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Regional Diplomacy and Pro-Democratic Intervention: The Case of ECOWAS in The Gambia Crisis

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African Regional bodies are increasingly taking a larger role in promoting peace and security in their respective sub-region. This is in contrast to previous years when the main concern of these bodies was economic. In 2016, Gambia held a presidential election in which the opposition leader Adama Borrow defeated the incumbent Yahya Jammeh. Yahya Jammeh's refusal to respect the election result generated constitutional crisis, leading to pro-democratic intervention. ECOWAS through ECOMIG, as part of international response to ensure respect for the election result intervened and succeeded. However, ECOWAS intervention generated heated debate on the legality of such intervention. Drawing from this controversial standpoint, the study carefully examines the legal basis for ECOWAS intervention with focus on two questions. (1) Does ECOWAS have clear and realistic legal mandate to intervene in the Gambia constitutional crisis?, (2) why was it possible for ECOWAS to restore democracy in Gambia?. The study employed Historical Descriptive research approach. Data for the study was obtained from the secondary sources particularly textbooks, journals, newspapers, magazines and the internet. Data obtained were analyzed using descriptive and quantitative analytical techniques. From the analysis, the study revealed among others that the adoption of R2P, AU Principle on unconstitutional Change of Government and UN Security Council Resolution 2337 provided the legal basis for ECOWAS intervention in the Gambia crisis. In addition, the study also discovered that domestic protest, small size of Gambia military and the country's unique geography for easier external attack, Jammeh's poor international reputation, high level of support for Borrow's victory by the international community, Jammeh's ECOWAS isolation, increased democratization in the region, Gambia's effective mediation mechanism and Senegal critical disposition on Jammeh's support for rebel in the region contributed to ECOWAS success in Gambia. Based on the study findings, it was recommended that African political leaders should be guided by democratic principles in their democratic governance and sub –regional solidarity in the event of abuse of democracy as to maintain and promote democratic development in the region.

Key words: Democracy, ECOWAS, Intervention and Regional Organizations.

INTRODUCTION

Countries that enjoy geographic contiguity often cohere, and form regional organizations. The motive, among others, is to accelerate hitch free flow of ideas, economy, security, exchange of good governance and best practice within the region. The Economic Community of West

African States is one of such regional organizations. The interest in economic integration is reflected in a resolution adopted at the second session of the United Nations Conference on Trade and Development (UNCTAD), held in New Delhi, India in 1968. In this meeting it was resolved that:

The nation states participating in the second United Nations Conference on Trade and Development Reaffirm that trade expansion, economic cooperation and integration among developing countries is an important

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element of an international development strategy, and would make an essential contribution toward their economic development (UNCTAD, 1968). This declaration reinforced the mid-20th century development that witnessed more integrative organizations at the regional levels. This integrative organization became more important, as they offer opportunities for Countries in the developing countries to respond positively to forces of globalization (Chibuke, 2015:404). Examples include European Union, Association of South East Asian Nations (ASEAN), The Asian Pacific Economic Cooperation (APEC), The North Atlantic Free Trade Agreement (NATA), and many others. On the continent of Africa, great efforts have also been made to foster economic integration at the sub-regional levels; Eastern and Southern Africa, Central and North Africa and West Africa sub-regions.

ECOWAS is a sub-regional group of fifteen (15) West African Countries namely, Benin, Ivory Coast, Liberia, Mali, Niger, Nigeria, Senegal, Sierra-Leone and Togo, Ghana, Burkina Faso, Cape Verde, Cote d'Ivoire, Gambia, Guinea Bissau. ECOWAS represents one of the most striking examples of converging interests, leading to regional need of the West African cooperation. As noted by ECOWAS (2001:206), it was established on political premise that "by pooling the resources of member-states together, the resultant macro-economic policies would be capable of ensuring a sustained development. To this end, the organization's Treaty was revised in 1993 with the following objectives.

- i. The removal of custom duties for extra-ECOWAS trade and taxes having equivalent effect.
- ii. The establishment of a common external tariff;
- iii. The harmonization of economic and financial policies
- iv. The creation of a single monetary zone and
- v. To serve as a peacekeeping force for the region.

With regard to (v) above, African regional bodies including ECOWAS are increasingly taking a greater responsibility in promoting peace and security in their respective regions. This is in clear contrast to year's back, when the major concern of the respective regional bodies were economic development.

In the 21st century, regional bodies are mostly interested in the promotion of peace and security. This is because peace is development, and development is peace. Put differently, development cannot occur without peace, as peace guarantee peaceful environment for development to take place. In African continent for example, the Southern African Development Community (SADC) signed agreement with the European Union to enable her strengthen its capacity to promote peace and security within the region. The East African Community (EAC) also launched processes that enable her to address regional peace and security threats. It is clear from the above, that regional organizations are

expanding their mandate into the sphere of peace and security. It is against this background that the paper examines ECOWAS intervention in the Gambian political crisis with the view of identifying the legal basis for such intervention and why it was successful. The paper specifically seeks to answer the following questions.

1. What event led to ECOWAS intervention into Gambia's internal political problems?
2. Was ECOWAS intervention in Gambia internal political problem legal?
3. Why was it possible for ECOWAS to restore democracy in Gambia?

Theoretical Framework

Many scholars have credited various phases of integration to certain approaches. However, integration, as a concept is a process whereby "political actors in different national settings are convinced to shift their loyalties, expectation and political activities toward a new centre whose institutions possess or demand jurisdiction over pre-existing national states. This process gives birth to political community from low to high politics of integration.

From the above premise, the study is anchored on functionalist theory which posits that integration of Socioeconomic sectors across nations will create functional institutions for the provision of social-economic demands. The functionalist theory as employed in this article connects with problem-solving theory which takes the world, including the sub-region as it is, and makes suggestions on how situations can be improved. This theory accepts the parameters of the present democratic world order and simply tries to resolve problems that arise within it (Johnstone, 2005:2). It aims to develop appropriate responses by existing institutions to enhance stability in the context of peace operations; it examines how they are organized to provide stability. It focuses on the politics and techniques of peacekeeping, lessons learned from operations and methods for improving performance in these areas (Pugh, 2004:39).

Though the problem solving approach has been accused of being too dependent on existing systems, the concept of working with what you have to make existing conditions better is a logical approach developing solutions. Here in lies a major advantage of the problem solving approach which is in exploiting existing systems to promote the preservation of life, especially in areas of conflict. This paper's analysis of ECOWAS intervention in the Gambia political crisis falls within the purview of problem solving.

Relevant Views and Background to ECOWAS Intervention in Gambia:

Aning (2010:13) conceived ECOWAS as an embodiment

of the collective security principle, and therefore serve as an instrument or mechanism for coping with the problem of conflict and the possibility of regional cooperation for problem solving. Even though some of the sub-regional conflicts were basically internal wars, their cross boundaries manifestations embittered relations between neighboring states. This ugly trend if unchecked would have made West Africa fundamentally zone of instability. To this end, ECOWAS recognized the symbiotic relationship that exists between regional security and harmonious development of the economies of its member states. Consequently, the growing importance of security issues and the disruptive impact of conflict on meaningful economic development compelled the adoption by ECOWAS of a protocol relating to mutual assistance on defence in 1981.

Auguring against ECOWAS intervention in domestic affairs of member states, Johnson (2005:23), observed that OAU's is, (now African Union) Charter stipulates that member states solemnly affirm and declare their adherence to the principle of non-interference in the internal affairs of states, and the respect for the sovereignty and territorial integrity of each state, and for inalienable right to independent existence.

They reinforced their position with Articles 18(2) of the ECOWAS protocol, which states that community forces shall not intervene if the conflict remains purely internal since the essence of the protocol is to provide for regional security and not to threaten the security of the region. Also added, is the fact that ECOWAS is purely an economic organization designed to facilitate regional economic cooperation and cannot therefore legally assume responsibility for mutual security.

Specifically, the above scholars and their positions find support in Article 2 of the 1978 ECOWAS protocol on non-aggression which stipulates that each member state shall refrain from committing, encouraging or condoning acts of subversion, hostility or aggression against the territorial integrity of political independent of other member states. Alex (2017:1), in his work on "ECOWAS intervention in Gambia: A sign of things to come in west Africa", argued that:

The overall trend in West Africa from the past decade suggests that ECOWAS takes political crises case by case, and that its default mode is to proceed continuously. He observed that, in comparison with Niger, Senegal and Mali, ECOWAS acted differently. For instance, in 2009, then President Mamadou Tandjeh of Niger forced through a referendum under flawed voting conditions that lifted the country's two-term presidential limit. In response, ECOWAS demanded that he stepped down without a military intervention.

Again in 2012, then president Abdonlaye Wade was running for a third term. Wade argued that Senegal's two term limit did not apply to him, since his first term had started before the limit was imposed, his opponents

viewed his candidacy as unconstitutional. ECOWAS proposed a compromise without military involvement (ECOWAS, 2016a).

In 2012, Mali experienced a complex crisis that included a coup against the outgoing president, a separatist rebellion and Jihadi occupation of the Northern areas. After the coup, ECOWAS swiftly imposed sanctions that pushed the coup leaders to step down in exchange for amnesty, putting Mali back together again. However, it was difficult as the coup leaders initially retained significant influence in politics, and Northern Mali remained in Jihadi hands for months. ECOWAS slowly prepared for a military intervention, when the Jihadis pushed into central Mali. In all, ECOWAS where necessary avoided military option and rather acted slowly, depending on the nature, character and actors involved.

In the case of Gambia, ECOWAS was seemingly decisive in a manner that is different from previous situations. This perhaps was due to event or instances that led to her intervention.

In the 21st century regional organizations are more into fixing peace and development in their respective regions. The case of Gambia reaffirmed this fact. The Gambia is one of the fifteen members of ECOWAS formed in 1975, initially to promote Economic cooperation and integration in West Africa. However, leveraging on the many unnecessary conflicts and its attendant disruptions, in the 1990s, ECOWAS assumed a more political role.

The Gambia Constitutional Crisis

Yahaya Jammeh seized power in 1994 through bloodless coup. He was first elected president in 1996, and thus consolidated his rule and grasp on power. He was subsequently re-elected in 2001, 2006 and 2011 (Golub, et al, 2008). All these elections were not in line with global best practices and internationally acceptable standards for free, fair and credible elections (Levisky, et al, 2010).

President Jammeh, boosting and trusting his grip on power, said I will rule this country for one billion years if Allah says so Religiously it is believed that power comes from God, but the fact remains that such power cannot survived without the peoples' consent and acceptance. Invariably, such undemocratic confession was not without fundamental human rights violating torture, arbitrary arrests of activists, intimidation of innocent civilians and international violations. All these characterized Yahya Jammeh's administration (Amnesty International, 2016; Human Right Watch, 2017). Under Yahya Jammeh, any slightest hints of independent political activity were repressed and the opposition leader ended up in prison.

The case of Olusainou Darboe and 19 others arrested and imprisoned in April 2016 attest to this fact (Hunt, 2017).

DISCUSSION AND ANALYSIS

In the views of some scholars ECOWAS intervention in the Gambia is considered as illegal and unacceptable. These scholars relied on the principles of non-interference in the domestic or internal affairs of other states as enshrined in Article 2(7) of the United Nations Charter, which declares that:

Nothing contained in the present charter shall authorize the United Nations to intervene in matters which are essentially within the domestic Jurisdiction of any state. The Non-interference principle is in consonance with the principle of sovereign equality of states declared in 1970 that stipulates as follows:

- i. Prohibition of intervention and all forms of interference or attempted threat against the personality or integrity of a state
- ii. Prohibition of economic, political or other measures whose aim is to coerce another state against measures designed to organize, assist, formant, or permit subversive, terrorist or armed activities directed towards the violent overthrow of the regime of another state and against interference in civil strife in another state and its domestic affairs, the right of every state to choose its political, economic, social and cultural system without interference from other state.

ECOWAS intervention does not in any way violate the above principles. As declared by Farge, et al (2016, 45), ECOWAS intervened to create an enabling environment for effective enforcement of the rule of law and in accordance with the constitution of the Gambia. In the same vein, ECOMOG's force commander, General François Nahaye explained that, ECOWAS missions were to uphold the results of the presidential election of December 1, 2016; ensure the safety of president Barrow, political leaders and the entire population (Legler, et al, 2010:32)

The intervention became necessary as Jammeh reversed position on the verdict of the ballots, threatened peace, not only in the Gambia but the entire region. Farge, et al (2016), observed that failure of Jammeh to yield to the ECOWAS mediation led to the military option as a more credible approach. At their ECOWAS regular summit on 17 December, 2016, in Abuja, it was decided that:

ECOWAS should continue mediation efforts through Ghana and Nigeria presidents, The heads of state should attend the inauguration of Barrow in conformity with Gambian constitution. ECOWAS was also obligated to take all necessary means to strictly enforce the results of the election (ECOWAS, 2016d).

Therefore, ECOWAS placed stand by forces on alert with authority to intervene if Jammeh did not step down. The ECOMOG forces consisted of forces from Nigeria, Ghana, Mali, Senegal and Togo. The ECOMOG troops

moved towards the Gambian border. Some troops invaded Gambia territory but the invasion was quickly halted by the last minute negotiation by Mauritania's president Abdd Aziz. Under the threat of military invasion with thousands of Gambians fleeing to Senegal and with Jammeh's own army chief pledging its allegiance to President Barrow, Jammeh eventually stepped down and went into exile (Hartmann, et al, (2014). The legality of ECOWAS intervention in the Gambia's political crisis has been questioned. However, it might be right to state that ECOWAS intervention in the Gambia crisis was legal. Firstly, the revised ECOWAS treaty of 1993, the protocol on the mechanism for conflict prevention of 1999 and the 2001 protocol on Democracy and good Government formally ensure the commitment of the regional body (ECOWAS) to promote democracy and good governance. To actualize this mandate, the body was empowered to adopt what was later called "the responsibility to protect (R2P). ECOWAS was quick to intervene because it was fundamental that the verdict of the ballots be respected, as well as the security of the president-elect, Adama Barrow, and all Gambian citizens be fully ensured (ECOWAS, 2016c). The African Union and United Nations on December 12 and 17, 2017 respectively backed ECOWAS threat of using coercive diplomacy to avoid Jammeh's supporters carrying out unconstitutional change of government. The United Nations endorsed ECOWAS decisions with resolution 2337.

The second fact is the president-elect Adama Barrow's official request for regional and international intervention to protect democracy in the Gambia. At the United Nations meeting that authorized resolution 2337, Senegese Representative made it clear that Barrow appealed for help to ensure respect for the sovereign will of the people of Gambia. This request justified ECOWAS "intervention by invitation", which involved the right of a government to engage in collective self-defence against an internal threat (Hartmann, 2013).

Although, there is some controversy and debate as to whether a president elect, yet to assume office has such right to issue invitation.

However, precedence proved that president elect has such right. There are cases that support this for instance, there are cases where democratically elected president who had assumed office were subsequently removed by coups and then put back into office by international forces on request Paul (2007) provided examples of cases of military coups and international reactions that brought reversals. In 1994, US-led military operation helped return ousted Haitian President Aristide to office after a coup in September 1991; in 1998, ECOWAS forces returned Sierra Leonean president Kabbah to office after he was ousted in a coup in May 1997; and in 1998, troops from South Africa and Botswana were deployed into Lesotho, in part to protect the incumbent government from the threat of a potentially imminent

coup.

However, there are no known cases of where a democratically elected president who had not governed the state in question for some time was installed with the aid of interventionist forces. Another legal framework that backed ECOWAS intervention in the Gambian political crisis includes Article 4(1) of the African Union's constitutive Act, (2000). It is interesting to note that ECOWAS met all the requirements provided by the United Nations and other legal frameworks for its intervention in the Gambia.

Chapter VI of the United Nations Charter provides three broad methods of peaceful settlement of disputes namely:

1. Diplomatic methods- negotiation, mediation
2. Institutional methods- use of regional organization, and
3. Adjudication- arbitration and judicial resort.

These methods were explored, yet Jammeh refused to settle for peace. This prompted ECOWAS to resort to the use of armed forces.

Additionally, United Nations Charter requires prior approval by the United Nations Security Council before force is used. This requirement was also met. As mentioned earlier, the United Nations Security Council in its resolution 2337, approved the activities by ECOWAS. The above analysis provided the legal framework for the deployment of ECOMOC intervention in the Gambia crisis. Regardless of the legal bases, there are several inter related factors that contributed to the success of ECOWAS in the Gambia crisis. First, Jammeh's isolation, extended to ECOWAS. Before Gambia's 2011 elections, ECOWAS declined to send observers, stating that "the preparations and political environment" were not "conducive for the conduct of free, fair and transparent polls." ECOWAS, in other words, has been tired of Jammeh's behavior for years, and he had few friends in the west. A related reason why West Africa's leaders were united against Jammeh was the increased democratization the region had experienced over the past decade. Unlike in East Africa, for instance, when regional leaders did not strongly criticize Burundi's President Pierre Nkurunziza's decision to stand for a third term in office, few of West Africa's heads of state would be condemning themselves if they do not criticize Jammeh's push to overturn the constitutional process.

Secondly, it was important that in the immediate aftermath of the vote, the AU, ECOWAS, and the UN recognized the legitimacy of the election and determined that Barrow's victory was an accurate expression of the popular will. This view was reinforced by Jammeh's bizarre televised acceptance of his defeat. In retrospect, this was a significant error on his part. As a result and hirdly, these events generated high level of political unity at both ECOWAS and the AU Peace and Security Council in favour of ensuring a smooth transfer of power

to Barrow. Particularly within West Africa, Jammeh was also widely despised by national publics and the region's heads of state alike. The authorities in Senegal, Gambia's neighbor, were particularly critical of Jammeh in part because of his longstanding support to rebels in that country's southern region. Senegal was probably, therefore, the leading proponent of threat and use of military force if required.

Another reason for ECOWAS assertiveness in Gambia the country's small size. With a little over 4,000 square miles, Gambia is the smallest member of the West African bloc, save for the Island Nation of Cape verde. Other countries that faced political crises in recent years are vastly larger: Niger at nearly 500,000 square miles, Mali at nearly 480,000, and Senegal at over 75,000. Contemplating the logistics of a military intervention in Gambia was much less daunting than it was for northern Mali-or for ECOWAS's military interventions in Liberia and Sierra Leone in the 1990s.

A third reason is the nakedness of Jammeh's attempted power grab. Niger's Tandja and Senegal's Wade employed complicated political maneuvers, trying to insist that the will of the people was carrying them to third presidential terms. Jammeh simply refused to accept the reality of his election loss. Had ECOWAS bowed to Jammeh, the organization's credibility might have been compromised.

The body's threat to use military force should also not obscure the serious deal-making that was necessary to get Jammeh out. He left against his will but partly on his own terms. It appears that he successfully negotiated with ECOWAS to avoid any intimidation, harassment, and/or witch-hunting of former regime members and supporters. Soon after election in December, the chairman of Gambia's new ruling coalition-now the country's vice president- had vowed to prosecute Jammeh. This threat was likely what made Jammeh retract his concession. Fear of prosecution may have motivated his obstinacy even after Barrow pledged not to pursue charges, from his new perch in Equatorial Guinea, it appears that Jammeh will be able to escape prosecution or accountability for over two decades of theft and abuses.

ECOWAS actions in Gambia, showcases the organization's ability to mobilize swiftly and effectively to resolve political crises in West Africa, but only when it is really expedient. The ordeal ECOWAS went through, also highlights limitations of its power and the generosity with which the organization treats even the most blatant would-be usurpers of democracy.

Regardless of the legal basis for ECOMIG, the mission was made possible by series of interrelated political factors. First domestic protest in the Gambia, especially during April and May 2016, and persistent advocacy in a range of civic associations that were able to keep the issue in the international media and on the radar screens of several key organizations. This was notable given the

number of concurrent crises around the world.

Furthermore, the Gambia's small size, and the concomitant fact that it posed a relatively small military challenge, compared to some of Africa's much larger states. Estimates for the strength of the Gambia's active armed forces varied from about 800 to 1,000. In addition, in January 2017 about 350 Gambian troops were out of the country, deployed in UN peacekeeping operations. Hence, even if the army remained loyal to Jammeh in his attempt to prevent Barrow assuming the presidency, it was small in number to resist any invasion.

Furthermore, Gambia's unique geography, meant that military operations involving land, air, and naval forces was reasonably easy to execute and there was no need for strategies of airlift, and capabilities to deploy ECOMIG. Finally, it was important that after some intense mediation efforts, Jammeh was given an exit route and a relatively soft landing (including retaining many of his assets purchased from state coffers). Nevertheless, a deal was not certain until after ECOMIG's deployment.

CONCLUSION

This paper has reasonably demonstrated the legality of ECOWAS intervention in the Gambia crisis and also highlighted why it was possible for the regional body to successfully defend democratic principles in the Gambia. Looking at the background of the Gambia political crisis and ECOWAS reaction, it is very clear that ECOWAS has a legal mandate to deal with domestic politics of member states. The organization not only promotes democratic development in the region, and in member states, but also requires states to fulfil core principles of democratic governance.

The ECOWAS success story in the Gambia is as a result of the resolve of the regional body to promote democratic values in the region, in conformity with international best practices and respect for legalities. Secondly the success has proved that threat of violence instead of outright military intervention or use of brute force could achieve restoration of democracy and the right reaction to unconstitutional changes of government. ECOMIG's deployment in the Gambia, its strategy, operations, diplomatic manoeuvre, and the eventual success may herald the birth of a new "model" in regional and international interventions in the bid to restore democracy wherever it is threatened.

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