

**Security Architecture in Sub-Saharan Africa and Collective Security
Challenges: The EAC and SADC in Comparative Perspective**

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List of Abbreviations

AACC	All Africa Conference of Churches
ACHPR	African Commission on Human and Peoples' Rights
AEC	African Economic Community
AHC	African High Command
AIPPA	Access to Information and Protection of Privacy Act (Zimbabwe)
AISA	African Institute of South Africa
ASF	African Standby Force
AU	African Union
BSA	Broadcasting Service Act (Zimbabwe)
CCM	Christian Council of Mozambique
CDPCA	Commission for Civilian Disarmament and Control of the Proliferation of Small Arms and Light Weapons
CIPEV	Commission of Inquiry into the Post-Election Violence
CNC-ALPC	National Commission for the Control of Small Arms and Light Weapons (in the DRC)
COMESA	Common Market for Eastern and Southern Africa
CONSAS	Constellation of Southern African States
CSOs	Civil Society Organizations
CSSDCA	Conference on Security, Stability, Development, and Cooperation in Africa.
DDR	Disarmament, Demobilization and Reintegration
DRC	Democratic Republic of Congo
EAANSA	Eastern Africa Action Network on Small Arms
EAC	East Africa Community
EACJ	East African Court of Justice
EALA	East African Legislative Assembly
EAPCCO	East African Police Chiefs Cooperation Organization
EASSI	Eastern African Sub-regional Support Initiatives for the Advancement of Women
ECCAS	Economic Community of Central African States
ECK	Electoral Commission of Kenya
ECOMOG	ECOWAS Monitoring Group
ECOWAS	Economic Community of West African States
EFZ	Evangelical Fellowship of Zimbabwe
EU	European Union
FIDH	International Federation for Human Rights
FLS	Front Line States
FRELIMO	Frente de Libertação de Moçambique
GLR	Great Lakes Region
GPA	Global Partnership Agreement
GTZ	Gesellschaft für Technische Zusammenarbeit
HRW	Human Rights Watch
ICG	International Crisis Group

ICPs	International Cooperating Partners
IDASA	Institute for Democracy in Africa (South Africa)
IGAD	Intergovernmental Authority on Development
IREC	Independent Review of Elections Commission (Kenya)
ISDSC	Inter-State Defence and Security Committee
ISPDC	Inter-State Politics and Diplomacy Committee
ISS	Institute for Security Studies (South Africa)
JOMIC	Joint Monitoring and Implementation Committee
KHRC	Kenya Human Rights Commission
KIDDP	Karamoja Integrated Disarmament and Development Programme
KPTJ	Kenyans for Peace, Truth and Justice
LDUs	Local Defence Units
LEAs	Law Enforcement Agencies
LPA	Lagos Plan of Action
LRA	Lords Resistance Army
MDC	Movement for Democratic Change
MDC-M	Movement for Democratic Change-Mutambara
MDC-T	Movement for Democratic Change-Tsvangirai
NAP	National Action Plan
NFP	National Focal Point
OAU	Organization of African Unity
ODM	Orange Democratic Movement
OPDSC	Organ on Politics, Defence and Security Cooperation
PEAP	Panel of Eminent African Personalities
PNU	Party of National Unity
POSA	Public Order and Security Act (Zimbabwe)
PSC	Peace and Security Council
PTA	Preferential Trade Area
RCC	Regional Coordinating Committee (on SALW in the SADC sub-region)
RECSA	Regional Centre on Small Arms
RENAMO	Resistência Nacional Moçambicana
SADC	South African Development Community
SADCC	Southern African Development Coordination Conference
SADF	South African Defence Forces
SALW	Small Arms and Light Weapons
SAPS	South African Police Service
SARPCCO	Southern African Regional Police Chiefs Cooperation Organization
SIPO	Strategic Indicative Plan for the Organ
SOPs	Standard Operating Procedures (for the implementation of the SADC Firearms Protocol)
TAE	Transformação das Armas em Enxadas (Transforming Weapons into Ploughshares)
TANANSA	Tanzania National Action Network on Small Arms
UCDP	Uppsala Conflict Data Program

UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Program
UNOCHA	United Nations' Office for the Coordination of Humanitarian Affairs
UNODC	United Nations on Drugs and Crime
UNPoA	United Nations Program of Action
US	United States
ZANU-PF	Zimbabwe African National Union-Popular Front
ZCBC	Zimbabwe Catholic Bishops Conference
ZIDERA	Zimbabwe Democracy and Economic Recovery Act

Abstract

Die meisten regionalen und subregionalen Organisationen in Afrika sind konfrontiert mit mehr oder weniger ähnlichen Formen von Sicherheitsbedrohungen. Obwohl ein Potential für zwischenstaatliche Konflikte besteht, bestehen wenig Zweifel, dass die heute auffälligsten Herausforderungen für die Sicherheit, denen die Mehrheit der Staaten Afrikas sich gegenüber sieht, sich hauptsächlich in zwei Formen darstellen, nämlich transnationalen Bedrohungen oder innenpolitischen Krisen. Im Falle des Ausbleibens der richtigen Maßnahmen tragen beide das Potential in sich, die regionale, bzw. sub-regionale Stabilität weiter zu gefährden. Die Ausgangsannahme war, dass subregionale Organisationen bewußt eingesetzt wurden, nicht nur, um ein kollektives Forum für den Einsatz von Krisenmechanismen im Falle transnationaler Bedrohung bereitzustellen, sondern dass sie auch eine wichtige Rolle zur Lösung von Konfliktsituationen in den Mitgliedsstaaten einnehmen können.

Folglich fragt die Studie danach, wie subregionale Organisationen mit Sicherheitsmandaten sich faktisch koordinieren und auf kollektive Sicherheitsprobleme reagieren. Wichtig war hier zu vergleichen, wie jede der zwei unterschiedlichen Sicherheitsprobleme, nicht nur innerhalb einer, sondern im Vergleich zweier subregionaler Organisationen angegangen wird. Die vorliegende Untersuchung war daher bestrebt, unter Benutzung einer qualitativen vergleichenden Methode, die jeweilige sicherheitspolitische Rolle der Eastern African Community und der Southern African Development Community zu untersuchen, bezogen auf den Zeitraum zwischen 2000 und 2011.

Im Bewusstsein der Tatsache, dass eine Reihe von Akteuren in einem mehrstufigen und dynamischen Prozess involviert ist, was zunehmend auch die Forderung nach Steuerung auf subregionaler Ebene unterstützt, ging die Studie darüber hinaus, lediglich die Unterschiede und Ähnlichkeiten herauszuarbeiten und hinterfragte, wie während der Ausübung der Koordinations- und Steuerungsfunktionen die Interaktionen der Akteure auf

die Wirksamkeit der Organisationen in Bezug auf die diskutierten Gefährdungen regionaler Sicherheit auswirken.

Die sich aus der Untersuchung ergebenden Erfahrungen der EAC und SADC und ihrer Reaktionen auf die Sicherheitsgefährdungen bei mit Kleinwaffen ausgetragenen Konflikten und innenpolitischen Krisen bestätigen die Hypothese der Studie, dass die Koordination und Lenkung der subregionalen Sicherheitspolitik abhängig ist von der Art der kollektiven Sicherheitsbedrohung. Die beobachteten Entwicklungen und Praktiken innerhalb der EAC- und SADC-Sicherheitsarchitekturen zeigen auch auf, dass die hier im Fokus stehenden subregionalen Organisationen als vergleichsweise effektivere Akteure im Bereich der Kleinwaffen erscheinen, und tendenziell weniger in Fällen innenpolitischer Krisen in Mitgliedsstaaten.

Abstract (English Version)

Most regional and sub-regional organizations confront more or less similar forms of security threats. Indeed, while there is still potential for inter-state conflict, it is well documented that the most salient security challenges confronting the majority of states in Africa to date are mainly of two forms, namely transnational threats and internal or domestic political crises. These security challenges if not properly addressed have the potential to turn stability into sub-regional or regional anarchical order. It was assumed that sub-regional organizations are adeptly placed not only to provide a collective forum for facilitating response mechanisms to transnational threats, but also can play important roles resolving conflict situations within their members. The study, thus, set out to establish how sub-regional arrangements with security mandates actually coordinate and manage their responses to these collective security challenges in their delineated areas. It was deemed important to compare not only how each of the two forms of security challenges are addressed within one, but also across two sub-regional arrangements. The study, therefore, with a comparative emphasis and using a qualitative method, sought to examine the roles of the EAC and SADC in their attempts to address these security challenges confronting their respective sub-regions covering the period from 2000 to 2011.

Cognizant of the fact that there is an array of actors engaged in a multilevel and dynamic process, which increasingly underpins security governance in the sub-regional level, the study moved beyond fleshing out disparities and resemblances and interrogated how actors' interactions during coordination and management functions reflect on the organization's overall effectiveness in relation to the security challenges. The emerging patterns from the examination of the EAC and SADC experiences in reacting to the security challenges of small arms and domestic political crises confirm the study's hypothesis that the coordination and management of sub-regional security governance depends on the type of collective security challenge. The observed developments and practices within the EAC and SADC security architectures also reveal that the security dimensions facing their Member States and the mitigating tasks of these sub-regional groupings vary. In comparative terms the sub-regional organizations under focus here appear as more effective actors in the small arms issue-area and less so when it comes to cases of domestic political crises.

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Chapter One

Introduction

Most regional and sub-regional organizations confront more or less similar forms of security threats. Indeed, while there is still potential for inter-state conflict, it is well documented that the most salient security threats facing the sub-regions call for measures, which require collaborative response. While it is widely acknowledged that security concerns of African states largely come from within rather than between states (Franke, 2009; Hentz, 2009; Hurrell, 1995), it is also the case that security threats confronting most states today are almost regional in nature, and regions are increasingly the locus of conflict and cooperation, and thus salient units of analysis (Lake and Morgan, 1997: 6-7; Buzan and Weaver, 2003: 10-11; Flesmes and Radseck, 2009: 6).

Long before IR scholars characterised the regional level as the locus of conflict and cooperation and as the level of analysis for scholars seeking to explore contemporary security threats, the United Nations (UN) envisaged the engagement of state actors organized in what it refers as regional arrangements and agencies in the maintenance of peace and security within their geographical territories¹. More importantly, the noble aspirations of the international community expressed in the UN Charter were to witness more pacific settlement of conflicts and other security threats through such arrangements and agencies².

Views may still be divided over the actual contribution of sub-regional organizations to peace and security but there seems to be a consensus that these arrangements enjoy relatively more comparative advantages when it comes to the management of security challenges within their localities than international actors. The proximity of sub-regional organizations to trouble spots lends them important advantages: a much closer

¹ Article 52 of the UN Charter.

² The current study makes a distinction between regional and sub-regional arrangements/organizations

understanding of the specific dynamics of the prevailing security threats, key players and context-specific management and resolution options.

In Africa, sub-regional organizations begun to seriously consider security matters due to the growing recognition that their ability to concentrate on the initial mandate of promoting economic prosperity in their geographical areas would be constrained by insecurity. This followed periods of instability and conflicts in many areas of the continent that were coupled with the dwindling interest of the international community in Africa in the aftermath of the Cold War. This study, henceforth, gives particular attention to practical experiences of two of several sub-regional organizations in the sub-Saharan African context, where circumstances for security coordination and management are compelling, but the collective security challenges are also among the most daunting. These are the East African Community (EAC) and the Southern Africa Development Community (SADC). The study covers the period from 2000 to 2011 and as hinted earlier, is confined to the security realm.

While it is certainly true that these sub-regional organizations (i.e. the EAC and SADC) have had some of their Member States embroiled in devastating civil wars in the 1990s and 2000s, it is equally true that they have also served as important collective forums for increased interaction between different actors. Setting concrete peace and security goals in the form of SADC's Strategic Indicative Program for the Organ (SIPO) and EAC's Regional Strategy for Peace and Security and adoption of related security and defence protocols bears testimony to efforts of bringing together an evolving array of actors and institutions.

Indeed, the current study is not the first and only one on the topical issue of African regional and sub-regional organizations' engagement in security matters. An equally increasing volume in research works accompanied the surge in security undertakings by regional and sub-regional organizations that gained momentum in the 1990s. There are several comparative research works that offer valuable contribution and clarification on different dynamics of the security endeavours of these organizations albeit with a variation in focus as well as cases covered. These works can be categorized into five main groups.

First, post-Deutschian scholars (Adler and Barnett, 1998; Acharya 1998, 2009; Sridhan, 2008, to mention a few) who have primarily been concerned with explaining and comparing how regional arrangements have been able to keep their respective regions free of violent hostilities. Their main interest has been fixed on the potential of regions and sub-regions to develop into security communities, focusing more on regional stability based on management of inter-state conflicts. Second, studies which offer a comparative analysis of the integral capacities of regional organizations with a security mandate. In mind here are the studies conducted by the United Nations University (UNU-CRIS) in 2007 and 2008 and the well-researched volume by Tavares (2009).

Third, researchers have also designed studies with a comparative focus on the role of African regional and sub-regional organizations in security matters. The work by Soderbaum and Tavares (2010) presents a comparative analysis of the role of the AU, ECOWAS, IGAD, ECCAS and SADC in one volume. As can be noted the volume combines regional and sub-regional organizations in one comparative assessment, specifically focusing on their advantages and disadvantages; the official and unofficial reasons to intervene, and whether their peace activities establishes security.

Fourth, a few studies have come to offer sober reflections on compilation of individual cases of regional organizations but with the main focus on the AU's security architecture. Baseda's edited volume is one such work that highlights practical experiences of and the complementary roles played by the AU, UN, EU, sub-regional organizations and individual leading states in Africa's security dynamics (Baseda, 2010). In this group also is the work that offers a critical analysis of the operationalization of the AU's peace and security architecture and Africa's Regional Economic Communities (REC) (Engel and Porto, 2010).

Fifth, some studies ventured into comparing the EU as supposedly most sophisticated integration project with organizations operating in developing countries (SADC and MERCOSUR), exploring conditions under which a regional organization intervenes to defend democratic principles (Van Der Vleuten and Hoffmann, 2010). Nathan (2012) is a

single case volume but with a brief dose of comparative analysis of SADC and EU. While such comparisons bring to the fore important insights, and are often made because of the African tendency to seek to reproduce European institutions (Nathan, 2012: 110), still we can better understand African regional and sub-regional organizations in their own terms in light of their challenges and circumstances (Acharya and Johnston, 2007: 244-7), and not through the EU prism. Comparing an African sub-regional organization with the EU is risky intellectually as they thrive under quite different conditions and contexts. Alden (2011) on his part completed comparing cases of SADC in relation to Zimbabwe and ASEAN in relation to Myanmar to investigate the dilemmas posed by western-designated pariah regimes for regional organizations and the processes by which these organizations seek to address this problematic.

In the backdrop of this widely spread collection of literature, where do we situate the current study As can be noticed from the brief review of the existing literature, studies are premised on different angles of focus and often with divergent emphasis. This study is not focusing on capacity aspects of organizations nor is it bent on illuminating further the sharing of roles between the AU's Peace and Security Architecture and sub-regional organizations or motivations for interventions.

The present study clearly distances itself from previous literature on the topic in that it allows a comparative examination of sub-regional organizations' practical experiences in dealing with, not only one, but two of the most pernicious security challenges in one inquiry. It is not entirely agreeable intellectually to completely dismiss or wholly appraise the functioning and efficacy of African sub-regional organizations based on singly assessing their peace-enforcement experiences only, or their capability or lack of, in mounting military interventions. A parallel focus on cases of domestic political crises but which are short of an open violent conflict as in the case of the DRC and the transnational threat of Small Arms and Light Weapons (SALW), both with regional ramifications are yet to attract comprehensive scholarly attention.

How do particular organizations fare with regard to their treatment of both forms of security challenges? Is there any variation in responses to a similar form of security challenge, and what explains it? But mapping differences and similarities can only produce an incomplete picture. There is an array of actors engaged in a multilevel and dynamic process, which increasingly underpins security governance in the sub-regional level. It is, thus, imperative to move beyond fleshing out disparities and resemblances and interrogate how actors' interactions during coordination and management functions reflect on the organization's overall effectiveness in relation to collective security challenges. This actor-oriented dimension is not only important in capturing the respective roles of the assortment of security actors but also challenges posed by them to the sub-regional organization's functioning and effectiveness.

The EAC and SADC have been selected because they share certain features that are likely to enrich analysis in this study. They are sub-regional organizations with a security mandate, which allows for an examination of their role on a broad range of security issues. Additionally, while acknowledging the contribution of earlier studies, it is noted that they have tended to focus more on the substantive practices of the AU, ECOWAS, and SADC. Moreover, most of these works appear to be motivated more by the aspect of management of armed conflicts by these regional and sub-regional organizations to the minimal treatment of more perennial non-military transnational security threats like SALW proliferation and related cross border crimes. The interest of most scholarship on regionalism in Africa has been confined predominantly to the highly institutionalized forms of inter-state co-operation. This partly explains the reason why the EAC is hugely absent from the literature on matters of security. As more than ten years have now elapsed since its inception, there are quiet a number of developments which have taken place within the auspices of the EAC to deserve special attention.

Security challenges, such as SALW proliferation and domestic political crises pose a destabilising effect especially to the social and economic development goals of regional or sub-regional arrangements. These security challenges if not properly addressed have the potential to turn sub-regional stability into 'regional or sub-regional anarchical order'.

Accordingly, regional and sub-regional organizations acknowledge that peace and security are pre-requisites to social and economic development, and therefore, they cannot afford to be indifferent to security challenges confronting their partner states territories. What remains unclear is how relevant have security architectures of sub-regional organizations been in tackling the most salient security challenges facing them in their respective areas, namely transnational threats and domestic political crises. This study, therefore, with a comparative emphasis seeks to examine the roles of the EAC and SADC in their attempts to address these security challenges confronting their respective sub-regions.

As both forms of security challenges have ramifications beyond one's national frontiers, and thus, threatening to impact negatively on the general integration agenda of sub-regional organizations, one expects these challenges to receive same level of attention from sub-regional arrangements. It is, therefore, important to comparatively establish how sub-regional arrangements with security mandates actually coordinate and manage their responses to the collective security challenges in their delineated areas. It was deemed important to compare not only how each of the two forms of security challenges are addressed within one, but also across two sub-regional arrangements. One of the advantages of a comparative study is that it can capture emerging patterns of international interaction, which are of approximately similar activity (Axline, 1994). The main point of interest was to understand how the two sub-regional organizations, both with security mandates, practically respond to the collective security challenges in their delineated areas. The study thus posed the following question: *What is the relevance of sub-regional security governance in addressing collective security challenges facing participants of sub-regional organizations?*

The entire work is organized into nine chapters. Following this introduction, chapter two offers an overview on the genesis of African sub-regional organizations and their eventual shift in focus to security matters, with a bias on the two organizations of special interest to the current study, i.e. the EAC and SADC. The EAC and SADC are sub-regional organizations in Sub-Saharan Africa striving to pool resources of their members together to achieve economic development in their respective regions. Both organizations share the

realization that peace and security are the linchpins for sustainable development in their regions. This recognition that gains of their integration initiatives, i.e. principally widening and deepening economic integration, could only be protected in an environment that is peaceful, stable and secure, is reflected in the vision of the two organizations. The vision of the EAC is “to have a prosperous, competitive, secure and politically united East Africa”³. The SADC vision is the “shared future in an environment of peace, security and stability, regional cooperation and integration based on equity, mutual benefit and solidarity”⁴.

In both the EAC and SADC, cooperation in defence and security matters had set the pace for the integration processes. In the East African region, consideration of various forms of defence and security cooperation began ahead of the transformation of the Permanent Tripartite Commission for East African Co-operation (established in 1993) into a full-fledged East African Community in 2000. In 1998, the three pioneer countries of the EAC, Kenya, Tanzania and Uganda, signed a Memorandum of Understanding for Co-operation in Defence Matters⁵. Within the Southern African region, inter-state cooperation on defence and security took place before the establishment of SADC in 1992, through the Inter-State Defence and Security Committee (ISDSC). The ISDSC⁶ was forum established under the aegis of the Frontline States (FLS), which played a crucial role in the liberation struggles against colonial and racist regimes and in the maintenance of the national sovereignty and territorial integrity of the Member States.

Chapter three covers the review of literature. It reviews the main IR theoretical strands and their contributions on the concept of security and explains in detail the preferred security governance perspective for this study. The main assumption of the security governance perspective is that a multiplicity of actors is presently involved in the governance of security, and that the state is one actor, albeit a very important one, among

³ EAC Treaty 1999. The EAC *Strategy on Regional Peace and Security* has a Vision: “a secure and peaceful environment for development” and the Mission, for which this cooperation exists, is “to provide security within the region through enhanced co-operation”.

⁴ Article 1.1 of the Southern African Development Community Strategic Indicative Plan for the Organ on Politics, Defence and Security Cooperation (OPDSC), Dar es Salaam, 26 August 2003.

⁵ The MOU was revised in 2001.

⁶ The ISDC has become a sub-structure within the OPDSC.

various actors (non-state actors such as NGOs, international institutions, regional and international organizations) at multiple levels who supplement, augment, or enrich the state's efforts to counter security threats. Security governance has the intrinsic value of neither precluding nor necessitating the privileging of the state or non-state actors in the security domain. Certainly, though state actors have not abdicated their role as far as regional or sub-regional security is concerned, they are both challenged and complemented on several fronts by non-state actors (O'Neil et. al., 2004: 168). The security concerns of SALW and domestic political crises are two examples of those fronts.

Chapter four lays out the research design and methods employed in the study. The current study was pursued through a qualitative research method, which is best suited to study situations where little is known about what is going on with regard to one or both of the cases studied. The qualitative method was, therefore, obvious given the research situation discussed earlier and the limited availability of data and knowledge on EAC, as opposed to the much-publicized SADC's practices particularly in the DRC and Lesotho military interventions. Therefore, there was an exploratory element to the current research design. Relatedly, the preference for a qualitative method was prompted by the lack of standardised data from which sufficient number of cases could be derived to allow a comprehensive quantitative analysis of the findings. The bulky of the data for this study were derived from documents. The study also employed interviews in attempting to supplement gaps in the course of conducting documentary and archival analysis. Interviews were conducted with key informants working or associated with the sub-regional organizations' security arrangements and institutions relevant to this study.

The next four chapters (5-8) constitute the empirical part of the study. The two most prevalent collective security challenges of SALW and domestic political crises in East and Southern Africa form the main focus in this part. The UN considers small arms to be the most destabilizing conventional weapons as it is the single-most devastating transnational threat. Small arms have the potential to escalate conflicts, undermine peace agreements, aggravate violence, and impede overall development endeavours. The threat of SALW proliferation to human life is palpable. Likewise, since the end of the Cold War there has

been an increased salience of intra-state conflicts compared to inter-state conflicts. In the past decade (2001-2010), there were only 2 inter-state conflicts out of the total 29 major armed conflicts worldwide (SIPRI, 2011: 4). A more interesting feature of the reported internal/intra-state conflicts is that conflicts over government (i.e. where the control of the whole state authority is the major bone of contention or cause of incompatibility) have always outnumbered those over territory in every year of the period 2001-2010, except for the year 2007 (ibid.). Analyses of the EAC coordination and management of the security challenges of SALW and domestic political crisis in Kenya are covered in chapters five and six, respectively. In similar vein, chapters seven and eight respectively deal with the SADC experience in addressing the SALW threat and the Zimbabwe political crisis.

The final chapter comparatively presents the key findings of the study. Besides exploring the converging and diverging patterns and developments, the concluding chapter also synthesizes the general trends. As it will be seen in this concluding chapter, the emerging patterns from the examination of the EAC and SADC experiences in reacting to the security challenges of SALW and domestic political crises confirm the study's hypothesis that the coordination and management of sub-regional security governance depends on the type of collective security challenge. The observed developments and practices within the EAC and SADC security architectures also reveal that the security dimensions facing their Member States and the mitigating tasks of these sub-regional groupings vary in their respective geographical areas. The study interrogated whether actors other than states are accorded substantive room and roles to play in dealing with the aforementioned security challenges within the frameworks set by sub-regional arrangements. It also gauged the effectiveness of efforts employed in addressing those security challenges and finally drew theoretical lessons. Indeed, security is among the highly charged subjects in the integration agenda of sub-regional arrangements but it is also an inescapable feature of sub-regional and regional politics, one that is still worth reviewing and analysing in light of the rapidly evolving security architectures of Sub-Saharan Africa. Mindful of this fact, henceforth, with a comparative focus, the current study ventures into this mission of assessing the relevance of sub-regional security governance in dealing with collective security challenges.

Chapter Two

2. African Sub-Regional Organizations as Security Actors

The idea of forging inter-state links, in the form of cooperation and integration arrangements, dominated African politics on the eve of independence particularly after the independence of Ghana in 1957. At the dawn of independence there was a general realization by African leaders that African unity was an enviable project but they differed on how to achieve it. On one hand, there were strong proponents of immediate creation of a united African State. The prominent figure in this group was the then president of Ghana, Kwame Nkrumah. Nkrumah was of the view that post-independence African states were too weak to stand on their own, hence must go for outright unity. As far as Africa's security is concerned, Nkrumah proposed setting up an African High Command (AHC) and an African Legion during the All-African People's Conference in 1958 (Franke, 2008:317). Nkrumah specifically voiced the idea of a common defence system with a single military high command as an important element of the outright political unification (Touray, 2005:637). Nkrumah's proposal encountered fierce opposition from other African leaders, such as President Tubman of Liberia, who supported a more gradual approach to African unity. This latter group whose leading voice was the then President of Tanzania, Julius Nyerere, preferred a stage-by-stage approach, in particular using sub-regional economic groupings as building blocks to continental unity. A compromise was later reached between the enthusiasts of Nkrumah's idea of immediate political unification (the so-called Casablanca group of states) and the proponents of a more gradual approach (the so-called Monrovia group of states), paving the way for the establishment of the OAU in May 1963 in Addis Ababa, Ethiopia.

In Africa, regional integration arrangements, herein referred to as 'sub-regional organizations,' had existed prior to the 1976 decision by the Organization of African Unity

(OAU) to divide the continent into five regions⁷. The defunct EAC (1967-1977) was the oldest, followed by the Economic Community of West African States (ECOWAS) in 1975. The economic crisis of the late 1970s and early 1980s, manifested by declining terms of trade and a dwindling share of global trade gave added impetus to the formation of regional integration initiatives. Continental efforts to face the crisis resulted in the adoption of the Lagos Plan of Action (LPA) at the second extraordinary session of African heads of State and Government of the OAU in Lagos in July 1980. Among other goals, the LPA aimed at creating sub-regional and regional institutions and supporting existing arrangements, leading to the eventual creation of a single economic community (OAU, 1981). Despite espousing noble objectives that were viewed as a blue print to get African countries out of the crisis, the LPA remained largely on the drawing board. It took another decade for Africa to rekindle her efforts to forge a continental economic community. The Treaty Establishing the African Economic Community (AEC)-the Abuja Treaty was adopted in June 1991 at the 27th OAU Summit of Heads of State and Government (OAU, 1991). The Abuja Treaty envisioned the creation of AEC by the year 2025, and to that end, reaffirmed the need to consolidate and revitalize sub-regional economic communities, a move which will also make their impact felt. More importantly, the Abuja Treaty stressed that sub-regional economic communities would become constitutive elements of the continent's integration agenda (Powell, 2005: 16).

A year prior to the adoption of the Abuja Treaty, the OAU through a Declaration recognized the prevalence of conflicts in Africa as hampering efforts to address the continent's economic woes. It has to be noted that even though the OAU Charter provided for a Commission of Mediation, Conciliation and Arbitration to deal with conflicts, it never became operational. The mandate of this Commission which was envisaged to serve as the main peace and security organ of the OAU, was limited to inter-state conflicts (Touray, 2005: 638). OAU's member states preferred to address conflicts in other states in an informal way, either through ad hoc dispute settlement committees, composed by heads of state or ministers (Faria, 2004: 13; Touray, 2005: 638). Intervention in intra-state conflicts

⁷ OAU, Resolution CM/Res. 464 (xxvi), adopted at the twenty-six Ordinary Session of the Council of Ministers, Addis Ababa, 23 February-1 March 1976.

was further limited due to the fact that the organization's Charter emphasized principles of territorial integrity and non-interference in each other's internal affairs (Franke, 2009: 214).

At its Summit of Heads of State and Government in Dakar, Senegal in 1992, OAU once again acknowledged the link between security, stability, development and cooperation. This was spelt out in the Summit's Communiqué.⁸ This position was picked up and built on in the gathering of African Leadership Forum, which in conjunction with the OAU, and the UN Economic Commission for Africa through the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA), drafted the famous *Kampala Document*⁹. Among other policy proposals, the document promulgated the principle of good neighbourliness and a peaceful resolution of conflicts and called for "measures to prevent or contain crisis before an eruption into violent confrontation"¹⁰. In actual sense, to be able to fulfil the recommendations of the Kampala initiative new institutions and mechanisms had to be put in place regionally. The Continental body's recognition on the need to take practical measures to address conflicts was followed up by the establishment of its Mechanism for Conflict Prevention, Management and Resolution in Cairo in 1993. With this mechanism in place, the OAU reacted to various conflicts, for instance deploying military observer missions in Rwanda (1991-1993), Burundi (1993-1996), the Comoros (1998-2002), the Democratic Republic of Congo (from 1999), the Ethiopian-Eritrean War (from 2000), albeit to varying degree of the continental body's involvement (Makinda and Okumu, 2008:29; Touray, 2005: 639).

It was evident at the end of the 1990s that African leaders realized the norm of non-interference in member states' internal affairs did not provide for regional security when that was most needed. The initial expression of the shift from non-interference to non-

⁸ Issued after its 28th Ordinary Session of Assembly of Heads of State and Government, Dakar, Senegal, June 29-July 1, 1992, "Decision on a Mechanism for Conflict Prevention, Management and Resolution", AHG/Decl. 1 (XXXVIII), p. 10.

⁹ The African Leadership Forum, "The Kampala Document: Towards a Conference on Security, Development and Co-operation in Africa," organized by Africa Leadership Forum, jointly with the Secretariats of the OAU and ECA, Kampala, Uganda, 19-22 May, 1991, pp. 1- 86.

¹⁰ African Leadership Forum, *ibid.* "Security Calabash", p. 6.

indifference came through the OAU's Declaration on the Framework for a Response to Unconstitutional Changes in Government¹¹. This shift in focus on issues of security was further entrenched in the legal framework of the OAU's successor organization, the African Union (AU)¹². In sharp contrast to the OAU, the AU's Constitutive Act allows the Union to intervene in a member state in respect of grave circumstances, namely, war crimes, genocide and crimes against humanity¹³. The same Act provides for the right of member states to request intervention from the AU in order to restore peace and security¹⁴. The AU's inclination towards regional approaches is reflected in the Peace and Security Council (PSC) Protocol whose Article 16 emphasize that mechanisms by various sub-regional organizations will form the building blocks of the AU's peace and security architecture.

Revisiting the genesis of sub-regional organizations in Africa, one would find a common factor that led to their creation: the need to respond to the economic and social development needs of their members. However, one major missing link when they were being formed, whether we speak of regional or sub-regional organizations, is that "None had the vocation to deal with internal or interstate conflicts, and no serious attempts to include these in their remit were made until the 1990s" (Faria, 2004: 12). Both regional and sub-regional organizations begun to seriously focus on conflict matters due to the following major developments namely, lack of stability and high potential for conflict in many areas of the continent and the declining interest of the international community in Africa after the end of the Cold War (Faria, 2004; Adebajo, 2005).

The Economic Community of West African States (ECOWAS), provides a good example of one of the African sub-regional organizations which had not contemplated venturing into the security sub-field at the time of its creation but was later compelled to pay close attention to issues of conflict management. Founded in 1975, ECOWAS exclusively devoted

¹¹ OAU Document AHG/Decl. 5 (XXXVI), 10-12 July 2000.

¹² African leaders agreed to transform the OAU into AU at the OAU Extraordinary Summit in Sirte, Libya in September 1999. The Constitutive Act to establish the Union was adopted during the 2000 Lome Summit. In March 2001 in Sirte, Libya, the AU was born and was formally launched in Durban, South Africa, on July 8, 2002.

¹³ Article 4h of the AU's Constitutive Act.

¹⁴ Article 4j of the AU's Constitutive Act.

its efforts to economic integration among its members and this was reflected in the founding Treaty of Lagos, which had no mention of peace and security issues. ECOWAS States soon learned how closely intertwined development and security are as the organization was unable to attain economic and integration goals with so many of its members ravaged by civil wars¹⁵. ECOWAS, henceforth, became the first intergovernmental grouping of African states to sign a defence protocol that applied to internal conflicts and thus became the first sub-regional organization to champion the creation of formalized security-related structures. In 1978 ECOWAS adopted a 'Protocol on Non-Aggression', followed in 1981 by a 'Protocol Relating to Mutual Assistance in Defence'. A Defence Council, Defence Commission and A Stand-by Force (the Allied Armed Forces of the Community, AAFC) were envisaged following the adoption of these protocols but never really became operational. The protocols were not invoked until the 1990s when the Liberian civil war broke out in which case the ECOWAS assistance was formally requested by the Liberian president (Faria, 2004: 15).

More elaborate steps and structures by this West African organization begun to take shape when an armed Monitoring Group (ECOMOG) was created and actually deployed in Liberia amid simmering tensions and divisions among member states, particularly Anglophone and Francophone countries. ECOMOG was set up and became embroiled in conflict situations even before the OAU had created its Mechanism for Conflict Prevention, Management and Resolution in 1993. More importantly and partly drawing from growing instabilities in the sub-region ECOWAS amended the Lagos Treaty in 1993 by specifically committing member states to matters of peace and security including establishing a regional peace and security observation system and peace-keeping forces where appropriate¹⁶. As a concrete response to the three major civil conflicts (Liberia, Sierra Leone and Guinea-Bissau) of the 1990s ECOWAS adopted in 1999 a protocol formalizing its security mechanism comprising of the Mediation and Security Council and an Early

¹⁵ Mamane Toure, Commissioner for Political Affairs, Peace and Security, ECOWAS, as cited in Stepak, A., "African Organizations: Economic Integration and Conflict Management: A Summary of Conference Proceedings", African Regional and Sub-regional Organizations: Assessing their Contributions to Economic Integration and Conflict Management, Woodrow Wilson International Center for Scholars-Africa Program, October, 2008, p. 10.

¹⁶ Article 58 (f) of the Treaty of ECOWAS as amended in Cotonou July 24, 1993.

Warning System¹⁷. The mechanism sought to consolidate and build on the experiences of ECOWAS in peace and security matters (Anning, 2007).

As it was observed in the last decade African conflict resolution approaches were put to test following massive atrocities committed to humankind in societies engulfed in conflicts in Liberia (1990), Sierra Leone (1991)¹⁸, Somalia (1992) and Rwanda (1994). Specifically, these four cases produced a clarion call for 'African solutions to African conflicts'. These aforementioned tragic cases which were preceded by the thawing of the Cold War in 1989 led to the realization that, a lasting solution to Africa's conflicts has to come from within the continent itself. The UN's hasty withdrawal from Somalia and failure to act on the part the Security Council in the face of unravelling genocide in Rwanda reinforced the perception that the UN was less keen on responding promptly to African security problems, while international community attention centred on emerging conflicts in the Middle East and the Balkans (Makinda and Okumu, 2008:29; Franke, 2009: 216; Faria, 2004:13). In the aftermath of these tragic cases the slogan, "Africans are responsible for African conflicts" gained prominence, and thus African sub-regional organizations embarked on conflict management out of sheer necessity (Stepak, 2008:10).

At the international level, the UN's Charter recognizes and legitimizes the existence of regional arrangements and goes further to acknowledge the contribution they can make to maintain peace and security. Chapter VIII of the UN Charter, in particular, stipulates, "The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority."¹⁹ Article 52 (2) specifically authorizes UN members, either through regional arrangements or regional agencies, to employ every possible peaceful means at their disposal to settle disputes in their areas before reporting them to the Security Council. This implies that that regional and sub-regional organizations

¹⁷ ECOWAS, Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, signed on December 10, 1999, Lome, Togo.

¹⁸ It is estimated that the Liberia and Sierra Leone civil wars that lasted for a decade left about 250, 000 deaths and over one million refugees in the West African region. Figures quoted from A September 2002 Report submitted by the Africa Program of the International Peace Academy to the Ford Foundation titled, "The Infrastructure of Peace in Africa Assessing the Peacebuilding Capacity of African Institutions."

¹⁹ Art. 53.1 of the UN Charter.

are treated as ‘first resort level’ for any breach of peace and security within their geographical areas and when no amicable resolution has been found, then the assistance of extra-regional institutions and the international community through the UN should be summoned. The former UN Secretary-General Boutros Boutros-Ghali reinforced implementation of the above UN provision in his 1995 supplement to *An Agenda for Peace* by calling for the international community to delegate greater responsibility to regional organizations and mechanisms for peace and security within their areas of operations (Boutros-Ghali, 1995).

Acknowledging the fact that conflicts recurring in their respective regions may stall or impede integration as well as the realization of development objectives (Powell, 2005; Mwanasali, 2003) a number of regional organizations that were initially created solely for economic objectives increasingly got themselves involved in resolving conflicts, mostly of political nature. Indeed, African regional organizations’ involvement in addressing peace and security issues is no longer an aberration. Almost all sub-regional organizations in Africa today have in principal realized the explicit linkage between development goals, they are striving to achieve, and security. The notion of security as a prerequisite for sustainable development has thus been enshrined in the agreements defining the mandates of regional (the AU) and sub-regional organizations (such as COMESA²⁰, EAC²¹, ECOWAS, ECCAS²², IGAD and SADC) in Africa.

Central to the discussion in this section was the evolutionary role of regional and sub-regional organizations in security matters. It has been noted that when African regional and sub-regional organizations started out, they were more pre-occupied with economic

²⁰ Article 163 of COMESA’s Treaty provides mandate to embark on the role of maintaining peace and security to this currently Africa’s largest intergovernmental organization, which succeeded the Preferential Trade Area (PTA) for Eastern and Southern Africa in 1994.

²¹ In the case of the EAC the association between achievement of Community development goals and a secure environment is well reflected in Article 124 of its Treaty.

²² Established in 1983 as a vehicle for pursuing economic development and regional cooperation, ECCAS created an Early Warning Mechanism in 1996. Despite showing interest to take on a conflict management role ECCAS has not been able to transform itself into an institutionalized sub-regional arrangement leaving some important members (DRC, Burundi and Rwanda) to seek membership in other groupings and thus by devoting their attention elsewhere leaving the central African grouping a much weakened initiative.

development and integration goals than issues of peace and security of their member states. It was in the aftermath of the Cold War and following the occurrence of humanitarian catastrophes in several African states, especially in Liberia, Sierra Leone, Somalia, and Rwanda, with the UN troops hastily withdrawing in some of the afflicted countries at a time when they were most needed, and with much of the international attention directed on emerging conflicts that African leaders realized that immediate solutions had to come from within the continent. It is against this background that a shift from the OAU's norm of non-interference (in internal affairs of member states) to AU's non-indifference (unconstitutional changes of government) took place.

The shift was accompanied by growing recognition on the contribution sub-regional organizations can make in the management and resolution of conflicts in areas under their spheres of influence. The OAU successor organization, the AU, firmly recognizes the potential role of sub-regional organizations in security matters, and thus stresses in its peace and security legal framework that the latter would form the building blocks of its peace and security architecture, including its African Standby Force (ASF). The prominent role the AU has assigned to African sub-regional organizations would allow the Union to build on their comparative advantage, particularly in dealing with various conflicts and security threats. This study concurs with the position of various analysts and commentators that sub-regional organizations are well positioned to assist in efforts to pacify conflicts in their areas of operations (Francis, 2006; Peck, 2001; Powell, 2005). Sub-regional organizations proximity to the conflict zone provide them with a better vantage point to detect early warnings signs of a looming conflict, a better understanding of its dynamics, key players, and context-specific management and resolution options²³. The next two sections present historical accounts of the two sub-regional organizations that are of special interest to the current study that is the EAC and SADC.

²³ Joe Clark, former Canadian Prime Minister, and Franklin Moore, Deputy Assistant Administrator for Africa, USAID, as cited in Stepak, A. "African Organizations: Economic Integration and Conflict Management: A Summary of Conference Proceedings", op. cit. p. 9.

2.1. Rebirth of the EAC

The EAC is the regional intergovernmental organization of the Republics of Burundi, Kenya, Rwanda, Uganda and the United Republic of Tanzania. The East African sub-region is credited with one of the longest experiences with regional integration dating from as early as 1918 when Kenya and Uganda (still under colonialism) operated a Customs Union. Tanganyika became a part of the Customs Union from 1922 to 1927. This long history of regional integration has gone through four main phases. From 1948-1961 there was the East African High Commission. The 1961-1967 phase featured the East African Common Services Organisation. The third phase saw the operation of the East African Community (EAC) (1967-1977), and the 1977-1990s phase witnessed negotiations for division of assets and liabilities of the defunct Community followed by efforts to revive the EAC.

The collapse of the EAC in 1977 came amid great strides that had been made by the former Community. Before its demise the Community operated the common services of over thirty institutions, including the four major corporations-East African Railways, East African Harbours, East African Posts and Telecommunications and the East African Airways. The former Community also had an array of joint research institutions, a common customs administration authority and the East African Development Bank, the only institution that survived the collapse of the Community.

A combination of political or ideological, administrative and economic factors were largely to blame for the eventual break up of the EAC in 1977. Among the many reasons attributed to the collapse of the first Community include, structural problems which impinged on the management of the common services, which were aggravated by the fact that Member States tended to protect their vested interests at the expense of the Community (Shao, 2002:7). Other factors that contributed to the collapse of the Community were low private sector and civil society involvement in the running of the community coupled with low levels of involvement of the people in the decision-making processes. The current EAC Treaty's allusion to the private sector's role in the development of the single market and investment area and mobilization of civil society support are part of attempts to address

the foregoing shortcomings that faced the erstwhile Community (Kiondo, 2002: 27). The downfall of the defunct East African Community was also attributed by inequalities in the sharing of the costs and benefits of integration and lack of compensatory mechanisms for addressing disparities; ideological differences; the governance challenges, including lack of mechanisms to address corruption, non respect for rule of law, impunity and governments' high handedness; and foreign influence for economic reasons (EAC, 2008: 5; Kiraso, 2009).

In the aftermath of the collapse, fortunately, the former Member States negotiated a Mediation Agreement for the Division of Assets and Liabilities, which was signed in 1984. A provision in the Mediation Agreement offered the opportunity to explore and identify areas for future co-operation.²⁴ The Heads of State of Kenya, Tanzania and Uganda took up this opportunity, when they held a meeting of the East African Heads of State in Harare, Zimbabwe in 1991 where they unanimously agreed to revive cooperation in the sub-region (EAC, 2008). This decision culminated in the signing of the Agreement for the Establishment of the Permanent Tripartite Commission for East African Cooperation on November 30, 1993.

On March 14 1996, the Secretariat of the Permanent Tripartite Commission was launched in Arusha, Tanzania. The Commission was mandated to inter alia, identify areas of co-operation and to propose the most appropriate regional arrangement. The process of identifying areas of co-operation was reinforced by the launching, in 1997, of the East African Co-operation Development Strategy (1997-2000). This strategy focused on the development of the policy framework for regional co-operation. The same year, in line with the implementation of the Development Strategy, the Summit of Heads of State of the East African Cooperation saw the need to give more substance to the scope of cooperation, and thus directed that the Agreement be upgraded into a Treaty (Kaahwa, 2003). A Treaty-making process involving the Secretariat, experts from the three initial Member States and the general public eventually led to the signing of the Treaty for the re-establishment of the East African Community on 30th November 1999, by the Heads of State of Kenya, Uganda

²⁴ Article 14.02 of the 1984 Mediation Agreement on Sharing the Assets and Liabilities of the Community.

and Tanzania signed. The Treaty entered into force on July 7th, 2000 after ratification by the respective national Parliaments. The EAC was then inaugurated in January 2001.

The second Development Strategy (2001-2006) covering a broad range of areas of co-operation and implementation of prioritized projects was then launched. Headquartered in Arusha, the current EAC expanded on June 18, 2007 to include the Republics of Burundi and Rwanda as full members. The EAC is currently implementing its third Development Strategy (2006-2010) whose focus is on consolidating the different phases of integration as well as continue to implement critical regional projects and programmes. The vision of the EAC is to have a prosperous, competitive, secure and politically united region. To that end, the EAC Partner States²⁵ established a Customs Union in 2005 and launched a Common Market in July 2010.

For purposes of guiding Partner States, Article 6 of the Treaty provides for fundamental principles to guide the integration. These principles include mutual trust, political will and sovereign equality; peaceful co-existence and good neighbourliness; peaceful settlement of disputes; good governance including adherence to the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality, as well as the recognition, promotion and protection of human and peoples rights in accordance with the provisions of the African Charter on Human and Peoples' Rights; equitable distribution of benefits; and co-operation for mutual benefit.²⁶

In the East African sub-region, cooperation in defence and security matters had set the pace for the integration processes. In 1998, the three pioneer countries of the EAC, Kenya, Tanzania and Uganda, signed a Memorandum of Understanding for Co-operation in Defence Matters.²⁷ At the time of adoption, the Memorandum was envisaged to later develop into a military pact but the three founding states could not agree on sensitive

²⁵ According to the Treaty for the Establishment of the EAC, Article 1 "Partner States" means the Republic of Uganda, the Republic of Kenya and the United Republic of Tanzania and any other country granted membership to the Community under Article 3 of that Treaty;

²⁶ Article 6 of the EAC Treaty.

²⁷ The MOU was revised in 2001.

issues like command structures. It can be noted that despite the reluctance to move into a common defence structure the EAC countries established a Defence Liaison unit within the secretariat with each state represented by a military defence attaché. The MOU entails an elaborate programme of activities, largely of confidence building among the defence forces, including military training, joint operations, technical assistance, visits, information exchange, sports and cultural activities and regular meetings of defence chiefs and other cadre of the defence forces. In 1999 the three countries signed another Memorandum of Understanding on Foreign Policy Co-ordination, which has been upgraded into a Protocol.

The Heads of State of the EAC, during its 5th Extra-Ordinary Summit held on 18th June 2007 admitted the Republic of Burundi and the Republic of Rwanda into the Community thereby bringing the membership to five countries. Burundi and Rwanda acceded to the Community “as is” and became party to the EAC Treaty, Tripartite Agreements and Memoranda of Understandings (EAC, 2011:17). The two new members accepted the EAC Treaty without reservations, and upon their accession and subsequent admission into the Community were mainstreamed into EAC’s projects and programmes including those related to inter-state defence and security cooperation. For instance, specific sensitization and awareness programmes were extended to Burundi and Rwanda to prepare them to fully participate in the Community’s programme on cooperation in defence in July 2008²⁸. Besides accepting in principle the MOU on Cooperation in Defence, the new entrants also agreed to and have been participating in the EAC’s programme on inter-state security, i.e. cross border crime, EAC position on combating terrorism, combating drug trafficking, disaster and refugee management, and prevention, control and reduction of small arms and light weapons²⁹.

2.2. Evolution of the SADC

²⁸ EAC, July 2008. The East African Community Defence Sector Sensitisation of Stakeholder in the Republic of Burundi and Rwanda.

²⁹ At the time of their admission into the Community, Burundi and Rwanda, like the other three founders of the EAC, were already parties to the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa.

The Southern African Development Community (SADC) was established through a treaty signed at the Summit of Heads of State and Government on August 17, 1992 in Windhoek, Namibia. The Community was founded by the Southern African countries of Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe. South Africa joined in 1994, Mauritius joined in 1995; The Democratic Republic of Congo (DRC) and the Seychelles became the thirteenth and fourteenth members in 1997.

The Declaration and the SADC Treaty defines the sub-regional organization's vision as the shared future in an environment of peace, security and stability, regional cooperation and integration based on equity, mutual benefit and solidarity. The SADC Treaty commits member states to the fundamental principles of: sovereign equality of member states; solidarity, peace and security; human rights, democracy and rule of law; equity, balance and mutual benefit. The treaty has common economic, political, peace and security goals for its members, as is evident in its first three objectives: " to achieve development and economic growth; evolve common political values, systems and institutions; promote and defend peace and security" (SADC Treaty, 1992). SADC currently has 15 member states representing a population of nearly 240 million people.

The formation of SADC was the culmination of a long process of consultations by the leaders of independent Southern African states. SADC's origins lie in the Southern African Development Coordination Conference (SADCC), which was formed in Lusaka in 1980. SADCC grew out of the coordination of the diplomatic and political activities of the Frontline States (FLS) of Angola, Botswana, Mozambique, Zambia and Tanzania. The FLS emerged in the mid-1970s at a time when the anti-apartheid struggle was the most important concern in the region. It was started in 1975 through a consultative process, particularly between presidents Nyerere of Tanzania and Kaunda of Zambia. The other founding presidents were Sir Seretse Khama of Botswana and Samora Machel of Mozambique. As other countries in the region gained independence, they joined the FLS grouping in its resistance to colonial and minority white rule. Angola joined in 1976, Zimbabwe in 1980 and Namibia in 1990. South Africa briefly joined in 1994 before the FLS dissolution later that same year.

Initially, the FLS alliance was formed to negotiate and press for Zimbabwe's independence. That is to say, the primary objective was to coordinate the liberation process. However, with the advent of destabilization of neighbouring nationalist movements and independent countries in the region by South African Defence Forces (SADF), the FLS had to take a defence role. The FLS regional security role, therefore, can be summarized as (a) support for the nationalist movements against colonial and white minority rule, and (b) defence and security against South Africa's destabilization campaigns mainly through strategies of confrontation and disengagement (Anglin, 1985:246-66; Khadiagala, 1994: 10-11).

It was the positive experiences gained in working together in the group of Frontline States, to advance the political struggle, which had to be translated into broader co-operation in pursuit of economic and social development. It was argued that, while there might have been genuine reasons for regional economic coordination and development, the impetus behind the creation of SADCC was the desire to mount a direct response to a South African proposal for the establishment of a Constellation of Southern African States (CONSAS) (Hill, 1983; Galaydh, 1987; Khadiagala, 1994; Goncalves, 1995). The idea of CONSAS was formally announced by P.W. Botha, then Prime Minister of South Africa in November 1979, with an explicit aim of expanding South Africa's economic links with the independent states of Southern Africa. The CONSAS strategy was to be made of the countries south of the Zambezi and the Kunene rivers, including the South African homelands. The formation of SADCC pre-empted the CONSAS strategy, which by then was viewed as a move to frustrate the liberation of Zimbabwe and Namibia (Galaydh, 1987).

Apart from signalling to be a reliable means of supplementing the diplomatic and political co-operation that had been a common feature of the FLS alliance, the establishment of SADCC served to expand regional relationships that took on board all independent states in Southern Africa. Hence, broadening of the membership was viewed as the best way of mobilizing local efforts and resources so as to strengthen the economic capacities of the FLS vis-à-vis South Africa. Moreover, in the process of disengaging from South Africa, the establishment of SADCC proved to be a timely venture, as it served the FLS with a potential

institutional conduit for enlisting external assistance. For example, the United States of America provided approximately US \$175-200 million annually in food and development assistance to SADCC and member countries (SADCC, 1987).

In general, although the initiative to establish SADCC came from within the FLS itself, the regional situation obtaining at the time can be identified as the driving force. The independence of Zimbabwe in 1980 meant that the FLS could now turn its attention to counter South Africa's regional dominance. The decolonization of Rhodesia paved the way for serious considerations of economic issues in the face of economic difficulties among the FLS members. But as long as Namibia and South Africa were still under minority regimes, the SADCC and the FLS remained separate forums, respectively accepting responsibility for economic co-ordination and for mutual political and military support.

The SADCC or the Conference, was formed with four principal objectives, namely: the reduction of economic dependence, particularly on the Republic of South Africa, the forging of links to create a genuine and equitable regional integration, the mobilization of national, interstate and regional policies, and concerted action to secure international co-operation within the framework of the strategy for economic liberation (Khadiagala, 1990). As was the case with the FLS, SADCC initially functioned without a legal framework, treaty or protocol. It operated as an informal organization based mainly on a Memorandum of Understanding (MOU). The founders of SADCC were aware of the dismal record of regional economic integration schemes in Africa, and therefore, preferred a loose organization to promote co-operation and coordination rather than formal integration (Malan, February 1, 1998).

In response to the end of Apartheid, it became logical to restructure SADCC as a forum for regional economic co-operation, this time, with the inclusion of South Africa. SADCC was then transformed into the Southern African Development Community (SADC) through a treaty signed in Windhoek, Namibia in August 1992. South Africa became the eleventh member of SADC in 1994. This is after it had experienced three major changes, which largely contributed to its transformation from a position of enemy to that of a collaborator.

Firstly, South Africa suffered major reverses on the main fronts of its destabilization campaign in Angola and Mozambique in the late 1980s. Secondly, South Africa's military strategy of engaging in total war against "communism's total onslaught" lost justification with the demise of the communist threat globally. Thirdly, in August 1989 P.W. Bortha, then Prime Minister of South Africa, was removed from office in favour of F.W. De Klerk, who lifted a ban on liberation movements and advocated a policy of good neighbourliness, reconstruction and reconciliation in the sub-region.

With the independence of Namibia (1990) and majority rule in South Africa (1994), the FLS saw part of its work complete and was eventually dissolved on 30th July 1994 to become the political and security wing of SADC (Malan, 1998). In its place a proposal was made for the establishment of the Association of Southern African States (ASAS). The idea of association, which was envisioned to be comprised of the political and military sectors, and to confine itself to matters of preventive diplomacy, conflict management and resolution was mooted at the 1995 SADC meeting in Johannesburg. Matlosa (1999) argues that the ASAS proposal presented a deliberate attempt to preserve the key feature of the previous Frontline States arrangement namely, an informal and flexible modus operandi. Uncomfortable with the ASAS proposal, particularly the idea that two specialized sectors, one dealing with political affairs and the other with military security, would be accorded to individual member states, the 1995 SADC summit abandoned the idea of the ASAS.

After the failure to transform the FLS into ASAS, discussions commenced on the future of the Inter-State Defence and Security Community (ISDSC) and its relationship with the SADC secretariat. It was at this point that the SADC Heads of States and Governments accepted the idea of the political and security wing of SADC. At the 28th June 1996 summit in Gaborone, Botswana the summit created what came to be known as the Organ on Politics, Defence and Security (OPDS). The summit defined a number of political, defence and security objectives to be pursued. The establishment of the OPDS officially signalled a break with the informality of the FLS. Since then the regional body had in 2001 adopted the Protocol on Politics, Defence and Security Co-operation, which provides an institutional framework by which Member States coordinate policies and activities in the

areas of politics, defence, and security. Since 2003 SADC has had a Mutual Defence Pact, which entails commitment to military cooperation and integration.

In 2004, SADC members adopted the Strategic Indicative Plan for the Organ (SIPO),³⁰ which would provide guidelines for the implementation of the Protocol on Politics, Defence and Security Cooperation. Moreover, in order to support the effective conduct of peace support operations in the region the ISDSC established a Regional Peacekeeping Training Centre in Zimbabwe. The SADC Protocol on Politics, Defence and Security Cooperation whose general objective is to promote peace and security in the region³¹, henceforth spells out the mandate for the regional body to fulfil that objective covering issues like prevention, containment and resolution of inter-and intra-state conflict by peaceful means; co-ordination and co-operation on matters related to security and defence; cross border crime; peacekeeping; disaster management and humanitarian assistance; arms control and disarmament.

The next chapter performs two basic functions: firstly, it revisits the main IR theoretical strands, highlighting their contributions and shortcomings in relations to the central concept of security, and secondly presents the security governance perspective, which sets the ground for description of the research design in chapter four.

³⁰ The Strategic Indicative Plan for the Organ is based on the objectives and common agenda of SADC stated in Article 5 of the Treaty as amended on 14 of August 2001 in Blantyre, Malawi.

³¹ Article 5 of the SADC Treaty and Article 2 of the Protocol on Politics, Defence and Security.

Chapter Three

3. The Security Discourse Revisited

3.1 Introduction

The literature on regional integration has indeed burgeoned since the beginning of the last decade following a marked shift from geopolitical considerations of the Cold War to a focus on proliferation of regional integration schemes and their contribution to issues of economic development, peace and security. One scholarly challenge facing students of regional integration to date is to make sense of the existing enormous body of theoretical literature on regionalism, which is also uneven and fragmented (Hurrell, 1995). Studies on regionalism draw heavily from traditional International Relations (IR) theories that are characterized by subtle differences in emphasis as well as scope of their conceptual frameworks. The challenge becomes more complex when one attempts to employ those theories to a study on security cooperation at the regional and sub-regional levels. This stems from the fact that the existing literature does not constitute a monolithic approach to security and is comprised of divergent views, which are too often conflicting.

This review, therefore, is prompted by two main reasons. First, while we also share the view that theories cannot cover everything relevant to a particular phenomenon or dynamic being studied, they are still central to the construction of definitions, concepts, and are important analytical tools for comprehension of various assumptions on issues of interest. Second, a review of the dominant IR theories is important in order to understand their explanations on how security can actually be achieved, their focus on security threats, what they propose to be the main actors or unit of analysis as well as methods or mechanisms utilized in the process of promoting security. The main theories that have been reviewed here are realism, neo-liberal institutionalism and constructivism. The second part of the chapter presents a conceptual framework adopted and enriched by the review of theories.

3.2. Dominant Theories and Approaches on Security

3.2.1 Realist-Inspired Approaches

Undoubtedly, as one of the dominant theoretical perspectives in the study of international relations in general, and scholarship in the security field in particular, realism is not a monolithic approach. It contains various approaches one of which is neorealism. We start by outlining the central tenets of the general theory of realism. First and foremost, the sovereign state is the principal if not the most important actor in the international system. Realists recognize existence of other actors like international institutions, but these are deemed to play insignificant role. Moreover, the character of the state is described as a unitary rational actor capable of weighing costs and benefits as it is governed by rational decision-makers. The emphasis on the rationality of states and their decision-makers is reflected in the writings of the influential work of Thucydides. For Thucydides, rational decisions are made by those acting in the name of the state after a process of calculating risks and advantages for taking a particular course of action versus the goal to be achieved.³² However, unlike liberals, realists depict man as a flawed, egoistic, selfish and self-absorbed being.³³

It is from this gloomy depiction of human nature realists stress on the next tenet: ensuring the survival of the state and its people. The state has to make use of whatever means at its disposal, mostly through military capability, to ensure the security of the state itself and its people from threats posed by other states. In this sense, national security is tied with military capability and takes precedence over all other issues. Pursuing security for the sake of state survival overrides all other policy considerations, with national security snatching a major share of limited government resources (Sheehan, 2005). It follows,

³² Cited in Karen Mingst, 1999, *Essentials of International Relations*, New York & London: W. W. Norton & Company, Inc. p.71.

³³ Reflected in the writings of philosophers like Nicolo Machiavelli, 1940. *The Prince and the Discourses*, New York: Random House; Thomas Hobbes, 1968. *Leviathan*, C. B. Macpherson (ed.), Harmondsworth, Eng.: Penguin.

therefore, that realists hold a very narrow and limited view of security, one that is confined to the state as the all-important object of security and military capability as the major means of achieving state survival. This was the thinking that rarely deviated from military considerations during the Cold War.

This takes us to the third central tenet of the realist school. Realists argue that states exist in an international system, which is anarchic. International anarchy, which is shared by virtually all realists, refers to a world without a higher overarching authority, or central government analogous to the municipal system within states that are capable of maintaining law, administer justice, and prevent outbreaks of violence (Jackson and Sorensen, 2010). A self-help strategy is then deemed as the only option for states. To survive in such an anarchical and hostile environment states are compelled to look for themselves by maintaining military capabilities. Hans Morgenthau, in his seminal work *Politics Among Nations*, echoed this 'Hobbesian view' of the international system by positing that international politics is a struggle for power (Knopf, 1978; Morgenthau and Thompson, 1985).

The notion of power is invariably linked to military power. And to early classical realists like E.H. Carr and Hans Morgenthau, power is treated as both a means and an end (Sheehan, 2005). In the absence of a higher authority above states to put the competition to an end states employ a *balance of power* technique to manage power itself. The containment policy by the United States against the former Soviet Union during the Cold War was a practical interpretation of balance of power. The policy basically meant exerting all sorts of leverage over the Soviet Union through balancing American power, thereby 'containing' the former within its Eastern Europe sphere of influence.

The implication for states caught in acts of 'balancing power' is giving rise to a *security dilemma* situation, another key element in the realist thinking. Simply put, it arises as states find themselves compelled to maintain a watchful eye on the military capability of actual or potential adversaries. A military build-up by one state, even for purely defensive reasons, will trigger a sense of insecurity on others (Jervis, 1976; 1978). The inevitable

outcome of this is an arms race and an increasing sense of insecurity. For realists however, it is this atmosphere of insecurity that impedes cooperation. According to realists, possibilities for mutual cooperation within an anarchic system are logically slim. For them, insurmountable atmosphere of security competition cannot be overcome by any amount of cooperation (Mearsheimer, 1990 in Sheehan, 2005:10).

This point brings us to a later equally influential variant to classical realism, neorealism (or structural realism). Like classical realists, structural realists share the view that states are core actors and exist in a situation of international anarchy in which their primary objective is survival. However, proponents of this school of thought, like Kenneth Waltz oppose the classical realists' account of human nature as responsible for security dilemma. For Waltz (1995), the main point of interest is the international structure, which he describes as a force in itself. It is very capable of constraining state behaviour in which case the latter are helpless. Waltz holds that it is the structure of the international system that give rise to balance of power rather than characteristics of individual states. Gilpin (1981) also shares the view that it is the international system structure that largely determines the distribution of power.

In short, realism is not a single monolithic tradition as has been presented here. Classical realism (traditional realism) and structural realism (neorealism) differ in their explanation of factors triggering the security dilemma, and thus offer differing implications when considered as the basis for security policy (Elman, 2008:27). The two variants of realism, however, share key assumptions. They hold common positions on the status of states as unitary principal actors in an anarchic international system and the primacy of military power as an instrument of state policy. The classical realist and neo-realist approaches of the mainstream international relations hold key insights with regard to the way states as pre-eminent actors in the international system deal with security. However, as a general theory realism has limited contribution in a number of areas. First, realism has tended to over-emphasize the anarchic nature of the international system at the expense of domestic threats in its consideration of security issues (Baldwin, 1995: 131). In this sense, what happens inside a state barely receives attention than on what transpires between it and

other states. This implies that there is no appreciation of the importance of managing domestic political turmoil or crises which can also affect a state's capability to defend against outside aggression, which is the realists' main pre-occupation.

Second, realists' criticism of Intergovernmental Organizations (IGOs) as simply proxy for power is also flawed (Boehmer et al., 2004:30). For realists, regional and sub-regional organizations that are a form of IGOs are of little interest. Drawing from realist thinking such organizations merely reflect national vested interests and cannot constrain powerful states (Mearsheimer, 1995; Strange, 1983). To a great extent realists are right to hold the view that states structure such intergovernmental organizations to further their own interests but they fail to appreciate the fact that even powerful states must do so in a way that induces other weaker states to participate (Abbot and Snidal, 1998:8; Sterling-Folker, 2010: 132). Moreover, it is disputable to maintain that states are always in conflict. When states form IGOs to deal with security matters, among others, it is also one of the signs that they share common interests and look forward to observe common rules, which confer mutual rights and duties (Jackson and Sorensen, 2010: 88). This entails inter-state cooperation in managing security threats instead of conflict among state actors can prevail.

Another limitation of realism is its tendency to over-emphasize on the use of force in dealing with security threats. Realists give much attention to the use of force, hence military strategies like deterrence, armed intervention, alliances, counter-alliances, power balancing and so forth, occupy much of their thoughts on security. In so doing, realism loses focus on the "active" functions of intergovernmental organizations, like facilitating negotiations, mediation, implementation of agreements between disputing parties, and in general the management and resolution of conflicts by diplomatic means (Abbot and Snidal, 1998:5). It is no surprise, therefore, that development and elaboration of norms such as peaceful resolution of conflicts by intergovernmental organizations has barely been acknowledged by realists.

Although neo-realism has been much criticized for its statist focus on security matters, there are still important insights on regionalism that may be deduced from this theoretical

strand. Indeed, no theory explains all aspects of regionalism, but realist-inspired theories, in the main view regionalism by looking at the region from the outside in. Realists view formation of regional groupings as a response to external challenges (Hurrell, 1995). Even though Hurrell (*ibid.*) admits that the links between hegemony and regionalism remain under-theorized, he underscores four power-oriented interpretations of regionalism from realism. The presence of a regional hegemony, notes Hurrell (*ibid.*), ought not to be viewed only as a stumbling block to efforts to construct regional arrangements. On the contrary, the hegemony may act as a powerful stimulus to regionalism and eventually to the creation of regionalist institutions in the following ways: First, “sub-regional groupings often develop as a response to the existence of an actual or potential hegemonic power” (Hurrell, 1995: 50). There is, therefore, a fear factor among a group of relatively small or weak states vis-à-vis a locally dominant state. As intimated by Hurrell (*ibid.*) and recounted in chapter two, it is against this background that SADC came into being as a response to the threatening position of South Africa.

A second possibility, which also reflects the vulnerability aspect of a group of states, is when regionalism is designed as an attempt to restrict the free exercise of hegemonic power. Regional institutions are, thus, created as a means to mitigate a hegemonic power. From the hegemonic power’s perspective, regionalism can provide the all-important multilateral cover with which it can re-establish its influence. Hurrell (*ibid.*) cites the example of how Europe and Germany needed each other in the post-war recovery period. A third possibility as a reaction to the presence of a local hegemon is when regionalism reflects a strategy of bandwagoning on the part of the weaker states in a region, i.e. “accommodation with the local hegemon in the hope of receiving special rewards” (Hurrell, 1995: 52). Indeed, regionalism may be borne out of purely vulnerability concerns, but at the same time there might be few or non alternatives to accommodation with the local hegemon. Welcoming the hegemon to take a central role in the creation of sub-regional security architectures becomes a much desirable strategy on the part of the relatively weak states that look forward to the possibility of material benefits. The military might of a local hegemon may offer the much-needed logistical and training-related support necessary for combating common security challenges.

Fourth, from the local hegemon's perspective, creation of regional institutions may also serve in its favour by allowing it to pursue its interests while at the same time conveniently making it possible "to share burdens, to solve common problems, and to generate international support and legitimacy for its policies" (Hurrell, 1995: 52). These are equally important considerations that are often overlooked by critics of hegemonic theory. Confronted by resource-demanding economic and social program, and in the face of competing priorities domestically, the regional hegemon would also welcome the possibility of sharing costs of maintaining security on its borders as well as regional stability. The hegemon would very much be interested in overseeing a stable neighbourhood in its region. It ought to be noted that the actions or inactions of states like South Africa and Nigeria in Sub-Saharan Africa have on different occasions and in several security-related situations elicited much interest among their regional peers because of their economic as well as military preponderance.

3.2.2 Neo-Liberal Institutionalism

Neo-liberalism is a variant of liberal perspective to International Relations that focuses on the fundamental role of international institutions in contemporary global politics; hence it is often called 'Neo-liberal Institutionalism' (Sterling-Folker, 2010). It is, therefore, important to revisit the liberal perspective from which the neo-liberal institutionalist school owes its origin before embarking on the latter's prepositions on our key concept of security. As a theory, liberalism origins are traced back to the nineteenth-century Enlightenment thinking when individuals came to be regarded as rational human beings capable of mastering their environment through universally applicable laws. The Enlightenment thinking presented a positive image of human nature as striving to create a just and civil society. When things go wrong as social order crumbles and society succumb to war, such an outcome should not be blamed on the individual but the society itself.

According to this line of thinking, man is not inherently a war-mongering being. Some of the ideas forming the core of Enlightenment thinking include the writings of philosophers Montesquieu and Immanuel Kant. They both believed that humans could take charge of their affairs and overcome international anarchy via collective action. Thus, in the nineteenth-century liberalism shared the Enlightenment's optimistic view of human nature by continuing to portray man as capable of meeting his needs and wants in rational ways (Mingst, 1999: 67). Liberalism found some of its ideas, specifically on how to avoid war, getting more pronounced by the twentieth-century 'Wilsonian Idealism'³⁴ during the creation of the League of Nations. The eventual failure of the League to effectively carry through its much-touted 'collective security'³⁵ system meant that liberalism as a theoretical perspective lost its appeal. The liberal perspective waned but its unrelenting faith on international institutions especially in managing anarchical situation was given a new lease of life under the umbrella of neo-liberal institutionalism.

The neo-liberal institutionalism offered insightful contributions on the all-important aspect of the rationale for states to cooperate amid prevalence of an anarchic international system. Neo-liberal institutionalists shared the classical liberals' viewpoint that it is possible for cooperation among states to occur in such an uncertain environment but they differ in their account of why it emerges. As summed up by Mingst (1999: 69), "For classical liberals, cooperation emerges from man establishing and reforming institutions that permit cooperative interactions and prohibit coercive actions. For neo-liberal institutionalists, cooperation emerges because for actors having continuous interactions with each other, it is in the self-interest of each to cooperate."

The significance of the neo-liberal institutionalist paradigm is not merely because of its stark contrast to the widely critiqued realist and neo-realist orientations but more importantly its key elements. Its central elements are the prominence of non-state actors and international institutions, and the importance of cooperation in international politics.

³⁴ This term was coined after the American president Woodrow Wilson, a great proponent of idealism during that time.

³⁵ As a provision in the covenant of the League of Nations, the notion of collective security implied that aggression by one state would attract collective action from the rest of the society of states.

Neo-liberal institutionalism shares the realists' assertion that states are critical actors but goes far to recognize existence of other important actors, such as international institutions and Non Governmental Organizations. The theory embraces a broader definition of institutions in both formal and informal sense. Formal institutions refer to multilateral organizations with physical locations, buildings, staffs and budgets (Sterling-Folker, 2010). Informal institutional arrangements consist of sets of governing arrangements that bring into play "implicit and explicit principles, norms, rules and decision making procedures around which actors' expectations converge" (Krasner, 1983:2). Despite the fact that some leading proponents of neo-liberal institutionalism, like Oran Young and Robert Keohane, have criticized this definition by an influential adherent of the Neorealist School, it is still preferred in attempting to comprehend the nature and scope of regimes and any change in it (Tarzi, 2004: 124). The depiction of state practices steered by principles, norms, rules and decision-making procedures pointed to recognition that not all institutions had to have physical headquarters and staffs (Milner, 2009: 6).

On the whole, we can extrapolate the general proposition from the neo-liberal institutionalism. In the first place, it shares the realist position that states are rational actors striving to maximize national interests under conditions of anarchy but part ways with the realists on the role of norms and regimes. In essence, neo-liberal institutionalists hold the view that the states can have their self-interests (i.e. relative gains concerns) better served by complying with norms and regimes, partly because the benefit of compliance outweighs the cost of violating them (Tarzi, 2004: 125-126). Second, the neo-liberal institutionalist school places premium on the value of cooperation among states in explaining why regimes persist. As rational actors states consciously enter into cooperation to respond to their national interest, thereby making regime-building an eventual outcome of a cooperative undertaking.

The theory highly considers institutions as very instrumental in promoting security by providing a guaranteed framework of interactions (Mingst, 1999: 69). Neo-liberal Institutionalists maintain that institutions help make security possible in two main ways. First, institutions help promote cooperation between states (Keohane, 1989: 4). Second,

international institutions provide a flow of information between their member states thereby leaving them much less in dark about what other states are doing. This goes a long way to alleviate problems concerning lack of trust between states and reduce states' fear of each other (Jackson and Sorensen, 2010: 108). From neo-liberal institutionalism point of view, therefore, institutions are purposively created by states to manage growing inter-dependence and overcome collective action problems (Hurrell, 1995; Solingen, 2008). Besides serving as a means of providing information, institutions reduce transactions costs associated with rule-making, negotiating, implementing, information gathering and conflict resolution (Navari, 2008: 29-43). Regional norms, rules and institutions, henceforth, are not merely fashionable endeavours generated for their own sake, but are created because they assist states to deal with common problems (Hurrell, 1995: 62). Unlike neo-realist assumptions, therefore, neo-liberal institutionalism does not preclude promotion of regionalism through creation of regional institutions. To neo-liberalists, regional institutions matter, as succinctly summed up by Pedersen, "Neo-liberal institutionalism has a certain *prima facie* usefulness, when it comes to explicating high levels of regional institutionalisation...The central concern of neo liberalists is the capacity of international (including regional) institutions to reduce transaction costs, provide information and serve as mechanisms of enforcement and monitoring" (2002: 679).

The main shortcoming of the neo-liberal institutionalism is that of placing much emphasis on institutions thereby implying that once established they are sure to guarantee cooperation. Institutions may affect possibility for cooperation but they do not guarantee cooperation (Mingst, 1999). It is a credible argument to assert that institutions can provide continuity and a sense of stability and can foster cooperation between states for mutual advantage (Jackson and Sorensen, 2010: 97), but they can also collapse or fail to achieve security as a collective outcome (Sterling-Folker, 2010)³⁶. Nevertheless, neo-realists are also correct to claim that promotion of security through inter-state cooperation becomes a distant reality when institutions formed only serve as arenas where power play by state

³⁶ Jennifer Sterling-Folker. 2010, "Neoliberalism", in Tim Dunne, Milja Kurki and Steve Smith (eds.), *International Relations Theories: Discipline and Diversity*, Second Edition, New York: Oxford University Press, pp. 116-134.

actors unfolds. Moreover, implicit in neo-liberal institutionalist analysis is its failure to offer adequate explanation on how the same institutions structured by states deal with management of problematic areas within individual states, such as intra-state conflicts that can easily hamper or diminish possibilities of inter-state cooperation in non-security areas like economic integration. The bottom line is that this theory tends to focus more on question of inter-state cooperation and the persistency of international institutions rather than issues of intra-state security (Jackson, 2009: 174).

3.2.3 Constructivism

Constructivism is a recent invention³⁷ in the study of IR that has gained prominence for the theoretical insights it has provided in an attempt to address limitations of the dominant rationalist-systemic theories (realism and neo-liberal institutionalism). It is viewed as a theory that attempts to complement the inadequacies of the rationalist-systemic theories whose numerous propositions differ on *conditions* favourable for cooperation to take place, the *process* by which cooperative action take place and the overall *propensity* of states to cooperate (Franke, 2009). Constructivism which mainly focuses on aspects of 'regional awareness', 'regional identity' and the shared sense of belonging to a particular community (Hurrell, 1995), views normative and ideational structures as equally significant as material structures particularly in shaping the identities and interests of actors in world politics (Reus-Smit, 2001).

Benedikt Franke has made an emphatic claim for the superiority of constructivist perspectives in understanding security co-operation in Africa in his book *Security Co-operation in Africa: A Reappraisal*, 2009. Franke has made the argument that constructivism is best suited as an alternative analytical framework to the understanding of dynamics of security co-operation in Africa because it transcends the major limitation of rationalist-systemic theories, namely over-emphasis on the international system and the

³⁷ The concept first appeared in Nicholas Onuf's book *World of Our Making: Rules and Rule in Social Theory and International Relations*, Columbia: University of South Carolina Press, 1989.

state as level of analysis to the neglect of social processes. According to him, both schools (realism and neo-liberal institutionalism) “fail, albeit to different degrees, to appreciate the importance of inter-subjective factors, including ideas, norms and beliefs and their role in the emergence and deepening of security co-operation” (2009: 17). Another attack on systemic theories is that as they largely reflect the western circumstances in which they were formulated, they are fraught with theoretical flaws especially in explaining happenings in the African context.

The main focus of constructivism as an approach in IR is on consciousness and its place in world affairs. In sharp contrast to traditional IR theories, especially neorealism that mainly focuses on the distribution of material power, such as military forces and balance of power calculations, constructivism makes the claim that the most prominent aspect of international relations is social, not material (Jackson and Sorensen, 2010: 160). In other words, constructivist theories of IR reject the *materialist view* espoused by neorealists, and to some extent neoliberals, which emphasizes power and national interest as driving forces in international politics. Constructivism instead insists that the focus should be on ideas and beliefs that inform as well as shape actions of the actors on the international scene. It follows, thus, one of the central shared assumptions for constructivists is not only that security is a social construction, but also non-material or ideational factors are key to the construction and practices of security in international politics (McDonald, 2008: 60-61). This *ideational view* held by constructivists has been widely stressed and popularized by its leading proponent, Alexander Wendt. Wendt (1992) posits that ideas always matter and ought to be accorded same level of attention as that given to issues of power and national interest.

According to Wendt, ideas are neither more important than nor autonomous from power and interest, but rather “power and interest have the effects they do in virtue of the ideas that make them up” (1999:135-6). In constructivist thinking, ideas are broadly defined as “mental constructs held by individuals, sets of distinctive beliefs, principles and attitudes that provide broad orientations for behaviour and policy” (Tannenwald, 2005:15).

Tannenwald has gone further to specify four types of ideas, namely ideologies or shared belief systems, normative beliefs, cause-effect beliefs and policy prescriptions (2005:15).

As an alternative approach to both neorealism and neo-liberalism, constructivism does offer some insights on state's security. In the first place, it offers insights on how the emergence of wars and conflicts can breach a state's or rather society's security. According to constructivism, conflict can be socially constructed when two conditions are met. First, identity-be it individual, group or national, is critical in the construction of wars and conflicts through the use of fear, threat, hatred, victimhood and dehumanization of the other (Jackson, 2009:177-178). Second, the presence of political elites who are committed to ferment and use grievances generated by existing structural conditions, such as poverty, unemployment, discrimination, corruption and state incapacity, to inflame and manipulate identities and perceptions of threat and victimhood, thereby laying the foundation for legitimizing violent retaliation (Kapferer, 1988). Constructivists therefore view the presence of the aforementioned debilitating structural conditions as providing important ground for initiating and sustaining organized violence within states. This constructivist insight provides an important clue as to the factors that propel conflicts to break out at particular junctures, principally when enabling structures and purposeful agents (actors) interact to provide the necessary conditions to spark wars or society-wide conflicts (Jackson, 2009: 179). In most of African countries political elites take advantage of bad structural conditions to instigate large numbers of unemployed youths during political campaigns and after elections (Branch, 2011).

As observed by Jackson (2009: 173), one of the arguably essential contributions of the constructivist approach to security is its emphasis on the aspect of conflict analysis. It reiterates that resolution of conflicts within and between states has to be preceded by an in-depth diagnosis of their nature and causes. Without in-depth knowledge or account of the role of agents and structures in deliberately constructing war and conflict, any mechanisms to restore security is likely to be ad hoc or ineffectual. In brief, the broad implication of constructivism is that it presents a comprehensive understanding of conflict formation, which is an essential initial step towards conceptualizing conflict resolution

(Jackson, 2009: 182). A related implication of constructivism to security is thus on the importance of focusing on Early Warning Systems (EWS) that would help to monitor the process of violent conflict construction, which is spearheaded by 'conflict agents', or variously described as 'conflict or ethnic entrepreneurs' (Lemarchand, 1994).

With regard to the role of inter-governmental organizations in promoting security, constructivists argue that norms supported by them can decisively influence national policies (Finnemore, 1996: 128). Besides, IGOs do play the role of agenda setting (Barnett and Finnemore, 2005: 162), by determining and defining problems during meetings and conferences held under their auspices. This partly explains why some security issues or threats make it into the security agenda of regional and sub-regional organizations.

Constructivism also is not free from criticism. Neo-realists, in particular, are sceptical about the importance that constructivists attach to international norms, which are routinely disregarded by states that are unsurprisingly egoistic (Krasner, 1994: 16-17). Furthermore, constructivism does not offer much in terms of how state and non-state actors interact in a regional or sub-regional setting in managing intra-state conflicts as well as transnational security threats. Moreover, despite constructivist shared assumption that security is a social construction that has generally eschewed a focus on power politics of security most constructivists eluded questions of explicitly stating how security works and how we might study its construction (McDonald, 2008: 67). It is the Centre for Peace and Conflict Research³⁸, established in Copenhagen in 1985 and thus dubbed the 'Copenhagen School' (McSweeney, 1996), which attempted to answer these questions by developing a more coherent theory for the study of security, and is therefore worth revisiting albeit in brief.

The Copenhagen School, which largely draws upon social constructivism, is credited for widening the debate about international security by adding to military security five other security sectors. Building on the 1983 path breaking work of Barry Buzan, *People, States*

³⁸ It was later known as Conflict and Peace Research Institute (COPRI)

and Fear,³⁹ the Copenhagen School incorporated political, economic, societal and ecological security as new sectors. When the Buzan book came out, the main emphasis was on the state as the main referent object for security. But in a series of publications shared by Buzan and his colleagues, most notably Ole Waever, a shift in focus from state security that had sovereignty as its ultimate criterion to the notion of societal security, which was held together by concerns on identity, was observed.⁴⁰ The idea was not to let societal security substitute state security but to make sure the former becomes more the centre of analysis. Henceforth, the debate in the 1990s came to reflect this feature of duality of state security and societal security.

It is at this juncture that it is important to look at another innovative concept and insight from the Copenhagen School. Supposedly a distinctive feature of the Copenhagen School has been the concept of 'securitization' developed by Ole Waever. Waever presented the notion of security as a discursive or speech act meaning labelling a phenomenon as a security issue leading to instilling a sense of importance and urgency prompting measures to deal with it outside the purview of usual political process (Buzan et al., 1998: 23-26). Simply put, securitization entails the construction of a security problem by means of the speech act of security. In this sense, certain issues become categorized as security issues, and as such, are expected to be addressed through security solutions. It has to be noted, however, that Waever was advocating for 'desecuritization' of issues, that is, removing them from the security agenda instead of the securitization agenda (Waever, 1995: 46-86).

The 'securitization', and its opposite 'desecuritization' agenda, sparked considerable debates and numerous reviews most of which did not look to reject or invalidate the work of the Copenhagen School, but rather to pinpoint how it encapsulates several questionable claims. Hereunder, we summarize some of the major criticisms levelled against the assumptions of the Copenhagen School. In the first place, the widening agenda of the

³⁹ Barry Buzan. 1983. *People, States, and Fear*, Brighton: Harvester Wheatsheaf; *People, States, and Fear: An Agenda for International Security Studies in the Post-Cold War Era*, 2nd ed. Hemel Hempstead: Harvester Wheatsheaf

⁴⁰ Ole Waever, Barry Buzan, Morten Kelstrup and Pierre Lemaitre. 1993. *Identity, migration, and the New Security Order in Europe*, London: Printer; Barry Buzan, Ole Waever and Jaap de Wilde. 1998. *Security: A New Framework for Analysis*, Boulder: Lynne Rienner.

school has merely presented a sophisticated neorealist account of security (Smith, 2000). This attack stems from the fact that the Buzan et al. group had succeeded to extend security to encompass the five sectors as previously mentioned, and thus, centre their discussions of security on three levels of the sub-state, the state and the international system, but could not break away from analyzing the state as the referent object in all these levels. Others like, Ken Booth (1991) preferred instead a focus on the individual as the primary referent object.

A second criticism centres on the vagueness of the 'securitization' concept. According to Knudsen (2001), the concept is ambiguous as it refers to two things at once. Knudsen opined "On the one hand, it refers to the act (or process) of removing an issue from and raising it above politics, taking it out of the limelight. On the other, it points to the act (or process) of taking an issue out of obscurity or neglect and placing it on the political agenda" (Knudsen, 2001: 361).

Besides these criticisms, it is nonetheless the case that the work of the Copenhagen School defines an interesting, not least complex research agenda for security studies. The contribution of the Copenhagen School to the widening and deepening of the security agenda, in particular the understanding of the multiple security sectors is reflected in the latest attempts by regional and sub-regional organizations to form consensus on which issues come to be viewed and treated as security threats. A multi-approach to security encompassing political, economic, societal, and ecological concerns in addition to the military has virtually been welcome by regional and sub-regional arrangements geared on addressing the multifaceted nature of security concerns in Africa. The idea of securitization succeeded in bringing useful insights into security studies how security agenda setting takes shape. The Copenhagen School, however, left an important question unanswered in its framework, and that is how do we know when an issue has been successfully 'securitized'? (McDonald, 2008: 70).

3.2.4 The Case for the Security Governance Perspective

Having gone through different strands of theories that focus on security, it appears clearly that each theory reviewed in the foregoing sections holds key insights but they also have their limitations. In brief the following major limitations have been observed as related to how sub-regional arrangements address security challenges in their delineated areas. These are over-emphasis on the international system (anarchic or not) and the state as the level of analysis to the neglect of domestic threats and non-state actors in consideration of security issues; and over-emphasis on the use of force in dealing with security threats to the neglect of pacific or peaceful methods which are increasingly preferred by sub-regional organizations. Since there is no single monolithic theory that can adequately explain security dynamics on its own, it suffices to say that the manner in which inter-governmental organizations at the sub-regional level deal with security aspects can be best understood through a perspective that both accommodates an eclectic mix of insights from rationalist-systemic theories and constructivism, and transcends their major limitations.

The security governance perspective, henceforth, is preferred, as its focus is not dominated by the presence of states, as is the case in other perspectives. As it is applied as a heuristic device than a general theory, security governance goes further by bringing in a multi-level or multiple-actor setting. For instance, it incorporates states, non-state organizations and individual or group actors. The concept of security governance has been adopted not only for the reason of applying it to a broader comparative empirical study in a sub-Saharan Africa setting but also because it appears to provide a useful perspective from which to approach security issues at the regional as well as sub-regional levels as it, firstly, draws attention to the multiple actors and multiple levels of security engagement, and thus highlights the need for greater coordination and cooperation among key actors in security. The plurality of actors and overlapping networks resulting from their collaboration is grasped by the concept of security governance.

As summed up by Hänggi (2005: 9), “security governance is an analytical perspective which helps to capture complex governing mechanisms in a given issue-area characterized

by constellation of different actors operating at different levels of interaction”. Secondly, the security governance perspective provides a framework for analyzing policy-making and policy implementation in the security field despite the fact that the integration of various actor-types in decision-making and policy implementation can create new cooperation problems leading to unintended consequences (Daase and Friesedorf, 2010). Thirdly, it provides a helpful heuristic device to analyze forms of interaction and to conceptualize the coordination, management and regulation of security within an intergovernmental grouping in a meaningful way. And as such it captures the different categories of cooperation and coordination arrangements. As justified in the empirical study by Kirchner and Sperling (2007:18) security governance perspective can be employed “as a heuristic device for recasting the problem of security management in order to accommodate the different patterns of interstate interaction, the rising number of non-state security actors, the expansion of the security agenda, and conflict regulation or resolution.” They further noted the following advantages of using this perspective:

Security governance possesses the virtue of conceptual accommodation: it allows for hierarchical patterns of interaction as well as the disparate substantive bundling and normative content of security institutions. Security governance possesses the additional virtues of neither precluding nor necessitating the privileging of the state or non-state actors in the security domain; it leaves open the question of whether states are able to provide security across multiple levels and dimensions unilaterally or whether states are compelled to work within multilateral or supranational institutional frameworks (2007:18-19).

IR scholarship that has generally paid attention to the security governance perspective can be put into three main groups. The first group of studies, of course not mentioned in specific order of preference, analyses security governance from a conceptual viewpoint (Krahmann, 2003). The second examines security governance approaches from a comparative perspective (Kirchner and Sperling, 2007). The third group of studies examines unintended consequences of the security governance paradigm (Daase and Friesedorf, 2010). By focusing on ‘unintended consequences’ this cluster of studies is not fixing its attention to problems of effectiveness, efficiency or side effect. Rather, the focus is on unintended outcomes of security governance, defined as an “effect of purposive social

action which is different from what was wanted at the moment of carrying out the act, and the want of which was a reason for carrying it out” (Baert, 1991 as quoted in Daase and Friesedorf, 2010: 9).

The prominence of the security governance perspective partly derives from the fact that it favourably captures landmark transformation in the security paradigm. The shift from traditional security policy, referred to as inter-state relations mainly in the military domain with major pre-occupation on defending territorial integrity, to the expansion of the security agenda with new problems to be regulated (arms proliferation, terrorism, organized crime and environmental degradation) as well as new referent objects to be considered (societies and individuals). With such a wider, complex and demanding security agenda, new actors had to be drafted in to share responsibilities, hence a plurality of actors in the coordination, management and regulation of security policies. Security governance can also simply be understood by looking at the forms in which it takes according to the role of national governments (Daase and Friesedorf, 2010:3-4): (a) Governance by government denoting institutionalized forms of inter-state cooperation that was long taken too lightly by realist theorists; (b) governance without government referring to the self-regulation of private actors such as NGOs and businesses who conduct security-related activities without state agencies interference. Specific example would be where multinational companies hire their own private security contractors to protect their property abroad; (c) governance with government entailing joint action between state and non-state actors. This is the most common form in recent years. As succinctly put by Daase and Friesedorf:

The transnational nature of contemporary security issues calls for enhanced transnational cooperation. A state, even a powerful one, cannot mitigate climate change or terrorism on its own. But interstate cooperation is not sufficient. To prevent an unwanted effect or limit its consequences, states must draw on the resources of international organizations, NGOs, and private businesses. While governments often remain the central actors, they are no longer the only ones (2010:4-5).

3.3. Security Governance Conceptual Framework

Security governance is a recent concept, which consists of two elements: security and governance. The concept of security has received various interpretations and definitions (as shown in the preceding sections, and therefore its elaboration will not be repeated here). Governance has been treated in the governance literature as a phenomenon distinct from 'government'. While *government* suggests presence of centralized authority with ability to impose policy preferences, *governance*⁴¹, by contrast, is concerned with understanding how the regulation of societies or the international system has given space for the involvement of political actors besides governments (Pierre, 2000: 3-4). Governance is specifically epitomized by the policymaking, which is fragmented among state and non-state actors, in the absence of an overarching political authority and in several dimensions (Krahmann, 2003: 11). According to Krahmann (2008: 200-201), fragmentation of policymaking is taking place in seven dimensions, namely: geographical fragmentation to local agencies, regional or global organizations and private actors; functional fragmentation involving the regulation of different issue areas by multiple and separate authorities; resource fragmentation which refers to dispersion of policymaking and implementation capabilities; fragmentation not only in the making of policies but also their implementation; and finally interest and normative fragmentation, with the former pointing to the heterogeneous and sometimes conflicting interests of different actors (mainly public versus private), and the latter typified by the emergence of norms of neoliberalism and the new public management, which in essence favours a state with limited sovereignty.

Webber et al. (2004: 4) define security governance as involving the “coordinated, management and regulation of issues by multiple and separate authorities, the interventions of both public and private actors (depending upon the issue), formal and informal arrangements, in turn structured by discourse and norms, and purposefully directed toward particular policy outcomes.” From the foregoing definition, there is an

⁴¹ According to Webber et al. (2004:4) the term governance in IR studies has been used in so many different ways, for instance, environmental governance, trade governance, international monetary governance, that its analytical precision has been blunted.

appreciation of engagement of actors other than states relevant to three key security dimensions of coordination, management and regulation even though states have remained resilient units in security matters (Flemes and Radseck, 2009; Webber et al. 2004). The concept of governance has been applied to different levels (global, regional, state and sub-state), and to different types and constellation of actors. At the global level, global security governance involves the UN multilateral system and henceforth is dominated by state and intergovernmental actors but there is also a growing influence of NGOs in areas of disarmament, non-proliferation of small arms, peacekeeping and peace building (Hanggi, 2005: 8).

Regional security governance relates to broad dynamics in the development of security arrangements in a given region. As far as regional security is concerned, security governance has been conceived as an order-creating mechanism (Adler and Greve, 2009:65; Flemes and Radseck, 2009:7). In their analytical framework developed to explain regional security dynamics in South America, Flemes and Radseck (2009:7) have offered the following definition of *regional security governance*:

Regional security governance denotes formal and informal structures of authority that coordinate, manage and rule collective responses to threats to the security of states in a delineated region or common efforts of these states to promote security and stability outside the region. Collective security challenges can be subdivided into interstate conflicts, domestic crises affecting regional stability, and transnational threats. The unilateral, bilateral and multilateral structures of authority can be codified in formally binding institutional forms, but they may also be identified in the norms of behaviour and action accepted informally among the regional states.

To assess the sub-regional security governance entails appraising how it actually performs the key functions of coordination, management and regulation of collective responses to security threats facing Member States in its delineated region. Henceforth, the study lends its focus on the two core components of security governance, namely coordination and management. As referred in the governance literature coordination relates primarily to how actors interact and who drives or sets the agenda in policy-making (Kirchner,

2006:953). Specifically, coordination here is understood as the interaction of actors within a sub-regional arrangement culminating into the development of operational support tools (such as protocols, rules, laws, guidelines, standards etc.) and relevant coordinating structures. These operational tools and structures provide a mechanism by which security cooperation can be undertaken but also constitutes a framework through which all the key players are brought together and their activities coordinated and combined in order to promote a collective approach to security challenges. It is through rules, laws and norms addressing specific security challenges that national and sub-regional structures of authority would seek to determine the nature and extent of collective security challenges and develop appropriate, coordinated policy responses.

Management relates to how policies are carried out, administered or controlled (Kirchner, 2006). On the security challenge of transnational threat of Small Arms and Light Weapons (SALW) the focus is on two major management tasks, namely review and harmonization of legislation and control measures (collection and destruction, marking and record keeping)⁴². In the case of domestic political crisis, attention is on efforts, whether through peaceful initiatives such as mediation, negotiation, conciliation and adjudication or military intervention, undertaken within the sub-regional arrangement aimed at managing domestic political instability in a Member State. Henceforth, of interest here are all those efforts to help conflicting parties to ensure escalation of the crisis is averted and seize the opportunity to bring sustainable peace.

The third component of security governance, regulation, has been deliberately left out of the ensuing analysis. Regulation as a component of security governance reflects the cumulative effect of a policy output. It relates to policy outcome in security dimension in terms of impact of policies on the desired objectives or targets. The decision to leave out regulation is due to the fact that it is rather difficult to find a convenient yardstick for which to measure the policy outcome (impact) of sub-regional arrangement in response to a certain security challenge. For instance, in assessing the regulation of the security

⁴² Issues of training (i.e. operational capacity building) and public education and awareness are discussed under the control measures of collection and destruction, and marking and record keeping, respectively.

challenge of transnational threats it would require measuring the rates of change in transnational criminal acts within each member state and then determine the impact that the policies of the sub-regional organization have had on that range of change. This could not be sufficiently fulfilled within the timeframe of the current study. Operationalization of coordination and management, and other concepts forms part of the next chapter.

Chapter Four

4. Research Design and Methods

4.1. Introduction

The theoretical discussions in the previous chapter indicate a clear preference for security governance as an appropriate framework with which we can better understand an evolving plurality of actors, institutional arrangements, and their interaction in addressing security challenges in the Sub-Saharan Africa context. This chapter, accordingly, features the research design and the methods that state the conceptual and methodological structure within which this research had been conducted. The chapter is critical for explaining the study's research question and hypothesis, as well as operationalizing key concepts. It also offers justification for the selection of cases (i.e. EAC and SADC), and specifies the scope of study, in terms of the timeframe and selection of security challenges. It finally demonstrates the means of obtaining data and explanation of the way in which selected means of obtaining information were organized and the reasoning leading to the selection.

4.2. Research Questions

Consistent with reports compiled by various international data sets⁴³, since the 1990s security challenges in the form of inter-state conflicts have been on a decline around the globe. The most prominent security challenges confronting majority of states in Africa to date are mainly of two forms, namely transnational threats and internal or domestic political crises. Given their proximity (physically and culturally) to the areas facing these security challenges, sub-regional organizations are expected to assume primary responsibility to respond to both sets of challenges within their geographical areas (Francis, 2006; Merrills, 1998). Sub-regional organizations are adeptly placed not only to

⁴³ Referred here are the well-known UCPD (Uppsala Conflict Data Program) based at the Uppsala University; CSP (Center for Systemic Peace) based at George Mason University; COW (Correlates of War) Project at the Penn State University; ECP (Escola de Cultura de Pau) based at the Autonomous University in Barcelona;

provide a forum for facilitating early warning and response mechanisms to transnational threats, but also can play important roles in isolating as well as resolving conflict situations within their members (Ramsbotham et al., 2011).

As both forms of security challenges have ramifications beyond one's national frontiers, and thus, threatening to impact negatively on the general integration agenda of sub-regional organizations, one expects these challenges to receive same level of attention from sub-regional arrangements. It is, therefore, important to comparatively establish how sub-regional arrangements with security mandates actually coordinate and manage their responses to the collective security challenges in their delineated areas. It will equally be interesting to compare not only how each of the two forms of security challenges are addressed within one, but also across two sub-regional arrangements. The study thus poses the following question:

What is the relevance of sub-regional security governance in addressing collective security challenges facing participants of sub-regional organizations?

In attempting to answer the foregoing question by seeking to provide first, a descriptive account of the nature and magnitude of the security challenges under consideration, and second analytical comparisons of how sub-regional organizations have coordinated and managed their responses to those security challenges, the following sub-questions were developed:

1. What is the nature and extent of collective security challenges facing Member States of sub-regional organizations?
2. In what ways do sub-regional organizations undertake the coordination and management of collective security challenges facing their Member-States?

4.3. Study's Hypothesis

It is widely acknowledged that a multiplicity of actors is presently involved in governance of security (Hänggi, 2005; Krahmman, 2003 & 2008; Caparini, 2006; Kirchner, 2006; Webber et. al. 2004). Security governance essentially suggests deliberate efforts to shape and influence the behaviour and field of action of multiple actors in support of responses to security challenges. The state is, therefore, one actor, albeit a very important one, among various actors (non-state actors such as NGOs, intergovernmental institutions, regional and international organizations) at multiple levels who supplement, augment, or enrich the state's efforts to counter security threats (Caparini, 2006). This means besides implying involvement of more than a single set of actors (such as state political institutions) in shaping the behaviour of states and a field of action, security governance suggests a move away from state-centricism, to attention on the sum of the many ways institutions, non-state actors, international organizations as well as the state coordinate and manage their common affairs (Webber et. al. 2004). It is also assumed the growing involvement of actors other than states in security governance helps to lower the pressures on the state (Krahmann, 2008).

Security governance, henceforth, appears to be an appropriate framework with which we can better understand an evolving array of actors, institutional arrangements, and their interaction in the making (coordination) and implementation (management) of security policies. Thus, the relevance of security governance at the sub-regional level hinges on how an evolving plurality of actors and institutions actually coordinate and manage collective responses to security threats. Yet, the coordination and management of responses to collective security challenges are likely to differ. It is expected that the security governance components might produce differing outcomes in guiding the behaviour of states and their responses, depending on the security challenge at hand. As hinted before, sub-regional organizations in Africa, and in particular Sub-Saharan Africa, have come to deal more with two clusters of collective security challenges since the end of the Cold War, namely transnational threats and domestic political crises. Both transnational threats and domestic political crises require equal attention. However, coordination and management

of responses to these security challenges will not practically be uniform. It has, for instance, been observed elsewhere that actors at the regional level are severely limited to act as agents in resolving internal or domestic crises (Ramsbotham, 2011). Assuming this assertion is accurate, security governance would appear to be more appropriate for addressing certain security challenges, and less so for other sets of security challenges. This leads to the following Hypothesis: *the coordination and management of sub-regional security governance depends on the type of collective security challenge.*

4.4. Operationalization of Concepts

This section operationalizes the central concepts of the study, starting with the terms 'security', collective security challenges, followed by the two core components of security governance namely, coordination and management that are used as the central parameters for comparing the two sub-regional arrangements under focus.

4.4.1. Security

As observed in the preceding chapter, the main theoretical discourses and independent analysts differ in their explanations of security. Realists, liberals and constructivists define security differently. Realists, for instance, define security in terms of war, the survival of the state, and the role of military power in settling international conflicts. Liberals and critical theorists define security more broadly to encompass non-military features but differ among themselves about what reference objects of security should be. They insist cooperation between states can improve security and that international organizations can act as instruments for attaining security.

Independent analysts also offer different explanations of what constitutes security⁴⁴. And yet most other security analysts within IR work with a definition of security that involves

⁴⁴ Makinda (1998), for instance, links security directly to the notion of sovereignty. Makinda refers to security as "the preservation of society's norms, rules, values and institutions, including the state system" (1998:286).

the “alleviation of threats to cherished values” (Hout, 1999: 16; Franke, 2009:8; Williams, 2008:15), especially those, which, if left unchecked, pose a threat to the survival of a particular referent object.

There is, thus, a danger that the observed expansion and proliferation of definitions of security could end up rendering the term itself as of no analytical value. To avoid this pitfall, this study concurs with Väyrynen’s (1999) suggestion that the concept of threat be used as the main unifying element in the study of security⁴⁵. There is, therefore, the need to define and operationalize the term ‘threat’ as there are still several kinds of situations that can be considered threats to individuals. One observation from scholars view threats as violent acts to individuals, thus placing the ‘freedom from fear’ aspect at the core of consideration (Mack, 2005; Lodgaard, 2000; Petersen, 2005). Another observation embraces a broader definition of threats that includes hunger, disease, and natural disasters (freedom from want), arguing that these have caused more deaths than war and violent conflict (Thakur and Newman, 2000; Alkire, 2003).

The realization of threat is defined as “the product of the actor’s capability and intention to deprive the target of specific values” (Väyrynen, 1999:52). This definition, however, covers all types of threats (i.e. intentional and unintentional) to security. Intentional threats are those purporting to produce deprivation and harm in the target. ‘Direct violence’ in Galtung’s (1990) perspective fits this category. Direct violence includes murder, ethnic cleansing, armed aggression, and so forth. Unintentional threats like natural disasters, epidemics and other similar hazards also jeopardize human life but they carry an additional character, i.e. they are typically beyond human control.

The ‘values’ mentioned in our adopted definition of security (alleviation of threats to cherished values) also need clarification. The values that are threatened by intentional acts are survival (respect for life), well-being (access to material entitlements), and

To Makinda, therefore, security cannot be detached from sovereignty. Security actually revolves around sovereignty, both juridical and empirical. This is a very expansive definition of security.

⁴⁵ Buzan also noted way back in 1991 that the discussion on security is ‘about the pursuit of freedom from threat’.

identity (right to human self-realization) (Väyrynen, 1999:53)⁴⁶. All intentional acts to deprive these values pose threats to individual and collective security.

The UN Secretary-General's *High-Level Panel on Threats, Challenges and Change* identified six clusters of threats confronting the world's governments in its report, namely "economic and social threats, including poverty, infectious disease and environmental degradation; inter-state conflict; internal conflict, including civil war, genocide and other large-scale atrocities; nuclear, radiological, chemical and biological weapons; terrorism; and transnational organized crime" (2004:2). As can be observed, the list is long and is susceptible to more sub-lists. This study narrows its focus to two clusters of security threats (hereunder referred to as collective security challenges) notably 'transnational threats' and 'internal/intra-state conflicts'. Operational definitions of the same follow in the next sub-section.

4.4.2. Collective Security Challenges

Collective security challenges entail all those factors that engender insecurity in both individual states and the entire sub-region. These security challenges are treated as those threats that may endanger or have the potential, either directly or indirectly, to constrain individual and collective efforts to achieve sub-regional and regional security goals. As can be observed, there are numerous situations that can qualify to be in the category of collective security challenges. Collective security challenges are thus classified into inter-state conflicts, intra-state conflicts, and transnational threats. The study focuses on the last two security challenges, transnational threats and intra-state conflicts, which have predominantly featured in the list of threat clusters in contemporary world. The decision to narrow my focus on these two sets of security challenges is grounded on the explanation provided in the later section (scope of study) of this chapter. Operational definitions of the collective security challenges of transnational threats and domestic political crises form the focus of the next two sub-sections.

⁴⁶ It can be noted that the classification of values centres on the targets of threats, as a distinction has to be made between sources and targets of threats.

4.4.2.1. Transnational Threats

The concept of 'transnational threats' is made up of two terms, transnational and threats. The term 'transnational' is very important here as it suggests regular interactions, activities or forces across national frontiers undertaken mostly by non-state actors (Williams and Haacke, 2008: 120). Borrowing from the Princeton Project on National Security (2005: 3), transnational threats are defined as those characterized by an event or phenomenon of cross-border scope, the dynamics of which are significantly, but not necessarily exclusively driven by non-state actors, e.g. crime syndicates, terrorists, activities (global economic behaviour like the 1997 Asian financial crisis) or forces (e.g. microbial mutations).

These threats disrupt peoples' lives regardless of where they live (national borders), political inclination and ideologies they ascribe to, their race, religious affiliation and ethnic identity. As described in recent scholarship on security issues, they are 'threats without enemies' (or clearly defined enemies) and as such would call for "a multilateral response stemming from an acceptance of regional interdependence and an awareness of the futility of action within a purely national context"(Hamill, 1998: 2). The trans-boundary nature of these security concerns does not only render functional and geographical borders as somewhat irrelevant owing to the way they reveal the nexus between internal and external security, but also go a long way to affect a wide range of referent objects.⁴⁷ Due to the porous nature of borders in developing countries and the interconnectedness of the threats themselves, it becomes necessary for state apparatuses to mount joint responses, and in a more systematic way, coordinate their efforts at the sub-regional and regional levels. The devastating effects caused by flow of arms, organized

⁴⁷ See Eriksson and Rhinard. 2009. " The Internal-External Security Nexus: notes on Emerging Research Agenda," *Cooperation and Conflict*, 44(3): 243-267. From Kwesi Anning. 2007. "Africa: Confronting Complex Threats, International Peace Academy, Coping with Crisis working Series, point of view, Africa is facing the nexus between 'old' (perennial armed conflicts) and 'new' (such as Transnational Organized Crime-TNC) security challenges. The 'new' challenges being nourished by the 'old'. "Africa: Confronting Complex Threats", February.

crime syndicates, illegal immigration, drug trafficking, money laundering, flows of refugees and internally displaced people, and environmental degradation are real and can no longer be treated as 'soft issues'⁴⁸ in the national and foreign policies of states. In recent years, besides acts of terrorism both the EAC and SADC had come to terms with the threat of maritime piracy along the eastern and southern African coastlines and the Gulf of Aden. Piracy is not only a security threat but also impact negatively on imports and exports that pass through the Somalia coast and the fishing and tourism industries of Indian Ocean countries⁴⁹. The EAC sub-region also faces piracy on inland water bodies particularly in Lake Victoria. There are numerous transnational threats as enumerated above; however, the current study focuses on the threat of proliferation of Small Arms and Light Weapons (SALW).

In the 1997 UN Report, SALW are defined as those weapons "manufactured to military specifications for use as lethal instruments of war"⁵⁰. However, SALW, which by their nature are light, easy to carry and relatively cheap, are not only designed as instruments of war but also for individual use. The category of small arms include revolvers and self-loading pistols, fully automatic rifles, semi-automatic rifles, assault rifles, and sub-machine guns⁵¹. Light weapons category are those designed for use by several persons serving as a crew and comprise of hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable launchers of anti-tank missile and rocket system; portable launchers of anti-aircraft missile systems, and mortars of calibres of less than 100mm. Ammunitions and accessories including cartridge cases,

⁴⁸ Shibashis Chatterjee. 2003. "Neo-realism, Neo-liberalism and Security", has questionably categorized this complex web of security concerns as *soft issues* and has treated nuclear security, international terrorism and Weapon of Mass Destruction (WMD) as *critical issues*. It is hereby observed that such a spurious dichotomy of threats tends to belittle certain forms of security concerns.

⁴⁹ See EAC Brief Note to UN Member States on "The EAC Peace, Security and Good Governance Initiatives and Strategies for a Sustainable Integration", New York, 18th October, 2010; Also see SADC Briefing Note for SADC Double Troika, SADC-EU Senior Officials Meeting, Phakalane Golf Estate Resort, Gaborone, 17th November, 2010; and *The Guardian* (Tanzania), "EAC Seeks Joint Piracy Patrol", 24th February 2010.

⁵⁰ The Panel of Experts on Small Arms A/52/298, 27th August 1997, p. 26-27.

⁵¹ In the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region, The Horn of Africa and Bordering States, hereafter referred to as the 'Nairobi Protocol' 'Small arms' are defined as "weapons designed for personal use" and include the category of arms mentioned above. See Article 1 [Definitions] of the Nairobi Protocol.

primers, propellant powder, bullets or projectiles, that are used in a small arm or light weapon also form part of the SALW threat.

4.4.2.2. Domestic Political Crises

In the current study, an intra-state conflict is understood to involve lethal violence and armed combat within state boundaries among two or more parties pursuing conflicting political goals that results in fatalities. This definition offers sufficient generality such that it encompasses a wide variety of violent conflicts. There is, therefore, necessity to provide clarification regarding the scope or dimensions of ‘domestic political crises’ as a sub-category of intra-state conflicts. This will be done by relying on benchmarks or classifications of intra-state conflicts provided by other works, namely Small and Singer (1982); Regan (1996); Brecke (1999); the Uppsala Conflict Data Program (UCDP), and the Center for Systemic Peace (CSP).

From the operational definition above, domestic political crises as forms of intra-state conflicts are classified based on the following criteria: (a) that they take place within the internal boundaries of a state (Small and Singer, 1982; Brecke, 1999), (b) that one of the primary parties be the government in power⁵² (Small and Singer, 1982; UCDP, 2011). This means the focus here is on ‘state-based conflicts’, as opposed to ‘non-state conflicts’ in which none of the conflicting parties is a government (UCDP, 2011), (c) that the use of arms in order to promote the parties’ general position is also an important feature in such conflicts. ‘Arms’ includes anything material, e.g. manufactured weapons and also sticks, stones, fire, etc. (UCDP, 2011), (d) that the crisis is an intra-state one (i.e. between a government and a non-governmental party) with no interference from other countries. This is actually distinct from an intra-state conflict with foreign involvement, which is an “armed conflict between a government and non-government party where the government side, the opposing side, or both sides, receive troop support from other governments that actively participate in the conflict” (UCDP, 2011), (e) since there is use of arms, the conflict

⁵² Primary parties are parties that have formed the conflict or incompatibility.

results in fatalities to any or both disputing parties; (f) the resulting violence must be directly related to government incompatibility, i.e. the conflict usually concerns the structure or distribution of state authority⁵³. In such incompatibilities concerning type of political system, one party strives for a change of the political system (i.e. looking to introduce something new) and the other party struggles to maintain status quo, and normally that would be the government (UCDP, 2011).

This means the very legitimacy of the government is under question, and in most cases the domestic laws (constitution and electoral laws) are viewed to have been breached as the incompatibility is related to the management of the electoral process with one party resisting attempt by another to subvert the outcome of that process which was in its favour. Henceforth, commission of violent acts to obtain or maintain power is one of the defining features of these types of conflicts⁵⁴, and finally (g) the stalemate situation resulting from the employment of violence as a tool of political competition not only renders severe strains to its political and socio-economic landscape, but its impact is also felt outside the national frontiers. The domestic political crisis in this sense, therefore, has the potential to send far-reaching repercussions to communities and countries in close proximity to the affected country.

Numerous conflicts have occurred and some continue to confront the two case studies, i.e. EAC and SADC, but could not feature in my sample of 'domestic political crises'. This means the population of armed internal/intra-state conflicts can become too large to receive an adequate and balanced treatment in a single inquiry, like the current study. It is, therefore, crucial to point out albeit briefly a series of conflicts left out of my sample of 'domestic political crises'. Starting with the EAC sub-region, the protracted conflict in Northern Uganda that began in 1986 soon after the National Resistance Army/Movement (NRA/M)

⁵³ According to the UCDP incompatibility is the stated (in writing or verbally) generally incompatible positions.

⁵⁴ Borrowing from the Social Conflict in Africa Database, violent acts can be waged primarily by government authorities, or by groups acting in explicit support of government authority, targeting individuals, or collective individuals, members of an alleged opposition group or movement (i.e. pro-government violence). They can as well be waged primarily by a non-state group against government authorities or symbols of government authorities, e.g. transportation or other infrastructures (i.e. anti-government violence).

came to power also does not feature in this study because it has involved foreign troops support. At various stages of the conflict the Sudan government offered direct support to rebels of the Lords' Resistance Army (LRA) whilst the Ugandan government supported the Sudanese People's liberation Army/Movement (SPLA/M) of Southern Sudan (Atkinson, 2009: 7), and thus really blurring the intra/inter-state character of the armed conflict.

Excluded also is the 1994 Rwanda genocide that occurred before the designated timeframe for the current study (i.e. January 2000- February 2011). Moreover, the political turmoil took place when the country had not yet become a member of the EAC, which is one of the units of analysis in the current research. The same can be said about Burundi, which has been embroiled in intractable civil war with strong ethnic connotations following the overthrow of a duly elected government in 1993. The Burundi Peace Negotiations and the resultant Arusha Peace Accords of 2000 took place outside the EAC framework.

On the side of the SADC sub-region, the foregoing operational definition excludes the conflict in the Democratic Republic of Congo (DRC), which has seen involvement of troops from several neighbouring countries⁵⁵ at different stages. The Lesotho political crisis since 1994 is also omitted on the same ground of foreign troops involvement⁵⁶. Even though the regional and sub-regional bodies (i.e. the AU and SADC, respectively) were actively involved since June 2009 when the Madagascar conflict escalated, it has not been selected for this study because it was simply a case of military coup. The AU and SADC rightly considered the March 2009 army mutiny as unconstitutional seizure of power by opposition leader Andry Rajoelina.

The conceptualization of domestic political crises, therefore, leaves out numerous isolated types of intra-state conflicts taking the form of armed raids to steal livestock, which is the most prevalent form of rural crime. These are often tied up with ethnic feuds and clashes between rival clans, like those between the Pokomo and Orma of River Tana District and

⁵⁵ Armed forces from Angola, Namibia, Zimbabwe, Rwanda and Uganda were deployed in the DRC conflict in 1998.

⁵⁶ The Lesotho experience saw the deployment of defence forces from South Africa, Botswana and Zimbabwe.

those in Northern Tanzania; cultivators against pastoralists over land disputes; and local miners against Foreign Companies that have invested in the flourishing mining sector. Despite the fact that such conflicts take place within a country's borders, and involve violence and in most cases result in the loss of lives, they do not meet the other criteria of being state-based; without external government involvement; and the resulting violence directly related to government incompatibility.

The two classic cases of intra-state conflicts that fit the foregoing operational definition of domestic political crises are the Kenyan and Zimbabwean post-election crises of 2007 and 2008, respectively. As pointed out in the previous section, the study focuses on a decade-long period (January 2000 to February 2011) of conflict associated with electoral politics in the two countries albeit the fact that the highest points of the crises were observed after the 2007 and 2008 elections in Kenya and Zimbabwe, respectively.

4.4.3. Coordination

As hinted earlier, the security governance perspective draws attention to multiple actors and different levels of security engagement, which calls for greater cooperation among the actors in security. The perspective neither precludes nor necessitates the privileging of the state or non-state actors in the security domain. It is thus assumed here that states are not the only actors working within sub-regional arrangements in the security domain. Other actors-types that forge cooperative relations with states within sub-regional arrangement in response to collective security challenges are non-governmental organizations, and other regional and sub-regional intergovernmental organizations. Coordination, thus, primarily refers to how the constellation of different actors operating at different levels of interaction takes place (Hänggi, 2005; Kirchner and Sperling, 2007). Henceforth, coordination looks at the integration of various actor-types and who drives or sets the agenda in policy-making (Kirchner, 2006). The foregoing definition is reflective of the traditional conception of coordination as "a process in which two or more parties take one another into account for the purpose of bringing together their decisions and/or activities

into harmonious or reciprocal relation” (Kernaghan and Siegel, 1987: 263). The task here is to explore which actors within the sub-regional organizations (i.e. EAC and SADC) do most of the coordination in relation to the two collective security challenges (proliferation of SALWs and domestic political crises). In this way, it will be possible to establish whether there are certain actors that play the ‘lead’ role in a given security threat, and also whether there is coherence between the two collective security challenges.

It ought to be noted also that the coming together or rather interaction of actors to address common challenges is a form of international cooperation. “But all efforts at international cooperation take place within an institutional context of some kind, which may or may not facilitate cooperative endeavours” (Keohane, 1988: 380). Henceforth, analyzing how actors coordinate security policies means also extending the inquiry into how international institutions, defined “as explicit arrangements, negotiated among international actors, that prescribe, proscribe, and/or authorize behaviour” (Koremenos et. al. 2001: 762), operate along side actors and how they relate to the problems states face, i.e. institutions as focal points for coordination (Keohane and Martin, 1995). Conceptualized this way, it denotes two things. One, institutions are an outcome of agreements by states and other actors who design them purposefully to advance their joint interests, and two, institutional arrangements may require, prohibit or simply permit certain behaviour. Notable also is the fact that institutions, just like actors, evolve in response to changing conditions. Institutions may evolve as states and other international actors favour them over others because they are better suited to new conditions or new problems (Koremenos et. al. 2001: 767).

It is also acknowledged that lack of coordination is one of the practical governance failures, which can thus undermine the efficiency of security governance (Krahmann, 2008; 212). As expounded by Krahmann (ibid.), coordination failures in security governance can arise from a lack of institutional structures that ensure sufficient communication and coordination among various actors.

To analyze this security governance component, interaction of actors and institutional arrangements would be looked at from two dimensions: vertical and horizontal. For purposes of this study, vertical coordination refers to the relationship between the sub-regional organization's organs and Member-States, while horizontal coordination refers to the interface between the sub-regional organization and other strategic actors (i.e. civil society organizations and other intergovernmental organizations at sub-regional and regional levels)⁵⁷. Horizontal coordination, thus, promote inter-agency collaboration and cooperation between institutions and/or organs of the sub-regional organization and actors outside the sub-regional arrangement in the pursuit of security goals. The following specific forms of relationships or partnership avenues will be examined: A) formal and/or informal working relationship in the development of doctrine and policy instruments for addressing particular security challenges (i.e. development of operational support tools such as protocols, rules, laws, guidelines, standards, etc.). There, however, other forums that actors striving to address a particular security threat can interact besides working closely together to develop policy instruments. B) Formal communication channels through regular meetings, workshops or institutional representation as avenues to take stock of progress and share experience, or to address wider partnership issues including funding and other forms of support.

4.4.4. Management

The term management, as used by one of the proponents of the security governance perspective has been referred as to how policies are carried out, administered or controlled (Kirchner, 2006). To say how policies are carried out, administered or controlled suggests focusing on implementation of certain policies. The focus here is on how and by whom (i.e. which actors) management tasks in response to the two collective security challenges are carried out. It is often the case multiple actors are involved in the

⁵⁷ This vertical and horizontal or lateral coordination distinction is a modified version of the one adopted in the AU's Report on African Peace and Security Architecture (APSA) Assessment Study, which was adopted in November, 2010, Zanzibar, Tanzania.

management tasks that can be completely different from those who had been engaged in the coordination component.

4.4.4.1. Management of SALW

The following management tasks will be examined in relation to efforts at addressing the security challenge of SALW): review and harmonization of SALW legislations and control measures (collection, destruction, marking and record keeping).

a) Review and harmonization of SALW legislations:

The review and harmonization of national legislations is important because countries may have legislations, which are out-dated, and thus do not capture the trans-national character of the SALW problem (de Caris, 2002). In the event important issues that can lead to firearms crossing national borders like brokering and export of SALW may not be covered in any provisions of domestic legislation. Flew and Urquhart (2004) maintain that “If comprehensive legislation is not in place, the effectiveness of other measures, for instance to tighten border controls, raise awareness of the dangers and impact of firearm misuse or improve the capacity of law enforcement agencies, will be undermined. At the same time, strong legislation alone will only have limited impact should there be a lack of capacity in other areas, such as law enforcement (p. 9).” It follows that creating an enabling legal framework and improving capacity in other SALW control measures are mutually reinforcing.

Harmonization, henceforth, entails having a legislation framework that function in harmony. Due to the transnational nature of the SALW problem states especially those sharing a certain geographical spread are compelled to direct part of their collaborative efforts into seeking to ensure consistency in particular areas of legal controls on illicit small arms. Enforcing common legal standards is a viable concerted approach to clamping down the proliferation of small arms. Harmonization of legislation, however, does not

mean states must replicate one another's legislation. It means that an offence recognized in one state must also be recognized as an offence in another while making sure at the same time that the legislation of a particular state continues to reflect its national context and policy towards SALW. Harmonization, therefore, ensures that such standards like brokering, marking of firearms, offences and penalties are compatible across borders to facilitate appropriate intervention measures by the (Law Enforcement Agencies) LEAs (Flew and Urquhart, 2004: 13-14).

b) Collection and Destruction of SALWs:

Collection of SALW refers to gathering of all weapons that become the responsibility of the State, which can be undertaken through a number of strategies such legal acquisition, seizure, forfeiture, voluntary surrender and disarmament, demobilization and reintegration (DDR) and amnesty programmes. The collection of illegal firearms is usually accompanied by another management measure-destruction. *Destruction* is a SALW disposal method. Disposal entails deactivation, i.e. rendering all essential parts of the weapon permanently inoperable and, therefore, incapable of being removed, replaced or modified that allow reactivation. It may also involve selling surplus and redundant stock, and storage of SALW in a safe and secure location. Destruction as the preferred method of disposal is often carried out in a way that renders illicitly trafficked SALW seized by national authorities, both permanently disabled and physically damaged.

c) Marking and Record Keeping:

Marking and record keeping are also parallel measures to manage the flow of firearms. Marking involves stamping a unique mark on weapons in state possession for easy traceability and identification. SALW are thus labelled with a unique marking, providing the name of the manufacture, country or place of manufacture and the serial number if the weapon does not already bear one. Markings on firearms can be stamped on the barrel, frame and where applicable, the slide. Marking of firearms goes hand in hand with record keeping whereby countries maintain a database of information in relation to firearms for

tracing purposes for a specified period, usually the international standard is not less than ten years.

4.4.4.2. Management of Domestic Political Crises

There are several measures at the disposal of sub-regional bodies when confronted by a domestic political crisis in one of its members. Sub-regional organization can carry out an armed intervention, which is a more direct and active involvement of the sub-regional organization in the crisis through the application of military resources to contain and terminate the violence. In this case, the interposition of forces between belligerents (peacekeeping) is undertaken to prevent further violence and provide possible room for mediation to take place. Troops from other member-states other than the facing the crisis are deployed to ensure stability and relative normalcy in the aftermath of otherwise extremely volatile and chaotic situations (Miller, 2005).

Sub-regional arrangements, however, as promulgated in their founding treaties, underscore peaceful methods as the most preferred measures for management of conflicts within a territory of a Member State. These peaceful methods include preventive diplomacy: the resolution of disputes before they escalate or the persuasion of parties to desist from allowing such escalation to occur; negotiations: communication between representatives of parties involved in a conflict or dispute to de-escalate a conflict situation, or to formulate mutually satisfactory solutions towards resolution of a given conflict; conciliation: the voluntary referral of a conflict to a neutral external party (in the form of an unofficial commission) that either suggests a non-binding settlement or conducts explorations to facilitate more structured techniques of conflict resolution; arbitration: a mechanism for resolving conflicts whereby the disputants identify their grievances and demands, fix a procedural process, and willingly submit the decision of outcomes, which are to be final and binding, to an external entity; adjudication: the legal process by which an arbiter or judge reviews evidence and argumentation including legal

reasoning set forth by opposing parties or litigants to come to a decision which determines rights and obligations between the parties involved⁵⁸.

Standing prominently in the above list of management measures is mediation. Mediation is the most favoured pacific method of resolving disputes and conflicts by sub-regional actors. Mediation is a direct and active form of third-party intervention in a domestic political crisis. However, it is different from the other forms of third-party intervention in that it is not based on the direct use of force and it is not aimed at helping one of the participants to win (Zartman and Touval, 2007: 437). The end-goal is to bring the crisis to a settlement that is acceptable to both sides.

Zartman and Touval have identified three main roles that mediators can play to marshal the interests of all the involved parties toward a mutually acceptable solution to the conflict, namely communication, formulation, and manipulation (2007: 446). As a communicator, the mediator acts as a conduit, opening contacts and carrying messages between the parties when they cannot talk to each other. In this role the mediator often spend time with each party to the conflict through what has come to be known as 'shuttle diplomacy', or 'caucusing', especially when the parties are unwilling to meet each other or joint meetings are not leading to progress (Miller, 2005: 49). International organizations, government, or non-governmental organization can initiate mediation.

As a formulator, the mediator issues formulas that provide a common understanding of the problem and its solution. The mediator in this case needs to persuade the parties and at the same time propose solutions to their incompatibility. This role therefore requires greater involvement than mere communication. As elaborated by Zartman and Touval, "Not only does the mediator get involved in the substance of the issue, but it must also lean on the parties-albeit in the subtlest ways-to adopt its perceptions of a way out" (ibid.). Manipulation is the maximum degree of involvement requiring the mediator to use its

⁵⁸ See Christopher E. Miller. 2005. *A Glossary of Terms and Concepts in Peace and Conflict Studies*, Second Edition, San Jose: University for Peace.

power to bring the parties to an agreement, which basically involves pushing and pulling them away from conflict and into resolution (ibid. pp. 446-7).

4.4.5. Region and Sub-region

To delineate a region called 'East/Eastern Africa' or even 'Southern Africa', one has to employ more than a geographical criterion for the sprawling nature of institutional memberships has produced a crisscross configuration of intergovernmental bodies (*vide infra*). Using the contiguity criterion, it will seem logical to categorize Burundi and Rwanda as being part of the Great Lakes Region (GLR), but memberships of these two countries in the Economic Community of Central African States (ECCAS) and EAC does not offer much help in settling the issue of a clearly delineated boundary of a region. Should I regard Burundi and Rwanda as part of Central Africa or Eastern Africa? A similar question can be posed on the cases of the Democratic Republic of Congo and Tanzania. It would seem plausible under the contiguity criterion to place the DRC in Central Africa and Tanzania as part of the East African countries. Moreover, a 'region' when denoted as a group of geographically contiguous states would make it simple to classify Angola as a member of Southern Africa but when the criteria of institutional membership is applied the same country will be found to be within the Central African constellation due to its affiliation with ECCAS.

The Organization of African Unity (OAU) anticipated this difficulty and thus, in 1976 attempted to bypass it by declaring "there shall be five Regions of the OAU namely, Northern, Western, Central, Eastern and Southern."⁵⁹ The OAU, however, did not explicitly state individual member countries of each region. Henceforth, current AU's delimitation of regions does not conform to the current institutional ensembles. For instance, in the continental body's classification *Eastern Africa*⁶⁰ is composed of the Comoros, Djibouti,

⁵⁹ OAU, 1976: CM/Res. 464 (XXVI).

⁶⁰ For Gilbert M. Khadiagala, the term "Eastern Africa" denotes the geographical area comprising the seven member states of the Intergovernmental Authority on Development (IGAD): Djibouti, Eritrea, Ethiopia, Kenya, Somalia, Sudan, and Uganda, and Tanzania because of its long historical and political interactions with Kenya

Eritrea, Ethiopia, Kenya, Madagascar, Mauritius, Rwanda, the Seychelles, Somalia, Sudan, Tanzania and Uganda. As shown in the table below, The AU regards *Southern Africa* as composed of Angola, Botswana, Lesotho, Malawi Mozambique, Namibia, South Africa, Swaziland, Zambia, and Zimbabwe. This AU jumbled-up subdivision has in effect ‘chopped-off’ SADC members and slotted them into the Eastern and Central African sub-regions ending up producing more paradoxes than answers.

Table 1: Africa’s Sub-regions According to the AU

Northern	West	Central	East	Southern
Algeria	Benin	Burundi	Comoros	Angola
Egypt	Burkina Faso	Cameroon	Djibouti	Botswana
Libya	Cape Verde	Central African Republic	Eritrea	Lesotho
Mauritania	Cote d’Ivoire	(CAR)	Ethiopia	Malawi
Tunisia	Gambia	Chad	Kenya	Mozambique
Sahrawi Arab	Ghana	Republic of Congo	Madagascar	Namibia
Democratic	Guinea	Democratic Republic of	Mauritius	South Africa
Republic	Guinea Bissau	Congo (DRC)	Rwanda	Swaziland
(SADR)	Liberia	Equatorial Guinea	Seychelles	Zambia
	Mali	Gabon	Somalia	Zimbabwe
	Niger	Sao Tome & Principe	Sudan	
	Nigeria		Tanzania	
	Senegal		Uganda	
	Sierra Leone			
	Togo			

It follows therefore, none of the several delimitation criteria would appear more correct than others (Møller, 2005). The terminology of region is a social construct that is not solely confined to the delimitation criteria of physical proximity, but also has its roots in the social and political ties resulting from historical interactions among people, and in some

and Uganda within the rubric of the East African Cooperation (EAC). See Gilbert M. Khadiagala. October 2008. “Eastern Africa: Security and the Legacy of Fragility,” *Africa Program Working Paper Series*, International Peace Institute. The Africa Institute of South Africa has opted for the geographical criterion and thus the ensembles ‘Horn of Africa’ and ‘Eastern Africa’ have been collapsed into ‘North-Eastern Africa’ (Djibouti, Eritrea, Ethiopia, Kenya, Somalia, Sudan, Tanzania, Uganda). Comoros, Madagascar Mauritius, Seychelles have been put into the Indian Ocean region while Burundi, DRC and Rwanda are in the Central Africa region. For further details see *Africa at a Glance. Facts and Figures 2001/2* (Pretoria: Africa Institute of South Africa, 2002), p. 7.

circumstances it incorporates the constructivist notion of 'regional awareness'.⁶¹ One definition that has captured both the geographical and political connotations of the term has been suggested by Tavares (2004). According to Tavares a 'region' (or macro-region) is "a cognitive construction that spills over state borders, based on territoriality, with a certain degree of singularity, socially moulded by a body of different actors, and motivated by different (sometimes contradictory) principles" (2004: 26). MacFarlane and Weiss (1994: 19) also ascribe to the conceptualization of 'region' as a geographical entity defined apparently by shared attributes or interactions that distinguish it from entities beyond its boundaries. By subscribing to this definition, then it may appear less controversial to treat Africa as a region (and thus distinguish it from any denoted subset such as Sub-Saharan Africa, which is born out of geopolitical and economic considerations). For analytical purposes as manageable entities, I shall treat Africa as a 'region' and move down to a further sub-division and thus regard EAC and SADC⁶² groupings as East and Southern Africa 'sub-regions' respectively.

4.5. Selection of Cases

The current study was designed to carry out a comparative analysis of sub-regional security cooperation as undertaken by the EAC and SADC. The usefulness of this approach lies in identifying characteristics that can provide the basis for a comprehensive analysis. It is observed that sub-regional organizations cannot be identical in all aspects. As noted by Axline (1994: 11), "While recognizing that every example of regional cooperation is *sui generis*, it is still possible to discern relevant similarities among examples that permit useful generalizations." Henceforth, it is feasible for the EAC and SADC to be treated as comparable cases.

The EAC and SADC have been selected because they share certain features that are likely to enrich analysis in this study. First, both the EAC and SADC are sub-regional organizations

⁶¹ According to Andrew Hurrell. 1995. "Regionalism in Theoretical Perspective," in L. Fawcett and A. Hurrell (eds.), *Regionalism in World Politics. Regional Organizations and International Order*, Oxford: Oxford University Press, the term implies 'the shared perception of belonging to a particular community'.

⁶² From SADC Treaty, Article 1: "*Region*" means the geographical area of the Member States of SADC.

with a security mandate, which allows for an examination of their role on a broad range of security issues. Moreover, the fact that cooperation on security issues in the two sub-regions has always set the pace for integration efforts on the economic front offers yet another *raison d'être* for treating them as important sub-regional security actors.

Second, both sub-regional organizations are near, and in fact incorporate member states that are situated in areas of protracted conflicts. Both the EAC and SADC are close to the conflict ridden Great Lakes Region (GLR). Two member-states of the EAC (Kenya and Uganda) share borders with the troubled Horn of Africa. This geo-scenario presents an opportunity to, among others, capture security dynamics resulting from the spill over impact of neighbouring security problems given the porous nature of borders in most of Sub-Saharan Africa.

Third, selecting the EAC and SADC for a comparative analysis is significant in that it unravels how various actors within these sub-regional arrangements in Sub-Saharan Africa context has practically attempted to forge cooperative frameworks to deal with not only non-military transnational security threats whose devastating effects know no cognitive borders but also intra-state threats (for e.g. domestic instability), which are more salient than inter-state threats. The two sub-regional organizations constitute members that face the two collective security challenges under focus here namely, the proliferation of SALW and domestic political crises.

Fourth, while acknowledging the contribution of earlier studies, it is noted that they have tended to focus more on the substantive practices of the AU, ECOWAS, and SADC. Moreover, most of these works appear to be motivated more by the aspect of management of armed conflicts by these regional and sub-regional organizations to the minimal treatment of more perennial non-military transnational security threats like SALW proliferation and related cross border crimes. The interest of most scholarship on regionalism in Africa has been confined predominantly to the highly institutionalized forms of inter-state co-operation. This partly explains the reason why the EAC is hugely absent from the literature on matters of security. As more than ten years have now elapsed

since its inception, there are quite a number of developments which have taken place within the auspices of the EAC to deserve special attention.

4.6. Scope of Study

The current study focuses on the EAC and SADC as sub-regional groupings undertaking security roles. The study is, therefore, confined to the security field. Economic aspects of integration are referred to only where there is need to do so. It covers the period from 2000 to 2011. The start date of the study period (i.e. the year 2000) has been chosen based on the following reasons: first, the treaty for the establishment of the EAC, one of the cases in this study, entered into force in 2000. It is, accordingly, sensible to start looking at developments on the security realm with regard to the EAC from this date onwards, and not before. Relatedly, even though SADC was established in 1992, and its Organ on Politics, Defence and Security created four years later, the deadlock over the Organ (the so-called 'Organ impasse') over its functioning was resolved only as late as 2001.

Second, concrete efforts to address the two sets of collective security challenges as conceptualized in this study began to unfold in year 2000. For instance, on the security challenge of SALWs, the Nairobi Declaration on the Problem of Illicit Proliferation of Small Arms and Light Weapons in the Great Lakes, of which EAC States are signatories, was adopted on 15 March 2000. Related instruments in the Southern African sub-region were adopted in 2001. The year 2000 also marks the time when one of the selected cases of domestic political crisis, Zimbabwe, received initial attention from the sub-regional body, SADC, as well as from the international community.

Third, the year 2000 is far back enough to allow inclusion of more than one multiparty election in the exploration of the extent and nature of domestic political crises in the two selected cases, i.e. Kenya (2002 and 2002)⁶³ and Zimbabwe (2000, 2002, 2005 and 2005).

⁶³ Even though, there would not be any distortion to the findings by occasionally referring to previous elections (1992 and 1997) in Kenya to establish a fact and/or pattern associated with certain aspects of election processes in the country.

The end date, 2011, was the time when field research for this study was concluded. It follows, therefore, predecessor arrangements or organizations to the EAC and SADC (that is, the defunct EAC and SADCC respectively) does not feature in the major part of the analysis serve for the historical elucidation of the two sub-regional organizations.

As can be noted there are numerous security challenges facing members of sub-regional organizations in Africa. I have, however, deliberately chosen to focus on the following collective security challenges: the transnational threat of SALW and intra-state conflicts based on the following reasons. Starting with the security challenge of SALWs, which the United Nations General Assembly considers to be the most destabilizing conventional weapons⁶⁴, because it is evidently the single-most devastating transnational threat. According to the United Nations Development Program (UNDP), SALW have been, on the average, responsible for over a quarter of a million deaths per year⁶⁵. Their spread has far-reaching effects, which if not effectively dealt with may undermine the very fabric of the societies concerned. They may indeed “escalate conflicts, undermine peace agreements, intensify [the] violence and impact of crime, impede economic and social development and hinder the development of social stability, democracy and good governance.”⁶⁶

UNDP notes that out of 49 major conflicts in the 1990s, 47 were waged with small arms as the weapons of choice. Out of the estimated 875 million⁶⁷ SALW in circulation worldwide, about 100 million of them are said to be in the African continent⁶⁸. The threat of SALW proliferation to human life is palpable. The Millennium Development Report 2005 estimated that between 1994 and 2003, 9.21 million people in the Sub-Saharan Africa lost their lives as a result of armed conflict, which is about 70 per cent of all conflict related

⁶⁴ United Nations General Assembly Resolution A/RES/50/70 of 15th January 1996.

⁶⁵ See “Small Arms and Light Weapons (SALW) Control”, accessed on September 20th 2011 at http://www.undp.org/cpr/we_arms.shtml.

⁶⁶ Virginia Gamba, the former director of the Arms Management Programme of the South Africa Institute for Security Studies, as quoted in James J. Hentz. 2009. “The Southern African Security Order: Regional Economic Integration and Security Among Developing States”, *Review of International Studies*, 35, 189-213, p. 304.

⁶⁷ This figure is from UNDP “Small Arms and Light Weapons (SALW) Control”. Accessed on September 20th 2011 at http://www.undp.org/cpr/we_arms.shtml.

⁶⁸ AU, “The Peace and Security Agenda, Small Arms and Light Weapons”. Retrieved on July 10th 2010 from [http://www.africa-union.org/root/AU/AUC/Departments/PSC/Small Arms.htm](http://www.africa-union.org/root/AU/AUC/Departments/PSC/Small%20Arms.htm)

fatalities around the world (Abbott and Phipps, May 2009: 4). Therefore, the fact that SALW play a decisive role in armed conflicts and trigger crime and insecurity in Sub-Saharan Africa is undisputed (Che, 2007: 99).

Likewise, decision to focus on intra-state conflicts and not inter-state ones was also informed by the emerging reality. The reality which is supported by data collected by a number of studies show that since the end of the Cold War there has been an increased salience of intra-state conflicts. It has been observed, for example, there was a fourfold increase in the use of United Nations peacekeeping forces in intra-state conflicts around the world between 1987 and 1992 (Regan, 1996: 336). More revealing is the fact that from May 1988, when the end of the Cold War was on the horizon, to December 2007, the UN intervened in 47 conflicts. Only three of those conflicts could be categorized as inter-state (Yilmaz, 2007: 1)⁶⁹. It can be noted that for a conflict to carry an inter-state character, then it must be between governments of two or more countries⁷⁰.

More recent statistics from the *SIPRI Yearbook 2011* show that the era of intra-state conflicts appears to be holding⁷¹. In the past decade (2001-2010), there were only 2 inter-state conflicts out of the total 29 major armed conflicts worldwide (SIPRI, 2011: 4). No major inter-state conflict was active in 2010, a trend that has persisted for the past seven years (*ibid.*)⁷². The most recent findings by Themner and Wallensteen (2011) further confirm the fact that inter-state conflicts have become an increasingly rare phenomenon. Only one minor inter-state conflict between Djibouti and Eritrea in 2008 was recorded in a six-year period (i.e. 2004-2010) (Themner and Wallensteen, 2011: 528). A more

⁶⁹ These were the Iraq invasion of Kuwait in 1990, Chad-Libya border dispute in 1994, and Ethiopia-Eritrea border dispute in 1998-2000.

⁷⁰ According to the UCDP's (Uppsala Conflict Data Program) operational definition, the primary warring parties, who first stated the incompatibility, must be governments for a conflict to be classified as inter-state. Incompatibility can be over government or territory.

⁷¹ The Stockholm International Peace Research Institute (SIPRI) is an independent international institute, established in 1966 for research into problems of peace and conflict, especially those of arms control and disarmament. *SIPRI Yearbooks* present a combination of data in such areas as major armed conflicts, multilateral peace operations, and military expenditures, among others.

⁷² A conflict is deemed to be active if there are at least 25 battle-related deaths per calendar year in one of the conflict's dyads (a dyad is made up of two armed and opposing actors). A more detailed definition can be found on UCDP's webpage, at <http://www.ucdp.uu.se>.

interesting feature of the reported internal/intra-state conflicts is that conflicts over government (i.e. where the control of the whole state authority is the major bone of contention or cause of incompatibility) have always outnumbered those over territory in every year of the period 2001-2010, except for the year 2007 (SIPRI, 2011: 4)⁷³.

Security analysts also appear to agree that the main focus of security, especially in Africa is domestic, as the major threats to security emanate more from within the state than from external military threats (Baldwin, 1995: 131; Buzan and Waever, 2003: 228; Che, 2007: 7). This has compelled states' policy makers who were traditionally concerned with national security to readjust their focus to include concern for domestic threats to security (Baldwin, 1995: 131). In fact, the majority of "inter-state security dynamics in Africa are often simply spillovers of domestic dynamics", which in most cases are sparked by refugee flows, expulsion of foreigners and civil wars (Buzan and Waever, 2003:229; Russett et. al., 2010: 209). All these facts provide the *raison d'être* for choosing to focus on intra-state conflicts rather than inter-state conflicts. Since majority of the recorded intra-state conflicts have been over 'government incompatibility', this study, henceforth, narrows its focus to this sub-category of intra-state conflicts, which have been termed 'domestic political crises' as clarified in the operational definition.

4.7. Methods of Data Collection

The current study was pursued basically through a qualitative research method. Qualitative research has been defined by Manheim et. al. (2008) as constituting means of inquiry that "provide a more complete, meaningful, and useful understanding of social phenomena by studying them *in their entirety, in the context in which they occur, while considering the meanings which those being studied give to their actions and to the actions of others*" (emphasis from the authors). The qualitative research method is essentially

⁷³ SIPRI Yearbook 2011 notes that only 4 of the 15 active major armed conflicts around the world in 2010 were over territory, with 11 being fought over government. It has to be noted that none of the 4 conflicts over territory (Kashmir-India, Karen-Myanmar, Palestinian territories, and Kurdistan-Turkey) were in an African country.

descriptive and inferential in character, but all the same it is 'scientific' and exceptionally useful in interpreting numerical results.

The choice of a qualitative research method was prompted by the fact that it offered a number of advantages to this study. First, a qualitative method is best suited to study situations where little is known about what is going on with regard to one or both of the cases studied. This study focused on two cases: EAC and SADC. During the preliminary stages, i.e. preparation and refining of the research proposal of this project, not a great deal was known about the EAC practical role in the security field compared to its accomplishments in the economic sector. Its founding Treaty identifies the organization's aspirations in matters of peace and security (Chapter twenty-three) but little information was publicly available to provide a general impression of how it has translated or implemented the aforementioned provisions of the treaty. In contrast, the EAC's Southern African counterpart, SADC's practices in security matters had been publicized not only by military interventions by some of its Member States in the DRC and Lesotho, but also through adventures of the ISDSC before it was subsumed into the current SADC Organ on Politics, Defence, and Security. Therefore, there was an exploratory element to the current research design. Relatedly, the preference for a qualitative method was prompted by the lack of standardised data from which sufficient number of cases could be derived to allow a comprehensive qualitative analysis of the findings⁷⁴.

Secondly, reliance on insider's perspectives also led to another advantage: the opportunity to check with EAC and SADC officials for accuracy of information in some of the documents availed to me, as well as allowing exploration of unusual or unanticipated responses. Interaction with officials charged with responsibility of coordinating and implementing various security programs of the two organizations provided the opportunity to review the *processes* leading to results rather than only focusing on the *significance* of the results themselves (Gillham, 2000). In sum, qualitative research method involves an interpretive

⁷⁴ It can be noted that the total number of Member States of the two sub-regional organizations is currently twenty (i.e. the five EAC States and fifteen SADC States). Even with twenty potential cases, not all would make it into the sample of countries experiencing the security challenge of domestic political crises in the East and Southern African sub-regions.

approach to the situation on the ground (Flick, 2007). In this case, employment of this research method enabled studying and interpreting security issues within the sub-regional organizations' natural settings, which was helpful in the analysis of key study findings.

The bulky of the data for this study were derived from documents. Henceforth, content analysis on relevant documents was carried out. Prior to being used as primary sources, "documentation must meet certain standards if it is to serve a useful purpose, regardless of the techniques chosen to exploit it"(North et. al, 1963). Stress was placed on reliability of the available data considering Taylor's (1954) caution that "all sources are suspect". This stems from the fact that information contained in the documents may be *authoritative* but not necessarily *authentic*. A publication may be derived from undoubted authority, but the documents contained therein can be anything but authentic⁷⁵.

Data gleaned from archival sources is, however, not without its limitation. The major limitation encountered in the course of conducting this research was that some of the records were not readily available to the researcher. Some respondents treated some of their documents as classified materials, and thus sealed them off from my access. Against this backdrop, therefore, the study also employed interviews in attempting to supplement gaps in the course of conducting documentary and archival analysis. The reason for employing the interview method, besides supplementing gaps in documentary sources, was to go beyond the collection of pre-specified data and gather information that will assist in reconstructing some events, or discerning a pattern in specific behaviours or actions (Manheim et. al, 2008). Since one of the main interests was to ascertain facts and patterns rather than measuring pre-selected phenomena, then I used semi-structured interviews. Interviews were specifically employed to explore more on the role of sub-regional arrangements in managing the two prominent collective security challenges facing states in East and Southern Africa, i.e. the transnational threat of Small Arms and Light Weapons (SALW) and domestic political crises. Interviews were conducted with key

⁷⁵ To inquire about authenticity of a document is to look for its genuineness, i.e. consideration of 'soundness' to ensure it is an original copy that has not been doctored in any way. See Burnham, Peter, Karin Gilland, Wyn Grant, and Zig Layton-Henry, 2004, *Research Methods in Politics*, Hampshire and New York: Palgrave Macmillan.

informants working or associated with the sub-regional organizations' security arrangements and institutions relevant to this study.

Face-to-Face interviews and archival research were conducted concurrently at the following earmarked institutions: the EAC Secretariat Headquarters, in Arusha, Tanzania; the SADC Secretariat, specifically the Directorate of Peace and Security, in Gaborone, Botswana; the Southern African Regional Police Chiefs Co-operation Organization (SARPCCO) Secretariat, at Interpol Sub-Regional Bureau (SRB), in Harare, Zimbabwe; University of Dar es Salaam, main library and Department of Political Science and Public Administration, Dar es Salaam, Tanzania; Tanzania National Focal Point (TNFP) on Small Arms and Light Weapons, at the Police Headquarters, Ministry of Home Affairs, Dar es Salaam, Tanzania; Centre for Foreign Relations, Dar es Salaam, Tanzania; and the Regional Centre on Small Arms and Light Weapons (RECSA) Headquarters, in Nairobi, Kenya. The list of interviewees is attached as Appendix 10.1.

Chapter Five

5. EAC Security Architecture and the Transnational Threat of SALW

5.1. Introduction

Small Arms and Light Weapons (SALW) proliferation, as one of the major transnational security challenges, poses a direct threat to security, political stability and economic development of people. The current situation in the East African sub-region reveals an area awash with small arms and light weapons to the extent that they have topped the agenda of security and crime control initiatives since the 1990s. Sources of illicit SALW are multifarious ranging from weak border controls to poor management of state stockpiles, illegal manufacture and internal political strife. This chapter focuses on how the EAC has been coordinating, and managing initiatives against the SALW menace within its ranks and also between its organs and existing structures at the national level. Since the main regional instrument, the Nairobi Protocol for the Prevention, Control and Reduction of SALW, places responsibility on state parties to undertake the bulk of control measures (i.e. collection, destruction, marking and record keeping of firearms) the analysis also focuses on how states have played their part. Other equally important control measures of public awareness raising and training of Law Enforcement Agencies (LEAs) are discussed as components of the aforementioned interventions.

5.2. The Nature and Extent of Proliferation of SALW in East Africa

The scourge of SALW started to receive deserved attention from the international community in the second half of the 1990s when the United Nations released the Report of the Panel of Government Experts on Small Arms. In this 1997 UN Report, SALW are defined as those weapons “manufactured to military specifications for use as lethal instruments of

war”⁷⁶. However, SALW which by their nature are light, easy to carry and relatively cheap, are not only designed as instruments of war but also for individual use. The category of small arms include revolvers and self-loading pistols, fully automatic rifles, semi-automatic rifles, assault rifles, and sub-machine guns⁷⁷. Light weapons category are those designed for use by several persons serving as a crew and comprise of hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable launchers of anti-tank missile and rocket system; portable launchers of anti-aircraft missile systems, and mortars of calibres of less than 100mm. Ammunitions and accessories including cartridge cases, primers, propellant powder, bullets or projectiles, that are used in a small arm or light weapon also form part of the SALW threat⁷⁸.

In a 2003 Small Arms Survey, it was estimated that the population of firearms in sub-Saharan Africa to be around 30 million⁷⁹. This is quite a huge figure considering the fact that latest estimates put the number of SALW circulating in Africa at about 100 million⁸⁰. While the actual numbers for the various sub-regions of sub-Saharan Africa may differ and might prove difficult to ascertain, there is a consensus among experts, researchers on SALW issues and the international community in general that their proliferation poses a direct threat to the security, political stability and economic development of people. As once rightly remarked by the UN’s Secretary General there is nothing “small” or “light” about the consequences of the uncontrolled spread and misuse of SALW⁸¹. The negative

⁷⁶ The Panel of Experts on Small Arms A/52/298, 27th August 1997, p. 26-27.

⁷⁷ In the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region, The Horn of Africa and Bordering States, hereafter referred to as the ‘Nairobi Protocol’ ‘Small arms’ are defined as “weapons designed for personal use” and include the category of arms mentioned above. See Article 1 [Definitions] of the Nairobi Protocol.

⁷⁸ The Nairobi Protocol Article 1.

⁷⁹ “Small Arms Survey 2003: Development Denied”, 2003, Oxford: Oxford University Press, p.57. According to Small Arms Survey 2007: Guns and the City, Cambridge: Cambridge University Press, SALW in circulation are estimated to be around 875 million worldwide.

⁸⁰ AU, “The Peace and Security Agenda, Small Arms and Light Weapons”. Retrieved on 10 July 2010 from [http://www.africa-union.org/root/AU/Departments/PSC/Small Arms.htm](http://www.africa-union.org/root/AU/Departments/PSC/Small%20Arms.htm).

⁸¹ Foreword by the Secretary-General in a Report of the Group of Governmental Experts, established pursuant to the UN General Assembly Resolution 56/24 V of 24 December 2001, entitled “ The Illicit trade in small arms and light weapons in all its aspects“, in“ Document XIV“, UN, 2005, *Small Arms and Light Weapons: Selected United Nations Documents*, p. 41.

consequences of SALW proliferation are several but we can identify the following three broad categories, as far as this study is concerned.

First, the proliferation of SALW sustains and exacerbates conflicts. These weapons have hampered peaceful settlement of disputes, fuelled such disputes into armed conflicts, or significantly contributed to the recurrence and prolongation of such armed conflicts (UN, 2005: 19)⁸². It is well noted that the scourge of conflict has contributed more to socioeconomic decline on the African Continent and the suffering of civilian population than any other factor⁸³. While globally fatalities from small arms dwarfs those of all other weapons (UN Millennium Report, 2000), in Sub-Saharan Africa an estimated 9.21 million people perished due to armed conflict between 1994 and 2003 (UN Millennium Development Report, 2005). Other people who have fallen victim to the threat of SALW have been forced out of their homes into lives as refugees or Internally Displaced Persons (IDPs). The number of people living as IDPs in Africa in 2007 was estimated at around 12.7 million people⁸⁴.

Second, apart from their use in various conflicts, illegally held small arms weapons are increasingly used to spark waves of criminal activities including cattle rustling. Crime and conflict are closely associated, meaning the latter is an important correlate of the former as most contemporary armed conflicts involve widespread looting. Conflicts are likely to feed crime even after cessation of hostilities especially in situations where the majority of those involved have no alternative livelihoods in the post-conflict era (UNODC, 2005: 15). To highlight the gravity of the problem on the Continent, it has to be noted that Africa generally ranks the second highest region for non-conflict-related firearms deaths with an estimated 4.2 to 6.5 such deaths per 100,000 (Small Arms Survey, 2004: 175). Moreover, according to the United Nations Office on Drugs and Crime, Africa ranks second in the use of firearms in robberies (12 per cent) and first in the use of the same in assaults and

⁸² See Statement by the President of the Security Council on the subject of small arms at the 5127th meeting of the Security Council, held on 17 February 2005.

⁸³ Protocol Relating to the Establishment of the Peace and Security Council of the African Union.

⁸⁴ Internal Displacement Monitoring Centre (April 2008), *Internal Displacement: Global Overview of Trends and Development in 2007*, p.7.

threats (UNODC, 2005: 14). Within the East African sub-region, in Uganda for example, the national assessment of the small arms problem, which was conducted in 2007, highlighted the major impact of small arms proliferation as its role in fuelling armed crime (Uganda Report, 2007:27). In Kenya, “Studies have indicated that in Nairobi alone firms incur losses to the tune of two million shillings annually due to lost production days as a result of workers falling victims of crime” (Kenya Report, 2010: 3).

Third, the SALW menace produces negative consequences on the economic development of Sub-Saharan countries. High levels of insecurity caused by the illicit spread of SALW deter economic development sustenance initiatives (Nganga, 2008). In Kenya, “firms spend about 11% of their total costs on security services while households spend about 9% of their budget on security costs. Noting that Nairobi accounts for 44% of the national GDP production, the security cost to the economy is thus astronomical”(Kenya Report, 2010: 3).

The situation in the East African sub-region reveals an area awash with small arms and light weapons to the extent that they have remained in the top agenda of security and crime control initiatives since the 1990s. Firearms trafficking was identified as one of the most common cross border crimes in the sub-region during the second meeting of police chiefs held in Nairobi, June 1999. To cite an example of the extent of spread of SALW, in just one East African country of Uganda, between 2005 and 2008, a total of 63,000 assorted SALW and over 34,000 rounds of ammunition were destroyed. Moreover, between December 2008 and March 2009, over 700 tons of un-exploded ordinances were destroyed⁸⁵. The Regional Centre on Small Arms and Light Weapons (RECSA) puts the figure of SALW destroyed (i.e. excluding Un-exploded Ordinances or UXOs), in the EAC Member States in the ten years of implementing the Nairobi Protocol at around 184, 695

⁸⁵ Speech by President of Uganda, Yoweri Kaguta Museveni, at the destruction of small arms and light weapons on the occasion to commemorate the 10th Anniversary of East African Community, at the Commonwealth Speke Resort Munyonyo, Uganda, 5th October 2009.

(Burundi: 22,578; Kenya: 22,000; Rwanda: 53,766; Tanzania: 10,568, and Uganda: 75,783)⁸⁶.

The Small Arms Survey 2003 provided a probable range for the total number of civilian firearms in three of the EAC countries (Kenya, Tanzania and Uganda)⁸⁷. As seen in table 2, if calculations are made on both the lowest and highest estimates for each country, then the amount of civilian firearms was between 1.2 million and 2.4 million.

Table 2: Civilian Small Arms inventories in three East African Countries
(approximate)

Country	Civilian firearms
Kenya	430,000 - 860,000
Tanzania	500,000 - 1,000,000
Uganda	310,000 - 620,000

Source: adapted from the Small Arms Survey, 2003, p. 84.

The average total of civilian firearms provided in the Small Arms Survey of 2007, including Burundi and Rwanda, was close to 2 million (i.e. 1, 948, 000 as seen in table 3). This gives a general picture that the extent of the problem has largely remained the same.

Table 3: Civilian Firearms Ownership in EAC Countries in 2007

Country	Average total all civilian firearms
Kenya	740,000
Tanzania	550,000
Uganda	400,000
Burundi	200,000
Rwanda	58,000
Total	1,948,000

⁸⁶ RECSA, 'Implementing the UNPoA to Prevent, Combat and Eradicate the Illicit Trade in SALW in all Its Aspects: Status Report on the Implementation of the Nairobi Protocol for the Prevention, Control and Reduction of SALW in the Great Lakes Region, the Horn of Africa and Bordering States', May 2010, p.21.

⁸⁷ Note by 2003, Burundi and Rwanda had not yet joined EAC.

Source: Figures extracted from Karp, Aaron. 2007. "Completing the Count: Civilians Firearms," Small Arms Survey 2007: Guns and the City, Cambridge: Cambridge University Press, Annex 04.

What then are the sources of these illicit SALW? Several factors can be identified as behind the demand for these weapons. One of the major contributing factors to the proliferation of illicit SALW is "State failure to control the flow of SALW across their borders due to political and institutional weaknesses"⁸⁸. Illicit firearms easily find their way through porous borders. State enforcement capacity to control vast borders is limited, and is mostly confined to urban centres while it weakens especially as one approaches the borders (Nying'uro, 2007). Limited surveillance of border points is largely due to lack of necessary equipment and trained manpower. In such a situation arms brokers and smugglers exploit the unpatrolled areas in between checkpoints.

Apart from weak border control, the small arms proliferation is further aggravated by poor management of state stockpiles of weapons. Leakage from state-owned firearms is one of the principal sources of illicit weapons in circulation. Experience shows that most of the illicit small arms that are available in the world started as licit belonging to government stocks⁸⁹. Accounts of leakages of arms from legal sources has also centred on the operations of quasi-formal security arrangements, such as the Local Defence Units (LDUs), Anti Stock Theft Units and militias in Uganda and police reservists in Kenya⁹⁰. This shows that there are still weaknesses in the use of local defence units and auxiliary security forces.

⁸⁸ RECSA's Implementation Strategy 2009-2014 developed in 2008 and approved in 2009 by its Council of Ministers, p. 5.

⁸⁹ Interview with Francis K. Wairagu, Head Research and Gender at RECSA Secretariat, Timau Plaza, Arwings Kodhek Road, Nairobi, 24th January 2011. See also Dominique Dye, July 2008, "East Africa: Making A Mark", *ISS Newsletter*, Arms Control: Africa, Volume 1 Issue 3, p.7. Also Uganda: Mapping the Small Arms Problem, 2007, p.23.

⁹⁰ LDUs provide support to both the Ugandan police and the army. About 55 per cent of law enforcement officials surveyed during the national assessment of the small arms problem in Uganda cited LDUs to be irresponsible in handling and storing arms. See also Mkutu, 2006, "Small Arms Among Pastoral Groups", *African Affairs*, p. 52-54.

Another source of illicit weapons is the illegal manufacture of the same. Evidence shows that there is domestic capacity to produce what is known as 'home-made firearms' in the East African sub-region. A number of home-made firearms have surfaced during voluntary disarmament operations in the Karamoja region of Uganda⁹¹ and some parts of Tanzania⁹². Arms flowing from countries afflicted with wars and rebellions such as Somalia, Southern Sudan, the Democratic Republic of Congo (DRC) have also contributed to the SALW menace in the East African sub-region. There is no doubt that prolonged insurgency on the Horn of Africa has not only destabilized the East African sub-region but has also led to rural violence that takes the form of banditry and cattle rustling in the Rift Valley province of Kenya and the Karamojong region in Uganda⁹³. It follows, therefore, along the Sudan/Uganda, Sudan/Kenya, Kenya/Somalia, and Kenya/Uganda between the Karamojong and the Pokot borders, small arms are in abundance. The situation is so grave particularly on the edges of North Eastern Province of Kenya bordering Somalia ending up being described as 'a no mans land'⁹⁴.

As observed by Maze and Rhee (2007: 2), "The reasons for arming, and consequently what will enable disarming vary across the sub-region irrespective of political boundaries. Rather, ethnic, economic and environmental factors have a predominant influence on how and where these problems manifest". In sum, the Nairobi Protocol acknowledges that the problem of SALW proliferation in the Great Lakes Region (GLR), the Horn of Africa and bordering states has been exacerbated not only by inadequate capacity of states to effectively control and monitor their borders, poor immigration and customs controls, and

⁹¹ Uganda: Mapping the Small Arms Problem, 2007

⁹² Interview with Assistant Commissioner of Police Lutenta Mwauzi, Tanzania National Focal Point, at the Ministry of Home Affairs, Police Headquarters, 4th January 2011.

⁹³ Juma, 2002, Assessing the Peace Building Capacity of African Institutions, pp. 21.

⁹⁴ Rok Ajulu, March 2001, "Democratization and Conflict in Eastern Africa: Kenya's Succession Crisis and Its Likely Impact on Eastern Africa and the Great Lakes Region", *IGD Occasional Paper* No. 28, pp.7. According to the 2010 Kenya Country Report on Implementation of UNPoA and International Tracing Instrument, the illicit SALW problem manifests itself and is rampant in the major urban centres like Nairobi, Mombasa, Kisumu, Nakuru, and Eldoret, as well as in rural areas inhabited by pastoral communities such as the North Rift Region (Turkana, West Pokot, Trans Nzoia, Samburu and Laikipia, bordering Ethiopia, Sudan and Uganda); North Eastern Region (Mandera, Garissa, Wajir, Ijara, bordering Ethiopia/Somalia); Coast Province (Tana River and Lamu bordering Somalia); Eastern Province (Moyale, Marsabit, Isiolo and some parts of Meru, bordering Ethiopia), and Western Kenya (Mt. Elgon bordering Uganda).

movement of armed refugees across national borders, but also internal political strife, terrorist activities and extreme poverty are to blame⁹⁵.

5.3. Coordination of Efforts Against SALW Proliferation in the EAC Sub-Region

The EAC efforts on dealing with the threat of SALW proliferation draw their mandate from a number of legal, regulatory and policy instruments to which the EAC as a sub-regional body and its Member States are party to. These instruments include; the Treaty for the establishment of the EAC, specifically the Provisions of Articles 123 and 124⁹⁶; the EAC Regional Strategy for Peace and Security Goal No.12⁹⁷; Successive EAC Development Strategies; various Council of Ministers Directives and Decisions; and the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region, the Horn of Africa and Bordering States, hereafter referred to as the 'Nairobi Protocol'.

Article 123 of the EAC Treaty⁹⁸ provides for the establishment of a common foreign and security policy by defining and implementing common foreign and security programmes. The main objectives of a common foreign and security policy, besides safeguarding the common values, fundamental interests and independence of the Community, are to strengthen the security of the Community and its Partner States in all ways as well as preserve peace and strengthen international security among the Partner States. Under Article 124 of the Treaty EAC States undertake to promote and maintain good neighbourliness as a basis for promoting peace and security within the Community by evolving policies in regional disaster management, harmonizing training operations for the management of refugees; cooperate in the handling of cross border crime, provision of mutual assistance in criminal matters including arrest and repatriation of fugitive

⁹⁵ See the Preamble of the Nairobi Protocol.

⁹⁶ The two Articles are complemented by Articles 121 (on the role of women in socio-economic development) and 127 (on the creation of an enabling environment for the private sector and the civil society).

⁹⁷ This goal targets establishment of measures to combat the proliferation of illicit small arms and light weapons. The strategy itself was adopted by the 13th Council of Ministers meeting, held in November 28th, 2006 to guide EAC level interventions in the Peace and Security Sector (*EAC/CM13/ Decision 57*).

⁹⁸ As amended on 14th December, 2006 and 20th August, 2007

offenders and the exchange of information on national mechanisms for combating criminal activities.

To facilitate the implementation of the Treaty for the establishment of the East African Community in a systematic manner, EAC decided to adopt phased development strategies. The first EAC Development Strategy (1997-2000) was succeeded by the second EAC Development Strategy (2001 - 2005) and the third EAC Development Strategy (2006-2010). EAC is now in the process of implementing a fourth Development Strategy (2011-2016). Each of these four-year strategies pay attention to what are known as 'Key Pillars of East Africa Integration', one of which include cooperation in political matters, defence and security. The third EAC Development Strategy which has just expired highlighted measures to combat proliferation of Illicit Small Arms and Light Weapons; joint measures to control terrorism; a mechanism to enhance the exchange of criminal intelligence, joint operations and patrols between Partner States; finalizing and signing an MOU on EAC Police Cooperation; and harmonization of Police training and grades as part of its ten strategic interventions. All these proposed measures are further expounded in the aforementioned 2006 Regional Strategy for Peace and Security.

All the five EAC Partner States are among states in the Great Lakes Region, the Horn of Africa and bordering states that signed the Nairobi Protocol on 21 April 2004⁹⁹. The Nairobi Protocol was preceded by the *Nairobi Declaration on the Problem of Illicit Proliferation of small Arms and Light Weapons in the Great Lakes Region* (hereafter referred to as 'Nairobi Declaration'), which was signed on 15 March 2000 by ten countries¹⁰⁰. The Nairobi Protocol as the legally binding instrument to address the problem of illicit SALW in the sub-region recommends to State Parties to consider becoming parties to international instruments relating to prevention, combating and eradication of this problem and accordingly implement such instruments within their jurisdiction. Henceforth, the EAC

⁹⁹ It entered into force in May 2006. This Protocol is complemented by the *Best Practice Guidelines on Implementation of the Protocol* which was adopted in 2005.

¹⁰⁰ Signatories to the Nairobi Declaration are: Burundi, Djibouti, Democratic Republic of Congo (DRC), Eritrea, Ethiopia, Kenya, Rwanda, Sudan, Tanzania and Uganda. The Nairobi Protocol currently has 13 signatory states after the addition of Seychelles (2004), Somalia (2005) and Republic of Congo-RoC (2009). The ND has a practical Agenda for Action and an Implementation Plan.

member states are also signatories to the Bamako Declaration on African Common Position on Proliferation of Illicit Small Arms and Light Weapons, and the United Nations Program of Action on SALW (popularly known as UNPoA)¹⁰¹.

Content-wise, the Nairobi Protocol embraces a comprehensive and multi-faceted strategy that is regional in scope and envisages a broad partnership between governments, inter-governmental organizations and civil society in all matters relating to the illicit trafficking of SALW. In approach, it locates national initiatives within a regional context. The Protocol's extensive coverage provides state parties with a wider but challenging scope with which to tackle the SALW problem. Intervention areas highlighted in the Protocol range from legislative measures, operational capacity building, marking and record keeping, control and disposal of both state-owned and confiscated or unlicensed SALW to issues of brokering, public education and awareness programmes and curbing corruption associated with the illicit manufacturing of, trafficking in, illicit possession and use of SALW.

The Nairobi Protocol is the only legally binding regional instrument that provides the definition of 'tracing', which is in line with the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (UN Protocol) of 31 May, 2001. Besides the Economic Community of West African States (ECOWAS) *Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials*¹⁰², the Nairobi Protocol is the only regional instrument in Africa to contain provisions on the crucial control measure of marking SALW¹⁰³. It suffices to say, therefore, that the EAC member states have been adequately mandated to tackle the problem of SALW in all its manifestations.

¹⁰¹ In addition to the above agreements, Tanzania is also a signatory to the SADC Protocol on the Control of Firearms, Ammunition and Other Related Materials.

¹⁰² The ECOWAS Convention, which was adopted on 14 June 2006, resulted from the transformation of the ECOWAS Moratorium on the Importation, Exportation and Manufacture of Light Weapons (adopted in 1998 and renewed in 2001) into a legally binding instrument.

¹⁰³ These are Articles 3(vi) and 7 of the Nairobi Protocol, and Articles 5 and 9 of the Nairobi Declaration. Both the SADC Protocol and SADC Declaration lack provisions on marking of SALW.

At the EAC level, issues relating to SALW come under Sectoral Committees. Sectoral Committees are the organs charged with the responsibility of preparing comprehensive implementation plans and setting out priorities. A Sectoral Committee also has to monitor the implementation of the Treaty with regard to its sector, and may submit reports and recommendations to the Coordination Committee¹⁰⁴. According to Article 20 of the EAC Treaty, Sectoral Committees are to be formed upon the recommendation of the Coordination Committee to the Council. The relevant sectoral committees in this case are the Inter-State Security Committee, and Inter-State Defence Committee. Members of the Sectoral Committees are drawn from representatives of different Law Enforcement Agencies (LEAs), which are the Armed Forces, the Police, the Intelligence Services and the Immigration and Customs Services of the Member States. This means that the SALW has brought in the attention of two important sub-sectors within the EAC peace and security architecture, namely the security and defence sectors. The work of these two Sectoral Committees within the Secretariat is coordinated by the Department for Peace and Security. Below the Sectoral Committees are the Experts Working Groups and Ad hoc Task Forces that are from time to time established as and when the need arises (See Figure 1).

Initially, relations between the two (i.e. security and defence) sub-sectors was not clear in that members of the security sub-sector, in particular EAC Chiefs of Police, felt that the defence sub-sector was sidelining them. For example, in their meeting of June 29th 2007, the EAC Chiefs of Police were categorical that their Inter-State Security Sector was not to be regarded as subordinate to the Inter-State Defence Sector, and therefore, it was viewed as unprocedural for the latter to take up an issue which was initiated by the Chiefs of Police in accordance with the Council of Ministers decision and reach decisions without consultations and consensus with Inter-State Security Sector¹⁰⁵. A feeling was running high among the Chiefs of Police that they were being sidestepped in the consultation and

¹⁰⁴ Article 21 on functions of the Sectoral Committee. The Co-ordination Committee is composed of the Permanent Secretaries responsible for East African Community affairs. Its reports and recommendations are submitted to the higher policy making organ of the EAC, the Council of Ministers.

¹⁰⁵ Meeting of the Chief of Police, June 29th, 2007, Arusha, Tanzania (REF: EAC/SR/30/2007).

consensus process and that the Sectoral Council on Inter-State Defence was treading on unwarranted ground field.

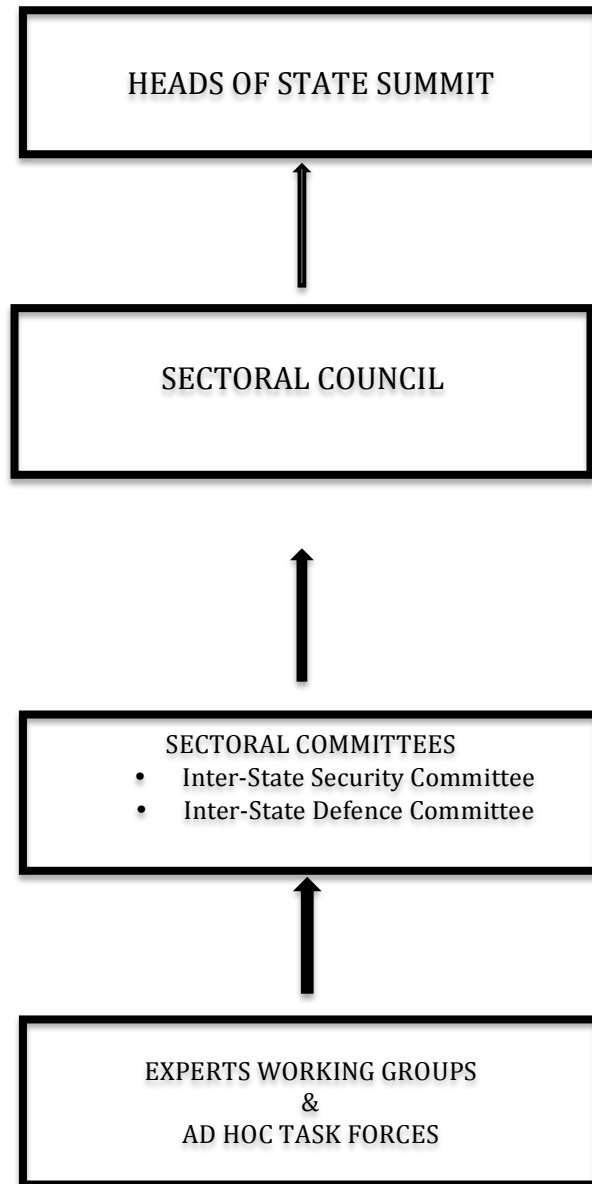
This perceived encroachment of one sector into activities of another led the state security sector to make the observation that “Pending establishment of the Sectoral Council on Inter-state Security, any policy issues emanating from Inter-state Security sector should only be referred to Inter-state Defence (sector) vide a decision of the Council (of Ministers), upon recommendation by the Chiefs of Police”¹⁰⁶. In this way, the participation of the Inter-state Security sector was made obligatory.

Another important organ is the East African Legislative Assembly (EALA) set up under Article 49 of the EAC Treaty. The EALA whose legislative powers takes precedence over those of the Member States of the EAC under the EAC Treaty, also plays an oversight function through its Standing Committees including the Regional Affairs and Conflict Resolution, which is the lead committee in matters of SALW¹⁰⁷.

¹⁰⁶ Ibid. Given the cross-cutting nature of issues of SALW, anti-terrorism, disaster management, cattle rustling and conflict prevention, management and resolution, it was found necessary to institute and operationalize a Joint Inter-State Defence and Security Ministerial Forum.

¹⁰⁷ See Presentation by Hon. Mike K. Sebalu, Chairperson of the Committee on Regional Affairs and Conflict Resolution on the Role of the EALA in SALW Legislation Harmonization at the Meeting of EAC SALW Project National Focal Point Coordinators, Directors of Operations, RECSA, EAANSA, and Other Stakeholders in Bujumbura, Burundi, 6th -7th December, 2007. At the time of conducting field interviews in Dar es Salaam, a delegation of EALA Committee on SALW were visiting the Tanzania National Focal Point, and were briefed on the country’s status of implementing measures on SALW.

Figure 1: Institutional Mechanism for SALW Related Issues



Note: The above presentation of the EAC institutions that handle issues of inter-states security, including SALW related matters is different from the much more comprehensive and rather ambitious proposed Peace and Security Structure which appears as Figure 2 at the end of this Chapter.

5.3.1. Coordination between the EAC, NFPs/National SALWs Commissions and Cooperating Partners

EAC Member States subscribe to various existing regional organizations that also deal with the security challenge of proliferation of SALW. The five EAC States also maintain memberships in two important regional inter-governmental organizations, namely the Regional Centre on Small Arms in the Great Lakes Region, the Horn of Africa and Bordering States (RECSA), and the East African Police Chiefs Cooperation Organization (EAPCCO), as shown in the table 4. As opposed to the multi-purpose mandate of the EAC, RECSA is the only internationally recognized inter-governmental organization whose sole mandate is to address the proliferation of illicit SALW. RECSA is made up of 13 Member States whilst States maintain membership in the EAPCCO.

Table 4: Multiple Memberships in Organizations with SALWs Agenda

ORGANIZATION	EAC	RECSA	EAPCCO
FOCUS			
	Multipurpose agenda: economic, political integration and security matters including SALWs	Solely curbing the threat of proliferation of illicit SALWs	Promoting regional police cooperation in order to manage all forms of cross-border crimes including illegal firearms
HEADQUARTERS			
	Arusha	Nairobi	Nairobi
BURUNDI	✓	✓	✓
CONGO		✓	
DJIBOUTI		✓	✓
DRC		✓	
ERITREA		✓	✓
ETHIOPIA		✓	✓
KENYA	✓	✓	✓
RWANDA	✓	✓	✓
SEYCHELLES		✓	✓
SOMALIA		✓	✓
SUDAN		✓	✓
TANZANIA	✓	✓	✓
UGANDA	✓	✓	✓

Both the EAC and RECSA have close working relationship with EAPCCO¹⁰⁸. EAPCCO's objectives, among others, include promotion and strengthening of cooperation and fostering of joint strategies for the management of all forms of cross-border and related-crimes with regional implications. Illicit firearms is one of the organization's priority crime areas. EAPCCO also possesses experience in dealing with cross-border illicit activities, such as drug trafficking, car theft, economic crimes, illegal firearms environmental and wildlife crime, trafficking in human beings and illegal immigrants, and cattle rustling. The drafting of the Nairobi Protocol was done by EAPCCO.

It is to be observed from the explanation in the preceding section that the EAC security structure is relatively embryonic. With such a relatively nascent institutional framework still the EAC has managed to coordinate SALW initiatives through the EAC/GTZ SALW Project¹⁰⁹ at the EAC Headquarters. This project not only promotes the implementation of the Nairobi Protocol among the EAC Member States, but also coordinates the work of National Focal Points (NFPs), RECSA, Eastern Africa Action Network on Small Arms (EAANSA) and Eastern Africa sub-Regional Support Initiative for the Advancement of Women (EASSI). Implementation of the EAC/GTZ SALW Project is managed under the office of the Deputy Secretary General (in charge of Political Federation) at the EAC Secretariat, and overseen by a Project Steering Committee (PSC) (See Figure 2). The PSC

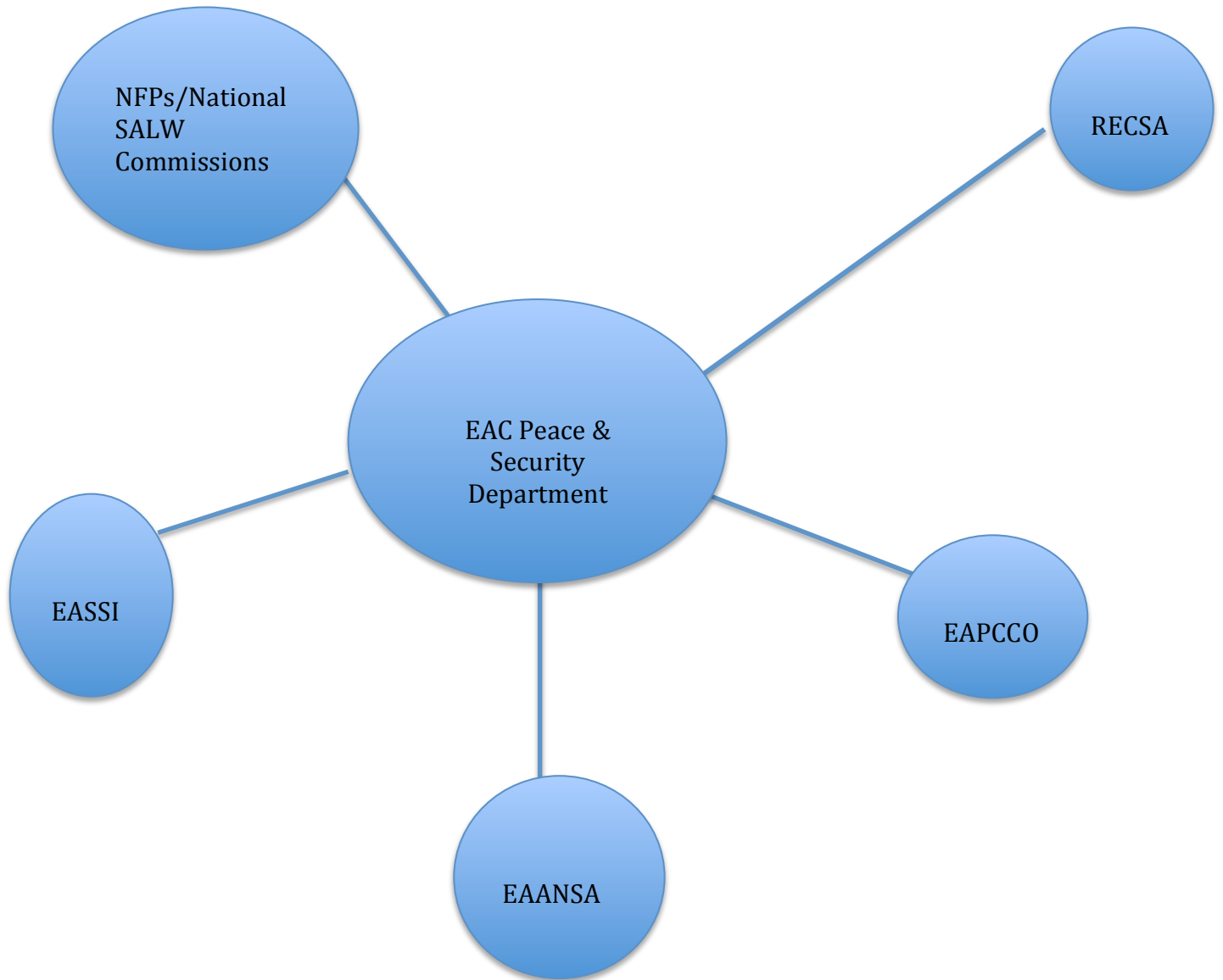
¹⁰⁸ It was created in 1998, in Kampala, Uganda, as a regional practical response to the need to join police effort against transnational and organized crime. EAPCCO consist of the following 11 member countries: Burundi, Djibouti, Ethiopia, Eritrea, Kenya, Rwanda, Seychelles, Somalia, Sudan, and Tanzania. Its Secretariat is at the Interpol Sub-Regional Bureau (SRB) Nairobi. EAPCCO staffs are seconded to INTERPOL Nairobi office, and use the latter's equipment to facilitate their activities. According to Francis K. Wairagu, recently, there has even been closer working relationship between RECSA and EAPCCO because the latter has been running a project in partnership with the Institute for Security Studies (ISS-Nairobi) on a protocol on cattle rustling, and RECSA has been a member of the steering committee. The cattle rustling protocol is led by EAPCCO but managed on day-to-day activities by ISS. It is called the Mifugo project.

¹⁰⁹ The 'Curbing Proliferation of SALW in the EAC Region' project was initiated by the EAC Secretariat with German Technical Assistance (GTZ) assistance to put in place a legal, institutional and political framework. The GTZ assistance covered the initial three-year phase (2006-2009) and has been extended to another phase (2009-20120).

comprises of the EAC Secretariat, RECSA, NFP Coordinators and EAANSA¹¹⁰. The main activities undertaken at the EAC level include among others to promote and facilitate harmonization of legislations at the sub-regional level and engaging the various EAC organs, which includes the EALA.

¹¹⁰ See the EAC/GTZ SALW Project, “ Curbing the Spread of SALW in the EAC Region Project”, Strategic Implementation Plan, December 2007. The same project provided platform for the implementation of the EU/ESA/CPMR Project where EAC was assigned responsibility over management of SALW. See also SALW Report 2006-2009, p.23.

Figure 2: Coordination between EAC Secretariat, and its Member States' Focal Points/Commissions and Other Cooperating Partners



Despite its relatively new and evolving security structures, it can be argued that EAC coordination role on SALW issues has largely benefited from its partnership with a regional inter-governmental organization, RECSA, whose sole mandate is to address the

proliferation of illicit SALW¹¹¹. All the five EAC states are members of RECSA, signatories of the Nairobi Protocol. So the two organizations have shared memberships. EAC and RECSA, therefore, co-undertake the implementation of the Nairobi Protocol. They have a structured coordination and cooperation mechanism, which is guided by Memorandum of Understanding (MOU), concluded in May 2007. The MOU spells out the areas and mode of cooperation, as well as duties and responsibilities of both parties. In an interview with the EAC SALW Programme Coordinator, Leonard Onyonyi, he had this to say as the main reason for establishing such a partnership:

We bring in RECSA because it is important for us to eliminate any perceived competition between EAC and RECSA. So we basically have no competition. All that we are trying to do is to make sure that the five EAC Partner States implement the Nairobi Protocol in approximate manner to the extent that they move together taking into account the challenges that come with regional integration...¹¹²

According to the Head of Research and Gender at RECSA, apart from evading unnecessary competition, the EAC-RECSA partnership has helped to eliminate any duplication of activities as the two organizations involve each other in the execution of SALW interventions¹¹³. It is for the above-mentioned reasons; RECSA is represented in the PSC of the EAC/GTZ SALW Project as indicated earlier.

As alluded to earlier, the EAC also has a structured partnership with Civil Society Organizations (CSOs) with regional networks, namely the Eastern Africa Action Network on Small Arms (EAANSA) based in Kampala. The network members (national chapters) complement the work of NFPs in implementing the Nairobi Declaration and Nairobi Protocol. Apart from being involved in the PSC of the EAC/GTZ SALW Project, EAANSA and

¹¹¹ RECSA was established when the Third Ministerial Review Conference convened in Nairobi, Kenya, in June 2005 upgraded the former Nairobi Secretariat on Small Arms into an inter – governmental entity with a legal personality of a body corporate. Note that the Nairobi Secretariat was established in 2002 and mandated initially to implement the Nairobi Declaration and later in 2004, the Nairobi Protocol. RECSA's core business is to coordinate the joint effort by National Focal Points in Member States to prevent, combat and eradicate stockpiling and illicit trafficking in small arms and light weapons, ammunition and related material in the Great lakes and Horn of Africa.

¹¹² On 11th January 2011 at the EAC Headquarters, Arusha-Tanzania.

¹¹³ On 24th January 2011 at RECSA offices, Timau Plaza, Arwings Kodhek Road, Nairobi-Kenya.

its national chapters have been engaging with EAC and RECSA in carrying out control measures particularly public awareness campaigns, advocacy and research.

Interaction between the sub-regional inter-governmental bodies and CSOs has improved to the extent that EAANSA and its network members have been receiving funds from EAC and RECSA to carry out some of these activities. For instance, CSOs like the Tanzania National Action Network on Small Arms (TANANSA), which is the Tanzanian National chapter of EAANSA has received funding from RECSA that has also availed training opportunities to some of its members¹¹⁴. It is a healthy partnership that has seen CSOs' proposals receiving financial support from EAC and RECSA¹¹⁵. Likewise, the EAC has identified the East African Sub-Regional Support Initiative for the Advancement of Women (EASSI), also based in Kampala, as its strategic partner. EASSI has prominently featured in EAC SALW initiatives due to its coverage of all Member States of EAC, and more importantly, because of recognizing the differential impacts of armed violence on women. EAC and RECSA now recognize EAANSA, and its national chapters like UANSA (Uganda), KAANSA (Kenya) and TANANSA (Tanzania), as well as EASSI as sub-regional networks representing dialogue forum between them and civil society¹¹⁶.

At the national level, all EAC Member States have established NFPs. As illustrated in the United Nations Development Programme (UNDP) guiding document of 2008, NFP is an inter-agency responsible for policy development, coordination, and serves as the implementation body at the national level that brings together relevant Ministries,

¹¹⁴ Interview with Peter Boswell Mcomalla, TANANSA Chief Coordinator, and at that time Chair of EAANSA, on 8th December 2010 in Dar es Salaam, Tanzania.

¹¹⁵ Ibid.

¹¹⁶ EAANSA and EASSI were the first CSOs to be given official status with the EAC through a decision of the 13th Council of Ministers held in November 2006 that accorded them membership in the EAC-GTZ Project Steering Committee, and thus formally recognizing them as key stakeholders. EAANSA also concluded an MoU with RECSA in July 2008 formalizing and encouraging cooperation and exchange of information between them. In its first phase (2006-2009) the EAC-GTZ SALW Project has facilitated EASSI to undertake a number of interventions in its niche area, which include among others, Gender evaluation of the National Action Plans on Small Arms and Light Weapons of Kenya, Uganda and Tanzania; development of the gender component of the EAC Regional Policy on Small Arms and Light Weapons; and provision of technical support on gender during the development of the National Action Plans on SALW of Rwanda and Burundi.

Government Departments and CSOs¹¹⁷. Depending on the region, country and process, NFPs are also called National SALW Commissions. The relevant body in Burundi is the Burundi National technical Commission on Civil Disarmament, while in the rest of the EAC members they are known as National Focal Points.

The five NFPs have different status in terms of placement and coordinators. NFPs in Kenya, Rwanda and Uganda and the Burundi Commission are independent with fulltime coordinators and specific mandate on SALW management. The Tanzania NFP is a semi-autonomous body within the National Police and mandated to address SALW issues alongside the routine police duties (RECSA, 2010: 12-13). Henceforth, Burundi, Kenya, Rwanda and Uganda have fulltime coordinators while Tanzania has a part-time coordinator. However, only Burundi and Uganda NFPs are fully staffed.

From the foregoing explanation, the following positive observations can be made from this security governance component: First, the EAC has a relatively embryonic institutional arrangement that is still evolving. This, however, has not deterred the sub-regional organization from establishing a formal coordination mechanism with other strategic partners at the sub-regional and regional levels. Due to the overlapping nature of the SALW security challenge and owing to multiple memberships of EAC Member States in inter-governmental organizations also striving to address the SALW problem, it was deemed necessary to actively involve RECSA and EAPCCO. The three inter-governmental organizations have overlapping responsibilities and memberships with all of the their Member States bound by the same legal instrument, i.e. the Nairobi Protocol. Henceforth, any reference to coordination of SALW activities in the East African sub-region would not be complete without mentioning the three organizations (i.e. EAC, RECSA and EAPCCO). Second, Civil Society Organizations with a regional coverage have also featured in that relationship between the EAC, RECSA and EAPCCO. Engagement of CSOs is one area that

¹¹⁷ For instance, the NFP of Tanzania (i.e. the National Focal Point Committee-NFPC), draws its members from different government ministries and departments that constitute the National Defence and Security Council. The NFP serves as the planning, coordinating, fundraising and monitoring body of the National Action Plan, whilst the Arms Management and Disarmament Committee (AMAD Committee) functions as its implementing body.

has featured prominently in the coordination of SALW-related activities by the EAC Department for Peace and Security at its Secretariat in Arusha, Tanzania. Third, within the EAC ranks, the Secretariat coordinates the work of two important sectoral committees actively involved in SALW matters, namely the inter-state security and inter-state defence. Working relationship between the two sectors, however, would be made much clearer when the proposed Directorate for Peace and Security is finally instituted to avoid possible encroachment of one sector into activities of another (See Figure 3 for Organogram of the Proposed EAC peace and security architecture).

5.4. Management of the Threat of SALW Proliferation in the EAC Sub-Region

5.4.1. Review and Harmonization of Legislation

In the fight against proliferation of SALW, the review and harmonization of national legislations is important. Review is necessary because countries have legislations, which are out-dated, as they cannot keep abreast with new developments regarding the proliferation of SALW. In most of the out-dated legislations the trans-national character of the SALW problem was not captured (de Caris, 2002). National firearms legislations were confined to firearms control within borders based on the assumption that such measure was sufficient to curb the flow of firearms. In the event important issues that can lead to firearms crossing national borders like brokering and export of SALW were not covered in any provisions of domestic legislation. Flew and Urquhart (2004) maintain that “If comprehensive legislation is not in place, the effectiveness of other measures, for instance to tighten border controls, raise awareness of the dangers and impact of firearm misuse or improve the capacity of law enforcement agencies, will be undermined. At the same time, strong legislation alone will only have limited impact should there be a lack of capacity in other areas, such as law enforcement (p. 9).” It follows that creating an enabling legal framework and improving capacity in other SALW control measures are mutually reinforcing.

In the East African sub-region, RECSA Member States under the initiative and support of the its Secretariat, developed through a consultative process Guidelines for Regional Harmonization of Legislation on Firearms and Ammunition which were adopted in 2005. Legal Drafting Committees in order to guide review of respective national legislations have been established in all EAC states. These Legal Drafting Committees are supposed to ensure that the provisions of the Nairobi protocol and as expounded in the Best Practices Guidelines are integrated in any review that states do on small arms. The initial deadline of April 2006, which was agreed by RECSA states to complete the review process was not met as countries have different legal systems, constitutional and bureaucratic systems for passing of legislation.

What does harmonization mean? Harmonization simply entails having a legislation framework that function in harmony. Due to the transnational nature of the SALW problem states especially those sharing a certain geographical spread are compelled to direct part of their collaborative efforts into seeking to ensure consistency in particular areas of legal controls on illicit small arms. Enforcing common legal standards is a viable concerted approach to clamping down the proliferation of small arms. The process of harmonization, however, does not mean states must replicate one another's legislation. It means that an offence recognized in one state must also be recognized as an offence in another while making sure at the same time that the legislation of a particular state continues to reflect its national context and policy towards SALW. Harmonization, therefore, ensures that such standards like brokering, marking of firearms, offences and penalties are compatible across borders to facilitate appropriate intervention measures by the (Law Enforcement Agencies) LEAs. This has been termed as 'regional harmonization'¹¹⁸. The other equally important component is the process of 'internal harmonization'. In this latter component harmonization entails "the coherence of provisions relating to small arms within other relevant national laws and removing any anomalies or contradictions that might exist. It

¹¹⁸ Catherine Flew and Angus Urquhart, 2004, "Strengthening Small Arms Controls: An Audit of Small Arms Legislation in the Great Lakes Region and the Horn of Africa", SaferAfrica and Saferworld, February, p.13-14.

should also seek to make the legislation as easily accessible as possible and to this end should aim to place controls on small arms in as few acts and statutes as possible”¹¹⁹.

The EAC sub-region, however, is yet to have a synchronized legislative framework for controlling the proliferation of SALW¹²⁰. The 16th EAC Council of Ministers meeting directed the EAC Member States to expedite the process of SALW legislation harmonization in line with the various integration stages¹²¹. Ironically, it is the new entrants to the EAC, i.e. Burundi and Rwanda, that have new firearms legislations¹²². Arguably, swift passing of their legislations might have been due to the fact that these two countries have relatively more security sensitive regimes given the ferocious past their respective populations have gone through. The rest of EAC Member States have draft policies and bills, which are at different levels of approval.

Existing laws in Kenya, Tanzania and Uganda are being reviewed to reflect a comprehensive legislative framework that addresses demand and supply factors. The Firearms Act, Cap 114 (1954) of Kenya has a weak regime in its application and does not adequately provide for comprehensive control and management of the SALW problem in all its aspects. It has thus been reviewed 22 times in attempt to improve its provisions (Kenya, 2010: 8). The principal piece of legislation governing firearms in Tanzania, the Arms and Ammunition Act (1991), has also been reviewed to bring it in line with the international and regional agreements. There are other 16 Acts with provisions on firearms control¹²³. The draft National Policy on Small Arms and legislation are already in

¹¹⁹ Ibid, p.13.

¹²⁰ RECSA has been organizing biennial regional harmonization of legislation meetings since 2005. See RECSA Report on Implementing the UNPoA, 2010, p. 16.

¹²¹ EA/CM16/Decision 35, 18th September 2008.

¹²² Burundi (Law No 1/14 of August 2009 on Small Arms and Light Weapons), and Rwanda (Law on Firearms No. 33/2009 of 18 November 2009). Currently, only Burundi has a SALW Policy.

¹²³ Some of these Acts include: Armament Control Act No. 1/1991; National Security Act No. 3/1970; Refugee Act No. 9/1998; Wildlife Conservation Act No. 12/1974; Immigration Act No.7/1995; Customs Management Act No. 19/1977; Mutual Assistance on Criminal Matters Act No 24/1991; Proceed of Crimes Act No. 4 /1991; Extradition Act No. 15/1965; Illicit Trafficking in Drugs Act No. 9/1995; Corruption Act No. 2/1974; Money Laundering Act; and East African Customs and Transfer Management Act, as quoted in SALW Baseline Assessment in Tanzania, 2008, p. 52.

place. The draft legislation was submitted before the cabinet secretariat in 2008¹²⁴. Uganda has completed nationwide consultations with stakeholders to obtain views and input into the Draft Small Arms Policy and Bill. The new Bill will replace the 1970 Firearms Act and align it with the provisions of all international instruments that Uganda is a party to (Uganda, 2010)¹²⁵. With several scattered pieces of legislations related to firearms control, states have realized the need to conduct a full inventory and reviews of all legislations and regulations aiming to place controls on small arms in a single or few acts as much possible.

5.4.2. Control Measures

5.4.2.1. Collection and Destruction of Firearms

Prior to providing an account of how the control measures of collection and destruction of SALW have been undertaken within the East African sub-region, it is pertinent to establish how they have been defined in the regional instruments that give mandate to EAC and RECSA members to undertake SALW interventions. The Nairobi Protocol does not specifically define the control measures of collection and destruction. This Protocol, however, calls for effective programmes for the collection, destruction and disposal of firearms. The firearms in question here are those rendered surplus, redundant or obsolete, in accordance with domestic laws, and also through peace agreements and demobilization or re-integration of ex-combatants¹²⁶.

Definitions of these control measures have been provided in the Best Practice Guidelines¹²⁷, which supplements the Nairobi Protocol. In the Best Practice Guidelines, collection of SALW “refers to all weapons that become the responsibility of the State,

¹²⁴ The second draft is due to be submitted to the Parliament after incorporating recommendations that were made by the members of the Cabinet Secretariat during the first submission. See Brief Report by the Tanzania National Focal Point Coordinator on Small Arms to the East African Legislative Assembly (EALA) Committee on Small Arms, November 2010.

¹²⁵ Uganda also has several pieces of legislation related to the control of firearms. These include Anti-terrorism Act (2003); Customs Management Act (2004); Explosive Act, Cap. 298; Magistrates Courts Act, Cap. 16; Penal Code, Cap 120; Police Act, Cap. 303; Prison Act, Cap 304; Wildlife Act, Cap.200; and UPDF Act (2005).

¹²⁶ See Articles 8 and 9 of the Nairobi Protocol.

¹²⁷ The main aim of these guidelines is to elaborate a framework for the development of policy, review of national legislation, and general operational guidelines and procedures on all aspects of SALW.

through legal acquisition, seizure, forfeiture, voluntary surrender and disarmament, demobilization and reintegration (DDR) programmes”¹²⁸. Henceforth, the main collection strategies are namely; voluntary and amnesty programmes, national security forced seizures, and DDR programmes. Under the same guidelines, destruction is described as the preferred method of disposal of SALW. Disposal entails deactivation (rendering all essential parts of the weapon permanently inoperable and, therefore, incapable of being removed, replaced or modified that allow reactivation), sale (selling surplus and redundant stock), and safe storage (storage of SALW in a safe and secure location)¹²⁹. Destruction as the preferred method of disposal has to be carried out in a way that renders illicitly trafficked SALW seized by national authorities, both permanently disabled and physically damaged¹³⁰.

The Nairobi Protocol places responsibility on the State to collect and destroy SALW¹³¹. Whereas regional institutions, such as RECSA, can play the supportive role of mobilizing necessary resources such as funding and facilitating joint operations for the collection and destruction of illicit firearms by LEAs, it is the responsibility of State LEAs to remove illicit weapons from civilian possession. In practical terms, within the EAC Member States, specialized bodies to handle disarmament programmes have been established in Burundi (Commission for Civilian Disarmament and Control of the Proliferation of Small Arms and Light Weapons-CDPCA), Tanzania (National Defence and Security Council) and Uganda (Amnesty Commission). At the national level, therefore, voluntary disarmament has been going on a continuous basis. In the Burundi voluntary disarmament, by 2009 about 8000 firearms had been handed in¹³². The Kenyan Government declared the Presidential Amnesty of 2009 but has since 2005 embarked on a pilot project in Garissa District, which is known as Garissa Armed Violence Project and Small Arms Reduction¹³³. The project has

¹²⁸ Best Practice Guidelines for the Implementation of the Nairobi Declaration and the Nairobi Protocol on Small Arms and Light Weapons, p. 15. This document was approved by the third Ministerial Review Conference of RECSA held on 20th -21st June 2005 in Nairobi.

¹²⁹ Ibid, p.15-16.

¹³⁰ Ibid, p.16.

¹³¹ Articles 8, 9 and 12 of the Nairobi Protocol.

¹³² Report of the 2nd meeting of the Sectoral Council on inter-state security (REF: EAC/SCISS/02/CC/2009)

¹³³ UNDP provides financial and technical support. See Kenyan NFP Report, 2010.

since been expanded to other districts affected by armed pastoral conflicts resulting from illicit SALW proliferation. Following the return of ex-combatants who had not surrendered their weapons, Rwanda's NFP developed a disarmament of ex-combatants program using the trust-building strategy, specifically the *blind surrender method*, where the identity of a person surrendering an illicit weapon is not required and information leading to recovery of firearms is not used to pursue the owners (RECSA, 2009).

Tanzania has sporadically been carrying out targeted military or police operations across the country. The earliest in the last decade was in the North Western Region of Bukoba in 2002 and the most recent was carried out in Rorya and Tarime Districts in 2010¹³⁴. A total of 4084 firearms were seized in Tanzania police operations from the year 2002 to 2007¹³⁵. Uganda has put in place the Karamoja Integrated Disarmament and Development Programme (KIDDP) in the Karamoja region, one of the areas awash with illicit SALWs. According to the Ugandan President Museveni, the Karamoja disarmament exercise, which has been coordinated by the military since its commencement in 2004, scored impressive success in collection of weapons resulting in peace and security in the area¹³⁶. However, such accolade has to be received with caution as unilateral disarmament operations at border regions often end in diverting arms routes while restoring relative calm for a short period.

The foregoing argument stems from the fact that a year since the commencement of the Ugandan KIDDP, it dawned on the national authorities that national (unilateral) initiatives have to be complemented by bilateral disarmament operations. As observed by one Regional Police Commander (RPC) in the Northern region of Uganda that the country cannot single-handedly address the illegal trade in small arms in its common border with Sudan (Uganda NFP, 2007). Thus, as they share a long common border, in June 2005 Kenya and Uganda agreed upon a joint disarmament program to restore peace in North Eastern

¹³⁴ Interview with ACP Lutenta Mwauzi, Tanzania NFP Coordinator, Ministry of Home Affairs, Police Headquarters, Dar es Salaam, 4th January 2011.

¹³⁵ SALW Baseline Assessment in Tanzania, 2008 p.69.

¹³⁶ Speech by President Museveni at the destruction of SALW on the occasion to commemorate the 10th anniversary of the EAC, Commonwealth Speke Resort, Munyonyo, 5th October, 2009

Uganda and the North Rift Districts of Kenya (Kenya, 2006; 2009). Since this border is on each side inhabited by armed pastoral communities, i.e. the Pokot and Karamojong (also referred as the Karamoja cluster) who have from time to time engaged in cattle rustling and border raids against each other, the joint program of action has involved simultaneous and coordinated disarmament operations, branding of livestock, sensitization and support for the development of alternative livelihood, among other measures. However, according to the Kenyan country report to the fourth UN Biennial Meeting of States on the Status of Implementation of the UNPoA and the implementation status of international tracing instrument of 2010, however, the foregoing interventions have recorded minimal results owing partly to lack of funds to sustain the processes. Rwanda too has been conducting sporadic joint military operations with the DRC (a non-EAC member but signatory to the Nairobi Protocol). It is estimated that the joint military operations, one of which was branded 'Umoja Wetu' (meaning 'Our Unity'), have successfully led to the return of over 4,000 ex-combatants and civilians to Rwanda (RECSA, 2009).

At the EAC level, the EAC-GTZ SALW Project has provided financial support to initiatives aimed at promoting voluntary disarmament among heavily armed pastoral communities. The annual Tecla Lorupe Peace Race is one such initiative, which brings together conflicting communities of northwestern Kenya, eastern Uganda and southern Sudan, who have been carrying out cattle rustling against each other with deadly consequences¹³⁷. The race which is named after the world-renowned Kenyan athlete, Tecla Lorupe, brings together members of the pastoral communities within the Karamoja cluster region. The main condition for participants is: drop the gun and embrace peace. In the warrior race category, warriors from different pastoral communities compete against each other, and winners are rewarded mainly with livestock. This is to encourage them to abandon cattle rustling and appreciate sports as an alternative source of livelihood. Consequently, the race has been instrumental in making local communities give up illegal firearms. As of September 2006, some 12,000 illegal guns had been surrendered by the Karamojong of

¹³⁷See "Curbing Small Arms And Light Weapons In The EAC Region: Implementation Of The EAC-GTZ Project", August 2006-July 2009.

Uganda as a result of peace athletic events organized by the Tecla Lorupe Peace Foundation (*Daily Nation*, September 26, 2006)

As far as destruction of SALW is concerned, EAC States have undertaken this control measure under the support of the EAC and also from the Governments of the United Kingdom, and United States. Destruction exercises in EAC States have also received technical assistance from UNDP, SaferAfrica and the Mines Advisory Group (MAG). National law enforcement authorities and their structures possess limited capacity for destruction processes as they lack either the requisite financial resources to purchase modern machines, like gun-crunchers for destroying weapons, or expertise to dispose of caches of ammunition, or both. Of the eleven main techniques¹³⁸ for SALW destruction, EAC States have mostly used the Open-Air Burning method before receiving support from the EAC and RECSA, because it is cheap, simple, highly visible and symbolic, and the fact that it requires limited training.

Destruction of SALW has been used also as a public awareness-raising tool. Open-air destruction usually takes place to commemorate or in remembrance of important national ceremonies. EAC States as signatories to the Nairobi Protocol have annually been marking the Nairobi Declaration Day (i.e. 15th March) to commemorate the signing of the Declaration in 2000. The five EAC States have also publicly destroyed illicit firearms to mark the African Day and commemorate the African Union's 2010 Year of Peace and Security¹³⁹. This is also an area where the civil society has come to share responsibilities with NFPs. Initially, before being recognized and involved in the national, sub-regional and regional frameworks for dealing with SALW-related aspects, CSOs were only invited to witness the exercise of destroying arms. Nowadays, CSOs take the lead in raising public awareness and mobilizing people to show up in destruction exercises and, in developing

¹³⁸ Besides burning, other destruction techniques include smelting and recycling, band Shaw, cement, crushing by Armoured Fighting Vehicles (AFV), cutting by Oxyacetylene or plasma, cutting using hydro abrasive technology, cutting by hydraulic shears, deep sea dumping, detonation and shredding.

¹³⁹ Other such ceremonies include the UN Arms Day on July 2004 in which 1000 firearms were destroyed at Jangwani grounds in Dar es Salaam.

public campaign materials related to SALW issues¹⁴⁰. This is in accordance to the Best Practice Guidelines that require states to use the destruction of weapons as a tool not only for public awareness raising, but also as a confidence building measure on the SALW problem, and ensure participation of the civil society to monitor the destruction process. Available statistics show that by May 2010, in the five EAC States a total number of SALW destroyed stand at over 184,000 as shown in table 5 below.

Table 5: Status of SALW, Ammunition and Unexploded Ordinances (UXOs) Destruction

	Burundi	Kenya	Tanzania	Rwanda	Uganda
SALW	22578	Over 22000	53766	10568	75783
UXOs & Ammunition	13445 Items	35000 Landmines	421 Tons	14000 Landmines	6300 Landmines, 798 Tons

Adapted from RECSA, Implementing the UNPoA-May 2010.

5.4.2.2. Marking and Record Keeping

One of the main challenges in controlling the illicit proliferation of SALW is the difficulty in tracing their origin and movement within and across states. If SALW are to be traced, they ought to bear marks that cannot be easily tampered with. Under Article 7 of the Nairobi Protocol, states are obliged to put a unique mark on weapons in state possession for easy traceability and identification. State Parties to this Protocol are required to mark all SALW upon manufacture, with a unique marking, providing the name of the manufacture, country or place of manufacture and the serial number if the weapon does not already bear one. Markings on firearms must be stamped on the barrel, frame and where applicable, the slide. States are also required to ensure that a database of information in relation to firearms is maintained for not less than ten years for tracing purposes.

¹⁴⁰ Interview with Peter Boswell Mcomalla, TANANSA Chief Coordinator, and EANSA Chairperson, 8th December 2010 in Dar es Salaam.

The RECSA region, i.e. the Great Lakes Region and the Horn of Africa, is the first in the world to mark firearms¹⁴¹. RECSA is therefore coordinating the arms marking project in the sub-region under the support of the German Government through the EAC-GTZ SALW Project and the United States Department of State, Office of Weapons Removal and Abatement, Bureau of Political-Military Office (WRA). The EAC-RECSA MoU mentioned earlier provides for direct financial support to RECSA to support activities outside the EAC area, particularly in countries bordering EAC Member States whose security dynamics impact directly on the EAC. RECSA has received financial support worth over US \$ 12,032,145 between the year 2000 and 2009 from Development Partners¹⁴². About US \$ 448,463 of that support came from the EAC SALW Project¹⁴³. Funding from the EAC via its SALW Project has supported the procurement of five electronic marking machines and twenty-four computers. The US government on its part supported the procurement of twenty-six marking machines. All EAC Member States have received 2 marking equipments¹⁴⁴. Electronic marking equipments are favoured as they can mark up to 1500 weapons a day and information is automatically stored in a database (Dye, 2008: 8).

The massive financial support to RECSA marking project has also featured the training component. The EAC-GTZ SALW Project supported training in the installation, operation and maintenance of the electronic marking machines in November 2008 and in-country trainings on SALW marking in the five EAC states¹⁴⁵. The United States WRA also supported additional in-country trainings between October and November 2009¹⁴⁶. Training for civil society organizations and groups, such as the media and

¹⁴¹ Interview with Wairagu, Head of Research and Gender Unit at RECSA, 24th January 2011 in Nairobi. Dominique Dye says RECSA is the first regional community in Africa to attempt to implement a regional marking programme. See the Article "East Africa: Making a Mark", Arms Control: Africa, Volume 1, Issue 3, July 2008.

¹⁴² RECSA Donors included Governments of UK, Netherlands, Belgium, Norway, US, Canada, Japan; Finland, Denmark, EAC/GTZ; EU; UNDP; BCPR; SaferWorld; ISS; FECCLAHA; and Oxfam

¹⁴³ RECSA op. cit. p. 33.

¹⁴⁴ Interview with Wairagu, *ibid*. The EAC support to all its partner states to enable them electronize their databases through the provision of both software and hardware was confirmed by Leonard Onyonyi, EAC SALW Programme Coordinator in an interview on 11th January 2011.

¹⁴⁵ 15 trainers from the GLR/HoA trained in South Africa for two weeks in South Africa. The in-country trainings conducted in all EAC states covered 30 trainees per country. See EAC/GTZ SALW Report 2006-2009, p.35.

¹⁴⁶ The trainings were conducted in six RECSA states namely, Burundi, Djibouti, Ethiopia, DRC, Seychelles and Sudan.

parliamentarians, aimed at improving their capacity to support the NFPs in the implementation of the Nairobi Protocol has been given due attention at national level, again hosted and sponsored by states with contributions flowing from donor countries, local and international NGOs, and RECSA.

The various training programmes thus far in the East African sub-region have been conducted on a short-term basis, and at most have an in-ward/in-country focus. The sub-region is yet to conduct long-term cross-regional training for its LEAs. The EAC states ought first to achieve convergence in operational viability and that means training and understanding each other while creating the right environment for the different police services to work together in fighting illicit SALW proliferation¹⁴⁷. As noted in the results of the LEAs Survey in Uganda improved police training would be crucial to increasing their ability to address small arms related crimes (Uganda NFP, 2007)¹⁴⁸.

The Nairobi Protocol is silent on the aspect of joint training programme for LEAs. However, in recognition of the fact that skills development has not been uniform in all its Member States, development of the training programmes by states are at different paces, and being in a bid to improve standards and co-operation within the sub-region, the EAC included exchange of training programmes for security personnel in its 2006 Peace and Security Strategy¹⁴⁹. Even though Article 6 (2), of the East African Police Chiefs Co-operation (EAPCCO) spells out agreement in respect of co-operation and mutual assistance in the field of combating crime, rendering advice, support or assistance relating to training, joint training to develop professional police with uniform standards across the sub-region has

¹⁴⁷ Interview with Leonard Onyonyi, op. cit.

¹⁴⁸ The police interviewed identified a number of areas (with their responses indicated in percentages) where there was need for specialized training to improve their capacity to deal with SALW. These include basic investigation techniques, firearms related crime detection (92%); identification of concealment techniques (90%); improvement of record-keeping techniques (89%); understanding the nature of the illicit firearm problem (85%); safe storage and stockpile management skills (84%); and improved knowledge of the firearm legislation (82%)

¹⁴⁹ Goal 7 (exchange of training programs for security personnel) of the Peace and Security Strategy that has 15 goals in total. Specific strategies to fulfil this goal include conducting specialist trainer exchange; sharing of experiences among the Partner States; developing appropriate syllabi, which measures to the standards applicable in other Partner States; carrying out study visits within the Partner States, and establishing an East African Police Academy.

hitherto not been effected. The Strategy also ponders the raising of the security training institutions of the EAC Partner States to nationally and internationally recognized professional standards. This is yet to be done and EAC has a long way to go to achieve this.

As rightly noted by Dye (2008), the success of the regional marking and record keeping initiative, however, hinges on the creation and maintenance of national databases on SALW. States parties to the Nairobi Protocol have principally agreed to establish a central SALW registry for the administration and maintenance of firearms records. Thus far, no state has established a national centralized SALW database as each government department, which possesses SALW, has its own stand-alone database. Some of EAC states (Burundi, Kenya and Uganda) still make use of manual databases while Rwanda and Tanzania maintain both manual and electronic SALW records (RECSA, 2010).

The major challenge for states is not only resources and technical expertise, but also to be able to share information once the computerized databases have been completed. The Nairobi Protocol encourages the exchange of information with partners and state parties to promote transparency as well as cross learning. Article 16 in particular of the Protocol gives emphasis to transparency and information exchange between parties involved in the campaign against SALW problem.

Table 6: Status of SALW Marking in the EAC States by May 2010

	Member States	Status of Marking
1	Burundi	Yet to commence
2	Kenya	25,000
3	Rwanda	5,188
4	Tanzania	1,646
5	Uganda	35,000

Adapted from RECSA, 2010.

In analyzing management of the SALW problem in the EAC sub-region, the following major observations have been made. First, despite having participated in developing guidelines for regional harmonization of legislation on firearms and ammunition, the EAC Member States are yet to have a synchronized legislative framework. Second, EAC Member States have carried out both unilateral and bilateral operations for the collection and destruction of firearms. EAC countries realized that unilateral disarmament operations could not by themselves effectively control the flow of illicit arms since such operations often end in diverting arms routes. They, henceforth, complement their national efforts with bilateral operations with neighbouring countries. These have been carried out with the support of not only the EAC, but also RECSA and International Cooperating Partners. Third, EAC States are among the first countries within the Great Lakes Region to undertake marking of state-owned firearms.

5.4. Conclusion

The EAC through its SALW Project, besides building a strong platform for SALW control and interventions in other related areas of peace and security within the EAC Member States, has hugely contributed to recognizing the crucial engagement of civil society, and more importantly, SALW has found its way into the core of security debates in the East African sub-region¹⁵⁰. Besides the EAC, there are two other organizational actors that have been addressing the SALWs security challenge in close collaboration, namely RECSA and EAPCCO. EAC and RECSA have a structured coordination and cooperation mechanism that is guided by an MOU. EAC also has a structured partnership with CSOs with established regional networks. EAC and RECSA provide financial support to the CSOs to carry out some of the SALW-related interventions as observed earlier.

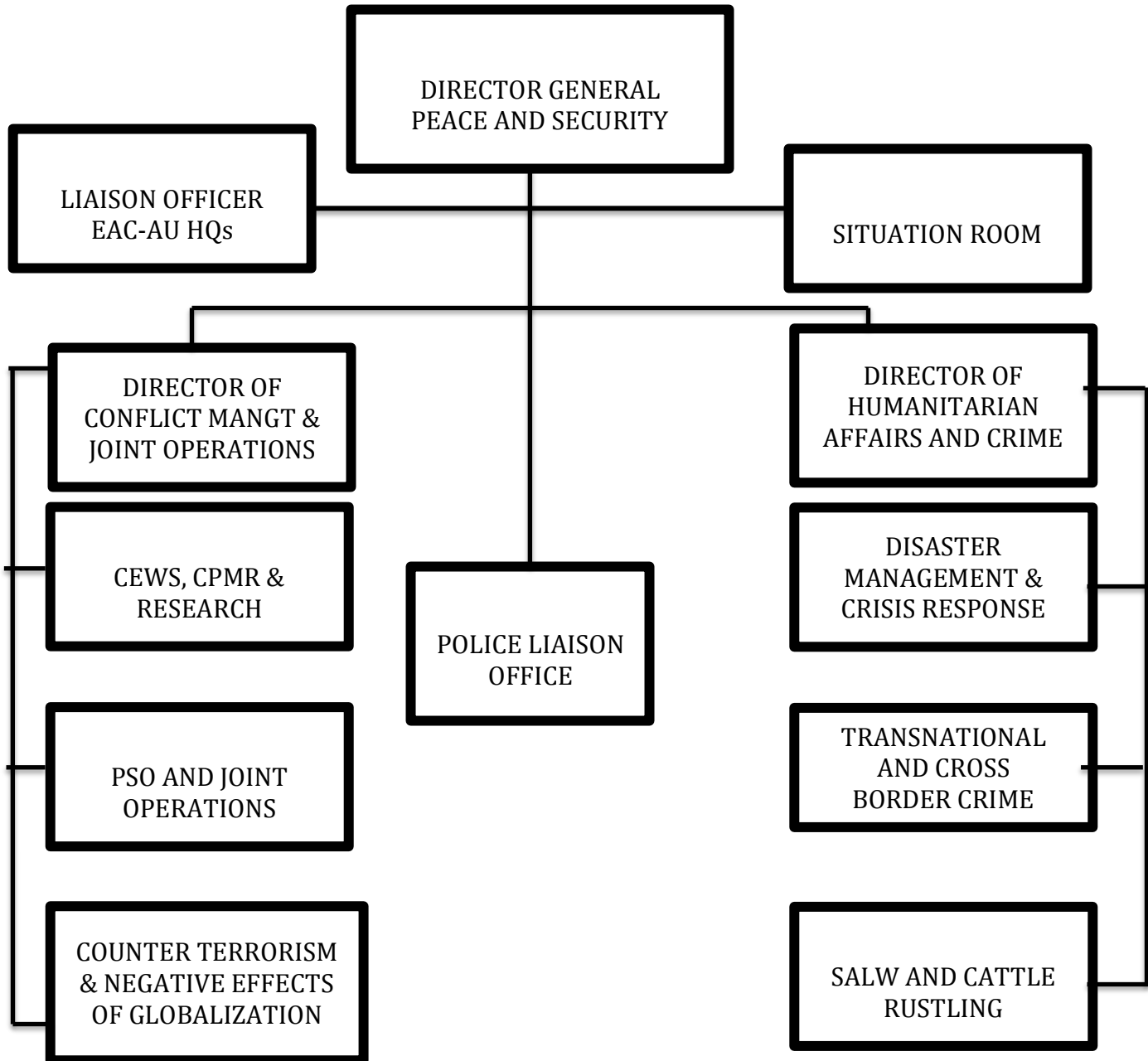
As far as specific measures for managing the SALW problem are concerned, it has been observed that the EAC sub-region is yet to have a synchronized legislative framework for

¹⁵⁰ Interview with Mr. Wolfgang Leidig, German Technical Cooperation (GTZ) Head of Programme, GTZ Cooperation with EAC, at EAC Headquarters in Arusha on 13th December 2010. See also EAC/GTZ SALW Project 2006-2009 Report, Curbing Small Arms and Light Weapons in the EAC Region: Implementation of the EAC-GTZ Project, p. 21.

controlling the proliferation of illicit SALW despite the EAC Council directing Member States to expedite the process of SALW legislation harmonization. Creating an enabling legal framework and improving capacity in SALW control measures are mutually reinforcing. Lack of a harmonized legislation for the sub-region undermines the effectiveness of SALW control measures. Commitment towards putting in place a harmonized legislation is however present as national policies and bills on SALW are at different levels of approval.

The most visible and arguably most successful SALW intervention has been the collection and destruction of illicit firearms, with the EAC playing the supportive role of mobilizing resources (funding and equipment) for these control measures. There have also been bilateral disarmament operations (on the one hand between EAC Member States, and on the other, between EAC countries and non-EAC Member States that are also signatories to the Nairobi Protocol). The EAC countries are also part of the RECSA set up that became the first grouping to undertake the exercise of marking firearms in state ownership.

Figure 3: Proposed EAC Peace And Security Structure



Note: As adopted at the EAC Meeting of the Joint Inter-State Defence and Security Ministerial Forum, on 24th April 2008.

Chapter Six

6. EAC Security Architecture and Domestic Political Crises

6.1. Introduction

Kenya has been a beacon of stability in the East African sub-region albeit a political milieu coloured by institutionalization of violence over the years and economic marginalization, often viewed in ethno-geographic terms. However, the violence that followed the December 2007 General Elections shattered the image of stability. The events that followed President Kibaki's disputed victory did not augur well for the political and socio-economic welfare of Kenyans, in particular and East Africans in general. As the façade of stability unravel and cracks of ethnic discontent came to the fore, a spell of diplomatic efforts involving influential sub-regional, regional and global actors to push and cajole feuding parties to make the necessary concessions and subsequently end the violence, followed. The EAC was one of the sub-regional actors. As the conflict involved one of its member and owing to the fact that Kenya's economy has vibrations of region-wide consequences, the sub-regional organization could be expected to be at the forefront of diplomatic efforts to diffuse the ensuing crisis. The chapter focuses on how various actors, within and outside the EAC arrangement, played the roles of coordination and management of domestic political crisis in one of the EAC Member States, Kenya. The domestic political crisis in Kenya reached its highest point in the aftermath of the December 2007 general election, leaving over a thousand Kenyans lifeless and others as IDPs.

The chapter commences with an account of the nature and extent of domestic political crisis in Kenya, specifically focusing on its genesis, main perpetrators, the issue of impunity, patterns of the post-election violence that gripped the country, and its impact. Analysis of the coordination and actual management of the Kenyan domestic political crisis, immediately follow.

6.2. The Nature and Extent of the Domestic Political Crisis in Kenya

Kenya fell into a political crisis shortly after results of the controversial general elections of December 27, 2007 were announced, declaring Mwai Kibaki of the Party of National Unity (PNU) the victor. The results were strongly opposed by the main opposition party, the Orange Democratic Movement (ODM) led by Raila Odinga who accused Kibaki of stealing the election. The crisis left over 1000 killed and hundreds of thousands others displaced. This recent descent into ethno-political violence illustrates the link between governance and human security (Khadiagala, 2008: 6).

To some observers of politics in Kenya the violence that rocked the country following the 2007 elections was not a surprise episode but a simmering volcano only waiting to explode (Oucho, no date; Branch, 2011: 19). This is simply because the eruption of violence was largely the culmination of deliberate political manipulation of ethnic identities (Ajulu, 2001:1; Khadiagala, 2008:6; Bayne, 2008:2; Hansen, 2009: 4; Murithi, 2009: 2). Since the restoration of competitive multi-party politics in Kenya in 1992 ethnicity as a medium of political mobilization coupled with profound divisions along regional and religious lines have increasingly characterized local politics. Acts of ethnic violence have marked Kenya's political landscape either in the run up to or after general elections. The difference has only been on the scale of violence unleashed.

Like its neighbour, Tanzania, Kenya has held four multiparty general elections since the 1990s, namely 1992, 1997, 2002 and 2007. In the 1992 pre-election period, observes Kagwanja (2003:35), ethnic violence pitting the so called 'Kalenjin warriors' versus non-Kalenjin ethnic groups, namely the Luo, Gusii, Luhya, Kamba and Kikuyu broke out in Rift Valley and Western province. According to the Human Rights Watch (1993:71), over 1,500 people had died and some 300,000 were displaced by the cycles of violence by November 1993. In the run up to the 1997 elections, ethnic clashes involving 'Digo Warriors' at the

Coast left 100 people dead, including five police officers and displaced 100,000 people¹⁵¹. The spate of violence did not stop in the aftermath of the 1997 elections as immediately in the January-February 1998 period Kikuyu farms in Njoro, Nakuru and Laikipia came under attack from 'Maasai morans' and 'Kalenjin warriors'¹⁵². Estimated figures of fatalities and displaced people following a wave of violence in the period 1991-2001 presented by the Kenya Human Rights Commission stood at 4,000 and 600,000 respectively (Kenya Human Rights Commission, 2001).

An important revelation is the consensus among analysts that the spate of communal violence that has engulfed Kenya's political landscape has either been sponsored or condoned by elites in positions of power. It is referred as state-sponsored or state-condoned violence since it is well documented that at different phases of the waves of violence the government has either been involved in instigating ethnic violence for political purposes or taken no concrete measures to prevent it from escalating out of control (HRW, 1993). This institutionalization of political violence by successive Kenya's ruling elites has been a common feature. It is an outcome of a strategy of informalizing state repressive institutions to serve political ends (Hansen, 2009:5; Ajulu, 2001:20; Kagwanja, 2003:35-36). As eloquently elaborated by Kagwanja (2003: 36), "As part of the 'informal repression' strategy, the elite relied on extra-legal intimidation and violence to silence and disempower critics and to intimidate, displace and disenfranchise hostile voters in multi-ethnic electoral zones". Employing Mahmood Mamdani's¹⁵³ notions of citizenship, Kagwanja further explicates, "The 'retribalization' of the public sphere has sharpened the tension between civic or state citizenship and ethnic citizenship. While the former is based on liberal notions of civic citizenship and individual rights inscribed in the national constitution, the latter is predicated upon membership of an ethnic group or clan through which one accesses social and economic rights, especially the right to land" (2003:27).

¹⁵¹ Alamin Mazrui, 1997, "Kayas of Deprivation, Kayas of Blood: Violence, ethnicity and the state in Coastal Kenya", Kenya Human Rights Commission, Nairobi, as referred in Kagwanja, 2003:35 op. cit.

¹⁵² Marcel Rutten, 'Fresh Killings: the Njoro and Laikipia violence in the 1997 Kenya election aftermath', in Rutten et al., *Out for the Count*, pp. 536-82, as referred in Kagwanja, 2003: 35 op.cit.

¹⁵³ Mahmood Mamdani, 2001, *When Victims Become Killers: Colonialism, Navitism, and the Genocide in Rwanda*, Princeton, NJ: Princeton University Press, pp. 28-31

The chief agents of carrying out acts of violence against civilians were groups of youths militias. The most prominent and radical of these violent gangs is the *Mungiki* sect, founded in the 1980s initially harbouring religious undertones and later pursued radical brand of politics¹⁵⁴. The growth of vigilantism associated with the proliferation of criminal gangs meant that the state security apparatuses had lost the monopoly of the means of violence. The Mungiki sect, which also deployed mafia-like tactics such as extortion, extra-judicial killings, and intimidation, was associated with attempts to protect interests of the Kikuyu ethnic group during Moi's presidency that is affiliated with the Kalenjin ethnic group (Hansen, 2009:4). Branch (2011: 237) stresses that "Mungiki was not just a product of the ethnic substance of politics in the 1990s; it was also an outcome of the increasing role of militias in political contests". The operations of this sect, which has enjoyed the moral and financial support from a number of political big-wigs very high up in the government, including parliamentarians, up to the height of the 2008 post-election violence reached a point it exercised control as a 'state within the state' in certain parts of Kenya, and using violence to maintain such control (ibid.)¹⁵⁵.

Several attempts by various institutions to probe ethnic clashes and other forms of violence since 1991 through parliamentary select committee and commissions of inquiry proved futile as their reports were either rejected or simply ignored by the Moi government. A report by the Parliamentary Committee (the Kiliku Report), which investigated the 1991-93 ethnic clashes, was rejected by the Moi government. The

¹⁵⁴ The term 'Mungiki' has been variously interpreted. One interpretation traces its origin from the archaic Kikuyu word *irindi*, meaning crowds, that implies "people are entitled to a particular place of their own in the ontological world" (See Grace Nyatugah Wamue, "Revisiting Our Indigenous Shrines Through Mungiki", *African Affairs* 100, pp. 453-67). Another interpretation refers to Mungiki as "multitude" in the Kikuyu language and represents a political/religious movement committed to upholding the traditional African way of worship, culture and lifestyle (See Chris Maina Peter And Fritz Kopsieker(eds.), 2006, *Political Succession In East Africa: In Search for a Limited Leadership*, Kituo Cha Katiba and Friedrich Ebert Stiftung, pp. xviii). Another notorious group that inflicted terror against government opponents and which was deployed regularly against anti-government demonstrations in Nairobi during former President Moi's regime was *Jeshi La Mzee* (the Old Man's Army). According to Ajulu, 2001, "Democratization and Conflict in Eastern Africa: Kenya's Succession Crisis and its Likely Impact on Eastern Africa and the Great Lakes Region", Institute for Global Dialogue, *Occasional Paper No. 28*, pp. 20, March, members of this group were known to Moi's security forces.

¹⁵⁵ For a detailed account of the sect's religious and ideological roots, its transformation from a 'moral ethnic' movement to a 'politically tribal one', read Kagwanja, 2003, pp. 25-29.

Akiwumi Commission probed the 1991-98 tribal clashes and submitted its report in 1999. The government declined to release the damning report that had implicated its senior officials for sponsoring ethnic violence until 2002. No action, therefore, was taken against perpetrators of wanton killings mentioned in both reports¹⁵⁶. Other attempts made were by the Standing Committee on Human Rights (Kenya), a government appointed committee to advise on human rights violations. The Standing Committee investigated skirmishes occurring at the Coastal region in 1998¹⁵⁷. The Law Society of Kenya investigated and made a report on the violence in Coast Province related to the attack on Likoni Police Station on 13th August 1998.

The political settlement following the 30 December 2007 heralded not only government of unity but also, and more importantly, a commitment to urgent constitutional reform. The settlement included the appointment of two commissions. One of the commissions, the Independent Review of Elections Commission (IREC), headed by the retired South African Justice Johann Kriegler, was appointed to examine the December 2007 Kenyan elections¹⁵⁸. The Kriegler Report specifically examined the entire electoral process and concluded that the integrity of the process and credibility of the election results were gravely impaired by several irregularities; weaknesses in the constitutional and legal framework; lack of functional efficiency, independence and capacity within the discredited Electoral Commission of Kenya (ECK).

The other Commission to set up following the political settlement was the Commission of Inquiry into the Post Election Violence (CIPEV) in 2008; the now famous Waki Report named after its chair Justice Philip Waki, a judge of Kenya's Court of Appeal¹⁵⁹. The

¹⁵⁶ The Kiliku Report implicated among others, the then vice president, Prof. George Saitoti, and the Trade and Industry Minister Nicholas Biwott. The Akiwumi Commission was headed by an Appeal Court judge, Mr. Justice Akilano Akiwumi, hence the reference 'Akiwumi Report/Commission'. The Akiwumi Commission was appointed on 1st July 1998 and its life was variously extended up to 31st July, 1999.

¹⁵⁷ The Standing Committee released a report titled, "*Recent Disturbances at the Coast province: From 13th August to date.*"

¹⁵⁸ Formally appointed by President Kibaki under the Commissions of Inquiry Act (Cap. 102). IREC's terms of reference (ToRs) were published in Gazette Notice 1983, *Kenya Gazette* of 14 March 2008

¹⁵⁹ The Commission was funded by Government of Kenya (GOK) and the multi donor Trust Fund for National Dialogue and Reconciliation, managed by the United Nations Development Programme (UNDP).

Commission was mandated “to investigate the facts and circumstances surrounding the violence, the conduct of state security agencies in their handling of it, and to make recommendations concerning these and other matters” (Waki Report, 2008:vii). The Waki Report revealed that the violence that ensued in the aftermath of the 2007 elections is attributed to the failure to heed the recommendations from the various committee and commission reports because the underlying grievances remained unsettled¹⁶⁰. This failure is also a function of prevalence of impunity in the Kenyan political system¹⁶¹. A situation, which is common where corruption and a patronage system are deeply entrenched, and at the same time a tradition of rule of law and a strong judiciary, are lacking. This observation is attested by the findings of the Waki Report, which are worth quoting:

In some ways the post-election violence resembled the ethnic clashes of the 1990s and was but an episode in a trend of institutionalization of violence in Kenya over the years. The fact that armed militias, most of whom developed as a result of the 1990s ethnic clashes were never demobilized led to the ease with which political and business leaders reactivated them for the 2007 post-election violence. Secondly, the increasing personalization of power around the presidency continues to be a factor in facilitating election related violence.

The widespread belief that the presidency brings advantages for the President’s ethnic group makes communities willing to exert violence to attain and keep power. Inequalities and economic marginalization, often viewed in ethno-geographic terms, were also very much at play in the post-election violence in places like the slum areas of Nairobi.

The report concludes that the post-election violence was more than a mere juxtaposition of citizens-to-citizens opportunistic assaults. These were systematic attacks on Kenyans based on their ethnicity and their political leanings. Attackers organized along ethnic lines, assembled considerable logistical means and traveled long distances to burn houses, maim, kill and

¹⁶⁰ Gordon Ogolla Chairman of the Rift Valley Chapter of the Law Society in his testimony to the Waki Report, Commission of Inquiry into Post-Election Violence, *Report of the Commission of Inquiry into Post-Election Violence* ‘Waki Report’, Nairobi, 2008, pp. 82.

¹⁶¹ The amended Set of Principles for the Protection and Promotion of Human Rights Through Action to combat Impunity, submitted to the United Nations Commission on Human Rights on 8 February 2005, defines impunity as: “*the impossibility, de jure or de facto, of bringing the perpetrators of violations to account – whether in criminal, civil, administrative or disciplinary proceedings – since they are not subject to any inquiry that might lead to their being accused, arrested, tried and, if found guilty, sentenced to appropriate penalties, and to making reparations to their victims,*” as quoted in the Waki Report, 2008, p. 443.

sexually assault their occupants because these were of particular ethnic groups and political persuasion. Guilty by association was the guiding force behind deadly “revenge” attacks, with victims being identified not for what they did but for their ethnic association to other perpetrators. This free-for-all was made possible by the lawlessness stemming from an apparent collapse of state institutions and security forces (Waki Report, 2008: vii-viii).

In her enlightening analysis of the post-election violence following the elections of 27 December 2007, Bayne (2008) identifies four broad patterns of violence, namely *spontaneous violence* which broke out in the ODM strongholds immediately after the Presidential election results, directed by gangs of youth and was largely politically driven and ethnically targeted; *organized attacks* in the Rift Valley orchestrated by local leaders and carried out by Kalenjin ‘warriors’ on the Kikuyus and other PNU supporters; *organized retaliatory* attacks by gangs of Kikuyu youth, led by Mungiki were aimed at Luo, Luhya, Kalenjin and other ODM supporters; and *excessive use of force* by the police responding to demonstrations in the aftermath of the election in selected parts of Kenya, causing significant casualties from gunshot wounds¹⁶². Bayne also notes that there were some forms of *sexual and gender based violence* perpetrated by gangs of youth in slums or targeted at women fleeing violence.

Finally, it is worth highlighting the impact of the post-election violence to Kenya itself and the East African sub-region in general. As already hinted, the post-election violence that shook Kenya in the aftermath of the 2007 elections was by far the most deadly and most destructive since the restoration of multi-party politics in the country in 1991 resulting into the loss of 1133¹⁶³ lives and displacement of an estimated 500,000¹⁶⁴ people. Internally, the post-election crisis created negative impact to the Kenyan economy. Daily

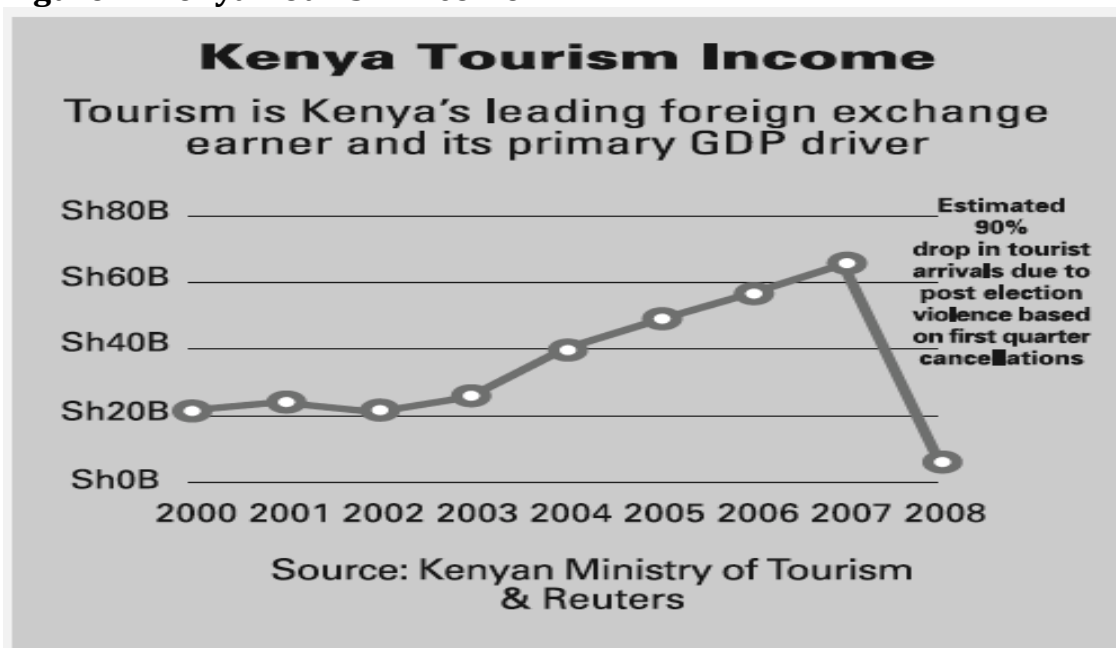
¹⁶² According to the Waki Report noted that out of a total of 1133 people died during the post-election violence, 405 of them died from gunshot wounds. It is further noted that these figures may not fully reflect totals of people killed. Figures might have been much higher as ‘some may have been buried without the knowledge of officials’, pp. 384-5.

¹⁶³ Figures obtained from the Waki Report, *ibid*.

¹⁶⁴ Estimates by the Human Rights Watch in their report of March 2008, *Ballots to Bullets*, based on UNOCHA, Kenya Humanitarian Update, Vol. 7, February 23-27. By 2008 Uganda was hosting about 12,000 refugees from Kenya. This is according to Mary Kimani, 2008, “East Africa Feels Blows of Kenyan Crisis, Economic and Social Repercussions Affect Entire Region”, *Africa Renewal*, Vol.22, No 1, April.

losses of tax revenues were estimated at approximately Ksh 2 billion (\$29 million) (ICG, 2008:19). At the end of January 2008, the Kenyan economy is reported to have suffered more than US \$ 3 billion in losses and about 500000 jobs vanished (Mbugua, 2008: 3). Kisumu City in particular was severely hit after losing an estimated Kshs 3 billion in property damages in late December 2007 (ICG, 2008: 19). The leading foreign export earner tourism industry was the hardest hit (ibid.pp.20)¹⁶⁵. Income from tourism which tripled from 21 billion Kenyan shillings in 2002 to over 65 billion in 2007, took a nose-dive of a 90 per cent during the first quarter of 2008 alone due to the post election violence, as shown in the graph (figure 4) below adopted from Callaghan (2008:55).

Figure 4: Kenya Tourism Income



Moreover, since Kenya is an economic powerhouse in the sub-region, the post-election crisis triggered significant economic repercussions well beyond the country's borders. There were several illegal roadblocks along the main Kenya highways and destruction of 2 km of the Kisumu-Butere railway on 28 January, thus curtailing transportation of goods to

¹⁶⁵ The tourism sector was about to come to its peak season at Christmas when post-election violence broke out.

some parts of the country as well as neighbouring countries. Given Kenya's role as the main transportation hub in the sub-region, the blockage of highways and railways caused significant disruptions to the economies of neighbouring countries. For instance, blocked roads and vandalized railway lines hampered commercial trade to Burundi, Rwanda and Uganda whose massive imports¹⁶⁶ as well as humanitarian assistance to the eastern DRC, Southern Sudan pass through the port of Mombasa (ICG, 2008:22; Kimani, 2008). According to the UN's Office for the Coordination of Humanitarian Affairs (UNOCHA) fuel prices in Uganda, eastern DRC and Burundi went up to 50 per cent, while the Rwandese government was compelled to institute fuel rationing due to severe shortages in Kigali (Kimani, 2008). There were also hikes in food prices in Uganda, decline in air traffic between Burundi, Rwanda and Kenya (Ibid.).

This section has established five main issues, among others. First, the post-election violence in Kenya towards the end of 2007 and beginning of 2008, was not a surprise outcome or specific episode tied to a flawed electoral process, but rather part of a much longer history of political violence in the country. Second, perpetrators of violence are known and include vigilante groups, the most prominent and radical being the Mungiki sect, reflecting the increasing role of militias in political contests. Third, the failure to prosecute agents implicated in various reports of committees and commissions of inquiries for perpetrating violent acts is attributed to the prevalence of a culture of impunity in the Kenyan political system. Fourth, patterns of violence which were politically driven and ethnically targeted, involved both spontaneous and organized attacks directed at supporters of the two main rival political groups at the time, i.e. the ODM and PNU. Finally, the impact of the domestic political crisis has not only been losses of lives and creation of IDPs camps inside Kenya and plummeting of the Kenyan economy, but also triggered significant negative economic repercussions beyond the country's borders. With this backdrop, the next section dwells on how coordination of responses to the Kenyan domestic political crisis took place.

¹⁶⁶ According to the International Crisis Group, Kenya in Crisis Report No. 137, 21 February 2008, Kenya serves as a transit point for a quarter of the Gross Domestic Product (GDP) of Rwanda and Uganda and one third of Burundi's.

6.3. Coordination of Responses to Domestic Political Crises

As is the case on issues of SALW, there are several operational support tools that grant the EAC authority to engage in matters of peace and security. The first instrument is the EAC Treaty, particularly articles 123, 124 and 125. In these provisions of the Treaty, EAC Partner States agree that, peace and security are essential for social and economic development within the Community, and vital to the achievement of its objectives. Therefore, the Partner States agree to foster and maintain an atmosphere conducive to peace and security among the Partner States, through cooperation and consultation on issues of peace and security. Further, they agree to promote and maintain good neighbourliness as a basis for promoting peace and security within the Community. Article 123 is particularly important, as it puts emphasis on peaceful resolution of disputes and conflicts between and within the Partner States¹⁶⁷.

Examining the EAC Treaty critically as far as issues of peace and security are concerned reveals a problem in interpreting some of its provisions. Article 11 (5) of the Treaty on the functions of the Community's highest organ- *the Summit* is particularly noteworthy. This article authorizes the Summit to delegate the exercise of any of its functions, subject to any conditions, which it may think fit to impose, to a member of the Summit, to the Council or to the Secretary General. Indeed, this provision can be interpreted to imply that upon authorization from the Summit, any EAC Member State can actually deal with matters considered to be of sovereign importance to another country. Actually, there was disagreement associated with this particular article, as evidenced by Uganda's insistence that the war against the Northern rebel group, the Lords Resistance Army (LRA), is an internal affair that is not subject to intervention by other EAC Member States (Okoth,

¹⁶⁷ Article 123 4(d). The peaceful resolution of disputes and conflicts within the EAC States is further entrenched in the EAC Regional Strategy for Peace and Security of 2006. Goal 14 calls for a mechanism for peaceful resolution of disputes and conflicts amongst the Partner States and a forum under which the EAC can participate in resolution of disputes within the region.

2004a: 153, 2004b: 54)¹⁶⁸. Exceptions to the Summit delegation of powers are in the giving of general directions and impetus; the appointment of Judges to the East African Court of Justice; the admission of new Members and granting of Observer Status to foreign countries, and assent to Bills.

Unlike in the area of SALW where EAC Member States are bound by the Nairobi Protocol, the Community was yet to conclude a Peace and Security Protocol, which provides a legal domicile to all EAC peace and security interventions¹⁶⁹. Even though, adoption of the EAC Protocol on Peace and Security is in an advanced stage, it is fair to say that the sub-region did not have one when its economically powerful member, Kenya was under the grip of political crisis in the aftermath of the 2007 General Elections. A Draft Protocol on Peace and Security is, though, in place¹⁷⁰.

As far as coordination structures are concerned, and as discussed in chapter four, hierarchically the Sectoral Council, Coordination Committee, Sectoral Committee and Experts Working Group, in that order, have been dealing with peace and security matters even before the adoption of the Draft Protocol. As in accordance with the reporting channel provided in Chapters 5, 6 and 7 of the Treaty, a Sectoral Committee reports to the Coordination Committee which in turn submits its reports and recommendations to the Council, which is the policy organ of the Community¹⁷¹. Currently, as one of the core organs of the Community, the Secretariat primarily acts as a co-coordinating entity. The

¹⁶⁸ See P. Godfrey Okoth, 2004, "The New East African Community: A Defense and Security Organ as the Missing Link", in John Mukumu Mbaku and Suresh Chandra Saxena (eds.), *Africa at the Crossroads: Between Regionalism and Globalization*, Connecticut: Praeger Publishers Inc. pp. 147- 161. Also P. Godfrey Okoth, 2004, "Regional Institutional Responses to Security in the Era of Globalization", in Makumi Mwangiru (ed.), *African Regional Security in the Age of Globalization*, pp. 49- 66.

¹⁶⁹ EAC Brief to UN Member States on "The EAC Peace, Security and Good Governance Initiatives and Strategies for A Sustainable Integration", New York, 18th October 2010.

¹⁷⁰ The Protocol was supposed to have been signed by the EAC Heads of State in November 2010 but the Attorney Generals of Member States, who were supposed to have given it a clean bill of health before the draft goes to the Heads of State could not meet because the Kenyan Attorney General was hospitalized in Europe. According to the EAC rules of procedure all Member States must assent following the principle of consensus. This information was relayed to me during interview with Mr. Leonard Onyonyi of the Department for Peace and Security at the EAC Secretariat, Arusha, Tanzania on 11th January 2011.

¹⁷¹ The Council gives directions to the Member States and to all other organs and institutions of the Community other than the Summit, Court and the Assembly, and submits its reports to the Summit. So it is the most powerful organ besides the Summit.

Secretariat, among other functions, is tasked to undertake the coordination and harmonization of the policies and strategies relating to the development of the Community through the Coordination Committee, and the implementation of the decisions of the Summit and the Council (of Ministers)¹⁷².

It is fair to conclude that even though the EAC Treaty authorizes State actors to engage in matters of peace and security, and essentially stressing on peaceful resolution of conflicts between and within Partner States, the sub-regional body did not have a binding Protocol that lays specific procedures for its peacemaking efforts¹⁷³, when Kenya was in trouble. Neither was there a conflict Prevention and Management (CPMR) mechanism to avoid responding to conflicts in an ad hoc manner and on an individual Member State approach. In sharp contrast, there is a relatively well developed institutional mechanism for the EAC defence sector, with a Defence Liaison Unit based at the Secretariat, operating as a coordination structure reflecting the initial preponderance with inter-state (traditional military) security¹⁷⁴.

In the absence of a specific institutional structure for coordinating issues related to conflicts in Member States (i.e. intra-state conflicts), then it was left for the EAC highest decision-making organ, the Summit, to take the initiatives to coordinate the sub-regional body's response to the crisis in Kenya. Attempts to hold a Summit of Heads of State on Kenya could not succeed due to lack of quorum. It has to be noted that according to 2004 *Rules of Procedure for the Organs of the EAC*, the quorum of the Summit meeting is all members of the Summit, and decision-making is by consensus¹⁷⁵. In view of that, any Member State troubled by a domestic conflict but unwilling to forward a request for involvement of the sub-regional body may be lured to abstain a Summit meeting which has an agenda to discuss that conflict. Such prospect would amount to 'sabotaging' the quorum,

¹⁷² Articles 71 (e) & 71 (i) of the EAC Treaty.

¹⁷³ For instance, whether in case of intra-state conflicts in Member States, the EAC has to obtain the consent of the disputing parties for the sub-regional body to get involved, and in case the consent is not forthcoming, what ought to be done.

¹⁷⁴ Issues of disputed elections and election-related violence did not take centre-stage until the second half of the 2000-2010 decade, especially after Rwanda and Burundi joined the sub-regional organization.

¹⁷⁵ Rule 11 (quorum) and Rule 13 (Decision Making).

and thus, kill the agenda altogether. This point was also mooted by the then EAC Chair, President Yoweri Museveni, when addressing EAC Summit of Heads of State in Rwanda in June 2008. The then EAC Chair proposed reforming the consensus decision-making rule, cautioning his East African counterparts that if the prevailing situation guided by the consensus rule continues then it would mean, “one member can veto the intentions of others”¹⁷⁶. This proposal was made at the backdrop of a report that an EAC Summit during the Kenyan post-election violence could not be held, as the Kenyan President Kibaki was reluctant to attend (Khadiagala, 2009:437).

6.4. Management of the Kenyan Political Crisis

In this section elaboration and analysis of responses to the Kenyan Post-election crisis in 2008 are made with a view to situate the role played by the EAC. It is, therefore, acknowledged hereafter that there was more than one response to the Kenyan crisis and that the sub-regional body, EAC was engaged in the process. How and whether the EAC engagement was significant in ultimately managing the political crisis, which was facing its economically powerful Member State, Kenya, will be addressed here. For the sake of logical account of the actual efforts to manage the Kenyan crisis, I have divided the various actors involved into two main groups, namely actors from the EAC sub-region (i.e. intra-sub-regional actors that are prominent local and religious figures, the EAC, and civil society) and those from outside the East African sub-region (i.e. extra-sub-regional actors which includes a group of former Heads of States, the AU, the EU and Western donor countries). I hasten to add that all the responses taken immediately after violence broke out and nearly brought the whole country to its knees were aimed at ultimately reaching a peaceful resolution. This goal was very much in line with the EAC most preferred approach to the management of conflicts as espoused in its Treaty, alluded to in the preceding sections of this chapter. Henceforth, mediation of the main contending parties became the most preferred approach.

¹⁷⁶ President Museveni’s Statement at the Summit of EAC Heads of State, Kigali, Rwanda, 26th June 2008.

6.4.1. Intra-Sub-Regional Actors: A Coalition of Prominent Local and Religious Figures

Prior to regional and sub-regional responses to the Kenyan crisis, there was a combined initial involvement of prominent local leaders, the *Concerned Citizens for Peace*, and religious organizations to get the parties (the Party of National Unity-PNU, which formed the Government, and the main opposition alliance the Orange Democratic Movement-ODM) to seek a negotiated settlement. Two Kenya's former envoys in the peace process in Somalia and Sudan, Ambassador Bethwell Kiplagat and General Lazarus Sumbeiywo led the appeal for mediation by the Concerned Citizens for Peace coalition. The two most accomplished mediators in the Horn of Africa conflicts were rebuffed by the Government of Kenya (hereafter referred as GOK/PNU side).

Adding to the voice of local actors was the South African Nobel Peace Laureate Archbishop Desmond Tutu, who was the first external mediator to arrive under the umbrella of the All-Africa Conference of Churches (AACC)¹⁷⁷. At this point, there was still no communication between the two main protagonists, PNU's leader Mwai Kibaki and ODM's Raila Odinga. Archbishop Tutu met with the ODM on January 3, 2008 pressing for negotiations and managing to receive a commitment to move for an international mediation (Khadiagala, 2009: 436). Tutu also met with Kibaki but the outcome of the meeting was short of a government commitment for mediation. Up until this point, the Kibaki Government still felt could put the situation under control and was keen on deploying local security forces in the streets and banning media broadcasts on the on-going violence (Lindenmayer and Kaye, 2009: 5).

As rightly asserted by Lindenmayer and Kaye (ibid.), "Despite his impressive moral authority, Desmond Tutu's intervention could not have changed the fact that the moment for engagement was simply 'unripe'...." Ripeness for mediation occurs, according to Zartmann and Touval (2007), where a mutually hurting stalemate is present for the parties

¹⁷⁷ Archbishop Tutu arrived on the scene on January 2, 2008, just three days into the violence. Tutu was accompanied by the President of the AACC, the Rt. Rev. Nyasako ni Nku, the Chairperson of the Independent Electoral Commission of South Africa and former General Secretary of the South African Council of Churches, Dr. Brigalia H. Bam, and the General Secretary of the AACC, the Rev. Dr. H. Mvume Dandala.

to be disposed to re-evaluate their positions. “A mutually hurting stalemate begins when one side realizes that is unable to achieve its aims, resolve the problem, or win the conflict by itself; the stalemate is completed when the other side reaches a similar conclusion. Each party must begin to feel uncomfortable in the costly dead end that it has reached” (Zartmann and Touval, 2007:445). Whereas the Kibaki side was adamant that the only recourse for the Odinga’s ODM was through the courts, the latter ruled out a legal challenge to the polls, claiming the Kenyan judiciary is packed with President Kibaki’s loyalists (*The New Vision Online*, 2 and 8 January, 2008).

6.4.2. The EAC Engagement

It is important to note at the outset that the EAC deployed its Observer Mission in Kenya before the situation worsened in the aftermath of the December 2007. Besides admitting that the pre- polling and post-polling phases were characterized by an atmosphere of tension, incidences of violence, suspect actions, and other shortcomings which critically undermined the credibility of the final stage of the electoral process, the Mission went further to recommend wide-ranging measures. The most pertinent recommendations, and which required immediate actions were to call upon the Summit to review the state of peace, security and good governance in Kenya as mandated by Article 11 (3) of the EAC Treaty. The Observer Mission also urged the Summit to take an active role and be at the forefront of the process towards a just and lasting solution to the crisis¹⁷⁸. It has, however, been noted in the foregoing section that the Summit could not meet to review the political crisis in Kenya.

In the face of economic strains sparked by disruption of the major transport routes in the aftermath of the December 2007 General Elections in Kenya, the EAC and its Partner States had to engage in an attempt to bring the situation back to normal. The EAC intervention took the form of a diplomatic engagement, mostly at the level of the heads of state. Presidents Yoweri Museveni of Uganda and Jakaya Kikwete of Tanzania were involved at

¹⁷⁸ See recommendations 11.1 & 11.2 of the East African Community Observer Mission Report Kenya General Elections December 2007.

different phases of the mediation process. President Museveni's attempts at mediating the PNU and ODM camps bear EAC marks since he was, at the time, acting in his capacity as its Chair. The latter's involvement in the final stages of the negotiations, at the request of AU Chief Mediator, proved crucial in breaking the stalemate over how a dual executive functions. President Kikwete drew Tanzania's experience to demonstrate how power had been shared between the President and Prime Minister. Prior to Kikwete's arrival, negotiations were suspended following disagreement over the powers of the newly created position of the Prime Minister. Even though, President Kikwete was invited by the Annan Panel, more so as a Chairperson of an AU-mandated mission¹⁷⁹, his contribution received appreciation from the EAC Secretariat that was eager to accentuate the role played by one of its Head of State¹⁸⁰.

After snubbing earlier pleas for mediation by the coalition of prominent local and religious leaders and a group of former heads of state, the Kibaki government appealed for the EAC and its Partner States involvement in resolving the political crisis. Kibaki dispatched special envoy, Moses Wetangula, to meet President Museveni. According to the Ugandan State House statement, the envoy briefed Museveni about the situation and "He (Kibaki) appealed to President Museveni to use his position as the chairman of both the East African Community and the Commonwealth to involve both the Kenyan government and the opposition to get a solution to the current Kenyan problems" (Mukasa, January 8th, 2008). Meanwhile, Kibaki also sent his Foreign Affairs Minister, Raphael Tuju, to Rwandan President Kagame. Minister Tuju also made a briefing of the instability in Kenya and is quoted to have said that Kibaki was ready to set up a government of national unity provided the opposition accepts defeat (ibid.). The response of the Rwandan government, which was delivered by its Prime Minister Bernard Makuza, on behalf of President Kagame

¹⁷⁹ President Kikwete replaced then Ghanaian President John Kufuor as Chairman of the AU, following his election on January 31, 2008, Addis Ababa.

¹⁸⁰ In a section of a congratulatory note to President Jakaya Mrisho Kikwete after his re-election into office following the 2010 General Elections in Tanzania, the EAC Secretary General says "We appreciate the visionary leadership that you have provided in these positive developments in our region, in particular your role in the settlement of the 2008 Kenya post-election crisis and now the settlement of the Zanzibar situation.." See "Congratulatory Note: Secretary General Congratulates H. E. Dr. Jakaya Mrisho Kikwete, President of the United Republic of Tanzania". Available at <http://www.eac.int/about-eac/eacnews/>. Accessed on February 5th 2011.

who was on a visit to the U.S, was that “Rwanda would support any decision Kenyans take to solve their problems” (ibid.).

As far as mediator credibility is concerned, President Museveni’s engagement was strongly encouraged by the GoK/PNU side and less favoured by the ODM (Lindenmayer and Kaye, 2009: 6). President Kibaki actually stalled his first meeting with the AU’s endorsed mediator-Kofi Annan, slated for January 2nd January, so as to meet President Museveni to discuss the latter’s peace plan (ibid. p.8). The EAC Chair, thus, paid visits to Nairobi to meet Kibaki and Odinga on 22-24 January, pressing for an immediate solution (ICG, 2008: 21). I posit here that the credibility of the EAC as a possible interlocutor in diffusing the Kenyan political crisis was, however, called into question by its Chair (Museveni’s) endorsement of Kibaki’s victory¹⁸¹. Despite the fact that, in the past, it was Museveni who played a key role in breaking the standoff between the West and Libya’s Muammar Gaddafi, he immediately came under criticism for being the first and only East African leader to congratulate Kibaki, whose re-election was being fiercely disputed by the opposition, and one which had sparked off violent protests in Kenya. The Ugandan opposition, the Forum for Democratic Change, urged President Museveni to withdraw the congratulatory message (Olupot and Etengu, 2008). President Museveni defended his message on the ground that it was a ‘diplomatic gesture’, saying that “After the Kenya Electoral Commission declared the results in which H. E. Mwai Kibaki emerged as the winner, and his being sworn-in on the 30th December 2007, I, as required by Diplomatic Conventions, called to congratulate him” (ibid.). Nevertheless, Museveni’s move seemed to have complicated attempts for mediation at the sub-regional level, dealing a severe blow to the EAC credibility as an impartial mediator. An argument which is supported by African international relations and security expert stressing that “if you congratulate someone on winning an election, it is unlikely for you to be part of a mission to try to resolve that crisis”¹⁸².

¹⁸¹ Other non-East African leaders who sent congratulatory messages to President Kibaki following his disputed re-election for a second term include Singapore’s President Sellapan Rama Nathan, Djibouti’s President Ismael Omar Guelleh, Swaziland Prime Minister Absalom Themba Dlamini, Botswana President Festus Gontebanye Mogae, and the Crown Prince of Kuwait Sheikh Nawaf Al-Jaber Al-Sabah. Information retrieved from the State House of Kenya website: <http://www.statehousekenya.go.ke/>

¹⁸² Interview with Professor Mohabe Nyirabu, Department of Political Science and Public Administration, University of Dar es Salaam, 7th February 2011, Dar es Salaam, Tanzania. See also Gilbert M. Khadiagala, 2009,

Conversely, Museveni's perceived partiality did not stand in the way for the EAC Chair, who had the best chance of breaking the ice with the Kibaki (GoK/PNU) side, to be involved. His position in the mediation process was akin to what is advocated by a now revised assumption on mediator's partiality and acceptability. The assumption is that "Although there is no necessary relationship between a mediator's past partiality and its future usefulness, good relations between it and one of the adversaries may in fact be an aid to communicating, to developing creative proposals, and to helping the two parties' positions to converge. Closeness to one party implies the possibility of 'delivering' it (Zartman and Touval, 2007: 443). Zartmann and Touval point out further that "The party closer to the mediator may soften its stand for the sake of preserving its favoured relationship with the would-be mediator. The other side, which does not enjoy close relations with the mediator (and especially if it is the weaker side), sometimes perceives the potential advantages of accepting a 'biased' third party as mediator: such a mediator is more likely to be able to extract concessions from its friend than an impartial mediator who carries no particular influence with the adversary..." (ibid.).

The foregoing assertions reflect what transpired later as far as Museveni's mediation was concerned. He was later welcomed by both parties as attested by Uganda's Foreign Minister Sam Kutesa and also by ODM Spokesman Salim Lone who remarked that "President Museveni has telephoned Hon. Raila Odinga informing him of intentions to travel to Kenya and mediate between us and the PNU in efforts to make sure that there is peace and democracy in Kenya. As the Chairman of the East African Community, he is welcome"¹⁸³. President Museveni, in consultation with Tanzania's President Kikwete,

"Regionalism and Conflict Resolution: Lessons From the Kenyan Crisis", *Journal of Contemporary African Studies*, Vol. 27, No. 3, July, pp. 437-8. Mistrust of Museveni by one of the protagonists, ODM, was further aggravated by claims of Ugandan deployment of 3000 troops in western Kenya to reinforce government defences. These claims were, however, rejected by Ugandan authorities through its Foreign Minister Sam Kutesa, referred in "Uganda maintains it has not deployed troops in Kenya", *Daily Nation*, 20 January 2008. President Museveni also echoed this position while addressing a public rally in Busia, Uganda on January 5, 2008, stating categorically that Uganda would not interfere in Kenya's internal problems. Cited in *Daily Nation* "Museveni Defends Message to Kibaki", *New Vision*, 6th January, 2008.

¹⁸³ "ODM Welcomes Museveni Mediation", *Daily Mirror*,

contacted Kibaki and Odinga in a bid to find an amicable solution to the crisis¹⁸⁴. The EAC Chair's involvement, therefore, took two forms, namely telephone calls to Kibaki and Odinga and actual visits to Kenya¹⁸⁵.

The EAC Chair's role in the Kenya mediation process can be summed up as that of a 'communicator'. Going back to the work by Zartman and Touval (2007), in the process toward a mutually acceptable solution to a crisis/conflict, mediators employ three modes, namely communication, formulation, and manipulation, in that order. As a communicator, the mediator acts as a conduit, opening contacts and carrying messages between the parties when they cannot talk to each other. Museveni acted as a communicator between the two principals (of PNU and ODM) when direct contact between them was still impossible, and went on to propose a framework to set up a judicial commission, which would report within three months¹⁸⁶. Museveni's communication role was enthusiastically confirmed by his Press Secretary, Tamale Mirundi: "President Museveni has left his framework and the Kofi Annan team can work with it or ignore it, but he is a happy man that his mission has broken the ice"¹⁸⁷. It is not evident whether the Annan Panel that ultimately brokered the power-sharing agreement made use of the EAC Chair's proposal.

It is evident, therefore, as confirmed in an interview with one of the EAC security experts, that the sub-regional body worked behind the scene during the Kenyan crisis, involving background discussions at the level of individual Heads of State, as explained above, and a ministerial meeting of seven ministers from the EAC member countries in mid January

¹⁸⁴ See "Museveni Talks To Kibaki, Raila Odinga", *New Vision* (online), Wednesday, 2nd January, 2008, <http://www.newvision.co.ug/D/8/2/604746>. Accessed 30th March, 2011. See also the *Monitor*, 3rd January, 2008. The urgency to contact the two protagonists was, not only taken out of the need to see an immediate cessation of violence in Kenya, but also was prompted by the precarious situation that faced Uganda's goods transportation system, as was confirmed by President Museveni when he revealed some details of his telephone conversation with Kibaki and Odinga, saying that he called Kibaki to ensure that Kenyan police escort goods trucks destined for Uganda and had also rang Odinga to ask him to restrain his supporters from attacking those tracks. Cited in "Museveni Defends Message to Kibaki", *New Vision*, Sunday, 6th January, 2008.

¹⁸⁵ President Museveni arrived in Nairobi on January 22nd, 2008 on a two-day official visit. When he left Uganda's EAC Affairs Minister, Eriya Kategaya, remained behind to facilitate the dialogue. See *New Vision Online*, February 5th, 2008. Available at <http://www.newvision.co.ug/>.

¹⁸⁶ "Kenya talks breakthrough denied". Cited in <http://news.bbc.co.uk/2/hi/africa/>. Accessed January 25th 2011.

¹⁸⁷ *Ibid*.

2008¹⁸⁸. The EAC could not seize the opportunity to own the process leading to a negotiated settlement, even though, its Secretary-General refuted claims that the EAC was sitting on the fence and refusing to get involved. Ambassador Mwapachu, the EAC Secretary-General, confirmed the 'quiet diplomacy' approach that was adopted by the EAC into the Kenyan crisis when he said: "Let me assure you that we are fully involved in advocating peace and tranquillity in Kenya, may be it is just the method we use which is different from what most people were expecting...Our efforts may not be seen outward, but inwardly the EAC is working hard to ensure that the troubles in Kenya are solved amicably. Kenya is a pivotal precinct as far as the regional economy is concerned, therefore, what is happening in Kenya is clearly affecting other member countries as well, so we cannot afford to remain passive"¹⁸⁹. Despite the Secretariat's assurances that a panel of ministers from all the five Member States were working closely with their presidents on the Kenyan crisis, the EAC failed to assert its authority over the mediation process, leaving the chance to fall into the hands of the AU team.

6.4.3. Civil Society Involvement

The role of the Kenyan civil society was instrumental in laying a favourable ground for mediation. Besides taking the initial lead to encourage mediation and peacebuilding when the main protagonists were locked in an impasse, CSOs also were involved in implementing relief operations for IDPs (Murithi, 2008: 19). Apart from making persistent calls for a negotiated settlement, as alluded to earlier, some of the CSOs, like the National Council of Churches of Kenya-NCCCK and the Kenyan Women's Consultation Group, actually approached the Annan Panel, which was equally eager to solicit the support of civil society members¹⁹⁰. Grassroots support from the Kenyan society was vital for the Annan Panel to steer the parties closer to negotiation. In their *Women's Memorandum to the Mediation*

¹⁸⁸ Interview with Leonard Onyonyi, EAC Security Expert and SALW Programme Coordinator at the EAC Secretariat in Arusha, Tanzania, 11th January 2011. See also Valentine Marc Nkwame, "EAC pursues 'quiet diplomacy' over Kenyan crisis", *The Arusha Times*,

¹⁸⁹ Valentine Kwame, "EAC pursues 'quiet diplomacy' over Kenyan crisis", *The Arusha Times*, January 19-25, 2008.

¹⁹⁰ CSOs also made submissions to two commissions constituted to investigate post-election violence and irregularities, the Kriegler and Waki commissions, providing them with information and contacts.

Team, the Kenyan Women’s Consultation Group on the Current Crisis in Kenya, for instance, having given its account of the crisis and the gender dimensions of the violence, the group recalled the centrality of women in the prevention and resolution of conflicts as reaffirmed in the Constitutive Act of the African Union, the AU’s Solemn Declaration on Gender Equality, the Protocol to the African Charter on the Rights of Women in Africa, the African Charter on the Rights and Welfare of the Child, and by UN Security Council Resolution 1325¹⁹¹. This group pointed out to the Annan Panel that the crisis was beyond the two political protagonists and went on to recommend, among others, strengthening of institutions that support democratic constitutional governance, continued engagement with women as key stakeholders in all stages of the mediation, and that mediation continues until such time as peace is restored in Kenya¹⁹².

In similar vein, the International Federation for Human Rights (FIDH), whose member organizations include the Kenyan Human Rights Commission (KHRC), and the Kenyans for Peace, Truth and Justice (KPTJ)-a coalition of Kenya’s governance, human right and legal organizations, reaffirmed its support to the efforts of the Annan mediation Team towards effective political solution to the crisis, based on peace, truth and justice¹⁹³. The FIDH also welcomed the decision of the African Commission on Human and Peoples’ Rights (ACHPR) to examine the human rights situation in Kenya at the occasion of its 4th extraordinary session held in Banjul, Gambia in February 2008. The consultative involvement of Kenyan CSOs was also essential in putting pressure on the government in swiftly moving forward implementation of the power-sharing agreement. Moreover, “the active involvement of the

¹⁹¹ Interestingly, no mention of any EAC’s instrument was made; indicating how remote in thought the sub-regional body has been to the grassroots of Partner States, despite being closer to home. More amusing was the perceptible silence of CSOs with an East African coverage, on the Kenyan crisis. It is only after the peace agreement had been signed that the Arusha based, East Africa Law Society, released a statement congratulating leaders of the two parties as well as appreciating the role of the AU Chair, President Kikwete, EAC Chair of the Summit, President Museveni, the Annan Panel, among others. See Valentine Marc Kwame, “EA Law Society lauds Kenya’s peace pact”, *The Arusha Times*, March 8-14, 2008.

¹⁹² These are some of the immediate, medium and long-term recommendations contained in the Memorandum that was presented to the Annan Panel by a committee of 11 women representing the larger consultation group. For lists of committee members who attended the women’s consultations, which were facilitated by Action Aid International, Vital Voices, UNIFEM, Nairobi Peace Initiative and Urgent Action Fund-Africa, see <http://pambazuka.org/en/category/features/45740>.

¹⁹³ Kenyans for Peace, Truth and Justice Statement to ACHPR, by FIDH and others, February 21, 2008. <http://pambazuka.org/en/category/cooment/46289>. Accessed March 24th 2011.

media, religious groups, business communities, and peace activists was crucial for creating an atmosphere that was conducive to fruitful negotiations and for generating that vital link between an elite-level process and the grass-roots realities, to avoid disenchantment or dangerous disconnect” (Lindenmayer and Kaye, 2009: 23).

6.4.4. Extra-Sub-Regional Actors: Former African Heads of State

Coinciding with a string of high-level diplomatic visits to the country that plunged in post-election violence was the arrival on January 8th, 2008, of four former African heads of State. These were Tanzania’s Benjamin Mkapa, Mozambique’s Joachim Chissano, Botswana’s Katumile Masire, and Zambia’s Kenneth Kaunda. The former presidents held meetings with the Kenyan government and former Kenyan president Daniel Arap Moi to discuss ways of diffusing the political stalemate and fostering national reconciliation¹⁹⁴. The group immediately visited Kenyans displaced by the post-election violence in Eldoret¹⁹⁵.

Its attempt at mediation, “albeit a very laudable response to the escalating events on the ground-only added to the plethora of options available to the (Kenyan) government, thereby multiplying both the channels of communication and the possibilities for stalling any real efforts toward peace. The four former heads of state carried with them their moral authority and respect of both parties, and as part of an African intervention, were seen as more acceptable in the eyes of a government still intent on resisting ‘internationalization’ (of mediation efforts)” (Lindenmayer and Kaye, 2009: 5). There was, therefore, no discernible evidence to suggest that the intervention by the former heads of state gained much further ground, compared to the coalition of prominent local actors and religious leaders, in pulling off firm commitments for a negotiated settlement.

¹⁹⁴ Spokesperson for the Kenyan Government, Alfred Mutua, cited in an AFP report.

¹⁹⁵ The town of Eldoret is about 190 miles northwest of the capital Nairobi.

6.4.5. The AU PEAP, EU and Donor Countries

It has been observed that during the post 2007 Kenyan election crisis, the country was host to multiple mediation initiatives. The multiple and parallel mediation mechanisms by the local actors and religious organizations, former Heads of State, the EAC and the international community, albeit mounted with noble intentions of ending the political impasse, the opposition ODM felt, were bound to be ineffective and could cause confusion¹⁹⁶. Following the frequent insistences of Kofi Annan, the former UN Secretary-General and Chair of the Panel of Eminent African Personalities (PEAP), and the full backing of the international community, the various attempts at mediation culminated into one process under the auspices of the AU PEAP¹⁹⁷.

According to Lindenmayer and Kaye (2009:6), “Annan would insist that there would be one mediation and one mediation only; there could be no possibility for alternatives if the compromise being proposed did not suit the parties to the conflict. The previous absence of coordination in the first few weeks of crisis, even among African actors who rushed to the scene with noble intentions but not enough tools or resources at their disposal, could not be repeated; there should be no interference in the mediation and the mediator would decide whom to ask for support and when”. Consequently, when President Museveni attended the much-publicized handshake between Kibaki and Odinga orchestrated by Annan on 24th January, it signalled the end of the EAC’s diplomatic engagement and the start of the Annan team mediation (Khadiagala, 2009: 439). This was a major initial accomplishment by Annan to convince the parties to a face-to-face meeting, a move which earlier attempts at mediation had not managed to achieve.

The PEAP mediation (hereafter also referred as the Annan mediation/Panel) was preceded by an advance team comprised of the Commissioner of Peace and Security and the

¹⁹⁶ The ODM Spokesman Salim Lone, cited in Khadiagala, G. M. 2009, op. cit. p. 439.

¹⁹⁷ The other members of the PEAP were former President Benjamin Mkapa of Tanzania, and former South African First Lady, Graca Machel. The Panel was charged with helping the parties to the conflict ensure that an escalation of the crisis was avoided and lead them to reach a negotiated agreement that would ensure a sustainable peace as soon as possible.

Ghanaian ambassador to the AU to prepare the ground for the AU mediation under the then Chair, President John Kufuor. Kufuor efforts proved inconclusive, and thus, he asked Annan to lead the PEAP in the mediation process. The Annan mediation did not have a smooth ride¹⁹⁸. Annan was once again prompted to insist publicly that the AU PEAP was the only mediation process when the Intergovernmental Authority on Development (IGAD) proposed talks in Nairobi for the week of February 4th 2008. The IGAD move could only help to consolidate the legitimacy of the disputed presidency in a forum that could be attended by heads of state. Sensing the GoK/PNU attempt of renegeing on its commitment to the Annan mediation, the ODM mobilized people to conduct peaceful protests against the IGAD talks across the country (Lindenmayer and Kaye, 2009: 12). Any mass gathering at a time when tensions were still running high could degenerate to renewed acts of violence and thus jeopardize the mediation process. The Annan Panel successfully persuaded the ODM to call off the protests, whilst the IGAD talks went ahead at a ministerial level with the ministers who attended rejecting the claim that they were in the country to carryout a parallel mediation, but rather were merely expressing their solidarity with a fellow member of IGAD¹⁹⁹.

A close examination of Annan's role in the mediation of the Kenya post-election crisis reveals elements of the three modes of mediation (i.e. communication, formulation and manipulation). Annan managed to convince the disputing parties (the ODM and PNU) to come to a face-to-face meeting when earlier attempts to do so had flopped. He subsequently managed to get them to acknowledge the fact that to conduct a re-run election under the very tense political climate prevailing at the time was tantamount to causing more tragedies. After tactically separating the main negotiating teams from hardliners of their respective parties and keeping them away from the media spotlight, which allowed the negotiations to build momentum, Annan issued a 4-step plan aiming to reach a political agreement within fifteen days. The four steps were: ending the violence,

¹⁹⁸ The Kibaki government initially gave a cold reception to the AU team, insisting there was 'no crisis to be managed'. The government was still reluctant to commit to mediation that would warrant making compromises, which to it meant relinquishing power.

¹⁹⁹ "IGAD Ministers of Foreign Affairs meet President Kibaki", State House, Nairobi, Kenya, February 7th, 2008. Accessed from <http://www.statehousekenya.go.ke/news>, on January 10th, 2011.

resolving the humanitarian crisis, resolving the political crisis, and addressing the land and historical injustices.

Annan made two major attempts to manipulate the two sides. According to Schwartz (2008), he made it public that the intention of both parties was to pursue a government of national unity as the most preferred final political settlement when the Kibaki side had not yet agreed to such a provision. Annan also used another tool of manipulation, the threat of terminating mediation (Zartman and Touval, 2007). He threatened to withdraw from the mediation as an expression of frustration at the lack of progress and used it as a leverage to pressurize the parties towards a final agreement. As cogently summarized by Schwartz (2008: 4) “Losing Annan as the primary negotiator, after weeks of negotiations with little progress to show for it, would have been a public relations disaster for both parties involved. It would have shown the world, and specifically the international donor community, that neither side was willing to put aside their differences and work for the good of the people of Kenya instead of wasting all of their time and resources on a power struggle”. It can, thus, be noted that it is through the tact and brinkmanship of the AU mediation Panel that a power sharing deal was successfully concluded on 28th January 2008.

Another set of actors, the donor community including the EU, UK, France, Switzerland, U.S., and Canada, all threw their weight behind the Annan mediation team and stepped in at pivotal moments to put pressure on the parties, which was decisive in galvanizing leverage and parties’ attention (ICG, February 2008:25; Lindenmayer and Kaye, 2009:23; Khadiagala, 2009: 439). In a statement signed with fourteen bilateral donors, the U.S. threatened to cut off aid until a political settlement is reached²⁰⁰. Using the same ‘carrots and sticks approach’ the Council of the EU issued a stern warning that until a legitimate political settlement is agreed, it could not conduct ‘business as usual’ with Kenya²⁰¹. The

²⁰⁰ Jaindi Kiseru, “Aid cut by donors likely to result in budget shortfalls, financial instability”, *The East African*, 21 January 2008. Kiseru hinted that more than 40 percent of Kenya’s \$ 2.3 billion development budget is (was being) funded by donor money.

²⁰¹ EU Statement on Kenya, February 21, 2008, see <http://pambazuka.org/en/category/comment/46288>. Accessed March 4, 2011. In a joint statement, U.K. Foreign Minister David Miliband and U.S. Secretary of State

EU had initially planned aid to the country to the tune of euro 383 million for the period 2008-2013, but the European Parliament voted to suspend the aid package pending a satisfactory resolution of the crisis (ICG, February 2008: 28). Donor pressure was also applied to specific targeted individuals to bring an immediate end to the violence and commit feuding parties to the mediation process (ICG, *ibid*; Wangui, February 7, 2008). The U.S. issued letters to politicians and business leaders, described as ‘regional figures’ suspected of inciting chaos that they risked visa denials for themselves and their families. Canada, the U.K., France and Switzerland issued similar warnings to those under suspicion of stoking the violence²⁰².

6.5. Conclusion

The EAC is the only Community that explicitly has political as well as economic integration objectives in its Treaty. It is one of the sub-regional organizations, which was founded with a realization that any form of economic integration cannot take place without peace and security within the Community, and thus its Member States have to pay serious attention to issues of peace and security. Examining the nature and extent of the domestic political crisis in Kenya it has been observed that the spate of violence in the country has either been sponsored or condoned by elites in positions of power. This is not a surprise outcome or an aberration only tied to a flawed election, rather a function of a much longer historical strategy of informalizing state repressive institutions to serve political ends (Branch, 2011: 18-22). Looking at the post-election situation of 2008 in Kenya with hindsight, in 2006, i.e. two years prior to the post-election violence, Kenya became one of the first countries in Africa to complete the process of assessment by the African Peer Review Mechanism (APRM). The country review report made a frank assessment of Kenya’s political problems, and in agreement to the findings of previous commissions, acknowledged the

Condoleezza Rice called for an end to violence and “an intensive political and legal process”. Extracted from “Museveni talks to Kibaki, Raila”, *New Vision*, January 2, 2008, available at <http://www.newvision.co.ug/>.

²⁰² The Kenyan government, on its part, declared a former British envoy to Nairobi, Edward Clay who was a vocal critic of corruption in Kenya, *persona non grata* after his tenure ended. Clay had bought property in Kenya, extracted from Wangui Kanina, “U.S. threatens to ban eight Kenyans over violence”, *Reuters*, February 7, 2008, available at <http://africa.reuters.com/elections/kenya/>.

role of prominent ruling elites in fuelling ethnic clashes and the entrenched culture of impunity²⁰³. It is of course conceivable that “Had the problems the APRM report then highlighted been tackled, it is possible that the violence and distress of the 2008 crisis could have been avoided. And yet nothing was done” (Manby, 2008: 1).

In the face of real domestic security threats confronting one of its Member States, the EAC experience shows that the sub-regional body’s coordination of the response has been at best ad hoc, mostly after a crisis has erupted and thus unable to assert its authority over its management. As corroborated by the EAC Deputy Secretary-General in charge of Political Federation, Beatrice Kiraso, responding to conflicts of this nature in an ad-hoc manner, usually only after they have already erupted and on an individual approach, points to the need for an EAC capacity to anticipate conflicts, to forestall and diffuse them before they become violent, and the capacity to manage and resolve them where prevention fails²⁰⁴. EAC’s coordination of responses to the Kenyan political crisis was a behind-the-scene affair marshalled by individual State actors.

Attempts by the coalition of prominent local and religious leaders, and a group of former heads of state to open up channels of communication and diffuse the political stalemate were snubbed by the disputing parties, and did not eventually result in a firm commitment for a mediation process. The EAC Chair, notwithstanding initial expression of mistrust on his partiality by one of the disputing parties, managed to play an essential preliminary role of establishing communication between the GOK/PNU and ODM. CSOs role was limited to making submissions before the Annan Mediation Team and Commissions established to investigate post-election violence and election irregularities. They were generally supportive of the Annan Team and persistently encourage mediation and peacebuilding. Some of the CSOs were involved in implementing relief operations to victims of the post-election violence, the IDPs. The EU and Western donor countries threw their weight behind the Annan-led mediation, insisting that it was ‘the only game in town’. This group of

²⁰³ The report was presented by the APRM Panel of Eminent Persons to the African Heads of State, and attended by President Mwai Kibaki himself, on the margins of the July 2006 AU Summit.

²⁰⁴ Remarks by Hon. Beatrice Kiraso at the Partner States’ Experts Meeting to consider an EAC Draft Conflict Prevention, Management and Resolution (CPMR) Framework.

actors used the threat of withholding aid as leverage to coax the main protagonists to come to an agreement.

With the full backing of both local actors and the international community, the various attempts at mediation culminated into one process under the auspices of the AU's Annan-led team which eventually steered the parties to a negotiated political agreement paving way for the formation of a coalition government in early 2008. The next two chapters (i.e. six and seven) focus on the Southern African Sub-regional organization, SADC's practical experiences in the coordination and management of the collective security challenges of SALWs and the domestic political crisis in Zimbabwe, respectively.

Chapter Seven

7. SADC Security Arrangement and the Transnational Threat of SALW

7.1. Introduction

It has already been noted that the proliferation and misuse of small arms and light weapons is a transnational security threat that has not only fomented but also prolonged violent conflicts in Africa. The SALW problem in the SADC countries reflects the varied history of the sub-region, namely arms remaining after termination of conflicts, arms passing across porous borders and those purchased and used illegally for the commission of criminal activities. It is in response to the proliferation and misuse of SALW, various actors within the SADC arrangement have initiated arms control processes. This chapter, henceforth, explores the nature and extent of the SALW problem followed by the analysis on the coordination and management of the same in the SADC sub-region.

7.2. The Nature and Extent of Proliferation of SALW

The proliferation of illicit SALW remains a significant and persistent threat to the security of the Southern African sub-region to date. Most sources cite the legacy of decades of civil wars (almost 25 years) as the main contributing factor to the current illegal weapons situation in the sub-region (SAIIA, 2003: 73; Mthembu-Salter, 2009: 17; Special Report, 2009: 74). As remnants of civil wars, in Mozambique for instance, an estimated 1.5 million SALW were distributed by warring parties (FRELIMO and RENAMO) (Leão, 2004; Solomon & Cilliers, 1998: 88). Sishi stresses that the Southern African sub-region was awash with weapons even before the political violence of the 1990s. Sishi singles out the Superpowers race to win allies during the 1970s to the end of 1980s Cold War resulted into pumping of massive amounts of guns and ammunition as government grants into the sub-region (Sishi, 1998).

SALW are not a cause of conflict per se, but their continued proliferation makes it easier for violent conflicts to escalate. This implies that small arms do not create the conflicts in which they are being utilized but can exacerbate conflicts. Besides weapons caches following termination of armed conflicts, other sources of illegal SALW have been surplus state weapons that find their way into criminal gangs (Lamb, 2004: 326). Sizeable stockpiles of weapons were seized during the UN disarmament programs in Mozambique and Angola but were never destroyed and thus when the UN Mission left, a black-market for the weapons involving corrupt officials emerged (Sishi, 1998). Southern Africa shares a mere 3 per cent of the global small arms industry, with South Africa being the main producer and the only country that exports substantial volumes of arms (Wezeman, 2009: 1; Special Report, 2009: 75)²⁰⁵. Small homemade firearms industries have also been reported in Malawi and South Africa (Lamb, 2004: 325).

Illicit SALW continue to pose a significant threat to social stability and development to the extent that a renowned analyst on arms and security issues in the sub-region, Noel Stott, has dubbed them as the 'real weapons of mass destruction' (Stott, 2004: 17). To put it into simple perspective, the impact of the problem of SALW proliferation in the Southern Africa sub-region is three-fold. First and the overarching legacy of SALW proliferation is that they have retarded progress in the SADC sub-region as funds meant for development purposes are diverted to address the SALW problem (Stott, 2004: 16). Second, SALW have been linked to increased levels of violence and criminal activity. Conflict presents the perfect opportunity for crime. As is the case in East Africa, SALW are the most commonly used weapons in violent conflicts in Southern Africa (Wezeman, 2009: 3). There has been a notable surge in violent crime, often with guns used as the weapons of choice, since 2000 (Msutu, 2001: 8; Meek & Stott, 2003: 1). As noted earlier a black-market in arms thrives. Smuggled weapons as remnants of the Angolan civil war found their way to countries such as the DRC, the Republic of Congo, Malawi, Zambia, Namibia, Rwanda, Burundi and Tanzania (Goredema, 2005: 2). According to Goredema (ibid), in the Southern African

²⁰⁵ Wezeman, 2009, notes that as is the case in East African sub-region most weapons procured by governments or non-state groups in Southern Africa originate from outside the sub-region.

countries of Malawi, Zambia and Namibia, weapons derived from Angola have been linked to armed robberies involving cash and motor vehicles.

Third, the availability and spread of small arms have not only slowed prospects for durable settlement of on-going armed conflict in the DRC, but have also exerted a huge human cost. Stohl and Hogendoorn (2010: 9) observe that approximately 5 million people have perished and about 1.4 million others remain internally displaced, with approximately 340,000 living as refugees in neighbouring countries in Eastern DRC. The Southern African sub-region has not only been a recipient of illegal firearms. Some of the weapons used during the Mozambique and Angolan civil wars in the 1980s and 1990s landed in the hands of rebels operating in Liberia and Sierra Leone in the late 1990s and early 2000 (Stohl & Hogendoorn, 2010: 6).

While the Southern Africa sub-region is relatively peaceful compared to the 1990-2000 decade, there is still a proliferation of small arms particularly in civilian hands. According to SIPRI (2009) it is rather difficult to assess the volume of illegal supplies of SALW to non-state actors, and as noted by the small arms survey and the United Nations Office for Disarmament Affairs, more is known about nuclear heads than about the exact figures of small arms in circulation. However, it is possible to get a general impression of the extent of the small arms problem in Southern Africa by looking at the available estimates from surveys carried out between 2001 and 2007. According to the Small Arms Survey Project, most of the firearms around the world are not in state possession, they are in civilian hands. Out of the estimated 30 million small arms in sub-Saharan Africa, about 23 million or 79 per cent were in civilian hands by the end of 2003 (Small Arms Survey, 2003: 80-81). Now, in Southern Africa, a research carried out by the Gun Free South Africa (GFSa) in collaboration with the Centre for Conflict Resolution (CCR) between 2001 and 2004, estimated a combined total of firearms in civilian possession in eight²⁰⁶ of the Southern African countries was hovering over 4, 400, 737 (Lamb, 2004: 321). This means that 19 per cent of all firearms in civilian hands in sub-Saharan Africa (i.e. out of the 23 million

²⁰⁶ The study was able to obtain data on civilian ownership from Botswana, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe

estimate) were located in just over half of SADC Member States. The overwhelming majority of those firearms, i.e. over 3735676, were in South Africa (Lamb, *ibid.*).

Figures drawn from the Small Arms Survey 2007, which is the latest comprehensive analysis, put the estimate at around 16 million (see table 7 below), showing that the amount has quadrupled. A closer look at the individual country figures three groups of countries as far as civilian firearms possession is concerned. There is a group of three countries with the highest figures of above 1 million (South Africa, Angola and Mozambique). Then there are countries whose civilians are estimated to have between 100, 000 and 800,000 firearms. Only four countries (Botswana, Swaziland, Lesotho and Seychelles) have civilian firearms ownership figures below the 100,000 mark.

Table 7: Civilian Firearms Ownership in Southern Africa

Country ²⁰⁷	Average total all civilian firearms
South Africa	5,950,000
Angola	2,800,000
Mozambique	1,000,000
DRC	800,000
Zimbabwe	400,000
Namibia	260,000
Zambia	230,000
Mauritius	180,000
Madagascar	150,000
Malawi	92,000
Botswana	87,000
Swaziland	72,000
Lesotho	47,000
Seychelles	4,600
Total	16,668,000

Source: Figures adapted from Karp, Aaron. 2007. “Completing the Count: Civilians Firearms,” Small Arms Survey 2007: Guns and the City, Cambridge: Cambridge University Press.

This is to say that SADC countries are disparate in several ways: they vary in size, geographical location and even their exposure to the SALW proliferation threat. Six of the

²⁰⁷ Tanzania which is also member of the EAC has not been included.

SADC countries²⁰⁸ are not only landlocked but are also surrounded by countries more severely affected from the legacy of arms left over by civil wars in other countries and/or serve as transit routes to conflicts in neighbouring countries. Whereas countries like Botswana, Malawi, Tanzania, Zambia and Zimbabwe, have often acted as transit points (Cross et. al., 2003), weapons sourced from the wars of liberation and/or internal conflicts in four of the SADC Member States (Angola, DRC, Mozambique and Namibia) have significantly contributed to the spread of SALW problem in the Southern African sub-region.

Three of the SADC countries that are Indian Ocean Islands (Madagascar, Mauritius, and Seychelles) have experienced limited levels of firearms-related crimes. However, their exposures to the SALW threat differ. For example, Mauritius that has only two ports of entry, which are well controlled, has not experienced increased levels of violent crime involving firearms. Seychelles consists of over 115 islands, making the control of illicit trafficking through the territorial waters very difficult (Cross et. al., 2003).

As stated at the outset, the proliferation of illegal SALW remains a significant threat in Southern Africa. Available data reveal that civilian-owned firearms, which are likely to fall into wrong elements, are increasingly prominent in the sub-region. The amount of firearms in civilian hands was hovering over 4 million in 2004. Three years later another survey reported over 16 million firearms in civilian possession, indicating an upward trend in the problem²⁰⁹. The same figures also reveal that civilian firearms holdings are the largest in South Africa, Angola and Mozambique, and Seychelles with the least number, while the rest of the countries have sizeable firearms in civilian hands. Overall, the problem of illegal firearms, most commonly used in the perpetration of crime, contributes to the high levels of instability, extended conflict, violence and social dislocation is evident in the Southern African sub-region. Thus, it needs to be approached at sub-regional level, with bilateral and national initiatives bolstering the sub-regional regime. The next section focuses on how

²⁰⁸ These are Botswana, Lesotho, Malawi, Swaziland, Zambia, and Zimbabwe.

²⁰⁹ Small Arms Survey 2007, Annex 04: The largest civilian firearms for 178 countries, p.67.

different actors coordinate their responses against the SALW proliferation within the SADC arrangement.

7.3. Coordination of Responses Against SALW Proliferation in the SADC Sub-Region

7.3.1. SARPCCO and SADC

SADC's mandate in dealing with what it identifies as a defence and public security challenge, the proliferation of and illicit trafficking of small arms and light weapons, is provided in the *Protocol on Firearms, Ammunition and Other Related Materials* (hereafter referred to as the SADC Firearms Protocol) which was adopted by heads of government in August 2001. Prior to the adoption of the legally binding Protocol the SADC Heads of State and Government Summit signed the SADC Declaration Concerning Firearms, Ammunition and Other Related Materials on 9th March 2001. The evolution and subsequent adoption of the SADC Firearms Protocol follows the decision by the sub-regional body's Council of Ministers in August 1999 at its meeting in Maputo, Mozambique that mandated SADC to establish a regional policy for the control of small arms and light weapons²¹⁰. The SADC Council noted at the time that the major trigger of the problem of proliferation of firearms to be the various conflicts in the sub-region, which in turn contributed to the surge in criminal activities such as armed robberies (Stott, 2003: 2). With the exception of Angola and Madagascar, the rest of the SADC Member States are signatories to the SADC Firearms Protocol. Despite not being signatories to the Protocol Angola and Madagascar have been fully active in the implementation of the same²¹¹.

The objective of the SADC Firearms Protocol is to prevent, combat and eradicate the illicit trade of firearms, ammunition and other related materials in the Southern African sub-

²¹⁰ SADC Council Decision, 13-14 August 1999.

²¹¹ Interview with Joseph Musoni, at Interpol Regional Bureau-Harare, Zimbabwe, 18th November 2010. Angola is also a party to the *Central African Convention for the Control of Small Arms and Light Weapons, Ammunition, and All Parts and Components that can Serve in their Manufacturing, Repair and Assembly*.

region²¹². The Protocol is a far-reaching instrument that calls for close cooperation and exchange of information in the SADC region to prevent, combat and eradicate not only the proliferation of illicit arms, but also their manufacturing, excessive and destabilizing use²¹³.

An important agency for coordinating efforts directed towards curbing the proliferation of small arms and light weapons threat and related policing challenges in the Southern African sub-region, is SARPCCO. SARPCCO was founded following a police chiefs meeting of the Southern African sub-region on 2 August 1995 at the Victoria Falls in Zimbabwe. The police chiefs assembled within the framework of the Inter-State Defence and Security Committee (ISDSC), itself a sub-structure of the SADC Organ on Politics Defence and Security (hereafter referred to as the SADC Organ). It was the decision of the SADC Council of Ministers in August 1999 in Maputo to appoint SARPCCO as the implementation agency of the SADC policy on small arms and cross border crime prevention²¹⁴. The ISDSC subsequently recognized SARPCCO as the lead organization coordinating policing matters in the sub-region (Cilliers, 1999; Isaksen, 2001; Stott, 2003).

Eleven SADC countries, namely Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe, signed the agreement establishing SARPCCO on 1 October 1997²¹⁵. As it can be noted, the DRC, Seychelles and Mauritius were not members of SARPCCO. However, according to Article 2(3) of the SARPCCO Constitution membership in this organization is not restricted to the 11 founding States, allowing chiefs of police of other countries to petition for membership by way of special resolution. Mauritius was shortly allowed to join SARPCCO on this basis and the DRC and Seychelles have joined the organization to bring the membership to fourteen countries.

²¹² Article 3 (a) of the SADC Firearms Protocol.

²¹³ Article 3 (b) of the SADC Firearms Protocol.

²¹⁴ SADC Council Decision, 13-14 August 1999.

²¹⁵ The agreement came into effect on 29 July 1999 after it was ratified by seven Member States

The International Criminal Police Organization (INTERPOL) Sub-Regional Bureau (SRB) in Harare has been acting as SARPPCO's Secretariat since its inception in 1997 and have partnered together in many policing initiatives²¹⁶. Moreover, the head of Interpol Harare Bureau is simultaneously the head of SARPPCO Secretariat, and given the close partnership in policing matters, it means there is little practical differentiation between the work of SARPPCO and Interpol (Cilliers, 1999: 4). The two Organizations thus share policing objectives; the only difference is that SARPPCO is a sub- regional structure, while INTERPOL has global reach.

In 2002, the Southern African Regional Police Chiefs Cooperation Organization (SARPPCO) that had been identified by the SADC Council as the implementing agency for the SADC Policy on Small Arms and Cross Border Crime Prevention, developed an Action Plan on the SADC Protocol on the Control of Firearms, Ammunition and other Related Materials. The action plan identified the need for the development of *Standard Operating Procedures* (SOP's) to serve as guidelines on best practices for implementing regional standards with regards to the SADC Firearms Protocol. Recommendations of the Standard Operating Procedures whose final document was approved by the 13th SARPPCO Annual General Meeting held from 2 to 6 August 2008 in Windhoek, are the minimum requirements for Firearms control legislation intended to serve to inform changes in national legislations²¹⁷.

The relationship between SARPPCO and SADC Proper needs to be explored here, albeit briefly, within the context of the historical evolution of the SADC Organ. This is because although SARPPCO was created in 1997 and was actually involved in the drafting of the SADC Firearms Protocol (SADC, 2005: 65), it was in the second half of the 200s that SADC finally recognized the former as part of its security structures.

As hinted earlier, the ISDSC that comprises ministers responsible for defence, public security and state security, recognized SARPPCO as the vehicle for coordinating policing

²¹⁶ Remarks by Ronald K. Noble, Interpol Secretary General, at the 14th SARPPCO Annual General Meeting Council of Police Chiefs, Johannesburg, South Africa, 2 September 2009.

²¹⁷ SARPPCO AGM/08/RES/14.

efforts in the sub-region. However, the duality of leadership within the SADC (South Africa as chair of the SADC and Zimbabwe as chair of the SADC Organ) in the late 1990s and impasse over the control of the SADC Organ was deemed to have negative effect on the functioning of the ISDSC (Solomon, 1999: 154). During the impasse over the SADC Organ, the ISDSC which has a range of defence and public security committees never had a permanent secretariat, and thus, opting to have its services provided by the ISDSC Chair on a rotational basis (Isaksen & Tjønneland, 2001: 16). This compelled the ISDSC, specifically its Public Security Sub-Committee to forge strong ties with SARPCCO since the latter had a permanent secretariat.

The SADC Organ impasse was complemented by disagreement on how to operationalize Article 17 of the SADC Firearms Protocol regarding institutional arrangement. This particular Article provided that State Parties shall establish a Committee to oversee the implementation of the Protocol. However, this was not to be as there were differences among SADC Members. On the one side, there were Member States that were pushing for SARPCCO to be incorporated into the ISDSC (and henceforth become formally a structure of the SADC), and on the other side, were those that wanted the organization to remain independent body but in close collaboration with SADC²¹⁸. Those initially reluctant to see SARPCCO serving as an integral part of ISDSC argued that it would free the organization from political machinations of the SADC²¹⁹. In other words, they wanted SARPCCO to remain a strictly professional independent policing organization and thus not tied into a political structure. Since 2008 the Southern Africa sub-region's Heads of State and Government formally recognized SARPCCO as an affiliated SADC structure²²⁰. SARPCCO was thus placed under the ISDSC, which according to Article 3 (Structures) of the *Protocol on Politics, Defence and Security Cooperation*, is recognized as one of the sub-structures of the SADC Organ. The decision to place SARPCCO under the ISDSC seems to be in line with

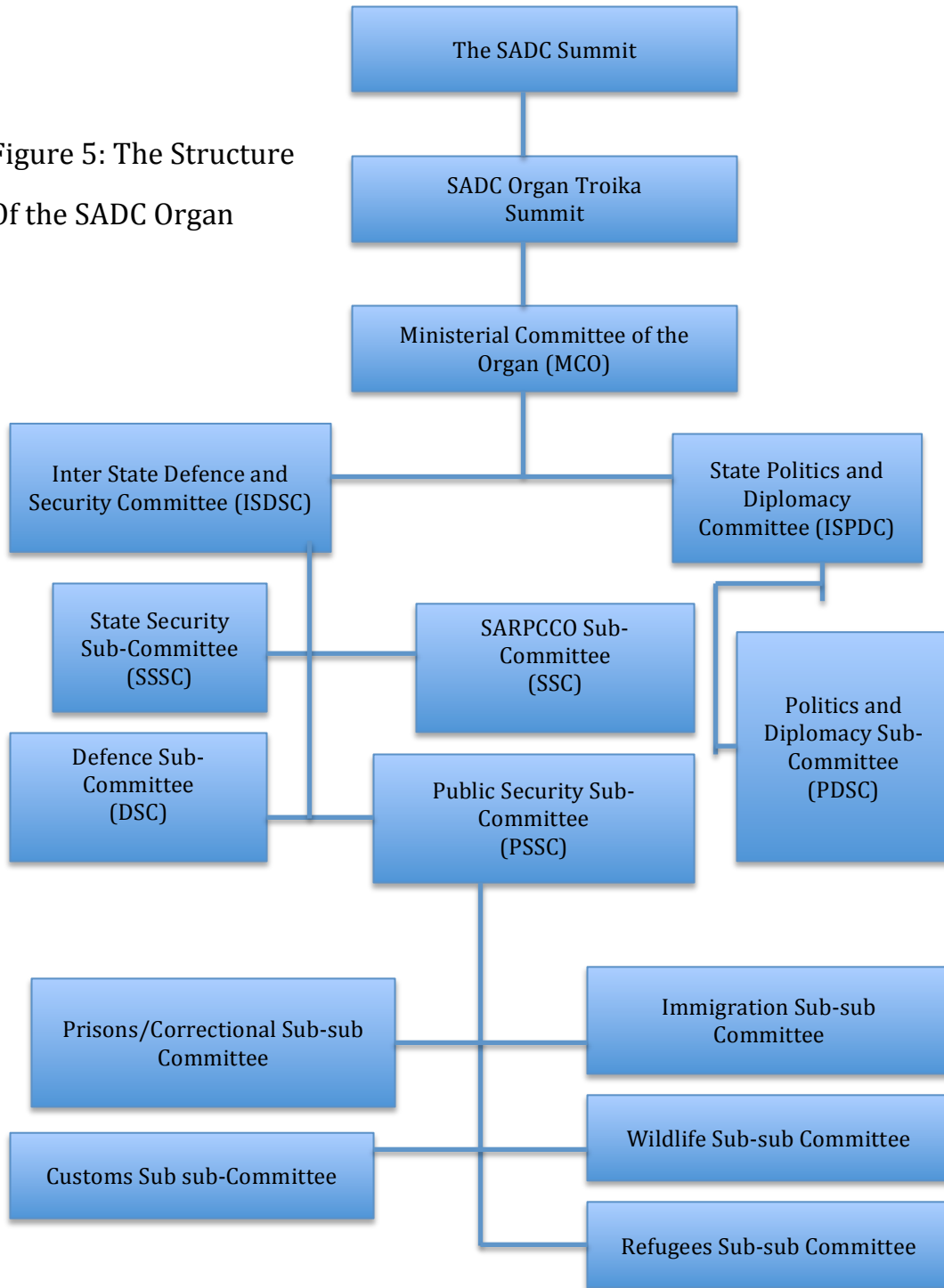
²¹⁸ Interview with Dominic Hayuma, Retired Deputy Director, Criminal Investigation Department (CID), Tanzania Police Force, and NFP Coordinator, Ministry of Home Affairs, Dar es Salaam, Tanzania, 3rd December 2010.

²¹⁹ Interview with Mr. Chihika Simfukwe, the then Head of Interpol Regional Bureau-Harare, and Head of SARPCCO Secretariat, Zimbabwe, 18th November 2010.

²²⁰ See Remarks by Ronald K. Noble, INTERPOL Secretary General, at the 14th SARPCCO Annual General Meeting, Johannesburg, South Africa, 2nd September 2009

Article 7 (8) of the same Protocol that states ISDSC may establish such structures, as it deems necessary to perform its functions. This is also supported by provision 2(f) of Article 3 that states the Organ shall have such other structures as may be established by any of the ministerial committees, and the ISDSC is such one ministerial committee comprising of what SADC refers to as ministers responsible for defence, public security and state security. SARPCCO's position as a sub-structure of the ISDSC within the SADC Organ is as shown in Figure 5 below.

Figure 5: The Structure Of the SADC Organ



7.3.2. SARPCCO and NFPs

All SADC Member States are also signatories to the United Nations Program of Action (UNPoA) on small arms and the Bamako Declaration on an African Common Position on illicit Proliferation, Circulation and Trafficking on Small Arms and Light Weapons (Bamako Declaration). To address the problem of illicit proliferation, circulation and trafficking of SALWs at the national level, these international instruments recommend establishment of national coordination agencies responsible for policy guidance, research and monitoring all aspects of SALWs proliferation, circulation and trafficking. These national coordination agencies popularly known as National Focal Points (NFPs) have been established in all SADC Member States²²¹.

NFPs may assume different names/titles in some countries but perform or are expected to carry out similar roles as required of them under the aforementioned international instruments. For instance, the national coordination agencies of Botswana, Lesotho, Malawi, Mauritius, Namibia, Tanzania, Seychelles Swaziland, South Africa, are known as NFPs while they assume different names in Angola (National Commission on the Disarmament of the Civilian Population-CNDPC); DRC (National Commission for the Control of Small Arms And Light Weapons-CNC-ALPC); Mozambique (COPRECAL-Mozambique's National Small Arms Commission); Zambia (National Commission on Small Arms); and Zimbabwe (National Task Force on Firearms, Ammunition and Other Related Materials). Some countries like Angola have more than one national structure for coordinating SALWs initiatives. In Angola, the CNPDC (the National Commission on the Disarmament of the Civilian Population) co-exists with the National Commission for the Materialization of the Programme of Action on the illicit Trade in Small Arms and Light Weapons. The first focuses narrowly on the collection, storage and custody of SALWs

²²¹ This was confirmed in interviews with Mr. Ezekiel Senti, Legal Adviser, SADC Police Planning Element (SADCPOL PLANELM) on 15th November 2010, and Mr. Joseph Musoni of the INTERPOL Harare SRB on 18th November 2010.

possessed illegally, while the second was designed to prevent, combat and eradicate the illicit trade in SALWs in all its aspects (Angola Report, 2010: 2).

Although all SADC countries have in principal established NFPs as national structures bringing together different government departments, and in some cases civil society seeking to develop appropriate coordinated policy responses to the SALWs problem, these have different statuses in terms of financing and placement. With the exception of Angola where the CNPDPC is coordinated by the Prime Minister's office, most NFPs are placed either under the Ministries of Interior (known as Home Affairs and Public Safety depending on a country's Ministerial structure), or Justice with the respective national police forces acting as host institutions and national points of contacts. Only a few of NFPs receive State's general budget allocation (Angola and the DRC) while others depend on relevant ministerial budget votes (Swaziland, Tanzania, Zimbabwe) or were not fully functional due to financial constraints²²².

Besides having a dedicated Firearms Desk Officer responsible for assisting States with implementation of the SADC Firearms Protocol at its Harare Secretariat, SARPCCO has put in place a Regional Coordinating Committee (RCC) on SALWs²²³. RCC brings together NFPs Coordinators and convenes at least three meetings a year. The focus of each RCC meeting has been to devise strategies to implement key provisions of the SADC Firearms Protocol. Part of those strategies includes coordination of efforts to formulate systematic training policies for the States' LEAs. The RCC, for instance, formed the Task Team on the development of the SARPCCO SALW and ammunition course. The Task Team comprised of some SADC Member States (Namibia, South Africa, and Zimbabwe), SARPCCO Secretariat, the Institute of Security Studies (ISS) and the Centre for Peace, Dialogue and Mediation. SARPCCO also, with the support of host governments and cooperating partners²²⁴, facilitates various training sessions to the NFPs on structures, best practices and

²²² See for example the following country reports to UNPoA Biennial Ministerial Conference: Lesotho (2010); Mozambique (2010).

²²³ RCC was established following the 2007 SARPCCO Annual General Meeting in Lusaka, Zambia.

²²⁴ For example, the German Technical Cooperation (GTZ).

information sharing²²⁵. Recent examples of such workshops include those held in Lilongwe-Malawi (August 2008), Lusaka-Zambia (September 2008), Harare-Zimbabwe (October 2008), and Luanda-Angola (July 2009).

It is, therefore, evident that it is SARPCCO, which has the leading role in the coordination of SADC SALWs activities. SARPCCO participated actively in the drafting of the SADC Firearms Protocol (of course, final adoption and ratification of the same rested upon the State Parties), and facilitated the formulation of the SOP through its National Central Firearms Registrars' Forum that guide State practices on SALW control measures²²⁶. It has also played another crucial coordination role: that of preparing and disseminating relevant information on criminal activities as may be necessary to benefit Member States. Since SARPCCO became integrated into SADC Proper, it is bound to communicate and cooperate with the SADC Organ, particularly the SADC Police Planning Element (shortly abbreviated as SADCPOL PLANELM)²²⁷.

After establishing the lead actors in the formulation of SALW rules and guidelines and the forms under which they interact in coordinating responses to the SALW menace, the next section dwells on the actual management of this problem within the SADC sub-region. The main management tasks under focus here are the review and harmonization of legislation and the control measures of collection, destruction, marking and record keeping.

²²⁵ Guy Lamb and Ben Coetzee, "Recent Regional Firearms Control Progress in the SADC", accessed at <http://www.issafrica.org/armsnetafrica/> on October 20th, 2011.

²²⁶ The SARPCCO National Firearms Registrars Forum is an unofficial body established in 2006 and drawing its mandate from the 2005 SARPCCO Annual General Meeting in Lusaka that tasked the SARPCCO Secretariat, in conjunction with member countries, to develop the SOPs to control firearms, ammunition and related materials in Southern Africa.

²²⁷ SARPCCO is bound to invite SADC POL PLANELM to their workshops and vice versa. Interview with Ezekiel Senti, Legal Adviser-SADCPOL PLANELM, 15th November 2010.

7.4. Management of the SALW Proliferation Threat in the SADC Sub-Region

7.4.1. Review and Harmonization of Legislation

As parties to the SADC Protocol on SALW, SADC Member States are obligated to enact the necessary legislation to establish as criminal offences under their national law to prevent, combat and eradicate, the illicit manufacturing of firearms, ammunition and other related materials. The SADC Protocol (Article 3) provides minimum benchmark elements to be incorporated in national laws of State Parties. The elements range from unrestricted possession, use of small arms by civilians, centralized registration of civilian-owned firearms, standardized marking to legal uniformity in the sphere of sentencing. From interviews conducted and survey of national reports to the UNPoA up to 2010, it is evident that SADC Member States are yet to have a harmonized SALW legislation in place. SADC States are at different stages of the review and harmonization of legislation.

While all SADC States have not shown any opposition to the requirement to enact their laws that are compatible with the SADC Protocol, most of them are yet to undertake or complete the review and harmonization of legislation. With the exception of South Africa and Mauritius, some SADC States are still in the process of consultation, while others have drafted bills, which are awaiting parliamentary approval, and yet others are still using old pieces of legislations but have proposed to the relevant authorities to enact new laws²²⁸. Even the two countries that have already reviewed their national laws, i.e. South Africa and Mauritius, their new legislations are reported to fell short of the SOPs (Standard Operating Procedures) for the implementation of the SADC Protocol²²⁹. This means disparities in legislations is still a major challenge in the management of the problem of SALW in the SADC sub-region. The status of review of national SALW legislations is as shown in the table 8.

²²⁸ Interviews with Ezekiel Senti, Legal Advisor, SADCPOL PLANELM, at SADC Headquarters-Gaborone, 15th November 2010, and Joseph Musoni at Interpol Regional Bureau-Harare, 18th November 2010.

²²⁹ The SOPs were approved by the 13th SARPCCO AGM held from 2 to 6 August 2008 in Windhoek, Namibia (SARPCCO AGM/08/RES/14).

Table 8: Status of Review of SALW legislations by SADC States (As of December 2010)

Country	Status
Angola	Review in progress.
Botswana	Review in progress even though existing legislation has been subjected to regular review.
DRC	A draft law on SALW has developed, awaiting submission to the Parliament.
Lesotho	A draft bill is with Parliament.
Madagascar	Review of the Armaments law of 22 July 1969 yet to be undertaken.
Malawi	The Firearms Act that was enacted on December 29, 1997 has never been reviewed since its enactment. Minor subsidiary legislations have been appended to this Act.
Mauritius	A Firearms Act adopted in 2006.
Mozambique	The Arms and Ammunition Act 2007 (Decree No 8/2007) passed. No review reported.
Namibia	An Amendment Bill has been drafted.
Seychelles	Review in progress.
South Africa	The National Conventional Arms Control Legislation of the Firearms Control Act and the National Conventional Arms Control Act, promulgated in 2001 and 2003 respectively.
Swaziland	The Arms and Ammunition Act. No. 24 of 1964 not yet reviewed.
Tanzania	Draft legislation has been forwarded to the Cabinet Secretariat for necessary actions before being tabled to the Parliament.
Zambia	Review in progress.
Zimbabwe	The Firearms Chapter 10.09, adopted 1956 has been amended several times but comprehensive review is yet to take place.

Source: Author's Survey.

Due to the transnational character of the SALW problem, the SADC Firearms Protocol places high premium on cooperation. Such sub-regional wide cooperation between relevant actors, in turn, hinges on a common understanding of certain SALW-related concepts. For this reason, SADC Member States recognize the importance of expediting their review of the legislations to ensure that they take into account the requirements in Article 5 of the Protocol. The revision of the normative framework of each country

represents harmonization of existing national legislation while reflecting each government's obligations under regional and international agreements. From the evidence presented here, it is clear that while there is no sign of opposition by State Parties to the SADC Firearms Protocol to the requirement to review their firearms legislations to ensure that they embrace legal uniformity in all important areas, including manufacture, control, possession, import, export, transfer of firearms and in the sphere of sentencing, the actual review process has been initiated but not completed. While some SADC Member States have passed new, more stringent firearms legislations, majority of them still have outdated legal instruments, which do not adequately cover the range and extent of the contemporary firearms problems, nor the existing regional and international agreements to which they are party. A very recent development is that the UNODC (United Nations Office on Drugs and Crime) *Model Law Against the Illicit Manufacturing and Trafficking in Firearms, their Parts and Components and Ammunition*, is currently in place (UN, July 2011). It is thus easy for the SADC Member States to use it as a guideline as it takes into account concerns and inputs from all regions, and in fact, everything in the (SADC) SOPs has been captured²³⁰.

7.4.2. Control Measures

7.4.2.1. Collection and Destruction

The control measures of collection and destruction of illicit trafficked SALWs is an area which evidently show how sub-regional rules and norms have come to effectively guide States' practices and in the event also brought together multiple actors in effort to manage the SALW menace in the Southern Africa sub-region. The relevant sub-regional rules as defined in the SADC Protocol urges State Parties to adopt coordinated national policies for the disposal of confiscated or unlicensed firearms that come into the possession of state authorities, and to develop joint and combined operations across the borders of State Parties to locate, seize and destroy caches of firearms, ammunition and other related

²³⁰ Interview with Joseph Musoni, op. cit.

materials left over after conflict and civil wars²³¹. These measures have been undertaken to great effect in two main ways.

First, joint operations within individual SADC States have been conducted on a regular basis. They are termed as ‘joint operations’ because they bring together several components and actors of the LEAs, for example, In Malawi the Police Service, the Malawi Defence Forces (MDF), Department of Immigration, Customs (Malawi Revenue Authority), and the department of wildlife and National Parks routinely conduct joint operations to recover illicit firearms (Malawi, June 2010).

Second, as active members of SARPCCO, practically all countries within the SADC arrangement are involved in trans-national police operations (Stott, 2003; Lamb and Dye, 2009; SADC, 2012). These are basically joint operations between a State’s LEAs and those from neighbouring countries. These are termed as ‘simultaneous operations’ and are carried out by Member States under the aegis of SARPCCO on a quarterly basis²³². They usually take place three times a year in each of the Member States featuring respective police agencies and specialised officers from SARPCCO secretariat in Harare (Lucey, 2010). It ought to be noted that these operations target not only illicit small arms, but also a number of illicit activities including vehicle theft, illicit drugs and illegal immigrants²³³. In such operations, “SARPCCO provide resources such as laptops and databases and plan the operations; however, each individual country is responsible for the details, such as the people on the ground, the investigation of cases and logistics” (Lucey, 2010: 60). The 4th March 2010 SARPCCO operation that was carried out in Lesotho in the presence of police from South Africa, Lesotho, Swaziland and Mozambique, is an example of such operations.

Besides fulfilling sub-regional obligations, these cross border joint operations have also been conducted through the guidance of bilateral agreements, which SADC countries have entered with each other. Several Joint Permanent Commissions of Cooperation (JPCC) have

²³¹ SADC Protocol on the Control of Firearms, Ammunition and Other Related Materials, Article 11 (1 & 2).

²³² Interview with Joseph Musoni, *op. cit.*

²³³ *Ibid.*

been formed to guide and operationalize bilateral cooperation through joint meetings, exchange visits, shared experiences and strategies of enhancing mutually beneficial cooperation in economic, political, peace and security, social and cultural spheres. These agreements also allow for sectoral sub-Commissions to be established within the main JPCC. In this regard, several States have established Joint Commissions on Defence and Security (JDSC) in the peace and security sphere. South Africa has such bilateral defence and security with more than half of SADC members²³⁴. Malawi has established JDSCs with Mozambique, Zambia and South Africa (Malawi, June, 2010). Angola has a number of joint commissions with neighbouring countries, including the Congo DRC, Zambia, and Namibia (Solomon, 1999). Most of these bilateral operations, for instance between Lesotho and South Africa, comprise cooperation that takes places “on an ad hoc basis as neither (police) agency has jurisdiction to act in the country of the other. Lesotho, for example, will only be invited to South Africa as an observer” (Lucey, 2010: 63).

One of the most successful joint operations in the sub-region, which have been conducted under the auspices of a bilateral agreement, is *Operation Rachel*. Operation Rachel was operationalized following the March 1995 Agreement between Mozambique and South Africa in Respect of Co-operation and Mutual Assistance in the Field of Combating Crime. This bilateral operation was launched prior to other sub-regional attempts to deal with SALW and when SARPPCO had not yet been institutionalized (Henda, 2010; Monyane, 2010). Operational Rachel aimed at identifying, recovering and destroying arms caches left behind in the aftermath of the Mozambican civil war. These weapons had become a major security threat not only to Mozambique but also to South Africa and other neighbouring countries as some of them found their way into the hands of criminal syndicates (Hennop, 2001; South Africa, July 2005). In 2009 alone, 33 operations were conducted during which 33 caches of firearms were located and destroyed, including 163 arms of various types and 6682 ammunitions (Mozambique, January 2009). As shown in table 9 presenting a summary of Operation Rachel conducted in Mozambique from 2004 to 2009, thousands of SALWs, explosives and other related material have been destroyed.

²³⁴ These are Botswana, Lesotho, Mozambique, Namibia, Swaziland, Tanzania, Zambia and Zimbabwe.

Table 9: Operation Rachel 2004 – 2009

Number of the Operation/Year	Quantity of Caches Identified & Destroyed	Number of Firearms Destroyed	Quantity of Explosives Destroyed	Quantity of Ammunitions Destroyed	Other Related Materials
Operation Rachel X Year 2004	24	1,876	-	196,568	1,176
Operation Rachel XI Year 2005	21	3,421	-	1,752,724	1,326
Operation Rachel XII Year 2006	14	3,240	488	3,247,417	39,286
Operation Rachel XIII Year 2007	33	661	-	5,4351	2,004
Operation Rachel XIV Year 2008	12	5,729	-	26,2125	4,264
Operation Rachel XV Year 2009	17	163	174	6,682	312
Total	118	15,090	662	5,519,867	48,368

Source: COPRECAL January 2010

In these operations, South Africa has been supplying the bulk of the financial resources, landmine resistant vehicles and other specialized equipment and trained police officials²³⁵. Besides Mozambique, the South Africa Police Service (SAPS) has provided technical assistance on the destruction of obsolete, redundant, confiscated and surplus SALWs to Angola, Lesotho, and Swaziland (South Africa, 2005; 2008). In November 2004, SAPS trained members of the DRC National Police to carry out operations similar to the Operation Rachel model (South Africa, 2005). Lesotho also conveniently used the agreement on defence issues (between Botswana, Lesotho and South Africa) to request South Africa’s assistance in the destruction of unserviceable, non-standard excess and

²³⁵ For detailed account of the nature of the bilateral agreement between the South African Police Service (SAPS and the Police of the Republic of Mozambique (PRM), see “Bilateral Treaties, Agreements and Related Issues”, ISS Monograph No 43: Building Security in Southern Africa, November 1999.

redundant small arms. One such operation codenamed 'Operation Qeto' destroyed about 3,800 weapons in November 2001 (Lesotho, 2005).

The success of Operation Rachel is partly due to the network that has been developed between State actors and the civil society that ensures the flow of information on SALW related matters. There is close collaboration and interaction between Operation Rachel (ran by Mozambique's LEAs) and the Christian Council of Mozambique (CCM) that runs the TAE Project (Transforming Weapons into Ploughshares). For example, "Operation Rachel destroys most of the SALW recovered by TAE Project. Sometimes intelligence regarding arms caches is provided by TAE Project" (Mozambique, January 2010: 12). Apart from encouraging people to participate in weapons collection and destruction initiatives, the TAE Project also engages in exchange of weapons for production tools, civic education at the community level, as well as transformation of destroyed weapons into pieces of art.

To replicate successes of Operations Rachel with a view to controlling the illicit circulation of weapons in the sub-region, operation MANDUME was conducted within the framework of the SARPCCO. In November 2007, operation MANDUME was carried out, involving police forces from Angola, South Africa and Namibia, and incinerated vast quantities of weapons (6,799 weapons; 543 explosives; 517 loaders and 13,683 ammunitions) (Angola, 2008)²³⁶. Even though Operation MANDUME conducted since 2005, is a collaborative effort by Angola, Namibia and South Africa, it relied heavily on the SAPS' competence. The SAPS provided most of the logistics including explosives, vehicles and even the helicopter, which scanned the Namibian desert for any form of life, humans and animals, before explosives were detonated.

Apart from carrying several simultaneous operations at bilateral and multilateral levels, some SADC countries have forged partnership with extra-regional actors in the areas of weapons collection and destruction. Mozambique and Tanzania, for instance have at different points in time entered into partnership with the UNDP for that purpose.

²³⁶ See also "Operation Mandume reduces large arms caches to powder", accessed at <http://www.sowetanlive.co.za/sowetan/archive/> on July 20th, 2011.

Mozambique entered partnership with UNDP in 2008 under the project, “Weapons Risk Mitigation and Mainstreaming Mine Action, Small Arms and Light Weapons Controls 2008-2011” (Mozambique, 2010). Tanzania entered a similar partnership with UNDP (UNDP Project Kigoma) leading to destruction of around 2, 772 firearms²³⁷. These projects have extended their focus beyond weapons collection and destruction to other supportive control measures like public awareness campaigns and training of LEAs.

Another set of extra-regional actors actively involved in the removal and destruction of weapons in Southern Africa is the international NGO by name of Halo Trust²³⁸. Halo’s Weapons and Ammunition Disposal (WAD) teams work in support of the Angola and Mozambique LEAs to destroy the considerable stocks of weapons and ammunition that were amassed during their civil wars. By June 2010, Halo’s teams had demolished over 70,000 SALW and more than 1,000 tons of ammunition.

MAG (Mines Advisory Group) is another not-for-profit international organization that has established close collaboration with LEAs of several African countries in the collection and destruction of SALWs, and other-related weapons control measures. Within the SADC arrangement, MAG has on-going operations in the DRC and Angola. In Angola, MAG has supported local authorities to destroyed around 15,000 hazardous items, including clearing 2.7 million square metres of land²³⁹. In DRC, this organization has developed successful partnerships with the FARDC (Forces Armees de ila Republique Democratique du Congo) and the PNC (Congolese National Police) to build capacity and destroy surplus weapons. Since 2007 MAG has destroyed more than 116,000 unserviceable and out of date weapons and over 818 tons of ammunition at its Kinshasa destruction workshop²⁴⁰.

²³⁷ Brief Report by Tanzania National Focal Point Coordinator on Small Arms to the East African Legislative Assembly (EALA) Committee on Small Arms and Light Weapons, December 2010.

²³⁸ Halo is the landmine clearance organization registered in Britain as a charity and in the United States as a Not-for-Profit Organization.

²³⁹ See MAG Angola Report November 2011 at www.maginternational.org/angola.

²⁴⁰ See MAG DRC Report November 2011 at www.maginternational.org/drc. Some of MAG’s institutional donors include the Belgian Ministry of Foreign Affairs, UK Department for International Development (DFID UKAid), the Dutch Ministry of Foreign Affairs, SIDA, ECHO, UNICEF, UNOPS, MAG America and the US Department of State Office of Weapons Removal and Abatement, the European Commission, and the United Nations Development Programme (UNDP).

The foregoing account shows great strides have been achieved in managing the SALWs problem through joint bi- and multi-lateral cross border operations²⁴¹. These joint operations, which have more prominently featured in the sub-region particularly in Angola, Mozambique, and Namibia, have yielded remarkable outcome resulting in the collection and destruction of approximately 46,000 SALW, and close to 25 million rounds of small arms ammunitions (SADC, 2012: 3). In fulfilling these management tasks (collection and destruction) non-governmental organizations in the SADC sub-region have also played a vital role in complementing States' efforts. In this regard, the technical support and the depth of experience of such organizations, as exemplified by their activities especially in the countries of Angola and Mozambique, particularly in the areas of voluntary disarmament through civic education, are noteworthy. And as observed by Lamb and Dye (2009: 78) SARPCCO has also been dependent on the support of non-governmental organizations as well as donor governments to cater for much of its arms control and destruction projects.

Crucially, this points once more to the assortment of actors, both State and non-state ones, working together in the management of the SALW scourge in the SADC sub-region. Notwithstanding certain challenges such as budgetary constraints SARPCCO has managed to coordinate joint operations in several of its Member States (van der Spuy and Tait, 2010: 3-4). It has also been observed that these multilateral operations to curb the trafficking in small arms have also been enshrined in a number of bilateral agreements between the SADC Member States. Some of the bilateral operations had started when the SARPCCO has not yet been institutionalised.

The impact of the legacy of some of these bilateral operations that began as ad hoc cooperative measures and were later institutionalised, is to set the scene for cross-border cooperation among the police forces of SADC Member States. For instance, Monyane (2010)

²⁴¹ Statement by Joaquim Bule, Director of International Relations, Ministry of Interior of the Republic of Mozambique, on behalf of the SADC delivered before the Fourth Biennial Meeting of States to Consider the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects, New York, 14-18 June 2010.

notes, “By 2005, SARPCCO was using Operational Rachel as the practical phase of their newly developed cross-border Arms Destruction Course. By 2007 Operational Rachel Standard Operating Procedures were being adapted to guide those used in Operation Mandume, the Small Arms Destruction Operation between South Africa, Namibia and Angola (p. 70). It follows therefore that bilateral operations not only gave impetus to other joint cross-border operations but have also complemented SARPCCO operations to curb small arms trafficking.

7.4.2.2. Marking and Record Keeping

Marking and keeping of reliable databases of firearms are important control measures that SADC Member States ought to undertake. Article 9 of the legally binding SADC Protocol requires State Parties to establish agreed systems to ensure all firearms are marked with a unique number (marking) upon import or manufacture or where an imported firearm duplicates the markings of a firearm that already exist on the firearm identification system. Accordingly, the SARPCCO through its RCC, as mentioned on the section on coordination, in its Standard Operating Procedures which was developed to provide practical guidelines on how to effectively implement the SADC Firearms Protocol, sets out specific minimum requirements for marking of firearms²⁴².

Each SADC country has its unique code, which makes it easier for firearms under its possession to be identifiable and even those that were lost from national inventories throughout the region.

Since marking of firearms is an expensive undertaking requiring specific modern technology, equipment and expertise, SADC countries have welcomed support from international organizations which have also been working with them in other areas related to SALWs control individually and within the SARPCCO framework. Supporting these countries with the capacity to comply with Article 9 of the SADC Protocol, MAG has

²⁴² Chapter 3 (marking of firearms and ammunition) of the Standard Operating Procedures for the Implementation of the SADC Protocol on the Control of Firearms, Ammunition and Other Related Materials.

provided ten SADC countries (Angola, Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Swaziland, Zimbabwe and Zambia) at least one firearms marking unit and software under the project to manage stockpiles and trace illicit weapons²⁴³. While organizations like RECSA and MAG provide the marking machines, SARPPCO in collaboration with think-tanks or policy institutes like the ISS (the Institute for Security Studies) coordinates and oversees training workshops of the police personnel in the proper use of the acquired marking machines, among other issues²⁴⁴.

Initially, marking in some countries was already underway having received marking machines from RECSA (e.g. Seychelles, Tanzania, and DRC). Zambia, a SADC country but not a member of RECSA, also received a marking machine from the latter for which an MOU had been signed, and Swaziland is the latest to be a recipient of a similar making equipment from the same organization (Zambia, 2010; Ngozo, 2011). Others like Zimbabwe just used manufacturers' markings.

The SADC Protocol also call upon State Parties to establish and improve national databases and communication systems and acquire equipment for monitoring and controlling firearm movements across borders²⁴⁵. Following SARPPCO's recommendations, SADC Member States have committed themselves to move away from paper-based (manual) databases to computerized databases. Only Botswana, Tanzania and South Africa have thus far fulfilled this exercise²⁴⁶. Most of the other SADC countries are in the process of computerizing their databases.

It thus appears, SARPPCO has been instrumental in developing standards relating to the control measures of marking and record keeping, while non-governmental organizations

²⁴³ According to Ben Coetzee, Senior Researcher Arms Management Programme ISS Pretoria Office, participating SADC countries are now in possession of pin stamping marking machines and a computer software programme that would allow them to apply, track and trace, individualised markings on each firearms under their control. See ISS News Alert, "New Firearms Control Equipment Marking a Difference in SADC", October 6th, 2011.

²⁴⁴ Interview with Joseph Musoni, at the SARPPCO Secretariat-SRB Harare, 18th November 2010.

²⁴⁵ Article 6 (b) of the SADC Firearms Protocol and Chapter 3 of the SARPPCO's SOPs.

²⁴⁶ Interview with Musoni, op.cit.

have provided support in terms of marking machines and collaborating with the sub-regional body to conduct training of LEAs on the use of those machines. Accordingly, the marking exercise by individual States has begun. On the side of record keeping, a SADC harmonized database system is deemed important for the successful tracing of firearms across the Southern Africa sub-region. Thus far, only one SADC Member State, namely South Africa has an online database that is compatible with the requirements of the International Tracing Instrument²⁴⁷.

7.5 Conclusion

The illicit proliferation of SALW remains as a security threat in the whole Southern Africa sub-region notwithstanding the fact that SADC countries are disparate in terms of geographical locations and capability to monitor their borders, and even their exposure to the SALW problem. Besides igniting violence and increasing criminal activities, illicit SALW have slowed prospects for durable peace and retarded development. In the coordination of SADC countries responses to the SALW problem, the impasse over the SADC Organ and initial strained relations between SADC and SARPCCO dragged on for far-too long and actually seriously hampered coordination of small arms control, and thus, slowed down efforts at addressing the SALWs problem within the sub-region (Gamba, 1998: 108; Oosthuizen, 2006: 310)²⁴⁸. SARPCCO, which is currently an affiliated structure of SADC entrusted with the responsibility of overseeing the implementation of the SADC Firearms Protocol, has since assumed the leading role in terms of setting the normative framework to guide state practices. It has developed the sub-regional organization's legal instruments (Firearms Protocol and SOPs), but also facilitated training of its members (National Firearms Coordinators) on how best to implement the same.

Meanwhile, most actions relating to the management of the illicit weapons within the SADC arrangement have occurred at bilateral and multilateral levels as elaborated earlier. In comparative terms, even though States continue to eclipse non-state actors (particularly

²⁴⁷ Statement by Joaquim Bule, *op. cit.*

²⁴⁸ See also Interview with Hayuma, *op. Cit.*

NGOs) in the coordination of national and cross-national SALW initiatives, in fulfilling management tasks (particularly collection and destruction, and marking of firearms), the latter have played a vital role in complementing States' efforts.

Another significant observation is that not being a party to a sub-regional or regional instrument does not preclude a State from actively participating in cross-national operations, and thus in practically implementing provisions of an international instrument. As observed in the Angolan case, exposure to the collective security challenge of SALW is a sufficient stimulus to propel a State and international non-governmental organizations to act. Finally, in comparative terms as far as the execution of management tasks on SALW, SADC States have recorded progress in the collection and destruction of firearms but appear to relatively lag behind in terms of harmonization of legislations and marking of firearms and establishment of computerized/electronic databases.

The next chapter explores the nature and manifestations of a domestic political crisis in one of SADC's Member State, Zimbabwe, and then proceeds to examine how the actual coordination of responses and management of the crisis were undertaken by various actors in the Southern Africa sub-region.

Chapter Eight

8. SADC and Domestic Political Crises

8.1. Introduction

Globally, a plethora of actors within sub-regional contexts have begun to play a more prominent role in security matters. While the UN remains the ultimate guarantor of global peace and security, a range of actors working in close collaboration with sub-regional organizations endeavour themselves to exploit the advantages of their proximity to troubled spots, their familiarity with disputing parties, and their vested interests in managing conflicts in their own backyards. In the absence of obvious external threats to peace and security in Southern Africa, the perennial occurrences of domestic political crises present one of the grimmest security challenges to the SADC arrangement. Zimbabwe experienced a political crisis accompanied by a precipitous economic slump in the 2000s, with record-breaking hyper-inflation.

The Zimbabwe political crisis since the beginning of the 2000s brought to the fore the challenge of dealing with a State whose government openly flouted the democratic pretensions of the sub-regional organization. The challenge was one of addressing the political fallout of a long-serving regime's unwillingness to cede power to the opposition. The Zimbabwe case provided a litmus test for the sub-regional body's application of peaceful methods for the management of a domestic political crisis in a Member State. The current chapter, firstly, explores the nature and manifestations of the Zimbabwe domestic political crisis that has existed for much of the 2000-2010 decade, and then proceeds to examine how the actual coordination of responses and management of the crisis were undertaken by various actors in the Southern Africa sub-region.

8.2. The Nature and Extent of Domestic Political Crises in the Southern Africa Sub-Region

The tragic violent events that befell Zimbabwe in the 2000-2010 decade assumed one among other characteristics, and that is they involved the country's presidential and parliamentary elections. A section of Zimbabweans experienced acts of violence as they exercised their constitutional right to choose their representatives in both presidential and parliamentary elections. The Zimbabwe domestic political crisis has not only engendered insecurity to the country's people but has also led to widespread negative repercussions to the Southern African sub-region. In light of the above, this section seeks to examine the nature, characteristics (in terms of perpetrators, pattern of violence and entrenched culture of impunity), and impact to the country and neighbouring states.

Politically motivated violence in Zimbabwe has intensified since the opposition Movement for Democratic Change (MDC) emerged as a strong political contender to the ruling Zimbabwe African National Union-Popular Front (ZANU-PF) in 1999. Violence around elections has been observed in all previous elections of 2000, 2002, 2005 and the presidential elections of 2008. The more peculiar political situation of Zimbabwe in the last decade is that even where there was no overt violence, acts of intimidation were aplenty (McGreal, 2002). It ought to be noted that election-related violence and/or the threat of it (i.e. intimidation) fundamentally deters eligible or potential voters to participate freely in the electoral process (Bratton, 2008 as referred in Hickman, 2011:1).

As alluded to earlier, previous elections in Zimbabwe were characterized by violence and acts of intimidation before, during and after balloting. In the run-up to the June 2000 parliamentary elections widespread acts of violence were reported by international human rights organizations²⁴⁹. Similarly the run-up to the 2002 presidential election was marred by widespread violence as confirmed by the Commonwealth and SADC observer

²⁴⁹ See for example, Amnesty International, "Zimbabwe: Terror tactics in the run-up to parliamentary elections," AI Index: AFR 46/014/2000, June 2000, <http://amnesty.name/en/library/info/AFR46/014/2000/en> (accessed February 11, 2011).

missions²⁵⁰. The 2005 elections were relatively peaceful in the run-up. However, the immediate aftermath was very volatile as the Zimbabwean government embarked on *Operation Murambatsvina* (Operation 'Clear the Filth'). This was an eviction operation carried out in the high-density urban areas on the grounds that it aimed to remove criminal elements and clean up the cities. According to Human Right Watch, however, the operation that left more than 700,000 homeless was carried out to punish those who voted for the opposition MDC during the 2005 elections²⁵¹. In contrast to the 2000 and 2002, the run-up to the March 2008 parliamentary and presidential elections was marked by relatively calm (HRW, June 2008a: 12). However, the scope and scale of violence observed following the March 2008 elections far surpassed that experienced during the previous elections of 2000, 2002 and 2005 (ibid. p.15). This brings us to the issue of the levels of fatalities related to these elections.

According to Human Rights Watch, election-related violence led to the loss of lives of 40 MDC candidates and supporters in the 2002 electoral contest (HRW, March 2011: 20)²⁵². The MDC reported that 85 of its members had been killed, and some 1,734 beaten between April and June 2008 alone (Basildon et. Al., 20 June 2008). It ought to be recalled that the opposition candidate Morgan Tsvangirai and his party, the MDC, defeated incumbent President Robert Mugabe, in the general election on March 2008 but the former's victory fell short of a 50-percent-plus-one-vote majority, thus necessitating a presidential run-off on June 27 the same year. Following the ruling party's loss of parliamentary majority and its failure to win outright the presidential race, a brutal campaign of violence dubbed by its perpetrators "*Operation Makavhoterapapi?*" (Operation Where Did You Put Your Vote?), was unleashed (HRW, June 2008a: 14; Cawthra, 2010: 25). The MDC candidate, Morgan

²⁵⁰ Commonwealth Observer Report, "Preliminary Report of the Commonwealth Observer Group on the Zimbabwe Presidential Election, 9-10 March 2002," March 14, 2002. See also "Statement on the Zimbabwe Elections," SADC Parliamentary Forum Observer Mission, Harare, March 13, 2002, <http://www.africaaction.org/docs02/zim0202.htm> (accessed February 11, 2011)

²⁵¹ Human Rights Watch, Zimbabwe-Evicted and Forsaken: Internally Displaced Persons in the Aftermath of Operation Murambatsvina, vol. 17, no. 16 (A), December 1, 2005, <http://hrw.org/reports/2005/zim1205/zim1205webwcover.pdf> (accessed February 11, 2011).

²⁵² See also Robert Chan, 2003, *Mugabe: A Life of Power and Violence*, Michigan: The University of Michigan Press, pp. 196-197; Meredith Meredith, 2002, *Our Votes Our Guns: Robert Mugabe and the Tragedy of Zimbabwe*, New York: Public Affairs, pp. 194, 214-215.

Tsvangirai ultimately gave in and withdrew from the June 2008 runoff election five days before the polling day²⁵³.

The next two characteristics of the Zimbabwe election-related violence that warrant focus here are the identity of the perpetrators and where the violence was concentrated. Numerous sources reveal that much of the election-related violence in the country had been perpetrated with the connivance or active involvement of the security forces (police officers and soldiers), the so-called 'War Veterans', and the ruling party's youth militia (AI, April 2008; HRW, June 2008a; Thomas, 2010; Hickman, 2011). Members of the armed forces and police were systematically or individually complicit in the violence, in most cases backing ZANU-PF supporters who worked through proxy forces of the so-called war veterans and youth militia (Todd & Stewart, 2006: 1; HRW, June 2008a: 1). The leading perpetrators of violence, the trained paramilitary youth group trained under a 'National Youth Training Programme' and the war veterans at one point carried out their violent acts in full view of members of an international observer group (Commonwealth Secretariat, 2003: 28-29). According to local NGOs, ZANU-PF officials and supporters were implicated in the deaths of at least 163 people over three months of 2008 (32 of these were killed after the June 2008 run-off election) (HRW, August 2008: 2).

The ZANU-PF side has also accused MDC-T youth supporters for instigating violence to destabilise the country whilst in some instances putting on ZANU-PF regalia²⁵⁴. These claims, however, have never been confirmed. Intra-party violence, both within and between factions was also reported. The most notable example was the November 2007 violent clashes within the larger faction of the MDC, led by Tsvangirai, which is referred to as MDC-T²⁵⁵. The clashes were associated with the controversial ouster of the chair of the women's assembly, Lucia Mabitenga (ICG, March 2008: 9-10).

²⁵³ Tsvangirai's name, however, remained on the ballot and his rival Mugabe went on to be declared the winner by the Zimbabwe Electoral Commission.

²⁵⁴ See Ladislus Ngoro, "MDC-T violence unacceptable" and "Tsvangirai must stop the violence", retrieved from the ZANU-PF website <http://www.zanupf.org.zw/> on 26th May, 2012.

²⁵⁵ The rival faction of the MDC-T is led by Arthur Mutambara and is known as MDC-M. The MDC split occurred in November 2005 over whether to boycott elections for the Senate, Zimbabwe's second chamber.

Where the violence was concentrated? In general it can be surmised that acts of violence around elections in Zimbabwe have been particularly concentrated in areas deemed as former strongholds of the ruling ZANU-PF. These were rural areas but also low-income suburbs where the opposition MDC appeared to have garnered more votes than the ruling ZANU-PF. Mashonaland East, West Provinces and suburbs of Harare were particularly affected in the 2008 election²⁵⁶.

This pattern of violence concentration particularly in areas where the leading opposition party, MDC, had commanded a great deal of support goes back to the 2000 election. Details of killings of five MDC supporters on the shores of Lake Kariba in the resort town of Kariba in April 2000 aimed primarily at subduing dissent are a case in point (Meldrum, April 30, 2000). It can, thus, be noted that the violence in Zimbabwe was characterized by ‘intra-ethnic partisanship’, and largely “concentrated in Mashonaland, in the Centre and East of the country, rather than in Matebeleland, in the West of the country” (Hickman, 2011: 3).

The experience of multi-party elections in Zimbabwe particularly in the 2000-2010 decade reveals once more the long history of impunity. The failure to impartially enforce the law by the LEAs; selective application of the law, or the security forces being heavy-handed in dealing with opponents of the regime and lenient towards supporters of the ruling party bred a crisis of impunity. Human Rights Watch found Zimbabwe to be a victim of two forms of impunity: De facto and De jure impunity. It accordingly notes, “De facto impunity takes place when the state fails to prosecute human rights abuses due to lack of capacity or political will. De jure impunity occurs when laws or regulations providing immunity or amnesty extend and strengthen the impact of de facto impunity by limiting or making it impossible to prosecute a perpetrator for human rights abuses” (HRW, March 2011: 21)²⁵⁷.

²⁵⁶ Amnesty International, “Post-election violence increases in Zimbabwe”, April 18, 2008, <http://www.amnesty.org/en/news-and-updates/news/news/post-election-violence-increases-zimbabwe-200801418> (Accessed September 25, 2011).

²⁵⁷ The UN Commission on Human Rights “Report of the independent expert to update the set of principles to combat impunity”, defines impunity as the “impossibility, de jure or de facto, of bringing the perpetrators of violations to account—whether in criminal, civil, administrative or disciplinary proceedings—since they are not subject to any inquiry that might lead to their being accused, arrested, tried and, if found guilty, sentenced to appropriate penalties, and to making reparations to their victims”. E/CN.4/2005/102/Add.1, February 8, 2005 para. A. p. 6.

As far as impact is concerned, the political crisis in Zimbabwe has generally had serious negative repercussions, not only to the country and its people but also the neighbouring SADC Member States. Besides the tragic losses of lives as recounted above, the violence, intimidation and controversial crackdowns by authorities (like *Operation Murambatsvina*) principally destroyed the homes and livelihoods of an estimated 700,000 people (which is equivalent to 6 per cent of the Zimbabwean population) (HRW, June 2008b: 4). The outcome of the gloomy political and economic situation and the forced evictions of people living in the high-density suburbs of the country's cities triggered the influx of Zimbabweans to neighbouring states, mostly to South Africa and Botswana, sparking off serious xenophobic reactions (Mlambo and Raftopolous, 2010: 6)²⁵⁸. In the first quarter of 2002, about 500 'illegal immigrants' were entering South Africa daily (Field, 2003: 4). Since 2005 an estimated one to 1.5 million Zimbabweans fled into South Africa (HRW, June 2008b: 1). The South African government treated the influx of Zimbabweans as voluntary 'economic migrants' or 'not real refugees' and deported about 200, 000 of them in 2007 alone (ibid, p. 8).

Botswana also has treated Zimbabweans crossing its border at unspecified points and who do not make their presence known to the authorities as illegal immigrants. The Gaborone government viewed them as 'economic refugees' and not as asylum seekers and had identified them as its top security threat (Molomo, 2003: 21). The ensuing overcrowding of refugee camps and jails in Botswana existed alongside " a growing sense of xenophobia; the Batswana have developed a negative attitude towards Zimbabweans and the latter have become scapegoats for many social ills in Botswana, causing tension between the two governments." (AISA, 2003: VI). Relations between the governments of Botswana and Zimbabwe were at their lowest ebb in 2003 (Molomo, 2003: 21).

²⁵⁸ The high-density suburbs, which were targets of the evictions, were areas the opposition MDC had significant support. The most notable example of xenophobic reactions was the attacks on 'foreigners' (mostly Zimbabweans) in South Africa in 2008.

Another impact was the complete meltdown of the Zimbabwean economy, which in 2008 recorded hyper-inflation, estimated by the country's state statistical office to hit 100, 000 per cent, and by July of the same year it became impossible to continue measuring it (HRW, June, 2008b: 5; Cawthra, 2010: 26). Moreover, Zimbabwe once regarded as the 'breadbasket' of Southern Africa, suffered a serious food shortage resulting from the collapse of food production that affected about 4 million Zimbabweans (HRW, June, 2008b: 6; Thomas, 2010: 269)²⁵⁹. The neighbouring country of Mozambique was also not spared from the crisis in Zimbabwe. As one of the SADC land-locked countries, Zimbabwe relies on Mozambican ports for its imports and exports. The Beira corridor which comprises of the port, road and railway network from the town of Beira to the hinterland of Zimbabwe and other neighbouring land-locked countries, experienced a decline in Zimbabwe imports and exports, thus jeopardising business and jobs at the central province of Sofala (Agaspar, 2003: 47-48).

To sum up, the section has provided the backdrop to the subsequent analysis on the coordination and management of the Zimbabwe domestic political crisis. It has clearly established that election-related violence is inherent in Zimbabwe's body politic, with political actors and security personnel involved and its repercussions extending into the neighbouring SADC Member States. After the exploration of the nature and manifestations of the Zimbabwe domestic political crisis, the next two sections dwell on how the coordination and management of the same took place.

8.3. Coordination of Responses to Domestic Political Crises

As noted in Chapter three of this study, interaction of various actors to coordinate their responses to collective security challenges can take place in either formal or informal institutional arrangements. The SADC sub-regional organization, through its Treaty, decided to formalize security cooperation among its Member States on 28 June 1996 when the famous Front Line States (FLS) alliance became obsolete, by establishing the Organ on

²⁵⁹ Zimbabwe authorities have mostly blamed the effects of drought, sanctions, and the suspension of balance of payment support by the World Bank and International Monetary Fund for aggravating the crisis

Politics, Defence and Security Cooperation (OPDSC, hereafter referred as 'the Organ'). It was not a bright beginning for the sub-regional security architecture as activities of the Organ were effectively paralysed between 1996 and 2001, over whether it should operate under the aegis of the SADC Summit or independently of it. Differing positions on how the Organ should operate in relation to the larger SADC led to polarized situation, famously referred to as the 'SADC impasse' (Malan & Cilliers, 1997).

Various explanations have been offered on the Organ impasse. One explanation is that the bone of contention over the locus of the Organ in the sub-regional security structure was the desire to see a separation of political and security issues from economic issues to avoid excessive power in the hands of one Head of State, whilst the opposing view stressed the need for one center of decision to ensure an effective coordination of all sub-regional efforts (Ndlovu, 2010: 12). Cawthra, however, argues that at the core of the disagreement was whether SADC Member States "were willing to accept potential de facto South African hegemony over both economic and political spheres, as well as involvement of what are now called International Cooperating Partners (ICPs) in political and security affairs" (2010: 10).

The other explanation was that the impasse that translated into an hostile environment, primarily between South Africa and Zimbabwe (Ngoma, 2005: 151), was basically attributed not only to geo-politics in the sub-regional body but also a personality clash between Presidents Nelson Mandela and Robert Mugabe, with the latter wishing to preserve the FLS tradition that the longest serving Head of State (in this case himself) retained the Organ's chair (Molomo, 2003: 19; Francis, 2006: 193; Cawthra, 2010: 10). The interventions of DRC and Lesotho in 1998 by different groups of SADC Member States were practical situations that demonstrated the need to review the position of the Organ in relation to the larger SADC organization (Macaringue and Magano, 2008: 141). The impasse was ultimately resolved in March 2001, with the Summit decision to integrate the Organ into the overall SADC structures, and thus making it report to the SADC Summit of Heads of States.

A Protocol on Politics, Defence and Security Cooperation was adopted in that same year to institutionalise the operations of the Organ. The Protocol tasked the Organ with, inter alia, promoting regional cooperation on matters related to defence and security, preventing, containing and resolving inter-and intra state conflicts by peaceful means, with the insistence that the use of force or enforcement action is a matter of last resort to be effected only with the authorisation of the United Nations Security Council²⁶⁰. The Organ authority is exercised based on a Troika (different from the overall SADC Summit) that comprises of the Current Chairperson, In-coming Chairperson (who serves as the Deputy Chair of the Organ), and the Outgoing Chairperson. The Organ Troika reports directly to the Summit and receives inputs from the Ministerial Committee of the Organ (MCO). MCO is made up of Ministers responsible for Foreign Affairs, Defence, State and Public Security. The MCO, in turn, receives inputs from two committees that make key decisions, the Inter-State Defence and Security Committee (ISDSC) and the Inter-State Politics and Diplomacy Committee (ISPDC) (refer to the *Organogram* in chapter 6). The Organ and its subsidiary committees are facilitated and coordinated by the Directorate of Politics, Defence and Security at the SADC Secretariat in Gaborone²⁶¹.

Since this chapter focuses on a case of domestic political crisis in one of the Southern African countries, it is important to note that in addition to the Protocol on Politics, Defence and Security Cooperation, SADC has in place a normative framework for the conduct of democratic elections in the sub-region. The *SADC Principles and Guidelines Governing Democratic Elections*, which were adopted in 2004, specify a raft of criteria covering various aspects of a competitive electoral process²⁶². The most glaring flaw of these

²⁶⁰ Article 2 of the SADC Protocol on Politics, Defence and Security Cooperation, Gaborone, 2001.

²⁶¹ The Directorate has a relatively small staff compared to its counterparts in the economic side, making the few available personnel to attend to all peace and security-related issues taking a toll on the people involved. This is according to Linda Ramokate, Politics and Diplomacy Officer at the SADC Secretariat, Gaborone, in an interview on 16th November 2010.

²⁶² The other related set of instruments guiding the conduct of credible democratic elections in Southern Africa include the SADC Parliamentary Forum Norms and Standards (2001), and the Electoral Institute of Southern Africa/Electoral Commissions' Forum (2003). The Norms and Standards, nonetheless, as noted by Shannon Field, 2003, "Introduction", in *Effects of the Zimbabwean Crisis on SADC: The Cases of South Africa, Botswana, Namibia, Zambia and Mozambique*, AISA Research Paper No. 68, are merely a set of guidelines "signed by parliamentarians as opposed to governments, and thus are not legally binding, as they would be under a SADC protocol", (p. 8).

guidelines, however, is that they are voluntary instrument calling for the resolution of election-related disputes in accordance with the national laws of SADC countries (Dzinesa and Zambara, 2011: 76). In this sense, the Sub-regional body can encourage Member States to adhere to the SADC elections principles and guidelines, but they have at best the “name and shame” effect to solicit compliance (Kesselman, 2009a: 6; Dzinesa and Zambara, 2011: 67). Their other ostensible shortcoming is that they do not prescribe any punitive measures against Member States found to flout the guidelines (Mulaudzi, 2006: 26). These deficiencies have led Oosthuizen to conclude that the SADC elections guidelines are more about controlling SADC election observers and less about the conduct of democratic elections (2006: 325). The norms and standards were, for instance, violated in the 2005 Zimbabwe elections, nevertheless, the sub-regional organization went on to declare them free and fair based on reports of its observers (Cawthra, 2010: 25).

It can be recalled that the FLS grouping that preceded the current security structures nurtured a tendency of treating political and security issues with utmost secrecy. This appears to have been passed on to the current coordination role of the Organ, in particular in keeping its activities away from other actors like civil society organizations and SADC’s international Cooperating Partners (ICPs)²⁶³. It is noted that civil society members and ICPs alike “register frustration on a regular basis at the lack of engagement with the Organ and its Directorate” (van Nieuwkerk, 2009: 111). This is despite the fact that a structured SADC-Civil Society Partnership was mooted during the SADC Consultative Conference of 2006. In a statement to the SADC Heads of State and Government, Civil Society Organizations (CSOs) expressed their disappointment on the level of engagement between them and SADC, and in particular were “concerned that apart from isolated and event specific collaboration and engagement between SADC and civil society has not been sufficiently institutionalized and consistent, resulting in the marginalization of civil society

²⁶³ According to Linda Ramokate, SADC’s Politics and Diplomacy Officer, the Organ’s activities are held in much secrecy because diverse interests are involved and thus non-members have been locked out to avoid distractions and ulterior motives of different actors who have a stake in certain issues, interview at the SADC Headquarters, Gaborone, 16th November 2010.

in a number of regional integration processes”²⁶⁴. They, thus, called upon SADC States to ensure CSOs participation in SADC processes, including consultative meetings, joint task force meetings, core group meetings, thematic/cluster meetings and other such forums, is institutionalized.

It can, thus, firmly be said that the facilitation and coordination of peace and security activities is under the firm control of SADC Organ. The process leading to the development of the Strategic Indicative Plan for the Organ (SIPO) that serves as an implementation plan for the Organ, itself was managed within the SADC structures. The SADC Summit established a Task Force comprising of the Troika of SADC and that of the Organ to develop the SIPO, and it took several meetings held in Harare, Dar es Salaam, Maseru and Gaborone between September 2002 and April 2003 to finalise the exercise (SADC, August, 2003).

In general, coordination of initiatives aimed at addressing the Zimbabwe, has in effect been monopolized by SADC with South Africa taking the lead role. As early as 2001 SADC Summit created another task force comprising of the SADC Troika: Botswana, Mozambique and South Africa, to work with the government of Zimbabwe on the political and economic issues affecting the country²⁶⁵. Kesselman (2009b: 21) notes, “From that time onwards, Zimbabwe remained on the agenda of the SADC Organ and was a standing issue in report of the Chair of the Organ at SADC Summits”. Creation of this task force to deal with internal problems of a Member State was “unprecedented” development in SADC’s history (Hammerstad, 2003: 16). It ought to be noted that coordination of the response to the Zimbabwe crisis has also been undertaken outside the tutelage of the Organ by individual SADC Member States, with South Africa taking the lead role. South Africa under Mbeki’s presidency established the so-called ‘constructive engagement’ with Zimbabwe. These were basically bilateral negotiations between both South African and Zimbabwe finance ministers and central bank governors on an aid package proposed by the Mbeki

²⁶⁴ Statement to the SADC Heads of State signed by representatives of CSOs from across the Southern Africa sub-region, meeting under the auspices of the Fellowship of Christian Councils of Southern Africa (FOCCISA), Southern Africa Development Community-Council of Non Governmental Organizations (SADC-CNGO), Southern Africa Trade Union Coordination Council (SATUCC), from the 8th-9th, August 2011 in the Southern Africa Civil Society Forum.

²⁶⁵ SADC Heads of State and Government Summit Communiqué, Blantyre Malawi, August 2001.

government in August 2005 that would assist the latter to repay its debts to the IMF (Prys, 2008: 20). The next section examines actual measures undertaken by various key actors aimed at managing the Zimbabwe political crisis.

8.4. Management of the Zimbabwe Political Crisis

It can be recalled that the SADC arrangement makes preference for peaceful methods of resolving conflict within the territory of a Member State, which include preventive diplomacy, negotiations, conciliation, mediation, good offices, arbitration and adjudication by an international tribunal²⁶⁶. Some of these methods were used in attempting to address the Zimbabwe political crisis. Mediation was the first method to be applied, and it can firmly be stated here that it is this method that has taken a great deal of efforts to address the Zimbabwe political crisis. Adjudication by the SADC Tribunal has also been attempted. This section will thus show how various actors, within and outside the SADC arrangement, applied those peaceful methods to manage the crisis and the outcome of their initiatives. It can, therefore, be noted at the outset that more than several actors were engaged in attempt to manage the Zimbabwe political crisis. The analysis will commence with a focus on intra-sub-regional actors (i.e. actors within the SADC sub-region like South Africa, other SADC Member States and CSOs), and then move on to extra-regional actors (i.e. actors outside the SADC organization like the AU, Nigeria, UN, EU, U.S., to mention a few).

8.4.1. Mediation by Intra-sub-regional Actors

For ease of understanding and for convenience, the ensuing analysis of mediation efforts in this sub-section has been categorized into three main phases, namely phase one (2000-May 2007) featuring initial negotiations by South Africa; phase two (May 2007- March 2008) covering the SADC-mandated mediation process following the Dar es Salaam SADC Extra-ordinary Summit, and phase three (March 2008-2011) is about the South Africa-led mediation in the post-March 2008 Zimbabwe presidential election.

²⁶⁶ Article 11 (3) (a) of the Protocol on Politics, Defence and Security Cooperation.

In Phase one, right from the beginning of the 2000s, the Republic of South Africa established itself as the lead actor in trying to support its northern neighbour, Zimbabwe, to overcome the political and economic challenges even before the crisis reached its peak by the second half of that epoch. South Africa's approach to Zimbabwe was adopted by engaging in negotiations on both bilateral and multilateral levels. On a bilateral level, since 2000 the Thabo Mbeki regime conducted a series of negotiations with the Mugabe government within the framework of a Joint Commission between the two countries, with a dedicated sub-commission on foreign affairs. By March 2000, the Zimbabwe situation was already volatile as there were widespread acts of violence and confrontation around the land question. South Africa shifted to multilateral efforts in attempt to resolve the issue of white farms invasions ahead of the June 2000 elections and amidst deteriorating UK-Zimbabwe relations. President Mbeki offered to facilitate negotiations between the UK and Zimbabwe governments in efforts to address the land question and went on to engage Saudi Arabia and Norwegian governments looking for funds to Zimbabwe's land resettlement scheme (Landsberg, 2000).

South Africa's motivation to take the lead role towards Zimbabwe has largely been driven by its own interests and more importantly, the need to maintain stability and peaceful co-existence, given the mere fact that more than 90 per cent of Zimbabweans migrants headed for South Africa (Field, 2003: 5)²⁶⁷. Correspondingly, South Africa did not fancy to go-it-alone with regard to Zimbabwe having learnt the pitfalls of a unilateral approach on the issue of Nigeria in the mid-1990s, and more importantly was further concerned about being viewed as a sub-regional bully, imposing its own agenda in conflict situations (Field, 2003: 5; Mlambo and Raftopoulos, 2011: 7). The Pretoria government, henceforth, conducted bilateral and multilateral negotiations on Zimbabwe while carrying consultations within the SADC framework.

²⁶⁷ This was also confirmed in an interview with Brigadier General Maaparankoe Mahao, Chief of Staff Planning Element-SADC Headquarters, 15th November 2010.

Phase two is marked by the decision of the 2007 SADC Extra-ordinary Summit in Dar es Salaam. Perturbed by the pervasively polarised political situation and recurrence of political violence, especially after the public assault of opposition MDC officials, including Morgan Tsvangirai as well as some supporters and activists while in custody, SADC mandated President Mbeki to negotiate an inter-party dialogue between the ruling ZANU-PF and the two MDC factions (i.e. MDC-T and MDC-M), at an Extraordinary Summit in Dar es Salaam in May 2007²⁶⁸. This signified that the sub-regional body had officially recognized that the Zimbabwe crisis is a problem requiring a sub-regional response. It also denoted that for the first time President Mbeki's mediation had a formal sub-regional mandate, "including a requirement to report to the SADC summit on the talks that provides an element of accountability and pressure absent from earlier South African efforts with its neighbour" (ICG, September 2007: 12). The resulting mandate also laid a tacit admission by the SADC countries that the existing legislative framework and electoral conditions in Zimbabwe did not pass the criteria that would allow for the holding of free and fair elections in Zimbabwe (IDASA, 2008: 2).

From the onset, it emerged that the publicly proclaimed goals of the SADC-mandated mediation process "were to endorse a decision to hold harmonised presidential, parliament and local government elections in 2008; agree on steps to be taken to ensure that the elections would be generally acceptable to all concerned and representative of the will of Zimbabwean voters; and agree on the measures that had to be implemented to create the climate that would facilitate such acceptance" (Solidary Peace Trust, 2010 as referred in Dzinesa and Zambara, 2011: 64), as well as resuming the process leading to "...the resumption of its development and reconstruction process intended to achieve a better life for all Zimbabweans..."²⁶⁹. In general, Mbeki's mediation efforts concentrated on reaching

²⁶⁸ This Summit also called for lifting of all forms of sanctions imposed on Zimbabwe, mandated the SADC Executive Secretary to undertake a study on the economic situation in Zimbabwe and thereafter propose measures on how SADC can assist Zimbabwe recover economically, and reiterated the appeal to Britain to honour its compensation obligations with regards to land reform made at the Lancaster House. See Communiqué 2007 Extra-Ordinary SADC Summit of Heads of State and Government, 28th - 29th March 2007, Dar-es-Salaam.

²⁶⁹ Letter from President Mbeki to Morgan Tsvangirai and Arthur Mutambara, copied to Robert Mugabe, as quoted in Mlambo and Rafropoulos, 2010, "The Regional Dimensions of Zimbabwe's Multi-layered Crisis: An

an agreement that would ensure political conditions for the holding of free and fair elections in Zimbabwe were in place (IDASA, 2008: 1).

Mbeki's mediation embraced all the three roles that mediators can play to marshal the interests of all the involved parties toward a mutually acceptable solution to the conflict, namely communication, formulation and manipulation²⁷⁰. President Mbeki, who preferred to handle the mediation process behind closed doors, giving rise to the term 'quiet diplomacy', hoping that tough talk behind the scenes would achieve far much more than publicly lashing at the disputing parties, managed to communicate and bring the parties together for talks (Kesselman, 2009b). Mbeki went on to formulate a roadmap for the negotiations, also managed to reduce the asymmetry between the parties and got them to agree on key electoral reforms (IDASA, 2008; Kesselman, 2009b; Dzinesa and Zambara, 2011). The parties agreed amendments to the Broadcasting Service Act (BSA), the Access to Information and Protection of Privacy Act (AIPPA) and the Public Order and Security Act (POSA). Changes to the electoral laws included a requirement to post the preliminary vote counts outside of polling stations. To some extent these changes created a slightly better political climate that relatively reduced the levels of pre-election violence in the run-up to the March 2008 elections (Dzinesa and Zambara, 2011: 64).

Finally, phase three (i.e. the post- March 2008 Presidential elections) saw intensified efforts by the SADC mandated mediator that culminated into a political agreement. Prior to a negotiated agreement, the country relapsed into a wave of political violence in several parts following a five-week delay in announcing the March 2008 presidential results prompting the opposition candidate, Tsvangirai, to withdraw from the June run-off. Before the June elections, SADC intensified diplomatic efforts to convince all the political parties to accept the March election results and participate in the run-off (Angola Press Agency, 5 May 2008). On 12 April 2008, the Zambian President Levy Mwanawasa, by then the SADC chairperson, convened an Extraordinary Summit of SADC heads of State and Government

Analysis“, Election Processes, Liberation Movements and Democratic Change in Africa Conference, Maputo, 8-11 April.

²⁷⁰ Recall Zartman and Touval (2007) as referred in chapter three of the current study.

specifically on Zimbabwe. South Africa's Mbeki and Zimbabwe's Mugabe did not consider the meeting necessary and the latter snubbed it by sending a minister in his place²⁷¹. This alone was suggestive of differences and divisions within the sub-regional body regarding the Zimbabwe political crisis (Badza, 2008). Even "the final statement concealed important differences between the regional leaders, with Mbeki and Angola's dos Santos resisting calls for a tougher line from Kikwete, Mwanawasa and Botswana's Ian Khama" (ICG, May 2008: 10). The Lusaka Summit Communiqué, however, called for the results to be released "expeditiously" and to ensure a run-off election is held in a "secure environment"²⁷². The Angolan President dos Santos also sent a SADC Ministerial Troika on shuttle diplomacy meetings with Presidents Mugabe in Harare, Mwanawasa in Lusaka and Mbeki in Pretoria on May 7 2008²⁷³.

Experience also show that SADC leaders and the Mbeki-led mediation team applied strategies to manipulate the parties into agreeing certain positions or making concessions before and after the signing of the Global Partnership Agreement (GPA) in September 2008. Before the conclusion of the GPA, the mediator laboured to influence one of the negotiating parties, the seemingly reluctant MDC, to accept constitutional amendment eighteen that expanded the size of the parliament (i.e. the upper house was increased from 66 to 93 seats whilst the lower house from 120 to 210 members) and empowered it to choose a new president by a two-thirds majority of both houses should the office become vacant by resignation, death, impeachment or illness. The MDC viewed these reforms would further entrenched ZANU-PF's rule and had initially vowed to block them (*Mail and Guardian*, 13 June 2007). President Mbeki wanted to move the mediation process forward, and thus exerted pressure on the MDC, which acquiesced to the amendment leading to its adoption on 18 September 2007 (ICG, March 2008: 2).

²⁷¹ The opposition leader Tsvangirai attended the SADC extraordinary summit in Lusaka. Member States, with the exception of Zimbabwe, held informal consultations with presidential candidates, Tsvangirai and Dr Simba Makoni.

²⁷² SADC First Extraordinary Summit of Heads of State and Government, Lusaka, Zambia, 13 April 2008.

²⁷³ The Ministerial Troika comprised of Angola's Foreign Minister, Joao Miranda, Swaziland's Foreign Minister, Mathendele Dlamini, and Tanzania's Deputy Defence Minister, Emmanuel Nchimbi, as well as the SADC Executive Secretary, Tomaz Salomao. Crisis Group Africa Briefing No 51, 21 May 2008, p. 10.

Other SADC countries, acting individually, also exerted influence on President Mugabe while the South Africa-led mediation was on-going. In April 2008, Zambia, Mozambique, Namibia and Angola, all declined to accept a Chinese ship loaded with weapons and ammunition²⁷⁴. Zambia's Mwanawasa openly called for other States in the sub-region to bar the ship from entering their waters (ICG, May 2008: 10). Angola later allowed the ship to dock to offload other cargo (Guma, 2008 as referred in ICG, 2008: 10).

Ultimately, the parties (i.e. ZANU-PF, MDC-T and MDC-M) reached a power-sharing agreement in the name of the GPA in September 2008 following a prolonged negotiation process that resumed after the controversial June re-election of Mugabe. Nevertheless, the signed GPA was without clear implementation modalities, thus fuelling wrangling over allocation of posts and other components of the agreement²⁷⁵. Several Organ Troika meetings were held in the month of October 2008 to review, among other issues, the security situation and political deadlock in Zimbabwe²⁷⁶. Differences between the parties over the implementation of the GPA delayed the inauguration of the power-sharing government until February 2009. By October 2009, the MDC-T had suspended its participation in the joint structures of the Inclusive Government (IG), although it did not withdraw from the GPA altogether. SADC held an emergency Heads of State and Government Summit in Maputo, Mozambique on 5 November and gave the parties a thirty-day deadline to resolve outstanding issues and get the IG back on track (Cawthra, 2010: 26). The deadline passed without a resolution on substantive issues.

²⁷⁴ The Zimbabwe bound arms shipment was ordered before the 2008 election crisis. It initially docked at Durban, but could not offload as dock workers refused to do so. See Cecilia W. Dugger, 2008, "Zimbabwe arms shipped by China spark an uproar", *The New York Times*, 19 April.

²⁷⁵ The MDC-T was opposed to the appointments of the attorney general and reserve bank governor, and was not happy with the arrest of its deputy agriculture minister, Roy Bennett, on treason and terrorism charges. For its part, ZANU-PF, lamented that the MDC-T was not working to see to it that sanctions imposed on Zimbabwe by the West, are lifted.

²⁷⁶ See Communiqué, Extra-ordinary Summit of OPDS Troika, 17th August 2008, Sandston, South Africa; Communiqué, Extra-ordinary Summit of OPDS Troika, 27-28, October, Harare, South Africa.

Negotiations resumed under the office of the new South African president, Jacob Zuma²⁷⁷. Dzinesa and Zambara (2011) rightly observe that SADC's key mistake was not anticipating the need to set up impartial structures that would assist in monitoring and evaluating the implementation of the GPA, "which it had so painstakingly helped to negotiate" (p. 64). They further contend that the Joint Monitoring and Implementation Committee (JOMIC) "was flawed from the start because it made the three political parties both the players and the referees, leaving full implementation of the GPA vulnerable to non-compliance by any of the parties since there was no external supervision by SADC" (2011: 65)²⁷⁸.

There is further evidence to indicate that SADC had since attempted to further impose its influence on Zimbabwe's embattled government. The SADC Organ Troika meeting in Livingstone, Zambia on 31 March 2011, publicly noted "with grave concern the polarization of the political environment as characterized by, inter alia, resurgence of violence, arrests and intimidation in Zimbabwe" and expressed its "disappointment" at the slow pace of implementation of outstanding issues in the GPA (SADC, March 2011)²⁷⁹. This approach was in sharp contrast to old tradition of SADC Member States to publicly 'close ranks', most of the time, with the incumbent Head of State, in this case Mugabe (Field, 2003; Oosthuizen, 2006; Cawthra, 2010; Mavhinga, 2011). SADC leaders' approach since they began to address the worsening situation in Zimbabwe in 2000 had been not to openly criticize the ZANU-PF regime, some of them motivated by the desire "to maintain the bonds of solidarity between liberation movements..." (Field, 2003: 3). Nonetheless, as revealed by Gavin Cawthra's study on Zimbabwe and Madagascar, behind closed doors SADC has taken much tougher positions against the Zimbabwean government than it has admitted to publicly (2010: 31).

²⁷⁷ Mbeki lost the presidency of South Africa's ruling party, the African National Congress (ANC), to the former deputy president Jacob Zuma in December 2007, and thus had to vacate the Republic's presidential office.

²⁷⁸ The new mediator, President Zuma, later appointed a three-member facilitation team to assist the JOMIC in monitoring the coalition government, comprising Lindiwe Zulu, political advisor Charles Nqakula and special envoy Mac Maharaj.

²⁷⁹ SADC Communiqué Summit of the Organ Troika on Politics, Defence and Security Cooperation", 31 March 2011, Livingstone, Zambia.

8.4.2. Adjudication by the SADC Tribunal

As explained in section 8.2 of the current chapter, the Zimbabwe political crisis had an economic dimension to it, characterized by unprecedented meltdown of the entire economy that heightened exodus of Zimbabwe refugees to neighbouring States and sent negative ramifications to Zimbabwe's trading partners in the sub-region. It is important to recall this aspect of the Zimbabwe crisis since it is rather difficult to dissociate the country's problems with the highly volatile issue of land reform, which was partly responsible for a series of violent acts amongst a section of Zimbabweans. This brings to the limelight the SADC Tribunal that has also attempted to play some role in addressing the Zimbabwe crisis.

The SADC Tribunal, based in Windhoek, was established in 2003. The Tribunal offers legal recourse for aggrieved citizens from SADC Member States who do not get satisfactory rulings in their own countries, or for whatever reason, find domestic courts unwilling or unable to offer effective remedy. In 2007, a group of Zimbabwean white farmers took their case to the Tribunal, seeking redress after they lost their farms and properties under the land reforms program. The SADC Tribunal ruled in November 2008 that the seizures of land plots under the reform program were against the SADC Treaty because they were discriminatory in nature, and ordered the Zimbabwe government to protect the 78 farmers and pay compensation for land already seized (Bell, 2010). The Tribunal also ruled that the Mugabe government was in contempt of court for ignoring its rulings. It, thus, referred Zimbabwe to the SADC Council of Ministers for appropriate action following the former's persistent refusal to honour the Tribunal's rulings²⁸⁰.

In the spirit of honouring the SADC Treaty, the Council ought to have sought to enforce the Tribunal's rulings by recommending either sanctions or suspension for Zimbabwe as it had previously done in the case of another SADC member, Madagascar. The SADC Summit of

²⁸⁰ Mugabe government snubbed the Tribunal's rulings, declaring them 'null and void'. The Zimbabwe High Court also ruled that the SADC Tribunal's rulings have no authority in Zimbabwe, despite the country being a signatory to the SADC Treaty.

Heads of State and Government preferred instead to effectively suspend the Tribunal for six months “under the guise of a review process, thus avoiding dealing with Zimbabwe’s non-compliance” (Fritz, 2011: 62)²⁸¹. The SADC lawyers’ Association noted with concern that the suspension of the Tribunal was illegal and ultra vires the provisions of the SADC Treaty and the Protocol on the SADC Tribunal, and called for the decision to be reversed²⁸². One grave repercussion of this decision is that it has dealt a serious blow to the Tribunal’s and the entire SADC integrity and thus far disapproving adjudication by an international tribunal, which in terms of the SADC Protocol on Politics, Defence and Security is one of the advocated peaceful methods of resolving disputes between SADC States and their citizens in the sub-region.

8.4.3. CSOs Involvement

From the inception of the SADC-led mediation CSOs, both local and sub-regional networks were sidelined from the negotiations. This was in spite of the fact that various CSOs presented their views to the South African facilitators and the MDC-T. CSOs were increasingly disappointed by the decision of the SADC-led mediation team to limit the negotiations to only three political parties, “and protested that they were being used to ‘popularise’ the process without being substantially involved” (Mlambo and Raftopoulos, 2010: 8)²⁸³. In 2008, for instance, various Zimbabwe CSOs demonstrated at the Mulungushi International Conference Centre in Lusaka, which was the venue of the SADC Extraordinary

²⁸¹ The decision to review the Tribunal’s role, functions, and terms of reference was taken at the 13th SADC Summit in Windhoek, Namibia in August 2010. The six-month suspension was later extended until August 2012. As observed by the Senior Defence Affairs and Planning Officer at the SADC Headquarters, Col. Gerson M. Sangiza, in an interview on 15th November 2010, issues surrounding the Tribunal 2008 rulings and its eventual suspension were a bit complex and more political.

²⁸² Resolutions of the SADC Lawyers Association 12th Annual General Meeting and Conference held in Maputo, Mozambique from 4-6th, August 2011.

²⁸³ See also a compendium of positions taken by CSOs in Zimbabwe on the talks between ZANU-PF and the two formations of the MDC, under the auspices of SADC, titled “ZANU-PF and MDC negotiations for a future authority in Zimbabwe: Benchmarks for the Assessment of outcomes and recommendations from Zimbabwean civil society”, compiled by Zimbabwe Watch and Europe External Policy Advisors (EEPA) 13 August 2008. See also “Zimbabwe: Government and opposition leave civil society out of talks”, IRIN, Harare, 21 June 2007. Besides calling upon the SADC led mediation to accommodate a plethora of groupings including civic groupings, churches, and smaller political parties, various CSOs’ forums expressed their scepticism about Mbeki’s impartiality as a mediator following his comment that there was ‘no crisis in Zimbabwe’.

Summit, protesting against the undue delay in the release of the March presidential poll results (Badza, 2008: 11).

On the reason behind CSOs exclusion from the talks, Mlambo and Raftopoulos (2010: 8) note that “...there was general agreement between both the SA facilitators and the two MDCs, that the involvement of civil society groups would cause enormous delays in the negotiations, and none of the players in the negotiations wished to entertain such delays”. This does not mean that there was no direct attempt by a section of Zimbabwe CSOs to claim a role in resolving the crisis. Leaders of three main Christian groupings-the Zimbabwe Catholic Bishops Conference (ZCBC), the Evangelical Fellowship of Zimbabwe (EFZ) and the Zimbabwe Council of Churches (ZCC) unsuccessfully promoted inter-party dialogue by holding meetings with leaders of the two main political parties (Chitando, 2011: 4).

The outcome of the South Africa-led, SADC mediation has not met its proclaimed goals. When the SADC mandated mediation formally took off under South Africa’s Mbeki, the publicly pronounced objective was to see to it that the parties reach an agreement paving way for immediate elections in Zimbabwe to be conducted in an atmosphere that would result in free and fair elections. In retrospect, the harmonised elections in 2008 were not. Mbeki later revised his initial stated goal of producing credible elections to having facilitated inter-party dialogue that left unresolved “few procedural matters”²⁸⁴. SADC’s mediation has indeed, facilitated inter-party talks leading to the formation of the Inclusive Government, and prevented the country from slipping into a full-scale civil war (Kesselman, 2009b; Cawthra, 2011). The mediation has also led to a slightly improved electoral environment (HRW, June 2008a) but has been unable to bring pressure to bear on the coalition government to implement the GPA in earnest to ensure holding of credible elections and avoid a relapse to an orgy of politically-motivated violence. Candidly, the Zimbabwe domestic political crisis has dragged on for far too long, since it, firstly, appeared

²⁸⁴ Thabo Mbeki, “State of the Nation Address of the President of South Africa, Thabo Mbeki: Joint Sitting of Parliament”, 8 February 2008, at www.dfa.gov.za/docs/speeches/2008/. The Mugabe-led government had refused to implement much of agreements related to the constitutional reforms until after the March 2008 elections. See ICG, 20 March 2008, op. Cit; IDASA, 2008, p. 4.

as a ‘problem issue’ to SADC in 2000 and became a constant item on the agenda of the SADC Organ chairperson thereafter. Table 10 presents a summary of the key events related to efforts at resolving the Zimbabwe domestic political crisis.

Table 10: Chronology of Major Events Related to Efforts Aimed at Addressing the Zimbabwe Political Crisis

2000	South Africa’s President Mbeki conducts a series of bilateral and multilateral negotiations with the Zimbabwe government within the framework of a joint commission between the two countries.
June	Zimbabwe Parliamentary elections
2002 March	Zimbabwe Presidential elections
2005 March	Zimbabwe Parliamentary elections
2007 May	SADC mandates President Mbeki to negotiate political agreement between ZANU-PF and the MDCs
2008 March	Zimbabwe Presidential elections
	MDC’s Tsvangirai wins with 47.9% of the votes to ZANU-PF’s Mugabe with 43.2%
	Wave of politically-motivated violence directed toward MDC followers in Zimbabwe
June	Tsvangirai withdraws from the run-off
	Mugabe victorious in the one- man presidential election race
	AU Summit in Egypt mandates SADC to resume mediation of the Zimbabwe crisis

September	ZANU-PF and MDCs sign the GPA Different views between parties delays the inauguration of the IG until February 2009
2009 January	JOMIC launched to ensure parties' compliance with the GPA
2010 August	The 13 th SADC Summit of Heads of State and Governments in Windhoek suspends the SADC Tribunal for six months pending a review of its role, functions and terms of reference.

Source: own compilation

The subsequent sub-sections bring in the role played by other actors, non-SADC members within as well as outside Africa, in the management of the Zimbabwe domestic political crisis.

8.4.4. Extra-regional Actors: The AU and Nigeria

Zimbabwe has been under the AU radar since the country's situation begun to deteriorate in 2000. In 2002 the AU sent its election observation team, which endorsed the presidential election as legitimate, free and fair. However, a delegation from the African Commission for Human and People's Rights (ACHPR) delivered a damning report that pointed an accusing finger at Mugabe's government for police abuses, press censorship, and an encroachment into the judiciary²⁸⁵. The ACHPR produced an equally disapproving report on the human rights situation following its fact-finding mission to Zimbabwe in December 2005. Both reports were rejected by the AU's Council of Ministers on irregularities and procedural grounds (Ploch, March 2008: 38-39). The same year AU Commission Chairperson, Alpha Konare, dispatched the Special Rapporteur on Refugees, Internally Displaced Persons, and Asylum Seekers in Africa, Tom Nyanduga, as a special envoy to investigate the previously

²⁸⁵ *Zimbabwe Independent*, "AU Report Slams Erosion of Rule of Law", July 16 2004.

mentioned *Operation Murambatsvina*. The Zimbabwe government thwarted the envoy's attempt to conduct assessment of the situation and actually expelled him (Ploch, March, 2008: 39).

In the run-up to the June 2008 run-off election, the AU Commission Chairperson, Jean Ping, met with President Mugabe and Zimbabwe Electoral Chair, George Chiwase²⁸⁶. It can be noted that following the controversial re-election of Mugabe in June 2008, the AU did not take a more prominent part in the subsequent negotiations, "playing an oversight role over SADC, and rubber-stamping its decisions" (Cawthra, 2010: 30). AU's decision to defer the task of facilitating mediation of the crisis to SADC came in its June 30 Summit in Egypt²⁸⁷. Despite AU's official endorsement of the SADC to resume its mediation of the crisis, behind the scenes, a diplomatic row ensued between two of the SADC presidents, Tanzania's Kikwete and South Africa's Mbeki. Presidents Mwanawasa of Zambia and Khama of Botswana backed Kikwete's call for a more expanded mediation team by means of a contact group and deployment of an UN-led fact-finding mission to Zimbabwe, but Mbeki strongly opposed the proposal (ICG, May 2008: 11). Botswana's President Ian Khama openly criticized Robert Mugabe following the latter's defeat in the 29 March 2008 elections. Even though Botswana recognized the results of these harmonized elections, "It expressed serious concern about the deteriorating political situation and made repeated calls on the authorities in Zimbabwe to take the necessary steps to ensure a climate conducive to the holding of a free and fair presidential election run-off. It argued that the process that led to the run-off election did not conform to the SADC guidelines governing the conduct of democratic elections" (Badza, 2009: 165). It was no surprise then when Botswana's delegation to the AU Summit in Egypt called on both the AU and SADC to exclude Zimbabwe from their meetings since "a disputed election did not give the government of President

²⁸⁶ Crisis Group interviews, SADC diplomats, Arusha, 6 May 2008.

²⁸⁷ See AU Summit Resolution on Zimbabwe, 2 July 2008, Sharm El Sheikh, Egypt. President Mugabe did attend this Summit having been hurriedly declared the winner and subsequently inaugurated within 48 hours of the conclusion of the run-off.

Robert Mugabe legitimacy”²⁸⁸. All this further suggested divisions among SADC leaders on the best approach to manage the Zimbabwe political crisis.

Nigeria under Ousegun Obasanjo’s presidency also undertook some initiatives to facilitate negotiations between relevant actors in an attempt to address the crisis in Zimbabwe. As early as 2001 Nigeria hosted a meeting of foreign ministers of seven Commonwealth States to address the situation in Zimbabwe in Abuja²⁸⁹. The resolutions of the Abuja meeting included an immediate end to the occupation of farmlands and commitment to the restoration of rule of law in Zimbabwe²⁹⁰. An observer team from Nigeria endorsed the 2002 presidential election in Zimbabwe, but President Obasanjo called for incumbent Mugabe to retire while at the same time cajoling the opposition MDC to withdraw its legal petition against the election result (Maroleng, 2004: 5). In a subsequent move, Obasanjo supported Zimbabwe’s suspension from the Commonwealth grouping of States. However, Obasanjo’s role was restricted to holding talks with one of the disputing parties, the opposition MDC leader, Tsvangirai, at different occasions in 2004 and 2005 in Nigeria (Ploch, March 2008: 35-36).

8.4.5. Actors Outside Africa

On its part, the UN through the Security Council expressed its concern over the impact of the Zimbabwe situation to the wider region, and like the AU, welcomed peaceful efforts by SADC leaders to negotiate the way out of the crisis, particularly by President Mbeki²⁹¹. The Security Council also vowed to continue monitoring closely the situation. In April 2008, six UN Special Rapporteurs condemned the violence in Zimbabwe in a statement²⁹². The following month the UN country team to Zimbabwe released a statement expressing

²⁸⁸ Remarks by Botswana’s Vice President Mompoti Merafhe during his speech at the AU Heads of State and Government Summit on 1 July 2008 in Sharm El Sheikh, as captured by Simon Badza. 2009. „Zimbabwe’s 2008 Harmonized Elections: Regional and International Reaction,” in Elded Masunungure (ed.), *Defying the Winds of Change*, Harare: Weaver Press, pp. 149-175.

²⁸⁹ The seven states represented were Australia, the UK, Canada, Jamaica, Kenya, Nigeria and South Africa.

²⁹⁰ Foreign and Commonwealth Office News, “Conclusions of the meeting of the Committee of Commonwealth Foreign Ministers on Zimbabwe”, Abuja, 6 September 2001, www.fco.gov.uk/news.

²⁹¹ United Nations, Statement by the President of the Security Council, S/PRST/2008/23, 23 June 2008.

²⁹² Special Rapporteurs on extrajudicial killings, torture, violence against women, housing, free expression, and human rights defenders.

concerns over the politically motivated violence²⁹³. Meanwhile, the UN Security Council's attempt to place Zimbabwe on its agenda was successfully blocked by the leading Southern African country in the mediation of the crisis: South Africa. South Africa, together with China, Vietnam and Russia, used its Security Council seat to block UN debate on Zimbabwe (ICG, September 2007; Badza, 2008). Another attempt by some members of the UNSC to send a special envoy to Zimbabwe was prevented by South Africa, which chaired the session. South Africa's argument during its tenure as a non-permanent member of the Security Council in January 2008 was that by placing Mugabe's government on its agenda "the UN risked complicating the situation in Zimbabwe that at that time had not reached the levels of Kenya's December 2007 post-election violence" (Badza, 2009: 164).

Other international actors, the EU, UK, US, Canada, Australia, and New Zealand, also made attempts to influence the political situation in Zimbabwe but faced resistance from SADC. In interviews with a European diplomat and South African official, International Crisis Group established that the EU Member States consulted the SADC mediator, Mbeki, on how they could assist his mediation and the response was that "Western countries could best support the SADC process by staying out of the negotiation phase and then by supporting implementation of a comprehensive agreement with financial aid" (ICG, March 2008: 5)²⁹⁴. Opposition in the face of the perceived 'external interference' in the sub-regional's affairs (Mulaudzi, 2006:25), particularly the Zimbabwe situation has been experienced throughout the existence of the crisis in the 2000-2010 decade²⁹⁵.

Since 2001 the United States, EU, and UK, leaned on altering the behaviour of the Zimbabwe government and those that perpetrated violence by imposing sanctions on the country. The main rationale for imposing sanctions was to limit access to economic resources for the elite members of the Mugabe regime, thereby limiting their capacity to

²⁹³ UN Press Statement, "Zimbabwe: UN Voices Concern Over Politically-Motivated Violence," May 13, 2008, Retrieved from <http://www.un.org/apps/news>. (Accessed May 10, 2010).

²⁹⁴ Crisis Group interview with European diplomat was held on 6 March 2008, and the interview with a South African foreign ministry official on 5 March 2007.

²⁹⁵ See statements by the then Tanzania President Benjamin Mkapa and South Africa's deputy minister of foreign affairs, Aziz Pahad, in Christophewr Mulaudzi, April 2006, "The Politics of Regionalism in Southern Africa", *Institute of Global Dialogue Occasional Paper No. 51*, p. 25.

sustain human rights abuses against their own people (Tungwarara, 2011). These actors' resolve to make sure that the behaviour of those who condoned violent acts is transformed, translated practically into a series of sanctions and punitive measures on Zimbabwe, including: the enactment of the Zimbabwe Democracy and Economic Recovery Act (ZIDERA)²⁹⁶ of 2001 by the US Congress; the suspension of budgetary support to the government by the EU²⁹⁷; the imposition of visa bans and asset freezes by the US, EU, Canada, New Zealand, and Australia on influential individuals associated with the government and ZANU-PF²⁹⁸; and, the prohibition of military support and technical assistance.

SADC opposed these sets of sanctions, continuously calling on Western countries to suspend them. The sub-regional body also worked to undermine sanctions imposed on Zimbabwe leaders by refusing to participate in international meetings if Zimbabwe was barred from attending. One example here is the SADC-EU ministerial meeting in November 2002 that had to be moved from Copenhagen to Maputo so that Zimbabwe could attend. The SADC delegation to this meeting later declined to sign a joint statement with the EU expressing concern at the plight of the Zimbabwe people (Oosthuizen, 2006: 375; Prys, 2008: 23). Another example was the December 2007 dispute over whether President Mugabe should attend the EU-AU Summit in Portugal. Eventually Mugabe attended whilst Britain abstained. Consequently, the sanctions and punitive measures placed on Zimbabwe appeared to have some bearing on Zimbabwe's political agreement as the issue of sanctions and punitive measures featured prominently in the final GPA. In fact, Article 4 of the GPA addresses the question of sanctions imposed by some sections of the international community, endorsing the SADC position on Zimbabwe sanctions and advocating for the lifting of the same.

²⁹⁶ This Act allows the US to veto Zimbabwe's applications to multilateral lending agencies such as the IMF and World Bank. In 2010, US Senator Jim Inhofe, a member of the Senate's Foreign Relations Committee, introduced a bill (i.e. the Zimbabwe Sanctions Repeal Act 2010) seeking to lift sanctions imposed on Mugabe and his cronies.

²⁹⁷ This suspension was made under article 96 of the Partnership Agreement between the African, Caribbean and Pacific Group of States (ACP) and the EU signed in Cotonou in 2000.

²⁹⁸ The EU initially imposed targeted sanctions on 19 members of Zimbabwe's elite and their spouses in 2002 and later expanded the list to 35 leaders. These target sanctions have been renewed annually.

In concluding this section, it has been observed that extra-regional actors, both within and outside Africa, interacted with SADC at the AU, UN and during various international forums like the EU-SADC and EU-AU Summit meetings. The AU and UN were both alarmed and concerned by the deteriorating political situation in Zimbabwe. They both supported a peaceful resolution to the crisis and welcomed SADC's mediation initiatives. The AU took the Zimbabwe political crisis under consideration, whilst attempt by the UN to place it on the Security Council agenda was blocked. South Africa, a SADC Member State and a lead actor in the Zimbabwe mediation process was one of the members of the UNSC, which were at the forefront in successfully blocking this attempt.

Irrespective of some instances of internal division on how to handle the political fallout after the harmonized March 2008 elections in Zimbabwe, SADC as an organization portrayed a unified stance against what it considered as the UN and other international actors interference in a political crisis troubling one of its Member States. The sub-regional body's position was that Zimbabwe's sovereignty ought to preclude any 'external interference' (Nathan, 2010). SADC also held the view that while mediation was the only route to an amicable political settlement, extra-regional actors had to give it a chance by staying out of the negotiation phase but be ready to offer support after conclusion of an agreement. SADC sought to justify its position on locking out extra-regional actors on the ground that some of them were interested parties (i.e. had a stake) in the Zimbabwe situation, particularly the controversial land reform program, and thus, keeping them off the mediation would avoid unnecessary distractions that could potentially undermine the process. It follows that SADC did not only seek to minimize as much as possible the influence of extra-regional actors in what it considers as 'sensitive operations' of its OPDS, but also obstructed their involvement in the actual negotiations among the Zimbabwe disputing parties.

Condemnation and isolation of the ZANU-PF through the imposition of sanctions in the form of travel bans and asset freezes by the international community sent a signal that violence, impunity and excessive use of force would not be tolerated. The imposition of

sanctions, in particular, complemented sub-regional efforts to pressurize the ZANU-PF to come to the negotiation table. However, there is no evidence to suggest that sanctions have helped to change the behaviour of the targeted section of the Zimbabwe political and military elites who had persistently condoned violent acts against civilians and opposition supporters. The EU, U.S., U.K and other western actors ultimately welcomed the 2009 GPA that was negotiated by SADC but did not remove sanctions as a public sign of support for the outcome. This presented one of the parties (the ZANU-PF) with a convenient excuse to avoid responsibilities under the GPA (Tungwarara, 2011). SADC has continuously called for unconditional lifting of all forms of sanctions against Zimbabwe and echoed its appeal to the U.K. to honour its compensation obligations on Zimbabwe's land reform in conformity with the Lancaster House Agreement of 1979²⁹⁹.

Concerning SADC dealings with its Member State, indeed the sub-regional body facilitated negotiations that resulted in the harmonization of the presidential, house of assembly, senatorial and local government elections of March 2008. SADC also availed its support to Zimbabwe throughout the mediation process whose outcome was the GPA. Even though, the signed GPA might have prevented the total political implosion of Zimbabwe³⁰⁰, it has taken too long to be concluded. The SADC Organ Summit held the view that the charged political atmosphere and security situation in Zimbabwe was not permissive for holding the June 2008 run-off election in a manner that would be deemed free and fair, but it could only 'appeal' to the responsible authorities in Zimbabwe to consider postponing the election to a later date. Zimbabwe defied the SADC's appeal. The sub-regional body was well aware of the imminent political violence surrounding the controversial presidential run-off election but was unable to stop Zimbabwe authorities from conducting it.

Another important observation concerns the interaction between the SADC itself and CSOs, which are part of intra-sub-regional actors. There has been minimal interaction between

²⁹⁹ See Extra-ordinary Summit of SADC Heads of State and Government, Dar es Salaam, Tanzania on 29 March 2007.

³⁰⁰ Moreover, according to ACP Daniel Nyambabe, SADC Planning Element at SADC Headquarters, in an interview on 15th November 2010, one would have expected the Zimbabwe crisis to break the unity and solidarity within SADC. The SADC solidarity is still intact.

the two sets of actors as far as the issue of domestic political crises is concerned. Both local and sub-regional CSOs are not at all satisfied with the current level of interaction between them and SADC. CSOs have been calling for the SADC arrangement to ensure their involvement in various aspects of the sub-regional body's integration processes, including matters of peace and security is consistent and sufficiently institutionalized. Calls for their inclusion in the Zimbabwe mediation process were not heeded. CSOs, however, were supportive of SADC's decision to appoint a mediation team on Zimbabwe albeit the view that it should have been taken much earlier. CSOs had a brief interaction with South Africa facilitators to the Zimbabwe intra-party talks when they presented their views on the country's political crisis. There is no apparent evidence, however, to suggest that their views were used during the actual negotiations. As noted earlier, their involvement in the mediation process was viewed as a potential barrier to a speedy conclusion of the intra-party talks. CSOs role in the Zimbabwe political crisis also had a 'name and shame' effect as they voiced their concerns, not only about the deteriorating political and security situation, but also over the suspension of the SADC Tribunal. Adjudication by the SADC Tribunal could offer SADC citizens access to legal recourse against their governments' actions but this was effectively blocked by the SADC Summit.

8.5. Conclusion

The chapter has clearly established that election-related violence is inherent in Zimbabwe's body politic, with political actors and security personnel involved and its repercussions spreading into the neighbouring SADC Member States. Previous elections in Zimbabwe were characterized by violence and acts of intimidation before, during and after balloting. Acts of violence around elections in Zimbabwe have been particularly concentrated in areas deemed as former strongholds of the ruling ZANU-PF. The experience of multi-party elections in Zimbabwe particularly in the 2000-2010 decade also reveals Zimbabwe to be a victim of both *De facto* and *De jure* impunity.

Prior to seriously embarking on addressing the Zimbabwe crisis, it took SADC sometime to set up an institutional framework for coordinating security matters owing to the Organ impasse of the late 1990s. The sub-regional organization later managed to establish the Organ, the Protocol that institutionalise its operations, the SIPO that serves as its implementation plan, and has in place an election guideline instrument notwithstanding its imperfections. The Organ's activities, however, are held in much secrecy on the pretext that diverse interests are involved and thus non-members have been locked out to avoid distractions and ulterior motives of different actors, who have a stake in certain issues. There is, henceforth, a lack of substantive engagement between the group of CSOs and ICPs and the SADC Organ, resulting into the former group being sidelined from playing a significant coordination role in peace and security matters, especially those falling in the category of domestic political crises in SADC's Member States. This has been specifically evident with regard to coordinating responses to the Zimbabwe political crisis, whereby South Africa assumed the lead coordination role right from the early stages of the crisis.

Actors within the SADC arrangement have in the past applied a mix of peaceful methods, namely shuttle diplomacy, negotiations and mediation. Mediation, however, was the chief method pursued for the management of the Zimbabwe political crisis. An attempt to pursue adjudication by the SADC Tribunal as a parallel method to address part of the crisis were effectively thwarted by SADC Member States themselves under the guise of a review process, thus avoiding dealing with a fellow Member State's non-compliance. Meanwhile, it was not until the second half of the 2000s when SADC Member States, grudgingly made a tacit admission that there was a crisis in Zimbabwe and decided to formally endorse South Africa's mediation. The South Africa mediation team has been substantively involved in inter-party negotiations by facilitating communication, formulating the actual roadmap and manipulating the parties into concluding an agreement.

The South Africa-led mediation resulted in a GPA in which Robert Mugabe retained the presidency and the main opposition leader, Morgan Tsvangirai, appointed prime minister. The mediation has also led to a slightly improved electoral environment but has been unable to bring pressure to bear on the coalition government to implement the GPA in

earnest to ensure holding of credible elections and avoid a relapse to politically-motivated violence. The Zimbabwe domestic political crisis proved difficult to resolve with any degree of finality and has dragged on for much of the 2000-2010 decade. From the beginning to the escalation of the crisis in 2008, at different occasions during both SADC and AU meetings, SADC leaders appeared increasingly divided over how to deal with the Zimbabwe political crisis.

While the AU deferred the mediation task to SADC, opting to play an oversight role, the latter largely kept the UN and other international actors out of the mediation process. SADC incessantly opposed and worked in concert to undermine sanctions and punitive measures imposed by international actors on Zimbabwe. As it was the case in the coordination component, CSOs in the sub-region were excluded from the negotiations due to the decision by the South Africa-led mediation to limit the process to only the three main political parties.

Having examined the practical experiences of the coordination and management of the collective security challenges of SALWs and domestic political crises in East and Southern Africa sub-regions, the succeeding final chapter provides a synthesis of key research findings with regard to EAC and SADC, comparatively.

Chapter Nine

9. Sub-Regional Security Governance and Collective Security Challenges: EAC and SADC Compared

9.1. Introduction

The most prominent security challenges confronting majority of states in Africa to date are mainly of two forms, namely transnational threats and internal or domestic political crises. These security challenges if not properly addressed have the potential to turn stability into sub-regional or regional anarchical order. Meanwhile, it was assumed that sub-regional organizations are adeptly placed not only to provide a collective forum for facilitating response mechanisms to transnational threats, but also can play important roles resolving conflict situations within their members. The study, thus, set out to establish how sub-regional arrangements with security mandates actually coordinate and manage their responses to collective security challenges in their delineated areas. The study posed the following question: What is the relevance of sub-regional security governance in addressing collective security challenges facing participants of sub-regional organizations?

The study sought to answer this question by borrowing insights from the security governance perspective whose main assumption is that a multiplicity of actors is presently involved in the governance of security, and that the state is one actor, albeit a very important one, among various actors (non-state actors such as NGOs, international institutions, regional and international organizations) at multiple levels who supplement, augment, or enrich the state's efforts to counter security threats. Thus, the relevance of security governance at the sub-regional level hinges on how an evolving plurality of actors and institutions actually coordinate and manage collective responses to security threats.

As hinted before, sub-regional organizations in Africa have come to deal more with two clusters of collective security challenges since the end of the Cold War, namely transnational threats and domestic political crises. Both transnational threats and domestic political crises require equal attention. However, coordination and management of responses to these security challenges will not practically be uniform. In the backdrop of the foregoing assumptions, the study's guiding hypothesis was that *the coordination and management of sub-regional security governance depends on the type of collective security challenge*. In carrying out this study, a comparative analytical approach of how sub-regional organizations have coordinated and managed responses to the two set of collective security challenges was applied. As stated in chapter 4, the study focused on the EAC and SADC as sub-regional groupings undertaking security roles covering the period from 2000 to 2011. The subsequent sections of this chapter, comparatively present key findings of the study starting with the collective security challenge of SALW and then domestic political crises, and proceed to establish whether these organizations add value to the security efforts of their Member States.

9.2. The SALW Problem in the EAC and SADC

SALW are still the most commonly used weapons in the commission of violent conflicts in East and Southern Africa (Wezeman, 2009). The abundance and availability of SALW have deleterious impact on overall security dynamics in the two sub-regions. Examination of this problem in East and Southern Africa shows that besides exacerbating conflicts and hampering peaceful settlement of disputes, small arms spark waves of criminal acts. They also deter economic development sustenance in that governments are forced to divert scarce resources to the SALW problem.

Given the limited data available across time, an attempt at a systematic comprehensive comparison of the extent of the SALW problem in East and Southern Africa was not possible. It ought to be noted that there is still a major gap in regular comprehensive research on small arms and light weapons that could give actual figures of firearms in

circulation in individual countries. The study was compelled to rely on estimates compiled by the Small Arms Survey Project. The Small Arms Survey country data are assembled using numerous sources and methods. Wherever possible, the project relies on official registration data, with independent estimates used to provide greater comprehensiveness. When neither registration data nor independent assessments are available, estimates are based on correlative statistical analysis (Small Arms Survey, 2007). As the principal and most reliable source of information on several aspects of small arms, the last time the Small Arms Survey carried out a comprehensive compilation of data of about 178 countries in one single survey, was in 2007³⁰¹.

Nonetheless, available data provides the general impression that the problem is more acute in Southern Africa than in East Africa. Small Arms Survey 2007 shows that there are more firearms in the Southern Africa sub-region than in East Africa. Table 11 below shows the ranking positions of countries out of 178 worldwide. It shows that three Southern African countries are in the top 50 group of countries in the world with the highest civilian firearms possession. Angola leads the list of SADC countries with the highest average firearms per 100 people, while Kenya tops the EAC countries in the same category. In four SADC countries alone (Angola, Mauritius, South Africa and Namibia) the average firearms per 100 people is above 10. In comparison, therefore, there are more civilians in possession of firearms in the SADC sub-region than in the EAC sub-region. The average total civilian firearms in South Africa alone by far dwarf the combined total of all the five EAC countries. The average combined total for EAC States is nearly 2 million firearms, which of course is still a huge amount that can perpetuate criminal violence and other social evils, but is far below the 5 million-plus South African holdings and 16 million-plus civilian firearms for the whole SADC sub-region. The table also shows that some countries have low average firearms per 100 people (like DRC, Mozambique and Tanzania) but with significant figures of the total firearms in civilian hands (see table 11 below).

³⁰¹ *Small Arms Survey Yearbooks* is the flagship publication of the Geneva-based small arms project that annually selects and provides reviews of different global small arms issues and themes.

Another observation is that if one is to further rank countries within the two sub-regional organizations, the two wealthiest or rather economically powerful members of the EAC and SADC, i.e. Kenya and South Africa respectively, have with significant civilian firearms stocks. As stated in chapter 6, civilian firearms are not stockpiled like those in the control of the military and other LEAs, which can easily be accounted for. It shows that the two countries face relatively high inflows of weapons into their territories. This partly explains their motivation to participate in as many joint cross-border firearms collection operations as possible with neighbouring countries and other far-flung states.

Table 11: Civilian Firearms Ownership in SADC and EAC

SADC Sub-region				EAC Sub-region			
Country	Rank by rate of ownership (out of 178 countries)	Average firearms per 100 people	Average total all civilian firearms	Country	Rank by rate of ownership (out of 178 countries)	Average firearms per 100 people	Average total all civilian firearms
Angola	34	17.3	2,800,000	Kenya	86	6.4	740,000
Mauritius	44	14.7	180,000	Tanzania	137	1.4	550,000
South Africa	50	12.7	5,950,000	Uganda	137	1.4	400,000
Namibia	51	12.6	260,000	Burundi	145	1.2	200,000
Zambia	68	8.9	230,000	Rwanda	164	0.6	58,000
Swaziland	86	6.4	72,000				
Seychelles	96	5.4	4,600				
Mozambique	99	5.1	1,000,000				
Botswana	102	5.1	87,000				
Zimbabwe	106	4.4	400,000				
Lesotho	122	2.7	47,000				
DRC	137	1.4	800,000				
Madagascar	157	0.8	150,000				
Malawi	160	0.7	92,000				
Total			16,668,000	Total			1,948,000

Source: Figures adapted from Karp, Aaron. 2007. "Completing the Count: Civilians Firearms," Small Arms Survey 2007: Guns and the City, Cambridge: Cambridge University Press, Annex 04.

9.2.1. Coordination of Responses to SALW

As stated earlier, the current study set out to employ the security governance approach to analyse how sub-regional organizations in a Sub-Sahara African setting deal with collective security challenges in their respective areas. The empirical analysis focused on two key components of security governance, namely coordination and management. Coordination as conceptualized in this study refers to how the constellation of actors operating at different levels of interaction takes place. In this interaction, actors take one another into account for the purpose of bringing together their decisions and/or activities into harmonious or reciprocal relation. It is also noted that interaction of actors takes place in an institutional context of some kind, which may or may not facilitate cooperative endeavours.

The focus was on three main actor-types: States, Non-State actors like non-governmental organizations, and sub-regional and regional organizations. Interaction of these actors was thus analysed from two dimensions: vertically (i.e. the relationship between the sub-regional organization and its Member States) and horizontally (i.e. the interface between the sub-regional organization and actors other than states such as CSOs and other organizations at sub-regional and regional levels). Since one avenue of actors' interaction is in the development of policy and legal instruments that in turn require, prohibit or permit certain behaviours from the actors and go as far as to spell out the mandate for addressing particular security challenges, I henceforth commence presentation of key findings with a comparative focus on the relevant instruments for addressing the SALW menace in East and Southern Africa.

Both the East and Southern African sub-regions have in place specific legally binding protocols, i.e. *the Nairobi Protocol* and *the SADC Firearms Protocol* respectively, that provide state parties with mandates to deal with the proliferation of and illicit trafficking of SALW³⁰². Both of these instruments envisage and encourage interaction and collaboration

³⁰² Note that signatories to the Nairobi Protocol also include countries that are not members of the EAC (8 out of the 13 signatory States) whereas all 13 signatories to the SADC Firearms Protocol are members of SADC.

of various actors in all matters related to the SALW problem. They are far-reaching instruments that stress upon close cooperation to prevent and combat not only the proliferation of illicit arms, but also their manufacturing and misuse, albeit the fact that the Nairobi Protocol has provisions on the crucial measure of marking of firearms, whilst the SADC Firearms Protocol does not.

The study shows that both the EAC and SADC embrace interaction and close collaboration of various actor-types focusing on the SALW problem as envisaged in their aforementioned legal instruments. Horizontally, there are three main players in the area of SALW in the East Africa sub-region. As indicated in chapter 5.3, besides the EAC there are two other important parallel organizations that also deal with issues of SALW and which interact with the EAC on a regular basis, namely RECSA and EAPCCO. The three organizations, i.e. EAC, RECSA and EAPCCO, share memberships and have their entire Member States bound by the same legal instrument, i.e. the Nairobi Protocol. It was also observed that the EAC has a relatively small and evolving institutional mechanism that coordinates small arms issues at its Secretariat. The EAC has, however, established a structured coordination and cooperation mechanism, guided by an MOU, with the lead organization in coordinating matters related to small arms in East Africa and beyond- i.e. RECSA³⁰³. This was done partly to benefit from the latter's experience and a relatively well-developed institutional framework on small arms, and also to avoid unnecessary competition between the two organizations. The EAC relationship with EAPCCO is not as formalized as the EAC-RECSA one. However, it is EAPCCO that drafted the Nairobi Protocol.

As discussed in chapter 7, SARPCCO is SADC's lead agency in the coordination of efforts directed towards curbing the proliferation of SALW in the Southern Africa sub-region. It is SARPCCO that developed the SADC Firearms Protocol. In comparative terms, SADC has a relatively more developed institutional organ, under which SARPCCO operates, than the nascent EAC's Peace and Security Department. It is noted, however, that the impasse over the SADC organ (1996-2001) and initial strained relations between SADC and SARPCCO

³⁰³ It covers the Great Lakes region, Horn of Africa, and bordering states.

seriously hampered coordination of small arms control within the sub-region before the latter became officially integrated into the SADC security structures. Additionally, unlike the observed problematic start to the formal interaction between actors with an interest in curbing the SALW problem in Southern Africa, coordination of small arms issues between the EAC and its strategic partner, RECSA, has been without observable hitches.

The analysis in chapters 5 and 7 also reveal that the EAC maintains a more structured relationship with CSOs working on small arms issues and which encompass sub-regional networks like EAANSA and EASSI, than in the SADC where such interaction is relatively less manifest at the sub-regional level. The EAC recognizes these CSOs as sub-regional networks representing dialogue between itself and civil society, and thus has given them official status by according them membership in its SALW Steering Committee. The Southern African situation with regard to CSOs is possibly because of the fact that the main organization dealing with SALW within SADC, i.e. SARPPCCO, shares its Secretariat with the sub-regional policing institution-INTERPOL (SRB Harare) that traditionally conducts its affairs in a fairly 'secretive' manner. This, however, does not mean the sub-regional organs have not at all interacted with CSOs on small arms matters. SARPPCCO has occasionally worked with specific CSOs with policy research and think tanks such as the ISS, in the development of training modules for LEAs and Standard Operating Procedures, as explained in chapter 7.

Vertically, the two sub-regional organizations interact with their Member States through the structures called NFPs. These are inter-agency structures at the national level responsible for policy guidance and coordination of small arms matters. All the EAC and SADC Member States have established NFPs in line with the respective sub-regional instruments, even though they have different statuses in terms of functioning and placement in individual countries as intimated in chapters 5.3 and 7.3. Within the EAC, NFPs are represented in the SALW Steering Committee alongside other actors mentioned earlier, i.e. CSOs and RECSA, whereas in SADC they are brought together under a forum overseen by SARPPCCO, which is known as the Regional Coordinating Committee (RCC).

Overall, it can be summed up that the two sub-regional organizations which were the focus of this study proved as important frameworks for coordination, bringing together various relevant actors with a stake in SALW issues, and in promoting and supporting the essentially crucial coordinating structures at the national level, and fostering cooperation between LEAs, all in line with sub-regional firearms instruments. Despite some variations on the statuses of national level coordinating structures in individual Member States as pinpointed earlier, the two sub-regional organizations boast of commanding active institutional frameworks that lead and coordinate small arms initiatives in their respective sub-regions. Member States of Sub-regional organizations are guided by legally binding agreements on the SALW issue that not only spell out the lines of coordination and interaction between the various structures and actors, but also take a more comprehensive approach to SALW control than UNPoA and the UN Firearms Protocol³⁰⁴. The Nairobi Protocol and the SADC Firearms Protocol have contributed to the development of sub-regional standards that are crucial for guiding control measures such as civilian possession, marking standards, destruction methods, to cite a few. The relevant institutional structures of the EAC and SADC managed to foment integrated approaches in the fight against illicit small arms and other cross-border crimes like trafficking in illicit goods and motor vehicle theft since these security challenges feed into each other.

9.2.2. Management of the SALW Proliferation Threat

It was stated in chapter 4 that management relates to how policies are carried out, administered or controlled. This essentially implies implementation of certain policies in response to a collective security challenge at hand. It was, thus, assumed that measures or tasks designed to address the SALW threat would vary from those aimed at resolving domestic political crises. Likewise, multiple actors involved in the implementation of

³⁰⁴ *The UN Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition* (Firearms Protocol), was adopted in 2001 by the General Assembly with resolution 55/255 and entered into force on 3 June 2005. The UN Firearms Protocol is the first legally binding global agreement on small arms but with a relatively narrow scope. For detailed comparison between regional instruments and the UNPoA see Elli Kytömäki, 2005. "Regional Approaches to Small Arms Control: Vital to Implementing the UN Programme Action," in UNIDIR Disarmament Forum, *Taking Action on Small Arms*, pp. 55-64, available at www.unidir.org/.

policies may be different from those engaged in coordination. On the management of SALW, the study focused on the six main intervention measures, which have been identified in the small arms legal instruments of the respective sub-regional arrangements. These are review and harmonization of SALW legislations, collection, destruction, marking and record keeping. Those management measures that relate to each other or are carried out concurrently were grouped in pairs (i.e. review and harmonization; collection and destruction; and marking and record keeping). The empirical analysis reveals the following findings.

First, while there is no apparent opposition to the requirement to review and harmonize SALW legislations by state parties to the Nairobi Protocol and the SADC Firearms Protocol, both the EAC and SADC are yet to have harmonized legislations. Their Member States are at different stages of reviewing their firearms legislations to ensure that they embrace legal uniformity in all-important areas. While majority of States have already initiated the review process, only four countries (Burundi and Rwanda in the EAC and Mauritius and South Africa from SADC) had in place new firearms legislations at the time of concluding fieldwork for the current study. Disparities in legislations are, henceforth, still a major challenge in the management of the SALW proliferation threat in both East and Southern Africa sub-regions.

Even in cases where sub-regional organizations had invested much time and energy in supporting Member States to set up legal drafting committees and carrying out in-country sensitisation workshops on sub-regional harmonization of SALW legislation, agreed timeframes for initiating and completing national reviews of legislations were not met³⁰⁵. This can partly be ascribed to the fact that countries that are signatories to sub-regional firearms agreements have different legal systems or traditions. The process of reviewing and enacting new firearms laws is inherently a political one that would require and involve

³⁰⁵ In September 2006 and December 2007, for example, RECSA conducted in-country sensitisation workshops on regional harmonization of SALW legislation for its Member States. Prior to this exercise this organization adopted Guidelines for Harmonization of Legislation, which set out elements of the envisaged harmonization process as well as national review processes. See RECSA, 2005, Guidelines for Harmonization of Legislation.

consultation with several relevant stakeholders prior to a drafted bill being presented in parliament. And passage of legislation would in some countries require going through two chambers of parliament before becoming law. Related to the foregoing is the fact that national reviews of SALW legislation often take different approaches. Some countries (for example, Kenya and Uganda) decided to embark on first developing national SALW policies to inform review of legislations. This is in contrast to countries like Burundi, DRC and Rwanda that directly reviewed their firearms laws without necessarily developing a policy to inform the review (Saferworld, 2011).

Second, the study shows that the most visible and successful SALW intervention measures in the two sub-regional organizations are collection and destruction of illicit arms. These control measures are carried out through individual national authorities, which are complemented by bilateral and multilateral cross-border joint operations. Moreover, the EAC and SADC share one more attribute: with the exception of South Africa, the rest of the national LEAs of their Member States possess limited capacity for firearms destruction processes. The sub-regional organizations in collaboration with their international cooperating partners mobilize resources (funding and equipment) to assist states carry out destruction activities as indicated in chapters 5.4 and 7.4. Another important observation is that unlike in the EAC sub-region, bilateral and multilateral cross-border operations have prominently featured in the SADC sub-region and South Africa is the lead actor in fostering and participating in those operations. This state of affairs is not only due to the fact that South Africa has a significant illicit firearms problem, and thus, is compelled by circumstances to collaborate with other SADC Member States, but also because of the other countries' heavy reliance on the competence of the SAPS.

Third, both sub-regional organizations have been instrumental in developing standards relating to the control measures of marking and record keeping, while international non-governmental organizations and international cooperating partners have provided support in terms of marking units, software and training of LEAs on the use of marking machines. Henceforth, making of firearms in both East and Southern Africa sub-regions had begun, even though, comparatively EAC is ahead of its southern African counterpart as its Member

States were among the first countries within the East and Great Lakes Region to undertake marking of state-owned firearms. On the side of record keeping, both state parties to the Nairobi Protocol and SADC Firearms Protocol agreed to establish a centralized SALW database for the maintenance of records that is deemed important for the successful tracing of firearms across countries. Thus far, neither of the two sub-regional organizations has established a centralized SALW database. They still have a long way to go to fulfil this commitment.

To sum up, therefore, given the transnational nature of the small arms problem, i.e. trafficking in small arms can hardly be fully handled by individual countries on their own as illicit firearms quiet often change hands across national borders, sub-regional organizations are vital forums for sub-regional wide implementation of small arms control measures. More importantly, sub-regional implementation initiatives have not only been helpful in supporting national level efforts but also enabled state actors to both acquire the necessary financial support and share technical resources. This resource mobilization role by sub-regional arrangements is extremely crucial given the fact that small arms control measures demand a lot of resources, which most cash-strapped Member States are in need of. Sub-regional arrangements have readily welcomed extra-sub-regional actors, more specifically ICPs and International NGOs that are keenly interested in providing logistical and technical support to small arms interventions. These actors prefer to act through sub-regional and regional frameworks because it is a more cost-effective and justifiable approach than to deal with individual countries. In relative terms, both the coordination and management of SALW in East and Southern Africa noticeably present an assortment of actors (international organizations, states, local and regional CSOs, and ICPs) complementing each other's efforts and sharing best practices and experiences in addressing the small arms problem.

In order to avoid being caught between harbouring modest expectations of sub-regional organizations or set the bar too much higher, it is worth borrowing an approach of assessing organizations in terms of their stated objectives, i.e. under the benchmarks they have set themselves (Kirchner and Domínguez, 2011; Nathan, 2012). While it does not

bode well analytically to pass on judgement on an organization according to goals it did not claim to pursue (Nathan, 2012:15), it is also noted that Member States of sub-regional groupings might have unstated objectives, such as establishing and participating in as many SALW programs and projects as possible just for the sake of tapping donors' resources. It is, henceforth, less problematic to assess effectiveness basing on an organization's attainment of its set objectives. Member States of the two sub-regional organizations committed themselves through the respective firearms protocols to prevent, combat and eradicate the illicit manufacturing of, trafficking in, possession and use of SALW, as well as promoting and facilitating cooperation in collaboration with relevant partners at the sub-regional level and in international fora. The study examined fulfilment of this commitment by specifically analysing six small arms control measures. The two sub-regional organizations recorded relative progress in all except two intervention areas, i.e. creation of harmonized firearms legislations and centralized SALW databases for information sharing. States firmly indicated a preference to deal with SALW problems within frameworks set by sub-regional arrangements. However, they still face daunting implementing challenges of a more logistical and technical nature. It is, thus, not primarily the question of whether or not Member States are willing to fulfil sub-regional commitments, but rather whether they are able to comply.

9.3. Domestic Political Crises in EAC and SADC

The study focused on a sub-category of intra-state conflicts, i.e. domestic political crises, which were conceptualised as forms of intra-state conflicts that take place within the internal boundaries of a state, between a government and a non-government party, without foreign troops involvement, and in which the stalemate situation resulting from the employment of violence as a tool of political competition causes fatalities, and renders severe strains to its political and socio-economic landscape with its impact also felt outside the national frontiers. Therefore, such conflicts usually concern the structure or distribution of state authority as the major bone of contention. The tragic events that befell Kenya in 2007 and Zimbabwe in 2008 involved general elections whereby voters in the two

countries chose not only between presidential candidates but also between members of parliaments.

These closely contested elections of December 2007 and March 2008 in Kenya and Zimbabwe respectively, saw the former opposition gaining parliamentary majorities and preliminary results in the presidential elections pointing to opposition victory, only for the final stages of voter tallying, compilation and announcement of results to be marred by reports of widespread malpractices. The disputed presidential results led to unrests and widespread violence especially, in the Kenyan case, prompting initiatives at mediation. Negotiations to resolve the two crises (the comparison of the manner in which they were actually carried out will be covered in a later section of this chapter) resulted in power-sharing political agreements in which case the disputed election results were restored, but the incumbent president would share power with the newly created post of prime minister who was a previous presidential candidate from the opposition.

As observed in chapters 6 and 8 of the current study, election-related violence was not restricted to elections of 2007 and 2008. Previous elections in both Kenya and Zimbabwe were characterized by acts of violence and intimidation before and after the polling day. This is to say that the dreadful events in the aftermath of the December 2007 Kenyan elections and March 2008 Zimbabwean elections were, indeed, not specific episodes tied to a particular flawed electoral exercise, but rather part of a much longer deplorable history of political violence in the two countries.

Moreover, some members of the security forces were complicit in the violence. Another set of perpetrators included vigilante groups, the so-called war veterans, and trained paramilitary youth groups, reflecting the entrenched role of militias in political contests. While in Zimbabwe acts of violence were largely directed at members of the opposition MDC and their supporters, in Kenya violence involved supporters of both parties, PNU and ODM. Furthermore, elections in the two countries had to a certain extent involved ethnic voter mobilization. However, where the post-election violence in Kenya was largely inter-ethnic, featuring communities in the Rift Valley province and Nairobi, it was intra-ethnic in

Zimbabwe. In Zimbabwe the violence was concentrated in the provinces of Mashonaland (i.e. it was among the Shona), in the centre and east of the country, rather than Matebeleland, in the west.

In both cases, attempts to prosecute those implicated for perpetrating acts of violence hit a snag. This is attributed to the prevalence of a culture of impunity in the political systems of the two countries. The experience of multiparty elections in Kenya and Zimbabwe reveals this culture of impunity. Whereas in Kenya there was largely a lack of political will to prosecute human rights abuses, in Zimbabwe there were deliberate attempts to shield alleged perpetrators from prosecution by enacting laws that provided them immunity and amnesty (i.e. De jure impunity).

Finally, the negative impact of these domestic political crises (both humanitarian and economic) was not confined to the affected countries' national frontiers. Significant negative socio-economic repercussions were felt in the neighbouring states, raising the concerns of the respective sub-regional organizations and the international community in general. The Zimbabwe crisis caught the eye of the sub-regional peers and the international community as early as beginning of 2000, while the Kenyan case received serious attention only after the tragic events in the aftermath of the December 2007 general election. The next two sections present main findings on the actual coordination and management of the domestic political crises in Kenya and Zimbabwe.

9.3.1. Coordination of Responses to Domestic Political Crises

It was noted at the outset that both the EAC and SADC treaties spell out the organizations' objectives as well as grant them authority to engage in matters of peace and security. It was further noted that the EAC did not have in place a binding protocol that lays specific procedures for its peacemaking efforts when its most economically powerful member, Kenya, was in trouble. In contrast, SADC already had in place a Protocol on Politics, Defence and Security Cooperation, in addition to a normative framework for the conduct of

democratic elections irrespective of its shortcomings³⁰⁶, when Zimbabwe was facing a long running political crisis.

Institutionally, the Peace and Security Department at the EAC Secretariat that is charged with the responsibility of coordinating the sub-regional organization's peace and security initiatives is understaffed and does not have a specific structure or unit for mediating domestic political crises in Member States, such as the Kenya post-election violence of 2008. Likewise, the Directorate of Politics, Defence and Security at the Gaborone Secretariat that is expected to coordinate daily activities of the SADC Organ, has few personnel in proportion to its responsibilities (as observed in chapter 8) and lacks a specific mediation unit within its ranks. This has left the sub-regional bodies to respond to domestic political crises in an ad hoc basis, with serving or former presidents being called upon, such as Thabo Mbeki of South Africa, Yoweri Museveni of Uganda, to intervene in troubled Member States.

Moreover, the tendency of treating political crises with utmost secrecy within the two sub-regional organizations renders coordination as a behind-the-scene-activity. On the security challenge of SALW, we observed a more open interaction of different actors and more importantly, non-state actors in the form of organised CSOs with local and sub-regional networks. The situation is different when it comes to coordinating responses to domestic political crises. There is little room for civil society involvement within the auspices of the sub-regional organizations³⁰⁷. These matters are under the firm control of state actors within the respective arrangements. Coordination, thus, relies on facilitation by a government of a Member State whose President has volunteered (like President Museveni in the Kenyan case) or has been appointed by the SADC Summit to conduct negotiations or the facilitation of the country hosting or convening the SADC Organ Troika of Heads of State and Government or its Ministerial Troika to consult on the political developments in Member States.

³⁰⁶ SADC Principles and Guidelines Governing Democratic Elections.

³⁰⁷ I refer to 'little room' because in some other cases that did not feature in this study, for instance Lesotho, SADC recognized the Christian Council of Lesotho's (CCL) role of mediating the political impasse in that country.

In a nutshell, as noted earlier, sub-regional organizations have been accorded some degree of authority to coordinate security policies. However, sub-regional structures particularly, secretariats which still have limited authority were deliberately designed to support the respective governments, and not to act as implementing bodies that can effectively follow up on the decisions made by Member States (Kimathi, 2010; Mwapachu, 2011). Coordination of efforts geared towards addressing domestic political crises by sub-regional institutions is significantly constrained as Member States continue to exercise dominant authority even on matters that are typically of an operational nature (Mwapachu, 2011).

9.3.2. Management of the Kenyan and Zimbabwean Political Crises

The study notes that the two sub-regional arrangements, i.e. EAC and SADC, make preference for peaceful methods of managing conflicts within the territory of a Member State, which include preventive diplomacy, negotiations, conciliation, mediation, good offices, arbitration and adjudication by an international tribunal³⁰⁸. The most favoured method from the foregoing list that came to be applied in the Kenyan and Zimbabwean cases is mediation. This section presents the key findings within the two main categories of actor-types (i.e. intra-sub-regional actors and extra-regional actors), whose roles in the management of the respective political crises in Kenya and Zimbabwe, were analysed in chapters 6 and 8.

First, starting with inter-sub-regional actors, it is to be recalled that both Kenya and Zimbabwe were subject to intensive mediation processes that aimed at resolving the political crises facing them. Both the EAC and SADC were involved in these processes albeit at varying degrees. The EAC was involved at the early stages of the Kenyan political crisis through its Chair, President Museveni, whose mediation role was limited to creating communication between the two main antagonists when direct contact between them was

³⁰⁸ Article 123 of the EAC Treaty and Article 11 (3) of the SADC Protocol on Politics, Defence and Security Cooperation.

still not possible. Even though Museveni proposed a framework to set up a judicial commission, there was no evidence to suggest that the AU Team took up his proposal in the subsequent negotiations. In his intervention, Museveni was prompted by the precarious situation that faced Uganda's goods transport system. In the final outcome, despite the recommendation of the EAC observer mission on the Kenyan 2007 general election for the EAC Summit to take an active leading role in the process towards a just and lasting solution to the crisis, the EAC ultimately failed to assert its authority over the mediation process. It however, supported the AU's appointed mediator who brokered the final political agreement.

In contrast, SADC had a more substantive role in the management of the Zimbabwe political crisis. The South African-mandated mediation team was substantively involved in inter-party negotiations by facilitating communication, formulating the actual roadmap and manipulating the parties into concluding an agreement. This is to say that Mbeki's mediation role was much more intrusive (i.e. recalling the intrusiveness scale from communication, to formulation, and finally manipulation, chapter 4.4.4.2) than Museveni in the Kenyan case. South Africa's eagerness to take the lead role towards Zimbabwe, right from the beginning of 2000, was also driven by its own interest of maintaining stability and peaceful situation.

Second, as it was observed in the coordination component there was minimal interaction between sub-regional groupings and CSOs when it comes to the management of domestic political crises in Member States. In the Kenyan case, the analysis reveals no apparent channel of interaction between the local CSOs, a coalition of prominent local and religious leaders, who were the first to attempt to initiate negotiations, and the EAC organs. Local CSOs in Kenya only made submissions to the AU mediation team. In the Zimbabwe case, CSOs' call for their inclusion in the actual mediation process was not heeded. CSOs had a brief interaction with South African facilitators to the Zimbabwe intra-party talks when they presented their views on the country's political crisis. In both cases, however, CSOs were supportive of the mediation and peacebuilding initiatives.

The manner in which the two cases have been managed show that state actors do not accord CSOs substantive roles in peaceful resolution of intra-state conflicts. As it was observed earlier, their involvement in the mediation process is viewed as a potential cause of delays in concluding negotiations. State actors interacting among themselves within sub-regional groupings they belong to, prefer working behind the scene, treating domestic political crises as very sensitive security issues. It is no surprise that at different points in time; the EAC and SADC were accused of pursuing the so-called 'quiet diplomacy' by not publicly stating their positions in the face of an imminent crisis, or openly criticize parties that flout sub-regional norms, while they chose to take much tougher positions behind closed doors. The 'name and shame' role was left to the activist CSOs, especially when mediation rounds are not moving or when sub-regional rules are frequently infringed. CSOs involvement in domestic political crises is thus limited as states continue to sideline them in this area.

Third, as far as extra-regional actors are concerned, both the AU and UN were alarmed and concerned by the insecure political situations in Kenya and Zimbabwe. While the AU's Panel of Eminent African Personalities led by Kofi Annan took full control of the mediation process in Kenya, the continental body deferred the task of facilitating Zimbabwe inter-party negotiations to SADC. This outcome warrants some explanation. In Kenya, the Annan-led team successfully managed to convince the disputing parties, sub-regional players like IGAD and EAC, and international community that its mediation was the 'only game in town'. With regard to Zimbabwe, SADC portrayed a unified stance against what it considered as 'interference' in a domestic crisis troubling one of its Member States. SADC had sought to minimize as much as possible the influence of extra-regional actors in the negotiations among the Zimbabwe disputing parties. The sub-regional grouping had consistently sought to retain the mediation of the crisis under its control. More particularly, South Africa had on different occasions at the UN shielded Zimbabwe from being placed under international mediation.

Fourth, as observed elsewhere in this study, both mediation teams to the Kenyan and Zimbabwean political crises were subject to a strong under current of diplomatic muscle

provided by another set of extra-regional actors, i.e. the EU and western donor countries. The EU' and western donor countries' stance toward parties to the Zimbabwe political crisis was largely asymmetrical: strongly denouncing the ZANU-PF regime, whilst sympathetic to the MDC factions (Cliffe, 2009). In Kenya, western pressure was applied to both parties (PNU and ODM) to first agree to sit in the negotiation table, and later, to implement agendas of the concluded agreement. The western donor countries' position on Zimbabwe has thus dictated imposition of sanctions. Sanctions may have helped to pressurize the ZANU-PF side to come to the negotiation table but there is no evidence to suggest that they were equally instrumental in changing the behaviour of the Zimbabwe political and military elites who are alleged to have condoned violent acts and other human rights abuses. Withholding of sanctions even after the signing of the GPA presented the ZANU-PF side with a convenient excuse to avoid fulfilling its share of responsibilities under the agreement.

9.4. A Synthesis of Research Findings

As the title suggests this section synthesizes the study's findings and general trends. To fulfil this task in a coherent manner, the section has been divided into six main sub-themes namely, coordination and management of security challenges and contextual explanations for differential responses; the question of standards versus practice; adjudication as an alternative conflict resolution method and the influence of extra-regional players; assessment of effectiveness of the two organizations as security actors; theoretical lessons drawn, and the advantages of employing a comparative approach in analysing security practices of sub-regional arrangements.

9.4.1. Coordination and Management of Security Challenges and Contextual Explanations

The emerging patterns from the examination of the EAC and SADC experiences in reacting to the security challenges of SALW and domestic political crises confirm the study's hypothesis that the coordination and management of sub-regional security governance

depends on the type of collective security challenge. First, the coordination component shows a more structured relationship and interaction between state actors, non-state actors and other parallel organizations and international institutions with a stake in small arms issues than in the case of domestic political crises. Coordination of domestic political crises is mostly a behind-the-scene activity, restricted to state actors, and relies on the facilitation of a Member State's government (as was the case with the South African government in the Zimbabwe political crisis and to some extent the Ugandan government in the Kenya post-election crisis) instead of respective secretariats and attendant institutional structures being centrally involved. As it was observed in both sub-regional arrangements, there were no extant specific mediation units to spearhead the organizations' coordination roles in domestic political crises. Second, the picture that emerges from the coordination of SALW across the two sub-regional organizations is also mixed in that EAC maintains a more structured relationship with the other actors (CSOs, regional organizations, and Member States) than SADC.

Third, management of SALW reveals the fact that despite the persistence of the problem, an array of actors interacting within sub-regional institutional arrangements made progress in the implementation of some control measures (more particularly collection and destruction of firearms, and marking of firearms). They were yet unable to establish synchronized SALW legislations and centralized small arms databases. Whereas management of domestic political crises accommodated a much smaller range of actors, it is conceivable that mediation as the preferred method in responding to the crises helped to avert the total implosion of Kenya and Zimbabwe (i.e. mediation initiatives prevented the situation from descending into full-scale civil wars, meaning it could possibly have been much more worse). Yet, in both cases, sub-regional actors were ill prepared and displayed limited capability in dealing with typical cases of domestic political crises.

It has thus been posited that even though the EAC and SADC were engaged in attempts to respond to cases of domestic political crises, both were relatively less effective in their efforts. It ought to be noted that there is a marked difference between actors that are 'active' (i.e. those engaging or participating in a particular endeavour) and those that are

'effective' (i.e. being efficacious in using tact and skill in producing a desired result). Indeed, there is a sharp contrast between being energetically involved in a crisis to create an impression that something is being done about it, and a sub-region body that is fulfilling its responsibilities, and actually putting its utility into action.

It was also shown that their degree of engagement in, and common stances on the Zimbabwe and Kenyan crises also varied greatly. This is partly ascribed to contextual reasons. When the Mugabe regime realized that its political support had quickly waned in the aftermath of the parliamentary elections in June 2000, it reignited the land reform debate as a way of bolstering support for ZANU-PF's traditional rural constituency (Alden, 2011). South Africa that had a strong foothold on the Zimbabwe negotiations cautiously handled the process as this politically sensitive subject had, and still has significant ramifications for the domestic situation in the former settler states in the sub-region. Unsurprisingly, land activists in South Africa, and Namibian NGO and trade unionists "used the spectacle in Zimbabwe to raise questions about the continuing inequities in land distribution in their countries" (Alden, 2011: 210).

Kenya is also a former settler state where competition for land between locals has been one of the major flashpoints for inter-ethnic violence (Hickman, 2011; Branch, 2011). Land completion is a recurring theme in Kenya and the ethnic clashes that gained currency since the 1990s were also a way of resolving grievances over land (Branch, 2011). Although the long history of localised contests over access to land in Kenya was closely tied to electoral politics, it had no telling influence on the reaction of its neighbours to the 2008 post-election violence. Admittedly, access to land is an intricate issue also in individual East African states. However, sensitivity over the land issue had impacted more on the common market negotiations in which case Tanzania, which still has relatively large chunks of arable land, successfully resisted pressure from other Member States to put land under the ambit of the sub-regional body by insisting that it remains a sovereign matter.

Moreover, the Mugabe regime successfully exploited the national land debate as a propaganda tool to project itself as a victim of an imperialist onslaught (Ndlovu-Gatsheni,

2011). The anti imperialist claims by Mugabe reverberated solidarity campaigns of the recent past in Southern Africa where majority of states are still under parties that led the liberation struggle (Alden, 2011; Hull and Derblom, 2009). There was no such room for manoeuvre for the Kibaki regime as the country descended in violence immediately after the 2007 elections. Kibaki vainly attempted to use the 'incumbency card' to draw diplomatic support from fellow East African leaders as a way to fend off extra-regional pressure for mediation.

As expected the Kibaki regime did not receive any bashing from the other East African leaders following the highly disputed December 2007 elections as states with more or less similar 'undemocratic' credentials are hardly likely to take a critical stance against breach of democratic practices by their counterparts. In the face of a conspicuously silent sub-regional body, lack of opposition for extra-regional actors' involvement in the crisis by the East African grouping, and an international community baffled by the speed in which the country descended into chaos, there was a tacit agreement by both sub-regional leaders and international players that the situation called for the regional body's (AU) immediate attention.

Besides the manifestly weak EAC conflict management machinery for dealing with domestic political crises, there was no state within the grouping that commanded considerable diplomatic influence to convince the concerned international community that the crisis could effectively and solely be managed by the sub-regional arrangement. Within the SADC, South Africa consistently foiled attempts to take the Zimbabwe issue away from the grouping's control. It was thus not only an obvious decision (because South Africa had already shown keen interest in resolving the crisis) but also a rational move by the SADC to entrust South Africa with the mediation role. I shall return to implications of this scenario for the sub-regional arrangement when making conclusions on theoretical lessons.

9.4.2. Matching Standards with Practice

While EAC's limited role in the management of the Kenyan post-election violence could escape much critical scrutiny for not having a relevant security protocol and election norms in place at the time of the crisis, SADC's experience has shown that even with the adoption of those instruments, it was unable to censure a Member State that persistently flouted relevant provisions. Not being bold enough to effectively enforce sub-regional rules does indeed bog down the organization's efforts in the management of domestic political crises, and the outcome is that peacemaking efforts drag on for too long while at the same time denying the much needed attention and energy on more progressive integration agenda. SADC's endorsement of democratic election norms in its official documents has not in practice led it to address squarely the violence and insecurity associated with hugely flawed multiparty elections in its Member States. Undeniably, having rules and norms is one thing, implementing them in situations they were meant to address is another, and it is an area that leaves a lot to be desired. The analysis of management of the Kenyan and Zimbabwean crises go a long way to support the assertion that peacemaking at sub-regional level is often aimed at stopping the immediate violence, with less attention directed at solving the underlying governance problems that brought the dire situations in the first place (Hartmann, 2008; Ancas, 2011). There is indeed the need for sub-regional actors to push the interrogation of the quality of democracy currently practiced beyond the scope of the constitutional rule of elected governments (Hartmann, 2008).

Of course, this is not the first time a debilitating gap between normative standards and actual practice by states is highlighted. A consensus has emerged that at least on paper sub-regional organizations portray very ambitious security policies, but more often than not, they are lagging behind in their implementation and this observation is not restricted to the EAC and SADC (Elowson and Macdermott, 2010; Zounmenou and Loua, 2011). A quick query that follows from this troubling fact on African sub-regional organizations is: why would states sign agreements at the sub-regional level in which case they make commitments, but do not follow through with implementation at the national level? This is attributed to a number of factors. One reason is the tendency by some leaders to use sub-

regional and regional forums merely for political expediency. To some leaders engaging in high-level negotiations that lead to the signing of protocols and other agreements with some lofty goals is just a convenient forum to legitimize a government and at the same time it helps to score some political points with a domestic audience. While it looks good for the domestic electoral constituency, the external image of the sub-regional organization before its peers suffers, who in the long run might stop to view the organization as a potential security actor but another 'talking-shop'.

Another reason is the lack of clear and practical implementation strategies. Even when an organization has developed a plan, like the SADC's SIPO that suggests strategies and activities for implementation in the areas of politics, defence and security, still there is lack of clarity as to the relative sequence and priority of objectives (Hull and Derblom, 2009: 32). This prompted the need for revision of the SIPO for the plan to have any chance of attainment within the foreseeable future. The SIPO is certainly indicative, as it for instance proposes measures for the consolidation of democracy in Southern Africa. While this was a welcome step within the SADC arrangement, the strategic plan remained insufficient as it fell short of providing clarity on what exactly the principles of democracy meant in particular for SADC Member States (Debiel et. al. 2008: 169).

Moreover, most of the designated strategies and activities are too bland (e.g. 'hold regional meetings'), too general and lofty (e.g. 'consolidate peace and security and stability') and too vague (e.g. 'establish and strengthen bilateral commissions') (Nathan, 2012: 53). Had the SIPO addressed these loopholes and the previously mentioned SADC Principles and Guidelines Governing Democratic Elections improved to overcome their apparent shortcomings, including their failure to go beyond the actual election period to include the run-up phase; the country holding elections not compelled to invite SADC Observer Mission; and absence of punitive measures versus states which fail to comply with the principles and guidelines, they could prove as valuable reference instruments for cases of domestic political crises. As was rightly commented by Van Schalkwyk, the SADC Principle and Guidelines Governing Democratic Elections along with Protocols and other agreements signed by states largely remain paper tigers (Van Schalkwyk, 2005).

The EAC, on its part, decided to start with a highly ambitious peace and security strategy that was adopted in 2006, followed with a draft Protocol for Peace and Security. As is the case with SADC, EAC is yet to come up with a practical plan for implementing the 15 broad goals of its Peace and Security Strategy. There is now a growing realization of the need for sub-regional organizations to settle for a set of concrete attainable instruments and activities that will transform sub-regional standards and policies into practice.

9.4.3. Adjudication and the Influence of Extra-Regional Actors

While mediation has appeared as the most favoured method in the management of domestic political crises in the two cases studied, opportunity of pursuing adjudication as an alternative approach to conflict resolution was sealed off. Both the East African Court of Justice (EACJ) and the SADC Tribunal could have offered alternative legal recourse for disputing parties had they been, first, accorded the jurisdiction to attend to cases related to election malpractices in Member States; second, be allowed to act independent of political machinations of states' elites, and thus not allowing their proper functioning resting at the whims of the other decision making organs of sub-regional organizations such as the Summit; and third, their ruling be upheld even when they stand in opposition to the wishes of an incumbent regime.

The study also notes the differential roles played by extra-regional actors in response to the two collective security challenges. Extra-regional actors played supportive and complementary roles in the coordination and management of the SALW problem within both EAC and SADC. The sub-regional actors were more than willing to welcome this set of actors to practically offer support and complement intervention initiatives to curb the SALW problem. In the case of domestic political crises (which Member States of the respective sub-regional organizations treated with high sensitivity) extra-regional actors applied pressure on disputing parties through the threat of and actual imposition of sanctions, which on the one hand, helped to push the parties to the negotiating table, but on the other, did much less to alter the behaviour of states concerned as well as those in

positions of authority. More particularly, sanctions did not make them acquiesce to ending the culture of impunity, including taking the responsibility of prosecuting perpetrators of election violence or make them implement terms of the signed political agreements profusely and promptly.

9.4.4. Assessing Effectiveness in Addressing Collective Security Challenges

Having learnt how the two cases of sub-regional organizations responded to two different sets of security challenges, and in the backdrop of the study's findings, it naturally draws interest to move a bit further and interrogate their effectiveness in dealing with those security challenges (i.e. SALW threat and domestic political crises). Equipped with all information and knowledge about the security practices of the EAC and SADC, thus far, do we look at these particular organizations as actors playing a meaningful or just inconsequential role with regard to security challenges confronting their Member States?

Cognizant of the fact that divergent views still exist in the general field of international relations and regionalism in particular, on the actual and potential contributions of sub-regional organizations to matters of security, it might be useful to situate my position in the debate in the light of the observed findings. Henceforth, this brief assessment of the organizations' effectiveness is not framed around or shaped by a priori expectations but it is grounded on the security objectives of the sub-regional groupings towards the two specific security challenges. It can affirmatively be noted that if one is to recapitulate all observed developments within the EAC and SADC security architectures, the emerging picture does not cast a wholly optimistic or completely pessimistic outlook. This has already been highlighted, though in patches, in the foregoing sections that the security dimensions facing Member States and the mitigating task of sub-regional groupings vary in their respective areas of operations. To be more specific, in comparative terms sub-regional organizations under focus here appear as more effective actors in the small arms issue-area and less so when it comes to cases of domestic political crises. While mindful of the fact that both the small arms problem and domestic political crises still persist in East

and Southern Africa sub-regions, and that the constructions of the EAC and SADC security architectures are works in progress, it is fairly conclusive that the two organizations have relatively recorded progress in their SALW control measures than in their interventions in domestic political crises. There are explanations behind this state of affairs, which are worthy of attention.

One explanation lies on the nature of the security threats themselves. While state actors expressly and commonly agreed to place SALW and intra-state conflicts in the sub-regional security agenda, they are more sensitive when dealing with the latter than the former security challenge. Even though, the threat of SALW proliferation is real because if it gets out of hand it is likely to spark waves of crime and insecurity, and in the end the worsening security situation can turn the populace against a regime, this is perceived as a less direct threat to state sovereignty than would be a domestic political crisis. High sensitivity attached to domestic political crises by state elites largely explains their strong aversion to sub-regional actors' involvement in domestic conflicts. It is one area that state's authority is still jealously guarded. While state actors have allowed more nuanced roles for a range of state and non-state actors in both the coordination and management of small arms measures, the window of engagement is much more restricted when it comes to domestic political crises. It is also the emphasis on the sanctity of state sovereignty that informs the continuing reluctance to relocate some of the governmental authority to the sub-regional institutions. Even though we regard sub-regional organizations as emerging collective actors in security matters whose members remain sovereign actors, the pooling of sovereignty especially in the security realm is still a very sensitive subject. And this 'hurts' more sub-regional organizations' efforts in addressing cases of domestic political crises as they often relate to shortcomings in domestic governance structures.

A more revealing fact for sub-regional organizations' feeble contribution in managing domestic crises is that when resolution methods such as negotiations and mediation had been employed in a domestic situation, they were generally meant to preserve and not to upset the status quo. As it unsurprisingly turned out in Kenya and Zimbabwe, final settlements were drawn up with a leaning towards accommodating a 'disgraced'

incumbent leader. There is yet another explanation for sub-regional organizations' dismal performance in matters of domestic political crises: the failure to make full use of existing sub-regional body's institutional mechanisms with potential to enforce norms of rule of law, human rights and democratic practices in general. Evidences are not hard to find here. The SADC Tribunal and the EACJ are potential mechanisms for ensuring compliance within the SADC and EAC, respectively. However, in the interest of political expediency for the sub-regional elites, SADC States suspended the Tribunal and EAC countries moved swiftly to amend provisions of the EACJ thereby limiting the court's jurisdiction so as not to apply to "jurisdiction conferred by the Treaty on organs of Partner States"³⁰⁹. These are decisions that appeased more state leaders than individual civilians who approach sub-regional courts when domestic recourse fails.

9.4.5. Some Theoretical Lessons

Finally, there are theoretical lessons to be drawn from the foregoing findings. Examination of the EAC and SADC experiences in response to collective security challenges featured two of the most economically dominant states in the two organizations. In the EAC, the sub-regional economic powerful country, Kenya, was itself a scene of political violence. When this most powerful economic member of the EAC was caught up in a political crisis, the entire sub-region was rocked. Within SADC, South Africa possesses all the attributes of a hegemonic power. The notable positive side to this is that this hegemonic status has not deterred it from playing a leading role by offering a significant contribution not only to peacemaking efforts in the sub-region, and more importantly, through non-violent means, but also in forging collaborative bilateral and multilateral operations to stem out the SALW problem. This goes a long way to allay fears most often associated with proponents of mainstream rational systemic theories that a country of South Africa's attributes would always seek to bully the rest of the grouping and unilaterally drive the sub-regional organization's security agenda according to its whims and interests.

³⁰⁹ Amendments to Article 27 and 30, which were published in the EAC Gazette on 16th March 2007. The EAC Partner States had also adopted a draft Protocol extending the jurisdiction of the EACJ, in which all the EAC Member States agreed to exclude any reference to human rights adjudication by the Court.

Scholars increasingly see countries with hegemonic status within sub-regional groupings as capable of steering the integration process through the provision of public goods such as security. Still, the hegemonic state would be circumspect of being assertive in its foreign conduct due to sub-regional fears of domination. This concern pushes the hegemonic state to work for sub-regional harmony instead of creating discord within the grouping of states. Thus, to secure the support of the other weaker Member States, it would have to operate through the sub-regional organization that apparently is designed to counter dominance by any one state (Nathan, 2012). This is the context in which South Africa has to operate within the SADC. South Africa is firmly aware that its interests in both security and economic integration agenda do not prevail unconditionally. It follows, henceforth, by engaging under the sub-regional framework, South Africa's mediation efforts on Zimbabwe received added legitimacy and clout. Where does this leave SADC as a collective actor? South Africa's dominant position does not diminish the relevancy of SADC's security arrangement. In fact, a strong lead state that can chaperone peace and security agenda and one that views the sub-regional organization as a collaborative and consensual enterprise, is a welcome addition to its composition. The dilemma that the most powerful actor in the sub-region faces is that it would be criticized for acting and even much slated if it does not.

At this juncture, it is hard to speculate what would have happened had South Africa itself been in trouble. If the local hegemon had itself fallen into a domestic political crisis it is difficult to predict with great certainty what would have been the reaction of the other weaker members of the sub-regional body. The only experience we have here is that when the East African economic giant (Kenya) found itself in trouble, the EAC was helpless. Well, this is just one instance that cannot be used on its own to make a general claim. Perhaps, consideration of more cases featuring more sub-regions can help to arrive at more informed assertions on this issue.

The theoretical perspective employed, i.e. security governance, was not about making a purely legal argument about competences and mandates. It was not solely focused on how states use international organizations. The security governance perspective as applied here

extended beyond theoretical frameworks that are state-centric in orientation by capturing both the multi-level (i.e. national and sub-regional) and multi-actor dimensions of security cooperation. Thus a sub-regional security governance perspective expressed not only the territoriality of security concerns under focus but also widened the analytical focus to incorporate actors other than states. It drew attention to the living reality that the complexity of contemporary security challenges outstrips the capabilities of state actors to respond unilaterally. State actors are thus compelled to team up with an evolving array of non-state actors and international actors, often drawing upon their support and resources in responding to security challenges.

It can be recalled that even at the continental level there is a wide appreciation of the potential contribution of non-state actors to the promotion of sub-regional security. The AU's Peace and Security Council position on non-state actors is to encourage NGOs, community-based and other CSOs to participate actively in promotion of peace and security³¹⁰. As it turned out, however, a focus on the role of non-state actors in this study revealed that these sets of actors are selectively engaged in the coordination and management of some security functions. State actors within sub-regional groupings sideline non-state actors especially in their reaction to cases of domestic political crises. The role of CSOs has not moved beyond 'naming and shaming' states and state elites who flout not only national laws but also sub-regional standards and rules, to include a recognized responsibility endorsed and supervised by the sub-regional organizations to engage in a more substantively in intra-state conflicts via conciliation, negotiations and mediation.

Another usefulness of the security governance perspective to the current study besides highlighting the extent of interactions among actors, it covered the contexts that give meaning to particular responses to security challenges and institutionalized forms of behaviour among the relevant actors in the coordination and management of security

³¹⁰ See Article 24 of the AU's Common African Defence and Security Policy (CADSP) of 2004. The UN General Assembly also describes CSOs as the prime movers of some of the most innovative initiatives to deal with emerging global threats (UNGA A/58/817, 11th June 2004).

tasks. For instance, we were able to understand that the interactive history of security actors (for example, the self-imposed solidarity ties of former liberation movements within the SADC grouping) indirectly influenced their tendency to close ranks to incumbent regimes in crisis amid pressure from both local and international peers to act proactively. Using the security governance perspective aided in appreciating the fact that before one gets to understand how implementation of policies in the security field is carried out, it is equally important to grasp the context in which actors' interaction takes place. It can be summed up that this analytical perspective helped to capture complex governing (coordination and management) mechanisms in security issue-areas characterized by a constellation of different types of actors operating at different levels of interaction. Through this security governance perspective which is an actor-oriented model, it has been possible to bring under one framework actors' interactions, contexts under which actors operate and the evolving institutional mechanisms under the auspices of sub-regional organizations. On the one hand, it shows that states continue to create and use multiple sub-regional arrangements to pursue their security agenda. On the other hand, sub-regional arrangements are enabling networks with state and non-state actors in responding to collective security challenges prevailing in their respective areas.

Can this perspective be applied elsewhere? This is not the first study that makes use of the security governance perspective. It had successfully been applied to analyse the EU as a security actor and to explain the transformation of the trans-Atlantic security architecture (Krahmann, 2003; Kirchner and Sperling, 2007) and also in a developing world context, the security governance perspective proved very helpful to capture the multi-level and multi-actor security dynamics in the countries of South America (Flemes and Radseck, 2009; Oelsner, 2009). So the answer is yes, the security governance perspective can conveniently be applied elsewhere to capture security dynamics especially in multi-actor, multi-levels situations.

9.4.6. Usefulness of the Comparative Approach

Has the current study benefited in whatever way from the use of a comparative approach? Certainly, the comparative approach has been helpful in answering the study's research questions by allowing a comprehensive analysis of variation in the security practices across two sub-regional arrangements based on (a) the nature and extent of threats, and (b) existing mechanisms for responding to security challenges.

Why would two organizations facing a similar form of security challenge appear to institute different response mechanisms? Comprehending first and foremost the scope of a security challenge was important in understanding the manner in which an organization responded. There is more to it than explanations bent on highlighting capacity deficiencies within sub-regional organizations. The nature and extent of the threat and the context under which the organization finds itself also informs the manner in which it reacted to a security challenge. For instance, the lead actor in the mediation of the Zimbabwe crisis, South Africa, successfully mounted a diplomatic campaign to keep Zimbabwe off the UN Security Council's agenda while serving as a non-permanent member in 2007-8 by repudiating an attempt to treat the Southern African country and Kenyan crises on the same wave length. South Africa maintained that Zimbabwe at the time had not reached the levels of Kenya's December 2007 post-election violence, and thus, the UN was risking complicating mediation efforts. The main intention, which in fact paid off, was to protect the SADC from increasing international reproach and to starve off external pressure. We were able to understand that actors also make use of comparable cases in attempt to legitimize a chosen form of reaction to certain types of security challenges.

A comparative method did not only allow an examination of how an array of actors reacted to different sets of security challenges but also enabled capturing two differing but rapidly evolving institutional developments undertaken by the sub-regional organizations. One organization had relatively invested a lot in setting up political and security structures and their attendant policy instruments. Another organization that featured had recorded relatively remarkable milestones in the general regional integration sector but with a thinly

developed security institutional framework, except for fairly developed confidence building measures in the defence sector. A comparative examination of the institutional paths taken by the organizations established that the SADC built on the institutional structure left behind by the erstwhile FLS grouping while institutionalisation of the EAC's political and security sectors only received added impetus following expansion of the sub-regional grouping in the second half of the 2000-2010 decade.

Additionally, it is common for some sub-regional organizations that strive to be effective security actors to look to other organizations for policies and rules that were applied to solve similar problems and are transferable into their context (Börzel, 2011). When conducting empirical analysis for this study I was intrigued by the EAC protracted negotiations to adopt a peace and security protocol. It became apparent that EAC was cautiously drawing in the experience of SADC with its Mutual Defence Pact and the Organ's Protocol. Tanzania that maintains membership in both organizations shared her experience on operationalization of these SADC security instruments³¹¹. As EAC was mulling over whether to adopt separate Protocols on Cooperation in Defence, and Peace and Security, it had to move carefully against rushing to adopt an eye-catching Security Protocol but one without clearly specified modalities for involvement in inter- and intra-state conflicts.

Furthermore, the comparative approach also highlighted the question of lesson drawing in the SALW area. It was established during field research for the current study that the SADC Firearms Protocol was not only one of the main references for the development of the Nairobi Protocol hence much similarity in the language of their provisions, but also signatories of the latter Protocol were keen to avoid controversy in operationalizing Article 18 concerning institutional arrangement as it happened in implementing a similar provision (Article 17 of the SADC Protocol) which slowed efforts to combat SALW problem in Southern Africa³¹².

³¹¹ At the High Level Seminar on the upgrading of the Memorandum of Understanding on Cooperation in Defence into the Protocol on Defence Cooperation, Kampala, Uganda, 22nd – 24th February 2010.

³¹² Interview with Dominic Hayuma who once served as Tanzania NFP Coordinator at SADC and EAC fora.

The comparative approach was also useful in unveiling the inter-linkage between the two security challenges under consideration (i.e. the SALW and domestic political crises). For instance, in the post-election violence of 2007-08 in Kenya, many crude weapons were used to unleash the violence and the resultant fatalities (Wepundi et. al, 2012:21-22). The Waki Report referred to in Chapter 6 noted that gunshots accounted for 962 casualties out of which 405 died (CIPEV, 2008: 345-46). As a result the need to speed up implementation of SALW control measures alongside peacebuilding efforts has received close attention than before.

9.5. Future Research Agenda

This study focused on the elaboration of the nature and volume of the SALW proliferation problem, coordination and management of various control measures in East and Southern Africa sub-regions. The other collective security challenge under focus was domestic political crises. There is still very limited data on the impact of small arms control measures on crime prevention. Future studies ought to be designed to examine the rates of change in transnational criminal acts within each Member State and then determine the impact that the small arms policies of sub-regional organizations have had on that range of change. Moreover, attention on more cases of sub-regional organizations, can allow more useful comparisons, and thus, commonalities and differences to be drawn, which would complement available knowledge and generate further insights in tackling the SALW menace.

Negotiations following disputed elections and election violence in Kenya and Zimbabwe resulted in power-sharing agreements as transitional measures toward long-term conflict resolution in those countries. There is need to conduct further studies to assess the capability of sub-regional arrangements to effectively monitor and oversee implementation of political agreements once signed by the parties to a domestic political crisis. The current study did not go far beyond the signing of power-sharing agreements, for example,

appraising the functioning of an agreed inclusive or coalition government, and how the various actors within the respective sub-regional arrangements actually monitor the precarious post-agreement situation in a Member State that has just emerged out of a protracted domestic political crisis.

There is another area that is amenable to future in-depth investigation. The Kenyan and Zimbabwean political crises provided important litmus tests for the respective sub-regional organizations' capacity to resolve such crises using mediation as a non-violent method. Both the EAC and SADC are at advanced stages of setting up fully-fledged mediation units alongside conflict prevention, management and resolution mechanisms. This stems from a growing recognition that there are shortfalls in their preparedness to situations that call for mediation, leaving it to be conducted in an ad hoc basis. It would be interesting to examine whether dedicated mediation architectures of EAC and SADC, once fully instituted, could play any significant role in future domestic political crises should they happen.

Another area that begs for investment in research is how to empirically ascertain the extent to which political, economic and functional cooperation among a group of countries overtime contributes to fending-off violent conflicts. It has often been posited elsewhere that security and development go hand in hand and that one is inconceivable without the other but a comprehensive comparative study to examine whether or not such a relationship exists in Africa's sub-regional organizations is yet to be done. Such an inquiry is justified as African sub-regional organizations have been pursuing both security and development agenda concurrently for sometime now.

Moreover, so far the focus of most regionalism literature has been on what induces Member States in a regional grouping to either comply or not with regional rules. Unfortunately, no adequate attention has been directed on interrogating what happens when structures created specifically for addressing conflicts are not used effectively. Why would Member States, for instance, by-pass or show reluctance to involve the organization's structures and organs in their peacemaking undertakings?

There is still an apparent omission in the existing operational instruments guiding action on the security sub-sector in considering instances where conflicts do not conform to inter- or an intra-state conflict, such as the conflicts which have been engulfing the DRC for over fourteen years. The lines are sometimes very blurred. While this is indeed the case, modalities for dealing with inter-state war as entrenched in the UN system and replicated in regional and sub-regional organizations are not appropriate for resolving such conflicts (Van Schalkwyk, 2005: 39). Clarifying these issues especially what substantive procedures would be taken in a regional context in such a mixed intra-extra-state conflict is a valid point that deserves attention as sub-regional blocs such as the EAC are deeply engaged in negotiating a Security Protocol.

10. Appendices

10.1. List of Interviewees³¹³

NO.	NAMES	DESIGNATION & ORGANIZATION	PLACE OF INTERVIEW	DATE
1	Daniel Nyambabe	Assistant Commissioner of Police, SADC POL PLANELM	SADC Headquarters, Gaborone, Botswana.	15 th November 2010.
2	Ezekiel Senti	Advocate, Legal Adviser, SADC POL PLANELM	SADC Headquarters, Gaborone, Botswana.	15 th November 2010.
3	Gerson M. Sangiza	Colonel, Senior Officer Defence Affairs and Planning,	SADC Headquarters, Gaborone	15 th November 2010.
4	Habib G. Kambanga	Senior Analyst, Political and Security Threats, SADC Regional Early Warning Centre	SADC Headquarters, Gaborone, Botswana.	15 th November 2010.
5	Maaparankoe Mahao	Brigadier General, Chief of Staff Planning Element	SADC Headquarters, Gaborone, Botswana.	15 th November 2010.
6	Linda Ramokate	Politics and Diplomacy Officer	SADC Headquarters, Gaborone, Botswana.	16 th November 2010.
7	Chihika Simfukwe	Head of INTERPOL Regional Bureau-Harare, and SARPCCO Secretariat	Harare, Zimbabwe.	18 th November 2010.
8	Joseph Musoni	Regional Specialised Officer, INTERPOL Regional Bureau-Harare	Harare, Zimbabwe.	18 th November 2010.
9	Dominic Hayuma	Retired Deputy Director, Criminal Investigation Department (CID), Tanzania Police Force and former Coordinator Tanzania NFP	Dar es Salaam, Tanzania.	3 rd December 2010.

³¹³ The status and positions of respondents at the time of interviews.

10	Peter Boswell Mcomalla	TANANSA Chief Coordinator	Dar es Salaam, Tanzania.	8 th December 2010.
11	Wolfgang Leidig	GTZ Head of Programme, GTZ Cooperation with EAC	EAC Headquarters, Arusha, Tanzania.	13 th December 2010.
12	Lutenta Mwauzi	Assistant Commissioner of Police, Tanzania NFP, Ministry of Home Affairs	Police Headquarters, Dar es Salaam, Tanzania.	4 th January 2011.
13	Leonard Onyonyi	SALW Programme Coordinator	EAC Secretariat, Arusha, Tanzania.	11 th January 2011.
14	Francis K. Wairagu	Head, Research and Gender Unit, RECSA.	Nairobi, Kenya	24 th January 2011.
15	Mohabe Nyirabu	Associate Professor, Department of Political Science and Public Administration, University of Dar es Salaam.	Dar es Salaam, Tanzania.	7 th February 2011.

10.2. Interview Schedule A: for the EAC

Introduction

I am conducting a study to find out how sub-regional organizations in Sub-Sahara Africa deal with collective security challenges of transnational threats and domestic political crises that are facing their member states. To this end I have sought this interview as one of the tools for soliciting informed data, opinions and comments from a cross section of decision makers, practitioners, experts and those who are either directly involved in addressing these challenges or are conversant with the sub-regional organizations work in this area. I will kindly appreciate if you will respond to the following questions whose responses will immeasurably enable provision relevant information for accomplishing this study. Your responses may be recorded for quality control purposes but will not be used for any other reason than this research.

PART A: Coordination and Management Of the Transnational Threat of SALW

1. Can you describe the security situation in the sub-region in general?

2. The East African sub-region is confronted with a number of transnational security threats like organized crime, Small Arms and Light Weapons (SALW), drug trafficking, and cattle rustling. What is the extent of these threats in the sub-region?

3. Focusing specifically on the problem of stockpiling and trafficking of SALW, in your opinion, what are its major causal factors?
 - a) Conflicts in the neighbouring countries.
 - b) Porous borders.
 - c) Weak control systems by states.
 - d) All the above.
 - e) Other factors -----

4. All five EAC Partner States are signatories to the Nairobi Protocol for the Prevention, Control, and Reduction of SALW. How does the EAC coordinate operationalisation of this Protocol? [i.e. how does the EAC coordinate all aspects and activities related to the implementation of the Nairobi Protocol?].

5. What is the status of the EAC Policy on small arms?

6. What is the current status of development of national policies on small arms in the EAC member states?

7. There are several bodies that are involved in one way or another in controlling the SALW menace and its consequences. The major sub-regional intergovernmental bodies are the Regional Centre on Small Arms and Light Weapons (RECSA), formerly the Nairobi Secretariat, and the Eastern Africa Police Chiefs Cooperation Organization (EAPCCO). How does the EAC coordinate its activities on SALW in relation to these organizations?
 - a) RECSA.
 - b) EAPCCO.
8. How does the EAC Department for Peace and Security operate in relation to National Focal Points (NFPs)?
9. Have member states sought to coordinate their policies on SALW and pursued any forms of cooperation outside the EAC formal structures? [To put it differently, are there any informal arrangements or mechanisms, known to you, that have been employed by individual states to address the transnational threat of SALW?]
If yes, how do such bilateral or multilateral arrangements by states affect EAC's coordination of its policy on small arms?
10. Has there been an EAC coordinated operation for collection of illicit arms?
 - a) If yes, how often has it been carried out?
 - i) How many arms have been collected so far?
 - ii) Has the EAC sponsored operation(s) achieved its goals?
 - b) If no, what are the reasons for a lack of an EAC joint operation?
11. a) Which countries are involved in bilateral disarmament operations alongside the EAC program on SALW?
 - b) If one were to assess the national and bilateral disarmament operations, what level of achievement can be attributed to them?
12. How much arms have been destroyed by member states since the signing of the Nairobi Declaration on the Problem of Illicit SALW in 2000?
13. The EAC-GTZ Small Arms Project provides support for the establishment of an electronic database. What is the status of progress on this undertaking?
14. Is there a cross-national (bilateral or sub-regional wide) training for Law Enforcement Agents (LEAs) besides those conducted by individual member states?
15. Is the sub-region moving towards harmonization of training syllabi of the various national training institutes for LEAs?
16. Providing public education and awareness is one of the crucial elements in the attempt to address the problem of stockpiling and trafficking of SALW. How does the sub-regional organization fare on the implementation of this control measure according to the Nairobi Protocol?

17. a) What are the major challenges facing the EAC States in controlling SALW?

b) If you were asked to rank these challenges, which one would you rate as the most persistent?

PART B: Domestic Political Crises

18. This sub-region has not been spared of domestic political crises in some states. What has been the reason behind the emergence of such crises? [**The researcher to elaborate to the respondent the meaning of 'domestic political crises,' as applied in the study**].

19. How devastating was the 2008 Kenyan Post-Election violence to the sub-region?

20. What mechanisms are currently in place at the sub-regional level to address domestic political crises when they erupt in a member state?

21. In your opinion, does the current EAC security framework equipped to adequately address domestic political crises within member states?

22. The EAC appeared to have taken a back seat role in the mediation of the 2008 Kenyan post-election violence. Why EAC could not assume a leading role in the mediation process?

23. What is the major challenge(s) facing the EAC in addressing conflicts within member states?

24. The sub-regional organization has put in place a set of protocols, agreements, and strategies to ensure stability and improve security in the sub-region. How do you evaluate the organization's and individual member states delivery on:

- a) Implementation of those protocols, agreements and agreed strategies,
- b) General enforcement mechanisms.

PART C: Questions Exclusive For RECSA

1. Can you please explain the current status of development of the Reference and Operational Manual (ROM) that is envisaged to guide interaction and coordination between NFPs and also NFPs and RECSA?

2. How can you describe the interaction and partnership between:

- a. RECSA and EAC.
- b. RECSA and EAPCCO.

3. The East Africa sub-region lacks a synchronized legislative framework for controlling illicit trafficking of firearms. Why is this so?

4. It is noted that RECSA is facilitating adoption of new legislation on SALW in EAC member states. What is the current progress on this activity (in each of the 5 member states)?
5. Harmonization of legislation remains a key area of focus in the efforts to manage SALW. What is the status of implementation of guidelines for harmonization of legislation and implementation plan for the review process on small arms legislation?
6. Why was the process of harmonization of legislation at national level not accomplished as per initial date agreed at the Third Ministerial Review Conference of RECSA (of June 2005)?
7. Have member states undertaken the computerization of their central firearms databases so as to be in line with the requirements of the Best Practice Guidelines for the implementation of the Nairobi Protocol?
8. RECSA is coordinating the implementation of an arms marking project in the sub-region. Can you describe the status of implementation of this exercise?
9. a) What are the major challenges facing the EAC States in controlling SALW?
b) If you were asked to rank these challenges, which one would you rate as the most persistent?

PERSONAL PARTICULARS

Name of the Respondent: _____

Designation: _____

Organization: _____

Date of Interview: _____

THANK YOU FOR YOUR KIND ASSISTANCE!

10.3. Interview Schedule B: For the SADC

Introduction

I am conducting a study to find out how sub-regional organizations in Sub-Saharan Africa deal with collective security challenges of transnational threats and domestic political crises that are facing their member states. To this end I have organized this interview as one of the tools for soliciting informed data, opinions and comments from a cross section of decision makers, practitioners, experts and those who are either directly involved in addressing these challenges or are conversant with the sub-regional organizations work in this area. I will kindly appreciate if you will respond to the following questions whose responses will immeasurably enable provision of relevant information for accomplishing this study. Your responses may be recorded for quality control purposes but will not be used for any other reason than this research.

PART A: Coordination and Management Of the Transnational Threat of SALW

1. All SADC States are signatories to the SADC Protocol on the Control of Firearms, Ammunition and Other Related Materials. How does the SADC coordinate operationalization of this Protocol?

NFPs

2. What is the current status of the process of establishing and developing:
 - c) National Policies on small arms.
 - d) National Focal Points (NFPs)?

SADC Organ

3. How does the SADC Organ on Politics, Defence and Security (OPRDS) operate in relation to:
 - a. SARPCCO,
 - b. National Focal Points (NFPs)?
4. Have member states sought to coordinate their policies on SALW and pursued any forms of cooperation outside the SADC formal structures? If yes, how do such bilateral or multilateral arrangements by states affect SADC's coordination of its policy on small arms?

Reviewing and harmonizing legislations

5. Member states have been reviewing their firearm legislations to bring them in tune with the SADC Protocol. What is the current status of implementation of this exercise?

6. Has the sub-region adopted any guidelines for harmonization of legislation on outstanding issues of small arms control?

Collection/disarmament operations and destruction of firearms

7. Has there been a SADC coordinated operation for collection of illicit arms?
 - a. If yes, how often has it been carried out?
 - iii) How many arms have been collected so far?
 - iv) Has the SADC sponsored operation(s) achieved its goals?
 - b. If no, what are the reasons for a lack of a SADC joint operation?
8. a) Which countries are involved in bilateral disarmament operations alongside the SADC program on SALW?
b) If one were to assess the national and bilateral disarmament operations, what level of achievement can be attributed to them?
9. How much arms have been destroyed by member states since the signing of the SADC Protocol on SALW in 2001?

Electronic Database

10. Any sub-regional efforts for establishment of a unified electronic database?

Training for LEAs

11. Is the sub-region moving towards harmonization of training syllabi of the various national training institutes for LEAs?
12. What efforts have been taken by the sub-regional body to enhance the skill and capacity of various LEAs in the sub-region?

Public education and awareness

13. Providing public education and awareness is one of the crucial elements in the attempt to address the problem of stockpiling and trafficking of SALW. How has SADC as the regional body implemented this control measure?

Self-assessment

14. Has the sub-regional organization undertaken self-assessment of the impact of its measures to manage transnational threats and domestic political crises?

Challenges

15. a) What are the major challenges facing the EAC States in controlling SALW?

b) If you were asked to rank these challenges, which one would you rate as the most persistent?

PART B: Domestic Political Crises

16. Elections in Africa are periods during which the stability and security of African states hangs in the balance due to the threat of related election violence. How has this sub-regional organization been addressing conflicts of this nature within her member states?
17. Besides using formal security organs and structures of the sub-regional organization, what other (informal) mechanisms have been employed to address domestic political crises in member states? [**For e.g. involvement of extra-regional actors and other members of the international community**]
18. Have the political and diplomatic efforts of individual member states in resolving domestic political crises enjoyed the support of the sub-regional organization?
19. How do you respond to the view that the sub-regional organization has failed to respond to conflicts in member states in a coordinated manner?
20. How can you describe SADC's role in addressing the Zimbabwean political crisis since 2000?
21. The sub-regional court, the SADC Tribunal ruled in 2008 that the land reforms in Zimbabwe were against the SADC Treaty. It has also ruled that the Zimbabwe government is in contempt of court for ignoring their rulings. Why has the court's rulings not been enforced?
22. Why SADC did not invoke the Mutual Defence Pact to respond to claims by its member (the DRC) in 2005 that it was a target of aggression from a non-member state (Rwanda)?
23. What hindrances or challenges stand in the way for SADC's successful management of domestic conflicts within its member states?
24. The sub-regional organization has put in place a set of protocols, agreements, and strategies to ensure stability and improve security in the sub-region. How do you evaluate the organization's and individual member states delivery on:
 - a. Implementation of those protocols, agreements and agreed strategies,
 - b. General enforcement mechanisms.

PART C: Questions Exclusive For SARPCCO

1. How can you describe the interaction and partnership between SARPCCO and SADC?
2. Harmonization of legislation remains a key area of focus in the efforts to manage SALW. What is the status of implementation of this activity in this sub-region?
3. There was a plan to launch a Crime Intelligence Project on SALW. What is the current status of progress on this plan?
4. Have SADC member states undertaken the computerization of their central firearms databases?
5. Is SARPCCO coordinating the implementation of an arms marking project in the sub-region?
6. a) What are the major challenges facing the SADC States in controlling SALW?

b) If you were asked to rank these challenges, which one would you rate as the most persistent?

PERSONAL PARTICULARS

Name of the Respondent: _____

Designation: _____

Organization: _____

Date of Interview: _____

THANK YOU FOR YOUR KIND ASSISTANCE!

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