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THE EFFECTIVENESS OF THE CONTINENTAL EARLY WARNING SYSTEM IN THE AFRICAN PEACE AND SECURITY ARCHITECHURE

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DEDICATION

This dissertation is firstly dedicated to my family: my mother, Banusi Mbaakanyi, my father, Dr. Ahmad Tijan Jallow, my sister, Wame Jallow, my wonderful nieces Kelelelo and Tlhomamiso Mosime.

This dissertation is also dedicated to my friends who have become my family, in particular: Amogelang Thaga, Motlatsi Kontle, Wame Mayeso Namponya and Kaelo Taupedi.

Lastly, this dissertation is dedicated the movement for conflict prevention in Africa in the hope that strategies are formed and improved upon in efforts to create a sustainable peace.

ACKNOWLEDGEMENT

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ACRONYMS

ACHPR	African Commission on Human and Peoples' Rights
ACLED	Armed Conflict Location and Event Data Project
AMM	African Media Monitor
APSA	African Peace and Security Architecture
ASF	African Stand-by Force
AU	African Union
AUPSC	African Union Peace and Security Council
CEN-SAD	Community of Sahel-Saharan States
CEWARN	Conflict Early Warning and Response Mechanism
CEWRS	Conflict Early Warning and Response Systems
CEWS	Continental Early Warning System
CEWS	Continental Early Warning System
CNDD-FDD	National Council for the Defense of Democracy –Forces for the Defence
COMESA	Common Market for Eastern and Southern Africa
CPLP	Community of Portuguese Speaking Countries
CSOs	Civil Society Organisations
DANIDA	Danish International Development Agency
EAC	East African Community
EASBRICOM	East Africa Standby Brigade Coordination Mechanism
EASFCOM	Eastern African Standby Force

ECCAS	Economic Community of Central African States
ECOWARN	ECOWAS Early Warning and Response Network
ECOWAS	Economic Community of West Africa States
EU	European Union
EWS	Early Warning System(s)
FRODEBU	Democratic Front of Burundi
GIS	Geographic Information System Mapping
GIZ	German Agency for International Cooperation
ICGLR	International Conference on the Great Lakes Region
IGAD	Intergovernmental Authority on Development
ISS	Institute of Security Studies
MAPROBU	African Prevention and Protection Mission in Burundi
MISSANG	Angolan Military Assistance Mission in Guinea Bissau
MoU	Memorandum of Understanding
NARC	Northern Standby Force
NGOs	Non Profit Organisations
OAU	Organisation of African Unity
ODM	Orange Democratic Movement of Democracy
PAIGC	African Party of the Independence of Guinea Bissauand Cape Verde
PF	Peace Fund
PNU	Party of National Unity

PoW   Panel of the Wise

RCMS   Regional Coordinating Mechanisms
RECs   Regional Economic Communities

SADC   Southern African Development Community

UMA   Arab Maghreb Union

UN   United Nations

UNDP   UN Development Program

UNOCHA   UN Office for the Coordination of Humanitarian Affairs

USAID   United States Agency for International Development

CHAPTER ONE

INTRODUCTION

'Preventing war is much better than protesting against war. Protesting the war is too late' –Thich Nhat Hanh

1.1 Background and Context

On 25 May 2013, the African Union (AU) Heads of State and Government came together to celebrate the Organization of African Unity (OAU)/AU 50th Anniversary as 'the pre-eminent African inter-governmental organization.'[1] In the course of these proceedings, the 50th Anniversary Solemn Declaration was adopted, which captures 'a pledge not to bequeath the burden of conflicts to the next generation of Africans and … to end all wars in Africa by 2020.'[2]

Despite this pledge, conflict has only worsened on the continent. The Armed Conflict Location and Event Data Project (ACLED):

> [r]ecorded 12,053 violent incidents (including bombings, violence against civilians and battles) in Africa between January 2019 and the start of 2020, with 29, 407 fatalities reported. That compares with 11, 461 reported incidents involving 27, 858 deaths that ACLED recorded in Africa during the same period of the previous year.[3]

In recognition of the disastrous effects of violent conflict, this characterized a global shift towards conflict prevention, marked by leaders such as the former United Nations (UN) Secretary General, Boutros Boutros-Ghali.[4] This shift has been engrained into the African Peace and Security Architecture (APSA), through the establishment of the African Union Peace and Security Council (AUPSC). It is noteworthy to mention that the APSA denotes a set of institutions within the AU, which are responsible for the day-to-day peace and security interventions and activities in Africa.[5] This consists of AUPSC, the AU Commission, the African Standby Force (ASF), the Panel of the Wise

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1   African Centre for the Constructive Resolution of Disputes (ACCORD) 'Silencing the guns, owning the future:
2   African Union (AU) '50th Anniversary solemn declaration' (2013) 5 available at:
        https://au.int/sites/default/files/documents/36205-doc-50th_anniversary_solemn_declaration_en.pdf   (last accessed 26 April 2021).
3   'Conflicts in Africa set to intensify in 2020' *The Economist* 14 January 2020 available at:
        http://country.eiu.com/article.aspx?articleid=1558920139&Country=Mauritius&topic=Politics&subtopi_3
        (last accessed 26 April 2021).
4   B Boutros-Ghali *An agenda for peace: preventive diplomacy, peacemaking and peace-keeping* (1992).
5   S Desmidt 'Conflict management and prevention under the African Peace and Security Architecture (APSA) of the African Union' *(2019) African Journal of Management* 4.

(PoW), the Peace Fund (PF), Continental Early Warning System (CEWS) as well as Regional Economic Communities (RECs).[6]

The Protocol relating to the establishment of the peace and Security Council, of the AU, referred to as 'the Protocol of the AUPSC,' is the key instrument establishing the AUPSC as well as the key entities within the APSA. It was formally adopted in July 2002, entering into force 26 December 2003. It has currently been ratified by 52 African member states.[7] According to Article 2(1) of the Protocol, the Council is 'a standing decision-making organ for the prevention, management and resolution of conflicts.'[8] It also states that the Council 'shall be a collective security and early-warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa.' As one of the Council's objectives, the Protocol provides that this shall be, among others, to 'anticipate and prevent conflicts[9].'

The AU Commission is tasked with bringing matters to the attention of the AUPSC or the PoW, which may threaten peace and stability on the continent.[10] Additionally, the AU Commission is responsible for ensuring the implementation of the AUPSC's decisions in relation to the prevention, management and resolution of conflict.[11] The AU Commission may also in its own discretion or under the instruction of the AUPSC, take measures through special envoys, representatives, the PoW or RECs to prevent and resolve conflict as well as promote peace building and post-conflict reconstruction. [12]The Chairperson of the AU Commission primarily exercises these functions.

The ASF is established under article 13 of the Protocol to assist the AUPSC in 'performing its responsibilities with respect to the deployment of peace support missions and intervention pursuant to article 4(h) and (j) of the Constitutive Act.'[13] According to article 13 (1) this force consists of 'standby multi disciplinary contingents, with civilian and military components in their countries of origin.' This force is meant to be ready for swift deployment on notice. As of 6 December 2020, the AUPSC declared the force fully operational.[14] This force is complemented by the PF established under article 21

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[6]   Article 2(2) 'Protocol relating to the establishment of the Peace and Security Council of the AU' (Protocol of the AUPSC) (2002).

[7]   AU 'List of countries which have signed, ratified/ acceded to the Protocol relating to the establishment of the peace and security council of the AU' available at: https://au.int/sites/default/files/treaties/37293-sl-protocol_relating_to_the_establishment_of_the_peace_and_security_council_of_the_african_union_1.pdf (last accessed 11 August 2021).

[8]   Protocol of the AUPSC Article 2(1) (n6 above).
[9]   Protocol of the AUPSC Article 3(b) (n6 above).
[10] Protocol of the AUPSC Article 10 (2) (a) (n6 above).
[11] Protocol of the AUPSC Article 10(3) (a) (n6 above).
[12] Protocol of the AUPSC Article 10 (2) (c) (n6 above).
[13] Protocol of the AUPSC Article 13 (1) (n6 above).
[14] AUPSC 'Communiqué of the 1007th meeting of the AUPSC on the status report /roadmap to the full operationalization of the ASF and the AU continental logistical base' (PSC/PR/COMM.1007(2021) 8 July 2021

of the Protocol, which is meant to provide financial resources for peace support missions or any other related peace operational activities. It is envisaged that this purse will be maintained by a regular budget from the AU, voluntary contributions from member states as well as other sources such as individuals, private sector, civil society as well as other institutions and fund raising activities. The fund is set to reach its full endowment level by 2021.[15]

Under article 11 of the Protocol, the PoW is established to support the AUPSC as well as the Chairperson of the AU Commission in the prevention of conflict specifically through rendering advice to the AUPSC, mediation as well as in making pronouncements 'on the issues relating to the promotion and maintenance of peace, security and stability in Africa.'[16] According to article 11(2) of the Protocol, the PoW consists of five 'African personalities', rising from different segments of society that have made significant 'contributions to the cause of peace, security and development on the continent.'

Finally, the AU recognizes 8 RECs and two Regional Coordinating Mechanisms (RCMs), having entered into a memorandum of understanding (MoU) with the Arab Magreb Union (UMA), the Community of Sahel-Saharan States (CEN-SAD), the Common Market for Eastern and Southern Africa (COMESA), the Eastern African Community (EAC), the Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS), Inter-governmental Authority of Development (IGAD), the Southern African Development Community (SADC) as well as the East Africa Standby Brigade Coordination Mechanism (EASBRICOM) (now known as the Eastern African Standby Force (EASFCOM) and the North Africa Regional Capability (NARC). According to article 2 of this MoU, it is:

> [a] binding legal instrument consisting of principles, rights and obligations to be applied in the relationship between the Union, the RECs and the Coordinating Mechanisms, in matters relating to the promotion and maintenance of peace, security and stability in Africa, subject to their respective competences.[17]

The primary organ in the 'anticipation and prevention of conflicts' within the APSA, is the CEWS as illustrated under article 12(1) of the Protocol. This was not the first attempt to establish an early warning system at the continental level. Under the OAU, in 1993, the Mechanism for Conflict Prevention, Management and Resolution was created which was set to contribute towards 'improving

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available at: https://reliefweb.int/report/world/communique-1007th-meeting-african-union-peace-and-security-council-status-report (last accessed 11 August 2021).

[15] AU 'Peace Fund (PF)' available at: https://au.int/en/aureforms/peacefund (last accessed 11 August 2021).
[16] Protocol of the AUPSC Article 11 (4) (n6 above).
[17] Memorandum of understanding (MoU) on cooperation in the area of peace and security between the AU, the RECs and the coordinating mechanisms of the regional standby brigades of Eastern Africa and Northern Africa (2008) available at https://www.peaceau.org/uploads/mou-au-rec-eng.pdf (last accessed 11 August 2021).

the Organisation's capacity to prevent conflict and maintain peace in Africa.'[18] This body was set to house 'an early warning system (EWS) on conflictual situations in Africa,' which was anticipated to improve the OAU's approach to preventative diplomacy, pre-empting conflict and facilitating rapid response to potential violent conflict on the basis of gathered and analysed data.[19]

The 'situation room' under this system was established in 1998 though it remained foundational until the final days of the OAU.[20] It was then inherited by the AU and was initiated as the CEWS in 2002, though it was formally established in 2007 following the adoption of the Protocol establishing the AUPSC and the Framework for the Operationalization of CEWS.[21] The CEWS consists of 'an observation and monitoring centre,' known as the 'Situation Room…responsible for data collection and analysis on the basis of an appropriate early warning indicators module.'[22] Additionally, the 'observation and monitoring units' of regional mechanisms across the continent are to collect and process data before transmitting the same to the situation room.[23] The CEWS has an early warning module that is based on 'clearly defined and accepted political, economic, social, military and humanitarian indicators which are used to analyse developments on the continent and to recommend the best course of action.'[24]

The information gathered under the CEWS is be used by the Chairperson of the AU Commission in the discharge of their responsibilities and functions. The Chairperson of the Commission is also to promptly advise the AUPSC on potential conflicts as well as threats to peace and security and recommend the best course of action.[25] The information is also to be provided to the PoW to facilitate early response as well as the African Commission for Human and Peoples' Rights (ACHPR) and the Pan African Parliament (PAP).[26] The effective functioning of the CEWS is to be based on collaboration between the AU, the UN and its agencies, relevant international organizations, research centres, academic institutions and non-governmental organizations (NGOs).[27] In terms of the

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[18]   Organisation of African Unity (OAU) Assembly of Heads of State and Government 'Declarations, resolutions and decisions adopted by the thirty-second session of the Assembly of Heads of state and Government' (Yaoundé Declaration) (AHG/Decl.3 (XXXII) (1996) 23 available at: https://au.int/sites/default/files/decisions/9541-1996_ahg_res_247-257_xxxii_e.pdf (last accessed 25 July 2021).
[19]   OAU Assembly of Heads of State and Government (n18 above) 23.
[20]   A Noyes & J Yarwood 'The AU continental early warning system: from conceptual to operational?' (2020) 20(3) *International Peacekeeping* 251.
[21]   'The Framework for the Operationalization of CEWS' (2006) available at: https://www.peaceau.org/uploads/early-warning-system-1.pdf (last accessed 26 April 2021).
[22]   Protocol of the AUPSC Article 12(2)(a) (n6 above).
[23]   Protocol of the AUPSC Article 12(2)(b) (n6 above).
[24]   Protocol of the AUPSC Article 12(4) (n6 above).
[25]   Protocol of the AUPSC Article 12(5) (n6 above).
[26]   The Framework for the Operationalization of CEWS (n21) Paragraph 18.
[27]   Protocol of the AUPSC Article 12(3) (n6 above).

Protocol, member states also make a commitment 'to facilitate early action' by the AUPSC and the Chairperson of the Commission based on early warning information.[28]

Since its establishment, efforts have been made to improve its functioning through the development of a CEWS Handbook in 2008, the entering into a MoU by the AU with RECs and RCMs as well as the development of data collection tools with the help of partners such as the European Union.[29]

1.2 Problem Statement

Despite the establishment of the CEWS to contribute toward conflict prevention on the continent, Africa remains overrun with strife and violent hostilities. This is particularly true in relation to conflicts originating from unconstitutional changes in government and elections.

Several studies indicate significant gaps that exist within the operations of the CEWS and there is scarcity in academic research examining how these gaps affect its role in the prevention of this class of conflict.[30] As such, this research seeks to examine the effectiveness of the CEWS, drawing from the conflicts in Kenya (2007), Guinea Bissau (2012) and Burundi (2015). With the challenges identified, recommendations will be made on how the CEWS can be improved as drawn from these practical experiences.

1.3 Research Objective

According to the Roadmap for the Operationalization of the CEWS, its purpose is 'the provision of timely advice on potential conflicts and threats to peace and security to enable the development of appropriate strategies to prevent or limit the destructive effects of violent conflict.'[31]

As such, the overall objective of this study is to assess the effectiveness of the CEWS within its role in the prevention of this category of conflict in Africa. Effectiveness will be measured by analysing how efficiently the CEWS is able to gather data providing a holistic understanding of emerging conflict situations in relation to unconstitutional changes in government and elections. It will also entail assessing how effectively it is able to relay information and advice to the key decision making bodies in

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[28]   Protocol of the AUPSC Article 12(6) (n6 above).
[29]   Noyes & Yarwood (n20 above) 251.
[30]   U Engel 'Knowledge production on conflict early warning at the African Union' (2018) *South African Journal of International Affairs* 6.
[31]   AU 'Roadmap for the Operationalization of the CEWS' Meeting of Governmental Experts on Early Warning and Conflict Prevention, Kempton Park, South Africa (2006) 2 available at: https://www.peaceau.org/en/article/draft-roadmap-for-the-operationalization-of-the-continental-early-warning-system-cews (last accessed 25 July 2021).

the APSA namely, the AUPSC and the Chairperson of the AU Commission, to enable them to take the appropriate steps to prevent the conflict. In unpacking this, attention will also be paid to how timely the information gathered by the CEWS is passed to these decision-making bodies to inform their prevention strategies. In measuring the effectiveness of the CEWS, its performance will be rated and compared looking particularly at the conflict occurring in Kenya (2007), Guinea Bissau (2012) as well as Burundi (2015).

In fulfilling this objective, this study will therefore provide an in-depth analysis of the operations of the CEWS, its relationship with RECs, institutions, partners and the organs of the APSA. This will be done to assess the gaps that may exist in terms of the CEWS's data collection, strategic analysis, reporting and engagement with decision makers as well as its general co-ordination and collaboration in the discharge of its mandate. Furthermore, in the event that there are gaps identified, the objective of this study would be to analyse the impact of these gaps in the prevention of conflict on the continent stemming from unconstitutional changes in government and elections, looking particularly at the conflict mentioned above. Finally, this study seeks to draw a conclusion as to the effectiveness of the CEWS, looking at its strengths and weaknesses and to provide recommendations on to how its identified gaps, if any, can be addressed.

1.4 Research Questions

This study's central research question is namely:

- How effectively does the CEWS fulfil its role in the prevention of conflict in Africa, with particular reference to conflicts emanating from unconstitutional changes in government and elections?

1.5 Research Methodology

This study will adopt a qualitative approach, informed by academic, desk-based research focusing on the normative framework of the CEWS and APSA. This study will further assess the effectiveness of the CEWS in preventing conflict stemming from unconstitutional changes of government and elections through the examination of secondary data sources in relation to the conflicts in Kenya (2007), Guinea Bissau (2012) and Burundi (2015) before providing recommendation based on the challenges identified.

1.6 Significance of the Study

An examination of the existing literature on the CEWS and its overall effectiveness in the prevention of conflict on the continent indicates a paucity of academic research, particularly when its effectiveness is assessed from the lens of conflicts characterized by unconstitutional changes in government and elections as in the case of Kenya (2007), Guinea Bissau (2012) and Burundi (2015).

Noting the fact that this is a reoccurring category of conflict ensuing in the region, this study will provide insight on how the CEWS can improve its operations and interactions with RECs, institutions, partners and organs of the APSA, in it role in the prevention of conflict, drawing from practical experiences on the ground. In this way, the significance of this study is that it will contribute meaningfully in exploring how conflict prevention can be enhanced on a continent riddled with frequent hostilities.

1.7 Literature Review

As part of the existing literature on this topic, Alexander Noyes and Janette Yarwood in the text *'The AU Continental Early Warning System: From Conceptual to Operational?'* begin with an overview of the CEWS, within the APSA, providing an in-depth examination of the rationale behind its establishment as well as the history of its development from under the OAU to under the AU.[32] The article then delves into its operations as well as its relationship with other organs within the APSA, providing an understanding of the relationship the CEWS has with other RECs, international organization and institutions in the prevention of conflict.[33] The article then assesses the gaps within the CEWS, touching on themes relating to constrained human resources, training of personnel with the CEWS and funding as well as unsystematic co-ordination and information sharing with RECs.[34] The article also touches on the insufficiencies in communication between it and other APSA organs as well as an inhibited early warning response mechanism. [35]

In the text *'Establishing an Early Warning System in the African Peace and Security Architecture: Challenges and Prospects,'* in addition to the gaps highlighted above, Tiruneh, notes the RECs as having different focuses based on the unique challenges they face in their areas.[36] Additionally, these regional arrangements all have different systems for the collection and analysis of

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[32]   Noyes & Yarwood (n20 above) 249-262.
[33]   Noyes & Yarwood (n20 above) 249-262.
[34]   Noyes & Yarwood (n20 above) 249-262.
[35]   Noyes & Yarwood (n20 above) 249-262.
[36]   BT Tiruneh 'Establishing an early warning system in the African Peace and Security Architecture: challenges and prospects' (2010) 29 *Kofi Anan International Peacekeeping Training Centre* 20.

data.[37] This presents difficulty in creating a uniform early warning response and mechanisms at the regional level.[38]

Tiruneh also highlights that there is no regular reporting arrangement established between regional entities and the CEWS and that there in no link between these entities in themselves.[39] A lack of expertise in specific areas within early warning such as 'the rule of law, gender and governance,' is also noted with concern within regional arrangements as well as the CEWS itself.[40] This affects the quality of the reports generated.

In introducing another perspective, in the text *'Knowledge Production on Conflict Early Warning at the African Union,'* Engel explores other collaborations that the CEWS is meant to establish in an effort to broaden its data collection capacity.[41] In the article, it is observed that the CEWS does not have many links with Civil Society Organizations (CSOs) around the continent.[42] Additionally, it does not have well-established links with research centres and think tanks in Africa.[43] The article also highlights that the indicators currently used by the CEWS do not include data collection with regard to new social media such as Facebook, Twitter and Instagram despite a surge of conflicts in Africa having originated from these platforms in recent years.[44]

In relation to the effectiveness of the CEWS in the prevention of conflict stemming from unconstitutional changes in government and elections, the article *'The Role of the African Union in Managing Election Related Violence: Kenya and Côte Ivoire,'* provides an in depth look at the CEWs and the APSA before breaking down the normative framework under the AU in relation to unconstitutional changes of government and elections, touching on key instruments such as the AU Constitutive Act, the Lomé Declaration, the Declaration on Observing and Monitoring Elections, the African Charter on Democracy, Elections and Governance as well as the Ezulwini Framework.[45] The article then examines the post conflict violence in Kenya (2007) before assessing the AU's intervention, looking at the action of the AUPSC and the PoW in addressing the Kenyan conflict.[46] In relation to the CEWS and its role in the prevention of the conflict, the article highlights that there was a failure by the

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37   Tiruneh (n36 above) 20.
38   Tiruneh (n36 above) 20.
39   Tiruneh (n36 above) 20.
40   Tiruneh (n36 above) 22.
41   Engel (n30 above) 1-16.
42   Engel (n30 above) 1-16.
43   Engel (n30 above) 1-16.
44   Engel (n30 above) 1-16.
45   T Sithole 'The role of the African union in managing election related violence: Kenya and Côte d'Ivoire,' unpublished Master's thesis, University of Johannesburg (2014) 1-136.
46   Sithole (n45 above) 1-136.

CEWS to anticipate the escalation of conflict in the Kenyan election of 2007 and this compromised the AU's ability to manage this conflict.'[47]

In relation to the conflict in Guinea Bissau in 2008, according to Paul D. Williams in the text *'the African Union's Conflict Management Capabilities,'* he states that a challenge faced by the CEWS was a 'difficulty in analysing information and using it to influence decision-making within the PSC.'[48] In relation to the conflict in Burundi, according to Maru in the text '*Conflict early warning and the response nexus: the case of the African Union-continental early warning system*,' after extensively outlining the conflict which erupted in 2015, he stated that though the CEWS was successful in anticipating the conflict and relying the information to the AUPSC early so as to enable it to engage in preventative diplomacy, the failure to prevent this conflict was ultimately political.[49] This was due to the fact that there was indecision on how the conflict should be dealt with at the level of the AUPSC, noting its divided stance.[50] Additionally, there was an outright rejection of the establishment of the African Preventative and Protection Mission in Burundi (MAPROBU) by the Government of Burundi.[51]

There are a number of studies and academic texts that flag some existing limitations within the operations of the CEWS. However, there is currently a lacuna in academic research specifically looking at how these limitations affect the CEWS role in preventing conflict stemming from unconstitutional changes in government and elections, which contributes to a large portion of the conflicts on the continent. As seen above, though the role of the CEWS in the prevention of conflict has been assessed in relation to the conflicts taking place in Kenya (2007), Guinea Bissau (2012) and Burundi (2015), this has been done in individual academic texts, piecemeal. This study therefore seeks to examine these case studies holistically, to assess the strengths and weaknesses of the CEWS. Consequently, in line of the findings drawn from the study, recommendations will be made on how the CEWS can be improved, in relation to its role in preventing conflicts stemming from unconstitutional changes of government and elections.

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[47]   Sithole (n45 above) 59.
[48]   P D Wiliams 'The African Union's conflict management capabilities,*'* (2011) *Council on Foreign Relations: International Institutions and Global Governance (Working Paper)* 9 available at: https://www.files.ethz.ch/isn/146220/IIGG_WorkingPaper7.pdf (last accessed 25 July 2021).
[49]   M Maru 'Conflict early warning and the response nexus: the case of the African Union-continental early warning system' unpublished PhD Thesis Kennesa State University (2016) 1-175
[50]   Maru (n49 above) 1-175.
[51]   Maru (n49 above) 102.

1.8 Scope and Limitation of the Study

This research will primarily focus on the effectiveness of the CEWS in the prevention of conflict in Africa specifically characterized by unconstitutional changes in government and elections. In doing this, the study will focus on the operations of the CEWS and its relationship with APSA organs such as the AUPSC and the AU Commission, among others. It will also look at the relationship between the CEWS and the RECs, RCMs, international organizations and other institutions. In establishing the strengths and weaknesses of the system, the study will then analyse its effectiveness in the prevention of this category of conflict from the lens of country specific case studies being the conflicts in Kenya (2007), Guinea Bissau (2012) and Burundi (2015). In looking at the identified strengths and weaknesses faced by the CEWS, this study will draw a conclusion on its effectiveness concerning its role and will recommendations on how the CEWS can be improved.

It is noteworthy to mention that in furthering this research, difficulties were faced in attaining first hand information from the CEWS and decision-making entities within the APSA directly and relied mostly on academic, desk-based research.

1.9 Synopsis of Chapters

This study is divided into five chapters. Chapter one lays out the structure of the paper, briefly providing a background on the study, its objectives, significance as well as its scope and limitations. It also provides an outline of the literature on the subject matter.

Chapter two will the CEWS in detail, outlining its historical development and its operations with the APSA together with its relationship with APSA organs such as the AUPSC and the AU Commission, among others. It will also look at the relationship between the CEWS and the RECs, international organizations and other institutions.

Chapter three will unpack the normative framework of the AU in relation to unconstitutional changes of government and elections before specifically looking at the role of the CEWS in preventing the conflicts in Kenya (2007), Guinea Bissau (2012) and Burundi (2015).

Chapter four will then assess the effectiveness of the CEWS in its role in prevention with an emphasis on the conflict settings highlighted in the previous chapter. In evaluating the effectiveness of the CEWS, the chapter will analyse the performance of the CEWS, taking into account the strengths and weaknesses in its operations.

The paper will then conclude with Chapter five, which will provide an outline of the discussion in the research paper, highlight the main conclusion of the paper noting the effectiveness of the CEWS in its role in the prevention of this class of conflict before providing recommendations on how the CEWS can improve its functions in this regard.

CHAPTER TWO

CONFLICT EARLY WARNING AND RESPONSE SYSTEMS (CEWRS)

AND THE HISTORICAL DEVELOPMENT OF THE CEWS

'The way to prevent war is to bend every energy towards preventing it, not to proceed by the dubious indirection of preparing for it.' – Max Lerner

2.1 Introduction

This chapter will begin by outlining the general understanding of Conflict Early Warning and Response Systems (CEWRS). Consequently, this chapter will trace the development of the CEWS, commencing with its origin within the OAU to its present form within the AU. This chapter will then unpack its operations as well as its relationship with external entities assisting it in the discharge of its mandate such as various international and inter-governmental organizations, academic institutions and think tanks among others. The interaction of the CEWS with the central pillars of the APSA such as the AUPSC, the AU Commission, the PoW, ASF, PF as well as the various RECs and RCMs will also be explored.

2.2 Overview of CEWRS

A CEWRS is holistically defined as a 'conflict management tool' used to detect early signals of conflicts and develop preventative measures.'[52] In conflict, early warning systems as distinguished from early response focuses specifically 'on systematic data collection, analysis and/or formulation of recommendations, including risk assessment and information sharing,'[53] be it quantitative, qualitative or 'a blend of both.'[54] Distinctively, early warning systems can be broken down into three components, namely:

1. Estimating the magnitude and timing of relative risks of emerging threats;
2. Analysing the nature of these threats and describing plausible scenarios; and
3. Communicating warning analyses to decision makers.[55]

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[52] M Kuroda 'Early warning capacity of the United Nations system: prospect for the future' in K Rupesinghe & M Kuroda (eds) *Early Warning and Conflict Resolution* (1992) 217.

[53] A Austin 'Early warning and the field: a cargo cult science' (2004) *Berghof Research Centre for Constructive Conflict Management Handbook* 2.

[54] Austin (n53 above) 2.

[55] L Woocher ' The effects of cognitive biases on early warning' (29 March 2008) *Paper presented at the International Studies Association Annual Convention, Centre for Conflict Analysis and Prevention, United States Institute of Peace*.

In light of this, early warning operates as a mechanism, with a relationship and process existing within the respective units of this system.[56] On the other hand, early response[57] refers to:

> [a] process of consultation, policymaking, planning and action. These processes must be undertaken with sensitivity to political and social dynamics of a situation to avoid exacerbating conflict. Inter-governmental organizations, Non-Governmental Organizations (NGOs) and private actors engage in various preventative action including (1) diplomatic/political, (2) military/security, (3) humanitarian, and (4) development/economic activity.[58]

The origins of the CEWRS stems from disaster preparedness, the need to continuously gather information on the causes of natural calamities and when they would occur as well as from the gathering of military intelligence.[59]This particularly characterized the use of early warning systems in the 1950s.[60] Early warning systems were eventually linked to conflict management as an initial conceptualization between the 1970s and 1980s, with conflict early warning and response emerging into the 'international policy agenda,'[61] post Cold-War, with the rapid development of the international conflict management framework in response to the series of conflicts and mass atrocities resulting around the world.

The 'failure to response to the Rwandan genocide in 1994 and the experiences of the Balkans conflicts'[62] were key driving forces in ensuring the development of improved CEWRS, rapidly taken on in governmental, inter-governmental and non-governmental sectors at the national, regional and global level. Examples of current CEWRS around the world include the European Council's Policy Planning and Early Warning Unit under the European Union (EU), the AU-CEWS, the Economic Community of West African States (ECOWAS) Early Warning and Early Response Network (ECOWARN), the Intergovernmental Authority on Development (IGAD) Conflict Early Warning and Response Mechanism (CEWARN) and the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) Early Warning Unit; and Humanitarian Situation Room (Columbia) among several others.

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56   Austin (n53 above) 23.
57   Austin (n53 above) 23.
58   JM Diller (ed) *Handbook on human rights in conflict situations of conflict* (1997) 8.
59   A Matveeva ' Early warning and early response: conceptual and empirical dilemmas' (2006) *Global Partnership for the Prevention of Conflict Issue Paper 1* 9.
60   IK Souraré & PS Handy 'The state of conflict early warning in Africa: theories and practice' (2013) 22(2) *African Security Review* 4.
61   Organization for Economic Co-operation and Development (OECD) 'Preventing violence, war and state collapse: the future of conflict early warning and response' (2009) 13 available at: https://www.oecd.org/dac/conflict-fragility-resilience/docs/preventing%20violence%20war%20and%20state%20collapse.pdf (last accessed 26 August 2021).
62   OECD (n61 above) 13.

The phases of conflict are 'complex and unpredictable,'[63] with scholars describing the cycle of conflict at minimum, with the following phases: 'no conflict, latent conflict, emergence, escalation, stalemate, de-escalation, settlement/resolution, post-conflict peace building and reconciliation.'[64] In placing early warning systems within the conflict cycle, it is noted that 'conflict early warning as a strategy of conflict prevention is only relevant at the latent phase of conflict.'

Early response falls within the classification of 'operational prevention' this being defined as short-term strategies employed seeking 'to contain or reverse the escalation of violent conflict by using the tools of preventive diplomacy, economic sanctions and/or incentives, and /or military force.'[65] This is as opposed to strategies within the other classifications of conflict prevention such as structural prevention, encompassing deterrent efforts with a focus on 'developmental or economic tools'[66] to address the root causes of conflict, reduce risk and build better regulatory frameworks.[67] Another classification of conflict prevention is systematic prevention, which aims at reducing conflict 'on a global basis and goes beyond mechanisms focused on any particular state.'[68] These categories of conflict prevention, in contrast to the first, deal in the mid-to-long- term perspective.[69]

CEWRS have undergone significant development over the years and form a key component of the conflict prevention architecture, particularly in Africa. As a concluding thought however, and as rightly suggested by Souraré and Handy, it is important to note that CEWRS and early warning analysts 'are not *sangomas* (fortune-tellers) who claim to have magical or supernatural powers to predict exactly what 'will' happen in the future…the work of early warning analysts [are] to analyse the available data, put the data in their appropriate context with regard to the actors and dynamics of conflict in order to identify some possible evolutionary paths for the conflict and the propose policy recommendations.'[70]

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[63]   PO Odote 'Role of early warning systems in conflict prevention in Africa: case study of the Ilemi Triangle' unpublished PHD in International Studies Thesis University of Nairobi (2016) 10 available at: http://erepository.uonbi.ac.ke/bitstream/handle/11295/100129/Odote_Role%20of%20Early%20Warning%20Systems%20in%20Conflict%20Prevention%20in%20Africa%20Case%20Study%20of%20the%20Ilemi%20Triangle.pdf?sequence=1 (last accessed 26 August 2021).

[64]   Odote (n63 above) 10.

[65]   H Wulf & T Debiel 'Conflict early warning and response mechanisms: tools for enhancing the effectiveness of regional organizations? A comparative study of the AU, ECOWAS, IGAD, ASEAN/ARF and PIF' (2009) *Crisis States Working Papers Series No. 2* 5 available at: http://eprints.lse.ac.uk/28495/1/WP49.2.pdf (last accessed 26 August 2021)..

[66]   Wulf & Debiel (n65 above) 5 *see also* E Melander and C Pigache 'Conflict prevention: concepts and challenges' (2007) *Konfliktprävention: zwischen Anspruch und Wirklichkeit Wien: the Austrian National Defence Academy* 13.

[67]   Wulf & Debiel (n65 above) 5.

[68]   Wulf & Debiel (n65 above) 5.

[69]   Wulf & Debiel (n65 above) 5 *see also* JN Clarke 'Early warning analysis for humanitarian preparedness and conflict prevention' (2005) 7 (1) *Civil Wars* 71-97.

[70]   Souraré & Handy (n60 above)7.

2.3 Historical origins of the CEWS: OAU

The first generation of CEWRS was evident in the 1990s. [71] They were largely centralized to a particular headquarters outside the area of conflict and specifically geared towards conflict detection with the use of expensive, proprietary technology.[72] The second generation in 2000, typically had stronger links to networks in the field with a headquarters based outside the conflict area through the use of the satellites, Geographic Information System (GIS) mapping, being a software 'capturing, storing, checking and displaying data related to positions on Earth's surface,'[73] and the Internet (specifically e-mail and websites).[74] This class of CEWRS aimed at conflict detection with limited response, mainly recommendations. [75]

The third generation of CEWRS emerged in 2003, with headquarters based within the conflict area and even stronger local networks included in the system and in the form of monitors on the ground.[76] With the use of better quality technology such as proprietary software, mobile phones, GIS and open source satellite imaging, this allowed CEWRS to expand their mandates to include stronger links to response mechanisms, with monitors serving as 'first responders' in addition to the objective of conflict detection.[77]

The emergence of the latest generation of CEWRS has been characterized by a less centralized operational framework often situated in the conflict area, relying on free and/or open source technologies,[78] these being tools freely available for use, modification and redistribution.[79] With the use of this technology, this has allowed CEWRS of this generation to act as a decentralized two-way information service for data collection and dissemination.[80] As it currently stands however, it has been highlighted that the CEWS does not strictly fit into the characteristics of a particular generation.

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[71]   Maru (n49 above) 4 *see also* JG Bock 'Firmer footing for a policy of early intervention: conflict early warning and early response comes of age' (2015) 12(1) *Journal of Information Technology and Politics*105-107.

[72]   Maru (n49 above)4.

[73]   'Geographic Information System' *National Geographic Resource Library* available at: https://www.nationalgeographic.org/encyclopedia/geographic-information-system-gis/ (last accessed 26 August 2021).

[74]   Maru (n49 above)4.

[75]   Maru (n49 above)4.

[76]   Maru (n49 above)4.

[77]   Maru (n49 above)4.

[78]   Maru (n49 above)4 *see also* L Ott and U Lühe 'Conflict Prevention: connecting policy and practice' (2018) *Swisspeace* 22 available at: https://www.jstor.org/stable/pdf/resrep20121.7.pdf (last accessed 24 October 2021).

[79]   'Open source technology and Esri' (2011) available at: https://www.esri.com/news/arcnews/spring11articles/open-source-technology-and-esri.html (last accessed 26 August 2021).

[80]   Maru (n49 above)4.

The establishment of the CEWS in Africa traces its origins to the OAU. Having come into force on 25 May 1963 with the signing of the OAU Charter by African states,[81] the aim of the OAU was outlined under article 2 of the Charter.[82] With the desire to expand and strengthen its focus on conflict prevention, the creation of a unit for continental conflict early warning commenced in June 1992.[83] During the 28th Meeting of the Assembly of the OAU in Dakar, Senegal, it was resolved that the Mechanism for Conflict Prevention, Management and Resolution would be established.[84] This was made effective through the adoption of the OAU Declaration on a Mechanism for Conflict Prevention, Management and Resolution, also known as the 'Cairo Declaration.'[85] According to paragraph 15 of the Declaration, it was noted that the Mechanism would primarily aim to anticipate and prevent conflict to avoid expensive peacekeeping missions. In the post-conflict setting, its responsibility would be to facilitate peace-building initiatives to effectively address the root causes of the conflict.

The operation of the Mechanism's activities was managed by the Central Organ, composed of 9 Member States who met annually and formed the Bureau of the Assembly, with the addition of the country chairing the OAU.[86] These members were later expanded to 14 and the Organ operated at Summit, Ministerial and Ambassadorial levels.[87] In 1994, the Conflict Management Division was established which was originally assigned the role of developing policy options and coordinating activities in support of the Mechanism's mandate.[88] Specifically, it was expected to:

> (a) Collect, collate and disseminate information relating to current and potential conflicts; (b) Prepare and present policy options to the Secretary general of the OAU; (c) Undertake or commission analysis and long-term research; and (d) Support and manage political, civilian and military observer missions, and co-ordinate regional training policies to support peacekeeping operations.[89]

Despite the establishment of the Conflict Management Division, however, there was no explicit provision for the establishment of an early warning system. Additionally, in discharging its mandate in the anticipation and prevention of conflicts, the Mechanism for Conflict Prevention, Management and Resolution was hampered by some of the objectives and principles of the OAU Charter, which were the

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[81]   AM Adejo 'From OAU to AU: New wine in old bottles?' (2001) 4 (1 & 2) *African Journal of International Affairs* 130.
[82]   OAU Charter (1963) Article 2.
[83]   J Cilliers 'Towards a continental early warning system for Africa' *ISS Paper No. 102* (2005) 3.
[84]   Cilliers (n83 above) 3.
[85]   OAU Declaration on a Mechanism for Conflict Prevention, Management and Resolution (Cairo Declaration) available at: https://www.dipublico.org/100609/oau-declaration-on-a-mechanism-for-conflict-prevention-management-and-resolution-cairo-declaration/ (last accessed 26 August 2021).
[86]   Cilliers (n83 above) 3 *see also* DY Wondermagegnehu 'An exploratory study of harmonization of conflict early warning in Africa' unpublished Masters in global studies- a European perspective thesis Universität wien (2009) 40-42 available at: https://core.ac.uk/download/pdf/11587782.pdf (last accessed 24 October 2021).
[87]   Cilliers (n83 above) 3.
[88]   Cilliers (n83 above) 3.
[89]   Cilliers (n83 above) 3.

guiding parameters of the entity. These included 'non-interference in the internal affairs of States, respect for the sovereignty and territorial integrity of Member States, their inalienable right to independent existence, the peaceful settlement of disputes as well as the inviolability of borders inherited from colonialism.'[90] It was also specifically mentioned in the Cairo Declaration that the Mechanism would 'also function on the basis of the consent and the cooperation of the parties to a conflict.'[91]

The establishment of a continental early warning system was explicitly mentioned during the 32rd Ordinary Session of the Assembly of Heads of State and Government, held in Yaoundé, Cameroon between 8 -10 July 1996, with the Resolution titled: 'Yaoundé Declaration (Africa: Preparing for the 21st Century)' known as the 'Yaoundé Declaration.'[92]

Flowing from these Resolutions, subsequent meetings were held in 1996 and 1998 respectively to iron out the logistics in terms of the operations of the early warning unit.[93] This led to the expansion of the Conflict Management Division to include 'a situation room, a library, a documentation centre, a regional desk officer and a 'Field Operations Unit' tasked with the organization of the deployment of military observer missions.'[94]

Despite these developments, the OAU's performance in conflict prevention has been characterized as 'uneven.'[95]The entity still battled with insufficient capacity for in-depth analysis and attaining adequate information to effectively anticipate and prevent conflict five years after its adoption.[96]

Nevertheless, the Conflict Management Division had become one of the most important sections of the OAU by 2000 though largely dependent on external funding from entities outside of Africa, accounting for 70% of contributions to the Division.[97] Immediately preceding the OAU's transition to the AU, the Division consisted of 41 staff positions, comprising of both clerical and

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[90] OAU Declaration on a Mechanism for Conflict Prevention, Management and Resolution (Cairo Declaration) (n85 above) paragraph 14.

[91] OAU Declaration on a Mechanism for Conflict Prevention, Management and Resolution (Cairo Declaration) (n85 above) paragraph 14.

[92] OAU Assembly of Heads of State and Government 'Yaoundé Declaration' (n 18 above) 23 paragraph 25.

[93] Cilliers (n83 above) 4 *see also* AU 'Report of the workshop on the establishment of the AU CEWS' 30- 31 October 2003, Addis Ababa, Ethiopia 4 available at: https://archives.au.int/bitstream/handle/123456789/8376/Ear%20War%20Sys_E.pdf?sequence=1&isAllowed=y (last accessed 26 August 2021).

[94] Cilliers (n83 above) 4.

[95] Cilliers (n83 above) 5 *see also* M Muyangwa and MA Vogt 'An assessment of the OAU mechanism for conflict, prevention, management and resolution 1993-2000' (2000) *International Peace Institute* 26-28 available at: https://www.jstor.org/stable/resrep09583.10?refreqid=excelsior%3A620eff2b6d1b9323e624ce366fd7dcbd&seq=5#metadata_info_tab_contents (last accessed 24 October 2021).

[96] Cilliers (n83 above) 5.

[97] Cilliers (n83 above) 5.

profession staff, with the costs of 13 of these positions being managed by the OAU, 11 by the United Nations Development Programme (UNDP) and 16 being directly funded by external donors.[98]

2.4 Establishment of the CEWS under the AU

The AU was conclusively established on 11 July 2000, with the adoption of its Constitutive Act by the Assembly of the Heads of Government of the OAU.[99] It formally came into effect on 26 May 2002, attaining ratifications from 53 African states and became fully operational on 10 July 2002.[100] The rationale advanced by African leaders for the transformation of the OAU to the AU was not for the creation of an entirely new entity but for a reformation to specifically address the weaknesses of the OAU, in the management of conflict on the continent.[101] In the preamble of the Constitutive Act of the AU, it expressly touches on the challenges faced by Africa in the form of armed conflict and the repercussions of hostilities on human rights.[102] Additionally, under article 3 of the Constitutive Act, some of the objectives of the AU specifically include to 'promote peace, security and stability on the continent'[103] and to 'promote and protect human and peoples' rights...'[104] While the OAU Charter speaks of respect for the sovereignty and territorial integrity of each State and for its inalienable right to interdependent existence,' the Constitutive Act speaks only of 'respect for borders existing on achievement of independence.'[105]

The most significant difference between the OAU and the AU however, is the AU's stance on intervention. Under article 3(2) of the OAU Charter, it provides for 'non-intervention in the internal affairs of States.' However, under the Constitutive Act of the AU, at article 4 (h), it allows 'the right of the Union to intervene in a member State pursuant to a decision by the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity.' Similarly, under article 4(p) of the Constitutive Act, the AU takes a strong stance in the 'condemnation and rejection of unconstitutional changes of governments.'

In terms of article 5(2) of the AU Constitutive Act, the AU refers to the formation of the AUPSC, established under the Protocol Relating to the Establishment of the Peace and Security Council of the AU (Protocol of the AUPSC), which was adopted and entered into force in 2002. In terms of

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[98]   Cilliers (n83 above) 5 *see also* Muyangwa and Vogt (n95 above) 25.
[99]   JD Rechner ' From OAU to AU: A normative shift with implications for peacekeeping and conflict management or just a name change' (2006) (39) *Vanderbuilt Journal of Transitional Law* 559.
[100] Rechner (n99 above) 559.
[101] Rechner (n99 above) 561 *see also* W Okumu 'The AU: pitfalls and prospects for uniting Africa' (2009) 16(2) *Journal of International Affairs* 93 -111.
[102] Constitutive Act of the AU (2002) paragraphs 7 and 8 of the Preamble.
[103] Constitutive Act of the AU (2002) (n102 above) Article 3(f).
[104] Constitutive Act of the AU (2002) (n102 above) Article 3(h).
[105] Rechner (n99 above) 562 *see also* LJ Farmer 'Sovereignty and the African Union' (2012) 4(10) *Journal of Pan African Studies* 97-99.

article 2(1) of the Protocol, the AUPSC was established as 'the standing decision-making organ for the prevention, management and resolution of conflicts. The PSC shall be a collective security and early-warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa.' As such, the AUPSC sets the foundation of the APSA, comprising of the AU Commission, the PoW, the ASF, the PF as well as the CEWS.[106]

As such, in line with the objective of the AUPSC to 'anticipate and prevent conflict,'[107] the CEWS was specifically set up under article 12 of the Protocol establishing the AUPSC. In terms of this article, it was envisioned that the CEWS would consist of a 'Situation Room' 'being the observation and monitoring centre' specifically found in the Conflict Management Directorate of the AU and 'responsible for data collection and analysis on the basis of an appropriate early warning indicators module.'[108] On its formation, it was also envisaged that that the CEWS would have an established link with existing RECs placed across the different regions of the continent. As such under article 12 (2)(b), specific provision was made for 'the observation and monitoring units of the Regional Mechanisms to be linked directly through appropriate means of communications to the Situation Room, which shall collect and process data at their level and transmit the same to the Situation Room.'

It was also envisaged that the CEWS would develop 'an early warning module based on clearly defined and accepted political, economic, social, military and humanitarian indicators, which shall be used to analyse developments within the continent and to recommend the best course of action.'[109] In terms of the effective functioning of the CEWS, article 12 (3) stipulates that the AU Commission 'shall collaborate with the UN, its agencies, other relevant international organizations, research centres, academic institutions and NGOs, to facilitate the effective functioning of the Early Warning System.'

Noting the history of the development of the early form of the CEWS before the OAU, the AU inherited its 'embryonic' structures upon its operationalization.[110] It has been noted that though the CEWS was established under the Protocol in 2002, its implementation only reached its peak in 2007. Preceding 2007, in terms of article 12 (3) and (7) of the Protocol, the AU Commission held several meetings and workshops with various stakeholders, such as 'the UN, the RECs, civil society organizations, think tanks and academic institutions,' on how best to go about the operationalization of the CEWS.[111] Flowing from this, and specifically from a meeting of governmental experts on early warning and conflict prevention in Kempton Park, South Africa, held between the 17 -19 December

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[106]   Protocol of the AUPSC Article 2(2) (n6 above).
[107]   Protocol of the AUPSC Article 3(b) (n6 above).
[108]   Protocol of the AUPSC Article 12(2)(a) (n6 above).
[109]   Protocol of the AUPSC Article 12(4) (n6 above).
[110]   Noyes & Yarwood (n20 above) 251.
[111]   Noyes & Yarwood (n20 above) 251.

2006, the Roadmap for the Operationalization of the CEWS was developed which specifically outlined where improvements could be made to the existing early warning structures within the inherited Conflict Management Division from the OAU to strengthen its data collection, analysis and the provision of policy options to decision makers. This document was formalized as an official framework, calling for the full operationalization of the CEWS by 2009.[112]

In working towards the full operationalization of the CEWS, a Proposal for an Indicators Module was also developed in 2006, which provided the baseline for the elements and methodological framework founding the indicators to be used for the CEWS. The indicators recommended in the Proposal and which are currently being used by the system includes triggers such as 'horizontal (intra-state) or vertical (inter-state) escalation of violent conflict, increase in human rights violations in a polity, secessionist agendas, proliferation of small arms and light weapons, armed insurrections, territorial disputes, border conflict, cross-boarder movements of small arms and light weapons, border skirmishes, occasional or regular raids, preparation of an insurgency from neighbouring country, expulsion of identity groups'[113] among several other, with all these indicators finding their basis in 'a list of attitudes/ behaviour which the African leaders disapprove of' particularized by the framework of key instruments and resolutions of the OAU and the AU touching on various political, economic, social, military and humanitarian issues.[114]

On the road to the full functioning of the CEWS, the AU signed a MoU with RECs and RCMs in a bid 'to establish and improve coordination and information-sharing channels on peace and security issues, including early warning.' In light of this, by virtue of the MoU, technical meetings are now held between the AU and the RECs every quarter. Moreover, 'a software licensing agreement between CEWS and the RECs was developed to help facilitate data sharing.'

Currently, the CEWS is housed in the Conflict Prevention and Early Warning Division of the AU Peace and Security Department. Under the Kagame reforms to the AU, it is common cause that the AU Peace and Security Department has now merged with the Political Affairs Department. This will increase the quality of holistic data collection and analysis touching on political indicators to potential conflict under the CEWS.[115] The Situation Room has also currently developed to a level whereby it is able operate around the clock, 24 hours a day, with '10 Assistants, two Communication Assistants and a

112   The Framework for the Operationalization of CEWS' (2006) (n21 above).
113   AU 'Proposal for an indicators Module' (2006) (Issue Paper 2) 5 available at: https://www.peaceau.org/uploads/indicators-module-ip2.pdf (last accessed 26 August 2021).
114   AU 'Proposal for an indicators Module' (2006) (n113 above) 5.
115   AU 'AU reforms present a unique opportunity for greater synergy in addressing inter-related issues of security and governance in Africa' 17 June 2021 available at: https://au.int/en/pressreleases/20210617/au-reforms-present-unique-opportunity-greater-synergy-addressing-inter (last accessed 26 August 2021).

Coordinator.'[116] The Situation Room also produces several reports such as 'Daily News Highlights, Daily Reports, Flash Reports, updates on potential and conflict situations and weekly updates to provide a weekly overview of the political, military, humanitarian, human rights and other developments in Africa.'[117]

Additionally, the CEWS currently uses several tools for data collection and analysis such as the African Media Monitor (AMM), the African Reporter as well as Live-Mon among others. The AMM is a collection of applications used to automate data gathering from online sources and subscribed wires. The tool is able to read more than 'forty thousand articles within a day in the four official languages of the AU. The tool had three interfaces.'[118] The African Reporter, on the other hand, is an online reporting and analytical tool, customized to the CEWS templates and indicators to assist with the submission of incident and situation reports.[119] It specifically allows for data management and the graphic display of trends and conflict patterns over time.[120] Additionally, Live-Mon is a big screen application providing a geo-located view of the news articles detected by the AMM.[121] This software is in addition to the Indicators and Profiles Module, which works towards to storage and processing of quantitative structural data as well as qualitative profiles data.[122]

According to article 9 of the Protocol establishing the AUPSC, in line with its mandate to prevent and anticipate conflict, the AUPSC is obligated 'to take initiatives and action it deems appropriate with regard to situations of potential conflict...' It additionally provides that the AUPSC must take all measures necessary to prevent the conflict from escalating. In fulfilling this duty, under article 9(2), the AUPSC has the discretion to resort to the 'collective intervention of the Council itself, or through its Chairperson and/or the Chairperson of the Commission, the PoW, and/or in collaboration with the RECs.'

In addition to the action of the AUPSC, the Chairperson of the AU Commission is also mandated under the authority of the AUPSC and in consultation with the parties involved in a conflict, to take all measure necessary to 'prevent, manage and resolve conflicts.'[123] According to article 10(2) (a), (b) and (c), the Chairperson of the AU Commission has several options. They may bring a developing issue to the attention of the AUPSC, which they believe may be a threat to peace, security

[116]   AU 'Conflict Prevention and Early Warning: Division of the AU Peace and Security Department' (2016) 4 available at: https://www.peaceau.org/uploads/conflict-prevention-and-early-warning-booklet-13feb18-approved.pdf (last accessed 26 August 2021).
[117]   AU 'Conflict Prevention and Early Warning: Division of the AU Peace and Security Department' (n116 above) 5.
[118]   AU 'Conflict Prevention and Early Warning: Division of the AU Peace and Security Department' (n116 above) 5.
[119]   AU 'Conflict Prevention and Early Warning: Division of the AU Peace and Security Department' (n116 above) 5.
[120]   AU 'Conflict Prevention and Early Warning: Division of the AU Peace and Security Department' (n116 above) 5.
[121]   AU 'Conflict Prevention and Early Warning: Division of the AU Peace and Security Department' (n116 above) 5.
[122]   AU 'Conflict Prevention and Early Warning: Division of the AU Peace and Security Department' (n116 above) 5.
[123]   Protocol of the AUPSC Article 10 (1) (n6 above).

and stability in the continent. The Chairperson may also bring such a situation to the attention of the PoW as read with article 11 of the Protocol establishing the AUPSC. Additionally, the Chairperson of the Commission may also use their own good offices personally or through special envoys, special representatives, the PoW or the RECs as read with article 16 of the Protocol, to prevent potential conflicts. Furthermore, it is specifically provided at article 12 (5) of the Protocol establishing the AUPSC, that 'the Chairperson of the Commission shall use the information gathered through the Early Warning System timeously to advise the PSC on potential conflicts and threats to peace and security in Africa and recommend the best course of action. The Chairperson of the Commission shall also use this information for the execution of the responsibilities and functions entrusted to him/her under the present Protocol.' By virtue of article 12(6) of the Protocol, member states also undertake to facilitate early action by the PSC and/or the Chairperson of the Commission based on early warning information. There has been a particular improvement in collaboration between the CEWS as well as the PoW, with the two working together to prevent and mitigate conflict. [124]

Under article 13(3)(d) of the Protocol establishing the AUPSC, the ASF also functions in 'preventative deployment in order to prevent (i) a dispute or a conflict from escalating, (ii) an on-going violent conflict from spreading to neighbouring areas or States, and (iii) the resurgence of violence after parties to a conflict have reached an agreement' under the authorization of the AUPSC, with prevention activities being funded under the PF in terms of article 21 of the Protocol establishing the AUPSC. In addition these various links within the APSA in relation to the early response to escalating conflict situations, the AUPSC in furthering it mandate in the prevention of conflict also maintains close interaction with the PAP under article 18 as well as the African Commission on Human and Peoples' Rights (ACHPR) under article 19 of the Protocol establishing the AUPSC respectively.

Despite the extensive framework provided for in the AUPSC linking the CEWS with entities within the APSA, it has been noted that early response within the AU remains 'a work in progress operationally.'[125] These shortcomings will be examined in greater detail in the foregoing chapters specific to the prevention of conflict arising from unconstitutional changes of government and elections in Africa in light of the conflicts in Kenya (2007), Guinea Bissau (2012) and Burundi (2015). The strength and weaknesses of the CEWS in it role in the prevention of this class of escalating conflict will specifically be evaluated.

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[124] Noyes & Yarwood (n20 above) 256.
[125] Noyes & Yarwood (n20 above) 256.

2.5 Conclusion

In light of the above discussion, it is evident that the concept of CEWRS is not new and has developed extensively over the years in different parts of the world. In relation to the building of a continental early warning and response system in Africa, its conceptualization found its roots in the OAU, the predecessor of the AU and developed within the AU itself, adapting within the shifting policies around non-interference and intervention. Slow but steady progress has been made for the advancement CEWS, taking up it role in the prevention of conflict on the African continent.

CHAPTER THREE

THE ROLE OF THE CEWS IN PREVENTING CONFLICTS EMANATING FROM UNCONSTITUTIONAL CHANGES IN GOVERNMENT AND ELECTIONS: KENYA (2007), GUINEA BISSAU (2012) AND BURUNDI (2015)

'Democracy is, in essence, a form of non-violent conflict management. If war is the worst enemy of development, healthy and balanced development is the best form of conflict prevention.' – Kofi Annan

3.1 Introduction

This chapter will examine the performance of the CEWS within the conflict settings of Kenya (2007), Guinea Bissau (2012) and Burundi (2015). The chapter will begin by outlining the concept of unconstitutional changes of government and elections and will unpack the framework under the AU system in relation to it, touching on the key instruments adopted to address this issue. The chapter will then systematically look at the conflicts highlighted above, briefly examining their origins before looking at the role played by the CEWS in seeking to prevent them in addition to the actions of other key response entities within the APSA.

3.2 Defining Unconstitutional Changes of Government

Unconstitutional changes of government have been defined to include:

> 1. Military coup d'état against a democratically elected government;
> 2. Intervention by mercenaries to replace a democratically elected government;
> 3. Replacement of democratically elected governments by armed dissident groups and rebel movements;
> 4. The refusal by an incumbent government to relinquish power to the winning party after free, fair and regular elections.'[126]

According to Rule 37 of the Rules of Procedure of the Assembly of the AU, the first situation considered to be an unconstitutional change of government cited in Lomé Declaration is slightly altered to include 'military **and other coup** d'état against a democratically elected government.'[127] An additional situation considered to be an unconstitutional change of government is provided under Rule

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[126] AU 'Lomé Declaration of July 2000 for an OAU response to Unconstitutional Changes of Government' AHG/Decl.5 (XXXVI) available at: https://www.peaceau.org/uploads/ahg-decl-5-xxxvi-e.pdf (last accessed 13 September 2021).

[127] Rule 37 (2)(a) of the Rules of Procedure of the Assembly of the AU.

37(3) as '[t]he overthrow and replacement of a democratically elected government by elements assisted by mercenaries…' The circumstances of unconstitutional changes of government are further supplemented under the African Charter on Democracy, Elections and Governance to include '[a]ny amendment or revision of the constitution or legal instruments, which is an infringement on the principles of democracy change of government.'[128]

3.3 Overview of the AU Framework on Addressing Unconstitutional Changes of Government and Election Violence

With African countries slowly gaining independence from the 1960s onwards, some authors have described the period commencing from the 1960s to the early 1990s as 'traumatic,' characterized by 'dehumanizing conditions occasioned largely by the prevalence of visionless leadership, an excruciating debt burden and rising poverty, resulting in a vicious cycle of armed ethnic conflicts, civil wars and unprecedented refugee flows, among other crises and contradictions.'[129] In light of this, the OAU began to show keen interest in solidifying democracy and promoting the integrity of elections in the early 1990s noted as the 'third wave of democratization' in Africa.[130] Consequently, the framework in relation to the prevention and address of unconstitutional changes in government and elections was borne.

This commenced with the adoption the Lomé Declaration as a soft law instrument, at the '36th Ordinary Session of the Assembly of the Heads of State and Governments of the OAU held in the Togolese capital Lomé, in the period from 10 to 12 July 2000.'[131] According to the Declaration, its need was borne from 'grave concern about the resurgence of coup d'états in Africa.'[132] In the declaration, OAU Heads of State duly recognized the damage of unconstitutional changes of government to peace and security in Africa, noting the disturbing trend of coup d'état, in particular as a tremendous 'set back to the on-going process of democratization in the Continent.'[133] The instrument defines the circumstances constituting unconstitutional changes of government. Under it, the OAU Heads of State also suspend unconstitutional governments from taking part in the activities of the OAU for six month until the restoration of constitutional order. It further provides for the use of targeted sanctions against unconstitutional governments including the denial of visas, limitations on government-to-government communications as well as trade sanctions.

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[128]   Article 23 (5) African Charter on Democracy, Elections and Governance.

[129]   JS Omotola 'Unconstitutional changes of government in Africa: what implications for democratic consolidation' (2011) (Discussion Paper 70) *Nordic Africa Institute* 11.

[130]   Sithole (n45 above) 26 *see also* S Mozaffar 'Democratic transitions in Africa' (1997) 16(2) *Bridgewater Review* 7-10.

[131]   Sithole (n45 above) 27.

[132]   AU 'Lomé Declaration' (n126 above) paragraph 2.

[133]   AU 'Lomé Declaration' (n126 above) paragraph 2.

The Constitutive Act of the AU also forms part of the framework. Under the guiding principles of the AU, its functioning is guided by 'respect for democratic principles, human rights, the rule of law and good governance',[134] as well as 'condemnation and rejection of unconstitutional changes of governments.'[135] In turn, the objectives and guiding principles of the Constitutive Act became the centring principles and obligations of AU member states. Under Article 23, it further provides for political and economic sanctions among others, if a member states fail to act within the decisions, policies and principles of the AU.

Next in the framework is the African Charter on Democracy, Elections and Governance. This Charter was adopted in Addis Ababa by the 8th Ordinary Summit of the AU on 30 January 2007, entering into force on 15 February 2012. The Charter drew its inspiration from Articles 3 and 4 of the Constitutive Act of the AU and seeks to 'promote the holding of regular free and fair elections to institutionalize legitimate authority of representative government as well as democratic changes of government.' As a highlight to the Charter, it further solidified the circumstances deemed as unconstitutional changes in government to include '[a]ny amendment or revision of the constitution or legal instruments, which is an infringement on the principles of democracy change of government.,' under Article 23(5).

Lastly, the Ezulwini Framework for the Enhancement of the Implementation of Measures of the AU in Situations of Unconstitutional Changes of Government in Africa, known as the 'Ezulwini Framework' is also a pillar of the overall framework against unconstitutional change of government under the AU system. It was adopted by the AUPSC in December 2009, following a Retreat it held in Ezulwini, Kingdom of Eswatini.[136] The framework strengthens the capacity of the AU in this field by suggesting that the period of suspension for member states that are perpetrators of unconstitutional changes of government to restore constitutional order should be reduced from six months to three months.[137] It further calls for more instances of collaboration with AU organs, RECs, the PAP as well as the AUPSC and the Committee of Intelligence Security Services (CISSA) in combating unconstitutional changes of government[138] as well as for the preparation of 'guidelines for preventative deployment of the AU presence before the breakdown of law and order' based on the AU early warning indicators as well.[139]

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134 Constitutive Act of the AU (2002) (n102 above) Article 4(m).
135 Constitutive Act of the AU (2002) (n102 above) Article 4(p).
136 AU 'The Ezulwini Framework for the Enhancement of the Implementation of Measures of the AU in Situations of Unconstitutional Changes of Government in Africa (The Ezulwini Framework' (2010) paragraph 1 available at: https://www.peaceau.org/uploads/ezulwini-framework-english.pdf (last accessed 14 September 2021).
137 AU 'The Ezulwini Framework' (n136 above) paragraph 5(i).
138 AU 'The Ezulwini Framework' (n136 above) paragraph 5 (v, vi and vii).
139 AU 'The Ezulwini Framework' (n136 above) paragraph 5 (ix).

3.4 The Role of the CEWS in the Prevention of Unconstitutional Changes of Government: A Case Study

This segment of the chapter will focus on the role of the CEWS in the prevention of this category of conflict, with a specific focus on the conflicts in Kenya (2007), Guinea Bissau (2012) and Burundi (2015). The origins of each of these conflicts will be explored before examining the operations of the CEWS within these contexts and how it worked with the key response and decision-making entities within the APSA such as the chairperson of the AU Commission, the AUPSC and the PoW among others.

3.4.1 Kenya (2007)

Origins of Conflict

The election violence that took place in Kenya in 2007 has been pegged as one of the worst episodes in Africa in recent years.[140] According to Dersso, the conflict was primarily underpinned by already existing political and socio-historical dynamics stemming from how the colonial government of Kenya managed ethno-diversity, trickling into Kenya's post independent, political environment.[141] This was characterized by pre-colonial ethno-cultural groups being 'forcibly amalgamated under the same political unit and others…sliced and placed into different units,' causing the creation of 48 different groups of various different sizes, competing political histories and cultures.[142] This in turn, created a breeding ground for 'unequal patterns of relations between groups and the state and among the groups themselves.'[143]

The control by dominant groups of authority post independence, monopolizing political and socio-economic power set the scene for competition in 'accessing the sources of patronage and power.'[144] Ethno diversity was politicized with political parties being formed along these lines. In this context, the post election violence in Kenya commenced on 30 December 2007, this being the date that Mwai Kibaki was announced the winner of the presidential elections by the Electoral Commission of Kenya.[145] Following this announcement, tensions rose to alarming rates amid allegations of wide scale

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140   T Sithole & L E Asuelime 'The role of the AU in post-election violence in Kenya' (2017) 6(2) *African Journal of Governance and Development* 100.

141   S A Dersso 'The 2007 post-election crisis in Kenya as a crisis of state institutions' (2008) 5(3-4) *African Renaissance* 23.

142   Dersso (n141 above) 23.

143   Dersso (n141 above) 23.

144   Dersso (n141 above) 23.

145   Sithole & Asuelime (n140 above) 100.

election rigging by the Party of National Unity (PNU), generally labelled as 'Kibaki's party alliance.'[146]

This announcement was made by the Chairperson of the Electoral Commission of Kenya, Samuel Kivuitu who also stated that he was not sure if Kibaki had won fairly. Kibaki was then swiftly sworn in as president less than an hour later.[147] Several international elections observers are recorded as stating that 'the presidential vote counting and tallying processes were flawed or had been tampered with.'[148] Though some irregularities were reported by regional election observers from the AU as well as the East African Community (EAC), they were quick to declare the elections 'free and fair.'[149] The Orange Democratic Movement (ODM) under the leadership of presidential candidate Ralia Odinga, who also ran for the elections, heavily contested the results, coining the whole process as 'stolen,' organizing mass, countrywide protests in response to this.[150] This sparked clashes between ODM and PNU supporters. With ODM supporters being largely Kalenjin- Luo and with the PNU being largely Kikuyu, the election violence was fuelled by this ethnic dynamic.

In light of these circumstances, the post election violence was mostly in the form of confrontations on civilians, consisting of spontaneous attacks, organized attacks against targeted communities as well as retaliatory attacks.[151] Over 1,200 people were reported as dead, with the internal displacement of over 268,300 people.[152] Additionally, the destruction of over 41,000 houses was reported, together with the looting of shops, commercial outlets and crops.[153] This period was also significantly stained by pre-election violence as well, with 70 people reported dead and over 2000 people internally displaced.[154]

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[146]   Sithole & Asuelime (n140 above) 100.
[147]   United Nations Office of the High Commissioner for Human Rights (OHCHR) 'Report from OHCHR fact-finding mission to Kenya 6-28 February 2008' 7-8 available at: https://www.ohchr.org/documents/press/ohchrkenyareport.pdf (last accessed 24 October 2021).
[148]   Sithole & Asuelime (n140 above) 101 *see also* P Kagwanja and R Southall 'Introduction: Kenya –a democracy in retreat?' (2009) 27(3) *Journal of Contemporary African Studies* 259-277.
[149]   Sithole & Asuelime (n140 above) 101.
[150]   OHCHR (n147 above) 7-8 *see also* Government of Kenya 'Commission of inquiry into post election violence' (2008) 304-344 available at: https://reliefweb.int/sites/reliefweb.int/files/resources/15A00F569813F4D549257607001F459D-Full_Report.pdf (last accessed 24 October 2021).
[151]   OHCHR (n147 above) 10.
[152]   OHCHR (n147 above) 7-8.
[153]   OHCHR (n147 above) 7-8.
[154]   Sithole & Asuelime (n140 above) 100.

The Role of the CEWS in relation to the Conflict

Research indicates that 'the CEWS failed to anticipate the escalation of conflict in the Kenyan elections of 2007 and this compromised the AU's ability to manage to this conflict.'[155] This is despite the bouts of pre-election violence that sparked as tension built, leading up to the election period. When the post-election violence eventually commenced, it was noted that the '[l]ack of coordination between the CEWS and the [AU]PSC led to the delayed response of the AU in Kenya.'[156] Juma opinions that 'early action has a greater chance of success in delivering an agreement than delayed interventions…the speed of interventions matters, as it galvanizes action, exerts pressure on the parties to stay the course and leave limited, if any, room for spoilers to derail the process.'[157]

IGAD, being the REC in Eastern Africa, housing a conflict early warning mechanism known as the Conflict Early Warning and Response Mechanism (CEWARN) noted challenges. The CEWARN was flagged as doing 'little to provide the early warning necessary to prevent the post-election violence as well.'[158]

It is evident that the AUPSC's response moved separately from the CEWS instead of being directly informed by it. The AUPSC reached consensus to begin mediation in relation to Kenya's crisis on 21 January 2008, within the African Union framework.[159] This was after it had received a recommendation to this effect from the AU Commission following consultations.[160] This had also been preceded by a visit by the then Chairperson of the AU, President John Kufuor to Nairobi from 8 to 10 January 2008 to meet with Mwai Kibaki and Ralia Odinga in an effort to defuse tensions.[161] Here, it became clear that an African based solution within the AU would be favourable to the conflicting parties as opposed to the mediation efforts of the EAC as chaired by President Yoweri Museveni, who was viewed with scepticism by Raila Odinga [162]

In this way, the AUPSC facilitated a mediation process stemming from the PoW, under the leadership of Kofi Annan, the former UN Secretary General supported by highly respected African leaders who were members of the constituted Panel such as the former President of Tanzania, Benjamin

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155   Sithole & Asuelime (n140 above) 111 *see also* Sithole (n45 above) 59.
156   Sithole (n45 above) 59.
157   M K Juma 'African mediation of the Kenyan post-2007 election crisis' (2009) 27(3) *Journal of Contemporary African Studies* 409
158   E E Mutithi 'An evaluation of IGAD conflict early warning system in addressing the Kenya post-election violence 2007-2008' unpublished Masters of Art in Peace and Conflict Studies, University of Nairobi (2015) iv.
159   Juma (n157 above) 413.
160   Sithole (n45 above) 55.
161   AUPSC 109th Meeting Press statement (PSC/PR/BR (CIX) 21 January 2008 available at: https://www.peaceau.org/uploads/109th-press-statment-kenya.pdf. (last accessed 16 September 2021).
162   Sithole (n45 above) 58.

Mkapa as well as Graça Machel.[163] On 29 January 2008, the PoW engaged with the PNU and ODM within the ambit of the Kenya National Dialogue and Reconciliation. Here, the formation of a unity government between the two Kenyan leaders was agreed upon.[164] Though critics have labelled the PoW's facilitation of the unity government as being against the core principles of the AU, in terms of its successes, the PoW's actions greatly minimized violence on the ground and created a respected platform for the warring parties to come to an agreement. [165]

3.4.2 Guinea Bissau (2012)

Origins of Conflict

Guinea Bissau has maintained a history of severe political instability since its independence in 1974.[166] This is due to mass interference by the military and repeated coup d'états.[167] Guinea Bissau previously experienced a civil war from 1998 to 1999 due to a power struggle between President Joao Nino Vieira and the Armed Force Chief, Ansumane Mane, which was deescalated through the intervention of ECOWAS.[168] During his second term, President Vieira was then assassinated on 2 March 2009 as a retaliatory killing carried out by a group of soldiers, for the death of the Chief of Armed Forces, General Batista Tagme Na Wai, who has been killed in an explosion the previous day.[169] On the election of President Malam Bacai Sanhá in June 2009 and his appointment of General José Zamora Induta as Chief of Armed Forces, there was a glimmer of hope to build a new democracy in the country. The President specifically undertook to reform the security sector and to put an end to the extensive drug trafficking taking place in the country. [170]

However, the Deputy Chief of Armed Forces Antonio Indjai led a mutiny capturing the Chief of Armed Forces, the Prime Minister and freeing the former navy commander that had participated in a 2008 coup attempt, who had been detained.[171] Though the captured officials were released, Antonio Indjai then named himself as the Chief of Armed Forces, which was subsequently confirmed by

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[163]   Sithole (n45 above) 58 *see also* AO Jegede 'Beyond prospects: strengthening the PoW in the AU APSA' (2012) 1(1) *Journal of African Union Studies* 68.
[164]   Sithole (n45 above) 57.
[165]   Sithole (n45 above) 58.
[166]   I Diaw 'Addressing the challenges of collective security in West Africa: in view of recent conflicts' unpublished Masters of Military Art and Science, Fort Leavenworth, Kansas (2017) 62.
[167]   Diaw (n166 above) 62.
[168]   C I Obi 'ECOWAS on the ground: comparing peacekeeping in Liberia, Sierra Leone, Guinea Bissau and Côte D'Ivoire' (2009) 2(2-3) *African Security* 122 *see also* L Rudebeck 'Electoral democratization in post civil war Guinea Bissau 1999-2008' (2011) (Discussion Paper 66) *Nordiska Afrikainstitutet* 9-13.
[169]   Diaw (n166 above) 62 *see also* D O'Regan and P Thompson 'Advancing stability and reconciliation in Guinea Bissau: Lessons from African's Africa's first Narco-State' (2013) *Africa Centre for Strategic Studies: ACSS Special Report* 13.
[170]   Diaw (n166 above) 62.
[171]   Diaw (n 166 above) 63.

President Sanhá in the face of major condemnation by the international community due to the heighted military presence in the government instead of civilian control.[172]

With the death of President Sanhá on 9 January 2012 due to illness, the country was plunged into another bout of instability. After the death of President Sanhá, Raimundo Pereira was appointed interim President pending an election which would usher in the newly elected president. However, during the first round of elections, yet another coup was staged, with the military capturing presidential candidate Carlos Gomes Jr. and the Interim President.[173] This was supposedly fuelled by the reliance on Angolan troops by the interim government and their extensive presence in the country. They were later released following negotiations with a delegation from ECOWAS Chiefs of Defence Staff.[174] Nevertheless, subsequent to these events, the military formed a Military Command and put forward a proposition for a unity government in which they would retain control of the defence and interior ministries.[175] After several meetings, this was agreed to by all political parties except the African Party for the Independence of Guinea Bissau and Cape Verde (PAIGC), who rejected the proposal, having been excluded from the process.[176] In the midst of a general public strike, the proposal for the unity government was taken forward, with the named transitional government to rule for two years before new elections. The National Assembly Speaker Manual Serifo Nhamadjo was made interim president on 11 May 2012, with this arrangement being vehemently condemned by the international community.[177]

In the course of this political instability, numerous deaths occurred alongside 'serious human rights abuses including arbitrary killings and detentions; official corruption, exacerbated by government officials' impunity and suspected involvement in drug trafficking…torture, poor conditions of detention, lack of judicial independence and due process, interference with privacy, restrictions on the freedoms of the press and assembly, violence and discrimination against women, trafficking of children and child labour…'[178]

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[172]   Diaw (n166 above) 63.
[173]   Diaw (n166 above) 63 *see also* KF Aubyn 'Managing complex political dilemmas in West Africa: ECOWAS and the 2012 crisis in Guinea Bissau' in V Gounden (ed) *Conflict Trends* (2013) 29 available at: https://www.researchgate.net/profile/Jonathan-Maseng-2/publication/327700222_Integrating_Africa_and_the_Politics_of_Inclusion_and_Exclusion_in_the_Process_of_UNSC_Reform/links/5b9fa1ee45851574f7d1f20f/Integrating-Africa-and-the-Politics-of-Inclusion-and-Exclusion-in-the-Process-of-UNSC-Reform.pdf#page=27 (last accessed 24 October 2021).
[174]   Diaw (n166 above) 63.
[175]   Diaw (n166 above) 64.
[176]   Diaw (n166 above) 64.
[177]   Diaw (n166 above) 64 *see also* AB Boateng 'African regional organizations in rebuilding conflict nations in West Africa' (2019) 75 *International Affairs and Global Strategy* 5.
[178]   Africa Criminal Justice Reform 'Guinea-Bissau 2012 Human Rights Report' 1available at: https://acjr.org.za/resource-centre/us-department-of-state-human-rights-report-guinea-bissau-2012 (last accessed 16 September 2021).

The Role of the CEWS in relation to the Conflict

According to Noyes and Yarwood, on conducting interviews with CEWS staff, it was confirmed that CEWS had indeed 'provided sufficient early warnings on the potential conflict in [Mali and Guinea Bissau in 2012] including the prospective regional fallout from the collapse of the Libyan regime, but that adequate preventative measures were not taken to forestall violence.'[179] Daniel Chigudu further confirms this, highlighting that the AUPSC did not make any preventive movement against the conflict.[180]

In addressing the conflict in Guinea Bissau, ECOWAS took a leading role with support from the AU, EU, UN and the Community of Portuguese Speaking Countries (CPLP) as actors. In a report of the Joint ECOWAS/AU/CPLP/EU/UN assessment mission to Guinea-Bissau, it stated that a joint mission of ECOWAS/AU/UN travelled to Guinea Bissau on 30 March 2012 to meet key Bissau-Guinean stakeholders to deescalate raising political tension.[181] While the mission was present in the country, the interim government requested the deployment of Angolan troops, which was provided under the Angolan Military Assistance Mission in Guinea Bissau (MISSANG). [182]However, with suspicion growing around the presence of these soldiers, this resulted in the coup d'état, overthrowing the existing regime.[183]

The coup was strongly condemned by the international community. All actors demanded the return to constitutional order however, it was noted that '[d]ifferences of approach soon emerged, preventing Guinea Bissau's partners from acting in a unified manner to advance the shared goal of restoring constitutional order and contributing effectively to the lasting resolution of the many challenges facing Guinea Bissau.'[184] In response to the coup, the AUPSC suspended the membership of Guinea Bissau with immediate effect on 17 April 2012.[185]

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179   Noyes & Yarwood (n20 above) 256.
180   D Chigudu ' In managing peace and security conundrums of African states, the AU grips or drips? A case study of selected countries' (2018) 15(4) *African Renaissance* 103.
181   AUPSC 'Report of the joint ECOWAS/AU/CPLP/EU/UN assessment mission to Guinea-Bissau' (2013) available at: https://www.peaceau.org/en/article/report-of-the-joint-ecowas-au-cplp-eu-un-assessment-mission-to-guinea-bissau (last accessed 16 September 2021).
182   AUPSC (n181 above).
183   AUPSC (n181 above).
184   AUPSC (n181 above).
185   AUPSC 318th Meeting Communiqué (PSC/PR/COMM(CCCXVIII) 17 April 2012 available at https://www.peaceau.org/uploads/psc-comm-guinea-bissau-17-04-2012.pdf (last accessed 16 September 2021).

3.4.3 Burundi (2015)

Origins of Conflict

Burundi has borne the brunt of 'exclusionary politics, authoritarian governance and frequent rounds of ethnically expressed violence including a genocide in 1972 and a civil war starting in 1993.'[186] The pattern of this instability has been characterized by the fact that the Hutus periodically attempt to overthrow the Tutsi government. Upon the incite of causalities on the Tutsi community by Hutu insurgency, this would then lead to wide spread retaliatory attacks on the Hutu community.[187] As a result of this pattern, the root cause of the civil war in Burundi began to manifest, being 'Hutu oppression and the increasing institutionalization of Tutsi hegemony; a repressive and ethnically exclusive military that operated to protect the interests of the power elite; and the increasing economic and educational inequalities between Hutu and Tutsi.'[188]

In June 1993, Burundi's first democratic elections were held resulting in the victory of Melchoir Ndadaye a Hutu and leader of the *Front Pour La Democratie au Burundi* (FRODEBU). He together with high-ranking members of the FRODEBU were assassinated in October 1993 leading to the outbreak of a civil war for 12 years.[189] This was ended following the signing of the Arusha Peace Agreement in 2005.[190] Central to this agreement was a power sharing deal in which it was agreed that 40 per cent of the parliament seats would be 'reserved for the Tutsi minority and 60 per cent of the seats to the Hutu as they are the majority.'[191] Pierre Nkurunziza, the Hutu leader of the National Council for the Defence of Democracy – Forces for the Defence of Democracy party (CNDD-FDD), was formally elected as the President of Burundi.

However, this did not conclusively end conflict in Burundi. On 21 March 2014, President Nkurunziza's government presented a draft proposal to amend the constitutional provision relating to term limits of presidency, to extend his term in power.[192] Additionally, the CNDD-FDD announced President Nkurunziza as their presidential candidate for the 2015 elections.[193] With this being seen as a violation of the Arusha Peace Agreement as well as the Constitution, the opposition and the public

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[186] K P Apuuli 'the Arusha Peace and Reconciliation Agreement (2000) and the current political crisis in Burundi' (2017) 10(1) *Insight on Africa* 56.
[187] Apuuli (n186 above) 57.
[188] Apuuli (n186 above) 57.
[189] Apuuli (n186 above) 57 *see also* L Ndikumana 'Distributional conflict, the state and peace building in Burundi'(2005) 94(381) *The Round Table* 423.
[190] Maru (n49 above) 95.
[191] Maru (n49 above) 95.
[192] Maru (n49 above) 95 *see also* M Jobbins and F Ahitungiya 'Peacebuilding and conflict prevention in Burundi's 2015 election crisis' (2015) 1(2) *Global Summitry* 212-215.
[193] Amnesty International 'Report 2015/16 –Burundi' 24 February 2016 available at: https://www.refworld.org/docid/56d05b6c15.html (last accessed 16 September 2021).

expressed wide disapproval to the draft in the form of mass protests, which were violently repressed.[194] Conversely, the protestors also responded with violence.[195] Though the draft proposal was rejected in Parliament, President Nkurunziza's government then instituted proceedings at the Constitutional Court on the question of whether the incumbent President could sit for an third term.[196] On 5 May 2015, Court ruled that the constitutional interpretation of provision 96 allowed for this.'[197]

Subsequently, an attempted coup d'état by a group of military generals occurred while President Nkurunziza was in Dar-es-Salaam, Tanzania, attending a regional heads of state summit on Burundi, which failed. In light of the Constitutional Court judgment, President Nkurunziza ran for a third term, won and was sworn in as President in August 2015.[198] As a repercussion to the Court's decision as well as the announcement of Nkurunziza as President, this once again triggered large-scale demonstrations, which were violently suppressed. Over 400 people were reported as killed in the capital city between April to mid-December 2015.[199] Numerous instances of torture, extra judicial executions, and arbitrary arrests as well as harassment of media practitioners and human rights defenders were also recorded.[200] The violence also led to the displacement of approximately 100,000 people, who fled to Rwanda and Tanzania.[201]

The Role of the CEWS in relation to the Conflict

The CEWS is reported as having developed early warning in relation to the crisis in Burundi commencing from the moment President Nkurunziza initiated the process to amend the Constitution at Parliament, triggering the first bout of mass protests.[202] In terms of a report compiled by the Institute of Security Studies (ISS) in 2014, it had already been highlighted that the AU Special Representative for the Great Lakes Region, Ambassador Boubacar Diarra communicated the AU's concerns relating to the political deadlock and tension between the CNDD-FDD and its power sharing partner being the Union for National Progress (UPRONA) leading up to the 2015 elections.[203] Upon the first bout of violence to break out following the announcement of President Nkurunziza as the candidate put forward by the CNDD-FDD, the AUPSC met to discuss the situation unfolding in Burundi on 5 March 2015.[204]

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[194]   Amnesty International (n193 above).
[195]   Amnesty International (n193 above).
[196]   Maru (n49 above) 95.
[197]   Maru (n49 above) 95.
[198]   Amnesty International (n193 above).
[199]   Amnesty International (n193 above).
[200]   Amnesty International (n193 above).
[201]   Maru (n49 above) 96.
[202]   Maru (n49 above) 96.
[203]   ISS 'Peace ad Security Council Report' (April 2014) *Issue 57* 2 available at: https://www.files.ethz.ch/isn/178591/PSC57April_14Eng.pdf (last accessed 16 September 2021).
[204]   AUPSC 490th Meeting Communique (PSC/PR/COMM.(CDXC). Addis Ababa, Ethiopia, 5 March 2015 available at: https://www.peaceau.org/uploads/psc-490-comm-burundi-5-3-2015.pdf (last accessed 16 September 2021).

Following a briefing of the AUPSC by the Commissioner of Peace and Security held on 30 April 2015, the AUPSC released a press statement in which it expressed its continued concern relating to the deterioration of peace and security in Burundi and the consequences it has on the region.[205] It expressly rejected the violence and called for the highest respect of human rights, fundamental freedoms as well as the disarmament of all militia and illegal armed groups.[206] Through this press statement, the AUPSC also continued in its appeal for 'restraint and dialogue' in the preservation of democracy and the rule of law as per the African Charter on Democracy, Elections and Governance.[207]

Despite the early involvement of the AUPSC due to the information provided by the CEWS however, conflict in Burundi continued to escalate.[208] Additionally, leadership in relation to the conflict was led mostly by the EAC due to its proximity to the conflict, with the AU playing a mostly subsidiary role, in support of the REC starting from May 2015 onwards.[209] Within the AUPSC however, it was evident that the leaders were not united on how to proceed in relation to the situation in Burundi, which grew more and more evident.[210] The AU supported national dialogues hosted in Burundi in relation to the escalating violence, in an effort to address it and restore peace. However, following the immense human rights violations documented in a report compiled by a delegation of the Africa Commission on Human and Peoples Rights (ACHPR) during its fact-finding mission in Burundi, this drove the AUPSC to attempt to invoke harsh measures against Burundi to restore peace.[211]

On 13 November 2015, the AUPSC, held its 557th meeting in which its members decided to deploy 100 military and police personnel by 15 December 2015, to Burundi.[212] The AUPSC held another meeting in which it passed a resolution for the formation of the African Prevention and Protection Mission in Burundi (MAPROBU) which would have 5000 military officials and police.[213] The AUPSC then provided the government of Burundi a 96-hour time frame to have consented to the said deployment.[214] In its following 565th communiqué, the AUPSC requests for the intervention of the AU Assembly if there is a refusal to allow for the deployment. Despite this, Burundi's parliament

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[205]   AUPSC 503rd Meeting Press Statement (PSC/PR/COMM. 3(DIII). Addis Ababa, Ethiopia, 30 April 2015 available at: https://www.peaceau.org/uploads/psc-503-comm-burundi-30-4-2015.pdf (last accessed 16 September 2021).
[206]   AUPSC 503rd Meeting Press Statement (n205 above) 1.
[207]   AUPSC 503rd Meeting Press Statement (n205 above) 1.
[208]   Maru (n49 above) 98.
[209]   ISS 'Central Africa report: the AU and the International Conference on the Great Lakes Region (ICGLR) in Burundi' Issue 9 (September 2016) 3 available at: https://issafrica.s3.amazonaws.com/site/uploads/car9-1.pdf (last accessed 16 September 2021).
[210]   ISS Central Africa report: the AU and the ICGLR in Burundi (n209 above) 3.
[211]   ACHPR 'Report of the delegation of the ACHPR on its fact fining mission to Burundi 7-13 December 2015' available at: https://www.achpr.org/news/viewdetail?id=198 (last accessed 16 September 2021).
[212]   AUPSC 557th Meeting Communiqué (PSC/PR/COMM.(DLVII). Addis Ababa, Ethiopia, 13 November 2015 available at https://www.peaceau.org/uploads/psc-557-comm-burundi-12-11-2015.pdf (last accessed 16 September 2021).
[213]   Maru (n49 above) 102.
[214]   Maru (n49 above) 102.

unanimously rejected the AUPSC's decision.[215] The AUPSC subsequently released a communiqué dated 29 January 2016 stating that it would abandon intervention in Burundi due to the fact that it may be premature.[216] Instead, it resorted to deploying a 'high level delegation to Burundi to meet with the highest authorities of Burundi as well as with other Burundian stakeholders, to hold consultation on the inclusive Inter-Burundian dialogue.' [217]

The AUPSC decided not to intervene due to the lack of consensus among its members.[218] In this way, the importance of consensus between decision makers has proven to be of tremendous importance in relation to early response, even in the presence of early warning information.[219]

3.5 Conclusion

Having outlined the framework in relation to how the AU addresses unconstitutional changes in government, this provided a backdrop in looking at the CEWS's role in preventing this category of conflict specific to the incidents in Kenya (2007), Guinea Bissau (2012) as well as Burundi (2015). In the context of these case studies, it is evident that the capacity of the CEWS in relation to providing early warning information to the key response entities within the APSA has steadily grown. Looking at these case studies, the following chapter will therefore analyse the effectiveness of the CEWS in the role it has played in the prevention of these conflicts, drawing out its key strengths and weaknesses.

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215   AUPSC 565th Meeting Communiqué (PSC/PR/COMM.(DLXV). Addis Ababa, Ethiopia, 17 December 2015 available at https://www.peaceau.org/uploads/psc-565-comm-burundi-17-12-2015.pdf (last accessed 16 September 2021).
216   AUPSC 571th Meeting Communiqué (PSC/PR/COMM.3(DLXXI). Addis Ababa, Ethiopia, 29 January 2016 available at : https://w.peaceau.org/uploads/571-psc-com-burundi-29-1-2016.pdf (last accessed 16 September 2021).
217   AUPSC 571th Meeting Communiqué (n216 above).
218   Maru (n49 above) 103.
219   Maru (n49 above) 103.

CHAPTER FOUR

THE EFFECTIVENESS OF THE CEWS IN ITS ROLE IN THE PREVENTION OF CONFLICTS EMANATING FROM UNCONSTITUTIONAL CHANGES IN GOVERNMENT AND ELECTIONS

'Man must evolve for all human conflict a method which rejects revenge, aggression and retaliation. The foundation of such a method is love.' –Martin Luther King

4.1 Introduction

This chapter will assess the effectiveness of the CEWS in its role in the prevention of conflict with specific reference to the conflicts in Kenya (2007), Guinea Bissau (2012) as well as Burundi (2015). In doing this, the chapter will commence by breaking down how effectiveness will be measured before, casting a look at the performance of the CEWS in these conflicts and rating its effectiveness in each. The chapter will then generally explore its challenges in terms of operations as well as its relationship with key stakeholders, decision-making and support entities within the APSA and then conclude with a general finding in relation to the effectiveness of the CEWS in light of what has been examined.

4.2 Measuring the Effectiveness of the CEWS

Effectiveness is defined as 'the degree to which something is successful in producing a desired result.'[220]The purpose of the CEWS is to provide apt and well-timed advice on potential conflicts for the development of suitable response strategies, to prevent or mitigate and limit the damaging effects of violent conflict.[221]

Noting this, the effectiveness of the CEWS in these case studies should be measured by looking specifically at its three main components, being its ability to:

- Gather information on threats to peace and security on the continent at the latent stages of a perceived violent conflict;

- Analyse the data gathered, timeously before the emergence of the conflict; and

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[220] E Mckean *New Oxford American Dictionary* (2005).
[221] AU 'Roadmap for the Operationalization of the CEWS' (n21 above) 2.

- Transmit this pertinent information to key decision making entities within the APSA to facilitate early response. [222]

The overall effectiveness of the CEWS is something, which has developed overtime, noting the gradual improvements to its operations. Ironically, however it is also important to note that though the CEWS may operate effectively, a conflict may not necessarily be prevented as challenges may manifest in early response.

4.3 Analysis: The Effectiveness of the CEWS in its Role in the Prevention of Conflict emanating from Unconstitutional Changes in Government and Elections

4.3.1 Kenya (2007)

Here, in terms of its data collection, the CEWS lacked a firm network on the ground that would have enabled it to access information relating to the development of the conflict at an earlier stage.[223] The CEWS did not have links to NGOs in Kenya, which would have been able to capture instances of pre-election violence. In its monitoring as an example, the Kenya Human Rights Commission recorded 36 cases of political violence resulting in the death of 20 people with 60 people injured across 79 constituencies along with heightened instances of gender based violence which would have proven valuable to the CEWS in anticipating the conflict.[224] Furthermore, the AU only entered into a formal MoU with the RECs and RCMs in 2008. As such, the complementary relationship between the CEWS and the regional early warning systems housed within the RECs only developed from this period onwards.[225]

The CEWS also draws heavy reliance on open source data platforms and online sources excluding social media. However, because of this, hate messaging aimed at election candidates and communities through text messages, emails and print media leading to the elections would not have reached it, which would have assisted in anticipating the conflict.[226]

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[222]   AU 'Roadmap for the Operationalization of the CEWS' (n21 above) 2.

[223]   R Kungu 'Role of regional organizations in conflict resolution: lessons from Kenya's 2007 elections' unpublished Masters of Art in International Studies, University of Nairobi (2018) 35-36.

[224]   OHCHR (n147 above) 7 *see also* OB Amao and D Ettang et. al. 'Revisiting the utility of the early warning and early response mechanisms in Africa: Any role for civil society?' (2014) (8.1) *Peace and Conflict Review* 94.

[225]   MoU on cooperation in the area of peace and security between the AU, the RECs and the coordinating mechanisms of the regional standby brigades of Eastern Africa and Northern Africa (2008) (n17 above).

[226]   OHCHR (n147 above) 7 *see also* S Benesch 'Defining and diminishing hate speech' (2014) *State of the World's Minorities and Indigenous Peoples* 19 *see also* SG Gachigua 'Fuelling the violence: the print media in Kenya's volatile 2007 post election violence' in GR Murunga & D Okello et. al. (eds) *Kenya struggle for a new constitutional order* (2014) 44-65.

Additionally, Kenya acceded to the African Peer Review Mechanism (APRM) in 2005, this being a process where states voluntarily submit to be reviewed by 'peers', rated in terms of their political, economic and corporate governance record.[227] Following the country review mission to Kenya, a report was compiled flagging recurrent election violence as a concern, being both 'politically and ethnically based.'[228] The same root causes of the conflict in 2007 highlighted in the national commission of inquiry report on Kenya's post election violence, touching on 'the politicization and proliferation of violence, growing personalization of power, ethnic marginalization, population growth as well as raising unemployment and poverty,'[229] were the same factors highlighted in the APRM report. However, there was no present institutional link between the CEWS and the APRM. If there were, this information would have fed into the CEWS as early warning information and would have enabled the decision-making entities within the APSA to assist in addressing the root causes of the conflict earlier.[230]

By the time information on the conflict was uncovered and analysed by the CEWS, the conflict in Kenya had already wholly emerged with an increasing death toll. The Chairperson of the AU Commission only released a statement in relation to the conflict on 10 January 2008, appealing for the warring Kenyan leaders 'to cooperate' with Kofi Anan, stating that the AU would 'not be taking sides' and that the AU supported Kofi Anan as he would be commencing mediation efforts during his country visit to Kenya to diffuse tensions.[231] The AUPSC only released a communiqué as to its position on 21 January 2008[232] and the AU Assembly of Heads of States subsequently on 2 February 2008.[233]

Though the PoW eventually managed to facilitate the formation of a unity government between Mwai Kibaki and Ralia Odinga, it is concluded that the performance of the CEWS was not effective in this conflict. In terms of its data collection and analysis, the CEWS was unable to anticipate the conflict, drawing pertinent early warning information from the ground and analysing the same, timeously before its the emergence. Additionally, noting the lack of coordination between the CEWS

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227 F Viljoen (ed) *International human rights law in Africa* (2012) 198.
228 APRM 'Country review report of the Republic of Kenya' (2006) 69 available at: https://www.eisa.org/aprm/pdf/Countries_Kenya_APRM_Report.pdf (last accessed 19 October 2021).
229 Government of the Republic of Kenya 'Commission of Inquiry into the post election violence' (2008) 22-23 available at: https://reliefweb.int/report/kenya/kenya-commission-inquiry-post-election-violence-cipev-final-report (last accessed 19 October 2021) *see also* NM Waithira 'Ships passing in the night? Opportunities to integrate the APRM early warning findings within the APSA' unpublished Master of Laws in Human Rights and Democratisation, University of Pretoria, Centre for Human Rights (2009) 32-33.
230 Waithira (n229 above) 41-42.
231 B Moody 'Kenya's Kibaki takes tough line, AU divided' *Reuters* 1 February 2008 available at: https://www.reuters.com/article/us-africa-summit-idUSL3188646420080201 (last accessed 19 October 2021).
232 AUPSC 109th meeting press statement (n161 above).
233 AU Assembly of Heads of State 'Decision on the situation in Kenya following the presidential elections of 27 December 2007' Assembly/AU/Dec. 187 (X) available at: https://au.int/sites/default/files/decisions/9562-assembly_en_31_january_2_february_2008_auc_tenth_ordinary_session_decisions_and_declarations.pdf (last accessed 24 October 2021).

and the AUPSC, this led to a delayed response at the end of January in relation to a conflict, which commenced on 30 December 2007.

4.3.2 Guinea Bissau (2012)

After the conflict in Kenya, several forums and reports were released on how the CEWS could be improved.[234]. In 2010, under the APSA 2010 Assessment Study, it was recommended that the CEWS be improved by expanding its connectivity with the RECs, that it adopts holistic early warning indicators, provides for more analysts, broadens the receipt of early warning reports, increase and strengthen collaborations with other actors as well as improve documentation of lessons learned.[235]

Flowing from this, there was a steady investment in the operations of the CEWS. The AU established binding relationships with the RECs and RCMs in the form of a MoU to enhance channels for the sharing of information, with technical meetings being held between AU and REC staff every quarter.[236] With an increase in the staff component of the CEWS, this has also included analysts, which improved the capacity of the CEWS to quickly identify developing conflicts in their latent stages.[237]

In the course of its 247th meeting, the AUPSC also announced the operationalization of an AU Liaison Office in Guinea Bissau on 2 November 2010, which surely improved the CEWS data collection capacity in relation to the country.[238] This is complemented by the fact that from 2007 to 2014, the EU Joint Research Centre (JRC) provided systems, tools and methods to strengthen the data collection capacity of the CEWS.[239]

Despite this, adequate preventative measures were not taken to avert violence.[240] Early warning signs were evident early March 2012.[241] Though a joint ECOWAS/AU/UN mission travelled to Guinea Bissau on 30 March 2012 to diffuse tension, it was too late, as the coup then took place while the joint

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[234]   AU 'Brainstorming retreat between the AU and the regional mechanisms for conflict prevention, management and resolution: declaration' (AU-RECs/RMs.Decl) 5-6 January 2008 available at: https://www.peaceau.org/uploads/algiers-declaration-jan-2008-en.pdf (last accessed 19 October 2021) *see also* AUPSC 191th meeting 'Draft report of the PoW on strengthening the role of the AU in the prevention, management and resolution of election-related disputes and violent conflicts in Africa' (PSC/PR/2(CXCI) 5 June 2009 available at: https://archives.au.int/handle/123456789/2324?locale-attribute=en (last accessed 19 October 2021).

[235]   AU 'APSA 2010 Assessment Study' 50-51 available at: https://www.peaceau.org/uploads/report-of-the-apsa-assessment-study-july-oct-2010-eng.pdf (last accessed 19 October 2021).

[236]   Noyes & Yarwood (n20 above) 251.

[237]   Noyes & Yarwood (n20 above) 251.

[238]   AUPSC 247th meeting 'Communiqué' 2 November 2010 available at: https://reliefweb.int/report/guinea-bissau/guinea-bissau-press-statement-247th-meeting-peace-and-security-council (last accessed 19 October 2021).

[239]   EU Commission 'African peace facility report' (2017) 22 available at: https://ec.europa.eu/international-partnerships/system/files/apf-ar-2017-180711_en.pdf (last accessed 19 October 2021).

[240]   Chigudu (n180) 103 *see also* S Joshua & F Olanrewaju 'The AU's progress and achievements in the realm of peace and security' (2017) 73 (4) *India Quarterly* 462.

[241]   Diaw (n180) 65.

mission was present in the country, on 12 April 2021. Though the coup was strongly condemned by the international community, it was noted that there were divergent views on how to proceed, to restore constitutional order.[242] The AUPSC eventually suspended the membership of Guinea Bissau with immediate effect on 17 April 2012.[243]

It is concluded that the CEWS was able to successfully gather data on the ground, analyse it as well as timeously relay this information to the AUPSC in the latent stages of the emerging conflict. Despite this, early response could not be timeously taken, as the multiple actors on the ground were unable to form a united stance. With the CEWS having fulfilled its mandate effectively, the challenge was early response in light of the early warning brought forward.

4.3.3 Burundi (2015)

In relation to data collection and analysis, the CEWS was timeously able to gather the same on the brewing crisis in Burundi. Data was particularly gathered and analysed around the fact that the incumbent President Nkurunziza had announced that he had submitted a proposal to Parliament to amend the Constitution to include a third term, on 21 March 2014.[244] This was supported by the fact that on the ground, the AU special representative for the Great Lakes Region, Ambassador Diarra, had expressed concerns over the political deadlock, which had manifested between the CNDD-FDD and the UPRONA.[245] Using the Daily New Highlights generated as a report from the Situation Room, this was able to give a reflection of the political stability developing from this point before it became a full-blown conflict.[246] What could have further enriched the CEWS data collection and analysis process may lie in the fact that it was also connected to an AU Liaison Office in Bujumbura, which was established in 2002.[247]

Having gathered and analysed this data, it was immediately relayed to the chairperson of the AUPSC, for action in the same month. In its 360th meeting, the AUPSC resolved to entertain direct reports from CEWS conflict analysts twice a month to assist in creating a more direct channel of communication to assist in effectively preventing potential conflict.[248] As such, under the timeous relay

242		AUPSC (n181).
243		AUPSC 318th Meeting Communiqué (PSC/PR/COMM(CCCXVIII) 17 April 2012 available at https://www.peaceau.org/uploads/psc-comm-guinea-bissau-17-04-2012.pdf (last accessed 16 September 2021).
244		Maru (n49) 96.
245		ISS (n213) 2.
246		Maru (n51) 97.
247		H Boshoff, W Vrey et. al. 'The Burundi peace process: from civil war to conditional peace' *Monograph* (2010) (171) *ISS* 23 available at: https://www.files.ethz.ch/isn/117677/Mono171.pdf (last accessed 19 October 2021).
248		AUPSC 360th meeting 'Communiqué' (PSC/PR/Comm.(CCCLX)) 22 March 2013 available at: https://www.peaceau.org/uploads/psc.360.prev.dipl.22.03.pdf (last accessed 19 October 2021).

of pertinent early warning information in the latent stages of the conflict, the CEWS staff was able to bring this information to the attention of the AUPSC in time, fulfilling the last portion of its mandate.

Despite this, there was a significant delay in action from the AUPSC as the members were divided about how best to proceed and lacked consensus.[249] The chairperson of the AU Commission, being Dr. Dlhamini-Zuma, spearheaded calls for a stronger intervention, however this was met by a dissenting view that a stronger tone from the AU would be premature. Meanwhile, this led to the escalation of the conflict, with a growing death toll after Nkurunziza was announced as President once again.[250] The AUPSC, held its 557th meeting in which its members decided to deploy 100 military and police personnel by 15 December 2015, to Burundi.[251] In a follow up meeting the AUPSC also passed a resolution for the formation of MAPROBU with strong indications that it would intervene in Burundi if this was refused. However, this decision was unanimously rejected by Burundi's Parliament and in the end, the AUPSC settled for the deployment of a high level delegation to travel to Burundi to hold an inter Burundian dialogue.

It is evident that the CEWS performed its mandate effectively in that it was able to collect, analyse data on early warning and relay the same to decision-making entities in the APSA timeously, in the latent stages of the conflict. However, two issues arose in early response. Firstly, within the AUPSC, there was lack of consensus on how to proceed with the conflict. Secondly, the AUPSC was also faced with challenges relating to state sovereignty, as the Burundian government was not on board. The government refused the set up of MAPROBU and the AUPSC did not follow through with its threat to get approval from the AU Assembly to intervene.

4.4 Overall Challenges in the Effectiveness of the CEWS

4.4.1 Data Collection

Despite the improvement of the CEWS in relation to its data collection, there is still more that can be done to further tune its capabilities. As a particular challenge, it has been noted that the CEWS does not have much of a linkage to CSOs within the member states of the AU.[252] Strengthening and tapping into this network can further enrich data collection, embracing different their areas of expertise as well as the watchdog role that they play within their communities. The same can be said in relation to the inclusion of think tanks, academic institutions, other internal organs and programs within the AU system as well as national and regional early warning systems on the continent.

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[249]   Maru (n49) 103.
[250]   Amnesty International (n193 above).
[251]   ACHPR (n211 above).
[252]   Engel (n30 above) 6.

Social media has also been highlighted as a tool that is being increasingly used for democratization, political discourse and mobilization.[253] In particular, social media has been used as a platform of protest as seen during the 'Arab Spring' in 2011 as well as Burkina Faso in 2014 in which it was used to stop President Blaise Compaoré from amending the constitution to allow him to run for another term after 27 years in presidency.[254] Despite this, the CEWS does not factor in the use of social media as a platform for data collection. This is due to concerns stemming from the possibility of 'fake news' which circulates heavily online and its ability to verify this information. However, it is evident that this falls as a missed opportunity to be at the pulse of developing movements, particularly against unconstitutional changes of government and elections.

Though the AU has established links with RECs and RCMs, coordination and information between these entities is still evolving.[255] This is due to the fact that all of the RECs are at varying levels of development and have different focuses in relation to early warning. IGAD focuses on pastoral related issues where as EAC places importance on security, defence and intra-state conflicts stemming from smuggling, illegal trade and cattle rushing amongst other issues.[256] Conversely, SADC focuses on socio-economic based threats and conflicts and ECOWAS concentrates broadly on human security.[257] Additionally, contact between CEWS and REC staff is mostly on an ad-hoc basis with permanent contact and synergy being dependent on analysts at an individual level rather than it being a practice that is engrained in the institutions.[258] In relation to data collection, there is also an opportunity missed to harness the use of women as well as youth in the data collection process noting the unique position they hold in the demographics of a country and the role they play within conflict and peacebuilding. Finally, the CEWS remains largely donor funded particular from the West. Funding has an impact on the operations of the CEWS and how effectively it is able to collect data. Being overly reliant on donor funding also has a bearing on the stability of the CEWS as well as its longevity and independence.

4.4.2 Data Analysis

There is still a need for a further specification of analysts with personnel that have strong country knowledge and an in-depth appreciation of the root causes of conflict, its patterns and its politics at the local level.[259] Analysts have also highlighted that they do not received feedback from decision-makers

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253 E Nolle 'Social media and its influence on democratization in Africa' (2016) (445) *Institute for Strategic, Political, Security and Economic Consultancy (ISPSW) strategy Series: Focus on Defence and International Security* 2
254 Nolle (n253 above) 2.
255 Noyes & Yarwood (n20 above) 255.
256 Tiruneh (n36 above) 4.
257 Tiruneh (n36 above) 4.
258 Noyes & Yarwood (n20 above) 255.
259 Noyes & Yarwood (n20 above) 253.

on the quality of the information relayed as a basis to improve in the analysis of the data. [260] It is also noted that there is currently no regular on the job training to keep analysts up to date with the best practices of their field.

4.4.3 Timeous relay of pertinent early warning information to key decision-making bodies in the APSA

Under this point, though a direct channel of communication has been created between the CEWS and the AUPSC, with reports twice a month, it is not enough, especially in relation to urgent and fast developing conflict situations. [261] As a related point, the CEWS does not have a set timeframe as to how far into the future its analysis relates to in terms of depicting the conflict cycle as well as potential and developing conflicts. This would assist in ensuring that information is timeously relayed and it will also assist in giving early response decision making entities a guided time frame in terms of how quickly they need to act. This has been the practice of think tanks such as Peloria Insights, Crisis Group and ACLED, with these entities being able to provide forecasting on developing contexts in blocks of 3, 6 and 12 months at a time for the benefit of early response. It is also observed that when early warning information is relayed to decision-making entities within the APSA, there is no indication as to their level of intensity and degree of seriousness, which would assist decision-making entities in determining the swiftness of their response.[262]

Early response is often hindered by the politics of decision-making entities such as the AUPSC, the chairperson of the AU Commission as well as the PoW among others. This is particularly evident in the case study relating to the conflict in Guinea Bissau (2012) and Burundi (2015). Though in both conflicts, early warning information in relation to the conflicts were relayed at an early stage, there was a struggle for a united and unified response. In the end, the situation developed into full-blown conflict. Connected to this point is the issue of state sovereignty and the extent to which the AUPSC can get involved in a country, noting its consent as evident in the case study relating to the conflict in Burundi. It is evident that in relation to early warning and early response, regard must always be paid to intervention in terms of Article 4(h) of the AU Constitutive Act as well as the sovereignty of the state in question.

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[260]   Maru (n49 above) 46.
[261]   Maru (n49 above) 46.
[262]   Maru (n49 above) 60.

4.5 Finding: the overall effectiveness of the CEWS in its role in the prevention of conflict emanating from unconstitutional changes in government and elections

In light of the above analysis and bearing in mind the measure of effectiveness for the purposes of this research, it is submitted that the CEWS is to a certain extent effective in the execution of its mandate. It is able, to, achieve desired success by collecting sufficient data on potential conflicts in its latent stages, analysing the same as well as timeously relaying this information to the relevant decision-making entities of the APSA. This is particularly demonstrated from the Guinea Bissau (2012) and Burundi (2015) conflict settings.

However, the components of its operations relating to data collection, analysis as well as its communication with decision making entities within the APSA require continued fine tuning to adequately address the points raised. Once this is done, this will significantly improve the operations of the CEWS. As a functioning system, the process of its improvement is something that will be on-going for the course of its existence, particularly with corresponding developments in technology.

What has also come across strongly, from the above is the strong disjunction that lies between early warning and early response in the context of the AU. The conundrum lies in the fact that even if the CEWS effectively carries out its role, the ultimate goal of conflict prevention, particularly relating to unconstitutional changes of government and elections will not be realized because of failures in early response, barriers in the form of state sovereignty and the parameters of intervention.

4.6 Conclusion

In this chapter, the effectiveness of the CEWS was examined paying particular attention to its mandate as well as its data collection, analysis and the timely communication of the information to the relevant decision-making entities of the APSA, of a potential conflict. As a finding, it was shown that the CEWS was particularly effective in its performance in the conflicts in Guinea Bissau (2012) and Burundi (2015) while not particularly effective in Kenya (2007). As an overall finding, it was determined that the CEWS is to a certain extent, effective in discharging its role in the prevention of conflict emanating from unconstitutional changes of government and elections. However, specific action needs to be taken to improve the three components of its operations, as a continuous process, looking at the developments of the time. It was also highlighted that from the analysis above, the disjunction between early warning and early response is particularly noticeable. This is because in as much as the CEWS may act effectively, as a conclusion, if early action is not taken, it renders early warning useless.

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

'Peace cannot be kept by force; it can only be achieved by understanding' –Albert Einstein

5.1 Introduction

To mark the end of this research focused on the effectiveness of the CEWS, this chapter will outline its main objectives before summarizing the discussion and conclusions. Following this, the chapter will then end by outlining a range of recommendations, which may be considered in strengthening the operations of the CEWS.

5.2 Synopsis of the Research and Findings

The main objective of this research was to assess the effectiveness of the CEWS within its role in the prevention of conflict. Effectiveness was measured looking at the overall mandate of the CEWS, its performance in the timely collection and analysis of data on potential conflicts as well as the timeous relay of early warning information to key decision making entities within the APSA for early response. This assessment was rooted in three conflict settings being: Kenya (2007), Guinea Bissau (2012) as well as Burundi (2015).

The research adopted a qualitative approach, informed by academic, desk-based research, focusing on the normative framework of the CEWS, the APSA as well as of AU's general response to unconstitutional changes of government and elections. The research also paid regard to secondary data sources in relation to the above conflicts settings.

The research began by looking at the concept of CEWRS and their general development through out the world. Reference was then made to the CEWS, tracing its historical development and origins from the OAU to the AU. It also outlined the evolution of the CEWS under the AU from 2002 under the Protocol establishing the AUPSC, touching on the Framework for the Operationalization of the CEWS adopted in 2007 to current date. This segment concluded that the concept of CEWRS was not new and that it developed extensively in several parts of the world. It also concluded that the CEWS has been able to develop and adapt around the shifting policies from the OAU to the AU and that slow but steady progress had been made in its development.

Secondly, the research took an in-depth look at the concept of unconstitutional changes of government and elections in Africa, tracing the development of its normative framework as a

guide to the response of the AU and its predecessor. The research then traced the origins of the conflicts of Kenya (2007), Guinea Bissau (2012) and Burundi (2015) as well as the role played by the CEWS in relation to them. It was concluded that the CEWS failed to adequately anticipate the conflict in Kenya (2007). Conversely, the performance of the CEWS was flagged as efficient in the Guinea Bissau (2012) and Burundi (2015) conflicts, as the CEWS being able to adequately anticipate these conflicts in their latent stages.

Lastly, the research then assessed the effectiveness of the CEWS, outlining the definition of effectiveness in light of its mandate as well as its capabilities in data collection, analysis as well as the timely relay of information to the decision making entities of the APSA. This aspect of the research then analysed the effectiveness of the CEWS in achieving its desired output, looking at its performance.

5.3 Conclusions

The findings of this research have shown that the operations of the CEWS in its role in the prevention of conflict emanating from unconstitutional changes of government and elections, is effective to an extent. This is due to the fact that as evident from the conflict setting in Guinea Bissau (2012) and Burundi (2015), it was able to fulfil its desired outputs, timeously collecting and analysing data relating to potential conflict situations and relaying them to the relevant decision making entities of the APSA before their emergence. However, it was noted that more can be done to fine tune its operations for increased effectiveness, which should be viewed as a continuous process, looking particularly at the development of technology. It was also highlighted that in as much as the CEWS may be effective, incoherence exists between early warning and early response in the APSA.

5.4 Recommendations

This research makes the following recommendations:

Firstly, in relation to data collection at the CEWS, efforts should be made to form more partnerships with CSOs, think tanks, academia, national and regional early warning systems as well as other institutions, particularly based in Africa due to the fact that these independent entities have best placed knowledge of their context and will add towards the decolonization of early warning systems on the continent. Moreover, collaboration must be further developed internally, within the AU policy bodies, organs and departments, to enable the CEWS to draw critical information from bodies such as the PAP, the ACHPR and the APRM among others

Reshaping and improving the operations of the CEWS should be invested in as an ongoing process. The buy in of its staff should be solicited, who should unceasingly advise on how it can be improved, through surveys, questionnaires and the opportunity to provide research on the reform points. Staff should also receive on the job training so that they are constantly up to date on the best practices of the field.

As a related point, the indicator module of the CEWS should be adapted to include data coming from new social media platforms such as Facebook, Instagram, LinkedIn and Twitter, with the development of appropriate verification tools to guard against fake news.

Furthermore, regard should also be paid to developments in technology to improve the CEWS data collection capacity; this is flagged noting the debates around the incorporation of artificial intelligence in CEWRS globally. To this end, a structure could also be developed, to provide a forecast of the African context and potential conflict situations at selected periods between 3 to 6 or 12 months, in advance. This will also assist in relaying information timeously for the purpose of ensuring that there is actually sufficient time to response to conflicts before they emerge.

To provide a holistic picture of developing conflicts, women and youth should also be relied on and trained to enrich the data collection process to assess potential conflict from a gendered lens and to understand this from the perspective of the youth. This will also assist in making more people aware about the concept of CEWRS, creating an incentive for young people to join in the process, shaping their career plans from an early age.

As a related point, more efforts should be made to provide education and awareness around the CEWS as well as conflict prevention and the idea of cultivating a sustainable peace culture. By providing more education around the CEWS, this will also make it more accessible. The CEWS should also have a corresponding open door policy to encourage research on its operations widely.

In relation to the RECs as well as RCMs, more training opportunities as well as information sharing and capacity building platforms should be created with the AU, to build the aptitude of these institutions, their regional early warning systems and to engrain a sense of partnership between these entities at the institutional level.

African states must also be called upon to contribute to the funding of the CEWS together with the African business community and various other entities so that foreign funding merely supplements what has already been provided. To this end, this can be done by lobbying for an investment in the

CEWS to prevent conflict and mitigate death and devastation.

Associated with this, powerful African states should be targeted to become champions for the cause of conflict prevention on the continent. They will be in a position to influence other member states, which will assist in navigating the politicization of early response in the AUPSC.

As a last point, a permanent link for urgent and developing information on early warning by the CEWS should be created, connecting it with the AUPSC to ensure timely communication on emerging conflicts at any point.

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