

# **ECOWAS' Role as a Security Organization: The Case of Sierra Leone**

A Thesis Submitted to the College of Graduate Studies and Research

In Partial Fulfillment of the Requirements for the Degree of Master of Arts

In the Department of Political Studies

University of Saskatchewan

Saskatoon, Canada

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## **ABSTRACT**

In 1975, ECOWAS was formed primarily as a regional economic bloc. Through a careful remaking of the original treaty and the addition of new Protocols, it managed to metamorphose into a security organization that ultimately intervened in the humanitarian crisis then unfolding in the West African nation of Sierra Leone. This thesis argued the premise that the intervention was justified for two basic reasons. First, that ECOWAS' founding treaty (including the Protocols) to which all 16 member countries are signatories, gave it the right to do so. Second, the doctrine of Responsibility to Protect provided the legal, moral and diplomatic basis for the intervention.

The utility of this study lies in the idea that it brings to the fore the concept of African solutions for African problems. The ECOWAS mission in Sierra Leone was the first of its kind anywhere in Africa, and it just may be the impetus needed for Africans to come up with novel ideas to resolve some of the myriad issues confronting the continent.

## ACKNOWLEDGEMENT

I owe a debt of gratitude first and foremost, to my supervisor, Professor Jeffrey Steeves, for his support, both academic and personal, during my time in the department. I must also thank the other members of my academic Supervisory Committee, Professors Joseph Garcea and Kalowatie Deonandan, for their critical but constructive contributions to this project. Also, Professor Handy's final appraisal of the thesis proved to be invaluable indeed. And finally, Professor Hans Michelmann. He was a pillar of support through some trying times. *Ich danke Ihnen vielmals.*

## **DEDICATION**

To my Father and Mother:

**Mr. Simon Mawuena**

And

**Mrs. Theresa Mawuena**

Could not have done it without you. Thanks.

## ABREVIATIONS

AFRC.....	Armed Forces Revolutionary Council
AHC.....	African High Command
AR.....	African Renaissance
AU.....	African Union
CEAO.....	Communaute Economique de l’Afrique de l’Ouest
ECOMOG.....	Ecogas Monitoring Group
ECOWARN.....	Ecogas Early Warning and Response Network
ECOWAS.....	Economic Community of West African States
EO.....	Executive Outcomes
FSS.....	Frontline Security Services
ICISS.....	International Commission on State Intervention and Sovereignty
NCBWA.....	National Congress of British West Africa
OAU.....	Organization of African Unity
PMAD.....	Protocol on Mutual Assistance and Defence
PSC.....	Peace and Security Council
R2P.....	Responsibility To Protect
RSC.....	Regional Security Complex
RUF.....	Revolutionary United Front
SADC.....	South African Development Community

UDAO.....Union Duoaniere de l’Afrique de l’Ouest

UN.....United Nations

UNHCR.....United Nations High Commissioner For Refugees

US.....United States

WAEC.....West African Economic Community

## TABLE OF CONTENTS

Permission to use.....	ii
Abstract.....	iii
Acknowledgement.....	iv
Dedication.....	v
Abbreviations.....	vi
Table of Contents.....	vii
<b>Chapter 1: Introduction.....</b>	<b>1</b>
1.2 Methodology.....	6
<b>Chapter 2: Introduction to ECOWAS.....</b>	<b>7</b>
2.1 History of ECOWAS.....	7
2.2 Conclusion.....	18
<b>Chapter 3: Theory of Responsibility To Protect.....</b>	<b>21</b>
3.1 Introduction.....	21
3.2 History of Responsibility To Protect.....	23
3.3 Responsibility To Protect.....	23
<b>Chapter 4: Justification for ECOWAS intervention in Sierra Leone.....</b>	<b>30</b>
4.1 Introduction .....	30
4.2 Brief History of Sierra Leone.....	31
4.3 Significance of ECOWAS Protocols.....	33



4.4 Pre-1999 Protocols.....	35
<b>Chapter V: The Intervention.....</b>	<b>38</b>
5.1 Theoretical Application.....	39
5.2 Responsibility to React.....	53
5.3 Decision to Intervene.....	56
4.8 Conclusion.....	74
<b>Chapter 5: Conclusion.....</b>	<b>76</b>
<b>Bibliography.....</b>	<b>84</b>

## CHAPTER 1

### INTRODUCTION

To better understand the significance of ECOWAS' intervention in Sierra Leone, it is important to understand the region's political, social and economic landscape. It has been described by some as blighted by environmental degradation, corruption of every kind, disease, and grinding poverty. In a sense, Sierra Leone exemplifies some of these problems, especially the problem of precipitous political violence. Robert Kaplan, a journalist, underlines this apocalyptic doomsday picture of West Africa in his essay "The Coming Anarchy" written in 1994, in which he describes the region as '...the symbol of worldwide demographic, environmental and societal stress, in which criminal anarchy emerges as the real "strategic" danger.'<sup>1</sup>

To this depressing scenario he added the picture of a region beset by "...the withering away of central government, the rise of tribal and regional domains, the unchecked spread of disease and the growing pervasiveness of war."<sup>2</sup> Much of what he wrote mimicked prevailing conventional wisdom which in hindsight, proved to be a bit of exaggeration. All the same, there were some elements of truth in these assertions as the region grappled with some real and interminable issues such as security threats, low levels of economic development, political instability and lack of social cohesion. If there were problems, which undoubtedly there were, the question then becomes what to do about them.

There is no shortage of literature professing well intentioned "solutions" to these problems, but a great deal of it is thoroughly de-contextualized, meaning that the sort of "corrective measures" being proposed and implemented either fail to factor in the African experience [which often means that Africans are drafted in only as front men and women] or are based totally on foreign templates. In terms of economic development and security for instance, the emphasis "... should be about building viable and sustained structures,... owned by African peoples and communities."<sup>3</sup> This view informs the paper's attempt to demonstrate that complex socio-cultural phenomena, economic development and security models within the African setting are

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<sup>1</sup>Robert Kaplan, "The Coming Anarchy," *The Atlantic Monthly* 273 (1994): 44-77.

<sup>2</sup> Kaplan 44-77

<sup>3</sup> David J. Francis, *Uniting Africa: Building Regional Peace and Security Systems* (Hampshire: Ashgate, 2006) 2.

not necessarily amenable to the conventional dictates of Western typologies. It is the position of this paper that the outcome of political attempts to resolve social and political conflicts in the African context is more likely to be positive if the initiative to resolve them are proposed and implemented by Africans themselves. If the problematical history of the prevailing paradigm which sees African issues through Western lenses is any guide, then alternative conceptual approaches to conflict in West Africa like the one being proposed here, deserve at the very least, more than a passing academic interest.

Consequently, West African military intervention in Sierra Leone is analyzed in this light. This was the second military adventure in the space of a few years that ECOWAS had undertaken, although some may argue that this and the earlier Liberian mission constitute different stages on the same continuum. Whichever way one looks at it, the involvement of ECOWAS can be construed as the beginnings of a paradigm shift away from notions that effectively define security in terms of external [American and European] military arrangements. This new paradigm practically sidelines international guarantees of the inviolability and the territorial integrity of the nation state except under rigidly defined circumstances. Now, it favors a philosophy based on robust military engagement by regional powers in the face of destabilizing inter or intra state conflict.

Significantly, there is no comparable history of regional military intervention anywhere on the African continent. There is therefore the real danger that this experiment could set a dangerous precedence with ramifications not yet fully understood. If this kind of interventionism is accepted as a legitimate manifestation of interstate engagement, so called “weak states” have every reason to feel threatened by an international regime that legalizes the breach of the territoriality and sovereignty of the nation state. This is even more apparent if one considers the fact that in practical terms, only the “strong” can intervene in the affairs of the “weak” and not vice versa. This conclusion is based on the most commonly used model of conflict resolution/peace enforcement in the third world which, as a rule, revolves around economic/military sanctions or peacekeeping, both usually underwritten by big powers and/or multi-lateral institutions like the UN. Although this model does not exactly define political sovereignty as sacrosanct, it at least gives countries in conflict a say in the decision making process, albeit in a purely academic or theoretical sense. The question is, is the Westphalian

model more viable than the collective regional security model deployed by ECOWAS? The thesis shows that although so called “weak” states may have legitimate concerns, the “new” model yields better dividends all round.

The essay is built on two core arguments. The first hinges on empirical evidence suggesting that solutions to African conflict situations based on foreign archetypes are not particularly useful, given that their point of departure, for the most part, is built on uncritical ignorance<sup>4</sup> of the continent. Negative views, such as those that see Africa as “...no historical part of the world... has no movement or development to exhibit,”<sup>5</sup> do very little to enhance our understanding of the issues facing the continent. The second argument justifies the intervention in Sierra Leone under the doctrine of Responsibility to Protect (hereinafter referred to as **R2P**). To do this, the thesis traces the history of ECOWAS, its creation and expanding mandate. It also touches on the political economy of the Sierra Leonean state including analysis of circumstances leading to the conflict, and its historical antecedents. Also included in the analysis are the many contemporary trigger issues like democratic deficit leading to a culture of strongman rule both military and civilian, and the patrimonial style of resource distribution. This is followed by a comprehensive look at ECOWAS’ motivation for launching this military intervention within the conceptual framework of its own rules and regulations, and the rules and regulations of other international bodies to which they belong. The significance of this lies in the novelty of ECOWAS’ organizational structures as it pertains to security and the historicity of the ideas behind the decision to intervene.

The paper is organized into six different but interrelated chapters. The introduction lays out a detailed explanation of the focus, purpose, goals, central argument and methodology and organization of the thesis. This is followed by the chapter on ECOWAS. It traces its history as a regional institution (from its pre creation period through the various periods of mandate expansion and its gradual evolution as a mechanism for collective defense), culminating in the adoption of the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security in 1999. This protocol became the flagship document that

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<sup>4</sup> Benedikt Franke, Security Cooperation in Africa: A Reappraisal ( Boulder: First Forum, 2009) 3

<sup>5</sup> Franke 3

explains the Community's thinking and its aspiration towards collective security, and provides a legal framework for its actions in the defense and security domains.

Chapter Three provides the theoretical underpinnings of the thesis with a discussion of R2P. R2P generally postulates that old Westphalian notions of sovereignty and the nation state notwithstanding, the international community has a duty to protect non-combatants from the excesses of war if the individual state or states are unwilling or unable to do so. The thesis justifies the intervention within that context. The issues addressed include the obligation of the international community, to protect Sierra Leonean civilians and by extension the Sierra Leonean state which at the time, had all but ceased to exist. It also defines in specific terms what constitutes the "international community" in this context.

Chapter Four deals with the justification for the intervention by tracing the relevant history of Sierra Leone, mapping a trajectory of its gradual descent into political and economic chaos from a rather promising post-colonial beginning. As this is an international relations thesis rather than a purely historical documentation of facts, this historical analysis is guided by two claims. The first is that homegrown solutions provide the best chance of success in the region. This is against the backdrop of the idea of "African solutions" to African problems which is just now beginning to rise to the forefront of the debate on Africa's position in the world. In its basic form, this denotes a sort of Pax Africana that is protected and maintained by Africa itself.<sup>6</sup> However, there is a distinct paucity of authoritative academic opinions on the issue. This aspect of the thesis seeks to make a positive contribution to the debate in the hope that the flame of the so called African Renaissance (AR) as espoused by such African leaders as Thabo Mbeki does not flicker out in the face of other competing ideologies of international relations.

Chapter Five focuses on the intervention proper within the context of the doctrine of R2P.

Also, in this same chapter, it will be necessary to conceptualize the precise basis of conflict in Sierra Leone. It has been variously described as conflict over alluvial diamonds or a violent reaction against the patrimonial state. This essay asserts that not all conflicts fit nicely into the straightjacket of academic theory and that this is the case here. The mastermind of the insurrection, Foday Sankoh, professed no known political or economic ideology. Much of what

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<sup>6</sup> Franke, 2

is known about him now suggests that his primary motivation had very little to do with alluvial diamonds and even less with political ideology, although he and his movement profited handsomely from the sale of the gems. And so we would have to find other ways of defining him and his movement. The conclusion ties everything together into a singular thesis argument that the model of intervention seen in Sierra Leone was a novelty whose template of a new and emerging security arrangement underwritten collectively by regional powers should be seen as desirable and capable of replication elsewhere.

## **1.2 Methodology**

The qualitative methodology used here relies heavily on both primary and secondary resources. It identifies the key policy manuals of ECOWAS such as *The Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security* and establishes the mechanism by which they provide the legal and theoretical basis for the regional quest for collective security. Memoirs by the key actors and public records of individuals and the various State governments will help our understanding of the motives for war and at the same time help construct the argument characterizing the conflict and subsequent intervention as an interplay of a complex set of socio-cultural and political issues.

## CHAPTER 2

### INTRODUCTION TO ECOWAS

#### 2.1 Introduction

The chapter provides an historical overview of events leading up to the creation of ECOWAS, starting in its nascent years and ending in 2001 when the last of the significant protocols dealing with security and human rights were signed. It started with a simple desire for cooperation between the individual colonies during the period of European domination, when the West African mindscape was intrinsically regional in outlook. Unfortunately, the dearth of quality leadership to give meaningful expression to these aspirations meant that progress was slow. To compound the problem, colonialism and subsequently Cold War politics made it extremely difficult for aspiring patriots and nationalists to organize in pursuit of this goal. Despite these problems, a breed of leaders emerged who were more assertive and determined to make their voices heard. In the mid nineteenth century, “Africanus Beale Horton of Sierra Leone... had as early as 1867 called for ‘self government’ of Western Africa.”<sup>7</sup> Towards the late nineteenth and early twentieth centuries, Edward Blyden , who most people consider to be the ideological godfather of the idea of West African unity,<sup>8</sup> appeared on the scene preaching cultural nationalism. J.E Casely Hayford gave concrete expression to this ideal when he formed the National Congress Of British West Africa (NCBWA) in the nineteen twenties with political and economic objectives<sup>9</sup>.

After independence, Kwame Nkrumah, president of newly created Republic of Ghana, had this to say on the subject in 1964: “I see no reason why the independent African States should not, with advantage to each other, join together in an economic union.”<sup>10</sup> When he commissioned the Volta River hydroelectric project a few years later, he emphasized that “...we are ready and

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<sup>7</sup> Asante, S.K.B, Political Economy of Regionalism in Africa: A Decade of Econ. Community of West African States (ECOWAS) (New York: Praeger, 1986) 45.

<sup>8</sup> Asante 45

<sup>9</sup> Asante 45

<sup>10</sup> Kwame Nkrumah, Dark Days In Ghana, (New York: International, 1969) 88.

prepared to supply power to our neighbors in Togo, Dahomey, Ivory Coast and Upper Volta. As far as I am concerned, this project is not for Ghana alone.”<sup>11</sup>

This idea of West African unity was picked up on by the second generation of post colonial leaders, but they had to navigate the delicate waters of linguistic and political divisions. This was due largely to French neo-colonialist and imperial activities in the region. The neutralization of the French factor as an impediment to greater sub-regional cooperation<sup>12</sup> paved the way for a treaty to be signed in Lagos in 1975 establishing the Economic Community of West African States. Then the Cold War ended. This intervening event drastically altered the variables on which regional economic, political and security thinking was based. Suddenly, Washington, London, Paris and Moscow were unwilling or unable to bankroll their client states in West Africa. It would have been a benign undertaking to recalibrate their resources and thinking in response to this phenomenon if West Africa did not find itself under assault from a different set of circumstances.

The post Cold War period heralded the beginning of intense social, political and security upheavals across the region, some of it externally motivated. Imageries of the withering away of central governments, the rise of tribal and regional domains, the unchecked spread of disease and the growing pervasiveness of war,<sup>13</sup> are undoubtedly exaggerations, but they provided a snapshot of the type of issues leaders had in mind when they shifted emphasis away from economic integration to collective security as a pre-requisite for the latter. The idea that West African intervention in Sierra Leone is justified under two different scenarios—ECOWAS’ own Charter and Protocols, and the concept of The Responsibility to Protect (R2P)-- is argued against this backdrop.

## **2.2 History of ECOWAS**

Efforts at political, economic and security integration in West Africa began in the early post colonial period, starting with the former Ghanaian leader Kwame Nkrumah’s idea of a continental union government preceded by an African High Command. The objectives of this military construct (AHC), according to him, were threefold, namely to defend the increasing

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<sup>11</sup> Nkrumah 88.

<sup>12</sup> Asante 54.

<sup>13</sup> Kaplan 44-77



number of independent African States from imperialist aggression, to offer African states a feasible alternative to disadvantageous military pacts with Cold War powers and to spearhead the liberation of areas still under colonial and white supremacist control.<sup>14</sup> Although some writers point to a much earlier beginning, for our purposes, this is a good starting point. Nigeria's Abubakar Balewa led the opposition to the concept of African security integration on the grounds that economic integration must necessarily precede political union, probably reckoning that a future economically powerful Nigeria would be in a better position to shape the destiny of the region to its advantage. At the time, Francophone and Anglophone West Africa inhabited two parallel universes at the state level, aside from the lingering rivalries within the communities themselves, [Ghana and Nigeria within the anglophone axis, for example]. Nonetheless, incentives for broad regional cooperation and or integration were still potent. The first post-colonial attempt at integration, rather than mere cooperation, took place in the Nigerien capital of Niamey in 1966 attended by 11 regional states. At this meeting, several recommendations were adopted regarding the establishment of economic cooperation among the member states of the sub region.<sup>15</sup> At a follow up meeting in Accra, Ghana in 1967, 12 out of the 14 independent states in the region adopted the Articles of Association of the West African Economic Community (WAEC) committing themselves to establishing a sub-regional common market. The actual protocol establishing the Community was signed in a follow up conference in Monrovia , Liberia in 1968.

However, linguistic differences exacerbated by French post colonial interests in the region prevented any concrete steps from being taken in the aftermath of the 1968 conference. Seven francophone countries-- La Cote d'Ivoire, Mali, Upper Volta (Burkina Faso), Senegal, Dahomey (Benin), Niger, and Mauritania-- had previously formed in 1959, and reformed in 1966, a *Union Duaniere de l'Afrique de l'Ouest (UDAO)*. In 1970, they went a step further by signing a protocol agreement signaling their intent to harmonize their common market in the form of a *Communaute Economique de l'Afrique de l'Ouest(CEAO)*. In 1973, they formalized this intent by ratifying the treaty officially creating a brand new organization which came to be known by its French acronym "CEAO." Togo, along with Dahomey, two of the francophone countries in the region, meantime were on the outside looking in. Their political leadership took a broader

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<sup>14</sup> Franke 51

<sup>15</sup> Asante 50

view of regional unity. Rather than pursue language solidarity, they opted to work to achieve regional integration across the linguistic divide<sup>16</sup>. Togo, being relatively tiny both in geographical and economic terms, formed a geo-strategic alliance with the much bigger and altogether richer Nigeria to announced an embryonic West African Economic Community in 1972; it was to include all the geographical entities in the region at some future date.

The francophone” CEAO” perceived this event as a direct and imminent threat by the Nigerian hegemon to their collective interests. They repudiated the nascent West African Economic Community at every turn and sought to strengthen their ties to the colonial power and also among themselves, and certainly to the exclusion of their anglophone and lusophone neighbors.<sup>17</sup> “CEAO’s” creation is seen by some as a politically inspired scheme by France to counter this perceived Nigerian desire for regional dominance.<sup>18</sup> This is not totally unfounded since by some accounts Nigeria’s motivation for trying to bring together all the countries in the region under a single umbrella “...was prompted by [its] determination to consolidate and develop its own political and economic leadership in the region”.<sup>19</sup>

Undeterred by the seeming recalcitrance of the francophone bloc of countries, Nigeria and Togo jointly set up a commission in 1973 to persuade the rest of the region through shuttle diplomacy, of the viability of their proposed brainchild, the West African Economic Community, WAEC. At a conference in Lome, Togo the following year, the original proposals of the commission were adopted by the assembled delegates from a substantial majority of regional states. These proposals served as the blueprint for a comprehensive treaty signed in Lagos by the summit of Heads of State and Government in 1975, subsequently ratified by all 16 member countries, establishing ECOWAS. The general objective of the Community centered around promoting “...economic development by establishing a common market and harmonizing a variety of economic...and monetary policies”.<sup>20</sup> Article 13 of the treaty provided for the “...establishment

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<sup>16</sup> Ibrahim A. Gambari, Political and Comparative Dimensions of Regional Integration (New Jersey: Humanities, 1991) 27.

<sup>17</sup> Gambari 27

<sup>18</sup> Gambari 27

<sup>19</sup> Peter Robson, Integration, Development and Equity: Economic Integration in West Africa (Boston: George Allen, 1983) 56.

<sup>20</sup> Robson 99

of a customs union to be phased in within a period of 15 years.”<sup>21</sup> When it was first chartered, ECOWAS was described with more than a little hint of optimism as “...the first potential success for Third World integrative enterprise”.<sup>22</sup> The operative word here is “potential” as the organization embodied the hopes and aspirations of millions of its people in a region where very little of that type of thing existed before. However, this is not unique to West Africa as there are documented instances of similar ventures elsewhere in the third world.

An interesting and important question is how did an institution set up for the express purpose of economic integration, evolve into its new role as a regional peace, security and conflict management and resolution mechanism? The question could also be asked how a collection of developing cash strapped economies in West Africa decide to devote colossal amounts of resources to security and peace initiatives instead of doing the obviously rational thing by investing the said resources in human development and economic infrastructure?

The answer lies in a variety of historical happenstance. Initially, post-colonial and Cold War era security thinking in West Africa was dominated by the attitude, mistaken or not, that the superpowers and their allies would always provide security for the states and, in particular regimes that had close relations and were of strategic interest<sup>23</sup> to Cold War politics. The end of the Cold War radically altered the global dynamics of international relations. Suddenly, these Cold War era economic, political and military alliances that formed the bedrock of interstate relations in the region became very fluid and no longer carried the same strategic importance they used to, it least in terms of superpower and major power thinking. With the threat of communism gone, West Africa’s importance as a geo-strategic sphere for the West diminished considerably along with the need for client states. West Africa’s geo-strategic in the Cold War era is defined strictly in terms of the West’s determination to stop the spread of communist influence anywhere in the world. The implosion of the Soviet Union itself meant that even if it (Soviet Union) wished it, they had very little capabilities to project power outside their own borders, much less guarantee the security of any client state. Clientelism was on its last legs and the leaders of the West African sub region knew it.

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<sup>21</sup> Gambari 28

<sup>22</sup> Julius E. Okolo, “The Development and Structure of ECOWAS.” West African Regional Cooperation and Development. Ed. Julius Emeka Okolo and Stephen Wright (Boulder: Westview,1990) 46.

<sup>23</sup> Francis 48

Also, after centuries of colonial exploitation and another couple of decades of post-colonial manipulation and political and economic marginalization in which Africa itself was described as the “unrewarding gyrations of barbarous tribes in picturesque but irrelevant corners of the globe”<sup>24</sup>, the regional leadership figured out that the opportunity presented by the end of the Cold War was one that should be seized to forge a new beginning instead of continuing the farce of depending on the benevolence and largesse of external benefactors to finance its development and build credible defense capabilities.

However, the paucity of military and economic resources across the region meant that no one country had the wherewithal to ensure its own security in any meaningful way, with the possible exception of Nigeria. For reasons that were not totally obvious, the economic integration that was supposed to lift the region out of dependency, was proceeding at a snail’s pace<sup>25</sup>. At the same time, both internal and external security challenges continued to pose a real threat to the political and geographical constructs throughout the region. In the 1970s, “the sub-region was faced with the constant threat posed by violent and bloody military coups d’etat, interstate wars, border disputes, the Biafran civil war in Nigeria, extra regional interventions and foreign backed mercenary activities, such as in Cape Verde, Benin and Guinea.”<sup>26</sup> The status quo being no longer tenable, a new way of thinking was required for the ECOWAS to remain relevant.

In 1991, ECOWAS officially launched itself on a path of renewal and relevance in Abuja, Nigeria. In a document titled “Declaration of Political Principles”, ECOWAS set out a strategic vision of the future, “...deeply conscious of the rapidly changing international political and economic landscape”.<sup>27</sup> The most pressing need at the time was the promotion of “...better relations among themselves...by ensuring a stable and secure political environment in which [their] peoples can live in freedom...under the law and in true and lasting peace, free from any threat to or attempt against their security...”<sup>28</sup>

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<sup>24</sup> Francis 15

<sup>25</sup> Robson 94

<sup>26</sup> Francis 145

<sup>27</sup> Anatole Ayisi, ed. *Cooperating for Peace in West Africa: An Agenda for the 21<sup>st</sup> Century* (Geneva: Switzerland, United Nations Publications, 2001) 9

<sup>28</sup> Ayisi 9

The realization of the need for change, is not nearly sufficient in itself to bring about the desired change, although it could serve as a good starting point. West Africa's desire for change was not going to happen simply because they wished it. It would only happen as a result of conscious pro-active efforts of the seekers of change. In this case, the sought for change must manifest itself in new and improved institutions and also in the lives of the people, and that entails managing it in a way that is both sustainable and beneficial. In 1993, the decision was made to revise the entire ECOWAS treaty to better reflect the new realities of the international system. These new changes coincided at the time, with a change in the dynamics of international relations that were considerably different from those in 1975, in part due to the incidence of radical global post Cold War political and security realignments.

Although ECOWAS still held fast to the concept of "cooperation and integration leading to the establishment of economic union"<sup>29</sup>, these changes, manifested in their new charter, reflected the reconfiguration of priorities. This did not necessarily imply that the dual concepts of economic integration and security became mutually exclusive; on a rational and practical level, they were seen as rather complementary. This new "Security First" paradigm was to rival the necessity of economic integration but not replace it. The significance of the narrative here is the "...obvious linkage between security and development"<sup>30</sup>.

In order to truly understand the magnitude of change at the psychological level wrought by this new treaty signed in Cotonou, Benin in 1993, it is necessary to contrast some of the key provisions of both the old and new documents. The old document contained 14 chapters and 65 articles while the new one had 22 chapters and 93 articles. The old one focused almost exclusively on economic issues and customs union. The 1993 version added chapters dealing mostly with issues of peace and collective security. Article Four of the 1993 document articulated the very basic principles of the new organization. Ten of eleven principles in this section dealt in some shape or form with cooperative security and peace.<sup>31</sup>

Another innovative aspect of the new treaty was the prioritization of security cooperation as a prerequisite for economic integration rather than the other way round. It also reaffirmed the

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<sup>29</sup> Ayisi 10

<sup>30</sup> Ayisi 11

<sup>31</sup> Ayisi 11

various existing protocols, the Protocol on Non Aggression, Protocol on Mutual Assistance on Defense, and the African Charter on Human and Peoples Rights. Taken together, they formed the basis of security and confidence building among member states. The 1975 treaty singled out industry, trade and culture as the main areas of cooperation. In 1993, they went further to institutionalize "...political, judicial and legal affairs, regional security and immigration issues".<sup>32</sup> In concert, these new additions represented a seismic shift from the original tenets of the organization and in the process forged a new identity for the old union. In the wider African context, the preceding period, from colonialism to the immediate post Cold War era, saw the entrenchment of state sovereignty and territorial inviolability as cornerstones on which the rules of engagement in the conduct of interstate relations were built. Then, security in the region was perceived largely as external threats to political sovereignty and territorial integrity while internal factors such as bad governance, ethno-religious divisions, repressive internal state security apparatus, institutional corruption etc. were never seriously considered part of the discussion. The Cotonou Treaty served as the watershed mark. It recognized the rapidly changing political economy of the region and the need to address conflict instigating practices such as under-development, institutional corruption and massive state sponsored human rights violation as part of the new strategic thinking. It took another six years of foot dragging and political inertia for the organization to develop, address and incorporate the preceding issues (internal conflict instigating factors) into the new document signed in Benin.

And when it happened, it was a significant departure from the moribund lethargy that existed before. As stated elsewhere, the original treaty did not make any meaningful provisions for cooperation on defense. The various Protocols dealing with the issue of security were added to the original document almost as an afterthought, a sort of concession to theoretical necessity. Beginning in 1978, ECOWAS came up with the first prototype document on defense cooperation, the Protocol on Non-Aggression. It enjoined the signatories to refrain from, among others, any acts or omissions that were likely to lead to interstate conflict. However, it did not address the question of interference from outside the region or indeed internal insurrection attributable to bad domestic policies. It was replaced by the Protocol for Mutual Assistance on Defense signed in 1981 but which only entered into force in 1986. In a sense, this was the first

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<sup>32</sup> Ayisi 13

real and concise effort at collective security, and it sought to correct the obvious shortcomings of the previous Protocol on Non-Aggression.

The Protocol for Mutual Defense stipulated that “units from the armies of ECOWAS countries will constitute an allied force of the community under a Force Commander.”<sup>33</sup> This meant that for the first time ever, ECOWAS would institutionalize a fully armed, combat ready military unit capable of forcefully intervening anywhere in the region in the event of conflict.<sup>34</sup> There were also plans to streamline logistics, troop movement, personnel and equipment. The document envisaged three scenarios in which the organization could be called into action: external aggression from outside the region, hostility between member states and internal conflict within member states.<sup>35</sup> In terms of the third scenario, it came with the proviso that the community shall act only if the conflict is precipitated by external influence.<sup>36</sup> This perhaps was a nod to the prevailing conventional wisdom of the era which effectively deified the concept of non interference and the territorial integrity of the nation state. However, it did not confront the endemic problems resulting from bad internal governance. Subsequent developments within the community would expose it as an instrument of rhetoric rather than effective action.

ECOWAS’ very obvious shortcomings were exacerbated by the fact that existing political, economic and security arrangements between it and most of the rest of the world were based on unequal partnership, with West Africa mostly being the weaker partner. If the region was going to extricate itself from these exploitative and ultimately ruinous arrangements, it needed new tools. In terms of defense, the Protocol on Mutual Defense was clearly inadequate as an instrument of collective security, especially given the fact neither of these two aforementioned protocols [Mutual Defense and Protocol on Non-Aggression] were ever actually implemented.

The fluid events of the Liberian civil war in the 80s for instance exposed its inadequacies faced with a complex conflict situation. The Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, a sequel to the Protocol on Non-Aggression, was negotiated and promulgated in 1999 not only as a corrective measure, but

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<sup>33</sup> Okolo 40.

<sup>34</sup> Okolo 40

<sup>35</sup> Franke 65.

<sup>36</sup> Franke 65

also as an all encompassing framework within which West Africa's collective security would be realized. This framework was seen as the enabling instrument designed to tackle the same issues of interstate and intrastate security, but this time they were going to do it effectively using homegrown resources. These include not only using only West African armies, but they will be used to directly intervene in the internal affairs of member countries. It set out to institutionalize structures and processes that will ensure consultation and collective management of regional security issues.<sup>37</sup> This, perhaps was precipitated by events such as the intense negotiations and lobbying among member states that preceded the decision to intervene in Sierra Leone. It also provided for, among others, the institution of Mediation and Security Council charged with not only taking decisions on peace and security, but also advising the Authority of Heads of State and Government,<sup>38</sup> the highest decision making body of ECOWAS.

Still on the topic of the Protocol Relating to the Mechanism on Conflict Prevention, some writers characterized it as the collective aspirations of people in the region to “institutionalize structures and processes that will ensure consultation and collective management of regional security,”<sup>39</sup> and allow for rapid response to crisis. Indeed, Benedikt Franke, a security consultant on Africa, declared that the document was “an imperative necessity which aims at creating the conditions that will allow West Africa to promptly react in situations of crisis.”<sup>40</sup> It is the first and the most “comprehensive and multi dimensional architecture for regional peace and security”<sup>41</sup> on the African continent, and a vast improvement over previous protocols.

Some of the worthy innovations are found in Article IV, chapters 23 and 24. These articles provide for the establishment of early warning systems for conflict prevention and they were to be positioned in different zones across the region. The purpose of the ECOWAS Early Warning System [ECOWARN] is to “detect, monitor and analyze signs of threats or breakdown in relations within or between member states.”<sup>42</sup> In other words, ECOWARN became a tool for threat perception analyses and risk mapping. Given the history of the neighborhood, this amounts

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<sup>37</sup> Franke 66

<sup>38</sup> Franke 66

<sup>39</sup> Franke 66

<sup>40</sup> Ayisi 19

<sup>41</sup> Francis 172

<sup>42</sup> Franke 198



to a giant capacity building initiative whose utility to the cause of conflict prevention cannot be overstated.

Another positive development is found in Chapter 17. It reinforces the concept of mediation through the establishment of a Mediation and Security Council. It is liaised with the “Defense and Security Commission, Council of Elders and ECOMOG, with a mandate covering conflict prevention and management, resolution and peace keeping.”<sup>43</sup> The Mediation and Security Council seem to play the role of an oversight committee, coordinating the activities of these other important organs to detect and mediate actual and potential conflict situations before they boil over. Failing that, ECOMOG exists to back mediation efforts with military muscle. It seems to be the most important of these new institutions, comprising brigade size combat troops from member countries ready to be deployed, and constituting a “...permanent peacekeeping and conflict management mechanism.”<sup>44</sup>

The Mechanism is not just geared towards addressing offensive action in actual and potential conflict situations. Article 31 outlines the composition of an unarmed group of civilian and military personnel to be deployed as an observer mission<sup>45</sup> to serve as a bulwark against belligerence in potential trouble spots. It also provides for a Special Representative of the Community who will serve as its chief diplomat in for instance negotiating an end to “complex political emergencies”<sup>46</sup> before the use of force is contemplated. As a corollary, a supplementary Protocol on Democracy and Good Governance was negotiated in 2001. Although it dealt mainly with issues of democracy and governance, it also incorporated guidelines for civilian control of allied armed forces, the imposition of sanctions in the event of an abrogation of elective democracy or massive violation of human rights. Taken together, the Protocol Relating to Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security and the Protocol on Democracy and Good Governance form the basis of ECOWAS’ Conflict Prevention Framework, while ECOMOG provides the muscle for the kind of vision the organization sought to project at that point. The reason for the extensive expose on the

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<sup>43</sup> Francis 173

<sup>44</sup> Francis 173

<sup>45</sup> Francis 173

<sup>46</sup> David J. Francis, Uniting Africa: Building Regional Peace and Security Systems, (Burlington: Ashgate, 2006) 140.

Mechanism is that the document's existence is directly attributable to the events in Liberia and Sierra Leone.

### **2.3 Conclusion**

This chapter has two goals. First, it traces a brief history of ECOWAS, focusing mainly on episodic events that enhance our understanding of the organization. Second, it charts the evolution of the organization from its beginning as a proposed instrument of economic cooperation and integration. It evolved into a fully functioning tool of regional collective security demonstrably capable of serving the needs of its component units. In tracing this history, the thesis does not necessarily recount details of events in a chronological order. Rather, it merely sketches a broad historical outline, touching on significant issues and events, in so far as they contribute to our understanding of the organization's evolution. These include colonialism's role, the impact of the Cold War and its direct effects on the Community's policy initiatives and the role of poverty, economic underdevelopment and political instability in shaping its core institutions.

In mapping ECOWAS' evolution, it is important to point out that the focus here is on security and defense arrangements, an area in which it has been a continental trailblazer on how to organize effective collective defense for the common good. Although it can be argued that a sequence of unanticipated events rather than design forced the hand of policy makers into prioritizing collective security over economic integration, the events in Sierra Leone were a well thought out reaction to an unfolding regional crisis. This chapter therefore helps refine the proposition that the intervention in Sierra Leone was justified and necessary, a natural consequence of ECOWAS' evolutionary process.

## CHAPTER 3

### THEORY OF RESPONSIBILITY TO PROTECT

#### 3.1 Introduction

The global political landscape is littered with instances of shocking humanitarian catastrophes perpetrated by governments against their own peoples and sometimes by states against other states. For the most part, the international community has been known to stand aside and watch as gruesome events unfold. This inaction has often been rationalized in terms of the hitherto sacrosanct concept of the territorial inviolability and non-interference in the internal affairs of sovereign states. The 1994 Rwanda genocide, the Russian invasion of Chechnya, the Pol Pot pogroms in Cambodia, the Holocaust and the Srebrenica massacres are but a few of the episodes that shocked the world's conscience. Unfortunately, very little was done to save defenseless civilians from a well armed and determined foe until it was too late. In response to the seeming indifference of the international community in the face of such mass atrocities, a new concept emerged, that of the "Responsibility to Protect."

This chapter discusses this concept and the factors that led to its emergence and codification. It also argues that the "Responsibility to Protect" was the basis for ECOWAS' involvement in the Sierra Leonean conflict. This is done by tracing the antecedent to the theory, the relevant events preceding and leading up to the codification of the concept in its current form, and establishing a link between the concept and ECOWAS' Sierra Leonean mission.

#### 3.2 History of Responsibility to Protect

The history of the concept of "Responsibility to Protect" (or R2P) began in the seventeenth century, when the treaty of the Peace of Westphalia established the foundations of the modern geo-political state. The treaty formally defined the legal characteristics of a state. They include territory, authority, population and above all, the concept of sovereignty which gave it the unfettered rights to self-government, non-intervention and freedom from interference in its

internal affairs.<sup>47</sup> It ensured that the nation states of Europe dealt with each other as equals, under rules that were already determined and codified. The rules were meant to put an end to Europe's history of bloody wars and establish a semblance of civility on the continent.

However, the intervening 400 years saw a "...long and unhappy litany of...massacres and other atrocity crimes...",<sup>48</sup> despite, or maybe because of the institutionalized concept of non intervention in the internal affairs of sovereign nations. These include Turkish killing of over a million Armenians in 1916, Stalin's purges in the Soviet Union and the decimation of the Chinese population by Mao Zedong's communists. This is not say that massacres did not exist before these current examples. The idea is that the concepts espoused in the Treaty do not appear to have had any impact on humanity's desire to curb the excesses of war.

There were early challenges to the unrestricted rights of sovereignty in defense of populations at risk. In 1884, the first Geneva Convention "... explicitly obliged states to give certain protection to citizens of other states in times of war."<sup>49</sup> Two decades later, the Congress of Berlin in 1884 enjoined the major powers at the time to "...watch over the preservation of native tribes and to care for their improvement..."<sup>50</sup> One year later, the Vienna Final Act which ended the Napoleonic Wars "...offered protection in some contexts, for political and national minority rights."<sup>51</sup>

After World War I, the League of Nations also mandated a system of trusteeship for colonial peoples, directly institutionalizing their development and welfare, and addressing the needs of refugees.<sup>52</sup> The end of World War II brought to the fore the need for some kind of rigorous and formal international regime for the prevention of the type of mass atrocity crimes the world had just witnessed. The UN Charter of 1945, the Universal Declaration of Human Rights and the Convention on the Prevention and Punishment of Genocide, both in 1948 were steps in this direction. They imposed on the international community the obligation to intervene in situations

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<sup>47</sup> Luke Glanville, 'The Antecedents of "Sovereignty as Responsibility."' European Journal of International Relations 17.2 (2011): 233-255.

<sup>48</sup> Gareth Evans, Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All. (Washington: Brookings, 2008)16

<sup>49</sup> Evans 18

<sup>50</sup> Evans 18

<sup>51</sup> Evans 18

<sup>52</sup> Evans 18

of appalling human rights violations. It should be noted that there were serious reservations about this “right” especially from certain entities in the global south who saw it as a form of neo-colonialism by other means.

The real breakthrough in terms of strengthening the obligation to intervene came in 2001 when the International Commission on Intervention and State Sovereignty (ICISS) introduced to the debate the concept of “Responsibility to Protect” which described the obligation of states to prevent and respond to these human rights catastrophes...<sup>53</sup>, with the understanding that sovereignty also means responsibility.<sup>54</sup> The UN formally endorsed “R2P” at the World Summit in 2005. It proclaimed that, “Each individual state has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity.”<sup>55</sup> If a state is unable or unwilling to do so, then it gives the international community the right to take action. As the UN stated:

“we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.”<sup>56</sup>

### **3.3 Responsibility to Protect**

In discussing the concept of “Responsibility to Protect,” this thesis relies heavily on the ICISS report as it is the most coherent and authoritative pronouncement on the subject to date. As has been previously suggested, the international community’s inability or unwillingness to intervene when mass atrocity crimes were being committed was due in part, to respect for the sovereignty principle . However, a series of catastrophic humanitarian events demanded that the international community take action to stop the recurring carnage or risk lawlessness and the loss of

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<sup>53</sup> Evans 31

<sup>54</sup> Evans 32

<sup>55</sup> United Nations. 15 Sept.2005 < [http://globalr2p.org/media/pdf/WSOD\\_2005.pdf](http://globalr2p.org/media/pdf/WSOD_2005.pdf)>. (Accessed August 5, 2011)

<sup>56</sup> United Nations. 15 Sept.2005 < [http://globalr2p.org/media/pdf/WSOD\\_2005.pdf](http://globalr2p.org/media/pdf/WSOD_2005.pdf)>. (Accessed August 5, 2011)

legitimacy for international institutions. In 2000, the former Secretary-General of the United Nations, Kofi Annan posed a very pointed question to the General Assembly, as quoted in the ICISS report. He asked:

‘...if humanitarian intervention is indeed an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica—to gross and systemic violations of human rights that affect every precepts of our common humanity?’<sup>57</sup>

The question highlighted two especially brutal instances of international inertia when bold and decisive global leadership could have made a world of difference. The novelty in Kofi Annan’s declaration was not the call for humanitarian protection of civilians suffering mass atrocities but rather the demand for new ways to address the ‘how’, the “when” and the ‘who’ of the issue of intervention; the need to lay down core principles that would serve as markers for policy makers.

The concept of “Responsibility to Protect,” at least in theory, attempts to address some of the issues raised by Kofi Annan, and by implication, the broader issue of the protection of civilians in mass atrocity situations. Its tenets rests on two basic assumptions. First, sovereignty, far from being an insular protection for state impunity, entails a corresponding responsibility to protect citizens of every polity. Second, in the event a state is unable or unwilling to protect its own citizens from actual or perceived threats, the international community, under the auspices of the UN, should have the obligation to intervene in order to protect.<sup>58</sup>

According to the ICISS, the principles of “R2P” rest on the following foundations:

- The obligations inherent in the concept of state sovereignty
- The maintenance of international peace and security is the responsibility of the Security Council, under Article 24 of the UN Charter
- The specific and binding nature of legal obligations under human rights and human protection declarations, covenant and treaties, international humanitarian law and national law
- The developing practices of state, regional organizations and the Security Council itself.<sup>59</sup>

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<sup>57</sup> ICISS. The Responsibility to Protect (Ottawa: International, 2001) vii

<sup>58</sup> ICISS XI

<sup>59</sup> ICISS XI

The concept itself has three basic elements. It starts with the notion of responsibility to prevent. This means that long before a given set of circumstances escalate and turns into a humanitarian crisis, steps must be taken to redress existing imbalances at the grassroots level. The onus of responsibility here falls on the individual sovereign entity, although “...support from the international community is often needed”<sup>60</sup>, as “...failure of prevention can have wide international consequences and costs.”<sup>61</sup>

If this fails, then the international community has a “...responsibility to react to situations of compelling need for human protection.”<sup>62</sup> At this point, there must be clear evidence of looming or unfolding catastrophe and the entity in question must demonstrate inability or lack of desire to resolve the situation. In that case, it behooves the larger community to “...institute appropriate measures, which may include coercive measures like sanctions and international prosecution, and in extreme cases, military intervention,”<sup>63</sup> to address the situation. For there to be a *prima facie* case for military intervention, it must satisfy the following criteria: *right authority, just cause, right intention, last resort, proportional means and reasonable prospects.*<sup>64</sup> More will be said about this in the next chapter.

The post-intervention responsibility to rebuild is predicated, for the most part, although not exclusively, on the idea that some kind of intervention, usually military, might have taken place. The subsequent adverse toll on human and material resources imposes a corresponding requirement of “...full assistance with recovery, reconstruction and reconciliation, addressing the causes of the harm the intervention was designed to halt or avert.”<sup>65</sup> This involves both the international community and local stakeholders working together. Post conflict attempts at reconciliation which forms part of the process of rebuilding, are “...best generated by ground level reconstruction efforts, when former adversaries join hands in rebuilding their community or creating reasonable living and job conditions...”<sup>66</sup> These efforts may be underwritten by the

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<sup>60</sup> ICISS 19

<sup>61</sup> ICISS 19

<sup>62</sup> ICISS 29

<sup>63</sup> ICISS XI

<sup>64</sup> ICISS 32

<sup>65</sup> ICISS XI

<sup>66</sup> ICISS 39

international community in the form of the UN or regional organizations like ECOWAS and the Southern African Development Community (SADC.)

Although ECOWAS intervened in Sierra Leone without necessarily basing its actions on the “Responsibility to Protect” principle, this analysis uses ICISS’ six criteria for justifying military intervention under the concept of R2P as a framework to evaluate the mission. This is the goal of the next chapter. Other aspects of the theory are used as explanatory tools to establish necessary context.



## CHAPTER 4

### JUSTIFICATION OF ECOWAS' INTERVENTION IN SIERRA LEONE

#### 4.1 Introduction

The conflict in Sierra Leone started in 1991 and officially ended in 2002. At the beginning, it did not feature very much on the international radar because West Africa was never seriously considered as a geopolitically important outpost in strategic terms. It became headline news only because the regional organization ECOWAS, having transformed itself from an institution primarily dedicated to regional economic integration into a security organization, intervened militarily in the conflict. Although this followed closely on the heels of the Liberian situation,<sup>67</sup> the two were underscored by completely different theoretical considerations. When ECOWAS decided to intervene in Sierra Leone, it did so without the benefit of precedence in that no civilian government had ever been reinstated through the collective will of a regional entity on the continent, and so much of what unfolded as a result could at best be described as patchwork of *ad hoc* measures and glorified improvisations.

This chapter aims to critically analyze ECOWAS' efforts, both military and civilian, in Sierra Leone with a view to justifying its participation within the context of its own rules and regulation and also within international laws and customs based on the concept of “Responsibility To Protect.” It is important to point out that the chapter and indeed the thesis as a whole does not seek to establish the precise success or failure of the mission. It means that the thesis does not indulge in the aesthetics of failure or success in any context. What it does is justify the idea that ECOWAS' intervention was the appropriate thing to do, within pre-determined parameters of the organization's own protocols and those of other international organizations such as the UN and the African Union (AU.)

Much of what follows is based on ECOWAS' own charter. However, every member of this regional organization is also a member of the African Union and the United Nations. As a result, the rules and regulations of these other organizations are mentioned in so far as they relate to the

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<sup>67</sup> ECOWAS intervened in Liberia expressly to stop a humanitarian catastrophe. When it went into Sierra Leone, its stated aim was to restore the civilian government of President Kabbah, whose administration was toppled in a military/rebel putsch.

issues. Accordingly, the argument is professed that ECOWAS, acting as a regional security organization, was justified in intervening in Sierra Leone first under its own laws and protocols, and also under international law's statutes and conventions and under the burgeoning concept of "Responsibility to Protect." Despite the fact that participating ECOMOG troops came from countries that, at the time, could not be remotely construed as democratic in any real sense of the word, the conclusion is drawn, based on the evidence, that there is enough reason to hold out this singular political/military event as a wholesome template worthy of replication elsewhere in the world. But first, a brief historical overview of the country and its descent into chaos.

#### **4.2 Brief History of Sierra Leone**

Sierra Leone got its name from the Portuguese term for "Lion Mountain." The local population is made up of descendants of British slaves, mostly black refugees of the American War of Independence shipped in from Nova Scotia, and local indigenous groups. It became a protectorate of the British crown in 1896 and gained independence in 1961. A succession of military coups culminating in Siaka Stevens' assumption of power in 1968 marked a turning point in the fortunes of the newly independent state. Stevens turned the country into a *de jure* one party authoritarian state, complete with an Internal Security Unit which was "...a brutal...personally managed paramilitary force made up of young men recruited from the slums of Freetown."<sup>68</sup> Its sole purpose was to muzzle political dissent. It has been argued that Stevens derived his legitimacy from a system of governance rooted in patrimony and ethnicity.<sup>69</sup> He developed a network of supporters based solely on tribal affiliations and turned the state's most profitable industry, the diamond industry, into a criminal enterprise for the benefit of himself and his supporters. His regime has been described variously as a "...kleptocracy... a combination of guile, flattery, bribery and intimidation."<sup>70</sup> Steven's handpicked successor Gen. Momoh, inherited a state that had been so undermined that its very existence as a viable political entity

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<sup>68</sup> David Pratt, *Sierra Leone: A Forgotten Crisis*. (Canadian Parliamentary Report, 1999) 9

<sup>69</sup> Sasha Lezhnev, *Crafting Peace: Strategies to Deal with Warlords in Collapsing States*. (Lanham: Lexington, 2005) 26

<sup>70</sup> Lezhnev 26

was a questionable proposition. Disaffected youth joined the radical Foday Sankoh, "... a functional illiterate who became part of the revolutionary cell"<sup>71</sup> in the mining areas of Kono. He later became founder and leader of the Revolutionary United Front (RUF), and with considerable external support, he started a rebellion. To add to the confusion, the sitting president, Momoh was toppled by a bunch of disgruntled junior officers. They turned to South African and other mercenary groups to help stem the tide of a war that was going badly for it. Elections were held in 1996 and a civilian government under Ahmed Tejan Kabbah, was sworn in and a peace agreement with the rebels was put in place.

In 1997, a group of soldiers again took over the government, forcing the civilian leader into exile and forging an alliance with RUF rebels. They, in turn, were forced out of power by ECOWAS and the civilian administration restored. However, the RUF continued a violent campaign in the countryside. In the words of Amnesty International, "Since their removal from power, the AFRC (Armed Forces Revolutionary Council) and the RUF have wreaked a campaign of terror against unarmed civilians...several thousand civilians have been brutally killed or mutilated."<sup>72</sup> ECOMOG managed to stabilize the security situation through a series of intense engagements with the rebels before handing over control of the country to the UN.

### **4.3 Significance of ECOWAS' Protocols**

In the following session, ECOWAS protocols that provide the rationale for intervention are discussed. These are situated within the larger context of more global principles of sovereignty and intervention, such as those based on the UN Charter. Article 2:1 of the UN's Charter declares that "The Organization is based on the principle of the sovereign equality of all its Members."<sup>73</sup> Article 2:4 imposes a duty on all members to "...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."<sup>74</sup> Together, they form the seminal basis of international law's prohibition on intervention in the

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<sup>71</sup> Pratt 10

<sup>72</sup> Pratt 14

<sup>73</sup> United Nations. "The United Nations Charter," <http://www.un.org/en/documents/charter/chapter1.shtml>, accessed on 10/10/11

<sup>74</sup> United Nations. "The United Nations Charter," <http://www.un.org/en/documents/charter/chapter1.shtml>, accessed on 10/10/11

internal affairs of sovereign nation states. As discussed elsewhere, the UN's formulations on state sovereignty and non-interference in the internal affairs of member countries has its antecedents in the Westphalian concept of sovereignty which defines the nation state in terms of its legal identity under international law. However, this bears repetition because much of the criticism directed at ECOWAS were couched in terms of international law's prohibition on breach of state sovereignty.

It is not entirely certain if ECOWAS' intervention in Sierra Leone constitute such a breach. That is an issue for legal scholars. The important issue here is the fact that ECOWAS' protocols on security were unequivocal in intent and wording. As a founding member and party to the succession of security instruments enacted over the years by ECOWAS, Sierra Leone along with the rest of the signatories, consciously acknowledge the existence of security challenges that the various instruments were designed to address. This, however, is not necessarily evidence that member countries of this regional bloc have agreed to a diminution of their sovereignty, but it is circumstantially evident that they are bound by the rules of this organization to which they belong. This is especially true given the fact that West Africans have always been painfully aware of the existence of a security vacuum in the region<sup>75</sup> and that in the event of crisis such as the ones in Liberia and Sierra Leone, the Protocols were going to form the basis upon which any attempt at resolution would be based.

The absolute need for security in West Africa was an overriding concern for the regional leadership. West Africa was either going to float or sink together as a unit. Kaplan fingered demographic explosion as the main reason for the "coming anarchy" in the region. In his view, West Africa was facing a "...withering away of central governments, the rise of tribal and regional domains, the unchecked spread of disease and the growing pervasiveness of war... And West Africa's future, eventually will also be that of most of the world".<sup>76</sup> The population explosion he talks about will inevitably lead to conflict over scarce resources. The resulting societal breakdown could engulf the rest of the world.<sup>77</sup> This provides a general background to some of the issues confronting the region at the time. Security in one form or the other, was

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<sup>75</sup> See for instance the preamble to any of the security protocols enacted by ECOWAS

<sup>76</sup> Kaplan 48

<sup>77</sup> Kaplan 49

paramount, and West Africa was going to do something about it. The protocols, especially those dealing with security can be seen as West Africa's considered response to this issue.

As has been stated previously, ECOWAS was created in 1975 primarily as an economic grouping. Along the way, it metamorphosed into a security bloc. The two most important enabling security instruments are the 1999 Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, and before that the Protocol on Non-Aggression in 1978. The necessity for these protocols were many. They include the recurring incidents of foreign inspired coups d'état which put most of the region's regimes under all kinds of stress. There were no longer any "big brother" institutions to fall back on since the end of the Cold War had changed the narrative and the dynamics of state security in the developing world. Superpowers were no longer interested in guaranteeing the security of client states and so a deliberate choice was made to set up collective security structures. The question therefore was to determine how these Protocols shaped the security environment in such a way as to make the Sierra Leonean intervention possible.

#### **4.4 The Pre-1999 Protocols**

The post colonial landscape in West Africa was dogged by ideological conflicts with various client states fronting for their paymasters. Security was measured in terms of one's usefulness to one superpower or the other. However, violent border clashes between some states in the region drove home the point that security arrangements as then constituted did not adequately meet expectations. Francophone states for instance realized that defense links with France could not necessarily deter all forms of local threats.<sup>78</sup> As a practical matter therefore, they decided that their common challenges were better dealt with by the collective based on the common need for mutual non-aggression and the desire for assistance in the event of external aggression.

The original ECOWAS treaty contained no provision for mutual defense. The West African francophone innovation then known as "CEAO" was perhaps the needed inspiration.

"Increasingly aware that it could not attain its (economic) objectives save in an atmosphere of peace,"<sup>79</sup> "a Protocol on Non-aggression intended to create a friendly atmosphere, free of any

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<sup>78</sup> Franke 81

<sup>79</sup> Franke 65

fear of attack or aggression of one state by another,”<sup>80</sup> just may help secure the kind of conditions that were needed at the time. Consequently, a new security paradigm started to take shape alongside original plans for economic integration. It took the form of a linkage between security and economic development, but the fine print was still sketchy. A treaty of non-aggression could inspire confidence and goodwill among signatories, but on its own, it was insufficient to curb external threats and internal insurrections supported from the outside. On the whole, security challenges were not limited to any particular set of adversaries or circumstances. They existed everywhere and, steps had to be taken to deal with these challenges if the other variable of the equation, ie economic development, was to be realized.

This theme of “no development without security”<sup>81</sup> continued to dominate the headlines in subsequent ECOWAS gatherings. Former Heads of State Eyadema of Togo and Senghor of Senegal took the lead in advocating a stronger role for ECOWAS in the defense of the region. It is important to point out that the strongest advocates of regional security integration were some of the same countries who had significant military links to France. This cognitively dissonant arrangement can perhaps be explained by the idea that instinctively , they realized that their destinies lie within the collective efforts of the regional grouping, while at the same time retaining the support of France just in case local collective efforts do not pan out. The successor to the Non-Aggression treaty signed in 1981, it must be stressed, was the first to make provision for the establishment of a force to be made up of units from ECOWAS armies, and spelt out in elaborate terms when and how it could be deployed. This, according to some observers, “provided the basis for the highly successful intervention of the Community’s Ceasefire Monitoring Group”<sup>82</sup> in Liberia and also set the stage, one might add, for its deployment to Sierra Leone years later.

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<sup>80</sup> Okolo 39

<sup>81</sup> Okolo 41

<sup>82</sup> Franke 65

## CHAPTER 5

### THE INTERVENTION

Given what is now known about ECOWAS' handling of the Sierra Leone conflict, this aspect of the thesis focuses mainly on the second tenet of the doctrine of R2P, the Responsibility to React. ECOWAS obviously had the responsibility to prevent, to react and to rebuild, but the decision to focus on the responsibility to react is based on hindsight. The fact they had to intervene militarily pre-supposes that they failed in their responsibility to prevent for one reason or the other. On the other side of the divide, the responsibility to rebuild was taken out of ECOWAS' hands by the UN when it assumed control of the situation soon after the intervention. The first and the last "responsibilities" are therefore touched on only as explanatory tools to buttress the idea that although there are seeming inadequacies and contradictions in the way the whole episode unfolded, ECOWAS' decision to react and the manner in which it was done were justifiable.

In discussing the "Responsibility to Protect", certain legitimate questions arise. Is R2P the prescriptive solution for humanitarian crises across board? Is it feasible, indeed practical for the international community to react in the same way every time there is a humanitarian crisis? A Chinese professor once quipped that China had used tanks to kill people in Tiananmen Square. It is Myanmar's sovereign right to kill their own people too.<sup>83</sup> This is a pointed reference to the international community's apparently inconsistent stance regarding state abuse of citizens' human rights in both countries. It is the position of this paper that the perfect cannot be the enemy of the good, and that as much as it is desirable to have the international community act with consistency in comparable situations across the board, the reality is that this is not always possible. The normative expectations of consistency notwithstanding, the international community has the responsibility to act in cases of humanitarian crisis wherever and whenever possible. Not to do so would amount to entrenching idealism over practical policy, and the consequences are not difficult to imagine.<sup>84</sup>

#### 5:1 Theoretical Application

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<sup>83</sup> Evans 11

<sup>84</sup> To make this case, the chapter relies extensively on the literature provided by the *International Commission on Intervention and State Security* and Gareth Evan's book titled "The Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All."

## Responsibility To Prevent

In relative terms, the Sierra Leonean rebellion was one of the most destructive the world has ever seen. Foday Sankoh's bush war started in 1991, and pitted the RUF against three successive governments and within the context of three decades of state disintegration.<sup>85</sup> The question is, what were the grievances of the RUF and what could the regional authority have done, if anything, to prevent the Sierra Leonean state from going over the abyss?

It is generally accepted that Stevens' Prebendal rule was the root cause of Sierra Leone's rebel war.<sup>86</sup> It was characterized by such acts as closing the "national railway on economic grounds,"<sup>87</sup> "violence and vote rigging"<sup>88</sup> and instituting "criminal anarchy"<sup>89</sup> in the conduct of the diamond trade, the country's most important natural resource. His security apparatus was essentially a gangster organization, recruited from among unemployed youths in Freetown slums. Once recruited, they are fed hard drugs and let loose on the opposition as part of the regime's political strategy. The result was a growing army of unemployed, disillusioned, drug addicted youth acculturated to violence, who would later constitute the recruitment base of the rebellion.<sup>90</sup> In the political economy of the sub-region, this type of behavior was what passed for political governance and in Sierra Leone it resulted in the competitive and uncoordinated looting of the state and its resources by party functionaries and their collaborators.<sup>91</sup>

Looting of state resources came in different forms. Resource predation in the form of alluvial diamond mining was a leitmotif in the pre-war Sierra Leonean narrative. Aside of the fact that Stevens was directly implicated in the looting of diamonds<sup>92</sup>, he also abolished the state agency responsible for the corporate mining of the mineral, ushering in an era of chaotic free for all

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<sup>85</sup> John Hirsch, "War in Sierra Leone." *Survival*, Vol. 43, (2001): 145-162

<sup>86</sup>Victor A.B Davies, "Sierra Leone: Ironic Tragedy". *Journal of African Economics* 9 3 (2000): 349-369.

Prebendalism, alternatively described as neo-patrimonialism, has three institutions. Chabal and Van de Walle (Michael Bratton and Nicholas van de Walle, *Democratic Experiments in Africa* (Oakleigh: Cambridge University, 1998) 61.) characterize them as presidentialism—the systemic concentration of power in the hands of one individual—, clientelism—the award of personal favors and state resources—the use of state resources for political legitimation.

<sup>87</sup> Pratt 9

<sup>88</sup> Pratt 9

<sup>89</sup> Pratt 9

<sup>90</sup> Davies 349-369

<sup>91</sup> Davies 349-369

<sup>92</sup> Davies 349-369



mining, resulting in a dramatic plunge in official diamond exports.<sup>93</sup> Not surprisingly, when this coupled with the general lethargy in the country's economic performance at this time, and when it combined with the removal of subsidies and tax hikes, the general population came under enormous economic strain.

Aside of all this, there was the feeling of rural isolation. The gulf in the living standards between the ruling Freetown elite and the rest of the country was largely responsible for this perception. Stevens drew much of his support from Freetown and so felt free to marginalize the rural population.<sup>94</sup> Society's fissures were not limited to the urban/rural divide. Ethnic tensions were just as pronounced. They were epitomized by the serious cleavage between the Mende dominated Southern and Eastern Provinces and the Temne dominated Northern Provinces.<sup>95</sup> Stevens mined the divide politically, making full use of the near total illiteracy of the rural dwellers to entrench his brutal rule and push the state ever closer to the precipice.

Although Stevens', and by extension the great majority of Sierra Leone's post colonial leadership's culpability in running the state into the ground is not in dispute, the cause of the war is. There is a significant minority, such as the country's former ambassador to the UN, Ibrahim Camara, who believes the war started and ended with alluvial diamonds. He stated:

*We have always maintained that the conflict in Sierra Leone was not about ideology, tribal or regional differences. It had nothing to do with so called marginalized youth, or as some political commentators have characterized it, an uprising by the rural poor against the urban elite. The root of the conflict is diamonds, diamonds and diamonds.*<sup>96</sup>

Either way, what were ECOWAS' options under the Responsibility to Prevent concept which stresses that "...prevention is the single most important dimension of the responsibility to protect."<sup>97</sup> We start from the assumption that "African States are inextricably locked into security complexes,"<sup>98</sup> and that the "dynamics of regionalization of domestic civil wars"<sup>99</sup> is an

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<sup>93</sup> Davies 349-369

<sup>94</sup> Davies 349-369

<sup>95</sup> Davies 349-369

<sup>96</sup> Jeffrey Herbst. "Economic Incentives, Natural Resources and Conflict in Africa." Journal of African Economies, 9, 3 (2000): 270-294

<sup>97</sup> Evans 79

<sup>98</sup> Francis 116

all too common phenomenon in West Africa. Given this realization and the bitter experiences of its efforts in Liberia, it was expected that ECOWAS was going to “do something” about a nascent security threat like the one then unfolding in Sierra Leone, in the light of all the warning signs enumerated above. However, prevention of deadly conflict “...is first and foremost the responsibility of sovereign states.”<sup>100</sup> The onus was therefore on the government in Freetown to make every effort to ensure accountability, good governance, protection of human rights, promotion of social and economic development and fair distribution of resources.<sup>101</sup>

The government was unable or unwilling to live up to its responsibilities for a variety of reasons. The political and economic fortunes of the Sierra Leonean state at the time were bleak indeed. It is believed that “...by the mid 1980s, the country was descending into insolvency. Growing foreign debt...budget deficit, corruption and declining exports led to chronic fuel, power and food shortages.”<sup>102</sup> The ability to guarantee the security and safety of citizens became a very tenuous proposition for the government as a result. But conflict prevention is not merely a national or local affair, as it has international ramifications. The international community’s involvement may include support for good governance, promotion of the rule of law and efforts at mediation and conciliation,<sup>103</sup> and in this instance, maybe even pressure on the government to reform.

For the international community to act in a meaningful and timely manner to prevent conflict, the action must have three essential components. First, “...there must be knowledge of the fragility of the situation and the risks associated with it... Second, there must be understanding of policy measures available capable of making a difference.”<sup>104</sup> Third and most important, it requires the availability, not just in theory but also in practice, of capability to deliver appropriate responses and the necessary political will to apply those resources.<sup>105</sup> The remaining question here is: How does ECOWAS’ response measure up to these standards?

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<sup>99</sup> Francis 116

<sup>100</sup> ICISS 19

<sup>101</sup> ICISS 19

<sup>102</sup> Pratt 9

<sup>103</sup> There is a UN component to this, but since the primary unit of analysis here is ECOWAS, this is left out.

<sup>104</sup> ICISS 20

<sup>105</sup> Evans 81.

Knowledge of the situation necessarily involves some form of early warning system capabilities, which is defined as "...any initiative that focuses on systematic data collection, analysis and/or formulation of recommendations, including risk assessment and information sharing".<sup>106</sup> In West Africa, the prototype of any kind of early warning system was not put in place until 1999 expressly to "...detect, monitor and analyze signs of threat or breakdowns in relation within or between member states..."<sup>107</sup> That puts the establishment of this mechanism well after the fact. In the absence of a formal system of risk assessment, the organization had very limited alternative means of gathering and disseminating information on risks and threats to security in the region.

This lack of capability is due to the fact that West Africa is one of the most economically and technologically depressed regions of the world. In the run up to war, ECOWAS' collective economic balance sheet was not very inspiring. All of its members were "...principally primary producers, who depend on a small number of agricultural and mineral products for the bulk of their income...per capita incomes are very low...[and they] depended heavily on the advanced industrialized countries for trade capital, technology and skills..."<sup>108</sup> Infrastructure development of the type that would make any kind of relevant data collection feasible was at best rudimentary. Thus access to data for the kind of action that is mandated was clearly a tall order for the regional body. To compound the problems, West Africa had just recently extricated itself from another very expensive peace enforcement mission in neighboring Liberia, and thus resources were at a premium. It was therefore not practically feasible to expect ECOWAS to necessarily possess the kind of capability that would prepare it for every potential conflict situation, especially in a region where such situations are as a rule, commonplace.

Also, was there a concise understanding of available measures that could have, if taken, made a real difference in the outcome of events? Following on the previous point, the obvious answer is no. It has already been determined that ECOWAS did not have the capacity at the time to gather relevant data, and so probably had very little idea about what was going on in Sierra Leone. If they knew anything at all, it is not exactly clear the extent and the relevance of the knowledge. But the crux of the matter which is not often articulated, was the real probability that ECOWAS

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<sup>106</sup> Franke 183

<sup>107</sup> Franke 198

<sup>108</sup> Robson 88

at the time was a house divided<sup>109</sup>. At least two of its members were complicit in the planning and execution of the rebellion, based on “...clear evidence that Liberia and Burkina Faso [were] supporting the rebels.”<sup>110</sup> Could this be a case of see no evil and hear no evil?

A third interesting and important question arises out of the previous two. Did ECOWAS have the political will to deliver the appropriate response if it had all the necessary information? Let us consider the empirical evidence from the inception of the organization in 1975 to the outbreak of the civil war in Sierra Leone in 1991. Despite the hopes and expectations, and the pomp and pageantry that accompanied its inception as a regional organization, ECOWAS remained dormant for over a year and a half after the ratification of its treaty.<sup>111</sup> Somehow it appears as if the signatories believed the document would become self executing by the mere act of their signing it. This attitude is played out in the “...generally low commitment to implement the decision and agreements collectively made at the highest political levels of ECOWAS.”<sup>112</sup> Up until now, only one protocol (Protocol on the free movement of persons) had become operational due to apathy and self serving excuses of “national interests.” It is not a novelty to see sovereign members of other international organizations put their parochial national interests above that of the collective; however, ECOWAS’ track record in this regard imply something deeper and provide more complex challenges than mere questions of national interest.

National interest concerns notwithstanding, there were also institutional deficiencies that plagued the organization. The first had to do with the structure of decision making. The requirement that “...all members must agree before decisions are made which affect the community as a whole,”<sup>113</sup> guarantees that very little ever gets done. Obtaining absolute consensus in an organization of such stature and complexity is a difficult proposition at the best of times. Consequently, even if West Africa was motivated enough to want to do something about an impending catastrophe in Sierra Leone, an institutional framework of rules and regulations that gave a virtual veto power to every single member, is a recipe for gridlock. This is especially so in this case where two of the member states were key rebel allies.

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<sup>109</sup> Pratt 4

<sup>110</sup> Pratt 4

<sup>111</sup> Gambari 34

<sup>112</sup> Gambari 44

<sup>113</sup> Gambari 46

A second institutional deficiency that hindered ECOWAS' ability to act decisively was The Protocol on Mutual Assistance and Defense signed in 1981. It was meant as a collective framework on regional defense, but it was more of a paper tiger than anything else. During the 1980s, there were at least three opportunities offered to ECOWAS to demonstrate its commitment to collective security as stated in the protocol. First, it was the Mali-Burkina Faso frontier mini war in December, 1985.<sup>114</sup> This was the outgrowth of a twenty-five year old dispute over mineral rich Agacher border zone.<sup>115</sup> Second was the very serious issue of the attempted overthrow of the Togolese government with the apparent complicity (strongly denied) by the Ghanaian and Burkinabe governments in 1986. Third was the 1989 diplomatic flare up between Senegal and Mauretania primarily about border demarcation, but also concerning the large number of immigrant citizens of both countries in each other's territory.<sup>116</sup>

On each occasion, the dispute and the resolution process played out outside the framework of ECOWAS and its institutions. "In all three cases, opportunities were missed, as the conflicts were managed and controlled by governments and institutions outside the ECOWAS defense pact"<sup>117</sup> because the document simply was not equipped to adequately deal with these kinds of issues. Alternatively, it could be seen as complete lack of political will at the highest levels of decision making in the organization. It is therefore evident that ECOWAS' track record of garnering the political will to act when it matters, was not very inspiring.

### **Responsibility To React**

The second dimension of the R2P doctrine is the Responsibility to React. This implies "...above all else the responsibility to react to situations of compelling need for human protection."<sup>118</sup> In the absence or failure of prevention, the onus shifts back onto the international community to step in and stop human suffering either because the state is unwilling or unable to protect its own citizens. These may include coercive steps such as "...political, economic and judicial measures,

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<sup>114</sup> Okolo 41

<sup>115</sup> Okolo 41

<sup>116</sup> Okolo 41

<sup>117</sup> Okolo 41

<sup>118</sup> ICISS 29

and in extreme cases, but only in extreme cases, they may also include military action.”<sup>119</sup> The test here is to determine whether the situation in Sierra Leone constituted an “extreme case” for which ECOWAS military intervention was justified. To answer this question, it is important to establish the relevant facts of the case.

Throughout its post independence history, Sierra Leone has not been anything other than a weak state held together by the arm of a strong man dictator at one time or the other. It easily fits “the definition of a failed state by virtue of its declining ability to provide order and security, much less social services.”<sup>120</sup> Politicians intentionally destroyed the capacity of the state to function as a viable political entity. They used violence and insecurity instead of bureaucratic state institutions to control the people.<sup>121</sup> There was really “...very little distinction between corrupt officials and armed gangs”<sup>122</sup>, which effectively meant that the state had ceased to exist in all but name. Government revenue averaged only 10 million dollars (US) a year after 1991 compared to 250 million annually in the mid 70s.<sup>123</sup> Although debt servicing and Structural Adjustment Programs were partially responsible for this state of affairs, most of it was due to criminal mismanagement of the state. It has been suggested that, government control extended as far as the edge of Freetown, the capital city.<sup>124</sup> There were other signs of decay also. “Television ended in 1987 when the Minister of Information sold the transmitter to a “Kuwaiti investor”. Radio disappeared 1987 when the broadcasting antenna fell over.”<sup>125</sup> However dire the situation, this was by no means unique. Remove the term “Sierra Leone” and what is left could just as easily be descriptive of the situation in at least a dozen other African countries at the time. So why was Sierra Leone an “extreme case”?

The extreme case scenario becomes apparent when we look a little more closely at the goings on at the time. On or about the time of the insurgency (probably earlier), the whole state apparatus was barely functioning. The Sierra Leonean armed forces, whose job it was to defend the state from the kind of rebel insurgency that was plaguing the country were so weak and ineffective,

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<sup>119</sup> ICISS 29

<sup>120</sup> William Reno, “Sierra Leone: Warfare in a Post-State Society.” Robert I. Roteberg, ed. State Failure And State Weakness in A Time of Terror, (Washington: Brookings, 2003) 71.

<sup>121</sup> Reno 71

<sup>122</sup> Reno 72

<sup>123</sup> Reno 72

<sup>124</sup> Pratt 3

<sup>125</sup> Reno 77

the state had to resort to the use of foreign mercenaries as forces of law and order. The government brought in Executive Outcomes (EO), the South African private security outfit, as well as Frontline Security Services (FSS), its British counterpart and Gurkha Security Guards Ltd.<sup>126</sup> They were hired not only to fight the rebels but also maintain internal security. This state of affairs cannot seriously be contemplated as part of the political narrative in any self respecting contemporary political entity. In exchange for buying short term security gains, this sort of arrangement required the state to mortgage crucially needed national resources,<sup>127</sup> by signing away future earnings from alluvial diamonds deposit as payment. This further impoverished the state and fuelled the cycle of instability, forcing desperate civilians to flee to neighboring countries.

Another reason Sierra Leone represented an “extreme case” was the possibility it could draw the whole region, or at least a good number of regional states, into the conflict. It is suggested that “...the Sierra Leone conflict is inextricably linked to the security of the entire sub-region...any actions taken with respect to the conflict in Sierra Leone will inevitably have a significant impact on the security situation in and policies of Guinea, Liberia, Cote d’Ivoire, Burkina Faso, Ghana and Nigeria.”<sup>128</sup> Former Liberian leader Charles Taylor’s major role in promoting the failure of public order in Sierra Leone<sup>129</sup> bears testimony to this. There was also outside military involvement as well. The evidence indicated that “...small arms are coming from Eastern Europe through Libya [and Burkina Faso and Liberia]... to the rebels.”<sup>130</sup> Other states in the region with very little resources of their own, were bursting at the seams with the inflow of refugees fleeing the conflict in Sierra Leone. It was shaping up to be West Africa’s “Great War.” Looking at the bigger picture, this was the last thing the region needed, an all encompassing war that would drain badly needed resources away from the individual states.

If this conflict should spread, it was going to suck in Nigeria, which alone comprises 60% of the region’s entire population. Ghana, Nigeria, Mali and Guinea sit on one side of the political

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<sup>126</sup> Reno, William. “Sierra Leone: Weak States and the New Sovereignty Game.” Leonardo A. Villalon and Phillip A. Huxtable, (eds), The African State at a Critical Juncture: Between Disintegration and Reconfiguration (Boulder: Lynne Renier, 1998) 103.

<sup>127</sup> Reno, Weak States 103

<sup>128</sup> Pratt 16

<sup>129</sup> Reno, Warfare 92

<sup>130</sup> Pratt 16

divide in opposition to the Liberia/Burkina Faso axis. They (Ghana, Nigeria, Guinea, Mali) actually provided all of the ECOMOG troops for the war effort. The ECOMOG force commander's threat to "...launch air strikes into Liberia and Burkina Faso if the flow of small arms into Sierra Leone through those two nations is not curbed immediately,"<sup>131</sup> served as a grim reminder of the potential of this conflict to escalate. Nigeria, along with these other countries easily represent close to ¾ of the population of the region.

Perhaps the most credible "extreme case" scenario existing in Sierra Leone at the time was the activities of the RUF. Founded in 1988, it was fundamentally a guerilla army, "...a bandit organization solely driven by the survivalist needs of its predominantly uneducated and alienated battlefield and battle group commanders."<sup>132</sup> It employed terror and mutilations as weapons of war and uses women and children as human shields. A large number of its members were children forcibly recruited and brutalized.

They burned entire villages, "...beheading chiefs, and amputating civilians in front of communities in order to force people to flee."<sup>133</sup> This scorched earth tactics left vast swathes of the Sierra Leonean countryside depopulated. An estimated 53 percent of women in areas under their control were raped and 4000 people have had their limbs amputated.<sup>134</sup> Here's a sampling of news reports about the activities of the RUF between 1994 and 1997:

- 26<sup>th</sup> December, 1994: At least 25 people died over Christmas in a series of attacks which the military blamed on the RUF. Military sources in Kenema said rebels attacked the outskirts of the town on Sunday, killing five people and shattering the three week old ceasefire.<sup>135</sup>
- 16<sup>th</sup> January, 1995: RUF rebels raided the campus of Njala University College on Sunday, killing 7 civilians and looting a food store...rebels identified themselves as members of the RUF.<sup>136</sup>

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<sup>131</sup> Pratt 26

<sup>132</sup> Pratt, 15

<sup>133</sup> Lezhnev 29

<sup>134</sup> Lezhnev 30

<sup>135</sup> The Sierra Leone Web. "Sierra Leone News," <http://www.sierra-leone.org./Archives/slnews1294.html>, accessed 10/30/2011

<sup>136</sup>The Sierra Leone Web. "The Sierra Leone News," <http://www.sierra-leone.org./Archives/slnews0195.html>, accessed 10/30/2011



- 31<sup>st</sup> January, 1995: An estimated 24,000 Sierra Leonean refugees have fled to Guinea since the RUF attack on Kambia a week ago, the UNHCR said Tuesday... the refugees reported that the RUF killed at least 9 civilians and burned a number of homes during the attack.<sup>137</sup>
- 16<sup>th</sup> April, 1995: An RUF military tribunal will put on trial foreign soldiers captured in battles with the army and could be executed by firing squad, an RUF spokesman said on Wednesday... ‘the maximum sentence will be the death penalty, they will be executed the military way,’<sup>138</sup> the spokesman added.
- 25<sup>th</sup> October, 1996: The UN World Food Programme reported Friday it had found hundreds of people who looked like “living Skeletons” after being held by the RUF for as long as five years... young men and women, besides being very thin, had swollen feet and sores... children had bloated stomachs, scabies and discolored hair because of malnutrition.<sup>139</sup>

These were not accidental acts committed in the heat of battle. These were all well thought out and well orchestrated war crimes. They took some sort of perverse pride in inflicting pain and suffering on fellow country folks, using fear as a tool to suck support away from the central government in Freetown. Within the period under review, they agreed and then reneged on a commitment to adhere to cease fire on at least six different occasions. On 7<sup>th</sup> December, 1994, they rebuffed overtures from the government for peace talks, and repeated it again on the 6<sup>th</sup> and 12<sup>th</sup> of January, 1995. On April the 27<sup>th</sup>, the government again offered to meet the rebels and they responded by renewing their military offensive. It took three tries in Cote d’Ivoire in 1996 (ie 23<sup>rd</sup> April, 24<sup>th</sup> October, 30<sup>th</sup> November) to get a Peace Agreement.<sup>140</sup> On each occasion, they hid behind spurious claims about the nationality of the lead negotiator who was backed by the international community, or the composition of the government’s negotiating team. In the meantime, hundreds of innocent civilians were being massacred daily (see news dispatch excerpts above), mostly by RUF fighters. It is difficult to understand what motivates people these.

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<sup>137</sup> Sierra Leone Web. “Sierra Leone News,” <http://www.sierra-leone.org./Archives/slnews0195.html>, accessed 10/30/2011

<sup>138</sup> Sierra Leone Web. “Sierra Leone News,” <http://www.sierra-leone.org./Archives/slnews0495.html>, accessed 10/30/2011

<sup>139</sup> Sierra Leone Web. “Sierra Leone News” <http://www.sierra-leone.org./Archives/slnews1096.html>, accessed 10/30/2011.

<sup>139</sup> Sierra Leone Web. “Sierra Leone News,” <http://www.sierra-leone.org./Archives>, accessed 10/10/2011

<sup>140</sup> Sierra Leone Web. “Sierra Leone News,” <http://www.sierra-leone.org./Archives/slnews1096.html>, accessed 10/30/2011

By January the 25<sup>th</sup>, 1997, the government was accusing the rebels of “...delaying the peace process by refusing to nominate members for a joint monitoring group and demobilization commission.”<sup>141</sup> An RUF spokesman in turn accused the government of breaking the Abidjan ceasefire deal. Their decision to delay the peace process was attributed to the fact that the leader of the group did not want to deal with the United Nations envoy to Sierra Leone, Berhanu Dinka. He (Mr. Dinka), the group alleged, has been “...very, very biased. He has no respect for our leader nor the RUF high Command. He is always on the side of the Government.”<sup>142</sup> Earlier, on the 3<sup>rd</sup> of January 1997, Sankoh stormed out of a meeting with the UN Mission in Abidjan, “...objecting to the presence of UN envoy Berhanu Dinka”<sup>143</sup> for the same reasons given above. Conduct like this can only reinforce an already poor public perception of a movement that lacked any ideological conviction and broad popular support.<sup>144</sup>

RUF’s well documented atrocities were a problem for the international community that was trying to bring an end to the violence. This problem was compounded when they found themselves suddenly confronted by a new government made up of renegade soldiers and the RUF. In confirmation of those fears, the incoming junta made no pretense at democratic governance at all. They just looted private property and terrorized the civilian population. The international community unanimously condemned this latest round of outrage and demanded the junta hand over power back to the deposed former civilian administration through negotiations. The rebels (not the coup leaders) rejected mediation. This, and other events, suggests they were the ones in control. The rebel spokesman was quoted as saying they were “...ready to fight to the end and are prepared for anything.”<sup>145</sup> This was a few short weeks after signing the Abidjan Accord aimed at ending the war. It seriously undermined any pretensions to good faith that the rebels may have claimed from the outset. On the 28<sup>th</sup> May, 1997, “The RUF High Command...ordered its fighters to back the Armed Forces Revolutionary Council...Field commanders were instructed that their orders from Sankoh will now come through Major Johnny

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<sup>141</sup>Sierra Leone Web. “Sierra Leone News,” <http://www.sierra-leone.org./Archives/slnews1097.html>, accessed 10/30/2011

<sup>142</sup>Sierra Leone Web. “Sierra Leone News,” <http://www.sierra-leone.org./Archives/slnews1097.html>, accessed 10/30/2011

<sup>143</sup> Sierra Leone Web. “Sierra Leone News,” <http://www.sierra-leone.org./Archives/slnews1097.html>, accessed 10/30/2011

<sup>144</sup> There is a heavy reliance on the web here because primary sources are not readily available at this point.

<sup>145</sup> Sierra Leone Web. “Sierra Leone News,” <http://www.sierra-leone.org./Archives/slnews059797.html> , accessed 10/30/2011

Paul Koroma, the leader of the AFRC.”<sup>146</sup> This was indication that the AFRC and the RUF have become one and the same, a whole that was bent on going to any length to thwart the international community’s efforts to halt the violence and re-establish the authority of the state.

## **5:2 The ECOWAS Invasion-Responsibility To React**

As has been stated elsewhere, the Responsibility to Protect “...implies above all else a responsibility to react to situations of compelling need for human protection.”<sup>147</sup> It has been established up to this point that the situation in Sierra Leone was simply untenable. The authority of the state to run the affairs of the country barely existed. It was incapable of offering even the minimum level of protection to its citizens. This, however, does not automatically trigger the military intervention option. For that to happen, a high threshold of conditions must be met before this option even becomes defensible.

Up to this point, it appears ECOWAS has been a bit part player mainly because it did not have the institutional capacity and structures to deal with the Sierra Leonean problem. First, it had clearly failed in its initial efforts to implement “...root cause or direct prevention measures to stave off or contain a humanitarian crisis or conflict.”<sup>148</sup> As a result, conflict had taken a terrible toll on the Sierra Leonean state in terms of loss of infrastructure, economic activity and human capital, and corrective measures must escalate to reflect the new level of urgency. The state, symbolized by the new junta in Freetown, had become the main obstacle to, instead of facilitator of, peace. In keeping with the graduated process of the responsibility to react, a sanctions regime designed “...to inhibit the state’s ability to interact with the outside world, while not physically preventing [it] from carrying out actions within its borders,”<sup>149</sup> was put in place. Sanctions generally may take the form of military, diplomatic or economic measures. The most effective form of military sanction is arms embargo. It deprives the offending party of its most potent means of aggression. The international community could also “...end military cooperation and

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<sup>146</sup> Sierra Leone Web. “Sierra Leone News,” <http://www.sierra-leone.org./Archives/slnews1097.html> , accessed 10/30/2011

<sup>147</sup> ICISS 29

<sup>148</sup> ICISS 29

<sup>149</sup> ICISS 29

training programmes”<sup>150</sup> with a state as a means of enforcing compliance. Economically, “...financial sanctions may target the foreign assets of a country, a rebel movement or a terrorist organization...[putting] restrictions on income generating activities such as oil, diamonds, logging and drugs...and [imposing] prohibitions on international air traffic to and from a particular destination.”<sup>151</sup> On the diplomatic level, “...travel restrictions could be imposed on specific individuals and their families...suspension of membership or expulsion from international or regional organizations...or refusal to admit a country to membership of a body.”<sup>152</sup>

For the sanctions to work, ECOWAS reached out and coordinated its efforts with the UN. It adopted a two tiered approach. The first tier consisted of a massive show of force in the form of a dramatic increase in troop levels on the ground in Freetown, leaving the rebels/coup leaders in no doubt as to the intentions of the organization. The second included imposing and enforcing the aforementioned sanctions. As a rule, the international community is always wary of the use of military force as an option in the conduct of interstate relations. The situation then was no different. It was no secret what was going on in Sierra Leone and for how long, but the US, for instance, announced it would prefer a “diplomatic” solution to the problem. A State Department official declared: “There has been enough violence in Sierra Leone. We hope democracy is quickly restored there by diplomatic means.”<sup>153</sup> Ghana’s then acting Foreign Minister stressed the need for a “...negotiated political settlement which upholds the respect of the democratic choice of the people of Sierra Leone.”<sup>154</sup> The Nigerian Foreign Minister reaffirmed his government’s support for the ousted leader and disclosed that his country was in consultation with other countries in the sub-region to ensure restoration of Sierra Leone’s legitimate government and a quick return to peace and stability.<sup>155</sup> Reacting to events in Sierra Leone, the

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<sup>150</sup> ICISS 30

<sup>151</sup> ICISS 30

<sup>152</sup> ICISS, p. 30

<sup>153</sup> Sierra Leone Web. “Sierra Leone News,” <http://www.sierra-leone.org./Archives/slnews0597.html>, accessed 10/30/2011

<sup>154</sup> Sierra Leone Web. “Sierra Leone News,” <http://www.sierra-leone.org./Archives/slnews0597.html>, accessed 10/30/2011

<sup>155</sup> Sierra Leone Web. “Sierra Leone News,” <http://www.sierra-leone.org./Archives/slnews0597.html>, accessed 10/30/2011

US National Security Adviser, Sandy Berger stressed “I think we prefer to see this thing resolved through political rather than military means.”<sup>156</sup>

Considering the reactions from the international community, consensus seemed to be building around a diplomatic rather than a military solution to the impasse. Pursuant to that, a Nigerian newspaper was said to have reported that ECOMOG was negotiating with the coup leaders to give up power peacefully, and the junta spokesman acknowledged that the soldiers are coming under heavy pressure to abandon their coup.<sup>157</sup> The two track effort of carrot and stick continued at an ECOWAS Foreign Ministers conference in Conakry, Guinea on the 27<sup>th</sup> of March, 1997. They “...agreed to pursue dialogue and economic sanctions to force Sierra Leone’s military rulers to reinstate ousted president Kabah...[while] the Nigerians reportedly began a sea blockade of Sierra Leone...[and] ECOWAS has called for an air blockade as well.”<sup>158</sup>

It was clear to most observers at the time that, after close to a decade of mindless bloodshed within which numerous negotiated attempts to stop it failed, the time for diplomatic niceties was long gone. The decision by ECOWAS to resort to economic and political sanctions as a first step to resolving the problem was therefore a step in the right direction. In essence, this was time for *realpolitik*. This goal of removing the illegal regime from power through peaceful means as a necessary pre-condition for peace was supported overwhelmingly by the international community in the form of declarations of endorsement by the UN, the Commonwealth, the OAU and ECOWAS. However, it was difficult to see how the world was going to achieve a different outcome using the same negotiating tactics.

### **5:3 Decision to intervene**

ECOWAS eventually resorted to the use of military force to dislodge the AFRC/RUF junta from power because diplomatic and military sanctions simply did not work, no matter what the critics

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<sup>156</sup> Sierra Leone Web. “Sierra Leone News,” <http://www.sierra-leone.org./Archives/slnews0597.html>, accessed 10/30/2011

<sup>157</sup> Sierra Leone Web. “Sierra Leone News,” <http://www.sierra-leone.org./Archives/slnews0597.html>, accessed 10/30/2011

<sup>158</sup> Sierra Leone Web. “Sierra Leone News,” <http://www.sierra-leone.org./Archives/slnews0697.html>, accessed 10/30/2011

said. The ICISS was very clear that the decision to intervene must be taken “in extreme cases only.” The question to be asked therefore, are whether this was an extreme case, and whether the situation met the threshold for intervention within the context of the Responsibility to React.

The point of departure is the international norm of non-intervention in the internal affairs of sovereign nation states. The international system thrives or should thrive on order and predictability and not on the whims and moods of the strong and powerful. When it comes to sovereignty, none is more equal than the other. Any disruption of this order must and should be based strictly on parameters anchored in verifiable pre-existing norms and traditions rather than retroactive legislation and spur of the moment decisions. Interventions that violate the sovereignty principle must be “...weighed in light of general prohibition on the use of force in Article 2 (4) of the United Nations Charter and the broader principle of non-intervention, recognized under customary international law.”<sup>159</sup> The goal is to “...encourage states to solve their own internal problems and prevent these from spilling over into a threat to international peace and security.”<sup>160</sup> There is very little question that “military action by ECOWAS States...fall within the scope of the prohibition on the use of force of Article 2(4), regardless of the purpose pursued.”<sup>161</sup>

However, as recognized by ICISS:

*‘there are exceptional circumstances in which the very interest that all states have in maintaining a stable international order requires them to react when all order within a state has broken down or when civil conflict or repression are so violent that civilians are threatened with massacre, genocide and ethnic cleansing on a large scale.’<sup>162</sup>*

Based on the above quote, the argument could be made, that the action is prohibited but not necessarily illegal, as it could be justified under certain circumstances. This loophole in the interpretation of the rules enabled the Commission, to come up with a concise set of circumstances it thinks justifies the use of military force while acknowledging the fact there is no

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<sup>159</sup>Karsten Nowrot and Emily Shabacker. “The Use of Force to Restore Democracy: International Legal Implications of the ECOWAS Intervention in Sierra Leone.” American University Law Review 14.2 (1998): 312-412.

<sup>160</sup> ICISS, p. 31

<sup>161</sup> Nowrot 312-412

<sup>162</sup> ICISS 31

universally accepted single list of criteria falling under the rubric of “exceptional circumstances.” The Commission’s rationale are based on the following principles: *just cause, right intention, last resort, proportional means, reasonable prospects and right authority.*<sup>163</sup>

## **Just Cause**

For there to be a just cause, there must be actual physical evidence or imminent likelihood of large scale loss of life, intentional or not, due to state commission or omission; or the evidence of existence or prospect of large scale ethnic cleansing. If these two conditions are met, it assumed there is just cause. These situations would typically include those actions defined by the framework of the 1948 Genocide Convention ie crimes against humanity and the violations of the laws of war; situations of state collapse and the resultant exposure of the population to mass starvation and/or civil war; and in the instance of massive environmental catastrophe causing or threatening to cause large scale loss of life and the state’s unwillingness or inability to cope.<sup>164</sup>

But how just was ECOWAS’ cause at the time of intervention? Then, it confronted two different but interrelated issues, humanitarian concerns arising out of the rebel war, and the issues of democracy and good governance following the overthrow of a democratically elected civilian administration. The ICISS position on the latter is quite unambiguous. It states that “in cases where a population, having clearly expressed its desire for a democratic regime, is denied its democratic rights by a military take-over,”<sup>165</sup> that does not constitute an instance of just cause. The case of a humanitarian catastrophe in Sierra Leone having been previously established, the question then becomes whether, on its own, the overthrow of a civilian government constitutes sufficient justification for military intervention under the rules of Responsibility to Protect. In a sense, this is the wrong question. What we should be discussing here is whether the overthrow and the humanitarian crisis are separate, compartmentalized issues or whether they constitute two sides of the same coin? Before answering this question however, it must be established whether ECOWAS’ actions in Sierra Leone qualify as humanitarian intervention recognized under international law. This is to distinguish it from the mere existence of a humanitarian

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<sup>163</sup> ICISS 32

<sup>164</sup> See ICISS document Chapter 4 for a complete description of what these conditions are.

<sup>165</sup> ICISS 34

situation within the confines of a nation state, where there can be no justifiable use of external force aimed at halting it.

The use of the term “humanitarian intervention” here “describes the threat or use of force by a state or group of states designed to compel a sovereign to respect fundamental human rights in the exercise of its sovereign powers.”<sup>166</sup> To qualify as humanitarian intervention, “the sole objective of the intervention must be to end or prevent human rights violations.”<sup>167</sup> It is quite clear from the preceding definition that humanitarian intervention covers a very narrow spectrum and is very specific and concise as to what can and cannot be considered an issue of pure humanitarian concern.

The official mandate of ECOWAS in Sierra Leone was the restoration of democracy. Significantly, the definition offered above is silent on this very important issue. Does ICISS’s silence on the issue of restoration of democracy as a humanitarian concern necessarily preclude it from being considered as case for humanitarian intervention? We must bear in mind that there are more than a few high profile examples of restoration of democracy as a humanitarian issue. They include such instances as the U.S interventions in both Somalia and Haiti. In the case of the latter, the UN Security Council actually authorized the move in the name of humanitarian intervention.<sup>168</sup> There are a few other examples of corroborative events elsewhere in the world. Indian intervention in East Pakistan in 1971 and Tanzanian intervention in Uganda in 1979 were both criticized by the UN General Assembly as unjustified interference in the internal affairs of a sovereign country, although both were widely acclaimed as credible attempts to remove clear dangers to international peace and security.<sup>169</sup> In the specific case of Sierra Leone, from a purely legalistic point of view, the ECOWAS mission is not considered humanitarian intervention largely because of lack of UN’s imprimatur.

Despite this assertion, the thesis will continue to characterize the issue as humanitarian intervention for reasons that will be clarified later. Now, this thesis considers the humanitarian intervention and President Kabbah’s reinstatement two sides of the same coin for a variety of reasons. It has already been stated elsewhere that one of the major causes, if not the major cause,

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<sup>166</sup> Nowrot 312-412

<sup>167</sup> Nowrot 312-412

<sup>168</sup> Nowrot 312-412

<sup>169</sup> Nowrot 312-412



of the rebel insurrection was the years of misrule by successive governments and a culture of neo-patrimonialism that had so choked off oxygen to civil society that a violent eruption was almost inevitable. This eruption, when it happened, claimed the lives of an estimated 75,000 people and displaced another 2.1 million out of a population of roughly 4 million.<sup>170</sup>

The international community led by ECOWAS pursued an intense diplomatic effort in the form of negotiations leading to peace agreements and sanctions to try to stop the violence. As a matter of fact, just before the putsch that sent the Kabbah government into exile, the rebels had signed a brand new peace agreement with the government in November 1996 under the auspices of ECOWAS, which specifically mandated the demobilization of rebel fighters and their reintegration into civilian society. If the takeover were allowed to stand, it would have a decidedly adverse effect on a number of crucial issues. First, it would mean that over five years efforts and exertions would have been wiped away by that singular act. Second, the chances of a peaceful settlement would have dwindled to zero given the fact the rebels along with renegade elements of the country's military were now in power and have no more incentive to talk peace. Third and more ominously, the truncated experiment in democracy would have legitimated, or at the very least condoned rule through the barrel of a gun, along with the unintended consequence of encouraging who knows how many other would be coup makers. The argument is that the humanitarian crisis and the need for regime change are intrinsically linked. One cannot be addressed without the other. In other words, the humanitarian crisis has become hostage to the reality of regime change. The two issues taken together, present a compelling case for recognition as just cause.

### **Right Intention**

Intentions are difficult but not impossible to prove. It is mostly predicated on circumstantial evidence, which in turn is open to all manner of interpretations. Right intent may be inferred if the intervention is carried out on "on a collective or multi-lateral rather than single country basis."<sup>171</sup> This is in line with the ICISS's belief that the "primary purpose of intervention must be to halt or avert human suffering."<sup>172</sup> Certain conditions apply. Here, the opinions of surrounding

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<sup>170</sup> Davies 349-369

<sup>171</sup> ICISS 36

<sup>172</sup> ICISS 35

countries and those of the target populations carry a lot of weight. If they are favorable, chances are that the intent is right. Also, the decision to invade does not have to necessarily pass the altruism test as a certain amount of self interest is intrinsic to the human condition.

Still on the issue of given or implied consent of surrounding countries, the regional grouping called ECOWAS comprises 15 independent countries, but only four, Ghana, Guinea, Mali, and Nigeria contributed troops to the war effort. This does not constitute a quorum even under its own rules of engagement, but this does not, in itself, necessarily flunk the consent test, either on the part of the organization as a whole or the troop contributing countries in particular. A majority of the rest of the member countries outside of Burkina Faso and Liberia, supported the intervention in principle. Even Burkina Faso and Liberia did not actively oppose the move. They just did not support it. And the rest had very good reasons to. To put this in perspective, let us look at the human toll of the war, leaving aside for the moment the collateral damage incurred in infrastructure and lost economic opportunities. David Pratt, writing under the heading “Humanitarian Situation,” had this to say about Sierra Leone at the time: “There are 700,000 displaced people internally and another half a million refugees outside Sierra Leone’s borders...unofficial estimates put the number of people living in rebel controlled areas without access to humanitarian aid at close to 1.5 million...of particular note is the plight of women and children who have borne the worst of the atrocities inflicted by the rebels. Refugee camps and hospitals are full of children who have had one or more limbs amputated, the youngest witnessed being less than four years old.”<sup>173</sup>

Describing the same situation as a “complex humanitarian crisis”, Melrose paints the picture of a country that had descended into the abyss of human degradation and abject deprivation. “Some people who had already been living in camps for displaced persons...were displaced again...As a result of the rebels’ terror tactics, large portions of Freetown itself had been destroyed...Many deaths had occurred as a result of summary execution by the rebels. People had at times been burned alive, including some by being thrown into burning buildings.”<sup>174</sup> These types of horrifying tales of human suffering were commonplace and were corroborated by both eye

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<sup>173</sup> Pratt 4

<sup>174</sup> Joseph H. Melrose Jr, “Sierra Leone Peace Process.” Human Rights And Conflict Resolution in Context: Columbia, Sierra Leone and Northern Ireland. Eds. Eileen F. Babbit and Ellen L. Lutz, (Syracuse: Syracuse University, 2009) 118-138.

witness accounts and verifiable sources. As far as support from regional neighbors go, ECOWAS Foreign Ministers, in a meeting in 1997 in Conakry, Guinea declared as their objective, the following measures: imposition of sanctions, enforcement of an embargo, and possible use of force<sup>175</sup> to rid the country of the AFRC/RUF junta. All this was done in a bid to stop human suffering. It was a collective decision with very few dissenting voices, meaning that most or all of the ingredients of good intent were in place prior to the act.

### **Last Resort and Proportional Means**

Last resort simply means that every reasonable peaceful avenue of conflict resolution must first be explored before force is used in the event of a humanitarian crisis. What it does not mean is that every conceivable option in the book must first be tried in a sort of pre-determined sequence. The general inference is that the international community must be seen to have made genuine good faith attempt to peacefully resolve a conflict before going down the military coercion route. Consequently, if a decision to use force is made, “the scale, duration and intensity of the planned military intervention should be the minimum necessary to secure the humanitarian objective in question,”<sup>176</sup> in line with the requirements of proportionality. The implications are that interveners must adhere strictly to laws governing humanitarian intervention in order to preserve the political, cultural and economic structures of the host country.

From the onset of the rebellion in 1991 to the time of intervention in 1998, there were documented attempts by ECOWAS to mediate a peaceful end to the violence. The most comprehensive was the Foreign Ministerial conference in Guinea Conakry in 1997. To ensure compliance with the Peace Plan mooted by the organization, Ghana, Nigeria, Ivory Coast and Guinea were mandated as a contact group to monitor the situation. They met on 17<sup>th</sup>-18<sup>th</sup> July with representatives of the AFRC/RUF junta, the Kamajors and ECOMOG<sup>177</sup> with the stated purpose of stringing together a settlement that would be palatable to all sides. In subsequent meetings in July and August of the same year, ECOWAS Foreign Ministers and Chiefs of Staff and representatives of the OAU and the UN, approved sanctions against the junta.<sup>178</sup> The contact

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<sup>175</sup>David J. Francis, “Economic Community of West African States: The Defense of Democracy in Sierra Leone and Future Prospects.” *Democratization* 6 (1999): 139-165.

<sup>176</sup>ICISS 36

<sup>177</sup>Francis, *Economic* 139-165

<sup>178</sup>Francis, *Economic* 139-165

group went as far as referring its sanctions and embargo decisions to the UN Security Council for approval.<sup>179</sup> It (UN Security Council) adopted Resolution 1132 giving legal recognition to the ECOWAS initiative which provided for, among others, the cessation of hostilities, disarmament, demobilization and reintegration of ex-combatants and the return of refugees and displaced persons.<sup>180</sup> This UN gesture, along with the numerous peace deals that were attempted and/or signed with the RUF prior to this were a demonstration of the international community's commitment to the process of negotiations. Could they have done more to push the peace initiative? Possibly, but what had been done up to that point could not be discounted.

The proportionality issue pushes us into the realm of subjectivity and hypothetical analysis. The actual fighting to remove the AFRC/RUF junta was over in a relatively short period of time. All the same, there were human casualties and other collateral damage which could have been avoided if there was no invasion in the first place. On the other hand, given their record, who knows what other outrages the regime would have perpetrated if it was left in place longer than it was. On the face of it, the amount of force used appears to be reasonable given the fact there was no report of large scale loss of life and property during the operations to dismantle the illegal regime and drive the rebels away from Freetown.

### **Reasonable Prospects**

Use of force can also be justified if there are reasonable prospects that it will succeed, provided other relevant conditions are present. Reasonable prospect doctrine looks at the whole forest and not just the trees. Every violent conflict has the potential to escalate and draw in interested outside parties or even major powers if not properly handled. There is evidence Burkina Faso and Liberia backed the rebels. If these two countries had strong militaries, and were willing to use them on behalf of the rebels, the prospects of an ECOWAS success would have been considerably diminished, rendering moot any talk of military action.

The example of Cote d'Ivoire further illustrates this point. France has a large well armed military garrison based there and it is difficult to imagine ECOWAS seriously contemplating any kind of military intervention there without French approval given the overwhelming superiority of

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<sup>179</sup> Francis, Economic 139-165

<sup>180</sup> Francis, Economic 139-165

French military firepower. This raises the question of double standards in international relations. The ICISS's position, while not likely to assuage critics, charts a rational middle ground. It states that "the reality that interventions may not be able to be mounted in every case where there is justification for doing so, is no reason for them not to be mounted in any case."<sup>181</sup> Sierra Leone in 1998 was a humanitarian crisis by any definition and thanks to years of corrupt neo-patrimonial rule by a succession of greedy politicians, it had very little by way of functioning formal state institutions, much less a capable fighting force. In purely mathematical terms, the odds of a successful military intervention in such a milieu were generally very good.

### **Right Authority**

The conduct of international affairs is predicated on the preponderance, not the absolute applicability, of the rule of law, customs and also of precedence. Although there are other acknowledged reasons for state conduct such as the pursuit of national interests, the rule of law comes across as a reasonable or even desirable point of reference. The question of right authority in state practice therefore takes on an increasingly important resonance in the global political and diplomatic arena. Even if one is able to establish a prima facie case of Responsibility to Protect in Sierra Leone, an equally important corollary issue of the right authority must be adequately addressed before any military action can be considered legitimate. The determining factor here is who is the right authority to determine when a sovereign state's territory can be breached? In other words, who or what constitutes the legal authority to make such a call.

One such entity is the UN which was set up primarily to maintain global peace and security. To that end, it has drawn up rules and regulations that govern the conduct of interstate and intra state relations. Article 2.4 of the Charter of the UN. It states: "All Members shall refrain...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."<sup>182</sup> Article 2.7 of the

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<sup>181</sup>ICISS, 37

<sup>182</sup> ICISS 47

same charter also prohibits the UN from intervening “...in matters which are essentially within the domestic jurisdiction of any state,”<sup>183</sup> although what constitutes “matters within the domestic jurisdiction of any state” is open to debate. In the pursuit of the maintenance of international peace and security, it conferred on the Security Council “...the primary responsibility for the maintenance of international peace and security.”<sup>184</sup>

Chapter VI spells out the mechanisms for the peaceful settlement of disputes. Chapter VII tackles the elements “...of the existence of any threats to the peace, breach of the peace or any acts of aggression.”<sup>185</sup> If the Council considers such actions as embargoes, sanctions and diplomatic isolation inadequate to deal with grave threats to the peace like those mentioned above, it reserves the right to take such “...actions by air, sea or land forces as may be necessary to maintain or restore international peace and security.”<sup>186</sup> Article 51 also recognizes the “inherent right of individuals to collective self defense if an armed attack occurs against a member of the UN.”<sup>187</sup> Chapter VIII gives legal expression to the role of regional security organizations with the caveat that “no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council.”<sup>188</sup> Authorization however could turn an intervention into a legalized enforcement action, “...thus constituting a permissible exception to the prohibition of the use of force of Article 2(4) of the United Nations Charter.”<sup>189</sup>

Going by the preceding definitions, it is clear that the UN, along with other recognized regional organizations, have the primary responsibility and authority to make such calls. The then President of the Security Council condemned the military takeover in Sierra Leone on more than one occasion and called for the unconditional and immediate restoration of civilian rule. In adopting Resolution 1132, the Council determined that the situation in Sierra Leone constituted a threat to international peace and security under Article 39 of its own Charter.<sup>190</sup> Although delegates did not call for outright military intervention, their “...statements demonstrate the

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<sup>183</sup> ICISS 47

<sup>184</sup> ICISS 47

<sup>185</sup> ICISS 47

<sup>186</sup> ICISS 47

<sup>187</sup> ICISS 47

<sup>188</sup> ICISS 48

<sup>189</sup> Nowrot 312-412

<sup>190</sup> Nowrot 312-412

Resolution sought to reinstate Sierra Leone's elected government."<sup>191</sup>In addition, the Council imposed sanctions on the regime in Freetown, authorizing ECOWAS, in cooperation with the legitimate government of Sierra Leone, "...to ensure strict implementation of the provisions of this resolution..."<sup>192</sup>

It has been stated already that the Security Council Resolution 1132 did not explicitly call for military intervention. However, subsequent events after the fact appear to support the idea that the UN "...welcomes the fact that the rule of the military junta has been brought to an end."<sup>193</sup> This is known as the *ex post* justification. The question of whether or not it is legal for the Security Council to approve of an event *ex post facto* is beyond the scope of this thesis. What is important here is the fact that there is circumstantial evidence to suggest that the Council was not unhappy with the turn of events in Sierra Leone at the time. This "evidence" came in the form of a statement from the then President of the Security Council on the 26<sup>th</sup> of March, 1998. He welcomed the "...fact that the rule of the military junta had been brought to an end... furthermore the Council commended the important role of ECOWAS towards the peaceful resolution of the crisis,"<sup>194</sup> and encouraged ECOMOG to proceed in its efforts, in accordance with the relevant provisions of the Charter of the United Nations.

The African Union's (AU) security architecture also provides some sort of legal cover for the kind of military action seen in Sierra Leone, although it too falls under the *ex post facto* phenomenon. The AU, formerly the Organization of African Unity, was founded in 1963 to promote African unity. It became the African Union in 2002 with greater emphasis being placed on economic integration and security. Although its constitutive framework prohibits meddling in the internal affairs of member states, Article 4 promotes "...the right of the Union to intervene in member states pursuant to the decision of the Assembly in respect of grave circumstances, genocide and crimes against humanity."<sup>195</sup> It also recognizes the right of member states "...to request intervention from the Union in order to restore peace and security."<sup>196</sup> This could be done without the consent of the target state if it is for the purposes of averting state collapse, war

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<sup>191</sup> Nowrot 312-412

<sup>192</sup> Nowrot 312-412

<sup>193</sup> Nowrot 312-412

<sup>194</sup> Nowrot 312-412

<sup>195</sup> Francis, Uniting 129

<sup>196</sup> Francis, Uniting 129

crimes, genocide and human protection.<sup>197</sup> All these revolve around the institution of the Peace and Security Council (PSC), modeled along the lines of the UN Security Council and with similar powers. It was granted 18 specific powers ranging from the provision of humanitarian assistance to the authorization of military intervention in AU member states.<sup>198</sup>

However, AU's charter giving it direct authority to order military intervention on the continent directly contradicts the UN Charter's provision specifically mandating its own Security Council as having the ultimate and "...primary responsibility for the maintenance of international peace and security."<sup>199</sup> A compromise was worked out in which the UN Security Council retains original powers of authorization, but accepting that "...in certain situations, such approval could be granted post hoc in circumstances requiring urgent action."<sup>200</sup> This amounts to a wink and a nod to the fact that the AU (and for that matter any legitimate regional organization) could legally authorize military interventions in member states and only later notify the UN Security Council. The significance of this development lies in the recognition of the importance of the maintenance of security in many parts of the world. In any case, this arrangement between the AU and the UN lends quite a bit of weight to whatever pronouncements or actions comes out of the AU in terms of security. It also encourages home grown solutions to Africa's security problems instead of the default position of outsourcing their collective destinies to outside powers who may not necessarily have the right answers nor the best interests of the continent at heart.

Some observers point to ECOWAS' own protocols as a source of authority. This point of view is rooted in the idea that West Africa has a "security regime" which is at the core of the drive to preserve regional peace and security. A regime in this context is defined as "...a set of principles, norms, rules, and decision making procedures around which actor interests converge in a given area."<sup>201</sup> A close reading of ECOWAS' founding Charter and Protocols suggests that a security regime does indeed exist and is underpinned by expectations of reciprocity. This regime is reflected in the new 1993 revised treaty where, as discussed elsewhere in this paper, there was

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<sup>197</sup> Francis, Uniting 129

<sup>198</sup> Franke 141

<sup>199</sup> Franke 142

<sup>200</sup> Franke 142

<sup>201</sup> Emmanuel Aning, "From Eco-pessimism to Eco-optimism: ECOMOG and the West Africa Integration Process." African Journal of Political Science, 4 (1999): 21-39



a palpable paradigm shift from economic policy issues to “...peace and security imperatives.”<sup>202</sup> This new ECOWAS pragmatism would later find a concrete expression in a new development paradigm the Community calls “ Security First”<sup>203</sup> initiative. This translates in practice to what some experts call a Regional Security Complex (RSC). An RSC is a “...group of states whose primary security concerns link together sufficiently closely that their national securities cannot realistically be considered apart from one another.”<sup>204</sup> This analysis provides the appropriate context in which to address the theoretical ramifications of ECOWAS’ security engagements in the region.

And so to answer the question as to whether ECOWAS had the “Right Authority” to intervene in Sierra Leone, it is important to clarify its standing vis-à-vis the UN Charter. ECOWAS “...maybe regarded as a regional organization under Chapter VIII of the UN’s Charter”<sup>205</sup> for the purposes of intervening in conflicts within its jurisdiction. The regional body’s first comprehensive efforts at addressing its security needs which was the 1978 Protocol on Non-Aggression, represented “...a valuable statement of intent and a demonstration of goodwill that exists among national leaders of the West African region...[and] signifies the willingness and commitment by member states to restrict their sovereignty in a new era,”<sup>206</sup> in order to secure for themselves the blessings of collective security. The defining phrase here is “willingness and commitment by member states to restrict their sovereignty.” Coupled with the recognition of ECOWAS as a legitimate regional grouping under the UN Charter, there is very little argument it constitutes the right authority, or at least one of the right authorities, under the doctrine of Responsibility to Protect.

That is not all. The history of the protocols themselves lend credence to the idea that ECOWAS constitutes “Right Authority” under the R2P doctrine. When ECOWAS came up with the Protocol Relating to Mutual Assistance on Defense (PMAD) in 1981, it sketched the outlines for “...tackling internal armed conflict within any member state engineered and supported actively

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<sup>202</sup> United Nations, Cooperating For Peace 10

<sup>203</sup> United Nations, Cooperating For Peace 11

<sup>204</sup> Barry Buzan, People, States and Fear: An Agenda For International Security Studies in the Post Cold War Era, (2<sup>nd</sup> ed.), (Boulder: Lynne Rienner, 1991) 190

<sup>205</sup> Nowrot 312-412

<sup>206</sup> Aning, From, 21-39

from the outside likely to endanger security and peace in the entire community.”<sup>207</sup> This solidified the foundation of the aforementioned “new security thinking” that linked state security with people security across the entire region although it declined to get involved in conflicts inspired from within. The notion of collective defense which was nurtured in 1978 was systematically defined in 1981, shaping a comprehensive system of rules and regulations amounting to what may be termed a “security regime,” a “...sub-system with a tacit aim of ensuring and securing sub-regional stability.”<sup>208</sup> With expectations of mutual dependency signified by their agreement to seek and maintain membership, each member state tacitly acknowledges its share of benefits and responsibilities. “Non-compliance with regime rules, norms and principles or perceived threats to accepted rules, norms and principles by either member states or other external forces can lead to either coercive or diplomatic response by other regime members.”<sup>209</sup> Based on the above norms, ECOWAS ministers meeting in Conakry, Guinea, issued a communique in which they “...called for the reinstatement of the legitimate Government of Sierra Leone by use of force.”<sup>210</sup> This communiqué was accepted by the Security Council Resolution 1132 without any modifications, thus lending credence to the claim that there was indeed a legal basis for its military action in Sierra Leone.

And there is also the issue of the role of the deposed former president of Sierra Leone, Ahmed Tejan Kabbah in facilitating ECOWAS’ intervention in his country. In state practice, it is generally recognized that a government, any government, in effective control of the territory of a sovereign state, is legally recognized to act on behalf of that state. Legitimacy is irrelevant here.<sup>211</sup> On that basis, and that basis alone, Tejan Kabbah had no authority to call for outside intervention when he did, as he was then exiled in Guinea when he made the pronouncement. The rebel/military junta in power in Freetown constituted legitimate authority for the purposes of calling for third party military intervention in Sierra Leone at the time.

However, there has been a noticeable paradigm shift in the interpretation of what constitutes “effective control” since the 1990s. President Jean Bertrand Aristide’s election, subsequent overthrow and reinstatement marked the beginning a subtle shift in thinking on the question of

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<sup>207</sup> Aning, From, 21-39

<sup>208</sup> Aning, From, 21-39

<sup>209</sup> Aning, From, 21-39

<sup>210</sup> Nowrot 312-412

<sup>211</sup> Nowrot 312-412

“effective control”. During Aristide’s period in exile, the international community including the UN continued to refer to the military regime in Port-au-Prince as the “illegal de facto regime” while calling Aristide the legitimate head of state.<sup>212</sup> The trend was continued in Burundi in 1996. Then, a group of military officers violently overthrew the elected civilian government and installed itself in Bujumbura, effectively controlling Burundian territory.<sup>213</sup> However, Burundi’s neighbors rejected the government and announced a total trade embargo, forcing the junta to reinstate parliament.

The rebel/military junta in Freetown faced the same almost unanimous international condemnation in 1996. This chorus was led by the regional organization, ECOWAS. It not only condemned the putsch, but demanded in no uncertain terms the unconditional restoration of constitutional rule. These three cases suggest a tentative reformulation of the “effective control” rule, which in turn had implications for President Kabbah . What it meant was that, despite his loss of control over state territory, he was still viewed by the international community as the legitimate government of Sierra Leone. His request for outside military assistance was therefore a legitimate request for assistance from a head of state.<sup>214</sup> His legitimacy informed ECOWAS’ decision to launch a humanitarian intervention in Sierra Leone and the context within which the doctrine of the Responsibility to Protect is addressed.

## 5.4 Conclusion

Analyses of the theoretical underpinnings of ECOWAS’ humanitarian intervention in Sierra Leone reveals some very serious shortcomings, but also some very encouraging developments. The Responsibility to Prevent obligates the international community to take certain pre-determined proactive measures to prevent violent conflict from erupting and failing that, implement a certain blueprint to prevent it from escalating, and ultimately averting or stopping humanitarian crisis. What transpired in Sierra Leone was the story of an organization that lacked the institutional capacity and perhaps the political will to act to prevent impending disaster. The

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<sup>212</sup> Nowrot 312-412

<sup>213</sup> Nowrot 312-412

<sup>214</sup> Nowrot 312-412

measures it took to prevent conflict were piecemeal, uncoordinated actions with very predictable results.

However, when it came time to react to a conflict that was already blazing out of control and threatening the stability of an entire region, ECOWAS stood up and was counted. Despite pessimists' assertion that the Sierra Leonean action was a classic example of how not to organize humanitarian intervention outside the ambit of the UN, ECOWAS' performance in that theatre achieved the stated purpose of putting a peace process back on track through the reinstatement of the democratically elected government of Ahmed Tejan Kabbah. It also underscored the utility of collective action and capacity building in a region that is not known for either. ECOWAS' responsibility to react consisted mainly of a self declared mandate of stopping human suffering through the restoration of the democracy, if necessary by force of arms. This in itself, is a contradiction in terms. But arguably, they had the force and backing of international law, customs and convention.

After stabilizing a conflict situation, ECOWAS was obliged under the tenets of the Responsibility to Protect, to help rebuild the target country. However, ECOWAS handed over control of the country back to the UN soon after reinstating the deposed civilian administration. Since the scope of the thesis does not extend beyond this period, there is very little said here on this aspect of the doctrine.

## CHAPTER 6

### CONCLUSION

This thesis set out to argue that ECOWAS' military intervention in Sierra Leone spanning the period 1997/1998 was justified based on a number of assumptions. What it does not do is stake out a position whether or not the ECOWAS mission was successful. "Success" as a term is too loaded and too subjective, and involves value judgments that are well beyond the scope of the thesis. The word "justification" here is used largely within the context of a narrative that sidelines altruistic notions of "good" and "bad," and argues that there is a certain intrinsic redemptive quality in stopping mass murder, which, on the surface, does not easily lend itself to ascriptive explanations. It means that certain individual actions taken by ECOWAS can and may be construed as successful or unsuccessful. For instance forcing the military/rebel coalition government out of power in Freetown, thereby saving the civilian population from further misery, could be seen as a positive development. On the other hand, the decision by ECOMOG High Command to lob shells into civilian areas in a bid to flush out rebels is regrettable and cannot be justified under any circumstance. The analyses presented here is wholistic in outlook, and outcomes takes precedence over individual actions. Well meaning critics may disagree with, condemn or even commend specific ECOWAS undertakings in Sierra Leone. That in itself does not necessarily take anything away from the principal thesis argument that based on its own protocols and the doctrine of R2P, ECOWAS was justified in intervening in Sierra Leone when it did.

The preceding statement is, to some extent, reflected in the fallout from ECOWAS' episodic events in Liberia and Sierra Leone. We are referring here to the 1999 Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security and the 2008 ECOWAS Conflict Prevention Framework. These two protocols are significant mostly for the fact that their existence owes everything to these two conflicts. The idea behind the Mechanism for Conflict Prevention was to institutionalize structures and processes, to collectively manage regional security issues.<sup>215</sup> The new strategic vision embodied in this Protocol transformed the region from being an "ECOWAS of States" into "an ECOWAS of the

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<sup>215</sup> Franke 66

peoples.” In regard to the question of deadly conflict within states, ECOWAS gave itself the mandate to enforce peace within the region, provided certain conditions are met. These conditions include “...aggression or conflict within any member state or threat thereof...the case of internal conflict that threatens to trigger humanitarian disaster or that pose a serious threat to the peace and security in the sub-region.”<sup>216</sup> And for good measure, it added that “ECOWAS shall intervene to alleviate the suffering of the populations and to restore life to normalcy in the event of crisis, conflict and disaster.”<sup>217</sup>

The ECOWAS Conflict Prevention Framework, on its part, makes clear that in the event of tension between sovereignty and supra-nationality, and between regime security and human security, the conflict shall be progressively resolved in favor of supra-nationality and human security respectively.<sup>218</sup> The preponderance of supra-nationality over sovereignty is perhaps the most significant of these new realities, as it undid in one fell swoop the notions of absolute sovereignty and territorial integrity of the nations states in the region.

Reading the preamble to both protocols, there is little doubt that the introduction of such radical ideas were motivated by prior events in Sierra Leone and Liberia. Legality and aesthetics aside, the provisions are proving to be visionary. Current events in LA Cote d’Ivoire and Mali, where ECOWAS forcefully intervened, (albeit without the use of military force) thereby averting potential crisis, is testimony to this vision. In the case of La Cote d’Ivoire, the conflict was already been played out, but ECOWAS’ decision to use economic and diplomatic sanctions clearly averted the resumption of all out war.

The Sierra Leonean intervention, as a purely political act, assuages the common revulsion that is felt by most decent human beings in the face of massive violations of human dignity and human rights in a way that transcends the need for theoretical and intellectual explanations. Some Afro-

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<sup>216</sup> ECOWAS. “Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping, and Security,” <http://www.comm.ECOWAS.int/sec/index.php?id=ap101299&lang=en>, accessed on 9/9/10

<sup>217</sup> ECOWAS. “Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping, and Security,” <http://www.comm.ECOWAS.int/sec/index.php?id=ap101299&lang=en>, accessed on 9/9/10

<sup>218</sup> ECOWAS. “Conflict Prevention Framework,” [http://www.ECOWAS.int/publications/en/framework/ECPF\\_final.pdf](http://www.ECOWAS.int/publications/en/framework/ECPF_final.pdf), accessed on 10/10/11

optimists “...see this as the dawn of Africa’s political and economic renewal, or an African renaissance.”<sup>219</sup> The jury is out on that.

The literature review reveals no consensus on the subject of ECOWAS’ intervention in Sierra Leone. The negative reviews were largely based on the question of legality of the use of force in international relations, couched in the language of Westphalian notions of sovereignty and the nation state, and the UN’s seeming injunction on the inviolability and the territorial integrity of member states, not to mention the vast array of negative legal opinions on the issue. These are entirely legitimate propositions.

One of the objectives of the thesis was to make the case that as a matter of practical necessity, ECOWAS had a duty to intervene in Sierra Leone that went beyond simple dictates of state-centric notions of territorial integrity and national sovereignty . What this means is that although legal and academic theories and opinions are useful mainstays for the operation and also for the explanation of the international system and interstate relations, they cannot be held to be sacrosanct when doing so would perpetuate glaring injustice and allow an unbearable situation to continue. The situation in Sierra Leone at the time, if left unresolved, would have engendered far more dire consequences than anything the intervention may have done wrong.

This assertion was backed up first by briefly revisiting the historical antecedents to the conflict. The histories of both ECOWAS and Sierra Leone provide an elaborate backdrop to the thesis arguments. It is a matter of historical record that ECOWAS was formed for the express purpose of regional economic integration, and later metamorphosed into a regional security organization. This was done in response to the realization that security and development are interlinked in the sub-region and that one cannot be achieved without the other. It is equally true that the civil war in Sierra Leone pushed what was left of the state over the precipice, taking along with it the lives and properties of tens of thousands of civilian non-combatants. ECOWAS at the time had developed the requisite internal structures and the operational experience of having previously intervened in a similar situation in Liberia, to mount a credible interventionist effort in Sierra Leone. The novelty here was not the use of force per se, but the reasons for which it was used. For the first time in modern African history, a regional organization decided to use force to

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<sup>219</sup> Francis, Democratization 139-165

reinstate an ousted civilian leader and in the process create an enabling environment to stop a crippling humanitarian crisis.

Some of the assumptions underlining the justification are based on a theoretical superstructure of the security architecture of various international institutions like the UN, the African Union, and the Commonwealth, to which all ECOWAS members belong. And then there were also the enabling articles of ECOWAS itself. The Protocols on Mutual Defense and Non-Aggression are ECOWAS frameworks which specifically dealt with conflict resolution and the use of force under properly defined circumstances. They called for, among other things, the establishment of a standby force made up of units from the armed forces of member states to be used for these purposes.

On another level, “facts on the ground” provide another potent justification for why ECOWAS had to do what it did. It is assumed, with good reason too, that all bonafide members of the group, and that includes Sierra Leone, understood that membership came with duties, responsibilities, and privileges some of which mandate adherence to and faithful execution of the rules and regulations of the organization. As a signatory to the treaty and all the other protocols that make up the combined body of rules and regulations of the organization, Sierra Leone was bound by any and all the decisions taken by the collective. The founding charter of ECOWAS, revised in 1993, made it clear that member countries could ask for help or “mutual assistance” in the event of a military or humanitarian emergency. President Ahmed Tejan Kabbah, although in exile in Guinea, remained the de jure leader of the state and was recognized by ECOWAS as such. He specifically wrote to the organization asking for military help to restore his administration. Arguments about the constitutionality of his demand notwithstanding, ECOWAS was bound by protocol to give it.

When the Organization of African Unity became the African Union, it too revised its treaty. Much of the new thinking here too centered around issues of security and peace with an “...increased visibility and an elevated profile in the conflict management arena.”<sup>220</sup> Some of the articles in the African Union’s New Charter signed in 2002, especially those dealing with security issues, bear direct resemblance to ECOWAS’s own security protocols. It is difficult to

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<sup>220</sup> Franke 90



imagine this was mere coincidence. Even before it became the African Union, the OAU “...supported the activities of ECOWAS and the UN in Liberia and later in Sierra Leone.”<sup>221</sup>

During the 90s, there were more than a few high profile meetings between member states of the OAU and the international community to find ways to form a pan–African peacekeeping force to “put squarely on Africa’s shoulders the responsibility of keeping the peace in the continent.”<sup>222</sup> Although nothing concrete came out of those meetings, it was clear that both the international community and the Africans themselves realized that the time had come for Africans to take responsibility for securing their own safety and well being. ECOWAS’ mission in Sierra Leone could be seen as a manifestation of that realization.

Similarly, the International Commission on Intervention and State Sovereignty’s prescriptive analysis of humanitarian crisis assumes certain positions that seem to vindicate the ECOWAS mission in Sierra Leone. First, it speaks about the international community’s obligation to help prevent humanitarian catastrophe, making clear, however, that the primary responsibility lies with individual states. Experience shows that most, if not all, the states in the region were either unwilling or unable to shoulder that responsibility. ECOWAS as a group, was no better at the time. It could even be argued with a great deal of justification that the Sierra Leonean state was at the time actively involved in perpetrating violence against its own citizens. The state at that point was represented by the combined resources of the military junta and the rebels.

Having established the existence of a humanitarian catastrophe, the question then became how to stop it and who or what, should? The concept of R2P sheds some light on this. It obligates the international community to intervene provided certain basic conditions are met. The tenets embodied in the Responsibility to React places the international community squarely on the spot if certain trigger events are activated as a result of state collapse or willful endangerment of civilian lives on a massive scale. The international community here, is represented by ECOWAS because contextually, this thesis is about ECOWAS. Based on arguments that have already been made elsewhere, it was in the interest of regional peace and security for ECOWAS to right a very bad situation. No attempt was made, however, to analyze ECOWAS’ responsibility to rebuild because responsibility was handed over to the United Nations after the intervention phase.

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<sup>221</sup> Franke 90

<sup>222</sup> Franke 90

Finally, what lessons have been learned? The intervention was not about securing minority rights. Instead, it dealt with restoring democracy as a basis for transition from war to peace, for stable social, political and security order.<sup>223</sup> Pre-intervention conventional policy prescriptions on politics in West Africa called for agencies like the UN to play the lead role in resolving the many interminable conflict situations in the region. Local involvement was severely limited due to the top down approach adopted by the international community. Whatever local involvement existed, was heavily influenced by external peace groups and other multi-lateral agencies. However, these approaches have been mildly successful at best. In some instances, they have actually exacerbated the situation, because, for the most part, the cultural dynamics of the African polity, were overlooked.

What happened in Sierra Leone, and indeed Liberia, was in direct contradistinction to the prevailing top down approach of that period. This new paradigm can be viewed within the context of “African solutions to African problems.” This concept does not necessarily denote an intrinsically superior African values system. In this war, so to speak, the tools are not even necessarily African. What it means is that whatever tools were being used, local or foreign, were adapted by, and for the benefit of the protagonists/beneficiaries. It is no longer a question of “here’s what you have to do.” Significantly, it is more like “I am going to do it my way.” The input and output are owned by the people directly affected, and that makes a big difference in West Africa’s ability to build capacity to redress some of these issues on their own. The Sierra Leone initiative and the lessons gleaned from it provide empirical evidence of the vast possibilities inherent in the phenomenon of encouraging Africans to take control of their own destiny. It is a practical basis on which to question and seek alternatives to the status quo.

Also, it is suggested that the impact of the emerging concept of “African solutions to African problems” on the political and economic life of countries especially in Sub-Saharan Africa should be empirically examined. A more structured look at local or regional solutions to everything from serious conflict situations to adaptations of market economics to country specific contexts could do a lot to inform solutions to the problems that currently bedevil the landscape in this part of the world.

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<sup>223</sup> Francis, Economic 139-165

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