unanimously voted to allow countries to send warships into Somalia's territorial waters to curb the rising and spiralling piracy incidents. • In June of the same year, the International Committee of the Red Cross (ICRC) asserted that Somalia was experiencing its worst tragedy of the decade. • In the same focus period, the TFG and the Alliance for the Re-liberation of Somalia opposition group signed a ceasefire agreement in Djibouti, calling for a three-month cessation of armed confrontation and the deployment of international peace-keeping forces within four months. • The deal that provided for Ethiopian troops to leave Somalia within 120 days was rejected by Islamist leader Hassan Dahir Aweys, who asserted that the ICU would not stop fighting until all foreign

		troops had left. • In September 2008, intense fighting between armed insurgents and AMISOM forces displaced an estimated 37,000 people and closed the main market in the capital. • In December of 2008, Ethiopia announced plans to withdraw all forces by the end of the year. • In the same year, President Abdullahi Yusuf tried to sack Prime Minister Nur Hassan Hussein over his attempts to draw moderate Islamists into the government. Parliament declared the dismissal unconstitutional, and passed a vote of confidence in Nur Hassan Hussein. Abdullahi Yusuf resigns the presidency in this focus period. • By the end of 2008, Daadab refugee camp became the largest in the world with nearly 250,000 inhabitants. The refugee population in Daadab, whose three camps held almost three times their capacity, rose to 224,000 from 171,000 within the year.
16.	2009	• By the beginning of the year, Ethiopia had completed the withdrawal of its troops. • Al-Shabaab fighters took control of the town of Baidoa, formerly a key stronghold of the TFG. • In January 2009, there was a meeting in neighbouring Djibouti and Somalia's parliament swore in 149 new members

		from the main opposition Alliance for the Re-liberation of Somalia. • A moderate Islamist, Sheikh Sharif Sheikh Ahmed, was elected president and the transitional government's mandate was extended for another two years. • On February 2009, President Ahmed selected Omar Abdirashid Ali Sharmake as prime minister. A former diplomat, the latter is widely seen as a bridge between Islamists within the Somali government and the international community. • On April of the same year the TFG and the Kenya government signed a Memorandum of Understanding regarding Maritime boundaries. The agreement proved controversial in Somalia, as many believed it favoured Kenya. • In May 2009, Islamists launched an onslaught on Mogadishu. • In June 2009, the US sent a shipment of weapons and ammunition to the TFG, signalling the Obama administration's desire to thwart a takeover by Islamist rebels with alleged ties to al-Qaeda. • On June 12 the UN Office for the Co-ordination of Humanitarian Affairs (UNOCHA), reported that the number of Somali refugees arriving in Kenya had doubled – from an average of 100 refugees a day to nearly 200 new arrivals a day. • Since January of this year, nearly 32,000

		Somali refugees had arrived in Kenya, increasing the total number of Somali refugees in Kenya to more than 297,000. • In July 2009, UN Secretary-General Ban Ki-moon called on all countries to provide urgent military support to Somalia's embattled transitional government, warning that its survival was at stake. • On September of the same year, Al-Shaabab proclaimed allegiance to Al-Qaeda's leader, Osama Bin Laden. • According to the International Maritime Bureau (IMB), more than 148 piracy incidents occured between January and June 2009, compared with 111 incidents during all of 2008.
17.	2009	*(Cracks in the Islamist front and actors)* • In this year, Al-Shabaab won control over the Southern port city of Kismayo after defeating the rival Hizbul-Islam Islamist militia, which withdrew to villages to the West. • At least 20 were killed and 70 injured in this fighting that threatened to spread to the rest of the Islamist-controlled South.
18.	2010	• In this year Al-Shabaab formally declared alliance with al-Qaeda and began to concentrate troops in Southern Mogadishu for a major offensive to capture the capital. • In the same year, heavy fighting between the TFG/AMISOM forces and insurgents in Mogadishu increased the

		displacements, leading to movement to Afgooye corridor and districts within Mogadishu. • UNHCR in this focus period estimated that with the intensified insecurity and food scarcity, over 490,000 people were likely to be displaced, further aggravating the humanitarian crisis. • In May of 2010, UN Secretary General, Ban Ki-moon, called on the international community to support the then standing Somali government, as the best chance to stabilise the chaotic country. • In July 2010, Al-Shabaab admitted responsibility for the twin blasts, which had killed 74 people watching the World cup football final on television in Kampala, Uganda.
19.	2011	(*Kenyan hard-power interventions*) • In this year pirate attacks on ships worldwide hit a seven-year high, with Somali pirates accounting for 49 of 52 ships seized. • In the same year, the Somali parliament voted to extend its mandate for another three years. • Kenya closed its border to Somalia after nearby fighting between Al-Shabaab rebels and government-backed forces. • On February 2011, Somalia, working with neighbouring allies launched a co-ordinated offensive against militants that saw fighting in the capital and two border

		towns involving Ethiopian tanks. • Kenyan troops were officially deployed to a border crossing. • Between August and September 2011 suspected Al-Shabaab militants raided Kenyan coastal resorts, killing one foreigner and kidnapping two. • In October of 2011, Kenyan troops entered Somalia to attack rebels they accused of being behind several kidnappings of foreigners on Kenyan soil. • In December 2011, UN Secretary-General, Ban Ki-moon, visited Mogadishu – one of the highest-level visits to Somalia for years. • By the end of this year, Djibouti had sent 800 troops to Mogadishu to bolster AMISOM. • Between 21 and 23 December 2011 the first Somali national constitutional conference was held in Garowe in Puntland. It adopted "the Garowe principles on the finalisation and adoption of the constitution and the end of the transition".
20.	2012	• On 22 February 2012, the Security Council adopted Resolution 2036, authorising an increase in the troop ceiling for the AU Mission in Somalia (AMISOM) from 12,000 to 17,731 uniformed personnel, and an extension of its presence to three sectors outside Mogadishu.

		• On 23 February 2012 the United Kingdom hosted an international conference in London with the aim of delivering a new international approach to Somalia. • The Communiqué from the conference focused on the political process, security and justice, stability and recovery, humanitarian issues and international co-ordination. It confirmed that the Transitional Federal Institution's mandate was to end in August 2012.

(Source: Author's own listing of events and as adopted in the Inter-Agency Standing Committee (IASC) 2011.)

It is also important to note, as pin-pointed in earlier chapters, that the historical development of the Somalia conflict in itself espouses an enigmatic paradox – to the extent that many of the factors that drive armed confrontations have also played a role in the prevention and management of war. For example, a fundamental aspect of Somali culture is the ability to generate and manage effective business relationships. This should be one of the target and core resources that could be utilized, and might be an additional strategy to re-order Somalia.

This would provide a major socio-economic ingredient in the Somali peace process. The business community has played varying roles in Somalia's conflict with both positive impacts on post-conflict reconciliation and negative impacts that contributed to an escalation of violence at different times. Somalia has at the moment an evolving private sector and its interactions with the violent conflict at different stages, in an environment bereft of regulation. However, a caveat is that while many business actors and transactions have fed and sustained conflict in various ways, some have also played a key role in de-escalating the conflicts (Yusuf 2006: 501).

Given the security environment in Somalia, high security costs are involved in running businesses. These interactions or transactions require cooperation between business actors, rather than competition. The lack of security has compelled business people to become a force of deterrence against the warlords, who dominated the country in the early stages of the civil war.

It is in the early stages of the war that entrepreneurs could not engage in business unless they were in partnership with the warlords. As the conflict subsided, its dynamics also changed. Business actors established cross-cutting networks that were more suited to their ventures. Such clan-transcending networks shrank the warlord's areas of control. Resource-driven alliances proved more solid and enduring than political alliances. At the same time, they dampened polarization between the clans. These networks usually linked business actors who act as a beam to ensure the security of business in their area (Nenova & Hartford 2004: 3-8). This is, therefore, an important socio-economic resource towards positive peace in Somalia.

Therefore, an aspect of consideration is that clan cleavages have essentially been a source of this conflict used to divide Somalis and to fuel endemic clashes. As already discussed in previous chapters too and as stipulated in the above timeline of Somali's armed conflict history, most of its armed confrontations, since 1991, have been fought in the referral point of the clan, often as a result of political leaders manipulating clannism for their personal interests. On the other end of the continuum, is the factor of customary laws and practices that have historically served as resource-rich portals for socio-cultural home-based conflict-management mechanisms. To this day, traditional clan elders play a main role in conflict mediation, and have utilized clan-based customary law and practices of blood pacts (clan-based blood payment groups), serving as a deterrent to armed violence.

Furthermore, the central State has over time in Somalia been viewed in a somewhat unconventional prism. Conventionally, a State is supposed to be viewed as a potential source of the rule of law and an equitable allocator of resources; but at times, in Somalia's past and contemporary history, it has been a source of violence and abuse of power, as observed in structural-economic control and political control systems. The classical manifestation of a failed State could be inferred in the Somali state of

affairs. As noted earlier a failed State is characterised by the breakdown of law and order, where State institutions lose their monopoly on the legitimate use of force and are unable to protect their citizens – and by extension the State. Such institutions are then frequently used to oppress and terrorise citizens; they have a weak or disintegrated capacity to respond to citizens' needs and desires, or to provide basic public services, to assure citizens' welfare or support normal economic activity; and at the international level, they lack any credible entity that represents the State beyond its borders (see Milliken & Krause 2002: 754-764; Rotberg 2002: 128; Thurer 1999: 731-732). Therefore, as argued, Somalia's model State has been viewed through the unconventional prism of this 'failed-state' condition.

Interests too, have an ambiguous role in the conflict in Somalia. Of essence are economic interests that have provided for a situation whereby, in some places within this geopolitical space, war economies have emerged that further perpetuate violence and unequivocal lawlessness; while in other instances, and at the extreme end of the continuum, business interests have been a major force for peace, stability and the rule of law in Somalia. It is vital, therefore, to understand these variables and their circumstances in the Somali peace process and particularly their ripple effects in this process.

It is also important to at this stage note that since 1991, there have been numerous and elusive peace and reconciliation efforts, none of which have been positive, as is evident in the summary that was presented in the timeline diagram earlier in this chapter. At this point, the only positive effort was the 14th attempt of a Somali peace process that was facilitated by Kenya. The other previous efforts involved track-one diplomatic action, both by States and supranational bodies or entities, as well as track-two diplomatic initiatives, most of which have been futile.

To situate the analysis of Somalia's conflict background and evolution of the phenomenon, it is crucial to undertake a sequential and historical juxtaposition of events that have led to the current impasse and within different political-social time phases and space in Somalia.

4.1 Pre-colonial and colonial status of Somalia

Somalia was a stateless society prior to colonialism. Some parts of Somalia did at different points in history sustain sultanates and quasi-state polities, but in most of Somalia, customary practice and legal provisions were used to architecture the relations within and among the Somali communities. These indigenous laws or practices were called *Xeer* (PDRC 2002:7–14). Xeer approximates a body of social contractual conventions and empowers decentralised political polities or authorities in a community – senior citizens and elders. This also includes clan leaders. It actually constitutes one of the few systems of conflict prevention and management that has survived to this day (PDRC 2002:17–19).

There is also a customary blood compensation system, called *Diya*, which has foundations in Sharia law, in other words Islamic in nature. Under Diya, compensation was reached between the generally aggrieved social unit-clan and members of the group of the perpetrator. These two helped, not only to prevent communal conflicts and crime, but they also served to contain lawlessness in this period before the colonisation of Somalia (PDRC 2002:21–26).

This short analogy paves the way to understanding the Somali social and political structure. As explained in the first chapter, Somalia consists loosely of clan families and clans that are sub-divided into sub-clans, primary lineages and 'Diya-based' paying groups. The Diya paying group, or *Jilib/Bah* in Somali, is the most stable unit – with a membership of groups of families ranging from a few hundred to more than a thousand. The members of each Diya paying group have the abovementioned informal contractual agreement to support one another and to share payments (Ahmed & Green 1999:114).

The term 'Diya payment' implies that families within the group have a collective responsibility for settling disputes committed by, or against, their members. Membership in a clan does not automatically give one certain rights and obligations; rather, they are negotiated and agreed to in unwritten contracts. The groups rarely have single traditional leaders, opting instead for a council of elders, who have collective responsibilities. Throughout the colonial administration, elders were

appointed and paid to act as the legitimate representatives of their respective groups (Ahmed & Green 1999:114).

The Diya paying groups also function as mutual aid groups during periods of emergency. Members have an obligation both to help those who are undergoing severe hardship during crises and to observe traditional wealth-sharing mechanisms. In times of crisis, each member is expected to observe an appropriate code of conduct. This manifests in activities, such as mixed herding, loan sharing, giving animals, libations and alms-giving (Ahmed & Green 1999:115). Such coping and traditional early conflict-management and societal cohesion mechanisms can up to a point effectively limit individual risks and facilitate rehabilitation after periods of crises.

4.1.1 Early development and economic determinism activities

For centuries nomadic pastoralism has provided a livelihood to the Somali people in the Horn of Africa. Before the colonial partition of the Somali 'territories' in the mid-19th century, the history of the region had been dominated by massive migration of Somalis into areas originally inhabited by other populations. By successfully capturing large parts of Abyssinia under the guidance of Ahmed Gran (1506–1543), Somali clans joined to realise a common cause for the first time. However, the subsequent watering down of the newly extended State and its highland conquests, which reached within 50 miles of present day Addis Ababa, foreshadowed the implausibility of a strong State enduring within the realities of the Somali national identity.

There is evidence that the earliest city-states scattered along the eastern Somali shores emerged with distinct Swahili-Arab influences (Ahmed & Green 1999:114). Significant political and administrative repercussions were felt in Somalia initially at the onset of its colonialism. The late 19th century saw the scramble for Africa and this also affected Somalia, which was split. The Somali peoples were split into five different polities: Northern Somalia or the Somaliland Protectorate, administered by Britain; Southern Somalia, administered by Italy; Ogaden, administered by Ethiopia; the Northern Frontier District (NFD) of Kenya, also administered by Britain; and the Djibouti section, administered by France. They were later amalgamated into four

different countries, including Kenya (NFD), Somalia (North-West and South), Djibouti and Ethiopia (Ogaden) (Lewis 1988:21–34).

This was as a consequence of an agreement reached between colonial powers during World War I to consider uniting the Somali penetrated portions of the different countries into a united Somalia. This, however, did not come to fruition (Lewis 1988:36–39).

4.1.2 The Somali social matrix and the early stages of State collapse

A variety of Somali studies concerning the Somali political crises are based on generalisations of the supposed uniqueness of the Somali people as a purely culturally homogenous entity (Mukhtar 1996:543–553). They often tend to fall into a reductionist trap, ignoring the intricacies of Somali political reality, while engaging in a one-dimensional exploration of 'conflict based on clanship'. Although clannism plays a big role in Somalia's politics and social relations, it is by far not the only issue of focus in terms of understanding the complex conflict system.

The classical argument is that all Somali people belong to one ethnic group, speak the same language, follow the same religion, and share the same culture and religion. Lewis, for example, wrote as early as 1961 that "the segmented clan system remains the bedrock foundation of pastoral Somali society and 'clannishness' – the primacy of clan interests – is its natural divisive reflection on the political level" (Lewis 1961). Gundel (2003:165) further asserts that clannism is often seen as the most important constituent social factor in Somali politics, and it is generally believed to be the core element for any explanation of Somali political dynamics.

However, a closer examination of this assertion shows that it could be inchoate or incomplete. According to Mukhtar (1996:546), this situation could be as a result of different epistemologies of viewing the Somali conflict by different scholars. He asserts that in essence, the Somali society has always been divided into nomadic pastoralists in the North and Southern agro-pastoralists that have distinctly different cultural, linguistic and social structures. There are, therefore, variations of differing

traits in terms of ethnography and also livelihood practices, and social set-up in Somalia.

As a case in point, the importance of livestock in relation to subsistence agriculture is regionally variable; with rural households in the South depending on agriculture and Northerners relying more on remittances and livestock. Indeed, people inhabiting the inter-riverine regions speak a different language, known as Mai Mai, a combination of colloquial local dialects, Swahili and Somali. Throughout the colonial period, distinct territorial, linguistic and administrative traditions also emerged in the original territories, as mentioned earlier.

The official languages were French in Djibouti, Amharic in Ethiopia, English in Somaliland, Italian in Somalia, and Swahili and English in the Northern Frontier District (NFD) and a good chunk of current-day Northern Frontier areas of Kenya. Moreover, some territorial boundaries also roughly correspond to clan boundaries.

Ahmed and Green (1999:115) further assert that many observers have concentrated exclusively on clans and lineage structures and have in effect elevated clanship to the most dominant factor in the analysis of the current crisis (see also Waldron & Hasci 1994: 26-34). Understanding clan and lineage in the contemporary Somali politics, while necessary, is not sufficient to unlock their social and political organisation. Elaborate charts illustrating clan genealogy, characterised by acronyms of the many factions, litter the literature on Somali society. This epistemology of Somali society and politics has been erroneously over-emphasised and adopted by many agencies, imperiously displayed in virtually every regional NGO or UN office.

Indeed, the end-users of these lenses often use them as ‘road maps’ and fix-it-all policy guides and action plans, while dealing with Somali affairs. Understanding State collapse in Somalia requires looking beyond clannism and ongoing factional intrigue and extremist Al-Shabaab rhetoric, which is a symptom of State collapse rather than its cause. However, ‘clannishness’ pervades to a large extent the political system in Somalia, and its segmented nature has the potential of creating instability. Menkhaus posits that clannism, which is the political manipulation of the clan system, is inherently centrifugal (Prendergast 1997:93).

This means that a clan conflict can easily fragment further on the basis of sub-clans. However, clannism can only become centrifugal if it is subject to what Compagnon refers to as "political entrepreneurship" (1998: 79-90). Clannism is not static, but it is a dynamic and workable phenomenon. In its modern forms, it could be argued that clannism has undergone a metamorphosis, with the imposition of evolution of the modern State form by its political agents. Towards this end, clans can only be manipulated when asymmetric inter-clan balances upset their traditional egalitarian nomadic values.

If that happens, then a struggle to re-establish a new balance is almost inevitable. In other words, to a large extent, it is the interplay between political entrepreneurship and clannism that is the dynamic behind factionalism in Somalia. This analogy of the politics of clannism also shows the causation element of the root title of the complex Somali conflict. Agents of political entrepreneurship are, therefore, discussed in this study, among them being the Westphalian-State initiators in Somalia.

4.1.3. Westphalianism: its centrifugal effect on social and political order

The temporal state system, Westphalianism as it is understood, was introduced to the Somali peoples through the colonial system or mode of operation. This move was the first act of political entrepreneurship that pre-dated Somalia's traditional social and political structures. The statehood system actually fuelled Somali nationhood, which in turn, also fostered Somalia's integration into geopolitical economies that were regional with a wider globalised economy, especially in the light of the rise of export-defined plantation agronomics and agricultural practice (UNDP/ World Bank 2003).

European colonists, and also Ethiopia, were favoured by this temporal dispensation, since it enabled them to collect revenue, appropriate a labour market and human resources and exploit resources lying in areas inhabited by Somali clans and groups. An authority on the Somali history, Kenya's Ambassador Mahat, argues that in lieu of

Somali's pastoral societal life, they were in turn, unable to adapt to centralisation as espoused by the Westphalian State system.[39]

This explains the major aspect of the crisis of the State in Africa. Clearly, the Westphalian exposition on Africa, based on the above realities, and largely due to its history and cultural matrix, makes it a difficult task to make progress with the integration of its people and to ensure their compliance with strategies designed within a specific territorial framework (Darbon 1999:41).

The Westphalian model is, in fact, the exposition of the territoriality principle, which has been one of the fundamental dynamics of State construction in North-Western Europe. It was clearly not architectured for the African polity. This principle, which is recognised in international law as the constitutive basis of the State, is employed in most scientific analyses of the State, but appears to be weak in Africa. This concurs with this study's discussion of the situation in Somalia, and confirms the position that the State is a largely differentiated historical model (Darbon 1999:41).

Therefore, following this line of thought, the question of the Somali civic-societal structure – bearing in mind that the post-colonial (centralised) State has featured in analyses of the Somali State collapse (Doornbos & Markakis 1994:82–88; Lewis 1994; Simon 1998). It is also argued that institutional structures that incorporated concepts entirely alien to the existing Somali institutions were imposed under colonial rule.

In reality, and following the epistemology of social theory, it should be noted that socio-economic phenomena, such as urbanisation and acculturation, were also introduced into Somalia. One should not overlook the importance of human interactions resulting from socio-economic change and inflows and outflows of people, cultures and practices, or even of those 'contact zones', as posited by Deutsch (1961:493–514), in which diverse populations and cultural matrixes come to rub elbows with one another; or as they may, create a situation of social conflict or

[39] This is a view emanating from an interview with Ambassador Mahat who, at the time of writing this thesis, was heading the desk division of the Somali peace process at the Kenyan foreign ministry, and also has working knowledge of the Horn of Africa geopolitical sphere.

divergence. Colonialism, in fact, introduced urban lifestyles and agrarian economic determinism.

As a result, a discrepancy emerged between the highly central nature of the post-colonial state and the already-existing earlier local systems of administration and economic-livelihood sustenance. It was not simply a coincidence that the strongest opposition to the centralised State came from the North, and is still felt today; this is where a pastoral mode of production is still dominant. The Somali people were predominantly traditional nomadic pastoralists before this time. Historically, agricultural commodities from Ethiopia and Somalia were exported from Somali ports; but on the other hand, Somalia was integrated into the regional and global economy through the development of an irrigated plantation-economy based initially on cotton, and later on bananas, within the lower Jubba area and Shabelle (UNDP, 1998).

In terms of urbanization, was the rapid growth of urban centres, courtesy of the relics of colonialism. The growth of urban centres was experienced in Mogadishu in the South and in Hargeisa in the North. Kismayu, Baidoa, Hargeisa and Mogadishu became metropoles, with politicians and businessmen concentrated in these areas and interested in the political space to safeguard their personal wealth and businesses (UNDP, 1998).

These developments and new incompatibilities in Somali society were further intensified by the transfer of power and authority from pastoral groups to the new central-based political and economic structures, as captured above. As a result, pastoralism was treated less as a distinct way of life and more as an economic resource to be exploited (Doornbos & Markakis 1994:84).

4.1.4. The historicity of conflict: 1888 – 1960.

It is, therefore, clear that there was a clash of livelihoods and economic interests between Somali's traditional social-cultural mode of production and the 'imposed' mode of production. This imposition involved an underlying structural disaggregation through mechanisms that ensured that the new mode of production was manipulated

by the new ‘elite’. It should be underlined here that the original North and South divide and rule solidified these hostilities. Samatar (1989; 1999) posits that others might disagree with this analysis, describing it as ‘historical’, and not particularly relevant to current problems, because it assumes that the social structure of the Somali society remained intact following its integration into the world economy, as mentioned above.

It could be argued, following Somali historical analysis, that the commercialisation of pastoralism transformed society as early as the 1920s. In essence, there was a more dynamic and higher economic pegging to pastoralist products. Traditional structures have also changed even more dramatically since independence. Following the provisions of social theory, this is true to some extent, as discussed earlier, and this opens the debate as to how the phenomenon of ‘incremental State collapse’ was realised in Somalia.

As pastoralism was integrated into the world economy, the leadership in Somalia and those who were supposed to steer the country within the dynamics of economic sustenance did not keep their end of the bargain. In Somali’s contemporary history, and particularly since the 1960s, there exist phases of serious economic mismanagement and the political disillusionment of the Somali people by different regimes.

This mismanagement of the economy, as Mubarak (1997:2027–2041) asserts, has played a key role and has been one of the instrumental causes of State collapse.

It is, therefore, within the realities of social conflict that the above realities reflect John Burton’s view that conflict is in essence a social process, and has a life of its own (1990: 40). The ever-evolving conflict in Somalia explains the existence of interconnected and intertwined conflict actors, whose origins cannot be traced strictly to economic-based contestations, and also not purely military-conditioned factors. It is, therefore, important, as a first basis of conflict analysis to get a better understanding of the problems encountered by pinpointing who the legitimate parties to the conflict are.

This conflict is between self-declared businessmen, who cut the image of fully fledged faction leaders, and legitimate agro-pastoralists and nomadic pastoralist actors of economic production. This is the problem and politics of legitimacy recognition in the Somali peace process; and the mediators have to reckon, recognise and do a lot of fact-finding with regard to the extent and intricacies of the conflict in question.

4.2. Post-colonial Somalia: 1960 onwards

It is important to note that significant armed conflict was absent during Somalia's first fifteen or so years of independence[40]. This was at the beginning of the sixties to the late seventies. However, this was the era of structural inequities and political and economic disenfranchisement. A root cause of the current crisis can be traced to this period. In 1960, for example, there was the rapid union of the two Somali territories to form the united Somali State. Soon after independence, the people from Somaliland became disillusioned with the way the union was proceeding and indeed voted against it in the unification referendum (Adam 1994:21–38).

The first 10 years were marked by operational but corrupt and eventually ineffective and dysfunctional multi-party democracy. In the interest of preserving a failing union, Somaliland (the Northerners) initially accepted conditions demanded by the Southern leaders.

4.3 Structural violence

Peter Uvin (1998:103–104) defines 'structural violence' as the institutionalised inequalities of status, rights and power, which are not the result of freedom of choice by individuals and groups. Rather, they are the consequence of the more powerful group's use of coercion, and they can become institutionalised in the legal system and justified by religion, ideology and history. This situation, as stipulated by Uvin, reflects the realities in Somalia and the root causes of the conflict.

[40] Somali independence came in 1960, with the British and Italian protectorates combined to the Independent United Republic of Somalia.

The political and economic unfolding in the early independence years of Somalia would justify and demonstrate this statement.

Structural violence or manipulation started with major hallmarks, such as Mogadishu becoming the capital and the base of the newly created Somali parliament. Southern Somalis also held all major posts in the new government, and a majority of the seats in the parliament. In spite of the increasing discontent, Southern officials adopted measures aimed at enforcing rapid integration, serving to further alienate their Northern counterparts.

Structural violence can also be observed by the extent to which the government's development programmes at these early stages failed to tackle the serious problems of underdevelopment and social economic stratification in the North. These were problems inherited from the colonial administration. Despite the integration of the two administrative systems, latent corruption has been attributed to the residual Italian influence ('the Italian factor') in the public sector (Lewis 1989: 573-579).

However, the Northerners were not the only group disillusioned with the union. The Rahanweyn from the inter-riverine region, who had an equal number of seats compared with the two other major clan families of Hawiye and Darod in the South before unification, became marginalised (Mukhtar 1996).

Structuralism and violence were being redefined in the different phases of Somalia's political-security experiences. Certain political processes and dynamics in context opened a Pandora's Box of trouble and negative exploitation of the State, which will be explained later in this chapter. It should be noted that in the country's last pre-war/conflict multi-party elections in 1969, more than sixty parties[41] contested power (Laitin & Samatar 1987:69).

[41] It should be noted that the Constitution of 1960 guaranteed not only the unity of two Somali territories, but also democracy and a forum that sanctioned multi-partyism with guarantees of *de jure* freedom of expression. Significant political differences encouraged a proliferation of parties 'to the point where Somalia had more parties per capita than any other democratic country except Israel' (see Lewis 1980).

Little civil governance or service delivery existed. It was against this backdrop that the successful coup, which brought Barre to power, took place. This was in 1969. It was in the same year when the military came to power that it was initially accepted and understood with broad populist support because of public disenchantment with the clannism and gridlock that had plagued politics under civilian rule.

4.3.1 From the 'happy-slave state of affairs' to 'overt violence/hostilities': 1969 – 1991

It is in the context of the Cold War that the regime led by Siyad Barre recast and reconceptualised the coup as a socialist revolution (Lewis 1994).[42] He claimed that scientific socialism was fully compatible with Islam, and the reality of the nomadic society (Lewis 1994:150). It is with funds from international diplomatic partners that Barre built up one of the largest military armed forces in sub-Saharan Africa. This catapulted the structural latent conflict into overt violence, which was the preferred mode of statecraft.

Between 1976 and 1991 the country endured three major armed conflicts that signified distinct political transformations during the period. The first major conflict was the Ogaden war with Ethiopia from 1977 to 1978. Somali forces intervened in support of Somali rebel fighters in a bid to liberate the Somali-inhabited region of Ogaden. Somalia eventually lost the war and suffered around 25 000 casualties (Samatar 1998:137).

These losses in reality acted as a future reference point for internal conflict, thereby prompting the rise of several Somali liberation movements, whose interventions were aimed at overthrowing the military regime of Siyad Barre. They held his regime accountable for the debacle. On a wider geopolitical scale, as a result of the Ethiopian and Somali war, Kenya and Ethiopia entered a mutual defence pact to prevent Somalia from becoming a regional power, thereby destabilising the sub-region. This decision of aggression by Barre, therefore, prompted serious diplomatic alignments.

[42] Lewis expounds on the notion that Mao Tse Tung, Lenin and Kim II Sung all had some philosophical influence on this home-spun philosophy of development and power constructed on the basis of the Siad regime.

On the Somali homefront, the first of the Somali liberation movements was the Somali Salvation Democratic Front (SSDF) established in 1978 by Abdullahi Yusuf. This mainly Majerten clan movement engaged the regime in tactical-periodic skirmishes in the North-East of the country, and was met by harsh repression. The second major political development and armed conflict was the confrontation between the Somali armed forces and the Somali National Movement (SNM) for control over North-East Somalia. The origins of SNM date back to 1981, when it was formed by members of the Isaaq clan following the Ogaden war. Isaaq grievances were heightened over the course of the early 1980s, when the Barre regime placed the North-West under military control and used military subjugation and mechanisms to crack down on Isaaq and dispossess them of their realty and personalty. This also included their business ventures. The civil war mounted by the SNM began in mid-1988 and produced catastrophic effects.

Atrocities were committed by military and other armed-service units of the government against defenceless civilians (an estimated 55 000 to 60 000 Somalis died, mostly of the Isaaq clan, which was the core support for SNM). Aerial bombardments levelled Hargeysa and half a million Somalis were forced to flee across the Ethiopian border as refugees; while another 400 000 were internally displaced (Africa Watch 1990). These atrocities fuelled Isaaq demands for secession in what became the self-declared State of Somaliland in 1991.[43]

The third most important political-security phase also dates to before 1991, and pitted embattled government forces against a coalition or number of clan-based liberation movements in the period 1989–1990. A formidable section of these movements was namely: the United Somali Congress (USC) and was largely of the Hawiye clan; the Somali Salvation Democratic Movement, as already mentioned, was of the Majertan clan; and the Somali Patriotic Movement affiliated to the Ogadeni clan. This multi-front war presaged the predatory looting and banditry that characterised the warfare in the 1991/1992 period.

[43] It is important to note that Somaliland's claim of sovereign independence did not receive external recognition from the UN or any State.

It was in addition to these confrontations that other legacies of the Barre regime period fuelled conflict in contemporary Somalia. As a first imperative, the State was exploitative and oppressive, and was therefore used by some political leaders to dominate others, to unequivocally monopolise State resources, and to appropriate valuable land and other personality and realty. It is as a consequence of this that reconciliation efforts and power-political sharing discussions in Somalia have in the past been complicated and are still complicated by high levels of distrust and an ultimately zero-sum game mentality towards political power and the State (Menkhaus 2004).[44]

A second premise is that the political leadership skilfully manipulated and politicised clan identity over two decades of divide-and-rule politics, leaving a legacy of deep clan divisions and grievances (Ayoob 1995:171). A third premise is that this period paradoxically coincided with the height of Cold War tussles in the Horn of Africa as geo-containment regions of the two bipolar ideologies. This ultimately allowed the Barre regime to annex or attract large quantities of artillery and military inceptions, as well as economic aid that would automatically also become fungible physical strategic valuables[45], in case of a short-term-defined military excursion (Goldstein 2001:69).

When the war ended, the level of expenditure, especially to maintain the bloated bureaucracy, was not sustainable; and this precipitated the fall of the regime. It was in the 1980s when the Cold War waned that Somalia's very strategic importance to the West diminished, enabling donors to place human-rights conditions on aid to Somalia. There was, therefore, a shift from a strategically oriented diplomacy of containment to a diplomacy of human rights.

This preferred mode of diplomacy saw the operationalisation of economic sanctions in Western exposition of the changed and preferred diplomacy options. As such, Western donors froze aid to Somalia in response to the war with SNM in the North.

[44] The Somali 'game calculations' of the costs and strategic benefits of reviving an effective central government are discussed in Menkhaus (2004).
[45] The essence of 'fungibility' is observed as the decisions by actors to develop and deploy power capabilities to achieve goals. A key aspect of this strategy is the conversional short timescale in which a power resource, for example economic or fiscal inputs, could be turned into military hardware in order to maximise influence.

These diplomatic manoeuvres with targeted sanctioning had the additional effect of stripping Somalia's principal source of revenue. The State, as a result, shrank and eventually collapsed. An initiative by a group of Somalis who were serious public opinion holders, or the elite, known as the Manifesto Group, to broker reconciliation and establish a provisional post-Barre government was met with extra-judicial force and arrests by the Barre regime in mid-1990 (Zartman 1991:81).

It is also important to bear in mind that Barre's preferred policy option of using force had a ripple effect that served as his very Achilles heel. In addition, as a consequence of the Ogaden war, both Barre and Mengistu of Ethiopia began arming dissident factions of the other's country until each fell from power, as a result of externally supported armed groups. In January 1991, Barre fell from power, and so did Mengistu in the middle of the same year (Lind & Sturman 2002:325).

4.3.2 The collapsed-State phenomenon and its politics: 1991 onwards

Any anticipated coalition government with a make-up of dissident factions (loosely made up of clan-based militias) did not come to fruition after Barre's fall. The factions rather turned the country into fiefdoms. Towards this end, a prolonged period of violent anarchy and warfare ensued. Armed conflict raged across Southern Somalia throughout 1991 and 1992, pitting clan-based militias against one another for control of strategic towns and seaports, which were valuable.

Wars broke out as the struggle for control of the government quickly degenerated into predatory looting, banditry and occupation of valuable real estate by conquering clan militias. Notable warlords were Ali Mahdi and General Aideed. Young gunmen fought principally to secure war booty, and were under only the loosest control of militia commanders. Powerful merchants and warlords were implicated in this war economy too.

4.3.3 Effects of development or humanitarian aid on protracted conflict: 1992 - 1996

The principal victims of this violence were weak agricultural communities and coastal minority groups caught in the middle of the fighting. Looted of all their belongings, they faced a serious famine at the end of 1991 and in the beginning of 1992. This situation elicited large international relief operations. Food aid became part of the war economy, militias fought over these commodities, and warlords diverted these commodities to fund the wars.

The war of 1991–1992 also generated a powerful array of interests in perpetuating lawlessness and violence and blocking reconciliation. Warlords' powerbase depended on a chronic state of insecurity, as their clan constituents needed them for protection. Gunmen, who were illiterate, saw war, plunder and extortion as their only livelihood. Businessmen were also enriched by war-related crime activities, such as weapons sales, drug production and the diversion of food aid; and whole clans found themselves in possession of valuable urban and riverine real estate gained through conquest, which they stood to lose in any peace settlement.

On the other hand, in the North-West and North-East of Somalia, the collapse of central government did not precipitate the kind of warfare and plunder that devastated the South. In Somaliland inter-clan clashes occurred. However, for a variety of reasons, including the more robust authority of traditional clan elders, greater political cohesion among the clans, more support from businessmen to support peace and subsidise demobilisation, and more effective political leadership, the fighting never devolved into anarchy and generalised violence.

These trends and dynamics were observed and had some interplay in the 14th peace process, where there was a surge of delegates and a continued proliferation of individuals and groups seeking legitimacy in terms of recognised representatives in the peace process. This actually explains the absence of Somaliland in the reconciliation process. The self-declared State of Somaliland gradually began to build a modest capacity to govern; and a national assembly of traditional clan elders helped to manage the peace and keep young gunmen under control.

In the North-East, traditional elders contained chronic inter-clan tensions as well. This phenomenon actually reflected Lederach's (1998:93–94) assertion that the greatest resource for sustaining peace in the long term is always rooted in the local people and their culture. This is what he referred to as the '*socio-cultural resources*' that make peace possible. This state of dispute resolution and ordering in Somaliland also reflects the three elements that he says make up this resource, namely: the timing element in the resource, the trust element and the networking elements.

Timing refers to sensitivity to events and the perception of possibilities; trust suggests the relationally based, holistic approaches to mediation, as practised through customary norms and traditions, and that develops over time; and networking suggests that such peace-building is dependent on knowing people and being connected. It is within the Somaliland prospect that the said resources provide a situation where sustained peace is modulated by those involved in a conflictive setting that provides connection before and during the conflict (Lederach 1998:97).

All in all, the general situation in Somalia was alarming; and something had to be done about it. Peace attempts and interventions were facilitated by a myriad of players – in their official and non-official capacities. However, none was as incremental as the track-one diplomatic initiatives that followed this state of affairs.

4.3.4 Early international initiatives and intervention

The most notable track-one diplomatic initiative was the UN intervention in Somalia, which was initially prompted by a desire on the part of the international community to protect food relief and end the famine that was ravaging Southern Somalia. This was between 1993 and 1994. Initially, it was an American-led UN-sanctioned multi-lateral intervention. It involved nearly 30,000 troops. In the first quarter of 1993, the operation was formally and procedurally handed over to the UN. The UN mandate was much more entangling: to assist Somalis in promoting national reconciliation, rebuilding the central government and reviving the economy (Pillar 2001:60–61).

It is in terms of the prospects of freezing armed conflicts in the country that the intervention initially succeeded. American commanders decided not to undertake a campaign of disarmament, for fear of arousing armed resistance leading to U.S. casualties. The cessation of hostilities provided a diplomatic opportunity for the main fifteen Somali factions to meet and negotiate the framework for a transitional national government and the terms of a national reconciliation: the Addis Ababa Declaration of March 1993.

The pragmatic UNOSOM mandate of rebuilding a Somali government through locally selected district councils or the use of socio-cultural resource diplomacy directly threatened the interests of a number of militia leaders and their clans, who controlled valuable realty and personalty, and viewed UNOSOM's programme as a move to disenfranchise them. The inevitable effect was a confrontation: In mid-1993, a month after the UN assumed control of the operation, the militia of Aideed, who represented the Heber Gadir/Hawiye clan, attacked UN forces, killing 24 peace-keepers and precipitating a four-month battle between the UN and Aideed's militia. The subsequent failure of the US and UN forces to capture Aideed, the paralysis that the fighting imposed on the UN nation-building efforts, and the disastrous losses sustained in the "Black-Hawk Down" incident on 3 October sealed the fate of the UN operation, which departed in March 1995, leaving Somalia still in a state of violence and anarchy (Clarke & Herbst 1997:200–212).

It is important to note that the post-UNOSOM period also benefited the Somali society to some extent, mainly in terms of the galvanisation of track-two diplomacy efforts. UNOSOM's civil and political work as a track-one diplomatic player enabled and helped to empower a small but growing civil society in Somalia, which has since become an important channel for peace-building in the country (Kumar 1997:2–6).

This is an instance where the hidden role of track-one diplomacy in conflict management is seen through its enabling tentacle of empowering and legitimising the views and roles of track-two resource branches of society.

Another consideration is that UNOSOM's enormous presence transformed the Somali economy to some extent in ways that helped to undermine the war economy and

reshape interests in greater levels of security and the rule of law. Merchants who from 1991 to 1992 had profiteered from diverted food aid and looting, now made small fortunes in quasi-legitimate business ventures, from procurement and construction to remittances and import-export commerce. Their shifting interests helped to contain armed conflict and lawlessness in the post-intervention period. This serves as another lateral role of track-one diplomacy, and an example of its effects on a society in conflict.

It is clear that the lessons provided support the fact that interventions in whatever form are perceived as directives against the intrinsic sovereign rights of States as political entities. It reinforces the criticism of, and objections to, intervention as a mode of international political action (Gambari 1995:223). Clearly also, such interventions play a strong role in rehabilitating collapsed or collapsing States, but it should be stressed that the domestic dimensions of the requirements of State reconstruction go beyond the imposition of a foreign-inspired 'solution'. Rather, it involves a complex process of political, social and economic engineering that must positively affect the internal dynamics of powers and resource distribution in African States (Gambari 1995:233; Omondi 2006: 61-62).

These developments prompted these track-one players to review the international policy exposition of their interventionist policies. The consequence was a strategic disengagement – not only from the Somali debacle – but also from other cropping conflicts in Africa. The post-UNOSOM period was marked by some key political-diplomatic events. There was a failed pattern of externally funded national reconciliation conferences that followed.

More than a dozen such conferences were convened, of which only the 2000 Arta, Djibouti peace conference peripherally came anywhere close to bearing fruit. To mention a few of these elusive attempts, there were the Djibouti deliberations or peace talks between June and July of 1991, the Addis Ababa National Reconciliation process between January and March 1993, and the Sodere Conference that ran between 1996 and 1997. These elusive attempts will be critically discussed in more detail in Chapter 6 of this thesis.

4.4 Conclusion

In conclusion, and as deduced from this chapter, it is important to note that the context of the Somali conflict and its progression has been architectured by its history - bearing in mind the different exogenous and internal dynamics that define the conflict epicentre. This has had an effect not only on the escalation of the conflict, the complexity of the same, but also on the conflict-management strategies that intermediaries apply. As asserted, different track-one players, including States and regional and sub-regional organisations, failed in delivering peace or practised deliberate omission-diplomatic disengagement owing to States' interests, member States' interests, and the laws and politics of the supranational organisations.

This is another factor that defines the conflict progression and dynamics of such protracted conflicts as those in Somalia. It is, therefore, important for peace-making processes to have a large component of strategic conflict analysis before any intermediary process can be effected.

To understand the developments that led to Kenya's diplomatic efforts in the Somali debacle, it is important to have an overview of the laws and politics involved in their operation, and that led to other ineffectual diplomatic and intermediary processes. This would open up the debate and analysis of the procedural and substantive tactics that Kenya used in its track-one diplomatic intervention. This will be critically discussed in the following chapters.

On the basis of such a diplomatic analysis, a further conclusion and observation is that the multi-dimensional nature of peace-keeping in collapsed or collapsing States requires strategic multi-lateral intervention for effective legitimacy. It is argued that before actual peace-keeping can proceed, the external parties of an intermediary concern must first try to stop the fighting between the warring factions. The next step is that they must then try to monitor or impose a ceasefire; and this requires considerable experience in peace-keeping and peace-enforcement.

Another important task related to the general nomenclature of peace-keeping and a peace-support mindset is that efforts must be made to promote political reconciliation

among the conflicting parties. This, no doubt, requires the involvement of countries or multi-lateral track-one diplomatic entities with experience and equitable clout or benign involvement in intervention. This will also be investigated against the backdrop of developments in the Somali peace and security environment in the succeeding chapters.

Towards this end, the next chapter will critically look into the past elusive peace-making attempts. The dynamics, challenges and politics of these track-one diplomacy engagements pertaining to the Somali situation will be presented, and this will open the debate for Kenya's official entry into the diplomatic and mediation game.

CHAPTER 5

PEACE-MAKING CHALLENGES IN SOMALIA

5.0 Introduction

The previous chapters outlined how track-one diplomatic players, including strong States and multi-lateral or international organisations, such as the UN and regional organisations, as observed in the Somali conflict, prefer a foreign policy and international option of disengagement. This is seen in the events that followed the implosion of the Somali State. When a chaotic political situation evolved after the ousting of the Siad Barre regime in Somalia in 1991, and the humanitarian catastrophe began to unfold as a result, the world community had to react to the new phenomenon of a 'collapsed or failed State'.

A multi-national force, the United Task Force (UNITAF), and later the United Nations Operation in Somalia (UNOSOM), launched "Operation Restore Hope". Despite the initial success in providing protection to the humanitarian transports that supposedly avoided further starvation of the civilian population, UNITAF/UNOSOM failed to effect stability and political settlement in Somalia. In fact, the Somali experience was so disastrous that it precipitated a re-evaluation of the 'interventionist' policy. The West, and the other big powers, adopted a policy of disengagement in Africa.

It is also important to note that, precipitated by deadlocks in similar protracted conflicts in Africa, the UN Security Council initiated a debate concerning the preferred use of a regional approach in managing conflicts on the continent.[46] For example, Security Council resolution 7290 of 2001 stipulated that the United Nations

[46] See *SC/7290, 4465th meeting*, a UN Security Council meeting on Thursday 31 January 2001, where it was asserted that the "Security Council, with a wide-ranging presidential statement, aimed to improve co-operation in peace-keeping and conflict prevention in Africa". It also stated that "the council underscored the importance of partnership and enhanced co-ordination and co-operation between the UN, the OAU and other sub-regional organizations in Africa" (SC/7290, 4465TH meeting, Thursday 31 January 2001, as cited in Ghebremeskel Adane, Spring 2002). Regional Approach to conflict management revisited: The Somali experience, In. www.mafhoum.com/press4/120P52.htm as accessed on June 2009.

(UN) underscore the importance of partnership and enhanced co-ordination, as well as co-operation between the UN, the then OAU, and the sub-regional organizations in Africa.

However, it is important to note that this was not the first proposal of such engagement strategies. Since the early 1990s, such discussions have taken place at both international and regional levels (Ghebremeskel, Spring 2002). However, the same proposed and emphasised 'solutions' to such conflicts did not work in practice. There have been failed efforts by regional organisations and sub-regional organisations. These processes and strategies have played a role in Somalia. This situation is also not peculiar only in the Somali case, but it may also be observed in the greater African geopolitical context.

This chapter, therefore, looks at the complexities of the different official intermediary processes that were attempted in Somalia prior to the 2002 Kenyan-initiated peace process. This will be an important task, because it provides for a lessons-learnt point-of-reference in the complexities of the Somali diplomacy and peace-making initiatives.

5.1 The elusive quest of track-one diplomatic attempts

From the previous chapters, it may be observed that different track-one diplomatic entities, whether exogenous or endogenous, have not fully utilised their offices to bring peace, or at least to consolidate the socio-cultural, socio-economic and socio-political resources in the resolution of the Somali conflict. Global track-one diplomacy has failed – owing to the lack of sufficient legitimacy or acceptance as a third-party player in the Somali conflict-amelioration strategies.

The UN experience has exemplified the tasks that were to be carried out and has pointed out the vacuums to be filled with regard to conditions or prior mandates within which exogenous intermediaries have to work. This is also true of the engagement strategies to be applied in future policies of strong States, such as for example, the United States, that have a vast heritage of hard-power and soft-power capabilities.

The Somali conflict has seen track-one diplomatic initiatives and players assuming different intermediary roles. These have been particularly taken up, or adopted, by exogenous and endogenous third parties – or those who come from within the conflict. Most important of all, have been the efforts of the cross-fusion of third-party identities. These are heterogeneous track-one diplomatic parties that have made the Somali conflict a complex triadic affair (Bercovitch 1996:41–42).[47]

The latter cuts across different interests within the diplomatic process, as provided by sub-regional organizations, the Intergovernmental Authority on Development (IGAD) member States and other interested entities, like the Arab league. As such, interests have diversified, and as a result, the mediation processes have had to contend with intricate issues that have challenged the Somali peace process.

It is with this in mind that a further critical evaluation of the past attempts has to be made, in order to understand Kenya's eventual involvement in the Somali process, situations and the environment that has provided a basis for this engagement, and generally for the country's mediation of the Somali conflict in both procedural and substantive inputs. The failure of UNITAF, UNOSOM in keeping the peace in Somalia, and the attempts of the regional track-one offices of OAU (now AU) have provided for conflict-analysis situations that have redefined not only the politics and laws of intervention, but also the whole perception of mediation and peace-building.

An evaluation of another track-one entity, the *European Union (EU)*, is also of importance in understanding what has to be understood in the Somali situation. As a major international player, the EU did attempt to provide diplomatic remedies to offset the Somali-conflict situation; but this also had its challenges. Track-one attempts, and most importantly for this study the Djibouti initiative and failure, which opened up Kenya's role in the mediation process, are also of principal concern. This chapter looks at the missed opportunities and lessons learnt in Somali's peace processes. A summary timeline (Table 2) captures the principal past attempts pertaining to Somalia and provides a relevant picture of the processes, as below.

[47] Bercovitch states that the entry into the conflict of a mediator transforms the structure of the conflict from a dyad into a triad. The mediator becomes one of the parties to a conflict.

Table 2: Summary timeline of Principal Somali Peace processes/Reconciliation Conferences, 1991 – 2004[48]

Peace Process/Peace talks	Date	Parties Involved	Host Country	Facilitator
1. Djibouti 1	5-11 June 1991	SSDF, SPM, USC, SAMO, SNU, SDM	Djibouti	Government of Djibouti
2. Djibouti 11	15-21 July 1991	SSDF, SPM, USC, SAMO, SNU, SDM[49]	Djibouti	Government of Djibouti
3. Informal Preparatory Meeting on National Reconciliation	January 1993	15 factions	Ethiopia	United Nations (UN)
4. Addis Ababa Conference on National Reconciliation.	March 1993	15 factions	Ethiopia	United Nations/ Government of Ethiopia.
5. National Salvation Council (Sodere)	November 1996-January 1997.	26 factions	Ethiopia	Government of Ethiopia
6. Cairo Conference	November 1997	Hussein Aideed's government and NSC	Egypt	Government of Egypt.
7. Somali National Peace Conference (Arta)	May-August 2000		Djibouti	Government of Djibouti
8. Somali National Reconciliation Conference (Eldoret/Mbagathi)	2002 - 2004			Government of Kenya/IGAD.

Source: Interpeace (2009: 10)

[48] Table 2 is adapted from Interpeace (2009: 10).

[49] It was in June 1991, five months after the Barre government was deposed, that President Hassan Gulaid Abtidon of Djibouti invited the leaders of six armed factions to talks – that is: the Somali Salvation Democratic Front (SSDF); the United Somali Congress (USC); the Somali patriotic Movement (SPM); the Somali-African Muki Organization (SAMO); the Somali National Union (SNU); and the Somali Democratic Movement (SDM).

5.1.1. Track-one diplomacy by global institutions and strong powers

At the international level, the debate on a disengagement policy and the empowerment of regional organisations was determined by various interrelated factors. These cut across strong States' foreign policy considerations – in this case the USA and the United Nations' practical experiences and challenges in interventions related to protracted conflicts. The actions of these diplomatic players were, therefore, as a result of factors ranging from foreign policy and national interest considerations to budgetary implications and cost-benefit analysis related to 'priority engagement' activities.

Somalia was a unique event and experience, because it challenged the very doctrines and practical engagement of peace-keeping in the traditional sense, and also challenged foreign and national security actions of intervening States, like the United States of America, which was then only beginning to flex its muscles systemically as the unipolar power in the new system. This led to a pessimistic conclusion with regard to strong States' foreign policy and national interest considerations pertaining to the continent (Africa), and also to the UN's strategic and economic interests or financial considerations in Africa in the post-Cold War era.

This precipitated Western powers, in particular the USA, to re-evaluate their foreign policy and external political-security engagement strategies. Disengagement from Africa was seen as the preferred policy option. The international community, especially the West, was concerned with how to fill the security vacuum in terms of how to address the raging new wars or wars of a third kind. Questions of how to ethically, politically and legally substantiate the disengagement policy in support of regional mechanisms of engagement were in essence in every foreign policy and UN Diplomacy technocrats' decision-making plate.

The recourse was to adopt regional conflict-management approaches, which were thought of as more pragmatic and addressing intra-state political and security dilemmas. This proposal of a regional outlook offset the West from direct responsibility in managing not only the Somali conflict, but also other African

conflicts, thereby avoiding risks that would otherwise have come about with their involvement.

The miserable financial situation of the UN from the late eighties to the early nineties and its failed peace-keeping missions of the 1990s, as observed in Somalia (1991 – 1993) and Rwanda (1994), for example, tarnished its reputation and prompted it to concede to a disengagement plan. This was towards support of the utilization of regional conflict-management mechanisms, for example, under the then Organization of African Unity (OAU) and other sub-regional organizations, like the Intergovernmental Authority on Development (IGAD). This was also closely connected to diplomatic demands by the strong powers for the UN not to expand its conflict-management initiatives and peace-keeping operations, which would have meant expansion of both monetary and personnel activities. This explains why the Agenda for Peace, as presented by Boutros-Ghali in 1992 [50], did not gain any mileage.

The disengagement by these principal track-one diplomatic entities, namely the United States of America, other strong States in the Western polity and the United Nations had negative repercussions for a peace agenda in Africa. The genocide in Rwanda that occurred between April 6 and mid-July 1994 was the first predicament, and this also coincided with the Somali conflict that was still gaining momentum and becoming more protracted and escalating. Rwanda was, however, during this period the most fatal consequence of the disengagement policy.

The US disengagement policy in terms of Africa should be understood within the context of its foreign policy, which is based on two fundamental elements, namely: national interests and American values (Kissinger 1994:812–813). Since the end of the Cold War in 1989, conflict situations on the African continent have not really constituted a threat to US national interests. The only exception to this rule has been international terrorism and the strategic implications and predicaments especially with regard to Somalia after September 9/11 with the claims of Al-Qaeda terrorist cells in that country (Elshtan 2003:162–163).

[50] The report, '*An Agenda for Peace: preventive diplomacy, peacemaking and peace keeping*' can be accessed through-http://www.unrol.org/doc.aspx?n=A_47_277.pdf [accessed on 6th July 2012].

Containing communism, having access to strategic resources, and protecting shipping routes and a consequent promotion of American values, once said to have dictated US foreign policy in Africa, are no longer crucial. Actually, Marguerite asserts that the imposition of the Soviet Union set the USA free to pursue its own interests in Africa – and it found it did not have any (Margruerite 1993). This, to some extent, explains America's indifference in terms of engagement in the continent, especially at the focus period immediately after the thawing of relations with the cold-war protagonists. Foreign policy considerations, strategic importance and national interest orientations were no loner directed to this polity.

The Rwanda genocide in 1994 also emphasised the UN's indifference, which is in sync with the policy of disengagement. This was a time in the early to the mid-nineties when the activities of the UN Department of Peace-keeping Operations (UNDPKO) were seen to be unequal and uneven, especially with regard to the lack of action and intervention in Rwanda and in other areas of the world. There is, however, another side of the debate on the UN's ineffective engagement in phenomena and hot spots, such as Somalia.

5.1.2 Track-one diplomacy by the UN and its problems

The end of the Cold War and the rapprochement between the major superpowers was believed to create a new opportunity for the UN. The UN Security Council requested UN Secretary General, Dr Boutros-Ghali in January 1992, to assess the possibility of improving the capacity of the UN for preventive diplomacy, peace-making and peace-keeping.[51] This saw the inception of the document, "*Agenda for Peace*", which was supposed to serve as the framework for the UN when dealing with conflicts around the world.

The UN was no longer restricted to traditional peace-keeping and peace-making activities; and in order to tackle the new phenomenon of the 'collapsed State', it also added peace-enforcement and peace-building to its tasks (Bercovitch 1996:97–98).

[51] See http://www.beyondintractability.org/essay/peacemaking/

On the other hand, empirical evidence and occurrences revealed that what the drafters and architects of the document intended was the opposite from the reality of the situation on the ground, bearing in mind the changing nature of conflicts at the time. The UN strategies adopted did not reflect, and were not fashioned, on critical pre-action political risk and conflict analyses. There were operational, doctrinal and organisational difficulties related to strategic planning (mis-planning) of peace-support operations that would address complex intra-state environments, and also a lack of legitimacy and recognition from the respective population, as was experienced in Somalia in the period between 1991 and 1995.

All these seem to have been among the major factors contributing to the failure of many attempts undertaken based on the grand projects. In many cases, UN interventions had the unintended consequences of further escalating already-volatile situations. This was due to the failure of appreciating the dynamic and complex nature of the internal conflicts, intricate and sensitive interests, and the complications on the ground. The situation was further complicated once the anticipated results had failed to be realised, and the human casualties and finances involved surged. Examples of the affected areas or cases of such unstrategic interventions were Haiti, Kosovo, Bosnia and Somalia. As a result, criticism was high, even among Security Council permanent members, who were apprehensive of extending UN peace-keeping operations.

As the major and highest contributor to the UN's budget, the USA resorted to strategically withholding long-overdue financial contributions. This was geared to pressuring the UN at the focus period beginning in 1992, to introduce comprehensive structural and policy reforms. Left without strong political support in a very difficult financial situation, the UN could do nothing but give into the recommendations of its veto power-wielding permanent members of the Security Council, and to reconsider its activities. In fact, the US initiatives to support African conflict management were not only intended to avoid huge future expenses, but also to reduce the need for UN intervention in Africa, such as in Somalia. This was a track-one diplomatic disengagement by the UN. The UN's actions came, therefore, as a result of duress of circumstances.

The Agenda for Peace acknowledged the role of co-operation with sub-regional organisations within a subsidiary framework. As early as 1992, Ghali proposed regional actions as a matter of decentralisations, delegations and co-operation with UN efforts as a means of easing the burden on the Council[52] (Boutros-Ghali1992). On the other hand, in 1998 Kofi Annan underscored the significance of the regional approach to conflict management and the need for co-operation between the UN and sub-regional organisations in a polity. He asserted that this was the only desirable option, especially with regard to Africa, because wherever possible the international community should strive to complement their efforts to resolve Africa's problems rather than to supplant them (Annan 1998).

Another systemic actor of concern is the European Union (EU), and its attempted engagement pertaining to the Somali conflict in this early period. The intricacies of the EU's good offices are discussed below.

5.1.3 Track-one diplomatic offices of the European Union

As part of the policy decisions of the Council of the European Union (EU), the European Commission (EC) – one of the principal organs of the EU, was mandated in 1995 to conclude on behalf of the Council certain proposals that would be in line with the EU's Common Foreign Policy strategy of co-ordinated peace-making engagement. This was particularly geared towards strategic approaches that addressed systemic concerns that were not national in nature, but revolved around the pursuit of international peace and security – the latter having an effect on EU member states.

Somalia, its security predicament and the implications for systemic peace were priority concerns in the EU ambit. In essence, this was well within the EU regional based stabilisation efforts. This was emphasised in its Africa Relations sectional area interest; and Somalia fell within this (FCO 1997:32).

[52] The '*Council*' here refers to the UN organ-'*the Security Council*'.

It was from within such a mandated position that the EC in 1995 seconded the University of London's School of Economics and Political Science to conduct a study to analyse and assess the implications of various forms of political, legal and administrative decentralisation processes in Somalia, and in turn to disseminate this information to both the Somali decision-makers involved in Somali's conflict management processes, public opinion-holders, like the robust media outlets interested in Somali politics, through civil society, and to Somali intellectuals. This process culminated in a report entitled: "*Study of the Decentralization Structure for Somalia: A menu of options*"; and it simply focused on conventional stratifications of different political systems. It translated into an obvious mapping of comparative political system designs that more or less reflected the traditional Westphalian understanding of how a State ought to be structured (European Union 1995: 14-75).

It provided a situation in which the Somali political and administrative set-up would fall within a model architecture that came close to a Western-oriented federalist system, a confederation, a decentralised unitary State, and also consociation (Lind & Sturman 2002:328–329). Little emphasis was placed on the unique nature of the Somali society, proven traditional systems of governance and social-political relations, and most importantly, the conflict dynamics at play.

In terms of the implementation of policy guidelines and principles set in the study, the most that the EC could do was to sponsor two seminars in Naivasha and Nakuru, Kenya, in 1996, to discuss the studies' findings. Using problem-solving pedagogies of conflict resolution, these seminars were attended by Somali traditional and religious leaders, intellectuals, professionals, women and others from Somali civil society. However, this was not enough representation, since a good number of the Somali public and essentially also the main warring groups, warlords and protagonists were not involved in this exercise.

Their interests and role in Somali's situation and their search for peace was important for the effectiveness of this exercise. On the ground, the EU exercise and pre-action political systems analysis had minimal reach within Somalia itself.

The EC, as a track-one diplomatic entity, assumed the role of only dealing with 'over-emphasised and highly contested' issues, heavily relying on constitutional debates, rather than on conflict management and restorative-justice mechanisms or concerns. The latter conflict management variables, if dealt with first, could have opened up a more comprehensive debate on the way forward in terms of constitutionalism and the power dynamics involved therein. This top-down approach of not calibrating the most pressing and main issues of concern as the main priorities was typical of many exogenous third-party attempts to address the Somali question. These approaches relied heavily on realist Eurocentric strategies of State formation and power-oriented interventionist policies, as discussed in previous chapters. The EC attempt, as stipulated, also failed to involve a wide social-cultural and social-political base – in this case the warring factions and relevant Somali public (Lind & Sturman 2002:329).

It could, therefore, be observed that a track-one diplomatic entity's failure, as exemplified by such a systemic and exogenous actor, was due to a lack of recognition of other actors in such a concerted process. Intermediary roles were not fully utilised owing to a psychological predisposition that relied more heavily on 'international guidelines and rules of engagement' without prior and critical consideration of the existing internal and domestic dynamics of the conflict at hand.

This, as shown by the EUs example, brings a situation of cognitive dissonance by the intermediary actor and influences the mapping of a mediator's role, thereby demonstrating a lack of contextualized mediation tactics that should be on a par with conflict progression and situation contexts, as asserted by Adam Curle (as adopted by Lederach 1995).

Other contentious engagement considerations pertaining to Somalia relate to regional-organisation-based approaches and conflict-management actions. These are discussed below within the former OAU (now AU) framework and also sub-regional organizations' conflict-management systems.

5.2 African regional track-one diplomacy

The role of the former OAU, which is now the African Union [since 26 May 2001[53]], as a regional track-one diplomatic player is of importance. The former OAU, and also the operational and changed AU, is the major continental organisation entrusted with maintaining peace and security in Africa, based on its successes in supporting anti-colonial struggles, non-interference in the internal affairs of member States, and adherence to the principle of inviolability of colonial boundaries.

On the other hand, the preferred 'regional' track-one diplomatic approach to conflicts has proven to be challenging within the former OAU. Looking at the efforts of the former OAU in conflicts, the tradition of *ad hoc* approaches of engagement, and as preferred conflict-management strategies were and have been a dominant feature in their utilisation. In its effort to settle the conflict between Eritrea and Ethiopia, for example, the former OAU established an *ad hoc* committee led by successive Chairmen of the General Assembly.

The rationale behind such a practice was that it was in accordance with Africa's tradition and norms pertaining to given leadership roles in conflict management, as well as pre-colonial methods of dispute settlement, whereby elders regarded as wise and commanding the respect and confidence of their respective societies, intervened to resolve differences. Therefore, it was a purely 'cultural-relativist' view.[54] The irony of this position is that the role of most African heads of State and governments in

[53] A decision declaring the establishment of the African Union (AU), based on the unanimous will of the Member States of the then OAU was adopted by the 5th Extraordinary OAU/Africa Economic Commission (AEC) Summit held in Sirte, Libya from 1 to 2 March 2001. In the decision, Heads of State and Government specified that the legal requirements for the Union would have been completed upon the deposit of the 36th instrument of ratification of the Constitutive Act of the African Union. On 26 April 2001 Nigeria became the 36th Member State to deposit its instrument of ratification. This concluded the two-thirds requirement and the Act entered into force on 26th May 2001. See Department of Foreign Affairs, Republic of South Africa. 2002. *Transition from the OAU to the African Union*. May, In http://www.au2002.gov/docs/background/oau_to_au.htm (Accessed on 25 June 2012).

[54] For the full text of the Report of the Secretary-General on the establishment, within the OAU, of a mechanism for conflict prevention, management and resolution", see OAU (1993:21). The report was adopted on 29 June 1993 by the 29th Assembly of Heads of State and Government, Cairo, 28–30 June 1996.

conflict management and mediation is largely attributed to their authoritarian idiosyncratic characters or style. This is reflected in the dominant role of African heads of State or governments in foreign relations.

It is important also to look at the legal and strategic difficulties of African conflict-management initiatives, centred on the regional regimes' (organizations) engagements. The innovation of the early 1990s towards regional approaches in conflict management did not go beyond the mere tradition. The current changes under the AU of the establishment of a Peace and Security Council are yet to show their effects in terms of sustainable and conclusive and successful outcomes.

Non-interference in internal affairs still continues to be the most adhered-to principle, and has even proven to be a legal hindrance in addressing intrastate conflicts as far as the OAU/AU is concerned. Accordingly, the former OAU never took the initiative to intervene in the internal crisis of any country. The closest it has come is to diplomatically support intervention that is multi-lateral in nature and in direct reference to those efforts undertaken by sub-regional organisations, such as SADC in Lesotho, IGAD in Sudan and Somalia, and ECOMOG in Liberia.

To complicate the matter, the continental organisation (AU) has not yet found a reliable means to solve financial glitches. Within the former OAU, a peace fund was established to secure a regular and continuous source of finance in support of activities of a conflict-management nature. It was actually put forward that the fiscal resources would have a source largely made up of 5% of the regular budget of the former OAU, voluntary contributions from the regional organisations' member states, as well as from other sources within Africa.

It is also important to note that financial contributions from outside Africa were also to be accepted by the Secretary-General, given that he consulted with the central organ, and so long as the contribution conformed to the principles and objectives of the organisation's charter. The practice, however, was that it mainly relied on member States' generosity. With the relatively young AU (which succeeded the OAU in 2001) it may be too early to expect any substantive changes in the organisation's performance in the field of conflict management.

5.2.1 Track-one diplomacy by sub-regional organizations

In the hierarchy of track-one diplomatic players in mediatory efforts towards conflict management, there are the sub-regional organisations. The question is, therefore, posed whether sub-regional engagements are the ultimate mechanisms for effective track-one diplomatic initiatives. It is clear that the paradoxical combination of the former OAU's shortcomings, on one side – and the exacerbating African situation, on the other end, seem to have necessitated that sub-regional organisations play a vital role.

Principally, most of the sub-regional organisations, such as SADC and ECOWAS, were established to foster economic developments and also to co-ordinate activities and projects of food security and drought-related issues, as did IGAD (which was originally the Intergovernmental Authority on Drought and Development, IGADD). However, most of them went through an orientation-change process that saw extensions of mandates during the mid 1990s to incorporate conflict prevention, resolution and management in respective geopolitical areas of concern and influence. On the other hand, their experiences and mode of operation varied to a large extent.

A notable success story in contemporary African peace-making and the stabilization initiatives are the efforts of the Economic Community of West African States (ECOWAS), which has been more strategically engaged in contrast to other organisations in the rest of Africa. Its work is well simulated in the Liberia case within which the ouster of Samuel Doe's military government sank the country into anarchical situations with massive human-rights violations. These violations elicited ECOWAS's attention, owing to the consequent humanitarian catastrophe (Funmi 1996:35) and the need for the protection of innocent civilians.

ECOWAS raised the issue in response to streaming refugees from Liberia into neighbouring States, and decided to establish a Standing Mediation Committee. There was a resolve to the deployment of the Economic Community of West African States

Monitoring Group (ECOMOG) in its first session of mid-1990. The operation began within this time. It is important to contextualise how ECOMOG came into inception at this stage. ECOMOG was a formal arrangement for separate armies to work together. Its backbone was Nigerian armed forces and financial resources, with sub-battalion strength units contributed by other ECOWAS members: Ghana, Guinea, Sierra Leone, The Gambia, Liberia, Mali, Burkina Faso, Niger and others.

The mandate of ECOMOG was to keep the peace through monitoring the implementation of an agreement reached among the conflicting parties in the civil war in Liberia, the latter contestations lasted from 1989 to 1996. As stipulated above, under the auspices of the Standing Mediation Committee set up to respond to Liberia, a total of 2 700 troops from Nigeria, Ghana and Guinea entered Monrovia, the capital of Liberia on 25 August 1990.

It is important to see this in context with the Liberian civil war, which began on Christmas Eve 1989, when the National Patriotic Front of Liberia (NPFL) led by its leader, Charles Taylor, invaded the country from neighbouring Cote d'Ivoire. The purpose, according to Taylor, was to end the brutal regime of Liberia's head of State, Samuel Doe. The armed incursion soon degenerated into carnage and the massacre of civilians as fighting broke out between the NPFL and the Armed Forces of Liberia (AFL) that consisted mainly of Doe's ethnic group, the Krahns. The NPFL soon controlled most of the Liberian territory. Over seven years, four other warring factions emerged to contest power and territory in Liberia's civil war.

Going back to ECOMOG's mandate in this conflict, it is essential to note that its objective was to conduct military operations for the purpose of monitoring the ceasefire, and to restore law and order, in order to create the necessary conditions for free and fair elections[55]. However, this mandate and the subsequent intervention were futile, primarily because the Liberian conflict was a typical intra-state conflict situation with a continuous division of the warring parties and the formation of new ones, thereby creating fluid conflict situations.

[55] See *Decision A/Dec.1/8/90 on the Ceasefire and establishment of an ECOWAS Monitoring Group for Liberia*, Economic Community of West African States First Session of the Community Standing Mediation Committee, Banjul, The Gambia, 6-7 August 1990, Article 2(2). P. 3

Shortly after its deployment, ECOMOG had to shift from being a peace-keeper to performing peace-enforcement tasks. ECOMOG found itself embroiled in a war with NPFL, inevitably compromising any supposed neutrality that a peace-keeping force might have had. In the process of purportedly attempting to interpose itself between various warring factions to keep the peace, ECOMOG supported and armed other rivals of Charles Taylor. Generally, the original premise of ECOMOG's change of mandate to peace enforcement might have enabled ECOMOG to defend itself and to stop the ongoing atrocities (Funmi 1996: 37); but it was criticised for its lack of clarity and impartiality in Liberia (Tuck 2000).

Another problem was the internal nature of ECOMOG itself. This was not only associated with the old suspicion between Anglophone and Francophone member States, but it also resulted from Nigerian dominance both in financial and personnel-power aspects (Aboagye 1999:145–151).

Other challenges related to such sub-regional organization engagement are captured well by Tuck. Apart from member States' wrangling, as above, Tuck (2000) asserts that it became difficult to isolate ECOMOG from Nigerian domestic politics. This was in addition to manoeuvrings of the rival Anglophone group dominated by Nigeria and the Francophones dominated by Cote d' Ivoire – to have a leading and dominating role in the intervention, which was a sure medium of projecting power in the region.

On the other hand, the specific case made for ECOMOG's effectiveness is actually found in the domestic political front that shaped much of Nigeria's stringent involvement in the engagement. This, in turn, shaped Nigeria's intermediary role within ECOMOG and the broader ECOWAS. The intractability of domestic issues relating to the operation could have led it and other member States to endure the sacrifices they had to make in Liberia.

This persistence of the member states in keeping up with the operation, despite the losses they sustained, brought the conflicting parties to honour the Abuja Agreement. The governing political system of ECOWAS could also have enabled the decision-

makers to stick to their decision without fearing any political consequence and public discontent within their respective countries.

The main concern of this synthesis is to provide the roles of 'leading' track-one actors that define much of the engagement momentum of a sub-regional organisation like ECOWAS/ECOMOG. The track-one actor Nigeria, while also pursuing its own foreign policy goals and balancing domestic political calculations, was able to provide the necessary presence of capable actors that conclusively provided a continuation of ' *Sub-regional conflict management leadership*' in West African conflicts. This is the significance of a regional power in sub-regional conflict management.

This is the intermediary role efforts by such a player in its own track-one diplomacy status to facilitate and execute ideas of a larger track-one entity, in this case a sub-regional organisation. Therefore, the main reflective question in this West African analogy is whether Kenya, which is often cited as a regional East-African power, adopted such a psychological stand as Nigeria's within its Intergovernmental Authority on Development[56] (IGAD)-conflict management empowered role.

Another issue is whether IGAD has a conflict-management capability effective enough to deal with the mandated resolution of political disputes. This, bearing in mind that IGAD also has its share of challenges – as observed in ECOWAS/ECOMOG's early engagement processes. Challenges that have hindered IGAD's effective conflict-management attempts cut across member States' rivalries as seen between Ethiopia and Eritrea, and also the power politics related to regional leadership between themselves.

With regard to IGAD, its efforts were held back because of problems within its organisational structure. The lack of a principal regional power, such as South Africa

[56] The Intergovernmental Authority in Development (IGAD) was created in 1996 to supersede the Intergovernmental Authority on Drought and development (IGADD), which was founded in 1986. The recurring and severe droughts and other natural disasters between 1974 and 1984 caused widespread famine, ecological degradation and economic hardship in the Eastern African region, prompting the formation of IGADD. The protracted conflicts in the region and its history of conflict cumulatively led to the refocusing of IGAD to generally specialize in conflict management, but also to cover development concerns affecting the wider region. IGAD's member States are Djibouti, Ethiopia, Kenya, Uganda, Sudan and Somalia. Eritrea pulled out because of disagreements over the Somali conflict. For more on IGAD, see http://www.igad.org/ (accessed 21 April 2009).

in SADC and Nigeria in ECOWAS is often mentioned as a peculiar shortcoming in relation to the weakness of past track-one diplomatic initiatives by IGAD. However, on a wider, more critical scale, there is the fact that the political circumstance IGAD finds itself in within the Horn of Africa is a debilitating factor.

This was well captured by Cliffe (1999:89–111), who asserted that almost all conflicts in the Horn of Africa since the 1970s could be said to have had primary internal origins; but these were amplified further by a mutual intervention pattern, where each government sought, and still seeks, to deal with its own internal conflict by some degree of support for insurgencies in neighbouring States. It is also important to note that just like the former OAU, IGAD has reaffirmed the principle of non-interference in the internal affairs of member states, which could be considered as a pre-emptive legal act, which paralyses any decisive engagement strategies and actions to some extent.

Since 1993, for example, IGAD had been actively involved in resolving the conflict situation in the Sudan. This was and still is done through its Division of Political and Humanitarian Affairs, which deals with the management, resolution and prevention of conflict through dialogue and political settlements and arrangements. However, the success of the Sudan peace process is to some extent accredited to Kenya's intermediary roles as a dominant and active member of IGAD. This is exemplified in its track-one diplomatic presence, as both facilitator and executor of the process and within IGAD itself, with the eventual delivery of the Comprehensive Peace Agreement (CPA) of 2005 and arrangements.

Kenya's steadfast presence, however, was the enabling diplomatic factor for IGAD's operational effectiveness within the Sudan process. However, observably so, before the signing of the Kenyan-executed six-year Comprehensive Peace Agreement, IGAD was able, as a bloc, to mediate major contentious issues in the Sudan conflict and facilitate the Declaration of Principles in which conflicting parties, namely the central government and the Sudan People's Liberation Movement/Army (SPLM/SPLA), agreed on the principle of self-determination for Southern Sudan. However, the implementation of the Declaration proved to be difficult to attain. There was resistance from constituencies within the Northern political groupings and the

government of Sudan. IGAD furthermore had and still has a reputation for weakened positions in enforcing its decisions.

Still on the Sudan case reference, it could be observed that in the past, three of IGAD's member States had pushed for the ouster of the National Islamic Front (NIF) government in Khartoum, Sudan, and expected the government to fall. They emphasised military options against Khartoum.[57] Moreover, the role of IGAD in managing conflicts has been seriously and negatively affected by the conflicts among member States. The uneasiness with which Uganda, Eritrea and Ethiopia have entertained with the Sudan government in the past has paralysed IGAD's initiative in that particular conflict and in other activities. The experiences of the May 1998 to June 2000 conflict between Eritrea and Ethiopia and the indifference by IGAD, geared towards engagement and managing the contestations, provided certain points of weaknesses that impacted negatively on the elusive track-one diplomatic initiatives of the sub-regional political regime (IGAD).

In this particular conflict, IGAD was plagued by the same inconsistencies that are characteristic of regional blocs whose member states harbour deep-rooted rivalries, perpetual power plays and the tendency to unstrategically adhere to principles of non-interference of internal affairs of member States. This has devolved into a more hostile, and negative engagement by the sub-regional organisation.

Sub-regional organisations also act on an unclearly defined legal basis, in particular when it comes to attempts at managing intrastate conflicts. As such, sub-regional organisations are free to initiate and conduct conflict management in a country, as long as they perceive their action as being in accordance with the purposes of the UN in maintaining international peace and security, and mostly adhering to set Westphalian principles connected to the urgency of the State, and particularly to the 'non-interference clauses' as stipulated above.[58]

[57] See United States Institute for Peace (USIP). 2003. A new approach to peace in Sudan. In The *Special Consultative Report of the United States Institute for Peace (USIP) on the situation in Sudan* accessible in <http://www.usip.org>
[58] See http://www.un.org/aboutun/charter/

The problems, however, are the lack of any yardstick to substantiate that a certain situation in a country constitutes a threat to international peace and security, and the fact that member States of a sub-regional organisation have diverging values and interests in a particular situation. The provision is susceptible to a variety of possible interpretations.

Sub-regional organisations acting on the spot have not succeeded in overcoming the difficulties that the former OAU encountered. The same goes for sub-regional organisations whose mediation advantage or strength was said to be familiarity with the problems at hand, and the cultural, social and historical affinity of sub-regional actors to the conflict. These are most certainly assets, but total reliance on sub-regional organizations (and one's riddled with hostile engagement by member States) cannot guarantee success of a peace process. This kind of a situation provides a basis for the current study on Kenya's track-one diplomatic role with regard to its mediation of the Somali conflict with a critical investigation into the role the country has played over time to appease the IGAD member states themselves.

Kenya has been the main facilitator of such member States' conflicts or impasses and has been a sub-regional actor whose presence provided a thawing to the mediation problems and relations. The main issue of concern is to seek what additional component Kenya brought to the process as a track-one mediator, and essentially so in a conflict situation that has seen many track-one actors strategically disengage. The main issue is the intermediary roles focus that Kenya brought to the process, especially the most progressive of them all, the 14th Somalia reconciliation process. This was followed by a critical analysis of Kenya's contemporary mediation and diplomatic engagement in the Somali situation in the current focus period.

It is quite evident that track-one diplomatic actors, namely the UN, major powers and regional and sub-regional organisations have operated under complex structural and procedural considerations. This has not ameliorated the problems that these entities principally seek to remedy. With regard to Somalia, it would be important to highlight the past and principal track-one initiatives that have attempted to manage the conflict.

This is important to the extent that such an overview would corroborate the already outlined politics and legal constraints with which track-one entities have had to contend. As such, it is important to investigate the substantive indicators that have no doubt made past initiatives an elusive quest for peace in Somalia.

5.3. Early multiple mediation attempts in the Somali situation

It is important to note that there have been numerous mediation attempts in Somalia. It is frequently stated by many observers, analysts and writers on the Somali situation, that over a dozen national reconciliation conferences have been convened. This is since 1991 – and a closer look reveals that only half of these were fully fledged national peace processes or conferences. A critical analysis of each will bring out the early politics of peace processes, strategies or the lack thereof and the complexities of such a task in a protracted situation – in this case Somalia.

5.3.1 The Djibouti deliberations/peace talks: June – July 1991

A critical tracing of the beginning of '*talks*' can be traced back to early June and July of 1991. During this time, there were the Djibouti peace talks at which Ali Mahdi was declared Interim President, a move that General Mohamed Farah Aideed rejected[59]. This peace process, which convened six factions, was actually only a set of negotiations intended to form an interim government at this early period of Somali's armed history. This process actually exacerbated political tensions that culminated in the further protraction of armed conflict that destroyed much of Mogadishu in late 1991.

5.3.2 The Addis Ababa National Reconciliation Process: January and March 1993

A second significant process was the Addis Ababa reconciliation process in early 1993. This was actually a significant period in Somali's history of peace processes, since it was the beginning also of the UN intervention in Somalia, and it was meant to provide a blueprint for the creation of a two-year interim government. The Addis

[59] See the 'Somali political-security timeline of key events since 1991', as presented in the introduction section of Chapter 5 of this treatise.

Ababa talks convened fifteen clan-based factions and produced a rushed and vaguely worded accord that sparked tensions between the UN and some armed factions over whether the creation of district and regional councils was to be a bottom-up process or controlled by factions.

Armed conflict, during this focus period broke out between General Aideed's faction and UN peacekeepers, which derailed the mission and blocked the implementation of the accord.

5.3.3 The Sodere Conference: 1996-97

Another important process that shaped and provided legacies to the politics of talks in Somalia was the Ethiopian-convened Sodere conference. This conference sought to revive a decentralized federal Somali State at the expense of those factions that opposed Ethiopia.

It is worth mentioning that in this focus period, there was another rival peace process in Egypt known as the *Cairo Conference*. This sought to actually undermine Sodere. The Sodere talks introduced the principle of fixed proportional representation by clan. This was the basis of the '4.5 formula' used subsequently in the country.

5.3.4 The Cairo Conference of 1997

Egypt convened the Cairo conference in 1997. Egypt, a regional rival at the time of Ethiopia, sought to promote a centralized Somali State, and to elevate the power of those Somali factions that had boycotted the Sodere talks. The two broad coalitions that emerged from Sodere and Cairo formed the basis for the main political divisions in Somalia in subsequent years.

5.3.5 The Arta peace conference of 2000

Another important process that will be further unpacked in later chapters, and will provide an opening thread to contemporary mediation issue areas is the Arta peace process. This was convened by Djibouti and it brought civic rather than faction

leaders to the talks. It also, for the first time in Somali's mediation history, used telecommunications/media technology to broadcast proceedings back to Somalia. In the end, it produced a three-year Transitional National Government (TNG) that empowered a Mogadishu-based coalition at the expense of a pro-Ethiopian alliance.

It, however, faced numerous domestic opponents, as well as Ethiopian hostility, and in no real sense did it ever became operational.

Another important process is the Nairobi peace process that was the launching pad of this research. Between 2002 and 2004, Kenya spearheaded the Mbagathi, Nairobi-based Somali peace process. This was the most ambitious one in the sequence of 'talks'. With a heavy Kenyan direction, the delegates consisted mainly of militia and political leaders; and it focused on promoting a federalist state. An important phase of the talk (as will be critically discussed in later chapters) was dedicated to the resolution of conflict issues: an innovation that was intended to prevent the talks from devolving into a mere power-sharing deal. These talks culminated in the creation of the Transitional Federal Government (TFG) in late 2004, and the election of Abdullahi Yusuf as President.

It is important to note that the TFG was at this period deeply divided at the outset, with a good number of Somalis raising objections to the legitimacy of representation at the talks. To this focus period (2012), the TFG had been struggling to execute key transitional tasks for the stabilization of Somalia. These dynamics will be discussed later in this thesis, as relics of inchoate or incomplete diplomacy.

In addition to these early intervention attempts, a good number of other processes were held by external actors; but these are more appropriately considered as peace deals. These were, in essence, attempts to forge non-informed and critically considered ruling coalitions without wide consultation, fact-finding and analysis across Somali society. Of importance is the early 1994 UN peace-keeping mission, UNOSOM, which tried to broker a deal bringing together three of the most powerful militia leaders at the time: Colonel Abdullahi Yusuf, General Aideed and General Morgan, culminating in the ill-fated '*Nairobi informal talks*'.

5.3.6 Revisiting Arta[60]: the peace process and the Transitional National Government (TNG)

A critical follow-up to the Arta peace process is important, if one wishes to situate the contemporary debate on the orientation of Somali's mediations to this day. As stipulated earlier on in this chapter, it was in mid-September 1999 that President Gelle of Djibouti initiated a sub-regional track-one peace initiative, which had been long awaited. The sub-regional track-one diplomatic option, therefore, had its practical inception at this point.

He appealed to Somali leaders and IGAD member states to join him in addressing Somalia's situation. President Gelle hosted a preliminary conference in Djibouti with over 60 intellectuals to discuss how best to approach the reconciliation process. The focus was on civil society, clan elders, the Xeer community experts and political figures from the former failed Somali governments (Kamudhayi 2004).

The process began in Arta, Djibouti, in May 2000, with delegates from the different regions of Somalia. The discussions took four months, and saw the election of a Transitional National Assembly (TNA) of 244 members, an interim president, Abdiqassim Salad Hassan, and a Transitional National Government (TNG) led by interim Prime Minister, Ali Khalif Gallayr. This was the first interim government for Somalia in more than a decade.

The process thereafter moved to Mogadishu in September 2000. Mogadishu residents overwhelmingly received the new administration, although its *de facto* authority was soon to be restricted to the environs of Mogadishu (OCHA-IRIN 2002).

It is important to note that this track-one diplomatic initiative did not include an important resource and actor in the peace process. These were the factions, and therefore, the armed actors in the conflict (Kamudhayi 2004:10). Although Arta took

[60] Arta is a town located in South-Eastern Djibouti, and it is the capital town of Arta Region, home to Issa people, who live around there. It is also located s few kilometres west of the capital, Djibouti City.

into consideration the clan balance in terms of numbers[61], it ignored the 'representational' issue with regard to the individual and socio-economic entities involved. A number of faction leaders subsequently resisted the Transitional National Government (TNG) and formed a coalition of opposition groups with a rotating chairmanship, called the Somali Reconciliation and Restoration Council (SRRC).

The interim government, as a result, met resistance because the opposition groups believed that the labelling of warlords as criminals and sidelining them prevented them from participating in and contributing to the peace process. As a result also, the TNG failed to assert its authority beyond pockets of the capital city Mogadishu, and invested considerable energy in seeking international recognition and assistance, rather than in broadening its support inside the country (ICG 2002a:2).

The politics of a protracted conflict in Somalia visibly came into play through the game-changer that imploded the peace process at this time. External interests involving countries like Ethiopia and Eritrea, as stipulated in previous chapters, were at loggerheads; and this only exacerbated the Somali situation. To illustrate this point, it was at the urging of Egypt and Djibouti that the League of Arab States backed the TNG; while Ethiopia, alarmed by its links with militant Islamists, became openly hostile and backed the rival coalition of factions, the SRRC.

As a result of the 'interests' interplay, Mogadishu saw and suffered its heaviest fighting since the early 1990s, as the TNG clashed with the militia of faction leader Musa Sudi Yalahow. The once-promising Bay/Bakool regional administration[62]

[61] In Somali contemporary politics, and particularly since 1991, the clan question has been a contentious aspect to the extent that wide mappings up of clan woes, clan and sub-clan representatives and leaders have bogged down the peace process. At different dialogue and peace processes, great numbers of representatives have purported to be the legitimate actors in the process and the numbers are at times too high to sustain any meaningful diplomatic and intermediary process.

[62] Somalia has in time officially been divided into eighteen administrative regions (gobollada/gobol-in Somali), which in turn are subdivided into districts. Bay and Bakool are regions bordered by the Ogaden and the Somalian regions of Hiiraan and Gedo. Bay and Bakool were also the first regions where UNOSOM turned to in order to set up District councils for effective post-war governance. It was in these two regions that the councils became "operational" first and these were also the regions that first saw the process move on towards the establishment of regional councils. It was significant that these two regions were chosen as a starting point because the very District Councils formed part of a bottom-up UNOSOM strategy for reconciling warring factions. For further analysis on district and regional administrations and their role in peace-building, see Helander Bernhard, Mukhtar Haji Mohamed and I.M. Lewis. 1995. Building peace from below? *A crucial review of the District Councils in the Bay and Bakool Regions of Southern Somalia*. Uppsala, Sweden: Life and Peace Institute (LPI).

escalated to unprecedented levels of violence, and the town of Baydhowa changed hands several times. Colonel Abdillahi Yusuf, in Puntland, recaptured Garowe, the regional capital, and imposed an uneasy peace, but reconciliation with his former adversaries remained a distant prospect. The Juba and Shabelle riverine regions also witnessed increased conflict. Only Somaliland remained unaffected by the deteriorating situation (ICG 2002a).

It is, therefore, apparent that Arta also ignored the interests of regional stakeholders, such as Ethiopia. Arta based its process on the 1960 constitution. As such, regional powers lined up behind their respective proxies, funnelling arms and ammunition into Somalia in violation of a longstanding UN arms embargo. Ethiopia remained the driving force behind the SRRC, providing military, materials and expertise, albeit on a much smaller scale than that of the Arab States' assistance to the TNG and its militia allies. Neither group achieved a decisive, military or political advantage. This led to signs of a mutually hurting stalemate (ICG 2002b).

The SRRC was hampered by the fact and perception that it was largely a coalition of warlords, while the TNG's evident lack of control and cohesion undermined its claims to national leadership. By mid-2002, Somalia had returned to the margins of the international agenda; and by November 2002, as the TNG moved well into the final year of the three-year term that was provided by the Arta conference, there was little to distinguish it from other Somali factions.

5.4 Common denominators in the track-one initiatives of the EC and the Arta conference

It is clear from this chapter that these track-one entities and their diplomacies failed to take cognisance of the interwoven web of both international and local relationships. This is a power reality, which as observed, demonstrates that the resort of focusing on one aspect and ignoring all other encompassing approaches may render a process elusive. Track-one diplomats in the post-Cold War era took on many roles and

April, as accessed from the Internet Edition, http://www.netnomad.com/irrepo.html accessed on 19 June 2012.

utilised diverse techniques to address the 'new reconceptualised nature of conflict' in a hierarchical format.

Clearly, both short-term and long-term goals in their diplomacy of conflict management are of importance, since this would give a process a sustainable and realistic momentum. It is, therefore, essential for peace processes and intermediaries to recognize both time and space in terms of progression of conflict and the mediation functions (Nan 2002).

Like the EC track-one initiative, the Djibouti track-one diplomatic players focused on institutional and constitutional aspects of the conflict. These two track-one entities did not deal with the most egregious aspects, namely reconciliation and the remedying of the socio-cultural situation. The latter two aspects – that is reconciliation and transforming social-cultural relationships – comprise a long-term and most contentious issue, as may be contrasted with the immediate short-term constitutional and power-based remedies of the process on which the EC largely banked.

5.5 Conclusion

It is with this chronology of intermediary events and processes within the first decade following the implosion of the Somali State in 1991, that the failure of the eventual Arta process to realise a functional State system and effective government in Somalia, left a vacuum for a formidable intermediary to continue engagement in an already shaky and complex peace process. This was an initiative that would address and balance the geostrategic interests of countries within the Horn of Africa conflict system, owing to the epicentre's (Somalia's) protracted situation and effects thereof on neighbouring States. The country's far-reaching internal and diplomatic crisis had to be addressed.

Most of the attention of the international community was focused elsewhere; and the UN and strong powers were reluctant to exercise leadership. At this point, the responsibility was delegated almost entirely to the member states of IGAD. However, as outlined in the previous chapters, member States had serious divergent interests,

which only exacerbated the Somali conflict. Between Ethiopia, Kenya and Djibouti, it seemed that Kenya had unsurpassed neutrality with regard to the Somali situation.

At the IGAD summit in Khartoum in January 2002, a call was made for convening a new peace conference within a period of two months. With Ethiopia and Djibouti each backing opposing Somali factions, the responsibility fell to Kenya, which had up to that time generally remained neutral in the Somali conflict.

This chapter has provided some important lessons on the countless mediation attempts. As observed in this analysis, many of the problems encountered in the Somali national reconciliation processes have been a reflection of those obstacles to peace, which external mediators have frequently failed to fully comprehend. These comprise mainly: the divergent interests; a myriad of actors, and the real causes of the conflict.

The quality of external mediation in Somalia has also been uneven; and this has over time resulted in missed opportunities for peace. Some of the observed dilemmas of external mediation and their effectiveness have, therefore, been as a result of certain factors.

There has been in most peace processes an overemphasis on *political and power-sharing aspects*. One could argue that over-emphasis on these aspects has been a leading de-escalating factor towards positive peace in Somalia. There has been too much attention on the revival of central government at the expense of effective reconciliation and dialogue. This has led to an overemphasis by the processes of the 'power-sharing' political aspects on negotiation and mediation processes.

Another challenge has been posed by the lack of interest of the international community to intervene; and, therefore, the lack of any systemic political will. In Somali's history of conflict, there has been a weak political resolve to address Somalia's woes; and this was particularly evident from 1989 to 1992, when external attention was clouded by the cold war and other major developments.

This was also the case in the post-UNOSOM period, when Somalia was again given only marginal attention. A related problem has been the half-hearted follow-throughs after having an accord, and the failure of the external actors to provide timely, robust support to newly declared transitional governments. As observed in this chapter, this was a central feature of the debate in 2000 and 2001 between those who argued for a wait-and-see approach to the TNG versus those who advocated immediate aid in order to build confidence in the fledgling government. A similar debate occurred in 2005 with the TFG, as will be observed in the analysis of the Kenyan-led mediation process in later chapters.

Another factor to consider is that the period immediately following the peace accords constituted a brief window of opportunity that is lost if external development and stabilization assistance is delayed, and the fledgling government fails to realise any legitimacy in the eyes of the Somali social cultural base (public) – through the delivery of human security variables. It is also apparent that there has been a misdiagnosis of the actual conflict and underlying concerns in Somalia.

The Somali conflict has taken the new-wars manifestation, and has its own attributes. The crisis defies conventional approaches and pre-set strategies of conflict management, and it is apparent that the many diplomatic attempts in Somalia have not done much to understand, and have as a launching pad an adequate knowledge of Somalia as a society, its politics and security complexes.

Having these dynamics in context, the next chapter seeks to unravel the Kenyan entry and diplomatic engagement in the Somali question. The analysis is initiated with a critical analysis of the politics, dilemmas and unique attributes of the Kenyan-led mediation of the Somali conflict; and this should open out other chapters that will put the Somali problem, its mediation and stabilization, as well as any windows of opportunity into context.

CHAPTER 6

KENYAN ENTRY AND ENGAGEMENT: MEDIATION AND TRACK-ONE DIPLOMACY

6.0. Introduction

The previous chapter investigated the intricacies of track-one engagement – by strong powers, international regimes and regional and sub-regional regimes – with the aim of analysing the complex Somali conflict. The strong interplay of power politics, foreign policy and legal dilemmas is well exemplified in the Somali case study; and this opens up the debate as to the importance of utilising a somewhat ignored aspect of statecraft and diplomacy. This aspect is known as soft power; and it utilises small States, with legitimacy, in terms of their third-party engagement in protracted conflicts. This chapter critically examines the track-one diplomatic deployments, intricacies and ambiguities that, Kenya as a '*small State*'[63] utilised in addressing the Somali conflict.

Kenya's consolidated mediation in and diplomatic weight in the Somali question was officially observed between 2002 and 2004. This process led to a conclusion of the Kenyan-facilitated Transitional Federal Arrangements of Somalia. Table 3 below provide a chronology of the important events that occurred between late 2001 and 2004, in summary; and this will be unpacked later in the chapter.

Table 3: Timeline of Key diplomatic, mediation and political events of the Eldoret and Mbagathi Kenyan/IGAD-led Peace Process, late 2001 – 2004[64]

Item No	Event Date	Political-Security events
1.	December 2001	• Nakuru, Kenya talks (TNG and SRRC) kick-start mediated by Kenya's President Moi. • Ethiopia also hosts parallel talks with SRRC in Gode, Ethiopia.
2.	January 2002	• IGAD agreement for frontline States to lead Somali reconciliation talks

[63] The conceptual understanding of '*small State*' is explained in Chapter Two of the thesis.
[64] Table 3 draws on and is adopted from Interpeace (2009: 102-103); and also from Humanitarian Exchange (2008). It is also based on the author's own summary and deduction of important political-diplomatic events.

3.	October 2002	• Talks are launched. • Eldoret Declaration on a federal government structure and Cessation of Hostilities is effected.
4.	November 2002	• Phase 2 of the process launched but stalls over 'representation'. • G8 alliance formed, and Technical Committee □egitimizes Leaders' Committee. • Two terrorist attacks targeting Israel interests on Kenyan coast.
5.	December 2002	• President Daniel Arap Moi of Kenya steps down and a new Kenyan President Emilio Mwai Kibaki is elected.
6.	January 2003	• A new Kenyan Special Envoy to the Somali peace process is appointed. Ambassador Kiplagat takes over from the Honourable Elijah Mwangale.
7.	February 2003	• Foreign Ministers of IGAD frontline States renew commitment to talks. • Talks are relocated to Mbagathi, outside Nairobi, Kenya.
8.	March 2003	• TNG president recalls Prime Minister Hassan Abshir and Speaker Derow; they remain at Mbagathi.
9.	May 2003	• Phase 2 draft reports presented to plenary, Harmonisation Committee formed to compile a single report • Somaliland presidential elections won by Dahir Riyale. • Puntland peace accord between Abdullahi Yusuf and Adde Musa. • Civil society organizes a one-day strike in Mogadishu to pressure faction leaders to compromise.
10.	June 2003	• Military build-up by SRRC leader Morgan on the Ethiopian border with Gedo presents threat of military take-over of Kismayo. • Kenya closes airspace between Kenya and Somalia after terrorism alert.
11.	July 2003	• Agreement by leaders on government structure, disputed by TNG president and allies. • Threats of military attack by SRRC leader Morgan deters non-SRRC leaders Barre Hirale and Seraar from leaving Kismayo. • United Nations Political Office for Somalia (UNPOS) meeting with the Kenyan Chair over concerns amongst Somalis and international observers over the poor quality of the draft

		charter, procedure for its debate and approval.
12.	August 2003	• Disaffected non-SRRC leaders leave for Somalia (Musa Sudi, Atto, Barre Hirale, Habsade). • Heated plenary sessions over different versions of draft charter and accusations of bias in mediation; Djibouti absent; growing concerns that charter will be approved without discussion. • TNG mandate expires. • Increasing tensions in Mogadhishu and Sool and Sanag regions over uncertain status of the talks.
13.	September 2003	• Reconciliation between two SRRC, RRA leaders, that is Shatigaduud and Madobe. • Disaffected faction leaders led by Musa Sudi meet Abdiqasim in Mogadishu. • Shuttle Diplomacy is effected to persuade them to return to the talks (14 September 2003). • The Technical Committee refuses to reopen debate on draft charter. • Abdiqasim returns to Somalia. • Charter "approved by acclamation" in plenary (15 September 2003). • Press statement on 'collapse of talks' by Abdiqasim and disaffected non-SRRC leaders (16 September 2003). • Disaffected faction leaders return to Somalia, form new alliance of 12 factions, National Salvation Council (NSC), chaired by Musa Sudi (30 September 2003). • Djibouti suspends participation in Technical Committee. • EU and US lobby Kenya government to restore 'inclusivity' and address divisions in Technical Committee. • Former Kenyan President Moi's speech erodes credibility in Kenya as honest broker.
14.	October 2003	• Disaffected leaders chaired by Musa Sudi sign Memoranda of Understanding on TNG's renewed mandate. • IGAD foreign ministers expand mediation body to include all IGAD states, close Phase 2, but do not launch Phase 3 – pending consultations with faction and political leaders. • Ethiopia reduces its active engagement after criticisms of its approach.
15.	November – December 2003	• IGAD countries exert pressure on faction leaders to return to talks.

16.	January 2004	• Over 3 weeks of Leaders' Consultations in Nairobi. • Nairobi (Safari Park) Declaration amends charter, notably on Members of Parliament (MP) selection (29 January 2004). • Declaration is disowned by a group of SRRC leaders (Morgan, Madobe, Said, Abdullahi Ismail).
17.	February 2004	• Kenyan Foreign Minister, Stephen Kalonzo Musyoka, attempts to "clarify" the declaration. • Disaffected SRRC leaders (as stipulated above) join Mohamed Dhere in Somalia. • Diplomatic efforts and warnings by Kenya to those who left the talks.
18.	March 2004	• Disaffected SRRC leaders announce new alliance in Somalia and others threaten to leave the talks.
19.	May 2004	• IGAD foreign minsters meet in Nairobi, marking Ethiopia's return to full active engagement for the first time since October 2003. • IGAD foreign ministers meet three more times during May and June. • Majority of leaders return to talks. • Phase 3 launched.
20.	June 2004	• Traditional leaders are brought to talks and Arbitration Committee is formed.
21.	July 2004	• There is a military-build up in Juba (SRRC Morgan). • JVA Barre Hirale leaves talks to return to Kismayo. • Kenyan Special Envoy Kiplagat releases a statement calling for sanctions against Morgan.
22.	August 2004	• 206 of 275 MPs are sworn in. • The 12% quota for women MPs is not implemented.
23.	September 2004	• The Parliamentary Speaker is elected. • JVA Barre Hirale makes pre-emptive strike against attempted armed take-over of Kismayo by SRRC Morgan, who crosses the border and surrenders to Kenya.
24.	October 2004	• Abdullahi Yusuf is elected President.
25.	December 2004	• Professor Ali Gedi is nominated from outside parliament as Prime Minister (Mohammed Dhere gives up his seat). • The Parliament accepts the Prime Minister's post nomination on 23 December after an initial

		refusal on 11 December 2004. • Prime Minister Gedi forms an 82 Member Cabinet.

Source: Interpeace (2009: 102-103), Humanitarian Exchange (2008)

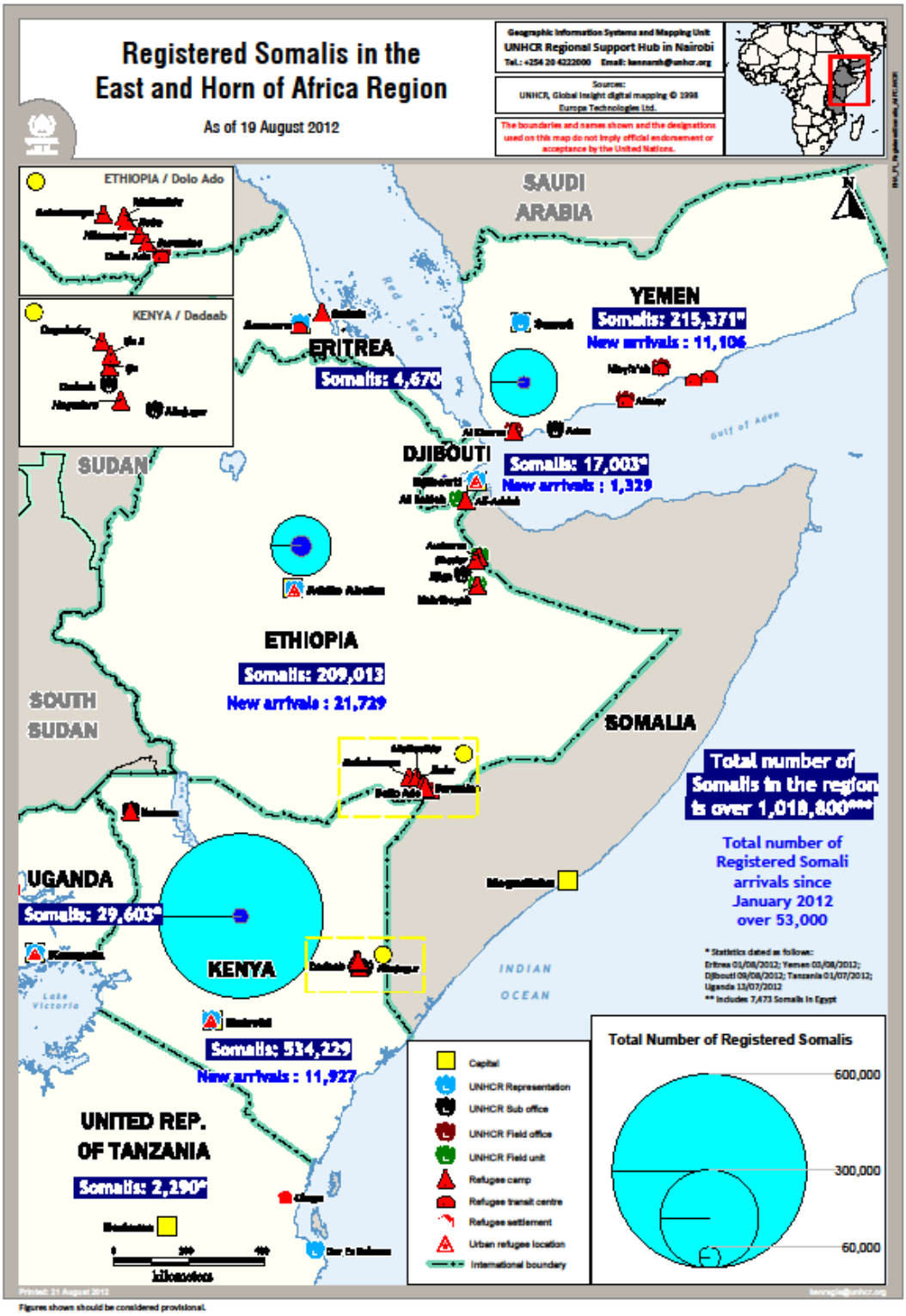
It is, however, important to understand the position of Kenya in terms of the international political implications and affairs of the Somali conflict. This attempt is essential to comprehend Kenya's principal position as the key mediator in the Somali peace process and in the 14th and most successful track-one diplomatic attempt in Somali's contemporary regional-diplomacy history (Muvumba-Ndinga 2009: 26-29). These concern Kenya's interests and agenda, as defined by the impact that the Somali conflict has on its internal environment and geopolitical environment in the Horn of Africa.

Kenya, as earlier outlined, has been negatively affected through the huge numbers of refugees who are a financial impediment and threat to its environment. This is due to the fact that Kenya shares a 1 000-km border with Somalia. The war in Somalia has also led to an increase in insecurity through the infiltration of small arms and light weapons, and other forms of artillery into Kenya. The realities and position that Kenya has had to face further illustrate why Somalia is a major foreign policy consideration for Kenya.

Continued insecurity in Somalia and an upsurge in violence, as observed between late 2007 to date (2012) have seen an increase in the significant displacement of Somalis into neighbouring countries. The map below illustrates the urgency of the refugee plight, as of August 2012.

Figure 1.7

Registered Somalis in the East and Horn of Africa Region, as of 19 August 2012



(Source of the map: UNHCR 2012)

Kenya, owing to its proximity to Somalia and historical observance of the non-refoulement principle in refugee law and refugee protection, has had to shoulder the trans-border problems associated with war and conflict. As an example, in Kenya, the

UN High Commissioner for Refugees (UNHCR) registered 8 421 new arrivals from Somalia between January 2010 and 5 March 2010. The UNHCR noted considerable fluctuations in recent population figures reported for the Dadaab[65] refugee complex in the North-Eastern province of Kenya, due to continued new arrivals and ongoing population-verification activities.

On 19 February 2010, the UNHCR reported that as a result of the continued insecurity in Somalia, 262 838 individuals sought refuge in the Dadaab refugee complex (USAID 2010). As of 5 February 2010, the Kakuma[66] refugee camp in Kenya's Rift Valley province hosted 62 123 refugees (USAID 2012), according to the refugee organisation[67]. Relief organisations continue to note concern regarding humanitarian conditions at the Dadaab refugee complex in the North-Eastern province. The stress that this also poses for the Kenyan government, in terms of capacity to handle these huge influxes, is also a problem. Three camps in Kenya host more than three times the intended capacity of refugees.

The government of Kenya, even up until now (2012), has yet to allocate additional land for a fourth refugee camp in Dadaab (UNHCR 2012). Kenya's interests are therefore based on the direct problems that it has faced internally as a result of the Somali conflict. Kenyan interests, as compared to the Somali neighbouring States' interests, are not exclusively driven by power politics, but have a larger systemic orientation related to the region's peace and security.

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[65] *Dadaab* is a semi-arid town in the North-Eastern Province in Kenya. As of 2012, it hosts what is often described as the largest refugee camp in the world. To understand why Dadaab might just be the largest refugee camp it is important to note that its proximity to Somalia is to the extent that it is just 100 kilometres from the latter's border. It has also received a daily stream of refugees fleeing Somalia following the heightened confrontations between the TFG, AMISOM and their allies against the insurgent-Al Shabaab group. Dadaab also features a UNHCR base that serves refugee camps around the towns: Hagadera, Ifo and Dagahaley.

[66] *Kakuma* is a town located in Turkana District, in the north-western region of Kenya. *Kakuma* has Swahili origins and the word connotes a descriptive word for 'nowhere', epitomizing the seclusion of the area. The town has hosted the *Kakuma Refugee Camp* since 1992. This camp serves many refugees who fled wars in neighbouring countries. A majority are from Southern Sudan, some from Somalia and the last major group from Ethiopia. Other groups include Burundians, Congolese, Eritreans, and Ugandans.

[67] See the UNHCR estimates of refugees hosted in Kenya's Kakuma Refugee camp that are cited in, USAID (United States Agency for International Development. March 10, 2010. *Somalia-Complex Emergency.* In. situation Report No. 3, Fiscal Year (FY) 2010. Bureau for Democracy, Conflict, and Humanitarian Assistance (DCHA) office of the U.S. Foreign Disaster Assistance (OFDA), www.usaid.gov/our_work/humanitarian *assistance/disaster*_assistance> as accessed on May 2010.

Going back to the reason why Kenya resolved to utilise conflict management in its foreign policy and diplomacy, it is important to bear in mind that this soft-power avenue has worked before in previous interventions. Soft power, connoting the *modus operandi* of its diplomacy was utilised to the effect that the intermediary roles of a track-one entity were to some extent recognised. Kenya already had experience, having used this avenue in other regional conflicts, namely the Uganda conflict and the facilitation of the Nairobi Peace Agreement of 1985 that brought Yoweri Museveni to power, as well as Kenya's role in spear-heading the Comprehensive Peace Agreement (CPA) for Sudan in 2005.

However, in terms of the Somali peace process, this was not done within a problem-free mediation environment, and as such, procedural and substantive decision-making processes were both successful, at some point, but quite arduous at another.

6.1. The Kenyan-led Somali National Reconciliation Conference (SNRCC), 2002-2004

Apart from the above reasons, and the basis for Kenya's interests and engagement in the Somali peace process – and in extension – its politics are regional and systemic (international events) that further solidified its leadership in the SCRCC process. As described elsewhere in this thesis, the Transitional National Government (TNG) that emerged from the Arta peace talks in 2000 was the first Somali government since 1991 to command a degree of national legitimacy and to reoccupy Somalia's seat in the UN General Assembly; but it was unable to become operational in the face of internal and external opposition; it lacked international funding; and its mandate was due to expire in August 2003 – with little prospect for a planned transition of power.

While Djibouti had hosted the establishment of the TNG, based on a Hawiye-dominated, Mogadishu-based alliance with Islamists, Ethiopia supported a rival coalition of armed factions – the Somali Reconciliation and Rehabilitation Council (SRRC), led by Puntland President Abdulahi Yusuf, dominated by lineages of the Darod clan family and based mainly outside Mogadishu. These two loose coalitions monopolized the political-military landscape. The former favoured centralized government; while the latter favoured a federal State.

Several Mogadishu-based Hawiye warlords formed shifting alliances, generally seen as undermining attempts to form a government, while Somaliland sustained its position of independence. Following the 9/11 attacks in 2001 in the United States, international interest in Somalia was reignited for the first time since UNOSOM's departure in 1995. The US government expressed concerns, shared by other western countries, that Somalia provided a potential safe haven for Al Qaeda (Rice 2003).

It increased its surveillance and froze the accounts of Somali financial institutions allegedly connected with terrorist groups (ICG 2002). European countries, which also had an interest in reducing the refugee flow into Europe, indicated they would fund a regionally-led peace process. In December 2001, Kenyan President Moi attempted to broker a deal between the TNG and the SRRC at talks in Nakuru, Kenya; and Ethiopia hosted parallel consultations with the rest of the SRRC in Godey, Ethiopia.

The complex interplay of regional agendas in the Somali crisis was apparent; but Moi was preparing to step down after twenty years in power and had an interest in projecting himself as a regional peace broker (hosting at the same time the Sudan peace talks from 2002). Meanwhile, faction leaders saw an opportunity to return to those positions of influence that they had been denied since 2000, and indicated an interest in reaching a solution through dialogue, rather than force. The combination of factors prompted diplomatic consultations on a new Somali national reconciliation process under the auspices of IGAD, to be hosted by Kenya, and financed by the international community, principally the European Commission[68].

6.2 Kenya's role as chair of the "Technical Committee" of the peace process

The IGAD foreign ministers delegated management of the Somali peace process to a

[68] See, 9th Summit of the IGAD Heads of State in Khartoum, Sudan on 11 January 2002, In http://www.iss.co.za/af/regorg/unity_to_union/…/igad/9thSummitfinalreport.pdf as accessed on 9 January 2010.

Technical Committee to be chaired by Kenya with representatives of other '*frontline States*', namely Djibouti and Ethiopia. Kenya was expected to provide unbiased leadership, and to mediate between Ethiopia and Djibouti's different approaches over Somalia, as explained in previous chapters. Under Kenya's leadership, the Technical Committee recommended a three-phase peace process, comprising:

- Phase 1: The Cessation of hostilities and agreement on structure and desired outcomes of the process;
- Phase 2: The formation of reconciliation committees to develop proposals to address core conflict issues;
- Phase 3: The agreement on a transitional charter, and the formation of a government [to succeed the TNG].

The intention of '*phase 1*' was to contain the influence of armed actors through agreement on the cessation of hostilities, and to create space beyond them for the engagement of unarmed political and civic players. This would enable core-conflict issues to be effectively addressed at a technical level in the '*second phase*', and to ensure agreement and shared understanding on the nature of the State (centralised, federal or otherwise), as well as to provide a working plan for the government, which in turn, would reduce the intensity of power struggles over government functions in the final phase *('phase 3'*).

The plan was approved by the IGAD Council of Ministers on 6 September 2002 in Nairobi, emphasizing that the peace process should be Somali-owned and Somali-driven under Kenya's facilitation, and that the IGAD frontline States were committed to ensuring the outcome would be a broad-based and all-inclusive government of national unity. "The approach of the Frontline States is not to prescribe solutions, but create a basis for dialogue" (this was stipulated by Kenya's Special Envoy on the Somali peace process, Elijah Mwangale, at the beginning of the talks) (CRD-Center for Research and Dialogue 2008: 54).

A small group of international observers was formed through the IGAD Partners

Forum (IPF), comprising the African Union, Denmark, Egypt, the European Union, Italy, the League of Arab States, Norway, Sweden, UK, USA, and the UN Political Office for Somalia[69] (Adala 2010).

6.3 Phase 1: Kenya's *Good Offices* and the cessation of hostilities

The Institute of World Affairs (IWA) *asserts* that track-one diplomatic activities can be categorised into different aspects. Of importance to this research are what the institute refers to as good offices (included in this is the utilisation of special envoys), international condemnations and fact-finding missions (Institute of World Affairs 2001). It is at the outset of Kenya's pragmatic and strategic resolve to spearhead the peace talks, and that all these activities had to be utilised as a track-one diplomacy reality and practice.

This, it should be remembered, was done within a soft-power diplomacy reality. The inception of the Kenyan mediation of the Somali conflict started officially in September 2002, as stipulated above.

The first track-one diplomatic activity was the utilisation of "good offices". "Good offices" are long-established but poorly defined as a flexible tool for international diplomacy and action. "Good offices" are not mentioned in the UN charter (but perhaps embraced by article 33[1] which lists "other peaceful means of their own choice" among measures available to States to achieve the peaceful settlement of disputes).

Yet at the United Nations, and in some other organizations, such as the African Union, the term "good offices" has evolved very helpfully to mean almost anything - from a well-timed telephone call by the Secretary-General, to the exploratory conversations, or a full-fledged mediation effort conducted in his or her name (Whitfield 2011: 27-28). This might explain the ambiguous interpretation and understanding of "good offices" by, amongst others, international legal scholars like

[69] This was explained to the researcher by one of the study's respondents – Ambassador Ochieng Adala, who was intimately involved in the process.

Shaw (1998) who asserted that "good offices are utilised where a third party attempts to influence the opposing sides to enter negotiations" (Shaw 1998: 723).

This broad interpretation of good offices is indicative of profound shifts in the understanding of peace-making. During the past couple of years, recognition that different conflicts and stages of conflict require different types of mediator and that mediation is frequently accompanied by both a profusion of mediators and a diffusion of the concept of mediation. Formal negotiations – such as those seen on Cyprus, or in Kenya in recent years, or those pursued by the United States in the Middle East – may be few and far between, but activities exploring or preparing for mediation, or the discreet facilitation of contacts and dialogue, are much more widespread.

Such good offices can take place long before conditions may be ripe for a negotiation. And, as many peace-keeping operations have found – for example, they are likely to continue throughout the implementation of peace agreements (Griffiths and Whitfield 2010: 4-8).

It is under the good offices of the Kenyan presidency and administration that former President Moi[70] announced plans for a full national reconciliation conference to be convened at Eldoret[71] in Kenya in 2002. It was under these good offices that Kenya technically applied its initial intermediary role of both facilitator (moderator) and also guarantor. A guarantor role was taken up and played by Kenya – to the extent that under the good offices of President Moi, the conflicting protagonists were initially at this early stage, assured of a suitable negotiating environment and a process that was spearheaded in September 2002.

It is at this point that a proposed framework for the Somali national reconciliation process was presented to the IGAD Council of Ministers. At this point, Kenya made it possible for a peace process to start in terms of the Somali conflict. It is under the guarantor-intermediary role that Kenya provided assurance to the different Somali

[70] President *Daniel Toroitich Arap Moi* is a Kenyan politician who was the President of the Republic of Kenya from 1978 to 2002. Previously under the administration of *President Jomo Kenyatta*, he was Vice-President from 1967 to 1978; he succeeded Kenyatta as President on the latter's death.
[71] *Eldoret* is a town in the Western region of Kenya and lies in the Rift Valley Province. *Eldoret* is also the fastest growing town in Kenya, and currently the 5th largest in Kenya.

adversaries against any possible breakdown of the process. This was enhanced through a road map plan that provided a clear chronology of the mediation stages, illustrating how the Somali peace talks would be conducted.

The Somali national reconciliation process that was presented to the Council of Ministers, as mentioned, described a phased process. In the arrangements of the first phase, 300 Somali political, military, traditional and civil society players would agree on the *desired outcomes* of the peace process, determine *the main issues* to be addressed, and agree to a *cessation of hostilities*. Through these early deliberations, the Somalis would own the process, the initial impetus of which had come from the IGAD member States (see ICG 2002a:3).

As such, these three aspects had the main characteristics of a conventionally "good formula" at this initial stage of the engagement. These "good formula" characteristics were, as Zartman and Berman (1982:109–114) asserted, a '*sought-for comprehensiveness*', a '*sought-for balance*' and '*flexibility*'.

It is with these characteristics in play that Kenyan protocol officials, who oversaw the international conference management modalities and Kenyan moderators, facilitated the substantive part of the process that would tackle the important issue of 'reconciliation'. Based on the decisions of the 300-member plenary, 75 delegates were decided on. They would constitute the technical working group that would play the role of reconciliation committees. Each would address a specific dimension of the peace process. The dimensions included demobilisation, the issues of a new constitution, the modalities for revenue-sharing, and the resolution of land and property disputes. External and acclaimed experts would give technical support to these committees (ICG 2002a:3).

At this early stage of the mediation, an *inductive approach* to a peace process was observed. This is a situation in which there was a fractionating of the negotiations and the contentious issues to be debated; and these were negotiated on, and settled in the process. This is commonly known as *'step-by-step' diplomacy*. As Berridge argues, the step-by-step approach is usually considered appropriate for the negotiation of a dispute characterised by great complexity and psychological relationships (2002: 42-

48). It is in line with this inductive approach that the last issues to be negotiated on in the process were to be considered in the final phase of the process.

This phase would consider the proposals brought forward, take into context the reconciliation committees' decisions – the latter of which would be deliberated and approved by the plenary. Participants would then turn to implementation of the most sensitive aspects of the negotiations related to power-sharing and the formation of an inclusive, broad-based government in line with a new constitution.

6.3.1 Psychological dimensions of Kenya's intervention

In a mediatory-diplomatic process, a heterogeneous third party is very closely connected to a conflict system and the parties in the conflict. These are the psychological dimensions that define the actions of such a mediator (Mwagiru 2004:53). In the Somali mediation process, this could explain Kenya's visible presence in the Somali peace process. Through no apparent design or policy, Kenya's heterogeneous inclination was increased through decision-making and the delegation processes in the talks.

This was played out to the extent that management of the process was given over to a technical committee from the IGAD 'frontline States': Djibouti, Ethiopia and Kenya. This committee was to be under Kenyan chairmanship. Ethiopia's and Djibouti's partisanship would cancel one another out, leaving Kenya to provide the leadership in a Somali peace process (ICG 2002a). This was another psychological basis that defined Kenya's intervention, based on the duress of expectations and circumstances.

The heterogeneous nature of Kenya's intervention was reflected through the "mediator-integrator role". Kenya at this point was obligated by circumstances to undertake a delegated and special mediation task of reconciling not only the Somali parties, but also the wrangling IGAD member states. The psychological implication was one of a *regional fixer*.

It is important to note that the conference planners, largely consisting of the Office of Protocol Affairs of Kenya, the Horn of Africa Directorate and the Somali Peace

Process office, saw fit to borrow a modality of the previous Arta process by informally suggesting that the complex process should not be given a short and fixed timeframe. Rather, an expansive timescale of six to nine months was suggested and adopted (IRIN 2004).[72]

The Eldoret conference-diplomacy management was designed to overcome problems of past diplomatic initiatives, as outlined earlier. The plenary was broadened, and a detailed agreement on the structure of a future Somali State and government was presented. Fractionating mediatory issue areas provided for the analysis and discussion of problems with a reconciliation and dialogue framework. Power-sharing was placed as the last item on the agenda of negotiation, rather than the first, as was usually the case in past initiatives.

In the past initiative-sensitive aspects related to power-sharing were deliberated first and seemed to destroy negotiation and mediation processes and momentum. This was to be avoided, by scaling this down as the last issue of concern of the mediation and diplomatic process.

In these early stages of the mediation process, Kenya's perceived expectations in the conflict-management exercise created a psychological environment, where the reflective behaviour role was pursued (Bercovitch 1984:96). Previous attempts and interventions, especially those of the Arta process, were a good reference point for the strategic considerations that it had to take into context as leading mediator in the 2002 process. It was through this reflective behaviour on interpreting past problems – simplifying a complex system of parties' attribution of meaning of a web of different but connected problems – was applied.

The aim of the reflective role was to provide for a mediation environment where there would be a realistic and mutually acceptable process of negotiating contentious issues by the protagonists.

[72] This information was obtained from, IRIN 2004. *Somalia groups sign compromise deal*, 29th January 2004, accessible from, www.irinnews.org/report.aspx?reportid=48336 (accessed on 20th November 2009).

6.3.2 The Declaration on Cessation of Hostilities of 27 October 2002

A principal aim of the Eldoret conference was achieved within two weeks of the starting of the national reconciliation process. There was the signing on 27 October 2002, of the '*declaration on cessation of hostilities and the structures and principles of the Somali National Reconciliation Process*'. This was an important event, to the extent that the social, organisational and procedural structures of the peace process were thereby legitimised. It was a "non-directive role-behaviour" (Bercovitch 1984:97–98), and was espoused under the chairmanship of Kenya.

The declaration sought to help the parties' conflict-management efforts by exercising organisational and diplomatic influence over the environment of the Somali National Reconciliation Process.

The legitimate management of the process was realised principally through what the declaration committed the signatories to do. This included commitment by the different factions and conflicting parties to a cessation of hostilities, a decision towards agreement on a new federal charter or constitution by all the parties involved, and the creation of representative and decentralised governance structures acceptable to all parties (ICG 2002a:3).

Other aspects that the declaration committed the signatories to realise were: the implementation of the United Nations arms embargo; combating terrorism; inviting the international community to monitor implementation of the accords; guaranteeing the security of humanitarian and development personnel, and safe access to aid; and abiding by the conclusions of the process and supporting the establishment of enforcement mechanisms.

Another diplomatic effect of the declaration was saliently observed in the regional adoption of the International Legal Provision of the UN Security Council Resolution 733(1992). As noted above, the declaration sought to commit signatories to implement this arms embargo. This was the lateral, hidden role of track-one diplomacy in conflict management of the systemic-coordinative effort of dealing with international criminal justice. This is a domain that clearly ameliorates the status of a

conflict system. In this category, was the commitment towards combating terrorism and inviting the international community to monitor implementation of the accord. The role and strategic effect of this mode of mediation, that is arms control and disarmament diplomacy, is critically analysed and dealt with in Chapter 8. This may provide an additional avenue of soft-power engagement in the deployment of different diplomatic avenues for positive peace and transitional ordering.

The Declaration on the Cessation of Hostilities also provides for a further understanding of the role that a track-one diplomatic player brings to a peace process. The signing of this legal instrument is principally the first legitimising act that provides for a guiding roadmap of an official peace process. It is one of which the legitimacy is based on the substantive goals to be pursued, the interests involved and the attractiveness of the effort. This is clearly a soft-power process that supports co-operation among the different actors in the conflict, and other players in the diplomatic process. Concert diplomacy here becomes the main mode of operation, to the extent that the recognition and inclusion of other actors provide for sustained progression of the process.

This pertains to the intermediary role of being a guarantor, which is emphasised by such official and binding processes. The declaration, by enabling other track-one players to assert their roles in a conflict-management process, ensured adversaries that they were not to suffer overwhelming costs from entering the intermediary process (Mitchell 1992:140). Inviting the international community to monitor implementation of the accords brought an element of international solidarity to the search for peace in Somalia – as well as official recognition of the process.

This highlights an important process that third parties and track-one diplomatic entities should utilize. Clearly, the declaration of hostilities coherently brought quite a large number of areas to be considered systematically into the negotiations. This stage awarded the process different values and tangible realistic targets. This comprised a "coalition-issue mediation" (Laue 1990: 256-272) that sought to tackle the issue of peace, as seen from different perspectives.

6.3.3 The intricacies and politics of legitimacy recognition

As precedent had earlier shown with past peace accords, the 2002 Declaration on the Cessation of Hostilities was momentarily disregarded when fighting broke out in parts of Mogadishu, the centre of administration. However, under pressure from the IGAD Technical Committee, faction leaders from the Somali National Front resolved to respect the Eldoret Declaration. As such, the signatories to the Eldoret Declaration at this stage reconstituted as a 'Leaders' Committee'.

Through the Technical Committee's management of the process, led by Kenya as chair, legitimacy (and therefore recognition) was extended to 22 individuals. It should, however, be noted that the individuals were neither comprehensive to the process nor representative of Somalia. The Aden Madoobe group of the Rahanweyne Resistance Army (RRA) and Jama Ali Jama of Puntland were absent from this committee, for example. This was clearly negative for the process and elicited politics of legitimacy and authority recognition (IRIN 2003c). This, in fact, led to a scramble for recognition and legitimacy by different actors, who did little to simplify the mediation issues under consideration.

As such, a non-strategic move was adopted by Kenya, to the extent that as chair of the Technical Committee, it invited the Leaders' Committee to approve the rules of procedure for the conference and the formation of a Somali Advisory Group. The aim of this strategy was not fully misplaced, since it was oriented towards enabling the Somalis to own the process. This "empowering role" by Kenya was *ultra vires* abused by this 'Legitimate Group' (ICG 2002a:4).

It did not represent the rights of Somali actors and protagonists, and metaphorically speaking, this act was akin to "subjecting a pack of lions to a piece of rare beefsteak" as captured by Kenya's chief envoy on the Somali peace process.

The Leaders' Committee rejected the proposed Somali Advisory Group, which would have become an alternative source of political and moral authority within the process. By the end of this first phase, the committee had emerged, through this intermediary role recognition, as the supreme Somali decision-making body at the conference. This only strengthened interests and escalated the conference diplomacy problems even

more. Clearly, within the conference diplomacy of the Somali peace process, a strategic, well-organised management path was obstructed – to the extent that other conference delegates were left without mandates, and without any purposeful gain in the process; and most seemed resigned to just idling in the lobbies and hotels within Eldoret.

The question, therefore, was whether Kenya should have assumed the non-directive behaviour role in the process, to the extent that it should have controlled publicity of the process by exercising influence over the social structure within which the mediation was waged. This positive effect of mediators exercising control and directing the processes of mediation environments is well expounded by Bercovitch in his roles exposition (Bercovitch 1984:98). He asserted that some exercise of control of the processes by intermediaries is important – especially in the early stages of negotiation – where the protagonists have cognitive dissonance problems. The mediator's role here is always to contextualise the issue areas clearly, and to direct the process towards a positive momentum and peaceful outcome.

6.3.4 The politics of conference diplomacy

A track-one diplomatic approach by Kenya involved the utilisation of the Office of the Special Envoy. This also reflects one of the avenues of track-one diplomacy, as explained by the Institute of World Affairs. The late Ambassador, Elijah Mwangale of Kenya, sought to communicate to the public that there was to be progress in the second phase of the mediation of the Somali conflict (IRIN 2002a). At this point, the Office of the Special Envoy only intended to offer reassurance to Somali political observers and the public, but was patently at odds with the situation on the ground.

This was simply diplomacy politics prompted by Kenya's realisation that empowering the Leader's Committee was a negative strategy that would haunt the whole process. Therefore, in his short stint as chief mediator, substantive diplomacy was at some point reduced to first dealing with the politics of numbers and verifying or managing the proliferated actors in the mediation process.

There was a diplomacy-management complexity towards this end. A crisis arose over the distribution of seats. Political leaders, who had been advised simply on the number of delegates to bring, extended their entourages to bloated numbers of representatives. Instead of the 300 delegates envisaged by the framework document, over 1 000 Somalis had turned up in Eldoret, and chaos ensued as would-be delegates traded conference entrance stickers. The Kenyan government had to contend with a financial burden of between US$ 80 000 and US$ 90 000; and thus the concomitant obligation of daily subsistence and allowances for a bloated delegation (Ramani 2005).

The role of track-one diplomatic entities and simple international liaison services and conference diplomacy roles of moderator or moderation was delegated – to the extent that Ambassador Mwangale was, throughout the entire month of November, involved in trying to settle this through conference or procedural diplomacy and facilitator role considerations. These activities involved trying to find an acceptable formula to reduce the delegates to a manageable number. Disputes between Ethiopia and Djibouti over allocations for their respective Somali clients led to roughly a dozen revisions of the list during the first week of November alone.

Conference diplomacy was exemplified – to the extent that Kenya had to mathematically apply game theory tactics and settle on the proportional representation calculations. This was a formula, which sought to distribute representation status across the different clan, sub-clan divides, factions and civil society representation in Somalia. It was further prompted by haggling amongst the "Technical Committee" members (IRIN 2002b).

The impasse was on whether to allocate seats based on faction or clan considerations. The formula for the faction representation proposed 262 seats to be divided between 16 factions, with 100 additional seats reserved for civil society. However, this was too complex and quite unrepresentative. Some of the original signatories were excluded, while others were added arbitrarily. Clans were awarded representation in a disproportionate manner. Twenty seats were proposed for Dir, 60 for the Digil-Mirifle, 90 for Darod and 140 for Hawiye. The situation was quite unbalanced to the extent that the allocation seemed to favour the Ethiopian-backed SRRC and its allies,

spurring the formation of a new anti-Ethiopian coalition, the 'Group of Eight, led by Mohamed Afrah (ICG 2002a:3).

After much haggling, a proposal was settled on. It was christened the '*4.5 formula*'[73]. It envisaged 400 seats divided evenly between the four major clan groups; and the minority groups in total received half as many seats as major clans. This translated into 84 seats for each major clan, half of the equivalent for minorities, and 22 seats allocated at the discretion of the Technical Committee. At this point, Kenya's total control as chair of the process was cemented. It was a process under which diplomatic momentum was increased through Kenya's role of balancing interests and endorsing different actors and representatives of the Somali society that would engage in the process.

It acted as a legitimizer and endorser, whereby, as best as possible, it tried to recognise the sheer complexity of the Somali actor constituency profile. Berridge – an authority on the art of negotiation and mediation, asserts that a way to maintain high diplomatic momentum is to employ step-by-step approaches in a mediation process (2002:57). This was applied, but in addition, momentum strengthened through up-scaling of the level of the talks via the all-round representation of Somali society.

On the other hand, the intermediary role, as applied by the Technical Committee of empowering clans, had its downfall. It acted as a de-escalator of diplomatic momentum. This move legitimised self-styled faction leaders, some of whom had long since become quite irrelevant. It also assigned decision-making power in the conference to the Leaders' Committee, leaving other participants no meaningful role whatsoever. It diverted attention from the substantive issues of reconciliation and nation-building towards the perennial problem of power-sharing, a phenomenon that the original framework for the conference had sought to avoid (ICG 2002a:5).

By pressing initially for the faction-based formula, Ethiopia and Djibouti sought to maximise their influence by ensuring that their proxies were disproportionately

[73] The '*4.5 Formula*' was a set up that acknowledged the primacy of the Somali clan loyalties, ensuring that the spoils of power would theoretically be divided between the four main groups – the Hawiye, Darod, Dir and Rahaweyn – and the "others", an amalgamation of smaller clans.

represented. This failed because it offered an inferior model, and also because of squabbling among the faction leaders, who were insatiable in their quest for additional seats. The stalemate over participation reflected the perception among delegates that the distribution of seats during the second phase would predetermine the final power-sharing arrangements. This shows the ripple effects that track-one diplomatic approaches and solutions can have in a mediation process, re-awakening interests and exacerbating original and subsidising problems. On the contrary, however, the second phase of the conference got under way on 3 December (ICG 2002a).

6.4. Phase 2 : The reconciliation element

The second phase, officially launched on 29 November 2002, was intended to address in detail the core-reconciliation issues required to establish peace in Somalia through technical working groups, called Reconciliation Committees; and it was originally conceived to take six to nine months, ensuring thorough resolution of the issues and the development of a working plan for the incoming government. The six core reconciliation issues were: the Constitution and Federal System; Economic Recovery; Land and Property Disputes; Demobilization, Disarmament and Reintegration (DDR); Conflict Resolution; and Regional and International Relations (ICG 2003: 4-6).

135 delegates were to be nominated to the committees by the plenary; and drawing on expert advice where appropriate, to develop proposals for discussion by the plenary. The chaos over the selection of delegates also pervaded identification of the committee members (with different lists circulating for some committees), overseen by the Leaders' Committee and based primarily on factional and clan interests, rather than relevant competence. Nevertheless, the Kenyan Special Envoy announced that the second phase would be undertaken within three weeks, parliament formed, and power-sharing agreed on by the end of January 2003 (CRD 2008: 55).

6.4.1 The shift from conference to substantive diplomacy

Under the leadership of the late Ambassador Mwangale, his role as special envoy for the Somali peace process was heavily oriented towards conference diplomacy and

management. This was from October 2002 to 18 January 2003, when Ambassador Bethwel Kiplagat[74] was appointed as special envoy and took over from the Honourable Ambassador Mwangale. This change of envoys was largely determined by the election of a new Kenyan President, Mwai Kibaki, and as the practice is – Mwangale was one of the envoys affected by the new appointments of diplomatic service personnel by the new president. A point of concern though was that Mwangale's term was one characterised by wrangles over participation, mismanagement and, surprisingly so, alleged corruption (ICG 2003).

Serious substantive diplomacy was observed from the onset of Ambassador Kiplagat's appointment on 18 January 2003. At a meeting of foreign ministers of frontline States in Addis Ababa, Kiplagat secured a reaffirmation of their commitment to the process and an agreement to establish a mechanism to monitor the violation of the Declaration on the Cessation of Hostilities. It was at this point that Kiplagat achieved an early breakthrough by means of his shuttle diplomacy and public diplomatic tactics in increasing diplomatic momentum.

He simply gave the frontline States' public the impression that the process was nearer to success than the reality held. This was the 'talking up of the talks', which exemplified the kind of intermediary role Kenya had opted for in its national role conception (Holsti 1983:116).[75] This role, as perpetuated by Kiplagat, had the aim of providing a mediator-integrator effect, whereby the frontline States were to be encouraged to move on in a 'successive process'.

As clearly mandated by the frontline States, and with legitimacy owing to soft-power capability acceptance, Kiplagat found it necessary to relocate the talks to a training centre in Mbagathi, which lay in the outskirts of Nairobi. This was a move that was aimed at cutting costs substantially, while providing controlled access to the conference venue. Substantive diplomacy was, therefore, fully utilised – to the extent that Kiplagat had to control publicity and the social and organisational nature of the

[74] Ambassador Bethwel Kiplagat has a distinguished record in conflict resolution efforts on the continent, in particular East African conflicts, including: Uganda (1985-1986); Mozambique (1998-1992); Ethiopia (1988-1992); Sudan (1985 onwards); and Somalia (2003 – 2006). A career diplomat, he served as the Permanent Secretary (Director-General) of the Kenyan Foreign Ministry.

[75] The mediator-integrator intermediary role is captured by Holsti (1983) in his analysis of the kind of national roles conception that States with few foreign policy options undertake.

process – to ensure a forward diplomatic momentum in effective conflict management. Through this intermediary role, Kiplagat envisaged the assurance to the constituents of a forward-moving process and the reduction of controversies. It was a non-directive role that was practised through the exercise of influence over both the physical and the social structuring of the process (this aspect of intermediary control of the mediation environment was as stipulated by Bercovitch 1984:97).

The main idea here was based on the lessons learnt from the observed hardships encountered in the first phase of the process. This was that the effectiveness of conflict management of the Somali debacle was lessened in Eldoret, owing to the intricate link and exposure to a significant high degree of publicity. This brought about unnecessary and domestic constituent wrangling. This had to be avoided. The decision to move to Mbagathi, Nairobi, was based on these considerations.

It is also through routine diplomatic channels that Kiplagat obtained the agreement of the IGAD Council of Ministers to set up an International Ceasefire Monitoring Committee (IRIN 2003b).[76] In February 2003, Kenyan Foreign Minister, Kalonzo Musyoka[77], galvanised Kiplagat's early efforts of legitimising the ceasefire monitoring process of the mediation. As a guarantor-intermediary diplomatic role-player, the country's chief diplomat took in his stride the soft-power reality that would lend legitimacy to the process.

To ensure against the possible breakdown of the process, Kalonzo painted a picture of possible sanctions against any factions that violated or sought to violate the ceasefire. This was the soft-power application of the diplomacy of human rights; and Kalonzo asserted that Kenya, as the legitimate principal track-one mediator in the process, would look at everything, including making sure that these violators were not to be allowed to travel to various parts of the world (see IRIN 2003a). This diplomatic act,

[76] The UN, the AU, IGAD, the Arab League, the EU and the USA committed to participate in the work of the committee.

[77] An introductory profile of Kalonzo Musyoka would situate his clear role in the Somali peace Process. Musyoka is a Kenyan politician currently serving as Vice President of the Republic of Kenya. Musyoka also served in the government under President Daniel Arap Moi and was Minister for Foreign Affairs and International Cooperation from 1993 until 1998. Subsequently, under the administration of Mwai Kibaki, he was Minister for Foreign Affairs and International Co-operation again from 2003 to 2004.

as subconsciously practised reflects what was specified as the different categories of track-one diplomatic modes. This is the third aspect of track-one diplomacy, which is the rule of '*international condemnations*'. Kalonzo's task was aimed at offering a diplomatic caveat not only to the factions, but also to other actors within the Somali debacle.

A track-one strategy of the utilisation of 'international condemnation' of mediation de-escalation acts principally targeted two main protagonists or actors in the larger political-security picture of Somalia. In reference to this, there were Djibouti's and Ethiopia's stubborn interests regarding Somalia. The minister's comments were made at a meeting in Addis Ababa with his counterparts from Ethiopia and Djibouti. The main idea here was to 'float the kite' for the international community's attention to the situation of the delicate Somali mediation process.

In the spirit of the diplomacy of human rights, a targeted mode for gaining momentum in the diplomatic process was through eliciting international condemnatory moves that would curtail the *ultra vires* exposition of interests from both warlords and external actors interested in the Somali situation.

Within the process itself, Ambassador Kiplagat had to face the ghosts of his predecessor, Ambassador Mwangale, of the politics of representation and its legitimacy, especially with regard to the proliferated and non-ameliorated number of faction leaders involved in the process. It is important to note that the committee that had been empowered by the process, and was largely made up of faction leaders, had too many vested interests and did not provide the needed leadership. As it was, the factional committee was polarised (ICG 2003:16).

It was at this particular moment that Kenya grasped the opportunity to arrest an almost fatal situation that would have scuttled the process. Kiplagat and his cohort of diplomats formed an 'Arbitration Committee', nominated by the delegates, which sought to help to mediate differences within the mediation process itself. This was an intermediary role application and it gave recognition to the mediator-integrator role under which Kenya perceived itself as being responsible for fulfilling its special mandated task of reconciling actors or players.

The country had a good track record of facilitating and mediating hotspots in the Horn of Africa and great lakes-conflict systems. Owing to this, such mediatory tasks had to be initiated through the setting up of an arbitration regime in the Somali peace process. The Arbitration Committee, therefore, sought to simplify the already-protracted situation. The main idea was to promote a mutual progression towards a set of aspirations and the shared goal of peace. The intermediary role of reflective behaviourism (Bercovitch 1984:96) by Kenya was applied in the sense that Kenya was involved in an interpreting process, whereby the factions had to be brought to their senses – in order to come to a unified mindset.

6.5. Phase 3: Progressive diplomacy and the striking of an agreement

It is important to note that once Ambassador Bethwel Kiplagat took over management of the process, a good number of the most egregious administrative problems, including the misuse of funds, were brought under control. However, as noted in previous sections, political disputes over the leadership of the process persisted. This partly explains the long timescale that saw the mediation process progressing in this way during the whole year of 2003 (ICG 2004:3).

In May 2004, however, matters took a turn towards a positive note. Headed by Ambassador Kiplagat and Mr Kalonzo Musyoka, an expedited diplomatic momentum ushering in a meeting of the IGAD Ministerial Facilitation Committee was pushed for. The outcome of this important phase was the most important and successful meeting, which was the sixth attempt, and was responsible for guiding the process. As such, the ministers re-affirmed their unity of purpose and co-operation between the frontline States, especially Ethiopia and Djibouti.[78]

This saw a perceptible improvement. Despite widespread scepticism and numerous setbacks, the Kenyan-led Facilitation Committee persisted, keeping most of the major Somali leaders at the bargaining table until a deal was finally hammered out, in

[78] This can be accessed through the Ministry of Foreign Affairs, Republic of Kenya protocol documents: Nature, "Joint Communiqué" issued by the IGAD Ministerial Facilitation Committee on The Somali Peace Process Nairobi, Kenya 8th December 2003.

September 2004, with the formation of a Transitional Federal Parliament and the election of an interim president.

6.5.1 A brief description of the Transitional Federal or National Charter

The latter talks, as described above, settled on a Transitional Federal or National Charter that established a parliament based on the 4.5 Formula for power-sharing between the major clans. Article 30[79] of the Charter prescribed the provisions that envisaged parliamentary selection through and by the sub-clan of Somali political leaders invited to the consultation meetings in Nairobi, as from 9 January 2004, comprising: the Transitional National Government; the National Salvation Council (NSC); the Regional Administrations; the Somali Restoration and Reconciliation Council (SRRC); Group-8 (G8) Political Alliance and civil society. It stated that all these bodies were to be endorsed by the traditional leaders, thereby bringing into the political process the role of social cultural resources in governance.

This Kenyan-enabled formula was actually settled as the last permanent solution for power-sharing based on a strategy of the conflict-resolution game. The charter further described a system of governance informed by democratic principles, promotion and the respect of human rights, the rule of law and pluralism, without denying the profound attachment of the Somali people to their religion and culture.

The charter adopted, or sought to adopt, a federal structure of government for Somalia. It stated that a future constitution was to be submitted to popular referendum.[80]

As shown in this chapter, the Somali National Reconciliation Conference, hosted by Kenya from October 2002 to late 2004, represented the first sustained effort by

[79] See Article 30 (1), Appointment of Members of Parliament, (In the Transitional Federal Charter of the Somali Republic. February 2004) p 16. The charter is appended to this dissertation as Appendix G and can be accessed in http://www.so.undp.org/docs/ Transitional%20Federal%20charter-feb%202004-English.pdf as accessed on 16 February 2010.

[80] See *Article 71(9) of the Transitional Federal Charter of Somalia* available at: http://www.unhcr.org/refworld/docid/4795c2d22.html (accessed on 13th April 2009). The Charter is also affixed to this dissertation as "Appendix G" p. 289

regional States under the leadership of Kenya and the IGAD, to broker peace in Somalia. Unlike many of the past conferences, it was designed to address real conflict issues rather than focusing exclusively on power-sharing deals. The talks, as stipulated, began in the town of Eldoret – before being relocated to Mbagathi, outside Kenya's capital Nairobi.

The process culminated in the endorsement of a Transitional Federal Charter and the establishment of the Transitional Federal Government with a five-year mandate to further national reconciliation, and to oversee the implementation of critical transitional tasks, including the establishment of security and the drafting of a constitution.

A recurring dispute throughout the talks related to representation (by faction or by clan) and who would select the delegates (and later the Members of Parliament). Early 'legitimisation' of key faction/political leaders as the 'Leaders' Committee' by the facilitators – the technical Committee led by Kenya and comprising Ethiopia and Djibouti – meant the process was effectively monopolised by these two groups and focused heavily on power-sharing negotiations, rather than on the resolution of core conflict issues, as originally intended. However, through both substantive and procedural diplomatic processes, these hurdles were to some degree dealt with.

6.6. Conclusion

This chapter has systematically and critically looked at the mediation environment and at the general politics of the Kenyan-led Somali peace process. This exercise was important, in order to be able to provide the background and basis of the procedural and substantive diplomatic processes involved, and which Kenya had to face. Of essence, is the role of soft power in leveraging both within the facilitative stages of the negotiation and mediation process, and also at the settlement stages of the process.

The next chapter will focus on the research design and methodology utilised in this study. The methodology has a direct bearing on the subject area of this research and reflects the boundaries of the undertaking, as stipulated in this introductory chapter pertaining to Kenya's entry and engagement in the Somali peace process and situation. It will also provide the necessary thread towards analysing the views and experiences of players who were involved in the Somali peace process. These will be presented in successive chapters.

CHAPTER 7

RESEARCH DESIGN AND METHODOLOGY

7.1 Introduction

This chapter presents the methodology employed in the gathering and presentation of the data. Methodology denotes the study of particular methods, techniques or procedures employed in the process of implementing the research design for reaching

a desired end, an objective or solving a problem (Leedy 1993, Babbie and Mouton 2006). This description embraces the research design, the study population and the selection procedures, the data-collection instruments (interviews and documentary analysis) and data-analysis approaches.

It is vital that the methods selected for research be coherent, consistent, appropriate and effective, in order to deliver data and findings that answer the stated research questions (Henning, Van Rensberg and Smit, 2004). The chapter also reflects on the justifications for the use of the selected techniques, their strengths and limitations; and in it, the researcher discusses ways of ensuring data quality, as well as the authenticity of the research findings and ethical issues. Herein, the author briefly discusses the modes of data interpretation and the analysis during fieldwork and post-fieldwork phases.

7.2 Qualitative research

A qualitative approach was followed in this study. This study employed a descriptive, explanatory and analytical qualitative case study method. The term qualitative research design "is an umbrella term, which incorporates a number of research strategies that share certain common characteristics" (Schurik 1998: 239). "It is a collection of methods and techniques, which share a certain set of principles or logic" in the study of social action (Babbie and Mouton 2006: 270).

Qualitative designs comprise ethnographic studies, case studies and life histories. The common methods of data collection are in-depth interviews, participant observations and the use of personal documents (Manion and Cohen 1994, Cresswell 1994, Bryman 2001, Babbie and Mouton 2006). In this study, the case study research approach will be applied.

Qualitative approaches seek to understand and to explain from an actor's own frame of reference. People and institutions are studied in terms of their own definitions of the world; this approach is also termed the 'insider perspective'. The very orientation of this approach is such that it provides an insider perspective (Kayrooz & Trevitt 2005:114). The justification for this is that insider information was sought, and that

the targeted respondents were largely official actors or track-one entities engaged in Somalia's diplomatic, humanitarian and development processes. This kind of research also focuses on the subjective experiences of the individuals, and is sensitive to the contexts in which people interact with each other (Babbie & Mouton 2001).

While quantitative researchs explain human behaviour in terms of universally valid laws of generalisations, it also aims to understand and interpret the meanings and interactions that underlie everyday human action.

Qualitative research is also defined as a multi-purpose approach that utilises different qualitative techniques and data-collection methods relating to social interaction. It is aimed at describing, making sense of, interpreting or reconstructing this interaction in terms of the meanings that the subjects attach to it (Strydom, Fouche, Poggenpoel, Schurink & Schurink 1998:240).

The qualitative research method that was applied is also commensurate with what the study sought to accomplish. The broad objective of the study was to establish the role and effects of track-one diplomacy on conflict management, transitional order and post-conflict reconstruction. The specific objectives were the following:

- To investigate the role of track-one diplomacy, as practised by Kenya in the mediation process of the protracted Somali conflict;
- To examine the relationship of track-one diplomacy to track-two diplomacy in the mediation and peace-building process;
- To examine the role of track-one diplomacy, as practised by Kenya in providing opportunities for multi-stakeholder activities in the mediation and peace-building process or development diplomacy;
- To investigate the role of Kenya as a small State in the mediation of the Somali conflict, and the effects of its soft power in conflict management and transitional ordering/stabilization processes;
- To critically investigate strategic intervention avenues that Kenya's diplomacy could adopt towards addressing the Somali conflict;
- To critically examine conflict management and peace-building through the utilization of regional arms control and disarmament diplomacy by Kenya.

The general purpose of qualitative research methods is, therefore, to examine human behaviour in the social, cultural and political contexts in which such behaviour occurs. It uses such exploratory techniques as interviews, surveys, case studies, documentary analysis and other relatively personal techniques (Salkind 2006:201). This study subscribed to this approach, as the mediation process, transitional ordering process and conflict management in general are to a great extent rooted in behavioural science.

A closer look at the mentioned aims and objectives of this study, the behavioural attributes of the facets of investigation provide a basis for adopting the qualitative research approach. A variety of tools were, therefore, applied in the qualitative research method orientation, the interviews, and the documentary study methods, which examined the past work on peace processes and mediation activities by small States, such as Kenya, in the Somali peace process. It also entailed case studies. A case study is a method used to study an individual or an institution in a unique setting in an intense and detailed manner.

The word 'unique' here is critical, because the research is interested in the existing conditions surrounding the person or institution (Salkind 2006: 205). A case study can further be regarded as an exploration or an in-depth analysis of a 'bounded system' (bounded by time and/or place), that is to say, a single or multiple cases, over a period of time (De Vos, Strydom, Fouche & Delport 2005:272). The emphasis in case studies is on arriving at a complete description and understanding of the constructs being studied.

It should be noted that the adoption of case studies is premised on the definable number of persons involved (Struwig & Stead 2001:8). The case study approach as a form of qualitative research was also utilised, in order to gain a holistic understanding of the role of track-one diplomacy in conflict management and peace-building, as utilized in the Somali conflict.

The case study has, therefore, been used as a strategy of inquiry in this research, as it is also qualitative and descriptive in nature. The case study method was adopted

because it is a unique way of capturing information about human behaviour – for a variety of reasons that reflect the orientation of the study. A case study focuses on only one thing. This enables a very close examination, careful scrutiny and the collection of a considerable amount of data.

Case studies also encourage the use of several different techniques to obtain the necessary information, ranging from personal observations to interviews targeting a population that might have authority and relevant information on the focus of the study (Salkind 2006:205–206).

7.3 The Sampling procedure

Sampling means taking any portion of a population as a representation of that population. Accordingly, this definition does not stipulate that a sample is in fact representative; it rather asserts that a sample is considered to be representative. The major reason for sampling is feasibility, as the population to be studied can possibly be reached. Sampling is, therefore, done to increase feasibility, cost-effectiveness, accuracy and the manageability of research (De Vos et al. 2005:204).

The sample is studied in an effort to understand the population from which it was drawn (de Vos et al. 2005:205). Struwig and Stead (2001:109) assert that if a sample is chosen, according to sound scientific guidelines, and if that sample is truly representative of the population, the findings from the sample can be safely generalised to the entire population.

Two main methods of sampling were singled out, namely: probability sampling and non-probability sampling (Cohen, Cohen, Aiken & West 2002:49). In probability sampling, every member of the wider population has an equal chance of being included in the sample, whereas in non-probability sample, some members of the wider population would definitely be excluded, while others would be included. In non-probability sampling, the researcher deliberately selects a particular section of the wider population for inclusion in or exclusion from the sample.

Towards this end, it is important to note that this study has applied purposive sampling. Purposive sampling is used to determine the parameters of the population to be investigated. Purposive sampling (Strydom 2005 b:192–193) occurs when a researcher chooses a particular group or place to study because it is known to be the type that is wanted. The sample is composed of elements that contain the most characteristics, representations or typical attributes of the population.

Purposive or judgemental sampling allows the researcher to select a sample on the basis of knowledge of a population, its elements and the purpose of the study (Babbie 2004:183). Purposive sampling is significant, not only in identifying settings where participants could be more easily reached, but also in selecting informative participants. Purposive sampling is used in selecting information-rich cases for an in-depth study. The researcher selected purposive sampling on the basis of his previous involvement in the Somali peace process and experience with the diplomats involved in the process.

Another closely related non-probability sampling method is snowball sampling. In this method of sampling, the researcher collects data on the few members of the target population s/he can locate, and then asks those individuals to provide the information needed to locate other members of the population they happen to know. “Snowball” refers to the process of accumulation, as each located subject suggests other subjects. (Babbie 2010: 193).

Additional research subjects are, therefore, gathered through the identification of an initial subject who provides the names of other actors in the subject area of interest. These actors may themselves open possibilities for an expanding web of inquiry. The number of interviewees therefore “snowballs”. This study experienced the same phenomenon or effect and especially in the second phase of this study’s focus, that is Kenya’s engagement in the Somali conflict management efforts from 2005 to 2012. As the research developed, more valuable information came to the researcher’s attention through the snowballing of the sources of information.

The informative participants in this study were official actors and decision-makers involved in the Kenyan-facilitated Somali peace process in the 2002-2004

engagement. Participants who continued to be engaged in the Somali peace and engagement processes after 2012 were also targeted. These were mainly those tasked with conflict-management analysis and mediation duties pertaining to Somali at the Kenyan Foreign Ministry in Nairobi.

It is important to note that these participants were still – in the focus period of this study – serving with the Kenyan foreign ministry and other mediation bodies. They were also present in the initial phases of the Kenyan engagement in the Somali mediation. That was between 2002 and 2004, and also in the current contemporary engagement after 2004 up to the first half of 2012. Both phases are the focus of this study. Other participants comprised those track-one actors who had a direct working relationship with Kenya.

These were actors under the Inter-Governmental Authority on Development (IGAD) regional regime and the Regional Centre on Small Arms (RECSA) – both of which Kenya chairs and has a host agreement with, respectively. RECSA is a diplomatic body tasked with implementing the Nairobi Protocol, which is a diplomatic, disarmament and arms control and conflict-management instrument for the two conflict systems (Great Lakes and the Horn of Africa).

Their insights greatly contributed to providing relevant information. RECSA was also the Kenyan Foreign Ministry's small-arms division[81] that closely followed armament and disarmament initiatives in the Horn, including Somalia, and the insights thereof were beneficial to this study.

It is also important to note that the interviews were conducted between 2009 and 2012 during the period of this doctoral undertaking. The total number of participants was 22 in total; and these were categorized into three distinct groups, as discussed below.

[81] RECSA was at the beginning of 2002 and 2003 domiciled at the Kenyan Foreign Ministry and was then only operating as the "Small Arms Control desk". The division later on developed into a fully pledged diplomatic secretariat with minimal control by the Kenyan foreign ministry. On the coming into force of the Nairobi Protocol of 2004 pertaining to the control of the proliferation of small arms and light weapons in the Great Lakes and the Horn of Africa. The division was elevated to be the "Nairobi Secretariat" and was to operate as a Regional organization tasked with the implementation support of the declaration in the region and to also co-ordinate arms-management processes.

Category 1 consisted of 14 respondents sourced from the following offices:

- The head of the Horn of Africa division in the Kenyan Ministry of Foreign Affairs and International Cooperation.
- The Somali peace process co-ordinator, also holding a director's and policy-making position at the Kenyan Foreign Ministry.
- The Kenyan special envoy to the Somali peace process – directly connected with the Kenyan Foreign Ministry and the Office of the President, Kenya.
- The former Kenyan special envoy for Somali affairs, who plays an advisory role to government.
- The head of the Kenyan Foreign Service Institute at the Foreign Ministry, whose office has been involved in training mediators and diplomats from the current Transitional Federal Government of Somalia.
- Kenya's ambassador to Somalia [with residence in Nairobi, Kenya].
- The Executive Secretary who heads Intergovernmental Authority on Development (IGAD) and is currently representing Kenya [he is a Kenyan national], which is the chair at the moment [2009-2012 – focus period for conducting the study].
- The head of the conflict-management division of IGAD.
- The Executive Secretary of the Regional Centre on Small Arms and Light Weapons in the Great Lakes and the Horn of Africa (RECSA).
- The deputy of the Executive Secretary in charge of political affairs.
- The research director of RECSA.
- The Director of the International Peace Support Training Centre (IPSTC)[82] under the Ministry of State in Charge of Defence, Republic of Kenya.
- The Political and Security Advisor's office – Nordic representative to the Eastern Africa Standby Force Co-ordination Mechanism (EASFCOM).
- The office of the Deputy Special Representative for the African Union Mission in Somalia (AMISOM).

[82] IPSTC is a centre of excellence tasked with providing Peace Support Operations training and capacity-building support to the East African Standby Force (EASF) component, the latter which is part of the African Standby Force (ASF) - a major body in the African Peace and Security Architecture (APSA). IPSTC has its command and control basis in Kenya, and is a body within the Ministry of State in charge of Defence.

This category mainly addressed the aspects of track-one diplomacy and the soft-power practice used in the diplomacy of conflict management.

Category 2 consisted of the following three participating offices and respondents:

- Officials in the Office of the Special Representative of the UN Secretary General on the Horn of Africa, located in Nairobi;
- Officials in the UN Political Office for Somalia (UNPOS);
- Officials from the Africa Peace Forum Organization (APFO).

This category of the sample population mainly addressed the attributes of track-one and track-two diplomacy, and the intermediary roles affiliated to track-two diplomacy and symbiotic diplomacy. In category 2, three individuals were interviewed.

Category 3 consisted of respondents representing Somalia and its society. This sample population section represents the Somali people or citizens, and, most importantly for this study, the Somalis in Nairobi, Kenya. Those in Nairobi were targeted due to ease of access to them[83]. This category of the sample population addressed the Somali civic and civil society as resources in peace-making. Five individuals in total were interviewed in this category. The rationale for choosing the five respondents from this category was based on the ease of access to them, since they were resident in Nairobi and occasionally had links with Somalia, and also because they were representatives of Somali civil society networks and were also involved in quite diplomacy initiatives pertaining to Somalia. The total number of respondents was 22.

7.4 Data-collection instruments

Data-collection instruments are important in any research, as these determine how and where the data are to be obtained, the trustworthiness and authenticity of the data to be collected, and the findings of the study. Wiersma (2000: 3) asserts, that the process

[83] With due reference to the 'Somali diaspora' especially in Kenya, it is worth noting that they constitute a great number of the population and a growing one for that matter. This is observable in urban centres – with Nairobi hosting a major metropolitan area, which has an "Established Kenyan-Somali" populace. A place that was targeted in Nairobi was 'Eastleigh" which has a good number of both Kenyan-Somali and Somali population conducting businesses and services in different trades. They also play a great role in the politics, economy and sociology of the Somali situation.

of data collection requires proper organization and control, so that the data would enable valid decisions to be made on the research problem at hand.

The data-collection process employed semi-structured interviews and the use of documents and records. These facilitated the exploration in and interpretation of the role of the track-one entity, in conflict management. The researcher used a combination of data-collection procedures to validate and cross-check the findings more easily. Triangulation was used, and by using it the strength of one procedure compensated for the weakness of another approach (De Vos et al. 2005:314).

Triangulation is a technique of enhancing research reliability through the use of multiple research methods. Denzin puts it as follows: "By combining methods and investigators in the same study, observers can partially overcome the deficiencies that flow from one investigator or method" (as cited in, Babbie & Mouton 2001:275). Triangulation implies strength in a research design, and is not a weakness. According to Babbie (2002:107), in ideal circumstances, a research project should always bring more than a single research method to bear on a topic.

7.4.1 Interviews

This work was subjected to exploratory processes and analysis. Semi-structured interviews were conducted. These were open-ended in nature. The semi-structured interview gave the researcher and participants much more flexibility. According to De Vos et al. (2005), semi-structured interviews are especially suitable where one is particularly interested in complexity or process dynamics, or where an issue is controversial or personal (De Vos et al. 2005:296). The semi-structured interviews through open-ended questions are vital, as they capture the authenticity, richness and depth of response, honesty and candour, which are the hallmarks of qualitative data (see Cohen et al. 2002:255).

The researcher prepared a schedule that provided a guideline while interviewing. The schedule contained interview questions that are important to the research. It enabled the researcher to obtain an insider perspective of the phenomenon, as well as an opportunity to explore other aspects of the research emerging from the interviews.

Considering the confidential nature of the mediation process, as conducted through official diplomatic channels, this schedule was a necessary guide towards exhausting responses on policy-related aspects that were sequentially and openly discussed. The interviews were recorded and transcribed verbatim. The transcripts were useful in providing raw data for coding in the data analysis.

Individual interviews were conducted with the key informants, that is, Kenyan representatives and mediators involved in the Somali peace process, other Foreign Service officials, and those accredited to IGAD, in addition to those working in the African Affairs docket. Because the researcher had established rapport with a number of participants over a long period of time, having previously worked with them and interacting with them as major stakeholders in his research undertakings with the Institute for Security Studies (ISS), he understands their experiences and perspectives, which benefited the research process.

Based on this personal and insider connection to the process, the issue of bias in the procedural and substantive process of the research should be addressed. All researchers make selections on what to research, what data to omit, which methods to utilize – and they judge certain data to be more important than others. Bias in social research refers to the adoption of a particular perspective from which some things become salient and others merge into the background. It is a conscious or unconscious tendency, on the part of a researcher, to produce data and/or to interpret them, in a way that inclines towards conclusions that are in line with his or her own personal commitments and experiences (Hammersley & Gromm 1997: 2).

Biases can derive from both internal (for example the subjectivity of the researcher) and external sources (for example the influence of the researcher's social context). The researcher in this work may have experienced these situations, considering his insider experiences in the Somali peace process and developments. On another aspect, the researcher also sought consent from the participants for the recordings and verbatim transcriptions. These participants provided important information pertaining to track-one diplomacy and the soft-power practice of the diplomacy of conflict management. The interview schedule that was utilized is as presented below.

7.4.1.1 The interview schedule

It is important to note that the interview schedule was divided into three categories:

1. Category One
2. Category Two
3. Category Three

Category One

This targeted Kenyan representatives and mediators involved in the Somali peace process, other Foreign Service officials, those accredited to the Inter-Governmental Authority on Development (IGAD), plus those working in the African Affairs docket. This category of the sample population basically addressed the aspects of track-one diplomacy and the soft-power practice in conflict management.

Category Two

This category targeted officials in the Office of the Special Representative of the UN Secretary General on the Horn of Africa; in the same category were officials in the United Nations Political Office for Somalia (UNPOS), and also officials from the Africa Peace Forum and the Regional Centre on Small Arms and Light Weapons in the Great Lakes and the Horn of Africa (RECSA). This category of the sample population basically addressed aspects cutting across track-one diplomacy and track-two diplomacy. This category particularly addressed the latter aspect, and specifically the intermediary roles of track-two diplomacy.

Category Three

This category targeted the Somalia peace constituents. This sample population represents the Somali people or citizens themselves. It is under this specification that those in Nairobi were targeted due to their ease of access. This category of the sample population, therefore, addressed the aspects of the peace constituents in peace-making.

Interview Schedule: Category 1- Kenyan Foreign Service officers, Kenyan Special Envoy's office to Somalia (attached to IGAD)

Q1 What is the basis behind Kenya's preference for conflict management in its foreign policy approach in the Somali mediation?

Q2 What are the Kenyan interests in the Somali conflict?

Q3 What is the role of the Kenyan special envoy in the Somali peace process?

Q4 Which diplomatic strategies were employed in the mediation of the Somali conflict?

Q5 What is Kenya's foreign policy with regard to Somalia and the Horn of Africa in general?

Q6 What were the problems that your office faced in the Somali mediation process and anticipate to face in the current engagement?

Q7 How did you deal with other frontline States, considering their interests in the Somali conflict?

Q8 How are you dealing with new players in the current impasse?

Q9 What is the mode of operation with regard to the Kenyan relations with:

A. Somalia militias and faction groups? **B.** Somalia-based or Somali-oriented non-governmental organisations? **C.** International entities, and also the United Nations and the International Somali Contact Group?

Q10 What was the nature of Kenya's conference diplomacy with regard to how international liaison and general protocol were conducted?

Q11 What problems has – and will – Kenya face in its facilitation of the peace process and general conference diplomacy?

Q12 What assistance is your office and Kenya receiving from intergovernmental organisations?

Interview Schedule: Category 2- UN officials, Africa Peace Forum Organization officials, RECSA officials, East African Standby Force Command (EASFCOM) officials, AMISOM, International Peace Support Training Centre (IPSTC) officials.

United Nations officials

Q1 What is the mandate of the Office of the Special Representative of the UN Secretary General to the Horn of Africa, and how is it operationalized in terms of Somalia?

Q2 What was the special representative's role in the Somali peace process from 2002 to its completion in 2004?

Q3 What was the substantive nature of the relations between the special representative's office and Kenya, which headed the IGAD Technical Committee?

Q4 What type of assistance did the special representative's office offer Kenya, which was the main facilitator of the Somali peace process?

Q5 What is the special representative's and the UN's stand on the policy of delegation of conflict-management tasks to sub-regional organisations (in this case IGAD)?

Q6 What was the mode of operation of the office with regard to relations with the Somalia geopolitical space itself?

Q7 What is the mandate and role of the UN Political Office for Somalia?

Q8 How does the UN Political Office for Somalia co-operate with the UN Office of the Special Representative to the Horn of Africa with regard to the Somali peace process?

Q9 What role has UNPOS played with regard to its relations with Kenya considering that it is headquartered in Kenya?

Q10 Have the UN offices co-ordinated with NGOs within the Somali peace process, and if so, how did this take place?

<u>To officials of the Africa Peace Forum Organization</u>

Q1, What was the role of the APF with regard to the Somali peace process?

Q2 What is your opinion regarding the role of track-two entities, such as NGOs in terms of the Somali peace process?

Q3 What is their working relationship with track-one entities, in this case Kenya?

Q4 What did your organisation, as a resource centre of the International Partners Forum, and partners that you represent, contribute to the Somali peace process?

Q5 What were the intricate problems/shortcomings of the Kenyan-led practice of mediation in the Somali conflict?

Q6 What, in your view, is the nature of Kenya's legitimacy in leading and facilitating the Somali peace process?

Q7 What was the nature of APF's relations with the Somali people within the conflict and those in the Somali peace process?

Q8 What was the nature of relations between the APF and Kenya, and what did it entail?

Q9 What is your view of the presence of conflicting frontline States with different interests in the Somali peace process and conflict?

<u>To officials of RECSA</u>

Q1 What role does RECSA play in the conflict-management efforts of the Horn of Africa?

Q2 What is the nature of RECSA's relationship with the Kenyan government?

Q3 What can RECSA bring to the table in support of a mediation process of the Horn's epicentre – Somalia?

Q4 How does your organisation view arms control and disarmament initiatives as a peace-building exercise and as a mediation strategy?

Q5 In your experience, how effective is disarmament diplomacy in the Horn of Africa?

Q6 What is the nature of Kenya's support and role in enhancing your work on Somalia?

Q7 What problems has RECSA faced in implementing support of the Nairobi Protocol in the Horn, and particular in Somalia?

To officials of the EASFCOM

Q1 What are the security predicaments that are challenging the Somali peace processes?

Q2. What is your view on the decision to use hard power by Kenya beginning in late 2011?

To officials of the Deputy Special Representatives's office-AMISOM

Q1. What is the complementing role of peace-support operations to parallel mediation efforts in Somalia?

Q2 What are the support mechanisms that are needed to make peace enforcement viable in Somalia?

To Officials of the IPSTC

Q1. What soft-power component does the peace support-training centre provide for Kenya?

Q2 What is your view on the decision to use hard power by Kenya beginning in late 2011?

To Officials in the Deputy Special Representative's Office-AMISOM

Q1 In your opinion, what are the sources of armaments in Somalia?

Interview Schedule: Category 3 – Somali peace constituents (Somalis living in Nairobi)

Q1 What in your view was the extent and nature of success in the Somali peace process?

Q2 What is your view on Kenya's capacity to facilitate and mediate the Somali conflict?

Q3 What role do you think Kenya played in the Somali peace process?

Q4 What problems do you perceive existed in the Somali peace process?

Q5 How was the Somali peace process, the modalities and the actors representative of the general Somali views, societal make-up and aspirations?

Q6 What role did the Somali cultural norms and institutions play in the peace process?

Q7 What is your view on the effects of frontline States (Djibouti, Ethiopia and Kenya) on the Somali peace process?

Q8 What is your view on Kenya's relations with the Somali representation and people?

Q9 What is your view on the role of international organisations, such as the UN in the realisation of peace in Somalia as regards the role of neighbouring States, in this case Kenya, in realising peace in Somalia?

7.4.2 Document studies

The term documents embraces a heterogeneous set of sources, such as personal documents (letters, diaries, autobiographies, photographs), official documents from the State, organizations and other private sources (policy documents, annual reports, communiqués, memos, minutes of meetings, newspapers, magazines, journals) (Cohen and Manion 1994, Bryman 2001, Babbie and Mouton, 2006). Documentary studies comprise an invaluable source of data in research, as they provide vital information on all the stages of research – from the formulation of the topic, research questions, literature review, field work, analysis and presentation of the research findings.

It is the duty of the researcher to sample the relevant documents during the course of the research proceedings. Scott (1990: 6) provided the criteria for assessing the quality and relevance of documents by researchers in relation to the topic under consideration. These guidelines comprise four aspects as follows;

- Authenticity – Is the evidence genuine and of unquestionable origin?
- Credibility – Is the evidence free from error and distortion?
- Representativeness – Is the evidence typical of its kind, and if not, is the extent of its atypicality known?
- Meaning - Is the evidence clear and comprehensive?

It is the responsibility of the researcher to critically analyze the different sources to screen and identify those relevant to his/her research topic, to validate the authenticity and accuracy of the documents. This is because no document "must…be taken at its face value when used as a research source; it is also necessary to have considerable additional knowledge of the social context to probe beneath the surface" (Scott 1990: 195).

Furthermore documents cannot always be regarded "as providing objective accounts of a state of affairs. "They have to be interrogated and examined in the context of other sources of data" (Bryman 2001: 377). The different stances, dimensions, views and perspectives reflected by different documents can be used as "a platform for developing insights into the processes and factors that lie behind the divergence" (Bryman 2001: 377), and as pointers to other sources of information.

Documentary sources are classified into primary and secondary materials. Primary sources are "those which came into existence in the period under research", while secondary sources are "interpretations of events of that period based on primary sources" (Bell 1999: 108). Both sources were vital and complementary in the provision of the required data in this study.

The relevant documentation on conflict management and mediation processes and dynamics pertaining to Somalia were obtained and analyzed to augment the data from

the reviewed literature and interviews. This documentation comprised information on the Kenyan and IGAD conflict management, summitry and diplomatic engagement in the Somali debacle and the Horn of Africa conflict epicentres, policy documents, communiqués on the activities of the Kenya government and other track-one actors pertaining to Somali's peace, and other scholarly research on track-one diplomacy, soft power and conflict management and peace-building by small States – in particular African case studies.

Information was also obtained from journal contributions from researchers and websites on research institutions on human security, conflict prevention, management and resolution.

The merits of document studies are that most are a primary source of information and enable the researcher to obtain the data in the language of the respondents (authors). Compared to other data-collection instruments such as the interview, they are less obtrusive. Moreover, "the nature of the document is not affected by the fact that you are using it for the enquiry" (Robson 1993: 272). Robson (1993) further observed that documentary sources possess several advantages, among others being that "data is [sic] permanent, can be re-analyzed, and allow reliability checks and replication" (paraphrased in Ketlhoilwe 2007: 104). Furthermore, the sources may be "used by the researcher for some purpose other than that for which they were originally intended" (Bell 1999: 109-110).

The demerits of document studies are that some information may be protected and unavailable for public access and consumption, and thus difficult for the researcher to obtain (Cresswell 1994, Bryman 2001). Such a problem could be expected regarding some information seen by the Kenya government and the intergovernmental organization IGAD as highly sensitive and classified especially on sensitive diplomatic, security and confidentiality matters.

The information from documents can also be flawed, as only documents that paint a positive image of the State, the organization and its activities may be made available, thus denying the researcher comprehensive evidence from which to embark on objective analysis and presentation of the findings.

A significant aspect of this data-collection approach was based on a review of the literature on the subject matter of the study. This largely contributed to addressing the aspects of conflict-management, mediation and peace-building of this study.

It, therefore, encompassed source information from the body of writing in scholarly journals pertaining to the growing conflict-management, peace-building and development fields and debates. In this regard, a critical analysis of the works on human security related to the diplomacy of conflict management and post-conflict development and order was conducted.

Primary source information from government, intergovernmental and related documents was reviewed, and this interface was combined with a series of strategic interviews, held with official mediation and peace-building actors involved in the Somali peace process – and essentially those behind diplomatic processes shaping Kenya's conflict-management policies for Somalia.

Secondary sources included both published and unpublished data. As briefly mentioned above, the published data included books, journals, periodicals and reports. Unpublished data included government or official documents and other documented materials in the field. The benefits of the latter (category of the unpublished government or official documents and other documented materials) were obtaining insider information on the Kenyan position in the Somali mediation; the limitations were that certain documents were not be available to the public, so the researcher did not have access to them.

According to Gillham's (2000:2) description of data collection methods, no one kind or source of evidence is likely to be sufficient on its own. It is therefore important to use multiple sources of evidence. In addition to getting information from targeted respondents or populations, in this case track-one actors, the study also involved a historical scanning of Kenya's contemporary practice of conflict-management in Somalia, and particularly in the most important phase starting from 2002, when Kenya officially facilitated and assumed a conflict-management role in its foreign policy in terms of Somalia and chaired IGAD.

In essence therefore, in order to enhance research reliability, the above multiple research entries provided the necessary environment to inform the study. This was a *triangulation technique* that combined methods and informational portals in the same study. This ensured strength, as described by Babbie, who asserts that triangulation is actually strength in research design, and that it is, therefore, required to use more than a single research method to bear on a topic (Babbie 2002:107–108).

7.5 Validation of Research Instruments

Cresswell argues that qualitative researchers "have no single stance or consensus on addressing the traditional topics of validity and reliability" (1994: 157). Their argument is that the main intent of the qualitative research is not to quantify and generalize the findings, but to build meanings based on interpretations of what is prevailing within the research context. It is an investigative and interpretive process through which the researcher constructs an understanding and meanings from the study phenomenon by contrasting, comparing and classifying the emerging issues and themes of the study object (Miles and Huberman 1984, Guba and Lincoln 1985, Erlandson, Harris, Skipper and Allen 1993, Gubrium and Holstein 1997, Merriam 1988, Cresswell 1994, Bryman 2001, Babbie and Mouton 2006).

Therefore, instead of relying on the traditional validity and reliability measures, the qualitative researcher seeks trustworthiness, authenticity, and credibility, based on the coherence of interpretations, analysis and presentations through the process of verification (Guba and Lincoln 1988, Eisner 1991, Erlandson etal 1993). "If one assumes there are multiple realities (as is the case with qualitative studies) the notion of reliability is no longer as relevant" (Poggenpoel 1998: 350) as the "…knowledge is no longer the mere reflection of an active objective reality, but the construction of [a] social reality…" (Kvale 2000: 309).

Babbie and Mouton acknowledge the difficulties encountered by researchers in their bid to ensure validity and reliability of the research findings. They posited that "[a]lthough we should strive with everything in our power to do truly valid, reliable and objective studies, the reality is that we are never able to attain this complexity.

Rather it remains a goal, something to be striven towards, although never fully obtained" (2006: 276).

Attaining reliability, validity and objectivity would be more difficult in qualitative research in which the researcher is largely instrumental in the entire research process – making it impossible to eradicate his/her biases in the inquiry product.

In this study, authenticity and reliability of the research product were ascertained through triangulation of the data collection instruments, as asserted in previous parts of this chapter. The data for the research were solicited through interactive interviews from purposively sampled respondents, an extensive literature survey and the study of the relevant documentation. Gall et al. (1996), Bogdan et al. (1998), Tsayang (1995) pointed out that in case study research, it is vital to authenticate the findings through corroborative evidence drawn from multiple data-collection instruments and sources.

As stipulated above, the study employed in-depth interviews and document studies as data collection tools. The advantage of triangulation is that the methods complement each other in that the shortcomings and deficiencies inherent in each method and source are neutralized when they are used in conjunction with others (Leedy 1993, Cresswell 1994, Babbie and Mouton 2006). The data were interpreted and presented in detail – synchronizing the research findings, the data interpretation and the theoretical positions within the study area, in order to present a holistic and accurate picture of the role of track-one diplomacy in conflict-management and peace-building in post-conflict African economies.

According to Babbie and Mouton, triangulation is generally considered to be one of the best ways of enhancing authenticity and trustworthiness in qualitative research.

7.6 Data-analysis techniques

The analysis of data involves 'breaking up' the data into manageable themes, patterns, trends and relationships, in order to understand the various constitutive elements of the data. The constitutive process involves an inspection of the relationships between concepts, constructs or variables, and to determine whether there are any patterns or

trends that can be identified or isolated, or to establish themes in the data (Babbie & Mouton 2001:108).

The analysis of qualitative data also essentially entails three sequential processes: noticing, collecting and thinking about the research question or issue at hand. However, qualitative data analysis is not linear. When doing qualitative data analysis, one does not, therefore, simply notice, collect, think about things, and then write a report (Seidel 1998). Rather, the process has the following characteristics, which were adopted in this study:

The iterative and progressive process of qualitative data analysis

The process applied through qualitative data analysis is iterative and progressive, because it is a cycle that keeps repeating itself. When the study initiated thought about the research question, the researcher also started noticing new things. In principle, therefore, the process is an infinite spiral.

The recursive element of the analysis

Qualitative data analysis is also legitimised by its recursive nature. The process is recursive because one part can recall one back to the previous part. For example, while the researcher was busy collecting data and information, he simultaneously started noticing new things to collect. The qualitative data analysis also suits the conflict-analysis orientation of the study, and is holographic in nature, as each step in the process contains an entire process.

When the researcher started noticing things and trends pertaining to track-one participation in mediation and transitional order, for example, he was already mentally collecting and thinking about those variables.

The researcher used the qualitative data-analysis process, as captured by Jorgensen (1989: 107). His assertion was that the process sorts and sifts information, searching for types, classes, sequences, processes or wholes of the relevant data. The aim of this process is to assemble or reconstruct the data in a meaningful or comprehensible fashion (Jorgensen 1989:107). Reassembling and disassembling, therefore, occurred through the ‘coding’ process. The codes served to summarise, synthesise and seek

many observations made from the data. Coding, therefore, becomes the fundamental means of developing the analysis.

This study applied codes to synthesise and categorise a series of otherwise discrete events, statements and observations (see Charmaz 1983:109–128), which the researcher identified or traced in the data. The information was placed in different categories for easy analysis, which were integrated into a theory that offers an accurate and detailed, yet subtle, interpretation of the research (Babbie & Mouton 2001:198).

7. 7 Delimitations/scope of the study

The researcher employed primary and secondary data-collection methods in this research. It should be recognised that the Somali mediation involved, and is still based largely on, official state and diplomatic management, and some information as a result is not privy to the public. The researcher hence experienced the same difficulties in fully accessing these official documents and information.

The study was purposive, and the area of research was, therefore, limited to the official track-one conflict-management analysis, and specifically a case study analysis of Kenya's role in Somali's peace process and transitional ordering situation. It should also be noted that the volatile and high-intensity conflict in Mogadishu led to this research and data collection being conducted in Nairobi. Nairobi is strategic – to the extent that a great deal of Somali's conflict-management and human-security deliberations is conducted in this diplomatic capital.

The UN office in Nairobi and other intergovernmental bodies relevant to this study are duly located in Nairobi, and the researcher sought to take advantage of this. The researcher's proximity to these actors is also quite good, especially due to his research work and interactions in a think tank, which have a direct relationship with policy-makers dealing with the Horn of Africa politics. The think tank is the Institute for Security Studies (ISS) where he undertook human security research undertakings.

7.8 Timescale of the study

The conflict in Somalia, the negotiation agenda, and the situation are constantly changing, and a pedantic eye is required for the analysis thereof. The case also requires specialisation through critical investigation of one component of the peace process. This study targeted the Kenyan diplomatic engagement in the Somali peace process component and teased out possible scenarios for re-ordering and providing sustainable peace for Somalia. This is particularly important from the period 2002 to 2012, the period that this study critically investigates.

Kenyan engagement in the peace process officially started in 2002. It investigated the mediation and transitional ordering and peace-building role of track-one actors in an intermittent conflict exercise. These considerations structured the envisaged programme, since time was of the essence. The researcher sought to conduct the interviews and be in contact with the highly active diplomatic and conflict management processes for Somalia. This is essentially so in Nairobi, whereby Kenya has been holding talks and engaging with the different protagonists in the conflict.

Kenya is also currently regarded as the main mediator under IGAD of the Somali conflict. The relevant data were analysed in the course of time; and this went on to 2011 towards the first half of 2012, following developments as they progressed. The idea was to be part of the process for Somali's change towards a semblance of peace and order; and the findings therefore may support the processes and policy towards an effective conflict-management regime for Somalia. The time schedule does not assume that instant peace in Somalia would provide a ready analysis for the orientation of this investigation.

7.9 The assumptions

This study was premised on the assumption that Kenya's diplomacy was inchoate from the early period of engagement, starting in 2002. It was a case of incomplete diplomacy, as the original strategic soft-power role of Kenya's mediation and mid-wifing of the transitional Federal Institutions for Somalia was not followed up with a coherent post-conflict and development undertaking. Recent re-engagement in the Somali peace process by Kenya is a positive indication of a shift from this attitude. This study was premised on the further assumption that Kenya still has the necessary

mediation and third-party legitimacy status, and current development points in this direction.

The targeted interviewees were intricately involved in the conflict management and ordering of Somalia, from the official Kenyan engagement in 2002 to the current focus period (2012). The continued engagement the researcher has had with them is a situation that this study utilised.

7.10 Ethical considerations

One of the most important tenets of research is the ethics that accompanies it. Those tasked with steering the research process are tasked to uphold the highest standard of ethical considerations of human subjects who are largely the subject of such undertakings. As such, researchers are unconditionally responsible for the integrity of the research process. A researched interaction requires responsibility to ensure the dignity and wellbeing of the interviewees (O'Leary 2004:50).

Responsibility for the dignity, respect and welfare of the respondents is central to research ethics, and ensuring that no harm comes to the interviewees is a prerequisite of any research study.

The fact that human beings are the objects of study in the social sciences uncovers unique ethical issues that would never be relevant in the pure, clinical laboratory settings of the natural sciences. These issues are pervasive and complex, as data should never be obtained at the expense of human beings (Strydom 2005a: 62).

7.11 Informed consent

Given these contentious considerations, the researcher carefully explained the nature of the research to the participants. The practice of informed consent is a manifestation of the principle of one's respect for people. It stipulates that participants be prospectively informed of the purposes and terms of study participation, that they are judged to meaningfully comprehend this information, and that the voluntary nature of participation be conveyed to them. This is Belmont's conception of informed consent,

which has become ensconced as the cornerstone principle of research ethics (see Rosamund 2005; and as cited in Simmerling, Schwegler, Sieber & Lindgreen 2005). This was strictly adhered to in this research.

Strict adherence to this requirement, therefore, implies that the interviewees should be competent, should be involved voluntarily, are and ought to be made aware of their right to discontinue, and are neither coerced, nor induced to participate in the study. To this end, the interviewees must be legally and psychologically competent to give consent; and they must be aware that they can withdraw from the investigation at any time (De Vos, Strydom, Fouche & Delport 2002:65).

The researcher requested all the interviewees to sign a consent form after he had introduced himself and explained the objectives of the study. This form was the Nelson Mandela Metropolitan University (NMMU) research ethics consent form; and the form served to confirm that the participants participated in the research voluntarily, anonymously and with a sound comprehension of this undertaking.

7.12 Confidentiality and privacy

The essence of confidentiality entails ensuring that the publication of the research findings is executed in a manner that does not allow for ready identification of the subjects (O'Leary 2004:54). Part of an individual's right is privacy, and researchers must always recognise the importance of safeguarding the privacy and identity of respondents, and to act with the necessary sensitivity where the privacy of the respondents is necessary. Privacy, therefore, implies an element of personal privacy, while confidentiality refers to the handling of information in a confidential manner. In this line, and according to Strydom (2002:67), confidentiality becomes the very continuation of privacy. The researcher applied this conception critically; and therefore no names of respondents were mentioned.

This principle was extended to the data management in this study. All the raw data stored were safely kept for the purpose of this study, and were not and will not be given to anyone else for any reason. The researcher is bound by a guarantee he made to all the respondents that this information or transcripts thereof would only be used

for academic purposes, after which they will get a copy of the findings to verify this clause, and also the validity of information. This was done before the data were fully utilised by the researcher.

7.13 Conclusion

This chapter is an important component of this research, since it mapped out the relevant research design and methodology that would address the theoretical assumptions and research questions in the area of study. The dissertation's analysis is organized around elements of the research methodology and design highlighted in this chapter. This chapter also presents the methodology employed in the gathering and presentation of the data. It has embraced the research design, the study population and the selection procedures, the data collection instruments – in particular the use of open-ended interview questions, and the utilisation of documentary analysis.

The chapter also reflects on the justification for the use of selected techniques, their strengths and limitations; and it has discussed ways of ensuring data quality and the authenticity of the research findings and ethical considerations. It further briefly discussed the modes of data interpretation and analysis during fieldwork and in the post-field work phase. To further briefly recap, a qualitative approach was adopted in this study. It encompassed a multi-purpose approach that utilizes different qualitative techniques. This cut across the consideration of interviews, historical research methods, and documentary analysis: all within a case-study approach.

This chapter also situates the next chronology of analysis and provides for the basis of the next chapter, which critically discusses the research findings. The next chapter therefore comprises the discussion and presentation of the findings.

CHAPTER 8

DISCUSSION AND ANALYSIS OF THE RESEARCH FINDINGS

8.1 Introduction

This chapter analyses the data and the responses from the views of the targeted population and those entities, as well as the respondents that saw the 2002 to 2004 process into fruition, and are still engaged in the conflict-management and diplomatic processes pertaining to the Somali impasse. This comprises an analysis of the

participants' understanding, experiences, views and reflections on the Kenyan track-one diplomatic and peace-building engagement on the Somalia peace process.

It is essential to conduct a chronological analysis of the responses pertaining to the Kenyan-led Somali process from as early as the 2002 experiences and onwards up to the first half of 2012, so that there is a succinct picture of the role of track-one diplomacy in spear-heading a conflict management and peace-building process and to also tease out the missed opportunities and map out any feasible strategic engagement avenues.

The data were analyzed and presented through the *descriptive and explanatory qualitative approaches*. The data from the interviews and the analysis from the document studies were coded and 'broken up' into manageable themes, patterns, trends and relationships, in order to understand the various constitutive elements of the information. The constitutive process involved an inspection of the relationships between concepts, constructs or issue areas, and to determine whether there were any patterns or trends that could be identified or isolated, or to establish themes in the data.

The analysis of the qualitative data also essentially entailed three sequential processes: noticing, collecting and thinking about the research question or issue at hand. However, qualitative data analysis is not linear. When doing qualitative data analysis, one might not simply notice, collect and then think about things, and subsequently write a report (Seidel 1998: 3-6). Rather, the process had certain characteristics, which were observed in this study. The process observed through qualitative data analysis was iterative and progressive, because it was a cycle that kept repeating. When the study initiated thought about the research question, the researcher also started noticing new things. In principle, therefore, the process was an infinite spiral.

The qualitative data analysis was also legitimised by its recursive nature. The process was recursive because one part recalled the researcher back to a previous part. For

example, while the researcher was busy collecting data and information, he simultaneously started noticing new things to collect. This was largely defined by the ever-fluid nature of the Somali conflict and the changing dynamics. This had to be in principle taken into context – to the extent that certain developments had a bearing on the study.

The qualitative data analysis also suited the conflict-analysis orientation of the study and was holographic in nature, as each step in the process contained an entire process. When the researcher started noticing things and trends pertaining to track-one participation in mediation and transitional order, and on the changing conflict relationships of the different actors in the Somali conflict, for example, he was already collecting and thinking about those aspects and how they might be connected.

The aim of this process was to assemble or reconstruct the data in a meaningful or comprehensible fashion (Jorgensen 1989:107). This is particularly observed in this chapter's second phase of the analysis that looks at the Kenyan track-one engagement after the 2002 – 2004 official entry into the peace process. The relevant data, the responses and reflections on Kenya's strategic intervention avenues, especially after the 2004 data were critically assembled in such a way as to bring out the ready points of entry leading up to the intermediary's mediation and peace-building inputs.

This chapter, therefore, presents an analysis from interviews on Kenya's track-one diplomatic and peace-building initiatives – and with a particular focus on the country's mediation experiences pertaining to the Somali conflict in the period 2002 to 2004. This is the first phase of the data analysis. The second aspect of the chapter presents an analysis of the participants' reflections, experiences and strategic aspirations pertaining to Kenya's continued mediation and intervention engagement after 2004 onwards to the focus period 2012.

The latter phase of the data and presentation of findings from the analysis is important to the extent that it does investigate strategic intervention avenues that Kenya has taken up and could further engage in within the continuing process. In this latter section of the analysis, of essential importance will be information pertaining to the

utilisation of arms control and disarmament diplomacy, as a diplomatic continuum for Kenya in the Somali impasse.

8.2 PHASE 1 ENGAGEMENT: 2002 - 2004

The responses in this chapter were a culmination of a systematic structuring of targeted audiences, respondents and the population that would address the main aspects of this study. In essence, this was a culmination of the administration of interviews that were divided into three categories. These were:

1. Category one of interviews
2. Category two of interviews
3. Category three of interviews

8.2.1 Category 1

This category targeted Kenyan representatives and mediators involved in the Somali Peace Process. These are special envoys, other foreign service officials, those accredited by the Intergovernmental Authority on Development (IGAD), plus those working in the African Affairs and Horn of Africa divisions of the Kenyan Foreign Ministry. This category of the sample population basically addressed *track-one diplomacy* and the *soft-power practice of the diplomacy of conflict management.*

8.2.2 Category 2

This category targeted officials in the Office of the Special Representative of the United Nations (UN) Secretary General on the Horn of Africa. In the same category are officials in the United Nations Political Office for Somalia (UNPOS), and also officials from the Africa Peace Forum Organization (APFO) and the Regional Centre on Small Arms and Light Weapons in the Great Lakes and the Horn of Africa

(RECSA), the East African Standby Force Co-ordination Mechanism (EASFCOM), the International Peace Support Training Centre (IPSTC), and the Office of the Deputy Special Representative-AMISOM.

This category of the sample population basically addressed *track-one diplomacy* and *track-two diplomacy*, and essentially the latter aspect – of the intermediary roles of track-two diplomacy.

8.2.3 Category 3

This category targeted the *peace constituents or civic representation* of Somalia. This sample population represents the Somali people or citizens with those in the Diaspora, and in this case, those based in Kenya. It is under this specification that those in Nairobi were targeted – due to their ease of access. This category of the sample population, therefore, addressed *the social cultural base in peace-making*.

8.3 Category 1: Kenyan representatives, mediators and Foreign Service officials

Responses provided within this category comprise those that *sought to remedy track-one diplomacy*, and the diplomacy of conflict management, and had common attributes with regard to interview questions responses pertaining to this track. The following information was gathered on the interview questions:

"What is the basis behind Kenya's preference of conflict management in its foreign policy approach in the Somali mediation?" And

"What is Kenya's foreign policy in regard to Somalia and the Horn of Africa in general?" And

"What are the Kenyan interests in the Somali conflict?"

The Foreign Service officers and the special envoys had a common front regarding these interview queries. The Director of Political Affairs and political officers at the African division of Kenya's foreign ministry argued that "Kenya's foreign policy had

and still has to contend with the geopolitical implications and dilemmas that are the results of very active and fluid conflict systems, which prompt Kenya to reconceptualise its interests".

These are the dilemmas and geopolitical considerations that emanate from the situations in the Great Lakes conflict systems and, most importantly, the Horn of Africa conflict system. The Director of the Kenyan Foreign Service Institute under the same Foreign Ministry noted that these are "quite proximate to Kenya geographically and in terms of geopolitics of the greater Eastern Africa conflict system". The mechanism adopted by Kenya's diplomacy as a result of this security complex, and which set the pivotal stage for Kenya's foreign policy, was the utilisation of peace diplomacy, which is a major soft-power tool at its disposal. The Head of the Africa Division in the foreign ministry is quoted as follows: "There lay enough conflicts in the regions to preoccupy even the most formidable conflict manager; and this was the kind of role that a small power, such as Kenya, with limited power capabilities, would be able and was able to play by applying soft-power capabilities at little financial costs".

It was mentioned that the former Kenyan president (during the administration of President Daniel Moi) and diplomatic mandarins had set a diplomatic precedent in an active regional role in the field of conflict management. Case points were Kenya's mediation of the Uganda conflict during the period of August to December 1985, the Kenyan mediation of the Sudan conflict, which coincided with the Somali process between 2002 and 2005, and on the Mozambique conflict between 1988 and 1989.

With regard to the Horn of Africa, the Kenyan envoy accredited to Somalia and attached to the Intergovernmental Authority on Development (IGAD) argued that the foreign policy affiliated to this conflict system was based on the "articulation of the principles of good neighbourliness by means of the promotion and expounding of international peace and security through the waging of alternative dispute-resolution mechanisms".

The foreign policy, therefore, articulates the formal doctrines of international diplomacy that animate themes of international dispute resolution, international law

and international relations, in general. With reference to Somalia, interests that had to be pursued and safeguarded dictated Kenya's foreign policy towards this geopolitical entity. Towards this end, it was widely accepted by the office of the special envoy for Somalia that as a result of the 1 000-km radius borderline that Kenya shares with Somalia, Kenya has found it challenging to deal with the large numbers of refugees who have proven to be a financial burden and a threat to the Kenyan political, social, security and ecological environment.

On issues regarding security and its strategic effects, the Somali conflict and its proximity to Kenya has led to an infiltration and eventual proliferation of small arms in Kenya. It was also generally argued by the Kenyan special envoy to the Somali peace process that there was an *ipso facto* interest espoused generally by the diplomatic precedent set by Kenya as a main player in the region's conflict-management processes. This had to be pursued within a soft-power mode of diplomacy. Another general consensus that was highlighted was the international circumstance that Kenya found itself in, especially in the late months of 2002, and immediately after that.

The year 2002 was an important year for Kenya, and a lot of systemic changes were taking place both within its domestic political and democratisation set-up and also in terms of Kenya's forays into regional diplomacy. Some Foreign policy respondents, and those confirmed by the Director of Political Affairs in the Kenyan Foreign Minister's office and Somali specialists, mentioned that Kenya needed to portray to the world that it was an "upcoming beacon of democratic values and a regional leader with credentials in facilitating peace processes and governance-support processes in Africa".

This was seen as a medium and legitimate cause that determined its foreign policy, especially in terms of political-strategic leadership – not only domestically, but also regionally. A number of the respondents within the Kenyan foreign policy and diplomacy establishment, however, maintained that there was lack of recognition of the nexus between 'domestic policy and politics' and 'foreign policy' by the political class and administration in Kenya at the time.

The Director of Political Affairs at the foreign ministry noted that in 2002 up until 2005, Kenya was experiencing what is commonly referred to as the "Third Wave of democratization" in the country. This was a time when there was a peaceful and democratically enabled transfer of power from the long authoritarian rule of former President Moi (1978-2002) to President Emilio Mwai Kibaki. Domestic governance concerns were the main priority of the Kibaki administration and foreign policy concerns lost momentum and took a back seat.

This affected Kenya's sustained processes, especially in a visible and very active regional conflict management strategy that it had pursued relentlessly. All in all, Kenya's peace diplomacy was still at play and regional-conflict management processes that it had initiated had to be seen through to their conclusion. Cases in point were Kenya's mediations of the Sudan conflict (2002-2005) and the Somali conflict during the same period.

Other sets of responses were related to the interview questions:
"What diplomatic strategies were employed towards the mediation of the Somali conflict?" and
"How did you deal with other frontline States considering their interests in the Somali conflict?" and
"What are the problems that your office faced in the Somali mediation process?"

It was noted, by the former Kenyan special envoy to the Somali peace process that the track-one entity had to contend with capability realities. The strategies, especially towards the Somali mediation, had to utilise and incorporate soft-power capabilities. The strategies applied were the use of good offices within a track-one mode, the use of the office of the special envoy, regional and international condemnations and a small but strategic number of fact-finding missions. Owing to the intricate interests of the different IGAD member states with regard to Somalia, Kenya as chair and moderator of the Facilitation Committee had to apply shuttle diplomacy tactics, especially through the special envoy and the country's chief diplomat (bearing in mind his role in appeasing hostilities of the member States, especially Djibouti and Ethiopia).

This comprised the influential use of the good offices of the Minister of Foreign Affairs and was observed in 2003 in Addis Ababa. On this occasion, the ambassador, Mr Kiplagat, and the then Foreign Minister Kalonzo Musyoka floated the kite towards international condemnations of the activities of not only factions, but also member states of IGAD and interested actors pertaining to the implications and activities that would derail the process.

Another set of responses were related to the interview questions,
"What is the mode of operations with regard to the Kenyan relations with: Somalia factions and international entities?" and
"What was the nature of Kenya's conference diplomacy with regard to how international liaison and general protocol was conducted?"

Towards this end, in terms of the relations of Kenya with other track-entities and factions, it was noted by the Somali peace process co-ordinator at the Kenyan foreign ministry, that this was one of the most difficult diplomatic situations in the Kenyan-led process. Representation was the main hurdle to cross and this required assistance, especially by the EU, which had working relationships with Somali-based civil society stakeholders and also involved the UN.

Basic protocol procedures involved liaising with these entities in providing specification modalities of representation and recognition of the same. They worked collaboratively with the Kenya government to provide succinct information and networking with the Somali clans, civil society organizations and business personalities who had a hand in streamlining Somali politics. Kenya used this collaborative platform to map out the different actors and their interests in the Somali debacle.

This provided some legitimacy to Kenya's involvement as a third party that was proximate to the information and woes of the different actors in the Somali conflict. The utilization of shuttle diplomacy and eventual conference diplomacy was therefore made possible by these collaborative and fact-finding processes. Problems that actually arose due to the high number of actors and interests had to be co-operatively co-ordinated for the sustainability of the process. These were procedural intermediary

tasks and roles, which if overlooked would have meant the crumbling of a shaky diplomatic endeavour.

The Director of Political Affairs at the Kenyan foreign ministry unpacked how Kenya's foreign policy and diplomacy had sought to bring together all these aspects and dynamics in a rational way. A discussion of Kenya's current foreign policy, as presented by this main foreign policy advisor in the foreign ministry, caps track-one diplomacy orientation in the peace diplomacy pillar and also connects to the other pillars of Kenya's foreign policy.

8.3.1 Kenya's foreign policy

Interviews with the Director of Political Affairs of the Kenyan foreign ministry revealed that the country's foreign policy strategy rested on six interlinked pillars: peace diplomacy; economic diplomacy; environmental diplomacy; diaspora diplomacy; conference diplomacy; and cultural diplomacy.

On the *Peace diplomacy pillar*, the director asserted that: "Convinced that its own stability and economic wellbeing are dependent on the peace and stability of its neighbours, Kenya has sought to strengthen its internal capacity and that of other African countries to enhance conflict prevention, management and resolution abilities of regional institutions, such as IGAD". This relates to the geographical and geostrategic fact that Kenya is sandwiched between two protracted conflict systems, namely: the Horn of Africa and the Great Lakes security complex, as also noted at the beginning of this chapter.

Pertaining to the '*Economic diplomacy pillar*', the political affairs director noted that "Guided by the shared prosperity with its neighbours, Kenya supports regional efforts to transform regional organisations, such as the East African Community (EAC) and the Common Market for Eastern and Southern Africa (COMESA), in order to open up markets into more viable economic blocs, while strengthening strategic ties with traditional markets and sources of capital as emerging economies in Western and Eastern Europe, Asia, the Middle East and Latin America".

On the *Environmental diplomacy pillar*, he asserted that "Kenya in its policy guidelines seeks to implement new diplomatic initiatives to promote sustainable environmental policies and activities globally". He also noted that the environmental diplomacy pillar was important and closely connected to the 'peace diplomacy pillar' to the extent that one of the major drivers of conflict in the Great lakes region and the Horn of Africa was resource-based contestations. The utilization of resource-conflict management processes was, therefore, a main consideration in Kenya's policy in the regions. He asserted that it was in Kenya's interests that the regions stabilize, since their markets' sustenance directly affected Kenya's trading with them.

On the aspect of *Diaspora diplomacy*, the director noted that Africa's descendants and Kenya's estimated 1.8 million nationals living and working abroad constitute an important resource. Kenya, under this pillar, seeks to strengthen the capacity of the International Jobs and Diaspora Office in Kenya's foreign ministry to promote access by Kenyans to the expending and competitive international labour market, while innovatively harnessing the skills and resources of Kenyans abroad, and broadening engagement with outstanding Kenyans to advance the country's national interest.

He further asserted that: "Kenya towards this end seeks to enhance its partnerships with UN and AU frameworks, such as the UN Economic Commission for Africa (UNECA) and the Economic, Social and Cultural Council of the AU (ECOSOCC) to promote the integration of the African Diaspora into continental development".

On the *Conference diplomacy pillar*, he explained that it was important to promote and maintain Nairobi as a centre for multi-lateral diplomacy by fostering a secure and enabling environment for the operation of the UN, including the UN Political Office for Somalia, the AU Mission to the Somali secretariat and other international organisations. Kenya, therefore, seeks to promote Nairobi as a venue for multi-lateral diplomacy and international commercial and conflict-management negotiations. He noted that closely connected to this pillar was cultural diplomacy, whose basis is influencing others in terms of Kenya's "cultural heritage" through avenues like tourism.

8.4 Category 2: Responses of the UN officials and Africa Peace Forum

UN officials

Responses in this category sought to address the themes of track-one and track-two diplomacy. The UN officials had similar responses, and of the inquiries administered to the respondents, most were duly addressed and had similar overtones.

The first set of responses was related to the interview questions:
"What is the mandate of the office of the Special Representative of the UN Secretary General to the Horn of Africa, and how is it operationalized in terms of Somalia?" And
"What was the Special Representative's role in the Somali peace process from 2002 to its completion in 2004?"

With regard to the general position and mandate of the UN regarding the Somali peace process, it was noted by an official at the UN special representative's office that the Somali conflict and security situation constituted a principal agenda to the UN. In fact, it was stated that Somalia was on a higher agenda within the UN priority systemic areas of concern, especially regarding the international peace and security posture, as determined by its situation. It was in this regard that the UN Office of the Secretary General's Representative to the Horn of Africa noted that in a presidential statement on 31 October 2001 (S/PRST/2001/30), the Security Council requested the secretary general to submit reports, at least every four months, on the situation in Somalia, and the efforts to promote the peace process.

It was from this mandate that a critical and urgent process of setting the Secretary General's Representative's Office for the Horn of Africa was formed, including the United Nations Political Office for Somalia (UNPOS).

The official further reiterated that "the UN's role was one of observation and facilitation of the peace process, and this is ambiguously translated into efforts characterised by critical diplomatic lobbying and reconciling the different actors through the Special Representative's good offices". This was geared towards bridging the divergent positions. With reference to track-one and track-two collaborative

frameworks, it was also noted that the UN as an official diplomatic entity engaged with a good number of Somali stakeholders, in groups, as well as individually.

Another component pertaining to this target population and views on the peace process has to deal with the nature of the latter. It is apparent that within a peace process there is also the paradoxical and adjacent process of conflict progression and transformation. It is in this light that, as part of preventive diplomacy, the Representative's office, which also doubles up as the United National Political Office for Somalia (UNPOS), collaborated with the office of the UN coordinator – the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), other UN agencies, NGOs and local authorities in averting any possible escalation of conflict inside Somalia, as well as open conflict.

Other responses were related to the question:
"*Did the UN offices co-ordinate with NGOs within the Somali peace process and how did this happen*?"
The officials from the special representative's office and UNPOS pinpointed the UN's role and co-ordination with track-two entities with regard to the peace process; and they singled out the 2003 September-October failure of the Deyr season rains in the Sool, Sanaag and Bari regions. They asserted that the co-ordination was towards humanitarian catastrophe amelioration, considering the fact that more than 90 000 pastoralists were facing serious food shortages and the loss of livestock, pasture and food.

The response, courtesy of the UN offices, was the provision of limited health services, the distribution of targeted family rations, the subsidisation of water distribution and the rehabilitation of existing water sources. The UN also supported humanitarian efforts by local and international non-governmental organizations with a presence in these areas. These were human security threatening situations – which were not to be ignored if the peace process was to continue unabated.

The UN cited that often times, these ecological and health-security challenges more often than not compounded into different flash points of social conflict, and this had to be arrested before further stresses were and are felt within an already fluid conflict

zone. This was the role of *development and livelihood security-oriented diplomacy* that the UN utilized concertedly in tandem with other organizations.

The UNPOS explained that as a result of this humanitarian situation, heightened tensions over Las-Anod[84] at that time were observed. It was highlighted by the UN officials that since 1991 and in the early years of Somali's civil war, there were tensions over the control of the area known as Las-Anod. In 1991, when Somaliland unilaterally declared independence from Somalia, it claimed the Sool region of Somalia and its capital Las-Anod, despite the fact that the clans in the area were closely tied to those in the adjacent provinces to the East, particularly Nugaal.

In 2002, after Puntland reorganized, following its 2001-2002 civil war, it [Puntland] took over administration of Las Anod with the consent of the inhabitants. However some inhabitant clans over time felt disenfranchised by the government in Puntland, and sided with Somaliland in take-over attempts. Therefore, this area (Las Anod) has historically been highly contested by Somaliland and Puntland. Las Anod was and still is a major communication and transport point linking different parts of Somalia; and more often than not humanitarian logistics and transports are well facilitated from here.

The UNPOS office sought to bring the Somaliland and Puntland administrations together, in an effort to ensure that open conflict was diverted and that humanitarian access was maintained. This, the UN noted, was an important interplay of a multi-track-oriented diplomacy, a symbiotic working situation towards positive peace in Somalia. This also ensured that other issue areas of concern did not disrupt the Kenyan-led mediation and the continuity of the peace-process momentum.

Other responses were related to the interview question:
"*What was the mode of operation of the office with regard to relations with the Somali geopolitical space itself*?"

[84] Las Anod is the administrative capital of the Sool region of Somalia. It is strategically positioned along trade routes in north-western Somalia. The city is almost surrounded by hills and has considerable water resources, the latter of which make it a prime destination for peoples from other parts of generally arid Somalia, as well as from neighbouring countries, such as Djibouti and Ethiopia. Las Anod's economy is based on livestock and communications. The area around the city is also rich in livestock.

In terms of the relations between the UN offices and the Somali people, it was observed by a senior political officer at UNPOS that the offices spear-headed, before the close of the peace process, certain enabling activities towards sustained peace. For example, the UN assisted local authorities in Somaliland to improve the administration of justice by supporting the establishment of the rule of law, local capacity building for law-enforcement agencies and improving the application of human-rights standards.

The UN also supported and assisted in the establishment of a functional police headquarters at Hargeysa, the graduation of 130 cadets from the Madera police academy, the training of the judiciary and the establishment of a legal clinic at Hargeysa University. These were activities that were hoped would be replicated in other larger parts of Somalia once some semblance of peace were realised there. The political officer noted: "These *development diplomacy* activities to some extent ameliorated any advent of unrest and disorder in some important patches of Somalia".

He put it across that this was a reflective example to other Somali regions that order and normal administrative tasks could be realised in the general statecraft of the country. These efforts also provided a 'necessary order' that was an essential ingredient for a peace process to be waged by other third parties or players in the system, like Kenya.

Other responses were related to the interview questions:
"*What nature of assistance did the Special Representative's office offer Kenya, which was the main facilitator of the Somali peace process*?" And
"*What is the Special Representative's and the UN's position on the policy of delegation of conflict-management tasks to sub-regional organizations*?"
" *What role did UNPOS play with regard to its relations with Kenya considering that it was headquartered in Nairobi?"*

The UN officials noted that the two particular offices assisted in the organisation of a conference in London on 3 and 4 December 2003. The conference aimed at

addressing the issue of remittances to Somalia that provided approximately US$1 billion of foreign income annually. The conference, courtesy of these offices, involved financial sector regulators from Europe, the USA and representatives from Somali-remittance companies. The conference resulted in the establishment of the Somali Financial Services Association; it was a regulatory body that aimed to fill the void in regulation caused by the limited mandate of central government, thus improving the credibility of the Somali remittance sector with foreign governments. This provided for an avenue to ensure that fiscal and financial security were enhanced in the shaky territory of Somalia, and for basic human-security activities to at least be in motion as the Kenyan-led mediation forged on. This was yet another development diplomacy phase and support system in the mediation process.

In terms of strategic conflict management and closely related to arms control and disarmament diplomacy, the Special Representative's office observed that the mission of the Security Council Committee established pursuant to resolution 751(1992) to the region in November 2003 and the adoption of resolution 1519 (2003) on 16 December 2003 demonstrated the council's determination to give full effect to the implementation of an arms embargo on Somalia.

With that resolution, the council, inter alia, reiterated its serious concern over the continued flow of weapons and ammunition to and through Somalia. The respondents observed that the UN Secretary General established a monitoring group composed of four experts, for a period of six months, to be based in Nairobi. Further reiteration confirmed the fact that Kenya's Ambassador Kiplagat and the Minister for Foreign Affairs, Mr Kalonzo, personally pressured the UN to expedite the work of the monitoring group.

The diplomatic strategy in fact aimed at international condemnation, as exemplified by Kenya, and sought for a monitoring group. True to the UN's word, Nairobi was seen as the base for the group, which was mandated to, among other things, investigate any violations of the arms embargo covering access to Somalia by land, air and sea, and to provide a draft list of those who continued to violate the arms embargo inside and outside Somalia, and their active supporters, for possible future

measures by the Council. This supported and reinforced the Kenyan mediation in that a strategy that provided a diplomatic momentum was brought in.

This was a sanctions' regime and deterrent system, whereby the different actors in the conflict and peace process had to adhere to certain standards of engagement, and to refrain from actions that would challenge the ongoing talks. In short, any action that was perceived to be a violation of human rights and humanitarian laws and norms pertaining to the Somali situation by the actors was handed over to the international community for possible sanctions. This was a part of the diplomacy of human security within Kenya's conflict-management practice, and it sought to ensure that the impending violence in Somalia would reduce, and was being managed as the peace process continued.

Arms control diplomacy that was also a construct reflecting a human-rights diplomacy angle, therefore, became a strong conflict-management mechanism, and provided positive momentum for the process to move forward.

In general, however, it was noted by the officials that the UN's role was more one of providing strategic humanitarian engagement and social co-ordination. Pursuant to this, the UN was leading in the implementation of the 'Common Humanitarian Action Plan for Somalia' as a supportive role to the Somali peace process.

Officials of the Africa Peace Forum Organization (APFO)

The responses under this category were provided by a director of the organisation, who is a retired ambassador and career diplomat. At the time of the research, he oversaw the projects and programme-analysis work of the organisation.
The first interview responses were related to the question:
"What was the role of APFO with regard to the Somali peace process?" And
"What is your opinion regarding the role of track-two entities, such as NGOs, in terms of the Somali peace process?"

The role of APFO[85] was more that of a gatekeeper. To explain this, the retired ambassador asserted that the organisation had one of its own, the main special envoy and mediator of the peace process, Ambassador Bethwel Kiplagat. It was argued that APFO's interests were represented indirectly by the diplomat, to the extent that Kiplagat understood the philosophies underlying the working environment and the effect of both the track-one and the track-two diplomatic worlds.

Kiplagat utilised the track-one diplomatic offices of the Kenyan mediation, by empowering and enabling track-two entities, including APFO, towards complementary roles for sustained peace. This is a situation in diplomacy and mediation that is well articulated by personalities that have worked in both track-one and track-two institutions. The former envoy and official of APFO noted that Kiplagat seemed to fit this bill and utilised the different experiences as Kenya's Special Envoy and lead facilitator of the Somali peace process.

He noted that a case in point was Kiplagat's use and recognition of APFO's advisory role and consultancy services (as a major regional think tank) with regard to modalities pertaining to understanding the dynamics of the Somali conflict, the interests involved and the general international implications. As a depository of critical conflict and security analysis pertaining to the Horn, the APFO provided a good situational reference point in understanding the different scenarios, strategic inputs and predicaments relating to Somalia.

The APFO and the ambassador had a feeder-complementary role under which APFO had the backload of information and contacts with the International Partners' Forum, which was translated by the organisation as ready background information. The Ambassador, therefore, channelled into the process as the lead mediator these conflict-knowledge-based ingredients into the official Kenyan-facilitated Somali peace process.

[85] The *Africa Peace Forum Organization (APFO)* is an independent non-governmental or track-two organization based in Nairobi, Kenya. It has the overall objective of contributing to the prevention, resolution and effective management of conflict by engaging state and non-state actors in developing collaborative approaches towards lasting peace and enhanced human security in the Greater Horn of Africa and beyond. , http://www/amaniafrika.org/about-us as (accessed on 8 June 2012).

Another response was related to the interview question:
"What did your organization, as a resource centre for the International Partners' Forum, and partners that you represent, contribute to the Somali peace process?"

It was noted by the Director of the organization that the APFO is a principal resource centre of the International Partners Forum that linked non-governmental entities and different civil societies on the basis of the general agenda of peace and consultation on Somalia. Its background track-two role was largely based on this capability of co-ordinating a large knowledge-based platform on the Somalia area studies and conflict analysis.

He further put it across that "under the International Partners Forum, the APFO maintains under this umbrella certain collaborative security initiatives". From interviews with the APFO official, it transpired that the organization perceives that peace-making and peace-building, in particular, are processes that ultimately include a wide range of stakeholders. Through the International Partners Forum, the APFO maintains a strong working relationship through Memoranda of Understandings with governments in the Eastern Africa region, intergovernmental and non-governmental bodies and research institutions – both within Africa, and abroad.

It was noted that examples of these collaborative security partners in the pursuit of peace are the East Africa Community (EAC), the Intergovernmental Authority on Development (IGAD), the Bonn International Center for Conversion (BICC), the International Committee of the Red Cross (ICRC), SaferWorld (UK), The Centre for Humanitarian Dialogue (HD) – Geneva Switzerland, The Centre for Conflict Resolution (CCR), the International Conference on the Great Lakes Regions (ICGLR), amongst others.

8.5 Category 3: Responses from the Somali Public

Responses in this category were from the views of Somali community leaders, particularly those in Nairobi, Kenya and Eastleigh (or little Mogadishu, as it is popularly christened), a part at the outskirts of Nairobi where a good number of urban

refugees, mainly from Somalia, have settled. The response to the Somali view about the peace process and how it was conducted formed the main basis of this category.

The first set of responses from this category were related to the interview questions:
"*Do you think that the Somali peace process was a success and why*?" And
"What role did the Somali cultural norms and institutions play in the peace process?"

It was noted by this targeted population that the Somali situation had improved at that particular time and place (between 2002 and 2005), since the inception of the process and the installation of a semblance of government in Somalia.

On issues regarding the role of the Somali people, who are peace constituents, a Somali leader noted that the process could have taken a shorter time and covered serious ground if only tactics familiar to the Somali community had been applied at certain stages of the process. A Somali leader who was present in the 2002-2004 peace process, and who was a delegate, noted that the conference needed a sort of praesidium, functioning as what he referred to as "Shir Guddon" (translated to mean 'steering committee'), which manages traditional Somali meetings, sets the agenda and provides leadership to ensure that meaningful decisions are reached.

Other responses were related to the interview questions:
"What problems do you perceive existed in the Somali peace process?" And
"How were the Somali peace process, the modalities and the actors representative of the general Somali views, societal make-up and aspirations?"

The respondents noted that for the peace process to have gained peace faster and more permanently, a form of arrangement to restore legitimacy or to further the legitimacy of the process through outreach to communities inside Somalia was needed within the beginning stage and in the interim period of the process. A tactic would have been for Kenya, through its mediators and partners, to periodically visit Somalia to explain what kind of process it envisaged. The main idea here would have been to get feedback from the general Somali public. This would have revived the needed public interest in and support for the process in a more solidified manner.

According to some Somali respondents, it would have created public pressure on leaders to return to the bargaining table and work towards an undivided settlement. It also would have ensured that the final agreement would be sold more easily and coherently to the constituents back home.

Other responses addressed connected interview questions and had similar overtones. The responses addressed the questions:
"What role do you think Kenya played in the Somali peace process?"
"What is your view on Kenya's relations with the Somali representation and people?" And
"In your view, did Kenya have the required legitimacy to facilitate and principally mediate the Somali conflict?"

There was a general response that Kenya's position in peace-making assured Somalis, both those in Somalia and the Diaspora, of a sustained peace process, in spite of the recurring diplomatic hiccups. Some of the respondents asserted that they were apprehensive at the start of the peace process, and of the capacity for Kenya to deliver peace. All in all, the majority of the respondents felt that this was the most ambitious process they had encountered within the Somali impasse. Kenya needed to re-invigorate its diplomatic energies in terms of Somalia, especially in the current focus period.

It was largely observed that owing to historical and proven legitimate links to Somali's peace, demographic and geographic similarities, Kenya was actually obligated to push on with Somali's peace-making process.

It was also largely felt by the Somali respondents that it seemed to the Somali people that the international community in general had left all mediatory and interventionist duties to Kenya. As such, indicatory remedies that the respondents felt would have provided for a more stable and faster Kenyan-led mediation were the use of the international media for coverage of the Kenyan-led conference proceedings or 'public diplomacy', similar to footage provided by Arabsat television during the Arta conference, together with regular coverage on BBC radio and the local media.

This latter remedy was echoed by a small section of respondents representing Somali businessmen who had interests in the media sector and were involved in the Arta conference. There was a general assertion that information and real-time public education about the ready alternatives to conflict were essential for the general population in Somalia, many of whom had lived through or grown up in a situation in which a culture of violence had thrived. This would also have provided platforms for Somalis to accept any third-party processes that had their interests at heart.

8.6 PHASE-2 ENGAGEMENT: 2004 - 2012

The first phase of the analysis dealt with the experiences, views and reflections pertaining to Kenya's contemporary diplomacy in the mediation of the Somali conflict and the 'diplomacy of conflict management'. This specifically entailed an investigation of Kenya's official engagement in the Somali peace process in the period 2002–2004. It also provided views and experiences of other multi-track players in the process during this particular phase.

As outlined, the mediation and facilitation process was no easy task for this small State, which had to compromise, and integrate the dynamics of collapsed societies, the 'intrastate' mode of conflict, nationalism and the interplay of international politics. However, the researcher here argues that the period that followed the formation and mediation towards a (TFG) administration in Somalia experienced some form of inchoate control (incomplete diplomacy) and follow-up of processes.

It was not enough that Kenya participated in the important process of mid-wifing a semblance of a legitimate State and government authority for Somalia. In the discourse of conflict analysis, there is the maxim and observed reality that conflicts *per se* have a life of their own. In forging on towards a sustained peace process and selling of the agreements to conflict societies and nodes, different peace-making strategies have to be applied; and these have to match the different levels of conflict.

Such is the intricacy of peace-building, and the interface between peace-management and conflict-management. This is a reality that Kenya has to deal with in the post-

mediation phase. How should the small State re-engage and apply more strategic capabilities that could be an important cog for Somalia's positive peace process?

Therefore, a diplomatic continuum in the Somali peace process has to be realised. This is, and was, necessitated more by the very nature of the internal situation in Somalia, peace-keeping and enforcement inconsistencies in the conflict zone, and also by the evolving conflict in the country with the entry of new actors slowing down the processes initiated. These developments are discussed in the second phase of the data analysis and discussion. Kenya's engagement in mediation and peace-building efforts towards order and reconstruction in Somalia will be investigated in these contexts.

New avenues that could redefine Kenya's role in effective peace-making and peace-building are evaluated, most importantly the role of the Regional Centre on Small Arms and Light Weapons in the Great Lakes and Horn of Africa (RECSA), (RECSA),[86] or, as it is popularly known, the 'Nairobi Secretariat' is an institution that Kenya helped architecture and to which it transferred operational power. This potentially effective peace-building mechanism will be critically investigated from the findings in this second phase. Responses and analysis, as provided by the international Kenyan diplomat leading the organization [RECSA], would open up discussions on the utilisation of arms control and disarmament diplomacy as a mediation and general-conflict management tool in the Somali impasse.

The presence, use and proliferation of small arms and light weapons have been a major driver of conflict – not only in the Horn's conflict system – but also in epicentres like Somalia. The novelty of the Kenyan-facilitated Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa (Maze & Rhee 2007)[87] as a possible

[86] RECSA is an institutional framework arising from the Nairobi Declaration on the Problem of Illicit Small Arms and Light Weapons in the Great Lakes region and the Horn of Africa to coordinate the joint effort by national focal points in member States – to prevent, combat and eradicate stockpiling and illicit trafficking in small arms and light weapons in the two conflict systems. See www.recsasec.org/about.htm [2 February 2011].

[87] Signed in 2004 and with the Best Practice Guidelines on Implementation of the Protocol following in 2005, the Nairobi Protocol entered into force in May 2006. The signatories to the protocol and member states of RECSA are Burundi, the Democratic Republic of Congo, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, the Seychelles, Somalia, Sudan, Tanzania and Uganda. It should be noted that this protocol is the driving force behind small arms action in East Africa. While the East African States recognise the

mediation and conflict-management tool is thus critically analysed within the Somali conflict background.

Another major contemporary development, which defines Kenya's future engagement with Somalia diplomatically, is provided by opportunities created by Kenya's unexpected but strategic military intervention in Somalia in late 2011 until the present (2012) focus period. Kenya has been rehatted into the AMISOM peace-keeping mandate; and possible engagement scenarios are further provided by this systemic development.

As a starting point in the second phase of the data analysis and discussions, it is important to look at the current developments in Somalia that have provided a situation in which Kenya's first phase of its diplomatic engagement (2002 – 2004) could be viewed as '*inchoate or incomplete diplomacy*'. This context would help in understanding where Kenya should focus its strategic diplomatic engagement in the post-2004 mediation space. This will also take into account a brief discussion and analysis of hard-power utilisation of Kenya's Defence Forces (KDF) to arrest spoilers of peace – this in direct reference to *Al-shabaab*.

8.6.1 Bringing back substance to diplomacy

The analysis of the second phase investigates the opportunity that Kenya might utilise to invigorate its diplomacy of conflict management. Towards this end, it explores the role of the diplomacy of human rights and justice in protracted conflicts. It attempts to investigate the peace-building stage in particular, and with the overall utilisation of regional arms control, related legal regimes and disarmament diplomacy. This is done against the backdrop of reconciliation support avenues also created by the accessing

international significance of the UN Programme of Action, the Nairobi Protocol is more prominent, as member States are legally required to implement its provisions and the protocol is tailored to regional concerns. For more insights into the regional discourse on arms control, see Maze and Rhee (2007).

of peaceful corridors within Al shabaab strongholds in Somalia and peace-building prospects through the contribution by Kenya of hard-power capabilities in support of the AMISOM peace-enforcement presence.

The post-conflict reconstruction points of entry with arms control and disarmament diplomacy as "stabilizing and peace-building" avenues are evaluated. This analysis argues that an overall understanding of the arms control initiatives and their humanitarian and human rights legalities could bring order to the procedural and substantive nature of mediation, and also the transitional order element of the post-mediation/conflict period in Somalia. This is as captured in an interview response from officials of the Regional Centre on Small Arms and Light Weapons in the Great Lakes and the Horn of Africa (RECSA). Norms of international justice and human security are the arms-control instruments that could be used as a *diplomatic 'kite'* in mediation and peace-building support processes.

Recent developments in Somalia, despite past events, have motivated the investigation of this essential but overlooked element of the missing link in the Kenyan-led and inchoate mediation and peace-building support process.

The Executive Secretary of RECSA noted that arms control laws have been violated across the board by virtually all actors in the Somali conflict. He further put it across that "this is attributed to the resurgence of high-intensity conflict and current political-diplomatic events may have re-invigorated the role of regional laws on arms control in conflict management". The relevance of the Nairobi Protocol is brought to light, not only in terms of arms control, but also as a possible tool for realising sustainable peace in Somalia.

This is also how Kenya[88] could utilise this avenue, which could be an opportunity for a rational diplomatic continuum in its Somali policy. As argued by the Executive Secretary of RECSA in interviews, "the protocol is not only part of the legal regime that seeks to control the trade and movement of arms in the intermittent conflicts in the region; but [it] is also a political and diplomatic tool that could be used for

[88] Kenya is a member of the Nairobi Protocol and the UN Firearms Protocol, ratifying both instruments in 2005.

transitional ordering and stabilization efforts".

It was noted that Somalia is the latest signatory to the protocol, and is thus a member State of the Regional Centre on Small Arms and Light Weapons in the Great Lakes and Horn of Africa (RECSA), which is mandated with implementing the protocol. To connect this to the Somali peace process, a question is posed: How does the overall peace process become complete and move from an inchoate state of diplomacy? The answer may lie in the potentials of regional laws of arms control, and particularly the Nairobi Protocol, which addresses one of the main and major 'fuelling indicators' of the conflict; that is, the presence, proliferation and lack of transparent control of small arms and light weapons. This section of the analysis, therefore, presents these potentials and provides a case for arms control and disarmament diplomacy as necessary ingredients in the successful mediation efforts by small powers.

8.6.2 Statecraft for the TFG in the post-2004 period

Currently, Somalia is raging on. The conflict fluctuates in terms of its intensity, the nature of actors involved as well as the dimensions and dynamics. The main players have been the militarily weak TFG forces and their supporters, on the one hand, and Al-shaabab[89] and other fundamentalist groups on the other hand (Kisiangani 2011: 1-6). It should be noted that the TFG expanded in early 2009 following the peace agreement between itself and the moderate opposition group, the Alliance for the Re-liberation of Somalia (ARS). The then-TFG leader and president of Somalia had between 2008 and mid-2012 received good support from Kenya; and its diplomacy was pegged on these dynamics during this period.

[89] A short analogy of who *Al-shabaab* is is important to contextualize this work. Al-shabaab could loosely be translated in English as "*the movement of the striving youth*". In full, Al-Shabaab in Somali is "*Harakat al-shabaab al-mujahideen*. In connection to Al-Shabaab and to the upsurge of Islamic fundamentalism in Somalia, it should be noted that their presence could be seen in the broader context of decades of economic mismanagement and poor governance. The emergence of Al-Shabaab in early 2007, however, was specifically fuelled by patriotic militancy against the abrasive counter-insurgency tactics used by the Ethiopian forces against the *Islamic Courts Union (ICU)*. The ICU in turn were a group of Somali Islamic law courts (Sharia courts) that united in 2006 to form a rival administration to the Western and African-backed TFG. Labelled by the United States of America (USA) as a terrorist group with links to al-Qaeda, the ICU was eventually rooted out in December 2006 by the Ethiopians with the support of the USA. It should be noted that during its six-month period in power, the ICU managed to create a semblance of order and nationhood in Somalia (see Kisiangani 2011: 1-6).

The recent skirmishes that have been on a high level since late 2007 have seen streams of refugees enter Kenya's territory, and this has placed strains on its capacity to host them. Security has no doubt been on high alert, and this has only provided more reasons for why Kenya ought to engage strategically, not only from a mediation and conflict-management perspective, but also at the crucial levels of the peace-management and peace-building stages, which might mean short-term or long-term peace and stabilisation enshrinement for Somalia.

It is important to recognise the situation as it is now, and to strategically look into ways in which Kenya's conflict-management and peace-building efforts could be enhanced. A possible means of doing this would be by treating arms-control diplomacy as a conflict-management and peace-building tactic in the process. It could be argued that the situation in Somalia is largely attributable to the circulation and enhancement of the war economy through small arms and light weapons.

The Deputy Executive Secretary in charge of political affairs in RECSA, reiterated in interviews that these have affected Kenya's and other neighbours' national security postures owing to the small arms and light weapons penchant of being easily transferable across very porous borders. This could be one tactic that Kenya could utilise to enhance its conflict-management efforts and work on peace-building efforts.

8.6.3. Soft-power diplomacy and peace-building co-ordination through arms control and disarmament

This section relates to views and responses as forwarded through interviews with officials of RECSA. Specifically, it covers responses on two related questions, these are:

- "*How does your organization (RECSA) view arms control and disarmament initiatives as a peace-building and mediation strategy?" And*

- "*What can RECSA bring to the table in support of mediation processes of the Horn's epicentre – Somalia?*"

Responses to these interlinked interview questions revealed that other soft-power capabilities, apart from those Kenya has utilised, could lie in the utilisation of international law in peace processes and peace-building. Interview responses from the Head of Research at RECSA and the Deputy Executive Secretary in charge of political affairs revealed that this is specifically true of the political and diplomatic potentials of arms control legal instruments, such as the Nairobi Protocol, which could provide a buffer support to otherwise fragile and complex peace processes, such as the Somali process.

Other contentious responses were related to the interview question:
"*What problems has RECSA faced in implementation support of the Nairobi Protocol in the Horn and particularly in Somalia*?"

It was observed from interviews with the Executive Secretary of the Regional Centre on Small Arms and Light Weapons in the Great Lakes and the Horn of Africa (RECSA) that a main cycle and missing engagement in the contemporary conflict-management efforts pertaining to Somalia has to do with disrupting one of the main fuelling factors of the conflict – this is the very cyclical nature of small arms and light weapons and their correlation to an upsurge in instances of high intensity and prolonged violence.

From his experiences and views, he asserted that this disrupts any feasible order, as well as the very nature of any peace-building and peace-making efforts. He also argued that as long as there is a protracted social and security situation in Somalia, the very idea of supporting implementation processes of the Nairobi protocol in the polity becomes a herculean task for mandated bodies like RECSA. He also asserted that current events like the very ascendancy of Al Shabaab and its military incursions and effects on Somalia actually provides a fluid situation in which the war economy becomes cyclical in essence of engagement with this [Al Shabaab] protagonist.

The Executive Secretary of RECSA further argued that the legacies of Al-Shabaab and other militant groups is seen on a negative scale with an observed circulation and increase of small arms and light weapons within Somalia, and from there, into porous and neighbouring countries. This was also observed by the political and security advisor of the East African Standby Force Command (EASFCOM)[90], the latter, which is based in Nairobi. Therefore, as argued by both the Executive Secretary of RECSA and the political and security advisor of EASFCOM, "arms control and disarmament diplomacy has its legitimacy and needs, given these empirical realities on the ground".

8.6.4. Mediation processes: elusive quests

With this kind of conceptualisation of Somali mediation efforts and conflict dynamics, scholars, statesmen and jurists argue that in substantive form, the Kenyan-led mediation of the Somali conflict was not successful. Another school of thought uses other indicators, legitimising the mediation and its outcomes, such as the TFG, and the paving of the way for Kenya and other actors to provide peace-enforcement efforts through legitimised assaults on Al-shabaab and the enhancement of the AMISOM presence in Somalia.

But common denominators abound, given the politicisation of diplomacy in terms of the Somali crisis. Surprisingly, an agreement was signed unequivocally in the midst of different interests. The transitional government, weak as it was, failed to gain political momentum, and the inception of the Islamic courts is only an indicator that the diplomatic process led by Kenya was inchoate (Mwanika 2010: 63-85). The

[90] As a recap, the *Eastern Africa Standby Force Command (EASFCOM)* is a constituent organization of the African Standby Force (ASF) and which falls under the African Union (AU). The establishment of the organization in 2004 followed the ratification of the AU Peace and Security Protocol. This was done in order to enable the AU Peace and Security Council to perform its responsibilities with respect to the deployment of Peace Support Operations (PSO) or Missions and interventions pursuant to article 4(h) and (j) of the AU Constitutive Act. Currently, the EASF and its consequent management 'Command'-EASFCOM is composed of 10 active member states that include Burundi, Comoros, Djibouti, Ethiopia, Kenya, Rwanda, Seychelles, Somalia, Sudan and Uganda. The objective of the EASF and in extension EASFCOM is to carry out in a timely manner the functions of maintenance of peace and security, as mandated by the Peace and Security Council of the AU. The EASFCOM is composed of standby multi-disciplinary contingents, with civilian, police and military components in their countries of origin and ready for rapid deployment at appropriate notice. For more insights on the EASF and EASFCOM, see, http://www.easfcom.org/HTML/About_Us.html accessed on 21 August 2010.

question, therefore, is how does the overall peace process in Somalia become complete and move from the incomplete state of diplomacy?

Which processes would provide a 'reconstructive' and 're-integrative' peace-building and diplomatic support system after hard power offensives against spoilers of peace like Al Shabaab. The answer may lie in the potential of regional laws of arms control that address the main fuelling indicators of the conflict; that is, the presence, proliferation and lack of transparent control of small arms and light weapons. This is a view that was provided by RECSA officials.

The RECSA Executive Secretary further reiterated that "the opportunity provided for further post-mediation efforts could be effected through the diplomacy of human rights and through the utilisation of existing legally binding regional arms control instruments, and thus a cumulative case for arms control and disarmament diplomacy as reflections of this *diplomacy of human rights*". He asserted that this is a link that was missing in all aspects of mediation of the Somali debacle, and could be utilised for future post-conflict reconstruction and conflict-management processes in current day Somalia by Kenya.

The Head of Research-RECSA noted, "The diplomacy of human rights is also legitimised by the unsynchronised activities of the TFG (that is, its cabinet, members of parliament and their proxies) in furthering illegitimate activities towards disaggregating human security". Another point that was forwarded was that the diplomacy of human rights through the utilization of arms control legal instruments is the only means of placing Somalia on the agenda of visible considerations by the international community.

To corroborate the officials' views are observations by the International crisis group that "the Islamic courts and outcrops of the group – specifically the Al Shabaab – have in the past and current focus period equally been faulted of actions that challenge human rights and human security in general. To assert their position and agenda in Somalia, they have resorted to the use of hard-power imperatives that by principle have contravened rules under general public international law and specifically international humanitarian law". This has provided its share of challenges

for transitional order in post-settlement Somalia (ICG 2006:9–10).

The principal regional arms control instrument is the Nairobi Protocol and its unexplored political and diplomatic potentials. The Nairobi Protocol is no doubt an important legal and diplomatic kite, considering the outright arms embargo violations by a myriad of actors in the Somali conflict. This has no doubt de-escalated efforts for positive peace in Somalia. This was a salient observation forwarded by the head of the Africa division in Kenya's foreign ministry and by the Director of Political Affairs.

A restatement of the protocol, the human-rights imperatives of the instrument and the situation of the high-intensity war in Somalia at the moment would explain this clearly.
"The continued arms embargo violations in Somalia are breaches of the Nairobi Protocol" (Reiterated by the Executive Secretary of RECSA in an interview with the researcher).

This statement is justified by the following analogy that sheds some light on the validity of the Nairobi Protocol in the diplomacy of conflict management of the Somali debacle. This is a regional exemplification of disarmament diplomacy and its mediatory role.

8.6.5 Stemming arms flows into Somalia

As understood, "the protocol is an arms-control legal regime that seeks to control the trade and movement of arms in the intermittent conflicts in the region, but it is also a political and diplomatic tool that could provide for transitional ordering in Somalia". The Head of RECSA noted this. In stemming arms flows into Somalia, what role do regional arms control and disarmament diplomacy play? Towards answering this, RECSA officials noted that this question sheds more light on the extent to which the arms embargo has been violated by a myriad of entities concerned with the Somali debacle.

The head of research at RECSA noted that UN Security Council Resolution 733(1992) in Paragraph 5 unequivocally requires a general and complete embargo on

all deliveries of weapons and military equipment to Somalia.

Further observations connected the Security Council Resolution to the Nairobi Protocol. From the interviews, it is apparent that the protocol incorporates international legal provisions that particularly affect the armament regimes in the region. According to the Executive Secretary RECSA, "these make up a concise set of provisions feeding into the international humanitarian laws reflecting geopolitical perspectives. In short, the Nairobi Protocol brings closer to home a reflection of international norms seeking to control the proliferation of small arms and light weapons".

Further observations were that this elicits great interest in the role of the Nairobi Protocol in the conflict management of Somalia. It also spells out Kenya's support to RECSA's bid and roles as possible avenues for accentuating the diplomacy of human rights in Somalia. It was highlighted by the Head of Research-RECSA that a classic account of transfer and conduit utilisation of arms has been evident in Somalia, particularly in the focus period from January 2007 to date.

As a result of the violation of the Security Council arms embargo and juridical contravention of the Nairobi Protocol, Somalia is awash with arms. The sheer quantities, numbers and diversity of arms, especially in central and Southern Somalia, are greater than at any time since the early 1990s. It was noted that these arms have found their way into neighbouring countries, and in particular Kenya. Generally, the sources of the arms are varied. Arms have been brought into Somalia largely via clandestine routes and have found their way to a variety of key Somali actors.

The current Head of Kenya's Africa division at the foreign ministry who also served as a diplomat at the country's mission to the African Union in Addis Ababa had interesting views pertaining to small arms and light weapons as main drivers of the Somali conflict. From his experiences within the AU deliberations, and as an expert of the Horn of Africa politics, he asserted that the Somali armaments could be understood from the context of State practice, clan activity and the principal one-stop arms market in Somalia and warlord activity.

From his analysis, State practice involves the introduction of arms by Ethiopia and the Ugandan and Burundian military (under a Security Council exemption for the AU or AMISOM). Kenya and Sierra Leone, he noted, are in the same category owing to a Security council-exempted matrix with their participation as peace-enforcers under AMISOM. He cited certain policy considerations and sentiments by Kenya's foreign policy concerns in the region that Eritrea is a principal source and conduit for arms supplies to the al-Shabaab group, and that external military action in Somalia has left arms in irresponsible hands.

Furthermore, he asserted, there is the intensity with which strong clans have been buying and purchasing arms.

Other sources, namely an official in the Deputy Special Representative-AMISOM office, with corroboration by the African division head of Kenya's foreign ministry, asserted that the 'grand mall' for a variety of small arms and light weapons is the Bakaraaha arms market in Somalia. This open market involves all parties in the conflict, to the extent that Somali actors – from the Shaabab clans to TFG officials – have been conducting arms transactions there.

In addition, the warlords have been reconstituting their militias, and are therefore, a prominent feature in the market. This is corroborated by findings of the UN Monitoring group on arms embargo violations in Somalia (see Table 4 below).

Table 4: Arms purchases and sales at the Bakaraaha arms market: Findings of the UN monitoring group on arms embargo violations in Somalia[91]

Identity of individual conducting transaction at the Irtogte market	*Type and quantity of arms and date of transaction*	*Role (supplier/purchaser/ seller)*

[91] See the Report of the Monitoring Group on Somalia, in the letter dated 17 July 2007 from the chairman, Dumisani Shadrack Kumalo, and Security Council Committee established pursuant to Resolution 751 (1992) concerning Somalia.

Qanyare Afrah Mohamed, warlord, member of Parliament and former minister in the TFG	92 AK-47, 18 PKM, 22 RPG-2/7, a variety of ammunition 20 Dec 2006 – 15 Jan 2007	Purchaser Purchaser
	55 AK-47, 7 PKM, 17 RPG-2/7 Feb 2007	Purchaser
	135 AK-47, 17 PKM, 25 RPG-2/7 Mar 2007	Purchaser
	48 AK-47, 11 RPG-2/7, a variety of ammunition, magazines and belts 20 Mar – 20 Apr 2007	Purchaser
	320 AK-47, 8 PKM, 24 RPG-2/7, 8 M-79 grenade launchers, 3 DShK, 1 Sekawe**, 40 boxes of ammunition for Zu-23, DShK, AK-47 and PKM 20 Apr – 20 May 2007	
Mohamed Omar Habeeb "Dheere", governor of Banadir region and mayor of Mogadishu	80 AK-47, 12 PKM, 19 RPG-2/7, 2 DSkK, a variety of anti-tank-mines, anti-personnel mines and hand grenades 20 Nov – 20 Dec 2006	Purchaser Purchaser

	105 AK-47, 21 PKM, 28 RPG-2/7, a variety of ammunition 20 Dec 2006 – 15 Jan 2007 21 RPG-2/7, 74 mortars, a variety of ammunition Feb 2007	Purchaser
Col. Abdi Hassan Awale Qeybdiid, police chief, Banadir Region	65 AK-47, 25 PKM, 30 RPG-2/7, 1 dhuunshilke, 3 B-10 and a variety of ammunition 20 Nov – 20 Dec 2006 287 AK-47, 22 PKM, 3 B-10, magazines for assault rifles, a variety of ammunition 20 Apr —20 May 2007	Purchaser Purchaser
Barre Aden Shire "Hirale", former minister in the TFG	22 PKM, 40 RPG-2/7, 2 B-10, 4 DShK, 2 dhuunshilke* 20 Nov – 20 Dec 2006	Purchaser
Bakaraaha arms market Traders	2000 AK-47, 5 B-10, 11 DShK Feb 2007	Shipment arrived at the Bakaraaha arms market from Hargeisa (Somaliland)
al-Shabaab	9 B-10, 5 Waqle, 2 ZU-23 and a variety of mines and hand grenades	Purchaser

	20 Nov – 20 Dec 2006 74 AK-47, 17 PKM, 48 RPG-2/7, a variety of ammunition 20 Mar – 20 Apr 2007 420 AK-47, 17 PKM, 48 RPG-2/7, 27 M-79 grenade launchers, 60 pistols, a variety of mines 20 Apr – 20 May 2007	Purchaser Purchaser
Clans (various)	295 AK-47, 95 PKM, 130 RPG-2/7, 11 DShK, 5 dhuunshilke,* 14 B-10, 5 Waqle, a variety of mines and ammunition 20 Nov – 20 Dec 2006 187 AK-47, 16 PKM, 48 RPG-2/7, a variety of ammunition and mines, 53 pistols 20 Dec 2006 – 15 Jan 2007 375 AK-47, 87 PKM, 47 RPG-2/7, 170 mines and hand grenades, a variety of ammunition especially for AK-47 and RPG-2/7 Mar 2007	Purchasers Purchasers Purchasers

* = Dhuunshilke 1-barrel Zu-23 mounted on a tripod; ** = Sekawe 1-barrel Zu-23 with a seat for the gunner
(Table source: Report of the Monitoring Group on Somalia, dates 17 July 2007).

This analogy of events simply shows how soft-law views of the resolutions and protocols have been exceptionally violated. The result of such treaty exceptionalism is being observed now in the increase in deaths and the rise in the numbers of wounded civilians. In political risk analysis, the increase of instruments of violence, particularly in Mogadishu, is directly related to the observed rise in human-rights violations and contraventions of humanitarian legal provisions. This ultimately disrupts general peace and security.

Interviews with the Kenyan Ambassador to Somalia – who before joining the diplomatic service was Kenya's army commander – revealed that in a conflict where a large proportion of the population is concentrated in a metropolis, such as Mogadishu, it is strategically expected that urban warfare would be the preferred mode of operation by all parties. In short, violations are observed in Somalia with the deployment of insurgent forces in densely populated areas and widespread indiscriminate bombardment of these areas by the sitting government and its allies. He noted that "as a result of the unchecked arms transfers into Somalia, all parties have resorted to using weapons that could be defined as 'unqualified' for use under the laws of war in humanitarian law".

It is with these events in mind that a case is made for the Nairobi Protocol's role in the regional restatement of humanitarian law provisions and practice in Somalia, the epicentre of the Horn of Africa conflict.

The Kenyan Ambassador to Somalia further reiterated that "the protocol could support national reconciliation decisions and resolutions, as it would be used as a diplomatic tool, to the extent that it becomes a major focal point in mediation efforts by intermediary actors, ranging from IGAD and the International Somali Contact Group to other actors who in the past have exemplified legitimacy as mediators in the region, for example, and in particular, Kenya".

He further noted that "the next task in diplomatic engagement of the Somali conflict management should be [a] recognition across the board that for there to be positive peace, arms control diplomacy has to be understood in this context and operationalised through the inclusion of a human-rights discourse in the diplomatic or reconciliation processes". He asserted that "RECSA, which was actually a brainchild of Kenya, should engage with actors in its diplomatic capacity and spell out the essence and connection of arms-control diplomacy and human security.

"In any case, the activities in Somalia directly affect signatories to the protocol and member states, since small arms and light weapons easily infiltrate across borders".

Another observation was related to the interview question,
"*What is the nature of Kenya's support and role in enhancing your (RECSA's) work on Somalia*?"

Officials in RECSA observed that Kenya ought to vigorously re-engage with Somalia through its diplomacy of conflict management, and thereby utilise the diplomacy of human rights by referring to the Nairobi Protocol and the hosting of the RECSA secretariat in Nairobi. The Executive Secretary-RECSA noted, "historical and moral obligations are in order, as Nairobi actually was instrumental in the establishment of RECSA (as mentioned earlier in this section) – [both] conceptually and on an institutional basis". It therefore has the legitimacy to use the diplomacy of human rights through restating obligations pursuant to the Nairobi Protocol.

8.6.6 Realistic and genuine diplomatic engagement

This section addresses and is a consolidated response view of the questions:

- "*In your experience, how effective is disarmament diplomacy in the Horn of Africa*?" And,

- "*What is the nature of Kenya's support and role in enhancing your work on Somalia*?"

The RECSA head of research and the deputy head in charge of political affairs in answering these interview questions observed that the diplomacy of human rights, or arms control diplomacy as a mode of mediation, consolidates the concept of human security. It makes the practise of impunity to be difficult in reference to the actions of different external and internal actors to the conflict. It solidifies the soft-power nature of well-co-ordinated mediation. The officials further noted that it is from these considerations that systemic power dynamics have brought unrealistic and non-genuine diplomatic manoeuvrings.

The head of research, however, noted that the small-State mediation efforts in terms of the Somali conflict by Kenya went a long way towards providing the first building blocks for consolidating unitary actors in some sort of legitimacy in Somalia. The 2002-2004 process at least brought into focus a transitional government after years of a lack of 'legitimate authority'. He noted that as weak as the outcomes are perceived to be, a lesser effort would have meant an unfettered anarchic escalation of the collapsed State. He further reiterated that systemically, these efforts have not been commended or strengthened by the international community, especially the powerful States.

It was noted that they should recognise effective diplomatic efforts and opportunities, such as those offered by the political and diplomatic potentials of the Nairobi Protocol.

It was further maintained that an indicator of this lack of genuine and realistic support was the unstrategic non-inclusion of Kenya in the International Somali Contact Group. The group's mandate was to address the way forward for enhanced multi-lateral engagement with the Somalia transitional federal institutions and other actors inside and outside Somalia.[92] From this the question, therefore, comes another question: Whether the group's legitimacy would be positively consolidated with the

[92] The organisation and goals of the International Somali Contact Group can be accessed through the official website of the Norwegian Permanent Mission to the UN, New York. Norway spearheaded this process, and the contact group was a brainchild of Norway. See, hppt://www.norway-un.org/News/Archive_2006/20060615_Somalia/ as accessed on 27th May 2010.

inclusion of Kenya as a member.

Efforts in Eldoret and Nairobi have proved that legitimacy was extended to this actor, and in lieu of contemporary events the Islamic courts later on in the conflict progression signalled diplomatically that Kenya would be their preferred third-party convener.[93] This further provides a formidable case for Kenya's legitimacy to have been involved as a member in this contact group. This would have consolidated the systemic understanding of the Somali diplomatic politics in which Kenya has proven to be an authority and may have to be a ready advisor on the contact group's engagement.

The head of research RECSA observed that to further consolidate the position of the diplomacy of human rights, it is apparent that the actors may construe the International Contact Group's unstrategic position as hard-power engagement, and the pursuit of interests through other means. The argument is that transitional order in Somalia can be realised only through championing human security via the mode of soft power as an all-inclusive diplomatic mediation effort.

The essence of human security in Somalia is to be realised through remedying acts whose *problématique* is addressed by human-rights diplomacy as a mediation mode. This is also a mediation mode that could also be accepted with the presence of a third-party intermediary that has been engaged continuously in Somali's peace efforts. The official further noted that as compared to ad-hoc activities of the international contact group, Kenya has showed the relevant continuity and genuineness in peace processes and also provided a picture of how the diplomacy of human rights could go a long way in sustaining the momentum of peace-making efforts. This is as stipulated in the first phase of Kenya's 2002-2004 engagement. The Executive Secretary of RECSA noted that it is important to always have it in perspective that external intervention initiatives, especially by Western capitals, has more often than not been negatively received in Somalia. This has something of a historical genesis.

[93] This is reiterated in the Africa Research Bulletin: The Islamic Courts ready to accept Kenyan mediation of the Somali debacle between the courts, TFG and other actors (see Kenya-Somali: Troop alert 2006).

However, it was further noted by the officials that, "systemic or international presence is important towards consolidating peace in Somalia". Responses provided that the situation could be remedied through the restatement of arms embargoes and indictment on an international scale; and this should therefore, be a major diplomatic offensive. The head of research pointed out that this has been initiated by the systematic work and findings of the Bruno Scheinsky reports to the Security Council regarding the monitoring group on arms embargo violations in Somalia.

International humanitarian law regimes, and specifically the UN Security Council Resolution 733 (1992), Paragraph 5, require a general and complete embargo on all deliveries of weapons and military equipment to Somalia. This is in the black-letter writings of international law, and has been adopted in regional norms and standards through such instruments as the Nairobi Protocol. Therefore, disarmament diplomacy has legitimacy from international justice mechanisms that have an established *opinio juris* perspective. This enhances genuineness in both external and internal actors' interests as they pertain to the Somali situation.

8.6.7 The diplomacy of human rights and Somalia conflict progression

With a case for the diplomacy of human rights already having been made, it is important to match this mode to conflict progression in Somalia. Following the logic put forward by Christopher Mitchell, different manifestations (or levels) of conflict needs must match any intermediary or mediatory efforts, in order for sustainable peace to be realised (cited in Lederach 1998:63–73). This is reflective of the Somalia situation.

As critically illustrated in the first phases' responses, analysis and discussions on the conflict was recognised in the Kenyan-led mediation process between 2002 and 2004. Intermediary roles applied in the conflict manifestations included, first, some modulation in the *level of overt violence* in Somalia, which prompted a mutual stalemate by actors in the Somali conflict. Second, the *structural conflict* manifestation of the same was the main *raison d'être* of the Kenyan mediation, which sought to lessen the gap between the actual and potential realisation of equity in

Somali political-economic and social relations (Galtung 1969:163–171).[94]

However, these are all mechanisms to remedy the first stage of the Somali disordered state of affairs. The conflict progression stage of *post-conflict* elicits mechanisms that are better viewed as peace management. This situation could be realised from the selling of agreements back to the socio-cultural resources in Somalia to consolidating synchronised order in Somali society. However, some form of violence, somatic in nature, may still abound as shaky remnants of a heavily conflict-ridden zone.

From the interview responses, the head of RECSA noted that this is the stage where disarmament diplomacy comes in and where Kenya needs to heavily invest in its strategic engagement in the Somalia debacle.

The need for disarmament diplomacy in Somalia is therefore legitimised by the activities observed in the Bakaraaha arms market and their proliferation in Somalia. The market, as stipulated earlier on in this chapter, is a major escalator of high-intensity conflict and a lack of stability, as it is a major point of arms supply in Somali's war economy.

The major buyers are the major players; and they have sustained the market's life. It was noted in interviews with the RECSA deputy Executive Secretary in charge of political affairs "a diplomacy that could target this major arms source, as an additional strategy in Somali engagement, could go a long way towards providing an enabling environment for realistic reconciliation and recovery in Mogadishu". The cyclical economy of small arms and light weapons (see Table 4 in this chapter) is a chilling reality that explains why arms control and disarmament diplomacy should be major tools in mediation, and an ingredient in what is cumulatively called the diplomacy of human rights.

Further analysis of the interview responses provides interesting attributes that were

[94] The two terms 'actual realisation' and 'potential realisation' define a social-justice situation of a conflict and post-conflict zone. In these terms, violence is defined as the cause of the difference between the potential and the actual, between what could have been and what is. Social injustice, which is a form of violence, is what increases the distance between the potential and the actual, and what impedes the decrease of this distance. This is well captured by Johan Galtung, one of the major proponents of peace research and violence analysis.

equally observed. This is that there is no generic format of mediation tactics to suit all situations. Although post-conflict strategies may be stressed in consolidating transitional order in Somalia, the peace-management mechanism of human-rights diplomacy – through such ingredients as arms control regimes and disarmament diplomacy – ought to be used hand-in-hand with conventional third-party mediation strategies, as exemplified by IGAD and facilitative third parties, such as Kenya.

Mediators need legitimacy for their ideas to be well received – or sold to the target resources. Legitimacy is further needed while utilising the mediatory mode of the diplomacy of human rights, whose attainment signifies a consolidation of positive order, the ultimate goal of peace processes.

8.6.8 Siege in Mogadishu

Two consolidated actors that are involved in the Somali situation are the TFG and Al Shabaab, and other militants as well. Al Shabaab and the militants have over time proved to be a formidable force with their easy military incursions into Mogadishu and its eventual fortification. The TFG was, and has been, threatened at this point, as all its modes of statecraft, including its military wing, have been challenged. This explains the military aid provided to the TFG through peace-enforcers' presence within the AMISOM mandate. Another consideration that lends formidability to the two actors is that they have had their own sponsors and ideological godfathers.

This only acknowledges the dynamics of conflict progression in that mediatory efforts are needed even in peace-management cycles of conflict. Post-conflict situations legitimise the position that interests – elicited by endogenous and exogenous actors – have, a limit, a ceiling, whose challenging of the sacrosanct nature of human rights elicits international justice mechanisms for settling disputes. In Crocker and Bercovitch's words, this is a ripe moment for engagement through the diplomacy of human rights, in order to consolidate the last deployment of resources towards a positive peace (1994).[95] At this point, disarmament diplomacy should be applied in the mediation processes and the diplomatic kites to be flown are arms control laws

[95] The concept of the 'ripe moment' in conflict management efforts is well expounded in Bercovitch and Rubin (1994).

and their violations.

8.6.9 Operationalisation of human-rights diplomacy

In Somalia, "justice might have to be realised first for there to be solid peace". This was a sentiment expressed by Kenya's Ambassador to Somalia. He also noted that a recapping of the essentials of public law is important – to the extent that impunity in the essence of human security should be addressed, not collectively but on a one-on-one basis. This is the victim-offender interface. As captured by Kissinger, sometimes for a mediation effort to gain some impetus, it is important to 'paint pictures' through international publication of acts against human rights; this is a mode of gaining diplomatic momentum (Kissinger 2001).

Articulating international human security standards and restating human-rights ideals, while negotiating, "flies the kite" of the mediation efforts. This is a duress of circumstances under which the militants and the TFG both have to realise that the game demands equitable or nearly equitable positions when conducting mediation. In short, they should come with "clean hands" to the negotiating table.

Based on interview responses and observations by the different offices ranging from the Kenyan envoy to Somalia to RECSA officials, this perspective of the diplomacy of human rights, based on the distributive element of the rule of municipal and international law, is important to the extent that it remedies the conflict-progression level of overt violence during peace management. This is imperative, because the easing of hostilities could give way to a return to the negotiation table to hammer out any remaining contentious issues.

8.6.10 A recipe for peace? Transitional justice and order in Somalia

This analogy of events, therefore, asserts the position that the diplomacy of human rights or justice includes different elements. One is a diplomacy based on *distributive*

justice (as above), while another is oriented towards *restorative justice*. The first diplomacy of human-rights conception has to be fully understood. A representative or indicator of this mode of mediation concerns impunity and remedies for contravening sanctions, especially UN Security Council-directed sanctions, as stipulated.

Somalia had sanctions imposed on it pertaining to the delivery of weapons and military equipment. This is under Security Council resolutions 733 (1992) and 751 (1992). In Resolution 733 of 23 January 1992, the Security Council, acting under Chapter VII of the Charter of the UN, imposed a general and complete embargo on all deliveries of weapons and military equipment to Somalia. In Paragraph II of Resolution 751 of 24 April 1992, the Security Council decided to establish a committee consisting of all members of the council to undertake the following tasks:

To seek from all States information regarding the action taken by them concerning the effective implementation of the embargo imposed by Paragraph 5 of Resolution 733; to consider any information brought to its attention by States concerning violations of the embargo, and in that context to make recommendations to the council on ways of increasing the effectiveness of the embargo; and to recommend appropriate measures in response to violations of the embargo; and to provide information regularly to the secretary general for distribution to member States.

These are the 'pictures to be painted' to contraveners of these soft laws that also have serious international public opinion ramifications. The current reports of the Monitoring Group on Somalia are building blocks for pushing mediation forward and making a case for disarmament diplomacy as a necessary ingredient of positive order. This is a function of the *distributive* element of the diplomacy of human rights that should be utilised in mediation efforts.

The other aspect of the diplomacy of human rights relates to the *restorative justice* inception into the post-conflict transitional order goals. As reiterated by the former Kenya Special envoy to the Somali peace process in interviews: "Restorative justice seeks to restore relationships, an element that has been elusive in the Somali context". A restatement of diplomacy should incept into the post-conflict third-party solidification process the element of the local peace constituency or the Somali people

and cultural matrix.

Under this premise, the main concern is to legitimise a mediatory process by incorporating the culturally accepted practice of conflict-management mechanisms (Lederach 1998:63–73), including Xia (traditional Somali conflict-management mechanisms).

This restorative manifestation of diplomacy would fill the void created by an all-out amnesty, as was seen in the most consolidated and major Somali peace process (spearheaded by Kenya from 2002 to 2004). It is within the imperatives of social justice that the actual realisation and potential realisation have to be brought closer towards each other, and not placed at opposite ends of the continuum. The point here is that international political dynamics should acknowledge that there is a need to appeal to the frustration-aggression phenomenon that characterises Somali class and clan relations.

Clan dynamics, relations and a shift to the individual – away from a collective indictment – should be the modus operandi (Mwanika 2010: 77-78).

It is imperative to show the nexus between these two types of justices and their source of legitimacy in perpetuating order in transitional societies, such as Somalia. If the diplomacy of human rights is treated as a construct of transitional justice, then its source of legitimacy derives from international humanitarian law and international human rights. Transitional justice relies on international law to make the case that States undergoing transition and their actors are faced with certain legal obligations, including those of halting ongoing human-rights abuses, investigating past crimes, identifying those responsible for human-rights violations, imposing sanctions on those responsible, providing reparations to victims, preventing future abuses, preserving and enhancing peace, and fostering individual and national reconciliation (Shelton 2004:1045–1047).

As a mediation mode then, the field depends on international legal principles that require the prosecution of perpetrators; this context includes broader forms of justice, such as reparation programmes and truth-seeking mechanisms (Shelton 2004:1046).

Therefore, the diplomacy of human rights framework recognises that transition, such as in Somalia, is complex and often characterised by both impediments and opportunities for new and creative democratic strategies.

In this context then, transitional justice, and thus the aim of the diplomacy of human rights, requires an awareness of multiple imperatives during a political transition, suggesting that comprehensive justice must be sought in a context in which other values are equally important, including democracy, stability, equity and fairness to victims and their families.

8.7 Countervailing international forces

The diplomacy of human rights falls right in the thick of the soft-power mode of statecraft. Its resources, being non-assertive and non-military-oriented, need to be strategic enough to achieve the desired outcomes. An immediate threat to the utilisation of this mode of diplomacy was introduced in the decision by the UN Security Council to lift the 1992 embargo on arms.

In early December 2006, the Security Council voted 13 to 0 to lift UN sanctions on Somalia. This meant that the deployment of a regional peace-support operation was to be under way. As noble and as expedited as this process was and still is, the timing might not have been feasible to accomplish the desired goals for sustainable peace. This was a view that was forwarded by different respondents within the Kenyan foreign policy establishment.

A construct of the diplomacy of human rights in connection with such a move is that despite near universal disregard of the embargo, UN monitoring has had an impact. The naming of the individuals engaged in small arms imports and sales worries many Somali leaders, who fear that the data could eventually be used in legal proceedings. Governments named as suppliers of weapons to Somali clients have generally found the charges unwelcome and have disputed them. Most importantly, the embargo prevented the TFG from legally securing external assistance to arm and support for its security sector; and it created a legal barrier to the deployment of regional peace-keeping or stabilisation forces.

8.7.1 Strategic containment and alliances: a deterrent to arms control and human rights diplomacy

The concept of the diplomacy of human rights is further legitimised, but remains contentious owing to events unfolding in Somalia, especially between December 2006 and early January 2007. It has become apparent that Ethiopia and the Somali TFG forces within this period killed hundreds of Islamist fighters and scattered the rest in the offensive. In addition to these military campaigns, the USA 're-engaged' in Somali politics through hard-power imperatives by inflicting the populace with air raids purportedly targeting al-Qaeda operatives and their proxies within the Islamic courts' militants and radicals.

The few weeks that ensued saw a replay of the anarchic state of Somalia that had enjoyed relative order prior to these skirmishes. Strategic war considerations meant that male members of the polity concerned had to revert to arming themselves for ideological reasons, to consolidate the immediate security of close family members, and for self-defence, and for offence, in the event of a military encounter.

As a result, Somali saw an inundation of usable arms, small arms and light weapons within this short span (ICG 2007:8).[96] The converse of this situation would be a long-term remedying concern. An arms control and management revisiting would mean that one of the tasks of mediation and further diplomatic engagement would include a revisiting of laws against the illegal and uncontrolled illegal sale and sponsorship of weapons,[97] especially in societies where mechanisms of transitional order are being pursued.

[96] A cyclical convergence of arms in Somali hot spots is well captured by events on and immediately after 27 December 2006. This is the span and initial period when Ethiopia forces converged on Mogadishu and the Islamic courts' leadership announced it was abandoning the capital and leaving political leadership to sub-clan leaders. At the same time, it returned many of the weapons it had confiscated from sub-clan militias and private enterprises since June 2006. It is apparent then that the clans simply withdrew their support from the courts. The clans were given their weapons back to 'protect themselves'. The courts had no choice but to defer to clan autonomy.

[97] A sample of source portals of weapons in Somalia into the hands of targeted recipients is well captured by the UN Monitoring Group on Somalia. According to UN arms embargo monitors, for example, Eritrea steadily increased arms shipments to the courts, as well as their Ogaden National Liberation Front and Oromo Liberation Front allies; see Report of the Monitoring Group on Somalia pursuant to Security Council Resolution 1676, November 2006 at: www.unhcr.org/refworld/docid/46cbf2000.html (accessed 12th December 2010).

As part of the indictment mechanisms of a diplomacy of human rights, it would only be legitimate if international jurisprudential and legal instruments were restated to all actors in the Somali conflict as reinforcements to rules regulating warfare and the sale and use of arms, essentially so in an disproportional manner. It was noted by an official from the East African Standy Force Command (EASFCOM) in interviews that "this would further legitimise future disarmament and demobilisation efforts under the well-planned Eastern Africa Standby Force (EASF), AMISOM and other international peace-support or enforcement operations".

It was further noted in interviews with RECSA and EASFCOM officials that "the existence and upsurge of small arms and light weapons in Somali society challenges mediatory and post-conflict peace-building efforts because it reconceptualises social constructs of the legitimisation of violence". This is an Achilles' heel in general conflict-management efforts. Using the diplomacy of human rights would reverse this situation towards a positive-oriented and pragmatic peace process, and the ordering of Somali society and subsequent politics.

Initiatives are needed to jump-start direct talks between the TFG, the Islamists – both military-based and opinion-holders and other important Mogadishu-based groups – with the aim of producing a government of national unity. This version of the diplomacy of human rights through espousing arms control and disarmament diplomacy means that diplomatic leadership in search of a settlement must be augmented in response to the growing internationalisation of the crisis and its international legal repercussions.

A way of operationalising this principle might be through this mode of mediatory efforts that would go hand-in-hand with peace-keeping operations. As noted by EASBRICOM officials in interviews: "The best that arms control and disarmament diplomacy (a strong ingredient in the overall diplomacy of human rights) can do is to complement the peacekeeping efforts".

8.8 Towards realistic and strategic engagement processes

This territory has been subjected to violent internal conflict for more than a decade, as well as a failed UN peace-enforcement operation, and most recently, invasion by Ethiopia. As observed, the proliferation of small arms and light weapons is rife, despite the embargo that has been in place since 1992. Attempted solutions to Somalia's woes by outsiders have tended to be militaristic in nature, and appear not to have had any positive impact on the conflict. Is it not perhaps time to seriously consider non-military options, such as arms control and disarmament diplomacy?

Towards this end, it was noted by the Executive Secretary of RECSA that as a general result of the destructive impact of small arms and light weapons in the Great Lakes region and the Horn of Africa, States in this region concluded a legally binding arms control and disarmament agreement in 2004, the Nairobi Protocol. RECSA, the intergovernmental agency that is responsible for co-ordinating the implementation of the Nairobi Protocol, was subsequently established, as has been well illustrated in this chapter.

Somalia and its neighbours are signatories to the Nairobi Protocol, which means that governments in the region are obligated to execute the arms control and disarmament provisions of this instrument. However, given the current intrastate conflict, such measures are not being actively pursued by certain State authorities in relation to Somalia.

To recapitulate, an unexplored aspect of the Nairobi Protocol is its diplomatic and conflict-management potential. The protocol is based on international humanitarian law, and therefore has a normative focus rather than a political one. This agreement could be used as an effective conflict-management and threat-reduction instrument for the current conflict in and around Somalia. For example, it could be employed as a diplomatic kite by States and groups, such as Kenya, IGAD and the International Somali Contact Group, in order to bolster legitimate mediation and reconciliation processes in Somalia.

The protocol makes provision for RECSA to play an active diplomatic role in promoting arms control and disarmament in the region. However, to date, RECSA has maintained a relatively low profile, owing mainly to numerous priorities and a lack of

resources and capacity.[98] Nevertheless, certain important considerations were observed in the course of the data collection by the researcher. Recently, there have been a number of encouraging developments. RECSA has been professionally restructured; further funds have been secured; and additional personnel have been appointed.

Consequently, RECSA appears to be becoming a more assertive diplomatic player in promoting the implementation of the Nairobi Protocol. For example, in 2009, RECSA began to provide affected States with practical support in terms of marking and tracing small arms and light weapons. At this point, Kenya should continue supporting such efforts by a regional organisation head-quartered in Nairobi, since this would strategically go a long way in consolidating the different avenues of improving the country's diplomacy of conflict management through intermediary co-operation efforts with RECSA. This is a good example of track-one and track-one-and-a-half collaboration and intermediary effort.

For sustainable peace to be achieved in Somalia, conflict-management and peace-building approaches by the relevant parties must be vigorously pursued. This should be combined with efforts (especially by Kenya through RECSA) to encourage the implementation of the Nairobi Protocol by those States that are signatories to this agreement.

8.9 Conclusion:

This chapter has analysed the data and findings related to Kenya's contemporary engagement in the Somali peace process, particularly in the period 2002–2004, as well as responses from the foreign policy and peace-management mandarins who saw the process through. It has also critically analysed the roles, experiences and views of multi-track players in the consolidation of peace in Somalia. This is the *first phase* of the engagement. This provides the essence of Kenya's diplomacy in a substantive and procedural format during this period.

[98] This is as noted by the executive secretary of RECSA and his head of political and research affairs in deliberations and interviews with the researcher.

The *second phase* examined Kenya's contemporary diplomatic and mediation engagement in Somalia. It engaged the debate with a focus period after the 2002 to 2004 initial peace process. It opened up the debate as to the strategic areas of focus relating to Somali's peace and stabilization efforts. Possible additional and alternative mediation strategies and information analysis were considered; and this was essentially so in highlighting what the researcher here refers to as '*Kenya's inchoate or incomplete diplomacy*' on the Somali debacle and peace process.

The latter section of this chapter sought to answer most of the concerns noted in this analysis section of the dissertation. This touched on concerns of ameliorating mediation vacuums in terms of substance and bridging the divide between power mediation and development peace-building-oriented mediation and diplomacy. Arms control and disarmament diplomacy, as mediation and peace-building tools, were therefore also analysed; and Kenya's position in this contemporary mode of diplomacy and matrix was evaluated.

The chapter has, therefore, attempted to exhaust the ambitious Kenyan-led engagement since 2002; and it has highlighted certain important lessons and guiding tenets of engagement on the Somali question that can be deduced. A major reality of such protracted and 'third-kind' conflicts is that they defy easy and non-strategic conflict-management approaches.

As observed, it is important for mediators (and most importantly external mediators) to consolidate just enough knowledge of Somalia, its cultural matrix, actors and their orientation, in order to have forward-moving mediation processes. In several failed and previous attempts it became clear that these efforts have substituted timetables for any genuine reconciliation strategy.

There is also a high priority need to strategize on how to handle spoilers and drivers of conflict. This would guarantee a steady secure environment for mediation to be waged. There is, therefore, a need to shift from 'realist' notions of mediation that overemphasise those who only control the weapons – believed to be the power wielders – and overshadowing the role of other important social cultural resource players like traditional and civil society leaders and players. This goes back to the

question of the legitimacy of representation.

Another finding is that reconciliation processes cannot and must not be reduced to power-sharing deals by political elites and parties wielding considerable interest in a process. This approach has repeatedly failed, and has over time contributed to growing cynicism among Somali's as regards peace processes. It should be noted that the first phase of the Mbagathi-Nairobi Kenyan-led process was the first attempt to tackle this mediation problem or dilemma.

Another deducible lesson to be learnt is connected to the nature of transitional arrangements. The latter became an unavoidable peace accord reality in addressing the question of State collapse and State construction. Considering that this is the mediation resolve in contemporary processes, it is imperative that mediators and the international community press for Somali leaders to focus on executing key transitional tasks, rather than just emphasizing 'power-based agreements' in the formation of 'realist-based security States'. This explains situations of incomplete or inchoate diplomatic and peace processes.

This also provides a maxim that mediators must have a clear strategy to understand and manage the de-escalators of a peace-process momentum and spoilers to the processes. This includes differentiating between '*intrinsic spoilers*' – warlords and others who might have no interest in allowing a revived central government, and also '*situational spoilers*', whose objections to a peace process have to do with specific aspects of the accord or power-sharing arrangements.

Finally, it is contentious to develop more creative, strategic and well-informed mediation and stabilization mechanisms that would be designed:

- To maximise the ready avenues of ordering a disrupted society – for example, the utilization of arms control diplomacy;
- To maximise the sense of security for anxious and vulnerable communities during early and continuing phases of implementing peace accords – for example, through the utilization of the diplomacy of human rights and the protection of civilians (POC). This could also be a main thread that could

mainstream mandates of peace-enforcement operations that seek to support a peace process.

The next chapter will attempt to provide an analytical conclusion to the research. It will do this by testing the research questions of this endeavour against the findings of this study, and also providing policy and strategic recommendations that would be useful for consideration by the policy-making establishment, and also for conceptual and academic contributions to the debate. It would also be a scenario-building attempt to recognise that the conflict is dynamic, always evolving with events creating contemporary windows of opportunity that mediators, strategic security, development and post-conflict reconstruction players can consolidate to stabilize and provide sustainable peace in Somalia.

CHAPTER 9

CONCLUSION AND RECOMMENDATIONS

9.0 Introduction

This chapter seeks to consolidate the ideas, findings and guiding framework of this dissertation. It will serve as a framework in understanding the essence of the intermediary co-operation and roles theory in putting into context contemporary diplomacy and post-conflict reconstruction-management systems in protracted zones. It will provide a general overview of the future engagement opportunities that Kenya might consider in its foreign policy options on the Somalia question. This will be done against the backdrop of evaluating how the soft-power element of statecraft has been utilised in enabling regional peace and security processes – and essentially so in the Somali context.

Somali politics, security dynamics and the levels of stability and order are always fluid – and contemporary developments particularly between 2011 and 2012 have actually renewed international interest in Somalia. A discussion of the recent hard-power utilization of Kenya's Defence Forces (KDF) in arresting the Al Shabaab and the various spoilers of peace will be discussed; and this systemic action is to be treated as an 'enabling' act for the political processes of dialogue, third-party support and post-conflict stabilization.

The findings of this research reveal that a strategic approach that integrates political, security, and developmental elements should be considered in any future intervention processes on the Somali issue. This provides relevance to the intermediary co-operation and roles theory. It is important at this point to look at the original research questions from this study, and to analyse whether the findings, dialogue chapters and mapping out of the issues of concerns have adequately addressed the problem questions.

9. 1 The research questions

The research questions for the study were the following:

- To what extent did the utilisation of soft-power capabilities by Kenya, as a track-one diplomacy entity, influence the mediation of the Somali conflict?

- To what extent did the Kenyan-led mediation focusing on the diplomacy of human rights lead to transitional ordering/stabilization and the support of sustainable peace in Somalia?

- To what extent did Kenya's recognition of the Somali constituency and internal actors lead to the success of track-one mediation processes, and subsequently to transitional ordering in the post-settlement period in Somalia?

- How does track-one leadership facilitate effective conflict-and-development management in protracted conflicts?

- To what extent has Kenya's diplomacy adopted and utilized other strategic intervention avenues to address the continued Somali conflict?

- To what extent has Kenya utilised regional arms control and disarmament diplomacy as a conflict-management and peace-building avenue?

In assessing the validity of the research questions, the study's findings indicated that it was not easy, and is still not easy, for Kenya to mediate the Somali conflict, especially with regard to its preferred policy option of exercising a diplomacy utilising soft power. This is a capability that was used in which the system of mediation diplomacy had to critically deal and equally weigh sensitive parts or aspects of the process. It should, therefore, be observed that track-one diplomacy as a result had to contend with the problems of dealing with 'parts' of a conflict-management system, with one of these sensitive aspects being, for example, the recognition of the Somali constituency (the Somali representatives or public).

As an example, a recurring dispute throughout the talks in the first phase of the Somali peace process (2002-2004) related to the question of representation (by faction or by clan) and to who would select the delegates (and later the Members of Parliament).

Early 'legitimization' of key faction/political leaders as the 'Leaders' Committee' by the facilitators – the technical Committee led by Kenya and comprising Ethiopia and Djibouti – meant the process was effectively monopolised by these two groups and focused heavily on power-sharing negotiations, rather than on the resolution of core-conflict issues, as originally intended. However, through both substantive and procedural diplomatic processes these hurdles were to some extent dealt with.

The very recognition of Kenya as a preferred third party and acceptance by the parties to the negotiated dividends confirms the first precept, that soft-power utilisation within track-one diplomatic mediation gives due advantage to the success of a process.

The Kenyan track-one diplomacy system was effective enough to lead to success, since 'parts' were recognised. Another contentious 'part' in this case is the intermediary roles of track-two diplomatic actors that applied a humanitarian spectrum to the peace process. Through routine diplomacy, protocol and conference management, Kenya ensured a steady presence of track-two actors in the peace process, the actors being the NGOs and working partners of the UN offices, as outlined.

Other parts recognised are the roles of track-one entities, such as the UN and the EU, which provided financial diplomatic ingredients that were essential for the peace process. Another entity, which has already been critically discussed in the previous chapter, is the Regional Centre on Small Arms and Light Weapons in the Great Lakes and the Horn of Africa (RECSA). Its potentials as a formidable track-one entity and working partner with the Kenya government are discussed and teased out within a development-diplomacy framework [this being a construct of arms control and disarmament diplomacy] and peace-building orientation.

It should be noted that Kenya's application of the intermediary roles of a 'reflective' and 'non-directive' behavioural nature ameliorated the complexities encountered in diplomatic management, especially with regard to the empowering of different Somali entities, for example factions and clans, some of whom lacked legitimate capacity for genuine representation of the Somali public in the process. This was especially so in Kenya's first phase of its Somali diplomacy in the period between 2002 and 2004. As such, contrary to expected outcomes, interests proliferated; and the agenda was perpetually being slowed down, and becoming more and more complicated.

In essence, the findings of the study confirmed the above, which is that track-one diplomacy goes a long way in influencing the success of any mediation process. This is evident when such diplomacy is exercised within soft-power imperatives that consolidate legitimacy to a process, and bring together parties and their interests in one single agenda.

The Somali intractability means that managing the Somali public was going to be a herculean tas;, and it still is. As such, diplomatic control and management of the mediation environment is a priority of the intermediary. The mediation process, especially in the first phase (2002-2004), has shown that this was no easy task for Kenya, which provided full empowerment and legitimacy to the conflict constituency of Somalia. The latter represented, for example, the wide number of clan representatives, warlords and other Somalis claiming to have some influence in the process.

It is therefore important to note that Kenya, as a track-one diplomacy entity, should have exercised the *non-directive behavioural intermediary role* in dealing with the Somali public. The *non-directive behaviour* of track-one activity provides that such a mediator ought to exercise some influence over such a social and physical situation.

As it pertains to current peacemaking events, it is imperative that different intermediary co-operation roles be recognised. In the mediation and peace-building process the synchronised role of different actors is essential. Kenya's foreign policy should, therefore, have a strategic component that spells out co-operation and peace-building partnerships with regional regimes that it helped set up. An example, as

previously discussed, is the mediation continuum of utilising regional arms control and disarmament diplomacy. This is Kenya's intermediary co-operation role with RECSA and brings a human rights emphasis into all its mediation policies and tactics.

9.2 Analysis of the intermediary cooperation and roles theory

Observations regarding the role of track-one diplomacy in peace-building reveal a narrow gap between theory and practice. In Chapter Three of this work it was observed that third-party intervention or mediation encompasses a wide range of activities, and touches upon the roles that they may play in a number of conflict situations. This study employed that which is posited by: (1) The *reflective behaviour, (2) non-directive roles conception, (3) mediator-integrator role, and (4) regional-subsystem collaborator* theorists.

The concept of mediation is a complex process, and as utilized by Christopher Mitchell (1999: 44), the intermediary co-operation and roles theory is applied to the analysis in the study.

9.2.1 Reflective behavioural role of the mediator

The *reflective behavioural* theorists, as discussed in Chapter Three, focus on the role of a mediator, which is one of receiving, transmitting and interpreting messages and signals that denote the parties' attribution of meaning to their conflict and perception of the situation. States, as international actors, interact within a system of heterogeneous values, competing ideologies and different belief systems; and these become particularly salient in conflict situations.

The study findings revealed that reflective behaviour was considerably utilized by Kenya as a track-one player, which attempted to ameliorate the intractable situation. Communication processes between the adversaries were simplified and this ensured that the parties operated within a mutually acceptable set of aspirations, since the transmission of messages had been facilitated. Kenya, as a third party, engaged in reflective behaviour through the utilisation of its special envoy good offices, shuttle diplomacy and, most importantly, conference and protocol diplomatic management.

9.2.2 The non-directive behavioural role

Connected to the reflective intermediary role is the non-directive role of mediators. The study revealed that the *carte blanche* offered by Kenya to the Somali public, and the representation empowerment process, did not expedite the peace process, nor did it ameliorate the protraction of interests in the conflict agenda. The Leaders' Committee, as empowered by the process, did not serve the purpose for which it was meant – in a conflict-management engagement. The committee did not represent the relevant Somali groups and clans affected by the impasse.

As such, the findings reveal that pinpointing and recognizing legitimate participant role players, which have sufficient credibility in a protracted conflict situation, is complex. To that effect, the researcher concurs with Berridge's contention that "[m]ediators should be perceived as having legitimate influence, if not more effective power, relative to the parties to a conflict" (Berridge 2002:197).

It is with this in mind that the non-directive role is designed to help the parties' conflict-management efforts, by exercising some influence over the physical and social structure within which the contentious conflict issues are to be discussed. It is worth noting that much of Kenya's track-one input was engaged in dealing with the squabbles of factions, and some illegitimate delegates within the Leaders' Committee. As such, '*mediation within mediation*' was carried out through Kiplagat's Arbitration Committee that sought to settle the Leaders' Committee's legitimacy squabbles and micro-interest agenda to enable the process to move forward.

Clearly, this did not expedite the mediation process and made Kenya's track-one initiatives much more complex.

9.2.3 The mediator-integrator role

Kenya's utilisation of the mediator-integrator role was confirmed, since it perceived itself capable of and responsible for undertaking special mediation tasks, and to reconcile other States and groups of States. This could be observed in regard to its relationship with IGAD member states, and most particularly, Djibouti, Ethiopia and Eritrea. For conflict-management progression or transformation, shuttle diplomacy was utilised, most notably by Kenya's special envoy, Ambassador Kiplagat, and Kenya's chief diplomat, Mr Kalonzo Musyoka, in dealing with those States whose interests in the Somali conflict were proving to be an impediment.

Kenya, as the principal track-one entity, also utilised soft-power strategies that incorporated the novel approach of human rights diplomacy. The insistence that human security and precisely human rights ideals have to be at the core of all efforts and engagement by all actors in Somalia provided a pragmatic input whose aim was to ensure an ordered transitional process. As such, it pointed to the Somali political, conflict players and geopolitical actors the consequential international law-enforcement repercussions of any contradictory view in realising peace in Somalia.

These involve the utilisation of sanctioning regimes which spell out obligations and remedies to be adopted in case of sanction-reneging by parties. This intermediary role was occasionally utilised. As such, through this input, Kenya saw itself as a regional trouble-fixer. This is also extended in Kenya's role in the arms control and disarmament diplomacy matrix of the Horn of Africa.

9.2.4 Regional sub-system collaborator role

In the findings of this study, it could be observed that the regional sub-system collaborator role does not merely envisage occasional interposition into areas or issues of conflict. The findings indicate that Kenya's diplomacy of conflict management in its foreign policy revealed far-reaching commitments to co-operative efforts, together with other communities towards a certain goal. These communities, it should be noted, include other development entities and sub-regional regimes, such as RECSA, the International Peace Support Training Centre (IPSTC) and the Eastern Africa Standby Force and Command (EASF/EASFCOM).

A co-operative effort with the larger continental bloc, the African Union (AU), has however had its setbacks. On a regional scale the main African track-one entity, the AU, still technically practised its policy of disengagement, and adheres to the principle of non-interference in the internal affairs of other states. As such, it is in the absence of a consistent presence of the AU, that the Somali peace process took longer than expected and experienced so many hurdles. Some of these challenges might have been surmounted if the main continental regime had utilised its international law-enforcement capabilities, which are more strategically effective than those of a small State, such as Kenya. The very presence of a very thin and slowly growing AU peace-enforcement force in Somalia is testament to these dynamics, which are still somewhat at play in the AU's politics of conflict management.

9.3 Future Kenyan engagement in Somali's post-conflict reconstruction

This study posits that diplomacy in general, and the diplomacy of conflict management specifically, do not exist in a vacuum. This is essentially so if one were to juxtapose the diplomacy practice debate to current developments in multi-faceted, multi-dimensional peace-building. The absence of a vacuum is due to the playing field of *conflict transformation* being filled by different actors and functions, which have intermediary strengths and capabilities in such a process. As discussed in this work, a contingency plan is important in contemporary conflict management and developmental reconstruction. The peculiarities of Somalia mean that co-ordination by all the different track-actors in diplomacy, arms control and management, and other development concerns is imperative.

Current developments in Kenya's foreign policy practice and peace-building efforts and assistance to its warring and recovering neighbours are welcoming and notable. Worth mentioning is the structural outcome of a new work charter that spells out Kenya's diplomatic engagement as widely defined with different constituents in the international system. One of the new and promising divisions that could sum up the

contemporary role of foreign policy, development reconstruction or peace-building is the Foreign Service Institute (FSI)[99] under the Kenyan Foreign Ministry.

The FSI is a major division conceptualising foreign policy and a critical avenue in the country's diplomacy, it has within the last three years or so engaged with the Somali administrative and statecraft community. It has facilitated developments in security sector governance in Somalia, in the establishing and growth of a culture of effective civil service administration and other aspects related to State formation. The role of the FSI in conceptualising much of Kenya's diplomacy brings to light the additional avenues of improving its post-war reconstruction and stabilization strategies in the region.

In response to the demands of a dynamic and complex international diplomatic arena, the FSI offers intensive and tailor-made training for newly recruited foreign service personnel and newly appointed ambassadors, as well as in-service training for officers at all levels. Government functionaries from other ministries and departments, whose mandates have a bearing on Kenya's foreign relations are also targeted. Apart from this, the institute also undertakes policy analysis research and capacity support – targeting its neighbours, most of which have been in conflict or are in a state of conflict.[100]

Through the FSI, there has been a steady growth of Kenya's role in training and capacity building through in-house hosting of government officials of Somali's TFG on statecraft concerns cutting across public service reform and mainstreaming, security sector reform and modern policing, skills of negotiation, diplomacy and mediation in a contemporary international diplomatic system, among others. This is one of the avenues that the Kenya government as a whole, and other engaging parties, should support. This is an intermediary co-operation and role conception that should walk hand-in-hand with other mediation and foreign policy considerations on this

[99] The Foreign Service Institute (FSI) is domiciled in the Kenyan Ministry of Foreign Affairs and International Cooperation and is therefore a major policy implementation and advisory division and body in Kenya's foreign policy and diplomacy establishment.

[100] See remarks made by Mr Thuita Mwangi, a former chief executive (permanent secretary) of Kenya's Ministry of Foreign Affairs and International Cooperation, at the FSI strategic workshop at Utalii College on 27 November 2007 at <www.mfa.go.ke/index.php?searchword=Thuita-Utalii+College&ordering=8searchphrase+91&itemid.htm> [19 February 2011].

critical re-conceptualisation of the essence of track-one diplomacy in post-conflict reconstruction and peace-building.

Another window of opportunity has been provided by another current politico-security event, which has actually caused the systemic effect of putting Somalia on the right track pertaining to stabilization and its functioning as a State. Kenya's peace diplomacy and its continued engagement on the Somali question from a mediation point of view have seen power fungilibity[101] towards a hard-power engagement. There was a lateral transfer of soft power towards a Kenya Defence Forces (KDF) engagement [the hard-power component] with Somali insurgents, and into Somalia by Kenya – beginning in the latter half of 2011[102].

This has ramifications and a bearing on future strategic interventions in this thesis. It is argued that the soft-power tradition employed by Kenya from 2002 to date through its preferred foreign policy pillar (which is discussed in Chapter Eight of '*peace diplomacy*') opened the doors for other avenues of statecraft to manage the Somali crises. Systemic crises have actually continued to challenge the region, Kenya and its neighbours especially in the current post 9/11 security posture.

Currently, a co-ordinated approach in the foreign policy or diplomacy and security policy-making bodies in Kenya, and particularly on the Somali issue, has been effected. A brief description of events that triggered the *power metamorphosis* by Kenya will provide a basis that certain post-conflict reconstruction, stabilisation and transitional ordering avenues have been brought forward. The utilisation of hard-power capabilities to provide operational support to the parallel and ongoing engagements in the soft-power component or peace diplomacy is observed in this study.

[101] In international relations and security-strategic thought, to the extent that one element of power can be converted into another, it is a "*fungible*" situation.
[102] There was a decision in October 2011 in Nairobi to deploy thousands of troops in Somalia's Juba valley to wage war on Al Shabaab. The military incursion was code named "*Operation Linda Nch*i"- which is adopted from Swahili and loosely translated as "*Operation protects the country*".

9.4 Strategic interventions through stabilization efforts

Additional future strategic avenues that may provide a positive centrifugal and complementary push to Kenya's soft-power efforts have been provided by the current military and hard-power incursions by Kenya into Somalia, and insertion as a peace-enforcement force within the AU and UN Peace and Security Council mandated AMISOM[103].

In the contemporary politics of the Horn, Somalia has been a polity of concern that has in recent time determined much of the defence and foreign policy re-architectures by Kenya to manage the situation. Certain events gave legitimacy to the use of force by Kenya in its continued engagement with the polity.

Military intervention remains controversial when it happens, as well as when it fails to. Ramuhala (2010: iv) asserts that since the end of the cold war, military intervention has attracted much interest in policy architecture circles and in scholarly debates; and it was demonstrated that several instances of the use of force or the threat to use force without Security Council endorsement were quite acceptable and even necessary[104]. In Kenya's Defence Force decisions and the resort to military intervention from late October 2011, there have been arguments and legitimacy assertions that its actions have followed much of this logic.

It has also been subject to many intervention dilemmas. In its first incursive actions into Somalia, Kenya asserted that matters of national sovereignty and territorial integrity are the fundamental principles on which the international order was founded since the Treaty of Westphalia, and so this has served as a principal basis for the consideration of hard-power engagement by the country.

[103] UN Security Council Resolution 2036 has expanded/ did expand AMISOM's mandate and raised the troop ceiling.

[104] See Mashudu Godfrey Ramuhala. March 2010. Military Intervention in Africa after the cold war. Thesis presented in partial fulfillment of the requirements for the degree of Masters in Military Science at the University of Stellenbosch. In, http: //www.scholar.sun.ac.za/bizstream/handle/10019…/Ramuhala,%20M.G.pdf accessed on 28th March 2012.

Kenya's original premise towards a resolve to use its hard-power capabilities was that the territorial integrity of States and non-interference in their domestic affairs, remain the foundation of international law, codified by the UN charter, and one of the international community's decisive factors in choosing between action and non-intervention. Towards this end, Kenya subscribed to this. Therefore, Kenya's original premise was based on this consideration and action – unilateral in nature – and at the initial intervention period this was the code of international law and comity that was applied or served as a convenient justification.

In the period between October 2011 and December 2011 foreign policy practitioners in Kenya's Foreign Service and representation to the United Nations headquarters in New York were hard-pressed to assert this principle, closely connected, as it was, to Somali insurgents' activities and continued security threats to Kenya's territorial integrity. New determinants of intervention have been utilised to legitimise this action – ranging from: terrorism and its outbreaks, for example acts of piracy off the Indian Ocean coast and within Kenya's Exclusive Economic Zone, and thus territorial integrity; the proliferation of small arms and light weapons; and the increased streaming of refugees into Kenya, as a result of insurgency activity in Somalia.

9.4.1 Hasty intervention or strategic action?

It has been argued by both the gate-keepers of the Horn of Africa and Somali affairs and through general analysis of the Kenyan military intervention in Somalia, that the action was hastily approved. Given the current developments of Kenya legally joining or being "rehatted" into the AMISOM operationally and tactically and with UN Security authorization, it may be argued that there was a strategic policy pegged on original 'occupation' actions of the intervention and the arresting of rising security threats from Somalia.

The intervention was originally prompted by a string of cross-border kidnappings by a small group of Somali outlaws suspected to be splinter groups or operatives of the Al

Shabaab[105]. The 'hot pursuit' claims connected to the kidnappings, and the rapid deployment of military forces could be construed as one emanating from prior operational and strategic plans to engage militarily in Somalia.

The involvement in Somalia, beyond the '*sparking*' prompted by the kidnappings was partly and strategically motivated by a desire to inoculate the North-Eastern Province of Kenya from the chaos across its border, to ease a huge refugee burden, and to curtail the radical influence of Al-Shabaab. It is important to understand a general map-out of the intricate interests that have solidified Kenya's continued soft-power intervention and the recent hard-power processes in a solid way.

According to the 2012 UNHCR country operations profile, Kenya is now officially home to almost 500,000 refugees from Somalia[106]. This continues to challenge the Kenyan government and host communities' capabilities to manage the population. No doubt, over time this has disrupted the urban centres too – in particular Nairobi with continued penetration of the centre by groups of refugees through uncontrolled and 'difficult to control and monitor' movements.

This has raised threats and vulnerability radar screens in terms of both national security and human security concerns related to this rise of refugee populations – both in the urban centres and those based in controlled (and uncontrolled) large refugee camps.

The issue is not simply the crisis in the camps or emanating from the presence of a large refugee population. Analysis from different government or official documents reveals that the government – through the different policy actions – seems uneasy about the growth of the native ethnic Somali population (nearly 2.4 million), according to the 2009 census and the increasing economic clout of Somalis (Kenya National Bureau of Statistics 2009)[107].

[105] It is important to note that although a military intervention was strategically being planned for, the timeline was actually accelerated by a string of cross-border kidnapping targeting western tourists on the Kenyan coast and aid workers from the refugee camp in Daadab.
[106] See UNHCR 2012. *UNHCR country operations profile-Kenya*. In. www.unhcr.org. as accessed on 28th March 2012.
[107] A more detailed account of the Kenyan population census, results and dynamics can be accessed through the Kenyan National Bureau of Statistics (KNBS) official website, In. http://www.knbs.or.ke/censusethnic.php, as accessed on 28th March 2012.

It is also aware of growing anti-Somali sentiments in the major urban centres (ICG February 2012: 2). It is also the situation on the ground in Kenya, and having interacted with Somalis mainly in urban centres in Nairobi – that a large but unknown number have obtained Kenyan papers illegally, largely due to corruption, but also because it is often difficult to distinguish between Kenyan and other Somalis[108].

There is also a closely related dynamic of movement of Somali refugees to two main cities in Kenya, namely Nairobi and Mombasa. This could partly explain the rise of a Somali metropolis in an area in Nairobi known as Eastleigh[109] - which was historically a trading centre within the city. Today, the area is estimated to have over 100,000 Somalis many of whom occasionally visit Somalia to trade in goods, to visit relatives and also involvement in political and civic processes touching on Somalia as a country and on Kenya-Somali community relations[110].

To provide a better analysis of the Somali refugees question and its human security and development impact in Kenya – and by extension a determinant of radical policy concerns – is a view of the Somali presence in Kenya on "spatial" and "social impact" levels. Herz Manuel (2007: 7) asserts that Somali refugees in Kenya are very consciously acting on a spatial level. They have set up a matrix of places, both inside and outside their host country, Kenya, and by occupying them simultaneously are able to take advantage of the different potentials these locations offer.

It is apparent from Herz's observations and thesis that structural interrelations exist especially between Eastleigh and the refugee camps near Daadab, with their inhabitants roughly twice the size of the Somali community in Nairobi. Interactions and interviews that the researcher had with Somalis in Nairobi and the camps reveal that refugee families living in the camps usually send their sons out to a range of different places,

[108] This information was deduced from the author's interviews and interactions with the Somali community, leaders and businessmen in 'Eastleigh, Nairobi, between October 2011 and in January 2012.

[109] More insights pertaining to urban Somali refugees and Kenya-Somali civic activity can be accessed in Manuel Herz.

[110] Author's interviews with Kenyan-Somali Members of Parliament, personalities in the Somali intellectual community residing in Kenya and those in the diaspora and businessmen.

such as to the town of Garissa – located near the Daadab camps, to Nairobi and if possible to other destinations like Dubai and other Arab countries[111].

Their task is to investigate the financial possibilities, conditions of personal security and general quality of life, as well as to support their families back in the camps financially. Even though their temporary residence might transform into a permanent settlement, for many inhabitants, Eastleigh is a place where they can earn money as 'foreign workers' to support their families, and eventually return to their home country. This situation has also been corroborated by Herz (2007: 7).

As the Somali refugees living in Eastleigh are often registered in one of the refugee camps, they have to return there on a recurrent basis. With these dynamics at play in Kenya and at the seat of government, Nairobi, the more negative variants of forced migration have found a breeding place in the mentioned areas. As earlier on mentioned in this thesis, there is organized crime which has also thrived in these conditions with proliferation of SALWs, recorded cases of human trafficking, and illegal movements across the borders through Kenya of Somali refugees and displaced persons and a connection of terrorist-organized activity in Somali-saturated zones in Nairobi, and parts of Mombasa.

This has incrementally compounded the use of other alternatives of statecraft to handle the Somali problem by Kenya. Opening up the security debate and predicament have been "regional security events", which also provide a basis where Kenya's interests and actions are aimed at greater stabilization of the Horn. The latest mass attack – the 11 July 2010 bombings in Kampala, Uganda that killed 85 civilians and injured dozens more – was attributed to Al-Shabaab.

This has, in time, confirmed long-standing fears amongst the law enforcement and defence community in Nairobi that the group had become a regional threat; and it came after several explicit warnings that the insurgent group would "bring war to Uganda and Burundi" in revenge for their troop contributions to AMISOM in support of the

[111] Interviews with Somalis in Garissa – Businessmen and those operating hotels in this area of Northern Kenya.

TFG, and for the civilian casualties caused by AMISOM shellings. Kenya has also on certain occasions been given such warnings by the group.

Closely connected to the security predicaments have been the vulnerabilities that Kenya has been facing in terms of its tourism sector. Tourism is arguably a key area of comparative advantage in terms of economic impetus for the country. The capital and seat of government 'Nairobi' stands out as a principal centre in hosting a huge United Nations presence, a large and rapidly growing diplomatic corps community and international and local non-governmental organizations (NGOs) involved in humanitarian relief and other activities.

When several Europeans were seized in the Lamu area (situated in the Kenyan coast-Mombasa area) in September and October 2011, the key tourism industry was affected. The 'decisive straw' appeared to be when two Spanish aid workers with Medecins Sans Frontieres (MSF) were kidnapped in Daadab refugee camp, near the Kenya-Somalia border, on 13th October (the third incident in less than a month). Several days later, Kenyan troops moved into Somalia.

9.4.2. Hard-power intervention: a regional strategy and internal consequences

It is with such determinants of policy considerations and the adoption of military intervention strategies that Kenya's situation is explained in terms of fungibility of powers from soft-power to hard-power procedures. Information sought by the researcher in Nairobi through interviews targeting the AMISOM political affairs office, diplomats and policy analysts in Nairobi has revealed that the Kenya Defence Force (KDF) had actually considered and broadly prepared for an intervention in Somalia for at least a number of years.

As early as 2010, the African Standby Force's (ASF) regional representative in Eastern Africa – and so the Eastern Africa Standby Brigade/ Force-EASF – had drawn up a plan to capture Kismayo at the behest of AMISOM. Since then, several regional plans for a military intervention in Somalia, with a Kenyan military role, apparently have

been considered. None were, however, implemented, because of objections from major Western allies and concerns by political leaders that plans would not succeed[112].

However, it could be argued, and observably so from current unfolding (2011 to 2012), that there have been unintended consequences that proved to provide a negative momentum to the hard-power approach by Kenya. The hard-power action has to some extent re-opened old wounds, fomented new inter-clan discord, radicalised Kenyan Somalis, and to some extent provided a negative momentum to recent social, economic and political advances. Between October 2011 and January 2012, it can be observed that the North-Eastern Province (bordering Kenya and Somalia) had become a soft underbelly in the war against Al-Shabaab.
During this period, attacks were observed by the radical Islamist movement of KDF forces situated in different positions in the metropolis, and on local provincial administrators and the police force (Ongeri & Ombati 2011: 7). It may be argued that part of the insurgencies (Al Shabaab) strategy in targeting such soft spots was to wage a low-intensity guerrilla campaign there, and in other areas behind the Kenyan lines (ICG February 2012: iv).

Over time, the hard-power-oriented intervention did to some extent also tap into deep-seated Kenyan fears of Somali encroachment, and corresponding Somali qualms, that Kenya was seeking to assert control over the territory that was once part of colonial Kenya. Al-Shabaab, towards that end, has attempted to exploit the Kenyan-Somali grievances against Nairobi by making a pan-Somali appeal, although without much apparent success to date (Africa Confidential 2011).

Another aspect to consider is provided by the experiences of other African intervention incidents in Somalia, like the case of Ethiopia. The history of outside military intervention in Somalia could provide Kenya with a reference point of 'engagement' experiences and challenges. The Somali people have shown in the past that they have a point of co-operation, especially when it comes to uniting in opposition to external interference.

[112] Interviews by the author with the analysts/Political Affairs office of the Eastern African Standby Brigade Command (EASBRICOM)-located in Karen-Nairobi, Kenya; And also informal interviews with different military attaches of African states represented in Nairobi and security experts in the capital on 28th March 2012.

This was observed in 2006, when Ethiopia militarily intervened in Somalia to oust the Union of Islamic Courts (UIC), a governing authority that had achieved considerable success in bringing a semblance of order to Mogadishu, but whose anti-Ethiopian rhetoric caused alarm in Addis Ababa. The intervention turned eventually into a brutal occupation, triggering an insurgency that affected Ethiopia for some time. Ethiopia withdrew two years later.

Considering the observed events leading to the current period of the Kenyan engagement, the country has not been viewed with quite the same level of hostility as Ethiopia; but it might have to tread carefully nonetheless (Downie 2011: 1-2).

9.4.3 Change of berets? From "hot pursuit to peace enforcement?"

It was on the 16 March 2012 that the KDF wound up Operation Linda Nchi (Swahili code name of the military incursion meaning "operation protect the country") in Somalia after registering a string of successes against Al Shabaab. In 154 days, the troops had engaged the militia group, capturing some 22 towns that were under the Al Shabaab-linked terror group, and had managed to neutralise to some extent the threats Al Shabaab had posed to Kenya (Mkawale 2012)[113].

According to sentiments by the military spokesman, Colonel Cyrus Oguna (as of March 2012), the KDF had captured some 9 5000 square kilometres of the lawless country, thereby making Somalis feel peaceful for the first time in the 21 years of war. His further assertions were that some of the refugee camps that were in Kenya had been relocated to areas that KDF had captured[114].

[113] See Mkawale Steve. 2012. *KDF winds up Operation Linda Nchi. In. The Standard Newspaper*. 17 March Edition-accessed through http://www.standardmedia.co.ke/news/InsidePage.php?id=2000054288&cid=159&story=KDF%20winds%20up%20Operation%20Linda%20Nchi.html, accessed on 29th March 2012.

[114] See, www.hornofafricanews.blogspot.com/…/Kenya-announces-compensation-plan-for.html, as accessed on 29 March 2012.

Another important milestone was the United Nations Security Council Resolution 2036 that was adopted on 22 February 2012[115]. This resolution officially "rehatted" Kenya into AMISOM. This was as a result of a lobbying and diplomatic channelling in the African Union (AU) and the United Nations (UN) decision-making processes by Kenyan diplomats on the precarious peace and security predicament that Somalia was creating in the region. In the new 'peace-enforcement' role within AMISOM, Kenya was to see 4 660 soldiers joining the multi-lateral force.

KDF, consequently became part of the military council, which is now the command structure – based in Mogadishu – with 16 of its senior staff being Kenyans, comprising with other nations, a total of 69 contributing staff. The new AMISOM command, as facilitated by the resolution, is therefore meant to complement efforts by the Transitional Government of Somalia. Under this arrangement, Kenya and Burundi Generals deputise a Ugandan General.

Kenya also took up the leadership in the Intelligence wing of AMISOM and the spokesperson's office. It is also worth noting that Kenya will accommodate Sierra Leone soldiers, who are also seen as being strategically part of the AMISOM force.

This analogy of the operational and strategic strengthening of AMISOM provides an opportunity for a co-ordinated process of stabilising Somalia. It actually provides further avenues of engagement by already struggling soft-power initiatives; and this is the available 'window of opportunity' for legitimately recognised third-party countries like Kenya to put diplomatic and further mediation and negotiation facilitation weight in a parallel Somali stabilization process.

Transitional ordering is, therefore, given a positive boost by the weakening of militant groups like Al Shabaab through the multipliers of power and assaults, courtesy of the Kenya Defence Forces and the now more-enhanced AMISOM peace-keeping mission. Connected to the available 'diplomatic and mediation engagement window of

[115] See, United Nations Security Council Resolution 2036 (2012). Adopted by the Security Council at its 6718th meeting on 22 February 2012. In. Security Council Report. *March 2012. Somalia*- accessed through http://www.securitycouncilreport.org/site/c.glkWLeMTlsG/b.7996433/K.AC19/March_2012brSomalia.htm as accessed on 29 March 2012.

opportunity' is the opportunity rendered to the international community to "re-engage" with Somalia. A case in point was the progressive journey towards the 23 February 2012 International Conference on Somalia to be convened at Lancaster House, United Kingdom.

The decision by Kenya to militarily engage with the Somali militants, and to support TFG and the AMISOM forces, provided a ray of re-engagement and strategic interest by the international community, and different systemic events with the International conference being the "icing on the cake". This shows the necessary renewed enthusiasm to bring back Somali onto the international political and economic map. A case in point is the political re-engagement by different States that have an interest in seeing Somalia fully regaining its State-functioning capabilities and rebuilding towards that end.

In terms of bilateral diplomatic engagements, different Arab-world countries have shown renewed and vigorous interest in rebuilding and stabilising Somalia. For example, Turkey became the only country outside the region to have a functioning diplomatic mission in the impoverished war-torn country[116]. In the latter half of 2011, the Prime Minister of Turkey, Recep Tayyip Erdogan, became the first foreign leader to visit Somalia in almost a year, as he sought to draw international attention to the plight of millions of starving people (Hurriyet Daily News 2011).

Another country that showed renewed interest in the beleaguered country was the United Kingdom (UK)[117]. On 2 February 2012, the UK appointed its first ambassador to Somalia in 21 years, as the Foreign Secretary visited the country (Smith 2012). As of now (2012), there exist six diplomatic missions in Mogadishu, namely: Djibouti, Ethiopia, Libya, Sudan, Turkey and Yemen.

[116] Ambassador Cemalettin Kani Torun and his staff flew to the Somali capital Mogadishu on October 31 2011, and the embassy began functioning the following day as part of Turkey's increasing efforts to help Somalia amid famine and long-running domestic instability. Ambassador Torun, a physician who has worked in Africa with the non-governmental group Doctors Worldwide, was appointed to Somalia with the aim of better co-ordinating Turkish assistance. See, *Hurriyet Daily News*. 2011. Turkey opens consulate in Somalia. 3 November, in. <http://www.hurriyetdailynews.com/turkey-opens-consulate-in-somalia.aspx?pageID=238&nID=6429&NewsCatID=338> 30 March 2012.

[117] See Smith David. 2012. UK appoints first ambassador in 21 years. In. <http://www.guardian.co.uk/world/2012/feb/02/uk-appoints-somali-ambassador>2 February 2012. Accessed on 30 March 2012.

There have also been other systemic unfoldings with international regimes, namely: the United Nations Political Office for Somalia (UNPOS), the political office and the secretariat of AMISOM relocating from Nairobi to Mogadishu. This was after a semblance of order was restored, with the Al Shabaab flushed out of most areas by the KDF and its allied forces. In essence, therefore, a development community – resident, and having operational orientations of rebuilding Somalia – has been created, and it therefore becomes imperative for there to be a co-ordinated framework that supports the peace management of Somalia.

This is the connecting point where Kenya could re-engage in facilitating the intermediary roles of all these new and invigorated players in a co-operative framework for rebuilding Somalia. This, the thesis posits, can only be done if Kenya re-evaluates and situates its foreign policy in reality to the current and progressive developments in Somalia[118]. There needs to be a complementary foreign policy, and a soft-power-oriented contingency plan by the diplomatic policy-makers as regards the already-active defence policy and engagement by Kenya's security and defence establishment.

9.4.4 A hesitant power: the disconnect in foreign and defence policy

The politics of the Somali conflict have seen interesting developments in the East-African region and particularly the Horn of Africa. These developments have been characterized by regional power dynamics related to peace diplomacy, leadership and also roles taken up within the peace-keeping and enforcement domain. In 2007, the government of Uganda made a decision to intervene in the Somali conflict by sending

[118] The Chief technical foreign policy chief of Kenya's Foreign Ministry (as of 2012) has often reiterated that it is imperative for Kenya's foreign policy implementers and strategic architects to realize that its orientation needs to go past "opening doors" in the region through peace diplomacy and the facilitation of diplomacy, and to "enter and lead" through the pathways that would consolidate Kenya's long-term gains in terms of national interest. He asserts that Kenya often misses opportunities and does not go the long haul in situations where it has provided opportunities, like the ordering of South Sudan through the facilitation and delivery of the Comprehensive Peace Agreement (CPA) and the Somalia peace processes and stabilization efforts through the KDF. In short, Kenya has become a relentless power. See the Permanent Secretary's comments in, Barasa Lucas. 2012. Kenya instructs envoys to boost economic diplomacy. In *Africa Review*. Nairobi: Africa Review. 20 March, accessed through:http://www.africareview.com/News/Kenya+seeks+to+boost+economic+diplomacy/-/979180/1369934/-/srp8jz/-/index.html, 30 March 2012.

peace-keeping troops to Somalia as part of the African Union Mission in Somalia (AMISOM).

The strategic and immediate determinants of Uganda's actions, at the time, were not proximate to the Somali conflict and its effects as compared with Kenya's interests or concerns and also those of Ethiopia. Irrespective of lack of any immediate interests pertaining to the intervention, Uganda was not hesitant to demonstrate its power in the region as a leading guarantor of regional peace and security. The decision to intervene, according to analysts like Jonathan Fisher, might have had as much to do with Uganda's relationship with its donors, as it has with maintaining regional stability – the official justification for intervention.

Museveni's decision to intervene in Somalia is an example of his regime's multi-pronged 'image-management' strategy. This is a situation whereby the president has involved Uganda in numerous foreign and domestic activities, in order to ensure that donors perceive his government in a particular way as regards their interests: as an economic success story, a guarantor of regional stability, or, in relation to Somalia, an ally in the global war on terror (Fisher 2012: 404-423).

Uganda has, therefore, created and left a mark in the regional politics and dynamics through utilizing the small windows of opportunity that have helped to project it as a regional power. Close to Uganda are the often-missed opportunities by Kenya, and its hesitation to fully utilize regional all the avenues and issues that project its relative power too.

There has been a public outcry and discourse pertaining to Kenya's indifference in foreign-policy behaviour; and so, in fully utilising the soft-power avenues it holds, the avenues created by opportunities it creates in regional political circles, and in its overall diplomacy and facilitative initiatives, much could yet be achieved. There has been a negative trend observed with the current military engagement in the Somali situation, for example. In this case, Kenya has at times been seen as a hesitant power, to the extent that it does not recognize the potentials of its 'soft-power' actions.

This opens the question of whether Kenya would recognise other opportunities created by the hard-power move in Somali's post-conflict reconstruction environment, State construction and peace-building. Since the hard-power inception, the soft-power component of the country's peace diplomacy has not been as visible as it should be. The Kenyan foreign ministry has been less visible in daily briefings that characterised the Kenyan defence forces/Ministry media briefings on the situation in Somalia.

Frequently, the main foreign-policy chiefs would provide completely opposite policy stands – as compared to the KDF's activities and policies on Somalia – and this confirms the assertion that Kenya should re-invigorate its clear interests and stand – at least from a foreign-policy perspective. If anything, the foreign and defence-policy stance should all read from the same script, since coordination is essenctial.

This would provide a situation for Kenya to come in – through the already much-invested soft-power utilisation of the diplomacy of conflict management – in order to complement the doors opened by the hard-power presence, and the strengthening of transitional ordering/stabilization processes in Somalia, lest the soft-power component might become a run-away strategy.

9.4.5. Soft-power opportunities: the post-Lancaster Somali conference avenues

In any strategic planning – whether within the security or foreign policy pillars of statecraft, time and space have to always be understood as elastic and non-confining. The Somali situation has proved that the unforeseen but well-coordinated military assault by the KDF opened the doors for the soft-power option to re-energise its efforts. As mentioned, the 2012 International Somali conference in London was the result of the *stabilizing* intervention by this Horn-of-Africa power on the Somali protracted situation.

The conference also brought in a strong 'peace-building' and State-reconstruction (construction) undertone in the continued dialogue process in Somalia, non-withstanding the peace-enforcement developments to date. The following question is, therefore, put into context: 'What opportunities do the post-London deliberations and

decisions provide to Kenya for enhancing its intermediary co-operative role in peace-building in Somalia?'

In his inaugural address to the London conference, Kenya's President, Mwai Kibaki, asserted that the international gathering and unfolding event was an unprecedented opportunity in the wake of remarkable progress in the fight against militancy in Somalia and terrorism, for that matter. Most importantly, there was the Head of State's highlighting of the need for the international community to recognise, to support, and to complement the Horn of Africa's already-existing engagements with Somalia.

He called upon the conference to acknowledge, recognise and build on programmes aimed at jump-starting inclusive political dialogue, recovery, the rule of law and development in Somalia. Here lies the point-of-entry for Kenya in the conference. With the already-consolidated processes, namely: the IGAD Somali peace processes and Kenya's chairing of the same, an intermediary co-ordinative role was sought by this first opportunity. In any case, Kenya has legitimacy to provide leadership by co-ordinating a recovery and political dialogue process – given the many failed attempts by Western-led schemes. Kenya – through soft-power approaches founded on regional stabilisation through regimes like IGAD – could channel international efforts and directions or agreements of action as those provided in the London conference through these existing processes.

Kenya's proximity to the Somali social-cultural base, its grasp of Somali peace and security dilemmas and regional power that it wields – as reiterated and illustrated in this treatise – should be recognised by these external processes and by Kenya's foreign policy-makers and practitioners.

9.4.6 Intermediary co-operative and assistance avenues in Kenya: peace-dividends capabilities for the region

At the heart of *Kenya's soft-power* and '*Regional African Driver*' status are its capabilities in terms of what could be referred to as 'peace-divided avenues' for the region's peace and development. Kenya's soft power underbelly is defined by the long tradition of peace and security diplomacy and management capabilities and

infrastructure that it has, when compared with other capitals in the region. Closely connected to such strategic intervention avenues and ones that would lead to incremental stabilisation of Somalia and the region are avenues that Kenya's foreign policy establishment and statecraft have not fully utilised, or put full diplomatic weight on.

These capabilities are closely related to Kenya's 'bestowed' regional stabilization role in juxtaposition to the institutions of the African Peace and Security Architecture (APSA) – in particular, the reference is to one pillar of the same: the African Standby Force (ASF) and its extension: the East African Standby Force (EASF).

9.4.7 Soft-power avenues in the APSA arrangements

It is worth mentioning that the African Peace and Security Architecture (APSA) describes the various elements developed, or in development, by the African Union and some regional organisations – to bring about peace and security on the continent. The structure provides for a political decision-making body (the Peace and Security Council, PSC), an intelligence-gathering or early warning analysis centre (the Continental Early Warning System, CEWS,), a military element (the African Standby Force, ASF, and Military Staff Committee, MSC), an external mediation and advisory body (the Panel of the Wise, PoW) and a special fund to cover costs (the Peace Fund).

It is important to also note that the different elements are intended to provide a comprehensive set of tools for addressing the security concerns of the continent by African actors. The PSC receives advice and information from the PoW, CEWS, Military Staff Committee; and it then instructs the ASF[119] on the actions it deems necessary.

Connected to this chain of the peace and security architecture is Kenya's role in the system. As an example, Kenya hosts the East African Standby Force Command Centre

[119] The African Standby Force is still in early stages of being established, but it is being designed to take the role of an African Rapid Reaction Force capable of deployment anywhere on the continent. The force is based on and divided into 5 regions, North, South, East, West and Central; and it draws on military, civilian and policing resources from a combination of some or all of these regions. Each region will have regional headquarters and planning elements to support the work of their brigades.

(EASFCOM), and actually incubates the 'East African Standby Force (EASF)". The EASF is a force capability that emanates from one of the mentioned African Peace and Security Architecture's (APSA) pillar – namely the "African Standby Force (ASF)".

As part of its restatement of the peace and security arrangement of the African Union, regional standby forces have been set up in the different geopolitical zones to deal with situations challenging the peace and security of these respective regions. The main aim of these forces is to avoid the complications involved with huge robust peace-keeping, and enforcement operations, some of which might not address concerns on time and proximately to the region. Closely connected to Kenya's hosting of the East African Standby Force is an institution that has direct operational command with Kenya – this being the International Peace Support Training Centre (IPSTC).

Interviews with the Director of the centre revealed that it is an internationally recognized centre of excellence in the area of peace-keeping and enforcement-training and doctrinal development. IPSTC has direct strategic management links to Kenya's Ministry of Defence, and has been mandated by the AU to be the main doctrinal and substantive peace-keeping training centre for the regional African Standby Forces. From information sought by the researcher from the Director of the school and research department, it is apparent from its existence and the training of different regional forces on peacekeeping, that the UN Mission's political officers, and other African States' diplomats, that there is very little that the foreign policy and diplomacy wing of the Kenya government has done to provide strategic weight and utilisation of the centre.

Directly related to Somalia were recommendations that with the centre's capabilities a post-conflict reconstruction avenue of training future Somali political, strategic and defence personnel is made available. It was observed that very few of Kenya's own diplomatic corps utilize the centre as an information-sharing and public-diplomacy medium – the latter of which is important to strengthen Kenya's soft-power stance and avenues towards consolidating sustainable peace and development in Somalia and the region. These are soft-power avenues that should be exploited by the diplomacy and foreign policy machinery in Kenya.

The intermediary role of assuming the "facilitator's hat" for peace-building support operations in the region is underscored by those avenues that should be the main cornerstone of Kenya's peace diplomacy pillar in its foreign policy.

9.5. Strategic and policy recommendations to the African, Kenyan foreign policy and mediation practitioners

The utilization of good offices, special envoys and formal mediators are key tools of crisis diplomacy in Africa, and of preventive diplomacy in the entire continent. The utilization of these tools has been important factors in cases of recent effective African and preventive diplomacy in the continent. Kofi Annan in Kenya, Haile Menkerios in Zimbabwe, and Sudan, Said Djinnit in Guinea, Thabo Mbeki in Sudan, Blaise Compaore in Cote d' Ivoire and Guinea, Olusegun Obasanjo in the Rwanda/ Democratic Republic of Congo (DRC) conflict, Augustine Mahiga and Jerry Rawlings in Somalia, and Joachim Chissano on the Lord's Resistance Army (LRA)-affected areas are all good examples.

However, a number of these cases can only be viewed as 'highly qualified successes' (Hara 2011).

While Mr Menkarios may have been instrumental in helping to finally negotiate a unity government in Zimbabwe after eight years of "quiet", South African diplomacy, thereby averting the collapse of the country, the lack of 'international policy-coherence' and due diligence in the follow-up to the Global Political Agreement raised serious doubts about whether democratic transformation is still on the agenda, and crisis has truly been prevented. Without any clear 'co-ordination mechanism' to achieve policy coherence, the rest of the international community, including the UN, were left to 'wait and see' whether the South African/SADC mediation would be sufficient to help avert a potential crisis in the elections – and in any future up-and-coming elections, for that matter (International Crisis Group 2008: 2).

In the DRC case, President Obasanjo's mediation between the National Congress for the Defence of the People (CNDP) rebels and President Kabila's government could only carry the process so far. The rapprochement between Presidents Kabila and

Kagame, whatever its terms, was deemed sufficient to get a ceasefire and avoid an absolute collapse of Kabila's authority after the CNDP show of force and Kabila's army defeat in October 2008.

However, President Obasanjo was quick to recognize the limitations of this type of diplomacy, when the key international actors, in this case western governments such as the US, France, and the UK, and regional powers such as South Africa, were unwilling to support a comprehensive diplomatic process to resolve the underlying causes of the conflicts in Eastern DRC. Without this support, the violence in Eastern Congo continues to fester at an unacceptable level, and no single third party accepts any real responsibility to facilitate a lasting solution to the myriad land, justice, citizenship, intercommunity co-existence, wealth-sharing, and other economic issues in the Kivus.

The lens through which the conflict is viewed has been stubbornly State-centric, an inadequate approach for dealing with the conflict in the Eastern Congo, which also has local and regional dynamics (Carayannis 2009: 5-16).

Other challenges manifest themselves in more obviously failed mediation efforts, such as those in Darfur, Western Sahara and Madagascar. In Darfur and Western Sahara, as well as in Somalia, important regional dynamics are at play. In such situations, a fragmented international approach, coupled with a highly State-centric mode of engagement has caused the mediation efforts to flounder.

Failures of diplomacy in Darfur and Madagascar are equally illustrative of the challenges of proliferating actors and unco-ordinated mediation. In each case, individual personalities and institutions were embroiled in competition with one another at the expense of creating a coherent diplomatic strategy. In the case of Darfur, Thabo Mbeki, Djibril Bassole, and Ibrahim Gambari were competing, while there continued to be no overall political strategy to resolve the crisis (Hara 2011).

In the case of Madagascar, the UN withdrew its special envoy in large part to give space to the AU and SADC, but the whole process hit a dead end. Thus, while individual capacities and relationships are highly relevant to the success of any given envoy, the institutional and global dynamics must also be managed through coherent

and organized political processes if mediation is to succeed and as, importantly, if coherent follow-up to mediation is to be sustained (Ploch 2012: 12-13).

These are the intermediary co-operation, role realities and dynamics that animate African diplomacy – and especially in the 'peace diplomacy' aspect of processes or talks.

These are the many-existing intermediary co-operation, role opportunities and dynamics that African mediators and third-party players of conflict management ought to recognize. Back to Kenya, it should also utilise intermediary role opportunities in its foreign policy and soft-power diplomacy efforts, and in engagement with the Somali question. It is a contingency plan that calls for a strategic streak that sees diplomatic and development or post-conflict reconstruction engagement as a "co-operative enterprise".

The situation in Somalia is ever fluid, but current renewed international interest in Somalia has created a rare window of opportunity for Kenya's diplomacy.

The renewed interest, as illustrated, has been courtesy of Kenyan decision-making processes and actions on the Somalia question. Intermediary co-operation support mechanisms should be adopted in Kenya's policy engagement on the matter, and more strategic foreign policy and regional actions by Kenya should be taken up – given its new lease of engagement life through the country's rehatting into the AMISOM structure, and actually into the strategic leadership role that Kenya could take in such a robust peace support operation task.

Parallel soft-power processes, courtesy of Kenya's track-one efforts, should be put into top gear and especially so in Kenya's intermediary support and leadership role within the international contact group deliberations in terms of political dialogue co-ordination processes, post-conflict reconstruction, and most importantly, in strategic stabilization coordination for Somalia.

As part of the strategic recommendations of this study, and bearing in mind the already-observed precedents on how developments in Somalia, actor interests,

legitimacy concerns in third-party intervention and general engagement in Somalia determine the sustainability and momentum of a process, it would be important for Kenya – as a main regional African driver – to understand and espouse into its soft-power and foreign-policy architectures certain international opportunities.

In political risk analysis and connected to future strategic intervention avenues, the February 23 2012 International Conference on Somalia held in London provides fresh concerns that might have a bearing not only on foreign policy architectures and concerns, but also on the general state, and level of peace and stability in Somalia. Concerns of relapse into violence and the possible escalation of social disorder in Somalia that have characterised the Horn of Africa State for the past two decades could be observed.

These concerns surfaced following a resolution of the conference – at which it was agreed that the life of the Transitional Federal Government should end in 2012 (August in particular) – and a constituent assembly should be formed to write a new constitution and 'elect' a new parliament[120].

Bearing in mind the politics of conference management, and representation in a negotiation and mediation process, there will be observed in the machinations of developments on the Somali issue a 'revisiting' of the complexities of the processes and a de-escalation of the political process if the right and 'tested' intermediaries do not provide leadership in steering this process. Kenya should seize this opportunity and continue with the 'facilitative and enabling role' of its diplomacy of conflict management.

The content of the resolution provides that there would be a constituent Assembly, which would consist of 1 000 representatives, who would in turn nominate 225 Members of Parliament (MPs) on the 4.5 formula used during the Kenyan-led Somali peace talks that originally resulted in the formation of the TFG. As described in

[120] See Article 5 of the London Conference on Somalia Communique. Full text of the Communique can be accessed in. Foreign and commonwealth Office. 23 February 2012. *London Conference on Somalia: Communique.* Accessed through, <http://www.fco.gov.uk/en/news/latest-news/?id=727627582&views=Press. Accessed on 2nd April 2012. The Communique is also attached as Appendix , Page of this dissertation.

previous chapters of this dissertation, the 4.5 power-sharing system is a clan-based approach, where parliamentary slots were worked out, based on four main clans and a conglomeration of minority clans lumped up together as a single entity during the Nairobi Peace process.

This is the first contemporary hurdle that Kenya and the international community have to take cognisance of. There needs to be a revisiting of protracted mediation and dialogue processes with interests reawakened, as illustrated in the politics of conference and substantive management in previous chapters of this dissertation.

A second issue of concern and one that would determine future strategic intervention is the question of militancy in the Horn and the 'ghosts of Al-Shabaab philosophies and threats'. Following the Kenyan-led multi-pronged military operations, in addition to efforts by AMISOM, the Islamist Al Shabaab has been uprooted from strategic positions, from where they destabilised the country and neighbouring States. The routing of Al Shabaab and related militiamen from strategic towns of the country has meant that there are now local areas of stability in Somalia, but with a vacuum of formidable local representation and legitimacy of authority. To avoid a re-penetration of extremist and opportunistic ideologies and forces that would de-escalate the process, there is a need for the intermediary role processes to recognise that local representation is important in general political dialogue pertaining to Somali's stability.

Each of these pockets of stability that are increasing day by day should be treated in a differentiated intermediary approach that integrates political, security and development concerns of the polities. The danger is that a roadmap adopted by representatives of the 40 countries that attended the Lancaster Conference has a raft of proposals that presume that the hard-power/ military intervention by AMISOM and neighbouring countries would restore order permanently.

At this point, soft-power approaches, and considerations, as above, should be revisited and regional States – Kenya in particular – should have a better appreciation of these situations that need to be included in general intermediary contingency plans that lie hand-in-hand with existing military engagement processes. Intermediary co-operation

and roles in the general stabilization and peace processes in Somalia should, therefore, be critically considered for any effective strategic engagement in Somalia to take place.

This would provide parallel processes supporting political dialogue, and realistic peace-building efforts in the conflict zone.

9.5.1 Policy recommendations for Africa and the international community

The African continent is characterized by a variety of countries with diverse social and cultural matrices. Most of these countries are made up of five or more communities with varying social, political, and communal or faith-based identities. To compound this, there are community differences that are animated through social conflict, and are based on sources and contestations related to livelihoods (for example pastoralism and conflicts related to pasture and water).

While diversity can be a source of creativity and positive growth, when poorly managed, diversity often becomes a source of unhealthy competition, conflict and instability. In order to effectively address and manage conflict, reduce poverty and ensure sustainable development and peace-building, it is essential for policy-makers, government institutions, supporting United Nations entities, and other regional organizations to understand and help address the unique needs of diverse African societies. This directly affects the conflict-management, peace-building strategies and architecture applied by different intermediaries.

A brief picture of the contemporary African conflicts and their manifestation will explain this further. A multiplicity of causes of conflict, or drivers of conflict, can be deduced from different conflict systems in the continent. This expands the very tasks and issues of concern that mediators, development support actors and organizations have to take into consideration.

The continent has faced several major crises with the Sahel crisis and famine in the Horn of Africa, for example, affecting over 13 million people. Current events and the violence in Libya following the change of government have created more than 900,000 refugees. The situation has also had a major impact on neighbouring countries. The

International Organization for Migration (IOM) estimated that by 27 November 2011, the number of migrant workers who had fled from Libya into countries, such as Burkina Faso, Chad, Ghana, Mali and the Niger stood at over 420,000.

In addition to depriving thousands of families of their remittances, their plight has added population pressure to communities already facing drought and exacerbated an already tenuous security and humanitarian situation in the Sahel region. In addition, arms proliferation is aggravating long-standing conflicts and entrenching terrorist activities in the Sahel region. Criminal groups in this region have also taken the opportunity to increase recruitment and create local support networks for gathering information and supplying arms and ammunition, further facilitating transnational organized crimes, such as human trafficking and drug trafficking. (United Nations 2012: 3).

In West Africa, some of the weapons used in the Cote d'ivoire conflict still remain unaccounted for, and pose a threat to the stabilization of the western parts of the country, which border Liberia. In the Horn of Africa, a key concern is the situation in South Kordofan and the Blue Nile States in South Sudan. Conflict over the disputed border has resulted in the outflow of more than 162,000 refugees into South Sudan and some 36,500 into Ethiopia in recent months (United Nations 2012: 4).

With regard to Somalia, on 15 October 2011 as mentioned, the government of Kenya launched "Operation defend the nation" into Somalia under Article 15 of the Charter of the United Nations. The operation followed a series of kidnappings of tourists and local and foreign aid workers in Kenya by Al-Shabaab. Joint attacks against Al-Shabaab by Kenya, the Transitional Federal Government of Somalia with AMISOM troops have brought an increased measure of security to Mogadishu, and allowed control of parts of the country to be regained.

Meanwhile, the process for a return to stability and peace in Somalia continues.

Challenges in Somalia go beyond mere reconstruction or stabilization, but require careful changes. International efforts to support Somalia have recently led to an exacerbation of national and sectarian reactions. Support to Somalia's stability and

development must, therefore, be based on a careful balance of international inputs and respect for local structures, regardless of their political orientation. For example, a fundamental aspect of Somali culture is the ability to generate and manage effective business relationships. This should be one of the target and core resources that could be utilized, and might be an additional strategy to re-order Somalia.

This would provide a major socio-economic ingredient in the Somali peace process. The business community has played varyious roles in Somalia's conflict with both positive impacts on post-conflict reconciliation and negative impacts that contributed to an escalation of the violence at different times. Somalia has, at the moment, an evolving private sector, and of its interactions with the violent conflict at different stages, in an environment bereft of regulation. However, a caveat is that while many business actors and transactions have fed and sustained conflict in various ways, some have also played a key role in de-escalating the conflicts (Yusuf 2006: 501).

Given the security environment in Somalia, high security costs are involved in running businesses. These interactions or transactions require co-operation between business actors, rather than competition. The lack of security has compelled business people to become a force of deterrence against the warlords who dominated the country in the early stages of the civil war.

It is in the early stages of a war that entrepreneurs could not engage in business unless they were in partnership with the warlords. As the conflict subsided, its dynamics also changed. Business actors established cross-cutting networks that were more suited to their ventures. Such clan-transcending networks shrank the warlord's areas of control. Resource-driven alliances proved more solid and enduring than political alliances. At the same time, they dampened polarization between clans. These networks usually link business actors who act as a beam to ensure the security of business in their area (Nenova & Hartford 2004: 3-8).

This is therefore an important socio-economic resource for positive peace in Somalia. It also provides a development link to the peace process; and the utilization of this 'peace-constituent' in Somali peace processes and post-conflict reconstruction is essential.

Another aspect to consider is that when civil authority has broken down, the first priority is to restore a sense of security. This includes restoring legitimate government institutions that are regarded by citizens as serving all groups that are able to allay persistent tensions, while carrying out the challenging and costly task of rebuilding. The security of the individual, the society and its lenses in traditional and religious practices in Somalia is, therefore, the cornerstone of political, social, and economic stabilization.

Attaining this requires the rebuilding of credible relationships and institutions at the central, as well as at the local and community levels, as they would have a determining influence on the entire reconstruction effort, ranging from the restoration of civic dialogue in Somali society, the restoration of productive sectors of the economy, the return of capital to demobilization, and reintegration.

A major challenge for peace-building in Somalia is to also legitimize State institutions and actors. One way of establishing such legitimacy is through elections or public participation and dialogue. However, elections do not create or sustain democracy by themselves. In a broader sense, democratization must be conceived of as a context of changing relations both within government and civil society, and an arena for partnership and dialogue between all the stakeholders (clans, sub-clans, religious networks, militants).

This is important in the Somali polity. This entails developing the relevant operative governance structures, including the rule of law and other civil society institutions.
In addition to the institutional challenges noted above, there are other challenges indicative of the range of needs that must be addressed early in a protracted society struggle, as in Somalia, if the ground is to be secured for sustainable peace and economic development. These include:

- ***Dialogue and reconciliation***: There is a need to prioritize on national reconciliation, by reactivating the moribund reconciliation process, reconstituting legitimate actors and broadening legitimate participants towards a comprehensive national plan and reach.

- ***Informed International/external policies and intervention dynamics***: another important aspect should be the essence of foreign action and interventions engaging from an informed platform. This calls for candid and holistic strategic conflict analysis, political risk analysis and dialogue with the social cultural base in Somalia, with the objective of minimizing the unintended consequences of foreign intervention in Somalia.
- ***Constitutionalism and Governance***: There is a need to reconstitute an inclusive consultation agenda to amend the current transitional charter, to deliberate on the constitution, and to agree on reform of the transitional federal institutions for the post-August 2012 period, with the focus on governance.
- ***Social Security Management and economic resources restoration***: this pertains to urgent educational and basic social welfare requirements, including employment and income generation. For example, a way to curb the presence and effects of piracy would be to focus on economic drivers like the revitalization of the fisheries industry and the cattle and beef industry in Somalia, these two being possible livelihood activities. This would be part of a credible deterrence – coupled with enhancing law-enforcement components on mainland Somalia and maritime naval activities.
- ***Inclusion and integration of traditional Somali identities (Clans and Islam)***: It is imperative that a Somali State be built around the inclusion and integration of traditional Somali identities. Sustainable solutions for Somali's future, nationalist or otherwise, need to address competing identities and to establish common goals. A critical area of concern is the inclusion of clans and Islam – both representing entrenched forms of identity in Somali society. Sustainable peace-building efforts must, therefore, focus on creating State institutions that integrate Somali identities into working relationships at the local, regional and national levels (*vertical integration*), while contributing to the long-term goal of a national Somali identity capable of bridging societal divisions (*horizontal integration*).
- ***Transformation of institutions***: In the current focus period – of the stabilization efforts and peace enforcement measures targeting militants and spoilers of the peace – there is a need to transform certain sites of State functions, and in particular, the defense and security sector. The post-August 2012 State building

and stabilization efforts would have to deal with reversing and building capacities of national defence and public administration sites of governance in Somalia.

Here, both the regional and international efforts are essential in the peace-building project of Somalia for security sector reform and State-building through the contemporary public administration support, while taking into account the country's internal dynamics.

A major challenge of stabilization is the multi-polarization of the society defined by the importance of the clan-structure. Rebuilding bridges of communication between social groups (clans and sub-clans) and promoting participation in political life is, therefore, a necessary but daunting challenge for social reconstruction. In this context, peace-building policy, conciliatory activities, and particularly within the mediation and peace-support operations or peace-building levels have to take these multi-dimensional concerns into account.

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APPENDICES

APPENDIX A

INTERVIEW SCHEDULE

Important details concerning this interview schedule

It is important to note that the interview schedule was divided into three categories:

A). Category One

B). Category Two

C). Category Three

Category One

This, it will be noted, targeted Kenyan representatives and mediators involved in the Somali peace process, other Foreign Service officials, those accredited to the Inter-Governmental Authority on Development (IGAD), plus those working in the African Affairs docket. This category of the sample population basically addressed the aspects of track-one diplomacy and the soft-power practice of the diplomacy of conflict management.

Category Two

This category targeted officials in the Office of the Special Representative of the UN Secretary General in the Horn of Africa; in the same category were officials in the United Nations Political Office for Somalia (UNPOS), and also officials from the Africa Peace Forum and the Regional Centre on Small Arms and Light Weapons in

the Great Lakes and the Horn of Africa (RECSA). This category of the sample population basically addressed aspects cutting across track-one diplomacy and track-two diplomacy. This category particularly addressed the latter aspect, and specifically the intermediary roles of track-two diplomacy.

Category Three

This category targeted the Somalia peace constituents. This sample population represents the Somali people or citizens themselves, and those in diaspora. It is under this specification that those in Nairobi were targeted due to ease of access. The rationale for choosing the five respondents from this category was based on the ease of access to them, since they were resident in Nairobi and occasionally had links with Somalia, and also because they were representatives of Somali civil society networks and were also involved in quite diplomacy initiatives pertaining to Somalia. This category of the sample population, therefore, addressed the aspects of peace constituents in peacemaking.

Interview Schedule: Category 1- Kenyan Foreign Service officers, Kenyan Special Envoy's office to Somalia (attached to IGAD)

Q1 What is the basis of Kenya's preference regarding conflict management in its foreign policy approach in the Somali mediation?

Q2 What are the Kenyan interests in the Somali conflict?

Q3 What is the role of the Kenyan special envoy in the Somali peace process?

Q4 Which diplomatic strategies were employed in the mediation of the Somali conflict?

Q5 What is Kenya's foreign policy with regard to Somalia and the Horn of Africa, in general?

Q6 What were the problems that your office faced in the Somali mediation process, and expects to face in the current engagement?

Q7 How did you deal with other frontline States, considering their interests in the Somali conflict?

Q8 How are you dealing with the new players in the current impasse?

Q9 What is the mode of operation with regard to the Kenyan relations with:

A. Somalia militias and faction groups? **B.** Somalia-based or Somali-oriented non-governmental organisations? **C.** International entities, and also the United Nations and the International Somali Contact Group?

Q10 What was the nature of Kenya's conference diplomacy with regard to how international liaison and general protocol were to be conducted?

Q11 What problems will Kenya face, in its facilitation of the peace process and in general conference diplomacy?

Q12 What assistance is your office and Kenya receiving from intergovernmental organisations?

Interview Schedule: Category 2- UN officials, Africa Peace Forum Organization officials, RECSA officials, East African Standby Force Command (EASFCOM) officials, AMISOM, International Peace Support Training Centre (IPSTC) officials

United Nations officials

Q1 What is the mandate of the Office of the Special Representative of the UN Secretary General to the Horn of Africa, and how is it operationalized in terms of Somalia?

Q2 What was the special representative's role in the Somali peace process from 2002 to its completion in 2004?

Q3 What was the substantive nature of the relations between the special representative's office and Kenya, which headed the IGAD Technical Committee?

Q4 What sort of assistance did the special representative's office offer Kenya, which was the main facilitator of the Somali peace process?

Q5 What is the special representative's and the UN's stand on the policy of the delegation of conflict-management tasks to sub-regional organisations (in this case, IGAD)?

Q6 What was the mode of operation of the office with regard to relations with the Somalia geopolitical space itself?

Q7 What is the mandate and role of the UN Political Office for Somalia?

Q8 How does the UN Political Office for Somalia co-operate with the UN Office of the Special Representative to the Horn of Africa with regard to the Somali peace process?

Q9 What role has UNPOS played with regard to its relations with Kenya considering that it is headquartered in Kenya?

Q10 Have the UN offices co-ordinated with NGOs within the Somali peace process, and if so, how did this take place?

To officials of the Africa Peace Forum Organization

Q1, What was the role of the APF with regard to the Somali peace process?

Q2 What is your opinion regarding the role of track-two entities, such as NGOs in terms of the Somali peace process?

Q3 What is their working relationship with track-one entities, in this case, Kenya?

Q4 What did your organisation as a resource centre of the International Partners Forum, and partners that you represent, contribute to the Somali peace process?

Q5 What were the problems/shortcomings of the Kenyan-led practice of mediation in the Somali conflict?

Q6 What, in your view, is the nature of Kenya's legitimacy in leading and facilitating the Somali peace process?

Q7 What was the nature of APF's relations with the Somali people within the conflict and those in the Somali peace process?

Q8 What was the nature of relations between the APF and Kenya, and what did this entail?

Q9 What is your view of the presence of conflicting frontline States with different interests in the Somali peace process and conflict?

To officials of RECSA

Q1 What role does RECSA play in the conflict-management efforts in the Horn of Africa?

Q2 What is the nature of RECSA's relationship with the Kenyan government?

Q3 What can RECSA bring to the table in support of mediation processes in the Horn's epicentre – Somalia?

Q4 How does your organisation view arms control and disarmament initiatives, as a peace-building and as a mediation strategy?

Q5 In your experience, how effective is disarmament diplomacy in the Horn of Africa?

Q6 What is the nature of Kenya's support and role in enhancing your work on Somalia?

Q7 What problems has RECSA faced in its implementation support of the Nairobi Protocol in the Horn, and particular in Somalia?

To officials of the EASFCOM

Q1 What are the security predicaments that are challenging the Somali peace processes?

Q2. What is your view on the decision to use hard power by Kenya beginning in late 2011?

To officials of the Deputy Special Representatives's office-AMISOM

Q1. What is the complementary role of peace-supporting operations to parallel mediation efforts in Somalia?

Q2 What are the support mechanisms that are needed to make peace enforcement viable in Somalia?

To Officials at the IPSTC

Q1. What soft-power component does the peace-support-training centre provide for Kenya?

Q2 What is your view on the decision to use hard power by Kenya beginning in late 2011?

To Officials in the Deputy Special Representative's Office-AMISOM

Q1 In your opinion, what are the sources of armaments in Somalia?

Interview Schedule: Category 3- Somali constituents

Q1 What in your view was the extent and nature of success in the Somali peace process?

Q2 What is your view on Kenya's capacity to facilitate and mediate the Somali conflict?

Q3 What role do you think Kenya played in the Somali peace process?

Q4 What problems do you perceive existed in the Somali peace process?

Q5 In what way were the Somali peace process, the modalities and the actors representative of the general Somali views, societal make-up and aspirations?

Q6 What role did the Somali cultural norms and institutions play in the peace process?

Q7 What is your view on the effects of frontline States (Djibouti, Ethiopia and Kenya) on the Somali peace process?

Q8 What is your view on Kenya's relations with the Somali representation and people?

Q9 What is your view on the role of international organisations, such as the UN, in the realisation of peace in Somalia, vis-à-vis the role of neighbouring states, in this case Kenya, in realising peace in Somalia?

APPENDIX B

SOMALIA NATIONAL RECONCILIATION PROCESS ELDORET, KENYA

Declaration on Cessation of Hostilities, Structures and Principles of the Somalia National Reconciliation Process[121]

WE, the undersigned,

GUIDED by the common desire of the people of Somalia for peace;

AWARE of the prevailing poverty of the Somali people and their humanitarian needs;

DESIRING to bring an end to the continuing conflict in Somalia;

COMMITTED to the improvement of regional security for all Somalis

and the regional States;

WELCOMING the commitment of the international community to respect the sovereignty, territorial integrity, political independence and unity of Somalia;

APPRECIATING the leading role of the IGAD Frontline States (Djibouti, Ethiopia and Kenya) in this process;

APPRECIATING further the efforts of the international community in promoting national reconciliation in Somalia;

ACKNOWLEDGING that the Somali Authorities have the primary responsibility for ensuring the wellbeing of civilians in Somalia;

[121] The full and original unaltered text of the "Declaration on Cessation of Hostilities, Structures and principles of the Somalia National Reconciliation Process can be accessed in: http://bibliotecavirtual.clacso.org.ar/libros/iss/pdfs/igad/somalideclaration.pdf [as accessed on 26 January 26th 2009].

HEREBY SOLEMNLY UNDERTAKE the following commitments:

Article I Federalism

1) To create ***federal governance*** structures for Somalia, embodied in a Charter or Constitution, which are inclusive, representative, and acceptable to all the parties.

2) To endorse the principle of decentralization, as an integral part of Somalia's governance structures.

3) To ensure the rights, representation and protection of all Somali individuals and groups.

Article 2 Cessation of Hostilities

1) To abstain from hostilities in Somalia from 27 October 2002, and to maintain this state of affairs during the peace process, its implementation, and subsequently;

2) To use only peaceful means in the resolution of all disputes between political, military and other groups and the communities they represent;

3) To ensure that all political, military and other groups maintain only defensive military positions and capabilities, and refrain from any military provocations;

4***)*** To implement fully the United Nations Arms Embargo for Somalia (UN Security Council Resolution 733 of 1992);

5***)*** To invite the international community to undertake field-based and remote monitoring of the arms embargo, and to guarantee their representatives unimpeded and safe access.

Article 3 Enhanced Safe Access for Aid

1) To respect the rights of the people of Somalia to receive humanitarian assistance;

2) To guarantee the security of all humanitarian and development personnel and installations, including those of the United Nations Agencies, non- governmental organizations, ICRC and donor governments and organizations;

3) To ensure that the safe access to aid for all the people of Somalia is enhanced.

Article 4 Endorsement of Outcomes of the peace process

1) To undertake political negotiations and technical discussions in good faith and in a spirit of co-operation during each phase of the Somalia National Reconciliation Process;

2) To abide by the conclusions resulting from the Somalia National Reconciliation Process;

3) To implement all the resolutions of the Process in good faith and in a timely way.

Article 5 Combating Terrorism

1) To combat all forms of terrorism, and to co-operate with the international community in the fight against terrorism pursuant to UN Security Council Resolution 1373 of 2002;

2**)** To prevent the use of Somali territory **as a base** for any terrorist activities.

Article 6

Monitoring of the Declaration

1) To invite IGAD, the African Union and the international community to support and monitor the implementation of this declaration and all further agreements reached;

2) To support the establishment of enforcement mechanisms for the safe delivery of humanitarian aid and implementation of this declaration and all further agreements reached in the interests of the people of Somalia.

DONE at Eldoret, Kenya, on Sunday, 27 October 2002
SIGNED by:

Hassan Abshir Prime Minister of Transitional National Government

Abadall Derow Isak Speaker of the Transitional National Assembly

Col. Hassan Mohamed Nur 'Shatigudud', Chairman of RRA

Col. Hassan Abdulla Qalad Chairman of HPA

Musa Sudi Yalahow Chairman of USC/SSA/SRRC

Osman Hassan Ali 'Atto' Chairman of USC/SNA/SRRC Nakuru

Col. Abdirizak Isak Bihi Chairman of SNF
Bare Aden Shire Chairman of JVA

Abdullahi Sheikh Ismail Chairman of SSNM/BIREM

Abdulaziz Sheikh Yousuf Chairman of SSNM/SNA

Mohamed Aden Wayel Chairman SPM/Nakuru

Abdullahi Yusuf President of Puntland State of Somalia

Hussein Farah Aideed Co-Chairman of Somalia Reconciliation and Restoration Council (SRRC)

Mohamed Qanyare Afrah Chairman of USC

Mowlid Ma'ane Mohamoud Chairman, SAMO/SRRC Nakuru

Omar Mohamoud Mohamed 'Finish', Chairman of USG/SSA

Mohamed Sayyid Aden Chairman of SNF/SRRC

Gen. Mohamed Siad Hersi Morgan, Deputy SPM Chairman

Mohamed Omar Habeeb ‘Dhere’ Chairman of Jowhar Administration

Hilowle Imam Omar Co-Chairman of SRRC

Gen. Aden Abdullahi Nur ‘Gabiyow’ Chairman of SPM

Dr Sharif Salah Mohamed Ali, on Behalf of Civil Society

WITNESSED by:
IN THE PRESENCE of:

H.E. Hon. Elijah W. Mwangale, H.E. President Daniel Arap Moi’s Special Envoy for Somalia and Chairman of the IGAD Technical Committee;

H.E. Amb. Ismail Goulal Boudine Ambassador of the Republic of Djibouti to Somalia;

Dr Attalla Hamad Bashir Executive Secretary of IGAD;

H.E. Amb. Abdulaziz Ahmed Special Envoy of the Federal Democratic Republic of Ethiopia for Somalia;

Amb. Carlo Ungaro Special Envoy of Italy (Chair of IGAD Partners Forum for Somalia);

Amb. Mostafa Khedre, Deputy Assistant Minister for Foreign Affairs of the Arab Republic of Egypt;

Dr Walid Musa, European Union and European Commission Delegation in Kenya;

Amb. Mohamed Salim Al Khussaibi, Special Envoy of the League of Arab States;

Mr Glenn Warren, Embassy of the United States in Kenya;

Amb. Winston Tubman UN Representative of the Secretary General for Somalia.

APPENDIX C

THE NAIROBI PROTOCOL FOR THE PREVENTION, CONTROL AND REDUCTION OF SMALL ARMS AND LIGHT WEAPONS IN THE GREAT LAKES REGION AND THE HORN OF AFRICA[122]

Preamble

We, the Ministers of Foreign Affairs and other plenipotentiaries of

The Republic of Burundi

Democratic Republic of Congo

Republic of Djibouti

Federal Democratic Republic of Ethiopia

State of Eritrea

Republic of Kenya

Republic of Rwanda

Republic of Seychelles

Republic of the Sudan

United Republic of Tanzania

Republic of Uganda

(Hereafter referred to as the States' Parties);

REAFFIRMING the inherent right of States to individual or collective self-defence, as recognized in Article 51 of the United Nations Charter;

[122] The full and unaltered text of the Nairobi Protocol can be accessed in; http://www.recsasec.org/pdf/Nairobi%20protocol.pdf [20 August 2010].

GRAVELY CONCERNED with the problem of the proliferation of illicit small arms and light weapons in the Great Lakes Region and the Horn of Africa and the devastating consequences they have had in sustaining armed conflict and armed crime, degrading the environment, fuelling the illegal exploitation of natural resources, and abetting terrorism and other serious crimes in the region;

CONCERNED about the supply of small arms and light weapons into the region and conscious of the need for the effective control of arms transfers by suppliers and brokers outside the region (including measures against transfer of surplus arms) to prevent the problem of illicit small arms and light weapons;

AWARE of the urgent need to prevent, combat and eradicate the illicit manufacturing of, excessive and destabilising accumulation of, trafficking in, illicit possession and use of small arms and light weapons, ammunition, and other related materials, owing to the harmful effects of those activities on the security of each State and the subregion and the danger they pose to the wellbeing of the population in the subregion, their social and economic development and their right to live in peace;

ACKNOWLEDGING that the problem of proliferation of illicit small arms and light weapons in the region has been exacerbated by internal political strife, terrorist activities and extreme poverty, and that a comprehensive strategy to arrest and deal with the problem must include putting in place structures and processes to promote democracy, the observance of human rights, the rule of law and good governance, as

well as economic recovery and growth;

RECOGNISING also that the inadequate capacity of States in the region to effectively control and monitor their borders, poor and sometimes open immigration and customs controls, as well as the movement of armed refugees across national borders in certain countries, have greatly contributed to the proliferation of illicit small arms and light weapons;

RECOMMENDING that States Parties should consider becoming parties to international instruments relating to the prevention, combating and eradication of illicit manufacturing of, excessive and destabilising accumulation of, trafficking in, illicit possession and use of small arms and light weapons, and to implement such instructions within their jurisdiction;

ACKNOWLEDGING the work of the United Nations, the African Union, the European Union, the Organisation of American States, as well as the efforts in Africa to address problems associated with illicit small arms and light weapons;

AGREEING that they shall fulfil their obligations and exercise their rights under this Protocol in a manner consistent with the principles of sovereign equality, territorial integrity of States and non-intervention in the domestic affairs of States Parties;

With the purpose of reaffirming the goals of, and implementing, the Nairobi Declaration and the Co-ordinating Agenda for Action,

HEREBY AGREE as follows:

Article 1

Definitions

In this Protocol, unless the context otherwise indicates:

"**broker**" is a person who acts:

(a) for a commission, advantage or cause, whether pecuniary or otherwise;

(b) to facilitate the transfer, documentation and/or payment in respect of any transaction relating to the buying or selling of small arms and light weapons; or

(c) as an intermediary between any manufacturer, or supplier of, or dealer in small arms and light weapons and any buyer or recipient thereof.

"**brokering**" means acting:

(a) for a commission, advantage or cause, whether pecuniary or otherwise;

(b) to facilitate the transfer, documentation and/or payment in respect of any transaction relating to the buying or selling of small arms and light weapons; or

(c) thereby acting as intermediary between any manufacturer, or supplier of, or dealer in small arms and light weapons and any buyer or recipient thereof.

"**illicit manufacturing**" shall mean the manufacturing or assembly of small arms and light weapons:

(a) from parts and components illicitly trafficked;

(b) without a licence or authorisation from a competent authority of the State Party where the manufacture or assembly takes place; or

(c) without marking the small arms and light weapons at the time of manufacture, in accordance with Article 7 of this Protocol.

"**Illicit trafficking**" means the import, export, acquisition, sale, delivery, movement or transfer of small arms and light weapons from or across the territory of one State Party to that of another State Party, if any one of the State Parties concerned does not authorise it, in accordance with the terms of this Protocol, or if the small arms and light weapons are not marked, in accordance with Article 7 of this Protocol;

"**Light weapons**" shall include the following portable weapons designed for use by several persons serving as a crew: heavy machine guns, automatic cannons, howitzers, mortars of less than 100 mm calibre, grenade launchers, anti-tank weapons and launchers, recoilless guns, shoulder-fired rockets, anti-aircraft weapons and launchers, and air defence weapons;

"**Small arms**" are weapons designed for personal use and shall include: light machine guns, sub-machine guns, including machine pistols, fully automatic rifles and assault rifles, and semi-automatic rifles.

"Small arms" shall also include:

"**firearms**", meaning:

(a) any portable barrelled weapon that expels, is designed to expel or may be readily converted to expel a shot, bullet or projectile by the action of an explosive, excluding antique firearms or their replicas. Antique firearms and their replicas shall be defined in accordance with domestic law. In no case, however, shall antique firearms include firearms manufactured after 1899;

(b) any other weapon or destructive device, such as an explosive bomb, incendiary bomb or gas bomb, grenade, rocket launcher, missile, missile system or mine.

"Ammunition", meaning the complete round or its components, including cartridge cases, primers, propellant powder, bullets or projectiles, that are used in a small arm or light weapon, provided that those components are themselves subject to authorisation in the respective State Party; and

"**Other related materials**", meaning any components, parts or replacement parts of a small arm or light weapon, that are essential to its operation.

"**Tracing**" shall mean the systematic tracking of small arms and light weapons from manufacturer to purchaser, for the purpose of assisting the competent authorities of States Parties in detecting, investigating and analyzing illicit manufacturing and illicit trafficking.

Article 2

Objectives

The objectives of this Protocol are to: –

(a) prevent, combat and eradicate the illicit manufacturing of, trafficking in, possession and use of small arms and light weapons in the sub-region.

(b) prevent the excessive and destabilising accumulation of small arms and light weapons in the sub-region.

(c) promote and facilitate information-sharing and co-operation between the governments in the sub-region, as well as between governments, intergovernmental organisations and civil society, in all matters relating to the illicit trafficking and proliferation of small arms and light weapons.

(d) promote co-operation at the sub-regional level, as well as in international fora to effectively combat the small arms and light weapons problem, in collaboration with the relevant partners.

(e) encourage accountability, law enforcement and efficient control and management of small arms and light weapons held by States Parties and civilians.

Article 3

Legislative Measures

(a) Each State Party shall adopt such legislative and other measures as may be

necessary to establish as criminal offences under its national law the following conduct, when committed intentionally:

(i) Illicit trafficking in small arms and light weapons.

(ii) Illicit manufacturing of small arms and light weapons.

(iii) Illicit possession and misuse of small arms and light weapons.

(iv) Falsifying or illicitly obliterating, removing or altering the markings on small arms and light weapons, as required by this Protocol.

(b) States Parties that have not yet done so shall adopt the necessary legislative or other measures to sanction criminally, civilly or administratively under their national law the violation of arms embargoes mandated by the Security Council of the United Nations and/or regional organisations.

(c) States Parties undertake to incorporate in their national laws:

(i) the prohibition of unrestricted civilian possession of small arms;

(ii) the total prohibition of the civilian possession and use of all light weapons and automatic and semi-automatic rifles and machine guns;

(iii) the regulation and centralised registration of all civilian-owned small arms in their territories (without prejudice to Article 3 c (ii);

(iv) measures ensuring that proper controls be exercised over the manufacturing of small arms and light weapons;

(v) provisions promoting legal uniformity and minimum standards regarding the

manufacture, control, possession, import, export, re-export, transit, transport and transfer of small arms and light weapons;

(vi) provisions ensuring the standardised marking and identification of small arms and light weapons;

(vii) provisions that adequately provide for the seizure, confiscation, and forfeiture to the State of all small arms and light weapons manufactured or conveyed in transit without or in contravention of licenses, permits, or written authority;

(viii) provisions for the effective control of small arms and light weapons, including the storage and usage thereof, competency testing of prospective small arms owners and restriction on owners' rights to relinquish control, use, and possess small arms;

(ix) the monitoring and auditing of licenses held in a person's possession, and the restriction on the number of small arms that may be owned;

(x) provisions prohibiting the pawning and pledging of small arms and light weapons;

(xi) provisions prohibiting the misrepresentation or withholding of any information given with a view to obtain any license or permit;

(xii) provisions regulating brokering in the individual State Parties; and

(xiii) provisions promoting legal uniformity in the sphere of sentencing.

Article 4

Operational Capacity

States Parties shall:

(a) strengthen sub-regional co-operation among police, intelligence, customs and border control officials in combating the illicit circulation and trafficking in small arms and light weapons and suppressing criminal activities relating to the use of these weapons;

(b) enhance the capacity of national law enforcement and security agencies,

including appropriate training on investigative procedures, border control and law enforcement techniques, and the upgrading of equipment and resources;

(c) establish and improve national databases, communication systems, and acquire equipment for monitoring and controlling small arms and light weapon movements across borders;

(d) establish or enhance interagency groups, involving police, military, customs, home affairs and other relevant bodies, to improve policy coordination, information sharing and analysis at national level;

(e) develop or improve national training programmes to enhance the capacity of law enforcement agencies to fulfil their roles in the implementation of the agenda for action.

Article 5

Control of Civilian Possession of Small Arms and Light Weapons

(a) States Parties undertake to consider a co-ordinated review of national procedures and criteria for issuing and withdrawing of small arms and light weapon licenses, and establishing and maintaining national databases of licensed small arms and light weapons, small arms and light weapons owners, and commercial small arms and light weapons traders within their territories.

(b) State Parties undertake to:

(i) introduce harmonised, heavy minimum sentences for small arms and light weapons crimes and the carrying of unlicensed small arms and light weapons;

(ii) register and ensure strict accountability and effective control of all small arms and light weapons owned by private security companies;

(iii) prohibit the civilian possession of semi-automatic and automatic rifles andmachine guns and all light weapons.

Article 6

Control and Accountability of State-owned Small Arms and Light Weapons

States Parties undertake to:

(a) establish and maintain complete national inventories of small arms and light weapons held by security forces and other State bodies, to enhance their capacity to manage and maintain secure storage of State-owned small arms and light weapons;

(b) ensure strict national accountability and the effective tracing of all small arms and

light weapons owned and distributed by the State.

Article 7

Marking and Tracing of Small Arms and Light Weapons and Record-keeping

States Parties undertake to:

(a) mark each small arm or light weapon at the time of manufacture, with a unique marking providing the name of the manufacturer, the country or place of manufacture and the serial number. The marking should be on the barrel, frame and, where applicable, the slide.

(b) mark each small arm or light weapon at the time of import, with a simple marking permitting identification of the country of import and the year of import, and an individual serial number, if the small arm or light weapon does not bear one at the time of import, so that the source of the small arm or light weapon can be traced.

(c) ensure that all small arms and light weapons in the possession of the State are marked with a unique mark.

(d) ensure the maintenance, for not less than ten years, of information in relation to small arms and light weapons that is necessary to trace and identify those small arms and light weapons, which are illicitly manufactured or trafficked and to prevent and detect such activities. Such information shall include:

(i) the appropriate markings required by this Article;

(ii) in cases involving international transactions in small arms and light weapons, the issuance and expiration dates of the appropriate licenses or authorisations, the country of export, the country of import, the transit countries, where appropriate, and the final recipient, as well as the description and quantity of the articles.

Article 8

Disposal of State-owned Small Arms and Light Weapons

States Parties undertake to identify and adopt effective programmes for the collection, safe storage, destruction and responsible disposal of small arms and light weapons rendered surplus, redundant or obsolete, in accordance with domestic laws, through, inter alia, peace agreements, demobilisation or (re-)integration of excombatants, or re-equipment of armed forces or other armed State bodies. States Parties shall accordingly:

(a) develop and implement, where they do not exist, national programmes for the identification of surplus, obsolete and seized stocks of small arms and light weapons in possession of the State;

(b) ensure that small arms and light weapons rendered surplus, redundant or obsolete through the implementation of a peace process, the re-equipment or reorganization of armed forces and/ or other State bodies are securely stored, destroyed or disposed of in a way that prevents them from entering the illicit market, or flowing into regions in conflict, or any other destination that is not fully consistent with the agreed criteria for restraint.

Article 9

Disposal of Confiscated or Unlicensed Small Arms and Light Weapons

States Parties undertake to:

(a) adopt within their domestic legal systems, such measures as may be necessary to enable the confiscation of small arms and light weapons that have been illicitly manufactured or trafficked;

(b) maintain and further develop joint and combined operations across the borders of States Parties to locate, seize and destroy caches of small arms and light weapons left over after conflicts and civil wars;

(c) encourage law enforcement agencies to work with communities to identify small arms and light weapons caches and remove them from society;

(d) establish an effective mechanism for storing impounded, recovered or unlicensed illicit small arms and light weapons pending the investigations that will release them for destruction.

Article 10

Import, Export, Transfer and Transit of Small Arms and Light Weapons

(a) Each State Party shall establish and maintain an effective system of export and

import licensing or authorisation, as well as of measures on international transit, for the transfer of small arms and light weapons.

(b) Before issuing export licences or authorisations for shipments of small arms and light weapons, each State Party shall verify:

(i) that the importing States have issued import licences or authorisations; and

(ii) that, without prejudice to bilateral or multi-lateral agreements or arrangements favouring landlocked States, the States have, at a minimum, given notice in writing, prior to shipment, that they have no objection to the transit.

(c) The export and import licence or authorisation and accompanying documentation together shall contain information that, at a minimum, shall include the place and the date of issuance, the date of expiration, the country of export, the country of import, the final recipient, a description and the quantity of the small arms and light weapons and, whenever there is transit, the countries of transit. The information contained in the import licence must be provided in advance to the transit States.

(d) The importing State Party shall inform the exporting State Party of the receipt of the dispatched shipment of small arms and light weapons.

(e) Each State Party shall, within available means, take such measures as may be necessary to ensure that licensing or authorisation procedures are secure and that the authenticity of licensing or authorisation documents can be verified or validated.

(f) States Parties may adopt simplified procedures for the temporary import and export and the transit of small arms and light weapons for verifiable lawful purposes, such as hunting, sport shooting, evaluation, exhibitions or repairs.

Article 11

Dealers, Brokers and Brokering

State Parties, that have not yet done so, shall establish a national system for regulating dealers and brokers of small arms and light weapons. Such a system of control shall include:

(i) regulating all manufacturers, dealers, traders, financiers and transporters of small arms and light weapons through licensing;

(ii) registering all brokers operating within their territory;

(iii) ensuring that all registered brokers seek and obtain authorisation for each individual transaction taking place;

(iv) ensuring that all brokering transactions provide full disclosure on import and export licenses or authorisation and accompanying documents of the names and the locations of all brokers involved in the transaction; and

(v) licensing, registering and checking regularly and randomly all independent manufacturers, dealers, traders and brokers.

Article 12

Voluntary Surrender

States Parties shall introduce programmes to encourage:

(a) small arms and light weapons in lawful civilian possession to voluntarily surrender their small arms and light weapons for destruction/disposal by the State, in accordance with its domestic laws;

(b) illegal small arms and light weapons holders shall surrender their small arms and light weapons for destruction. In such cases, the State may consider granting immunity from prosecution.

Article 13

Public/Community Education and Awareness Programmes

States Parties undertake to develop local, national and regional public/community education and awareness programmes to enhance the involvement of the public and communities and support for efforts to tackle the proliferation and illicit trafficking of small arms and light weapons, and to encourage responsible ownership and management of small arms and light weapons. These programmes shall:

(a) Promote a culture of peace;

(b) Involve, and cooperate with, all sectors of society.

Article 14

Mutual Legal Assistance

(a) States Parties shall engage in the creation of a mutual legal assistance system, in

order to co-operate with each other to afford mutual legal assistance in a concerted effort to eradicate the illicit manufacturing and trafficking of, and control the possession and use of, small arms and light weapons. Mutual legal assistance shall, inter alia, include the following:

(i) investigation and detection of offences;

(ii) obtaining evidence and/or statements;

(iii) execution of searches and seizures;

(iv) communication of information and transfer of exhibits;

(v) inspection of sites or examination of objects and/or documents;

(vi) request for judicial documents;

(vii) service of judicial documents;

(viii) communication of relevant documents and records;

(ix) identification or tracing of suspects, or the proceeds of crime; and

(x) application of special investigative techniques, such as forensics, ballistics and fingerprinting.

(b) States Parties may further agree upon any other form of mutual assistance consistent with their national laws.

(c) States Parties shall designate a competent authority, which shall have the responsibility and power to execute and monitor requests for mutual legal assistance.

(d) Requests for mutual legal assistance shall be made in writing to the competent

authority and shall contain:

(i) the identity of the authority making the request;

(ii) the subject matter and nature of the investigation or prosecution to which the request relates;

(iii) a description of the assistance sought;

(iv) the purpose for which the evidence, information or action is sought; and

(v) all relevant information available to the requesting State Party and which may be of use to the requested State Party.

(e) A State Party may seek any such additional information, which might be necessary for the execution of the request, in accordance with its national laws.

Article 15

Law Enforcement

(a) States Parties shall establish appropriate mechanisms for cooperation among law enforcement agencies to promote effective law enforcement including :

(i) strengthening regional and continental co-operation among police, customs and border control services to address the illicit proliferation, circulation and trafficking of small arms and light weapons. These efforts should include, but not be limited to, training, the exchange of information to support common action to contain and reduce illicit small arms and light weapons trafficking across borders, and the conclusion of necessary agreements in this regard;

(ii) establishing direct communication systems to facilitate the free and fast flow of information among the law enforcement agencies in the sub-region;

(iii) establishing multi-disciplinary/specialized law enforcement units for

combating the illicit manufacturing of and trafficking in, possession and use of small arms and light weapons;

(iv) promoting co-operation with international organisations, such as the International Criminal Police Organisation (INTERPOL) and the World Customs Organisation (WCO) and to utilise existing databases, such as the Interpol Weapons and Explosives Tracing System (IWETS);

(v) introducing effective extradition arrangements.

Article 16

Transparency, Information Exchange and Harmonisation

States Parties undertake to:

(a) establish National Focal Points to, inter alia, facilitate the rapid information exchange to combat cross-border small arms and light weapons trafficking;

(b) develop and improve transparency in small arms and light weapons accumulations, flows and policies relating to civilian-owned small arms and light weapons, including serious consideration to the development of a sub-regional small arms and light weapons register on civilian possession;

(c) encourage the exchange of information among law enforcement agencies on criminal groups and their associates, types of small arms and light weapons, sources, supply routes, destinations, methods of transportation and financial support of these groups;

(d) establish national small arms and light weapons databases, so as to facilitate the exchange of information on small arms and light weapons imports, exports and transfers;

(e) establish systems to verify the validity of documents issued by licensing authorities in the sub-region;

(f) establish a sub-regional system to facilitate intelligence exchange on small arms and light weapons violations and trafficking;

(g) establish a sub-regional system to harmonise the relevant import, export and transfer documents and end-user certificates.

Article 17

Corruption

States Parties shall institute appropriate and effective measures for co-operation between law enforcement agencies to curb corruption associated with the illicit manufacturing of, trafficking in, illicit possession and use of small arms and light weapons.

Article 18

Institutional Arrangement

(a) States Parties mandate the Nairobi Secretariat to oversee the implementation of this Protocol.

(b) In this regard the Nairobi Secretariat shall be responsible for:

(i) the development and issuance of guidelines and instructions for the implementation of, monitoring the implementation of, the execution of, and the evaluation of this Protocol, in liaison with law enforcement agencies, and ensuring adherence to the standards set out therein informing Ministers on a regular basis of the progress thereof;

(ii) attending to the difficulties experienced in the application of this Protocol.

Article 19

Settlement of Disputes

Disputes arising out of the interpretation or application of this Protocol, which are not settled amicably, shall be settled in accordance with the principles of public international law.

Article 20

Amendments

An amendment to this Protocol shall be adopted by a decision of three quarters of the members of the States Parties.

Article 21

Signature

This Protocol shall be signed by duly authorised representatives of Member States.

Article 22

Ratification

This Protocol shall be ratified by the Signatory States, in accordance with their constitutional procedures.

Article 23

Entry into Force

This Protocol shall enter into force thirty (30) days after the deposit of the instruments of ratification by two thirds of the Member States.

Article 24

Accession

This Protocol shall remain open for accession by any Member State.

Article 25

Depositary and Languages

(a) The original text of this Protocol will be in English, French and Arabic; the three texts being equally authentic;

(b) Instruments of ratification and accession shall be deposited with the Nairobi Secretariat, who shall transmit certified copies to all Member States.

IN WITNESSES WHEREOF, WE, the Ministers of Foreign Affairs and other plenipotentiaries of the States Parties have signed this Protocol.

Done at Nairobi this 21st day of April 2004.

..... ……

For the Government of For the Government of

Republic of Burundi Democratic Republic of Congo

…… ……

For the Government of the

Republic of Djibouti Federal Democratic Republic of

Ethiopia

…… ……..

For the Government of the

State of Eritrea, Republic of Kenya

…… ……

For the Government of the Republic of Rwanda, the Republic of Seychelles

…… …….

For the Government of the Republic of the Sudan, the Republic of Uganda

……

For the Government of

United Republic of Tanzania_____

Appendix D: Map representation of Somalia and its regions.

(Source: United Nations, www.un.org/Depts/Cartographic/map/profile/somalia.pdf



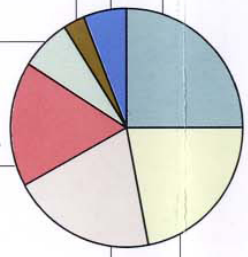
APPENDIX E: SOMALIA'S CLAN FAMILIES & MAJOR SUBCLAN FAMILIES

(Source: CIA representation of Somalia's clan and sub clans<cia_somalia.pdf>[15 September 2011])

Ethnic Groups

Somalia's Clan Families and Major Subclans

Percent



Ethnic minorities *6*

Hawiya *25*
Abgal
Ajuran
Degodia
Habr Gedir
Hawadle
Murosade

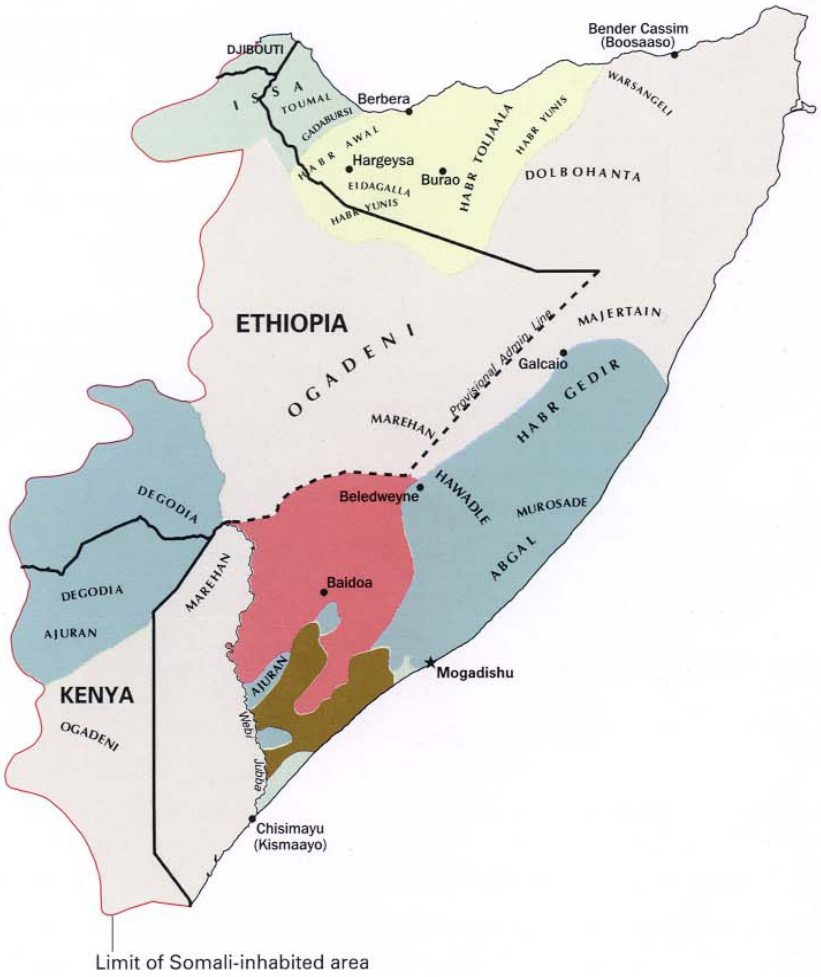
Digil *3*

Dir *7*
Gadabursi
Issa

Rahanwein *17*

Darod *20*
Dolbohanta
Majertain
Marehan
Ogadeni
Warsangeli

Ishaak *22*
Eidagalla
Habr Awal
Habr Toljaala
Habr Yunis



Appendix F : Map Representation of the Horn of Africa

(Source:CIA Maps and publications 2010, in https://www.cia.gov/library/publications/cia-maps-publications/maps/803385.jpg [15 September 2011]



APPENDIX G: THE TRANSITIONAL FEDERAL CHARTER OF THE SOMALI REPUBLIC, FEBRUARY 2004, NAIROBI.

THE TRANSITIONAL
FEDERAL CHARTER OF THE SOMALI REPUBLIC
FEBRUARY 2004. NAIROBI[123].

PREAMBLE.

In the Name of Allah, the most Merciful, the Beneficent. **WE, THE DELEGATES REPRESENTING THE PEOPLE OF THE SOMALI REPUBLIC** have solemnly resolved to enact a Transitional Federal Charter for the Somali Republic;

DETERMINED to live in peace and unity as one indivisible, free and sovereign nation;

RECOGNIZING the gross violations of human rights inflicted upon the Somali people and the need to re-establish peace, democracy, the rule of law, social justice, the dignity and integrity of all Somalis;

COMMITTED to establishing and nurturing a Transitional Federal Government for the Somali Republic;

DETERMINED to foster reconciliation, national unity, and good governance;

DO HEREBY ADOPT, ENACT AND GIVE TO THE SOMALI PEOPLE THIS CHARTER.

CHAPTER ONE.
SOVEREIGNTY AND TERRITORY

ARTICLE 1
ESTABLISHMENT OF TRANSITIONAL FEDERAL GOVERNMENT.

1. There shall be a Transitional Federal Government of the Somali Republic based on the sovereign will of the Somali people.

2. The name of the National Government shall be "The Transitional Federal Government of the Somali Republic"

3. In this charter, **"**Somali Republic" has the same meaning as "Somalia" "The Somali

[123] The full text of the 2004 Transitional Federal Charter can be accessed in, http://www.so.undp.org/docs/Transitional%20Federal%20charter-feb%202004-English.pdf as accessed on 25th July 2010.

Republic", "The Somali Democratic Republic".

ARTICLE 1:1

THE SOVEREIGNTY OF THE SOMALI PEOPLE.

1. All the sovereign authority belongs to the people of Somalia, and it may be exercised directly or indirectly through their representatives, in accordance with this Charter and the laws of the country.

2. The right to exercise sovereignty shall not be delegated to any individual, group or class, and no person shall arrogate to him or herself, or exercise any State authority, which does not emanate from this Charter or any laws of the Land not consistent with this charter.

3. The Government shall encourage the unity of the Somali people by promoting their cultures, customs and traditions.

ARTICLE 2

THE TERRITORY OF SOMALIA

1. The Territorial Integrity and Sovereignty of the Somali Republic shall be inviolable and indivisible.

2. The territorial sovereignty of the Somali Republic shall extend to the land, the islands, territorial sea, the subsoil, the air space and the continental shelf.

3. The Somali Republic shall have the following boundaries.

(a) North: the Gulf of Aden (b) North West: Djibouti (c)West: Ethiopia (d) South South-West: Kenya. (e) East: the Indian Ocean.

ARTICLE 3

SUPREMACY OF LAW.

1. The Transitional Federal Government of the Somali Republic shall be founded on the supremacy of the law, and shall be governed in accordance with this Charter.

2. This Charter for the Transitional Federal Government shall be the supreme law binding all authorities and persons and shall have the force of law throughout the Somali Republic. If any law is inconsistent with this Charter, the Charter shall prevail.

3. The validity, legality or procedure of enactment or promulgation of this Charter shall not be subject to challenge by or before any court or other State organ.

ARTICLE 4

INTERPRETATION OF THE CHARTER

1. The Charter shall be interpreted in a manner: -

(a) That promotes national reconciliation, unity and democratic values;

(b) That promotes the values of good governance;

(c) That advances human dignity, integrity, rights and fundamental freedoms and the rule of law.

2. A person may bring an action in the Supreme Court for a declaration that any Law or action of the State is inconsistent with, or is in contravention of this Charter.

3. The Supreme Court shall determine all such applications on a priority basis.

CHAPTER TWO.

THE SOMALI REPUBLIC

ARTICLE 5

THE CAPITAL CITY.

1. The Capital of the Somali Republic shall be Mogadishu (Xamar).

2. Parliament shall pass legislation governing the Administration of the Capital City.

ARTICLE 6

THE FLAG AND EMBLEM.

1. The National flag for the Transitional Federal Government shall be of rectangular shape, azure in colour, with a white star and five equal points emblazoned in the centre.

2. The emblem of Transitional Federal Government shall be composed of an azure escutcheon with a gold border, which shall bear a silver five-pointed star.

3. The escutcheon shall be surmounted by embattlement with five equal points in Moorish style, two lateral points halved, borne by two leopards rampant in natural form facing each other, resting on two lances crossing under the point of the escutcheon with two palm leaves in natural form interlaced with a white ribbon.

ARTICLE 7

LANGUAGES

1. The official languages of the Somali Republic shall be Somali (*Maay and Maxaatiri*) and Arabic.

2. The second (or third) language(s) of the Transitional Federal Government shall be

English and Italian.

ARTICLE 8

RELIGION

1. Islam shall be the religion of the Somali Republic.

2. The Islamic *Sharia* will be the basic source for national legislation.

ARTICLE 9

THE NATIONAL SYMBOLS

1. The national symbols of the Somali Republic shall consist of: -

(a) The National Flag;

(b) The National Anthem;

(c) The National Emblem; and

(d) The Public Seal.

CHAPTER 3

CITIZENSHIP

ARTICLE 10

CITIZENSHIP

1. Every person, who at the time of the coming into force of this Charter, was a citizen of the Somali Republic shall be deemed to be a citizen of the Somali Republic.

2. Every person of Somali origin shall be entitled to citizenship of the Somali Republic provided that: -

(a) He/she was born in the Somali Republic; or

(b) His/her father is a citizen of the Somali Republic;

3. A person who is a citizen of Somalia under this Article cannot be deprived of that citizenship.

4. Every Citizen of the Somali Republic shall be entitled to retain their citizenship, notwithstanding the acquisition of the citizenship of any other country.

5. Parliament shall within twelve months pass legislation regulating matters relating to citizenship.

CHAPTER FOUR

THE TRANSITIONAL FEDERAL GOVERNMENT

ARTICLE 11

1. The Transitional Federal Government of the Somali Republic shall have a decentralised system of administration based on federalism.

2. The Somali Republic shall comprise: -

(a) The Transitional Federal Government

(b) State Governments (two or more regions federate, based on their free Will)

(c) Regional Administrations

(d) District administrations

3. (a) While the new Constitution is being drafted, a National Census shall be undertaken simultaneously.

(b) An internationally supervised National Referendum shall be undertaken to approve the new Constitution.

(c) The Transitional Federal Government will request the International Community to provide both technical and financial support.

4. (a) The Transitional Federal Government shall promote and develop the State Governments, Regional and District Administrations subject to legislation and guidelines of the Federal Constitution Commission on the formation of a Transitional Federal Government.

(b) The State Governments, Regional and District Administrations shall comprise all regions of Somalia.

5. The Council of Ministers of the Transitional Federal Government shall within 90 days of assuming office propose to the President names of persons to be appointed to an independent Federal Constitution Commission to ensure that a Federation is achieved within the time set out under this charter;

6. Parliament shall make laws relating to the mandate of the Commission and the qualifications and terms of service of its members;

7. Notwithstanding any other provisions in this Charter relating to the formation of government ministries, there shall be established a Ministry of Federal and Constitutional affairs that shall be charged with the task of implementing Constitutional and Federal affairs;

8. The Transitional Federal Government shall ensure that the process of federating Somalia shall take place within a period of two and a half years from the date that the commission is established;

9. In the event that the Transitional Federal Government is unable to complete the process of federalism all over Somalia within the prescribed period of two and half years, the Government shall request Parliament for a vote of confidence, failing which the Transitional Federal Parliament shall withdraw its support and a new Transitional

Federal Government shall be formed in the manner set out in this charter;

10. The new Transitional Federal Government formed under Clause (8) herein shall undertake to complete the process of federalism all over

Somalia within a period of one (1) year, failing which the provisions of article 11(8) above shall apply.

ARTICLE 12

AUXILIARY ORGANS

1. There shall be the following support institutions of the Transitional Federal Government:-

(a) Auditor General;

(b) Attorney General;

(c) Accountant General;

(d) Governor of Central Bank.

2. Parliament shall make laws defining the functions of the auxiliary organs set out under (1).

3. The above organs shall execute their functions and responsibilities in the whole country in conformity to their respective mandates established by law.

ARTICLE 13

DISTRIBUTION OF RESOURCES AND POSITIONS

1. The Transitional Federal Government, shall on the coming into force of this charter, pass legislation ensuring the equitable appropriation and allocation of resources in the country.

2. The Transitional Federal Government shall ensure that all appointments in the service of the Government shall be based on qualifications and fair distribution among the Citizens.

CHAPTER FIVE

PROTECTION OF THE FUNDAMENTAL RIGHTS & FREEDOMS OF THE PEOPLE

ARTICLE 14

HUMAN RIGHTS & DIGNITY

1. The Somali Republic shall recognize and enforce all international human rights conventions and treaties to which the Republic is a party.

2. Every citizen shall have the right to: (a) Reside, work and travel freely in any part of the country. (b) Organize, form or take part in political, labour, professional

or social entities in conformity to the law, without prior
government authorization. (c) Vote upon attainment of 18 years of age. (d) Subject to this charter, contest for any vacant seat.

3. There shall be no interference of personal communication.

ARTICLE 15

EQUALITY OF THE CITIZENS BEFORE THE LAW

1. All citizens of the Somali Republic are equal before the law and the provisions of this Transitional Federal Charter, and have the right to equal protection and equal benefit of the law without distinction of race, birth, language, religion, sex or political affiliation.

2. Equality shall include the full and equal enjoyment of all rights and freedoms.

ARTICLE 16

RIGHT TO LIFE, PERSONAL LIBERTY AND SECURITY

1. Everyone shall have the right to life; and no person shall be deprived of his/her life.

2. No person shall be deprived of his/her personal liberty, personal freedom and personal security.

3. No person shall be subjected to inspection, personal search of his/her house or his/her property without the permission of a competent judicial authority related to health and tax. In every case, the self-respect and moral dignity of the person concerned must be preserved.

4. Any physical or moral violence or action against a person subject to restriction of personal liberty shall be punishable as a crime, and hence is prohibited.

5. No person shall be liable to any form of detention in prison or other restrictions of personal liberty, except when apprehended *flagrante delicto* or pursuant to any act of the competent judicial authority.

6. As is explicitly defined by any law, any person arrested for suspicion or restricted from his/her personal liberty, shall have access within 48 hours to competent judicial authority and confirmed by it within the time prescribed by law.

ARTICLE 17

RIGHTS RELATING TO LEGAL PROCEEDINGS

1. Every person shall have right to institute legal proceedings in a competent court.

2. Every person who is charged with a criminal offence:-

(a) Shall be presumed to be innocent until he/she is proven guilty in a competent court

of law;

(b) Shall be informed as soon as reasonably practicable, in a language that he/she understands, and in detail, of the nature of the offence with which he/she is charged;

(c) Shall be given adequate time and facilities for the preparation of his/her defence at any stage of the legal proceedings.

3. Every person detained, imprisoned or restricted shall be permitted the right to defend himself/herself in a court in person, or to communicate with his/her relatives, lawyer of his/her own choice, whenever he/she requires.

4. The Government shall guarantee free legal services for individual citizens who cannot afford them.

5. The penal, civil and administrative liabilities of officials and employees of the Government shall be governed by law.

ARTICLE 18

LABOUR

1. No worker shall be discriminated against, as each shall have the right to a salary and equal pay commensurate to the work performed and other fringe benefits, as shall be stipulated in the employment and labour laws of the country.

2. Workers shall have the right to weekly rest and annual leave with pay and shall not be compelled to forfeit.

3. The law shall establish working hours for workers.

4. The Government shall establish by law the minimum age employable and minimum salaries for workers.

5. The government shall guarantee its employees, civil and military, the right to a pension. It shall also guarantee employees in accordance with the law, assistance in case of accident, illness or incapacity to work. A special law shall guarantee pension for private sector employees.

ARTICLE 19

RIGHT TO ASSEMBLE AND THE FREEDOM TO STRIKE

1. Every person shall have the right to: -

(a) Assemble freely with other persons, and in particular, to form or belong to trade unions or other associations for the protection of his/her interests;

(b) Mobilize and participate in any meeting or demonstration;

(c) Freely express his/her opinion orally, in written form, or in any other manner,

without censorship.

2. The workers of the Transitional Federal Government of Somalia shall have the right to form Trade Unions for the protection of their interests, as specified by law.

ARTICLE 20

FREEDOM OF INFORMATION AND MEDIA

1. The Transitional Federal Government shall guarantee the freedom of the press and independent media, in accordance with the Law.

2. Every person shall have the rights to freely express his/her own opinion in any manner, subject to any limitation, which may be prescribed by law for the purpose of safeguarding morals and public security.

ARTICLE 21

THE RIGHT TO ESTABLISH POLITICAL PARTIES

1. The Transitional Federal Government shall encourage the formation of political parties in the Republic save that they shall be in accordance with the law.

2. In accordance with the laws, all Citizens, shall have the right to associate with political parties, political programmes, interpreting clearly their national political agenda.

3. The political parties shall be open for all Citizens and be guided by the General Principles of Democracy.

4. Any political party of a military character or tribal nature shall be prohibited.

5. Political parties shall have the right to form alliances before, during and after the election periods.

6. All Citizens possessing the qualifications required by law have the right to vote and be elected to Public Office.

ARTICLE 22

THE RIGHT TO ESTABLISH SOCIAL ORGANIZATIONS

1. Every person has the right to assemble freely and associate with other persons, and in particular, to establish any social organization in accordance with the law.

2. No person may be compelled to join and/or continue to belong to an association of any kind.

3. Any Non-Governmental Organization with an objective of either human rights, or environmental protection, shall be registered and allowed to operate in the Somali Republic, in accordance with international treaties and the laws of the country.

4. Nothing contained herein shall permit the establishment of any secret associations

or any organization bearing any military, defense or para-military nature and/or character.

ARTICLE 23

POLITICAL ASYLUM

1. Extradition may be granted against a person accused of a crime committed in his or another country, only if an extradition treaty exists between Somalia and the country requesting it.

2. The State may grant political asylum to a person and his close relatives who flee his or another country on grounds of political,

religious, and cultural persecution unless such asylum seeker(s) have committed crime(s) against humanity.

ARTICLE 24

EDUCATION

1. Education shall be recognized as a basic right for all Somali citizens.

2. All citizens shall have a right to free primary and secondary education.

3. The Government shall give priority to the promotion, expansion and propagation of public education.

4. Education shall be for the interests of the people, and shall be extended throughout the whole country.

5. Private schools, institutes and universities may be established, according to law and in line with the educational program and academic curriculum of the country.

6. The Government shall encourage the promotion of scientific research, the arts and their advancement, as well as the folklore and sports, and shall promote the positive customs and traditions of the Somali people.

7. The Government shall adopt standardized curricula for the schools of the country, and shall oversee the implementation thereof.

8. The Government shall promote higher education and the establishment of Technical Institutes, as well as technology and research Institutions.

9. The Government shall develop Educational programmes and a united syllabus for all schools.

10. The teaching of Islam shall be compulsory for pupils in both Public and Private Schools. This does not apply to non-Muslim students.

ARTICLE 25

PROTECTION OF FAMILY

1. The family shall be recognized as the basic unit of the society, whereas religion, morals and love for the country shall be the central pillars of the family.

2. The Government shall protect and encourage marriage.

3. Parents shall support their children, education and welfare, as required by law.

4. Children, who are of full age, are obliged to support their parents when the latter are unable to support themselves.

5. It shall be an obligation on parents/guardians to register their children upon birth.

ARTICLE 26

SOCIAL WELFARE

The Government shall guarantee public social welfare as follows:

a) It shall be the responsibility of the Government to protect and provide public health, safe motherhood, childcare, and to control communicable diseases;

b) Welfare of persons with disabilities, orphans, widows, heroes who contributed and fought in defence of the country and aged persons;

c) The Government shall encourage the establishment of the Civil Society and social development institutions for the public, that is to say, NGOs, women, youth, students, human rights and professional organizations;

d) Forced labour or military service for children under 18 years shall not be permitted.

e) In accordance with the law, no child under 18 years of age shall be imprisoned in the same prison and/or custody as those for adults;

f) The law shall regulate the establishment of private health centres and clinics;

g) The Government shall safeguard the public morality of the society;

h) The Government shall endeavour to promote the social welfare and development of the rural population;

i) The Government shall create a positive environment for women to participate effectively in the economic, social and political life of the society;

j) The law shall establish the relationship between the Transitional Federal Government and the former Government employees.

ARTICLE 27

ECONOMY

1. The system of economy for the country shall be based on free enterprise.

2. The Government shall encourage, support and provide full guarantee to foreign

investment in the country, as specified by law.

3. The right to own private property shall be guaranteed by law, which shall define its contents and the limits of its exercise.

4. Copyrights pertaining to the arts, science and technology shall be protected and the law shall regulate its contents and the limits of its exercise.

5. Personal property may be expropriated for public interest in exchange for equitable and timely compensation. However, the property shall be returned to the owner or his/her heirs, in accordance with the law.

CHAPTER SIX
THE STRUCTURE AND ORGANISATION OF THE STATE
PART I
PARLIAMENT

ARTICLE 28
PARLIAMENT

1. The legislative powers of the Transitional Federal Government of Somalia shall be vested in Parliament.

2. The Transitional Federal Parliament of the Somali Republic shall have a single Chamber.

3. The members of the Parliament shall represent the unity of the nation.

ARTICLE 29
THE COMPOSITION OF PARLIAMENT

The Transitional Federal Parliament of the Somali Republic shall consist of Two Hundred and Seventy-Five (275) Members, of which at least twelve per cent (12%) shall be women.

ARTICLE 30
APPOINTMENT OF MEMBERS OF PARLIAMENT

1. The Parliament envisaged under article 28 above shall be selected by the sub-clan Somali political Leaders invited to the consultation meetings in Nairobi as from 9th January 2004, comprising: Transitional National Government (TNG); National Salvation Council (NSC); Regional Administrations; Somali Restoration and Reconciliation Council (SRRC); Group-8 (G8) Political Alliance and Civil Society, and this must be endorsed by genuine traditional leaders.

2. Any vacancy that arises after the coming into force of this Charter shall be filled through the same procedure, as stated in Article 30 (I) above.

ARTICLE 31

ELIGIBILITY CRITERIA FOR MEMBERSHIP OF PARLIAMENT

1. A person shall be eligible to be a Member of Parliament if that person: -

(a) Is a citizen of the Somali Republic;

(b) Has attained at least twenty-five years (25) years of age;

(c) Is of good character;

(d) Is of sound mind.

2. A person shall be disqualified from being a Member of Parliament if that person: -

(a) Holds any other public appointment, other than as member of the Cabinet;

(b) Has been pronounced as being of unsound mind;

(c) Has been convicted of an indictable offence;

(d) Has been removed from any public office on grounds of gross misconduct or corruption.

ARTICLE 32

THE TERM OF THE TRANSITIONAL FEDERAL PARLIAMENT

1. The term of the Transitional Federal Parliament shall be Five (5) years.

2. The tenure of parliament shall commence from the date of taking the oath of office and shall continue until the date of commencement of the next parliament.

3. Parliament shall meet in its first session; and within 30 days from the date two-thirds of the members of the Parliament shall have taken the oath of office.

4. The term of the Transitional Federal Parliament shall not be extended.

5. The first meeting of the Parliament shall be chaired by the most senior member in age, until a Speaker is elected.

ARTICLE 33

FUNCTIONS OF PARLIAMENT

Parliament shall discharge the following functions: -

(a) Election of the President of the Transitional Federal Government;

(b) Election of Speaker and Deputy Speaker;

(c) Making legislation;

(d) Approval and adoption of the annual budget;

(e) Consideration of motions of confidence in the

(f) Government;

(g) Making of internal parliamentary regulations;

(h) Investigate any matter of public interest;

(i) Hold public hearings;

(j) Ratification of international agreements and treaties.

ARTICLE 34

PROCEDURES IN PARLIAMENT

1. The Parliament shall hold two (2) ordinary sessions annually.

2. The Parliament may be convened in extraordinary sessions by the Speaker at the request of the President, or upon requisition by one third of its members.

3. Meetings of Parliament, or its committees, shall be valid with the presence of half plus one of its members.

ARTICLE 35

PRIVILEGES AND IMMUNITIES OF PARLIAMENT

1. No Member of Parliament may be prosecuted for any opinion or views expressed in Parliament.

2. No criminal proceedings shall be instituted against a Member of Parliament unless in a case of *flagrante delicto*.

3. No Member of Parliament shall be interrogated in connection with criminal investigation, nor shall his person or domicile be subjected to search, while executing the duties of a Parliamentarian.

4. Parliament shall make law on the emoluments of its members, which shall be limited to…sittings *per diem* of the parliamentary session and its committees.

ARTICLE 36

LEGISLATION

1. When a Law has been passed by Parliament, it shall be presented to the President for assent.

2. The President shall, within twenty-one (21) days after the Law has been presented to him/her for assent under sub-section (1), notify the Speaker that he/she assents to the Law, or refuses to assent to it.

3. Where the President refuses to assent to a Law he/she shall, within fourteen (14) days of the refusal, submit a memorandum to the Speaker indicating the specific provisions of the Law, which in his/her opinion should be reconsidered for amendments.

4. The Parliament shall reconsider a Law referred to it by the President, taking into account the comments of the President and shall either:-

a) Approve the recommendations proposed by the President, with or without amendment, and then resubmit the Law to the President for assent; or

b) Refuse to accept the recommendations and approve the Law in its original form by a resolution supported by votes of not less than sixty-five (65) per cent of all the Members of the Parliament, in which case the President shall assent to the Law within fourteen (14) days of the passing of the resolution.

5. A law made by Parliament and assented to by the President, shall not come into operation until it has been published in the official bulletin.

ARTICLE 37

OFFICERS OF PARLIAMENT

Parliament shall have the following officers: a) The Speaker

b) Two Deputy Speakers

c) Other officers appointed by parliament

Parliament shall elect the Speaker and the two Deputy Speakers from among its members in its first sitting.

ARTICLE 38

PROCEEDINGS OF PARLIAMENT

Every Parliamentary sitting shall be presided over by: -

(a) The Speaker, or,

(b) in the absence of the Speaker, any of the Deputy Speakers;

(c) In the absence of the Speaker or any of the Deputy Speakers, such other Member of Parliament as the members shall elect.

CHAPTER SEVEN

PART II

THE PRESIDENT

ARTICLE 39

1. There shall be a President of the Somali Republic, who shall be

   (a) The Head of State

   (b) Commander-in-Chief of the Armed Forces

(c) Symbol of National Unity

2. The powers of the President shall be exercised, in accordance with the Charter and the laws of the land;

3. The President shall not hold any other office for gain.

ARTICLE 40

QUALIFICATIONS

1. Any person shall be qualified and eligible to be elected the President of the Somali Republic, if the person:-

(a) Is a citizen of the Somali Republic;

(b) Has attained at least 40 years of age;

(c) Is a practising Muslim, whose parents are Somali citizens;

(d) Is not married to a foreigner, nor marries a foreigner, during his term of office;

(e) Is of sound mind, and has no criminal conviction for any serious offence;

(f) Is of good character;

(g) Possesses the capacity, competence and experience to discharge the duties of the Presidency.

ARTICLE 41

ELECTION OF THE PRESIDENT

1. The President shall be elected by Parliament through a secret ballot, with a two-thirds (2/3) majority of its members in the first round, whereas in the subsequent ballots, election shall be by simple majority.

2. In the second round of the elections, only the first six candidates shall be eligible, whereas in the third round only the first two candidates shall be eligible for the final Presidential election.

ARTICLE 42

OATH OF THE PRESIDENT

Before assuming the office and duties of the President, the President elect shall take and subscribe to the oath of allegiance. Such an oath shall be for the due execution of his/her office in a manner prescribed herein: -

"In the name of Allah, I swear that I will discharge faithfully all my duties as President in the interests of the people, and that I will abide by the Charter and laws of the Somali Republic".

ARTICLE 43

TENURE OF OFFICE

(a) The President shall hold office for a term of **four (4)** years, beginning from the date on which he/she is sworn in as President, in accordance with the Oath of Office provided for in this Charter.

The President shall, unless his/her office becomes vacant by reason of his/her death, resignation or ceasing to hold office by virtue of the provisions of this Charter, continue to hold office until the person elected as President at a subsequent election assumes office.

(b) The President shall be impeached for the violation of the Charter, only if a charge against him or her has been referred to Parliament.

(c) Where a motion for impeachment of the President is laid before Parliament -

(i). The charge shall be referred in a resolution moved after at least **fourteen (14) days** notice in writing and signed by not less than one-third of the total number of members of Parliament of their intention to move such a resolution;

(ii). An investigation shall be conducted of the charge referred, or the cause of the charge, and the President shall have the right to appear and to be represented at such investigation;

(iii). As a result of the outcome of the investigation, such resolution shall be passed and voted by at least a two-thirds majority of the members of Parliament;

(iv) Such a resolution shall have the effect of removing the President from his/her office, as from the date on which the resolution is so passed.

ARTICLE 44

RESPONSIBILITIES OF THE PRESIDENT

1. The President shall undertake the following State duties: -

(a) Address the opening of the Parliament;

(b) Address a special sitting of Parliament once a year;

(c) May address Parliament at any other time.

(d) The President shall appoint the President of the Supreme Court and other Judicial Officers on the proposal of the Judicial Service Council;

(e) The President shall appoint persons to offices in the public service and Heads of government organs on the proposal of the Council of Ministers;

(f) The President shall appoint persons to be Ambassadors, Diplomatic or Consular

representatives to foreign countries on the proposal of the Council of Ministers;

(g) The President shall receive foreign Diplomatic or Consular representatives in the country;

(h) The President shall confer state honours on the proposal of the Council of Ministers.

2. The President shall appoint and dismiss the Prime Minister and/or dismiss the government, if it fails to obtain the required vote of confidence from Parliament.

3. The President shall dismiss Ministers and Assistant Ministers on the proposal of the Prime minister.

4. The President shall have authority to: -

(a) Sign international treaties on the proposal of the Council of Ministers and upon ratification by Parliament;

(b) Assent and Sign into law, legislation passed by the parliament and regulations and decrees approved by the Council of Ministers;

ARTICLE 45

VACANCY IN THE OFFICE OF THE PRESIDENT

If the office of the President becomes vacant by reason of the resignation, death or permanent disability of the President of the Republic, the Speaker of Parliament shall with immediate effect exercise the functions of the President, and Parliament shall meet to elect a new President within **thirty -** (30) days.

CHAPTER EIGHT

PART III THE EXECUTIVE

ARTICLE 46

THE PRIME MINISTER

1. The Executive power shall vest in the Council of Ministers.

2. The President shall appoint the Prime Minister, who shall be the leader and chair of the Council of Ministers.

DEPUTY PRIME MINISTERS AND MINISTERS

3. The Prime Minister shall propose to the President the names of
persons to be appointed Deputy Prime Ministers;

4. The Prime Minister shall propose to the President names of persons to be appointed Ministers and Assistant Ministers;

5. Each Deputy Prime Minister shall have a ministerial portfolio, and shall supervise a group of related ministries in the political, social and economic sectors. Their specific duties shall be specified by legislation.

ARTICLE 47

QUALIFICATION OF THE PRIME MINISTER AND DEPUTY PRIME MINISTERS

1. The Prime Minister, the Deputy Prime Ministers, Ministers and Assistant Ministers shall have the following qualifications:

(a) Be a citizen of the Somali Republic;

(b) Be a member of Parliament;

(c) Have attained the age of forty (40) years in the case of the Prime Minister, and the thirty-five (35) years in the case of the Deputy Prime Ministers, Ministers and Assistant Ministers;

(d) Have proven leadership qualities and political experience.

ARTICLE 48

RESPONSIBILITIES OF THE PRIME MINISTER

1. The Prime Minster shall have the following responsibilities -

(a) Preside over the meetings of the Council of Ministers;

(b) Be responsible for the promotion, co-ordination and supervision of government policy and general administration.

ARTICLE 49

TENURE OF OFFICE OF THE PRIME MINISTER

1. A person whose appointment as Prime Minister has been confirmed by the Parliament shall assume office upon taking the oath hereunder.

"In the name of Allah, I swear that I will discharge faithfully all my duties as Prime Minister in the interests of the people and that I will abide by the Charter and laws of the Somali Republic".

2. The term of office of the Prime Minister shall continue until: (a) He/she dies, resigns or is dismissed from office; or (b) Until another person is appointed to that office.

ARTICLE 50

RESIGNATION OF THE PRIME/DEPUTY MINISTER

1. The Prime Minister and/or the Deputy Prime Ministers may resign from office by delivering a written statement of resignation to the President.

2. The resignation stated under Clause (1) shall take effect on the date and the time specified in the resignation and upon acceptance by the President.

ARTICLE 51

DISMISSAL OF THE PRIME/DEPUTY PRIME MINISTER(S)

1. If Parliament, by a vote supported by more than fifty per cent of its members, passes a motion of no confidence in the Prime Minister, the President shall dismiss the Prime Minister, and other Members of the Council of Ministers.

ARTICLE 52

COUNCIL OF MINISTERS

1. There shall be a Council of Ministers, which shall consist of:

(a) The Prime Minister (b) The Deputy Prime Ministers (c) The Ministers

2. The Council of Ministers shall: -

(a) Develop government policy and implement national budgets;

(b) Prepare and initiate Government legislation for introduction to Parliament;

(c) Implement and administer Acts of Parliament; (d) co-ordinate the functions of government Ministries;

(e) Perform any other functions provided for by the Charter or an Act of Parliament, except those reserved for the President.

3. Each person appointed as Deputy Prime Minister, Minister or Assistant Minister:

(a) Assumes office by swearing in the name of Allah and allegiance to the Somali Republic and obedience to the Charter.

(b) May resign by delivering a written statement of resignation to the Prime Minister and the President;

(c) Shall continue in office until he/she dies, resigns or is dismissed, or until another person is appointed to that office.

ARTICLE 53

ROLE OF THE COUNCIL OF MINISTERS

1. Unless otherwise stated, the decision of the Council of Ministers shall be in writing.

2. The Deputy Prime Ministers and Ministers shall assist and advise the Prime

Minister.

3. The Council of Minister shall be accountable collectively, based on the principles of collective responsibility, to Parliament for all things done, including:

(a) The exercise of their powers and the performance of their functions;

(b) The administration and implementation of legislation assigned to them.

4. The three (3) Deputy Prime Ministers and Ministers shall be individually accountable to the Prime Minister for the exercise of their powers and the performance of the functions assigned to each of them.

5. A Minister shall attend before Parliament, or a Committee of Parliament, when required to do so, and answer any question concerning a matter assigned to that Minister and his/her Ministry.

6. The Council of Ministers shall set the General policy of the Government, in accordance with the Charter and the laws of the land.

CHAPTER NINE

PART IV: THE JUDICIARY

ARTICLE 54

JUDICIAL AUTHORITY

1. The judicial power of the Somali Republic shall vest in the courts.

2. The judicial power shall encompass jurisdiction over Civil, Criminal, Administrative and Commercial matters, and any matter specified by this Charter or any other laws of the land.

ARTICLE 55

INDEPENDENCE OF THE JUDICIARY

1. The Judiciary shall be independent of the legislative and executive branches of Government, and in the exercise of their judicial functions; the members of the judiciary shall be subject only to the law.

2. A Judge shall be removed from office only for inability to perform the functions of his/her office (whether arising from infirmity of body, or mind, or from any other cause) or for misbehaviour, and shall not be removed except in accordance with this Clause.

3. A Judge shall be removed from office by the President if the question of his/her removal has been referred to a Tribunal appointed by the Parliament, and the Tribunal

has recommended to the Parliament that the Judge ought to be removed from office for inability, as aforesaid, or for misbehaviour.

4. Members of the judiciary shall not hold offices, perform services, or engage in activities incompatible with their functions.

5. Administrative and disciplinary measures relating to members of the judiciary shall be adopted, as provided by law, by decree of the President of the Republic on the proposal of the minister of Justice and Religious Affairs, and in conformity with the decision of the Judicial Service Council.

6. The Judiciary shall not be subject to the direction of any other organ or body.

7. The judiciary shall interpret and implement the law, in accordance with the Charter and laws.

8. Parliament shall make law – setting the terms of the appointment, dismissal, discipline and terms of service of Judges.

ARTICLE 56

THE JUDICIAL PROCESS

1. Judicial proceedings shall be open to the public, but the court may decide, for reasons of morals, hygiene or public order, that the proceedings be held in camera.

2. No judicial decision shall be taken unless all the parties have had the opportunity of presenting their case.

3. All judicial decisions and measures concerning personal liberty shall state the grounds thereof.

ARTICLE 57

JUDICIAL PRINCIPLES

1. No extraordinary or special courts shall be established, except for military tribunals, which shall have jurisdiction only over military offences committed by members of the armed forces both during war and peacetime.

2. The public, both civilian and military, shall directly participate in Judiciary proceedings in conformity with those laws, defining such participation.

ARTICLE 58

JUDICIAL IMMUNITY

No criminal proceedings shall be instituted against a sitting judge, nor shall he/she be interrogated as an object of criminal investigation, or his person or domicile be

searched, nor shall s/he be arrested, unless caught in the commission of a crime, or without the authorization of the Judicial Service Council.

ARTICLE 59

APPOINTMENT OF JUDGES

1. All the Judges shall be appointed by the President, acting in accordance with the advice of the Judicial Service Council.

2. The appointment of Judges shall be based on legal qualifications and competence.

3. A person shall not qualify to be appointed a Judge of the Supreme Court unless:

i. He/she is, or has been, a Judge of the Appeal Court, having unlimited jurisdiction in Civil, Commercial and Criminal matters; or

ii. He/she is an advocate of the High Court of Somalia of not less than five (5) years standing; or

4. If the office of a Judge is vacant, or if a Judge for any reason is unable to discharge the functions of his/her office, or a judge retires at the attainment of sixty-five (65) years of age; a new judge shall be appointed on the proposal of the Judicial Service Council by the President.

ARTICLE 60

THE COURT SYSTEM

1. The court system shall consist of:

(a)The Transitional Supreme Court

(b)The Transitional Appeal Court

(c) Other Courts established by Law

ARTICLE 61

THE SUPREME COURT

1. There shall be a Supreme Court, which shall be the highest court in the Somali Republic, and it shall have unlimited original jurisdiction in the whole territory in Civil, Criminal, Commercial, and such other powers, as may be conferred on it by this Charter or any other law.

2. In addition to any other jurisdiction under this Charter or any other law, the Supreme Court shall have the power to hear and determine judgement on any dispute about the Transitional Federal Charter and other laws.

3. One of the Judges of the Supreme Court shall be the President of the Court and such other Judges as may be prescribed by Law.

4. The Judges of the Supreme Court shall have the security of Tenure, while in office.

5. Parliament shall make law regarding the structure and composition of the Supreme Court.

ARTICLE 62

SEAT OF THE SUPREME COURT

The seat of the Supreme Court shall be in the capital of the Somali Republic.

ARTICLE 63

THE JUDICIAL SERVICE COUNCIL

1. There shall be a Judicial Service Council, which shall undertake and direct the General Policy and the Administration of the Judiciary, as prescribed by law.

2. The Judicial Service Council shall comprise:-

(a) The President of the Supreme Court.

(b) The Attorney General of the Republic.

(c) Three (3) Judges elected from the Supreme Court.

(d) Four (4) Lawyers selected from the private law practitioners by the Law Society of Somalia.

3. Members of the Council shall enjoy similar privileges and immunity as those of the Judges.

4. The Council shall be responsible for the appointment, transfers, conduct, discipline and remuneration of Judges.

5. The term of each council member shall be four years.

ARTICLE 64

THE OFFICE OF THE ATTORNEY GENERAL

1. The office of the Attorney General shall be a division of the judicial institution and shall comprise:-

(a) The Attorney General whose duty shall be to safeguard the implementation of the laws in the whole Republic. His duties, responsibilities and scope of duties shall be specified by law;

(b) The Attorney General shall be appointed by the President on the recommendation of the Council of Ministers;

(c) The Attorney General shall be the principal legal adviser to the Transitional Federal Government;

(d) The State and Districts Attorney Generals whose powers are limited to specific regions and districts will be appointed as specified in sub-section (b).

2. It shall be the responsibility of the Attorney General to promote and uphold the Rule of Law.

CHAPTER TEN

ARTICLE 65

SECURITY AND DEFENSE FORCES

1. The Somali Republic shall have a national armed force consisting of the army and the police.

2. The Armed forces shall faithfully abide by, and preserve the Charter, the laws of the land, and the unity of the country.

3. The law shall regulate the structure and functions of the armed forces and the system of co-operation and co-ordination amongst them in the fulfilment of their institutional duties.

CHAPTER ELEVEN

LAND AND PROPERTY

ARTICLE 66

THE POLICY FOR LAND

1. Land, being Somalia's primary resource and the basis of livelihood for the people, shall be held, used and managed in a manner which is equitable, efficient, productive and sustainable.

2. The Government shall define and keep constant the national land policy and framework of the land in the Somali Republic, which shall ensure the registration, use, ownership, access,

occupation, management rights, security, interests and title of the land.

ARTICLE 67

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

1. The natural resources of the country, such as the minerals, water, flora and fauna shall be public property and a law shall be enacted, which defines the manner of exploitation for the common good.

2. The Transitional Federal Government shall give priority to the protection, conservation, and preservation of the environment against anything that may cause harm to the natural biodiversity and ecosystem.

3. Every person in the Somali Republic shall have a duty to safeguard and enhance the environment and participate in the

development, execution, management, conservation and protection of the natural resources and the environment.

4. The Transitional Federal Government shall adopt urgent measures to clean up the hazardous waste dumped on and off the shores of the Somali Republic. Compensation shall be demanded of those found liable for such crimes.

5. The Transitional Federal Government shall take urgent steps to reverse the trend in desertification, deforestation, environmental degradation, illegal charcoal burning and the export of endangered wildlife species.

CHAPTER TWELVE

NATIONAL COMMISSIONS

ARTICLE 68

INDEPENDENT COMMISSIONS AND ADMINISTRATIVE COMMITTEES

1. There shall be established such independent Commissions and Committees as may be necessary.

2. The establishment of independent commissions, their structures and functions shall be proposed by the Council of Ministers and approved by Parliament.

3. The respective ministers shall propose the components of these commissions to the Council, as stated below:-

(a) Federal constitutional Commission.

(b) National Commission for Reconciliation.

(c) National Population and Demographic Census Commission.

(d) Civil Service Commission. (e) National Commission for the recovery and registration of public and private property.

(f) National Resettlement Commission.

(g) Somalia Olympic Commission.

(h) State Boundary Demarcation Commission.

(i) Disarmament and demobilization Commission.

(j) Economic recovery Commission;

(k) Land and Property Disputes Commission.

(l) Electoral Commission.

CHAPTER THIRTEEN

INTERNATIONAL RELATIONS

ARTICLE 69

INTERNATIONAL AND BILATERAL RELATIONS

1. The Transitional Federal Government of the Somali Republic shall uphold the rules of international law and all international treaties applicable to the Somali Republic and subject to the legislative Acts of Parliament, international laws accepted and adopted, shall be enforced.

2. The Transitional Federal Government of the Somali Republic shall uphold all bilateral agreements concluded by the Somali Republic.

CHAPTER FOURTEEN

AMMENDMENT OF THE CHARTER

ARTICLE 70

AMMENDMENT OF THE CHARTER

1. Subject to this Article, Parliament shall have the power to add, amend, alter, vary or otherwise revise this Charter.

2. An Amendment of this Charter may be initiated only by the introduction of a Motion for that purpose supported by not less than one third (1/3) and passed by not less than two-thirds (2/3) of the total members of parliament.

CHAPTER FIFTEEN

TRANSITORY CLAUSE AND ENTRY INTO FORCE OF THE CHARTER

ARTICLE 71

TRANSITIONAL PERIOD

1. The Charter shall have legal effect pending the eventual enforcement of the National Federal Constitution.

2. The 1960 Somalia Constitution, and other national laws, shall apply in respect of all matters not covered and not consistent with this Charter.

3. The Transitional Federal Government shall endeavour to repossess and restore to the State all public properties, either movable or immovable, within or outside the country.

4. In respect of private property currently held illegally, Government shall endeavour to restore it to the rightful owners.

5. The Transitional Federal Government shall devote the necessary efforts to restore peace and security, the free movement of people, goods and services, disarmament and collection of illegal weapons in the hands of the public for safekeeping rehabilitation and reintegration of all militia in co-operation with regional administrations, traditional elders and members of the international community.

6. The Transitional Federal Government shall make all the necessary efforts to resettle refugees and displaced persons.

7. The ongoing development projects in the country may continue, provided they do not infringe on the sovereignty of the State and do not harm the environment. All new projects are subject to Transitional Federal Government guidelines and approval.

8. Effective from the conclusion of the Somali National Reconciliation Conference held in Kenya, all militia organizations, armed groups and factions in the territory of the Somali Republic shall cease to exist and shall turn in their weapons to the Transitional Federal Government.

9. The present Charter shall be the basis for the federal constitution whose draft shall be completed within two and a half (2 1/2) years, and be adopted by popular referendum during the final year of the transitional period.

10. The Transitional Federal Government shall take all necessary measures to combat tribalism, nepotism, the looting of public properties, corruption and all fraudulent activities, which may undermine the functioning of State organs and decent traditions of the society.

11. The Transitional Federal Government shall audit and assess all ongoing foreign-funded development projects, with a view to establishing whether they infringe on the Sovereignty, or State security, or impair the culture, environment or health of the people.

12. For the avoidance of doubt, this Charter shall come into force on the date the delegates at the Somali National Reconciliation Conference in Kenya approve it; and it shall continue to be operational until the approval and enforcement of the federal constitution.

SCHEDULE I

THE POWER OF THE TRANSITIONAL FEDERAL GOVERNMENT

The Transitional Federal Government shall have authority throughout the Somali Republic over the following matters: –

1. Foreign Affairs.
2. Defence and Security.
3. Finance and Central Bank.
4. Establishment of State structures.
5. Posts and Telecommunications.
6. Immigration and Naturalization.
7. Ports Administration.
8. Planning and Economic Development.
9. Natural Resources.
10. Acceptance and licensing of private companies, specifically at national level.
11. Collecting import/export, and indirect taxes.

SCHEDULE II

POWERS OF THE STATE GOVERNMENTS

The State Governments shall control the following functions within their territories: -

1. Education.
2. Health.
3. Regional Roads.
4. Environmental protection.
5. Regional police.
6. Housing.
7. Water and Electricity Development.
8. Agricultural Development and Water Management.
9. Livestock and rangeland development.
10. Development of small businesses and States business co-operations.
11. Settlement of population.
12. Develop State constitutions, the State flags, and the State emblem.
13. Appoint their State election committees and implement the State elections.
14. Collect all direct taxes 15. Promote sports, arts, literature and folklore. 16. Business licenses. 17. Town planning and construction permits. 18. Public

sanitation. 19. Recreation centres and child gardens. 20. General Public Health.

SCHEDULE III

The reports of the five Reconciliation Committees of the Somali National Reconciliation Conference in Kenya 2002-2003.

SCHEDULE IV

List of the delegates, political leaders and political groups.

APPENDIX H:

THE FULL TEXT OF THE COMMUNIQUE FROM THE LONDON CONFERENCE ON SOMALIA AT LANCASTER HOUSE ON 23 FEBRUARY 2012[124].

1. The London Conference on Somalia took place at Lancaster House on 23rd February 2012. It was attended by fifty-five delegations from Somalia and the international community.

2. We met at a key moment in Somalia's history. Somalia is emerging from the worst humanitarian crisis in the world. African and Somali troops have pushed Al Shabaab out of Mogadishu and other areas. The transitional institutions come to an end in August 2012, and the people of Somalia want clarity on what will follow. The situation remains precarious, and in urgent need of support from the international community.

3. Decisions on Somalia's future rest with the Somali people. The Somali political leadership must be accountable to the people. The international community's role is to facilitate Somalia's progress and development: our strength is in unity and co-ordinated support to Somalia. We noted the importance of listening to and working with Somalis both inside and outside Somalia, and welcomed their engagement in the run-up to this Conference.

4. The Conference focused on the underlying causes of instability, as well as the symptoms (famine, refugees, piracy, and terrorism). We, the international community, agreed: to inject new momentum into the political process; to strengthen AMISOM and to help Somalia develop its own security forces; to help build stability at local level; and to step up action to tackle pirates and terrorist**s.**

[124] The full text of the communiqués can be accessed at http://www.fco.gov.uk/en/news/latest-news/?id=727627582&view=PressS as accessed on 8 April 2012

Political

5. We agreed that the Transitional Federal Institutions' mandate ends in August 2012. There must be no further extensions. We welcomed the agreements that chart the way to a more representative government: the Transitional Federal Charter, the Djibouti Agreement, the Kampala Accord, and the Roadmap. We welcomed the progress represented by the Garowe Principles, endorsed the priority of convening a Constituent Assembly, and emphasised that the Assembly must be representative of the views of the Somali people of all regions and constituencies, and that women must be part of the political process.

6.In line with Garowe II, we agreed to incentivise progress and act against spoilers to the peace process, and that we would consider proposals in this regard before the Istanbul Conference in June.

7. The Conference recognised the need for the international community to support any dialogue that Somaliland and the TFG, or its replacement, might agree to establish, in order to clarify their future relations.

8. We condemned terrorism and violent extremism, whether perpetrated by Somalis or foreigners. We called on all those willing to reject violence to join the Djibouti peace process. We agreed to develop a defectors' programme to support those who leave armed groups.

9. We emphasized the urgency of Somalia funding its own public services, and using its assets for the benefit of the people, as well as tackling corruption. We welcomed the progress that has been made in establishing a Joint Financial Management Board to increase transparency and accountability in the collection and efficient use of public revenues, as well as international development aid, and which would help strengthen Somali public financial management institutions. A declaration by the initial members of the JFMB is in Annex A [attached to this dissertation as Appendix I].

10. Respect for human rights must be at the heart of the peace process. We called for action to address, in particular, the grave human rights violations and abuses that

women and children face. We emphasised that journalists must be able to operate freely and without fear. Civilians must be protected. We called on the Somali authorities to take measures to uphold human rights, and to end the culture of impunity. We agreed to step up international efforts, including those through the UN human rights architecture.

Security and Justice

11. We agreed that security and justice were essential – both to a successful political process and to development. Better security could only be achieved sustainably in parallel with better justice and the rule of law.

12. We expressed gratitude to those countries whose troops had served as peace-keepers and paid tribute to the achievements and sacrifices of AMISOM and other forces. We welcomed joint planning by the UN and African Union and reiterated the importance of effective command and control. We welcomed the adoption of UN Security Council Resolution 2036, which expands AMISOM's mandate and raises the troop ceiling. We encouraged AMISOM to ensure the protection of civilians. We encouraged partners, especially new donors, to contribute to funding for AMISOM, including that through the EU.

13. We agreed that, over time, Somalis should take over responsibility for providing their own security and develop their own justice systems, to deal with the threats to their security and to improve access to justice. We noted that Somalis themselves must decide what security and justice arrangements they need.

14. We acknowledged the good work under way in supporting the Somali security and justice sectors. We agreed that we would build an international framework of partners, in order to bring much-needed coordination and focus to those efforts, underpinned by a set of principles (at annex B), and working closely with the UN's Joint Security Committee.

Piracy

15. We reiterated our determination to eradicate piracy, noting that the problem requires a comprehensive approach on land as well as at sea. We expressed our

concern that hostages in Somalia are being held longer and with more use of violence. We welcomed the work of the Contact Group on Piracy off the Coast of Somalia. We also welcomed the success of international military efforts, and remain committed to such efforts with robust rules of engagement and sufficient force generation. We agreed that piracy cannot be solved by military means alone, and reiterated the importance of supporting communities to tackle the underlying causes of piracy, and improving the effective use of Somali coastal waters through regional maritime capacity-building measures. We welcomed those initiatives under way and agreed to co-ordinate and support such initiatives better. We called for full implementation of the Djibouti Code of Conduct and the adoption of an Exclusive Economic Zone. We look forward to reviewing progress, including that at the Piracy Conference in the UAE in June.

16. We welcomed the efforts of partners in industry against piracy, and called for greater take-up of Best-Management Practice on ships. We welcomed current work on international guidance on the use of private armed security companies.

17. There will be no impunity for piracy. We called for greater development of judicial capacity to prosecute and detain those behind piracy, both in Somalia and in the wider region, and recognised the need to strengthen capacity in regional States. We welcomed new arrangements, which enable some States and naval operations to transfer suspected pirates captured at sea for trial by partners across the Indian Ocean region, and if convicted, to transfer them to prisons in Puntland and Somaliland, which meet international standards. We noted the intention to consider further the possibility of creating courts in Somalia specialised in dealing with piracy.

18. We reiterated our determination to prosecute the kingpins of piracy. Recognising work already undertaken, we agreed to enhance co-ordination on illegal financial flows, and to co-ordinate intelligence-gathering and investigations. We noted the establishment of a Regional Anti-Piracy Prosecutions Intelligence Coordination Centre in the Seychelles.

Terrorism

19. Terrorism poses a serious threat to security in Somalia itself, to the region, and internationally. It has inflicted great suffering on the Somali population. We agreed to work together with greater determination, and with full respect for the rule of law, human rights, and international humanitarian law, to build capacity to disrupt terrorism in the region, and to address the root causes of terrorism. We agreed on the importance of disrupting terrorists' travel to and from Somalia, and on the importance of disrupting terrorist finances, and called on countries in the region to implement the Financial Action Task Force's recommendations on combating money-laundering and the financing of terrorism. We noted that effective intelligence-gathering and investigation, and support to the Somali criminal justice system, were critical to the fight against terrorism. We agreed to work with the Global Counter Terrorism Forum and other international and regional bodies to deliver this important work**.**

Stability and Recovery

20. We welcomed the success in some areas of Somalia in establishing local areas of stability, and agreed to increase support to build legitimate and peaceful authorities, and improve services to people living in these areas. We acknowledged the importance of creating the conditions inside Somalia for durable solutions for the displaced, and for solutions that respect international laws. We agreed that such efforts should promote local and regional cohesion, and converge with the national political process.

21. We considered the implementation of the Mogadishu Recovery and Stabilisation Plan important. We agreed to expand programmes to newly recovered areas. We would focus support on enabling the delivery of immediate and sustainable benefits to ordinary Somali people: safety and security, economic opportunities and basic services. We would promote effective and accountable local administrations, and support the resolution of disputes.

22. We agreed that all support to local areas of stability should be in accordance with the New Deal for engagement in fragile States, recently adopted in Busan, and build

on the stabilisation strategies prepared by both IGAD and the Transitional Federal Government. We endorsed a set of principles to guide international support to local areas of stability in Somalia (Annex C). We agreed to continue funding local stability through existing programmes, and noted the establishment of a new Stability Fund to which a number of us would contribute.

23. We agreed that Somalia's long-term reconstruction and economic development depended on a vibrant private sector, and that both aid and diaspora finance could develop Somalia's considerable potential in livestock, fisheries and other sectors. We noted that stability was a prerequisite for most sustainable investments in infrastructure, such as electricity, roads and water systems. We looked forward to further discussion on all these issues at the Istanbul Conference.

Humanitarian

24. The Conference was preceded by a separate meeting on humanitarian issues co-chaired by the United Nations and the United Arab Emirates. Notwithstanding the end of the famine, participants expressed concern at the ongoing humanitarian crisis, and committed to providing humanitarian aid based solely on need. They agreed on a set of conclusions on humanitarian issues and linking relief with longer-term recovery.

International coordination

25. We agreed to carry forward work agreed at London through the International Contact Group on Somalia (ICG), and welcomed the ICG's decision in Djibouti to look at restructuring to become more effective. We recommended that the ICG establish working groups on the political process, security and justice, and stability and development. We noted that, within the ICG, a core group of engaged countries would drive progress in support of UN, AU and IGAD efforts.

26. We welcomed the efforts of the Special Representative of the Secretary-General and the United Nations Political Office for Somalia (UNPOS) in facilitating progress in Somalia. We also welcomed the role of IGAD and the African Union, and the support of the League of Arab States, the European Union, and the Organisation of

Islamic Cooperation. We encouraged effective coordination between UN entities working on Somalia. While recognising the still challenging security situation in Somalia, we welcomed UNPOS' relocation to Mogadishu, and agreed that we would aim to spend more time on the ground in Somalia, in order to work more closely with Somalis on the challenging tasks ahead.

Conclusion

27. We expressed the hope that a new era of Somali politics, supported by the international community, would bring peace to Somalia. We are determined to place the interests of the Somali people at the heart of all our actions. We looked forward to the day when the situation in Somalia would have made sufficient progress for an international conference to be held there. In the meantime, we will redouble our efforts to support the people of Somalia in their search for a better future for their country.

APPENDIX I:

THE FULL TEXT OF ANNEXE A 'DECLARATION BY THE INITIAL MEMBERS OF THE JOINT FINANCIAL MANAGEMENT BOARD AT THE LONDON CONFERENCE[125],

Establishing the Joint Financial Management Board (hereafter "the Board" or "the JFMB") is a positive response to the spirit and letter of commitments already entered into by the Transitional Federal Government (TFG) and members of the international community.

On 9 September 2011 in Nairobi, the Heads of State and Government of the East African Community (EAC), the Inter-Governmental Authority on Development (IGAD) and the Republic of South Sudan solemnly declared in paragraph xi (12) of the Joint Declaration of 'The summit on the Horn of Africa crisis: Ending drought emergencies: A Commitment to Sustainable Solutions' to undertake: "the formation of a Joint TFG-Donor Financial Management Board, to manage all financial resources provided to the TFG from both internal and external sources."

On 30 September 2011 in Copenhagen, the International Contact Group (ICG) recommended in the Final Communiqué: "The establishment of a Joint TFG- Donor Financial Management Board, as recommended by the Horn of Africa Summit in September 2011."

Currently, the initial members of the JFMB are the Transitional Federal Government (TFG) of Somalia, or any future successor government of Somalia; the United Kingdom; the French Republic; the European Union; and the World Bank. It is the expectation of the members that the Board will be expanded to include other donors before it is formally established.

Initially members agreed on the following:

Aims:

• The Board aims to eliminate the diversion of revenues generated from national assets and received in external assistance.

[125] The annexe can be accessed through http://www.fco.gov.uk/en/news/lstest-news/?id=727627582&view=PressS>[as accessed on 8 April 2012].

• The Board aims to maximise the productive use in the public interest of revenues generated both by Somalia's national assets and received in the form of external development assistance.

• The Board also aims to provide accountability and transparency on where and how Somali revenues and donor funds are spent.

Objectives:

• To establish a joint Board with key donor and Somali membership for the purpose of increasing mutual accountability and transparency; and an operational level with the task of forging joint structures with international and Somali counterparts at critical points in the TFG financial environment.

Principles of engagement:

• The Board will seek accountability from Somali public finance institutions for public revenues and expenditures. Simultaneously, the Board will seek greater transparency and accountability from international donors and implementing agencies for aid commitments, and more effective and efficient implementation of aid.

• The Board should have access to full information concerning financial flows both from internal revenue streams and for external assistance.

• The Board is intended to be a temporary body, the need for which will diminish, as Somali public finance institutions become strong enough to manage public finances and prevent diversion.

• The mandate of the Board will be further defined in discussion between the TFG and development partners. A progress review will take place at the end of the mandate.

• The Board is intended to strengthen the ability of Somali public finance institutions to manage Somali public finances and to monitor donor funds.

• The operations of the Board should be, to the extent practical, within Somalia.

• The Board should enhance the sovereignty of the Somali State by building trust between the Somali authorities and the international community.

Scope of the Board:

• Internal revenue includes domestic financial flows that are, or should be, characterized as public resources, including what are, or should be, national or public assets.

• External assistance includes all donor funds sent to or intended for Somalia –

whether multilateral or bilateral, and whether given to an institution or individual holder of public office.

Establishment:

The President, Prime Minister and Minister of Finance of the TFG will initially represent the TFG on the JFMB. The head of state, head of government and minister of finance or equivalent of any future successor government of Somalia will represent that government on the JFMB. Additional TFG or Somali government representatives may be added under processes established by the JFMB.

The admission of new members will be guided by the standards of accountability and transparency of the prospective member, and the JFMB will establish the relevant criteria for the purpose.

Operational Level:

The Board will be supported by an operational level structure. International and Somali counterparts will be identified and appointed for support at critical financial points.

Funding Mechanism:

• Initially, the costs of the JFMB will be borne by individual members of the JFMB.

• It is the intention of the parties that as the Somali government maximizes revenues, the running costs of the Board will at some point be shared between the international members of the Board and the Somali government.

Next Steps:

Agreement will be reached on the following areas in discussions between development partners and the TFG post conference:

• The Board is intended to operate with the Executive wing of Government, but a clear and transparent relationship with the Somali Parliament and all statutory created bodies will be important. The exact nature of that relationship and the reporting requirements will be agreed on, including whether the JFMB would require Somali legislation.

The final composition of Board membership:

• The Board will be established by agreed-on Terms of Reference, which will set out in detail the scope and nature of the decision-making to be carried out by the Board and its operational level.

• The Board will function according to the agreed Rules of Procedure that ensure sustained engagement by both donors and TFG on

transparency/accountability issues.

• Issues that will be included in the Terms of Reference and Rules of Procedure include, but are not limited to:

- Chairmanship;
- Frequency and location of meetings, definition of quorum for

discussion and decision-making;

- Scope of decision-making powers, criteria for decision-making and basis of agreements;
- Staffing issues;
- Relationships with implementing partners and other donors; on the Nature of engagement in revenue flows (e.g. single treasury account), expenditure supervision (e.g. cash management committee with joint signatory required), procurement;
- Security arrangements.

• The Board will take time to become fully operational and will need to take an incremental approach. The sequencing of this approach will need to be agreed on between all the members.

APPENDIX J:

The Full text of 'Annexe C: Principles for international support (non-humanitarian) to local areas of stability in Somalia[126],

i. **Access:** The security situation must allow development partners access to identify the support needed, to provide it, and to monitor and evaluate implementation. Communities should recognise their responsibilities in providing security to implementing partners.

ii. **Ownership:** Local communities should determine priority interventions, and play a role in the implementation and oversight. By responding to local needs, this should increase the incentive for stability. Initiatives should also align with developing national frameworks.

iii. **Representation and legitimacy:** Local representatives must commit to an aim of becoming representative of citizenry in a given area, also by striving to be able to deliver services, including human security.

iv. **Transparency and accountability:** Resources provided to local areas should be used and accounted for in a transparent manner. The costs of local stability work should be shared with local people, with community agreement and oversight of the revenue used.

v. **Inclusion and rights:** Traditionally marginalised groups (particularly women and minorities) should be included in decision-making. Representation should also consider local power dynamics.

vi. **Conflict sensitivity:** When supporting new areas with the potential for local legitimacy, but lacking widespread recognition in Somalia, the principle of "do no harm" is critical. Political economy and conflict analysis must be a pre-condition for new interventions.

vii. **Reconciliation and peacebuilding:** Local representatives should commit to peaceful resolution of local tensions and disputes with all parties to the conflict in Somalia. International actors should encourage and facilitate co-operation between sub-national entities, their neighbours, and the relevant federal ministries.

[126] The annexe can be accessed through http://www.fco.gov.uk/resources/en/pdf/global-issues/731221182/communique-annexc> [accessed on 8 April 2012)

viii. **Flexibility:** Interventions should be based on an in-depth understanding of local circumstances, and tailored to context. An incremental approach to support should be used wherein, rather than waiting for ideal circumstances, the level of assistance provided is matched to risk, capacity, and context.

ix. **Integration:** Each area would require a differentiated approach that integrates political, security, and development elements. Humanitarian aid should continue to be provided, based solely on need, but issues around protection and the resettlement of refugees, internally displaced persons, and host communities should be considered.

x. **The role of a central authority:** Local representatives should acknowledge and support constitutional norms and promote respect for existing legal frameworks and central institutions.

xi. **Partnerships:** Interventions should build and strengthen strategic partnerships between local institutions, civil society, the private sector, and between different Somali areas.

xii. **Sustainability:** Support should be provided in a way which meets immediate needs, but allows for the continuation of benefits over time. Building the capacity of local people and institutions to engage with political processes, deliver services, and address threats will be critical. New initiatives should learn from and build on the existing work and the analysis thereof.

xiii. **Coordination:** Support provided to local areas of stability by various international partners should be given in a co-ordinated and coherent manner, promoting collaboration where possible.

23rd February 2012.