Review

Enforcing the African union peace and security framework in Burundi

Abou Jeng

School of Law, University of Warwick, UK. E-mail: abou.jeng@gmail.com, a.jeng@warwick.ac.uk.

The launching of the African Union and its Constitutive Act in 2002 was seen as a milestone in the evolution of the continent's peace and security architecture and the beginning of a promising era of Africa's norms formulation agenda. This optimism stems from the perceived potential of the Constitutive Act in providing possibilities in confronting African internal violence. The purpose of this article is to test the extent to which the basis of this optimism - the strength of perspectives of the AU peace and security framework - is capable of advancing viable approaches to conflicts. As an illustration, the article uses the AU's approaches in Burundi, an old enclave in the Great Lakes region whose recent history has been characterised by violence and the first country where the AU attempted to enforce provisions of its peace and security framework under the aegis of its emergency stabilisation mechanisms. The article argues that despite the challenges and shortfalls faced by the AU in Burundi, its approaches played a crucial role in facilitating the transformation of the agencies of violence, culminating in sufficient stability for the advancement of peace. In this sense, the article contends that the invocation of the Constitutive Act in Burundi shows patterns of relative promise in the AU's peace and security framework.

Key words: Conflict, peace, security, normative framework.

INTRODUCTION

Ever since the collapse of the Organisation of the African Unity (OAU) and the creation of the African Union (AU), there has been considerable interest in the capacity and potentials of what is viewed as patterns of an emerging African legal and normative order. Whilst the wave of this interest is constructed with a sense of optimism that perceives the AU project as an actualisation of the aspirations of the people of Africa, the normative values embedded in its framework have provided space for constructive analytical engagement with a number of critical issues. With increasing engagement with, and academic interest in the structures and law of the African Union, research on the continental body has accordingly multiplied. One of this relates to both the dilemmas and pervasive nature of African internal conflicts. Since the end of the Cold War, internal conflicts have continued to account for a substantial part of warfare casualties in Africa. The constant oscillation from one conflict to another has had devastating impact on people and prospects for peace. As a result, progress whether through human rights or development based approaches, has been threatened and impeded by high incidences of

violence and social upheaval (Hansen, 1987).

Given the scale, impact and ubiquity of these conflicts, confronting them is perhaps no longer a matter of defending States or protecting allies, but certainly a matter of defending humanity (UN SG Report, 1998). The imperative for innovative advances in addressing the scourge of internal conflicts has been accentuated by imbalances in the configuration of contemporary international legal order which subjected postcolonial African order to be structured along a certain rigidity that allowed little space for a conceptual rethink especially in relation to the pursuit of peace. However, transformations in the ideology and power structures of international society in post-Cold War presented an opportunity for the possibilities of recasting the continent's institutional and normative approaches to conflicts. This resulted in the transition from the OAU to the AU. Although there is hardly consensus on the actual impact of this period on Africa, the potentials in relation to the recasting of conceptual approaches to peace amongst Africa's peoples and institutions have been widely acknowledged. In the case of the AU, the spaces of possibilities have

been manifested in its Constitutive Act's normative architecture, the frame through which it was able to initiate engagement with the protracted civil war in Burundi. But why Burundi and how might it be relevant to the AU?

The relevance of Burundi to the AU's peace and security framework is three fold. First, like most of contemporary Africa, Burundi displays patterns of colonial residues, social disarray and political chaos that have become distinctive attributes of African postcolonial statehood. This burden of inheritance has the tendency to render the African postcolonial State an ambiguous entity almost condemned to perpetual struggles, forcing it to compete for spaces for legitimacy and relevance. Second, Burundi's struggles with the legal fiction of its sovereignty and postcolonial turbulence has, like elsewhere in Africa, resulted in the institutionalisation of social conditions that make conflicts and violence enduring. This has brought contemporary international law into the equation, with the proposition of a number of approaches to Burundi's postcolonial violence. Third, and perhaps most important, Burundi was the country where in 2003, the AU first invoked provisions of its Constitutive Act's peace and security framework. The aim was to utilise the emergency stabilisation mechanism under Article 4 with the view to halting the cycle of violence and opening up spaces for durable peace. The invocation of the AU's peace and security architecture came in the backdrop of sustained dithering and abdication of collective international responsibility particularly from a United Nations that was repeatedly unequivocal in its lack of interest in providing leadership in tackling the crisis. What this indifference did was to provide space for the AU to assert its evolving peace and security architecture. From this perspective, an examination of the African Union Mission in Burundi (AMIB), the auspices under which approaches to the Burundi conflict had been conceptualised, provides an understanding of the potential, challenges and the future of the Constitutive Act's peacemaking ethos. Beyond this, it also provides sketches of the contextual relevance of the transformative approaches to conflicts that underpin the AU's peace and security architecture and its capacities and practicalities in shaping a present and future peaceful order for Africa. And finally, given that Burundi was the AU's first Article 4 mandate under its Constitutive Act, the experience is critical to the determination of a trajectory in the nature of transition from stabilisation to deepening norms engendering and social integration.

ANATOMY OF THE AU PEACE AND SECURITY FRAMEWORK

The AU was launched in July, 2002, replacing the OAU which had been the frame of reference for Africa's political, economic and socio-legal matters for over three decades. The institutional structures and normative values epitomised by the AU are governed by a Constitutive Act. This instrument is bolstered with the Protocol Relating to the Establishment of a Peace and Security Council and an integrated body of instruments. The preamble of the Constitutive Act spells out the visions and intended political, social and economic trajectory of the AU. Fundamentally, it identifies the scourge of conflicts as an obstacle to Africa (Constitutive Act, para.8).

As a result, it underscores the imperative of promoting peace, security and stability as essential elements for the advancement of Africa's development and integration agenda (Constitutive Act, para.8). The realisation of this vision is framed in a continuum of objectives. Significant amongst them are an expression to achieve greater unity and solidarity in Africa (Article 3a); acceleration of political cooperation and socio-economic integration (Article 3c); propagation of peace, security, and stability (Article 3f) and the promotion and protection of human rights, democratic values, good governance and the creation of credible conditions for Africa's participation in the globalised world (Article 3g).

The objectives are balanced by fourteen principles enumerated under Article 4. Four of these reflect the foundational structures of the current international order. These are sovereign equality of Member States (Article 4a), peaceful resolution of disputes (Art 4e), non-interference by members into the internal affairs of another (Art 4g) and condemnation and rejection of impunity and political assassination (Art 4o). Others with a slightly radical focus and specific to the present and future needs of Africa have been incorporated. These are participation of the African people in the activities of the Union (Art 4c), prohibition of the use of force among members (Art 4f), right of the AU to intervene in a Member State in respect of grave circumstances such as war crimes, crime against humanity and genocide (Art 4h). The intervention principle also provides Member States, through Article 4j, with the right to request for intervention from the AU so as to restore peace and stability. The other sets of principles relate to the promotion of gender equality and social justice (Art 4i), condemnation and rejection of unconstitutional changes of government (Art 4p), respect for the sanctity of human life (Art 4o) and creation of a common defence policy (Art 4d).

However, amendments to the Constitutive Act were soon to follow in July 2003 culminating in the incorporation of a number of objectives. For instance the language of Article 2 of the preamble was amended to reflect gender sensitivity, whilst Article 3 of the objectives added three new sub-paragraphs that advocated for promotion of common policies on trade, defence and foreign relations (to constitute Art 3p) and the encouragement of the participation of the African Diaspora in the AU (to constitute Art 3q). Article 4 of the

principles on the right of the AU to intervene in its members internal affairs was expanded to also cover 'serious threat to legitimate order to restore peace and stability to a Member State' (to constitute Art 4h). Clearly the ethos of the AU and subsequent amendments represents a paradigmatic shift from the old order under the OAU. A major reason that might plausibly lie behind this is the affirmation that Africa's future cannot be secured without a recasting of its ethos and institutional structures. Part of this attempted transformation is sourced from Pan-African ideals and the imperative of integration and interdependence as frameworks for peace and development (Murithi, 2005).

Of course the broad expanse and particularity of some of the ethos of the AU calls for the creation of vibrant institutions. Key institutions that are critical to the AU's peace and security framework are the peace and security council (PSC), Panel of the Wise and the African Standby Force. The PSC was created by a separate protocol and was formally launched in 2004. It is an amalgamation of some of the conflict resolution and management structures under the OAU, values of the treaty relating to the establishment of the African economic community (AEC) and the integrated normative principles underlying the Constitutive Act. According to its Protocol's Article 2 the PSC is the standing decision-making organ for the prevention, management and resolution of conflicts. It embodies a collective security and early-warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa. To help facilitate this, the Protocol stipulates that the PSC shall be supported by a Panel of the Wise.

The Panel of the Wise is a new organ within the continent's institutional structures and perhaps reflects the significance of revitalising an important African traditional peacemaking instrument. According to Article 11 of the PSC Protocol, the Panel of the Wise shall be composed of five highly respected African personalities from various segments of society who have made outstanding contribution to the cause of peace, security and development. Its primary function is to advice the PSC and the Chairperson of the AU Commission on matters relating to the promotion and maintenance of peace, security and stability in Africa. A subsidiary mechanism instrumental to the operations and success of both the PSC and the Panel of the Wise is reflected in the creation of the Continental Early Warning System (CEWS). This comprises an observation and monitoring centre called the Situation Room. It is responsible for data collection and the provision of analysis which shall be used to analyse volatility in the conditions of peace and recommend appropriate course of action (Makinda and Okumu, 2008:87). The AU Standby Force (ASF) is the third component and was established under Article 13 of the PSC Protocol. The ASF is mandated to assist the PSC in its approaches to conflict such as peace support deployments and intervention missions pursuant to

Article 4(h) and (j). The rationale is to serve as a rapid deployment unit in situations of emergency.

The normative shift embodied by these key institutions suggests an emerging strength of perspective in the AU's integrated peace and security framework with a particular focus on creating durable conditions for peace. But what is the broader significance of this shift on Africa and how might it impact on approaches to internal conflicts? To assess this it is worth examining the essentials of the AU's approaches to conflict. The Constitutive Act's approaches to conflict are defined in three distinct but interrelated paradigms. These are, first, the 'non-indifference' ideals in Article 4, second, norms formulation, and third, social integration and interdependence. Article 4(h) mandates the AU with the 'right to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances namely, war crimes, genocide and crimes against humanity. The provision was subsequently expanded with the first amendment of the Constitutive Act. The amendment provides that circumstances occasioning intervention from the AU would include 'serious threat to legitimate order to restore peace and stability to a Member State upon the recommendation of the Peace and Security Council.' Moreover, under Article 4(j), member States have the right to request intervention for the restoration of peace and order. An important observation is worth making here. First, article 4(h) does not require consent from the Member State in whose territory intervention is being invoked. In effect, a State's adoption and subsequent ratification of the Constitutive Act amounts to a willingness to delegate some sovereign powers on the basis that the AU is an organisation created by a multilateral treaty. Second, Article 4(h) is unclear as to the exact nature of intervention. However, it is plausible to argue that the incorporation of the Panel of the Wise and the African Standby Force into the AU's institutional structures is sufficient ground to suggest that the type of intervention could encompass both military counter measures and non-violent initiatives (Kuwali, 2009). Beyond this however, the Constitutive Act can be viewed as an attempt to re-characterise international law's engagement with postcolonial internal conflicts. In this sense, the rationale of Article 4 is perhaps a progeny of the reticence of the OAU and international law to deal with the scourge of African internal conflicts. Its codification as a template in the law of the African Union is thus a reflection of past inadequacies and an intended departure from them. Perhaps nothing less could have been expected from an organisation that envisions an integrated Africa, driven by its people and characterised by peace and stability (AU Report, 2004). As Tijanna Maluwa explains, 'in an era in which post-independent Africa had witnessed the horrors of genocide and ethnic cleansing on its own soil against its own kind, it would have been absolutely amiss for the Constitutive Act to remain silent on the question of the right to intervene in

respect of grave circumstances' (Maluwa, 2001: 38).

The second part of the AU's approaches to conflict is norms formulation. Consolidating normative values in the sphere of peace making is to provide space for engaging the potentials of non-violent approaches. The Constitutive Act provides a reference point for this and is located in two foundational epochs that informed the process of transition from the OAU to the AU, namely Pan-African ideals and the Kampala CSSDCA initiative. The African Union in whatever way presented is a largely Pan-African institution that feeds from that ideology's transformative character. Its relevance pertains to the fact that the ideology is no longer fixated on its early reactive rhetoric. In post-Cold War, Pan-Africanism has acquired an organised ideal that attempts to challenge new modes of neo-liberal dominance whilst also providing an identifiable source of reference for the formulation of Africa's legal order. This unfolds in two interrelated tiers.

The first pertains to the advancement of a kind of a narrative that envisions an Africa driven by its people with the view to making it a dynamic force in global order (AU Report, 2004). Through organised Pan-Africanism, it becomes an ascribed mindset in the continent's political leadership and institutional structures. Whether it is conscientious activism necessitated by global transformations or enforced reaction to postcolonial turbulence, this force has potential in formulating norms and recasting Africa's encounters with the world. Some of the norms emerging from the AU are aimed at promoting unity and cohesion. But others have a focus specific to the quest for a viable postcolonial peaceful order. What this points to is a deepening of normative values that are relevant to the African context and sensitive to its course. However, its fulfilment will be dependent on how it is translated in practice.

The second tier of Pan-Africanism as norms formulation involves the process of institutionalisation. The rhetoric of unity and solidarity that animates Pan-African ideals often translates into the creation of institutions that serve as an embodiment of the collective aspirations. The mission of such institutions is to help in the realisation of not only the visions of the AU but also provide the support towards achieving them. Three examples come to mind; the Pan-African Parliament, the Panel of the Wise and the African Union Commission on International Law (AUCIL). Although the Pan-African Parliament is yet to be fully functional, its integration into the AU organs represents a move to further institutionalise Pan-Africanism as a frame of reference to Africa's ambitions. Similarly, the AUCIL signifies intentions to not only reflect the laws of the African Union as an important component of international legal development, but could also facilitate codification of practices within Member States of the Union.

The Kampala CSSDCA process on the other hand constitutes an important part of the Constitutive Acts norms formulation framework. Its functions, as already noted, are to provide a frame of reference for the development and institutionalisation of normative values for Africa. Most of the principles and approaches it embodies, especially those relating to the quest for peace, were incorporated in the Constitute Act (Francis, 2006:129). For instance the Constitutive Act's norms formulation suggests a kind of an integrated approach that intends to place certain values at the core of peace approaches. This is an off-shoot of the Report on a Brainstorming Meeting organised by the ALF in 1990 (ALF Report, 1990). The meeting recognised the integrated nature of Africa's security and emphasised that lessons from armed conflicts in Africa suggest that 'security must not be conceived in the narrow terms of its physical aspects only but in a dynamic and comprehensive manner embracing among others the more fundamental attributes of enduring security such as political pluralism, economic development, and positive social transformation.'

The third element of the AU's approach to conflict is located in the binary of social integration and interdependence. In the past, the concept of integration and interdependence through regional and sub-regional building blocks has been touted as a crucible for closer cooperation and solidarity (Makinda and Okumu, 2008). The principal objective in most of these so-called 'first generation African integration' pacts was the promotion of trade through the liberalisation of certain trading areas and the consolidation of specific bilateral political cooperation. For the most part, the arrangements were constructed on the backdrop of fear arising from the volatility of the artificial nature of the postcolonial State and doubts over the viability of some economically weak States. Although their names often suggest some kind of integration of Member States' economies, the reality was far from that. In practice, the underlying traditional economic justification for these regional institutions was doubtful simply because their 'economies were structurally disarticulated because they had been developed as aggregations of enclaves, each linked to the metropolitan economy but not necessarily to one another' (Adejo, 2002).

However, the complexion of integration has undergone significant transformation in post-Cold War. It possesses certain attributes that are 'home grown, an organic development within specific historic, political, economic, regional and global contexts' (Van Njeuwkerk, 2001:7). These genres of integration have a multidimensional character. They combine an array of political, economic, social, and historical as well as defence and security ambitions. Baylis and Smith define this type of integration 'as the creation and maintenance of intense and diversified patterns of integration among previously autonomous limits. These patterns may be partly economic, social and political in character' (Baylis and Smith, 1997:411). The African Union falls into this category. There are two integration schemas that can be

identified from the Constitutive Act. Article 3(a) and (c) of the AU's objectives speak of achieving unity and solidarity, and accelerating the political and socio-economic integration of Africa.

This features prominently in most of the provisions of the Constitutive Act and its related instruments as well as the organs which are delineated and interlinked in a way that synchronise the theme of integration. But the AU's model of integration is based on two routes; the first pursues social integration and interdependence, and the second lays emphasis on economic integration.

Unlike most previous integration schemes, the AU perceives the process of social integration and interdependence as templates that institutionalise a kind of peace approach that aspires to render conditions of conflicts both illogical and unattractive.

However, given that the AU's peace formulation is still evolving there is lack of detail in the mechanism of achieving this. But the binary of integration and interdependence is a process of enhancing common values and shared identity as tools for mutual engagement. It might be derived internally and externally through political integration in situations where integrated state-society relations prevail (Brons, 2001:27). There is also a strong history of integration and interdependence amongst certain social groups in Africa (Fortes and Evans-Pritchard, 1962). This is visible in the pathology of communalism as a system and idea rooted in the belief that people are interdependent on each other for security and moral purpose. The wisdom follows the assumption that a person is at all times an insufficient being with rights and duties predicated on the fulfilment of the interest and security of persons transcending an immediate locality (Wiredu, 1996). The African conception of a person is therefore 'not that of an isolated and abstract individual, but an integral member of a group animated by a spirit of solidarity' (Okere, 1984:148). This has found particular expression in the discourse of an 'African' interpretation of human rights (Shivji, 1989).

From the above it is plausible to argue that the AU has significantly departed and reconfigured some of the defining ethos that underlined Africa's postcolonial normative architecture, especially as regards approaches to conflict. The evolving normative shift implies that strict reverence to the doctrine of state sovereignty and territorial integrity that characterised and inhibited the OAU, no longer hold. In the Constitutive Act, sovereignty is conditional, not total, and it must be exercised in a way that shows responsibility and value for human life. It draws from the emerging wisdom that a political social and economic integration of Africa could provide a framework that adequately confronts the enigma of armed conflicts by adopting a multidimensional approach of prevention, preparedness, response, mitigation and recovery. That, at least, is the theory. In the proceeding sections this theory is put to the test. First, the cycle of violence and civil war in Burundi is periodised and second, the AU peace approaches in Burundi are assessed. The assessment provides the opportunity to gauge not only whether the rhetoric of the Constitutive Act's peace and security framework has been translated into action, but also the strengths and measures of its capacities.

CYCLE OF VIOLENCE AND CIVIL WAR IN BURUNDI

Burundi is one of Africa's oldest nation-states and one of only few in contemporary Africa whose geographic layout has remained virtually unchanged (Lemarchand, 1994:1). But this constant in its territorial outlook has not been the case as regards the political and social realm. Ever since decolonisation in the 1950s, most of the Great Lake region has been a flashpoint of seemingly unending chaos and disorder (Chritien, 2003). Burundi's postcolonial experience in particular has been punctuated with political turbulence and ethnic strife, the magnitude of which had essentially subjected all Burundians to vulnerable targets (Alusala, 2005: 1). Rene Lemarchand has gone to lengths to assert in a 1988 testimony to the US Congress, that 'nowhere else in Africa have human rights been violated on a more massive scale, and with more brutal consistency, than in Burundi' (Lemarchand, 1989: 22). Burundi's cycle of violence shows a certain gradation that has been both intense and total. Four periods are evident: independence eve transitional disorder; the 1972 genocide; 1988 ethnic tensions and the violence and uncertainty that followed the 1993 multi-party democratisation initiatives.

Burundi's transition to self-rule was all but smooth. In 1961, parliamentary elections were held as part of the political transition process. UPRONA emerged with 84% of overall votes, and its leader Prince Rwagasore, was sworn in as Prime Minister (Lemarchand, 1970). Two weeks later, he was assassinated in what was deemed a politically motivated act. Reaction to his murder was swift and bloody. Opponents from the PDC party were identified for blame and a dozen of its senior hierarchy executed (Eller, 2002:230). Instability further ensued with the assassination in 1965 of a Hutu Prime Minister, Pierre Ngendumwe. A *ganwa* replacement appointed by the *mwami* was interpreted as an act of royal nepotism (Eller, 2002:231). Hutu army officers attempted an abortive coup to rectify the unfolding political crisis. The Tutsi-dominated army reacted with brutal reprisals, summarily executing the *coupists* and virtually purged Hutus from the military (Eller, 2002:231). The *mwami* fled, and the line of succession felt to his nineteen year nephew, whose inexperience allowed Michel Micombero to stage a coup in 1966 (Krueger and Krueger, 2007).

If transition to independence epitomised chaos, the second period in the gradation of violence was monumental and tragic in scale and effects. Micombero

oversaw massive breaches of fundamental freedoms. The excluded Hutu majority were severely prejudiced. His regime was a symphony of disorder with rumours, plots and counter plots, often culminating in violent state reprisals (Lemarchand, 1994b). The last straw was in April, 1972, when a Hutu rebellion broke out in the south, unleashing terror on the Tutsi population. Eye witness accounts spoke of indiscriminate killing on a large scale (Lemarchand, 1994b:4). The government response 'was not so much a repression as a hideous slaughter of Hutu civilians' (Lemarchand, 1994b:4). A conservative estimate of 200,000 Hutus was killed with thousands more forced to flee to neighbouring Tanzania. Some even suggest that 'by August of 1972, almost every educated Hutu element was either dead or in exile' (Lemarchand, 1994b:4).

The 1972 genocide had enduring effects with consequences that for long remained engraved in the collective minds of individuals and social groups (Gahama, 2002:6). This was evident in Burundi's third wave of violence in 1988. A few years after the genocide, Micombero was overthrown by his cousin, Colonel Jean-Baptiste Bagaza in 1976. The new government, lasting till 1987, had the rare merit of not having known any major inter-community conflict (Gahama, 2002:6). But Bagaza was no saint; religious freedom was curtailed, intimidation by security forces continued and state policy of exclusion intensified (Krueger and Krueger, 2007:29). Unpopular at home and alienated by the international community, his fate was sealed when in September 1987 another military coup installed Major Pierre Buyoya as Head of State. The new regime started promisingly and its compass set on the path to reconciliation (Krueger and Krueger, 2007:31). But little changed as ethnic fissures and a culture of impunity continued. Ethnic tension flared in the northern town of Marangara in 1988 with a dozen Tutsis reportedly killed by Hutu extremists (Eller, 2002). Once again the Burundi army used heavy weaponry killing almost 20,000 Hutus (Krueger and Krueger, 2007: 31).

The fourth period of violence followed the 1993 democratisation initiative and its aftermath. The 1988 wave of violence had triggered a more active international response, with the European Community and U.S Congress condemning human rights violations. The pressure persuaded the Burundi government to introduce constitutional reforms. In June 1993, presidential and legislative elections were finally held, from which the predominantly *Hutu Front des Democrates du Burundi* (Frodebu) won overwhelmingly and its leader, Melchoir Ndadaye, installed as President. However, in October 1993, Ndadaye and half a dozen of his cabinet were killed by Tutsi soldiers (Krueger and Krueger, 2007:11-15). The ensuing violence claimed the lives of over 300, 000 people (IPR, 1997:1). Political turmoil and disorder continued in the streets of Bujumbura until 1994, when Cyprien Ntaryamira, assumed the presidency. A few months later, while returning from a peace summit in Tanzania, Ntaryamira and his Rwandan counterpart, Juvenal Habyarimana, were both killed when their airplane was rocketed at Kigali airport (BBC News, 1994). The event led to the Rwandan genocide but also triggered violence in Burundi. The search for peace had become even more complicated. A transitional administration installed under a so-called Convention of Government collapsed. Violence resumed and in 1996, Major Pierre Buyoya staged his second military coup (Krueger and Krueger, 2007:268).

Indeed, Burundi's gradation of violence has been greatly disruptive not only to its postcolonial statehood, but also to the Great Lake's regional security. The causes of internal violence are varied and many. But there are also patterns of commonalities that bind them. These include colonial residual effects and burden of inheritance - elements that have equally affected Burundi. There are also factors that are relatively country specific. In Burundi the political landscape had been constructed through lenses of ethnicity so deep that the capacity of social institutions in advancing manifest qualities of humanity and forgiveness had been consigned to irrelevance. What it did however, was to project a false impression that no credible alternative existed beyond ethnic identity. Rene Lemarchand even suggests that this perceived absolutism of ethnicity has drawn Burundians to act solely in the name of this identity (Lemarchand, 1998: 7). 'What is being remembered by many Hutu,' he writes, 'is an apocalypse that has forever altered their perceptions of the Tutsi, now seen as the historic incarnation of evil' (Lemarchand, 1998: 7).

Notwithstanding this theorisation, the role of the State in Burundi's cycle of violence is more than evident. From the outset, the State was besieged by colonially altered social order. Historically functional social institutions that had played a major role in the diffusion of tension and prevention of systemic violence became marginalised (Urvin, 2008:73). Further still, the social balance that held communities and social groups drastically metamorphosed through colonial encounters (Rutake and Gahama, 1988:86). The outcome was a disjointed political system lacking the capacity to transform the social system upon which the potential for violence was present. Eventually neither the State, nor its military custodians could reverse these sources of tension. In fact, what subsequently emerged bore striking parallels to most of Africa's postcolonial statehood. The State's constant struggle for legitimacy pitted it against a disenchanted social system whose faith in the agencies of State had long gone (Reno, 1998). This sense of bifurcation created a kind of social inversion, so deep that structures ordinarily capable of diffusing conflicts had atrophied. The absence of social harmony strengthened the divisive character of ethnic stratification. This paved the way for violence and chaos. It was this that eventually produced some international response.

International engagement was largely constrained throughout most of the periods described above. The sequence of assassinations attracted little concern and military dictatorship was tolerated if not actively supported. Even the reaction to the 1972 genocide was hesitant, and in some instances, bordering on complicity. The UN was remarkably passive. Its Secretary General, Kurt Waldheim, simply expressed 'fervent hopes that peace, harmony and stability can be brought about successfully and speedily, that Burundi will thereby achieve the goals of social progress, better standards of living and other ideals and principles set forth in the UN Charter' (Lemarchand, 1994b:7-8). Similarly, the OAU did little. Its Secretary General at the time, Diallo Telli remarked during a visit to Bujumbura that 'the OAU being essentially an organisation based on solidarity, my presence here signifies the total solidarity of the Secretariat with the President of Burundi, with the government and the fraternal people of Burundi' (Lemarchand, 1994b:7). These levels of international passivity amounted to an abdication of responsibility considering the existence of collective legal obligations under the 1948 Genocide Convention. Such indifference left Burundi at the mercy of State impunity. Reginald Kay writes that 'the virtual absence of international protest at the time…encouraged the government to pursue its discriminatory policies' (Kay, 1995:6). Nor were Burundi's bilateral and multilateral relations affected (Kay, 1995: 6).

The reasons for the lack of adequate engagement are not difficult to discern. First, international legal jurisdiction regarding internal violence is fairly limited. Second, the architecture of international engagement generally operates on a presumption that the responsibility for human protection is the prerogative of the State. It was only following the events of 1993 that a more proactive approach was taken. The UN Security Council approved the appointment of Ahmed Ould-Abdallah as the special envoy of the Secretary General to Burundi in November 1993. The envoy's objectives were spelt out as follows: (i) restoration of democratic institutions overthrown by the military in October 1993; (ii) facilitate dialogue between parties to the crisis; (iii) work towards the establishment of a Commission of Enquiry into the events of October and subsequent massacres; (iv) work in collaboration with the OAU (Ould-Abdallah, 2000:38). On the first objective, Ould-Abdallah rallied support from the largely isolated *Bashingantahe*, and a few political parties. After protracted negotiations and compromises, consensus was reached to amend Burundi's constitution so as to empower parliament to elect an interim President. Cyprien Ntaryamira was subsequently elected interim president and a so-called Convention Government was formed in September 1994 (Ould-Abdallah, 2000:73).

Further initiatives were undertaken by Ould-Abdallah and some foreign representatives in Burundi to promote dialogue and enhance the survival of the transitional government. But these international responses, though providing some reprieve from the sense of insecurity could not fundamentally alter the country's violent landscape. The transitional government became entrapped in a culture of suspicion and constant struggles for power. Not long, the very limited window of dialogue vanished culminating in a vacuum at governmental level. Violence was soon to return to Burundi as the resurgence of Hutu uprisings provided space for the creation of a number of insurgent groups with a determination to wrestle balance of power from the Tutsi dominated military (Krueger and Krueger, 2007). The failure of international engagement in Burundi was as much a testimony of the limitation of international law as it was a verdict on its approaches to conflicts. Most crucially, the UN Security Council Resolution framing the legal basis for these engagements was flawed in a number of respects. First, it adopted an essentially neo-liberal peace dispensation to circumstances whose genus was defined by intricate social dynamics. Postcolonial Africa's political structures are often locked in an almost perpetual struggle for legitimacy against indigenous institutions (Okafor, 2000). To negate their role and increasing practical relevance is to overlook what is clearly an influential social phenomenon.

Corollary to this international negation is the primacy of the neo-liberal approach to conflict that consolidation of State institutions or their restoration in the event of dysfunctional formal institutions is a *sine qua non* in the advancement of durable peace. And so for the most part, international approaches expended considerable time and resources in legitimising an agenda that was neither suitable, nor relevant to Burundi. For example, the series of transitional power sharing agreements were shallow, and their precursor, the so-called Convention of Government, was not leaning towards peace, but mainly installed as a political device (Reyntjens, 1995). The process was merely resuscitating institutions that had been mediums of violence and impunity in postcolonial Burundi. Traditional institutions and social networks, through which community cohesion and individual loyalties and sanctuaries of security are often framed, were treated as alien structures lacking relevance. Fillip Reyntjens observes that 'rather than attempting to tackle the real problems of the country, these negotiations dealt with the distribution of offices and functions' (Reyntjens, 1995: 18-19). Unable to address the escalation of violence, the Convention of Government collapsed.

The nature of these approaches also exposes the tension symptomatic of contemporary international engagement with the quest for peace. All these fault lines, occurred in the backdrop of an apparent lack of understanding of Burundi's internal sociological dynamics. The level of ignorance was in some instances, difficult to fathom. For instance, despite evidence to the contrary, Ould-Abdallah noted in a publication, that 'all Burundi at a given moment are extremists' (Weisman, 2008:5). As one of the focal custodians of international

peace building initiatives in Burundi, Ould-Abdallah was adamant that 'in the context of African conflicts, the most effective sticks including temporarily denying visas to some extremists and scholarships to their children, and threatening to freeze their bank accounts' (Ould-Abdallah, 2000:143). This isolationist approach is largely reactive and lacks the capacity to view conflicts as dynamic processes that are sustained by complex variables whose nuances transcend the tabulated simplicities of neo-liberal peace. No wonder then that the approach to peace in Burundi pioneered by international agents had 'little impact and its capacity to influence events was therefore tenuous, and trickled away bit by bit, day by day' (Krueger and Krueger, 2007:42).

THE AFRICAN UNION AND THE BURUNDI CONFLICT

The approach to conflict in Burundi changed once the AU came into being. In April 2003, the African Mission in Burundi (AMIB) was constituted, and the AU Article 4 intervention accordingly invoked providing the legal basis for the mission's deployment. To further realise Article 4 objectives the mission was also mandated with the implementation of the Arusha Peace and Reconciliation Agreement signed in Arusha, Tanzania in August 2000. As the first AU mission under Article 4, how important a step was AMIB in translating the Constitutive Act's rhetoric on peace and security into action? And to what extent did it represent a kind of a learning curve in the AU's quest for durable peace in Africa? To assess the capability of this framework and find answers to these questions, it is worth considering three factors vis-à-vis the engagement of AMIB. First, the Arusha Peace process which formed part of AMIB's objective, second the structures, operations and challenges of AMIB, and third, its contribution to the peace process.

As already seen above, Burundi's post-independence politics has been a telling of violence and disorder. Whilst this state of affairs continued little was done to address it. The failure of international efforts culminated in regional initiatives 'concerned about the protracted nature of the conflict and its destabilising impact on the region' (Daley, 2008:195). The initiatives also came in the backdrop of the 1996 military coup, which it was feared, had the tendency to further aggravate Burundi's history of violence and the State complicity in it. The regional efforts were led by Tanzania with support from the OAU and the United Nations. The regional initiatives began with a summit in the Tanzanian town of Arusha on June 25 1996. A communiqué issued on the summit's proceedings reiterated the need for national reconciliation through a comprehensive solution to Burundi's crisis. It also called for the restoration of constitutional order in Burundi. What was significant about the summit was that for the first time in Africa's postcolonial institutional memory, a 'group of leaders declared that they would no

longer accept an individual who came to power through a *coup d'état* as a legitimate Head of State' (Bunting, cited in Daley, 2008:195). This was soon followed by sanctions aimed at putting pressure on the military administration of Pierre Buyoya.

However, these preliminary regional actions especially those relating to sanctions, had very little effect. Burundi's key allies - the USA, Canada and some EU countries - objected to the regional actions and even threatened to withdraw support for the peace process. Encouraged by this Pierre Buyoya showed little regard for Nyerere's efforts and even sought to undermine them by exploring internal peace talks with his adversaries (Daley, 2008:200). In subsequent months, he opened up negotiations with FRODEBU and began resuscitating key political institutions such as the national assembly. But not much came from this. In 2000, Nelson Mandela took over as facilitator following the death of Nyerere. Within a short time, negotiations on the proposals that began under Nyerere were finalised and signed in 2000. The Arusha Agreement consisted of a number of provisions that reflected the fluidity of the Burundi crisis and the need to advance durable peace through inclusionary approaches. To achieve this, Articles 1 to 4 of the agreement provided for a reflection of the nature and historical causes of the conflict. It defined the conflict as 'fundamentally political with extremely important ethnic dimension' (Arusha Peace Agreement, 2000). Solutions were also provided. This included the 'institution of a new political, economic, social and judicial order' and the 'reorganisation of the State institutions to make them capable of integrating and reassuring all the ethnic components of Burundian society' (Arusha Peace Agreement, Art 5). The agreement proposed a new constitutional instrument inspired by the realities of Burundi. Under Article 7, the rectification of ethnic imbalances was proposed so as to combat ethnic-based violence. To this end, the agreement noted the importance of indigenous social structures in the quest for spaces of peace and proposed the rehabilitation of the institution of *ubushingantehe* (Arusha Peace Agreement, Art 7).

Protocol II addressed issues of governance, transitional power sharing, judicial and executive functions (Arusha Peace Agreement, Art 1-22). Other aspects of peace and security were contained in Protocol III, whilst defence and the conduct of the security forces was the subject of Protocol IV. Two important observations are worth making. First, it is plausible to note that it was perhaps the most comprehensive peace agreement of an internal conflict in Africa. Although the dynamism of Tanzania's Julius Nyerere and South Africa's Nelson Mandela was a factor, the timing of the peace process was also crucial. It was concluded at around the same time that major developments were taking place to transform the OAU. Second, the transformations helped to produce a peace process that not only aimed at tackling the crisis, but also

attempted to use constitutional instruments to address the ethnic divide that had been at the centre of Burundi's cycle of violence. It was perhaps in this context that the peace agreement incorporated unique transformative approaches that reflected an urge to break from the past. Once the OAU was disbanded and the AU created, the new organisation sought to engage the Burundi conflict through the implementation of the Arusha Peace and Reconciliation Agreement and the Constitutive Act peace and security initiatives. It was in this light that AMIB was created.

The creation of AMIB was the first conflict transformation mission undertaken by the AU. The desire to actualise the mission was motivated by a number of factors. First, Burundi had suffered from protracted conflicts with considerable implications for its neighbours. Securing peace in Burundi was considered essential in tackling the interconnected violence of the Great Lakes' region. Second, AMIB was constituted within the framework of Article 4(h) of the Constitutive Act, whose purpose is premised on the recognition of the vicissitudes of the ambiguous character of the postcolonial African State and the desire of the AU to pursue an African solution to African problems (Kioko, 2003). Underpinning this sense of African ownership, Kristina Powell observes, was also the perception of AMIB 'as a crucial opportunity for the [AU] to demonstrate its departure from the OAU and to assign itself a prominent role in delivering on peace and security agenda in Africa' (Powell, 2005:35). AMIB was deployed in April 2003 and assigned a set of objectives that included the creation of a secure and conducive environment, disarmament, demobilisation and reintegration of combatants (MCPMR Communiqué, 2003). The most challenging, however, was to contribute to the political and economic stability of Burundi by providing overall logistic and security support to members of the transitional administration. This required proactive engagement with relevant parties and social institutions for the implementation of cease-fire agreements (MCPMR Communiqué). To achieve these, specific tasks critical to AMIB's Article 4 stabilisation mission and its underlining peace cultivation were also outlined. These were to maintain liaison between parties; monitor and verify the implementation of cease fire agreements; facilitate access to and movement of parties to designated assembly areas; facilitate and provide technical assistance to the disarmament, demobilisation and reintegration (DDR) processes; facilitate the delivery of humanitarian assistance, including to refugees and internally displaced persons and coordinate mission activities (MCPMR Communiqué). The mission was mandated for an initial period of one year (Powell, 2005).

AMIB was structured as an integrated mission with both civilian and military components. The civilian component consisted of diplomatic and technical support staff that provided logistic and administrative support (Agoagye, 2008:11). Its other functions included the promotion of a cohesive understanding between AMIB, the transitional government and the ordinary people the mission encountered during its operation. Both components were headed by the Special Representative of the AU Commission (Agoagye, 2008). At its full capacity, AMIB consisted of 3,335 military personnel from South Africa, Ethiopia, and Mozambique (Powell, 2005:34). Further contributions from Burkina Faso, Gabon, Mali, Togo and Tunisia constituted the observer element of the mission with a capacity of 43 personnel (Agoagye, 2008:11). The operational conception of AMIB was outlined in three strategic components. The first component assigned South African and Ethiopian contingents with the task of establishing two demobilisation centres at the Bubanza and Buhinga provinces respectively. Its main focus was to harness the inclusionary engagement approaches generated through AMIB's political engagement by ace-lerating disarmament, demobilisation and reintegration of combatants (Agoagye, 2008:11).

The second component of AMIB related to the provision of security to officials, NGOs and institutions involved in the actualising of the transition process. The objective of this component was to provide sufficient security to facilitate the smooth implementation of the Arusha Peace process as well as create an enabling platform for the actors to assert presence in both the country and its people. It was also crucial that parties to the conflict who had expressed intention to collectively shape Burundi's future be able to fulfil their undertakings without resorting to violence. Once they realised that their security was largely guaranteed it spurred others to join the peace process (Boshoff and Very, 2006:32). The third component was the first part of a long healing process that involved encouraging internally displaced persons and those living in refugee camps in Tanzania to return home. Although the situation was still precarious, it was believed that for reintegration as a mechanism for reconciliation and peace to take effect the dignity of people must be restored through the preservation of the notion of *ubuntu*.

AMIB's role in helping facilitate this was to provide improved security conditions in Burundi as an incentive to persuade the return of refugees and the internally displaced. In the process of doing so, the civilian component of the mission intensified its engagement with some of the visible indigenous social institutions. The mission was indeed a bold one and the determination to deploy was a fulfilment of a legal obligation under the Constitutive Act and broader African philosophical persuasion - you're your brother/sister's keeper - intrinsic to Pan-African ideals and culture (Wiredu, 1997). From the onset, AMIB sought to put in place mechanisms for the creation of an environment that was capable of advancing peace and stability, 'without which progress toward other goals would have been much more difficult.' (Boshoff and Very, 2006:32). There is no doubt that AMIB's mere presence in Burundi served as some kind of

deterrence to the further escalation of violence (Murithi, 2008:75). The mission's initiatives, and in some instances, departure from conventional neo-liberal approaches were helpful in this regard. Whilst confronting some of the agencies of violence, AMIB pursued an inclusionary engagement by courting the legitimate inclusion of non-state armed groups that would ordinarily be classified as outlaws under classical approaches. By so doing, the social networks providing the support bases of these armed groups that are also often invisible to the radar of international legality were brought on board as legitimate factors to the peace process.

With most of the armed groups engaged, AMIB could operate without coming across as hostile. This had practical benefits for two main reasons. First, with the exception of Agathon Rwasa's PALIPEHUT-FNL faction, the mission registered considerable success in ensuring that cease fire agreements were not only honoured, but that the cordiality they ushered was utilised to optimise community cohesion as an agency of peace cultivation. This was done through the involvement of communities and local actors. Second, the degree of stability allowed AMIB to facilitate delivery of humanitarian assistance and establish coordination networks with civil society groups and the remnants of the UN mission in Bujumbura (Boshoff and Very, 2006). Particularly helpful to AMIB's transformative endeavours was that custodians of traditional institutions and communities could genuinely identify with the mission, and even acquire a sense of ownership over some of the peace initiatives. In some instances, the institution of *Bashingantahe*, sidelined during colonial rule, played a small but significant role in mobilising local elders to complement AMIB. The *Bashingantahe* is an old institution that predates Burundi's postcolonial State, but largely consigned to irrelevance during the country's colonial encounters. It had been traditionally composed of men selected from a community on the basis of their wisdom and sense of justice (Urvin, 2009:62).

According to Peter Urvin, their function 'was to give advice in local conflicts and to propose judgments' (Urvin, 2009: 62). Their status as embodiments of peace and fairness in Burundi society is well documented. It was this role that perhaps motivated the Arusha Peace Agreement to call for the 'rehabilitation of the institution.' In 2005, the Burundi government passed an ordinance creating the National Council of the Bashingantahe in pursuance of durable peace and reconciliation. The collaborative approaches AMIB created with the *Bashingantahe*, agencies and parties to the conflict were credited for the stabilisation of about 95% of Burundi (Agoagye, 2006:14). As the discussion on Burundi's cycle of violence has shown, this level of stabilisation was the first in decades. An obvious beneficiary was Burundian civilians. Civilians bear the brunt of the human cost that arises from Africa's internal conflicts. It is a concern that is reflected in the objectives and principles of the

Constitutive Act and related frameworks. And so for AMIB to garner any purchase in this regard, its mandate had to inevitably be reflective of this responsibility. At the time of deployment, protection of civilians was not part of the mission's mandate. This was however rectified with the adoption of Rules of Engagement that specifically granted AMIB's troops the mandate to apply force to protect civilians in 'imminent danger of serious injury or death,' with prior authorisation from military officers (HRW, 2003:10).

Given that Article 4 intervention provided a relatively stable Burundi for the other peace provisions of the Constitutive Act to take effect, AMIB could be said to have succeeded on that front. In fact Henri Boshoff and Waldemar Very are adamant 'that AMIB has been one of the AU's success stories' (Boshoff and Very, 2006:31). The success demonstrates that with the requisite international support and political will, the ascription of African ownership to the integrated security architecture embedded in the Constitutive Act could become more of a reality than an aspiration. The mission's innovative methodology, framed within the Constitutive Act's transformative approaches to conflict, was seen as a model for the ascription of a coherent meaning to the quest for an African solution to African problems. For example, a 2003 joint communiqué issued by the AU and regional leaders on peace initiatives on Burundi concluded that AMIB represents a 'shining example and model of African solutions to continental security challenges' (Communiqué Regional Peace Initiatives). Although the leaders are expected to say exactly that, the contribution of AMIB to the stabilisation of Burundi has been increasingly acknowledged. Peter Urvin's *Life After Violence* provides not only an overview of the vision of peace from the perspectives of ordinary Burundians, but also shows the contribution of AMIB and the Arusha peace process in the gradual transformation of what was an otherwise polarised society (Urvin, 2009:52).

A study commissioned by Centre for the Prevention of Conflict (CENAP) and the North-South Institute has established a strong link between the implementation of the Arusha peace process by AMIB and the subsequent restoration of improved conditions of peace in Burundi (CENAP, 2006). Similarly, Tim Murithi argues that AMIB's role in 'Burundi demonstrates that the continental body can in fact make useful peacebuilding interventions on the continent' (Murithi, 2008:75). He notes that 'by the end of its mission AMIB had succeeded in establishing relative peace to most provinces in Burundi, with the exception of the region outside Bujumbura where armed resistance, in the form of the *Forces Nationales de Libération* (FNL), remained a problem' (Murithi, 2008: 75). He explains that 'in the absence of the AU Mission Burundi would have been left to its own devices, which probably would have resulted in an escalation of violent conflict' (Murithi, 2008: 75). The UN also recognised the contribution of AMIB. In Resolution 1545 of 2004, the

Security Council paid tribute to the efforts AMIB made in implementing the Arusha peace process culminating in the gradual improvement of conditions (UNSC Resolution 1545, 2004). It was this considerable improvement of the situation in Burundi that encouraged the UN to absorb AMIB into the United Nations Operations in Burundi (ONUB) having earlier refused to lead (UNSC Resolution 1545, para.22).

Despite this, the kind of peace espoused by the Constitutive Act is a long and arduous process, open to challenges and difficulties. Perhaps nowhere is this more manifestly true than postcolonial Africa, where its historical affirmations and political landscape impose *sui generis* conditions of a particularly challenging nature. Right from its inception, AMIB was faced with an enormous task with severe limitations in the capacity of the AU institutions. At the time of deployment the AU's key institutions, central to its peace and security architecture - the Peace and Security Council and the Peace and Security Department - had just been constituted. Of course, given that these structures were just evolving, there was a lamentable absence of managerial capacity and technical knowhow to facilitate the financial and organisational components of the mission. Without the requisite equipment the mission was for the most part confined to the urban communes. Some of the concerns created an environment of fear. The relatively small size of the mission was also a problem. In fact it has been suggested that with its very broad mandate and highly limited military and civilian personnel, AMIB was given a 'nearly impossible mission' (ICG, 2004:10). At its fullest capacity AMIB had just under 4,000 military personnel, assigned a task of disarming about 20, 000 combatants.

All these shortcomings hinged on the lack of adequate funds. The agreement in principle reached by the AU was that the accrued costs and incidental expenses of initial deployment were to be borne by contributing nations. Both Mozambique and Ethiopia had to source funding from the United Kingdom and the United States respectively. As Festus Agoagye writes, 'the mission's logistical sustainment and funding was particularly problematic, owing to the lack of substantive support from within Africa, as well as from the UN and the international community to provide requisite assistance' (Agoagye, 2008:14). This concern resonated in a number of preliminary reports on AMIB. The UN Secretary General lamented in one of his country reports on Burundi, that 'the mission suffered from a serious lack of funds and logistic support' and that these 'constraints under which AMIB is operating prevent the force from fully implementing its mandate' (UN SG Report, 2004). What this shows is a potential for what Bogland et al call a triangular tension between 'the AU ambitions, the organisation's resources, and the capacity and the member states political will' (Bogland et al., 2006). Such patterns of challenges and financial constrains often

associated with African peace missions have even lured some to conclude that 'from a funding perspective, the only viable peacekeeping operations in Africa are UN peace operations' (De-coning, 2004:6).

AMIB's shortcomings are perhaps a reminder that although collective political will is an essential building block for a successful Article 4 undertaking, it is not on its own sufficient. Institutional capacity, material resources and operational competence are just as important. But instructive as this may appear, AMIB's logistic and operational shortcomings were not a representation of normative limitations of the Constitutive Act's peace and security framework. To the contrary, most of them were largely reflective of operational inadequacies that sprung from paucity in international support and the AU's novice credentials in undertaking a mission of this nature. Expectations for AMIB in some quarters as regards the construction of durable peace within the framework of its mandate amounted to clear misreading of the functions of Article 4. For example, Festus Aboagye has lamented that in spite of its achievements, 'the contribution of the mission to political and economic stability in Burundi was limited' (Agoagye, 2008:14). But Article 4, the legal frame through which AMIB was organised is only to serve as an emergency instrument of stabilisation so as to facilitate the application of deeper peace cultivation initiatives such as social integration and interdependence. It is these two social phenomena that the Constitutive Act seeks to utilise to engender a kind of social cohesion that would reduce the recourse to conflict. Second, legal and constitutional instruments must be used to address imbalances in a country's social order. Since the completion of AMIB's mandate Burundi has advanced with confidence and a renewed sense of pride.

The success of AMIB was symbolic as it was instructive. Its role was to provide preliminary assessment of the efficacy and futures of the AU peace framework. This is more so important considering that the UN Security Council repeatedly rejected earlier calls for a UN peace keeping mission in the wake of Ndadaye's assassination in 1993. The unwillingness of the UN to take charge couple with its usual leaning towards neo-liberal peace building, are the very reasons that make the emergency stabilisation function of Article 4 imperative and critical. It was this undertaking to stabilise that also informed the basis through which the success of AMIB could be gauged. AMIB also demonstrates that with the integrated nature of the AU's peace and security framework a small mission can make considerable impact in the pursuit of stability and the advancement of inclusionary peace initiatives. Further helpful to its course was the mission's departure from conventional neo-liberal peace building initiatives. Despite its resource constraints and the circumstances upon which deployment was done, AMIB's engagement with Burundi's social institutions helped to restore a stable order in Burundi. This has since culminated in the installation of a 'system

of cooptation and conscioationalism that is uniquely theirs, and they have implemented it beyond what many thought was possible' (Urvin, 2009:24).

Of course it would be naïve to assume that Burundi's cycle of violence and conflict is now consigned to the past. The past has not entirely vanished. The longevity of the country's collective social trauma implies that colonially crafted ethnic stratifications have not shed their salience. As Peter Uvin notes 'there is too much pain, too much memory' (Urvin, 2009: 78). But there is also hope. The approaches to conflict appear to ignite a kind of transformation that is reshaping the agencies of violence. Integration has deepened more than ever and there seems an emergence of a collective mindset that perceives this process as indispensable if peace must prevail (FAST, 2006). This is also being increasingly reflected in the political order. For example, since his election to the presidency, Nkurunziza has demonstrated personal resolve in promoting social integration by strictly conforming to Burundi's unique constitutional requirements in relation to gender and ethnic balance.

There are three epochs that account for the patterns of success of the AU approaches in Burundi. First, the Arusha Peace Process represented a paradigmatic shift in the perception and approach to internal conflicts. Its broadly inclusionary formulations culminated in the reflection of the pathologies of social identity in the constitutional order of Burundi. The benefit has been encouraging. Thus, under the present political dispensation, social inclusion is both a constitutional requirement and moral imperative in the relation between State and society. Second, the Arusha Peace process provided the foundation upon which AMIB functioned in the aftermath of the creation of the AU. This resulted in the mission's significant contributions in the stabilising of Burundi. Third, and perhaps vitally important, the deepening of social integration and interdependence restored trust amongst adversaries and continue to provide spaces of engagement for the pursuit of collective ambitions. Without this Burundi could have quite easily be captive to the levels of violence that wrecked most of its post-independence history. The level of stability occasioned with the help of AMIB still requires consolidation. In fact the fragility of Burundi's political landscape was laid bare in the run up to its June 2010 elections. What is needed is a collective political will to foster deeper integration and consolidate trust amongst communities that had for decades fought bitter wars.

Conclusion

The objective of this article has been to gauge the viability and extent to which the ethos underpinning the Constitutive Act of the African Union and its integrated normative framework provide a window of opportunity in advancing practical approaches in confronting postcolonial violence. It has argued that the AU's integrated peace and security framework provides a window of opportunity to confront internal conflicts in postcolonial Africa. This possibility is encapsulated in three interrelated paradigms. The first is a mechanism under Article 4 that typifies an approach, albeit provisional, that is intended to confront violence as a right of the AU. The second pertains to the norms formulation framework that engenders values considered crucial in the advancement of individual and collective mutual interests. The third takes shape in the binary of integration and interdependence, whose objective is to deepen integration in a way that makes the recourse to conflict unattractive and illogical.

To test the viability of the AU's approaches to conflict, the article used Burundi as an illustration, first, describing its gradation of violence, and second, showing that during this time, violence intensified with virtually no significant response from both the OAU and the United Nations Security Council. But even where international law attempts to engage the fissures of international conflicts, the approaches do little to advance durable peace. Their limited success, the article has shown, often display an inability to institute or articulate a typology of transformative approaches capable of engaging the social system from which violence manifest. The re-characterisation of approaches to internal conflicts by the Constitutive Act however, opened up spaces for the reformulation of dialogue between the continental body and African social order. This culminated in the African Mission in Burundi.

The article argued that despite the volatile security conditions AMIB contributed greatly to the stabilisation of Burundi therein creating conducive conditions for the advancement of the other equally critical components of the Constitutive Act's peace cultivation framework. This includes the promotion of social integration and interdependence through the reintegration of displaced persons and the constitution of legal instruments to essentially reflect adequate representation of social groups and networks often invisible to the state-centric focus of international law. As the first mission to be set up under an Article 4 mandate, AMIB was faced with challenges and logistical difficulties. But through a collective will to engage and actualise African solution to African problems, the mission generally averted further escalation of large scale violence. To this end, it played a crucial role in helping in the transformation of the agencies of violence and oversee sufficient stability for the advancement of durable peace. It is from this perspective that the invocation of the Constitutive Act in Burundi, notwithstanding its related challenges, shows patterns of hope and promise in the AU's peace and security framework. But it would be remiss to totalise this sense of progress. Conditions in Burundi are still volatile and more still needs to be done to pursue an agenda of integration and inclusion. That way the broader

peacemaking ethos underpinning the Constitutive Act of the AU could be harnessed.

REFERENCES

Africa Leadership Forum, Origins of the Conference on Development, Stability, Security, Development and Cooperation in Africa, http://www.africaleadership.org/CSSDCA.htm.

Agoagye F (2008). The African Mission in Burundi: Lessons from the first African Union Peacekeeping Operation (Swedish Defence Research Agency, Stockholm).

Alusala N (2005). 'Disarmament and the Transition in Burundi: How Soon?' 97 Institute for Security Studies, Occasional, pp. 1-16.

Arusha Peace and Reconciliation Agreement for Burundi, August 28, 2000, at www.usip.org.

Boshoff H, Very, (2006). 'Disarmament, Demobilisation and Reintegration During the Transition in Burundi: A Technical Analysis' 125 Institute for Security Studies Monograph Series.

Brons MH (2001). Society, Security, Sovereignty and the State in Somalia: From Statelessness to Statelessness? (International Books, Utrecht).

Burundi Peace Negotiations: Report of the First Session of the Burundi Peace Negotiations, Arusha, Tanzania, June 15-21, 1998.

Cillier J, Sturman K (2002). 'The Right to Intervention: Enforcement Challenges for the African Union' 11:3 African Security Review

Communique of the Ninety-first Ordinary Session of the Central Organ of the Mechanism for Conflict Prevention Management and Resolution at Ambassadorial Level, 2 April 2003, Addis Ababa, Ethiopia, Central Organ/MEC/AMB/Comm. (XCI).

Daley P (2007). Gender and Genocide in Burundi: The Search for Spaces of Peace in the Great Lakes Region (James Currey, Oxford).

De-Coning C (2004). 'Towards A Common Southern African Peacekeeping System' 16 CIPS Electronic Briefing paper.

Reyntjens F (1995). Burundi: Breaking the Cycle of Violence Minority Rights Group, London.

FAST (2006). Burundi: Semi-Annual Risk Assessment, November 2005-May Swisspeace, Berne.

Fortes M, Evans-Pritchard E (eds.) (1962). African Political Systems (Oxford University Press, Oxford)

Francis D (2006). Uniting Africa – Building Regional Peace and Security Systems (Ashgate Publishing, Aldershot).

Gahama J (2002). Conflict Prevention, Management and Resolution in Burundi, at http://unpan1.un.org/intradoc/groups/public/documents/CAFRAD/UNPAN009002.pdf.

Gahama J et al (1999). 'Burundi' in A Adedeji (ed.), Comprehending and Mastering African Conflicts: The Search for Sustainable Peace and Good Governance (Zed Books, London).

International Crisis Group (2004). End of transition in Burundi: The home stretch 81 Africa Report.

Kioko B (2003). 'The right to intervene under the African Union's Constitutive Act: From non-indifference to non-intervention' 85:852 International Review of the Red Cross, pp. 807-825.

Kuwali D (2009). 'Persuasive Prevention: Implementation of the AU Right of Intervention', PhD Thesis, Lund University, Sweden .

Krueger R, Kruger K (2007). From Bloodshed to Hope in Burundi: Our Embassy Years during Genocide (University of Texas Press, Austin).

Lemarchand R (1970). Rwanda and Burundi (Pall Mall, London).

Lemarchand R (1989). 'Burundi: The Killing Fields Revisited' 18:1 A J. of Opinion, pp. 22-28.

Lemarchand R (1994). Burundi: Ethnic Conflict and Genocide (Cambridge University Press, Cambridge).

Lemarchand R (1994). Burundi: Ethnocide as Theory and Practice (Cambridge University Press, Cambridge).

Lemarchand R (1998). 'Genocide in the Great Lakes: Which Genocide? Whose Genocide?'41:1 Afr. Stud. Rev., pp. 3-16.

Adejo M (2002). 'From the OAU to AU: New Wine in Old Bottle? Paper prepared for CODESRIA's 10th General Assembly on 'Africa in the New Millennium' Kampala, Uganda, 8-12 December.

Makinda SM, Okumu WF (2008). The African Union: Challenges of Globalisation, Security, and Governance (Routledge, London).

Maluwa T (2002). 'Re-imagining African Unity: Some Preliminary Reflections on the Constitutive Act of the African Union' African Yearbook of International Law, pp. 3-38.

Maluwa T (2003). 'The Constitutive Act of the African Union and Institution Building in Postcolonial Africa' 16 Leiden J. Int. Law, pp. 157-170.

Murithi T (2005). The African Union, Pan-Africanism, Peacebuilding and Development (Ashgate Publishers, Aldershot).

Murithi T (2008). 'The African Union's evolving role in peace operations: the African Union Mission in Burundi, the African Union Mission in Sudan and the African Union Mission in Somalia' 17:1 Afr. Security Rev., pp. 71-82.

Murray R (2004). Human Rights in Africa, From the OAU to the African Union (Cambridge University Press, Cambridge).

Okafor CO (2000). Redefining Legitimate Statehood: International Law and State Fragmentation in Africa (Martinus Nijhoff Publishers, The Hague).

Okere BO (1984). 'The Protection of Human Rights in Africa and the African Charter on Human Rights and People's Rights: A Comparative Analysis with the European and American System' 6 Human Rights Quarterly, pp. 141-159.

Ould-Abdallah A (2000). Burundi on the Brink 1993-95 – A UN Special Envoy Reflects on Preventive Diplomacy (United States Institute of Peace, Washington).

Powell K (2005). The African Union's Emerging Peace and Security Regime: Opportunities and Challenges for Delivering on The Responsibility to Protect, Working Paper, MonographNo.119, http://www.iss.org.za/Pubs/Monographs/No119/Contents.htm.

Press Communiqué of the Arusha Regional Summit on Burundi, June 26, 1996, http://www.africa.upenn.edu/Urgent_Action/apic_7596.html.

Protocol on Amendments to the Constitutive Act of the African Union, Maputo, Mozambique 11 July 2003, http://www.africa-union.org/root/au/Documents/Treaties/.

Protocol on the Amendments to the constitutive Act, available at http://www.africa-union.org/root/au/Documents/Treaties/Text/Protocol%20on%20Amendments%20to%20the%20Constitutive%20Act.pdf.

Protocol Relating to the Establishment of the Peace and Security Council of the African Union, adopted in Durban, South Africa on July 9 2002, http://www.africa-union.org/root/au/Documents/Treaties/treaties.htm.

Reno W (1998). Warlord Politics and African States (Lynne Rienner Publishers, London).

Reyntjens F (1995). Burundi: Breaking the Cycle of Violence (Minority Rights Group, London).

Baylis RJ, Smith S (1997). The Globalisation of World Politics: An Introduction to International Relations Oxford University Press, New York.

Rutake P, Gahama J (1988). 'Ethnic Conflict in Burundi' in O Nnoli (ed) Ethnic Conflicts in Africa (CODESRIA, Dakar).

Shivji IG (1989). The Concept of Human Rights in Africa (CODESRIA Book Series, London).

The 91st Ordinary Session of the Central Organ of the Mechanism for Conflict Prevention, Management and Resolution, April 2, 2003, Central Organ/MEC/AMB/Comm.(XCI).

The OAU, The political and socio-economic situation in Africa and the fundamental changes taking place in the world, AHG/Dec.1 (XXV1) 1990.

UN Secretary General Report: The Causes of Conflict and the Promotion of Durable Peace and Sustainable Development in Africa, 1998 http://www.un.org/ecosocdev/geninfo/.

Urvin P (2009). Life After Violence: A People's Story of Burundi (Zed Books, London).

Weissman SR (1998). Preventing Genocide in Burundi (United States Institute of Peace, Washington D.C).

Wiredu K (1996). Cultural Universals and Particulars, An African Perspective (Indiana University Press, Bloomington).