

**THE TENSION BETWEEN NON-INTERVENTION AND NON-
INDIFFERENCE IN THE SADC MEDIATION IN ZIMBABWE, 2007-2013: AN
ANALYSIS**

by

RICH MASHIMBYE

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SUPERVISOR: PROFESSOR SIPHAMANDLA ZONDI

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DECLARATION

I hereby declare that this thesis, which I submit as part of requirements for the degree Doctor of Philosophy (International Relations) at the University of Pretoria is my own independent work and has not been submitted in the past to this university or any other university.

Rich Mashimbye

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November 2020

ABSTRACT

The aim of this study is an analysis of the Southern African Development Community's (SADC) management of the non-intervention and non-indifference dichotomy during its mediation in Zimbabwe. Non-intervention and non-indifference are inherently mutually exclusive hence the idea of tension between them. The institutional configuration of SADC, at the ideational level, is such that it encompasses commitment to sovereign equality and non-intervention and also to intervention in the interest of advancing regional stability, peace and security. Clearly, an uncertainty arises pertaining to the (supposed) relationship of these competing commitments; which concept or idea assumes precedence in an event of regional conflict or crisis that threatens regional stability? Additionally, the AU norm of non-indifference, which emerged in the aftermath of the deadly internecine conflict that engulfed Rwanda in 1994, has been embraced by SADC.

SADC opted for mediation in Zimbabwe which paradoxically allowed it to manage and mitigate the tension between non-intervention and non-indifference. The mediation process produced the GPA in 2008 that subsequently led to the establishment of the power sharing government, the GNU, in 2009. As the guarantor of the GPA, SADC was involved in facilitating the implementation of the agreement. During this stage of its mediation intervention in Zimbabwe, clashes centred on non-intervention and non-indifference frequently occurred. In particular, President Mugabe was often at loggerheads with SADC over its involvement in Zimbabwe, occasionally accusing the organisation of undermining the country's sovereignty. Despite Mugabe occasionally undermining the GPA, as was seen with his tendency to unilaterally appoint allies in strategic positions within the state for example, SADC did not change its stance on the question of the method of intervention in Zimbabwe. The use of mediation which is a peaceable method of intervention allowed SADC to manage the tension that naturally exists between non-intervention and non-indifference during its conflict resolution role in Zimbabwe.

Keywords: Non-intervention, Non-indifference, Sovereignty, Intergovernmentalism, R2P, Conflict, Crisis, Mediation, Global Political Agreement (GPA), Government of National Unity (GNU), intergovernmental organisation (IGO), Peace, Security, African Union (AU), Southern African Development Community (SADC), Zimbabwe

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List of Acronyms

AFDL	<i>Alliances des Forces Democratiques pour la Liberation du Congo</i>
AFDB	African Development Bank
ANC	African National Congress
AFS	African Standby Force
APSA	African Peace and Security Architecture
AU	African Union
CPA	Comprehensive Peace Agreement
COPAC	Committee of Parliament on the New Constitution
DIRCO	Department of International Relations and Cooperation
ECOWAS	Economic Community of West African States
ESAP	Economic Structural Adjustment Program
FLRP	Fast-track Land Reform Programme
FLS	Frontline States
GDP	Gross Domestic Product
GNU	Government of National Unity
ICISS	International Commission on Intervention and State Sovereignty
ICJ	International Court of Justice
IDPs	Internally Displaced Persons
IFIs	International Financial Institutions
IGAD	Intergovernmental Authority on Development
IMF	International Monetary Fund

IGO	Intergovernmental Organisation
ISDSC	Inter-State Defence and Security Cooperation Committee
JOMIC	Joint Monitoring and Implementation Committee
LDF	Lesotho Defence Force
MCPMR	Mechanism for Conflict Prevention, Management and Resolution
MOU	Memorandum of Understanding
MDC	Movement for Democratic Change
MDC-M	Movement for Democratic Change-Mutambara
MDC-T	Movement for Democratic Change-Tsvangirai
MPLA	People's Movement for the Liberation of Angola
NATO	North Atlantic Treaty Organisation
NEPAD	New Partnership for Africa's Development
NCA	National Constitutional Assembly
NPA	National Prosecuting Authority
NPRC	National Peace and Reconciliation Commission
OAU	Organisation of African Unity
ONHRI	Organ on National Healing, Reconciliation and Integration
OPDSC	Organ on Politics, Defence and Security Cooperation
PF	Patriotic Front
PSC	Peace and Security Council
R2P	Responsibility to protect
RECs	Regional Economic Communities

RENAMO	Mozambican National Resistance
RFP	Rhodesian Front Party
SADC	Southern African Development Community
SADCC	Southern African Development Coordination Conference
SANDF	South African National Defence Force
SCU	Sector Co-ordinating Unit
SEOM	SADC Electoral Observer Mission
SIPO	Strategic Indicative Plan for the Organ
SIPO II	Strategic Indicative Plan for the Organ
SSLM	Southern Sudan Liberation Movement
TNC	Transitional National Council
TPLF	Tigray People's Liberation Movement
UFP	United Federal Party
UNGA	United Nations General Assembly
UNITA	National Union for the Total Independence of Angola
UNDP	United Nations Development Programme
WB	World Bank
WFP	World Food Programme
WHO	World Health Organisation
ZANLA	Zimbabwe African National Liberation Army
ZANU-PF	Zimbabwe African National Union-Patriotic Front
ZAPU	Zimbabwe African People's Union

ZCTU	Zimbabwe Congress of Trade Unions
ZEC	Zimbabwe Electoral Commission
ZNLWVA	Zimbabwe National Liberation War Veterans Association
ZIPRA	Zimbabwe People's Revolutionary Army

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CHAPTER 1

INTRODUCTION

1 Introduction

In its meeting in March 2007 in Dar es Salaam (Tanzania), the Southern African Development Community (SADC) passed a resolution to initiate mediation intervention in Zimbabwe with a view to address the conflict/crisis that had resulted in the destabilisation of the country and the southern Africa region. During the meeting the SADC Summit, an apex structure of the organisation, mandated South Africa to facilitate a 'dialogue' between the government and opposition parties in order to find a political solution to the issues or problems affecting the country (SADC *Communiqué* 2007). On 17 August 1992 President Robert Mugabe of Zimbabwe and other SADC leaders signed the SADC Treaty in Namibia, which acknowledged that the organisation may intervene in a member state to advance peace and security in Southern Africa¹. Indeed, it was on the basis of promoting peace, stability and security that the intervention in Zimbabwe was made.

However, considering that sovereignty/non-intervention and non-indifference/intervention are inherently contradictory concepts, an assessment of how SADC managed the oppositional principles during its mediation role in Zimbabwe may help to deepen understanding on how non-intervention and non-indifference may coexist in regional governance. On the one hand, sovereignty and non-intervention are foundational to the inter-state system and they help prohibit external intervention and/or interference, thus preserving national sovereignty and the integrity of the modern state, while also preventing the destabilising inter-state invasions (Baylis, Owens & Smith 2011:575). On the other hand, the norm of non-indifference saddles the African Union and its regional economic communities (RECs) with the responsibility to intervene in order to prevent, manage or resolve

¹ Southern Africa with capital letter 's' covers all the 16 SADC member countries. These states are: Angola, Botswana, Comoros, Democratic Republic of Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia and Zimbabwe.

humanitarian crises on the continent (International Refugee Rights Initiative 2007). This is in line with the recently emerged doctrine of responsibility to protect (R2P). International organisations like SADC are challenged to find a balance between the importance of responsible intervention for humanitarian purpose without unreasonably diminishing or hindering the state (ICISS 2001).

The SADC mediation process lasted for a period of 7 years, starting from 2007 when a decision to intervene was officially made, to 2013 when the term of the Government of National Unity (GNU) expired, leading to an election that marked the end of SADC facilitated transition. As it will be shown, SADC performed the roles of instrument, platform and actor, roles that its member states leveraged in order to resolve the crisis. Notwithstanding the aforesaid, the various statutory documents of SADC do not provide sufficient insight and clarity on the supposed nature of the relationship between sovereignty and intervention and as such, intervention by the organisation is uncertain. To establish where that clarity lay required an extensive analysis of the SADC context, concepts, principles, decisions, activities of SA mediators, and the broader continental and international endorsement of SADC management of the contradictory principles and norms.

Despite its regional dimensions from cross-border spill-overs in refugees, forced migration and investment perceptions, the Zimbabwean crisis was primarily an internal conflict, caused and driven in large part by the violence that the ruling ZANU-PF unleashed on opposition supporters. The domestic effects of the conflict were severe, demonstrated through the pervasive undermining of political freedoms, internal displacement, the collapse of the economy and violence generally (Hammar, Landau & McGregor 2010:268-269). Its regional effects mainly manifested in terms of a regional refugee crisis marked by unprecedented migration of Zimbabweans to other countries in southern Africa (Oucho 2007:2). Of course, large-scale and unorganised influx of migrants creates instability for receiving countries, as the anti-migrant violence that gripped South Africa in 2008 highlights (Zondi 2008).

During the course of the conflict, the ZANU-PF government often asserted that Zimbabwe was a 'sovereign' state when faced with external criticism over its human

rights violations (*The Zimbabwean* 2007). This appeal to sovereignty by the ZANU-PF was meant to pre-empt and prevent intervention, and during the period of SADC mediation in Zimbabwe it was about minimising the effect of the mediation. It is this interpretation of sovereignty by the Zimbabwe government as excluding external interference, amongst others, that renders the evaluation of SADC's balancing of sovereignty and non-intervention, on the one hand, and non-indifference and intervention, on the other, an important undertaking. This chapter introduces the theme of the study, the research question, methodology, review of debates regarding non-intervention and intervention and related concepts, and also lays out the structure of the study.

2 Justification and rationale

The study focuses on the analysis of how SADC managed the relationship between principle or norm of sovereignty/non-intervention and that of non-indifference/intervention in its mediation in Zimbabwe. This is informed by the understanding that there is limited knowledge or information in the literature available on how SADC managed the tension between non-intervention and non-indifference during its mediation in Zimbabwe. According to Nye (2000:149), in its legal sense, sovereignty refers to “absolute control of a territory” by a nation-state. As such, the principle of sovereignty is inherently oppositional to external intervention, with intervention by its nature and in its broadest sense referring to “external actions that influence the domestic affairs of another sovereign state” (Nye 2000:148).

However, the post-Cold War international system, a period characterised by the decrease of inter-state conflicts and the increase of intra-state ones, has witnessed a rise in interventions by external forces/actors such as intergovernmental organisations and states (Harbom & Wallesteen 2010:501; Murthy 2001:210-211). Wallensteen (2012:16) defines conflict as a “social situation in which a minimum of two actors (parties) strive to acquire at the same moment in time an available set of scarce resources”. This often involves violence and the violation of human rights of ordinary people beyond the impacts on economy, social stability and general security. Accordingly, conflict resolution intervention, particularly in the form of

mediation that the study focuses on, flows from an understanding or assumption that the international community cannot be indifferent to human suffering.

The international norm of ‘responsibility to protect’ (R2P), posits that the international system has a responsibility to intervene in conflicts in conditions where lives are in grave danger and domestic mechanisms are unable to guarantee justice (Tesfaye 2012). Thereby, it waives the state’s right to sovereignty and non-interference in order to save lives (Tesfaye 2012:52). The AU has increasingly leaned in favour of the principle of non-indifference, with its former Chairperson Professor Alpha Konare, who was also a former president of Mali, understanding this principle/concept to mean “courteous and united interference [in the affairs of member states]” (Ankomah 2007:11). As a sub-regional organisation² of the AU and subject to the principle of subsidiary through which the AU devolves the implementation of principles, values, plans and decisions to sub-regional bodies, the SADC is bound by the AU’s principle of non-indifference.

It appears that the problematic nature of the relationship between the principle of state sovereignty and the principles or norms that run counter to it, such as intervention, R2P and non-indifference, has been mainly neglected in academic research that focus on SADC. This renders it difficult to assess how these seemingly binary concepts are supposed to relate in reality or practice. In consideration of the aforesaid, the aim of the study was to evaluate how SADC managed the principles and norms at play during its mediation role in Zimbabwe, and the (possible) impact of its intervention on the meaning and relevance of the principles and norms concerned.

The study carries both conceptual/theoretical and practical ramifications within Social Sciences broadly and the field of International Relations specifically. Only a brief mention of these benefits is provided as Chapter 7 provides a comprehensive outline of the theoretical and practical relevance of the study. Firstly, and in relation to its

²In this study, SADC is variously referred to as a ‘sub-regional or regional organisation, or simply intergovernmental organisation, while the AU is addressed as a regional organisation, continental organisation or intergovernmental organisation. This distinction is important as it captures the hierarchical relationship of the two organisations, where SADC is a ‘sub-regional arrangement’ of AU.

conceptual/theoretical relevance, the study applied a specific understanding and framework of national sovereignty and related concepts and mediation intervention. Lastly and concerning practical relevance, the study is of practical importance in a sense that an external intervention by a sub-regional organisation was preferred to national institutional mechanisms rooted within the sovereign state of Zimbabwe and society broadly. Considering all these, the examination of how the balancing of the principle of national sovereignty and the norm of non-indifference played out when SADC intervened in the Zimbabwe conflict was important and, explaining this constitutes the aim of the study.

3 Conceptual considerations and literature review

As a starting point, it is useful to define principles and norms, with both sovereignty and non-indifference described later in the study. A principle is understood as a “general law with the universal status of ... laws” (Escandell-Vidal 2004:3). Within the international system of states, principles have a status of international law and they are important to understanding how the system works. Norms are regarded as guidelines for human action in relation to “how certain people ought to behave, should behave or may behave in some way” (Koller 2014:157). While norms are general guidelines, they are reinforced by “social rules and orders with binding force” (2014:157); in the case of the inter-state milieu social rules being system rules that condition state behaviour. Wiener (2007) argues that the meaning and implementation of norms are often contested. Indeed within the international system states usually disagree over many principles and norms, including those that pertain to question of intervention. This definitional discourse on the nature and meaning of principles and norms is expanded and discussed extensively in Chapter 2 which undertakes to create a conceptual framework for the study.

This study uses a conceptual framework that is based on conceptual discussion of the two key concepts sovereignty/non-intervention and non-indifference/intervention, and naturally reference is also made to related concepts such as intervention, non-intervention, non-interference and R2P, that must be clarified in order for the research question to be answered. Therefore, conceptual consideration and

literature review of the study is based on the themes that were covered, these being the principle of sovereignty/non-intervention and norm of non-indifference and SADC's mediation in Zimbabwe.

Furthermore, a discussion of the concept national sovereignty and pertinent concepts, non-indifference and related concepts, conflict and mediation was undertaken in order to construct a conceptual base for the study. The concept of sovereignty as it is presently interpreted and understood within the international system of states first emerged in 1648 in the Treaty of Westphalia that ended the so-called 'Thirty Years' War in Europe' (Goodman 1993:27). The Treaty essentially recognised every nation-state and empire's right to exercise power within its borders as demarcated, thus the concept of sovereignty was born. It has since become a fundamental principle within the international system and guides interactions between states (Ayoob 1995:190-191). At the core of the sovereignty principle is the notion of juridical equality of states, despite variations that may exist in terms of the states' military, political and/or economic power (Heiberg 1994:20). In accordance with this principle, states ought to desist from intervening in the internal affairs of other states and, the independence of each state must be upheld and respected by other states (Heiberg 1994:19-21).

In exploring the principle of sovereignty, Krasner (1999) refers to international legal sovereignty and Westphalian sovereignty. He argues that the two are concerned not with matters of control but authority and legitimacy (Krasner 1999:4). According to him, international legal sovereignty extends recognition only to states or territorial entities that have formal juridical independence in terms of international law. Conversely, Westphalian sovereignty centres on the exclusion of external actors from a state's territory, whether *de jure* or *de facto*. In the current international system, the former form of sovereignty only applies to states whose territory is not in contention and has formal juridical independence, while the other relates to absolute exclusion of external interference. Similarly, Westphalian sovereignty is also based on exclusion of external actors "from the domestic authority structures" (Krasner 1999:20).

Related to the principle of sovereignty is the idea of intervention, which could be understood as the violation or weakening of sovereignty. Within the international system, intervention has always been a controversial topic. Among the leaders of the Global South, intervention, especially humanitarian intervention has mostly been viewed as a canny ploy to “legitimate the interference of the strong in the affairs of the weak” (Bellamy & Wheeler 2011:512). Western powers have often used the principle of humanitarian intervention to justify military incursions that are mostly aimed against weak states. Intervention by a third party in a conflict/crisis situation can take different forms, including humanitarian intervention, mediation, peace-enforcement and/or peacekeeping (Zartman & Touval 2007:437-438). The international community tends to see this type of intervention as desirable and even necessary in some cases, especially in weaker states. Nonetheless, whatever form or shape the intervention takes, intervention appears to remain contested and problematic for states

This research study focuses on assessing the conflict mediation role of a sub-regional organisation (SADC), with particular reference to processes of reconciling the principles and norm of sovereignty/non-intervention and non-indifference/R2P. It makes an examination of the relationship between these principles and norms and intergovernmental organisations. It uses a case of intervention in the form of a mediation legitimised by a regional organisation to test the dynamics involved in the relationship between the principles or norms of non-intervention and intervention.

States set up, join and participate in intergovernmental organisations, a process that also results in conferring upon the organisation the recognition that its actions are in pursuit of common interests of the members (Haynes *et al* 2011:336-40). The act of transferring some measure of authority to intergovernmental organisations does not necessarily mean that states expose themselves to supranational domination. Principles like national sovereignty serve to prevent intergovernmental and supranational over-reach. The UN was established by states in 1945, immediately after the devastating World War 2 “to save succeeding generations from the scourge of war” (UN Charter 1945). This saw member states committing to remove threats

that could lead to the outbreak of another international war. Accordingly, conditions under which sovereignty could be set aside were defined, and Chapter VII of the UN Charter describes these criteria (UN 1945). However, Ayoob (2002:82) points out that there is an inherent tension between international concern translated into intervention and notion of sovereignty, with “sovereignty being the foremost” amongst the principles and norms of the inter-state system. Sovereignty remains a major principle around which the state-based international system is built.

Furthermore, an exploration of the literature on R2P and non-indifference was conducted as part of the conceptual-theoretical clarification for the study. In 2001 an *ad hoc* commission, the International Commission on Intervention and State Sovereignty (ICISS) was established by the Canadian Government and consisting of representatives from the UN General Assembly (UNGA) to conceptualise humanitarian intervention under the theme of ‘responsibility to protect’ (R2P) (ICISS 2001). This was in response to the speech made in the UNGA by the then UN Secretary-General Kofi Annan who argued that the world had become globalised, international cooperation had increased and that sovereignty was ‘now’ understood as not absolute. In the speech, he also grappled with normative matters involved in humanitarian intervention, arguing that the international community (specifically the UN) had a moral and ethical obligation to intervene in order to prevent suffering and violence (UN 1999). The speech was at the back of the UN’s failure to intervene in the Rwandan genocide of between April and July of 1994 that claimed the lives of over 800 000 people, and the Srebrenica (Bosnia) massacre of July 1995 that cost 8000 lives. On the speech, the foundation for what would later become known as the doctrine of R2P was laid. The ICISS was set to understand the implications of the call by the Secretary General and it formally coined and operationalised the concept with its ‘The Responsibility to Protect’ report released in December of 2001 (ICISS 2001).

In the report, the ICISS concerned itself with redefining the principle of sovereignty in order to pave way for humanitarian intervention. The report acknowledged the saliency of sovereignty as evidenced by the statement that “a sovereign state is empowered in international law to exercise exclusive and total jurisdiction within its

territorial borders. Other states have the corresponding duty not to intervene in the internal affairs of a sovereign state” (ICISS 2001:12). The above-mentioned essentially asserts the principle of sovereign equality of states as contained in Article 2 of the UN Charter (UN Charter 1945: Article 2). Nonetheless, the report suggested that this crucial principle of sovereignty was not absolute but was guided by the UN Charter, which also frames it as a ‘responsibility’ rather than a mere ‘control’ (ICISS 2001:13).

The report explained this on the basis of outlining three implications that flow from the assertion that sovereignty is a responsibility. Firstly, sovereign states are charged with the responsibility for the safety and protection of the right to life of their citizens and championing of the citizens’ welfare. Secondly, states are not just arbitrary exercisers of power, but are accountable for their actions to both the domestic-level stakeholders (citizens) and the international-level actors (fellow states within the inter-state system). Thirdly and lastly, the report says that states are accountable for their actions which implies that punishment is a possibility in instances where a state’s behaviour or actions are deemed by fellow states to be irresponsible. In September 2005 the UNGA passed a resolution that resulted in the legalisation of the doctrine (UN 2012). This doctrine became somewhat binding on the international system including on regional organisations, thus making interventions in countries under defined conditions ever more possible.

This doctrine was found to be compatible with some of the key principles upon which the UN was founded. Article 1 of the UN Charter outlines the *raison d’être* of the UN as, amongst others, to maintain international peace and security and to take appropriate measures, including the use of force, to remove threats to international peace and security (UN Charter 1945: Article 1). Similarly, Article 4 of the UN Charter posits that states should refrain from using threat against any other state other than in circumstances where the use of such force serves to advance the purposes of the organisation. Chapter VII of the UN Charter outlines and demarcates the methods to be used and conditions under which the UNSC can violate the sovereignty of state and thus intervene in the internal affairs of a state.

Conventionally, the conditions that pose a threat to international peace and security have generally been regarded as war crimes, crimes against humanity, genocide and crime of aggression.

The 1998 Rome Statute of the International Criminal Court, which is a source of international law, principles and norms, provides a broad definition of the four crimes listed in the preceding section. It defines war crimes as crimes that occur during war and are characterised by wilful killings, torture, deportations, etc. Crimes against humanity is defined as acts committed as part of a broad and systematic attack directed at any civilian population, including extermination, murder, enslavement, crime of apartheid, etc. The crime of genocide is defined as acts of eliminating or terminating a national, ethnic, racial or religious group or the members thereof. And lastly, crime of aggression relates to planning and executing an act of aggression using state military power in violation of the UN Charter (International Criminal Court 1998:3-10).

On the African continent, the AU is the primary intergovernmental organisation complimented by eight regional economic communities (RECs) constituting sub-regional organisations with a focus on regional integration for development, security and peace. Similar to the UN, Article 4 (h) of the Constitutive Act of the AU confers on the AU the right to intervene in cases of “war crimes, genocide and crimes against humanity” (AU 2000: Article 4). Fundamentally, this commitment by the AU signalled a significant shift from the non-intervention emphasis of its predecessor, the OAU, to a more active approach underpinned by a promise to intervene in cases of gross violations (Keller & Rothchild 1996:37-44). Thus, the continental organisation shifted from a rigidly non-intervention/non-interference posture under the Organisation of African Unity’s Charter towards a greater embrace of non-indifference in relation to conflicts/violent political crises in Africa.

Moreover, the AU’s shift to recognise the need to intervene in situations of extreme human rights violations is regarded as significant and as having contributed to the popularisation of the principle of non-indifference (Tesfaye 2012; Gueli 2004:135-137). Because the RECs were formally created through the 1991 Abuja Treaty

adopted by the OAU (AU 1991), they essentially became subordinate structures of and not parallel structures to the AU. They are therefore bound to the AU's non-indifference posture to conflicts/crises with humanitarian effects, though this binds results in different implementation of the principle by different RECs, a subject deserving a separate study. In Southern Africa, which this study is focused on, the SADC is the AU's REC and was the primary actor in the conflict mediation intervention that was carried out in Zimbabwe.

On the one hand, the sub-regional organisation does have stipulations as regards the conditions under which intervention could be undertaken. For example, the 2001 SADC Protocol on Politics, Defence and Security Cooperation (hereafter the Protocol of the Organ) asserts that SADC may intervene in circumstances where there is a 'significant intra-state conflict' that is characterised by large-scale violence against sections of SADC member state's population, military coup and in those where the conflict threatens regional peace and/or security (SADC 2001: Article 11). On the other, it also emphasises commitment to the principles of human rights, peaceful settlement of disputes, solidarity and sovereign equality, amongst others, and consider these to be the core principles that (should) guide the interaction of SADC member states (SADC Treaty 1992: Article 4).

According to Schoeman and Muller (2009:178), "SADC ... is premised on the principle of sovereign equality and non-intervention, principles that indicate a preference for *state* rather than *human* security". The implication of this is that the organisation was thought to be unlikely to undertake peace enforcement aimed at protecting human rights. Similarly, Söderbaum (2004:246) argues that "there are many instances whereby political leaders and regimes are using regional governance to promote rather than to reduce absolute state sovereignty and its legitimacy". Regarding SADC, he points out that the leaders of various member states of the organisation have been able to project themselves as champions of the values of regionalism, thereby enabling them to increase the status of their undemocratic governments (Söderbaum 2004:426-427). State sovereignty and regime security is regarded as sacrosanct and any threat to this, both internal and

external, is dealt with hastily and the outcomes are predetermined, with the preservation of the prevailing regime constituting the primary goal (Ayoob, 1995:191).

The Zimbabwe conflict was an internal conflict in nature and scope, however it had the potential to spill out through refugees of conflict and, thus undermine efforts to consolidate human rights and democratic culture in the region, threaten regional stability and fuel sentiments of Afro-pessimism, amongst others. It also had a potential to generate a negative investment sentiment about the whole region and continent. It could thus affect economies and social development in the region. The conflict had its roots in post-independence political and economic governance challenges, exacerbated by the epochal land reform programme of the early 2000s (Mlambo 2014:236-237; Adolfo 2009:39-40). As a sub-regional organisation to which Zimbabwe was and remains a member, with an interest in maintaining regional stability, peace and security, SADC had a reason to be concerned about the conflict. For the large part of the 2000s, the Zimbabwe conflict developed and escalated and was characterised by politically motivated torture and killings, eventually culminating in formal SADC mediation in 2007 (Howard-Hassmann 2010:899; SADC *Communiqué* 2007).

Zondi and Khaba (2014:2) argue that SADC's mediation intervention in Zimbabwe was motivated by the desire to "protect regional norms and stability". Indeed, the 1992 SADC Treaty expresses commitment to the principles of peace and security and the peaceful settlement of disputes (SADC Treaty 1992). In the Treaty, the principle of sovereign equality of member states is listed as the first principle, and this is indicative of how fundamental this principle is to the members of the organisation. Therefore, uncertainty prevailed in regard to how SADC managed to initiate and carry out conflict resolution intervention in Zimbabwe without upsetting the principle of sovereign equality.

But Cawthra (2010:30-31) argues that SADC's mediation approach in Zimbabwe was characterised by reliance on consensus and expression of solidarity with the ZANU-PF government. So it was about the political sentiments of solidarity and

collective self-help in the region. Similarly, Hartmann (2013:5) contends that “close relationships ... between those governments that originate from the liberation movements, bear risks to the capacity for SADC to mediate”, and that this was also at play during SADC’s mediation in Zimbabwe. Badza (2010:10) also points out that in its *communiqués* regarding the Zimbabwe situation, SADC often commended the Zimbabwe Government for efforts in stabilising the country, arguing that this pacification approach was influenced by SADC’s various state centric protocols such as the 2003 SADC Defence Pact which affirms the principles of sovereignty and non-intervention. Ndlovu-Gatsheni (2011:14) argues that SADC mediation intervention in Zimbabwe was fractured and undermined by Mugabe’s anti-imperialist rhetoric, thus pointing to a strong assertion of the principle of national sovereignty by the Zimbabwe government as used to weaken non-indifference on the part of the SADC.

The SADC mediation in Zimbabwe first entailed the facilitation of inter-party dialogue in order to reach a political settlement and, subsequently, it involved the monitoring of implementation of the political settlement between 2008 and 2013. As previously pointed out, Mbeki as president of South Africa was appointed SADC mediator. During mediation efforts aimed at concluding a settlement outcome, he was often criticised for being soft on the ZANU-PF government because of his reluctance to shout at the parties (Mlambo & Raftopoulos 2010:9). Conversely, his successor President Jacob Zuma, was viewed as more stern with the ZANU-PF government on account of his willingness to condemn human rights violations by the government (Cawthra 2010:30).

The uncertainty regarding SADC’s management of its mediation intervention in Zimbabwe is twofold: firstly and conceptually, there is still ambiguity in the minds of many about how sovereignty and non-indifference co-exist as they imply mutual exclusivity. Secondly and in light of the aforesaid, there is a question to pose about how the embrace of these two conceptual extremes affected the intervention by SADC. The available literature related to SADC’s mediation intervention in Zimbabwe does not adequately address how the organisation managed the relationship between principles or norms of national sovereignty and non-

indifference. As such a ‘knowledge gap’ exists as far as this aspect of the organisation’s mediation involvement in Zimbabwe is concerned, and the ensuing research question seeks to help the research respond to this gap.

4 Research problem and research question

In light of the arguments provided above and in relation to SADC’s mediation in Zimbabwe, the problem is that there is uncertainty, insufficient understanding and unclear explanation on how the SADC managed or balanced the potential clash of the principle and norm of national sovereignty and non-indifference during its mediation efforts in Zimbabwe. Therefore, researching and analysing this problem, which is the aim of the research study, will provide an analysis of this. This will contribute towards understanding of intervention, mediation, non-intervention, sovereignty and non-indifference in Africa broadly and the SADC region specifically.

Taking into consideration the aforesaid research problem, the following primary research question is posed: *How did SADC balance the principle and norm of sovereignty/non-intervention and non-indifference during its mediation intervention in Zimbabwe?* In support of the main research question, three subsidiary questions are also asked. Firstly, *did SADC’s commitment to ensure regional stability, peace and security influence its decision to intervene in Zimbabwe?* Secondly, *was the intervention not in violation of Zimbabwe’s right to national sovereignty under international law?* Thirdly, *what is the implication of SADC’s mediation intervention on the understanding of the principle and norm of national sovereignty and non-indifference?*

Concerning the objectives that the study pursued, it sought to:

- a) investigate the manner in which SADC managed the potential clash between the principle of sovereignty/non-intervention and norm of non-indifference. A conceptual framework was developed to; firstly, ascertain and assess how SADC managed the inherent tension between the principle and norm of national sovereignty and non-indifference during its conflict mediation intervention in Zimbabwe. Secondly, describe and analyse the condition(s)

under which the principle of national sovereignty could be set aside. Thirdly and lastly, investigate and assess how SADC used its intervention in Zimbabwe to ensure and safeguard regional stability, peace and security;

- b) describe and analyse both AU's norm of non-indifference and SADC's objective of promoting peace and security, juxtaposing this with Zimbabwe's right to sovereign equality and self-determination.
- c) evaluate whether SADC conflict mediation intervention in Zimbabwe impacted on the nature, meaning and understanding of both the principle of sovereignty/non-intervention and the norm of non-indifference.

The study is demarcated in conceptual, periodic and geopolitical terms. Concerning the conceptual level, are important variables national sovereignty, non-intervention, non-indifference, conflict and the mediation role of an intergovernmental organisation. Periodically, the study is demarcated to the period 2007 to 2013. The year 2007 coincide with the time when SADC officially initiated its formal mediation intervention in the Zimbabwe conflict and, 2013 with the end of the power sharing arrangement and convening of general election in Zimbabwe. Geopolitically, the mediation role of the Southern African intergovernmental organisation, SADC, is the focus of analysis.

5 Research design

A qualitative research design was deployed, characterised by an extensive review of the pertinent literature, including SADC *communiqués*, in order to address the research question and research problem. Moreover, the study also adopts an evaluative approach focusing on assessing the nature of the relationship between key conceptual variables like sovereignty, non-intervention, non-indifference, intervention and mediation. Evaluation as a research approach denotes a set of research methods and methodologies that are used to judge activities, actions and phenomena in terms of standards and values (Kushner 2016:4). Essentially, it is a systematic gathering of data and synthesis of this with secondary knowledge in order to establish the relationship between assumptions and reality, between a variable or set of variables and another or others. In this case, the assumption is that the

variables of non-intervention and non-indifference are supposed to clash and yet SADC initiated and implemented mediation intervention in Zimbabwe, a sovereign state/country. In addition to being qualitative-evaluative, the study is conceptual because attention is also be dedicated to exploration of the meaning and relationship between the concepts of national sovereignty and non-indifference and more importantly, their co-existence in situations of conflict resolution intervention by an intergovernmental organisation, focusing in particular on SADC's intervention in the Zimbabwe conflict/crisis.

Murithi (2009:95) contends that concerned by the unpunished war crimes and crimes against humanity that bedevilled the African continent during the time of the OAU, the AU embraced an interventionist posture to resolving conflicts in Africa, a posture that was inspired by the newly-found spirit of non-indifference. This shift in favour of intervention for purpose of halting human suffering in Africa is sanctioned by Article 4 (h) of the AU Constitutive Act which empowers the organisation to intervene in a member state in respect of circumstances of crimes against humanity, genocide and war crimes (AU 2000: Article 4). As already argued, this is also cascaded down to the AU RECs, including SADC as the 1992 SADC Treaty attests. But as previously indicated, it appears that for every objective, principle or norm that the continent's inter-state multilateral organisations adopt, there is another or others that (seem to) work against these and imply a condition of incompatibility. SADC's mediation intervention in Zimbabwe is cast into quandary precisely because of this uncertainty around the realm of ideas that (are supposed to) anchor both AU and SADC.

By evaluative analysis, it is meant that the study focuses on collecting data in order to analyse the implementation of the 2007 SADC resolution/decision to initiate mediation intervention in the Zimbabwe conflict. In this sense, the official SADC communication on the Zimbabwe problem, most of which was in the form of *communiqués* released by the SADC Summit, and which is freely accessible on the organisation's website is used as primary data. By conceptual, it is meant that the key concepts of sovereignty/non-intervention and non-indifference and related concepts are explored in order to dissect their nature and establish whether they can

co-exist and be effected simultaneously. Secondly, it is not the analysis of the resolution to mediate that is at the centre of the evaluation *per se*, rather the assessment of how the mediation process managed to reconcile the apparently incompatible principle and norm of sovereignty/non-intervention and non-indifference. Thirdly, after the SADC mediation efforts struck a power sharing agreement in September 2008, its mediation role changed to the monitoring and facilitation of implementation of the agreement. Therefore, the study also evaluates the post-agreement/settlement mediation role of SADC in regard to the implementation of the power sharing agreement because even at this stage of the SADC facilitation involvement the non-intervention-non-indifference dichotomy remained at play.

Indeed, the SADC mediation intervention in Zimbabwe is a case study designed to probe how balancing of the principle of sovereignty and the need or necessity for intervention by an intergovernmental organisation was achieved or not achieved. Nevertheless, the study is not only limited to the organisational-institutional level, but also cascades down to evaluating the role that was played by specific individual mediators as deployed by SADC's mediator, South Africa, in the mediation process. As such, the views of these key role players in the SADC mediation efforts in Zimbabwe provides the necessary insights that facilitates the formulation of a narrative that focuses on judging SADC's balancing of the seemingly conflicting principle and norm of national sovereignty and non-indifference. Being an evaluative study in nature, the mode of reasoning or conceptualisation is inductive and theory-driven.

Accordingly, the study entails a scholarly/theory literature part to formulate a conceptual framework and, a contextualisation component based on information (this is mainly in the form of statements and/or resolutions and other documentary evidence) related to SADC mediation activities in Zimbabwe. As previously indicated, the approach to the study is evaluative, being based on the mainstream understanding of the principle of sovereignty/non-intervention and the relatively

recent norm of non-indifference and specifically as related to SADC's conflict mediation intervention in Zimbabwe.

Regarding the research data for the study, use was made of both primary and secondary data sources. An evaluation approach by its nature involves judging or appraising an idea and/or phenomenon against existing or prevailing assumptions or accepted understanding, hence secondary knowledge about sovereignty and non-indifference is analysed against primary knowledge about SADC's mediation role with a view to confirming or refuting the (in)consistency between the ideational and practical realms. This allows for interpretation and understanding of process/events which is one of the strengths of a qualitative research design. The primary sources of data include relevant SADC *communiqués* and official statements by the Department of International Relations and Cooperation (DIRCO) and/or Presidency (Union Buildings), the Zimbabwe Government, the ZANU-PF and the two variants of the Movement for Democratic Change (MDC), and these materials are readily available on the internet. Furthermore, SADC institutions such as the Summit of Heads of State and Government, the Organ on Politics, Defence and Security Cooperation and indeed the SADC Secretariat itself were good sources of information on the Zimbabwe crisis.

In summary, the research involves analysing primary documentary data related to SADC's position on and views about the Zimbabwe conflict/crisis and implication(s) of the intervention on the country's sovereignty *vis-à-vis* the perceptions of the conflict parties. Moreover, materials such as the UN Charter (1945) and the report of the ICISS (2001) also provided insights, at a global level, on the idea of sovereignty and the practicalities of external intervention.

Lastly, books and peer reviewed journal articles constituted secondary data sources. In this instance, the literature consulted focused mainly on sovereignty, non-intervention, self-determination, conflict, intergovernmentalism, mediation, norm of non-indifference, responsibility to protect doctrine and other related concepts and was useful in the formulation of the conceptual framework for analysis. The study is applicable to Africa broadly and the SADC region in particular, and its relevance to

other continents of the world cannot be ascertained, especially considering that the AU-championed norm of non-indifference forms the basis of the study.

6 Structure of the research

Regarding the structure of this thesis, it assumes a conventional format commencing with an introduction, the exploration of key concepts and development of a conceptual framework, four empirical chapters containing content of the research subject matter through to concluding evaluation chapter.

As an introductory chapter, Chapter 1 focuses on exploring the research theme, justification and rationale of the study, research aim, formulation of the research problem and response including research objectives and methodology. It also outlines the expected contribution that the study makes to the International Relations field.

In Chapter 2, the theoretical and conceptual aspects of the study are explored with a view of formulating a conceptual framework that facilitates analysis and evaluation of the research case study. As such, this chapter examines relevant concepts like sovereignty, statehood, non-intervention, non-indifference, intervention, R2P, conflict, mediation, and intergovernmentalism. These concepts are explored to establish their nature and meaning, and relevance to the international system and intergovernmental organisations. The 1993 Montevideo Convention provided qualifications and criteria for political entities to be considered sovereign states; these included territory, permanent population and ability to enter and conduct international relations with other states. Sovereignty is assumed to possess a duality that is reflected in terms of the internal/domestic and external/international dimensions. The chapter examines this duality and analyses its implications for intervention. In addition, the nature of the postcolonial African state is assessed to establish whether it meets the requirement of statehood, the basis of sovereignty and the associated privileges and responsibilities. Moreover, the phenomenon of conflict is explored, focusing on its causes, manifestation and effects in order to understand the conditions that led to the implementation of non-indifference and

intervention by SADC. The chapter concludes by reflecting on the implications of non-intervention and non-indifference on intervention and methods that IGOs use for humanitarian purposes.

Chapter 3 proffers an extensive exploration of sovereignty as it manifests in practice, at the global level and within Africa. The regulatory role of the concept and how it is grounded in international law are examined. The emergence of subnational governments in the international system through the practice of paradiplomacy and consequently giving rise to arguments or claims of ‘perforated’ sovereignty is also analysed. Furthermore, the chapter examines the AU and SADC understanding and posture towards the principle of sovereignty and how this posture influences these organisations’ position on intervention. The chapter ends with assessment of practical manifestation of sovereignty in Africa, paying attention to pertinent expressions of leaders on the principle and, it also analyses how catastrophic conflicts like the Rwanda genocide has (re)shaped the position of the AU and its RECs on the issue of non-intervention.

Chapter 4 explores and dissects the emergence and evolution of the norm of non-indifference. Moreover, the chapter examines the ICISS report that gave rise to the doctrine of R2P in the international community. These two developments are considered in relation to their impact on the idea of external intervention as undertaken by multilateral intergovernmental organisations. It also analyses different types of intervention, especially military intervention, humanitarian intervention and peacekeeping, assessing their nature in terms of means and methods involved in such interventions. Being the mediation role of SADC under consideration in this study, the security architecture of the organisation is explored in order to identify those institutional aspects that anchor SADC’s position on the question of intervention. The chapter concludes by assessing the SADC’s position on the AU norm of non-indifference and its implementation in Southern Africa.

Since the conflict conditions that gave rise to SADC intervention were located in Zimbabwe, Chapter 5 focuses on the development of the Zimbabwe conflict and/or crisis, assuming a comprehensive approach which entails immersion in the historical

evolution of Zimbabwe before, during and after colonialism. This is important because colonialism was particularly a decisive historical occurrence that laid the conditions for emergence of conflict. The exploration progresses to the postcolonial period, focusing on analysing the development of the conflict and crisis in terms of the political and socioeconomic causes and eventually assessing the decisive moments that culminated in the 2007 SADC resolution that called for intervention. In particular the destabilising effects of the conflict such as the rampant human rights violations within Zimbabwe and regional refugee crisis, are assessed with a view to understand how they influenced the decision to initiate mediation.

Chapter 6 undertakes evaluation and analysis of the SADC management of sovereignty/non-intervention and non-indifference/intervention during its mediation role in Zimbabwe. It outlines the stages and process of SADC mediation, assessing the achievements and setbacks. Furthermore, the chapter analyses the GPA and the GNU and the effect that these had in halting conflict behaviour and addressing the root causes of the conflict or crisis. Crucially, it also identifies and analyse manifestations of contestation over the ideas of non-intervention and intervention as embodied in views of the ZANU-PF and Mugabe on the one hand, and SADC mediator(s) on the other. The chapter also explores the considerations behind preference for mediation as method of intervention and evaluates whether and how this method enabled SADC to balance the inherently incompatible concepts of non-intervention and non-indifference.

Chapter 7 is a concluding chapter and as such, evaluates the findings of the study. The chapter provides a summary of the preceding chapters and the conclusions that were arrived at. It reflects on the primary research question and assesses how the findings respond to the question. It also identifies and outlines the ontological and epistemological contributions of the study. Furthermore, the practical implications of the research study are examined and recommendations for future research on non-intervention and non-indifference in the context of Africa made.

7 Conclusion

This chapter provided a brief background to the SADC mediation intervention in Zimbabwe, as this is important for assessing the relationship between the seemingly mutually exclusive concepts of non-intervention and non-indifference. A survey of the existing literature indicated that there was limited research on the implication of the principles and/or norms of national sovereignty/non-intervention and the AU's non-indifference on the question of external intervention. Given the foregoing, the chapter outlined the rationale for a study on SADC intervention in Zimbabwe. Moreover, it highlighted the research design, research approach, methodology, data collection methods and the data analysis as well as the structure of the study. The ensuing chapter undertakes to create a framework for analysis, focusing on the examination of concepts that are foundational to this study such as sovereignty, intervention, non-indifference, statehood and intergovernmentalism in order to establish the nature, meaning and relationship of these concepts in the context of a mediation intervention by an IGO.

CHAPTER 2

SOVEREIGNTY, NON-INDIFFERENCE, INTERGOVERNMENTALISM AND CONFLICT MEDIATION: A CONCEPTUAL FRAMEWORK

1 Introduction

This chapter aims to explore and examine the concepts of sovereignty (which encompasses non-intervention), non-indifference, intergovernmentalism and conflict mediation with a view to understand how they will assist to analyse how the Southern African Development Community (SADC) sought to balance the apparent tension between the concepts of non-intervention and non-indifference during its mediation intervention in Zimbabwe. A conceptual framework is necessary in cases where the units of analysis in a study involve understanding and applying analytical concepts. To this end and being a conceptual chapter in nature, this chapter provides an examination of the various ways of understanding the pertinent concepts (sovereignty, non-indifference, non-intervention, intergovernmental organisations, conflict, mediation, etc), drawing as it is from scholarly works and official documentation of the United Nations (UN), the African Union (AU) and SADC on meaning of these concepts, particularly sovereignty and non-indifference.

In terms of its structure, the chapter starts with an exploration of sovereignty and different types of state models as well as the nature of the African state in order to establish its relationship with the concept of sovereignty. Secondly, because the role of an intergovernmental organisation (IGO) is the focus of the inquiry, and because a specific norm (non-indifference) has emerged to be associated with an IGO (AU), an exploration of the theoretical understanding of intergovernmentalism and the concept of norm and by extension norm of non-indifference is undertaken in order to create a conceptual framework for the analysis of SADC's mediation role in Zimbabwe, bearing in mind the practical application of non-indifference. Accordingly, this chapter explores intergovernmentalism at a conceptual level and also links to its practical manifestation, at a more general level, through IGOs and their roles and functions. Fourth, the concepts of conflict and conflict mediation are explored to equally

establish their nature, meaning and scope. While there have been writings on the principle of sovereignty and to a certain measure, the norm of non-indifference and the relationship of these concepts in the context of conflict mediation by an IGO have been largely neglected, at least in the context of Southern Africa. This is the aim of the study (using the case of SADC conflict mediation intervention in Zimbabwe) and in providing conceptual clarification, Chapter 2 contributes to the pursuit of this aim.

2 A conceptual framework

Conceptual analysis is foundational to this study and as such it is important to examine what it entails and means. According to Jabareen (2009:50) concepts are complex in character and have multiplicity of components; every concept has identifiable components. Expanding further on the nature and character of concepts, he points out that concepts have history; that each concept normally contains components that originate from other concepts; and that concepts are usually interrelated. Indeed, the nature of concepts sovereignty and intervention is such that they have distinguishable components, such as authority, rights, self-determination and human rights, amongst others. Historically, sovereignty as a concept is located in the Westphalian ideational heritage while non-indifference is traceable to the post-Cold War in which the transition from the OAU to AU happened, a transition that transpired against the background of the OAU's inability to prevent catastrophic events (i.e. 1994 Rwandan genocide) in the continent. The case of the Rwandan genocide as one of the key reasons for the inclusion of the interventionist clause (Article 4) in the AU Constitutive Act reinforces Jabareen's (2009:50) argument that "a concept is always created by something (and cannot be created from nothing)".

Van Wyk (2013:23) highlights that there are two forms of concepts: normative and descriptive concepts. Normative concepts, as the phrase alludes, are essentially idealistic values and conceptions of what should be or must be, while descriptive concepts refer to the concrete reality, facts about phenomena. As will be illustrated in subsequent chapters, non-indifference is essentially a normative concept while sovereignty is a fact of the international system of states. Because concepts are important for this study, concepts like sovereignty, non-intervention, intervention and

non-indifference, creation of a conceptual framework is a logical and necessary undertaking.

A conceptual framework is a “specific perspective which a given researcher uses to explore, interpret or explain events or behaviour of the subjects or events s/he is studying” (Imenda 2014:188). It is based on a collection of related concepts that are brought together in order to address a research problem. Thus, while a theoretical framework is derived from theory a conceptual framework originates from concepts. It has the benefit of allowing for each concept to be examined and also establish its relation to other pertinent concepts and, facilitate an ‘interpretive approach’ that would enable an understanding of the reality (Jabareen 2009:51). Methodologically, a conceptual framework relies on sources such as “books, articles, newspapers, essays, interviews and practices” for data (Jabareen 2009:53). Indeed textbooks, articles, treaty documents and newspapers are very important portals of information regarding the concepts of non-intervention and non-indifference. It is through analysis of the (inter-)relationship between these concepts that an understanding of SADC’s conflict resolution approach can be gleaned.

Because concepts such as statehood sovereignty, non-intervention and non-indifference are traceable to the human milieu, the theory of Social Constructivism can assist in facilitating an understanding of their nature as well as significance to the human world. For Social Constructivists, social reality is not a given but rather something that is socially constructed and reproduced through human agency – this is commonly referred to as the ‘social construction of reality’ (Risse 2004:145). Underpinning Social Constructivism is the notion of ‘structure-agency’, an idea that there is a mutual constitution between social structures and the agents within. For example, in the case of SADC the extent to which the member states perceive non-intervention as a salient principle is ironically an outcome of the states’ creation and reproduction of that reality through repeated practice. The far reaching implication of Social Constructivism on the inter-state system is that since social reality is a result of human agency, states can re-construct the meaning of non-intervention in light of pressing human security issues.

3 Sovereignty and statehood

Conventionally, the concept of sovereignty is widely understood to emerge with the end of a succession of wars in Europe that culminated in the Westphalia Treaty in 1648 (Straumann 2008). The Westphalia Treaty, alternatively called the Peace of Westphalia, affirmed territorial independence of European societies at the time and discouraged external interference and/or intervention, thereby giving birth to the idea of non-intervention in the domestic affairs of one state by another. The Thirty Years' War, which the Peace of Westphalia sought to end, was essentially a religious war involving Protestant and Catholic polities in Europe (Gross 1984:21). The treaty guaranteed equality amongst the European societies and protected smaller polities from more dominant ones (Gross 1984:21-25). It subsequently became a form of international law that regulated the relations of different European polities at the core of which were tolerance and respect for territorial independence. The treaty also resulted in the recognition that the 'state', as demarcated by its territory, was sovereign and had the right to interact with other states on the basis of equality (Osiander 2001:261-262). It is because of the above that sovereignty in the international system is considered to be rooted on the Peace of Westphalia.

In the context of International Relations, sovereignty is defined as the exercise of authority within a given territory by the state (Krasner 1988:86). Independence from external power(s) and the exercise of final authority over a people living in such a territory is central to the definition of sovereignty. For Hansen and Stepputat (2006:5) sovereignty resides in the people or community in a sense that rulers derive political authority from the former. Philpott (2003) defines sovereignty as the "supreme authority within a territory". This distinctive quality resides with the state, and confers upon it certain privileges as a pre-eminent actor in the international system. According to Reed (1995:140-141), the concept of sovereignty has a dual nature in that it possesses two dimensions: (a) *de facto* sovereignty; and (b) *de jure* sovereignty. *De facto* sovereignty is confined to the domestic sphere and alludes to the state's ability exercise control over all activities transpiring within its territorial jurisdiction. *De jure* sovereignty relates to the conception and interpretation of

sovereignty within the international sphere and in particular the ability of the state to achieve external recognition as a sovereign state through international law.

Similarly, Haynes *et al.* (2011:684) argue that in terms of its nature, sovereignty has both internal and external angles. Regarding the former, sovereignty is understood as referring to a scenario whereby the state has exclusive political control at the domestic level. The government of the day is conferred with the right to give effect to the idea of the state as a central sovereign actor through exercising absolute control over legal and political power. Werner and De Wilde (2001:288) also make similar argument, positing that sovereignty entails the “exclusion of external actors from domestic authority structures”. The nature of the state, in terms of the political system (i.e. democratic or dictatorial), is immaterial and has no implications whatsoever on whether a state can be considered to possess sovereignty or otherwise. The most important elements concerning the criteria of sovereignty at internal level are the notion of the state as a behemoth that overbears on and determines (all) important dimensions of society; and retains total control over political power. The state possesses autonomy and legitimacy to exercise this control: it is a monolithic entity (Litfin 1997:169).

External sovereignty relates to the recognition of a state’s internal sovereignty (absolute domestic political control) by other states, which necessarily culminates in an appreciation that other states have no right to interfere in the internal affairs of the sovereign state. The state is considered sovereign because “it must answer to no higher authority in the international sphere (Glanville 2013:80). This dovetails with the point made earlier about the state being a ‘supreme authority in a given territory’ in that it regards the state as a master of its own fate, at least in principle. Reno (2001:197-203) uses the case of weak states in Africa to illustrate how external sovereignty is derived. He argues that in states like Nigeria, Liberia, Congo, and Sierra Leone, warlords have risen to control certain territories and extract ‘taxes’ in areas of their influence. These states were generally weak and unable to exercise effective control over their territories. In spite of the above-mentioned weaknesses these states possessed external sovereignty in that the international system of states

recognised their right to exist and conferred upon them the status of 'sovereign statehood'. Moreover, quasi-sovereign states or those states that lack substantive power, acquire recognition and validation of their 'sovereignty' through admission and participation in international multilateral organisations (Scharf 2003:376).

But the question of external interference remains a subject of contestation in international relations as will be highlighted later. The argument in favour of external interference or intervention is premised on the thesis that globalisation has resulted in state losing control over certain activities like domestic monetary policies and the mobility of capital in an increasingly interdependent world order (Krasner 2001:234). Similarly, Goodman (1993:32) argues that the spread of democratic values have resulted in super and middle powers being able to use notions of promotion of democracy to intervene in pursuit of national interests. This is the dark side of external intervention; it is prone to abuse. These developments are thought to have weakened traditional notions of sovereignty, as such the prohibition of external interference. In addition, and in terms of the external dimension of sovereignty, a sovereign state is conferred with certain rights and privileges within the international system, such as equality of status and participation in international deliberations (Haynes *et al.* 2011:683).

Having already provided an overview of the notion of sovereignty as a distinctively state related and associated phenomenon, it is necessary to provide an account of the two accepted forms of state, the empirical state and the understanding of state as informed by the Montevideo Convention (juridical statehood).

3.1 The empirical statehood

The concept of empirical statehood in political science is omnipresent with scholars of the field often preoccupied with defining and dissecting the nature and scope of the empirical state. In reference to Max Webber's examination of the concept of empirical statehood, Jackson and Rosberg (1982:2) argue that Webber's conceptualisation of the state centres on the idea of the state as the harbourer of absolute political power (and force) as means of demonstrating and practicing its

‘stateness’. Accordingly, this alludes to the logical progression inherent in the concept of means – a progression that sees means translated into pursuit of ends. For instance, in the case of territory the state uses its force or monopoly over means of violence (when necessary) to defend, protect and enforce its territorial integrity, repelling invaders in situations of territorial war.

In regard to its nature, the empirical state also has an effective government underlined by the existence of “centralised administrative and legislative organs” (Jackson & Rosberg 1982:6). The administrative and legislative apparatuses are some of the conditions necessary for the empirical state to exercise control. Therefore, a distinction between the existence of these apparatuses and the ability to leverage them for the purpose of exercising effective control should be made. Indeed, a majority of states have centralised administrative and legislative organs but the contribution of these towards realisation of effective deployment of the control function of the state – the capacity to exercise control – is debatable. In addition, Gravingholt, Kreibaum and Ziaja (2012:6-7) contend that “state authority, state capacity and state legitimacy” are key or fundamental elements of empirical statehood. State authority in this regard refers to the legal “control of violence by the state”, a control that is based on constitutional and legal foundations. For example, it is a universal rule that constitutions of nation-states confer upon the state the monopoly of violence. The state capacity alludes to the state’s role as the provider of basic services to citizens. This aspect of empirical statehood revolves around the state’s ability to dispense basic services such as water, roads, schools, clinics, civilian security and economic opportunities in general, and is one of the primary motifs of the developmental state literature. This connects with the notion of state legitimacy, as the ability of the state to deliver important services and goods impacts, and on the acceptance of its authority and legitimacy by the citizens. In equal measure, Arlinghaus (1984:100) argues that “an effective and responsive state ... facilitates the process of regulating intergroup exchange, thereby allowing manageable conflict to take place”. This speaks to the state’s ability to prevent potential conflict through timely intervention to mitigate or address issues that might lead to the emergence of conflict.

In the ensuing section the examination of the concept statehood is continued with reference to the 1933 Montevideo Convention. The Montevideo Convention provides a formal and legalistic conceptualisation of statehood, essentially outlining the criteria that a state must meet or fulfil before it can be considered as such in international law.

3.2 The Montevideo Convention and juridical statehood

In December of 1933, states gathered in Montevideo, Uruguay, to deliberate on the rights and duties of states as actors in the inter-state system. The gathering happened under the auspices of the Pan-American Conferences and was officially named the ‘Seventh International Conference of American States’, having been preceded by six similar conferences. Covering the Americas in scope, the initiative was continental/regional in scope, as opposed to universal. The Montevideo Convention was championed by states that had recently gained independence from European colonial powers. The aim was to deliberate and agree on a set of standards or criteria of sovereignty in order to ensure international recognition for former colony states. Indeed, and as Grant (1999:414) points out, the Montevideo Convention immediately gained international prominence highlighted by the widespread reference to the Convention’s criteria of statehood. It was during the Montevideo Convention that conditions necessary for a state to be considered a state were thrashed out. According to the Montevideo Convention, a state must meet the following conditions or prerequisites for it to be regarded as one: “(a) a permanent population; (b) a defined territory; (c) government and; (d) capacity to enter relations with other states” (Montevideo Convention 1933, Article 1). A political entity that meets the above-mentioned terms and conditions is considered to be the person of international law. More significantly, Article 4 of the Montevideo Convention states that “the rights of each one [state] do not depend upon the power which it possesses to assure its exercise, but the simple fact of its existence as person under international law”. Making observations on the Montevideo Convention criteria for statehood, Grants contends that “at the crux of the Montevideo criteria lay the concepts of effectiveness, population, and territoriality” (1999:416).

However, what is telling about Article 4 of the Montevideo Convention is that it regards all states as juridically equal before international law and by consequence, none shall dictate to the other on its affairs – thus giving effect to the concept of juridical statehood closely associated with national sovereignty. As such, the issue of ‘effectiveness’ becomes an afterthought; it is an accessory amongst a repertoire of more foundational concepts. By consequence, a juridical state is one recognised by means of international law as a state. Fundamentally, opposition against external interference in the internal affairs appears to be predicated on and influenced by the terms of Article 4. The Montevideo Convention deals with and is confined to juridical statehood, that is a state recognised as such in international law, regardless of material substance underpinning a generally accepted notion of state and statehood. The exploration of the nature of postcolonial African state immediately brings to the fore the idea of a juridical state. Indeed, various scholars have offered perspectives on the idea of juridical state. Jackson (1990:168-169) argues that juridical states lack empirical sovereignty with their sovereignty not being internally derived through ability to fulfil the ideal role of a fully formed states but from the international system which recognises their existence.

These states are considered quasi-states and are distinguishable by possession of ‘negative’ sovereignty. Jackson’s analysis was focusing on the decolonising African state. However, Axtmann (2004:263) counters that Jackson ignored an important factor – the fact that European powers demolished and destructed “many viable African polities in the course of the 19th century in pursuit of geopolitical aggrandizement and economic profit”. Moreover, Axtmann contends that with the reorganisation and realignment of the inter-state system occasioned by the creation of the United Nations in 1945, the same European powers that had destroyed the African state model a century earlier spearheaded the formation of quasi-states in Africa. The following section provides further exploration of the concept in the context of Africa.

3.3 The African state

There is a worldview (a dominant one) that implies that the history of Africa and in particular the African state, begins with the encounter between the continent's peoples and Europeans in the 19th century (Bonneuil 2000:258-264; Koddenbrock 2013:121). According to this view, the notion of state in Africa emerged when European powers conquered and apportioned African territories among themselves, in the process erecting borders, thus giving birth to the state in Africa.

However, such a view is impartial and does not offer an adequate account on the African state. While it is correct that the majority of African states were influenced by Europeans in their formation, pre-colonial African societies had systems of state organisation, the structuring of authority and governing which ensured orderly existence (Englebert 2000:13). This pre-colonial aspect of African civilisation cannot be ruled out in the final analysis on the genesis, nature and character of the present day African state.

Having emerged in the second half of the 20th century, the modern post-colonial African state can be considered to be fairly recent and still developing. However, the notion of the 'African state' can be deceiving because different African states experienced varying levels of state formation. For instance, the state formation processes that occurred in Ghana are not necessarily similar to the ones that accompanied the emergence of Kenya, and by consequence the 'weaknesses' of these two states differ. Englebert (2009:1-10) points out that not all African states are failed states characterised by disorder and general severe shortcomings around facilitation of socio-economic wellbeing. However, he argues that those that depict traits of failed states tend to be predatory, parasitic and strike fear in the hearts and minds of citizens (Englebert 2009:1).

Akinrinade and Sesay (1998:4) argue that "the main problem of African states is their weakness, because of low levels of political legitimacy and national integration, and limited democratic culture". The notion of political legitimacy is underscored in the empirical statehood model as something that derives largely from the state's ability to deliver important services and goods; the failure of most African states to fulfil this

responsibility contribute towards their labelling as weak states. The question of national integration is mainly linked to the problematic issue of colonial borders and ethnic disharmony that characterises most post-independence African states, and has largely been the source of violent conflicts of secession. In equal measure, Cornelissen, Cheru and Shaw (2012:51-52) lament the poor institutionalisation of the African state as the source of its weakness. Necessarily, weak states would be ones that do not meet the requirements of statehood as provided in the empirical statehood model. Bayart and Ellis (2000:222) argued that the postcolonial state was suffering from ‘extraversion’ – something he characterised as the “creation and the capture of a rent generated by dependency”. This dependency is underpinned by a neo-colonial and imperial relationship that the ruling elites in Africa have with the former colonisers; an arrangement that while entrenching the political interests of the elites also condemns African societies to underdevelopment. Although they lack rigour associated with empirical state model, weak states are different from collapsed states – as they retain legal authority and laws, agencies continue to linger (Englebert 2009:42).

In consideration of the foregoing, in the literature the weakness of the African state is mainly and historically traceable to colonialism and the neocolonialism of the postcolonial era (Acemoglu *et al* 2014:8-11). The weak African state should be understood as a legacy of colonialism and colonial plunder where the European powers that conquered Africa did not invest in construction of a modern state in the continent, rather confining their efforts and energies to setting up a frail state fit for facilitation of extraction of Africa’s resources (Frankema 2010). Therefore, when the African state gained independence through a process of political decolonisation underpinned essentially by the withdrawal of colonial powers and transference of formal control over the state to African nationalist elites, it was not necessarily a strong state bequeathed upon them but a hopelessly weak one – one that did not epitomise the notion of empirical statehood (Robinson 2013:6). To a certain extent, this condition, the weakness of African states, persists today.

Since a majority of African states do not (adequately) satisfy the criteria of statehood in terms of the empirical manifestations notion; what then is the basis of the African state in terms of it being considered a state? The newly independent African state was recognised as such by the international society in general and the inter-state system in particular because it fulfilled the Montevideo Convention requirements of sovereign state, i.e. permanent population, defined territory. Importantly, the Montevideo Convention confers upon many African states their title of state, without which many would not be considered states. Because insofar as empirical conception of statehood is concerned, states such as the Democratic Republic of Congo (DRC) and South Sudan which are unable to satisfactorily fulfil empirical state model requirements such as demonstrating qualities of a capable state able to exercise control over political power and perform the distribution of services and goods role, would not be considered states. Jackson and Rosberg (1986:1) make a similar point, arguing that “in Africa, many of so-called states are seriously lacking in the essentials of statehood”. Of course, these ‘essentials’ are linked to idealistic conception of state associated with empirical statehood, one of its defining features being effective governance at domestic level. Therefore, the sovereign rights and privileges (sovereignty status) of some of the African states within the inter-state system is rooted more on the Montevideo Convention’s criteria of (juridical) statehood and less on the empirical state model. This renders the sovereignty of the African state robust and inalienable in terms of international law, thereby conferring upon different states within the continent the right to self-determine without (unnecessary) external interference. Accordingly, Jackson and Rosberg (1986:2) contend that:

The independence and survival of the African states is not in jeopardy, however, because their sovereignty is not contingent on their credibility as authoritative and capable structures. Instead, it is guaranteed by the world community of states, especially as embodied in the United Nations, whose egalitarian international norms are universally accepted.

The aforesaid alludes to African states' sovereignty as being externally derived; it being so in a sense that domestic requirements, i.e. effectiveness of the state, are not met and that the international system is the main pillar that affirms their sovereignty and independence. Nonetheless, Clapham (1999:522) critiques the prevailing sovereignty regime and its application to Africa, arguing that it was created by and from the standpoint of dominant international powers (which are European) and imposed on the international system. Expanding further on his argument, Clapham (1999:525) charges that the most important thing about sovereignty is not just its inducement of formal recognition of 'statehood' status by peers but its preclusion of interference by other states and/or external structures (i.e. UN) in the execution of domestic power by rulers. In this sense, states that may be woefully positioned in terms of military and economic power are able to enter into international relations with other states, with more powerful states even, on a supposed equal footing.

Ndlovu-Gtsheni (2013) provides a compelling critique of the 'postcolonial' African state. He contends that the African state was never constituted to serve the interests of Africans but for the purposes of advancing a colonial agenda of extraction and exploitation. At independence, African nationalist leaders assumed control of the colonial state, with its 'repressive apparatus' intact (Ndlovu-Gatsheni 2013:76). In the main, political decolonisation happened with the consent of colonial powers and in some cases, the latter also wrote or assisted African nationalists with formulating independence constitutions. He refers to the case of states that were colonised by France which had "no control over foreign, economic, monetary and defence matters" (2013:75) – this control remained largely under the French, which means that sovereignty was externalised. The state was not only anaemic to the economic interests and welfare of Africans, but was also a brutal and autocratic entity that casually violated the freedoms and liberties of citizens. Because the state was ill-conceived and inappropriate for a liberated and emancipated Africa, with its colonial character unchanged, the new African leaders could not wield it for the betterment of their people; on the contrary, the undemocratic and oppressive tendencies of the past found expression in the 'postcolonial' state. Accordingly, for Ndlovu-Gatsheni

the state that Africa inherited from colonialism was predatory in its relations to citizens, and was bereft of any semblance to empirical statehood. It existed in a 'matrix of coloniality' where the economic and political interests of the former colonial powers loomed large.

In summary, the African state is a product of the exploitative and oppressive system of colonialism. The quintessential characteristics of the colonial state, institutional weakness and autocratic propensity, have been transposed and imparted into the postcolonial African state. Thus, majority of the continent's states do not meet the criteria of empirical statehood, with their sovereignty juridical in nature and externally derived. This may partly explain why calls for international intervention in African states that experience political crises are easily made than is the case of 'advanced' Western democracies that go through similar problems.

4 Intergovernmentalism and the role(s) of intergovernmental organisations (IGOs)

Reflecting on the nature of intergovernmentalism, Roche (2011) contends that it advances an approach to regional integration where cooperation amongst states is based on identified common interests. In this sense integration is informed by the awareness on the part of states that they have converging interests. This could be matters related to regional trade or stability; essentially intergovernmentalism presupposes cooperation limited only to certain issues, and not on everything. Basing his proposition on the rational choice model, Feiock (2007:49) argues that states enter into cooperation in order to maximise collective economic benefits. This may involve cooperation on trade which is formalised through a treaty agreement. Clackson (2011:2) contends that security dilemma, a condition characterised by insecurity stemming from mistrust in the inter-state system, has resulted in states cooperating with each other in order to reduce uncertainty.

As part of regional integration states transfer some of their sovereignty to the regional IGO, resulting in a situation normally referred to as 'pooling' of sovereignty (Roche 2011). However, he notes that while generally successful in technical

matters that fall under 'low politics', intergovernmentalism tend to stumble in 'high politics' issues related to sovereignty, as states are hesitant to delegate their powers (Roche 2011). It is against this background that states maintain an unfavourable view on the subject of external intervention.

Similarly, and assuming a liberal intergovernmentalist approach, Moravcsk (1993:481) contends that intergovernmentalism emerges through the interaction of various governments within the international system, as each pursues national interests packaged as part of foreign policy objectives and goals. He points out that intergovernmentalism is based on 'rational state behaviour', which sees the governments of nation-states bargaining in order to achieve the defined national interests (1993:481). Clearly, the interaction that arises is strategic, purposeful and goal-driven. For example, people generally regard (violent) conflict as undesirable and as such, governments tend to include international peace and security as part of foreign policy interests that they pursue – and their interaction in the international system also reflects a wish to prevent/address conflict. Accordingly, intergovernmental organisations constitute manifestation of intergovernmentalism as governments cooperate on issues of common interests.

Intergovernmentalism is clearly distinguishable to another concept that alludes to international cooperation by states – supranationalism. According to Gruber (2000:61) one of the characteristics of supranational regimes is that the provisions of their agreements upon which cooperation is predicated tend to be broad and open-ended. Moreover, parties to supranational agreements forfeit the right to unilaterally decide how the agreement should be interpreted or applied in practice, with that responsibility following under the supranational institution, which usually has supranational governance structures intended to fulfil the treaty provisions. In light of this, supranational agreements erode state sovereignty as the state is expected to relinquish rights and powers associated with sovereignty to a supranational authority (Ruszkowski 2009:7). It is apparent from the above that non-indifference and R2P reside in supranational structures while sovereignty belongs to intergovernmentalism with its emphasis on narrow cooperation.

Regarding the nature of IGOs, Archer (2014:32-37) contends that an IGO is any organisation – whose authority and recognition transcends the jurisdiction of a single state – created through and in terms of a covenant between governments, for the purpose of promoting the mutual interests of the signatory states. IGOs vary in terms of scope of their focus and reach (i.e. international, regional or sub-regional). Regarding IGOs with an international focus, the UN is a prime example as its role, amongst others, includes that of maintaining international peace and security. Concerning regional IGOs and in Africa in particular, the AU is a good example as the scope of its role covers identified issue areas that affect the entire continent. Lastly and as it relates to sub-regional IGOs, organisations such as SADC and ECOWAS (Economic Community of West African States) are considered sub-regional IGOs which have distinctively sub-regional focus in their work.

Moreover, aside from scope and levels of focus IGOs can also be distinguished in accordance of whether they are general or specialist organisations. Because IGOs such as the UN, AU and SADC subsume a wide variety of areas spanning political, socio-economic development and security focuses, they are regarded as general IGOs. Conversely, an IGO like NEPAD (New Partnership for Africa's Development) is considered a specialist IGO as its focus is limited to a specific issue, i.e. economic development and integration. In addition, the nature of membership of IGOs also assists in efforts to make distinction between different IGOs – whether the membership is universal or limited (Curtis & Taylor 2011:312-324). While the membership of the UN is universal, membership in the AU is limited to states that are geographically located in the African continent. Crucially, what makes IGOs fundamentally different from other forms of international organisations or associations is the fact that “only internationally recognised states can be members” (Haynes *et al* 2011:12). Accordingly, IGOs are also sovereignty affirming institutions/platforms.

Furthermore, and concerning their institutional configuration, IGOs (normally) have various internal structures (i.e. AU Assembly) and depict a clear delineation in terms of the role that each structure or sub-institution performs in fulfilment of the broader

vision of the IGO. Almost universally with the exception of the UNSC which is a structure of the UN, IGOs emphasise inclusivity in their decision-making and this contributes to the strengthening of their legitimacy. The relationship between IGOs is hierarchical and top-down in nature, with the UN at the top followed by regional IGOs which are themselves followed by sub-regional IGOs. This hierarchy is evident in the UN Charter, which considers an organisation like the AU a 'regional arrangement' which is required to acquire approval from the universal IGO on matters relating to enforcement of peace and security (UN 1945: Article 52). In a similar vein, the AU regards SADC as a 'regional economic community', its subsidiary with a sub-regional focus (AU 2000: Article 13).

Conveniently, various regions of the world, including Africa, formed IGOs with regional and sub-regional focus. Fioramonti (2012:3) argues that the establishment of regional IGOs is informed by the wish that states have to provide crucial governance structures in order to confront occurrences and processes that straddle the borders of states. For example, and as previously stated, the FLS, SADCC and SADC were created in response to transboundary challenges that were identified, such as the total liberation of southern Africa, the reduction of economic dependence by SADCC's member states on apartheid South Africa, and the championing of complex and multifaceted issues in the region. Indeed Article 52 of the UN Charter recognises and appreciates the establishment or existence of regional IGOs, which it considers to be 'regional arrangements' that play an important complementary role in support of UN's primary objective of promoting international peace and security (UN 1945: Article 52). However, regional IGOs have no authority to initiate enforcement action against any state, except in instances of self-defence, without the consent of the UNSC (UN 1945: Article 53).

Regarding its role, an IGO fulfils the role of an instrument, an arena and an actor (Archer 2014:114-135). Concerning the role of an instrument, an IGO serves as instrument or tool that member states use to achieve the interests of the states. Equally, an IGO constitutes an arena, a multilateral platform, within which member states can converge and "discuss, argue, co-operate or disagree" (Archer 2014:119).

Lastly, IGOs are also viewed as independent international actors beyond the control of member states. These roles are interlocked, interrelated and each implies the other. For example, SADC is considered to be an instrument of advancing peace, security and stability by its member states. Necessarily, when one of its member states experiences a threat of conflict or actual conflict, SADC states would (likely) respond by using the organisation as an arena to deliberate and decide on the course of action or intervention. Subsequent to the adoption of the decision on the course of action, SADC as an IGO would act (as an actor) in a manner that gives practical effect to the decision adopted by the member states.

In terms of functions, IGOs perform certain functions geared towards assisting an IGO fulfil the above-mentioned roles. These are articulation and aggregation, norm development, recruitment, socialisation, rule making, rule application, rule adjudication, information and operations (Archer 2014:135-152). The functions of articulation and aggregation; and norm development denote the position of IGOs as instruments that are used to formulate and articulate member states' interests and also as sites of norm dissemination respectively. The latter is of particular importance considering that it links with the AU's role in the emergence of the norm of non-indifference (see Section 6). In relation to the recruitment and socialisation functions, IGOs recruit new members (in terms of set criteria) as well as socialise members to their values. Concerning rule making, rule application, and rule adjudication, IGOs make rules that bind member states, ensure that there is a practical application of the rules and adjudicate in instances where the rules have been flouted, undermined or ignored. Finally, IGOs disseminate information necessary for their effective functioning and also undertake operations that are within their scope and purview of responsibility.

5 Norms and principles in international relations

The concepts of norm and principle feature prominently in the international system of states; they form part of the crucial building blocks of the system. And since norms and principles are the focus of this study, this section explores the nature, meaning and scope of these concepts in the context of international relations.

5.1 The nature and meaning of norm

As a starting point it is important to explore the meaning assigned to the idea of norm. According to Brennan *et.al* (2013:29), “norms are clusters of normative attitudes”. In line with this understanding, norms are considered a collection of attitudes or worldviews that are normative in nature and; that for them to qualify as norms they must be held and subscribed to by the majority or greatest number of people. In addition, these normative attitudes should be propagated to the extent that the “way people think and feel about certain behaviour must be known by others” (Brennan *et al* 2013:31). Thus, norms do not only become norms through existence but that such norms must be recognised as such by the greatest number of people. Similarly, Keohane (2010:3) argues that within the inter-state system norms are considered “collective expectations about appropriate behaviour”. According to this worldview, norms as demonstrated through behaviour and action are informed and bound by some form of defined expectations related to rights and obligations.

Bueno de Mesquita (2014:298) argues that norms can be viewed as part of international informal regimes³ and as such, they fulfil a complementary function to international law. They are complementary in a sense that they constitute quasi-law, undocumented as they may be. International regimes, contends Bueno de Mesquita (2014:298), include “international rules, regulations, and norms of conduct that lack the force of law but nonetheless carry weight in shaping behaviour in international system”. Importantly, a distinction between law and norms is made succinctly clear in this instance: law is legally binding while norms are not and their observance is essentially dependent on the states (in the case of the inter-state system). Similarly, Cialdini and Trost (1998:151) define norms(s) as standards and rules rooted in a particular milieu, understood by members of the milieu as such and guide and/or regulate behaviour without the force of law. This conceptualisation of the concept norm dovetails with that of Bueno de Mesquita (2014) referred to above, especially in that it conceives norms as lacking the force of law. However, others have highlighted the limitations of norms, particularly in relation to their legitimacy in international

³Legal instruments are considered to be part of international formal regimes

relations, “norms almost always appear in inter- national society mingled with power and interest” (Donnelly 1998:3). Notwithstanding the aforesaid norms play an important regulatory role in the international system by demarcating the political space and even moulding the nature of the international relations (1998:3).

Regarding the nature of norms, there is a differentiation between two forms of norms, namely; descriptive norms and injunctive norms (Cialdini, Kallgren & Reno 1991:2002-2003). The former is concerned with the characterisation of what people actually do and the latter with perception of what people approve or disapprove. On the one hand, descriptive norms are in the realm of ‘happening’ in a sense that people observe normative behaviour in real time and space, derive an understanding and appreciation of what is effective and what is not. On the other hand, and by contrast, injunctive norms are essentially moral rules in the sense that they make up the moral rules of what ought to be the standard of behaviour in certain situations or instances. However, these two variants of norms need not be understood as competing or divergent but rather complementary, with descriptive norms informing behaviour and injunctive norms instructing the type of behaviour deemed desirable. Considered together, both these norms offer the concept of norm its completeness and are pivotal to its internal coherence. Moreover, Peter and Spiekermann (2011:3) contend that norms “tend to be more prescriptive than conventions”. Essentially and in terms of this argument, while particular norms could be prescribed as expected standards in certain situations, their observance by the concerned agents or actors is by no means guaranteed or assured. Despite this uncertainty regarding the force of norms, they are accompanied by supposition to conform, together with sanctioning of those who fail to adhere to them and, this ameliorates the absence of legal force in norms.

Having already provided different accounts on the definition and meaning of norms, it is important to explore how norms emerge. Norms are social constructs and similar to other concepts or phenomena within the purview of social science, their emergence is traceable to social settings (Elster 1989:100). In the case of norms guiding and constraining behaviour within an inter-state system, multilateral

intergovernmental organisations become sites/locations from whence norms emerge. The emergence of norms through and out of interaction or exchanges either amongst people within a state or states within the international system, can be clearly expressed or not, and sanction(s) for any digression emanates from within the institutional environment (i.e. AU or UN) (Caldini & Trost 1998:152). Drawing from constructivism theory, Jackson and Sorensen (2010:169) posit that IGOs fulfil the crucial role of transmitting the norms of international society to states, norms that ultimately contribute towards shaping the states' identity and interests. This links with the notion that that in order for norms to be impactful, they must be communicated effectively.

In terms of their overriding role, norms regulate behaviour; Checkel (1998) uses the case of apartheid South Africa to demonstrate this particular role of norms within the international system. According to Checkel (1998:336) the emergence of norm of racial equality influenced the international community's decision to issue sanctions, ranging from military hardware through to economic exchanges, against apartheid South Africa in order to compel it to abolish legalised racial discrimination and widespread state-sponsored violence targeted at the country's black population. In this sense, the norm of racial equality conditioned all states to recognise and respect the natural equality of humans, regardless of race. Being grounded on policies of racial discrimination against blacks, apartheid South Africa was in violation of the international norm of racial equality. In response to the violation of the norm, the international community levied punitive sanctions for the transgression. In light of this, while norms constitute stipulations of expected behaviour and are without the force of legal instruments, the failure to observe them usually results in costly sanctions against the violator. As primary actors within the international system, states have created IGOs with the purpose advancing common interests. Membership of these IGOs (i.e. AU, UN) usually results in conferment of rights, privileges and duties to the states that are members. States are motivated to comply with or observe the norms promulgated by an IGO because of desire to gain or retain membership (and by consequence of membership benefits) in that IGO. Similarly, the idea of equality of states is a norm as much as it is a principle; it operates like

racial equality in the example above. In the case of states, equality is not necessarily forced; rather the focus is on conditioning the behaviour of states to willingly respect this norm.

5.2 The nature and meaning of principle

The Cambridge Dictionary (2020) defines principle as “a basic idea or rule that explains or controls how something happens or works”. According to this definition the concept principle refers to things as they are in reality. Tarzi (1998:14) charges that principles are “those beliefs of fact, causation and morality that collectively serve to promote a broader goal”. In the international system the principle of sovereignty/non-intervention is the basic and foremost principle that is aimed at ensuring that all states are regarded as equal, that none shall impose its will over another, and confers certain privileges, i.e. the right to participate in multilateral platforms like the UN, and to sign international treaties. A glance at the history of the principle of sovereignty indicates that it sought to curtail the expansionist and warmongering tendencies of superpowers; the 1648 Westphalia Treaty which is considered to have birthed the principle of sovereignty was on the back of the so-called ‘Thirty Years’ War’, a period characterised by territorial invasions and conflict in Europe. Similarly, the 1933 Montevideo Convention which further developed the ideas of statehood was the initiative of newly independent colonies in the Americas that wanted to codify their statehood in international law.

The concept of principle produces compliance, it forces those affected by it to behave in a manner that does not violate or undermine the principle. Transgression of the principle normally results in punitive sanction(s) against the transgressor. For example, if a country violates the principle of sovereignty/non-intervention, such a state will be subjected to “moral reprobation”, and even international political and economic isolation may be imposed as punishment (Tarzi 1998:14). According to the Legal Dictionary (2020), principle is a well established and entrenched rule of law, and forms the basis for the creation of “other laws and regulations”. Sovereignty as the basic principle of statehood in terms of international law has led to development

of other related laws and regulations, i.e. non-intervention, non-interference, and self-determination, that are intended to buttress the principle.

The fundamental difference between norms and principles is that the former falls in the normative realm, ideas of how the world 'ought' or 'should' be, and the latter constitutes 'fact' about the world, it refers to the world as it is. Accordingly, the norm of non-indifference is aspirational and seeks to encourage states to intervene in order to halt humanitarian catastrophes. However, the fact that norms are aspirational values does not mean that they are less important; on the contrary, they place pressure on state actors to alter behaviour accordingly. In summary, principles interface with norms in the construction of relations among states in the international system. Norms and principles may be in overlapping areas and may be overlapping in themselves. The purpose is one to regulate state conduct and behaviour towards others in the inter-state system

6 Non-indifference and responsibility to protect (R2P)

Arguably, there is no other part of the world that has experienced the total devastation of intra-state conflict like the African continent, which has seen a genocide (i.e. Rwanda), war crimes (i.e. Sierra Leone), crimes against humanity (i.e. Central African Republic), and pervasive human rights violations (e.g. Zimbabwe). As previously stated, the inability of the OAU to respond to intra-state conflicts in general and conflict-generated human strife in particular in the continent led to its jettison and replacement with the AU in its stead. While the OAU emphasised the norm of non-interference (OAU 1963: Article III), the AU embraced and recognised the significance of intervention in instances of conflict and unconstitutional change of governments as contained in Article 4 of the Constitutive Act (AU 2000: Article 4). This rupture with the past that was characterised by indifference to human suffering culminated in the emergence of the norm of non-indifference.

The emergence of the concept of non-indifference on the African continent is a result of a significant shift from non-intervention to an interventionist posture on the part of the AU in circumstances of grave human security violations – which suggests a

practical preparedness to be 'non-indifferent' to the suffering of the continent's peoples, sufferings that are mostly generated by intra-state conflict. In particular, Article 4 of the AU Constitutive Act states clearly that the union has a right to intervene in circumstances of war crimes, crimes against humanity and genocide (AU 2000: Article 4), thereby underlying the idea of non-indifference. Keller and Rothchild, (1996:37-44); Gueli (2004:135-137); and Tesfaye (2012) make similar point, arguing that the AU's conviction to intervene in situations of conflict and political crises constitute an important departure from its predecessor's non-interventionist posture, and signals the rise of the norm of non-indifference.

Francis Deng, a Sudanese career diplomat, is considered the leading proponent of the norm of non-indifference. As the UN's Representative on Internally Displaced Persons (IDPs), a position he held from 1992 to 2004, Deng focused on the plight of people that have experienced internal displacement as a result of conflicts. In his 1995 seminal article, *Frontiers of Sovereignty*, Deng (1995:253) defines people who have been internally displaced as:

Persons who have been forced to flee their homes suddenly or unexpectedly in large numbers, as a result of armed conflict, internal strife, systematic violations of human rights or natural or man-made disasters, and who are within the territory of their own country.

For Deng, this is the category of people most affected by violent conflicts as they are 'trapped' in a sovereign territory, usually without protection of their governments (1995:253). Furthermore, the crisis is exacerbated by the erosion of basic human rights, political freedoms, the collapse of economic and social structures, coupled with the general 'break down' of law and order and ultimately giving rise to feelings of insecurity (Deng 1995:255). Logically, a humanitarian crisis of global proportion ensues from such situations, and Deng rightly references the internal displacement disasters that were brought by the Yugoslavia and Rwanda genocides as some of the extreme examples to have befallen the post-war international system.

In consideration of the aforesaid, Deng argues that promotion of human dignity should be placed above all else, meaning that ideas such as sovereignty and non-intervention should be secondary (1995:257). Crucially, a similarity to the AU's norm of non-indifference becomes succinctly clearer; the international community cannot stand in the sidelines while humanitarian crises unfold as a result of conflicts. Indeed, Deng contends that "governance is primarily a function of preventing, managing, and resolving conflicts" (1995:253), and as such, the emergence of a wide scale and violent conflict underlies the failure to exercise effective governance.

Moreover, Deng assumes an unconventional posture towards the idea of sovereignty, arguing that the "notion of sovereignty implies both responsibility and an international system which imposes accountability on the state in the mutual interest of the state and the international community" (1995:260). In this instance, the responsibility is to the citizens – the duty of the state to protect and promote the interests of its citizens, in particular as it pertains to their physical (and mental) security, on the one hand. On the other hand, the state has an obligation to the international system to ensure that international peace and security is maintained. Paradoxically, adhering to the 'responsibility' dimension of sovereignty will strengthen a state's sovereignty (Deng 1995:270); by upholding international human rights standards, a state is able to avoid hostile intervention and/or interference from the international system. The aforementioned is sovereignty's source of legitimacy, the state's ability to fulfil its responsibility to citizens and the most vulnerable in society, and the failure of this naturally gives rise to the question of intervention, as informed by the urge to be non-indifferent to humanitarian crises.

Related to Deng's thesis on sovereignty, particularly the aspect that considers sovereignty as responsibility is the idea of responsibility to protect (R2P). In 2001 the International Commission of Intervention and State Sovereignty (ICISS) released a report called *The Responsibility to Protect*. According to Bellamy and Wheeler (2011:521), the 2001 R2P report sought to "resolve the tension between the competing claims of sovereignty and human rights by building a new consensus around the principles that should govern the protection of endangered peoples". The

report was subsequently adopted by the United Nations General Assembly (UNGA) in 2005, which constituted a significant step forward for advocates of humanitarian intervention. The ICISS proceeded from the premise that sovereignty was a responsibility, especially to citizens and in terms of their protection and human security. Accordingly, it argued that in instances where a state fails to protect its people “the principle of non-intervention yields to the international responsibility to protect” (ICISS 2001: XI). The ICISS placed the obligation of protecting vulnerable people from crimes such as war crimes, genocide and crimes associated with conflict on the international system of states. By proposing that the R2P norm should only be invoked in instances of grave crimes, as listed above, the ICISS hoped to pre-empt future abuse of the norm.

In order for intervention based on R2P to happen, the ICISS asserts that authorisation should be sought first from the UNSC as required by Chapter VII of the UN Charter; however, the UNGA and regional intergovernmental organisations are also considered other avenues in case the UNSC is unable to reach an agreement (2001:48). A UNSC authorisation for intervention by regional intergovernmental organisations may be sought in retrospect, and the ICISS (2001) report refers to the case of ECOWAS interventions in Liberia and Sierra Leone in 1992 and 1997 respectively as evidence that this can be done successfully. In his report on the implementation of the responsibility to protect doctrine (UN 2009:27) the UN Secretary General indicated that the UN was still behind in assisting the AU build the military capacity necessary for the African Standby Force to respond effectively to genocide, war crimes and crimes against humanity in Africa. In the same report, a call is also made for the improvement of the capacity of the office of the Special Advisor on the Prevention of Genocide under which the responsibility to protect doctrine also resides. Emphasis was especially put on early warning and assessment in order to provide thorough evaluation of conditions that may lead to genocide, war crimes and crimes against humanity (UN 2009:31-33). Nonetheless, the slow progress made in relation to operationalisation of responsibility to protect indicates that while it may be relatively easy to make international commitments, the implementation of such undertakings tend to be a tortuous process.

Following the UNGA's approval of the ICISS report on intervention, the AU also adopted the report in 2005 (Aning & Atuobi 2009:91). Obviously, this commitment was in view of Article 4 of the Constitutive Act and, it added to the emergent norm of non-indifference. The AU could not dither on the R2P norm because it would have been morally unacceptable given that the continent has experienced some of the most harrowing conflicts in the world, i.e. the Rwanda genocide, the intractable DRC conflict, and the Sudan conflict. Therefore, while Article 4 of the Constitutive Act of the AU already contained crucial elements of the responsibility to protect doctrine before the ICISS report was even published, highlighted by its commitment to intervene in instances of genocide, war crimes and crimes against humanity, it formally expressed its acceptance of the ICISS authored R2P report and integrated it into the AU peace and security architecture.

However, the adoption of the R2P does not necessarily mean that states would act on it. Bellamy and Wheeler (2011:522-523) raise several concerns around the R2P norm. First, they contend that agreement on criteria for assessing which situation warrants humanitarian intervention does not necessarily mean that there would be consensus on the application of the criteria to actual cases. The application of the criteria is normally subjected to the interpretation of states, and tends to elicit sharp difference of opinion on whether to intervene or not. Second, the criteria assume that world governments would be convinced to take action against humanitarian atrocities. The failure of the UN and UNSC to make a decisive humanitarian intervention in the internecine Syrian conflict indicates that the international system may fail to act even in the face of grave and mass atrocities. Third, the R2P criteria did not address the perennial challenge of abuse of humanitarian intervention, especially by powerful states that are able to deploy resources to facilitate agreement on intervention in certain cases, only for them to use such interventions to pursue narrow national interests.

In summary, non-indifference invokes a normative and moral duty on IGOs like the UN and the AU to abandon rigid attachment to the norm and principle of non-intervention as an approach to inter-state relations and embrace conditional and

authorised intervention in order to ensure human security. As a multilateral platform, the AU has generated expectations in regard to conduct of its member states insofar as conflict resolution is concerned, “in this role, institutions act as agents of norm construction and normative change with a view to regulate and transform state behaviour” (Acharya 2005:1). However, Acharya (2005:2) also contends that while multilateral inter-state institutions are agents of norm creation and diffusion, they also double as platforms within which norms are displaced and transformed. Jackson and Sorensen (2010:169) also consider IGOs to be sites of norm socialisation. In light of the aforesaid, the role also includes contributing towards the shaping of the inter-state system. By also adopting the R2P report at the continental level, the AU wanted to socialise its member states into appreciating the importance of humanitarian intervention in Africa.

However, and concerning the practical application of non-indifference and R2P by the AU, the prospects of humanitarian intervention appears uncertain and ambiguous when the seemingly incompatible ideals embraced by the UN and AU are considered, as highlighted by the fact that amongst the objectives of the AU are to “(a) defend the sovereignty, territorial integrity and independence of its Member States and; (b) promote and protect human and peoples’ human rights in accordance with the African Charter on Human and People’s Rights and other human rights instruments” (AU Constitutive Act 2000). Whether there is clear guidance about what happens when these two principled positions are in collusion is debatable. This conceptual and philosophical ambiguity as implied by the AU and by extension SADC and, in particular as they play out in instances of conflict mediation, is the subject of this research study.

7 The meaning and nature of conflict

Considering that this research study is concerned with evaluating and analysing the role of regional organisation (SADC) in conflict resolution (in Zimbabwe) with specific focus on how the IGO managed the seeming tension between the principle and norm of national sovereignty and non-indifference, it is important to explore what conflict the nature and meaning of conflict. Being a complex concept and indeed a much

contested one at that, there is no single, universal definition of conflict or meaning ascribed to it. However, and in this context of apparent conceptual uncertainty, the commonplace approach to studying, explaining and understanding conflict has been one where the starting point is to focus on or examine its prominent traits, the most important of which is the ideas of goal incompatibility and scarcity of resources. Incompatibility or goal incompatibility to be precise, as well as scarcity of resources, are understood to be the most fundamental and important indicators of conflict to the consequence that any social phenomena devoid of these can never be considered conflict, no matter what stage it reaches in its development.

Regarding the definition of conflict, Mitchell (1981:15) posits that “conflict is a situation in which two or more human beings desire goals which they perceive as being obtainable by one or the other but not by both”. Holsti (1995:328) contends that conflict ultimately resulting in some form of systematic violence emanates from a combination of parties, irreconcilable positions on a certain issue, antagonistic attitudes and a variety of pertinent actions. Essentially, he argues that conflict involves parties (conflict participants), issue field (issue/s on which the conflict is over), tensions (attitudes and predispositions of parties in conflict) and actions (behaviour taken as part of continuation of conflict). Similarly, Ramsbotham, Woodhouse and Miall (2011:30-31) argue that the notion of goal incompatibility represents “a wider class of struggle than armed conflict”. In line with this view, conflict as a social phenomenon is not limited to exchanges of violence between two or more parties but is something that is reflected by and indeed underlies broader societal dissonance. Thus, the concept “applies to any political conflict, whether pursued by peaceful means or by the use of armed force” (2011:31). Accordingly, a summation can be made that conflict is a situation or phenomenon distinguishable by existence of goal incompatibility involving at a minimum two actors or groups. Necessarily, this notion of goal incompatibility alludes to the existence and perpetuation of a situation of resource scarcity or the general limitation of goods, services and/or ideas tangible or otherwise. Nonetheless, a further dissection of conflict is important in order to deepen the understanding of the phenomena, and for this purpose attention should also be turned onto the nature of conflict.

Binns, Dixon and Nel (2012:240-241) argue that goal incompatibility cannot be considered to amount to conflict. They rather contend that goal incompatibility must lead to particular outcomes, death, in order to qualify as a conflict situation. This approach is effects-based or consequentialist in nature in a sense that for these authors the outcomes of conflict (death) is what makes it a conflict in the end. So how many deaths goal incompatibility must produce during its existence or development for it to amount to conflict? Drawing from the Uppsala Conflict Data Project they argue that conflict is a 'contested incompatibility' within a demarcated geography or territorial boundary where at least two parties, one of which is government, use force of some nature and to a certain measure that produce as part of the outcomes at a minimum 25 deaths per year. Thus, according to these authors and while goal incompatibility is a necessity, this must eventually result in death (at least 25 people in a given year) for conflict to emerge – wittingly or unwittingly implying that conflict is continuum characterised by various stages.

Without belabouring the death aspect of conflict phenomenon, Mitchell (1981:18) contends that in order to understand the nature of conflict attention must be given to what type a conflict is. His contention is that conflict can be distinguishable through discerning a difference between conflict situations that involve scarcity and those that are a result of value incompatibility. Conflict situations characterised by scarcity involve tangible goods while those characterised by value incompatibility entail disagreement over intangibles such as ideas and ideologies on how society should be structured.

Being intrinsic to human existence and life itself and regarding its general nature, Mitchell (1981:16-32) argues that conflict has a triadic structure that includes three different yet inter-related components. Furthermore, and in terms of its structure, conflict possesses three elements: (a) conflict situation; (b) conflict attitudes and perceptions; and (c) conflict behaviour (Mitchel 1981:16-32). First, a conflict situation is considered to exist when two or more parties have goals that are incompatible. In this instance, the condition of goal incompatibility prevails sustains throughout the duration of the conflict. As the central feature of the conflict, any efforts to engage in

conflict resolution should as a matter of necessity focus on addressing or ameliorating goal incompatibility. While the concept of incompatibility denotes irreconcilability or exclusivity inherent in at least two phenomena, it is important to make reference to the kind of goals that can be conditioned or defined by incompatibility. To this effect, Mitchell (1981:21-23) draws a distinction between 'positive' and 'negative' goals. At the centre of positive goals are desirables such as a future condition, like regional peace, security and stability in the case of SADC, while negative goals are concerned with dreaded eventualities such as war and therefore negative goals are underpinned by fear.

Second, conflict attitudes and perceptions entail the psychological conditions and predispositions that feature during the development of the conflict situation and may ultimately worsen the conflict. Unlike incompatibility of goals, conflict attitudes and perceptions emerge as the conflict develops and escalates and are not the cause of the conflict. Attitudes and perceptions are fundamental psychological aspects in humans as they inform beliefs and behaviour. In consideration and appreciation of the importance of attitudes and perception in guiding behaviour, conflict resolution efforts, particularly mediation, should as part of the process also target changing the attitudes and perceptions of conflict parties, convincing them of the barrenness and sterility of conflict as doing so will open up a window of successfully and sustainably transforming the conflict resulting in long term peace and security.

Third and final, conflict behaviour, is distinguishable by behaviour or actions by the conflict parties that demonstrate their pursuit of goals that are mutually incompatible, exacerbated by conflict attitudes (Mitchell 1981:29-30). The type of behaviour depicted by the conflict parties is oppositional, aimed at ensuring that the adversary alters position and eventually abandons their goals. In addition, the conflict normally assumes the form of conflict or competition. Conflict behaviour is coercive or forceful behaviour directed towards the enemy while behaviour that takes the shape of competition does not involve the deployment of punitive action but remains dedicated to accomplishing the incompatible goals. Webel and Johansen (2012:153) argue that during conflict, the parties engaged in conflict tend to reflect "three basic

types of behaviour: persuasion, coercion and reward”. This essentially asserts that conflict parties are willing to persuade each other in order to exact concession, failure of which coercion is a possibility. If the other party responds positively to the persuasion, i.e. modifies or abandons one’s goals, rewards could be offered to them.

Furthermore, at a broader, more generic level, the phenomenon of conflict can also be understood in terms of classification, whether it is an inter-state or intra-state conflict. This enhances the ability to study, explain and understand conflict. Sarkees, Wayman and Singer (2003:51-53), point out that conflict between at least two states is an inter-state conflict – essentially constituting conventional war in character and nature, on the one hand. On the other hand, they contend that a conflict that unfolds within any given country’s territory and involving the government and nongovernmental organisation(s) – that could take the shape of insurgents, rebels or any form other than that of government – constitute an intra-state conflict. Prior to the collapse of the Cold War order in the twilight of 21st century, conflict within the international system was largely inter-state in nature and scope. However, the demise of the order coincided with the rise of intra-state conflicts, and with that increased attention was directed to the ‘new’ security issue of human security (Sarkees, Wayman & Singer 2003:59). In terms of geographic distribution, intra-state conflicts have almost entirely been confined to the Third World countries – the Global South – and the African continent experiences large proportion of this form of conflict. The effects of intra-state conflict are not only limited to deaths but also extend to the collapse of the social, political and economic structures of countries affected by it and result in a general decay. In light of this and as supplementary structures to the UN, regional IGOs such as the AU and their sub-regional arrangements (i.e. SADC) have increasingly been expected to play the role of conflict of resolution and engender peace and security in their respective regions.

The aforesaid only proffers a general classification of conflict and does provide detailed interpretation fit for evaluative and analytical purpose. Therefore, and at a narrower, more detailed level, Mitchel (1981:35-45) offers an incisive classification of conflict. He provides typology of conflict in terms of the interests, values or

ideologies, the attribution, and the means used. First, conflicts regarded as conflicts of interests are those that are marked by the existence of disagreement on the distribution of limited or scarce resources. These type of conflicts “arise(s) from all parties possessing wholly different sets of beliefs and values about desirable future social structures, ways of achieving these, and the basic nature of the circumstances within which relationships exist” (Mitchel 1981:35). Second, in conflicts of values or ideologies the belligerents or conflict parties do not possess identical values to create the foundation for compromise on the distribution of the valuable resources; at the core of these type of conflicts (i.e. beliefs about ways of life) are abstract yet matters that are highly regarded by the conflict parties and this makes difficult to reach a compromise.

Third, conflicts of attribution (Mitchell 1981: 38-39) are conditioned by disagreements over what or who has caused the conflict. Generally, all forms of conflicts – inter-state and intra-state conflicts – depict this dimension of conflict of attribution, as conflict parties tend to disagree and bicker over what or who instigated the conflict. The disagreements that characterises conflicts of attribution are not limited to the causes but also the development of the conflict, particularly its continuation and the inter-party relations deteriorate as the gulf in positions further widens. Fourth and last, conflict of means is another classification that Mitchel provides. Conflicts of means are distinguishable by the existence of disagreements over strategies of addressing the conflict. Conflicts of means implies the introduction of conflict resolution and involvement of a third party in a sense that it is concerned with the resolution of conflict which almost universally involves a third-party external to the conflict situation. Indeed, states with membership to an IGO often disagree on the means and methods of resolving conflict(s) that may be experienced by one or more countries in the inter-state system. A prime example presently within the international system is the Syrian conflict, where Russia and the United States have differed on the means through which the UN can resolve that conflict.

The complexity of conflict as a social phenomenon necessitates development of approaches and methods to studying, understanding and explaining it. In view of

this, a systematic study of conflict usually involves its dissection in terms of phases and developments that the conflict phenomenon undergoes. The incorporation of the idea of phases and development of conflict allows for differentiation and identification of “potential conflict, gestation of conflict, trigger/mobilization of conflict, conflict/escalation and post-conflict” (Sriram & Nielsen 2004:12). The potential conflict stage is characterised by the existence of all the conditions for conflict, ranging from socio-economic to political, but through timely conflict prevention the conflict could be avoided. In the gestation phase, the conflict tends to be patchy and distinguishable by occasional breakout of violence, with the official state reaction being largely increasing misrule. Regarding the trigger/mobilisation phase, the conflict parties engage in confrontation where threatened and/or actual violence is unleashed. After the conflict is triggered, it often escalates characterised by the rise in the intensity or level of violence and accompanying conflict behaviour. Finally, from escalation the conflict morphs into de-escalation, oftentimes as a result of conflict resolution intervention, where cessation of violence is achieved and attempts are made to rebuild the socio-economic and political institutions destroyed during the course of the conflict. This is the post-conflict stage or phase.

The idea of conflict scope focuses on the development of conflict in terms of three dimensions, namely; causes of conflict, manifestation of conflict, and effects of conflict. Regarding the causes of conflict and according Mitchell (1981:18), conflict is caused by the inter-action of social structures and values. This occurs when there is scarcity of a certain good in the social structure and a great value is attached on the attainment of this scarce good. Logically, the attainment of the valued scarce good by one party simultaneously reduces the availability of the good for others; thereby creating conditions for conflict over resources to emerge. As different parties with divergent values scramble for the limited resources within the social structure, goal incompatibility becomes heightened and conflict emerges (Mitchell 1981:20). Accordingly, conflict can be considered an ever-present possibility to the human condition in that humans constantly seek access to resources that are in most instances in limited supply.

In addition, Mitchel (1981:20-21) also argues that a criss-crossing social structure can emerge characterised by a reciprocal inter-section of cleavages between the 'haves and have-nots, where those who may be considered to be the haves (i.e. political power) in one layer of the social structure are the have-nots in another layer (i.e. economic power). For example, blacks in South Africa are considered to be powerless economically and yet are in control politically, while whites are regarded as possessing economic power but lack political power. The trade-offs implied by a criss-crossing structure do not eliminate emergence of conflict but ameliorate grievances in that no group has complete monopoly over valued resources.

Similarly, Bowd and Chikwanha (2010:X-XI) examine the causes of conflict in society. The essence of their argument is that conflict is caused by a social change whereby repressive social and political relationships emerge and create conditions for animosity and general hatred in society. For Sriram and Nielsen (2004:2-3), the causes of conflict are complex and varied, and may incorporate "disputes over ideology, land, access to resources and power of the state, gross inequality, ethnicity and religion, and borders". They further distinguish between "structural causes, proximate causes and triggers", and contend that this approach would facilitate productive analysis of conflict (Sriram & Nielsen 2004:2). Structural causes are sources of dissatisfaction and are linked to the relationship of the state with citizenry and the legitimacy of the elite in charge of government. Essentially, this concerns the ability of the state to deliver valued goods and services to its citizens as well as to the legitimacy of the ruling elite. Proximate causes are causes that are necessary to shift society to the precipice of a conflict. Phenomena such as widespread human rights violations, political persecution of certain groups and systematic exclusion of ethnic minorities are some of the examples in this regard. Triggers of conflict pertain to things and/or actions that spark the actual conflict behaviour, the unfolding of conflict as characterised by exchanges of violence between conflict parties. Considered together, these are but are but some of the causes of conflict.

From the causes, conflict develops to reach a manifestation stage where the conflict manifests practically. At this stage, the parties engaged in conflict exchange conflict

behaviour – often unfailingly violent in nature – as the conflict escalates. For example, the aftermath of the 2008 disputed Zimbabwe Presidential Election was characterised by interparty violence, as goal incompatibility played out in regard to the outcomes of the election and indeed contestation over who has earned the right to access the most valuable scarce resource, state power, unfolded. In response to the violence, SADC resolved to initiate mediation intervention, with South Africa nominated as a mediator. Because conflict manifestation constitutes the most destructive stage in the development of conflict, IGOs are usually moved to initiate some form of conflict resolution intervention.

Furthermore, the phenomenon of conflict can also be assessed in terms of the negative effects it produces. Firstly, violent conflict results in widespread death of people caught in the conflict. Almost in all its regions, Africa has experienced and to a certain degree continues to experience conflicts that range from low to high intensity. Unfortunately, these conflicts claim the lives of people, including ordinary members of society who may not have had a part in the development and escalation of the conflicts. Indeed, and as Binns, Dixon and Nel (2012:241), over a million people have perished between 2000 and 2012 as a result of conflict in the African continent. Secondly, when conflict escalates and become characterised by violence, people migrate to other countries or areas where there is no violent conflict. As such, conflict results in displacement and creation of a refugee crisis; there are people who are internally displaced (IDPs) viewed as those who settle in one of the parts of the country unaffected by violent conflict; and also those who cross borders into other countries and are considered refugees.

Thirdly, conflict generates insecurity and fear which affect the psychological well being of people who have experienced war (Bowd & Chikwanha 2010:XII-XIV). Fourthly, countries that go through conflict suffer from underdevelopment during and in the aftermath of conflict. Fifthly, violent conflict results in the destruction of physical infrastructure of the countries that have witnessed such conflicts. Sixth, in addition to being a cause of conflict, human rights violations can also become prevalent in the aftermath of conflict (Pirouet 1995:275). The effects of conflict

detailed herein, while wide and inclusive of the most prominent effects, are by no means exhaustive but have been carefully included because they constitute the most salient consequences of conflict. The ensuing section explores the idea of conflict resolution and the approaches and methods that accompany conflict resolution.

8 Conflict resolution: methods and approaches

Having already provided an account of the nature, scope and meaning of conflict in the previous section and in light of the fact that it is the conflict mediation role of SADC that forms the focus of the study, this segment turns attention to the process of conflict resolution with emphasis on mediation method by an IGO (SADC). Accordingly, the general focus henceforth is on process of mediation and management of conflict. Being of theoretical in nature and conceptual in substance with the purpose of providing conceptual clarification in terms of nature and meaning of pertinent concepts, this Chapter and indeed this section does not attempt to explore how SADC managed the inherent tensions between sovereignty and non-indifference in the course of its mediation in Zimbabwe, with this reserved for the subsequent chapters in the study. Rather and as already indicated, the focus is on conflict resolution, exploring the different approaches and methods of resolving conflict associated with intergovernmental organisations.

The essence of the examined accounts of conflict is that conflict entails incompatibility of goals and scarcity of resources. As a phenomenon considered undesirable, has been responded to through conflict resolution interventions. Therefore, the fundamental question in this regard (should) revolve around the nature of conflict resolution. Ramsbotham, Woodhouse and Miall (2011:31) contended that conflict resolution can be understood to refer to two phenomena. First, in its general meaning conflict resolution refers to a phase or stage of post-conflict whereby the conflict situation and its underlying causes has been resolved and transformed into peacetime. This is concerned with a stage where conflict has been terminated. Second, the narrower understanding of conflict resolution alludes to a process and methods through which a conflict situation is addressed. It is the second understanding of conflict resolution which is of interest as the study

examines a process of conflict resolution and not necessarily the achievement of conflict termination. However, for purposes of conceptual clarification it should be noted that conflict resolution is a concept that possesses duality in meaning in that it can refer to either or both conflict termination and a process of addressing conflict through any method deemed appropriate.

Normally, when conflict reaches the manifest stage, that is a phase that is characterised by preponderance of conflict behaviour recognisable in most instances by violent action(s) amongst parties involved in conflict, the process of addressing the conflict – conflict resolution – is introduced and carried out (Mitchell 1981:275-276). This is distinguishable from other forms of dealing with conflict, such as conflict suppression and avoidance (usually directed at incipient conflict) and conflict prevention (habitually directed at conflict prevention). The intent of conflict resolution process is to reach a compromise settlement that is broadly acceptable to the parties engaged in conflict. The concept of compromise means that neither of the conflict parties achieves its goal(s) to satisfaction, rendering the settlement precarious. In light of this, it is crucial that the solution reached is self-sustaining for it to endure beyond the conclusion of the settlement. As conflict resolution is aimed at a conflict that is fully developed or has gone through all the stages of conflict development, it must as necessity focus on all three dimensions of conflict: conflict situation, conflict attitudes and perceptions and conflict behaviour. This holistic approach to conflict resolution significantly magnifies prospects of successful resolution as it entails focusing on addressing causes, psychological and behavioural features of the conflict that contribute to its fuelling and sustenance. However, the nature of conflict has much influence on successful resolution as does the conflict resolution method deployed. For instance, the existence of incentive(s) to fuelling the conflict, i.e. the decades long conflict in the Democratic Republic of Congo, which has dimensions of a war economy characterised by exploitation of the country's natural resources in the midst of the chaos and ungovernability, has complicated conflict resolution efforts and as such the conflict continue to rage (Binns, Dixon & Nel, 2012:258 & 243).

In connection with the approaches and methods of conflict resolution, Bercovitch and Jackson (2009) provide helpful discourse on these. Regarding approaches to conflict resolution, they make a distinction between traditional and new approaches. During and prior to the Cold War period the inter-state system relied on traditional and state-centric approaches to conflict resolution. According to Bercovitch and Jackson (2009:6), the First and the Second World War occasioned a situation whereby the approaches in this era ensured that the overriding aim of conflict resolution was to promote the prevailing international order and its security in order for states to have freedom to pursue and advance their national interests. The traditional approaches considered “power, authority, and legitimacy to emanate from states” (Bercovitch & Jackson 2009:6) and naturally, were ‘state-centric’ in that the final end-game (in terms of objectives) was to restore and serve the interests of the state. In terms of instruments used and parties involved in conflict resolution process, the traditional approaches depended on “legal methods, peacekeeping, mediation and negotiation frameworks, and incorporated actors defined in terms of either a state or insurgents” (Bercovitch & Jackson 2009:6). Moreover, methods such as “deterrence, coercive diplomacy and/or defensive alliances” and at times combined these with negotiation and mediation were commonplace in preventing or addressing conflicts (conflicts that were almost universally inter-state in nature) (Bercovitch & Jackson 2009:6). In addition, the military was used for peacekeeping as a bridge to peacemaking in a sense that its role was to ensure ceasefire while negotiations for ending the conflict take shape. The use of the concept peacemaking above might mislead, however, traditional approaches and methods assumed negotiation to amount to peacemaking which is a far cry from the post-Cold War understanding of the concept as something that denotes an extensively systematic and complex process aimed at engendering long term peace in countries and/or societies ravaged by conflicts. It was a period where understanding of sovereignty was Westphalian in nature and substance, influenced as it was by then vogue (neo) realist assumptions of absolute sovereignty, territorial integrity and the state as a referent object of security. Indeed, under these circumstances or conditions, IGOs’ role, particularly the UN, was limited to providing the multilateral apparatus for diplomacy; not necessarily for deliberations on

mediation or humanitarian interventions. Even the OAU was a sovereignty worshipping IGO and this posture ruled out any form of intervention in the affairs of its member states notwithstanding the prevalence of catastrophic conflicts in Africa, i.e. Central African Republic under the murderous regime of Jean-Bedel Bokassa.

In relation to the new approaches and methods of conflict resolution, they combine and add to and not necessarily replace the traditional ones discussed above. However, and considering the near absence of conventional conflicts (inter-state conflicts) and the rise in prevalence of intra-state ones, the new or post-Cold War approaches and methods appear to dominate the conflict resolution landscape. Bercovitch and Jackson (2009:8-10) contend that the new approaches and methods seek to address the underlying and structural variables or factors that contribute to emergence and perpetuation of conflict, not just the symptoms or manifestations thereof as the traditional approaches and methods tended to do. In this regard, the third parties involved in conflict resolution range from official, unofficial through to non-state actors. Furthermore, the new approaches and methods are also human security centred and not only or exclusively state security focused; “(the) individuals matter, as do states, and human security is as sacrosanct as state sovereignty” (Bercovitch & Jackson 2009:9). Finally and related to inclusion of human security as referent object of security, Bercovitch and Jackson (2012:9) conclude that “the new approaches to conflict resolution have as their goal not just cessation of violent behaviour, but the establishment of new forms of interactions that can reflect the basic tenets of justice, human needs, legitimacy, and equality.” In light of this, the new approaches and methods of conflict resolution incorporate human security in addition to state security as referent object of security – transforming the concept from one which is one dimensional into a two-dimensional phenomenon. Considering that mediation intervention constitutes an important aspect of the study, the following section focuses on the theoretical tenets of mediation as a method of conflict resolution.

9 Mediation as a preferred method of conflict resolution in Africa

The idea of negotiated settlement of conflict is enshrined in the UN Charter, the OAU Charter and subsequently the AU Constitutive Act. While conflict resolution is a broader concept that encapsulates different strategies of resolving/addressing conflicts, mediation is one of the strategies or more properly a method of addressing conflict. Therefore, it must be unambiguously and clearly emphasised that mediation is a part of conflict resolution. By its nature, mediation is a pacific method of conflict resolution that excludes the deployment of coercive instruments and, has become the most prominent or preferable method of responding to conflicts and/or political instability in the post-Cold War era. Mediation as a peaceful method of ending or more specifically resolving conflict has gained prominence in the post-Cold War international order. In terms of definitional meaning, Bercovitch (1992:7) asserts that mediation is “a process of conflict management, related to but distinct from the parties’ own efforts, where the disputing parties or their representatives seek the assistance, or accept an effort of help, from an individual, group, state or organization to change, affect or influence their perceptions or behaviour, without resorting to physical force or invoking the authority of the law”. Bercovitch’s characterisation is the most comprehensive and therefore compelling and useful in a sense that it underlines the transformation of a conflict in terms of parties involved from the two parties engaged in conflict to three parties through the introduction of the third party as a mediator – thus changing the structure of conflict from dyadic to triadic in nature.

Before the involvement of a third party as a mediator in conflict, the main parties engaged in the actual conflict must first provide consent for introduction of such third party. Essentially, mediation is a voluntary initiative in a sense that for it to occur there must be an agreement/acceptance from the main parties involved in the conflict. As an extension of conflict management, mediation is characterised by negotiation between the conflict parties facilitated by a third party or mediator that could be an individual, a group or an organisation. As such, mediation amounts to an attempt by a party external to the emergence and escalation of the conflict to resolve

the conflict. Although mediators are considered to be neutral, they enter the conflict with their own interests and ideas that influence their approach to the mediation process. While mediators are considered to be impartial and disinterested, they possess their own separate subjective conceptions of how the conflict must be addressed. The purpose of mediation is not only to end the conflict but also to modify it; in certain circumstances de-escalation of the conflict might be a realistic goal than eradication. Moreover, conflict parties enter mediation voluntarily and the parties can decide to accept or reject the outcomes. The voluntary nature of mediation means that conflict parties can always decline to participate or withdraw from the process. But there is often pressure emanating from within the domestic and international spheres directed towards the parties that demand of them to enter mediation process or cooperate with implementation of the outcomes. Mediation is executed on an *ad hoc* basis and very often unstructured. The implementation of mediation outcomes is wholly reliant on the cooperation of the conflict parties as there is no legal route to impose it (Alexandrou 1997:48; Bercovitch, 2011:17). These are some of the salient characteristics of mediation as a method of conflict resolution.

Furthermore, Bercovitch (2011:21-26) draws or makes a distinction between formal and informal mediation. He argues that mediation could take either formal or informal form, with the former being characterised by nomination of a senior government official as a mediator and; the latter entails the involvement of a private individual as a mediator. Accordingly, mediation could be undertaken by a representative of government or IGO, or can be a private and professional expert. On the one hand, mediation that is performed by a representative of a state or government, regional IGO or universal IGO is motivated by the desire to halt the harmful impact of conflict on the mediator's political interests; by an organisational mandate to intervene in conflicts; by the determination to protect the current structure; by the goal to extend own influence and relevance; and by a formal request by either one or both of the parties involved in the conflict. For a variety of reasons and motives, including the aforementioned, the constitutive acts of regional IGOs such as the AU include clauses that commit these organisations to resolving conflicts within their regions. On the other hand, and in terms of motivation, informal mediation undertaken by

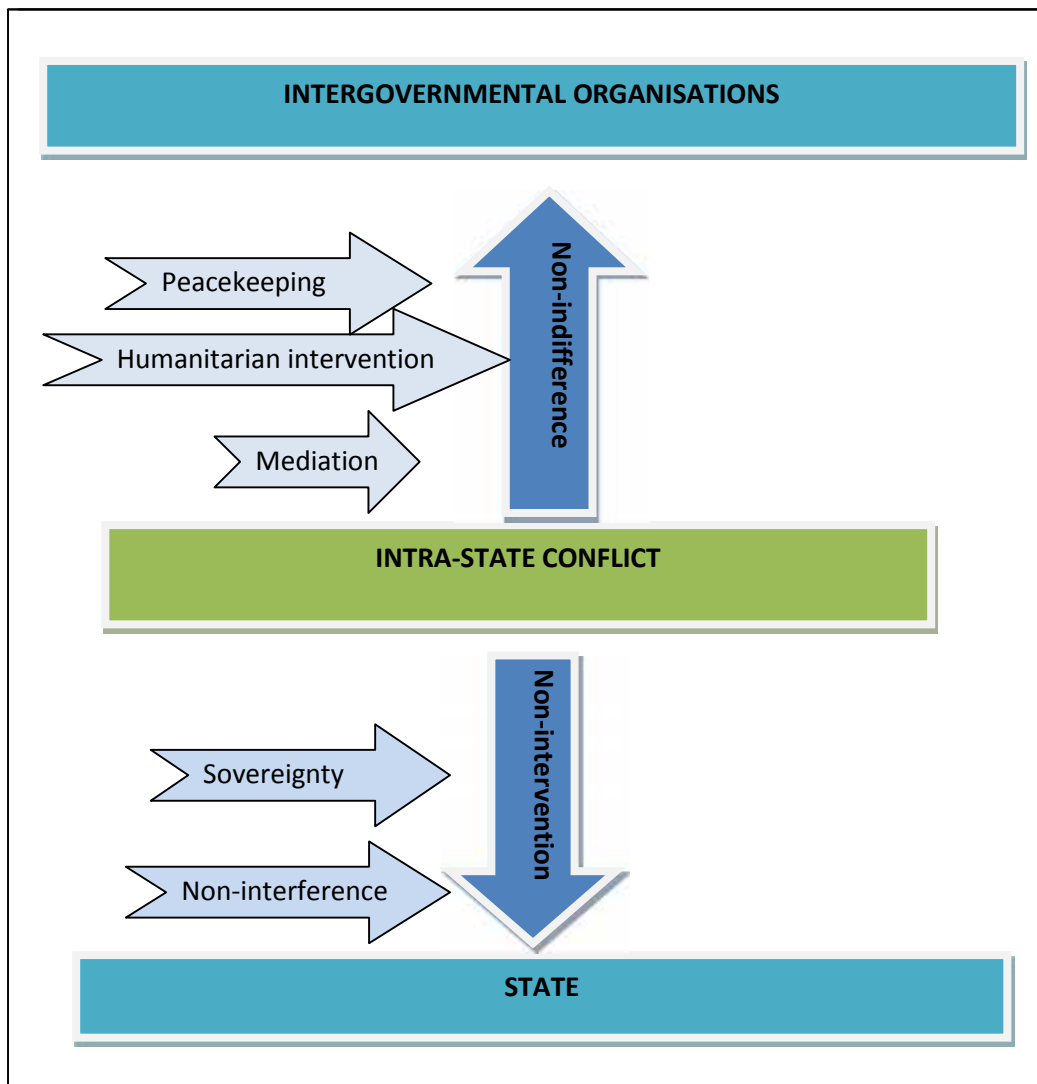
individuals is normally motivated by the individuals' wish to gain access to important political actors and create tunnels of communication; to test in practical terms their knowledge of conflict management; to spread own ideas and enhance own professional status; and to alter conflict behaviour in order to restore peace. Thus, the motives behind informal mediation are both altruistic and self-regarding.

What are the necessary conditions for successful mediation? In order for mediation to succeed, the conflict parties must recognise that unilateral action is unproductive; that the continuation of the conflict leads to huge political or economic cost; that pressure emanating from within the region or international sphere must be directed towards the conflict parties; that there must be preparedness to work together (amongst the conflict parties) to end the conflict; and that the conflict has been long running creating the impression that no single party will emerge victorious (Susskind & Babbit 1992:31-36; Bercovitch, 2011:20). Considered collectively, these conditions are necessary for conflict resolution through mediation to succeed. The simultaneous presence of these conditions greatly increases the possibility of quick and successful mediation. Mediation is distinguishable by the introduction of a third party, that must be acceptable to the conflict parties and alters the dyadic structure of conflict into a triadic one that opens up opportunity for reaching political settlement.

10 Final reflections on the conceptual framework

As illustrated in Figure 1 below, the relationship between sovereignty/non-intervention and non-indifference/intervention is an uneasy one. On the one hand, conditions, i.e. conflict situation, that give rise to the question of intervention emanate at the intra-state level. However, the state is anchored on the principles of sovereignty, non-intervention and non-interference, meaning external intervention is prohibited. On the other, the responsibility to initiate intervention resides at the inter-state level with intergovernmental organisation. Accordingly, there is a clear conceptual incongruence between these concepts which makes intervention by an intergovernmental organisation like SADC difficult.

Figure 1: Illustration of tension between non-intervention and non-indifference



Author's own compilation

Being a conceptual framework, this chapter focused on the exploration of various relevant concepts such as sovereignty, norms and non-indifference, state and African state, intergovernmental organisations, conflict, conflict resolution and mediation. Concerning sovereignty, it was determined that sovereignty has a dual expression – domestic and international spheres – and that in its nature it prohibits external intervention. Moreover, and within the inter-state system, norms emerge from within IGOs and are intended to regulate the behaviour of states. As such, the AU's norm of non-indifference is supposed to engender responsiveness to issues of

security, in particular human security, thereby implying that the AU and its regional arrangements have evolved a culture of intolerance towards conflicts experienced in the continent. Necessarily, this suggests that the AU and organisations such as SADC are prepared to intervene in circumstances of intra-state conflict, despite the discouragement inherent in the principle of sovereignty.

Furthermore, the phenomenon of conflict, especially its nature and scope, was examined for the purpose of contextualisation. The discussion on conflict was eventually linked to conflict resolution and mediation, initially emphasising the broad and multifaceted nature of conflict resolution as evidenced by its long history and inclusion of a wide variety of approaches and methods. Lastly, because the study is concerned with the mediation role of SADC, the concept and process of mediation was explored, examining its feature such as its non-compellence nature, its reliance on consent and acceptance of conflict parties, and tendency to produce compromise settlement. This exploration of mediation will assist in understanding why SADC chose this method in its intervention in Zimbabwe and more importantly, identify those traits that made intervention in Zimbabwe even conceivable in a context of strong regional sentiment on non-intervention.

The relationship of the concepts explored in this chapter forms the basis on which arguments for or against intervention are predicated. The principles and norms of sovereignty, non-intervention, non-interference, and non-indifference, R2P and intervention, condition state behaviour and determine the nature of debate(s) that unfold within the UN, AU and SADC in relation to how intervention should be approached. The re-interpretation of sovereignty and non-intervention to include emphasis on the idea of 'responsibility to protect' that is provided by the norms of non-indifference and R2P has shifted the discourse towards intervention. Accordingly, the SADC intervention in Zimbabwe offers an opportunity to assess how these principles and norms play out in reality.

CHAPTER 3

THE STATE, SOVEREIGNTY AND NON-INTERVENTION IN AFRICA

1 Introduction

While reference has already been made to the principles of sovereignty and non-intervention in the preceding chapter (see Chapter 2), this examination was mainly theoretical and conceptual in nature, without necessarily applying the concepts to practical examples. Therefore, this chapter provides a comprehensive and thorough exploration of the principles of sovereignty and non-intervention, using several instances of war and conflict in Africa to analyse the nature of the concepts in the context of the African inter-state environment. The position and approach of the AU and its RECs, with special reference to SADC as a key variable in this study, on conflict-generated instabilities and the corresponding understanding of the notion of non-intervention are explored.

Accordingly, this chapter starts by examining, in broad terms, the evolution of sovereignty and non-intervention in Africa. Secondly, it then narrows the discussion to the salient manifestation of sovereignty in Africa, especially how it conditions the behaviour of states in the African inter-state system. This also includes exploration of the concept of 'perforated sovereignty' and its implication for the conventional understanding and meaning of sovereignty. Thirdly, the chapter examines the DRC inter-state war and the various internal conflicts that have challenged the territorial integrity of states in the continent. These cases are also considered in relation to the position of the OAU-AU on the questions of intervention and non-intervention. Moreover, this extends to the posture of the SADC and how the regional IGO has embraced the AU principles and norms. Lastly, the chapter ends with a conclusion wherein the implications that flows from the nature of sovereignty in Africa on intervention, especially its impact on the ability of SADC to carry out peace support interventions, are summarised.

2 The evolution of sovereignty in Africa

The concept of sovereignty has been a dominant theme and motif for the longest time in the African continent. The colonisation of the continent in the late 1880s by European powers was a definitive historical moment that robbed the people of Africa of their natural right to independence and self-determination (Dladla 2017:45). The colonisation process produced a poorly formed and institutionalised state that only served to facilitate extraction of resources from Africa to Europe (Acemoglu, Johnson & Robinson 2000). In response, Africans organised and waged a liberation struggle throughout most of the 20th century to regain their independence. Thus, the African continent is a recently emerged region following the political independence of African states and political decolonisation; with decolonisation, colonies became independent nation states. This section examines the evolution of the principle of sovereignty in Africa and how states in the continent have related to the principle.

Immediately after the commencement of the postmodern period (1945-), African states' efforts towards attainment of (political) independence started to gain traction, eventually culminating in the then Gold Coast (Ghana) gaining independence on 6 March 1957. Soon, thereafter, many states in the African continent also attained their independence. For the purposes of this research and insofar as the African state is concerned, a distinction is drawn between the type of state that existed between the early 1960s to late 1990s and another from the reformation of the Organisation of African Unity (OAU) into the African Union (AU). Almost without exception, between the 1960s and 1990s many African states had repressive regimes ranging from authoritarianism to dictatorship. Democracy was feeble and/or non-existent, with a single leader being a dominant force in political life (Zack-Williams 2001:215). In this context, sovereignty had a different meaning to what it is understood to be.

Firstly, sovereignty was linked to the leader and his power in that any challenge to the position of the leader was interpreted as treasonous. Secondly, sovereignty was deliberately de-linked from its constitutional or legal basis, and transposed into the realm of the leader. Thirdly, the practical manifestation of sovereignty tended to reflect the control function, neglecting the more positive aspects, such as provision of

welfare to citizens (Greffrath 2017). The state institutionalisation process was far off and therefore not enough capacity developed to enable the state to play its developmental role. Fourthly, there was no balance in the duality of the principle of sovereignty.

In light of the foregoing, it is clear that the principle of sovereignty in the aftermath of independence in Africa tended to emphasise the negative over the positive aspects of the principle. Importantly, sovereignty was inward looking focusing in particular on autocratic control of the domestic sphere, especially the population, as part of efforts to maintain the rule of the incumbent. However, and quite tellingly, the external dimension of sovereignty, i.e. sovereignty as manifested in the international system of states, was weak and often limited to expression of anxiety around possibility of externally orchestrated coups, coups normally carried out through mutinous sections of domestic military (Jenkins & Kposowa 1992:274). Exertion of sovereignty in the external environment is intricately linked to real power, might in terms of military and/or economy, and majority of post-colonial African states had none of this. At best, most states had weak militaries and economies, and this necessarily meant they were vulnerable to imperialist ambitions of foreign powers. Weakness in the sphere of military and economy ultimately affects a state's ability to project its sovereignty in relation to its counterparts in the international system of states. This partly explains why most states in the continent were compelled to form part of either camp during the Cold War of 1960s, a superpower rivalry organised around the United States and the West, and the other around the Soviet Union.

Furthermore, and reflecting on the state that emerged in Africa immediately after independence, Clapham (1996:12) argues that "the gap between the myth and the reality of statehood is considerably greater". He contends that the African state was characteristically weak, with governments that lacked legitimacy, at times the state taking the form of a shadow state with the sole objective of pursuing the interests of the ruler; it was unable to attend to the basic welfare emergency of its people, and incorrectly demarcated territorially (colonial state formation process). Therefore, the African state achieves its international recognition not because of some evidence

pointing to fulfilment of empirical standards of statehood but on the prevailing “international mythologies of legitimate statehood” (Clapham 1996:14). In this sense, the sovereignty and legitimacy of the African state is externally derived from the international system, as there was very little at the domestic level that confers upon it such a status.

The relationship between the principle of sovereignty and African states was deeply problematic in that it was characterised by repression at the domestic level and crippling limitations at the international level. Much of the above-mentioned concerns the ‘first generation’ (1960s to 1990s) post-colonial African state and its relationship to the principle of sovereignty. The ensuing paragraph considers the ‘second generation’ post-colonial African state that is, in terms of the periodisation and demarcation adopted for the purposes of this section, these are African states from the period of inception of the AU.

As already highlighted, the OAU was officially jettisoned in 2002 and replaced with the AU, which had a broader focus ranging from the political, strategic, socioeconomic through to advancement of regional integration. Much criticism was levelled on the AU’s predecessor on account of tolerating, and even encouraging, repression of the continent’s people without recourse to intervention (Sharamo 2006:51). This was because for the OAU, sovereignty was absolute and sacrosanct; whatever a state does within its territory the organisation had no business in interfering or raising concern over human rights violations, for instance. It was against this background and indeed as a result of many other considerations that the AU replaced the OAU, ushering in expectations that the continental intergovernmental organisation would urge states to relate differently to the principle of sovereignty.

The post-2000 African state is perhaps aptly captured as partly a product of the ‘third wave of democracy’ that started in the 1980s in Africa. The third wave of democracy was essentially agitation for the dismantlement of the predatory, oppressive and corrupt neo-colonial state that African leaders, most of whom had already turned to dictatorship, were presiding over (Ihonvbere 1996:345). Furthermore, as the 20th

century came to a close, Africa experienced catastrophes that would convince some within the continent, and even beyond Africa, that a re-consideration of the entrenched understanding of sovereignty was necessary (Kioko 2003:812). These were the Rwandan genocide of 1994, and the so-called Africa's World War, which involved multiplicity of states on either side of the conflict.

The OAU and indeed African states could only watch as Rwanda was engrossed in a devastating ethnic conflict that eventually claimed the lives of an estimated 1 million Rwandans (Clapham 1998:199). This gave rise to disenchantment with the OAU's approach to the principle of sovereignty, and further fuelled views that the organisation was not suited for the challenges confronting Africa heading into the 21st century.

3The nature of state sovereignty in Africa

In this section, the nature and scope of sovereignty is explored, considered in the context of the inter-state system. Specifically, the key dimensions of sovereignty are explored with emphasis on those aspects of the concept that are most prominent within the African inter-state system. Considering that the purpose of the study is to examine how an IGO (SADC) managed its mediation intervention in the affairs of an independent and sovereign state, a thorough exploration of the manifestation of sovereignty and non-intervention in Africa is necessary in order to contextualise and analyse SADC's intervention in Zimbabwe.

In addition, it is important because sovereignty is a cardinal principle of regional politics and one that has been linked to failure of the region to protect people from crises, especially governance. This commitment to national sovereignty has been blamed for governance failures in Africa generally also. Ayoob (2002:83) highlights that sovereignty is opposed to external intervention and has in fact prevented international humanitarian intervention aimed at protection and/or restoration of human rights. However, the idea of perforated sovereignty has also emerged as a counter to the traditional understanding of the principle of sovereignty. It posits that the rise of sub-national actors in the international diplomacy scene has challenged

the wisdom that regards sovereignty as the exclusive reserve of the state (Nganje 2013). Accordingly, this section considers sovereignty in the context of the African inter-state system focusing on its salient aspects and conversely, its perforation by non-state actors.

3.1 Prominent dimensions of state sovereignty in the African inter-state system

One of the enduring criticisms of African states is that their boundaries were drawn by colonialism and that most of these states are not viable (Mbembe 2000:261). This has resulted in most states being fragile, their sovereignty constantly challenged by conflicts of self-determination as it were (Jackson & Wells 2002). However, the OAU and its successor the AU have accepted the borders created during the colonial period as legitimate (Adejo 2001), and as such, this study proceeds from the same position, regarding all African sovereign entities with territorial spaces as demarcated by colonialism as legitimate states.

According to Hill (2003:31) “sovereignty is a central legal concept in the current international system, and an attribute difficult to acquire – and to lose”. Sovereignty has a duality in its nature and character in that it has both domestic and international aspects. Nonetheless, the focus herein is on its international dimensions, international considered for the purposes of this sub-section to refer to the inter-state milieu in Africa, and several points are made on this. First and as already indicated, by its nature the concept of sovereignty has an internationalist orientation in that it tends to take prominence in the context of inter-state relations. While the concept also has domestic aspects, i.e. a defined population and territory, it finds its most expression externally in international relations with its associated protocols and rituals succinctly captured. Indeed, the 1963 conference in Ethiopia that led to the formation of the OAU was mostly attended by leaders of newly independent African states and representatives of liberation movements, underscoring the fact that sovereignty also finds affirmation in the inter-state environment (SA History 2020). The same is the case with SADC which was created by liberation movements. African states whose sovereignty is recognised by peers in the continent partake in

multilateral and bilateral plenaries within the AU and the RECs, something that only states can do. Thus, Jackson (2007:X) correctly observes that, "...sovereignty is a global system of authority"; in this sense sovereignty is understood as finding its ideal expression within the inter-state system.

Second, within the African inter-state system, sovereignty acts as an important guiding and ordering principle (AU 2000: Article 3 & Article 4). For instance, states in the continent perpetually consider the sovereign rights and privileges of their counterparts as they interact within the AU and RECs, or during bilateral relations. The importance of sovereignty is also central in the AU intervention framework, and sufficient clarification of the status of the concept in cases where conflict resolution intervention may be necessary is not provided (Elechi & Onuh 2017). Thus, in 2016 the government of Burundi was able to reject the PSC decision to deploy 5 000 troops to protect civilians during the violence related to President Pierre Nkurunziza's support of a constitution amendment that sought to scrap the two-term presidential limit (Elechi & Onuh 2017:110-111).

Thirdly, the preceding point is linked to the notion of legitimation. The very existence of a state, at least considered in the context of the 1933 Montevideo Convention and the international system broadly, is dependent to a greater degree on legitimacy, which flows from the recognition of a state's sovereignty by other states. The AU and its RECs also perform the function of legitimation as acceptance into these organisations give states prestige and status, i.e. the ability to participate in the Assembly and Summits, something which only states can do in the context of Africa (Söderbaum 2004). Hence, states that are suspended from participating in the AU and/or RECs for reasons such as unconstitutional changes of government like the Sudan tend to strive to regain re-admittance (AU 2020).

Fourthly, because states are equal in terms of international law and indeed as dictated by the principle of sovereign equality, none can impose its will upon the other. This is clearly articulated in the AU Constitutive Act wherein it is outlined that the organisation is based on the principle of "sovereign equality and interdependence among Member States of the Union" (AU 2000: Article 4). This

equality is reflected in the structures and processes of the organisation in that member states are offered an equal opportunity to participate in the processes of the AU. In structures that require participation of only a limited number of member states at a given time for practicalities purposes, like the Peace and Security Council (PSC), a rotational method of representation is used to ensure that every state gets its turn (AU 2002: Article 5). Accordingly, unlike the UN that has an influential structure like the UNSC in which only 5 states have real power to influence decisions, the AU is truly an organisation that values the principle of sovereign equality. Nevertheless, the SADC nearly had a structure that would have negated the principle of sovereign equality, the Organ on Politics, Defence and Security Cooperation (OPDSC), when President Robert Mugabe of Zimbabwe who was also the inaugural chairperson of the OPDSC, insisted that the structure should have a permanent chairperson when it was created in 1996 (Solomon 2001). Upon strong opposition from the SADC member states the idea was eventually abandoned with Mugabe forced to vacate the chairmanship in 2001 and the rotational representation method was adopted (Solomon 2001). Thus just like the AU, SADC places a great premium on sovereign equality of its members.

In summary, sovereignty in Africa has manifested as a rigid state-centric system of authority. The AU and its RECs have also given validation and affirmation to the centrality of the state through their emphasis on territorial sovereignty and non-interference. This has negative implication for intervention in that it is likely to be viewed with scepticism, regarded as taboo and ultimately face strong opposition.

3.2 Perforated sovereignty

Fritz Nganje (2013) has conducted research on the idea of perforated sovereignty which is underscored by the emergence of sub-national government entities like provinces and cities as actors in the international diplomacy scene, an erstwhile reserve of the state. Regarding the nature and meaning of perforated sovereignty, it is understood as a development that is characterised by emergence of sub-national actors in the international relations scene, actors who become part of the international order and partaking in the processes that were conventionally the

terrain of the national sphere of government (Zondi 2012). In this instance, sub-national actors like provinces and cities, pursue and “deepen their engagements internationally” (2012:44), leading to perforation and expansion of sovereignty beyond the traditional state. This expands or perforates the concept of sovereignty which has traditionally been associated with national or central governments.

With entrance of provinces and cities as actors in international relations, the concept of paradiplomacy has been developed to describe their activities. Paradiplomacy is a descriptive concept that refers to the “external [international] activities and policies of sub-state governments” (Kania 2019:61). Generally, these ‘activities’ are in pursuit of the economic interests of sub-national governments, and include establishment of agencies aimed at seeking FDIs, and frequent international trips and meetings intended to increase exports (2019:65-66). In Africa, the provinces of South Africa such as Gauteng and Mpumalanga have emerged as key players in the paradiplomacy scene as they pursue economic development interests. The Lesotho Highlands Water Project which is a bilateral water supply agreement between Gauteng and Lesotho is one example of paradiplomacy (Cornago 2000:15).

Similarly, the Mpumalanga province is also involved in the Maputo Corridor Project, a multilateral agreement between Mozambique, Mpumalanga and Gauteng aimed at facilitating cross-border movement of goods between the parties to the agreement (2000:15). Thus as Nganje (2013:53-56) points out, sub-national governments use public diplomacy, signing of non-binding cooperation agreements, and even signing of international treaties in pursuit of their interests in the international sphere. But the signing of treaties in paradiplomacy is unusual as this is the reserve of states; however, in Germany, Belgium, Switzerland and Austria sub-national governments are legally empowered to enter into treaties with or without the concurrence of central governments (Ngange 2013:54).

While pursuit of economic goals is the main driver of paradiplomacy, there are other interests that could be behind it. Protodiplomacy, a variant of paradiplomacy, has the political goal of achieving independence, and this entails ‘high profile’ visits by pro-independence leaders and even facilitation of diplomatic relations with sovereign

states (Nganje 2013:49). For example, in 2018 the pro-independence leaders of Western Sahara made a visit to South Africa's Union Buildings and met with the president of the country. Indeed, Miller (2014:12) highlights that "the Polisario Front's tactics of obtaining sovereignty for the Western Sahara through a referendum are heavily reliant on international legal and diplomatic norms". The Polisario Front is the liberation movement that is waging the struggle for the self-determination of the people of the Western Sahara. The organisation have used protodiplomacy to approach multilateral intergovernmental platforms like the UNGA and the ICJ to challenge Morocco's claims to the territories of the Western Sahara (2014:12-13), thus 'perforating' the sovereignty of Morocco. Accordingly, the sphere of paradiplomacy as performed by sub-national governments is expansive as the aforementioned issue areas indicate and there lies the challenge to conventional wisdom that only regards the sovereign state as the only person of international law.

The idea of perforated sovereignty highlights how traditional understanding of sovereignty and, especially as to who/what constitute the sovereign, is being challenged by the emergence of sub-national governments in the African and international relations scene. Through their paradiplomacy, sub-national governments have emerged as important actors in international relations. Equally, secessionist movements rely on protodiplomacy to mobilise international support for their course.

4 Sovereignty and statecraft in Africa

This section considers practical examples where the concepts of sovereignty and non-intervention were contested in Africa. To this effect, the case of DRC war, and the self-determination conflicts in the Western Sahara, the South Sudan and Ethiopia are used as examples that indicate that the principle of sovereignty was challenged.

4.1 The Democratic Republic of Congo and 'Africa's World War'

While theoretically sovereignty assumes equality of states and the consequent idea of restraint, in practice this assumption is sometimes incorrect. Realism has provided the most useful contribution yet in explaining this situation, however unwittingly. The

basic assumptions of realist theory about the international system are that, the system is composed of sovereign states, that it is characterised by the absence of supranational authority to enforce the rules, that states are self-interested entities in a zero-sum system and that this culminates in an everlasting condition of anarchy in the international system (Gowa 1986:180). In addition, realists argue that states keep and maintain powerful militaries for the purpose of self-defence and deployment in pursuit of national interests or foreign policy (Burchill *et al* 2009:37). The implication of this understanding of the international order is that the principle of sovereignty is perpetually unstable and constantly subject to the vicissitudes of the national interests of powerful states. For instance, the principle of national sovereignty is of less importance to a state that cannot defend itself in the face of invasion or hostile intervention.

In view of the above-mentioned, the Democratic Republic of Congo (DRC) is a useful example of the fragility of the principle of sovereignty. The DRC has gone through a series of wars and conflicts that have undermined the country's sovereignty and independence. In 1996 Rwanda invaded the eastern region of the DRC in a military campaign to eliminate the Hutu rebels who were responsible for the 1994 Rwandan genocide while they were in power (De Heredia 2017:85-89). The rebels had crossed from Rwanda into the eastern part of DRC which borders Rwanda. While in the DRC, they began sporadic cross-border raids against the new government in Kigali (Williams 2013:87). During the attack the Rwandan military formed an alliance with the *Alliances des Forces Democratiques pour la Liberation du Congo* (AFDL), a Congolese rebel movement under the leadership of Laurent Kabila that was opposed to the Mabutu regime. The invasion culminated in the overthrow of Mabutu in May 1997, with his Kigali-backed opponent, Laurent Kabila, installed as president. Amongst the main root causes of the war between Rwanda and the DRC was Mabutu's support of the Hutu rebels who plotted to overthrow the Rwandan government; this undermined one of the foundational aspects of sovereignty, the principle of non-interference. Thus Rwanda launched military attack against the DRC as a way of asserting its sovereignty and independence.

However, the political stability that ensued in the DRC with the end of the conflict did not last for long as another war involving several African countries broke out in 1998. In 1998, Rwanda and Uganda allied with rebels in the DRC, attempted to overthrow the Kabila government and in response, states such as Angola, Namibia and Zimbabwe entered the fray on the side of the DRC government and so 'Africa's First World War' began (Williams 2013:87). It has been dubbed 'Africa's World War' because it was a conventional war, a rare occurrence/development in the post-Cold War era which is characterised by the 'new wars' or intra-state conflicts, wars that are essentially asymmetric in character. The war that ensued amounted to an inter-state war, with alliances formed and military firepower exchanged during its course. Interestingly, Rwanda which was a key ally of Kabila and in fact backed him in the war that removed Mubutu as president in 1997 was now part of the states that wanted to overthrow Kabila. In July 1999 a peace settlement, known as the Lusaka Ceasefire Agreement, was reached and thus formally ending the conflict (Ahere 2012).

As the aforesaid inter-state war broke out, the OAU initiated a peace negotiation intervention aimed at securing a ceasefire agreement that would halt the hostilities in the DRC (Carayannis 2009:7). These negotiations involved the representatives of the states that were involved in the war and those of the OAU. Despite the many criticisms that have been directed towards the continental intergovernmental organisation, especially those related to the (in)ability of the OAU to resolve conflicts in Africa, its successful intervention in the DRC is one of the highlights for the organisation. Amongst other things, the Lusaka Ceasefire Agreement which was signed on 10 July 1999 in Lusaka, Zambia, called for "immediate cessation of hostilities"; the withdrawal of foreign troops in DRC soil; the disarmament of local militia groups; and the establishment of an OAU-led Joint Military Commission that would monitor the implementation of the ceasefire agreement (Carayannis 2009:8).

Several observations pertaining to the principle of sovereignty can be drawn from the DRC case. First, while sovereignty is a fact, its sustenance cannot be assured in an inter-state system characterised by anarchy (Mitzen 2005:405). Second, for states to

give unwavering meaning to sovereignty, a corresponding power, militarily and economically, in particular military power is required (Art 1980). Within Africa and pertaining to the DRC conflict, Rwanda is a relatively powerful state compared to the DRC and as such, it was able to use military power against the DRC in pursuit of its national security interests. Third, while the AU and the UN exist also for the purpose of ensuring each state's sovereignty is not arbitrarily violated, there is very little that these IGOs can do in the face of transgression of the sovereignty principle, especially by comparatively powerful states. So the condition of anarchy in the inter-state system is not completely tamed by the existence of multilateral IGOs which also place great importance on the imperative to respect the sovereign integrity of each state, regardless of military and/or economic power. Fourthly and importantly, the principle is more normative than anything, in that its enforcement is subject to the vagaries of the national interests of states. The countries that came to the aid of Kabila's government were not only motivated by desire to help protect the sovereignty of the DRC, but by their own selfish interests.

The case examined above highlights some of the limitations of state sovereignty. While sovereignty is foundational to the inter-state system in Africa, states, driven by a variety of interests including those relating to national security interests and access to resources, appear prepared to go to war to achieve this, as the case of the DRC inter-state war illustrates. However, as the OAU intervention that brokered the Lusaka Ceasefire Agreement indicates, intergovernmental organisations respond to conflicts and instabilities through intervention, further weakening the notion of sovereignty.

4.2 Self-determination and sovereignty in Africa

While the phenomenon of inter-state war has tested the concept of sovereignty in Africa, secessionist regions and internal revolts have equally posed challenges to the idea of state as a supreme authority within a given territory. The response of the state to the contestation of its authority by groups within its territory has often entailed assertion of the principle of sovereignty through violent crackdown on the resistance and/or protests. Similarly, the AU and its RECs have also responded to

most of these crises, and their involvement tended to entail the use of peaceful methods of conflict resolution, especially mediation and negotiation (Zounmenou & Lamin 2011:6-16).

The standoff between Morocco and Sahrawi is a quintessential example of conflict over territory and self-determination – matters that are foundational to the principle of national sovereignty. From its inception in 1963, the OAU resolved that borders drawn during the colonial era would be upheld and respected; its successor (the AU) also adopted the same position. During the colonial period Sahrawi was a colony of Spain and Morocco that of France. Therefore, in terms of the AU's position on colonial borders Sahrawi and Morocco are two separate states. Interestingly, Morocco is not the only country to have claimed that the territories of Western Sahara (as Sahrawi is also known) belong to it; Mauritania also made similar claims. While Mauritania seems to have relented in its bid to annex the Western Sahara, Morocco has managed to impose its control over approximately two thirds of the territories (Farah 2010:61), albeit this occupation is not recognised by international law, not least the International Court of Justice (ICJ) which is the primary adjudicatory structure for territorial disputes between states. Accordingly, Morocco has failed to recognise the independence of the Sahrawi in violation of international law and the principle of state sovereignty. The Western Sahara remains a disputed territory, with Morocco continuing to fail to honour the AU position that territorial borders drawn during colonialism should be upheld.

The South Sudan is one of the rare cases of states in postcolonial Africa that have formed out of a war of secession. During the Egyptian-British colonial rule, the South and North regions of the Sudan were administered separately, an approach that was informed by the colonial power's intention to prevent the spread of Islamic and Arabic culture from the North to the South of the Sudan (Salman 2013:347-348). In the 1950s the colonial rule fell and the two Sudans were unified. However, grievances centred on the systematic discrimination against and exclusion of the southerners from economic opportunities and political power immediately after

unification gave rise to a war of self-determination by the people of the South (2013:351).

After a protracted liberation struggle which later evolved to be organised under the Southern Sudan Liberation Movement (SSLM), the Southern Sudan formally won its independence from the (North) Sudan in 2011 (Dersso 2012:5-7). This was preceded by the OAU-AU and the Intergovernmental Authority on Development (IGAD) facilitated Comprehensive Peace Agreement (CPA) signed in 2005 which conferred upon the South region an autonomous status that culminated in the eventual independence in 2011 (Motsamai 2017:5). Obviously, the independence marked the return to the colonial era separation of the two Sudans, and reaffirmed the OAU-AU position that colonial borders should be respected. In fact, throughout the war of self-determination the international community and the OAU-AU maintained the view that a 'two-state solution' was necessary in order to end the Sudan crisis.

The OAU-AU and IGAD were not the only organisations that were involved in the peacemaking process that led to the successful granting of independence to the South Sudan; the UN was also part of the process. The peacemaking intervention of the UN was based on its commitment to the eradication of threats to international peace and security, of which the Sudan conflict was. As a subsidiary of the OAU-AU, the peacemaking involvement of the IGAD was informed by the OAU-AU's position that the RECs should implement the principles and norms of intervention and non-indifference in situations of conflict and/or crisis in order to advance peace and security in the continent (Troco 2018:63-66). Thus there was an interface of the OAU-AU and IGAD as based on the notion of shared sovereignty – where states pool or transfer some measure of their sovereignty to IGOs (Motsamai 2017:5; Kornegay & Mthembu 2020:4) – and this also resulted in further bifurcation of sovereignty between the continental organisation and the IGAD.

Similarly, the ongoing case of Ethiopia is also an example of contestation over sovereignty in Africa. The conflict started when the Ethiopian military initiated a crackdown against members of the secessionist movement, the Tigray People's

Liberation Movement (TPLF), in November 2020 (*The Guardian* 2020). The historical context to the conflict is that the Tigray people have always felt marginalised by the central government, resulting in struggles for self-determination at varying moments in history (Berhe 2004:582-584). As the conflict unfolded and international and regional human rights concerns became voluble, the Ethiopian Prime Minister Abiy Ahmed countered such concerns by asserting that the crisis was an internal matter and that the international community should respect the principle of national sovereignty and non-intervention (*AllAfrica* 2020). Upon close examination, the statements were intended to negate any possible discourse that could emerge within the AU and the UN to consider the option of intervention to help Ethiopia resolve the crisis.

Nonetheless, on 20 November 2020 the AU Chairperson, President Cyril Ramaphosa of South Africa, appointed three former African heads of state as envoys to assist the parties in the Ethiopian conflict to overcome their differences and restore peace and stability in the country. The envoys were former Presidents Joaquim Chissano of Mozambique, Ellen Johnson-Sirleaf of Liberia, and Kgalema Motlanthe of South Africa. In one of his briefings to the envoys, President Ahmed characterised the military crackdown against the TPLF in the Tigray region as an act of 'law enforcement' and is reported to have been loathe of the idea of AU mediation in the crisis (*News24* 2020). This underscores the difficulty that the AU faces in cases of intervention in conflicts and crises; there is a general resistance by African heads of state towards the notion of intervention, seemingly informed by the interpretation that such interventions amount to the undermining of the principle of state sovereignty and non-intervention.

In consideration of the conflicts explored above, it is clear that the more direct threat to the survival and sovereign integrity of the postcolonial state is secessionist movements. Also, the DRC war exposed the fragility of the principle of sovereignty in Africa. Paradoxically, the phenomena of self-determination and inter-state war provide an opportunity for the AU and RECs to initiate conflict resolution interventions, further eroding the principle of non-intervention and non-interference.

5 Assessment of sovereignty as guiding principle in the African inter-state system

At the continental level, the concept of sovereignty and how the AU as premier intergovernmental organisation in the continent has somewhat changed. This was underlined by the abandonment of the OAU-era principle of non-intervention for intervention in cases of war crimes, genocide and crimes against humanity (AU 2000: Article 4; Kioko 2003). However, it is also important to acknowledge that the intervention threshold of the AU was first adopted by the universal intergovernmental organisation, the United Nations. Nonetheless, this shift had implications, at least at a theoretical level, for the meaning and scope of sovereignty as it exists within the African context.

First, sovereignty is no longer absolute but dependent on certain humanitarian conditions, i.e. the absence of grave state sponsored human rights violations. Second and related to the aforesaid, the AU as a legitimate inter-state organisation in Africa has authority, in terms of its statutes and protocols (see the AU Constitutive Act, 2000), to intervene in the domestic affairs of a member state in order to protect citizens from the excesses of the regime. Third, because the threshold for intervention is similar to that of the UN, AU intervention on grounds aligned with the stated conditions will be supported by the universal inter-state organisation; after all such interventions would be supportive of the stated mission of the UN.

At the state level, however, the political developments of the 1980s through to late 1990s did not alter in a significantly material way the manner in which the political elites at the helm of state power view sovereignty. For most African heads of state and government, the sovereign rights of their states remained sacrosanct, non-negotiable, and this was the understanding of the political elites ensconced in the corridors of power. Accordingly, a duality can be observed insofar as the principle of national sovereignty in Africa is concerned. There is a modicum of tolerance afforded to the debate around waiving of sovereign rights under specified conditions, as it unfolds in general terms within a broader multilateral structure like the AU or its regional economic communities for that matter (Wachira 2007:144). However, the

situation changes markedly once the debate narrows to individual states, with leaders expressing steadfast opposition to external intervention, whatever the motivation. This indicates clearly that considerations of self-preservation are uppermost.

Furthermore, the challenge is that the sovereignty meant by these leaders is state sovereignty used for regime preservation rather than popular sovereignty meant to expand the good of the people. For instance, President Mugabe of Zimbabwe frequently invoked the principle of sovereignty whenever his regime was condemned for human rights abuses (*Africa News* 2019). Therefore, realist notions of state sovereignty trounce those of expanded and even perforated sovereignty, thus enabling authoritarianism and dictatorship. For this reason, state leaders use sovereignty to justify limiting and even suspending the rights and freedoms of people from whom sovereignty is supposed to derive. Sovereignty gets closely linked to national security and with this regime security including security from popular scrutiny and accountability. This tradition of sovereignty mirrors that of a colonial state from which postcolonial state emerged and thus serve as a feature of what has been called neocolonialism. Nkrumah (quoted in Martin 1982:227) defines neocolonialism as a situation where a state has a veneer of sovereignty when in fact external interests underpin its decisions and choices. Such a state is independent in name, yet African leaders allow this in order to benefit themselves personally. For example, the founding president of the Congo Patrice Lumumba was eliminated with the connivance of the U.S. and Belgium, and Mabusu Sese Seko was subsequently installed as president, with the latter's tenure characterised by large-scale looting and transfer of Congolese wealth (mostly in the form of capital) to destinations such Belgium, Switzerland and the U.S. (Grovogui 2002:317).

The literature on aid dependency shows how this dependency outsources sovereign decisions to non-state actors like donor agencies and the big states behind them to the detriment of the well-being of the people of the dependent countries. This is particularly the case in Africa where concerns of donors imposing their agendas on receiving countries have been consistently raised (Moss, Pettersson & Van de Walle

2005:7). In addition, Moyo (2009) takes a deem view of foreign development aid in Africa, arguing that it traps the state in a condition of mediocre as governments' impetus to create revenue – which necessarily entails driving economic growth at the domestic level – is dampened by the knowledge that they will replenish the gaps in the national budget through aid. Sadly, this means that the state will not be able to achieve empirical statehood, understood to include the ability to drive real development and welfare at the domestic sphere, thus condemning citizens to perpetual poverty.

Another criticism of sovereignty in Africa was made by Julius Nyerere, the first president of independent Tanzania, who once remarked that nationalism is a stumbling block to Pan-Africanism, underlining the fact that emphasis on national sovereignty limited the possibility for the pooling of sovereignty for the purposes of building stronger regions and a continent on matters of shared and common interests (Nyerere 1963). This undermines regional integration according to other studies too; Chingono and Nakana (2008:402) contend that in southern Africa nationalism has been a hurdle to regional integration with leaders preferring to promote nationalist interests at the expense of regional integration and progress. Similarly, Simon (2010:100) argues that nationalism in SADC countries like Angola, Botswana, South Africa and Zimbabwe have paralysed regional institutions aimed at facilitating political and socioeconomic integration in southern Africa. In consideration of the arguments provided above, narrow nationalism is closely aligned with sovereignty, and seems to undermine the potential role that the AU and SADC can fulfil in advancing the ideals implied by the norm of non-indifference.

Concerning the AU, the organisation regards democracy and its associated principles of freedom and liberty as worthy political constructs that should permeate the length and breadth of the continent (AU 2000). This position links well with the AU's commitment to the norm of non-indifference which also seeks to protect the continent's populations from arbitrary and oppressive rule of despotic leaders. Moreover, by insisting on democratic values for all the countries in the continent, the AU is signalling that even sovereignty has limits when comes to certain issues.

Intergovernmental organisations often rely on their members for the translation of (aspirational) values into reality; in the case of the AU African states are expected to adopt and advance democratic ideals but most often fall short in this regard. It is this gulf, the separation between the abstract, ideational realm and the practical sphere that the idea of duality as mentioned above underscores; the freedoms and liberties that the AU envisions for the continent does not correspond with reality on the ground.

The Lusaka Ceasefire Agreement that ended the DRC war which involved several African states indicates that the OAU-AU is able to operationalise its peace and security architecture, especially its intervention framework, to resolve inter-state conflicts. Aside from being in violation of AU commitment to prevent war between states, the DRC inter-state war also violated the sovereignty of the country. However, the AU has been unable to find a permanent solution to the conflict between Morocco and the Polisario Front over the Western Sahara territories. This highlights one of the enduring problems with territorial conflicts, that is, neither side wants to concede territory to the other.

Notwithstanding the AU Constitutive Act and its commitment to punishing and resolving gross human rights violations, in reality the AU and its regional intergovernmental organisations continue to be reluctant towards the idea of intervention. Sudan and its former president Omar al-Bashir remains the primary example of an African leader who committed gross human rights transgressions in the form of genocide and crimes against humanity without consequence. In 2009 al-Bashir was indicted by the International Criminal Court (ICC) for his role in the massacre and grotesque human rights violations in Sudan's Darfur region. In spite of the indictment, the AU in particular and African heads of state in general never took substantive measures to censure the Sudanese (Institute for Security Studies 2020).

6 Conclusion

In this chapter it was argued that the principle of state sovereignty is foundational to the inter-state system and that it fulfils or it is intended to fulfil an ordering role in an

environment without a supranational authority to enforce order. Moreover, sovereignty in Africa has its roots in the political processes and events, such as conflicts and the formation of the OAU-AU and RECs that emerged in the colonial and postcolonial periods. In addition, international law and global multilateral initiatives like the 1933 Montevideo Convention and the 1945 UN Charter were also fundamental to the shaping and final understanding of the concept of state sovereignty in the continent. However, the practical realm of the concept, as it is practiced by states, remains largely incoherent with the theoretical conceptualisation, as the examples of the DRC war and Sahrawi, amongst others have highlighted. Moreover, the idea of perforated sovereignty and emergence of paradiplomacy as characterised by entrance of sub-national actors in international relations have also posed a challenge to the conventional understanding of sovereignty.

The prevailing understanding of the principle of sovereignty and non-intervention has a bearing on the role of the AU and its RECs. While these organisations have clearly articulated their intention to prevent, manage and/or resolve conflicts/crises in Africa, the principles of sovereignty, non-intervention and non-interference remain a stumbling block. Crucially, this also applies to the SADC intervention in Zimbabwe, which happened in the context of a particular understanding of sovereignty (especially by the ZANU-PF government), which regards the concept as entailing non-intervention,

CHAPTER 4

THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY: INTERVENTION AND NON-INDIFFERENCE

1 Introduction

Upon recognition of the nexus between development and security, the Southern African Development Community (SADC) has taken steps to establish a peace and security regime. The aim of this chapter is to explore SADC's security architecture in the context of the African Union's (AU) non-indifference norm, making reference to key SADC institutional framework(s) that condition the sub-regional organisation's posture towards non-indifference and by consequence permitting the option of intervening in crises situations. Accordingly, mechanisms such as the SADC Organ on Politics, Defence and Security Cooperation, and the Strategic Indicative Plan for the Organ (SIPO) are examined. In addition, an exploration of SADC's position on the norm of non-indifference also necessitates discussion of the AU's positioning of the non-indifference in its security architecture, particularly practical fulfilment of the norm, and as such, reference is also made to the AU's Peace and Security Council and the African Standby Force (AFS).

This chapter is made up of five sections. After introduction, the first part undertakes a general overview of intervention, mainly focusing on its (practical) manifestation in Africa. This discussion extends to examination of the different types of intervention undertaken in section two, especially military, humanitarian and peacekeeping interventions; mediation is excluded as it has been extensively covered in Chapter 2. The third part provides an historical account of the evolution of SADC as an intergovernmental organisation with a sub-regional focus. The fourth section concentrates on the evolution of SADC's intervention posture, taking into account the various treaty/protocol instruments adopted by the organisation over the years that impact on its outlook towards intervention. The fifth section undertakes an assessment of whether the AU's non-indifference norm influences SADC's position

on the issue of intervention in Southern Africa. A conclusion on the chapter is provided in section seven.

2 Intervention in Africa: A general overview

Within the field of International Relations, intervention is understood to refer to “a broad range of activities that include most impelling and coercive actions taken by a state against another state” (Hough, Du Plessis & Kruys 2008:26). This definition also covers SADC, which is essentially a formal assemblage of states borne through legal instruments such as treaties and pacts. Similarly, Fairley (1980:32) contends that intervention happens when a state or a group of states use force against a sovereign and independent state for the purpose of imposing its (or their) will on the target state. Dannreuther (2007:141) argues that intervention means “the direct and coercive application of military force in internal conflicts to affect their course and outcome”. The definitions proffered above overlap, and are essentially related, bounded by the idea of application of military force (sanctioned or unsanctioned) in territory of a given state.

Historically and as discussed in Chapter 2, African states were less accepting of the idea of external intervention or interference in their domestic affairs. Many history defining developments, exogenous and endogenous to the African continent, contributed significantly to African states (under the auspices of the AU) growing receptive to the idea of intervention in order to prevent or halt conflict/crisis induced mass human suffering (Da Silva 2013). First and regarding exogenous factors, Gal-Or (2015:5-9) refers to the emergence of the norm of responsibility to protect (R2P), which was a culmination of research by the International Commission on Intervention and State Sovereignty (ICISS) concerning the seeming tension between intervention and sovereignty and in particular mapping a framework for intervention notwithstanding the principle of sovereignty. The ICISS report on R2P encouraged states to re-consider their interpretation of sovereignty and the AU was not exempted from this pondering of interventionism associated with R2P. Furthermore, the then UN Secretary General Kofi Anan (incidentally an African) lamented the fact that the international community watched helplessly as genocide unfolded in Rwanda

eventually claiming the lives of nearly a million people (Elbert & Scaal 2006:96). It is generally accepted that the end of the Cold War standoff resulted in heightened attention on intra-state conflicts and the determination to address them (Newman 2004:175). Similarly, Samkange (2002:73) points out that the rise in internal conflicts and the popularisation of their debilitating effects has led to attitudes towards the issue of external intervention softening or being accommodative.

Second and in relation to endogenous developments, the attainment of political independence by African states did not necessarily herald peace; in fact, postcolonial Africa experienced more conflicts than any other region in the world (Young 2004:43). Logically, African states became increasingly perturbed by the destabilisation, violence and widespread hardships endured by the continent's people as a result of conflicts, and, therefore, the reconsideration of the idea of intervention by a continental multilateral structure (AU) grew necessary (Kioko 2003:810). Despite the fact that it had been in existence since 1963, the OAU only created the first substantive conflict resolution framework, through the 1993 Cairo Declaration, in 1993 in the form of the Mechanism for Conflict Prevention, Management and Resolution (MCPMR).

The MCPMR sought to respond to conflict situations that were rife at the time, focusing on prevention, management and resolution of conflicts (Jan 1997). Evidently, the MCPMR was an instrument that would provide rationale and justification for OAU interventions in conflict ridden states in the continent. Indeed, the MCPMR was used to intervene in several countries experiencing conflicts, such as Rwanda, Burundi, DRC and Ethiopia-Eritrea and, mostly did this through mediation and for the purpose of restoring peace and security (Muyangwa and Vogt 2000). However, in the majority of the countries it intervened in (Burundi, Rwanda, and DRC) the OAU failed to halt the (re-)emergence and/or continuation of conflicts (Muyangwa & Vogt 2000:11-13). The failure was largely attributable to the OAU's limitations in relation to resources such as money and personnel, and the absence of UN support in some of the cases (Ezeibe & Oguonu 2014:325).

The transition from the OAU which was for all intents and purposes feeble in connection to addressing matters of peace and security in Africa to the African Union (AU) also ushered in a different approach to the question of intervention (Kioko 2003:812). While the OAU was ill-configured to respond to internal conflicts in Africa due to its strong attachment to the principles of non-intervention and the sanctity of national sovereignty, Article 4 (h) of the AU Constitutive Act committed the new organisation to intervene in circumstances of “war crimes, genocide and crimes against humanity” (AU 2000: Article 4). As a result, the Peace and Security Council and the African Standby Force are responsible for operationalising the AU’s intervention posture. The following section explores different types of intervention that have been observed as a result. For the purposes of this research, the discussion is limited to three forms of interventions; namely, military intervention; humanitarian intervention and; peacekeeping operations.

3 Different types of intervention

3.1 Military intervention

Within the SADC region, military interventions are rare. The concept of military intervention can be defined as hostile armed intervention by a state or group of states in another state’s territory (Hough, Du Plessis & Kruys 2008:26-27). Ramos (2013:36-37), drawing from rational choice model, argues that calculations for military intervention usually involves consideration of costs and benefits. By costs she refers to the “casualties and the political liabilities created at home for the intervener” (2013:36). And the extent to which the objectives of the intervention are achieved or realised constitutes the benefits dimension of the intervention (2013:37). The assumption, in line with this approach to military intervention, is that an intervening state is able to make an informed decision, after reflection on a variety of pertinent variables that have a bearing on the intended military intervention. However, Ramos (2013:37) also contends that the rational choice paradigm also has its drawbacks such as the policymaker’s inability to withstand the condition of cognitive dissonance, whereby they wrongly align divergent information with preconceived convictions.

When a given state declares war on another, a military invasion often follows. The example of war as another form of military intervention is quite old, with nations having fought wars for ages. An authoritative definition of war remains illusory as many continue to disagree on the nature and meaning of the concept war. However, Lawrence (2017:1-7) contends that modern understanding of war or warfare is that it entails the use of organised violence, by conventional militaries composed of soldiers and is undertaken in pursuit of political goals and objectives.

In the post-Cold War international order, instances of war between states are rare. Historically and within the African continent, the war between Uganda and Tanzania in 1978-1979 constitutes a classical example of warfare. The war was caused by annexation of the Kagera Salient in northern Tanzania by the government of Idi Amin in Uganda (Roberts 2014:693). In response to this aggression, Tanzania (under Julius Nyerere) launched a military attack on Uganda and after military combat between the two states that lasted for several months, the Ugandan soldiers were defeated and Amin was eventually driven out of power in 1979. This is a clear example of war between states; both Uganda and Tanzania had political objectives going into the war (Kamazima 2017:43). Uganda wanted to annex Tanzanian territory, while Tanzania wanted to reverse the annexation and overthrow the Amin administration. It was essentially a war rooted in a border dispute that involved the use of military forces.

By its nature, military intervention is very risky and perilous, with both the military personnel involved in the invasion and the citizens of the invaded country greatly exposed to violent death in the course of the military operation (Hough, Du Plessis & Kruya 2008:27). When a military intervention takes place, particularly war, people who are not the target or not participating in the violence (i.e. civilians) often become the collateral damage. In light of this, the concepts of *jus in bello* and *jus ad bellum* have been developed in order to guide the regulation of the use of military force in instances of intervention. On the one hand, *jus in bello* essentially is about regulating the conduct of war by belligerents in order to avoid the killing of people who are not part of the war and to prevent the destruction of infrastructure; it essentially prohibits

war crimes (Bugnion 2003:2-3). Crucially, *jus in bello* is a central part of international humanitarian law, and as such, the failure to comply with this regulatory aspect of the conduct of war/conflict normally leads to considerations of external intervention by the UN or its 'regional arrangements'. It is linked to non-indifference in the context of the AU and SADC.

However, this concept and principle is subject to abuse. For example, concerns about compliance with *jus in bello* were also behind the UNSC-sanctioned North Atlantic Treaty Organisation (NATO) intervention in Libya 2011, as the Libyan military was accused of attacking civilians who were not part of the rebellion, or those who were protesting peacefully against the Muammar Gaddafi regime (Apuuli 2012:139). On the other hand, *jus ad bellum* is concerned with the prohibition of war, positing that no state should start a war against another except in self-defence, as the UN Charter asserts (Zimmermann 2007). Accordingly, *jus ad bellum* proceeds from traditional assumption of war, which contends that it can only occur in instances of self-defence between states, meaning that state violence against citizens would be considered unacceptable. As such, it implies a preparedness to intervene in conflict situations involving a state and its citizens. While military intervention is one form of intervention, there are other types of intervention, which sometimes entail the use of armed forces, like humanitarian intervention, which is explored in the ensuing section.

3.2 Humanitarian intervention

Humanitarian intervention is defined as “the use or threat of the use of force by one state against another for the protection of the human rights of populations that are not citizens of the intervening state” (Coleman & Tieku 2018:21). Evans and Sahnoun (2002:99) posit that humanitarian intervention is the application of “coercive action against a state to protect people within its borders from suffering grave harm”. Furthermore, Recchia (2016:53) also argues that humanitarian intervention is the deployment of a military force in a foreign country with the altruistic goal of protecting that country's citizens from man-made disasters. This is a narrow interpretation of the concept of humanitarian intervention in a sense that it confines the applicability of

the concept to 'man-made' disasters, while it is generally accepted that humanitarian intervention can also be activated in situations of natural disasters that impact dramatically both the physical and material security of people (Strömberg 2007:201). In the latter case, a multi-national task force may be dispatched for the purposes of delivering humanitarian relief aid, which may include rescuing people from heavily flooded buildings, distributing food and medical supplies and assisting with the rebuilding of infrastructure after destructive natural disasters. Similarly, Finnemore (1996) contends that humanitarian intervention entails intervention undertaken by states to protect people who are normally not their citizens from a humanitarian catastrophe. The thread that ties the above-mentioned definitions is the characterisation of humanitarian intervention as a phenomenon that is motivated by a desire to resolve crises, including man-made crises or natural disasters, that undermine or erode the human rights of the affected people.

Moreover, the key characteristic of humanitarian intervention is that it does not require the consent of the target state for intervention to take place – it is unilateral and based on the discretion of the power(s) making the intervention (Sarkin 2009:5). The case of UNSC sponsored NATO intervention in Libya referred to above illustrates this point; neither the consent of the Libyan government or the rebelling Transitional National Council (TNC) was ever sought or required before the humanitarian intervention was made. This is what differentiates humanitarian intervention from mediation, as the latter require the concurrence of the conflict parties for intervention to take place.

According to Bickerton, Cunliffe and Gourevitch (2007:39-40) humanitarian intervention has arisen out of variety of developments within the inter-state system. First, in the post-Cold War international order, there has been an emergence of a view that the interpretation of sovereignty as absolute is archaic in light of many security challenges that threatens the state, its people and indeed international peace and security. Those who hold this view subscribe to the notion of 'sovereignty as a responsibility' – the idea that sovereignty ought to extend to 'responsibility to protect' – contained in the 2001 ICISS report. This responsibility to protect includes

provision of welfare to citizens as well as prevention of human suffering that could potentially threaten international peace and security. The assertion that sovereignty ought to be viewed as a responsibility links with the notion of humanitarian intervention because it calls on the international community to intervene in instances where the sovereign state fails or is unable to guarantee its citizens protection.

Furthermore, another development that has led to the emergence of humanitarian intervention is the phenomenon of human security. The concept of human security is slippery in terms of definition, rather being a concept that refers to a variety of conditions that may impede the security of the individual (Aalto, Harle & Moisiu 2012:59). Initially, human security was conceptualised by the United Nations Development Programme (1994) to include wide spectrum of areas ranging from the environment, community, health, food, economy, through to the individual. Subsequently, the term was given prominence by the initiative of the ICISS that was responding to the rise of intra-state conflict or what Kaldor (1999) referred to as the 'new wars'. Fundamentally, in its report the ICISS contends that "where a population is suffering serious harm, as a result of internal war, insurgency or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect" (ICISS 2001:XI). In consideration of this, it is clear that the ICISS set the stage for international humanitarian intervention

In terms of humanitarian intervention, the UNSC (as per Chapter VII of the UN Charter) remains the focal point of reference regarding decisions on humanitarian intervention involving the use of armed forces. States that seek humanitarian intervention with the use of armed forces to be activated are required to put the petition to the UNSC, which then deliberates and votes on the proposition. The UNSC is composed of 5 permanent member states (Britain, China, France, Russia and the United States) and 10 non-permanent members voted for a period of 2 years and chosen from among UN member states. For a resolution to pass, the endorsement of all the permanent members is required, rendering the permanent 5 key determinants on the matter of humanitarian intervention. This means the

processing of intervention petitions is easily subject to geopolitical dynamics in the UNSC, especially the disproportionate power of the P5 and the belligerent role of some of the non-permanent members. Since the P5 are veto wielding, they have the ability to influence significantly the decision on the petition in the direction of their strategic geopolitical interests, which may be to the detriment of global good.

Within the African continent, the UNSC's resolution 1973 adopted on 17 March 2011 (UN 2011) remains the most recent case of a UN authorised humanitarian intervention in the continent. The 1973 resolution paved the way for an intervention led by the NATO in the conflict-ridden Libya. As per the resolution 1973, the NATO-led intervention was supposed to enforce a no 'fly zone' in Libya in order to prevent bombing of civilians and buildings. However, NATO undermined this mandate and sided with the rebels in seeking the overthrow and tragic killing of Libyan leader, Gaddafi, without showing an evidence of intention to protect civilians and the public infrastructure as required by the R2P norm (Kuperman 2015:67). The AU, which sought a consensus on a peaceful resolution of the Libyan conflict, took a critical view of NATO's role in Libya and characterised it as an agenda of regime change (Dembinski & Reinold 2011:1-6). The idea of regime change is itself an expression of an emerging norm in international relations by which the powerful justify interventions designed to change governments in other states using reasons related to democracy and governance to justify this.

The AU's predecessor, the OAU, has historically been reluctant to remove dictatorial leaders in fear that this would set a precedent that could nullify the principle of national sovereignty and the protection of territorial integrity of member states (Møller 2009:6). Similarly, the AU has consistently maintained a view that military interventions are never a solution to ending conflicts in the continent; instead incursions of this nature tend to result in long-term destabilisation of states (Kabau 2012:63). In line with this position, the AU opposed the use of military intervention in Libya in 2011, preferring a peaceful solution in the form of a diplomatic intervention (Sithole 2012:116-117). In relation to justification for interventions, Ayooob (2002:83) raises the concern that states use humanitarian intervention to pursue goals that are

political and selfish in nature. In hindsight, the intervention of Western powers in Libya through the NATO-led intervention remains suspect and its true motivations are a matter of widespread contention. Sripaoraya (2017:525) argues that the primary motivation for NATO humanitarian intervention in Libya was to remove Gaddafi, a stumbling block to Western imperialism, and by so doing secure the national interests of Britain, France and the U.S. Thus, for Sripaoraya the intervention amounted to neo-colonialism and was never informed by humanitarian considerations (2017:526).

Similarly, Davis (2011:1) points out that states such as China and Russia were doubtful of the NATO intervention, seeing it as a military incursion intended to secure “preferential access to Libya’s vast oil reserves”. Equally, Campbell (2012:105) observes that “by October the elements in the Western financial circles who wanted Gaddafi dead had gained ascendancy”. This was in reference to Western financial establishment that wanted unfettered access to Libyan oil, and was part of the secret agenda of using the NATO ‘humanitarian’ intervention to eliminate Gaddafi, a longstanding stumbling block to their designs over Libyan natural resources. And with the assassination of Gaddafi by NATO forces, reported to have been killed on 20 October 2011, their underhand agenda succeeded. The myriad abuses of humanitarian intervention by NATO and Western interests generally, as referred to in this section, raises concerns about the use of this method of intervention for the purpose of ending conflicts in Africa. And as Libya continues to drift towards a failed state (Kuperman 2015), the utility of humanitarian intervention characterised by the use of armed force is rendered uncertain. For these reasons, SADC is generally opposed to this form of intervention. It feared that Western nations were building up a case for military humanism in Zimbabwe when it pushed for an alternative form of intervention, mediation (Moyo&Yeros 2007:185).

3.3 Peacekeeping

The concept of peacekeeping implies the existence of some level of peace, however a peace which is fragile and the possibility of a condition of conflict or absence of peace to re-emerge is real. According to Sutterlin (1995:25) peacekeeping entails

the “interpositioning, with the consent of the parties concerned, between two hostile forces after a truce or ceasefire has been achieved to discourage a resumption of hostilities”. In line with this definition, peacekeeping involves the deployment of an armed force by or with the consent of the UNSC through a resolution approved and passed by at least all the five permanent members of the UNSC. In addition, the primary and overriding purpose is to prevent relapse into violent conflict behaviour on the part of the actors that were participating in the conflict.

Bercovitch and Jackson (2009:76) define peacekeeping as “the prevention, containment, moderation, and termination of hostilities between or within states, through the medium of a peaceful third-party intervention, organised and directed internationally, using multinational forces of soldiers, police, and civilians to restore and maintain peace”. Accordingly, peacekeeping has broad objectives ranging from conflict prevention to termination and is undertaken by an armed force gathered from various countries by an intergovernmental organisation. The work of Bercovitch and Jackson (2009) remains one of the most incisive writing on peacekeeping and will be used as the foundation in this section.

Peacekeeping first emerged when the UN interposed a multinational armed force between Britain, France and Israel, and Egypt in order to ensure observance of ceasefire and withdrawal of the militaries of these countries from Egypt during the Suez Crisis (Bercovitch & Jackson 2009:76). At the time, the UN Charter had not conceptualised the concept of humanitarian intervention and as a result the UN Charter did not contain any guidelines on how to undertake peacekeeping. Peacekeeping intervention normally separates conflict parties, creating a buffer zone between the parties engaged in conflict. Bercovitch and Jackson (2009:77-78) identify three principles that are necessary for successful peacekeeping operation. First and as already indicated in the definition provided by Sutterlin (1995), consent of the conflict parties is required before intervention and this constitutes the first principle of peacekeeping. In relation to the UN, the principle of consent means that peacekeeping operations fall within the purview of Chapter VI and not Chapter VII. Second, when peacekeeping is undertaken it must be guided by the principle of strict

impartiality. The implication of this principle is that a peacekeeping force is prohibited from siding or aiding, militarily or otherwise, any of the parties involved in the conflict. Lastly, although peacekeepers are usually armed, they are required not to use military force unless for self-defence purposes. As an outcome of this principle, peacekeepers normally carry light artillery.

Of course, peacekeeping as a form of intervention in order to advance peace and security has its strengths and weaknesses. Concerning some of the advantages, since it does not dictate the peace settlement process peacekeeping enables states to direct the outcome of their peace efforts, thus ensuring the sovereign rights of states is affirmed (Bercovitch & Jackson 2009:81). Although peacekeeping rarely resolves the underlying causes of conflict, it has proven to be the most effective method of dealing with violent conflicts. In Africa, peacekeeping has been able to 'freeze' violent conflicts in countries like Somalia, South Sudan, Sudan, the DRC, and Central African Republic. Thirdly and lastly, peacekeeping missions have often ensured adherence to ceasefire and implementation of peace settlement outcomes, thus contributing to the achievement of a more stable peace.

In relation to weaknesses, peacekeeping is unable to address the underlying and inherent causes of conflict, rendering this kind of intervention a temporary solution to conflicts (Bercovitch & Jackson 2009:82). Indeed, the deployment of peacekeeping forces in both Somalia and South Sudan has not resulted in permanent eradication of conflict in these two countries. Secondly, as a primary institution that assumes leadership in peacekeeping, the UN is riddled with internal shortcomings when it comes to its command system and its ability to respond swiftly to issues of deployment as well as a record of weak coordination of peacekeeping operations (2009:82). The fact that peacekeeping falls under Chapter VI of the UN Charter means that it is deprived of the urgency inherent in the UNSC, a Chapter VII institution. Peacekeeping operatives are sometimes killed during operations and this has resulted in some countries being reluctant to contribute to peacekeeping missions. Fourthly and lastly, the problem of financing remains a prominent one, as peacekeeping operations are normally costly (*The Defense Post* 2019).

Regarding the process leading to a deployment of a multinational force for objective of peacekeeping, the UNSC remains the main organisation empowered by means of international law to authorise peacekeeping interventions. In practice, the involvement and role of regional organisations (i.e. AU) and sub-regional organisations (i.e. SADC) is often guided by the UN, with the global IGO usually taking the lead in peacekeeping operations. The AU PSC and the SADC SIPO include peacekeeping as an important aspect of their peace and security frameworks (AU 2002; SADC 2010). In fact, the SADC and its member states frequently contribute to peacekeeping operations in the region, the continent and beyond. For example, the South African National Defence (SANDF) has been in deployed in several countries (including in Sudan and the DRC) as part of multinational peacekeeping forces under auspices of the UN. Moreover, in 2018 SADC deployed a regional peacekeeping force in Lesotho in order to advance “peace and security” in the region (*News24* 2018). The deployment came after the killing of a high-ranking Lesotho Defence Force (LDF) official by soldiers belonging to a rival group within the LDF, precipitating a standoff in the military (*News24* 2018). In summary, peacekeeping is an important method of intervention in the SADC region that is only used in intra-state conflicts that involve armed groups and the use of weapons. As such, in the case of Zimbabwe it did not apply because the crisis was centred on disputes around elections, the management of the economy, and other grievances and did not involve an armed confrontation between the government and its opponents. Table 1 below provides a brief summary of the interventions discussed

Table 1: Types of intervention

Type of Intervention	Actors	Aims	Instruments	Application of military force
Military Intervention	States/IGOs	Political goals	Armed forces	Yes
Humanitarian Intervention	States/IGOs and Non-governmental	Humanitarian concerns	Armed forces and/or humanitarian	Yes and No

	organisations		relief	
Peacekeeping Operations	States/IGOs	Peace and security considerations	Armed forces	No (but peacekeepers can deploy military power in cases of self-defence)

Author's own compilation

In summary, this section explored the nature and scope of three different types of intervention, namely; military intervention, humanitarian intervention and peacekeeping. Military intervention involves a war between states, and as such belongs to the area of conventional warfare; while humanitarian intervention and peacekeeping are supposedly interventions motivated by altruistic ideals of ending conflicts that result in humanitarian suffering, and therefore are part of the post-Cold War international order's commitment to eradicating conflicts. Accordingly, military interventions are somewhat anachronistic while humanitarian intervention and peacekeeping are part of the current methods that states and intergovernmental organisations like the UN, AU and SADC consider once the question of intervention arise. Nonetheless, humanitarian intervention is controversial due to the fact that it is prone to abuse by powerful states, especially abuse related to hidden regime change agenda, as the case of NATO intervention in Libya highlighted. The prevalence of peacekeeping missions – there are currently 13 UN Peacekeeping Operations in the world – indicates that this type of intervention is common in the international system.

4 The SADC in Perspective

Zimbabwe is a key member of SADC and the organisation therefore has interest in the stability and security situations in Zimbabwe, especially when they have a potential to spill over beyond Zimbabwe as in the 2007-2008 crisis. The region of Southern Africa and its politics are shaped to a great extent by the legacy of colonial conquest by European powers and the subsequent liberation struggle launched to liberate countries in the region. The formation of SADC can be traced to the desire

by leaders of newly independent states in southern and eastern Africa to respond to aggressive conduct of the South African state during apartheid and to champion a political movement for total political emancipation of southern Africa (Schoeman 2002:2-5). Specifically, in the 1970s, Julius Nyerere of Tanzania, Kenneth Kaunda of Zambia and Seretse Khama of Botswana as leaders of recently independent countries decided to form a the Frontline States (FLS) with the primary objective of developing political and military strategies in order to liberate southern African states from white minority rule (Oosthuizen 2006:53). The participation of the leader of Tanzania (a country geographically located in eastern and not southern Africa), Julius Nyerere, in the creation of the FLS, a movement which for all intents and purposes was aimed at liberating countries such as Zimbabwe, South Africa and Namibia, highlights how Pan-Africanism underpinned regionalism.

At a broader level, the conceptualisation and eventual formation of the FLS was part of a continent-wide Pan-Africanist sentiment that had swept across Africa prior and during the struggle for the liberation of Africa. The efforts of Pan-Africanist leaders such as Kwame Nkruma of Ghana and Haile Selassie of Ethiopia persuaded many about an agenda for the liberation of Africa. Consistent with this position and after a multiplicity of deliberations, the OAU was created on 25 May 1963 in Addis Ababa (Sharpe 2013:53) partly to support this agenda, complete political decolonisation. Indeed, Article II of the OAU Charter (1963) mentions the “eradication of all forms of colonialism from Africa”, as one of its aims (OAU Charter 1963: Article 2). In consideration of the aforesaid, the FLS initiative emerged as a sub-regional structure aimed at the realisation of the same vision.

As more and more liberation movements defeated white minority rule in southern Africa, states within the region realised that a new intergovernmental organisation was necessary in order to reduce economic dependence on the remaining bastion of white minority rule, the apartheid state of South Africa (Schoeman 2002:2-3). During a convention in Lusaka (Zambia) on 1 April 1980 a group of states that included Angola, Botswana, Mozambique, Tanzania, Zambia, Zimbabwe, Lesotho, Swaziland and Malawi endorsed a resolution called ‘Southern Africa: Toward Economic

Liberation’ – paving the way for formation of a novel intergovernmental organisation with focus on economic development of newly independent states (SADCC Declaration 1980), thus the Southern African Development Coordination Conference (SADCC) was created and launched in 1981. The FLS remained but with its focus being purely on aiding the ANC’s and SWAPO’s liberation struggle in South Africa and Namibia, respectively. The central concern for the SADCC was to lessen economic reliance on the regional behemoth, apartheid South Africa, through increasing regional integration, and pooling resources in order to advance issues of common interest (SADCC Declaration 1980).

Unlike the FLS which was akin to a political alliance, the SADCC was a typical intergovernmental organisation. SADCC had various structures including Heads of State or Government (composed of leaders of member states and met annually to provide policy direction), Council of Ministers (composed of ministers of economy), and Secretariat (responsible for administrative work), amongst others. In terms of practical achievements, the SADCC is credited for improved economic connection through road infrastructure linking several southern African states. Fundamentally, SADCC adopted a decentralised approach whereby each member state was allocated a distinctive area of focus and pertinent projects to champion on behalf of the rest, what was called Sector Co-ordinating Unit (SCU). Notwithstanding, many challenges confronted SADCC including the fact that SADCC had chronically limited finances to run its projects, so much so that 90% of its funds came from Western donors (Oosthuizen 2006:64). Additionally, the SADCC Secretariat was not able to monitor and register the progress that different SCUs were making in implementation of policies and projects.

After consideration of a variety of factors, including the limitations that riddled SADCC, the OAU’s 1991 Abuja Treaty’s called for the creation of regional economic communities (RECs) in line with international practice (AU 1991). On 17 August 1992 Southern African leaders convened a summit in Windhoek (Namibia) where they endorsed the SADC Treaty that established the Southern African Development Community (SADC), replacing SADCC. Institutionally, SADC correspond(ed) to a

classical model of (regional) intergovernmental organisation, boosting specialist structures or organs covering all fathomable sectors, including the Summit of Heads of State and Government; the Council of Ministers; Commissions; the Standing Committee of Senior Officials; the Secretariat; the Executive Secretariat and; the Tribunal (which has since been disbanded) (SADC Treaty 1992). Upon the realisation that there was a need for a specialist agency that would improve the organisation's response to security challenges, a decision was taken to establish the SADC Organ on Politics, Defence and Security Cooperation in 1996. Figure 2 below provides a basic illustration of the historical evolution of SADC. The ensuing section provides a detailed account of SADC's various security instruments.

Figure 2: Evolution of SADC



5 SADC's intervention framework

Historically, SADC has always been an organisation that was concerned with issues of regional security and as already highlighted the case of apartheid South Africa illustrates this compellingly. Internally, the formation of the FLS was mainly motivated by a seeming desire on the part of some postcolonial states in Africa to aid black South Africans in their liberation struggle against the apartheid state (Evans 1984:3). While clandestinely assisting liberation movements (mainly the ANC and the PAC), did not constitute a direct intervention in South Africa by a group of African states (the FLS), it however amounted to an indirect intervention driven by issues that were chiefly security related in nature (Lodge 1987:13).

In terms of external considerations or concerns, the apartheid government had a security policy of regional destabilisation which affected its neighbouring countries. This policy of destabilisation constituted a serious existential threat to states in the region as it had the potential to result in unlawful regime change. The unwillingness

of South Africa's neighbours to collaborate with apartheid government through total withdrawal of support to the ANC meant that the destabilisation policy was likely to continue regardless of protestations made, and therefore undermining the existence of the apartheid South African state became a logical response (Bauer & Taylor 2005:5). As a sub-regional intergovernmental organisation that emerged as South Africa was in the process of political transition, SADC had to respond to post-liberation challenges, including peace and security problems in the region. Since the focus of this study is on SADC's intervention approach on peace and security matters, the following sub-sections focus on the institutional/legal framework(s) that anchors SADC's intervention posture. This is why it had a lot more elaborate framework for intervention than did its predecessors, as we shall see below.

5.1 Protocol on Politics, Defence and Security Cooperation

The SADC Protocol on Politics, Defence and Security Cooperation (hereafter Protocol of the Organ) was launched on 14 August 2001 in the Malawian city of Blantyre. However, the undertaking to develop this legal instrument to establish the Organ on Politics, Defence and Security Cooperation (hereafter the Organ) was taken much earlier, as contained in the Gaborone *Communiqué* of 28 June 1996. The Protocol of the Organ is a SADC legal mechanism that gives effect to the formation of the Organ, the nature and scope of its work and constitutes a general guideline on how SADC should deal with security issues affecting its member states and the region (SADC 2001).

The overarching objective of the Organ is to "promote peace and security in the region [Southern Africa]" (SADC 2001: Article 2). All the other objectives are related to and supportive of the primary objective. These objectives underpin SADC's conviction that it has a role to fulfil in promotion of peace and security in the region in order to ensure regional development, and alludes to a preparedness (at least theoretically) to intervene in member states that may be experiencing conflicts and/or political crises that have a bearing on the realisation of the objectives. For instance, objective 5 as contained in the Protocol of the Organ states that the Organ also has the objective to "prevent, contain and resolve inter-state and intra-state conflict by

peaceful means” (SADC 2001: Article 2). Clearly, this provision only allows for SADC to use peaceful methods and instruments when undertaking intervention to address conflicts. Amongst these pacific or soft methods/instruments would normally be mediation, negotiations, preventative diplomacy, arbitration and adjudication.

Nonetheless and in view of the inadequacy of measures provided for in section 5 of Article 2 of the Protocol of the Organ, SADC member states can always consider enforcement measures; “[SADC can] consider enforcement action in accordance with international law and as a matter of last resort where peaceful means have failed” (SADC 2001: Article 2). Conceptually, these enforcement steps would include humanitarian intervention accompanied by the use of armed forces, a regional-task force such as the SADC Standby Force. Nevertheless, SADC has rarely undertaken an intervention in practical terms into a member state using armed forces, especially for humanitarian considerations (Hoffmann & Van der Vleuten 2010:750-753). This is because there is a general aversion towards interventionist tendencies in the region. This aversion partly stems from the memory of imperialist incursions as well as the strong solidarity among leaders in the region (Nathan 2011:135, Ngoma 2003).

The criticism that has often been levelled against SADC revolves around the aforementioned predicament; in spite of the widespread human rights violations (mostly state sponsored) that have bedevilled the region, there is no record of the organisation initiating humanitarian intervention. Instead, deployment of armed forces by SADC for the purposes of promoting regional peace and security has normally been in the form of contribution towards peacekeeping operations often led by the UN. The intervention by a SADC regional task force (armed force) in Lesotho in 1998 remains the only example where SADC has deployed the military outside of peacekeeping and/or peace enforcement frame. Even in this case, the goal was not to further humanitarian objectives but reverse a regime change that was effected through the overthrow of the government by a mutinous faction of the Lesotho Defence Force (LDF) (Likoti 2007:353). In consideration of the above, the use of armed forces falling outside peace support missions is geared towards regime maintenance and not humanitarianism.

Besides stipulating SADC's posture on the issue of security related intervention, the Protocol of the Organ attempts to create an institutional framework for cross-country and region-wide cooperation on matters of security. These are described in detail in the following sub-section which focuses on the revised Strategic Indicative Plan for the Organ (SIPO II) of SADC.

5.1.1 The Strategic Indicative Plan for the Organ on Politics, Defence and Security Cooperation (SIPO II)

The second SADC Strategic Indicative Plan for the Organ on Politics, Defence and Security Cooperation (hereafter SIPO II) is a product of the review of SIPO I. In recognition that the challenges that confronted (and continue to confront) the SADC region were much wider in nature and extensive in impact, such as issues of climate change, illegal immigration, unconstitutional changes of governments, organised transnational crime syndicates and human trafficking than SIPO I anticipated, the SIPO II was born in 2010 at the end of the review of SIPO I from 2007. While SIPO II is multi-sectoral in approach, covering political, defence, state security, public security through to police sectors, emphasis is placed on security aspects that point to SADC's positive attitude towards the phenomenon of external intervention in the internal affairs of its member states. Regarding its purpose, SIPO II is aimed at identifying and outlining the activities and strategies necessary for the realisation of the Protocol of the Organ, and this is discussed in the ensuing paragraphs (SADC SIPO II 2010). As such, the SADC Strategic Indicative Plan for the Organ is purely concerned with operationalisation of key security regime of the organisation.

SIPO II also devolves the responsibility of developing the action plans necessary for the comprehensive pursuit and realisation of its objectives, aims and purposes to each sector concerned. These sectors are briefly discussed below:

a) The Political Sector

SIPO II lists a total of seven objectives for the Political Sector. First, the aim of the Political Sector is to safeguard "the development of the region against instability arising from breakdown of law and order, intra-state and inter-state

conflict and aggression” (SADC 2010 SIPO II). This is a broad objective in that it covers myriad of (hard) security issues spanning matters of law and order which normally falls within the realm of criminality and therefore are issues usually retained for the criminal justice system of states concerned through to conflicts (intra-state and inter-state) and aggression (which generally occur between neighbouring countries). The achievement of this objective will entail use of strategies such as those aimed at improving capacity for conflict prevention, management and resolution, and amongst expected outcomes is enhanced capacity for peace, security and development in Southern Africa, lending credence to the argument that there is a link between security and development (the development-security nexus) (Buur, Jensen & Stepputat 2007:13).

Second, another objective of the Political Sector is to “promote political cooperation among member states and the evolution of common political values and institutions” (SADC 2010 SIPO II). In addition, one other related objective of the Political Sector is to “promote development of democratic institutions and practices by state parties and encourage the observance of universal human rights” (SADC SIPO II 2010). States that have good cooperation and managed to evolve common political systems and values rarely engage in war, and this objective seems informed by a desire (on SADC’s part) to avoid hostility, aggression and ultimately conflict between states in the region. Strategies such as convening of multinational debates and discussions around issues of cooperation, knowledge-sharing and foreign policy are expected that they will result in greater political cooperation among SADC member states.

Third, the Political Sector’s objective is to “prevent, contain and resolve inter- and intra-state conflicts by peaceful means” (SADC SIPO II 2010). This provision in the SIPO II alludes to one of the methods often used by SADC to manage/resolve conflicts in the region, mediation. Indeed, measures such as creation of early warning systems and mediation mechanisms are considered

fundamental by SIPO II in dealing with conflicts in the region. The implementation of this objective will result in the establishment of a strong and robust capacity for achieving peace, security and development in the region (SADC SIPO II 2010). Linked to the foregoing objective are the objectives that call for the creation of peacekeeping capacity in order to respond to issues of deployment of peacekeeping forces or personnel, and establishment and/or strengthening of regional disaster risk management mainly for the purpose of responding to humanitarian situations (SADC SIPO II 2010). Fifth and last, the Political Sector also has the objective of ensuring SADC member states observe and fulfil the provisions of the UN Charter, AU Constitutive Act and pertinent instruments of the Organ (SADC SIPO II 2010). This objective affirms SADC's commitment to the principle that places it at the bottom of the hierarchy in terms of seniority and authority both in relation to the UN and the AU. As part of the AU RECs, SADC is supposed to respond to and resolve conflicts and political crises at the regional level in support of the peace and security agenda of the AU and UN (Motsamai 2018:106).

b) The Defence Sector

Within the defence space or sector, SIPO II demonstrates the appreciation that SADC has of the role that the defence forces of its member states has on the promotion and maintenance of regional peace, stability and security, particularly through the cooperative Inter-State Defence and Security Cooperation Committee (ISDSC) sub-structure (SADC SIPO II 2010). In terms of its objectives and purposes, the Defence Sector and its objectives are largely similar to those of the Political Sector as discussed in the foregoing section. These include protecting the region against instabilities that could emerge as a result of breakdown of law and order, intra-state and inter-state conflicts, through developing a regional capability that would enable SADC to contribute productively to the AU's peace and security architecture. The strengthening and operationilisation of the SADC Standby Force is considered one among other detailed strategies in this regard. Ultimately, effective

implementation and management of the Defence Sector facility is expected to result in achievement of a “peaceful and secure environment for regional development” (SADC SIPO II 2010).

Moreover, the Defence Sector of SIPO II calls on SADC member states’ defence forces to collectively engage in enforcement in an event where peaceful measure fails and should be considered as a last resort, as stipulated in international law (SADC SIPO II 2010). Naturally, the SADC Standby Force is the medium through which the enforcement action alluded to above will be taken. In addition, objective 4 of the Defence Sector in SIPO II considers the operationilisation of the Mutual Defence Pact (see Section 5.2) as crucial to dealing with or responding to threats, of military nature, directed at any SADC member state. Similarly, the Defence Sector also calls for the SADC region’s defence forces to be deployed in instances of peacekeeping operations and humanitarian disasters (SADC SIPO II 2010). In consideration of the aforesaid, it is patently clear that SADC regards the defence forces of its member states as pivotal instruments (through the SADC Standby Force) of intervention for the purposes of advancing defence, peace, stability and security in the region.

c) *The State Security Sector*

This dimension (the Security Sector) of SIPO II deals with state security, which is essentially influenced by realism which considers the security of the state as of paramount importance. Necessarily state security is as crucial as human security as a weak state would not be able to effectively provide security for its citizens. However, a heavily securitised state that violates the human rights of its citizens is not desirable as per international norms. The AU as well as SADC prohibits unconstitutional changes of governments (usually undertaken through *coup d’état*), as such, improving state security is fundamental in preventing overthrow of elected governments. In terms of its objectives, the State Security Sector has objectives that are mainly similar to the other sectors in SIPO II. The similarity in terms of the overall objectives of

the different sectors may create the impression of duplication; the important differentiating point however is the nature of each sector and the concomitant sub-objectives. While the State Security Sector calls for safeguarding of the region's people against instability induced by erosion of law and order, intra-state and inter-state conflicts, as does most of the other sectors, the manner in which this should be achieved becomes the difference. For instance, the State Security Sector calls for the use of state intelligence and region-wide sharing of intelligence as one of the specific objectives that would enable SADC to manage/resolve the aforesaid malaise.

Moreover, objective 4 of the State Security Sector in SIPO II provides a clear link between the state security and the Mutual Defence Pact apparatus in that it calls for development of security capacity and the implementation of the Mutual Defence Pact for the purpose of responding to external military threats (SADC SIPO II 2010). In terms of the State Security Sector, each SADC member state is expected to embrace the collaborative security instrument (the Mutual Defence Pact), share intelligence for mutual interest and integrate the provisions of the Mutual Defence Pact into their respective security thinking. Accordingly, the ideas of collaborative and collective security become operationalised.

d) The Public Security Sector

The Public Security Sector is intended to address challenges such as law enforcement, public safety and refugees, as well as provide key services around customs and immigration in the SADC region (SADC SIPO II 2010). These issues are considered important for regional peace, stability, security and development, and the fact that these matters are subsumed under the security rubric somewhat highlights that SADC assumes a comprehensive/broad approach to the notion of security. Insofar as the objectives of the Public Security Sector dimension of SIPO II are concerned, the promotion of public security and safety in the region; coordination and

cooperation on issues of public security and safety; inclusion of prison officials in peacekeeping operations; improving capacity in relation to disaster risk management and coordination of humanitarian assistance are listed as the objectives of the Public Security Sector (SADC SIPO II 2010).

e) *The Police Sector*

Regarding the Police Sector, the SADC Summit convened in Maseru (Lesotho) in 2006 resolved that a Police Chiefs Sub-committee falling under the ISDSC should be created. In light of this resolution, the SIPO II included the establishment of the Police Sector that would combat cross-border organised crimes in the SADC region. Specifically, the Police Sector arises out of a need to tackle crime problems such as cybercrime, organised crime syndicates, terrorism, drug dealing and human trafficking, violent crime, and many other related crimes that affect regional peace and security within the region (SADC SIPO II 2010). These are some of the crimes, most of which have transnational character, that confront the SADC region and indeed the entire world today (Hubschle 2010:16).

Concerning objectives of the Police Sector of SIPO II, and in addition to objectives similar to those of the other SIPO II sectors, the Police Sector seeks to develop cooperation between the police, state security and other law enforcement institutions for the purpose of attending to cross border crime; the promotion of community-based approach to policing and; illegal immigration. Crimes such as drug trafficking and poaching of endangered wildlife are very common in southern Africa and constitute a serious security threat to internal security of states in the region and conservation, respectively (Warchol, Zupan & Clack 2003:5). The 'de-militarisation' of policing through introduction of community-based approach to policing in the region is equally important. Lastly, the problem of illegal immigration is also a salient one, particularly as it concerns the internal security and stability of countries that are recipients of illegal immigrants. In summary, the inclusion of the Police

Sector in SIPO II and the transnational crime issues that it is intended to deal with is indeed an important development, because it will allow for cooperation amongst police services in the region on matters pertaining to cross-border crimes, such human trafficking and drug trade.

The sectors discussed above are constituents of SIPO II and form part of SADC's institutional security framework for the region of Southern Africa and it is supposed to provide guidance on intervention. This indicates that the SADC member states have created the mechanism for resolving conflicts and crises in order to promote regional peace and security. The implication is that the member states have transferred some degree of their sovereignty to the organisation to ensure a multilateral approach to the implementation of the principles and norms of intervention, non-indifference and R2P. This means that they are prepared to tolerate intervention by the regional IGO to prevent, resolve or manage destabilising security, political, social, and natural events.

5.2 The SADC Tribunal

The SADC Tribunal was one the SADC instruments through which the organisation could intervene in a member state in order to dispense justice, consistent with the values and principles adopted by SADC. Through tribunal rulings on matters that normally fall under national jurisdiction and supposed to be adjudicated by the criminal justice system of the respective SADC states, the SADC Tribunal was indeed a radical departure from the notion of sovereign state as a supreme authority in a defined territory. Due to the direct involvement of the SADC Tribunal on criminal justice issues of member states, this mechanism was to present a robust test to the idea of external intervention in the region.

Although the SADC Tribunal has since been suspended and its future remains uncertain, it is import to proffer a brief account on its nature and scope in order to elucidate the organisation's worldview on the phenomenon of intervention. In terms of origins, the SADC Tribunal was officially created on 18 August 2005 by the SADC Summit of Heads of State and Government convened in Gaborone (Botswana) after

an intention to establish the adjudicatory structure was initially expressed in 2000 in Windhoek (Namibia) during a gathering of the organisation's presidents and prime ministers (SADC 2019). Regarding its nature and according to Article 14 of the Protocol on the Tribunal of SADC (2000) which grapples with the jurisdiction of the Tribunal, the Tribunal had adjudicatory authority over all disputes referred to it in relation to the interpretation and observance of the SADC Treaty, issues pertaining to the Protocols of SADC and its institutions. In simple terms, the Tribunal operated like a supranational court. As far as the scope of the Tribunal was concerned, SADC member states could seek recourse from the Tribunal in an event of disputes. Similarly, the sub-regional organisation's people were also empowered to seek relief from the Tribunal in case they had a grievance against any state which is a member of SADC. However, people who register a complaint with the Tribunal should have exhausted all other domestic avenues for legal recourse and the Tribunal was supposed be considered as a last resort (SADC 2000: Article 14). Once an aggrieved party enrolled a grievance with the Tribunal, the concert of the other party or parties was not required for hearing to commence.

Nonetheless, after white Zimbabwean farmers took the government of President Robert Mugabe to the Tribunal in the mid 2000s over confiscation of their farms, the court's jurisdiction came under scrutiny amid protestation from the Zimbabwe Government over the legitimacy of the institution. In 2007 the Tribunal, after determining that white Zimbabwean farmers who petitioned it had no domestic recourse to their grievance, and ruled that by seizing the land of the farmers in question the Government violated the SADC Treaty (Nathan 2013:875). This was because by targeting white farmers, Amendment 17 of the Zimbabwe Constitution was discriminatory on the basis of race, and ultimately ruled that the Government should compensate the farmers for the land (Nathan 2013:876; Ndlovu 2011:72-74).

Expectedly, the Zimbabwe Government lamented this and other Tribunal findings against it, and complained that the Tribunal was interfering in the internal affairs of Zimbabwe. Although Article 24 of the Protocol on the Tribunal of SADC asserts that the decisions of the Tribunal are binding, the rulings against the Zimbabwe

Government were never enforced (Ndlovu 2011:75). Pursuant to Article 32 of the Protocol on the Tribunal of SADC, the Tribunal reported the Zimbabwe Government to the SADC Summit of Heads of State and Government after it failed to comply with its rulings (Nathan 2013:877-878). Instead of imposing punitive sanctions against Zimbabwe the SADC Summit decided in 2010 to suspend the Tribunal (SADC 2019). Subsequently, a decision was taken in 2012 by the SADC Summit that the Tribunal should be disbanded and a new one confined to disputes between states only should be created. However, a new tribunal remains to be created which puts in suspense the commitment of SADC on the re-opening of the Tribunal. In consideration of all the developments surrounding the Tribunal and its eventual disbandment, it is clear that states are hesitant to waiver (some of) their sovereign rights to a supranational authority, not least the right to adjudicate and arbitrate disputes between the state and its citizens. Indeed, the Zimbabwe Government's protestation that the Tribunal had no authority to hear a case against it brought by the white farmers, as discussed in this section, highlights the difficulty inherent in SADC on intervening or interfering in the affairs that unfold at a domestic level.

6 SADC and non-indifference: an assessment

Within the African continent, the emergence of the norm of non-indifference has been widely accredited to the African Union (AU). The aim is not to offer an extensive account on the meaning of the concept of non-indifference (for discussion on this see Chapter 2), but rather to determine the extent to which the SADC as a sub-regional organisation has adopted the norm. This is because the aim of the study includes determining how SADC implemented the AU's non-indifference norm in its conflict mediation intervention in Zimbabwe.

Essentially, non-indifference underlies concerns of (African) states around the issues of conflict, violence and human insecurity and, the willingness of states to intervene in instances of (violent) conflict (AU 2000). The question of whether SADC has embraced the AU's norm of non-indifference can (only) be explored through examining the relationship of the two on security matters. The approach of the AU and SADC to the implementation of the norm of non-indifference by SADC is implied

in SADC's Regional Peacekeeping initiative (SADC 2019). SADC maintains that its member states should be willing and prepared to contribute to peace operations initiated by the AU, providing military personnel and other pertinent logistics. In order to play this role and in particular insofar as regional peacekeeping initiatives are concerned, SADC initially created the SADC Brigade in 2008, which later evolved into SADC Standby Force as contained in SIPO II of 2010. The SADC Brigade or Standby Force was intended to be a regional component of the African Union's Standby Force (SADC 2019). As previously highlighted, the norm of non-indifference means that the AU would no longer tolerate violent conflicts in the African continent, and SADC's embrace of this norm necessarily requires it to develop a peace and security architecture that would enable it to contribute to the advancement of the norm. Accordingly, the willingness of SADC to contribute to conflict resolution interventions initiated by the AU, through among other instruments the SADC Standby Force, is indicative of its receptiveness towards the AU norm.

Institutionally, the African Standby Force is located within the Peace and Security Council (PSC) of the AU, the PSC being the "standing organ of the AU for the prevention, management and resolution of conflicts" (AU 2019). As such, its role is defined and demarcated by the PSC and owes its existence to the PSC. In turn the 2002 Protocol Relating to the Establishment of the Peace and Security Council stipulates the powers and responsibility of the PSC. Article 3 of the 2002 Protocol proclaims that the objectives of the PSC include, *inter alia*, the promotion of peace, security and stability in Africa. In pursuit of these objectives, Article 7 of the 2002 Protocol confers upon the PSC powers to "authorise the mounting and deployment of peace support missions", amongst others. Furthermore, the PSC created the ASF for the purpose of fulfilling its objectives; in fact, Article 13 of the 2002 Protocol envisions the establishment of such a continental military structure. Institutionally and organisationally, the relationship between these security mechanisms is fundamentally hierarchical in nature with the PSC at the top followed by the ASF and regional security initiatives including the SADC Standby Force.

The 2003 African Standby Force Policy Framework is an important guideline to understanding the role of the African Standby Force (ASF) and ultimately that of the SADC Standby Force in conflict and crisis situations. The ASF policy framework proffers a glance at the scope and purpose of the AFS, which it stipulates as entailing deployment in humanitarian situations to preserve, protect and save lives, and protection of the security of African people, amongst others (AU 2003:9). This commitment flows from the AU Constitutive Act (2000), which emphatically states that conflicts and violence are inevitably accompanied by extreme violence against vulnerable people and that the AU has a responsibility to initiate intervention in order to restore peace and security. Furthermore, the ASF policy framework also declares that the norm of non-indifference should be amongst the ideas that guide the ASF when considering conflicts and crises in the continent (AU 2003:12). Accordingly, the AU appears determined to transpose non-indifference from the realm of abstraction into that of practice, actualised through the ASF.

In terms of the role of the SADC Standby Force in support of the AU's norm of non-indifference and peace and security, SADC (2019) considers this to be derived from Article 13 of the Protocol on the Establishment of the Peace and Security Council of the AU. These include but not limited to deployment of SADC Standby Force in observation and monitoring missions; peace support missions; interventions in order to restore peace and security as requested by a member state and; action aimed preventing spread of conflict to neighbouring countries and deployment for peacekeeping purposes (SADC 2019). As per the provisions in its policy framework, the ASF is mandated to intervene in situations of armed conflict and in circumstances of natural and human induced disasters (AU 2003:14-18).

The conditions under which the SADC Standby Force (as described above) could be deployed fall under one or both of the requisite situations as listed in the preceding sentence. Regarding the first condition for intervention, the ASF policy framework also incorporates "protection of civilian populations and the facilitation of humanitarian assistance" (AU 2003:14). Concerning the second condition for intervention, the ASF together with the SADC Standby Force, can be deployed for

the purpose of tackling and/or alleviating drought, desertification, floods, landslides, earthquakes and volcanic activities, industrial hazards and pollution, disease and epidemics (AU 2003:14-18). Crucially, this indicates that non-indifference as a norm embraced by the AU and, by extension SADC, is not only invoked in phenomena characterised by violent conflict but also in situations of large-scale human suffering imposed by vicissitudes of nature.

Theoretically, for a relatively seamless military intervention to be initiated in instances of conflicts and/or natural disasters to be made, there must be a clear division of responsibility between the ASF and its regional brigades. The 2002 Protocol on the Establishment of the Peace and Security Council of the AU indeed foresaw the need for this and assigned to the PSC the responsibility of being the overall command nerve centre for any operations, with Article 13 of the protocol asserting that the Chairperson of the AU Commission must appoint a Special Representative and Force Commander who provide strategic direction for operation. Regarding the nature of the relationship between the ASF and regional brigades in a scenario where there is deployment, Solomon (2012:22-23) highlights that the Peace and Security Operations Division acts as strategic locus or headquarters while regional brigades become headquarters for operational purposes, being situated to the proximity of intervention operations. The PSC, which has 15 members each elected for a period varying between 3 and 10 years and drawn from different countries in Africa, is responsible for approving/mandating, in consultation with the AU Commission Chairperson, peace support missions (Cilliers 2008:2).

The aforesaid conceptualisation of the peace and security operations expected of the ASF and regional brigades create an impression that the PSC's interventions are largely effective and smooth sailing. Far from it; in a continent which is considered the poorest in the entire world resources are indeed scarce commodities. According to Cilliers (2008:6) the ASF is often unable to deploy timeously due to logistical constraints, thereby running the risk of conflicts or natural disasters prolonging unmitigated. Similarly, Bachmann (2011:28) argues that the ASF peace support operations are usually riddled with shortcomings of funding, poor conduct of

deployed personnel and political contestations over their legitimacy. The issue of misconduct by military operatives deployed in peace support operations such as peacekeeping is a particularly problematic one in Africa as there have been several cases (i.e. MINUSCA and MONUSCO) of soldiers on missions being accused of grave transgressions like rape and extrajudicial killings.

Moreover, Warner (2015:60) contends that while the AU and PSC could not arrive at decision concerning deployment of the ASF in Mali 2013 to repel the insurgency that was sweeping towards Bamako, France's successful intervention in the same situation through its Operation Serval was a major embarrassment for the continental body. The case of Mali highlights the concern that many hold regarding the ability of the ASF to deploy peace support operations in a manner that is timely, effective and responsive. Nonetheless and in summary, it is important to note that ASF is an important instrument of advancing the AU's norm of non-indifference and indeed the SADC Standby Force is equally a crucial mechanism located at a sub-regional level through which SADC can champion the norm of non-indifference.

7 Conclusion

This chapter undertook an exploration of SADC's worldview and posture on intervention in advancement of peace and security, juxtaposing this with AU's non-indifference norm. In order to achieve this, different forms of interventions were examined. It was established that military intervention involves the use of armed forces by a state against another state with or without concert and, that war is an ideal example of a military intervention. Furthermore, the instance of conventional warfare is rare in Africa, with the continent being characterised by intra-state conflicts instead. Humanitarian intervention entails the deployment of a multinational armed force the purpose of which is to protect people from harm, and in Africa the NATO-led humanitarian intervention in Libya that was authorised by the UNSC in 2011 remains the most recent example of humanitarian intervention in the continent.

The AU preferred a peaceful intervention that would have involved the use of diplomatic instruments such as mediation, dialogue and even embargoes in Libya,

but its voice was ignored by the West, which was determined to effect regime change in that African country. While the AU and SADC embrace the idea of humanitarian intervention in their various statutes, there are no indications of preparedness to endorse this in practice as they fear the inevitable destabilising effects of humanitarian intervention, amongst other drawbacks. However, the AU and SADC seem to have willingly endorsed peacekeeping as witnessed by their extensive participation in peacekeeping operations in Africa. In its pursuit of the realisation of the AU's norm of non-indifference, SADC is guided by its multiple instruments on peace and security including the Organ, SIPO II and the Defence Pact.

CHAPTER 5

ZIMBABWE AND THE EMERGENCE OF CONFLICT/CRISIS

1 Introduction

The Zimbabwe conflict/crisis, colonial and post-colonial in its origins, had both domestic and regional ramifications. In this chapter, the root causes of the conflict, historical, political, and economic, are examined. The Zimbabwe conflict/crisis that culminated in the conflict resolution intervention by the Southern African Development Community (SADC) in 2007 is complex, straddling political and economic dimensions in terms of its causes. Like most civilisations that were once colonised, Zimbabwe has a pre-colonial history of a well-organised state and society. The Zimbabwean people built some of the most remarkable civilisations in history like the Great Zimbabwe. In primeval Zimbabwe, land was an important source of sustenance, being commonly used for livestock grazing and subsistence farming.

However, colonial conquest in the second half of the 19th century by the British Empire disrupted the established mores and ways of life of Zimbabweans, with land dispossession being the most devastating result. The colonial project evolved into a white settler minority rule with the final outcome being entrenchment of political, social and economic marginalisation of the indigenous populations (Kaarsholm 1992:161). As the liberation warfare raged throughout the better part of the 20th century, the conflict parties, the Zimbabwe African National Union (ZANU) and Zimbabwe African People's Union (ZAPU), and the with settler government agreed to negotiations intervention in 1979 by Britain, and the negotiations were successfully completed at Lancaster House in London, resulting in the 1979 Lancaster House Agreement that ended white minority rule.

Following the Lancaster House peace settlement, the ZANU won the general election that was convened in 1980, marking an end to political dominance of whites in Zimbabwe. The post-independence administration was confronted with many challenges spanning economic and social difficulties; mainly characterised by the general exclusion of blacks from the economy. These were challenges bequeathed

on the new government by colonial rule and the white minority government, and as the Robert Mugabe government began to tackle these and many other legacies of the racist past, new challenges (such as political violence, intransigent colonial legacy and economic downfall) related primarily to the historical exclusion of blacks, emerged. This chapter explores these issues that have contributed to the emergence of conflict/crisis in Zimbabwe that led to a SADC intervention.

2 The colonial history of Zimbabwe

For contextualisation purposes, it is necessary to (briefly) explore the colonial history of Zimbabwe in order to properly locate the recent political and socioeconomic crises. Colonialism widely dispossessed Zimbabweans of their land and introduced exploitative relationships between citizens and the state, directly creating a deadly crisis that would only reach gestation a century later; in post-independence Zimbabwe land was a perennial cause of the conflict(s) that emerged. However, because the phenomenon of colonialism and white minority rule proceeded from the (misguided) paternalistic view that dominion over black societies was necessary for the latter's progress, it is also important to consider the pre-colonial travails of the civilisations that occupied the land known today as Zimbabwe.

2.1 The pre-colonial era

The commonplace view (that was) held by Europeans and was articulated by, amongst others, Professor Hugh Trevor-Roper of Oxford University, was that Africa (and indeed Zimbabwe) had no history before encounter with European explorers and conquerors (Mlambo 2014:9). Nothing could be further from the truth. African civilisations had much complex and sophisticated existence worthy of inclusion in the annals of history; however, because Zimbabwe is the subject of this research, the primary focus is on her. The history of the Zimbabwean people does not begin with colonisation of their territory by Europeans, the British Empire to be specific. There is the pre-colonial period, as the points made below attest, where indigenous people of Zimbabwe thrived in pastoral life, had solid cultural grounding and were famed for their artistry (Mlambo & Rafstopoulos 2008).

2.1.1 Zimbabwe's pre-colonial city states

The most remarkable historical fact that evinces existence of advanced civilisation of the people of Zimbabwe is the Mapungubwe city-state (1040-1270). The Mapungubwe city-state was located in the Shashe-Limpopo Basin and had a population of approximately 5000 (Mlambo 2014:15). The economy of Mapungubwe based as it was on cattle and agricultural farming, pottery, iron products, spinning and weaving of fabrics and ivory carvings, was arguably the most organised and sophisticated economy that could be found anywhere in the world at the time. Moreover, the people of Mapungubwe state mined gold, and processed this into aesthetic carvings (the famed golden rhino being one of the carvings) and jewellery. The products of Mapungubwe's industrious exploits were traded, particularly along the Indian Ocean with people of India and Persia. As part of ensuring effective trade, Mapungubwe had established and controlled trade routes that traversed the land of what subsequently became Zimbabwe through into the Indian Ocean where majority of commercial transactions occurred.

Nonetheless, as Mapungubwe lost its power towards the twilight of the twelfth century, due to factors such as droughts and movement of traders north of Zimbabwe to exploit the more endowed gold fields there, so rose the Great Zimbabwe city-state, itself located on what is known today as Masvingo Province, a land of the Shona people (Mlambo 2014:16-17). The hills of Great Zimbabwe (1270-1550) were reputed for their favourable soils, good rain seasons and environmental suitability necessary for thriving agricultural and livestock farming. Moreover, located as it was on the banks of the huge Save River which traverses the land through into the Indian Ocean, Great Zimbabwe was ideally positioned to exploit the transportation channels nature could offer, for trade purposes. The city-state had thorough control over trade routes in Sofala (located in present day Mozambique) and many other towns perched along the coastal shores, and therefore could easily move commodities, i.e. ivory, gold and iron, to many destinations including India, Arabia and China (Mlambo 2014:17).

Great Zimbabwe became a formidable civilisation with roughly 18 000 residents, with culture, religion and sophisticated residential structures (as per the age), the Great Enclosure made of stone carvings and to which the concept Zimbabwe (the meaning of which in English is 'houses of stone') emanated. Aside from Mapungubwe and Great Zimbabwe states, there were also Mutapa Empire (1450-1629), the Togwa state (1450-1685) and the Ndebele state that rose on the ashes of Togwa. Considered collectively, these city-states constitute solid and indisputable evidence of existence of a remarkably and exceptionally sophisticated civilisation. Thus the precolonial statebuilding process resulted in entities that, while not fulfilling the modern conception of statehood i.e. strong administrative capacity and military, were well organised and viable viable.

2.1.2 The Mfecane wars and the invasion of Zimbabwe

Just before the arrival of British expatriates in Zimbabwe, the country experienced another of its historically and politically significant moments; the invasion of southern parts of Zimbabwe by Chief Mzilikazi. This was the first *en masse* migration of outsiders into Zimbabwe's lands, and clearly it was not by people from outside of Africa. The tendency of mainstream scholarship on Zimbabwe has been to mute this part of history, rather focusing on the exploits of the Caucasians who conquered Zimbabwe in the second half of the 19th century. In fact, the arrival in 1838 of the Khumalo clan under the leadership of Mzilikazi in southern parts of Zimbabwe escaping the *Mfecane* wars of the 19th century in South Africa was/is a historically significant pre-colonial example of territorial invasion that transformed Zimbabwe. Palmer (1977:9) argues that the *Mfecane*, in broad terms,

...was a revolutionary movement, in terms of social organisation rather more than military techniques, and the various Nguni groups which moved through the present Mozambique, Rhodesia, Malawi, Tanzania and Zambia often wrought changes on the local peoples they encountered.

Evidently, according to Palmer, the black people who invaded several territories across southern Africa did not unleash violence on the people they encountered, at

least not in the proportion of what was to come with European colonisation at the tail end of the 19th century. Rather, the changes were more social involving addition of new ethnic identities or the rise of new ones. Indeed, this epochal inward migration of people to Zimbabwe would subsequently alter the national demography and identity of Zimbabwe, which prior had been dominated by the Shona people, themselves a complex cultural identity previously variously referred to as the 'vaNyai', 'Karanga', 'abeTshabi', or 'Hole' (Mlambo & Raftopoulos 2009:XIX-XX).

The time of *Mfecane* movements was characterised by “massive migrations, sporadic raids and battles and frequent periods of privation and famine for many people in the region [southern Africa]” (Eldredge 1992:1). It is clear from the above that the *Mfecane* resulted in revolutionary and far reaching social and political re-organisation in the southern Africa region. The nature of the wars was such that the weak had to either abandon their land and escape or be incorporated into the victorious nation – hence the wars were also territorial.

Indeed, Mzilikazi is said to have escaped with a large group of families from the Zulu nation inland and went up north, ending up in the southern part of Zimbabwe, thus establishing the Ndebele nation there with Bulawayo as its headquarters. They found scattered and sparsely distributed Shona populations whom they assimilated or pushed further north and east (Palmer 1977:9). What made the settlement of the Ndebele people and other African groups that moved from the southern tip of Africa into Zimbabwe crucial was that neither sought to enslave the indigenous Shona people.

Evidently, the recurrent motif is that of land as a site of nourishment and nurturing, and therefore a potent source of conflict and skirmishes between different people across varying centuries. Indeed, the existence and astounding success of Mapungubwe, Great Zimbabwe and Mutapa Empire was itself dependent on land and its ability to provide. Despite the migration of the Ndebele to the southern parts of Zimbabwe, adjacent to the Limpopo River separating South Africa with Zimbabwe, the Shona people remained the largest population in that country; by the 1970s the Shona made up approximately 80% of the entire population (Palmer 1977:5-6).

2.2 Zimbabwe and the colonial encounter

From the perspective of the colonisers, colonisation was merely a commercial adventure and as such, many African territories were partitioned without giving consideration to ethnic and cultural differences and/or similarities of the people, leading to emergence of what many consider an 'artificial' state, this condition itself being regarded as one of the primary causes of conflicts (particularly ethnic conflict) in post-colonial Africa (Anyu 2007:41-42). Furthermore, the subsequent colonial control of African territories and countries was first and foremost intended for the extraction of natural resources and also to create export markets for the benefit of European countries. As such, the nature of encounter between Africans and Europeans had not changed; in the past Africans were traded as slaves against their will.

In the late 1800s Zimbabwe was conquered by the British in a colonisation drive, with the country becoming a formal British colony in 1923 and renamed Southern Rhodesia (SA History 2019). The name 'Rhodesia' was in honour of Cecil John Rhodes (1853-1902), a British colonial figure a colonial capitalist who became extremely rich from colonial expeditions he undertook on behalf of the British colonial empire (Khombo 2019:402). Rhodes, a notable territorial conqueror, was the primary facilitator of the British Empire's territorial quest in the region.

Specifically, it is widely believed that colonisation of Zimbabwe by the British Empire actually began in 1890 with the so-called Pioneer Column, a group of English imperialist marauders who invaded territories up to Zambia (Mlambo 2014:30). Initially, Zimbabwe's conquest was undertaken under the guise of Rhodes' British South Africa Company, a mining behemoth of the time, in order to secure access to the mineral deposits suspected to exist there (Palmer 2011:2). Almost immediately, this evolved and morphed into total and complete colonisation.

Rhodes, just like his other prominent English counterparts, vehemently held the view that the British was a superior and finer civilisation and saw the extension of British rule to other parts of the worlds in paternalistic fashion, as Britain bringing progress

to humankind (Mlambo 2009:36). This worldview was the product of Victorianism in the 1800s and its belief in the exceptionalism of the white race, in particular the British people. Accordingly, the colonisation of Zimbabwe and its people took a paternalistic hue, portrayed as Britain saving the so-called uncivilised 'natives' from themselves. However, as the old age truism 'the devil is in the detail' would prove true in the aftermath of conquest, the subsequent nature and also relations between Britain and its colonies (including Zimbabwe) was such that the entire colonial rule was conceived and practised for the benefit (mainly economically) of Britain, the colonial empire.

Reflecting on the response of the indigenous Zimbabweans to colonisation of their land in 1897, Mungazi (1992:XVI) argues that they initially resisted domination which led to a war between 1896 to 1897, culminating in the defeat of Zimbabweans and formally ushering in British colonial rule. The war was also against the background of the 1880 widespread land grab by whites who had settled in Mashonaland (Palmer 1977:1). Clearly and at least in the case of Zimbabwe, colonisation was not an unconventional territorial expansion and political process that involved the consent of the colonised; rather it entailed domination by the coloniser and resistance by the colonised. In fact, colonisation in many other parts of the world and as undertaken by the British Empire, i.e. Africa, the American continents and Australasia, also assumed a similar trajectory and shape in that indigenous peoples had to be first defeated before submission to rule by outside powers (Ashkanasy, Earnshaw & Trevor-Roberts 2002:30).

For the greatest part of Zimbabwe's history, land has been a dominant motif. This is not surprising given that land is an important (albeit scarce) resource necessary of any civilisation to thrive. Briassoulis (2000:8) argues that:

the term *land* is used in a comprehensive, integrating sense.....to refer to a wide array of natural resource attributes in a profile from the atmosphere above the surface down to some meters below the land surface. The main natural resource attributes are climate, land form, soil, vegetation, fauna and water.

Accordingly, land is a fundamental basic unit of the concept nation-state and has a socio-political meaning, without which the very idea of sovereign nation would not be applicable. Second, land has a social-cultural significance in that it is tied to people's identity, constituting as it does birthright from which a given people derive and validate their identity. Finally, Briassoulis's definition of land also regards land as possessing a socioeconomic economic meaning; it is a mode through which people undertake productivity related activities, i.e. farming and production of other pertinent commodities (i.e. mining of metals). Indeed Zimbabwe's vast lands are regarded as impressively endowed, with vast deposits of commercially valuable natural resources such as diamonds and platinum; and its soils exceedingly arable and fertile, a necessary requirement for successful farming, both commercial and subsistence (Chigwenya & Manatsa 2007:103-107).

Instead of accommodating the conquered as equal citizens under their rule, the colonisation process systematically marginalised and turned erstwhile self-dependent people into servants of whites generally (Hill & Katarere 2002:255). This changed the relationship that Zimbabweans had with their motherland before colonial encounter; while previously their country was testament of their freedom and self-determination, it had turned into a site oppression and dislocation. The British descendents that moved to Zimbabwe were handed parcels of land, land that previously belonged to the indigenous peoples (Gwekwerere, Mutasa & Chitofiri 2018:8).

When the colonisation project was complete, policies were introduced to strengthen the control white settlers had on Zimbabwe's land. For example, policy measures such as ones subsumed under the Native Reserve, and years of hastened squeeze, by 1914 white settlers (roughly 3% of the total population then) controlled 28.45 million hectares of land while Africans (approximately 75% of the population) had access to 9.76 million hectares (Mlambo 2014:60). Furthermore, whites' grab and control of Zimbabwean land was reinforced with the introduction of the Land Apportionment Act of 1930, a legislation that further racialised land ownership and separate development by preventing Africans from acquiring land in certain white

areas. Broadly, measures such as these were first port of call for almost all white settler states in southern Africa; South Africa had similar acts such as the 1913 Land Act and Group Areas Act of 1950 whose purpose was racial stratification and elevation of white supremacist agenda. This problematic, intentionally engineered land distribution would later produce a self-sustaining pattern of land ownership whereby whites had control of majority of the land. As consequence of this, land in post-independence Zimbabwe became a dominant cause and driver of conflict.

3 The 1965 declaration of independence

In the 1950s the white settlers who were ruling Rhodesia-Zimbabwe on behalf of the British Empire and under the auspices of the United Federal Party (UFP), began to negotiate with Britain for independence of the country (Olsson 2011:19-22). As an imperial power under which Rhodesia-Zimbabwe fell, Britain insisted on extension of some degree of electoral rights to the black population, however, both the representatives of the Rhodesia-Zimbabwe Government and the leaders of the liberation struggle could not reach a compromise that would secure independence from Britain. The former preferred that black people be given voting rights that would, while allowing them to partake in the electoral processes, limit their ability to influence the political direction of the country. The latter strongly held the view that anything short of introduction of electoral democracy and universal franchise that would extend to all citizens regardless of race was unacceptable and, so the negotiations deadlocked. In the midst of the political gridlock, the hard-line white right-wingers, mostly under the Rhodesian Front Party (RFP), who were opposed to granting of electoral rights to black people, gained prominence in white constituencies and unsurprisingly won the 1962 whites only general elections. The rise of the RFP and its hardcore white supremacist leaders, such as Winston Field and Ian Smith, was a significant blow to any hope of peaceful transition to majority rule in Rhodesia-Zimbabwe.

After Field failed to secure independence from Britain, in April 1964 he stepped down as Prime Minister (Coggins 2006:364), thus paving the way for his deputy, Smith, to emerge as the successor. Smith, an admirer of the repressive apartheid system

down south of Rhodesia-Zimbabwe across the Limpopo River, was convinced that his country should acquire independence under exclusive rule of whites. Consistent with this conviction, the RFP campaigned on the issues of independence from the British Empire and white rule in the 1965 elections and it won the elections convincingly. Dismayed by motherland Britain's insistence on a roadmap that would ensure transference of power to the majority, and emboldened by his party's resounding electoral victory, Smith and his government promulgated the Unilateral Declaration of Independence in 1965. The Unilateral Declaration of Independence proclaimed that Rhodesia-Zimbabwe was to immediately become an independent sovereign state and a self-governing entity, effectively cutting the ties that the country had with Britain.

The white minority ruling Rhodesia-Zimbabwe were confounded by Britain's determination to ensure a political transition to majority, not least because for more than half a century the Empire had no problem with Rhodesia-Zimbabwe being controlled by the white settlers. However, several reasons can be advanced to explain this change in Britain's position. First and internationally, new norms were emerging that discouraged gross exploitation and subjugation of people because of their cultural, ethnic or racial identity. Indeed Jackson (1990:16) argues that in the Cold War era "the international environment was receptive to anti-colonial ideologies which were reinforced by domestic ideologies promoting enfranchisement of racial and ethnic minorities in Western states". The anti-colonial sentiments found their sharpest expression in the UN General Assembly, flowing of course from the UN Charter which encouraged self-determination. Under these circumstances, colonialism became untenable. As indicated in Chapter Two, norms are powerful standards of behaviour that states within the international system are expected to uphold.

Moreover, as it had done elsewhere, Britain felt an obligation to ensure transference of political power to local nationalist elites as it folded its long, tumultuous imperial-colonial rule. Second and related to the first point, across the African continent agitation for decolonisation and elimination of white minority rule was at its most

height in the 1960s, with numerous former British colonies already granted their independence, i.e. Ghana in 1957 and Kenya in 1963. In addition, the Organisation of African Unity (OAU), a legitimate umbrella multilateral intergovernmental organisation for the newly independent African states, used diplomatic channels, i.e. the UN General Assembly, to pressure colonial powers to withdraw from the continent and transfer power to the indigenous populations (Strang 1992:369-370). Third, the decolonisation wave in Africa proceeded from the notions of rights to statehood, national self-determination and sovereign independence, and the states that Britain created and/or fostered in its African territories were contradictory to these principles, particularly in Rhodesia-Zimbabwe where these notions were completely racialised. Therefore, it was not surprising that the core British demand for granting of independence to Rhodesia-Zimbabwe was that an agreement or a deal, containing some guidelines that would ensure transition to a multiracial democracy and agreed to by all the parties involved in the political conflict, be struck first.

Accordingly, it was not unexpected that Britain led the charge for sanctions to be levied against Rhodesia-Zimbabwe's white minority government when the latter refused to agree to any measures that would result in majority rule, instead unilaterally declaring independence from Britain on 11 November 1965 (Fenwick 1967:753). In its agitations for independence from the British Empire, the white minority government of Rhodesia-Zimbabwe was largely inspired by neighbouring Union of South Africa which had denounced political dominion of Queen Elizabeth II in a whites-only referendum of 1960 and became a republic on 31 May 1961 (Hayes 2010:454). The British reacted to this development by imposing a number of economic sanctions against Rhodesia-Zimbabwe including freezing of Zimbabwean assets, suspension of the country from the Sterling Area, abolishing its tobacco and other imports to Britain (Mlambo, 2014:152). For its part, the United Nations Security Council (UNSC) imposed international ban on a range of Zimbabwean goods encompassing armaments and agricultural products. However, the sanctions were ineffective, as a number of key economies continued to trade with Rhodesia-Zimbabwe, i.e. Soviet Union, Japan, South Africa, Malawi, and almost the entire

western Europe; even British companies prolonged their trade relations with the country despite the sanctions.

This was a turning point for nationalist liberation movements like ZANU and ZAPU in relation to dismantlement of the white racist regime. Bewildered by the ineffective intervention of the international society, the formations through their military wings, ZANLA and ZIPRA respectively, intensified guerrilla warfare against the Smith government (Alexander & McGregor 2004:80; Waldman 1975:5). Amongst the guerrilla tactics used by Zimbabwe African National Liberation Army (ZANLA) and Zimbabwe People's Revolutionary Army (ZIPRA) were hit and run attacks on 'soft' yet important targets such as white farms and economic infrastructure (Brownell, 2011:5-6). Years later, regional dynamics changed and tilted the balance in the warfare in favour of the liberation movements; in 1975 Mozambique won independence from Portugal and FRELIMO swept to power (Thompson 2013:39). Strategically, this was significant: guerrilla operatives easily accessed sanctuaries from within Mozambique and, fundamentally, they were able to launch attacks from the eastern-southern flank (Alexander & McGregor 2004:90). This was in addition to their ability to assail from the western-northern flank, using Zambia as a springboard (2004:86).

With South Africa, Rhodesia-Zimbabwe's only ally in southern Africa, fighting its own war with the African National Congress (ANC) and also militarily engaged in the Angolan War from 1976-, Rhodesia's ability to thwart the insurgency became substantially limited. Clearly, the 1976- period was strategically crucial in terms of tipping the battle in favour of the liberation movements; while Rhodesia-Zimbabwe's only militarily serious confederate in the region was fighting Cuban backed People's Movement for the Liberation of Angola (MPLA) in Angola (Minter 1994:20), ZANU and ZAPU made inroads in exerting military pressure that forced Smith's government into negotiations. In summary, the liberation war raged through the 1960s and 1970s, with ZANLA and ZIPRA carrying out raids, until the Rhodesia-Zimbabwe Government, ZANU and ZAPU started negotiations in 1979 with Britain as a mediator, under the Lancaster House Conference, in London. The conference

proved to be a decisive intervention in terms of shaping the political future of Rhodesia-Zimbabwe.

4 The 1979 Rhodesia/Zimbabwe political settlement

Obviously, an exploration of the circumstances and developments contributory to the emergence of a conflict/political crisis in modern day Zimbabwe warrants reference to events and processes which occurred much earlier; the previous sections have done this. Similarly, in this section the epochal and seminal 1979 Lancaster House Conference is examined with the same objective.

In August 1979 the Meeting of Commonwealth Heads of Governments in Lusaka (Zambia) resolved to extend an invitation to the protagonist parties involved in the Rhodesia-Zimbabwe conflict (ZANU and ZAPU, and the white minority government) with a view to initiation of negotiations, presided over by Britain, and aimed at developing an independence constitution the terms of which will facilitate transition to democracy and granting of legal independence (Commonwealth *Communiqué* 1979; Lancaster House Agreement 1979). All the parties heeded the call and subsequently the Lancaster House Conference was convened from 10 September 1979 to 15 December 1979, in the British capital of London. The primary parties involved were Lord Carrington and his delegation, Britain's Secretary of State for Foreign and Commonwealth Affairs, who acted as chairperson of the Conference and represented his country's position on the matter. The others were ZAPU's Robert Mugabe and ZANU's Joshua Nkomo and their delegation representing their respective liberation movements, and Ian Smith and Bishop Abel Muzorewa and their deputation who represented the Rhodesia-Zimbabwe Government.

The British Government had earlier developed a constitution outline on the basis of which it will grant what it considered legal independence to Rhodesia-Zimbabwe; after the Unilateral Declaration of Independence in 1965 Britain had imposed diplomatic and economic sanctions on Rhodesia-Zimbabwe as it regarded the move as illegal (Central Intelligence Agency 2002:1-3). So, the agreement to the Independence Constitution would return Rhodesia-Zimbabwe to legality, and

consequently remove the 'pariah' status it had. The key aspects of the constitution outline as formulated by Britain were: a ceasefire clause that committed ZANLA and ZIPRA to halt all guerrilla actions in Rhodesia-Zimbabwe and concurrently for the Rhodesia-Zimbabwe Government to cease its cross-border military raids against liberation fighters, as contained in Annexure E of the Lancaster House Agreement (1979). The ceasefire was intended to create an enabling environment for a free and fair election to be convened. To this effect, a Ceasefire Commission comprised of commanders of the militaries of all the parties in the conflict was established to implement and monitor the cessation of violence. Operationilisation of this provision entailed creation of a task force provided with all necessary equipment i.e. aircrafts and arms to traverse the length and breadth of Rhodesia in order to ensure none of the parties transgressed the ceasefire.

Secondly, the parties in the Rhodesia-Zimbabwe conflict were required to reach an agreement on the basis of which legal independence would be granted to their country (Lancaster House Agreement 1979). The British Government held the position that above everything else, Rhodesia-Zimbabwe would only be granted independence if transition to majority rule is guaranteed by the conflict parties. However, in the same breath the British were unwavering in their resolve that the Independence Constitution must incorporate safeguards against 'retrogressive' constitutional changes; the nature of the constitutional provisions on the kind of representative democracy in relation to voting procedure and subsequent representation of citizens in legislative bodies gave white people powers to veto substantial changes to the constitution. Thirdly, on the basis of the constitutional outline as developed and drafted by the British Government, the parties were to formulate a final constitution, an Independence Constitution, under which Rhodesia-Zimbabwe's independence would be formally granted and recognised by Britain. This was the most fundamentally important dimension of Britain's mediation intervention in Rhodesia; the constitution was to decide the nature and scope of powers that the post-independence executive and legislature would have, albeit for certain period, insofar as transforming Rhodesia-Zimbabwe's racially skewed socioeconomic patterns.

As the debate and negotiations ensued, Nkomo representing the Patriotic Front (PF) the two liberation movements (ZANU and ZAPU), argued that Zimbabwe must be a free and independent, majority-ruled sovereign republic (Lancaster House Agreement 1979). For the PF delegation, sovereignty and government based on the will of the majority was the only satisfactory outcome, anything less than that would be unacceptable. Furthermore, Nkomo also contended that interim measures such as an inclusive security sector must be taken to oversee the transition into elections. Although initially suspicious of the intentions of Britain, the PF viewed the negotiations as serving two primary objectives: (a) as an ideal medium through which the RF could, along with Britain, pressure the Rhodesia-Zimbabwe Government to end white minority rule and agree to extension of voting rights to black people and; (b) ensure that Britain grants legal independence to and recognise a free Rhodesia-Zimbabwe as a sovereign republic.

However, the negotiations were never seamless or more precisely, fundamental disagreement between the two conflict parties on the nature of the prevailing political system in Rhodesia-Zimbabwe initially seemed insurmountable. Muzorewa, on behalf of the Rhodesia-Zimbabwe Government, contended that his country was in fact a free land, with no racial discrimination, predicating his contention on the dubious arrangement that existed whereby the supposed representatives of blacks were incorporated into government and legislature, an inclusion that was anything but ceremonial. Accordingly, he posited that because universal suffrage was already in existence in his country, contrary to Britain's and PF's position, a legal independence must be granted by Rhodesia-Zimbabwe's former colonial power (Lancaster House Agreement, 1979). In addition, he argued for the lifting of economic sanctions that had been levied by Britain specifically and the international society in general in the wake of the 1965 Unilateral Declaration of Independence. In consideration of the aforesaid, for the Rhodesia-Zimbabwe Government, the Lancaster House Conference was to serve two purposes, namely; (a) granting of legal independence to Rhodesia-Zimbabwe and; (b) demand withdrawal of economic sanctions against Rhodesia.

After painstaking negotiations in the months of September, October, November through to December in 1979, the parties finally reached a settlement, which entailed acceptance of the fundamental principle, i.e. acceptance of transition to a majoritarian system upon which legal independence would be granted. In terms of the Independence Constitution, and as per Annexure C of the Lancaster House Agreement (1979) on the Independence Constitution, Zimbabwe was to be a sovereign republic. As it is the universal practice, the Independence Constitution extended rights of citizenship to all qualifying persons, and guaranteeing of freedoms and rights to all citizens (including right to life and property rights). Moreover, and in terms the nature of political system, a democratic Rhodesia-Zimbabwe was to have a President, elected by Parliament and whose tenure would run for a period of six years. As the head of Executive, the President will also be the Head of State and Commander-in-Chief of the Defence Force. In terms of composition of the Executive, the President will be the head and in turn constitutionally empowered to appoint a Prime Minister (the first appointment) and on the latter's council appoint Ministers, and considered collectively they will constitute the Executive or the Executive Council (Lancaster House Agreement 1979).

In relation to Parliament, the Independence Constitution provided that it comprised of a Senate of 40 Members, 10 of which are to be elected by an electoral college made up of Members of the House of Assembly and on a White Voters Roll and a House of Assembly of 100 elected Members, 20 of which were to be elected through a White Voters Roll and the other 80 elected via Common Voters Roll (Lancaster House Agreement 1979). Thus the voting rights embedded in the Independence Constitution were asymmetric; whites were more empowered to influence the political direction of Zimbabwe compared to blacks.

Problematically, the Independence Constitution proclaimed that the clause on the White Voters Roll would be valid for a period of 7 years, unless all the Members of the House of Assembly unanimously vote to abolish it; 7 years is of course very long considering the racial redress an independent Rhodesia-Zimbabwe would require to undertake. Even more mischievously, the Declaration of Rights section in the

constitution would be valid for a period of 10 years; any attempt to amend the provisions therein contained must be unanimous (Lancaster House Agreement 1979). The Declaration of Rights is the part of the Independence Constitution that extended protection across a range of liberties including property rights. As previously indicated, blacks were dispossessed of their land by the phenomena of initially, colonialism and subsequently, white minority rule. In consideration of the aforesaid two constitutional provisions, a post-independence government would find it difficult, if not impossible, to initiate a meaningful land reform process, for at least a period of 10 years. In summary, the conflict parties agreed to the Independence Constitution, despite the fundamental fault lines mentioned in this section, thus paving the way for an all-race general election to be convened in 1980.

5 The state and the ZANU-PF rule

Following the successful negotiations of the prior year, in February 1980 Rhodesia-Zimbabwe (hereafter Zimbabwe) convened its inaugural all-race and constitutionally democratic elections. Expectedly, the vastly popular ZANU garnered 57 of the 100 seats in the House of Assembly. The ZANU formed a Government of National Unity (GNU) that included ZAPU members and leaders of the former white minority governments such as General Peter Walls and Denis Norman as an act of reconciliation (Mlambo, 2014:195). Initially, the GNU seemed to progress smoothly, until the emergence of friction between the leaders of the liberation struggle, Mugabe and Nkomo. Although Mugabe's ZANU had emerged victorious in the 1980 elections, Nkomo remained a popular figure, particularly in Matabeleland. As the political tension between the two gained steam in the early 1980s, the GNU was to be torn asunder, with Nkomo demoted from his position as minister of home affairs and the outbreak of the state-sponsored violence (Gukurahundi) in the mainly Ndebele speaking region of Matabeleland. In this section, focus is given to the nature of ZANU (PF) rule and the challenges that emerged broadly and contributed to emergence of a conflict/crisis (both political and economic) in post-independence Zimbabwe.

5.1 Early indications of political intolerance: the Gukurahundi massacre

According to Mlambo (2009:196), symptoms that a fratricidal conflict could emerge became apparent much earlier, especially between 1980 and 1981, when former ZANLA and ZIPRA combatants awaiting integration into the new national defence force had sporadic violent exchanges in Bulawayo. As the stand-off continued, tensions flared even further with discovery of arms caches in properties belonging to ZAPU in 1982, which led to accusations that Nkomo was conspiring to overthrow the government. In the midst of the controversy, Nkomo, along with other members of his party, was summarily dismissed by Mugabe from the GNU in the same year, sparking a serious dissension among ZAPU members. A small group of dissidents which the Government alleged was affiliated to ZAPU, although this was never established, retreated to the bush and prepared to wage guerrilla warfare against Mugabe and his government. In response, the Government unleashed the Fifth Brigade, a group of soldiers trained in Korea, in Matabeleland in January of 1983.

The consequences of this decision were devastating to a country that has just attained its liberation from white minority rule. The Fifth Brigade, under the political supervision of Emerson Mnangagwa, the Minister of Intelligence and the security cluster of Government, did not distinguish between combatants and non-combatants. Instead they meted out the most brutal indiscriminate violence, killing and/or maiming anyone unfortunate to cross their path. During its course, the conflict took a seemingly genocidal turn in that an overwhelming number of Ndebele speaking people were killed. By the end of the conflict in 1987, some 20 000 odd people had been massacred, and many more chronically injured (VOA 2018). The violence was only de-escalated and terminated with the absorption of Nkomo's ZAPU into the ZANU – resulting in the formation of the Zimbabwe African National Union-Patriotic Front (ZANU-PF), thus marking the beginning of a one-party dominance system in Zimbabwe (Makumbe & Sithole 1997:128).

The Gukurahundi massacre was primarily characterised by the elimination of political rivals of the ruling ZANU. This was against the backdrop of a discourse that emerged within ZANU which framed ZAPU and its leaders as 'sellouts' and 'counter-

revolutionaries' (Ndlovu-Gatsheni 2012:12). As already highlighted, Matabeleland was the political stronghold of the opposition party (ZAPU). The state security apparatus was then used to eliminate or neutralise members of the opposition and thereby consolidate the political and electoral dominance of ZANU. This strategy of using violence to achieve political ends became institutionalised and entrenched in Zimbabwe, and defined subsequent struggles for state power, as will be highlighted in the later parts of this study.

5.2 The 1990s and the general decline

Aside from the 1983-1987 Gukurahundi political violence, Zimbabwe initially enjoyed a stable and prosperous period (particularly for the largest part of the 1990s), with the economy performing positively and political freedoms upheld. Indeed, at independence Zimbabwe had an advanced and substantially diversified economy anchored on agriculture, agro-processing, manufacturing and mining. For instance, Mlambo (2014:213) points out that from 1985 to 1991 the Gross Domestic Product (GDP) growth was averaging 5.3%. This was a positive growth rate, and is often considered sufficient to ensure a country develops economically to a point where it drastically eliminates or mitigates poverty and unemployment.

However, independent Zimbabwe could not escape the warped legacy of colonialism and white minority rule; the concentration of socioeconomic power in the hands of the minority. Indeed, Muzondidya (2009:167) observes that challenges in post-independence Zimbabwe encompassed “post-war reconstruction, restructuring the inherited political economy – especially redressing its racialised imbalances – democratising the inherited authoritarian colonial state and its institutions”. As a general rule, it seems, nearly all countries that emerge from the above-mentioned experience (at least) in southern Africa, i.e. Namibia and South Africa, suffered the same fate; albeit both Namibia and South Africa acquired their majority rule much later than Zimbabwe. Problematically, in independent Zimbabwe, black people remained largely excluded from access to productive land, decent housing and basic social services (Kamidza & Mazingi 2011:328), which essentially meant that their

'liberation' was more political, underpinned as it was by voting rights, than economical.

The democratic Government began the 1980s through to early 1990s by introducing programmes targeted at empowerment of blacks. These included resettlement of poor peasants from overpopulated communal land and also revival of small-scale rural farming – with the effect of easing congestion and dramatic increase in the profitability of maize farming by rural black smallholder farmers (Muzondidya 2009:167); the Transitional National Development Plan (1982-1985); and the First Five-Year National Development Plan (1986-1990) (Kamidza & Mazingi 2011:330). In addition, blacks were fast-tracked into senior positions in the public sector as part of 'Africanisation' of the service. Notwithstanding government policy interventions like those mentioned above, Zimbabwe's economy remained firmly in the hands of whites, which meant that the colonial and racialised structure of the economy continued intact. For instance, commercial white farmers continued their monopoly over the agricultural sector (Moyo 2000:9), aided mostly by their control of vast prime agricultural land, and the Government's black empowerment programmes were only able to make impact in the public sector, with the private sector continuing to be dominated by whites. This period was also a period when the one-party tendencies began to appear, as the Government forced through its reform programme.

Expectedly, the intransigent general socioeconomic exclusion of blacks and privilege of whites constituted a potential flashpoint, a possible source of discontent. Nonetheless, the purpose of this section is to examine those decisive developments and events that have contributed to decline of Zimbabwe and the simultaneous emergence of a manifest conflict, that ultimately resulted in the Southern African Development Community (SADC) mediation intervention in order to mitigate/de-escalate the conflict, despite Zimbabwe being a sovereign republic.

5.2.1 The brewing discontent

As a starting point, a background to the circumstances and developments leading to the Constitution Referendum of 2000 is necessary for contextualisation purposes.

Towards the end of the 20th century, there appeared to be growing dissatisfaction with the ZANU-PF government's management of the economy and political intolerance. Various factors and/or decisions have been cited as having made a decisive contribution to Zimbabwe's economic decline and the corresponding rise in political violence. First, the Economic Structural Adjustment Program (ESAP), or more aptly, deep public expenditure reduction, removal of subsidies and broad price deregulation on basic consumer products of the early 1990s introduced by the World Bank (WB) and International Monetary Fund (IMF) respectively had a negative effect on Zimbabwe's economy (Muzondidya 2009:188). The ESAP or 'Washington Consensus' was based on economic liberal policies and development strategies – discernable by widespread trade liberalisation and the 'rolling back of the state' (Balaam & Dillman 2011:173). Tellingly, unemployed rose from 32.2% in 1990 to 44% in 1993. In addition, as cheap imports flooded the Zimbabwean markets, local manufacturing declined markedly, (i.e. manufacturing's contribution to GDP reduced from a 27% high in 1991 to 19.2% in 1995), plunging the economy further deep into crisis (Mlambo 2014:216).

Second, the Government took a decision in 1997 to extend generous rewards to war veterans, that included the payment of 50 000 Zimbabwe Dollar to roughly 70 000 liberation fighters, grants for tertiary education as well as health insurance packages to the veterans and their families, exacerbating the already poor Government finances (Mlambo 2014:2020). Third, in 1998 the Zimbabwe Government authorised a military intervention in the Democratic Republic of Congo (DRC) in order to prop up the government of Laurent Kabila which was facing a rebellion by Tutsi insurgents backed by Rwanda, Uganda and Burundi, and this proved to be a financially costly military operation (Dube & Midgley 2008:10; Mlambo 2014:2020).

Against the backdrop of these challenges, public sentiment towards the Government became pessimistic. As the cost of living deteriorated and worsened, with widespread increase in prices of household goods such as foodstuff (Le Roux & Mapunga 2016:99-100), people took to the streets in large numbers to protest against ZANU-PF's rule. The Zimbabwe Congress of Trade Unions (ZCTU) which

was closer to the ZANU-PF and by extension the Government began to distance itself from the state. As economic hardships hardened, trade union leaders organised a series of strikes against the government. The largest protest against government by far was the 1996 public sector strike which involved nurses, doctors, teachers and many other government workers, with widespread support by civil society (Muzondidya 2009:194). Furthermore, as ZCTU's ability to mobilise and execute large strikes strengthened it grew more powerful, to the dislike of the Government. Even worse, the Government's problems were not only limited to workers who were challenging its authority, but also the unemployed and students as they too agitated for improvement on the socioeconomic front.

5.2.2 The 2000 Constitution Referendum

In light of the myriad challenges, problems that included high cost of living, economic health, deteriorating public infrastructure, and growing state intolerance, that confronted Zimbabwe in the 1990s, the Zimbabwe Council of Churches along with a variety of formations such as those labour unions, media establishments, academic institutions, business and many others launched the National Constitutional Assembly (NCA) in 1998 (Raftopoulos 2009:206). Amongst its objectives, the NCA sought to educate the public on the constitution, identification of limitations in the constitution and subsequently organise public debates on constitutional reform; champion the idea of broad-based participation and; foster consultation in the constitution making process (2008:206). Accordingly, by not only expressing dissatisfaction with the prevailing constitutional dispensation but also pursuing constitutional reforms independent of the dictates of the ruling party, the NCA was the most significant political opposition yet to ZANU-PF rule since the exit of ZAPU in 1987 from the scene of opposition politics. Rattled by the NCA initiative and fearing that it will not be able to influence agenda in relation to the raging constitution reform debate, the Mugabe government countered by establishing a Constitutional Convention in 1999 chaired by his ally Judge Godfrey Chidyausiku (Hatchard 2001:210-211). Previously, the ruling elites monopolised and dominated any debate in relation to amendment of the constitution; as such, the NCA was an anomaly and

an unusual phenomenon, not least to the high-ranking officials of the governing party.

Nonetheless, while the constitution referendum of the year 2000 was to be the most far reaching constitutional reform, it was not the first amendment of the constitution in the post-independence period. First, the constitution was amended in 1987 (Amendment Act No. 7 of 1987) in order to outlaw the parliamentary system of a ceremonial president and prime minister, and introduce a system whereby substantive powers are concentrated in the executive office of the president. In the same year, the 7-year moratorium placed on the Senate and House of Assembly by the Independence Constitution which made provisions for a separate White Voters Roll, creating a bicameral system, had lapsed. In light of this, the ZANU-PF government advanced a motion in the House Assembly to repeal this law (Amendment Act No. 6 of 1978) and the motion was successfully carried, thus heralding a unicameral system with voters roll no longer separated in terms of race.

Lastly, as previously highlighted the Independence Constitution also placed a moratorium on the Declaration of Rights for a period of 10 years which safeguarded a variety of individual liberties, including property rights. With the expiration of this constitutional provision in 1990, the House of Assembly repealed the powers of the judiciary, through Amendment No. 11 Act 30 of 1990, in relation to determination of the price Government would pay as compensation to people affected by land reform. These were some of the fundamental amendments made to the constitution in the years 1987 to 1990, that gradually but steadily chipped away at some of the problematic dimensions of the Lancaster House Agreement constitution.

As previously indicated, the Constitutional Convention was chaired by Judge Godfrey Chidyausiku appointed by the President. Mugabe pushed for a clause that would allow for expropriation of land without compensation to be included in the agenda of the constitutional reform debate (Masiwa 2004:136-138). This was not surprising as a few years prior, in fact in 1997, Britain renounced its historical commitment to finance land reform in Zimbabwe; as already highlighted the demographics of land ownership remained the same as in the colonial era, with

whites possessing the most land. During the Lancaster House negotiations in 1979, Britain (under Margaret Thatcher) together with the United States (under Jimmy Carter) committed to provide money that a democratic government of Zimbabwe would use to pay white land owners as compensation for redistributing of their land. So, Britain's decision to renege on this undertaking and that country's changed diplomatic posture towards the Zimbabwe Government (Britain and the West broadly had become more critical of Mugabe's presidency) motivated Mugabe to insist on a constitutional clause that would permit the state to confiscate white land (Claxton 2003:542-543).

As the constitutional reform process was hijacked and its outcomes decided, the formations that had united under the banner of NCA launched the Movement for Democratic Change (MDC) in September of 1999, in order, initially, to oppose the Draft Constitution and subsequently, challenge for state power. In the period leading to the Constitution Referendum, the MDC campaigned widely and vigorously against the Draft Constitution, particularly the clause that provided for state confiscation of private land (Kriger 2005:26). In the month of February 2000, Zimbabweans took to the polls to vote on the Draft Constitution, and 53.15% voted against and 44.05% in favour (Sithole 2001:164). This meant that the MDC had successfully campaigned for rejection of the referendum which meant an indirect electoral victory for the party, to the chagrin of the ZANU-PF. Reeling from its first electoral defeat, ZANU-PF began a reign of terror, sponsoring groups such as the Zimbabwe National Liberation War Veterans Association (ZNLWVA) and the party's youth wing to perpetrate violence against individuals and organisations aligned or perceived to be aligned with the MDC. In summary, the constitution referendum, the processes related to and as part of the constitution making initiative, the ideas that emerged during this process and the outcome of the process gave rise to a new opposition party in Zimbabwe, the MDC, which presented a serious challenge to the political hegemony and electoral dominance of the liberation movement turned governing party, the ZANU-PF.

5.2.3 The rise of the MDC and ZANU-PF's response

Since the merging of ZAPU with ZANU-PF in 1987 in the aftermath of Gukurahundi, Zimbabwe has been deprived of a strong opposition party with potential to undo the one-party dominance system that have defined that country's party politics. For a period of over a decade, between 1987 and 2000 specifically, ZANU-PF dominated all political discourse in Zimbabwe (Sithole 2001:161). In light of this, the most significant question is what are the circumstances that led to an entrance of new serious political force in Zimbabwe? As already indicated, the sharp worsening and near-collapse of Zimbabwe's socioeconomic wellbeing that escalated in the 1990s was a seismic process that ultimately, in an indirect manner, produced a political alternative to the ZANU-PF. Directly, the constitutional reform agitations and eventual establishment of the Constitution Convention in 1999 by the Government was responsible for the emergence of the MDC.

Furthermore, and on its origin, the MDC was political movement that had its roots in grassroots mobilisation, labour unions, activism by intellectuals and civil society. As such, it was a 'broad church' of sort, encompassing people or members who, though coming from disparate backgrounds, were united by their common dissatisfaction with ZANU-PF's rule. However, in terms of leadership of the movement, the rise of ZCTU's Morgan Tsvangirai to become the leader of MDC was an indication that the labour formations managed to wrestle strategic control over the then recently emerged political party.

After convincingly handing the ZANU-PF its first post white minority rule defeat, the MDC partook in the 2000 Parliamentary Election, and managed to attain 57 of the 120 of the contested seats in the House of Assembly, which was impressive for a party that had just been formed; and the ZANU-PF attained 62 seats (Zimbabwe Parliament 2000). Expectedly, the ZANU-PF was gutted by such development and became even more politically intolerant, as witnessed by continued harassment of supporters of the opposition party. Also, as a political strategy to counter and delegitimize the MDC, the Government created a discourse which essentially painted

the MDC as a project of Western imperial powers, in particular Britain and the United States, and its leaders as stooges of these countries (Makaye 2014:40).

In 2005, Zimbabwe had another Parliamentary Election, again with the ZANU-PF and MDC being the major parties in the election. Fearing that its hold on state power had increasingly become tenuous, the ZANU-PF government maintained its political strategy centred on abuse of the party's opponents in the build-up to the election. Before the 2005 Election, the Government introduced Operation Murambatsvina, a policy intervention which was supposedly intended to 'clean-up' urban spaces by demolition informal settlements. Operation Murambatsvina saw an estimated 700 000 people rendered homeless in its aftermath, as their shacks, almost exclusively concentrated in the outskirts of major cities like Harare and Bulawayo (Mlambo 2014:234-235). The urban periphery was ZANU-PF's political nemesis and MDC's strongest constituency. As such, the commonplace interpretation of Operation Murambatsvina was that it was nothing but a politically driven human rights violation targeted at supposed supporters of the ZANU-PF's political foe, the MDC (Bratton & Masunungure 2006:23-26). Electorally, this strategy appears to have worked as ZANU-PF regained seats that it lost in the previous election; while in 2000 it garnered 62 seats in the national assembly, this improved to 78 seats in the 2005 election, indeed a significant improvement (*Reliefweb* 2006)

Furthermore, the chaos was not only political and limited to the political rival of ZANU-PF, but also extended to the economic sphere. For instance, invasion of white owned commercial farms and property in general, mainly by the war veterans associated with the governing party. In general, the invasion of farms begun in 1998 with ignorable invasion of white owned land by poor peasants from Svosve Communal Area, protesting congestion in their land and lack of adequate and fertile land for farming (Mlambo 2009:236). It is important to note that while the actions of the people of Svosve Communal Area were illegal, these were legitimate poor peasants who had become weary with the slow pace of land reform. Soon thereafter, the invasions became more coordinated, deadly and accompanied by violence as

led by erstwhile liberation struggle fighters and spread across Matabeleland, Masvingo and Manicaland (Zimbabwe Human Rights Forum 2000:3, 9, 11).

Furthermore, the Government had introduced the Fast-track Land Reform Programme (FLRP) in 2001, which sought to redress racially skewed land ownership and for resettlement of people in the 'reserves' – poor black Zimbabweans who were forcibly settled in congested areas by the white settler government (Cliffe *et al* 2011:910). Given Zimbabwe's history of land dispossession, this policy programme was noble and necessary. However, the broader political context and indeed the manner of its roll-out were not conducive for success, thus condemning programme to failure even before take-off. First, as the 'fast' word alludes in the titling of the land reform policy programme, the initiative was implemented rashly by the Zimbabwe Government without providing adequate support to intended beneficiaries; i.e. support in terms of training in commercial farming, provision of adequate capital and implements. Second, political elites also benefited from and this was expectedly unpopular in the global neoliberal political-economic order hinged on the Bretton Woods institutions (Matondi 2012:10-11). Accordingly and without financial support from institutions such as the IMF and World Bank, the FLRP together with the parallel illegal occupations had the unintended effect of disrupting and collapsing Zimbabwe's formerly vibrant agricultural sector.

As the agricultural production tanked, and the sanctions squeezed the economy, the agro-processing industry suffered, with export of valuable cash crops like tobacco declining significantly. In response to the rising repression and general misrule, the international community imposed more economic sanctions on Zimbabwe, led by Britain and the U.S. and especially through multilateral intergovernmental organisations like the European Union and the United Nations respectively, further thrusting the country's economy into the doldrums. In summary, the political-economic crises that plunged the Zimbabwean society in the beginning of the 2000s played out against the background of emergence of a solid political opposition to ZANU-PF's hegemony, the MDC. The rise of the MDC as a political force unfolded a dialectical process in praxis realm of ZANU-PF; the latter created a discourse – a

form of de-legitimation continuum – that condemned the former as an imperialist project of the West, and framed the FTLR and the heavy-handed approach of security forces as a necessary means towards decolonisation and ‘Africanization’ of Zimbabwe (Asuelime & Simura: 2014:71).

5.3 The 2008 political violence

The 2008 Elections were the first harmonised elections, where voting for local government, the president and parliament was synchronised. As has become common practice in post-colonial and particularly since the formation of MDC, the build-up to the 2008 Elections was characterised by widespread of harassment of supporters and leaders of the majority opposition party, the MDC (Bratton & Agony 2008:51). In fact, as acknowledgement of the need to resolve the interparty violence that had become emblematic of Zimbabwe’s politics, in 2007 SADC had taken a decision to appoint President Thabo Mbeki of South Africa as a mediator, tasked with reconciling the ZANU-PF and MDC-T (which was led by Morgan Tsvangirai) and MDC-M (a splinter party led by Arthur Mutambara). Before the violence associated with the historic 2008 Elections in Zimbabwe, SADC had been involved or observant of developments in Zimbabwe as a quasi regional supranational authority, although its viewpoint(s) appeared tolerant of or underestimating of the potential impact of the problems.

Notwithstanding the above-mentioned challenges, on 29 March 2008 Zimbabweans went to the poll to vote in the harmonised election; an opportunity to elect members of legislature and the president. After extensive procrastination in relation to proclamation of results, the Zimbabwe Electoral Commission (ZEC) eventually publicise the outcomes of the elections on 2 May 2008. The MDC-T triumphed, garnering 100 of the seats in Parliament; ZANU-PF winning 99; and the other 10 taken by MDC-M. In relation to presidential vote, Tsvangirai gained 47.8% against Mugabe’s 43.2% (Vollan 2008:29). This was a cataclysmic political outcome; for the first time, ZANU-PF had been defeated in a direct contest for control of state power. The MDC-T strongly protested the presidential results, arguing that the reason the ZEC delayed the release of the election results was to lower the percentage

Tsvangirai received in order to push the presidential contest to a run-off. In terms Zimbabwe's electoral system, a presidential candidate requires a simple majority (51% or more) in order to be proclaimed a winner of a presidential contest. In an event where none of the candidates meet this threshold, a presidential run-off is an automatic necessity. Consequently, because Tsvangirai had fallen short of the magical 51%, a presidential run-off became inevitable. The ZEC allocated June 2008 as the month in which the presidential run-off election would be administered.

Apprehensive about a possibility of Tsvangirai emerging victorious again, the ZANU-PF government immediately unleashed more direct violence against supporters of the opposition, the proportion of which had not been experienced in recent times (Bratton & Masunungure 2008:51). In response to this repressive climate which would have expectedly affected the election outcomes, on 22 June 2008 Tsvangirai announced the withdrawal of his candidacy, citing that the political environment was not conducive for a free and fair election (Matlosa 2009:59). Notwithstanding Tsvangirai's voluntary withdrawal, the presidential run-off went ahead on 29 June 2008 with Mugabe as the sole candidate and he won overwhelmingly. SADC, through South Africa's Thabo Mbeki, immediately intensified its mediation efforts, and determined to arrive at a political settlement that would bind all key actors in Zimbabwe's political turmoil to a transitional arrangement of sort, a power sharing arrangement to be precise. After much deliberations and negotiations, the conflict parties signed a Global Political Agreement (GPA) on 15 September 2008, which brought together sworn enemies to form a government of national unity.

6 Reflections on the Zimbabwe conflict/crisis and its development

Zimbabwe's conflict and the political-economic crisis that necessitated SADC mediation intervention in 2007 have its roots in the colonial, white minority rule and the post-independence eras. This section focuses on (general) assessment of the conflict; although the focus of the research study is on the conflict/crisis that culminated in SADC's conflict resolution in Zimbabwe, key historical conflicts are hard to ignore in any discussion on Zimbabwe and as such, reference is made to conflicts that occurred prior transition to majority rule.

6.1 Land as source of conflict in Zimbabwe

The issue of land has been a definitive source of conflict in Zimbabwe, from pre-colonial, colonial and post-independence periods. During the 19th century, crop and livestock farming were a major source of wealth in Zimbabwe, and as such land was a valued possession and became a constant driver of conflict (Moyo 2005:188). Naturally, land is a limited and scarce resource, and even more problematically people prefer land that is ideally positioned and has high yield in farming terms, land that is even scarcer.

Because ownership of land remained racialised even after the initiation of black majority rule in Zimbabwe, it continued to be a source of inter-racial tensions and potentially a source of conflict. Indeed, as Britain under the premiership of Tony Blair, in 1997 discarded commitment made during Lancaster House negotiations that it will provide monetary resources in order for the Zimbabwe Government to compensate white farmers that will be affected by land reform, the country saw increase in tensions and violence centred on land.

The conflict over land that began right at the end of the 20th century was in fact a re-emergence of the colonial-era conflict which was also rooted on the racialised ownership of land. The conflict behaviour that further escalated in the 2000s saw the war veterans unleashing violence (largely one-sided) on farmers and farm workers (McGregor 2002:24-26). Importantly, the war veterans are mostly associated with the ZANU-PF and have membership of the ZANU-PF aligned ZNLWVA and as such, the political violence was linked with the broader conflict centred on economic transformation struggle, political disagreement and competition.

6.2 Political power as cause of conflict in Zimbabwe

Colonialism as a historical phenomenon that engulfed Zimbabwe proceeded from a form of political ideology and racist belief that black people were incapable of administering their own affairs. Mitchel (1981:18) contends ideological and/or ideational tensions tend to lie at the root of conflicts – value incompatibility conflicts – about the foundational structure of society or what it ought to look like. Rhodes and

his Pioneer Column group were driven by ideologies that assumed inferiority of black people. Necessarily, the racist ideology and the policies that followed thereafter generated a resistance from Zimbabwe's African nationalist leaders who organised and waged a liberation struggle. The struggle was of violent nature, involving exchanges of violence between the conflict parties (the liberation movements and white minority rulers) as conflict behaviour escalated.

By its nature, the conflict situation that was also caused by white supremacist ideology of Zimbabwe's white minority rulers and the response of black movements – the liberation struggle conflict – was asymmetrical. While the government relied on an institutionalised and powerful security-military apparatus, that included intelligence, police and defence force, the liberation movements depended on poorly trained and armed operatives (Kriger 1988:310). As a result, they had to deploy guerrilla tactics, avoiding open confrontation that is characteristic of a conventional battle situation (war between states), which by many accounts they could have easily lost.

However, the 'informal' character of guerrilla strategy and tactics does not necessarily mean it is not effective; on the contrary, Zimbabwe's liberation movements were able to register limited military triumphs that eventually pressured the government to a negotiation table. While the 1979 peace negotiations in Britain were a consequence of multiplicity of factors, amongst which was the economic and diplomatic isolation of Rhodesia by the international community, interparty violence resulting from the liberation warfare played a massive role in compelling Smith's government to enter negotiations (Lancaster House Agreement 1979). It led to the convening of successful and peaceful general elections in 1980 that transformed Zimbabwe into a peaceful and democratic country.

Similarly, the Gukurahundi (1983-1987) massacre was about Mugabe and ZANU-PF abusing their access to the state apparatus, diverting the state's security and defence resources to eliminating or weakening political rivals so as to consolidate their hold on political power (Killander & Nyathi 2015:466). As part of settlement of

the conflict, ZAPU merged with ZANU-PF – thus eliminating competition to the latter over control of state power.

After a period of uninterrupted political dominance (between 1987 and 1999), the MDC emerged as a serious electoral challenger to ZANU-PF, as initially demonstrated by its successful campaign against the Draft Constitution sponsored by Mugabe's government in the 2000 referendum. This was against the background of earlier brewing discontent (especially from 1997) with ZANU-PF's rule, generally conveyed through organised labour and civil society. As already indicated in Chapter Two, Bowd and Chikwanha (2010:X-XI) point out that the emergence of repressive political and social relationships causes hatred and is likely to lead towards agitations for change. Indeed, as its very name alludes MDC sought to effect change in terms of economic and political deterioration of Zimbabwe (Movement for Democratic Change 2020). Moreover, the causes were also structural in a sense that the key institution, the state, seemed incapable of delivering the goods and services that are valuable, i.e. employment opportunities and healthcare.

Additionally, Mugabe and his government were viewed as having no legitimacy (Onslow 2011:4), particularly because of the structural violence that became part of the state under Mugabe's rule, indicating that the causes of Zimbabwe conflict had also become structural. As the Zimbabwe Government responded with widespread human rights violations directed at MDC leaders and supporters, it further pushed society into the precipice of full-blown conflict. While human rights violations are considered proximate causes of conflict (see Chapter Two), it can also be one of the consequences of conflict. Throughout the 2000s, the structural, state-sponsored violence and general unrest in Zimbabwe continued, with supporters of MDC beaten or killed in police custody, or disappearing mysteriously (*ALJAZEERA* 2015; *Reliefweb* 2007). A climate for free and fair elections seemed impossible to create, and almost every election convened had challenges with legitimacy.

Table 2: Causes of Zimbabwe conflict

GENERAL CAUSES	STRUCTURAL CAUSES	PROXIMATE CAUSES	TRIGGERS
Dispute over ideology – colonialism & white minority rule system	Poor governance	Human rights violations	Anti-government protests
Land dispossession of black Zimbabweans of their land	Lack of service delivery	Political persecution – abuse of MDC supporters	Electoral decline – allegations of ZEC rigging sparked violence
Ethnicity – the Gukurahundi massacre also had ethnic aspects	Economic decline		
	Legitimacy of state		

Sriram and Nielsen (2004:2-3)

In summary: first the conflict/crisis that emerged towards the end of the 1990s and continued throughout the 2000s was caused, firstly, by a wide societal disenchantment with the ruinous rule of ZANU-PF; and secondly, by ZANU-PF's intolerance towards political competition and opposition. As the interparty conflict behaviour escalated to levels seemingly intolerable, SADC took a decision in 2007 to initiate mediation, through South Africa, that would resolve the conflict in Zimbabwe.

6.3 The effects of the Zimbabwe conflict

The Zimbabwe conflict had far-reaching implications, with domestic and regional dimensions. Normally, as conflict escalates and conflict behaviour becomes an entrenched and constant part of the conflict, people often lose their lives. Aside from

the general killings associated with colonialism and the fratricidal Gukurahundi massacre, the Zimbabwe conflict/crisis of the 2000s also resulted in sporadic killings of people, particularly those associated with the MDC. According to the Zimbabwe Human Rights NGO Forum (2009:6), 107 Zimbabweans lost their lives between 1 January and 31 December 2008 as a result of state-sponsored political violence, indicating clearly that death was one of the major effects of the Zimbabwe. However, as also highlighted in the aforesaid report (2009), severe beatings and maiming was a constant feature of the conflict, resulting in permanent bodily damage to the victims conflict; in 2008 alone a total of 723 people were reported to have been tortured; and a further 922 people either unlawfully arrested or detained. Accordingly, human rights violations became entrenched in Zimbabwe, being both the cause and effect of the conflict. Related to the foregoing, victims of the conflict were also psychologically affected, bearing the trauma of the violence they experienced. In addition, as a result of the conflict many people suffered from a sense of insecurity and general fear. Rape, death threats and/or attempted murder are regarded as some of conflict aspects that generate fear and a sense of insecurity – in 2008 6 Zimbabweans were reported to have been raped by security operatives and/or supporters of ZANU-PF; 51 received credible death threats and a further 8 experienced attempts on their lives (Zimbabwe Human Rights NGO Forum 2008:6).

In the aftermath of the Zimbabwe conflict, the political system had deteriorated with key state institutions such as the judiciary, security apparatus and the electoral commission seemingly unashamedly furthering ZANU-PF's narrow political interest of continuing its control over the state (Mungwari 2017:206). Moreover, the Zimbabwe conflict had a negative impact on the country's socioeconomic welfare, leading to general underdevelopment across society. Necessarily, underdevelopment also contributes to displacement, particularly migration of citizens to other countries in search for economic opportunities. Displacement of people as a result of conflict normally takes two forms, internal displacement and creation of refugees – displaced people who usually migrate to other countries. Indeed, as the conflict raged in Zimbabwe the number of internally displaced people (IDPs)

increased, with 629 people reported to have been internally displaced in 2008 (Zimbabwe Human Rights NGO Forum 2009:6).

In terms of regional effects, millions of Zimbabweans migrated to various countries across the SADC region, putting pressure on receiving states. According to Polzer (2010:2-3), between 2000 and 2008 South Africa received a significant number of Zimbabwean refugees and migrants generally (ranging between 1 million and 5 million) who were escaping the violence and economic decline back home. As the subsequent xenophobic violence of 2008 directed mainly at Zimbabwean immigrants in South Africa proves, competition with local citizens for scarce resources, i.e. jobs and basic services, can lead to emergence of anti-immigrant sentiments and ultimately violence between locals and foreign nationals. Broadly, South Africa was not the only country in the SADC region that experienced large influx of Zimbabweans as a result of the debilitating humanitarian crisis; Botswana, Zambia, Mozambique, Namibia and Malawi also witnessed a significant increase in their share of Zimbabwean migrants. For instance, Botswana with a population of less than 2 million, received roughly 100 000 Zimbabwean migrants in 2008 (Betts 2013:78). In consideration of the aforesaid, the Zimbabwe conflict had regional repercussions because it affected regional stability, and also ran counter to SADC's aspiration of creating a security community in the region.

Table 3: Effects of the Zimbabwe conflict

SECURITY	SOCIAL	ECONOMIC	POLITICAL
Killings	Internal displacement	Severe economic decline	Deterioration of political system and culture
Human rights violations	Creation of refugee crisis	Economic isolation	Regional destabilisation
Insecurity and fear	Disruption of familial-social	Underdevelopments	

7 Conclusion

This chapter explored the Zimbabwe conflict, its emergence, development and the political-economic repercussions it produced. However, before examination of modern Zimbabwe's political conflict/crisis, the chapter offered a historical account of the evolution of Zimbabwe as a state/society. It argued that prior to colonisation by Britain and the subsequent emergence of white settler rule, Zimbabwe was a thriving civilisation as evinced by creation of sophisticated city-states like Great Zimbabwe, Mupungubwe and Mutupa between the 1000s and 1400s. These city-states had many of the characteristics that are considered foundations of a modern state, i.e. permanent populations, defined territories, defences, and engaged in international trade with other civilisations, particularly those in the East. Furthermore, the chapter also pointed out that before encounter with Europeans, the indigenous people of Zimbabwe experienced invasion from African people coming from the furthestmost southern tip of Africa, mainly the Ndebele people under the leadership of Chief Mzilikazi in the 1830s. Naturally, certain swathes of land were annexed for the settlement of the Ndebele people and other African tribes that had moved to Zimbabwe.

However, the arrival of the British in the 1890s constituted the first mass dispossession of indigenous Zimbabweans of their land, thus rendering land both a source and driver of (future) conflict. In this chapter, it was argued that the aforesaid period marked the emergence of conflict in Zimbabwe, and the subsequent large-scale settlement of white people and the creation of racist self-rule by whites only further heightened marginalisation of black Zimbabweans. Necessarily, black resistance formations emerged (i.e. ZANU-PF and ZAPU) for the purpose of waging a liberation struggle, a form of racial conflict that lasted decades until the 1979 Lancaster House Agreement was signed, paving the way for majority rule. Reference to this period was important because it highlighted the nature and scope of past

conflict(s) in Zimbabwe, conflict(s) centred on resources (i.e. land, economic exclusion, etc), and ideas (i.e. racist ideology).

The chapter also argued that post-colonial Zimbabwe did not experience a lasting respite in political violence and conflict, as the case of Gukurahundi (1983-1987), a period of state-sponsored massacre of people considered supporters of ZAPU (an opposition party to ZANU-PF government), highlighted. In light of this, the state continued to be a monster that devours dissenting citizens, as was the case in during colonialism and white minority rule. Nonetheless and importantly, the late 1990s marked the emergence of the conflict and general political and economic decline that characterised Zimbabwe in the 2000s. This was a time when more organised and robust opposition to ZANU-PF rule emerged, motivated by the rising cost of living, targeted political persecution of dissenting voices; at this point the conflict became manifest. The rise of MDC in 1999 and its successful campaign against ZANU-PF sponsored constitution referendum of 2000 was countered by increasing use of the state security machinery and ZANU-PF's war veterans against supporters of the opposition. At this point, the conflict escalated and became an entrenched aspect of Zimbabwe's political and civil life. Almost the entire state machinery, i.e. judiciary, security apparatus and elections commission hinged their existence on the perpetuation of ZANU-PF's rule.

Unsurprisingly, the elections that were convened in 2002, 2005 and 2008 were all alleged to have been rigged by the Zimbabwe Electoral Commission in order to maintain ZANU-PF's rule. As Zimbabwe became the most unstable SADC member state, the organisation's Summit of Heads of State and Government in 2007 resolved to initiate a mediation intervention. However, serious mediation intervention was only started after the feisty contested 2008 General Elections which were violent and could not produce an outright presidential victor, and therefore necessitated a presidential runoff. As state-sponsored violence against opposition supporters continued in the build-up to the presidential runoff, SADC intervened and brokered a political settlement that produced an inclusive government.

CHAPTR 6

SADC MEDIATION IN ZIMBABWE AND THE MANAGEMENT OF THE NON-INTERVENTION AND NON-INDIFFERENCE DICHOTOMY

1 Introduction

The Southern African Development Community (SADC) formally commenced its conflict resolution intervention through the method of mediation in Zimbabwe in March 2008. This was after a resolution was taken by the SADC Summit in Tanzania to appoint South Africa to mediate in the Zimbabwe conflict. The mediation role that SADC played in Zimbabwe spanned several years, from the inception of the interparty 'dialogue' in 2007, which were essentially 'talks about talks' that laid the foundation for the formal negotiations that subsequently followed, to the intensification of the mediation after the disputed 2008 Harmonised Election and conclusion of a power sharing deal in September of the same year through to the end of the term of the Government of National Unity (GNU) in 2013.

Accordingly, the aim of this research study is to assess how SADC reconciled the seemingly incompatible principles and norms of non-intervention/sovereignty and non-indifference in its mediation role in the Zimbabwe conflict/crisis. The concepts of non-intervention and intervention are at least on the surface oppositional. Reference to the concept of non-intervention immediately invokes hard national sovereignty and related principles like non-interference, territorial integrity, self-determination that render external intervention unthinkable. Conversely, non-indifference makes it necessary for the national sovereignty to be perforated for purposes of enabling such interventions as humanitarian intervention, mediation, and peacekeeping, amongst others. It invokes the obligation that intergovernmental organisations have towards ending crises/conflicts that threaten international peace, security and human lives.

Consistent with the overarching aim of the study, this chapter seeks to track and analyse the development and progression of the SADC mediation process that unfolded in Zimbabwe, examining manifestations of clashes between sovereignty and non-indifference. Therefore, the structure of this chapter is as follows: it will

discuss the 2007 SADC Summit in Dar es Salaam which led to appointment of South Africa as SADC mediator in the Zimbabwe conflict/crisis; secondly, there is examination of the 2008 Memorandum of Understanding signed by the conflict parties committing to resolving the conflict and the 2008 election as a period characterised by escalation of the crisis and SADC's response to the worsening situation.

Thirdly, the chapter assesses the role of SADC in brokering the 2008 Global Political Agreement (GPA) as well as its role in the implementation of the GPA, especially in relation to formation of an inclusive government and reform of state/public institutions. Fourthly, it briefly discusses the 2013 election as an occasion that ended SADC's mediation involvement in Zimbabwe and re-established the preponderance of the principle of sovereignty and non-interference. Fifth, the chapter provides an overall assessment of the SADC role in Zimbabwe, examining specifically how the organisation implemented its dual commitment to non-indifference and non-intervention. The contradictory nature of the two aforesaid concepts also necessitates the examination of how SADC navigated the inherent binary character of these concepts during its mediation involvement in Zimbabwe. Finally, the chapter concludes by reflecting on the main thesis of the chapter; the management of non-intervention and non-indifference.

2 The 2007 Dar es Salaam SADC Summit

On 29 March 2007 the SADC Extra-Ordinary Summit of the Heads of State and Government convened in the Tanzanian metropolis of Dar es Salaam in order to deliberate on the political, economic and security developments in three countries: DRC, Lesotho and Zimbabwe (SADC *Communiqué* 2007). However, only those Summit views and/or position on political, economic and/or security matters that pertain to Zimbabwe are explored, Zimbabwe being the focus of this study. Accordingly, the 2007 SADC Summit conference constitutes the origin of SADC's conflict resolution intervention in Zimbabwe. Several resolutions/observations were made in Dar es Salaam: first, the SADC apex structure (SADC Summit) noted that previous Presidential Election (2002) in Zimbabwe were "free, fair and democratic"

(SADC *Communiqué* 2007). The above-mentioned SADC viewpoint on the 2002 Presidential Election was interesting because in order for a country to be considered to have successfully convened free, fair and democratic elections several conditions need to met. These include the absence of coercion, impartiality of the election body in the conduct of elections, and freedom of citizens to exercise their constitutional rights (Elklit & Svensson 1997:35). In the case of Zimbabwe, political violence and persecution of supporters of opposition parties was already commonplace and certainly entrenched by 2002 when the Presidential Election was convened, as the human rights violations that followed the 2000 Constitution Referendum attests (see Chapter 5, Section 5.2.3).

Rather, the approval of the 2002 election as free and fair is rooted in SADC's long-established cautious approach in matters that might be considered to be in breach of national sovereignty and the solidarity of member states, anything that sounded like interference/involvement in the internal affairs of member states. Nonetheless, as the most important organ of SADC, any endorsement by the Summit carries both material and symbolic significance. Material in that it implies that whatever intervention that the organisation may take in relation to a sovereign member state experiencing political, economic and/or security troubles would not be hostile in nature, i.e. a humanitarian intervention by a SADC armed task force to protect human rights. Symbolic in that it amounts to a form of diplomatic and political support to the government of the day.

Second, in the 2007 Dar es Salaam gathering the SADC Summit conveyed its "solidarity with the government and people of Zimbabwe" (SADC *Communiqué* 2007). The SADC Summit felt Zimbabwe had been under international attack because of the international economic and political isolation imposed on it by the international society, particularly Western states. As such, expression of solidarity with Zimbabwe means SADC viewed the international economic sanctions and diplomatic censure/exclusion as illegitimate and something that undermines international law. Indeed, in an interview with the *New African* (2007), President Jakaya Kikwete of Tanzania contended that "SADC cannot abandon Zimbabwe",

and he echoed the SADC calls for the removal of economic sanctions on Zimbabwe. Third, the SADC Summit also implored Britain to honour the 1979 Lancaster House Agreement commitment that commits the latter to making monetary contribution towards Zimbabwe's land reform programme and; the Summit also called for "the lifting of all forms of sanctions against Zimbabwe" (SADC *Communiqué* 2007). The renunciation of the 1979 undertaking that Britain will fund land reform in Zimbabwe by the Tony Blair government in 1997 has been the most controversial decision and framed the subsequent hostile relations between Mugabe's government and the West. The decision was ironic because the 1979 Lancaster House Agreement is a treaty, a form of international law and the violation of this by Britain amounted to transgression of international law and norms. Correctly, SADC urged Britain to recommit to availing financial support for Zimbabwe's land reform programme.

Fourth, the SADC Summit mandated the Executive Secretary of the organisation to conduct a study on the economic crisis in Zimbabwe with a view to formulating recommendations on how SADC can assist in the resuscitation of the Zimbabwean economy (SADC *Communiqué* 2007). The economic recovery plan was completed and presented to the SADC Summit in April 2007 in Lusaka. The report was never published which is surprising given that the collapse of the economy was one of the glaring effects of the Zimbabwe crisis (Kubatana 2007; *IOL* 2007). However, it is possible to glean information about what was contained in the report from the media responses that the SADC Executive Secretary gave on the issue of economic recovery. Broadly, the SADC Executive Secretary's office found that Zimbabwe's economy was in shambles but not beyond rescue. As head of SADC Secretariat, Tomaz Salomão located the economic troubles Zimbabwe was experiencing on trade and financial sanctions imposed by the European Union and the United States (*IOL* 2007). As such, the cause of Zimbabwe's debilitating economic decline and its contribution towards political-security instability was externalised. Problematically and from the public pronouncements by Salomão, widely acknowledged internal factors, i.e. haphazard land reform and economic mismanagement, were understated by the SADC Secretariat. It appears that SADC did not want to

contradict the Zimbabwe Government which would have been interpreted as interference by the ruling ZANU-PF.

Finally and importantly, the Summit mandated President Thabo Mbeki of South Africa “to continue to facilitate a dialogue between the opposition and the government and report back to the troika on progress” (SADC *Communiqué* 2007). As previously indicated (see Chapter 2) IGOs are created for the purposes of providing some form of supranational governance on matters that are trans-boundary. By 2007 the Zimbabwe conflict had become a credible threat both to the stability of that country and that of the southern Africa region. The decision to appoint Mbeki in March 2007 to interpose between the conflict parties, i.e. the opposition and Government in order to find a political settlement, was the first direct and concrete intervention that SADC made in relation to the Zimbabwean conflict and/or crisis.

In summary, the seminal SADC Summit of Heads of State and Government of 29 March 2007 in Dar es Salaam achieved several milestones, as conveyed in the *communiqué*. Firstly, the SADC Summit acknowledged the worsening security situation and therefore urged its peace envoy (Mbeki) to also pursue avenues for the purpose of restoring stability and security in Zimbabwe. Secondly, the organisation’s leadership realised the political dimension of the conflict in Zimbabwe as rooted in electoral competition and systematic political violence in order to advance certain political interests, and consequently South Africa was also saddled with the responsibility of finding a solution on the conflict between the governing ZANU-PF and opposition parties. Finally, the intervention also had an economic aspect as indicated by the SADC Summit’s instruction to the SADC Executive Secretary, Tomaz Salomão, that an economic study on Zimbabwe be conducted for the purpose of determining what kind of (economic) measures the organisation can initiate to help the country resuscitate its failing economy.

3 The year 2008 as the turning point in the SADC intervention in Zimbabwe

This section examines the posture and the involvement of South Africa, SADC and the AU in the Zimbabwe crisis. Since South Africa was mandated to mediate the

conflict in Zimbabwe and also because the South Africa as a regional power had its own foreign policy position on the Zimbabwe issue, particular attention is given to the country's views on the Zimbabwe situation pre- and post-2007. Broadly, the section focuses on the processes and events that unfolded mainly in 2008 and led to the breakthrough power sharing agreement of 2009.

3.1 South Africa's mediation in Zimbabwe

The date of 11 March 2007 was a critical moment which galvanised SADC to seriously consider intervention in Zimbabwe. On this occasion, masses of Zimbabweans took to the streets to oppose the government of President Mugabe's mismanagement of the economy, the authoritarian nature of his rule and the general decline of Zimbabwe (*The New York Times* 2007). Members of the opposition and the civic organisations coalesced under banner of 'Save Zimbabwe Campaign' and demanded an end to Mugabe's 27-year rule but were met with severe crackdown by the police specifically and state security operatives generally, resulting in beatings, injuries and wide arrests (*New York Times* 2007). The political standoff was widely covered by the international press and expectedly culminated in condemnation of the Mugabe regime by the international community. Two weeks later and as previously indicated, the SADC Summit gathered in Dar es Salaam and resolved to appoint Mbeki to mediate the conflict in Zimbabwe. In the aforesaid instance, SADC as an IGO performed both the roles of an instrument used to pursue the organisation's regional peace and security objectives and, a multilateral platform that was used to deliberate on the Zimbabwe conflict/crisis.

Because South Africa was appointed the official SADC mediator in Zimbabwe, it is necessary to explore the conflict resolution process that followed, paying particular attention to how its presidents - Thabo Mbeki and Jacob Zuma - navigated the sovereignty-intervention binary. While SADC only made a decision to intervene in Zimbabwe in 2007, South Africa had already taken a particularly keen interest in the political, economic and security situation in Zimbabwe. As a regional hegemony, the South African Government had been in low key talks with Mugabe's government and the opposition formations in Zimbabwe with a view to arrest and stabilize the

worsening situation (Nathan 2005:367). As a regional power, South Africa had faced international pressure to halt and reverse the deterioration, specifically deal with President Mugabe who was considered the root cause of many of Zimbabwe's problems (Eppel&Raftopoulos 2008:5). Nonetheless and to the chagrin of many, Mbeki's government pursued an appeasement strategy of sort – colloquially called 'quiet diplomacy' (Adelmann 2004:252-253). In terms of its meaning and in the context of South Africa's mediation in Zimbabwe, quiet diplomacy is a quasi conflict resolution approach that is based on constructive engagement, and does not consider hard instruments like military and economic sanctions as useful means in resolution of a conflict and/or crisis (2004:252).

McKinley (2004:360) argues that the Mbeki government's foreign policy towards Zimbabwe, and in particular the former's position on the political-economic crisis in Zimbabwe, was supportive of the Mugabe regime as evinced by the economic sustenance South Africa provided to Zimbabwe and Mbeki's dismissive posture on international criticism of Zimbabwe's human rights violations. Considering all of the foregoing, it is clear that South Africa under Mbeki did not use its military and economic power for the purpose of regional domination, as the apartheid regime had done in the past. As a Pan-African idealist, Mbeki championed the idea of African renaissance where Africans would rely on themselves for progression – a rebirth of sort for a continent wounded by colonialism and white settler rule oppression for centuries (Maseko & Vale 1998:277). He believed that Africans can resolve their own security challenges and had even greater faith in the capacity of multilateral institutions like the AU and SADC to address matters of peace, security and stability in the continent/region.

While addressing the South African Parliament, Mbeki is reported to have argued that his mission as a peace envoy in Zimbabwe was to "help Zimbabweans find answers through dialogue and negotiation, rather impose a solution from abroad" (*The Guardian* 2008). For Mbeki, the solution to the Zimbabwe problem was rooted within Africa and in the country itself in particular, as evinced by his insistence that there was no need for a UN intervention (Reuters 2008). Moreover, a news article on

3 April 2007 quotes Mbeki as saying ‘we don’t have a big stick’ in response to a question on whether South Africa along with other neighbouring countries would use force to effect political change in Zimbabwe (Reuters 2007). Clearly, Mbeki was concerned about the territorial integrity of Zimbabwe and the possibility that powerful (Western) states within the international community might fashion a regime change through the use of military force against the Zimbabwe Government. In light of this, Mbeki’s government was opposed to the use of hard instruments such as armed force in its conflict resolution intervention in Zimbabwe. Reflecting on the position of Britain on the Zimbabwe situation, Mbeki subsequently related that the Tony Blair-led British government once insisted that South Africa should topple Mugabe’s regime (IOL 2013).

As already indicated, after his formal appointment as SADC mediator in Zimbabwe, Mbeki assumed an approach that was considered too docile towards the regime in Harare and was subsequently criticised by observers. This was problematic because among the qualities that a mediator should have is impartiality. Coming out of a meeting as part of his mediation and flanked by Mugabe in Harare in April 2008, Mbeki famously told reporters that “there is no crisis in Zimbabwe” (*The Telegraph* 2008). At this point Zimbabweans had just voted in their first harmonised election and the Zimbabwe Electoral Commission (ZEC) was delaying the release of the poll results. Ironically, when he made the claim that there was no crisis in Zimbabwe Mbeki had made a stop in Harare on his way to a SADC Summit in Zambia whose agenda was to deliberate over the stalled release of election outcomes in Zimbabwe, in particular, to ponder how the situation would affect stability of Zimbabwe and the region as a whole.

Certainly, the Zimbabwe problem was widely acknowledged by this time. The question is why Mbeki downplayed the significance of the issues. For all intents and purposes Mbeki seemed convinced that the ‘crisis’ narrative should be countered and therefore framed the problems in Zimbabwe as less explosive and combustible, as SADC had done. Normally, a discourse over a subject tends to assign meaning and significance on the issue and, the more elevated and serious the matter is

considered the more decisive (and heavy-handed) the counter measures will be. He feared that an overthrow of the ZANU-PF regime, as many states (i.e. U.S. & Britain) in the West had called for was near and henceforth, he avoided playing on the prevailing crisis narrative.

However, as Mbeki steadfastly held to his conviction that foreign intervention is not acceptable in Zimbabwe, most of his colleagues in the ANC-led tripartite alliance began to sing from a different hymn sheet. As the *Financial Times* reports (2008), the new ANC leaders (under Jacob Zuma) who emerged in the party's Polokwane elective conference demanded a more "forthright" approach from the Mbeki government insofar as the Zimbabwe situation was concerned. With the crisis further deepened by the electoral impasse produced by the Harmonised Election of 29 March 2008 and, escalation of violence as witnessed in the build up to the 27 July 2008 presidential runoff, Mbeki seized on the opportunity to push for a peace settlement. Furthermore and as previously highlighted, Tsvangirai's withdrawal from the presidential runoff due to political persecution and state-sponsored violence against his supporters rendered the situation untenable, thus opening up a definite window of opportunity for some kind of an inclusive political settlement to be reached. Specifically, on 11 September and after extensive interparty negotiations headlined by ZANU-PF and MDC and with Mbeki as a mediator on behalf of SADC, the Global Political Agreement (GPA) was signed which called for an establishment of a Government of National Unity (GNU) in Zimbabwe, amongst other things (United Nations 2008).

In a bid to elucidate South Africa's approach to the Zimbabwean situation, Nathan (2005:366), argues "the legacy of apartheid and liberation politics has created a balance of power based more on history than on size and resources, enabling Zimbabwe to pose a rival source of influence". It is a historical fact that Zimbabwe acquired its majority rule before South Africa did, and this allowed it to play a facilitative role in the ANC's liberation struggle against the apartheid regime. Therefore, the post-1994 South Africa is considered a junior in terms of geopolitics in the region. In the same vein, Mlambo (2016:29-30) contends that the ZANU-PF's

leadership and indeed most of African states viewed the post-apartheid government as nothing but an administrator of a white economic system that excludes the black majority and as such did not have legitimacy to dictate to other states in the continent. Because of this, post-apartheid South Africa under the leadership of the ANC has been a reluctant hegemony, cautious in its interference in the Zimbabwe conflict/crisis for fear of upsetting the ZANU-PF led government, the ZANU-PF being a more senior player in liberation politics comparative to the ANC.

However, Zondi (2012:7) observes that comparatively within the southern Africa region, South Africa's "modern infrastructure, natural resources base, industrialization, and integration into the world economy are significant" as a source of power that makes South Africa an influential actor in the region. While South Africa's hard and soft power is unquestionable, however, he argues that its reluctance to use hard instruments, i.e. military power, to advance security and stability in southern Africa should not be understood as weakness but as calculated approach to avoid being perceived as bully, a hegemonic tendency that is foreign to long-held traditions of the governing ANC (Zondi 2012:13). Indeed, international relations framed in terms of realist theory places great emphasises on the importance of military and economic power as crucial sources of power needed to drive foreign policy, and South Africa was way ahead of Zimbabwe in this regard.

The Mbeki administration hinged its approach on a Westphalian and classical understanding of the principle of national sovereignty as absolute with the domestic and external dimensions of Zimbabwe's sovereignty dully observed. This was highlighted by Mbeki's insistence that no foreign power has a legitimate right to dictate the political outcomes in a sovereign and independent country like Zimbabwe; the intention was to completely remove any possibility of use of hard instruments like military force against the Zimbabwean state. Accordingly, while his intervention, as mandated by SADC, amounted to an external interference (and was important) it was never hostile and certainly did not challenge the prevailing political system and interests imbedded within. However, and paradoxically, while the Mbeki

administration appeared to be conforming to this, it played a key part in a process that amounted to perforating hard lines of national sovereignty.

3.2 The 2008 Zimbabwe Harmonised Elections and AU-SADC involvement

After the 29 March 2008 Harmonised Elections could not produce an outright presidential victor between incumbent Mugabe and his challenger Tsvangirai, Zimbabwe proclaimed 27 June 2008 as a date on which a second round of voting will take place in order to determine who becomes president. In terms of the SADC Protocol on Politics, Defence and Security Cooperation (Protocol of the Organ) and the SADC Principles and Guidelines Governing Democratic Elections, member states are required to invite and accredit an election observer mission from SADC (SADC 2001; SADC 2004). In line with the above-mentioned, the SADC Electoral Observer Mission (SEOM) was invited to perform the role of observation over the presidential runoff electoral process, as has been the case with previous elections. The SEOM's role is to fulfil the objectives of the SADC Principles and Guidelines Governing Democratic Elections, objectives that include: promotion of constitutionalism; the convening of free and fair, credible and peaceful elections and; the promotion of electoral justice and the mitigation of election-related conflicts (SADC 2015).

In preparation for Zimbabwe's 27 June 2008 presidential runoff, SADC deployed more than 400 observers – under the auspices of SEOM. Thanki Mothae, the director of SADC's Organ on Politics, Defence and Security Cooperation directorate in Gaborone, summarised the purpose of the SEOM as being to “help the people of Zimbabwe through [the] electoral process so that it runs peacefully and smoothly” (SADC *Today* 2008:13). However, the nature and extent of this ‘help’ that the SEOM sought to provide in facilitation of a successful free and fair election was unclear and certainly vague, considering that Zimbabwe was already experiencing heightened interparty violence related to the forthcoming election.

Indeed, in his preliminary statement on the presidential runoff in Zimbabwe, the head of SADC's SEOM Minister, José Marcos Barrica of Angola, painted a bleak picture of

the political climate in Zimbabwe. Baricca's report made the following observations: (a) the climate leading to the presidential runoff was characterised by politically-motivated and state-sponsored violence with the inevitable consequence of loss of life, damage to property, severe bodily injuries and the stifling of political activities; (b) political campaigns were such that while the governing ZANU-PF was able to organise well-attended rallies those that were convened by opposition parties were disrupted and quite problematically, law enforcement agencies did not intervene to remedy the problem; (c) on the election day, there was a very low voter turnout albeit Tsvangirai had already withdrawn his candidacy owing to violence against his supporters, leaving Mugabe as the sole contender for the presidential position (SADC 2008). The Barrica-authored SEOM report on the political environment in Zimbabwe prior to and during the presidential runoff was particularly scathing for an organisation, SADC, which has tended to endorse elections in the region as 'free and fair' despite evidence to the contrary.

In a *communiqué* issued on 1 July 2008, the African Union Assembly of Heads of State and Government (hereafter AU Assembly) said that it was "deeply concerned about the violence and the loss of life that has occurred in Zimbabwe" (ISS 2008:1). It also lamented the mayhem that was directly a result of the two election events of 2008. The expression of displeasure over the general violence and death in Zimbabwe by the AU Assembly is consistent with Article 4 (O) of the AU's Constitutive Act of 2002, which calls for respect of the sanctity of human life. Moreover, the AU Assembly resolution called for Mugabe and Tsvangirai to honour their undertaking to participate in a mediation process in order to advance "peace, stability, democracy and the reconciliation of the Zimbabwean people" (ISS 2008:1). As such, the AU was obviously concerned over the seemingly noncommittal manner in which the conflict resolution process was unfolding in Zimbabwe and in response, exerted diplomatic pressure on the key parties to earnestly commit to the peacemaking initiative. Second, the AU Assembly decided that a Government of National Unity (GNU) that includes all the important actors in the Zimbabwe conflict be set up. This position highlights the AU's belief that its intervention in Zimbabwe should be non-violent and be aimed at temporarily addressing one of the key causes

and drivers of the conflict, political power, as a way of achieving truce and open up possibility of a more permanent or lasting solution.

Third, the continental organisation reiterated its support to the SADC mediation efforts and urged the sub-regional body to steadfastly resolve the political situation in Zimbabwe and establish a mechanism (supposedly a GNU) to put the country on a path of peace (ISS 2008:2). Fourth, it appealed to the key parties involved in the Zimbabwe conflict to desist from any action that may impede the SADC-led peace negotiation process. As this point illustrates, mediation is indeed a conflict resolution method the success of which is largely reliant on the cooperation and good will of the protagonist parties in the conflict. Lastly, the AU Assembly resolution expressed the organisation's belief that Zimbabweans are capable of resolving their differences on their own and that the AU, SADC and the world can only support the people of Zimbabwe as they grapple with their security, political, economic and social challenges. This point underlies the AU's position on the Zimbabwe situation: the organisation reaffirmed the sovereign right of Zimbabwe to self-determination and the right to deal with internal (domestic) problems without forcible outside interference.

Following the disputed election of 29 March 2008 and in line with the SADC Summit resolution of 29 March 2007, SADC intensified its mediation intervention in Zimbabwe. Moreover, the decision by Tsvangirai to withdraw his candidacy for the presidential runoff scheduled for mid 2008 that was meant to settle the stalemate produced by the 29 March election, the Zimbabwe crisis became even more untenable and naturally SADC only became keener to explore avenues for the resolution of the Zimbabwe situation.

3.3 The Harare Memorandum of Understanding

As a result of the SADC-mandated mediation efforts to resolve the Zimbabwe conflict, a Memorandum of Understanding (MOU) was signed on 21 July 2008 between the ZANU-PF, MDC-T (the mainstream opposition party under Tsvangirai) and MDC-M (the splinter opposition party under Arthur Mutambara) (*Politicsweb*

2008). The parties to the MOU committed themselves to negotiations for the purpose of “creating a genuine, viable, permanent and sustainable solution to the Zimbabwean situation” (AU 2008:2). Accordingly, the MOU was a tentative yet positive progress in the SADC-led mediation endeavour, as it formally committed the key parties in the Zimbabwe conflict to work towards finding a peaceful solution to the country’s conflict situation. While the MOU focused on mapping out an agenda for peace talks, it also insisted on immediate cessation of violence and creation of a stable political and security climate.

The MOU outlined several areas of concern spanning political, economic and security dimensions that needed to form part of the agenda of the negotiations that were about to ensue. First and in relation to the political aspect of the agenda, the parties agreed that a new constitution must be formulated, that reconciliation should be undertaken, that there shall be free political activities and, the rule of law shall be upheld. Second, as the economy of Zimbabwe was in tatters, the parties agreed that the issues of economic stability and growth, the land problem and the international sanctions against Zimbabwe should form part of the agenda. Third, insofar as the security part of the agenda was concerned, the parties observed that the security of persons should be observed and that the state must prevent violence (AU 2008:2-3). The matters covered by the MOU were central to the Zimbabwe conflict, at least from the point of view of the parties, and as such, the negotiations were intended to find common ground on these and consequently extricate Zimbabwe from the conflict situation.

Mbeki as appointed by the SADC Summit and with the congruence of the AU was going to continue in his capacity as a facilitator of the peace process, “the dialogue shall be facilitated in accordance with the SADC and AU resolutions” (African Union 2008:3). In fact, the MOU was a direct result of his mediation efforts as part of SADC peace and security initiative in Zimbabwe. As argued previously, mediation is a conflict resolution method that relies on the concurrence or agreement of the conflict parties. As contained in the MOU the conflict parties in Zimbabwe unambiguously re-affirmed their commitment to the involvement of a third party in the conflict situation,

with the intention to positively transform the conflict into peacetime. Indeed, the SADC mediation intervention in Zimbabwe culminated in the signing of a more concrete political settlement in the later part of 2008 and, the ensuing section provides a comprehensive examination of the settlement/agreement.

4 The 2008 Global Political Agreement

The Global Political Agreement (GPA) that was signed on 11 September 2008 between the ZANU-PF, MDC-T and MDC-M on resolution of the conflict situation and/or crisis in Zimbabwe represented a climax in the negotiation process. The 2008 GPA was comprehensive in its nature and scope, encompassing issues such as economic stability and growth, economic sanctions, the land, constitution, political liberty and freedom, and security, amongst others (EISA 2008:5-13). Thus, as a guideline for new political dispensation in Zimbabwe the agreement was more detailed and dense than the MOU that preceded it, with nuanced and extensive information on how each area of focus was to be addressed. In Article III of the agreement (EISA 2008:5) the parties committed to spare no effort in restoring the battered economy of Zimbabwe, which by 2008 was characterised by hyperinflation, massive unemployment and stagnation (Southall 2017:392). While it was in the interest of Zimbabweans to address the severe economic challenges that confronted Zimbabwe, this also aligned with Article 5 (g) of the SADC Treaty (SADC 1992: Article 5), which enjoins the regional IGO with the responsibility to “improve economic management and performance through regional cooperation”. Therefore, SADC’s intervention, from the perspective of the organisation, was constructive and assisted with realisation of its longterm objective of creating a peaceful and prosperous regional community.

Expectedly, the parties acknowledged that the economic sanctions imposed by the international community, particularly Britain, the European Union (EU) and the U.S. had crippled the country’s economy and, accordingly committed “themselves to working together in re-engaging the international community with a view to bringing to an end the country’s international isolation” (EISA 2008:7). The international community relied on diplomatic isolation and economic sanctions as punitive

instruments against the ruinous reign of ZANU-PF. In this sense its intervention in Zimbabwe, while not entailing the use of a multinational armed force under the guises of humanitarian intervention as was the case in Libya for example, negatively affected Zimbabwe's political economy (Chingono 2010:72; Hove 2012:78).

In relation to the contentious issue of land, the parties noted the history of racially skewed patterns of land ownership and thereby committed to undertake a transparent land audit with a view to redistribute land to Zimbabweans irrespective of "race, gender, religion, ethnicity or political affiliation" (EISA 2008:8). This was especially important and constituted a victory (in principle) for the opposition as the land reform process that commenced in 2000 had been used to garner support for ZANU-PF loyalists. Pilosof (2008:278) rightly points out that "... large numbers of farms have found their way into the hands of ZANU (PF) politicians, government ministers, army personnel and policemen, rather than the landless peasants". Interestingly, the power sharing agreement urged Britain to re-commit to providing financial resources, in addition to the finance they intended to raise from the international community generally, for the purposes of compensating former owners and support for newly resettled farm owners. As argued in previous sections, the confiscation of white owned farmland by the ZANU-PF government had resulted in international economic sanctions, and therefore by reinstating compensation as part of land reform the power sharing parties hoped to secure international support for the land redistribution initiative (Raftopoulos 2010).

Fundamentally and as it is normally the case with transition arrangements, the parties to the 2008 GPA undertook to draft a new constitution for Zimbabwe, a constitution that would supposedly constitute a break with the oppressive past (EISA 2008:9-10). To this effect, a Select Committee of Parliament made up of representatives of the parties to the conflict would be established, and in consultation with the populace through structures such as civil society organisations and community forums, draft a new constitution. Subsequent to this, the Select Committee of Parliament in question would convene an 'All Stakeholder Conference' in order to table the draft constitution, after which and upon acceptance, the new

constitution would be debated in parliament. Thereafter, the draft constitution would be gazetted and a date for a constitution referendum set.

As already indicated, formation of a transitional government or government of national unity is a strategy that is almost universally used in all societies that are emerging from conflict (Samuels 2006:664; Curtis 2012:79-80), and clearly Zimbabwe followed similar trajectory. The drafting of a new constitution as part of the objectives pursued by a transition administration is unsurprising as conflicts and/or political crises are also significantly hinged on contestation over the prevailing political-constitutional system, which is often viewed as illegitimate by conflict parties outside the government. Crucially, the idea of a new constitution, as formulated by leaders and citizens generally, reinforces the principle of national sovereignty and in particular amounts to a 'self-determination' by a people.

In relation to security and violence, the GPA acknowledged that there had been a tendency to "resort to violence by political parties, state actors, and non-state actors" in order to overcome political differences and ultimately as a method used to realise political objectives (EISA 2008:17). In addition, the GPA also recognised that many Zimbabweans were displaced in the wake of the 29 March 2008 Harmonised Election as a result of politically motivated violence and persecution. In consideration of the aforesaid, the parties undertook to work together to prevent further violence by ensuring that perpetrators of politically motivated violence are held accountable in terms of the pertinent laws and ascertaining that politically incendiary and hateful language will not be used by the parties, amongst other things.

Article XX of the GPA (EISA 2008:20-26) outlines the framework for the inclusive interim government. As per Article XX, the executive power and authority of the GNU would reside with the President, Prime Minister and Cabinet generally, and this power and authority would be exercised in accordance with the constitution and laws of the country. The Executive was to run the government collectively, relying on consensus as a method of decision making (EISA 2008:22). In terms of power allocation between the President and Prime Minister, the President would chair the Cabinet while the Prime Minister had authority to be the chair of the Council of

Ministers; the President was to be the overall head of the state while the Prime Minister would be confined largely to running of the government. Essentially, substantive power remained in the Office of the President (i.e. power to declare war, appointment of the Prime Minister, Cabinet Ministers, signing of international treaties, etc.), and the Office of the Prime Minister was junior in comparative terms.

Table 4: Distribution of political power in the GNU

PRESIDENT	PRIME MINISTER
Chair of Cabinet	Chair of the Council of Ministers
Exercises executive authority	Exercises executive authority
Declares wars and make peace	Oversee formulation of government policy
Proclaim and terminate martial law	Government policy implementation
Grants pardons to offenders	Leaders of Government Business in Parliament
Chairs the National Security Council	Member of the National Security Council
Appoints Vice Presidents, the Prime Minister, Ministers and their deputies	Reports his work to the President and Parliament
Accredits diplomatic agents and consular officers	
Appoints Commissions	
May dissolve Parliament	

Author's own compilation

Furthermore, Article XX (20.1.6) outlines the composition of the Executive, and point 1 of Article XX (20.1.6) states that the Office of the President "shall continue to be occupied by President Robert Gabriel Mugabe". Point 3 states that "there shall be a Prime Minister, which Office shall be occupied by Mr Morgan Tsvangirai" (EISA 2008:24-25). Moreover, the GPA also has a provision for appointment of 31 Ministers in the Cabinet, 15 of which will be nominated by the ZANU-PF, 13 nominated by the MDC-T and 3 by MDC-M. The positions of the president and prime minister were the most senior positions in the GNU and it was somewhat expected

that Mugabe and Tsvangirai, the most prominent figures in either side of the conflict, would take up these positions. However, and as per the power distribution table provided above, the material power of the state remained concentrated in the hands of Mugabe. Therefore, the power structure of GNUwas lopsided and significantly in favour of the incumbent governing party the ZANU-PF, to the detriment of the opposition parties (Chigora & Guzura 2011:24; Mapuva 2010:258).

5 The Implementation of the GPA

The implementation of the Global Political Agreement (GPA) that (formally) ended the conflict in Zimbabwe had mixed outcomes. While there were certain positions and issues that were clearly articulated in the GPA; i.e. the agreement stated that Mugabe will retain presidency while Tsvangirai will occupy a newly created prime minister office, and also that the GNU must draft a new constitution, many issues, especially related to implementation, were left to interpretation of the conflict parties. This section will explore the implementation of the GPA focusing on successes and challenges encountered.

5.1 Successes in the implementation of the GPA

In terms of the GPA the parties undertook to create an inclusive government (GNU), comprised specifically by the three primary belligerents in the Zimbabwe conflict and/or crisis – the ZANU-PF, MDC-T and MDC-M. The transitional government or Government of National Unity (GNU) was formally created on 13 February 2009, as per the GPA. Necessarily, the establishment of the GNU was the first and significant step in the implementation of the provisions of the GPA and as such, constitutes a positive progress that the parties to the power sharing agreement were able to make. The destruction of critical spheres of socio-economic and political organisation tends to be commonplace in societies that have experienced prolonged internal conflicts and/or extreme political crises. Therefore, and as part of recovery, usually an inclusive government is formed for the purpose of rebuilding such societies and, expectedly the focus tends to be broad, covering matters of infrastructure

reconstruction, the economy, the social and emotional healing of the nation, human rights and the improvement of the political system (Mapuva 2010:249-250).

Moreover, in terms of its composition Mapuva (2010:50) argues that a GNU includes all the key, yet sometimes ideologically disparate, political parties in a country, and as such it tends to be fragile and characterised by internal acrimony. Accordingly, and as per the GPA, Mugabe retained the presidency, while Tsvangirai became a Prime Minister and Arthur Mutambara a Deputy Prime Minister in the new inclusive government of Zimbabwe. The GNU, due to its inclusive nature and the fact that some measure of power was transferred to opposition, de-escalated the interparty violence in Zimbabwe.

As already pointed out, the Zimbabwean economy was one of the spheres that suffered profoundly from years of conflict and instability that characterised Zimbabwe. By the time the GPA was signed, the economy had effectively tanked, with the financial sector also thrown into the abyss; the Zimbabwean financial markets had collapsed and the country's currency was worthless (Dzingirai & Katuka 2014; Biti 2014). Upon its formation, the GNU was able to restore some measure of tranquillity in the financial markets, in particular through the introduction of a multi-currency system in the stead of the redundant Zimbabwean dollar (Mukuhliani 2014:172). Furthermore, although Zimbabwe did not witness a huge surge in positive investor sentiment as a result of the GNU there was some level of private sector investment made in the country's economy and this contributed to a 9% (annualised) economic growth in the years 2010 and 2011 (*Zimbabwe Independent* 2013).

As a result of economic measures of the GNU, this combined with the more reliable purchasing power heralded by the multi-currency system, basic commodities became accessible to many Zimbabweans again (Chagonda 2019). Reflecting on the economic recovery achievements of the GNU, Chinyoka and Seekings (2016:13) point out that hyperinflation was ended, that economic stability was restored and that the economy experienced growth upwards of 10% by 2013. The termination of hyperinflation was one outstanding achievement of the GNU. During the GNU

inflation averaged 4%, a marked improvement from the over 100 billion per cent of the pre-GNU era (Biti 2014:19).

Furthermore, the formation of the GNU relatively restored legitimacy of the Zimbabwean political order and thereby allowed government authorities to access assistance from international financial institutions. Indeed Tendai Biti, who was also the Minister of Finance during the GNU, points out that “at the inception of the GNU, the Zimbabwean government had no relationship with international financial institutions (IFIs)” (Biti 2014:17). Although Zimbabwe could not immediately access finance from IFIs because it had defaulted on repayment of loans, global lending institutions like the International Monetary Fund (IMF) and the African Development Bank (AFDB), were able to re-enter the scene and provide technical assistance on the GNU’s efforts to revitalise the economy (Biti 2014:18). International donors and the European Union were able to provide development aid and finance, channelling these through the United Nations specialist agencies such as the United Nations Development Programme (UNDP), World Health Organisation (WHO), and World Food Programme (WFP), agencies that were working with Zimbabwe’s GNU (Biti 2014:19). In summary, the cumulative effect of the economic measures of the GNU was an economy restored to a growth path which also saw government revenue doubling from “16% of GDP in 2009 to an estimated 36% of GDP in 2012” (Biti 2014:20).

Politically, the successful formulation or drafting of a new constitution were arguably the most significant political achievements of the GNU. Naturally, the process of drafting a new constitution is extensive and complex, involving as it inevitably does wide consultation of communities, long debates in parliament and ultimately a referendum. The community consultation approach that is normally inherent in the process of drafting a new constitution, proffered ordinary Zimbabweans an opportunity to play a role in the political life of their country. In addition, the Joint Monitoring and Implementation Committee (JOMIC) and the Organ on National Healing, Reconciliation and Integration (ONHRI) focused on working with communities in order to eliminate politically motivated violence that pervaded the

Zimbabwean society and set the country on a trajectory of peace, stability and security (Murairwa & Nhengu 2020). Generally, the formation of the inclusive GNU somewhat de-escalated the conflict in Zimbabwe and thereby averting heightened escalation that could have resulted in further casualties (Dodo *et al*/2012:209)

5.2 Shortcomings in the implementation of the GPA

While the GNU succeeded in ensuring a degree of respite in politically motivated violence within Zimbabwe, sporadic violence remained widespread well into the tenure of the inclusive government. Generally, the ZANU-PF as a liberation movement continued to be a dominant force in the GNU with its ideas of ‘patriotism’ and ‘anti-imperialism’ featuring constantly holding sway in government’s political communication, and with the cumulative effect of stifling the MDCs’ and critical civil society’s discourse of human rights and good governance (Dube, Dziva&Manatsa 2013:86). Since the issues of human rights abuses and politically motivated violence were both causes and drivers of the Zimbabwe conflict or crisis, the failure to give full attention to these in the GNU undermined it in the eyes of portions of the society for whom justice for victims was paramount (Dube, Dziva & Manatsa 2013:87). After the ratification and promulgation of the 2008 GPA giving effect to the formation of the GNU in Zimbabwe, partisan disagreements over the composition of the executive and the allocation of cabinet portfolios ensued (Mutisi 2011). This brought back into the fold the old politics of power games, tit for tat and partisanship to the detriment of the GNU.

The key parties in the Zimbabwe conflict (Mugabe, Tsvangirai and Arthur Mutambara) failed to agree on the distribution of posts in cabinet and subsequently Mbeki was called in to facilitate a solution to this (*Reuters* 2008). On 7 October 2010, Tsvangirai publicly condemned Mugabe for unilaterally appointing provincial governors, referring to these appointments as “illegal and unconstitutional” (VOA 2010). In terms of Article of the 2008 GPA, the President (Mugabe) and Prime Minister (Tsvangirai) were supposed to exercise the executive power in consultation with each other. But Mugabe decided to take unilateral decisions on ministerial appointments and on provincial governors, thus undermining the letter and spirit of

the power sharing agreement. Specifically, the fact that Mugabe could make important appointment decisions without the concurrence of Tsvangirai highlights the fact that the ZANU-PF wanted to make the prime minister position more symbolic than effective. It thus also wanted the GNU to be symbolic than real.

Furthermore, the dominance of the ZANU-PF aligned securocrats, senior officials who led the intelligence service, the police and the military, over the state and the political system in Zimbabwe continued throughout the GNU period (Mutisi 2011). Problematically, state security chiefs and principals overtly avowed their political loyalty to the ZANU-PF, and this highlighted the failure of the GNU to reform the security sector, which remained politicised and partisan. Thus, the security sector remained untouched by the changes taking place in the rest of the state in line with the terms of the GPA, thereby undermining the GNU in the eyes of the public. The implication of this failure was significant insofar as the problem of state-sponsored violence was concerned in Zimbabwe. The police and soldiers were widely blamed for perpetrating cruel violence against leaders and supporters of opposition parties in Zimbabwe (Human Rights Watch 2008). There was no consequence for them during the transition and they seemed to continue to perpetuate violence unhindered (Amnesty International 2013). Indeed, Zimbabwe's election periods tended to be characterised by heavy-handed treatment and, sometimes abuse, of supporters of opposition movements by the military and police.

The VOA reported on 5 June 2012 that Tsvangirai was disturbed by threats associated with senior security officials that any election outcome that does not result in Mugabe as president of the country would not be recognised and respected by Zimbabwe's military and police establishment (VOA 2012). While the viewpoint of the Zimbabwean military and police regarding elections was totally unacceptable in terms of democratic conventions, it was nonetheless unsurprising as most of the key officials who dominate Zimbabwe's security sector were once part of ZANU-PF's liberation struggle against white settler rule; by default, these senior security officials were bound to be bias towards the electoral and political interests of ZANU-PF as a liberation movement. Chitiyo (2009:4-7) makes a similar point, arguing that from the

2000 land grabs that heightened in the wake of the Constitution Referendum of 2000, the 2002 Presidential Election, the 2005 Parliamentary Election through to the 2008 Harmonised Election, the military, the police, and ZANU-PF war veterans and the party's youth wing spearheaded systematic violent attacks on communities and people known to support the MDC. Accordingly, the spectacular failure of the GNU to reform the security sector had negative implications beyond its tenure.

6 SADC's role in the implementation of the GPA

Once the GPA was concluded on 11 September 2008, with SADC having successfully led the mediation process, the focus of the regional IGO turned to assisting the GNU in implementation of the GPA. The GNU got off a rocky start with internal rumblings emerging as early as March 2009 and centred on appointment of senior staff in various state institutions (Institute for War and Peace Reporting 2009). As interparty disagreements over implementation of the 2008 GPA heightened, with Tsvangirai already boycotting cabinet sessions and threatening to pull out of the GNU, the SADC Troika of the Organ on Politics, Defence and Security (OPDSC) convened a meeting on 5 November 2009 where they deliberated on the Zimbabwe situation (SARDC 2009).

Mugabe and Tsvangirai were in attendance of the meeting in Maputo. Tsvangirai accused Mugabe of being a “dishonest and unreliable [coalition] partner” because he made senior appointments without consulting him (*Reuters* 2009). He also lamented the seeming reluctance of Mugabe and ZANU-PF to effect constitutional and media reforms which would enable convening of a free and fair election. As indicated previously and according to the Institute of War and Peace Reporting (2009), Mugabe angered Tsvangirai when he appointed permanent secretaries without consulting the GNU partners, as required by the GPA. Upon the conclusion of its discussions and deliberations, the OPDS released a *communiqué* wherein the parties to the GPA were urged to resolve remaining issues through a dialogue to be facilitated by President Jacob Zuma of South Africa in order to find common ground and ensure full implementation of the GPA (SARDC 2009). In addition to leading the dialogue between ZANU-PF and the two MDCs members of the GNU, Zuma was

also expected to “evaluate *progress* and report back to the Chairperson of [OPDSC]” (SARDC 2009).

The issue of positions, both within the cabinet and other key state institutions, was particularly at the centre of most discord in the early days of the GNU in Zimbabwe. As already indicated and as per the GPA, ZANU-PF had privilege to nominate 15 people for ministerial positions in the executive while MDC-T was entitled to 13 and the MDC-M 3 (EISA 2008). In terms of the GPA the power sharing government was supposed to have 31 cabinet ministers, but Mugabe extended this to 41 appointing ZANU-PF aligned ministers into the GNU (Nhengu & Murairwa 2020). Clearly, this was a case of undermining the provisions of the GPA and thus the rule of law in Zimbabwe. Despite countless remonstrations and lamentations from his GNU partners, Mugabe was able to make unilateral decisions in violation of the GPA and SADC was unable to decisively reign over him or the ZANU-PF.

Challenges in the implementation of the GPA arose largely because the main parties, ZANU-PF and MDC, had diametrically divergent postures towards the GNU and SADC’s role in the Zimbabwe situation. The ZANU-PF and, Mugabe in particular, despised the power sharing arrangements and was occasionally hostile to external involvement, as spearheaded by SADC, in the affairs of Zimbabwe. This reluctance of the ZANU-PF to allow SADC some space to help with the implementation of the GPA hindered the latter’s ability to effectively and decisively intervene in order to eradicate hurdles in the implementation of the GPA. In scorn of SADC, Mugabe frequently told ZANU-PF rallies and suppers to prepare for an election as the GNU will end in February 2011 (VOA 2010). Conversely, the main MDC formation was receptive to the participation of SADC in the implementation of the 2008 GPA and insisted on many occasions, that as the guarantor of the GPA, SADC must intervene in order to “unlock” deadlocks and hindrances that arise in the GNU (VOA 2010).

As the obstacles to the implementation of the GPA became more pronounced, Zuma, as representative of SADC in the conflict resolution process in Zimbabwe, insisted that debilitating disagreements between Mugabe and Tsvangirai in particular

is justification enough for continued involvement of the regional body in Zimbabwe until “there is [an] atmosphere that will lead to free and fair elections” (VOA 2010). However, during a 2011 SADC Summit meeting in Livingstone (Zambia) Mugabe strongly criticised South Africa’s facilitation of the implementation of the GPA, especially its position on the issue of early election in Zimbabwe. He particularly singled out the South African envoy, Lindiwe Zulu, going to an extent of calling her a ‘foolish street woman’ for having insisted that Zimbabwe was not ready for election, contrary to the position of the ZANU-PF (*Mail & Guardian* 2013). Moreover, after the summit Mugabe is reported to have said that “we [the Zimbabwe Government] will not brook interference from any source ... even from our neighbours” (*Mail & Guardian* 2013). Clearly, Mugabe feared that SADC’s mediation was teetering towards intervention in domestic/internal affairs of a sovereign state. In consideration of the aforesaid, and while mediation was the chosen form of intervention, the problematique of non-intervention remained a contentious issue throughout South Africa’s facilitation of the implementation of the Zimbabwe GPA.

As per the 2008 GPA the parties to the agreement were expected to initiate and lead a process of drafting a new constitution and create a new voters roll, and only conduct general election once the new constitution has been adopted and a new voters roll completed. However, the ZANU-PF and Mugabe agitated for election to be convened before the term of the GPA has lapsed and its objectives implemented (*The Economist* 2012). In response, the official SADC mediator, Zuma, intervened and exerted diplomatic pressure on the GNU partners to expedite the process of drafting a new constitution. His facilitation of the implementation of the GPA saw Zuma frequent Harare often in order to diffuse interparty tensions; after initially agreeing to the draft of the constitution, Mugabe reneged and demanded revision on certain aspects of the draft (Campbell 2012). As was the case with the previous mediator, Mbeki, MDC leaders felt that Zuma (although welcomed) had proved less effective in his efforts to enforce the implementation of the GPA (The Africa Report 2011). This was specifically in reference to his bid to reign in Mugabe who had called for early election in 2011.

On 19 July 2012 the Select Committee of Parliament on the New Constitution (COPAC) released the draft constitution. The ZANU-PF opposed several aspects of the draft constitution and these included reduced powers of the executive, strengthened independence and role of both parliament and, the judiciary (*Mail & Guardian* 2012). However, both the MDC-T and MDC-M alerted Mugabe that they will refuse any attempt at further negotiations aimed at revising the draft constitution (*Reliefweb* 2012). Although the ZANU-PF leadership felt that SADC should be shunned on the issue and instead revert the country back to the 1979 Lancaster House Agreement constitution and call for election, the two MDC formations invited both South Africa's President Zuma (official SADC mediator) and Tanzania's President Jakaya Kikwete (the Chairman of the SADC TROIKA) to facilitate a breakthrough on the deadlock (*Reliefweb* 2012). As the official SADC mediator, Zuma was tasked with ensuring that these fundamental differences, amongst others, are overcome and the GPA implemented and concluded within the timeframe.

On 18 August 2012 the SADC Summit of Heads of State and Government convened in Maputo (Mozambique) and received a briefing on implementation of the GPA from Zuma, its mediator in the Zimbabwean conflict (*SADC Communiqué* 2012). The SADC Summit urged the parties to the GPA to continue with implementation of all the aspects of the power sharing agreement; in particular the GNU was encouraged to conclude the process of constitution making. The position of SADC on the issue of a new constitution was that a democratic constitution was necessary in order to create a climate that will be permitting of a free and fair election in Zimbabwe. As has been the case in the initial negotiations that produced the GPA, SADC continued with the reliance on diplomatic pressure and 'encouragement' as strategies of ensuring implementation of the GPA. Indeed, at its gathering convened in the later part of 2012, on 8 December, in Dar es Salaam the SADC Summit "urged the political stakeholders in Zimbabwe to fully implement the GPA" (*SADC Communiqué* 2012). Necessarily, this pacific approach and obvious avoidance of confrontation, political and diplomatic confrontation is consistent with the regional IGO's commitment to respecting the national sovereignty and independence of its member states. By intervening peacefully and not using harder instruments, SADC wanted

to ensure that it did not trigger accusations that it was violating the national sovereignty of Zimbabwe.

On 13 June 2013 Mugabe used a presidential decree and declared 31 July 2013 as the date for new election (*The Guardian* 2013). The term of the GNU and Parliament was to come to an end on 29 June 2013 and normally presidential and parliamentary elections would have to be convened soon. In fact, Mugabe's decision to declare 31 July 2013 as the date for the election was against the background of a ruling by the Constitutional Court that the President must fulfil the necessary legislation so that elections are held before end of July 2013 (*Daily Maverick* 2013). However, Tsvangirai protested the decision arguing that important reforms on electoral practices, the security sector and media coverage had not yet been undertaken and as such, free and fair elections were not possible. As the presidential decree had the force of law, Tsvangirai's lamentations were in vein and Zimbabwe was set for elections on 31 July 2013. The SADC Summit in Maputo (Mozambique) in 2013 was also attended by Tsvangirai, and it was unprecedented that a gathering of this nature would be attended by a political nemesis of a sitting president to give them an opportunity to explain how they were implementing SADC-sanctioned decisions. This was a time of a weakening of the sovereignty element to an extent. The ZANU-PF response was to seek to reverse this and assert the national sovereignty paradigm.

7 The New Constitution and the 2013 Election

The successful completion and adoption of the new constitution signalled the end of the GNU. The new constitution contained several clauses that strengthened democracy, from limitation of erstwhile presidential powers through to introduction of a new institution to tackle corruption and crime, indeed Zimbabwe seemed set to shed its widely acknowledged inglorious past. First, in terms of Chapter 5, Part 2 (91) of the 2013 Constitution presidential term of office was limited to 2 terms (Zimbabwe Constitution 2013:42). This provision did not apply retrospectively and as such, Mugabe, who has been in charge of Zimbabwe since 1980, was not barred from contesting for the position of president. Each presidential term comprised of 5 years, however, as per the 2013 Constitution 3 years is considered full term; unlike in the

past, a person could only be president for 10 years at a maximum. The introduction of presidential term limit was an important democratisation moment for Zimbabwe, as imposition of mandatory term of office restriction is considered one of the hallmarks of strong constitutional democracies (Murray & Wiebusch 2019:135). Moreover, as has been historically the case, the 2013 Constitution gave provision for the appointment of two vice-presidents; ZANU-PF has maintained a tradition where it ensures that one individual, normally of Ndebele ethnicity, is appointed a second vice-president in order to secure representation in the highest echelons of government for the politically marginalised Ndebele people.

Second, a sitting president or vice-president(s) can be removed on grounds of serious misconduct, violation of the Constitution, failure to adhere to ought of office, and inability to fulfil accompanying obligations as a result of illness (physical and/or mental malaise) (Zimbabwe Constitution 2013:44). Importantly, the Senate and the National Assembly in a joint sitting can remove a president and/or vice-president(s) from office through a resolution that acquires at least more than half of total members of Parliament (Zimbabwe Constitution 2013:44). In this sense, the method of removing a president and/or vice-president(s) from office was simplified; conventionally a two third majority in parliament is a minimum requirement in most countries in order for an incumbent president to be removed from office. Murray and Wiebusch (2019:135) argue that constitutional mechanisms that are aimed at countering unreasonably huge executive powers include term limits, decentralization, empowered legislatures and independent judiciary. As a result of the 2013 Constitution, the (potential) oversight role of the Zimbabwe Parliament was greatly improved and its ability to uphold the constitution through removal of wayward president(s) significantly magnified.

Third, Chapter 13, Part 2, Section 258 of the 2013 Constitution called for the immediate establishment of a National Prosecuting Authority (NPA) in order to conduct criminal prosecution on behalf of the state (Zimbabwe Constitution 2013:101). Previously, this institution did not exist in Zimbabwe and its creation was one of the milestones of the GNU, the Parliament and the general populace. While

the President, on the counsel of the Judicial Service Commission, would have the authority to appoint a Prosecutor-General for office of the NPA, he/she will not have any influence on the work of the NPA; the institution was to completely independent, with the Constitution being the only instrument that circumscribed its powers. However, the office of the NPA was not entirely shielded from harmful and/or narrow political interests; the fact that the President appoints its head meant that the possibility of deployment of a lackey or compromised individual as head of the institution was not eliminated.

Finally, the new constitution also had provision for the creation of a National Peace and Reconciliation Commission (NPRC), as contained in Chapter 12, Part 6, Section 251 of the 2013 Constitution. As a society that was emerging from a protracted violent conflict and economic decline, the establishment of the NPRC was a step in the right direction in a sense that commissions of these nature are official and formal platforms where the perpetrators and victims of serious crimes can converge as part of a healing process. Indeed, this was precisely the role of the NPRC, as stipulated in the 2013 Constitution; NPRC's functions were, among others "to ensure post-conflict justice, healing and reconciliation" (Zimbabwe Constitution 2013:99). However, the NPRC was more symbolic than effective, underlying the key political actors' determination to bury the past and pave the way for new peaceful dawn, than a truly retributive justice mechanism, and did not have powers or authority to refer serious crimes committed during the conflict for prosecution.

As the most important stage of the constitution making process, on the days of 16 and 17 March 2013 Zimbabweans took to polling stations across the country to cast their vote, either in affirmation of the 2013 Draft Constitution or against it. Over 90% of citizens who participated in the referendum voted to approve the new constitution, meaning that majority of the country's citizens embraced the new constitution (EISA 2013a). Subsequent to the referendum, the adopted constitution required Zimbabwe to convene a general election within 30 days of the expiration of the GNU's term, as contained in Chapter 7, Part 2, Section 158 of the 2013 Constitution (Zimbabwe Constitution 2013:67). Accordingly, on 31 July 2013 Zimbabwe administered its

second Harmonised Election, combining both presidential and legislative elections. Over 3 million Zimbabweans voted in the election, with Mugabe garnering 61.88% of the presidential vote while his closest rival Tsvangirai managed a paltry 34.37% (EISA 2013b). The poor performance of Tsvangirai was somewhat unexpected considering that he secured the highest percentage in the previous election; in the 2008 election Tsvangirai scored 47.9% compared to Mugabe's 43.2%. The 2013 presidential outcomes meant that Mugabe was able to successfully retain the presidency position post-GNU period and Tsvangirai thrust back into opposition politics. Regarding, the results of the 2013 Harmonised Election for seats in the National Assembly, the ZANU-PF secured 62.39% while the main opposition MDC, acquired 30.29%. As was the case with the presidential component of the 2013 election, Tsvangirai's MDC performed poorly on the vote for the National Assembly, and this demonstrates that the party had lost significant support from among Zimbabwean.

Concerning SADC's role in the 2013 Zimbabwe election, and consistent with the Principles and Guidelines Governing Democratic Elections, the organisation dispatched an observer mission to Zimbabwe for the purposes of overseeing the 2013 Harmonised Election. The SADC Election Observation Mission (SEOM) to Zimbabwe's GNU-ending election of 31 July 2013 was led by Tanzanian Minister of Foreign Affairs Kamillius Membe. The SEOM sent to Zimbabwe was composed of 573 observers and, officially commenced its mission on 15 July 2013 (SADC 2013:3). By mandating the SEOM to monitor the Zimbabwe election, SADC is able to leverage its structures in order to advance its objectives and goals; in this instance the objective being that of advancing free and fair and democratic elections in southern Africa. In his SEOM report on the Zimbabwe Harmonised Election of 2013, Minister Membe acknowledges that various stakeholders, in particular opposition parties and civil society, raised multiple concerns in regards to poor readiness of ZEC to roll out election, limited time for voter registration, biased media coverage, political intolerance, and fraud related to ballot papers, amongst others (SADC 2013: 8-9). The election related challenges outlined above were not unique to the 2013 election; the previous elections were also supposedly riddled with similar challenges.

However, Membe reported that after undertaking its own investigation, through consultation and observation and other methods, the SEOM was able to establish that; firstly, bar financial limitations, the ZEC was able to muster logistical wherewithal necessary to administer successful election in line with the constitutional requirements. Secondly, the SEOM claims that it was assured by the ZEC that the timeframe provided for voter registration was adequate and consistent with applicable legislation and as articulated under Sixth Schedule, Part 3, Section 6(3) of the new constitution. Thirdly, the position of the SEOM on media coverage was that reportage on election related events was wide and contributed to “the peaceful environment that obtained during the electoral period” (SADC 2013:12-13). Fourthly, Membe’s report points out that the “mission noted reports of isolated incidences of political intolerance” (SADC 2013:14). However, the SEOM report states that the political intolerance referred to was so negligible that it did not materially affect the elections; therefore it became a non-issue and led to the pre-election period being characterised as marked by political tolerance and a conducive civic climate, and also that the election itself was conducted in a transparent and efficient way. Lastly, wary of the possibility of ballot rigging and fraud, various stakeholders registered their alarm that the printed ballot papers were 35% more than the registered voters; they feared that this could be for the purpose of fraudulently increasing the numbers (votes) of the ZANU-PF. In response, the SEOM inquired about this situation and the ZEC assured that the extra ballots were for “contingency”, and the SEOM considered the issue closed. The above-mentioned functions that were performed by the SEOM largely pertain to rule application and adjudication; the SEOM desired to ascertain that rules embedded in the Principles and Guidelines Governing Democratic Elections were adhered to in the 2013 Zimbabwe Harmonised Election. In this sense, SADC fulfilled the usual functions associated with an IGO.

8 An assessment of SADC mediation intervention in Zimbabwe

Did the SADC succeed in balancing the binary between non-intervention-intervention in its mediation role in Zimbabwe? What was the conflict resolution method in the broader SADC peace and security architecture used to achieve the political settlement and ensure implementation of the agreement? Did the preferred intervention approach allow the regional organisation to achieve its goal of restoring stability to the country? These questions are necessary to assess the peace intervention of SADC in Zimbabwe. SADC's conflict resolution intervention in the Zimbabwe conflict was informed by the various statutes and treaties, i.e. the 1992 SADC Treaty and the 2001 Protocol on Politics, Defence, and Security Cooperation, that anchors its very existence (SADC Treaty 1992; SADC Protocol 2001). In addition, SADC is considered a Regional Economic Community (REC) in terms of the AU and as such is expected to adhere to the AU's norm of non-indifference as implied by Article 4 (h) of the Constitutive Act (AU 2000: Article 4). These provide a quasi-legalistic basis that act as guidelines in relation to the questions of intervention and sovereignty/non-intervention in conflicts and/or severe crises in the region.

There are two dimensions against which SADC's conflict resolution involvement in Zimbabwe, from the perspective of ideational basis as embedded at an organisational level, should be assessed. First, there is the AU's Constitutive Act, especially Article 4 (h) of the Act, and its position on the conditions for intervention. As previously indicated, Article 4 (h) of the Constitutive Act proclaims "the right of the Union 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" (AU 2000: Article 4). Of the three 'grave circumstances' as outlined by the AU, crimes against humanity fits the case of the Zimbabwe conflict properly. In the absence of a formalised and codified treaty of international law that defines the concept of crimes against humanity, the United Nations (UN) has adopted the definition of the Rome Statute of International Criminal Court (UN 2020). Article 7 of the Rome Statute defines crimes against humanity as acts that are perpetrated as part of a systematic violations aimed at a civilian population (UN 2020). These acts

include murder, extermination, torture, enslavement, rape, imprisonment in breach of international law, persecution of a group on the basis of political, racial, ethnic and religious identity, and enforced disappearance of individuals (UN 2020). Accordingly, the Zimbabwe conflict, characterised by widespread persecution of political opponents of the ZANU-PF regime, arbitrary imprisonment, torture, and disappearance of critics of the government, is a quintessential case of crimes against humanity.

Second, both the SADC Treaty and the Protocol on Politics, Defence and Security Cooperation (Protocol of the Organ) provides a tentative outline of criteria and methods for intervention in member states gripped by conflicts. Article 4 (e) of the SADC Treaty states that SADC will pursue “peaceful settlement of disputes” (SADC 1992: Article 4). As such, the regional body’s reliance on the peaceful method of mediation in Zimbabwe was clearly informed by this principle. However, this principle is problematic in a sense that in certain conflict situations, peaceful methods may fail to transform conflict phenomena into a more permanent and lasting peace, stability and security, as the case of Zimbabwe obviously highlights.

Nonetheless, the Protocol of the Organ departs from the more general proclamations of the SADC Treaty and seeks to operationalise the peace and security architecture and the posture of SADC on intervention. Article 11.1 (c) of the Protocol of the Organ states that “the Organ shall seek to manage and resolve inter-state and intra-state conflict by peaceful means” (SADC Protocol 2001: Article 11). However, Article 11.3 (c) also empowers the Organ, in consultation with and subsequent to authorisation by the SADC Summit, to pursue “enforcement” if peaceful means are unsatisfactory (SADC Protocol 2001: Article 11). Accordingly, a regional multinational armed task force may be deployed for the purposes of advancing peace and security in the region. In consideration of the aforesaid, the decision to pursue mediation rather than enforcement measures in Zimbabwe, despite the conflict being the most destabilizing phenomenon to regional peace and security, and more importantly, its effects being immensely negative on millions of Zimbabweans remains unclear.

Besides SADC's ideational basis of intervention provided above, several inherent problems hindered the efficiency of SADC, problems that pertain to the very ontological and epistemological foundations of the organisation can be observed. Firstly, the absence of an unequivocal conceptual clarity on matters such as what form an intervention should take and to what extent should it be in certain defined conflict situations. For instance, before the breakthrough in the form of a political settlement of 11 September 2008, the Zimbabwe conflict had raged for many years and international diplomatic condemnation, censure and isolation had proved futile in curtailing the ZANU-PF regime's violence against opposition parties and supporters (Gavin 2007:10; *The New York Times* 2007). Therefore, SADC's tendency to downplay the crisis at the time and its reluctance to forthrightly intervene as well as the uncertainty riddling the organisation arise from its clear commitment to a concept of non-intervention, and a vague acceptance of the imperative to intervene.

Secondly and in terms of definitional and conceptual clarification, the organisation does not elucidate on the question of how should the seemingly incompatible relationship that exists between the concepts of sovereignty and intervention be approached in case of a sovereign member state experiencing destabilizing conflicts or crises. While both the SADC Treaty and the Constitutive Act of the AU proclaim the right of SADC to intervene in order to restore peace and security, they also simultaneously affirm the sovereign rights of each member state and calls for solidarity amongst the states (SADC 1992: Article 4; AU 2000: Article 3). Expectedly, this creates tensions and uncertainty between the concepts of intervention and non-intervention, and most importantly, blunts the process of decision-making in relation to determining, (a) whether an intervention should be made; and (b) in the case of a decision on intervention what nature and scope should it assume.

Furthermore, and as the case of Zimbabwe highlights, the method of intervention is entirely dependent on the interpretation of and consensus among the member states including the state where issues at hand arise. This enables states to limit the interpretation of the balance between non-intervention and the need to intervene in cases of conditions that treaties prescribe as justifying intervention. Statist

considerations mean that each state thinks about the implications of intervention on its own national sovereignty should similar issues arise in its domestic context. This makes them very cautious.

Secondly, the participation of the country concerned in discussions that must establish this consensus means that the country has the opportunity to divide the region, delay its decisions, blackmail fellow member states and even block decisions that entail intervention. There is ample evidence that the ZANU-PF as the dominant party in government, whose leaders occupied the portfolios in cabinet that are critical for engagement with SADC – foreign affairs and defence- used its power to make it difficult for SADC to intervene as strongly as it could have. SADC decisions begin with committees of senior officials where permanent secretaries of foreign affairs and defence, both ZANU-PF aligned, sat. The senior officials recommend to a council of ministers made up of ZANU-PF ministers and the matter is finally decided by heads of state in which Mugabe was a senior member by virtue of his stature in the region, as we will show below. This means the ZANU-PF had a way to weaken SADC consensus throughout the mediation process.

Mugabe became Prime Minister of Zimbabwe in 1980 and subsequently the President when Zimbabwe adopted a presidential system in 1987 – a position he held until his ouster by the military in 2017. Prior to his entry into state power, Mugabe successfully led a resistance against white minority rule in the 1950s, 60s and 70s, culminating in the 1979 Lancaster House Agreement which paved the way for the first all race election in 1980. As a ZANU delegate, Mugabe was among the people who attended the epochal 1963 conference in Addis Ababa (Ethiopia) that founded the OAU, thereby placing him among the most senior and respected African nationalist leaders such as Kwame Nkrumah, Gamal Abdel Nassar and Emperor Haile Selassie. Ndlovu-Gatsheni (2015:1) correctly observes that Mugabe “belongs to the first generation of African nationalists who led Africa into independence”.

With his place cemented in the glorious annals of liberation struggle against colonialism in Africa, Mugabe cultivated respectability in the region and the continent that made him unassailable. In addition, and through his chairmanship of both the

OAU/AU and SADC, Mugabe was able to vociferously speak against the exploitative and neo-colonial trade relations of Africa and the West, as well as criticise the seeming unfair treatment of African leaders by the International Criminal Court (ICC), further earning him admiration from many leaders in the African continent (Ndlovu-Gatsheni 2015:2). Accordingly, Mugabe used his aura to undermine the ability of the region and continent to take stronger stances against his authoritarian rule.

Clearly, SADC's understanding of and relation to the concepts of national sovereignty/non-intervention and non-indifference/intervention is somewhat hierarchical in the sense that whenever sovereignty and non-indifference appear to clash, the former tends to take salience over the latter as indicated by the organisation's preference for conflict resolution methods (mainly mediation and negotiation) that tend to sustain the political system and establishment. For example, SADC's decision to dissolve the SADC Tribunal in 2010 which was made after the Zimbabwe Government complained that the organisation was interfering in the country's domestic matters, illustrates this (see Chapter 4). Indeed, the Protocol of the Organ emphasises preference for 'peaceful' instruments of resolving conflicts, with hard instruments considered a last resort (SADC Protocol 2001: Article 11). Obviously, SADC's posture on the ideas of sovereignty/intervention is state centric; state centric in that the status of state sovereignty is elevated through the emphasis of use of 'peaceful' instruments in dealing with recalcitrant member states. As history attests, an instance where SADC used a regional armed task force (hard instrument of intervention) against a member state was in the case of Lesotho in 1998 when it sought to reverse a mutiny carried out by elements of the Lesotho Defence Force (LDF) (Likoti 2007:252-253; Neethling 1999). Crucially, it is important to acknowledge and recognise that the SADC military intervention in Lesotho was not against a sitting government but directed at forces seeking to overthrow the government.

Since AU and SADC derive a lot of their power from international recognition, it is important to also trace the priority they give to the concepts of sovereignty and intervention to the fact that the literature shows that the narrow concepts of national

sovereignty is embedded in the international system of states. Cronin (2002:66) argues that intergovernmental organisations reflect the unequal distribution of power amongst the member states and as such, weak states are normally hesitant to transfer authority on issues that may compromise their sovereignty. The United Nations Security Council (UNSC) is a good example of this unequal distribution of power as only 5 states have substantive power to influence its decisions and, even more problematically, these states are also swayed by considerations of narrow national interests when resolutions need to be taken on matters of international security. Under such circumstances, intense contestation and paralysis are bound to emerge once the question of intervention arises.

Also crucial is the fact that the co-existence of sovereignty and intervention has been fundamentally problematic as they assume mutual exclusivity and, yet should be acted upon concurrently. Article 1 of the United Nations Charter reiterates the importance of intervention to resolve conflict situations or developments that threatens international peace and security, on the one hand (UN Charter: Article 1). On the other, Article 2 emphasizes the need for states to respect the independence and sovereignty of other states (UN 1945: Article 2). In this sense, the incompatibility of these concepts creates an environment of an uncertainty for IGOs, not least for SADC (Hayman & Williams 2006:14). Accordingly, while SADC can be castigated for its peaceful and seemingly regime-strengthening approaches to conflict resolution, the underlying problems are far wider and speaks to the very ontological and epistemological foundations of the international system of states.

SADC's conflict resolution intervention in Zimbabwe was rendered even more difficult by the fact that the conflict was also primarily caused by the Government's land reform programme which was intended to address the historical dispossession of blacks; why would SADC counter such a noble cause? Alden (2002:8) correctly observes that "underlying this set of crises [crisis of legitimacy, economic catastrophe and political violence] was the colonial legacy of land distribution in which 10 million hectares of the country's [Zimbabwe] most viable land is owned by 4500 mostly white commercial farmers ...". Under these circumstances, a hostile

intervention approach would have generated a backlash from the governing liberation party, the ZANU-PF. Indeed, ZANU-PF's leadership tended to frame the conflict and/or political-economic crisis in Zimbabwe in terms of the dichotomy of neo-colonialism and decolonisation rooted on the question of land (Ndlovu-Gatsheni 2009:70). Oftentimes, the opposition MDC was accused by Mugabe's government of being a Western project geared at stalling restoration of land to black Zimbabweans and thereby perpetuate neo-colonialism (Fisher 2010:201). Accordingly, the ZANU-PF mission, from the perspective of its leaders, was historically significant and therefore SADC could not be the organisation that derails this through an intervention that jeopardises the party's hold on state power. Thus, there was a clear colonial legacy and a neo-colonial quagmire in that Zimbabwe's erstwhile colonial master, Britain, had led an international campaign to impose sanctions on the ZANU-PF government which SADC opposed. The SADC recognise that the crisis in Zimbabwe had domestic and international dimensions; the organisation appreciated that while the Government's mismanagement of the economy and campaign of violence was responsible for Zimbabwe's decline, it also recognised that international sanctions also contributed to the crisis.

However, the structure of Zimbabwe conflict was also framed in terms of electoral disputes and election related violence, as both the cause and driver of the conflict. While elections are matters that fall within the domestic realm of the sovereign state, the moment systematic violence characterise the electoral processes then the issue is normally elevated into an international problem. In accordance with popular sovereignty, which is premised on assumption that the will of the people is the source of sovereignty and legitimacy, this being expectedly gauged through an electoral process (Jackson 2007:78), the stifling of elections due to state sponsored violence against the supports of opposition, the critical civil society, the independent media, the trade unions and the political persecution of opposition figures in Zimbabwe weakened the ZANU-PF regime's claims to sovereign rights. Logically and under such circumstances, SADC would be expected to intervene decisively in order to restore popular sovereignty. Nonetheless, SADC's conflict resolution intervention in Zimbabwe was less guided by this understanding of the

principle of sovereignty and more by the classical or Westphalian conception of the principle as absolute and embedded in the state apparatus.

In relation to South Africa and its role in the Zimbabwe conflict resolution process, Mbeki and Zuma avoided the use of hard instruments in order to minimise the contradictions inherent in the intervention/non-intervention binary. This was consistent with South Africa's foreign policy posture, which is anchored on respecting the sovereign rights of other states and solidarity of African states in pursuit of a renaissance. It therefore saw intervention as a measure of a last resort and that when it is considered it should be through peaceful means, i.e. mediation (Republic of South Africa 2011:20). It also opposed the growing doctrine of regime change that encouraged external interventions to change unwanted governments (Nyuykonge & Zondi 2017:111). Certainly, with geographic proximity to the location of the conflict (Zimbabwe) South Africa was overly exposed to the (possible) negative regional effects of the Zimbabwe conflict (Chikanda, Crush & Tawodzera 2015:370-371). And as a regional power, South Africa had both hard and soft power to employ a more punitive sanction, a humanitarian intervention through the use of an armed force perhaps, against the ZANU-PF regime in Harare, but it decided for peaceful means. Ultimately, the crucial point is that South Africa's agency in the Zimbabwe conflict cannot be simply externalised, explained solely through the lenses that only places significance on the regional multilateral configuration in the form of SADC. Indeed, people that are deployed as mediators bring with them their own worldviews and ideas of how the world should look like (see Chapter 2).

As a form of intervention, mediation falls under diplomacy – the latter being characterised by the use of 'good offices' and multilateral forums for the purpose of persuading conflict parties of the futility of conflict (Aydin & Regan 2006:745). Hill (2003:138) posits that diplomacy is "a crucial instrument for building international stability". In fact, diplomacy is a more constructive form of intervention as it avoids the destruction that accompanies military interventions, as the case of NATO intervention in Libya in 2011 illustrates (Kuperman 2015). By using diplomacy in its intervention in Zimbabwe, SADC sought to lessen resistance to its intervention by

the Zimbabwe Government, something that would have likely happened had a more intrusive approach, i.e. military intervention, been taken. In addition, a military intervention in a conflict that was also largely centred on electoral disputes would have unavoidably resulted in regime change, which is inconsistent with the AU's principle prohibiting unconstitutional change of governments (AU 2000: Article 4).

As already pointed out, SADC prefers mediation as a method of resolving conflicts in the region. One of the key characteristics of mediation is its reliance on the consent of the conflict parties, in a sense that the parties must either request or accept offer for intervention by a third party (Bercovitch 1992:2). Necessarily, while tensions may arise between one and/or both of the conflict parties and the mediator, as was often the case with MDC's frequent castigation of Mbeki's mediation style (IOL 2008), mediation is by nature a peaceable method. Accordingly, the peaceful nature of mediation allowed SADC to minimise the (inherent) clash between intervention and non-intervention that would have manifested and ultimately, probably result in rejection of its involvement by the Zimbabwean government. The conditions necessary for successful mediation of a conflict, successful in a sense of concluding a political settlement of sort, include that the political and economic costs of continuation must be significant, international condemnation and pressure towards the parties must be palpable, and the conflict must be long-running (see Chapter 2, Section 9). The Zimbabwe conflict met all these conditions and expectedly SADC was able to broker a political agreement in the form of the 2008 GPA.

However, and as the case of SADC intervention in Zimbabwe highlights, the problem is not absence of intervention but the nature and scope that the intervention assume; specifically, nature and scope in terms of methods used and the cumulative outcomes in relation to the identified issues/problems. First, each conflict or crisis situation is generally unique and as such requires appropriate intervention strategy. For example, the Zimbabwe crisis was particularly heightened as a result of the disputed 2008 election, which was widely regarded to had been won by the opposition, the MDC-T (Mlambo & Raftopoulos 2010:3). As a matter of fact, SADC mediation efforts only intensified in response to the violence surrounding the 2008

election-related disputes. However, instead of emphasising focus on this problem in its intervention, SADC pursued a broad agenda with the ultimate aim of reaching a power sharing arrangement. Second and linked to the above, the power sharing agreements that mediation produce, almost without exception, are characterised by asymmetric power distribution, with the party that was in government usually retaining most of its power, thus making it difficult for the inclusive government to undertake substantive reforms.

Generally, the primary drawback with (over)reliance on mediation as a method of conflict resolution is that, instead of ending conflicts and addressing the underlying problems, it tends to rather achieve a suspension or de-escalation of conflict behaviour, with the possibility that hostilities would resurface later. In this regard, the case of the Zimbabwean conflict illustrates the aforesaid aptly; despite the political settlement of 2008 and the subsequent formation of an inclusive government, issues such as politically motivated violence and democratisation of the state, which are matters of structural reform, remained unaddressed (Tarugarira 2014:92).

The Zimbabwe conflict or crisis and the question of how it should be handled, in terms of the type of intervention necessary, played out at both international and regional levels. At an international level, there was an absence of consensus amongst superpowers, superpowers taken to be the P5 of the UNSC in this instance, in relation to the intervention that the UN should make in Zimbabwe. On the one hand, the U.S., Britain and France wanted the UNSC to assume a hard-line stance against the Zimbabwe Government, which will see imposition of crippling sanctions against the Mugabe regime, amongst other intervention measures. On the other hand, China and Russia repeatedly vetoed UNSC proposed sanctions against Zimbabwe (Chun 2014:8-9). Accordingly, the international community in general and the UN in particular were unable to overcome the intervention/non-intervention problem, as evinced by the inability to agree on a substantive intervention strategy in the Zimbabwe conflict. Against this background, characterised by divisions between those who advocated for hard intervention and those opposed to it, a diplomatic

intervention in the guise of mediation became a reasonable choice of intervention in Zimbabwe.

Even South Africa used its non-permanent membership of the UNSC to oppose sanctions against Zimbabwe, with one of such votes having been made on 11 July 2008 during a UNSC sitting (UN 2008). Further underscoring the international division on the Zimbabwe problem, Mbeki claimed that Britain under Tony Blair demanded a military intervention that would overthrow Mugabe as a solution to the Zimbabwe crisis (*The Guardian* 2013). Similarly, a 3-member panel composed of Australia, Nigeria and South Africa was established in 2003 by the Commonwealth – the latter being a loose association of former British colonies – to reflect on the Zimbabwe situation and possible intervention that could be made. Zimbabwe had already been suspended for a year from the Commonwealth in 2002, in addition to the economic sanctions that the association had imposed. Mbeki who was South Africa's president at the time, resisted pressure from Britain and Australia for supplementary sanctions, and instead argued for readmission and lifting of economic restrictions against Zimbabwe (Mamdani 2009:11; *BBC* 2003). Clearly, the question of intervention in relation to the Zimbabwe crisis tended to divide opinion, even amongst former British colonies.

At a regional level, there were divisions amongst SADC states concerning the intervention approach of the organisation in Zimbabwe (Motsamai 2015:10). South Africa, Angola and Namibia President advocated for a minimal SADC involvement, because for these countries the risk was that a hard intervention could aggravate the crisis with huge regional impacts including spill-overs, while Botswana, wanted a strong intervention for various reasons. President Ian Khama of Botswana held the view that the crucial 2008 election was stolen by the ZANU-PF and accordingly criticised the ZANU-PF and SADC's handling of the controversial election and the crisis in general. In 2008 he boycotted a SADC summit in protest against the organisation's intervention approach in Zimbabwe, which he felt buttressed the ZANU-PF's hold on state power in Zimbabwe (Motsamai 2015:11). Considering all the divisions/disagreements around the method of intervention, mediation became a

middle ground, a compromise of sort that while not satisfying everyone, was an acceptable intervention method as it balanced the need for intervention in the one hand and the imperative to honour Zimbabwe's sovereignty in the other.

In summary, the use of peaceful methods of conflict resolution, in particular mediation and negotiation, allows SADC to manage the murky terrain of sovereignty versus intervention, through avoidance of intervention measures that would likely elicit the robust of resistance from the political establishment embedded in the state machinery. These measures are effective insofar as they are able to temporarily de-escalate a violent conflict and provide an opportunity for transformation of conflict into a more enduring peace. However, and tragically, they also tend to proffer only a fleeting postponement and suspension of the conflict, as the Zimbabwe case highlights, only for sporadic instances of conflict to re-emerge at a later stage. Essentially, the method of intervention preferred by SADC – mediation – is benign in nature, especially when compared with other methods such as military and humanitarian interventions, and does not usurp the authority of the state to be and its position as the final arbiter in domestic affairs. Nonetheless, in the final analysis SADC was able to manage the potential incompatibility between the principle of national sovereignty and the AU's norm non-indifference during its conflict resolution intervention in Zimbabwe by using mediation, which allowed it to; firstly, intervene in Zimbabwe; secondly, successfully facilitate a political settlement (GPA) and; thirdly, oversee the implementation of the GPA. Lastly, by overlooking and disregarding occasional noncompliance to the GPA, transgressions that were largely associated with the dominant party (ZANU-PF) in the inclusive government, SADC ensured that its involvement in the implementation of the 2008 Zimbabwe political settlement was tolerated by the ZANU-PF – because, as indicated in this chapter (see Section 6), in instances where SADC insisted on firm adherence to the GPA Mugabe was quick to remind the organisation that Zimbabwe was a sovereign country and as such would not take orders from external actors.

9 Conclusion

SADC bases its intervention approach on the SADC Treaty and the Protocol of the Organ. These two instruments place emphasis on the use of peaceful methods of conflict resolution and as such, mediation becomes a natural choice. Consistent with the UN Charter and the AU Constitutive Act, the SADC Treaty and the Protocol of the Organ encourage intervention for the purpose of restoring/advancing regional peace and security. However, while acknowledging the need to intervene in order to halt conflicts and/or severe crises, SADC is also attached to the saliency of the principle of sovereignty and non-intervention. This results in a form of conceptual equivocation and necessarily, uncertainty ensues in relation to the question of intervention. In light of this problem, mediation becomes the preferred option of intervention as it allows SADC to satisfy calls for intervention while simultaneously being the most peaceable method of intervention – meaning it is less likely to amount to gross violation of sovereignty.

In the case of Zimbabwe, the conditions described above also obtained. The Zimbabwe conflict and /or crisis became manifest in the late 1990s and early 2000s and yet SADC only adopted a resolution to initiate mediation intervention in 2007. The delay in making the decision on intervention was because the organisation wanted to avoid being viewed as interventionist. Even after the 2007 Dar es Salaam resolution authorising intervention was adopted, SADC proceeded cautiously, in particular in light of ZANU-PF resistance to the intervention. It was only after the disputed 2008 election and the widespread violence and unrest surrounding the election that SADC ramped up its mediation efforts. The humanitarian crisis that unfolded in 2008, and the international criticism that ensued thereafter, somewhat weakened the ZANU-PF's sovereignty claims, making it slightly receptive to external intervention.

The SADC's conflict resolution intervention in the Zimbabwe conflict mandated on South Africa was an attempt to use mediation perceived to be a more benign method of intervention from a broad spectrum of instruments, in order to avert undermining of the sovereignty and independence of member states. More pointedly, this allows it

to manage the inherent tension between the concepts of sovereignty and non-indifference, as embedded in both SADC and the AU. The Zimbabwe conflict/crisis was the most long-running and complex peace and security issue that SADC was confronted with in the southernmost part of Africa, and despite its inability to permanently resolve the conflict, the organisation's mediation intervention was able to de-escalate the conflict and even broker a power sharing agreement between the ZANU-PF, MDC-T and MDC-M, thereby providing an opportunity to Zimbabweans to chart a future free of conflict.

CHAPTER 7

EVALUATION, RECOMMENDATIONS AND CONCLUSION

1 Introduction

How did SADC balance the principle and norm of national sovereignty/non-intervention and non-indifference during its mediation intervention in Zimbabwe? This research study examined the aforementioned research question in order to understand how SADC managed the seemingly diametrically opposed concepts of sovereignty/non-intervention and non-indifference/intervention during its conflict resolution role in Zimbabwe; this was the aim of the study. While the Zimbabwe conflict/crisis has been widely covered in scholarship, the sovereignty *versus* intervention dimension in the context of SADC role has not received as much attention. The focus has largely been on description of the general development of the Zimbabwe crisis, especially the failed land reform programme, the widespread human rights violations, the ruineous rule of President Robert Mugabe and the SADC mediation role that resulted in the GPA.

In order for the research question to be answered and the aim of study executed, a conceptual framework was created that explored the key concepts, sovereignty, non-intervention, non-indifference, intervention, intergovernmentalism, conflict, conflict resolution and mediation, important concepts that were necessary for the analysis of the case study. The conceptual framework was used to identify and understand the significance of the above-mentioned concepts to the inter-state system, the nature of the relationship of these concepts, how they condition state behaviour, and ultimately their implication for the question of intervention, using the SADC mediation in Zimbabwe as the case study.

States create regional organisations for the purpose of providing governance over issues that transcend national borders and affect a multiplicity of countries, like conflict, transnational crime and economic integration. The idea of a 'region' may give impression that only states that are in geographic proximity can share membership of a regional organisation; this is not the case. Tanzania which is

located in eastern Africa was instrumental in championing the liberation struggle of the people of southern Africa against white minority governments in region, a role that saw it take the lead in the creation of the FLS, and has retained membership of the SADC after the end of white rule in the region. The regional organisation has evolved from the FLS, SADCC through to SADC and, with the fall of colonial rule and/or white minority governments in the beginning of the 1990s, its gaze has shifted to maintenance of peace, security and stability in the Southern Africa region. The Zimbabwe conflict/crisis presented a serious challenge for SADC. Robert Mugabe, a strong senior regional leader, used the state machinery to unleash systematic violence against dissidents and opposition parties. This, coupled with the severe collapse of the economy, produced a humanitarian crisis that ultimately culminated in a SADC resolution in 2007 in Dar es Salaam in Tanzania to initiate mediation intervention in Zimbabwe.

As an instrument for advancing regional peace and security, as proclaimed in the 1992 SADC Treaty and the 2001 Protocol of the Organ, and as an AU REC bounded by the continental organisation's emergent norm of non-indifference, SADC used mediation as method of intervention in the Zimbabwe conflict/crisis. The choice of mediation was interesting given that it constitutes a moderate and less controversial method of intervention. Paradoxically, a mediation method of intervention was used to manage the sovereignty/non-intervention and non-indifference//intervention binary. Unlike other non-diplomatic forms of interventions such as military and humanitarian interventions which are unilaterally taken, mediation relies on the consent of conflict parties and as such the affected parties are able to influence the direction of the process.

As the evaluation and recommendations chapter, Chapter 7 revisits the primary themes and arguments proffered in the preceding chapters for purposes of pointing out the golden thread that connects them in a way that helps answer the research questions and fulfil the research aim and objectives. Secondly, it consolidates the findings of the research study especially giving particular attention at how the findings have assisted in answering the main research question and the research

problem. Thirdly, this chapter looks at the ontological and epistemological contribution of the study. Fourthly, it examines the practical relevance borne out by the study. Fifthly, it offers recommendations for future research in the area of intervention/non-intervention, and finally, concludes the study by making final observations on the main thesis of the research.

2 Key debates on which the study is anchored

The study report begins with a discussion of the study significance, the research question and research problem, the aim of the study, and the rationale for selecting SADC and its management of the apparent tension between non-intervention and non-indifference during its mediation role in Zimbabwe. Furthermore, we laid out the scope of the research study, commented on the periodisation of the key themes of the study under consideration and outlined the key concepts used to provide contours for the study. We also provided an overview of the study structure, the research design and methodology of the study as these have a bearing on the development of the study thesis or argument.

Conceptual analysis entails systematic examination of concepts, their components, meaning and relationships, and allows for an interpretive approach that assists in understanding complex phenomena. Chapter 2 explored the existing literature in relation to the nature and meaning of key concepts of the study, like sovereignty, non-intervention, non-intervention, non-indifference, intergovernmentalism, conflict and mediation. Sovereignty/non-intervention has a dual manifestation in that it resides at the domestic arena, through the exercise of effective control and authority over a territory, and the international scene, through peer recognition that bestows the status of statehood. The general understanding in relation to Africa is that colonialism bequeathed the continent with a kind of state which was weak and devoid of the ideal traits of statehood, with its sovereignty being externally derived from the international system. The norm of non-indifference has emerged to place pressure on states to intervene in instances of humanitarian suffering and mass atrocities. Moreover, Chapter 2 also reflected on the concept of intergovernmentalism, which is a sort of multilateral medium that governments use to

interact with each other in the inter-state system in pursuit of foreign policy interests. These interests are wide ranging and include issues pertaining to international/regional peace and security. States respond to conflict, the latter being expression of goal incompatibility, through various forms of intervention methods like peacekeeping, humanitarian intervention and mediation.

Chapter 3 outlined the historical evolution of sovereignty/non-intervention and its nature and meaning in the context of the African inter-state system. As a form of international law, sovereignty is a prominent principle that condition and guide inter-state relations in the continent. When Africa attained independence from colonial rule in the second half of the 20th century, the states that emerged were institutionally weak, lacking most of the aspects attributable to the ideal version of sovereignty. These included economic and military power necessary for projection of power in the international system of states. Moreover, the continent has experienced wars and conflicts like those in the DRC, the Sudan, the Western Sahara, and Ethiopia that have seriously challenged the prevailing sovereignty orthodoxy, particularly the notions of non-intervention and territorial integrity. The paradox is that these wars and conflicts have provided an opportunity for intervention by the AU and/or the RECs, which further weakens the traditional understanding of sovereignty. This system of intergovernmentalism in the continent is based on the novel idea of shared sovereignty – sovereignty as bifurcated between the state, the RECs and the AU. The chapter also covered the concept of perforated sovereignty, which involves the practice of paradiplomacy by sub-national governments, i.e. provincial and local spheres of government, and thereby rival established conceptions of sovereignty. In particular, the use of protodiplomacy by groups pursuing self-determination ambitions has also emerged as a threat to the preponderance of the state in international system.

In Chapter 4, the research study examined the SADC posture towards intervention and non-indifference. It highlighted that SADC's security framework is anchored on the SADC Treaty, the Protocol on Politics, Defence and Security Cooperation, and the Mutual Defence Pact. This influences the organisation's position on the subject

of intervention. The nature of intervention as phenomenon that involves the use of instruments ranging from moderate to coercive/extreme measures was analysed. Military intervention is understood as a war between states, while humanitarian intervention entails the use or threat of use of armed force by a state or states against another with the aim of protecting vulnerable people. Peacekeeping, while typically involving the use of a multinational armed task force, is concerned with preventing resurgence of conflict/war by ensuring that the conflict parties do not re-engage in hostilities. Therefore, and unlike military and humanitarian interventions, peacekeeping does not threaten the political *status quo* of the country where the intervention is made. SADC member states have embraced peacekeeping as evinced by their willingness to send peacekeeping troops to countries like the DRC and Sudan; the SADC Standby Force is also another instrument that the organisation can use in peacekeeping deployments.

The role of the African Standby Force (ASF) includes protection of the continent's peoples from humanitarian crises brought by conflicts and/or natural disasters. It does this through intervening to stop conflicts or to provide humanitarian assistance to affected people. The ASF and regional brigades like SADC Standby Force and ECOWAS Standby Force are envisioned as instruments that will be used to implement Article 4 of the Constitutive Act. The norm of non-indifference flows from all these initiatives that indicate that the AU and SADC are prepared to intervene in order to protect people from humanitarian crises.

Chapter 5 tracked the evolution of Zimbabwe as a society or polity in order to locate the conflict or crisis that is the subject of this research study in its proper historical context. Prior to encounter with colonialism in the late 1800s Zimbabwe had several city-states, like the Great Zimbabwe and Mutapa, which were indicative of the existence of a sophisticated civilisation. The conquest of Zimbabwe by white colonialists organised under the John Cecil Rhodes sponsored Pioneer Column disrupted the natural evolution of Zimbabwe's polities, something that was inevitable given that conflict is a phenomenon that fosters extensive change in how societies are organised. Subsequent to the conquest, Zimbabwe became a colony of the

British Empire, and this later metamorphosed into a repressive white settler rule. During this period, the dispossession of indigenous Zimbabweans of their land was legalised through legislation, thus planting the seed for future conflict centred on land. Black Zimbabweans launched a resistance struggle against the white racist regime which eventually culminated in the landmark 1979 Lancaster House Agreement that paved the way for the 1980 first all-race election.

The dominant liberation movement-turned political party led by Robert Mugabe, the ZANU, won the 1980 independence election. However, in the mid 1980s Zimbabwe experienced its first significant post-independence conflict in the form of the Gukurahundi massacre where the Mugabe regime's security forces targeted the largely Ndebele populated region of Matabeleland, resulting in tens of thousands of people losing their lives and left an indelible and contentious mark on the soul of Zimbabwe. The conflict was considered to be a manifestation of intolerance of political competition. Matabeleland was the stronghold of ZANU-PF's only serious threat to electoral dominance, the ZAPU party led by Joshua Nkomo who was a prominent independence struggle leader.

However, from the mid-1990s Zimbabwe began to experience economic decline and the re-emergence of autocratic tendencies intensified, which spurred disenchantment with the regime in power. In response, the MDC was formed in 1999 out of a mass mobilisation of trade unions and critical society, and it instantly became a significant threat to ZANU-PF's erstwhile stranglehold on state power. This was sharply demonstrated when the MDC successfully campaigned against ZANU-PF proposed constitution amendments in the 2000 Constitution Referendum. Thereafter, the conflict/crisis escalated with varying degrees of intensity, which was fuelled and characterised by increasing economic decline and authoritarianism. As the crisis unfolded and developed, the regional organisation to which Zimbabwe had membership, SADC, maintained the age-old non-interventionist stance. However, as the political-economic situation worsened, the governance crisis deepened, the threat of a complete economic and political meltdown loomed and the negative implications on regional stability became apparent, the intervention of a credible third

party to assist the key conflict parties to overcome their differences became necessary. SADC shifted from hardline non-interventionism to taking such an interest in the domestic crisis in Zimbabwe; that shift towards interventionism began in the mid-2000s.

Chapter 6 analysed how SADC managed the principle of sovereignty/non-intervention and norm of non-indifference/intervention during its conflict resolution role in Zimbabwe. As a multilateral platform and actor, SADC resolved in its 2007 meeting in Tanzania to intervene in Zimbabwe in order to find a solution to the crisis. This decision affirmed the undertaking by the organisation to engage in prevention, management and resolution of conflicts, crises and intra-state systematic violence in Southern Africa, as proclaimed in Article 11 of the Protocol of the Organ. A mediation method of intervention involving negotiation and dialogue and facilitated by South Africa on behalf of SADC was chosen over the contentious method of humanitarian intervention. In this chapter, it was established that the organisation is averse to measures that undermine regime security, and accordingly prefers mediation which is a more peaceful instrument of resolving conflicts and crises. By choosing mild methods of intervention that would not result in gross undermining of state sovereignty, SADC is able to simultaneously fulfil its commitment to non-intervention and implementation of the AU's norm of non-indifference.

The Global Political Agreement (GPA) that the SADC mediation intervention produced in 2008 committed ZANU-PF, MDC-T and MDC-M to a raft of measures including the formation of an interim inclusive government (also known as GNU), the reform of the security sector, the reform of electoral institutions and other measures considered for undoing the architecture of political violence and autocracy in the country. While the creation of a power sharing government in 2009 was a victory, the transitional administration was riddled with instability as Mugabe occasionally exercised executive authority unilaterally as was highlighted when he appointed individuals to key state positions without consulting the GNU partners, and SADC was unable to stop this. This is one of the problems of political settlements produced by mediation; they tend to result in fragile agreements that are more symbolic than

substantive. Indeed, SADC struggled to reign in Mugabe, with the latter frequently rebuking SADC, characterising its intervention as nothing more than interference and violation of the sovereignty of Zimbabwe. The term of the GNU expired in 2013 with the adoption of a new constitution and, elections were duly convened with Mugabe consolidating his grip on state power. The opposition complained that the election was not free and fair, thus underscoring the shortcomings of the SADC intervention in relation to the failure to effect electoral reforms.

3 Main findings of the study

Although Chapter 6 elaborated on the findings of the study, this section presents in a condensed and summative manner the main findings of the research study on each chapter. Of course, the findings on the chapters are considered in relation to the primary research question which centred on the SADC management of tension between non-intervention and non-indifference during its conflict resolution intervention in Zimbabwe.

3.1 The non-intervention -non-indifference dichotomy

The study found that the concepts of sovereignty/non-intervention and non-indifference/intervention are by nature inherently incompatible. Non-intervention presupposes absence of external interference while non-indifference advocates for intervention. Over the years, especially since the end of Cold War, debates have emerged on reformulation and/or reinterpretation of the principle of sovereignty. In particular, the discourses were aimed at watering down or revising conventional understanding of the concept for the purposes of making it easy for states to intervene to halt humanitarian catastrophes. At the global level, the 2001 ICISS report which argued that sovereignty should be interpreted as a responsibility and that once states fail to prevent mass atrocities and humanitarian crises, the international community should consider intervention was central to the debate on sovereignty vs. intervention.

Within Africa and at the continental level, the debate on the reform of the OAU towards the end of the 20th century was influenced by a desire on the part of African

leaders to make the organisation responsive to conflict situations. The failure of the OAU to prevent the disastrous 1994 Rwanda genocide was a cataclysmic moment in relation to the idea of intervention in Africa. After a series of deliberations, African leaders officially dissolved the OAU in 2001 and in its stead created the AU which assumed an interventionist posture as indicated in Article 4 of the Constitutive Act. The role of prominent African diplomats was especially crucial in this shift; concerted efforts were made by the then UN Secretary General Kofi Annan and Sudanese diplomat Francis Deng to reform the principle of sovereignty to accommodate humanitarian intervention in cases of mass atrocities. In addition, the ICISS study on sovereignty and intervention resulted in consolidation of conceptualisation of the so-called 'responsibility to protect' (R2P) wherein an argument for international humanitarian intervention and the conditions under which such intervention can be made were stipulated, including the applicable procedures.

It also established that sovereignty/non-intervention is enshrined in international law and constitute a guiding principle in international system. Due to its state-centric nature, sovereignty has made it difficult or even impossible for intergovernmental organisations to intervene in countries experiencing conflicts that undermine or erode human security, particularly those conflicts characterised by extreme violence. In relation to Africa, the chapter ascertained that the postcolonial African state tended to exert its sovereignty through autocratic control over the domestic realm, while lacking substantive power to project its sovereignty in the international arena. While the OAU-AU was able to intervene and facilitate the Lusaka Ceasefire Agreement, by the time the agreement was reached catastrophic damage had already been done in the DRC. The responsiveness of the organisation and the RECs to crises that threaten stability, peace and security in Africa is constrained by the strong adherence to non-intervention that states have in the continent. The existing literature on perforated sovereignty and role of paradiplomacy in the international system has assisted with debunking of the conventional understanding of sovereignty, and thereby create an opportunity for revision of the principle particularly as pertains to the idea of humanitarian intervention. As already indicated,

the bloody conflicts/crises of the 1990s in Africa have compelled African states to reconsider their position on non-intervention.

The study also showed that intervention has operated as a counter to the principle of sovereignty/non-intervention. Essentially, it challenges the traditional wisdom on international relations, that sovereignty is an absolute right of states. Several observations can be made to support the above point. First and in terms of the literature on intervention, intervention is carried out by an external actor, normally in the form of an IGO or states, and is directed at an independent and sovereign state. In cases of humanitarian intervention supposedly aimed at protecting people against their governments, the security of the regime in place is not assured and, therefore this type of intervention can amount to extreme undermining of the principle of sovereignty. The example of the UNSC authorised NATO-led intervention in Libya that resulted in the fall of the Gaddafi regime remains a classic textbook case of how humanitarian intervention can result in displacement of the established political order. In this case, this led to a much worse crisis than the one that justified the intervention. Second, the agency to decide on the question of intervention in a case of conflict and/or crisis is externalised in the sense that it resides with the multilateral inter-state system. For example, the UNSC, AU and SADC theoretically have the authority to intervene in a state experiencing conflict or destabilising political crisis, without necessarily the need to acquire consent from the target state. In an instance of peacekeeping the UN has authority in terms of international law to deploy a peacekeeping mission to any country on earth. Similarly, while mediation intervention relies on the approval of conflict parties for it to happen, external pressure emanating from the international system also compels actors involved to accept assistance from a third party. So, the agency of governments to direct domestic developments or affairs has been somewhat curtailed by increasing prominence of intervention. The AU, through Article 4 of Constitutive Act and Article 6 of the Peace and Security Council; and SADC, through Article 11 of the Protocol of the Organ; have also evolved an interventionist outlook underpinned by their commitment to the norm of non-indifference.

3.2 The Zimbabwe conflict/crisis and regional implications

The study established that Zimbabwe's conflict and/or crisis that culminated in the intervention of SADC has its roots in the colonial period. By depriving the majority of Zimbabweans from owning land, through policy and legislation measures such as those under the Native Reserve policy and the Land Apportionment Act of the 1900s, the white minority government created a situation that would subsequently contribute to emergence of conflict or crisis configured in terms of contestation over land. Certainly, land is by nature a scarce and finite resource and as such, substantial value is placed on its possession. Indeed, the racialised ownership of land which was the legacy of colonialism was a dominant motif in the political and socioeconomic instability that affected Zimbabwe in the late 1990s through to 2000s. Moreover, the issue of land was so important to the struggle for independence that the Lancaster House negotiations nearly collapsed because of disagreements on how the problem should be addressed. It was only after British and U.S. undertaking to finance land reform in future democratic Zimbabwe that the dispute was settled.

The study demonstrated that in postcolonial Zimbabwe, several developments linked to land directly and indirectly contributed to emergence of the conflict/crisis in Zimbabwe. First, the decision of the British government under Prime Minister Tony Blair in 1997 to revoke its obligation to provide funds for land reform in Zimbabwe precipitated a crisis in relation to financial resources that are necessary for a seamless process, particularly in relation to the compensation of white farmers who were to lose their land and the capitalisation of new black farmers. Second and linked to the above point, the 2000 Constitution Referendum which sought to amend the constitution of Zimbabwe in order to allow for state confiscation of land was a decisive moment in the development of conflict/crisis framed in terms of struggle over limited availability of land. As discussed in this study, the majority of Zimbabweans rejected the proposed constitutional changes in the referendum. Third and in response to the aforesaid, violence escalated and characterised by illegal occupation of white owned land by mainly the ZANU-PF war veterans and the youth, with the government tolerating the associated breakdown in the rule of law.

Politically, the Zimbabwean crisis was caused and fuelled by the governing ZANU-PF's desire to maintain its position as the dominant party in the electoral and political life of the country. The first indication of this was the Gukurahundi crisis where the Mugabe government orchestrated the massacre of people in the ZAPU base of Matabeleland. Many years later the use of state violence for the purpose of asserting electoral dominance re-emerged. The rise of the MDC in the electoral politics of Zimbabwe was responded to by the ZANU-PF and Mugabe government through organisation and coordination of politically motivated violence that was aimed at the supporters and leaders of the party.

Furthermore, economic mismanagement, international sanctions and regressive policy choices also contributed to the worsening of the crisis in Zimbabwe. The extension of overly generous grants funded by the government to war veterans and, the collapse of commercial farming, agro processing industry and the manufacturing sector plunged the country's economy. The economic sanctions imposed by the EU and the U.S., which were very important destinations for Zimbabwean exports like tobacco, affected the ability of the country to conduct profitable international trade. The land issue, politically motivated violence and economic collapse laid the foundation for subsequent SADC mediation intervention in Zimbabwe.

3.3 SADC's management of non-intervention and non-indifference

The analysis showed that the use of the mediation method by SADC in its intervention in Zimbabwe paradoxically allowed it to reconcile non-intervention and non-indifference. Considered from a broad range of methods and instruments of intervention possible including humanitarian intervention and military intervention, mediation is the least forceful way that IGOs can undertake for conflict resolution. Second, SADC was strategically measured in its responses to the recalcitrance of President Mugabe, especially pertaining to his repeated undermining of the GPA. Mugabe had the penchant of reminding SADC that Zimbabwe is an independent and sovereign state whenever the organisation appeared to criticise him for not adhering to the spirit of the political settlement. So, by tolerating these transgressions SADC

was able to sustain its mediation involvement. The organisation largely relied on appeasement and persuasion to ensure implementation of the GPA.

Third, SADC intervention was also supposed to restore international legitimacy of Zimbabwe, which had been considered a pariah in the global arena. Therefore, it was not surprising that SADC's conflict resolution role in Zimbabwe also emphasised the removal of economic sanctions and restoration of international diplomatic ties. As the dominant actors in the crisis and subsequently the peace dialogues, the ZANU-PF and Mugabe were aware that allowing SADC to initiate mediation intervention in Zimbabwe would likely result in the (re)acceptance of the country into the international community of states.

Fourth, unlike humanitarian intervention, for example, mediation does not threaten the existing political regime and interests imbedded in it. It has a tendency to retain the old order to some extent. In the case of Zimbabwe, the ZANU-PF retained its dominant position throughout the GNU period as evinced by Mugabe's control over important portfolios like those in security cluster and his ability to make decisions without consulting other members of the interim government. Fifth, the fact that mediation intervention only happens with the concurrence of the conflict parties means the parties are able to shape the conditions that either enable or distort the intervention. In this case, the mediation could only happen when the ZANU-PF government regarded this type of intervention as not posing a serious threat to the sovereign status of Zimbabwe and therefore manageable. Indeed, and as highlighted in the preceding sentences, Mugabe was able to dictate the extent to which SADC involvement can go, constantly criticising the organisation in instances he felt it was overreaching. In consideration of the above-mentioned, the use of mediation enabled SADC to minimise resistance to its involvement in Zimbabwe.

The debate on the intervention in Zimbabwe also played out globally, dividing opinion in multilateral platforms like the UN, UNSC and Commonwealth. States like Britain and the U.S. preferred a more forceful intervention that would have resulted in the removal of Mugabe from office. As a shrewd senior African nationalist leader with roots in the struggle for independence, Mugabe often used the UNGA to accuse the

West of imperialism and desire to re-colonise Zimbabwe. As a consequence of this, he put indirect pressure on his AU and SADC colleagues to rule out the possibility of using military or humanitarian intervention to resolve the crisis bedeviling Zimbabwe. Indeed, the continent's powers, Nigeria and South Africa, strongly opposed a strong intervention in Zimbabwe during Commonwealth meetings in the early 2000s. The choice of the method of intervention influences the extent to which sovereign states consider external intervention by an IGO or states tolerable. Ultimately, Mugabe won the debate and SADC was given space determine the nature of intervention and it opted for the peaceable method of mediation.

4 Ontological contributions of the study

Within international relations the concepts of sovereignty/non-intervention and non-indifference/intervention have caused uncertainty. The relationship between these seemingly mutually exclusive concepts is vague. The study undertook conceptual analysis on these constructs, focusing on their origin, nature, scope and meaning. This contributed to the theoretical understanding of these concepts and how they relate and/or co-exist. The original emergence of sovereignty and non-indifference is traceable to state actors and IGOs. States developed the principle of sovereignty several centuries ago in order to contain territorial conquests and prevent invasion of the weak by the powerful. Over years the principle evolved to also emphasise the capability of states to deliver at the domestic/internal level goods and services like security, opportunities and basic welfare for citizens. So, state actors retain agency to shape and model the kind of world order that they view as necessary or important for international stability; these concepts emanate from the exercise of agency by state actors.

Equally, the recently emerged norm of non-indifference is indicative of the temporality of ordering concepts in the inter-state system. As pointed out in the study, the idea of external intervention was a taboo for AU predecessor, the OAU, and this anaemic attitude towards intervention was informed by the fact that when the organisation was created in 1963 its overriding goal was to eradicate colonial domination of African societies by European powers; it was a struggle for self-

determination. Africa won its independence and attention shifted to new issues. It was against this background that African states imagined a new order, one where conflicts and crises that threaten human rights would not be tolerated – thus leading to emergence of an interventionist posture framed in terms of ‘non-indifference’. Accordingly, these concepts have been deliberately created by state actors and are not transcendental; as such, their meaning is not permanent. The very fact that these oppositional concepts have an origin and crucially, experienced change in meaning over time means that they are not cast in stone.

5 Epistemological contributions of the study

Through its various treaties, protocols and structures SADC has created the impression that it is committed to initiating interventions in member states experiencing conflicts and crises that affect regional stability, peace and security. Notwithstanding the aforesaid, the same instruments also bind the organisation to respecting the sovereign rights of its members. Inevitably, this creates uncertainty in terms of knowledge and understanding of how SADC manages its mediation interventions. In light of the above-mentioned, this study sought to close the knowledge gap that arises as a result of the situation described above.

The principle and norm of sovereignty and norm non-indifference are considered to be diametrically opposed. Therefore, it is important to investigate how IGOs initiate interventions aimed at ending conflicts and crises because, as highlighted in the above sentence, sovereignty implies non-intervention and non-indifference actually alludes to intervention. In this study the case of SADC intervention in Zimbabwe was used to assess how the organisation manages the tension between non-intervention and intervention. Accordingly, the study elucidates on the approaches and methods that SADC prefers to use in conflict/crisis management situations in the region.

Moreover, the research study provides insights on the considerations and thinking that influences a typical regional intergovernmental organisation’s decision on methods of intervention in a geopolitical environment where sovereignty is a strong principle. Fundamentally, this study also highlights the sovereignty-intervention

ameliorating dimension of mediation and as such, it deepens understanding of the concept. It also addresses the lack of studies that draws from politics and law literature to understand the interface between International Relations and international law as it applies to Africa.

6 Practical relevance of the study

Based on primary findings of the study, a number of points pertaining to the practical relevance of the study are identifiable. Firstly, the study raised questions about the implication of sovereignty/no-intervention and non-indifference/intervention on the ability of IGOs to undertake interventions aimed at preventing, managing or resolving conflicts and crises. The study also highlighted the risks in interventions made under the auspices of an IGO, especially humanitarian intervention. These risks include the penchant of major powers to use multinational interventions to further narrow national interests and for other reasons not related to peace and security. The example of NATO intervention in Libya that the study also referred to has practical relevance to the practice of humanitarian intervention; it is a classic case of how not to do intervention.

Secondly, the mediation intervention of SADC in the Zimbabwe crisis has implications for the meaning of non-intervention in the region. Particularly, while tension definitely exists between sovereignty and intervention, the SADC intervention showed that the principle of sovereignty is not absolute and can be set aside in order to advance stability, peace and security in the region. Additionally, the research study also highlighted that the use of mediation as opposed to other more coercive instruments allows for mitigation of concerns as to whether intervention amounts to violation of the principle of sovereignty. However, the study also found that while mediation may silence complaints and apprehensions centred on transgression of non-intervention, and while it is able to achieve (temporary) suspension of conflict behaviour, it falls short in relation to addressing the root causes of conflict. SADC was unable to enforce full implementation of the GPA largely because of inherent limitations of mediation; accordingly, the practical utility of mediation as method of achieving durable peace and stability is thrust into uncertainty.

7 Recommendations for future research

Based on the main findings of the study as presented in this chapter, the following recommendations are made:

- Further scholarly research focusing on the sovereignty/non-intervention - non-indifference/intervention dichotomy needs to be conducted in order to expand our understanding of these concepts and their relationship (at a theoretical level), perhaps using multiple case analysis and comparative methodologies.
- Secondly, an additional assessment of how SADC reconciles the mutually exclusive concepts of sovereignty and intervention applied to various other case studies will enrich knowledge in this area by either validating the findings of this single-case study or expanding its insights.
- Thirdly, the study ascertained that mediation is SADC's preferred method of conflict resolution intervention. But further research needs to explore mediation in the context of the Southern Africa region and its usefulness in terms of ensuring long-term stability with greater in-depth analysis of mediation as what Konare called a courteous intervention and the implication of incourteous responses of some actors as we saw with ZANU-PF in this study.
- Fourthly and as contended in this study, the AU's norm of non-indifference is a recent phenomenon, having emerged from the late 1990s against the background of the catastrophic Rwanda genocide. As such, further research needs to explore the nature and meaning of this concept in the African context, especially in relation to how the RECs of the AU are expected to operationalise the norm of non-indifference in pursuit of stability, peace and security in their respective regions is required. In this regard, how different RECs have responded to this may yield rich comparative insights on intergovernmentalism variable in the manner the dichotomy is managed.
- The Zimbabwe conflict resulted in precipitous collapse of the socioeconomic and political structures of that country, in the process condemning Zimbabweans to significant insecurity. Therefore, it is important that further studies are undertaken to determine the implication of the Zimbabwe crisis on

SADC's vision of creating an integrated security community of Southern Africa.

- Fifth, majority of African states lack the empirical characteristics of sovereignty, particularly those related to the capability necessary to attend to state responsibilities at the domestic level. Accordingly, there is a need to conduct an investigation in order to establish how profound political-economic crises and conflicts impact the continuous process of state building in Africa and also, how timely intervention can prevent conflict-induced erosion of the capabilities of the African state.
- Sixth, the issues of alleged electoral fraud and absence of permissive environment for free and fair elections featured prominently in the discourses that focused on the Zimbabwe crisis. In light of this, studies that will assess the feasibility of a SADC-run election process in countries that are emerging from conflicts/crises are recommended.
- Finally, the subject of humanitarian intervention is a contentious matter in Africa, a continent that has generally high prevalence of conflict, human rights violations and political instabilities. In light of this, it is strongly recommended that future research focus on humanitarian intervention in the African context, especially exploring its potential in relation to promoting peace, stability and security in the continent.

8 Conclusion

In the international arena where sovereignty and non-intervention are foundational to the inter-state system intervention remains a contentious subject. When SADC adopted its resolution in Tanzania in the year 2007 to initiate mediation in Zimbabwe with a view to assist the country to overcome the debilitating political-economic crisis, it entered a contested terrain. A conceptual framework was formulated in order to analyse the concepts of non-intervention and non-indifference and to elucidate on SADC's management and balancing of these oppositional concepts. This was the main aim of the study as premised on the primary research question, and in response the thesis maintained that SADC deliberately used mediation which is

a less forceful and more peaceful method of intervention in order to placate the inherent contradictions between sovereignty and non-indifference.

Through its mediation intervention SADC was able to firstly achieve suspension of conflict behaviour, secondly facilitate a dialogue between the ZANU-PF, MDC-T and MDC-M aimed at overcoming/mitigating their differences and thirdly broker a political settlement in the form of the GPA which resulted in the creation of an interim interparty government tasked with undertaking reforms and leading a process of formulating a new constitution. Throughout the GPA implementation phase sporadic diplomatic confrontations between SADC mediator (South Africa) and President Mugabe centred on the legitimacy of the intervention in view of Zimbabwe's status as a sovereign state often emerged. This is indicative of the unsettled and nebulous understanding of how non-intervention and non-indifference ought to co-exist in practical terms.

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