THE ROLE OF UNITED NATIONS AND REGIONAL ORGANIZATIONS IN RESOLVING DISPUTES IN INTERNATIONAL LAW: A CASE STUDY OF CONGO

BY

Amina Abdullahi MUSAWA
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DECLARATION

I Amina Abdullahi, MUSAWA hereby declare that the work in this thesis titled “The Role of United Nations and Regional Organizations in Resolving Dispute in International Law: A Case Study of Congo” was written by me in the Department of Public Law under the supervision of Prof. Yusuf Aboki and Dr. I.F. Akande. The information derived from the literature has been duly acknowledged in the text and a list of references provided. No part of this work has been presented for another degree or diploma at any institution.

Amina Abdullahi MUSAWA **Date**

CERTIFICATION

This thesis titled "The Role of United Nations and Regional Organizations in Resolving Dispute in International Law: A Case Study of Congo" meets the regulations governing the award of the degree of Master of Law (LLM) of Ahmadu Bello University, and is approved for its contribution to knowledge and literary presentation.

…… **…….……**
Prof. Yusuf Aboki **Date**
Chairman, Supervisory Committee

…… **…….……**
Dr. I.F. Akande **Date**
Member, Supervisory Committee

…… **…….……**
Dr. K.M. Danladi **Date**
Head, Department of Public Law

…… **…….……**
Prof. A.Z. Hassan **Date**
Dean Postgraduate School

DEDICATION

I dedicate this thesis to my parents Hajia Ai and AlhajiAbdullahi and to my sister Hajia Maryam Saddiq.

ACKNOWLEDGMENT

In the first place, I am very grateful to Allah the Almighty who made it possible for me to complete this work and for His many blessings bestowed on me.

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ABSTRACT

The devastating consequence of the World War II led to the establishment of the United Nations with main objective to maintain International Peace and Security. Under Article 24 of the UN Charter the United Nations Security Council has the responsibility for the maintenance of International Peace and Security. Similarly, the regional organizations under Article 33 of the UN Charter are also required to complement the UNSC in the maintenance of Peace and Security in their regions. In the quest to achieve this objective, the regional organization and particularly the United Nations have over the years established difference peace keeping operations to resolve the Congo conflict which appears to be intractable.This study is relevant, it provide additional information for understanding how most international disputes arose and degenerate into violent stage due to poor management. The states and the world at large also stands to benefit from this work in that regional and international peace which this work set out to achieve will no doubt guarantee sound international relations and consequently save the succeeding generations from the scourge of war which has on two separate occasions brought untold sorrow to mankind. Congo is one African state that has been engulfed in conflict since 1960s what started as a struggle for political power later degenerated into civil wars and communal violence for decades leading to near disintegration of the state and spreading to other neigbouring states. From 1960s to the year 2000, Congo has been engulfed in some forms of internal conflict, compounded by multiple external interventions and fuelled by the desire of all parties to gain control over the natural resources of the country.The Congo conflict started as a result of the vacuum created by the sudden departure of the colonial powers, Belgium, from the Congo effected apparently by the UN – inspired wave of decolonization which resulted in the political independence of many African countries. The departure of the colonial power was followed by a barracks mutiny triggered by the demand of pay rise. The Belgians sent their paratroopers to quell the mutiny and to protect their citizens in the Congo. The Congolese government asked for assistance which led to a fight between the President (Kasavubu) and the Prime Minister (Lumumba) who in a struggle for supremacy dismissed each other.It was under this chaotic situation that the UN hastily deployed its first peacekeeper in Africa in Congo under the name of United Nations operation in the Congo (ONUC). The Secretary-General in his proposal to the UNSC in setting up an operation group recommended steps for maintenance of order in the country and the protection of life. He further states that it would be understood that were the UN to act as proposed, the Belgian government would see its way to a withdrawal."The objective of this study is to explore the role of the UN and regional organizations in resolving the Congo conflict. Using doctrinal research method mainly, the study finds that the UN peace keeping operations in Congo have not been very successful for many reasons chief among which were the involvement of the peacekeepers in the internal politics of the Congo. In doing so, the peacekeepers collaborated with the major power to advanced their strategic objectives and lack of active involvement of the Regional organizations like the A.U. in the conflict. Consequently, the study recommended that the UN and regional organizations must be more robust and proactive to be able to discharge their responsibility of maintenance of international peace and security.

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LIST OF ABBREVIATION

A.U	-	African Union
OAU	-	Organization of African Union
UN	-	United Nations
NIPC	-	Nigerian Investment Promotion Commission
ECOWAS:	-	Economic Community of West African States
ICJ	-	International Court of Justice
SADC	-	Southern African Development Community
UNSC	-	United Nations Security Council
MONUC	-	United Nations Organization Mission in the Demographic Republic of Congo
UNGA	-	United Nations General Assembly
ONUC	-	United Nations Operation in the Congo
MONUSCO	-	United Nations Organization Stabilization Mission in the Congo

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Background to the Study

The international political climate is currently fraught with unresolved inter-state and intra-state disputes that emanate often from mere suspicion, mistrust, political and economic rivalry as well as competition over territory. Disputes, if not carefully monitored and resolved peacefully, they may, (as they have) lead to armed conflicts –conflicts that would bring (as they have done so) devastating effects not only to the disputants but also to the international community. To this end, the desire for the maintenance of international peace and security has always been at the heart of the international community. States have concluded a number of multilateral treaties ranging from 1899 Hague Convention for the Pacific Settlement of International Disputes which was revised by the second Hague Peace Conference in 1907 aimed at peaceful settlement of their disputes and difference[1]. This was also the basic objective behind the creation of the League of Nations in 1919 and the United Nations (UN) in 1945. Since its inception, the UN has taken responsibility for maintaining world peace and security. Drafters of UN Charter envisioned an organisation in the entire spectrum of conflict management and resolution, from preventive measures to ad-hoc responds to crisis, to long-time stabilisation of conflict areas with view of saving the succeeding generations from the scourge of war which has on two separate occasions brought untold sorrow to mankind[2]. To this end, the Charter obliges the parties to any dispute capable of endangering international peace and security to settle such dispute either through negotiations, enquiry, mediation, conciliation, good office or adjudication or any peaceful means of their choice. Or resort

[1]Collier, J. and Lowe, v. The Settlement of Disputes in International Law, Cambridge (1999) @ www. https://sitesgoogle.com/site/walidabdulrahim/home/my-studies-in-english/14-peaceful-settlement-of-disputes, accessed on 5th June, 2013 at 9.00pm.

[2]Osmancavusoglu, E. "Challenges to United Nation Peacekeeping Operation in the Post-Cold War Era " *Journal of International Affairs, (1999-2000) VOL. 4 p.4*

should be had to regional arrangements or agencies. When this is not successful, the UN is permitted to intervene to consider the dispute and make recommendations[3].

However, the end of cold war presented both opportunities and challenges for the international community. Opportunities in the sense that UN found itself freer to act than at any time in its history; challenges in the sense that the end of cold war has ushered in a regime of armed conflicts at intra- state level largely because people's expectations for an improved and egalitarian society have not materialised. Consequently, ethnic and nationalist forces whose expectations were not met began to challenge state authority and old imperial boundaries. In fact, sub-national group demands for empowerment, autonomy and even independence took a violent dimension in the struggle for self-determination[4]. This has for instance resulted in the collapse of state institutions in Somalia, a coup in Haiti, and civil wars in Bosnia, Cambodia, Salvador, Guatemala, DR Congo, and Angola among other countries. Sequel to this development therefore, it became necessary for the UN to draw support from regional organizations in the maintenance of international peace and security. This was predicated partly on the assumption that the parties understand the security challenges of their respective regions better and partly as a form of burden sharing[5]. Therefore, while the UN primary responsibility still remains that of maintenance of internationalpeace and security, the regional agencies are only expected to lighten the burden of the UN by rendering services toward the attainment of regional and subsequently to international peace and security in a manner consistent with the purpose and principles of the UN Charter[6]

[3] Article 1 (1) & 33 (1) United Nation Charter, 1945.
[4]Gambari, I. A. The Challenges of Peace-Keeping and Peace-Making in Africa: The Role of the United Nations and Nigeria's Contributions (2000) @www.nigerianworld.com/feature/article/peace-keepinghtml
[5]Essuman, J. A. Regional Conflict Resolution Mechanisms :A Comparative Analysis of Two African Security Complexes, *African Journal of Political Science and International Relations (2009) Vol.3 p.409-422 available @ www.academicjournal.org/ajpsir*
[6]Michael, W. D. & Nicholas, S. "Making War and Building Peace: United Nations Operations" @www.press.princeton.edu/chapters/s8196.html,

In Africa, given that the state of peace and security on the continent has remained a pre-occupying phenomenon, certain regional organisations have since become directly involved in conflict resolution in their regions. For instance, the African (AU), the Economic Community of West African States (ECOWAS), the Southern African Development Community (SADC), the Intergovernmental Authority on Development (IGAD) have played increasing role of late in resolving regional conflicts in various regions in the continent. However, while these organisations have made remarkable impact in certain places, their efforts in other places have not yielded a resounding success. For instance, the Southern African Development Community (SADC) may be said to have achieved a relative success in the settlement of disputes that resulted in millions of casualties in the 1990s in Angola, the same may not be said of SADC in places like Somalia and Democratic Republic of Congo. In fact, in DR Congo since 1996 up till now, a regional war has ravaged almost the entire country. What has started as an internal crisis for a troubled Central African state could not be effectively resolved by the SADC consequently, turning some parts of the country into a theatre of war, resulting in negative security and socio-economic condition. Beyond the deaths and displacements caused directly by this war, it has also cause deterioration of health level for the entire state[7]. This development has raised a big question as to the effectiveness of the UN regional organisation in bringing about a peaceful settlement of disputes in this African Sub-region.

1.2 Statement of Problem

The quest for the maintenance of the international peace and security has always been at the heart of the United Nations. Although, Article 24 in Chapter V of the UN Charter[8] clearly vests the responsibilities for the maintenance of international peace and security in the Security Council, the Charter in Article 33 provides a role for regional organisations in the

[7] Ibid.
[8] Article 24, United Nations Charter, 1945.

maintenance of peace and security in their respective regions. However, the achievement of this objective may not be as simple as it appears on the face of it. In the first place, there may be problem when a settlement is effected bya political organ like the UN Security Council because there may be a likelihood of personal interest or there may not be a common interest among the members of this political organ to bring about the resolution of international dispute or to respond promptly to such dispute in the interest of the states parties concerned. For instance, while conflicts like Iraq inversion of Kuwait may evoke prompt responses, can others which are less consequential or less clear-cut attract the same responses? Again, there may be a problem of absence of due process as regards the way decisions in matters affecting the legal interests of states should be taken as this can give rise to unnecessary tension in international relations and consequently endanger international peace and security.

Secondly, the United Nations Charter has obliged the parties to any dispute endangering international peace and security to settle such dispute peacefully but, there no obligation under the Charter to settle disputes. One may therefore ask whether the absence of this obligation will not constitute a gap in the international law system which may remain a source of tension from time to time thereby threatening international peace and security as state parties may not be willing to take their dispute to a court for diplomatic political reasons (as in the case of Argentine and United Kingdom's claim to the Falklands). Further still, how do we determine which conflict may likely endanger international peace and security. It is imperative to set out the parameters for the sake of sovereignty and the division at the UN Security Council as this has often led to late or non intervention international dispute.

Thirdly, the Charter permits UN to intervene and consider the dispute and make recommendations where the parties failed to reach an agreement. While the strengthening role of the UN Security Council may be viewed as a positive development, will it not also produce resentment if is perceived by the state parties particularly in developing countries as

an imposition from the major powers? Furthermore, the Charter obliges states parties to settle any dispute endangering international peace and security through any of the means provided within the Charter. What then becomes the position where a dispute only threatens to endanger international peace and security? Will it not be easier and better in terms of consequences to regulate a dispute at the level of threat than when it has become a full blown armed conflict?

Again, peaceful methods of international dispute settlements have been increasingly accepted as the preferred way of resolving dispute. However, despite the increased utilization of these methods in resolving conflicts and other forms of hostilities, studies show that only 50 percent of all peaceful settlements last beyond five years[9]. While in certain situation, settlement of disputes through these means has not recorded a resounding success. This has raised a big question as to the effectiveness of these methods. This research will strive to address all these issues.

1.3 Objective of the Research

The objective of this research is to examine the United Nations approach to peaceful settlement of African regional dispute with particular reference to Angola and the Democratic Republic of Congo.The concern is simply to look at the effectiveness of the UN through its regional agencies in Africa, in terms of their success in the peaceful resolution of regional disputes in the continent. To this end, the research using Congo as a case study examines the process of peaceful settlement of disputes in Africa since the end of cold war, particularly in terms of their compatibility with the United Charter and in terms of their effectiveness.

1.4 Scope of the Research

This research is restricted to the examination of the United Nations peaceful settlement of African regional disputes with reference to Congo DRC. Hence, the work will

[9]Hartzell, H., Rothchild, H., Donald, L. "*Ethnic Groups in Conflict"*, University of California Press: Berkeley, CA. (2001). p.195

be limited to examining relevant articles of the United Nations Charter particularly as it relates to peaceful settlement of disputes, as well as other relevant literatures on the subject of this research. Though territorial, the research is confined to Congo DRC, reference may still be made to other regions or state for guidance where necessary.

1.5 Research Methodology

Doctrinal research method is adopted for this research. Therefore, the research is library oriented, using statutes, books, internet materials, news papers, and relevant journals from both foreign and indigenous authors.

The research equally utilises the decisions of some UN Arbitration Tribunal as well as the decisions of International Court Justice. These materials would provide the basis for examining the methods of peaceful settlement of regional and international disputes under the UN Charter.

1.6 Significance of the Research

This study is relevant, it provide additional information for understanding how most international disputes arose and degenerate into violent stage due to poor management. The states and the world at large also stands to benefit from this work in that regional and international peace which this work set out to achieve will no doubt guarantee sound international relations and consequently save the succeeding generations from the scourge of war which has on two separate occasions brought untold sorrow to mankind. This work is equally beneficial because it will provide additional reference material for students, researchers, diplomats and the general public.

1.7 Literature Review

A lot has been written regarding peaceful settlement of international disputes from different perspectives. While some focused on the meaning and importance of peaceful settlement of international disputes, others are simply concerned with the methods of settling

such disputes. However, in spite of the contributions made by scholars on this topic, there still exist some issue that merit consideration. For instance, Brownlie[10] explained peaceful settlement as a phrase which covers a considerable variety of processes and outcome such as settlement according to law resulting from judicial decision or arbitration, negotiation involving states and political compromise, and multilateral settlement implemented with the lawful authority of the international community. He stated further that the standard type of settlement is based on the genuine consent of the parties to the dispute and involves the application of the law, and in case of purely factual issues, the application of judicial standard of assessment of evidence. The learned author further mentioned legal and political dispute as the two main classification of international dispute. Though this work has no doubt provided a conceptual basis for understanding the meaning and the classification of the methods of peaceful settlement of international dispute, it has however failed to provide the basis for distinguishing between legal and political dispute.

Ortino[11]enumerated the methods of peaceful settlement to include negotiation, good office, mediation, inquiry, conciliation, arbitration and judicial settlement. He traced the history of these methods of disputes settlement to the World War I and II, and maintained that the rationale behind the development of these strategies was to save the succeeding generation from experiencing further wars. The learned author stated further that these methods have been undergoing numerous changes, resulting in numerous applications which have proved useful in the practical implementation and resolutions of international dispute. He maintained further that in recent times, particular attention has given to all these forms of dispute resolution, starting from the International Court of Justice (ICJ), the United Nations and its role, peace keeping missions, the role of well known regional organisations like the

[10]Brownlie, I. The Peaceful Settlement of International Disputes *"Chinese Journal of International Law"* (2009) Vol.8. p.267 @ www.chinesejil.oxfordjournals.org/content/8/2/267.full.Accessed on 3rd June, 2013.
[11]Ortino,F.T.," Peaceful Settlement System 1995-2003" Oxford, Oxford University Press, (2004), p.45. Available @www.file://C:/Users/Richard/Downloads/order-212540(4).doc#-ftnref1, accessed on 2nd June, 2013.

E.U, AU, NATO, among others. While this may still be relevant, it has however not shown why these forms of dispute settlement, particularly the ICJ, the United Nations and the regional organizations have in certain instances not recorded a resounding success.

Hampson[12]emphasized the role of the international community and the adoption of power sharing strategies as key to successful resolution of international dispute. He argued that international peace and security can be achieved only when the international community has taken the responsibility of facilitating the settlement and implementation of peace agreements. He stated further that the more involved the international community is in the settlement of international dispute, the higher the probability for a successful negotiated settlement. However, while this position may be valid and workable in certain situations, the learned author did not take into consideration the significance of the consent of the parties to the dispute in bringing about settlement as in many instances the resolution of international disputes has witness setback due to the absence of the consent of the parties to the dispute. The work did not also clarify what role the international community should play in ensuring stability during the implementation of the peace agreement particularly in Africa.

Stedman in his work titled the "Spoilers Problems in Peace Process[13]" examines what he called the "types of groups fighting in the civil war". He stated that by correctly identifying and attending to the spoilers of peace process and the means by which the international community may meaningfully intervene in international dispute, the international organizations can successfully manage a peace process. In the same vein, Kumar[14]claims that in order to settle international dispute peacefully, the international community must engage the local political community and thoroughly understand the political landscape. He stated further that the international community should work within the

[12]Hampson, F. O. *Nurturing Peace: Why Peace Settlements Succeed of Fail*.(1996)Washington, DC: United States Institute of Peace Press.p.54.
[13]Stedman, S. J., "Spoiler Problems in Peace Process." *InternationalSecurity*,(1997) Vol. 22, no. 2, pp. 5-53.
[14]Kumar, C. "Conclusion." In Elizabeth M. C., Chetan K. andKarin W., (eds), *Peacebuilding as Politics: Cultivating Peace in FragileSocieties*. Boulder, CO: Lynne Rienner Publications,(2001) p.188

framework of the political environment of the post-conflict state to develop processes by which needs are addressed and institutions developed. While these works shed light on the conditions for the advancement of peace process, they seem to leaves out the reactions of the faction leaders to those very conditions and how they impede or advance the implementation of a peace agreement.

Licklider[15], (Hartzell and Rothchild[16]) contended that though negotiated settlement have been accepted as preferred way of resolving disputes, only 50 percent of all disputes settled through these methods last beyond five years while in others, settlements have been shown to keep the peace for only three and a half years. Dorina[17] argues further that this timeframe suggests that warring parties cannot successfully implement the peace agreement. These literatures have no doubt provided a basis for appreciating the weaknesses inherent in negotiated settlement, but they have however not explained the underlying factors responsible for such weaknesses.

Anand[18] also wrote on peaceful settlement of international dispute, he argued that the best way to settle international dispute is through an impartial third parties as according to him, the permanent Court of Arbitration and the International Court of Justice are woefully deficient. He contended further that the UN has over the years created numerous tribunals without a structured relationship or hierarchy between them thereby in certain instances resulting in conflicts of jurisdiction. The writer however fails to examine some of the causes of international disputes and the settlement mechanisms. Some of which if adequately researched into, they would have provided information regarding the reasons behind the relative strength and weaknesses of the system.

[15]Licklider, R., "The Consequences of Negotiated Settlements in Civil Wars, 1945-1993." *American Political Science Review*, (1995) Vol. 89, September, pp. 681.
[16]Hartzell, H., Rothchild, H., Donald, L, op.cit. no. 9
[17]Dorina A. B.Mutual Vulnerability and the Implementation of Peace Agreements:Examples from Mozambique, Angola, and Liberia. *International Journal of Peace Studies (*2005) vol. 10. p.2
[18]Anand, R.P., Peaceful Settlement of International Dispute: Changing Dimensions of Internal Law: An Asian Perspective. MartinusNijhoff Publisher, (2006) P. 1-6.

Prof. Umozurike[19] writing under the topic Collective Security stated that the United Nations Security Council (UNSC) has not been very successful at the use of force to restore or maintain international peace and security for many reasons. In first place, Article 41 of the UN Charter envisages that plans for the use of force shall be made with the assistance of military staff committee consisting of the chiefs of staff of the permanent member or their representative. This committee has not been established because of differences among the permanent members over the size, contributions, and locations. Secondly, the UNSC has not been able to effectively fulfill its mandate when conflict arose sink its decisions on those matters demand the concurring votes of the permanent members. Each of them enjoys the veto power and they are prone to cast a negative vote when the decision would affect their interest directly or indirectly. While this is correct and has considerably affected the role of UN in maintenance of peace, the author did not make reference to any conflict or dispute as a good example. The present writer, using Congo crisis examines the impact of the exercise of veto power by the permanent members of the UNSC on maintenance of international peace and security.

Taiwo[20], argued that in order for the UNSC to command worldwide respect and legitimacy, it should be democratized and expanded by bringing on board the representative of those regional blocs which have no representation. He equally submitted that because of the phenomenal increase in the membership of the UN it is no longer tenable in the 21st century to have only five permanent members at the UNSC. While this writer agrees that democratization of UNSC is imperative, it cannot in itself be the solution to problem of UNSC when it is required to act swiftly to deal with threat to international peace and security.

[19]Umozurike, U.O. Introduction to International Law. Spectrum Law Series Ibadan 1986, pp.202-205
[20]Taiwo, L.O. The Imperative of Reforming the United Nations Security Council in the Post Cold War Era. ABU JPCL Vol.1 No.2, 2006, pp.112-116

Prof. Ladan[21], writing on the topic peacekeeping: concept and practice analyse the role of United Nations, some regional and sub regional organizations like the African Union (AU) Economic Community of West African States, ECOWAS and the South African Development Community (SADC) in pacific settlement of disputes. He concluded that these bodies have not been able to prevent wars in Africa and suggested that new institutions have to be put in place to tackle political tension on the continent of Africa. While, this may be correct, the author failed to analyse why the UN peacekeeping efforts and that of the regional organizations have failed. This writer examines the role of these organizations in settlement of disputes, and analyse why their effort have not recorded the desired objectives.

Okeke[22], while writing under a rather very ambitions title "the Theory and Practice of International in Nigeria, did not make any reference to pacific settlement of international disputes, the role of United Nations and regional organization. This is curious because the author wrote on the Nigerian Civil War. This is a big lacuna because conflict particularly civil wars, are common phenomenon in the African continent and most of these states are member of UN and other regional organs. Thus, this work is significant as it attempt to examine the role of UN and regional organization in the settlement of dispute in international law using Congo conflict as a case study.

1.8 Organisational layout

This work is made up of five chapters. Chapter one gives a general introduction to the work and further outlines the statements of the problem, the objective of the research, the scope, methodology, significance of the study, literature review and organisational layout.

Chapter two focuses on peaceful settlement of international disputes under the UN Charter. It examines both the diplomatic methods of international disputes settlement which

[21]Ladan, M.T. Materials and Cases on Pubic International Law.Ahmadu Bello University Press, Zaria 2007, pp.104-108

[22]Okeke, C.N. The Theory and Practice of International Law in Nigeria.Fourth Dimension Publishing Co. Ltd. Enugu 1986. p.88

include negotiations, enquiry, mediation, conciliation and good office, as well as the adjudicative and institutional methods of disputes resolution.

Chapter three and four examine the UN settlement of regional disputes in Africa with particular reference on Congo DRC. The chapters highlight the background to the conflicts in the Congo. Chapter four further examines the challenges in the various peacekeeping missions in resolving the conflict and Chapter five is the concluding chapter.Itsummarizesthework, highlightssomemajor findings and makes recommendations.

CHAPTER TWO

PEACEFUL SETTLEMENT OF DISPUTES UNDER THE UNITED NATIONS CHARTER

2.1 Introduction

The idea of world peace is, in itself, a relatively recent idea. Not so long ago, all over the world, and in Europe in particular, every generation had had "its" war. Certain fatalism towards war was rooted in men mentalities. War was almost considered as inevitable and peace was only a vague Utopian dream. The first 20th century peace movements were born between the two wars, that is - in the twenties and thirties, and gave rise to the League of Nations. Unfortunately, the League failed in its quest because the member States had not succeeded in endowing the League with the instruments needed to establish peace, such as the modern-day peacekeepers. The rise in the nationalist movements of the 19th and 20th centuries that provoked the two world wars played a major role in the idea of creating the conditions for world peace. World War I took the lives of more than 9 million people, killing between 20% to 25% of the male population of France and Germany. As for World War II, 55 million people died, including 6 million Jews in the Nazi concentration camps.[1]

Faced with the largest catastrophes in human history, men and women around the planet began to dream of a better, peaceful world. Thus, shortly after World War II, 51 States ratified the United Nations Charter with the hope of freeing the world from the possibility of war. The UN was thus created and equipped with instruments that its predecessor lacked. The UN established several programs intended to reduce, as much as possible, all the factors leading to outbreaks in conflicts. These programs did not only focus on peace keepers, who intervene after a conflict has erupted, but also on economic and social development, human rights, and the struggle to end world poverty and hunger. Indeed, all of these United Nations

[1]See http://www.unac.org/en/projects/peace/role.asp accessed on 26-06-13 at 9.10pm

programs contribute directly or indirectly to the prevention of conflicts and thus to peace on earth. It is certainly true that, in the last 50 years, not everyone in the world has known peace, but it is gradually gaining ground. The dream of peace in the world is becoming less and less Utopian and more and more attainable.[2]

The United Nations as an international organisation of universal character was established following the conclusion of the World War II with the primary aim of ensuring, promoting, maintaining and restoring peace and security in the World over.[3] The organisation came into being through the Charter of the United Nations signed on 2h June 1945, in San Francisco, at the conclusion of the United Nations Conference on International Organization. The Charter eventually came into force on 24 October 1945.[4] The preamble to the UN Charter clearly underscores the reasons and aims of establishing the organisation when it provides that:

> We the peoples of the United Nations determined
>
> To save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and
> To reaffirm faith in fundamental human rights, in the dignity and
> Worth of the human person, in the equal rights of men and women and of nations large and small, and
> To establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom,
>
> And for these ends
>
> To practice tolerance and live together in peace with one another as good neighbours, and

[2] Ibid
[3] This was necessitated owing the horrific and gory aftermath of the World wars.
[4] The Introductory Note to the UN Charter 1945. Available at:http://www.un.org/en/documents/charter/shtml accessed on 26/06/13 at 9.30pm

> To unite our strength to maintain international peace and security, and
> To ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and
> To employ international machinery for the promotion of the economic and social advancement of all peoples.

Peace and security among Member States (and non-members alike) is the very core and central purpose of establishing the World Organisation. This perhaps informed the comment of the former Secretary-General Kofi Annan that "Chapter VI of the United Nations Charter, on the pacific settlement of disputes, stands at the heart of the Organization's system of collective security".[5] Thus, Article 1[6] sets out the purposes of the Organisation as follows:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;
3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.

2.2 Peaceful Settlement of Disputes and the United NationsCharter

The UN Charter provides for a variety of disputes settlement mechanisms. The mechanisms are geared toward fulfilling the very essence of establishing the organization

[5]UN Press Release available at: http://www.unis.unvienna.org/unis/en/pressrels/2003/sgsm8697.htmlaccessed on 13-05-13 at 13:17. Note that Chapter IV referred to herein centres on mechanisms for peaceful settlement of disputes.
[6]UN Charter Ibid.

through resolution of international disputes vide peaceful means. However, it is not every manner of disputes that caught the attention of the organization. In other words, it is not all disputes that are within the purview of the UN. Attempt is therefore made hereunder to define "disputes" in the context of which the UN which interfere; before discussing the mechanisms or methods of disputes settlement known to the UN Charter.

2.2.1 Definition of Disputes

The word dispute is defined as "a conflict or controversy especially one that has given rise to a particular lawsuit".[7] In the *Mavrommatis Palestine Concessions* case[8], the Permanent Court described a dispute as "a disagreement on a point of law or fact, a conflict of legal views or of interests between two persons." And, in another case, the ICJ referred to dispute as "a situation in which the two sides held clearly opposite views concerning the question of the performance or non-performance of certain treaty obligations".[9] These definitions could all qualify as legal disputes for which judicial mechanism of settlement of disputes through the ICJ may be required for its settlement. On the other hands, there are often controversies or disagreements which are classified as political disputes. It is on these that the Security Council is vested power to take charge.

In either case, the disputes must be such that in the opinion of the Security Council or the ICJ constitute threat to international peace and security. This in effect means that the UN should not ordinarily interfere in internal or domestic conflicts[10] within a State because of the principle of non interference and self determination.[11] What constitute legal disputes however

[7] Garner, B.A. (Ed.) *Black's Law Dictionary* (1999).
[8](Greece v.Great Britain), Judgement of 30 August 1924 PCIJ (Ser. A) No.2, at 11.
[9]Interpretation of the Peace Treaties with Bulgaria, Hungary and Romania, Advisory Opinion of 30 March 1950 (first Phase), 1950 ICJ Rep. 65, at 74.
[10]See Article 2 (7), UN Charter.
[11]See Articles 73 and 74 UN Charter.

often stem from political and governance issues like boundary disputes, hegemony tussles and or economic policies.

There are many types of conflicts, with diverse origins and numerous consequences. Conflicts can occur among States or, conversely, within the same State. The former often result from claims for such things as land or natural resources, including water, oil or diamonds (e.g. Sierra Leone). On the other hand, conflicts within a country generally stem from other types of dissension. The sources can be ethnic, religious or environmental in nature or be due to illiteracy or the unequal sharing of resources. Indeed, poverty, the depletion of the natural and economic resources of States, the weakness of political institutions, and human rights violations are some of the causes of internal conflicts.[12]

2.2.2 Disputes Settlement Mechanisms under the UN Charter

The mechanisms for settling disputes under the UN Charter are basically diplomatic and judicial methods. Thus Member States are enjoined to adopt these approaches and refrain from the use of force. Hence, Article 2 (3)[13] provides that "All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered"; while Article 2 (4)[14] provides that: "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations".

[12] See "Culture of Peace-the Role of the United Nations". Available at: http://www.unac.org/en/projects/peace/role.asp accessed on 13/05/13 at 5.00am
[13] UN Charter
[14] Ibid

More explicitly, Article 33 provides that:

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.
2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

The latter provisions appear to restrict resort to the enumerated dispute settlement methods only in the context of disputes the continuance of which are likely to endanger international peace and security. There was therefore the need to improve on them in subsequent instruments and this came vide the General Assembly Resolution 2625 (XXV)[15] which provided that: "States shall accordingly seek early and just settlement of their international disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their choice".

States have a free choice as to the particular mechanism(s) to be adopted for settling their disputes. Parties to a dispute have the duty to continue to seek a settlement by other peaceful means in the event of the failure of one particular method. And should the means indicated in the Article 33 fail, the parties to the dispute shall refer to the Security Council.[16]

2.2.2.1 Negotiation

This is the simplest and most utilized form of dispute settlement.[17] This consists basically of discussion between the interested parties with a view to reconciling divergent opinions, or at least understanding the different positions maintained. It does net involve any

[15]Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States 1970. See also Section I (3) and (10) Manila Declaration on the Peaceful Settlement of International Disputes, General Assembly Resolution 37/590.
[16]See Article 37 (I), UN Charter.
[17]Shaw, M. N. International Law. Cambridge University Press London (1997) p.720

third party, at least at that stage, and so differs from the other forms of dispute management. In addition to being an extremely active method of settlement itself, negotiation is normally the precursor to other settlement procedures as the parties decide amongst themselves how best to resolve their difference.[18] It is eminently suited to the clarification and resolution of complicated disagreements. It is by mutual discussions that the essence of the differences will be revealed and the opposing contentions elucidated.

Negotiations are the most satisfactory means to resolve disputes since the parties are so directly engaged. Negotiations, of course, do not always succeed, since they do depend on a certain degree of mutual goodwill, flexibility and sensitivity. For instance, hostile public opinion in one State may prevent the concession of certain points and mutual distrust may fatally complicate the process, while opposing political attitudes may be such as to preclude any acceptable negotiated agreement.[19]

In certain circumstances there may exist a duty to enter into negotiations arising out of particular bilateral or multilateral agreements.[20] In addition, decisions of tribunals may direct the parties to engage in negotiations in good faith and may indicate the factors to be taken into account in the course of negotiations between the parties.[21] Where there is an obligation to negotiate, this would imply also an obligation to pursue such negotiations as far as possible with a view to concluding agreements.[22] Thus the court held **in the North Sea Continental Shelf cases**[23] that:

The parties are under an obligation to enter into negotiations with a view to arriving at an agreement, and not merely to go through a formal process of negotiation as a sort of prior condition... they are under an obligation so to conduct themselves that the negotiations are

[18]See for instance Fisheries Jurisdiction case, ICJ Reports (1973) pp. 3, 45 and 55.
[19]Shaw, M. N. Op cit. p. 721
[20]See for instance Article 15 of the Moon Treaty 1979 and Article 41 of the Vienna Convention on Succession of States in Respect of Treaties, 1978.
[21]See The North Sea Continental Shelf cases, ICJ Reports, 1967, pp. 3, 53 -54; and 41.
[22]See The Railway Traffic between Lithuania and Poland case, PCIJ, Series A/B. No. 42, p. 116.
[23](supra)

meaningful, which will not be the case when either of them insists upon its own position without contemplating any modification of it.

Again, the court in **the German External Debts case**[24]emphasised that although an agreement to negotiate did not necessarily imply an obligation to reach an agreement, "it does imply that serious efforts towards that end will be made". In the **Lac Lannoux arbitration**[25] it was stated that "consultations and negotiations between the two must be genuine, must comply with the rules of good faith and must not be mere formalities". Thus, where a State party unjustifiably broke off conversations or systematically refused to give consideration to proposals or adverse interest, same was held to be an infringement of the rules of good faith.[26]

2.2.2.2 Inquiry

Where differences of opinion on factual matters underlie a dispute between parties, the logical solution is often to institute a commission of inquiry to be conducted by reputable observers to ascertain precisely the facts in contention. Provisions for such inquiries were first elaborated in the 1899 Hague Conference as a possible alternative to the; use of arbitration.[27] However, the technique is limited in that it can only have relevance in the case of international disputes involving neither the honour nor the vital interests of the parties where the conflict centres on a genuine disagreement as to particular facts which can be resolved by recourse to an impartial and conscientious investigation.[28]

Inquiry was most successfully used in the Dogger Bank incident of 1904 where Russian naval ships fired on British fishing boats in the belief that they were hostile Japanese torpedo craft. The Hague provisions were put into effect and the report of the international inquiry commission contributed to a peaceful settlement of the issue. This encouraged an

[24]47 ILR, pp. 418, 454
[25]24 ILR, pp. 101,119.
[26]Ibid, p. 128. See also The Tacna-Arica Arbitration, II RIAA, pp. 921
[27]Shaw, M. N.Op.cit. p. 725
[28]See Article 9,1899 Hague Convention for the Pacific Settlement of International Disputes.

elaboration of the technique by the 1907 Hague Conferences, and a wave of support for the procedure.[29] The use of this technique has increased within the United Nations generally and its specialised agencies.[30]

2.2.2.3 Mediation

The employment of this procedure involves the use of a third party, whether an individual or individuals, a state or group of states or an international organisation, to encourage the contending parties to come to a settlement. Unlike the techniques of arbitration and adjudication, this process aims at persuading the parties to a dispute to reach satisfactory terms for its termination by themselves. The procedure for the use of this technique is not provided for in the UN Charter. Hence, what is technically termed "good offices"[31] has evolved as a form or vehicle of mediation. Examples of instances where the good offices method were applied include: "the role played by the US President in 1906 in concluding the Russian-Japanese War, the function performed by the USSR in assisting the peaceful settlement of the Indian-Pakistan dispute in 1965".[32] Further examples have been given in the following terms:

> UN efforts have produced dramatic results. The UN helped defuse the Cuban missile crisis in 1962 and the Middle East crisis in 1973. In 1988, a UN - sponsored peace settlement ended the Iran -Iraq war, and in the following year UN - sponsored negotiations led to the withdrawal of Soviet troops from Afghanistan. In the 1990s, the UN was instrumental in restoring sovereignty to Kuwait, and played a major role in ending civil wars in Cambodia, El Salvador, Guatemala and Mozambique, restoring the democratically elected government

[29]The United States, for instance, concluded forty-eight bilateral treaties with provisions in each one of them for the creation of a permanent inquiry commission between 1913 and 1940.

[30]For instance, the UN raised a mission in 1988 to investigate the situation of prisoners of war in Iran and Iraq; Establishment of Commission of Experts pursuance of Security Council Resolution 780 (1992) to investigate violations of international humanitarian law in the former Yugoslavia.; Recently UN sent experts to Syria to investigate the alleged use of chemicals weapons in the Syrian Civil War

[31]This simply means the use of good will and influence by some persons (natural or artificial) in the settlement process. This third party approach often attempts to influence the opposing sides to enter into negotiations. Note that this is slightly different from mediation in that mediation implies the active participation of the thirty party(ies) in the negotiation process whereas the good offices approach to is mainly to influence the warring parties and create platform for possible settlement of disputes.

[32]Shaw, M.N. Op cit. 723

> in Haiti, and resolving or containing conflict in various other countries.[33]

This method has been frequently employed perhaps because of its efficacy. Alluding to this, former UN Secretary-General Kofi Annan[34] observed thus:

> In recent years, the Council has used Chapter VI in various ways. It has entered into direct dialogue with the parties to a conflict, for example through its discussions with the Political Committee of the Lusaka Agreement. It has tried to work more closely with the Economic and Social Council, and with other regional and sub regional organizations, to prevent and resolve conflicts in Africa.
>
> The Council frequently calls on me to use my good offices as Secretary-General, and has encouraged me to appoint a growing number of special representatives and envoys. And increasingly, Council members are venturing into the field...

It need be noted that State parties to serious disputes have a duty to resort to good offices or mediation as far as circumstances allow before having recourse to arms.[35] In fast, the Hague Conventions[36] laid down rules stipulating that the signatories thereof had a right to offer good offices or mediation even during hostilities and that the exercise of the right was never to be regarded by either of the contending sides as an unfriendly act.[37]

2.2.2.4 Conciliation

The process of conciliation involves a third party investigation of the basis of the dispute and the submission of a report embodying suggestions for a settlement. As such, it involves elements of both inquiry and mediation and in fact the process of conciliation emerged from treaties providing for permanent inquiry commission.[38] Conciliation reports are

[33]See "What the UN Does for Peace". Available at: http://un.by/en/about/brief/inbrief3.html - accessedon 14-05-13 at 12:13
[34]UN Press Release Op cit. fn - 5
[35]See Article 2 of Hague Convention No. 1,1899
[36]of 1899 and 1907
[37]Article 3 Ibid, and Convention No. 1,1907
[38]Shaw, M.N.Op. cit. p 726

only proposals and do not constitute binding decisions.[39] It is flexible and by clarifying the facts and discussing proposals, may stimulate negotiations between contending parties.[40]

The conciliation procedure was used in the Iceland-Norway dispute over the continental shelf delimitation between Iceland and Jan Mayen Island and the setting up of Conciliation Commission for Palestine,[41] and the Conciliation Commission for the Congo.[42]

2.2.2.5 Arbitration

This is another disputes settlement mechanism recognised under the UN Charter. It is a procedure for the settlement of disputes between States by a binding award on the basis of law and as a result of an undertaking voluntarily accepted. The object of arbitration is said to be the settlement of disputes between States by Judges of their own choice and on the basis of respect for law.[43] Thus, it is a quasi-judicial approach of disputes resolution.

A Permanent Court of Arbitration with original jurisdiction to settle disputes inter-States was established as an offspring of the Hague Conventions. The creation of the Court is said to be a landmark in the history institutionalization of the third party mechanisms of peaceful resolution of disputes between States.[44] The Court has now however transformed into one with broad jurisdiction capable of embracing disputes resolution not only between States but also between States and international organisations or private persons, between international organisations and between international organisations and private persons. The broadening of jurisdiction affords the Court more opportunities to become involved in the resolution of disputes of an international trade, commercial and financial nature.[45]

[39]See for instance paragraph 6 of the annex to the Vienna Convention on the Law of Treaties, 1969. They are thus different from arbitral awards.
[40]The rules dealing with conciliation as were further elaborated in the 1928 General Act on the Pacific Settlement of International Disputes
[41]Under General Assembly Resolution 194 (111) 1948
[42]Under resolution 1474 (ES-1V) 1960
[43]See The Hague Convention No. 1 of 1907
[44]Ladan, M. T. Materials and Cases on Public International Law. The Ahmadu Bello University Press Limited, Zaria (2007) p. 120
[45]Ibid, p 121

The Judges on arbitral panel are nominated by the parties to the disputes and often comprise of individuals of known competency in the issues involved, of the highest moral reputation and disposed to accept the duties of arbitrators. The procedure of arbitration has been successfully resorted in some cases.[46]**The Alabama Claims arbitration**[47] marked a decisive phase in the evolution of the procedure of international arbitration as a means of peaceful settlement of disputes. In the proceedings, the United States and the Great Britain submitted to arbitration for the alleged breaches of neutrality by the Great Britain during the American Civil War and Britain was ordered to pay compensation.[48]

2.2.2.6 Judicial Settlement

This is another method of settling international disputes listed under Article 33 of the I IN Charter. The Charter goes further to establish a permanent court, International Court of Justice (ICJ), when it provides thus:

> The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.[49]

> The establishment of the Court was intended as a way to prevent outbreaks of violence by enabling easy and accessible methods of dispute settlement in the context of a legal and organisational framework to be made available.[50]

The jurisdiction of the Court relates to deciding contentious cases which jurisdiction is execrable subject to submission to it by the parties. Its jurisdiction comprises all cases that the parties refer to it and all matters specially provided for in the UN Charter or in treaties

[46]See for instance British Guiana and Venezuela Boundary, 92 BFSP, p.970
[47]1872
[48]The success thereof and exemplary compliance of the UK with the award demonstrated the effectiveness of arbitration in the settlement of disputes and of course, stimulated further resort to arbitration.
[49]Article 94, UN Charter.
[50]Shaw, M. N. Op cit p.745

and conventions in force.[51] Again, under the ICJ Statute[52] States parties can at anytime declare that they accept the compulsory Jurisdiction of the Court in all legal disputes concerning: "the interpretation of a treaty; any question of international law; the exercise of any fact which, if established, would constitute a breach of an international obligation; the nature or extent of the reparation to be made for the breach of an international obligation".

In addition to its Jurisdiction over cases brought by States under Article 36 of its Statute, the Court may give an advisory opinion on any legal question at the request of whatever body authorised by or in accordance with the Charter of the UN to make such a request.[53]

2.2.2.7 Resort to Regional Agencies or Arrangements

This is another method of dispute settlement recognised under the UN Charter. By this, States parties to a dispute are allowed to seek to settle their differences with the use of dispute settlement methods available in regional and/or sub-regional organization(s) to which they belong. Apart from the recognition of this approach under 33 of the UN Charter, Article 52[54] further provides that:

> 1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such mattes relating to the maintenance of international peace and security as are appropriate for regional action provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.
> 2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.

The Security Council even has a duty to encourage the development of pacific settlement of local disputes through such regional arrangements.[55] Thus actions of regional

[51]Article 36 (1) of the ICJ Statute
[52]Article 2,
[53]The Security Council and the General Assembly are so authorised - Article 65.
[54]UN Charter.
[55] See Article 52(3).

and sub-regional organisations[56] relating to peaceful settlement of disputes are saved and sanctioned as another viable means towards maintenance of international peace and security.[57] However, in cases of conflict between the obligation of a UN member under the Charter and obligation under any other international or regional agreement or arrangement, the former prevails.[58]

It is to be noted that a matter may simultaneously be before both the UN and a regional organization and such concurrent jurisdiction does not constitute jurisdictional problem for the UN.[59] In practice however, the UN is likely to refer to appropriate regional mechanisms while realistic chances exist for a regional settlement.[60]

2.1.2.8 Other Peaceful Means

The UN Charter again recognises other forms of peaceful mechanisms. And there have emerged some other forms of dispute settlement methods across the international and regional blocs. For example, the International Centre for Settlement, of Investment Disputes was established under the auspices of the International Bank for Reconstruction and Development.[61] The creating Convention of the Centre provides an autonomous system free from municipal law and States parties to the Convention undertake to recognise awards made by the arbitration tribunals acting under the auspices of the Centre as final and binding in their territories and to enforce them as if they were final judgments of national courts. The jurisdiction of the Centre extends to "any legal dispute arising directly out of an investment,

[56] Like – African; Arab League; Organisation of American States; Europe Union; Economic Community of West African States (ECOWAS); North Atlantic Treaty Organisation (NATO) etc.

[57] Note that the instruments creating regional and sub-regional Organisations often provide for dispute settlement mechanisms. See for instance – Article XIX of the Charter of the OAU (now AU), 1963; and Articles 23 of the Charter of the OAS, 1985.

[58] See Article 103, UN Charter.

[59] See Nicaragua case, ICJ Reports, 1984, pp. 392. Examples of situations where plural methods were adopted are the recent crises in Code D'ivore and Libya where at AU, NATO and UN etc were involved jointly in the efforts to restore peace and security.

[60] In such cases, the Security Council is said likely to inscribe the dispute on its agenda and, provided the dispute is not one actually endangering international peace and security, refer the matter to the appropriate regional agency under Article 52 (2) and (3), keeping it under review on the agenda - Shaw, M. N. Op.cit. p. 730

[61] By the Convention on the Settlement of Investment Disputes between States and the Nationals of other States, 1965

between a contracting state...and a national of another contracting state, which the parties to the dispute consent in writing to submit to the Centre".[62] Bilateral investment treaties between States parties to the Convention frequently provide for recourse to arbitration under the auspices of the Centre in the event of an investment dispute. The arbitration procedure afforded by the Centre has been utilised in some cases.[63]

Further, under the supervision of the Economic and Social Council (ECOSOC), specialized programs and agencies such as the United Nations Development Programme (UNDP), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Environment Programme (UNEP), the United Nations High Commissioner for Human Rights (UNHCHR), the United Nations Institute for D sarmement Research (UNIDIR), and many others are trying to prevent deadly conflicts from proliferating by attacking the roots of these conflicts and not only the acts of violence that are the symptoms.[64]

The UN is taking aim at everything that could be at the source of conflicts. The prevention of conflicts and the promotion of peace therefore take quite varied forms. This UN work has become all the more necessary given that, since World War II, weapons have become ever more deadly. And though there is greater wealth in the world, its distribution is unequal. This gap between rich and poor is visible everywhere and in all countries, and is increasing, in particular, between "Northern" and "Southern" countries.

The **UNDP** was created to help solve this problem. Indeed, conflicts grow well in the fertile ground of poverty. The UNDP is mandated to contribute to the elimination of poverty,

[62]See Article 25 (I) of the Convention
[63]See for instance AGIP Spa vs. Government of the Popular Republic of Congo, 67 ILR, p 318; and LETO vs. Government of Liberia, 98 ILR, p. 313. Note further that many investments between multinationalcompanies inter se or with States now contain clauses referring investment disputes to international court of arbitration. Again, many local statutes make resort to arbitration on investment disputes mandatory. See for instance Sections 26 Nigerian Investment Promotion Commission (NIPC) Act. Cap N117 UN, 2004.
[64] See "Culture of Peace-the Role of the United Nations". Available at: http://www.unac.org/en/projects/peace/role.asp accessed on 26/04/13 at 5.30am

the social mobilization of women, respect for the environment and the reinforcement of democratic institutions. The supervision of elections illustrates this quite well. The UNDP is not alone in attempting to accomplish its mission, as thousands of non-government organizations (NGOs) are likewise contributing in one way or another.

Illiteracy also contributes to the birth of new conflicts. Societies whose members have a minimal level of education are less able to understand for whom it is voting or the decisions made by its leaders. Indeed, illiteracy often creates a rift between those in a society who are educated and those over whom, consequently, the educated have power. It can likewise create a gulf between the State and its citizens if the latter can be more easily controlled because they ignore the goings-on of the society. **UNESCO** is there to promote and give access to education, science, culture and communication. UNESCO is also there to ensure that justice, law, human rights and fundamental freedoms are respected, irrespective of race, sex, language or religion.[65]

"The breakout of modern-day conflicts can also be related to the control of natural resources. Better management of these resources could help avoid the breakout of future conflicts. For example, the consequences of pollution can rapidly degenerate and require greater international cooperation. Pollution rarely takes into account the borders mapped out by men. The acid rain in the United States and Canada, the pollution of a chemical factory that flowed down the Danube River through several European countries, and the oil spills that so often occur in the ocean after a ship wreck, these are but a few of many sad examples. The last oil spill in Canada occurred in 1988 off the shores of Newfoundland and involved a tanker named Odyssey. These ecological catastrophes are often due to the inability of countries to adopt common rules for safety and the environment. This inability encourages certain countries to adopt lenient regulations in order to encourage companies to run part or

[65]Ibid

all of their business from these countries. Nonetheless, the most regular and largest oil spills occur in straits between several countries. The English Channel, for instance, has seen many substantial spills, as has the Bosporus Strait in Turkey, which is part of a passage linking the Black Sei to the Mediterranean Sea. It goes without saying that these spills create numerous problems between States.

This is the context in which the UNEP is working around the world to change mentalities about ecology. It initiates and organizes multilateral conventions on the environment and thus tries to further the international legal framework for environmental protection. Greater international cooperation will hopefully mean fewer catastrophes and, consequently, fewer potential, environmentally related conflicts.[66]

Respect for human rights is a condition sine qua non for the establishment of peace on earth. On December 10, 1948, the members of the United Nations adopted and proclaimed the **Universal Declaration of Human Rights**. This declaration establishes basic rights for all human beings. Though human rights are rarely observed in times of war, respect for human rights can keep difficult situations from degenerating into armed conflict. The role of the UNHCHR is thus to promote respect for human rights. This organization must demonstrate, through concrete actions, the international community's will and determination to ensure that human rights are respected. Moreover, it tries to have international conventions for human rights signed and ratified. For example, the "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms" was adopted by the General Assembly of the United Nations on December 9, 1998. **UNHCHR** does not only inform us about the necessity to respect human rights. It also works in the field to provide technical cooperation or help in the training of police or the military. The UN is not the only organization to work for the

[66] Ibid

promotion of human rights. Just to name two of many NGOs, there are IFHR, the International Federation of Human Rights, and the Amnesty International.

It goes without saying that the counterpart of all conflicts is the availability of arms, especially firearms. Since the dropping of the atomic bomb on Hiroshima and Nagasaki on August 6 and 8, 1945, nuclear bombs have sadly made gigantic progress, as has the technology of arms in general. In his millennium report, Kofi Annan called on States to work towards the elimination of all nuclear risk. The majority of States spend too much on arms, and for some States, arms represent the main part of their budget, to the detriment of other sectors such as education and agriculture. The UN has a role to play in promoting disarmament, which is essential for peace. The UN's Department for Disarmament Affairs (DDA) reports on the state of the armament race in the world and establishes disarmament standards and goals in cooperation with other UN organisms. UNIDIR is conducting research into the potential for a safer future and the possibility of organizing seminars and conferences whose goal is to reach disarmament agreements.[67]

Again, apart from the mechanisms expressly mentioned in Article 33 of the UN Charter and the various specified programs or bodies, other forms like peacemaking, peace-building, peacekeeping and even peace enforcement have evolved.

2.2.2.9 Peacemaking

Peacemaking is a process aimed at bringing hostile parties to agreement through diplomatic means. The Security Council, in efforts to maintain international peace and security, may recommend ways to avoid conflict or restore or secure peace-through so negotiation, for example, or recourse to the International Court of Justice.[68] The Secretary-General plays an important role in peacemaking. The Secretary-General may bring to the attention of the Security Council any matter which appears to threaten international peace and

[67] Ibid
[68] See: http://un.by/en/about/brief/inbrief3.html accessed on 26/03/13 at 9.00pm.

security; may use "good offices" to carry out mediation; or exercise "quiet diplomacy" behind the scenes, either personally or through special envoys. The Secretary-General also undertakes "preventive diplomacy" aimed at resolving disputes before they escalate. The Secretary-General may also send a fact-finding mission, support regional peacemaking efforts or set up a local UN political office to help build trust between the parties in conflict. This technique is a hybrid of mediation, inquiry and conciliation.

2.2.2.10 Peace-Building

The UN is increasingly undertaking activities which focus on the underlying causes of violence. Development assistance is a key element of peace-building. In cooperation with UN agencies, and with the participation of donor countries, host governments and NGOs, the United Nations works to support good governance, civil law and order, elections and human rights in countries struggling to deal with the aftermath of conflict. At the same time, it helps these countries rebuild administrative, health, educational and other services disrupted by conflict.

Some of these activities, such as the UN's supervision of the 1989 elections in Namibia, mine-clearance programmes in Mozambique and police training in Haiti, take place within the framework of a UN peacekeeping operation and may continue when the operation withdraws. Others are requested by governments, as in Liberia where the UN has opened a peace-building support office, in Cambodia where the UN maintains a human rights office, or in Guatemala where the UN is helping to implement peace agreements which affect virtually all aspects of national life.[69]

[69] Ibid

2.2.2.11 Peacekeeping

The Security Council sets up UN peacekeeping operations[70] and defines their scope and mandate in efforts to maintain peace and international security. Most operations involve military duties, such as observing a ceasefire or establishing a buffer zone while negotiators seek a long-term solution. Others may require civilian police or incorporate civilian personnel who help organize elections or monitor human rights. Some operations, like the one in the former Yugoslav Republic of Macedonia, have been deployed as a means to help prevent the outbreak of hostilities. Operations have also been deployed to monitor peace agreements in cooperation with peacekeeping forces of regional organisations.

Peacekeeping operations may last for a few months or continue for many years. The UN's operation at the ceasefire line between India and Pakistan in the State of Jammu and Kashmir, for example, was established in 1949, and UN peacekeepers have been in Cyprus since 1964 and in Congo since 1964. In contrast, the UN was able to complete its 1994 mission in the Aouzou Strip between Libya and Chad in a little over a month.

Since the UN deployed its first peacekeepers in 1948, some 118 countries have voluntarily provided more than 750,000 military and civilian police personnel. They have served, along with thousands of civilians, in 54 peacekeeping operations. Currently, some 35,400 military and civilian police personnel are deployed in 15 operations.[71]

There appears to be no inherent hierarchy with respect to the methods of disputes settlement specified in the UN Charter (as well as those that have evolved in practice) and no specific method required in any given situation. Thus there is a free choice as the mechanisms to be adopted for settlement of disputes. Again, more than one measure may be taken at the same time so long as the ultimate aim of maintaining peace and security is achieved.

[70]These are not strictly peaceful settlement mechanisms rather peace restoration or stabilization mechanisms.
[71]Op cit. fn-62

It is however pertinent to add that in the event that none of the peaceful means discussed above succeeded and the dispute or conflict is of a nature that is capable of threatening international peace[72], the UN vide the Security Council may resort to complete or partial interruption of economic relations with the warring parties. This is the purport of Articles 41 and 42[73] which provide that:

> 41. The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.
>
> 42. Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

The Security Council is further empowered to adopt the use of force as a measure of either settling disputes or restoring peace.[74] This latter approach appears to have gained some prominence over other methods as the UN has engaged in many peace-building, peace-making, peace-keeping and disarmament operations[75] which often enjoyed media hype and tend to overshadow other lofty mechanisms contained in the UN Charter. Former Secretary General[76] conceded to this when he said that: "Over the past 10 years, resolutions adopted under Chapter VII have been the better known. But, the majority of the Security Council's work continues to be carried out under Chapter VI"[77]

[72]As may be determined by the Security Council either through reference to it by the parties, Secretary General or its own motion.
[73]UN Charter.
[74]See Articles 43 to 47, UN Charter.
[75]For details about these operations, see the article "What the UN Does for Peace".
[76]Kofi Annan
[77]See the UN Press Release.

It is our view that it is better the UN pays adequate attention to other real peaceful disputes resolution mechanisms, some of which have the potency of preventing conflicts from erupting, instead of often grandstanding by the use of force in the name of peace-keeping. This is because most purported peacekeeping missions have not really achieved the settlement of the warring or feuding parties. It has often contributed to unending disputes or violence for UN security forces have not had a history of efficiently resolving the crises they were meant to resolve.[78] For instance, despite heavy presence of the UN peacekeepers/peace enforcers in the Congo there are still pockets of upheaval, civil unrest and almost complete distortion of law and order still permeate the State with attendant unprecedented civilian casualties and displacement of multitude of persons. For instance, as of 31 July 2010, an estimated 1.9 million people were internally displaced in North and South Kivu, Orientale, Katanga and Equateur provinces of the Democratic Republic of Congo (DCR)[79].

[78]See Banks J. UN Mission in Congo: Can UN Peacekeepers Really Resolve the Crises? Probably Not Available at: http://www.policymic.com/articles/33217/un-mission-in-congo-can-un-peacekeepers-really-resolve-the-crisis-probably-not accessed on 26-06-13at 10.00pm

[79]See Holmes, J. Urban Displacement Available at: http://www.fmreview.org/DRCongo.pdfaccessed on 26/06/13at 10.30pm.

CHAPTER THREE

THE ROLE OF THE UNITED NATIONS IN THE SETTLEMENT OF DISPUTES IN CONGO

3.1 Introduction

The Congo crisis began with struggle for national independence from Belgium. It had the characteristics of anti-colonial struggle, secessionist and rebellion war, United Nations peacekeeping operations, and Cold War proxy battle between the United States and the Soviet Union and sheer struggle for power.[1] The crises were in faces with those between 1960 -1966 and 1998 - 2003 as major disasters.

The Congo crises are said to be the deadliest war in modern African history with direct involvement of over 20 States (either under the auspices of the United Nations or out of their own volition); as well as about 20 armed groups.[2] By 2008, the war and its aftermath had killed 5.4 million people, mostly from disease and starvation, making the Congo War (especially the Second War) the deadliest conflict worldwide since World War II. Millions more were displaced from their homes or sought asylum in neighbouring countries.[3]

Despite an official end to the war in 2003 and an agreement by the former belligerents to create a government of national unity, 1,000 people died daily in 2004 from easily preventable cases of malnutrition and disease.[4] The crises now largely driven by, among others, conflicts in mineral and struggle for hegemony continue in various forms till date in spite of the heavy presence of UN machineries in the country.

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[1]See http://www.academia.edu/6464996/United_Nations accessed on 26/03/13 at 8.45pm
[2]Ibid
[3]Ibid
[4]*Reclaiming the Sword: 50 Years Later, A Brief Account Of Africa's Road To Independence.* Africa the Good News. Cited at:www.congo-forum.be/up/docs accessed on 26/03/13 at 9.05pm

3.2 The Crises/Disputes in the Congo

Prior to the establishment of the First Republic in 1960, the native Congolese elites had formed semi-political organizations which gradually evolved into the main parties striving for independence from Belgium. These organizations were formed on one of three foundations: ethnic kinship, connections formed in schools, and urban intellectualism.[5] The largest of these was Association des Bakongo (ABAKO), founded in 1950, which was an ethnic association which promoted the interests and language of the Bakongo (or Kongo) people, as well as Bakongo-related ethnic groups. ABAKO, led by JosesphKasa-Vibu during the Crisis, was at the forefront of the more insistent demands for both independence and federalism. Other less successful ethnic associations included the LibokelyaBangala, who championed needs of the Bangala ethno-linguistic group (a grouping created by Western ethnographers. The Fedekaleo represented people from the Kasai region. Fedekaleo later split into several groups. Though these organizations represented ethnic groups from all over the Congo, they usually based themselves in Leopoldville (now Kinshasa), since one reason for their existence was the need to maintain ethnic ties after the mass migration to urban areas.

Another source of political groupings was the various Alumni Associations-whose membership came from former students of colonial Christian schools in the Congo. Most of the major politicians of the period were Alumni members, and the associations were used to create networks of advisors and supporters.

The third political tributary was the Cercles, urban associations that sprang up in the cities of the Congo, which were designed to foster solidarity amongst the evolues (the educated, westernized middle class). The Cercles of Stanleyville (now Kisangani) were created to "improve intellectual, social, moral and physical formation" of the evolues.

[5]Ibid

In 1958, together with CyrilleAdoula and Joseph Ileo, Lumumba founded the Mouvement National Conglais (MNC), a national independence party intended to be non-tribal. It later split into two, MNC-L led by Lumumba and the MNC-K led by Albert Kalonji in Kasai.

In the early 1950s the Belgian government came under increasing pressure to allow the Belgian Congo to become a self-governing state. Belgium had ratified article 73 of the United Nations Charter, which advocated self determination, and superpowers put pressure on Belgium to reform its Congo policy. The Belgian government's response was largely dismissive. However, Belgian professor[6] in 1955 published a treatise called Thirty Year Plan for the Political Emancipation of Belgian Africa. The timetable called for gradual emancipation of the Congo over a thirty year period - the time Van Bilsen expected it would take to create educated elite who could replace the Belgians in positions of power. The Belgian government and many of the evolues were suspicious of the plan - the former because it meant eventually giving up the Congo and the latter because Belgium would still be ruling Congo for another three decades. A group of Catholic evolues responded positively to the plan with a manifesto in a Congolese journal called Conscience Africaine, with their only point of disagreement being the amount of native Congolese participation.

The ethnic association ABAKO decided to distance themselves from the plan, in part because most of the Catholic evolues who wrote the Conscience Africaine manifesto were not from the Kongo ethnic group favoured by ABAKO, but also because they had decided to take a more radical, less gradualist approach to ending colonialism. ABAKO demanded immediate self-government for Congo.

[6] Van Bilsen, A.J. Cited in Tshiband, S. The United Nations Use of Force in Peace Support Operations: The question of Civilian and Military Insubordination in Onuc's Operation in Katanga.www.congo-forum.be/up/docaccessed on 26/03/14 at 9.45pm.

This plan was never made official. All early political efforts were hampered because Belgium had made no plans for Congolese independence. There were only nine university degree holders[7] and no Congolese in the entire military with a rank higher than Sergeant.

ABAKO gathered steam over the following few years, consolidating political control over much of the lower Congo and Leopoldville. By early 1959, much of the lower Congo was beyond the control of Belgian authorities. The Belgian authorities prohibited ABAKO from meeting and this caused widespread rioting in Leopoldville from 4 - 7 January 1959 during which 34 Africans died.[8]

On January 12 Joseph Kasa-Vubu was arrested and the Belgians stated that he would be released on March 13. Subsequently, the Belgian government announced constitutional reforms intended to bring more Congolese into government, but only in an advisory capacity. They also indicated that the end result of the process would eventually he moderate Congolese for inclusion in the political process while neutralizing the more extreme Congolese nationalists with the promise of eventual independence.

The end result was the opposite of what was intended. There was a surge of political activity, over fifty political parties were registered, nearly all of them based on tribal groups. Nationalist demands grew more extreme as parties competed with each other. There was further rioting, during which 24 people were killed, in Stanleyville on October 31, 1959 after Patrice Lumumba was arrested following a meeting of the MNC.[9]

Faced with increasing instability, the Belgians held a "Roundtable Conference" in Brussels for the leaders of the different Congolese parties. The MNC demanded that Lumumba

[7]"DR Congo: Celebrating 50 years of chaos". BBC News. 30 June 2010.
[8]"Order Restored in Congo Capital after Riots Fatal to 34 Africans". The New York Times 1 January 1959.
[9]"24 killed in riot in Belgian Congo; Troops Sent to Stanleyville to Quell Outbreak Laid to African Nationalists". The New York Times, 1 November 1959.

should be released from prison so he could attend. The Belgians agreed to independence but tried to negotiate for a transitional period of three to four years. The Congolese insisted that independence be granted immediately and the most that they would concede was a few months.

At the end of the conference on 27 January 1960 it was agreed that elections would be held by 22 May 1960, and independence granted on 30 June 1960. The experience of the French in the ongoing Algerian War for independence was something the Belgians desperately wanted to avoid.

In order to create political institutions to govern Congo after its independence on 30 June 1960, the elections were held on 22 May 1960. Only the two biggest parties presented themselves in more than one province: The MNC-L (Patrice Lumumba) had won the elections: with about a quarter of the seats it ended first. It obtained a majority in the Eastern (Oriental) province.

The Parti National du Progres or PNP, was second, was defeated as national party by the MNC-L. It was favoured by the Belgians. Every other party was based in only one province; their strongholds followed ethnic divisions: In the province of Leopoldville, PartiSolidaireAfricain or PSA (Antoine Gizenga) narrowly defeated ABAKO (Joseph Kasa-Vibu). In the province of Katanga, Confederation des Associations Tribales de Katanga or (CONAKAT) led by MoiseTshobme narrowly defeated Association Generate des Baluba de Katanga or BALUBAKAT (Jason Sendwe).

In the province of Kivu, Centre de RegroupementAfricain, CEREA (AnicetKashamura) won but didn't obtain a majority; MNC-L came second. In the province of Kasai, MNL-L and MNC-K (Albert Kalonji, Joseph Ileo and CyrilleAdoula) fought a duel over the first place. MNC-L could count on two smaller parties (UNC and Coalition Kasaienne (COAKA). In the

Eastern province, MNC-L won a clear majority; the PNP was its only adversary. In the province of the Equator, parties were very weak, but PUNA (Jean Bolikango) and UNIMO (Justin Bomboko) could be called the local parties.

In the national parliament, Lumumba could count on a coalition of (in order of loyalty) MNC-L, UNC and COAKA (Kasai), CEREA (Kivu), PSA (Leopoldville) and BALUBAKAT (Katanga). It was opposed by PNP, MNC-K (Kasai), ABAKO (Leopoldville), CONAKAT (Katanga), PUNA and UNIMO (Equator) and RECO (Kivu).

As part of a deal, on June 24, 1960, Kasa-Vubu was elected president and the Lumumba government obtained the confidence of Chamber and Senate. The independent Republic of the Congo was declared on 30 June 1960, with Joseph Kasa-Vibu as President and Patrice Lumumba as Prime Minister. It shared a name with the neighbouring Republic of the Congo to the west, a French colony that also gained independence in 1960, and the two were normally differentiated by also stating the name of the relevant capital city, so Congo (Leopoldville) versus Congo (Brazzaville).

On 30 June 1960, the country's first day as an independent nation, Baudouin, the King of the Belgians, arrived for the formal handover of power. What was intended to be a day of pomp and national celebration turned into a public relations disaster. This was clear almost from the moment the king stepped off the plane. On his way from the airport, a man.AmbroiseBoimbo, snatched his ceremonial sword and began dancing around in the road with it.[10] At his arrival in the parliament building on the following morning, the king was shown more respect. However he

[10]"Reclaiming the Sword: 50 years later, a brief account of Africa's road to independence". Africa The Good News. 2013-02-16.

then made an ill-advised speech praising the "genius" and "tenacious courage" of his great uncle King Leopold II.[11]

In the Congo, Leopold II is mainly remembered as the founder and sole owner of the Congo Free State, a private project undertaken by the King. The extraction of rubber and ivory in the Congo during this period relied on forced labour and resulted in the massacre and mutilation of millions of Congolese. President Kasa-Vubu altered his prepared speech to exclude ending remarks of praise for King Baudouin. Prime Minister Lumumba was not due to give a speech; according to some reports this was a deliberate exclusion. However, he rose and gave a speech which extolled the independence struggle "of tears, fire and blood". He attacked the Belgian Congo's "regime of injustice, oppression and exploitation".[12] Some media reported that Lumumba ended his speech by ad-libbing to Baudoin: "Nous ne sommes plus vos macaques" (We are no longer your monkeys)[13] a reference to a common slur Belgians used against Africans. However, this is not found in the text of his speech and may be apocryphal.

This speech was well received by the Congolese who heard it. For many Congolese, extraordinary. For the king and his entourage, this speech was an insult and they nearly decided to fly straight back to Belgium and skip the rest of the ceremonies. They stayed for the official lunch, at which Lumumba made a somewhat more conciliatory speech saying "At the moment when the Congo reaches independence, the whole Government wishes to pay solemn homage to the King of the Belgians and to the noble people he represents for the work done here over three

[11]"Congo Siasa: The sword thief: Reflections on Congolese independence".Congosiasa.blogspot.com. 2011-06-30.
[12]"Patrice Lumumba's Independence Day Speech".Africa Within.Retrieved August 3, 2006.
[13]Roland, 0.and Anthony, A. Africa Since 1800. Cambridge University Press (1994) p. 232; Colin, L. The Life and Death of Patrice Lumumba, Foreword to Congo, My Country. Pall Mall Press (1962) p. xiv and Martin, M. The State of Africa, A History of Fifty Years of Independence. Free Press (2005)

quarters of a century. For, I would not wish my feelings to be wrongly interpreted."[14] However, it was his first speech that was remembered and broadcast throughout the Congo.

At independence, the Congo armed forces, the Force Publique, had both military functions and served as a gendarmerie. All officers and senior non-commissioned were Belgians. After 30 June 1960, resentment rose in the army whose privates and NCOs saw little opportunity for advancement. Further discontent was caused by the decision by Lumumba to raise the pay of all government employees except the military. On 5 July 1960, the commander of the Force Publique, Lieutenant General Emile Janssens, called a meeting of the Leopoldville garrison. Janssens was not a man of diplomatic talent. In an attempt to remind the soldiers of their oaths of loyalty and obedience, he wrote on a blackboard, "After independence = before independence."[15]

This was not a message the rank and file members of the army were prepared to hear. By the end of the day the garrison had mutinied against its white officers and attacked numerous European targets. Armed bands of mutineers roamed the capital looting and terrorizing the white population. This caused the flight of thousands of European refugees to Brazzaville and Stanleyville. The credibility of the new government was ruined as it proved unable to control its own armed forces.

This led to a military intervention into Congo by Belgian forces in an ostensible effort to secure the safety of its citizens. Whilst the danger to Belgian citizens and other foreigners was real, the intervention of these forces was a violation of the national sovereignty of the new nation, as it had not requested Belgian assistance. In an attempt to conciliate the soldiers, the Congolese government decided to "Africanize" the army. All personnel were promoted by one rank and its name was changed' to the *ArmeeNationaleCongolaise*. The flight of officers left the

[14]"Guardian Article on Independence Day Speeches" London: Guardian Unlimited. July 31, 2002.
[15]See: www.un.org/worldtime.com/12/1126 accessed on 26/03/14at 8.50pm

25,000 man force still armed but totally uncontrolled. This left the new country without an effective instrument of central control and was an important causative factor in the rapid descent of the country into chaos.

On 11 July 1960, with the support of Belgian business interests and over 6000 Belgian troops the province of Katanga in the southeast declared independence as the State of Katanga under the leadership of MoiseTshombe, leader of the local CONAKAT party. Tshombe was known to be close to the Belgian industrial companies which mined the rich resources of copper, gold and uranium. Katanga was one of the richest and most developed areas of the Congo. Without Katanga, Congo would lose a large part of its mineral assets and consequently government income.[16]

In defense of the decision to declare independence, Tshombe said Katanga was "seceding from chaos". In particular Tshombe believed if he allowed the mutinous ANC to enter it would result in lawlessness and bloodshed. With Belgian assistance the Katanga Gendarmerie was created as an effective military force. At the core of the Katangese forces were several hundred European mercenaries many of which were recruited in Belgium.

Almost from the beginning, the new state faced a rebellion in the north in Luba areas. This was led by a political party called Association of the Luba People of Katanga (BALUBAKAT). In January 1961, Katanga faced a secession crisis of its own when BALUBAKAT leaders declared independence from Katanga. Throughout the period of the secession, Katangese forces were never able to completely control the province.

Katanga received assistance from numerous foreign mercenaries, mostly white South Africans, Rhodesians, Belgians and other Europeans, including Mike Hoare. Major Mike Hoare's first mercenary action was in Katanga, as the province first attempted to break away

[16] Ibid

from the newly independent Congo in 1960 - 61. South Africa's apartheid government supported Katanga's secession bid, and facilitated the entrance of mercenaries to aid the Katangese cause.

The South Kasai region sought independence in similar circumstances to neighbouring Katanga during the crisis. Ethnic conflicts and political tensions between leaders of the central government and local leaders plagued the diamond-rich region. Communal violence broke out between the Baluba and Lulua in Luluabourg. These ended in January 1960 with a call for all Luba peoples scattered throughout the Congo to be "repatriated" to Kasai.[17]

On 14 June 1960, days before the colony was to become independent, officials declared the independence of Kasai (not of Congo) and proclaimed the Federal State of South Kasai. Lumumba appointed BarthelemyMukenge, a Lulua, as provincial governor, appearing to favour one side in the conflict. On 8 August 1960, the autonomous Mining State of South Kasai was proclaimed with its capital at Bakwanga. Albert kalonji, a Luba chief, was named president of South Kasai and Joseph Ngalula was appointed head of government.[18]

On 5 September 1960, state president Joseph Kasa-Vubu dismissed Prime Minister Patrice Lumumba and announced the decision over Leopoldville radio. In his place, he appointed Joseph Ileo, a respected moderate. Lumumba refused to accept his dismissal and in turn announced over the radio, that Kasa-Vubu was deposed. Ileo tried to form a new government but did not manage to get his new government approved by parliament. In contrast, Lumumba's position was confirmed by a parliamentary vote of confidence.

On September 12, forces loyal to the Chief of Staff of the Army, Joseph Mobotu, placed Lumumba under house arrest at the prime minister's residence; however he was soon released by Congolese troops loyal to him. On September 14, with U.S. Central Intelligence Agency (CIA)

[17]Georges, N.The Congo from Leopold to Kabila. Zed Books London (2002) p. 105.
[18] Ibid

help, Mobutu seized power in a military coup, suspending parliament and the constitution. Mobutu declared Lumumba and Kasa-Vubu "neutralised" but left the latter in office. All Soviet advisors earlier invited by the Prime Minister, were ordered to leave. Lumumba was again placed under house arrest, but this time with a guard of UN troops for his protection.

Following the dismissal of Lumumba, his Vice Prime Minister AnthoineGizenga set up a rival government in the eastern city of Stanleyville with the help of pro-Lumumba forces. There were now four different regimes in the former Belgian Congo: Joseph Mobotu and Joseph Kasa-Vubu in Leopoldville, supported by Western governments; Antoine Gizenga in Stanleyville, supported by the Soviet bloc; Albert Kalonji in South Kasai supported by revolutionists Ahmed Ben Bella (from Algeria) and Gamal AbdelNasser (from Egypt), as well as the newly independent left-wing African nations of Ghana, Guinea and Tanganyika; and MoiseTshombe in Katanga, supported by Belgium and western mining interests, and militarily assisted by South African and European mercenaries.[19]

Lumumba later left house arrest and attempted to reach his supporters in Stanleyville but was captured in Kasai by soldiers loyal to Mobotu. On 17 January 1961 Mobutu sent Lumumba to Elisabethville (now Lubumbashi), capital of Katanga. In full view of the press he was beaten and forced to eat copies of his own speeches. For the next three weeks, he was not seen or heard from. Then Katangese radio announced implausibly that he had escaped and been killed by some villagers.[20]

In fact he had been tortured and killed along with two others shortly after his arrival. It was soon clear that he had been murdered in custody. In 2001, a Belgian inquiry established that he had been shot by Katangese gendarmes in the presence of Belgian officers, under Katangese

[19]Mockler, A. The New Mercenaries, Corgi Books, (1985) pp 71 to 73
[20]Ludo, D. W. The Assassination of Lumumba, Verso (2001) cited in an online article available at: www.wsws.org/en/aricles/2013/04/Lumua/8html accessed on 20/05/14 at 9.00pm

command. Lumumba was beaten, placed in front of a firing squad with 2 other allies, cut up, buried, dug up and what remained was dissolved in acid.[21]

Between January and May, 1961, several conferences were held to resolve the constitutional crisis brought on by the dismissal of Lumumba by President Kasa-Vubu. Roundtable talks were held in Leopoldville. The Tananarive conference was boycotted by pro-Lumumbist Antoine Gizenga. This conference recommended a loose confederation of states and was opposed by the central government in Leopoldville. A third conference was held in Coquilhatville, capital of the Equateur province.

The leaders agreed to form a federal state of Congolese provinces. This plan was opposed by Tshombe, who wanted more independence for Katanga. As he was leaving Coquilhatville, Tshombe was arrested on charges of criticizing President Kasa-Vubu. He was later released after pledging to reunite Katanga with the Congo. Tshombe fled to Ndola in Northern Rhodesia (now Zambia) from where he urged the gendarmerie to continue resistance.

The parliament later voted and elected CyrilleAdoula as Prime Minister, ostensibly bringing stability to the central government. However, on December 30, 1961, after a four-month military campaign, troops of the Congolese central government re-conquered South Kasai and arrested Kalonji, thus ending the South Kasai secession. Kalonji escaped prison in September 1962 and attempted to set up a new government but it was dissolved a few weeks later.[22]

Antoine Gizenga remained head of the breakaway Eastern (Orientale) province throughout most of 1961. After the death of Lumumba, several African and Eastern European governments recognized the Stanleyville government as legitimate. Gizenga's government also received arms from China. Following talks with Prime Minister CyrilleAdoula, Gizenga agreed

[21]Ibid
[22] Mwakikagile, G. Africa 1960-1970: Chronicle and Analysis, p.28 cited online at: www.globalresearch.co/the/reference/assassinationLumumba.../53302 accessed on 5/07/14 at 8.00pm.

to join the central government under the understanding that it would follow the policies of Lumumba; however relations broke down and on January 14, 1962 ANC forces defeated the Stanleyville gendarmerie and arrested Gizenga.[23]

In early 1964, a new crisis broke out as Congolese rebels calling themselves "Simba" (Swahili for "Lion") rebelled against the government. They were led by Pierre Mulele, Gaston Soumialot and Christophe Gbenye who were former members of Gizenga'sPartiSoldaireAfricain (PSA). Mulele was an avowed Maoist, and for this reason his insurgency was supported by communist China. The rebellion affected Kivu and Eastern (Orientale) provinces. By August they had captured Stanleyville and set up a rebel government there. As the rebel movement spread, discipline became more difficult to maintain, and acts of violence and terror increased. Thousands of Congolese were executed, including government officials, political leaders of opposition parties, provincial and local police, school teachers, and others believed to have been Westernized. Many of the executions were carried out with extreme cruelty, in front of a monument to Lumumba in Stanleyville.[24]

In July 1964, MoiseTshombe replaced CyrillaAdoula as Prime Minister of a new national government with a mandate to end the regional revolts. Tshombe had been the leader of Katanga when that province tried to secede. Among his first moves, Tshombe recalled the exiled Katangese gendarmerie and recruited white mercenaries, integrating them with the ANC. Many of these mercenaries had fought for Katanga when Tshombe was leader of the breakaway province.[25]

[23]Ibid
[24]Ibid
[25] 'Johnson, R. C. Heart of Darkness: The Tragedy of the Congo, 1960-67 cited at: www.hartford.hwp.com/archieves/35/284.html accessed on 5/07/14at 10.00pm

Again, an antigovernment coalition sprang up calling itself the National Liberation Council (CNL). It had been formed by a potpourri of former Lumumbist government officials and disaffected regional, often tribally based, strongmen. The council had offices in the city of Brazzaville, capital of the People's Republic of Congo-Brazzaville. The Marxist-Leninist leader of the Congo-Brazzaville People's Republic, Alphonse Massemba-Debat, was one of the strongest backers of the Lumumbist rebels, and provided them with a headquarters and logistical support.[26]

The central figure behind the eastern rebellion was Soumialot, who, in January 1964, was sent to Burundi by the CNL, with the mission of organizing the rebellion. With the full support of the Burundian authorities.Soumialot set up a CNL headquarters in Burundi. Thanks to his own skill in exploiting local conflicts and working out tactical alliances with Tutsi exiles from Rwanda, Soumialot was able to recruit thousands of dedicated supporters in eastern Kivu, along the border with Burundi.[27]

The leaders of the Lumumba-inspired rebellion were leftist or Marxist, but most of the foot soldiers were tribal fighters, who resented what they perceived as the exploitation of their land and resources by the government and its foreign masters. These fighters and their Marxist commanders, led by Soumialot in Kivu and the Maoist Mulele in Kwilu, formed what became the Simba Rebellion, which aimed to topple the national government.

The insurgents managed to attract Chinese and some Soviet aid. The various allied rebel leaders took over huge portions of the ill-defended national territory. One Chinese-backed rebel column commanded by Gbenye seized the Northern city of Stanleyville in August 1964 and declared the "People's Republic of the Congo". Soumialot was named President of all rebel-held

[26]Ibid
[27]Pike, J. Republic of Congo Post-Independence War. Available at: Globalsecurity.org. accessed on 26/03/13at 8.45pm

territory.[28] The People's Republic of Congo-Stanleyville was not to be confused with the People's Republic of Congo-Brazzaville, the latter being an independent nation and separate political entity. Soumialot's People's Republic instituted a rival national government in Stanleyville and claimed to be the rightful rulers of the entire former Belgian Congo, as opposed to the regime based in Leopoldville.[29] Just as it did in 1960 - 61, the Congo once again had two rival national governments based in Stanleyville and Leopoldville.

By September 1964 the Leopoldville government responded in earnest to insurgency, and were aided by the West. The tripartite of Kasa-Vubu, Tshombe and Mobutu took quick action to bolster their threadbare army's fighting strength, calling in Irish mercenary commander Mike Hoare from South Africa and asking him to recruit a thousand white fighters from South Africa and Rhodesia. The American CIA also backed the efforts to destroy the rebellion.

The Soviets, the Chinese, the Americans and their Western allies were now all involved in the Congo, providing money, arms and advisors to their chosen factions. In addition, the "Radical" Leftist leaders of the African continent were outraged at the specter of white mercenaries and "Neocolonial" Western powers intervening on behalf of the Leopoldville regime, and openly supported the Stanleyville rebel government. In addition to Massemba-Debat's Marxist "Congo-Brazzaville" People's Republic, these supporters included: Ahmed Ben Bella in newly independent Algeria, Gamal Abdel Nasser in Egypt, and Julius Nyerere in the neighbouring socialist nation of Tanzania, among others.[30]

Fearing defeat, the rebels started taking hostages of the local white population in areas under their control. Several hundred hostages were taken to Stanleyville and placed under guard

[28] See: Anderson, J. L Che: A Revolutionary Life ISBN 0-8021-4411-X p. 621 cited at: www.africabankcentre.com accessed on 26/03/13at 8.18pm.
[29]Ibid p. 610
[30]Ibid pp 610 and 611

in the Victoria Hotel. Almost 200 foreigners and thousands of Congolese were executed by the Simbas[31] before Congolese government forces, with the help of the groups of white mercenaries under their own command, were making headway against the Simba rebellion by early August, 1964. In fact, the Congolese government turned to Belgium and the United States for help before the rebellion could be stemmed.

Despite the success of the raid these forces.Tshombe's prestige was damaged by the joint Belgian - US operation which saw white mercenaries and western forces intervene once again in the Congo. In particular, Tshombe had lost the support of President Joseph KasaVubu and Chief of the Army Mobutu and was dismissed from his post as prime minister in October 1965.

Joseph Mobutu later on 25 November, 1965 seized power from President Kasa-Vubu. Mobutu had the political and military support of Western countries, who saw him as an ally against communism in Africa. He established a one-party state, banning all other political organizations except his own. Tshombe was charged with treason and fled the country once again, this time to Spain.

Although Mobutu succeeded in taking power, his position was soon threatened by the Kisangani Mutinies, also known as the Stanleyville Mutinies or Mercenaries' Mutinies, which were a direct continuation of the Congo Crisis and involved the same political actors. The First Kisangani Mutiny was in 1966, the Second was in 1967. Amid rumours that the ousted Prime Minister Tshombe was plotting a comeback from his exile in Spain, some 2,000 of Tshombe's former Katangese gendarmes, led by mercenaries, mutinied in Kisangani (formerly Stanleyville) in July 1966. The mutiny was however unsuccessful and was crushed.

[31]See: The Responsibility to Protect. International Commission on Intervention and State Sovereignty, December 2001 cited at: http://www.unitednations_congo accessed on 20/01/14at 8.50pm.

Exactly a year after the failure of the first mutiny, another broke out, again in Stanleyville, apparently triggered by the news that Tshombe'saeroplane had been hijacked over the Mediterranean and forced to land in Algiers, where he was held prisoner. On the morning of 5 July 1967 10 Commando ANC, Jean Schramme's unit, launched surprise attacks on Stanleyville, Kindu, and Bukavu.[32] Involving approximately 100 former Katangese gendarmes and about 1,000 Katangese, the mutineers held their ground against the 32,000-man ArmeeNationaleCongolaise until November 1967, when Schramme and his mercenaries crossed the border into Rwanda and surrendered to the local authorities.

The country settled into a semblance of political stability for the next several years, allowing Mobutu to focus on his unsuccessful strategies for economic progress. Mobutu changed the country's name to Zaire in 1971; pursued a policy expunging remnants of colonialism in addition to changing the names of the country and many of its cities, major industries were nationalized. Mobutu led one of the most enduring regimes in Africa; it was also one of the most dictatorial and corrupt. Despite the country's obvious natural resources, including copper, gold and diamonds, much of Zaire's population sank further into poverty. Mobutu allegedly amassed a personal fortune estimated to be as much as US$5 billion, while what infrastructure the country had was left to decay.[33]

As the Cold War waned in the early 1990s, so did Western support for Mobutu. Belgium, France, and the United States all suspended military and financial assistance to Mobutu's regime. As the economic and political situation worsened, Laurent-Desire Kabila began a military from eastern part in 1996 to depose Mobutu. As Kabila and his rebels advanced, Mobutu, who had been out of the country receiving medical treatment, returned and attempt to crush the rebellion.

[32]Mockler,A.TheNew Mercenaries.CorgiBooksISBN055212558X,(1986)p.140citedat: http://www.jstor.org/stable.161703 accessed on 20/01/14at 9.05pm.
[33]Ibid

In the following year however, with his regime in shambles, Mobutu fled into exile and had reportedly requested permission to travel to France for medical treatment, but the French government had refused. Mobutu died less than four months after he was forced into exile in Morocco.

This latter crisis began in 1996 as Rwanda grew increasingly concerned that members RassemblementDemocratique pour le Rwanda militias, who were carrying out cross-border raids from Zaire, were planning an invasion. The militias, mostly Hutu, were entrenched in refugee camps in eastern Zaire, where many had fled to escape the Tutsi-dominated Rwandan Patriotic Front in the aftermath of the Rwandan Genocide. The new Tutsi-dominated government of Rwanda protested this violation of their territorial integrity and began to give arms to the ethnically Tutsi Banyamulenge of eastern Zaire. The Mobutu government of Zaire vigorously denounced this intervention but possessed neither the military capability to halt it nor the political capital to attract international assistance.[34]

With active support from Uganda, Rwanda, and Angola, the rebel forces of Laurent-Desire Kabila moved methodically down the Congo River, encountering only light resistance from the poorly trained, ill-disciplined forces of Mobutu's crumbling regime. The bulk of Kabila's fighters were Tutsis, and many were veterans of various conflicts in the Great Lakes region of Africa. Kabila himself had credibility because he had been a long time political opponent of Mobutu, and had been a follower of Patrice Lumumba, the first Prime Minister of the independent Congo who was murdered by a combination of internal and external forces, to be replaced by Mobutu in 1965. Kabila had declared himself a Marxist and an admirer of Mao Zedong. He had been waging armed rebellion in eastern Zaire for more than three decades.[35]

[34]Ibid
[35]Ibid

Kabila's army began a slow movement westward in December 1996 near the end of the Great Lakes refuge crisis, taking control of border towns and mines and solidifying control. Kabila's forces launched an offensive in March 1997 and demanded that the government surrender. The rebels took Kasenga (fr). The government denied the rebels' success, starting a long pattern of false statements from the Defense Minister as to the progress and conduct of the war. Negotiations were proposed later and a new Prime Minister, Etienne Tshisekedi - a longtime rival of Mobutu - was installed. Kabila, by this point in rough control of one-quarter of the country, dismissed this as irrelevant and warned Tshisekedi that he would have no part in a new government if he accepted the post.

The multinational army headed by Kabila battled to secure Lubumbashi airport after peace talks broke down and after securing Kinshasa, Kabila proclaimed himself president and immediately ordered a violent crackdown to restore order. Kabila began an attempt at reorganisation of the nation.

When Kabila gained control of the capital in May 1997, he faced substantial obstacles to governing the country, which he renamed the Democratic Republic of Congo (DRC). Beyond political jostling among various groups to gain power and an enormous external debt, his foreign backers proved unwilling to leave when asked. The conspicuous Rwandan presence in the capital also rankled many Congolese, who were beginning to see Kabila as a pawn of foreign powers.

Tensions reached new heights on 14 July 1998, when Kabila dismissed his Rwandan chief of staff, James Kabarebe, and replaced him with a native Congolese, Celestin Kifwa. Although the move chilled what was already a troubled relationship with Rwanda, Kabila softened the blow by making Kabarebe the military advisor to his successor.

Two weeks later Kabila abandoned such diplomatic steps. He thanked Rwanda for its help and ordered all Rwandan and Ugandan military forces to leave the country. Within 24 hours Rwandan military advisors living in Kinshasa were unceremoniously flown out. The people most alarmed by this order were the Banyamulenge of eastern Congo. Their tensions with neighbouring ethnic groups had been a contributing factor in the genesis of the First Congo War and they were also used by Rwanda to affect events across the border in the DRC.

The initial rebel offensive threatened the Kabila government in a matter of weeks. The government was only saved through the quick intervention of a number of other African states. As rebel forces were pushed back, it appeared for a time that an escalation in the conflict to a conventional war among multiple national armies loomed. Such an outcome was avoided as battle lines stabilised in 1999. After that, the conflict was fought for much of the time by irregular proxy forces with little change in the territories held by the various parties.

The Banyamulenge erupted into mutiny forming a rebel group called Rally for Congolese Democracy (RCD) which had the backing of Rwanda and Uganda. This group quickly came to dominate the resource-rich eastern provinces and based its operations in Goma. The RCD quickly took control of the towns of Bukavu and Uvira in the Kivus. The Tutsi-led Rwandan government allied with Uganda, and Burundi also occupied a portion of north-eastern Congo. To help remove the occupying Rwandans, President Kabila enlisted the aid of refugee Hutus in eastern Congo and began to agitate public opinion against the Tutsis, resulting in several public lynching in the streets of Kinshasa. The situation forced a loyalist army major broadcast a message urging resistance from a radio station in Bunia in eastern Congo that: “People must

bring a machete, a spear, an arrow, a hoe, spades, rakes, nails, truncheons, electric irons, barbed wire, stones, and the like, in order, dear listeners, to kill the Rwandan Tutsis."[36]

The Rwandan government also claimed a substantial part of eastern Congo as "historically Rwandan". The Rwandans alleged that Kabila was organising genocide against their Tutsi brethren in the Kivu region.

Uganda, while retaining joint support of the RCD with Rwanda, also created a rebel group, the Movement for the Liberation of Congo (MLC) that it supported exclusively. Despite the movement of the front lines, fighting continued throughout the country. Even as rebel forces advanced on Kinshasa, government forces continued to battle for control of towns in the east of the country. The Hutu militants with whom Kabila was co-operating were also a significant force in the east. Nevertheless, the fall of the capital and Kabila, who had spent the previous weeks desperately seeking support from various African nations and Cuba, seemed increasingly certain.

The rebel offensive was abruptly reversed as Kabila's diplomatic efforts bore fruit. The first African countries to respond to Kabila's request for help were fellow members of the Southern African Development Community (SADC). While officially the SADC members are bound to a mutual defence treaty in the case of outside aggression, many member nations took a neutral stance to the conflict. However, the governments of Namibia, Zimbabwe and Angola supported the Kabila government after a meeting in Harare, Zimbabwe. Several more nations, like Chad, Libya and Sudan later joined the conflict for Kabila. Then, a multisided war thus began and continued until Lusaka Ceasefire Agreement was signed by the warring countries (Democratic Republic of Congo, Angola, Namibia, Zimbabwe, Rwanda and Uganda) in July, 1999.

[36] Hate messages on East Congolese radio, BBC News, 12 August 1998 cited at:www.sadc.int accessed on 15/10/14 at 11.00pm.

However, fighting continued between rebels and government forces and between Rwandan and Ugandan forces. The tension between Uganda and Rwanda reached a breaking point as units of the Uganda People's Defense Force and the Rwandan Patriotic Army clashed in KisanganinNumerous clashes and offensives occurred throughout the country, most notably heavy fighting between Uganda and Rwanda in Kisangani in May and June 2000.

Tension continued as a bodyguard shot and wounded Laurent Kabila in an assassination attempt on 16 January 2001 in the presidential palace in Kinshasa. Two days later state television announced that Kabila had died from his injuries.[37] It is unknown who ordered the killing but most people feel Kabila's allies were to blame as they were tired of his duplicity, in particular his failure to implement a detailed timetable for the introduction of a new democratic constitution leading to free and fair elections.

By unanimous vote of the Congolese parliament, his son, Joseph Kabila, was sworn in as president to replace him. This was largely as a result of Robert Mugabe's backing and the fact that most parliamentarians had been handpicked by the elder Kabila. In February, the new president met Rwandan President Paul Kagame in the United States. Rwanda, Uganda, and the rebels agreed to a UN pullout plan. Uganda and Rwanda began pulling troops back from the front line.

In 2002 however, Rwanda's situation began to worsen. Many members of the RCD either gave up fighting or decided to join Kabila's government. Moreover, the Banyamulenge, the backbone of Rwanda's militia forces, became increasingly tired of control from Kigali and the unending conflict. A number of them mutinied, leading to violent clashes between them and Rwandan forces. At the same time the western Congo was becoming increasingly secure under the younger Kabila and international aid was resumed as inflation was brought under control.

[37]"DRC: Introduction - The death of Laurent Desire Kabila". IRIN News.

The Sun City Agreement was formalised in April 2002. It was a framework for providing the Congo with a unified, multipartite government and democratic elections; however, critics noted that there were no stipulations regarding the unification of the army, which weakened the effectiveness of the agreement. There were several reported breaches of the Sun City agreement, but it has seen a reduction in the fighting.

Also in July 2002 Rwanda and the Democratic Republic of Congo signed a peace deal known as the Pretoria Accord after five days of talks in Pretoria, South Africa. The talks centred on two issues. One was the withdrawal of the estimated 20,000 Rwandan soldiers in the Congo. The other was the rounding up of the ex-Rwandan soldiers and the dismantling of the Hutu militia known as Interahamwe, which took part in Rwanda's 1994 genocide and continued to operate out of eastern Congo. Rwanda had previously refused to withdraw until the Hutu militias were dealt with.

Again, the Luanda Agreement signed in September of the same year formalised peace between Congo and Uganda. The treaty aimed to get Uganda to withdraw their troops from Bunia and to improve the relationship between the two countries. Few days later the first Rwandan soldiers were withdrawn from the eastern DRC and in October Rwanda announced the completion of its withdrawal.

In December 2002, the Congolese parties of the Inter Congolese Dialogue, namely: the national government, the MLC, the RCD, the RCD-ML, the RCD-N, the domestic political opposition, representatives of civil society and the Mai Mai, also signed the Global and All-inclusive Agreement. The Agreement described a plan for transitional governance that would have result in legislative and presidential election within two years of its signing and marked the formal end of the Second Congo War.

On 18 July 2003, the Transitional Government came into being as specified in the Global and All-Inclusive Agreement out of the warring parties. The Agreement obliges the parties to carry out a plan to reunify the country, disarm and integrate the warring parties and hold elections. There were numerous problems, resulting in continued instability in much of the country and a delay in the scheduled national elections from June 2005 to July 2006.

The main cause for the continued weakness of the Transitional Government is the refusal by the former warring parties to give up power to a centralised and neutral national administration. Some belligerents maintained administrative and military command-and-control structures separate from that of the Transitional Government. A high level of official corruption siphoning money away from civil servants, soldiers and infrastructure projects causes further instability.

On 30 July 2006 the first elections were held in the DRC after the populace approved a new constitution. A second round was held on 30 October. The fragility of the state however has allowed continued violence and human rights abuses in the east. There are three significant centres of conflict: North and South Kivu, where a weakened FDLR continues to threaten the Rwandan border and the Banyamulenge, and where Rwanda supports RCD - Goma rebels against Kinshasa; Ituri, where MONUC has proved unable to contain the numerous militia and groups driving the Ituri conflict; and northern Katanga, where Mai-Mai created by Laurent Kabila slipped out of the control of Kinshasa.

The ethnic violence between Hutu- and Tutsi-aligned forces has been a driving impetus for much of the conflict, with people on both sides fearing their annihilation as a race. The Kinshasa- and Hutu-aligned forces enjoyed close relations as their interests in expelling the armies and proxy forces of Uganda and Rwanda dovetail. While the Uganda- and Rwanda-

aligned forces worked closely together to gain territory at the expense of Kinshasa, competition over access to resources created a fissure in their relationship. There were reports that Uganda permitted Kinshasa to send arms to the Hutu FDLR via territory held by Uganda-backed rebels as Uganda, Kinshasa and the Hutus are all seeking, in varying degrees, to check the influence of Rwanda and its affiliates.

Rwanda pretended that the DR Congo was stamping out the FDLR operating from its territory and has offered to send troops to help. The Kinshasa government was suspicious of Kigali's influence over the region, as Rwanda has occupied the area numerous times and some witnesses confirm that Rwanda was sending reinforcement to the FDLR (from those that were arrested) to justify its looting of Congolese minerals. Consequently Rwanda supports the continuing rebellion of General Nkunda in Congo. Final resolution will only happen when Rwanda stops supporting Rebels in eastern Congo and opens the political system in Kigali. On the other hand, the DRC wants assurance that Kigali-aligned forces have no conflict-mineral or territorial interests in eastern Congo.[38]

There are still pockets of violence in the Congo even till date and the State remains unstable despite the heavy presence of the UN machineries and continued resolutions towards resolving the conflicts owing perhaps to age long unhealed wounds occasioned by politico-ethnic crises since the colonial years in the Congo. For instance, as of 31 July 2010, an estimated 1.9 million people were internally displaced in North and South Kivu, Orientale, Katanga and Equateur provinces of DRC and the situation of returnees, host families and large numbers of populations in non-conflict affected areas is often dire.[39]

[38]See McGreal, C. Fear Of Fresh Conflict In Congo As Renegade General Turns Guns On Government Forces. London: The Guardian (2007) cited at:www.unitednationsaccessed on 26/03/13at 10.45pm.
[39]See: Urban Displacement Callable at: http://www.fmreview.org/DRCongo.pdf accessed on 26/03/13at 11.00pm.

In the North and South Kivu provinces people are still routinely caught in the frontlines of armed confrontations between the Congolese army (Forces Armees de la RepubliqueDemocratique du Congo, FARDC) and various armed rebel groups, particularly the Rwandan former genocidaires, the Forces Democratiques pour la Liberation du Rwanda (FDLR). Over the course of 2009, the situation initially improved in North Kivu, following the peace and integration agreement signed in March between the government and Congolese armed groups, including the former opposition group Congress National pour la Defense du Peuple (CNDP). This led to the return of over half a million former IDPs during 2009. However, the total number of IDPs in North Kivu still stands at 875,000 due to frequent armed confrontations between the national army and different armed opposition groups in the context of the government-led 'Amani Leo' military offensive against the FDLR and other Congolese armed groups. A recent worrying trend has been the impact of the extension of the government offensive to new armed groups, such as the FARDC 'Rwenzori' offensive against the ADF/Nalu rebel group at the end of July 2010 in Beni territory. This resulted in the displacement of 90,000 people.[40]

In South Kivu, the situation worsened during 2009 and 2010 as the province became the main arena for military operations against the FDLR - especially in the Kalehe, Shabunda and Uvira territories - raising the total of IDPs in the province to 626,000.

Whatever their military justifications or successes, these operations continue While the crisis in the Kivus has been a focus of action and advocacy by the international community for decades, further conflicts characterised by massive internal and cross-border displacements have been proliferating in all four corners of the Democratic Republic of Congo (DRC).

[40]Ibid

The fact that violence continues in the Congo is evident in the report of John Holmes[41] part of which goes thus:

> FMR 36 to inflict a heavy toll on civilians and cause new displacements, while the armed groups targeted by the military operations have in no sense gone away. In addition, all armed groups, including the FARDC, are responsible for widespread human rights abuses against civilians. Villages are routinely looted and burned, with entire communities uprooted repeatedly. This not only results in massive humanitarian needs but it also blocks and hinders the recovery and envelopment prospects of large areas. Earlier this year, when I visited Mwenga territory in South Kivu, it was clear that people were still afraid to resume their normal activities because of continuing strong FDLR and other militia presence in the vicinity. Local representatives of the humanitarian community reported then that the military operations were also pushing IDPs towards even more remote and inaccessible areas, posing a further challenge for humanitarian operations.
>
> Sexual violence remains amongst the worst abuses. Cases are registered on a daily basis in DRC. Most recently and horrifically, a group of alleged FDLR and MayiMayi rebels attacked and took control of villages around the town of Luvungi in North Kivu, looting the area and raping hundreds of women within four days. The UN Population Fund (UNFPA) estimates that in the two Kivu provinces alone over 8,000 rapes occurred during 2009, averaging around 160 rapes per week. Most of these are committed by armed men, including members of the national army. These abhorrent crimes are unacceptable, as is the virtual impunity for the perpetrators which accompanies them.
>
> In Orientale province in the north-east of DRC, the Lord's Resistance Army (LRA), the brutal armed group originally from Uganda, is still terrorising the local population, causing widespread displacement in that region. Since the LRA began their attacks in December 2007, 1,893 civilians have been killed, and over 1,600 adults as well as 854 children have been abducted. Currently, more than 390,000 people are internally displaced in the Haut- and Bas-Uele districts of Orientale province. Humanitarian access remains very challenging in the whole province, due to insecurity, the remoteness of many areas and very high transport costs. There are

[41]The UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator

still groups of IDPs, for example in Bas-Uele district, to whom it has not yet been possible to deliver assistance.[42]

The situation has also been summarised thus:

> The civilian population in the Democratic Republic of Congo (DRC) has witnessed consecutive civil wars between 1996 and 2003 that have claimed an estimated five million lives, making it the world's deadliest conflict since World War II. Despite repeated peace deals and strong United Nations presence, crimes are being perpetrated by armed groups operating in the eastern and north-eastern regions.
> When the genocide in neighboring Rwanda ended in 1994, Hutu perpetrators fled from justice into the eastern provinces of the DRC, where they formed the Forces Democratique de Liberation du Rwanda (FDLR).
> The presence of genocidaires in eastern provinces prompted an invasion by Rwanda and Uganda which led to the overthrow of long-standing dictator Mobutu SeseSeko. Laurant Desire Kabila, who led the rebellion to overthrow Mobutu, became President.
>
> Kabila declared war on his former allies Rwanda and Uganda and the ensuing conflict from 1998 to 2002, which has been nicknamed "Africa's World War," drew in several neighboring countries as well as several other regional militias.
>
> Despite various peace agreements, violence in DRC is ongoing and civilians continue to be targeted, particularly in the eastern provinces of North Kivu, South Kivu, and Orientale. Both government and rebel forces have been implicated in attacks on civilians. The ongoing violence takes many forms including mass killings, rape, and torture.[43]

3.3 The Role of the United Nations in the Settlement of the Congo Crises/Disputes

The UN had been present in the Congo since the immediate post independence crises following requests by the then Prime Minister Lumumba. On 14 July 1960, in response to requests, the UN Security Council adopted Resolution 143 through .which the UN established

[42]See Holmes, J. A Scandal That Needs To End. Available at: http://www.fmreview.org/DRCongo.pdf accessed on 26/03/13at 8.45pm.
[43]See "United To End Genocide". Available at: http://www.unhcr.org/pages/49e45c366.htmlaccessed on 26/03/13at 10.00pm.

Operation des Nations unies au Congo, abbreviated ONUC (English: The United Nations Organization in the Congo), as a United Nations peacekeeping force in Congo.[44] ONUC is said to be the UN's first peacekeeping mission with muscle dispatched to Belgian Congo.[45]

The resolution called upon Belgium to remove its troops and for the UN to provide 'military assistance' to the Congolese forces to allow them 'to meet fully their tasks'. Lumumba demanded that Belgium remove its troops immediately, threatening to seek help from the Soviet Union if they did not leave within two days. The UN reacted quickly and established United Nations Operations in the Congo (ONUC).[46]

The first UN troops arrived the next day but there was instant disagreement between Lumumba and the UN over the new force's mandate. Because the Congolese army had been in disarray since the mutiny supported by Belgium earlier in the same year, Lumumba wanted to use the UN troops to subdue Katanga by force. Referring to the resolution, Lumumba wrote to UN Secretary General Dag Hammarskjold, 'From these texts it is clear that, contrary to your personal interpretation, the UN force may be used to subdue the rebel government of Katanga'.[47]

Secretary General Hammarskjold refused. To Hammarskjold, the secession of Katanga was an internal Congolese matter and the UN was forbidden to intervene by Article 2 of the United Nations Charter. Disagreements over what the UN force could and could not do continued throughout its deployment, despite the passage of two further Security Council resolutions. Passed on 22 July, Security Council Resolution 145 affirmed that Congo should be a unitary state and strengthened the call for Belgium to withdraw its forces. On 9 August, Security

[44] See "United Nations Operations in the Congo". Available at: http://en./wiki/United_Nations_Operation_in_the_Congo. Note that from 1963, the name changed to Operation des Nations Unies au Congo, keeping the same abbreviation.
[45]ONUC has however been described as a "pyrrhic victory at best". See Alex, M. Kiras, J. and Fraser D. A. Peacekeeping with Muscle: The Use of Force in International Conflict Resolution. Clementsport, N.S.: Canadian Peacekeeping (1997) p. ix.
[46]See Kyle K.
[47] Ibid

Council Resolution 146 mentioned Katanga for the first time, and explicitly allowed UN forces to enter Katanga whilst forbidding their use to 'intervene in or influence the outcome of any internal conflict'.[48]

Lumumba was determined to quickly subdue the renegade provinces of Kasai and Katanga. Dissatisfied with the UN, on August 17, 1960 Lumumba followed through on his threat to request military assistance from the Soviet Union. The USSR quickly responded with an airlift of ANC troops into Kasai and a supply of military trucks. A bloody campaign ensued causing the deaths of hundreds of Baluba tribesmen and the flight of a quarter of a million refugees.[49]

Lumumba's decision to accept Soviet help angered the administration of President Dwight D. Eisenhower in the United States who via the CIA, increasingly supported Mobutu and Kasa-Vubu. So cold or proxy war ensued between Soviet and US forces.

Eisenhower even authorized the CIA to initiate a plan to assassinate Lumumba using poison to be placed in his food or toothpaste, although this plan was aborted.[50]

In order to instil calm, the UN closed all Congolese airports under their control along with the radio station in Leopoldville. This halted the Soviet supported airlift of Congolese troops to Kasai.

Upon the death of Lumumba amidst the crises, the UN Security Council met in a highly emotional atmosphere charged with anti-colonial feeling and rhetoric. The Soviet Government even went as far as to blame Hammarskjold for Lumumba's death, calling for his dismissal. Hammarskjold however refused to resign and remained in office. On 21 February 1961 the Security Council adopted resolution 161 which authorised 'all appropriate measures' to 'prevent

[48]Security Council Resolutions 1960 cited.
[49]Ibid
[50] Ibid

the occurrence of civil war in the Congo, including ... the use of force, if necessary, in the last resort'.[51]

This resolution demanded the expulsion from the Congo of all Belgian troops and mercenaries, but did not explicitly mandate the UN to conduct offensive operations. This resolution was ultimately interpreted by the local UN forces to justify military operations to end the secession of Katanga. In death, Lumumba had finally succeeded in getting UN support for his campaign against Katanga. Despite this new resolution, during the next six months the UN undertook no major military operations, instead concentrated on facilitating several rounds of political negotiations.

However, by the end of August, it was clear that Tshombe had no intention of implementing his pledge to reunite Katanga with the rest of the country. In particular, he had not complied with the UN Security Council resolution demanding the expulsion of foreign mercenaries. Then, on August 28, the UN launched "Operation Rumpunch" under which UN forces started to disarm Katangese troops, capture key Katangese military assets and arrest all the foreign mercenaries who formed the core of the Katangese gendarmerie.

This operation was initially successful, but stopped when the Belgian consul in Elizabethville persuaded the local UN officials that he would complete, the operation. This was a ruse, however, as ultimately only regular Belgian officers and not mercenaries were expelled from the province. Many mercenaries who were repatriated found their way back into Katanga via Rhodesia.

Again, when it became clear that Tshombe's mercenaries were still in control of the Katangese gendarmerie, the UN launched "Operation Morthor" On September 9, to again round up foreign mercenaries and political advisors. In addition the Congolese central government

[51]Security Council Resolutions 1961.

issued the UN with arrest warrants for Tshombe and other key Katangese officials. The UN was able to act on these warrants because the then new government of CyrilleAdoula was the internationally recognized authority. Operation Morthor has however been said to be a political and military fiasco because what originally intended as an arrest operation Morthor quickly escalated into open warfare, as blood was shed on both sides.[52] It was the most obvious example of the transition from peacekeeping to peace enforcement as it led to a serious eight-day military engagement between ONUC and the Katangese forces. Seven UN troops were killed, as well as 200 Katangese civilians and troops.[53]

It went badly from the start. The Katangese gendarmeries were forewarned and mounted resistance to UN attempts to gain control. The UN did manage to capture the post office and radio station, and arrested the Vice President, however, through miscommunication or confusion, the Presidential Palace was never secured and Tshombe was able to escape. At the end of the first day of the operation, the UN special representative announced over Katangese radio that the secession was at an end. This statement was premature and caused controversy because the UN was not specifically mandated to end the secession. It was only to prevent civil war and expel foreign mercenaries.

The situation got tense that in the midst of Operation Morthor, UN Secretary General Dag Hammarskjold decided to intervene personally and negotiate a ceasefire with Tshombe but on the night of 17 - 18 September his plane crashed en route to Ndola, killing him and fifteen others on board.[54]

[52]Ibid
[53]Ibid
[54]See: United Nations General Assembly session 17 Report of the Commission of investigation into the conditions and circumstances resulting in the tragic death of Mr. Dag Hammarskjold and members of the party accompanying him. Available at: http://www.un.org/Docs/journal/asp/ws.asp?m=A/5069 accessed on 26/03/13at 10.15pm

There were also reports of UN attacks on civilian installations came from Elizabethville which caused anger in Europe. A company of 155 UN troops from Ireland was attacked and trapped in Jadotville. Katangese forces made use of a Fouga Magister jet, piloted by a Belgian mercenary, to strafe the company and prevent resupply.

With death of the Secretary General, the fighting continued in Katanga and the besieged Irish UN company at Jadotville, after holding out for some days, surrendered to the Katangese gendarmeries having run out of water and ammunition. After these reversals the UN agreed to a ceasefire on poor terms, giving back public buildings and military posts to Katangese control. The Irish troops remained in Katangese custody until when a prisoner swap was agreed.

As skirmishes involving UN forces continued in Katanga, some Irish soldiers were ambushed and killed by Baluba tribesmen in Niemba, Northern Katanga. Then, the UN Security Council Resolution adopted 169 "to take vigorous action, including the use of the requisite measure of force, if necessary," to remove foreign military and other personnel not under the U.N. Command.[55]

The UN discovered that the Katangese gendarmeries were planning an offensive against its machineries. The gendarmeries were setting up roadblocks in order to isolate UN units from one another. This prompted another major military operation called Unokat launched to remove the roadblocks and take control of strategic positions around Elizabethville. After heavy fighting and casualties on both sides UN strategic objectives were achieved.

Katangese military assets were neutralised including the newly created Katangese Air Force. In response Tshombe threatened to blow up the dams and copper mines around Kolwezi. Throughout 1962, Tshombe maintained the independence of Katanga. The UN Secretary General, U Thant, then proposed a plan that Katanga became an autonomous region in a federal

[55] www.academia.edu.6464996 accessed on 17/10/14at 9.00am.

state. Tshombe initially agreed with the proposal but agreement was never concluded. The UN then launched "Operation Grand Slam" on Katanga's political and military infrastructure to end Katanga secession. This proved to be a decisive attack as it ended the secession of Katanga and put Elizabethville under full UN control.[56] After this and the withdrawal of the Belgians, the troops remained to help the government to maintain the peace and consolidate the independence of the country.

The UN endeavour in Congo however demonstrated that forceful intervention, when not planned properly, could turn the situation into an unstable civil war. Not only was the UN force ineffectual in alleviating the disputes, but also the Member States were divided on how the operation ought to be executed and what level of force should be used to carry out the mandate. Several peacekeeping contingents suffered casualties during the mission and the debt incurred from operations nearly bankrupted the UN. The memories of the Congo haunted the UN as well as convinced the international organization that peacekeeping should remain consensual and non-threatening in nature, an attitude it maintained for almost three decades.[57]

The end of Katanga secession somewhat marked the end of the first Congo war; skeletal UN machineries remained and the country enjoyed some relative semblance of political stability for some years only to be struck by other major crises from rural insurgencies in the eastern provinces and Kabila rebellion in the 90's which ushered in the second Congo war and officially ended in July 2003 when the Transitional Government took over power.[58]

Following the signing of the Lusaka Ceasefire Agreement in July 1999 between the Democratic Republic of the Congo (DRC) and five regional States (Angola, Namibia, Rwanda, Uganda and Zimbabwe) however, the UN Security Council established the United Nations

[56]See Johnson, R. C. Heart of Darkness: the Tragedy of the Congo, 1960-67. cited at Ibid
[57]See http://www.United_Nations_Operation_in_the_Congo accessed on 17/10/14at 4.30pm
[58]Ibid

Organization Mission in the Democratic Republic of the Congo (MONUC) by its resolution 1279 of 30 November 1999[59] initially to plan for the observation of the ceasefire and disengagement of forces and maintain liaison with all parties to the Ceasefire Agreement. Later in a series of resolutions, the Council expanded the mandate of MONUC to the supervision of the implementation of the Ceasefire Agreement and assigned multiple related additional tasks.[60]

MONUC had an authorized strength of up to 5,537 military personnel, including up to 500 observers,[61] or more, provided that the Secretary General determined that there was a need and that it could be accommodated within the overall force size and structure, and appropriate civilian support staff in the areas, inter alia, of human rights, humanitarian affairs, public information, child protection, political affairs, medical and administrative support. MONUC, in cooperation with the Joint Military Commission (JMC), had the following mandate:

> To monitor the implementation of the Ceasefire Agreement and investigate violations of the ceasefire;
>
> To establish and maintain continuous liaison with the headquarters off all the parties military forces;
>
> To develop, within 45 days of adoption of resolution 1291 2000), an action plan for the overall implementation of the Ceasefire Agreement by all concerned with particular emphasis on the following key objectives: the collection and verification of military information on the parties forces, the maintenance of the cessation of hostilities and the disengagement and redeployment of the parties' forces, the comprehensive disarmament, demobilization, resettlement and reintegration of all members of all armed groups referred to in Annex A, Chapter 9.1 of the Ceasefire Agreement, and the orderly withdrawal of all foreign forces;

[59]The origin of the second United Nations military presence in the Democratic Republic of the Congo (DRC)issaid to be found in the Lusaka Ceasefire Agreement. Seehttp://www.United_Nations_Organization_Stabilization_Mission_in_the_Democratic_Republic_of_the_Congo accessed on 17/10/14 at 10.00am

[60]See http://www.un.org/en/peacekeeping/missions/monuc/mandate.shtml

[61]These figures were intermittently increased. As of June 2010, the total strength of UN peacekeeping troops in DRC exceeded 20,000 and more than thirty nations have contributed military and police personnel for peacekeeping effort. See "MONUSCO Facts and Figures" available at: http://monusco.unmissions.org/andhttp://www.un.org/en/peacekeeping/missions/monuc/background.shtml on 27/6/2013 at 11.20am.

> To work with the parties to obtain the release of all prisoners of war, military captives and remains in cooperation with international humanitarian agencies;
>
> To supervise and verify the disengagement and redeployment of the parties' forces
> Within its capabilities and areas of deployment, to monitor compliance with the provision of the Ceasefire Agreement on the supply of ammunition, weaponry and other war-related materiel to the field, including to all armed groups referred to in Annex A, Chapter 9.1;
>
> Tofacilitate humanitarian assistance and human rights monitoring, with particular attention to vulnerable groups including women, children and demobilized child soldiers, as MONUC deems within its capabilities and under acceptable security conditions, in close cooperation with other United Nations agencies, related organizations and non-governmental organizations;
>
> To cooperate closely with the Facilitator of the National Dialogue, provide support and technical assistance to him, and coordinate other United Nations agencies' activities to this effect;
>
> To deploy mine action experts to assess the scope of the mine and unexploded ordnance problems, coordinate the initiation of the mine action activities, develop a mine action plan, and carry out emergency mine action activities as required in support of its mandate.[62]

Acting under chapter VII of the Charter of the United Nations, the Security Council also decided that MONUC may take the necessary action, in the areas of deployment of its infantry battalions and as it deems it within its capabilities, to protect United Nations and co-located JMC personnel, facilities, installations' and equipment, ensure the security and freedom of movement of its personnel, and protect civilians under imminent threat of physical violence.

Further by its resolution 1565 (2004) of 1 October 2004, the Security Council revised the mandate of MONUC and authorized the increase of MONUC's strength by 5,900 personnel, including up to 341 UN police personnel, as well as the deployment of appropriate civilian

[62]See: http://www.un.org/en/peacekeeping/missions/monuc/facts.shtml on 27/6/2013 at 10.20am.

personnel, appropriate and proportionate air mobility assets and other force enablers, and expresses its determination to keep MONUC's strength and structure under regular review, taking into account the evolution of the situation on the ground. The Council decided that MONUC will hsave the following mandate:

> To deploy and maintain a presence in the key areas of potential volatility in order to promote the re-establishment of confidence, to discourage violence, in particular by deterring the use of force to threaten the political process, and to allow United Nations personnel to operate freely, particularly in the Eastern part of the Democratic Republic of the Congo, to ensure the protection of civilians, including humanitarian personnel, under imminent threat of physical violence, to ensure the protection of United Nations personnel, facilities, installations and equipment, to ensure the security and freedom of movement of its personnel, to establish the necessary operational links with the' United Nations Operation in Burundi (ONUB), and with the Governments of the Democratic Republic of the Congo and Burundi, in order to coordinate efforts towards monitoring and discouraging cross-border movements of combatants between the two countries,to monitor the implementation of the measures imposed by paragraph 20 of resolution 1493 (2003) of 28 July 2003, including on the lakes, in cooperation with ONUB and, as appropriate, with the Governments concerned and with the group of experts referred to in paragraph 10 of resolution 1533 (2004) of 12 March 2004, including by inspecting, as it deems it necessary and without notice, the cargo of aircraft and of any transport vehicle using the ports, airports, airfields, military bases and border crossings in North and South Kivu and in Ituri,to seize or collect, as appropriate, arms and any related materiel whose presence in the territory of the Democratic Republic of the Congo violates the measures imposed by paragraph 20 of resolution 1493 (2003), and dispose of such arms and related materiel as appropriate,to observe and report in a timely manner, on the position of armed movements and groups, and the presence of foreign military forces in the key areas of volatility, especially by monitoring the use of landing strips and the borders, in particular on the lakes.[63]

The Council again decided that MONUC will also have the following mandate, in support of the Government of National Unity and Transition:

[63] Ibid

> To contribute to arrangements taken for the security of the institutions and the protection of officials of the Transition in Kinshasa until the integrated police unit for Kinshasa is ready to take on this responsibility and assist the Congolese authorities in the maintenance of order in other strategic areas, as recommended in paragraph 103 (c) of the Secretary-General's third special report,to contribute to the improvement of the security conditions in which humanitarian assistance is provided, and assist in the voluntary return of refugees and internally displaced persons,to support operations to disarm foreign combatants led by the Armed Forces of the Democratic Republic of the Congo, including by undertaking the steps listed in paragraph 75, subparagraphs (b), (c), (d) and (e) of the Secretary-General's third special report,to facilitate the demobilization and voluntary repatriation of the disarmed foreign combatants and their dependants,to contribute to the disarmament portion of the national programme of disarmament, demobilization and reintegration (DDR) of Congolese combatants and their dependants, in monitoring the process and providing as appropriate security in some sensitive locations,to contribute to the successful completion of the electoral process stipulated in the Global and All Inclusive Agreement, by assisting in the establishment of a secure environment for free, transparent and peaceful elections to take place,to assist in the promotion and protection of human rights, with particular attention to women, children and vulnerable persons, investigate human rights violations to put an end to impunity, and continue to cooperate with efforts to ensure that those responsible for serious violations of human rights and international humanitarian law are brought to justice, while working closely with the relevant agencies of the United Nations.[64]

The Council authorized MONUC to use all necessary means, within its capacity and in the areas where its armed units are deployed, to carry out the above tasks. The Council further decided that MONUC will also have the mandate, within its capacity and without prejudice to carrying out the above tasks, to provide advice and assistance to the transitional government and authorities, in accordance with the commitments of the Global and All Inclusive Agreement, including by supporting the three joint commissions outlined in paragraph 62 of the Secretary-General's third special report, in order to contribute to their efforts, with a view to take forward:

[64]Ibid

> Essential legislation, including the future constitution, Security sector reform, including the integration of national defence and internal security forces together with disarmament, demobilization and reintegration and, in particular, the training and monitoring of the police, while ensuring that they are democratic and fully respect human rights and fundamental freedoms, The electoral process.[65]

In addition, by its resolution 1787 (2008) of 30 January 2008, the Security Council authorized MONUC to assist the Congolese authorities in organizing,' preparing and conducting local elections, expected to be held in the latter half of 2008.

Further by its resolution 1856 (2008) of 22 December 2008, the Council decided to extend the deployment of MONUC until 31 December 2009 and authorized the continuation until that date of up to 19,815 military personnel, 760 military observers, 391 police personnel and 1,050 personnel of formed police Units. The Council requested MONUC to attach the highest priority to addressing the crisis in the Kivus, in particular the protection of civilians, and to concentrate progressively during 2009 its action in the eastern part of the DRC. The Council also decided that MONUC shall, from the adoption of this resolution, have the mandate, in this order of priority, working in close cooperation with the Government of the DRC in order to:

> Protection of civilians, humanitarian personnel and United Nations personnel and facilities.Ensure the protection of civilians, including humanitarian personnel, under imminent threat of physical violence, in particular violence emanating from any of the parties engaged in the conflict;
>
> Contribute to the improvement of the security conditions in which humanitarian assistance is provided, and assist in the voluntary return of refugees and internally displaced persons;
>
> Ensure the protection of United Nations personnel, facilities, installations and equipment;
>
> Ensure the security and freedom of movement of United Nations and associated personnel;

[65] Ibid

Carry out joint patrols with the national police and security forces to improve security in the event of civil disturbance;
Disarmament, demobilization, monitoring of resources of foreign and Congolese armed groups
Deter any attempt at the use of force to threaten the Goma and Nairobi processes from any armed group, foreign or Congolese, particularly in the eastern part of the Democratic Republic of the Congo, including by using cordon and search tactics and undertaking all necessary operations to prevent attacks on civilians and disrupt the military capability of illegal armed groups that continue to use violence in that area;

Coordinate operations with the FARDC integrated brigades deployed in the eastern part of the Democratic Republic of the Congo and support operations led by and jointly planned with these brigades in accordance with international humanitarian, human rights and refugee law with a view to:

Disarming the recalcitrant local armed groups in order to ensure their participation in the disarmament, demobilization and reintegration process and the release of children associated with those armed groups;

Disarming the foreign armed groups in" order to ensure their participation in the disarmament, demobilization, repatriation, resettlement and reintegration process (DDRRR) and the release of children associated with those armed groups;

Preventing the provision of support to illegal armed groups, including support derived from illicit economic activities;
Facilitate the voluntary demobilization and repatriation of disarmed foreign combatants and their dependants;

Contribute to the implementation of the national programme of disarmament, demobilization and reintegration (DDR)of Congolese combatants and their dependants, with particular attention to children, by monitoring the disarmament process and providing, as appropriate, security in some sensitive locations, as well as supporting reintegration efforts pursued by the Congolese authorities in cooperation with the United Nations Country Team and bilateral and multilateral partners;

Use its monitoring and inspection capacities to curtail the provision of support to illegal armed groups derived from illicit trade in natural resources;

Training and mentoring of FARDC in support for security sector reform;
Provide military training, including in the area of human rights, international humanitarian law, child protection and the prevention of gender-based violence, to various members and units of the FARDC integrated brigades deployed in the eastern part of the Democratic Republic of the Congo, as part of international broader efforts to support the security sector reform;

In coordination with international partners, including the European Union operations EUSEC and EUPOL, to contribute to the efforts of the international community to assist the Congolese Government in the initial planning process of the security sector reform, to build credible, cohesive, and disciplined Congolese armed forces and to develop the capacities of the Congolese national police and related law enforcement agencies;

Territorial security of the Democratic Republic of the CongoObserve and report in a timely manner on the position of armed movements and groups and the presence of foreign military forces in the key areas of volatility, especially by monitoring the use of landing strips and the borders, including on the lakes;
Monitor the implementation of the measures imposed by paragraph 1 of resolution 1807 (2008), in cooperation, as appropriate, with the Governments concerned and with the Group of Experts established by resolution 1$33 (2004), including by inspecting, as it deems necessary and without notice, the cargo of aircraft and of any transport vehicle using the ports, airports, airfields, military bases and border crossings in North and South Kivu and in Ituri;

Seize or collect, as appropriate, the arms and any related materiel whose presence in the territory of the Democratic Republic of the Congo violates the measures imposed by paragraph 1 of resolution 1807 (2008) and to dispose of such arms and related materiel as appropriate;

Provide assistance to the competent customs authorities of the Democratic Republic of the Congo in implementing the provisions of paragraph 8 of resolution 1807 (2008);
Assist the Government of the Democratic Republic of the Congo, in enhancing its demining capacity;[66]

[66] Ibid

The Council also decided that MONUC will also have the mandate, in close cooperation with the Congolese authorities, the United Nations Country Team and donors, to support the strengthening of democratic institutions and the rule of law and, to that end, to:

> Provide advice to strengthen democratic institutions and processes at the national, provincial, regional and local levels;
> Promote national reconciliation and internal political dialogue, including through the provision of good offices, and support the strengthening of civil society and multi-party democracy, and give the necessary support to the Goma and Nairobi processes;
> Assist in the promotion and protection of human rights, with particular attention to women, children and vulnerable persons, investigate human rights violations and publish its findings, as appropriate, with a view to putting an end to impunity, assist in the development and implementation of a transitional justice strategy, and cooperate in national and international efforts to bring to justice perpetrators of grave violations of human rights and international humanitarian law;
>
> In close coordination with international partners and the United Nations Country Team, provide assistance to the Congolese authorities, including the National Independent Electoral Commission, in the organization, preparation and conduct of local elections;
>
> Assist in the establishment of a secure and peaceful environment for the holding of free and transparent local elections that are expected to be held by the end of June 2009;
> Contribute to the promotion of good governance and respect for the principle of accountability;
>
> In coordination with international partners, advise the Government of the Democratic Republic of the Congo in strengthening the capacity of the judicial and correctional systems, including the military justice system.[67]

The Mission - MONUC again transited into MONUSCO "United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO)" vide the Security

[67] Ibid

Council resolution 1925 of 28 May 2010. This change in nomenclature was occasioned in view of the new phase reached in the country.[68]

As offshoots of the various revised mandates for the UN mission in the Congo, the UN actively and substantially took part in the conflicts engaging in fights with the warring parties and interfering in the domestic affairs of the country. So, in May 2011, the international cooperation minister of DRC expressed his government's desire of an "orderly, progressive withdrawal" of MONUSCO due to "normalization" of DRC's relations with neighbouring countries and containment of rebels to a "few isolated zones".[69] Although the UN may be said to have contributed in the seeming normalization in the country, the havoc caused by the presence and conduct of the UN machineries is also enormous[70] owing to the unprecedented mandate to take military actions.[71]

Invariably, the UN tactics have now changed from peacekeeping to peace enforcement. The UN now maintains and deploys intervention brigade. The brigade has the job of "neutralising" ultra-violent armed groups who are perpetuating the misery of the eastern DRC with a clear mandate for initiating attacks against those militias rather than simply responding to attacks from them.[72]

In establishing an intervention brigade in the Democratic Republic of the Congo, the United Nations has taken a leap into the unknown. UN peacekeeping operations have become

[68] http://www.United_Nations_Organization_Stabilization_Mission_in_the_Democratic_Republic_of_the_Congo
[69] Ibid
[70]For instance, MONUSCO helicopter gunships were deployed to support government forces as they fought to hold off a 23 March Movement attack south of Kibumba; the combined army and UN assault killed approximately 64 M23 fighters. See "Thousands flee fighting as Congo rebels seize Gorilla Park". CNN 2008-10-26 cited at: http://www.United_Nations_Organization_Stabilization_Mission_in_the_Democratic_Republic_of_the_Congo
[71]See Banks, J. UN Mission in Congo: Can UN Peacekeepers Really Resolve the Crisis? Probably Not availableat:http://www.policymic.com/articles/33217/un-mission-in-congo-can-un-peacekeepers-really-resolve-the-crisis-probably-not
[72]See UN sends force to look for a fight in Democratic Republic of the Congo available at: http://www.guardian.co.uk/world/2013/may/05/un-force-democratic-republic-congo on 27/6/2013 at 9.20pm.

embroiled in scraps before, but this is the first time such a force has been sent out to look for a fight. This is made possible by the UN's adoption of a new principle, the "responsibility to protect" which in theory turned the inviolability of state sovereignty on its head and argued that sovereignty was a responsibility rather than a right and that when a state failed to protect its civilians, the international community had the right to intervene with coercive measures, including force if necessary. Despite this offensive approach by the UN, there are still reports of skirmishes in the Congo.[73]

3.4 The United Nations Operations in the Congo

The initial UN presence in the Democratic Republic of the Congo, before the passing of Resolution 1291, was a force of military observers to observe and report on the compliance on factions with the peace accords, a deployment authorised by the earlier Resolution 1258 (1999). However, the UN's purported peacekeeping mission later changed peace enforcement through which the UN machineries took active part in the crises and were even exploring attacking mechanisms instead of their traditional role of defending and protecting the civilians while making efforts towards the settlement of the disputes.

The mission even continued to increase its military base for this purpose much that the strength of UN peacekeeping troops in DRC was in exceed of 20,000 as at 2010 and more than thirty nations have contributed military and police personnel for peacekeeping or enforcement efforts.[74] The UN in fact established military brigade in 2013 with the main job of "neutralising"

[73]Even as at 16th July, 2013, the report of clashes in the Congo made headlines in the media. See for instance AIT News convergence on this date.
[74] http://www.United_Nations_Organi2ation_Stabili2ation_Mission_in_the_Democratic _Republic_of_the_Congo.

ultra-violent armed groups who are perpetuating the misery of the eastern DRC, with a clear mandate of attacks against those militias rather than simply responding to attacks from them.[75]

By the activities of the UN all along and its recent establishment of the military brigade, the UN has turned to another of the warring forces and factions in the Congo. It has also tactically constituted and imposed its self as a super government on the government and people of the Congo by its involvement in virtually all domestic activities in the Congo like, among others, policy formulation, conduct and organisation of elections etc.

The UN endeavour in Congo has also demonstrated that forceful intervention could turn the situation into an unstable civil war as the UN is unable to really settle the crises. Not only was the UN force ineffectual in alleviating the dispute, but also the Member States were divided on how the operation ought to be executed and what level of force should be used to carry out the mandate. Several peacekeeping contingents suffered casualties during the mission and the debt incurred from operations nearly bankrupted the UN.[76]

Although the UN has the right and a duty to confront threats to global peace under Chapter VII of its Charter and is given powers to resort to the use of "all necessary measures", the authorisation of this has often been over shot and exploited (especially by western powers) for geostrategic ends that have left a sour taste.[77]

One of the most recent examples of this was in April 2011 in Libya, where UN resolution 1973 authorised "all necessary measures" be taken to protect civilians, was controversially

[75]See "Un Sends Force To Look For A Fight In Democratic Republic Of The Congo" Available at: http://www.guardian.co.uk/world/2013/may/05/un-force-democratic-republic-congo

[76] See "United Nations Operations in the Congo" available at: http://www.United_Nations_Operation_in_the_Congo. For instance the approved budget for MONUC, from 1 July 2007 to 30 June 2008; alone was US$1,166.72 million, the largest for any current UN peacekeeping operation. See http://en.wikipedia.org/wiki/United_Nations_Organization_Stabilization_Mission_in_the_Democratic_Republic_of_the_Congo

[77]See http://www.un.org/apps/news/story.asp?NewslD=44535#.UcqonNgSEll on 27/4/2013 at 10.20pm.

interpreted by France, UK and the US to help bring about the fall of Muammar Gaddafi.[78] This was similarly interpreted in the launching of gunships assaults on President Gbago's place of Ivory Coast in 2011 and fighting fiercely against forces loyal to him.[79]

In establishing the intervention brigade in the Congo for offensive mission, the UN has taken a leap into the unknown. And it appears that same would further aggravate the tension in the land as there are continuous reports of bloody clashes between the UN contingents and the various rebel groups especially the M23 in eastern Congo.[80]

It is our view that however lofty the full and active participation of the UN in the Congo crises may seem, its involvement and those of other States Nations in domestic civil wars and affairs of governance in the Congo (and other some other States) negates theprinciple the entrenched principles of the sovereign equality of all Member States and non-interference which are very core principles upon which the Organisation was/is founded. This is the purport of Article[81] which explicitly provides thus:

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.
2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.
3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

[78]See "Un Sends Force To Look For A Fight In Democratic Republic Of The Congo" available at: http://www.guardian.co.uk/world/2013/may/05/un-force-democratic-republic-congo
[79]Ibid and Op cit. fn -77. Cases of the invasion of Iraq and the mission in Somalia are other examples.
[80]See for instance the NTA News of bloody clashes in the Congo as recent as 18 - 07 -13
[81]UN Charter available at: http://www.un.org/en/documents/charter/shtml Charter of the United Nationson 27/5/2013 at 8.20pm.

4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.
5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.
6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.
7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

CHAPTER FOUR

CHALLENGES IN THE UNITED NATIONS PEACEKEEPING OPERATIONS IN THE SETTLEMENT OF THE CONGO DISPUTES

4.1 Introduction

The united nations in its bid to end the Congo crisis engage itself in a number of peacekeeping operations and peacemaking diplomacies to achieve a pacific settlement of the dispute. These efforts were either authorised by the United Nations resolutions or in accordance with the provisions of the United Nations Charter. The two main methods provided for settlement of disputes by the united nations (UN) Charter are; the pacific settlements as contained in chapter VI of the UN Charter and the United Nations Security Council enforcement action under chapter VII[1]. The two methods, though separated into two different parts, are not independent of each other. They complement each other in dispute settlement. This has led to the evolution of the international system for the settlement of dispute under the name peacemaking and peacekeeping. In Africa, Congo was the first country to benefit from the United Nations peacekeeping mission in 1960[2]. This chapter critically analyzes the role of the UN peacekeeping operations in the Congo being one of the mechanisms adopted by the United Nations Security Council (UNSC) for settling the Congo crisis.

4.2 Legal Framework for UN Peacekeeping Operations

Article 24 of the UN Charter gives the UN Security Council the primary responsibility for the maintenance of international peace and security. The general principle of international law is that disputes between two nations is not a private disputes or any internal conflicts that is

[1]See Article 33-38 of the UN Charter.
[2] United Nations Operation in the Congo (UNOC) 1060-1964.see United Nations Peacekeeping http://www.un.org/en/peacekeeping/pastops.shtml accessed March 8, 2013 at 9.25pm

capable of endangering international peace and security is also a concern of the international community which it intervene to ensure restoration and maintenance of peace.

As a means of settling disputes in the international system, the UN has over the years used peacekeeping mechanism to counter conflict. The term peacekeeping is not contained in the UN Charter. The former Secretary General of UN Dag Hammarskjold referred to it as belonging to "chapter six and half" of the Charter; placing it between traditional methods of peacemaking and the more forceful enforcement actions[3]. This lacuna may attract a serious question of the legality of UN peacekeeping operations, we shall return to this ***point shortly*.** Suffice to say at this juncture that the UN peacekeeping operation is based on the principle that placing an impartial UN presence in a conflict will ease tension and promote negotiated settlement.

4.2.1 Peacekeeping: Legal Basis

The word peacekeeping is conspicuously absent in the UN Charter.[4] The absence of such an instrumental aspect of contemporary function of the Security Council in the Charter has provoked a commentator to wonder if the omission is not likely to create legal morass.[5] It is true that the UN Charter did not make express provision on peace keeping operations but apart from various UNSC resolutions authorising the settling up of various peacekeeping missions, there are many relevant provisions of the UN Charter that can be used to legitimize UN peacekeeping missions.

Peacekeeping mission is an arrangement predicted on the primary objective of the UN to maintain international peace and security as contained in Articles 1-4 of the UN Charter. To

[3] Benton, B. 50 years of UN Peacekeeping, UN Dept of Information, New York 1998, p.2
[4]Ladan, M. T. Materials and cases on Public International Law, A.B.U. Press Ltd, Zaria, 2007 pp. 104-179
[5]Ahere, J.R. Critical Analysis of the United Nations Peacekeeping Missions in Africa www.theUnitedNationPeacekeepingMissioninafrica accessed June, 10 2013at 9.15am.

achieve this, the Charter enjoined the organization to take effective measures for the prevention and removal of threat to peace and for the suppression of acts of aggression[6] consequently.

> *All members shall give the United Nations everyassistance in any actions it takes in accordance with the present charter*[7]

Also the Charter provides that:

> *Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of nay state…but this principle shall not prejudice the application of enforcement measures under Chapter VII*[8].

By this, members of the UN have undertaken the responsibility of giving every assistance to the organization to achieve its purpose[9]. In this regards, Article 43 of the UN Charter states:

> All members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council on its all and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including right of passage, necessary for the purpose of maintaining international peace and security.

This provision clearly cast upon member states obligation to render all kinds of assistance to the UN Security Council in its pursue to maintain international peace and security[10]. The UN Security Council is established under Chapter V of the UN Charter. The Functions and Powers of the UNSC are provided in Article 24 of the UN Charter, whereby the member states confer on it, the primary responsibility for the maintenance of international peace and security, and the members equally consent that in carrying out its duties under this responsibility, the UNSC acts

[6] Article 1(1) UN Charter
[7] Article 2(5)
[8] Article 27
[9] Article 42
[10] This is binding. See the Wimbledon Case PCIJ ser A. No.1 (1923) p. 25

on their behalf. Article 26 of the UN Charter confers on the UNSC the responsibility for the formation of plan and the establishment of systems for the Military staff Committee[11]

Leo Pasvolky described the authority of the UNSC as

> *The function of doing everything possible to bring about peaceful adjustment of disputes that arises and of suppressing breaches of the peace, if inspite of the prevention action peace should be broken…*[12]

This leads to the consideration of the powers of the UNSC with regard to peace keeping operations. Since the charter is not explicit on the power of the UNSC to organize peacekeeping operations, an implied approach to the issue has been a subject of disputation.[13] Under chapter II of the UN Charter, the UNSC may exercise the powers which it possess for pacific settlement for the organization of peacekeeping operations. Thus, *in the certain expenses of the United Nations Case.*[14]Evensen, the representative of Norway submitted to the International Court of Justice (ICJ) that:

> *With regard to the United Nations operations in the Congo (ONUC) action, it has also been amply demonstrated that the authority to undertake these steps fall under the express or implied authority conferred upon the security council under Chapter VI or under Article 39 of the Charter.*

Article 48(1) gives the UNSC the authority to call upon all member state of the United Nations or only some of them to carry out its decision for the maintenance of peace and security.[15] By Article 40, the UNSC may take such "provisional measures" to prevent an aggravation of the situation which threatens international peace and security. The powers of the

[11] See Article 47 UN Charter
[12] UN Charter Hearing Before Senate Committee on Foreign Relations, 1st Session 79 Congress Report July 1945 p.243
[13]Cassesse, A. UN Peacekeeping, Sightoff&Noordhoof, Netherlands, 1978m pp.13-30.
[14]ICJ Pleadings Oral Arguments.ICJ Document 1963 p.370.
[15] This has been said to be the legal basis for peacekeeping operation see Schwarzenberger's Report International Law Association Hamburg Germany, 1962, p.130

UNSC to maintain international peace and security may be summarized under the general principles of inherent and assumed powers. The inherent powers involve such implied powers not expressly granted by the provisions of the charter. Thus, *in Reparation for Injuries suffered in the services of the UN Case*, the Court said:

> *Under International law, the Organization (UN) must be deemed to have those powers which though not expressly provided in the charter, are conferred upon it by necessary implications as being essential to the performance of its duties.*[16]

Specific and general authority of the UNSC are those power specifically granted to the UNSC in the performance of its duties. The ICJ said:

> *The Article 24 of the Charter, vest in the council, the necessary authority to take action …, the reference in Article 24(2) to specific powers does not exclude the existence of the responsibilities conferred under paragraph 1.* [17]

The assumed powers of the UNSC relates to those as are implicit in the Charter. Its determination is by the interpretation of the Charter and its acceptability by member states. A support of this is found in the convention for peacekeeping by the UNSC. Set forth by Judge Sir Percy Spender in the certain expenses, case as being "… of a peaceful, uniform and undisputed character acceptable in fact by all current members".[18] More importantly in the opinion of ICJ "when the organization (UN) takes action which warrants the assertion that it was appropriate for the fulfillment of one of the stated purposes of the UN, the presumption is that such action is not ultra vires of the organization".[19] Assumed powers in essence complement the powers of the UNSC in carrying out its basic duty of maintaining peace and security. Apart from the UN

[16] ICJ Report 1960
[17] See South West Africa Cases Legal Consequences ICJ Report 1970 p.190
[18] ICJ Report 1962 p.195
[19]Cited in Obot, J.S.*The Legal Framework for the Conduct and Participation in United Nations Peacekeeping Operations: Nigeria A Case Study.*Being an LLM Thesis Submitted to the School of Postgraduate Studies A.B.U Zaria, August 2011, p.51

Charter, other legal instruments used to authorised UN peace keeping operations include UN resolutions and mandates, Status of Force Agreement and Memorandum of Understanding.

4.2.2 Principles and Tenets of Peacekeeping Operation

Peacekeeping has been defined as a newer form of third party, peaceful intervention designed to prevent conflict escalation and keep out the intrusion of rival power blocks.[20] It is also the prevention, containment, moderation and termination and hostilities between and within states, through the medium of a peaceful third party, intervention, organized and directed internationally using multilateral forces of soldiers, police and civilian to restore and maintain peace.[21] Thus however one looks at it, peace keeping is a third party initiative by the means of which non aligned agent can be usedto keep two or more hostile states or communities apart. It is based on the principle that introducing an impartial UN presence in a conflict will facilitate peaceful settlement. Consequently, UN Peace keeping operation must be based on some basic tenets or principles.What follows is a brief analysis of the tenets.

Firstly, peacekeeper should only be deployed with the consent of the parties concerned.[22] This principle allows the host government a prerogative of choice. Though it is not an automatic prerogative it has become a prerequisite to the establishment of a UN peacekeeping mission in any sovereign territory.

Secondly, there should be cessation of hostilities under an international agreement. This is important otherwise there will be no any peace to keep.

Thirdly, the principle of impartiality or neutrality.[23] The significance of impartiality is in the fact that if it is discarded, it will have a negative effect upon the consent of the parties to a

[20] Benton, B.
[21] Akindele, R.A. The O.A.U, 1963-1988 Nigerian Journal of International Affairs, Lagos, Vol. 14 No.1 1988 p.3
[22] Peacekeepers Handbook, International Peace Academy Pergamon Press U.S.A 1984
[23] Article 97 of the UN Charter

conflict and thus making the conduct of the peacekeeping operation more difficult. The general perception of the UN is that in conflict situation especially civil war, the role of peacekeeper was that of a neutral mediator – a position consistent write customary international norm requiring neutrality of third parties in a civil war. In a classical state of belligerence with a-well-defined and recognizable leadership b-engaged in a civil war conducted in conformity with the laws of war, c. exercising control over a substantial part of the state's territory and d. enjoying the allegiance of the people under occupation – the attitude of neutrality imposed by customary international law make sense.[24] Unfortunately none of the basic tenets and principles of peace-keeping operation mentioned in the preceding paragraph i.e. consent of the parties, cessation of hostilities under an international agreement and impartiality existed in the Congo before the 1960-1964 United Nations operation in Congo ONUC was established. For example, the Central government of Congo under the control of President Kasavabu and Prime Minister Patrice Lumumba could not agree on how to resolve declaration of independence by premier of Katanga region of the Congo. Also, the ONUC later become entangled not only in domestic struggle which in principle, it is supposed to keep clear of.

4.3 Effectiveness of the United Nations Peacekeeping Missions in the Congo

The nearly 5 decades of experience with the deployment of various peacekeeping missions – a well tested instrument for maintain world peace and security, in Congo has now provided a basis for determining how effective the UN peacekeeping mission has achieved its primary purpose of maintaining peace and security in the Congo. From 1960s to the year 2000, Congo has been engulfed in some forms of internal conflict, compounded by multiple external

[24] Khan, R. United Nations Peacekeeping in International Conflicts. Problems and Perspectives. Max Plank Yearbook of United Nations Law Kluwer Law International Netherlands, 200 pp.550-552

interventions and fuelled by the desire of all parties to gain control over the natural resources of the country.

The Congo conflict started as a result of the vacuum created by the sudden departure of the colonial powers, Belgium, from the Congo effected apparently by the UN – inspired wave of decolonization which resulted in the political independence of many African countries. The departure of the colonial power was followed by a barracks mutiny triggered by the demand of pay rise. The Belgians sent their paratroopers to quell the mutiny and to protect their citizens in the Congo. The Congolese government asked for assistance which led to a fight between the President (Kasavubu) and the Prime Minister (Lumumba) who in a struggle for supremacy dismissed each other.

It was under this chaotic situation that the UN hastily deployed its first peacekeeper in Africa in Congo under the name of United Nations operation in the Congo (ONUC)[25]. The Secretary-General in his proposal to the UNSC in setting up an operation group recommended steps for maintenance of order in the country and the protection of life. He further states that it would be understood that were the UN to act as proposed, the Belgian government would see its way to a withdrawal."[26] In fact the basis of the request for UN intervention by the Congolese government was to protect the national territory against external aggression. Thus, the ONUC was formed with headquarters in Leopoldville, with duration of four years from July 1960 – June 1964. It was initially established to ensure the withdrawal of Belgian forces, to assist the government in maintaining law and order and to provide technical assistance. The function of ONUC was subsequently modified to include the maintenance of territorial integrity and political independence of the Congo, preventing the occurrence of civil war and securing the removal

[25] See UNSC Resolution of July 13, 1960 4387 UN Document S.4382
[26] SCOR 873, July 13 1960 para 19-27.

from the Congo of all foreign military, paramilitary and advisory personal not under the UN Command.[27]

Also the UNSC adopted resolution 161 which authorized all appropriate measures to prevent the occurrence of civil war in the Congo including the use of force if necessary in the last resort. In fact, both the prime Minister of Congo and the UN force on ground interpreted the resolution to justify military operation to end the succession of Katanga. The UN action through ONUC in the Congo during the first and second phases of the crisis was a fiasco. Despite the presence of the UN peacekeeper, the Prime Minister of the Congo Mr. Lumumba was captured and assassinated and the UN Secretary General Dag Hammarskjold was also killed in a plane crash while attempting to intervene personally and negotiate a ceasefire in the Congo crisis. Not only was the ONUC the largest and most expensive of all the UN Peacekeeping operation in the period, it was also most difficult to execute. Yet it failed because it became partial in the internal conflict.

After, the Lusaka agreement, the UNSC by its resolution 1279 established the United Nations Organisation Mission in the Congo (MONUC). It initial mandate was to observe the ceasefire and disengagement of forces and maintain liaison with all parties to the ceasefire agreement. Between 1999 and 2009, the mandate of MONUC was revised many times, until the 2010 when MONUC transited into United Nations Organization stabilization mission in the Congo (MONUSCO). Though various UN missions in the Congo have one way or the other have contributed to the settlement of the disputes, it is yet to be bring the desired peace and security to the country because there are reports of sporadic fighting and skirmishes in the Congo. The summary is that the various UN peacekeeping operations in the Congo crisis achieved only

[27] Kyle, K. The UN in the Congo http://en.un.ngp.org/congo-crisison 12/6/2013 at 10.20pm.

marginal success because of some challenges which is the subject matter for analysis in the next section.

4.4 Issues and Challenges in the UN Peacekeeping Operations in the Congo

The two UN peacekeeping missions in the Congo have not been able to achieve huge success in the peaceful settlement of the Congo conflict because of many challenges that plagued the operations from establishment, through deployment to execution of the mandate by the peacekeepers.Some of the challenges include; politics of the cold war between the two superpowers, lack of clarity in the mandate of the peacekeepers and lack of adequate financial and logistical support as well as human rights abuse.

4.4.1 Politics of the Cold War

The Congo crisis stated in the 1960s when there was great rivalry between the two superpowers often referred to as cold war. Therefore, the United Nation's ability to respond to crisis can only be determined by the will of its two super powers to provide the necessary political and logistical support. The Cold War greatly affected the role of UN activities in the Congo. Both sides of the ideological divide had their own interest in Congo hence; it was difficult to reach a consensus in the UNSC to establish the appropriate peacekeeping operation. This problem is further compounded by the voting procedure in UNSC having given the five permanent members (veto power) such right over the other members. The UN (Charter provides in Article 27 that the concurring votes of the permanent members is required for any major decisions at the Security Council.[28] A permanent member has a right to veto any decision other than procedural ones. A veto is a negative vote on matter by a permanent member of the UNSC

[28] The Five Permanent members with veto power are U.K, France, China, USA and Russia.

that has the effect of nullifying the affirmative votes of majority members.[29] The veto rule is further strengthened by Article 110(3) which makes the ratification by each of the five permanent members crucial to the coming into force of the Charter. In fact Article 108 of the Charter prevents amendment of the UN Charter without ratification by all the five permanent members.[30]

In the case of the Congo Crisis, the politics of the Cold War was at place right from the commencement of the crisis. On several occasions the Congo Prime Minister (Lumumba) threatened to invite the Soviet to come and expel the Belgian paratroopers from the Congo. In response to this, the USA continuously supported the opposition in persons of Mobutu and Kasavubu. Apart from these three countries China also got involved in the crisis providing, money, arms, mercenaries and advisory to their chosen factions.

Closely related to the problem of cold war politics is lack of interest by the great powers to assist in the settlement of disputes in Africa. By the end of the Cold War in the 90s, United States became the most dominant country and as a World Power it chooses which conflict to intervene in and which one it will not based on its economic and political considerations. In support of this U.S. conditional support to UN Peacekeeping operations the U.S. President Bill Clinton in an address to the end of the Millennium 54th Plenary Session of the UN General Assembly vowed to strengthen the capacity of the International community to prevent and whenever possible to stop outbreaks of mass killing and displacement.[31] The response of the International Community was bound to be different in view of the varying capacities of the countries to act and their perception of their national interests, he said.And added; "NATO acted in Kosovo, for example, to stop a vicious campaign of ethnic cleansing in a place we had

[29]Taiwo, L.O*The Imperative of Reforming the United Nations Security Council in the Post Cold War Era* (2006) Vol. 9 No.2 *Journal of Private and Comparative Law pp.12-119*
[30]Ibid and Claude, I.L Swards into Plowshare.*The Problems of International Organization.* Random House, New York, 1984 p.141
[31]GAOR 54th Sess. 6thPlen.Mtg. of 21 September 1999 at 4.

important interests at stake and the ability to act collectively.[32] He concluded by saying that "we cannot do everything everywhere".[33]Thesestatements by the person who formulate and implement American foreign policy provides clearly American position on UN Peacekeeping Missions. Therefore, the slogan "African Solution for African Problem became an excuse for the most powerful members of the UNSC to avoid large scale UN involvement in Africa.[34] As a result, peacekeeping job is handed to developing countries whose troops may be ill-equipped and poorly trained.[35]

4.4.2 Lack of Clarity of Mandate

Another major Challenge that confronted the UN Peacekeeping Missions in the Congo is the lack of clarity in the mandate of the peacekeeper. A mandate within the context of this discourse refers to the legal authorization for a peacekeeping operation issued by the UN. It is a legal instrument authorizing deployment of troops under the UN to a conflict area. A mandate clarifies what a peace mission can do and what it cannot do. The issue of mandate is critical to the deployment and tasking of a mission and to its success.[36] Most UN mandated operations are multi dimensional, thus allowing space for maneuver. For a peacekeeping operation, mandate gives the ambit of operation by authorizing conduct carry out within the contemplation of a mandate. A UN resolution gives birth to a mandate and without a clear mandate a peacekeeping mission may run into problems.

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[32] Ibid
[33] Ibid
[34]Baregu, M.L. &Landsberg, C. From Cape to Congo Southern Africa's Evolving Security Challenges. Lynne Rienner Publishers, U.S.A 2003 p.261
[35] Gale, Group, *The Blue Berets: Sometimes the United Nations Peacekeeping Effort Prevents or Resolve Grisly Conflicts; Sometimes They Don't* http://ww.thefreelibrary.com/the+blue+berets+sometimes+someimes+the+United+Nations+peacekeeping+efforts... A0137210474 accessed March 11 2013 at 9.30pm.
[36] Sander, J.G. *Nigeria's Global Role in Peacekeeping: From the Congo through Lebanon to Bosnia Herzegovina* in Jega A., et al (Eds) *Nigeria at Fifty, Contributions to Peace, Democracy and Development,* ShehuYar' Adua Foundation, Abuja, 2010 p.81

Lack of clarity in the mandate of ONUC was a major challenge in the operation of UN Peacekeepers. While, the UN Secretary General felt that ONUC should not interferes in the internal Congolese matter. Lumumba wanted to use ONUC to subdue Katanga by force. Referring to the resolution, Lumumba wrote to UN Secretary-General "From these text it is a clear that contrary to your personal interpretation, the UN force may be used to subdue the rebel government of Katanga".[37] This kind of misinterpretation of mandate led to confusion on the best measures to be adopted for achievingthe objective of the Resolution. For example, when the ONUC attempted to enforce the UNSC resolution requiring all foreign mercenaries and political advisors to leave the Congo through "Operation morthor" the effort escalated into open warfare leading to eight days of military engagement between ONUC and the Katangese forces.

Sometimes the situations which the UN peacekeepers encountered on the ground have often been quite different from what they had expected or actually contained in the mandate.[38] This has often required the manager of the operations on the ground to redefine their mission to meet with the twists and turns of the conflicting parties which often may not be in actual conformity with the express provisions of the mandate. The mandate has also been interpreted at the UN that in civil war the role of the UN was that of a neutral mediator. As a result, UN peacekeepers were not to use force except in self defence.

The United Nations Peacekeepers were confronted with this kind of scenario in Katanga province of the Congo when an attempt to arrest Tshombe and some key Katangese officials led to death of several UN troop. In the operation some Irish soldiers were ambushed and killed by

[37] Kyle, K.

[38] In March 2000, the Un Secretary- General, Kofi Annan appointed an International Panel to Look at every aspect of UN Peacekeeping and make recommendation on how such missions can be made more effective. At a press conference that day, Annan clarified the Panel's mandate thus… what do you do if the peace you are trying to keep break-down and large numbers of civilians are in danger of being massacred? See Crosette, B. Annar Sets up Panel to Study U.N's Peacekeeping Predicament: The New York Times 8th March 2000

Baluba tribesmen i.e Niemba Northern Katanga. The UN peacekeeping operations in Congo was drawn into peace enforcement because of lack of clarity in the mandate or change circumstances on the ground. So what ought to be a relatively straightforward tasks of merely policing agreements between warring parties were later turned to enforcement of peace settlement among conflicting parties whose commitment to any peaceful resolution of conflicts was often at best extremely uncertain and at worst no more than a façade behind which to prepare a resumption of hostilities.[39]

4.4.3 Lack of Adequate Fund and Logistical Support

General lack of interest from the superpowers in any conflict also translate to lack of funds and logistical support for the UN Peacekeeping operations. This has been a recurrent problem to UN peacekeeping operations over the years. Secretary General Ban Ki-Moon's desperate appeal for assistance including troops and military equipment has generated little positive response. The UN Under-Secretary General Jean Marie Gueherro, Head of Peacekeeping Operations was more emphatic when he said that the International Community's "Often faltering support for UN Peacekeeping operations was making it difficult to maintain gains in Key conflict area".[40] Little wonder that the former UN Secretary – General Kofi Annan criticized member states for their unwillingness to provide unconditional support for peacekeeping operation. He said that he could understand why same countries would not put troops on the ground in Darfur for reasons that he thought could be acceptable that but could not understand why countries could not spare a couple of helicopters which would be effective in sustaining the operations.[41]

[39]Clapham, C. The United Nations and Peacekeeping in Africa http://www.iss.co.za/pubs/monographs/no3b/unitednations.html accessed March 8 2013at 9.25am.
[40]Deen, T. Africa UN Peace mission Falter. Http://allafrica.com/stories/20080071583.html accessed March 9, 2013 at 11.00am.
[41]Ahere, J.R.

It is on record that ONUC cost the UN not less than $120 million within a year and the debt incurred from the operations nearby bankrupted the UN.[42]

In fact the International Court of Justice (ICJ) had to intervened in resolving the financial issues in the operation of the United Nations Peacekeeping operations in the Congo. During the early phases of the Congo crisis, the UN General Assembly in Resolution 1731 sought the advisory of the ICJ with a view to resolving financial issues in the ONUC this culminated in the certain expenses of the United Nations case Advisory opinion. The facts were that some members of the UN had fell behind the payment of financial contribution assessed by the UN General Assembly United Article 17 of the UN Charted and had refused to accept assessment relating to the financing of the ONUC. Consequently, the UN General Assembly requested for Advisory opinion from the ICJ with a view to ascertaining whether the expenditures authorized by the UNGA on the ONUC and undertaken in pursuance of the UNSC resolutions, constituted expenses of the organization (UN) withinthe meaning of Article 17(2) of the UN Charter. It therefore directed the UN Secretary General, in accordance with Article 65 of the Statute of the ICJ to transmit the present resolution to the court. The court gave its opinion that such expenditure authorized by the UNGA related to the expenses of the organization.

4.4.4 Human Rights Violations and Scandals

The success of any UN Peacekeeping Mission depend to some large extent on the cooperation of the citizens of the country receiving the UN Peacekeepers. The UN peace keeper needs not only be neutral but must endear themselves to the people by respecting and promoting human rights, compliance with rules of engagement, mandate, local and international laws. Unfortunately, this was not always the case in the Congo. There were several reports of UN attacks on Civilian installation in the Congo. Similarly, investigation in 2004 came up with 150

[42] See detail in chapter 3 of this thesis

allegations of sexual misconduct by Peacekeepers and Staff in the United Nations Organization Mission in the Democratic Republic of Congo (MONUC). One found 68 allegations of misconduct in the town of Bunia alone.[43] UN insider told the Times that two Russian pilots based in Mbandoka paid young girls with jars of mayonnaise and jam to have sex with them. They filmed the sessions and sent the tapes to Russia.[44] The Moroccan Peacekeeping Contingent based in Kisangani – a town on the Congo River with no road links to the outside world – had one of the worst reputations. A soldier accused of rape was apparently hidden in the Barracks for a year.[45] In July 2002 the Rebel Commander Major General Jean Pierre Ondekane, who later became the Minister of Defence in Post-War Transition government, told a UN official that all that MONUC would be remembered for in Kisangani was "for running after little girls".[46]Human rights violation and scandals snared the reputation of UN Peacekeeping operation. It was so bad that in 2005 MONUC expelled 63 of its soldiers for refugees children for sex. A separate internal inquiry the same year found that Pakistani peacekeepers sold weapons to militias in exchange for gold[47].

[43]Ahero, J.R.
[44] Ibid
[45] Ibid
[46]Clayton, J. and Bone, J. Sex Scandal in Congo Threatens to Engulf UN's Peacekeeping Times Online London.http://www.timesonline.com.uk/toi/news/world/article405213 cited in Ahere, J.R. Ibid. p.30.
[47] Gibbs, D.N. The United Nations International Peacekeeping and the Question of Impartiality: Revising the Congo operation of 1960. The Journal of Modern African Studies Vol.38 No.3 2000, pp.359-382.

CHAPTER FIVE

SUMMARY AND CONCLUSION

5.1 Introduction

This research analysed the role of the United Nations in the peaceful settlement of African Regional disputes with particular reference to the seemingly intractable Democratic Republic of Congo Crisis which started in the 1960s. The inability of the League of Nations to prevent World War II led to the establishment of the United (UN) in 1945 with the primary purpose to maintain peace and security in the world. The United Nations in its effort to perform its primary function requires member states to settle their dispute by peaceful mean. By Article 25, members agree to carry out the decisions of the Security Council. The function and powers of the six organs are provided under chapter III of the Charter. The United Nations Security Council UNSC, United Nations General Assembly UNGA, the Secretariat and the International Court of Justice ICJ are directly concern with the maintenance of International peace and security.

The UN Charter outline the procedures for conflict resolution in chapter VI, VII and VII. Pacific methods of peaceful settlement are enumerated in chapter VI, and Chapter VII provides for enforcement actions by the Security Council. Both methods have been analyzed as peacekeeping measures, undertaken under taken for the purpose of achieving the objectives of the UN. To fulfill its primary purpose, the UN devised the UN peacekeeping operations since 1948 when the UNSC authorized the deployment of UN military observers to the Middle East to monitor the Armistice Agreement between Israel and its Arab neighbours. Since then, UN peacekeeping system has become fashionable instrument for settlement of disputes. UN Peacekeepers in Africa have been plunged into the most intractable problem in attempting to maintain peace on the region which can be said to be the most violated and unstable regions of

the world. About 77% of all the UN peacekeeping forces were deployed in Africa. In terms of finance, African missions have accounted for nearly 75% of the UN's peacekeeping budget. Despite this huge investment, the UN effort at settlement of disputes, for example in the Congo has only achieved limited success.[1] A search for the reason behind this marginal success by the UN at peaceful settlement of the Congo disputes is to some extent connected with the fact the Congo dispute has a checkered history with so many twists and turns with active involvement of foreign countries such as USA, Belgium, Russia, China, Angola, Namibia, Rwanda, Uganda and Zimbabwe. Unfortunately, the UN effort has not been able to adequately address some of the intrigues and complexities involve in the brutal civil war with multiple warring factions.

5.2 Findings

From the preceding chapters, the study made the following observations and findings. The study revealed that the UN Charter did not setup an objective standard for determination of dispute that is likely to endanger international peace and security. In several Articles such as 34, 36 and 37 of the UN Charter, the United Nations Security Council (UNSC) is to be concerned with the settlement or adjustment of disputes and situations only to the extent that their continuance is likely to endanger the maintenance of international peace and security. The question is how can the UNSC determine whether or not a conflict will endanger international peace and security? It appears that the standard is subjective because the determination of such situations likely to endanger international peace and security depends on the circumstance of each case to be determined either by the General Assembly or the Security Council as the case may be.

[1]Murshed, S.M. *Explaining Civil War: A Rational Choice Approach.* Edward Elgar Publishing, Cheltenhand, 2010, p.121

It is also observed that the overriding hegemonic power of the five permanent members of the UNSC with veto power has in most cases not been unanimous on what kind of measure to employ for settlement of international disputes. For example, by Article 40 of the UN Charter, the UNSC may take such "provisional measures" to prevent an aggravation of the situation which threatens international peace and security. The politics of the UNSC has led to rift in the Council and often prevented the UN from taking quick measures to maintain international peace and security. The Congo crisis started in the 1960 when the cold war was at its peak. The Soviet and the US were actively involved in the Congo crisis. Therefore proxy war ensued between Soviet and U.S. This greatly hampered the UN's effort in the Congo because the two super powers hardly agreed on issues at the UNSC during the cold war period. The Uniting for Peace Resolution which was devised to break deadlock in UNSC has not really prevented rift in UNSC.[2] The Uniting for Peace Resolution states that in cases where the UNSC fails to act in order to maintain International peace and security, owing to disagreement among its five permanent members, the matter shall be addressed immediately by the General Assembly using the mechanism of Emergency special decision.

The study equally observed that the methods of peaceful settlement of disputes under Article 33 of the UN Charter are subject to the consent of the parties and cannot be made compulsory. Parties are not compelled to use any of the stated peaceful settlement resources as they may resort to any means of their own choice.

The research also revealed that though the first phase of the Congo crisis predates the Organization of African Unity (OAU) now African Union (AU), the AU as a regional organization has not played any serious role in the settlement of the Congo Crisis. This has made

[2] The Uniting for Peace Resolution was approved by the UN General Assembly at its Plenary Meeting on 3rd November 1950. This resolution was used in the establishment of the United Nations Emergency Force in Syria in 1956.

UN intervention to look like an imposed military solution which has not address the underlying issues of Congo's crisis. UN is paying too much attention to peacekeeping operations without paying much attention to the origins of the Congo crisis and factors that have led to the escalation of the crisis.

The study also revealed that there was gross under utilization of international court of Justice ICJ as an agency of pacific settlement in settlement of the Congo Crisis.

It was similarly observed that the UN has over the years evolve UN peacekeeping operation as an instrument for maintaining world peace and security. Two of such peace keeping missions were deployed to the Congo. Interestingly the word Peacekeeping is not used in the UN Charter. Therefore, the legal basis of such operations can only be located in the main purpose of the UN and the implied powers of the UNSC.

This study equally found that the mandates of the two UN peacekeeping missions in the Congo were not very clear and therefore subjected to different interpretations by the Prime Minister of the Congo Mr. Lumumba and the UN's official. At other times that mandate could not meet with complex situations in the conflict area.

5.3 Recommendations

In view of the above findings, it is recommended that

1. The UN Charter be amended to ensure that representation at the UNSC particularly the permanent members should be expanded to include at least a member state from every continent of the world. The Articles of the UN Charter that should be amended include 23, 27, 110(3) and 108. The UNSC as presently constituted does not reflect a fair global representation as only three continents out of the seven in the world that are represented. Europe is represented by France, United Kingdom and Russia, North America is represented

by the United States of America, Asia represented by China. This leaves Africa, South America, the Antarctica and Australia with no representation. Little wonder, the former foreign minister of the Philippines said that: It is ironic that in the midst of the rapid spread of democracy in recent years and the expanding membership of the United Nations, the Security Council remains unrepresentative in its size and the geographic distribution of its membership, and undemocratic in its decision making and working methods.[3]

2. The United Nations, Regional and Sub Regional arrangements must put in place robust early warning mechanisms that are capable of detecting and resolving any kind of dispute. The UNSC need not wait until when a dispute is likely to endanger international peace and security before intervention. History has shown that a minor conflict, such as a barrack mutiny in demand for pay raise as in the Congo may trigger serious conflict. When the UN was established in 1945, common disputes were inter states, today common conflicts have been intra state, such as civil wars, often ignited by demand for self determination, desire to control natural resources, ethnic and religions passions. These "local conflicts or minor war" which ordinarily may not attract the attention of the UN because the continuance of such "local conflicts or minor war" may not likely endanger international peace and security have often snowballed into brutal and violent disputes resulting in migration and gross human rights violations. The current position as contained in the UN Charter and interpreted by the UNSC has not permitted the UN from taking unified position on dispute. In fact, the response of the UN to this issue has been divisive. It has ranged from neglect with disastrous results, as in Rwanda, to taken inadequate concern and actions in the Congo.
3. Regional and sub-regional arrangements such as the African Union (AU) and Southern Africa Development Community (SADC) should be more proactive in settlement of the Congo

[3] Nicholas, H.G. *The United Nations as a Political Institution,* University Press Oxford 1975 p.6.

Crisis. The SADC has in 1996 set up a new organ on policies, defence and security to safe-guard the people and development of the region against instability arising from civil disorder, interstate conflict and external aggression to undertake conflict prevention, management and resolution activities, by mediating in interstate and intrastate disputes and conflict pre-empting conflict through an early warning system, and using diplomacy and peacekeeping to achieve sustainable peace. This security arrangement should therefore be supported by the UN and the AU with ways of curbing such attendant problems of difference in style of command and problem of burden sharing as may arise among the contributing states. This will greatly prevent creating another hegemonic influence currently facing the UNSC. Establishment of an efficient African High Command, by the A.U is recommended. When established, it must cooperate with the UN, other sub regional security arrangements such as SADC and ECOMOG. Under this arrangement it will be easy to recruit and place personnel for peace keeping operations in conflict areas. Similarly, qualify personnel for peacekeeping operations can be recruited from the regions where the missions are located. The added advantage is that people with relatively more knowledge of the regions are posted to such areas.

4. UN mandate being a legal instrument which emanate from a resolution authorizing deployment of troops under the UN to a conflict area should be clear and concise. A mandate clarifies what peace mission can do and what it cannot do. Therefore it is should be clear and give room for maneouver should the managers and commanders of operations on the ground need to redefine their mission to address exigency encountered on the ground.
5. Troops to be deployed to UN peacekeeping operation should be properly educated on the relevant laws, such as international and local laws, rules of engagement and mandate, their

responsibilities and duties before being inducted into mission area. Presently, the UN peacekeeping missions in Africa particularly in the Congo, have been snared with scandals. Education and retraining is necessary especially to a soldier who is professionally trained to kill in conventional warfare. UN peacekeeping operation is not a conventional warfare and use of force is based on the rules of engagement allowed by the mandate. It is often based on self defence or protection of civilians. While conventional warfare is offensive in nature, peacekeeping operation is defensive in nature. Thus, strict adherence to the rules of peacekeeping operations may be extremely tasking on the professional disposition of a soldier and therefore requires special training and reorientation.

6. Countries should be ready to discharge their duties to the UN in terms of annual financial contribution to the UN budget, contributing funds, troops and logistical support whenever called upon to do so. Also a dynamic sanction should be put in place on member states that consistently default in its obligations to the world body.
7. Leaders particularly in Africa most respect human rights, rule of law and provide good governance for their people. They must realize that the hitherto sacrosanct concept of sovereignty and doctrine of non intervention which have often been used as a façade to commit crime against humanity and war crimes are fading away because of the forces of globalization and universal respect for human rights standards. Consequently, leaders are being held accountable for their actions while in office.

Finally, it is important to note that in spite of challenges faced, the UN has to some great extent contributed to the peaceful settlement of some disputes in Africa and has contributed to stability in many areas like the Congo which would have otherwise degenerated into

statelessness and lawlessness. What is required is political will by all member states to support the UN towards fulfilling the objectives for which it was created after the World War II.

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