MAKERERE UNIVERSITY

FACULTY OF LAW

THE LEGAL CHALLENGES TO REGIONAL PEACEKEEPING IN CONTEMPORARY AFRICA: LESSONS FROM SOMALIA

BY

DAN MUJINYA TIZIHWAYO

A DISSERTATION SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE AWARD OF THE DEGREE OF MASTER OF LAWS (LLM) FROM MAKERERE UNIVERSITY - KAMPALA

DECEMBER 2010
DECLARATION

I DAN MUJINYA TIZIHWAYO hereby declare that the contents of this study are my original work and other works that have been quoted have been duly acknowledged. To the best of my knowledge, this work has not been presented before to any University for any academic award in whole or in part.

DAN MUJINYA TIZIHWAYO

DATE
APPROVAL

This is to certify that this research was carried out under our supervision and approved as the student’s original work.

PROFESSOR J. OLOKA-ONYANGO

DATE

DR. HENRY OJAMBO

DATE
ACKNOWLEDGEMENTS

My gratitude and love go to my dear wife Caroline Tizihwayo. I adore you for how much you understand me, and for your unceasing love, support and encouragement. Thanks for understanding the long periods while I was away. I love and appreciate you so much. My highest appreciation goes to the Uganda Peoples Defence Forces for facilitating my study. Without your support and assistance this research would not have been undertaken. My love and gratitude is also extended to my family and friends for their love, support and untiring encouragement and prayers. Words can never convey how much I appreciate you all for your support in bringing out this piece of work.

I owe tremendous appreciation and respect to my supervisors, Professor Joe Oloka-Onyango and Dr. Henry Ojambo who tirelessly, selflessly and patiently supervised me and provided me with a wealth of information, experience and encouragement throughout this research. I admire your professionalism, attention to detail and commitment to excellence. Your scholarly contribution and guidance added tremendous interest in my quest for undertaking and completing this study. My gratitude goes to Ms Annet Nakato Ndagabanye for typesetting and editing this piece of work, May God Bless you abundantly.

My deepest thanks go to Mr Dennis Asiimwe of the Faculty of Law, Makerere University for the initial advice on how to handle the research. To Lieutenant Fredrick Kangwamu, an Advocate with whom I participated in the African Union Mission in Somalia (AMISOM), I thank you for your tireless effort in compiling and editing information obtained from the respondents I interviewed especially the peacekeepers from AMISOM. Your calm approach, valuable time and input rendered this research richer in content and smoother to comprehend. My special gratitude goes to Lieutenant Colonel Tingira Omero Irumba the AMISOM Chief Military Information Officer at the time of this study, and to the various respondents who spared their valuable time by providing comprehensive information which made this work what it is. Without your input above and beyond the call of duty, this study would not have been possible. Thank you so much.
DEDICATION

This piece of work is dedicated to all peace loving people of the world, to my late father Brigadier Yorokamu Tizihwayo (RIP), who died during the struggle to liberate his motherland Uganda, to all peacekeepers who have dared to step out of the dominant culture of resignation and are in various peacekeeping missions around the world struggling for humanity, and to the memory of all those who passed on while keeping peace. May the good Lord rest your souls in peace and reward you with better condition of life. To my mother Mrs. Zeuria Tizihwayo, I also dedicate this piece of work. Thanks for your calm, easy going demeanor, love, advice and keeping my life in order. May God bless you always. I honor and salute you all.
The end of the Cold War contributed to the outbreak of new conflicts in Africa, mainly because the Soviet Union (former USSR), the USA and other powers withdrew support from governments they had helped to keep in power during the Cold War. The result was that those governments were weakened and in many cases civil war resulted as was the case in Somalia. Peacekeeping as such arose as a direct consequence of these conflicts. Against this background, this study examines the legal challenges to peacekeeping in contemporary Africa. It investigates the weaknesses and challenges facing the legal framework governing peacekeeping operations in contemporary Africa and their implications on international peace and security, and appraises them using Somalia as a case study.

The peacekeeping intervention in Somalia started when civil war broke out after the overthrow of the Siad Barre regime in January 1991, and this marked a significant stage in the deterioration of the overall situation in the country. Peacekeeping activity was initially prompted by a desire on the part of the international community to protect and facilitate the distribution of food relief to the population in an effort to end the famine that was ravaging southern Somalia at the time. The intervention in the crisis at this stage necessitated some form of non-coercive measures in order to prevent the humanitarian crisis from worsening.

This study provides a broad assessment of the UN peacekeeping initiatives that were employed in Somalia post Siad Barre’s overthrow in 1991, and it also strives to establish the factors that led to the failure of these peace initiatives. The study also assesses the intervention of the African Union peacekeeping mission (AMISOM) from 2007 and the challenges the peacekeepers are facing in fulfilling the AMISOM mandate of providing support to the Transitional Federal Institutions in Somalia, to halt acts of violence, abuse of humanity, restoring peace and security as well as handling the humanitarian crisis in Somalia.
The Somalia experience has highlighted and brought into focus some important and perennial legal aspects of contemporary peacekeeping that need to be addressed urgently. With all these implications for peace and stability in Africa, the researcher has been prompted to respond to these challenges by making conclusions and recommendations that will foster effective peacekeeping in Africa. Most importantly, lessons will be drawn from these challenges using the Somalia experience and these will in turn inform current and future peacekeeping operations in Africa and elsewhere so that stability, development of the region and restoration of international peace and security are achieved.
Map of Somalia
TABLE OF CONTENTS

DECLARATION.................................................................................................................. ii
DEDICATION ..................................................................................................................... iii
ACKNOWLEDGEMENT ...................................................................................................... iv
ABSTRACT ........................................................................................................................ v
TABLE OF CONTENTS ....................................................................................................... ix

CHAPTER ONE ..................................................................................................................... Error! Bookmark not defined.
AN HISTORICAL ANALYSIS OF THE POST 1990 CONFLICT IN SOMALIA ...... Error! Bookmark not defined.

1.1 Background and Introduction ...................................................................................... Error! Bookmark not defined.
1.2 UN peacekeeping intervention in the Somali conflict .................................................. Error! Bookmark not defined.
1.3 Statement of the Research Problem ............................................................................. Error! Bookmark not defined.
1.4 Study Objectives .......................................................................................................... Error! Bookmark not defined.
1.5 Research Question ........................................................................................................ Error! Bookmark not defined.
1.6 Methodology of the Study ............................................................................................ Error! Bookmark not defined.
1.7 Scope of the Study ......................................................................................................... Error! Bookmark not defined.
1.8 Structure of the Thesis .................................................................................................. Error! Bookmark not defined.
1.9 Theoretical Framework and Literature Review ............................................................ Error! Bookmark not defined.

CHAPTER TWO ..................................................................................................................... Error! Bookmark not defined.
The Peacekeeping Response to the Post 1991 Armed Conflict and Humanitarian Crisis in Somalia ....................... Error! Bookmark not defined.

2.1 Introduction .................................................................................................................. Error! Bookmark not defined.
2.2 The United Nations peacekeeping interventions employed in the (1991-95) Somali crisis and the factors that led to their failure ................................................................. Error! Bookmark not defined.
2.3 Conflict Trends in Somalia post UN Intervention ....................................................... Error! Bookmark not defined.
2.4 AMISOM intervention in the Somali conflict .............................................................. Error! Bookmark not defined.

CHAPTER THREE .............................................................................................................. Error! Bookmark not defined.
The Legal Framework Governing Peacekeeping Operations in Africa and the Legal Challenges Faced by the Peacekeeping Forces ................................................................. Error! Bookmark not defined.

3.1 Introduction .................................................................................................................. Error! Bookmark not defined.
3.2 The Legal basis for international peacekeeping operations ......................................... Error! Bookmark not defined.
3.4 The legal framework governing Peacekeeping operations and its impact on the African mission in Somalia ................................................................................................. Error! Bookmark not defined.
3.5 Effectiveness of the principles of peacekeeping in the Somali conflict ....................... Error! Bookmark not defined.
3.6 International Humanitarian Law and peacekeeping in Somalia ................................ Error! Bookmark not defined.
3.7 International Human Rights law and peacekeeping in Somalia ................................ Error! Bookmark not defined.
CHAPTER FOUR

FACTORS AFFECTING THE EFFECTIVENESS OF THE LEGAL FRAME WORK
THAT GUIDES PEACEKEEPING OPERATIONS IN SOMALIA

4.1 Introduction
4.2 Factors affecting effective peacekeeping operations in Somalia

CHAPTER FIVE

FOSTERING EFFECTIVE PEACEKEEPING IN AFRICA

5.1 Conclusion
5.2 Recommendations

BIBLIOGRAPHY
<table>
<thead>
<tr>
<th>Abbreviations/Acronyms</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AMISOM</td>
<td>African Mission in Somalia</td>
</tr>
<tr>
<td>ASF</td>
<td>African standby Force</td>
</tr>
<tr>
<td>AU</td>
<td>African Union</td>
</tr>
<tr>
<td>AUC</td>
<td>African Union Commission</td>
</tr>
<tr>
<td>BDI BAG</td>
<td>Burundi Battle Group</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>ICJ</td>
<td>International Court of Justice</td>
</tr>
<tr>
<td>ICU</td>
<td>Islamic Courts Union</td>
</tr>
<tr>
<td>IED</td>
<td>Improvised Explosive Device</td>
</tr>
<tr>
<td>IGAD</td>
<td>Inter Governmental Authority on Development</td>
</tr>
<tr>
<td>LOAC</td>
<td>Law of Armed Conflict</td>
</tr>
<tr>
<td>MINURSO</td>
<td>Moroccan Peacekeeping Mission</td>
</tr>
<tr>
<td>MOU</td>
<td>Memorandum of Understanding</td>
</tr>
<tr>
<td>NGO</td>
<td>Non Governmental Organisation</td>
</tr>
<tr>
<td>ONUC</td>
<td>United Nations Force in Congo</td>
</tr>
<tr>
<td>ROE</td>
<td>Rules of Engagement</td>
</tr>
<tr>
<td>SNA</td>
<td>Somali National Alliance</td>
</tr>
<tr>
<td>SOMA/SOFA</td>
<td>Status of Mission/Force Agreement</td>
</tr>
<tr>
<td>SSDF</td>
<td>Somali Salvation Democratic Force</td>
</tr>
<tr>
<td>TCC</td>
<td>Troop Contributing Country</td>
</tr>
<tr>
<td>TFG</td>
<td>Transitional Federal Government</td>
</tr>
<tr>
<td>UGABAG</td>
<td>Uganda Battle Group</td>
</tr>
<tr>
<td>UNDSS</td>
<td>United Nations Department of Safety and Security</td>
</tr>
<tr>
<td>UNSOA</td>
<td>United Nations Support Office for Somalia</td>
</tr>
</tbody>
</table>