Africa out of Westphalia?

An Analysis of Article 4 (h) in the Constitutive Act of the African Union

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Master's Thesis

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UNIVERSITETET I OSLO

Spring 2008

Acknowledgements

This thesis has allowed me to apply my favorite part of political science on the part of the world that I find more fascinating than any other. To test international relations theory on African politics has been an exercise in my primary fields of interest. It has also been a massive task to encounter, and sometimes a mind-boggling project that has seemingly wandered in every direction possible, due to the complexity of the case and the multitude of possibilities what concerns research design and angles. The solitude in the lack of guidance through the process has been a further challenge. I am however; satisfied with the form the thesis has taken. It would have been far more difficult without the contributions of the people listed below. I am utterly grateful.

Firstly, I would like to express gratitude to Henrik Thune for taking the time to help.

Credit should also be awarded to my supervisor professor Jeffery T. Checkel for helpful comments in the initial process of developing the first research question in the thesis.

I would also like to extend appreciation to Even Wettre, Magnus Georgsen, Henrik Jakobsen, Arne Furumo and Tord Bergesen for careful reading and thoughtful comments on the thesis. My fellow students at the department of political science also deserve due credit for interesting debate on this and many other subjects throughout our time at the University.

Lastly, warm thanks go to my family and friends, and my dearest Inga, for always supporting me in every way possible and never giving up on me.

I am alone responsible for the contents and eventual mistakes throughout this thesis.

Mathias Thaulow Lisberg - Oslo, April 2008

To Mom and Dad,

For supporting me always and for changing your lives to accommodate mine.

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1. Introduction

The African Union (AU) is a Union composed of most of the countries on the African continent, designed, in part, to unite and strengthen the position of these countries in the world (www.african-union.com). The AU is a new development of the nearly forty-year-old Organization of African Unity (OAU). Which was an organization widely accused of being a mere "dictators' club" (Francis 2006:28). The new organization, however, includes some rather significant changes as opposed to the former OAU[1]. One of the most significant amendments is the reorganization of the principle of non-intervention to a principle of intervention under certain criteria. The African continent has a special history when it comes to state sovereignty. Since the early days of colonization there has been a rigid system of state sovereignty and non-intervention. The realignment of the sovereignty principle, therefore, marks as a substantial normative change in political thought. It is a change that has been done in concert with nearly all the African states. The construction of the Union has empowered the organization to cut across the sovereignty principle and take an interventionist stand. It opens up the possibility for the African Union to act as an autonomous actor and intervene into the domestic affairs of another member state without its consent. The joint resolution disembarks the longstanding notion that intervention is a cardinal sin in the interaction amongst the African states and, more importantly, it rattles the cage of absolute state sovereignty. A resolution like this is very much a part of making the African Union a *super* national organization rather then an *inter*national one. This thesis will, therefore, investigate the normative change of the principle of sovereignty within the context of the establishment of the African Union. It scrutinizes key factors that may have contributed to this

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[1] The union, for instance, is constructed over many of the same principles of the European Union (EU) (Francis 2006:29).

decision being made and gazes into how and why state leaders would give up sovereignty.

1.1 Research questions

There are several issues that make the scope of this thesis complex, though the explanans only concerns one article of the Constitutive Act of the African Union. In order to investigate the decision making process one needs to identify the decision makers. It will also be necessary to look at what kind of political environment these decision makers were in at the time the decision was made. This is complex because the article in question is breaking with one of the most fundamental principles of how the African states has interacted with each other and the rest of the world and also how they have seen them selves since their independence. Further a theoretical perspective must be applied. This is also interesting because the article is challenging one of the most traditional ways for a state to claim autonomy: the principle of state sovereignty. It opens for the possibility of another state in concert with the organization, or the organization as an autonomous actor to intervene another state in Africa. In Africa, and in the world this Article is without precedent. The Article is called Article 4 (h):

"[T]he right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity as well as a serious threat to legitimate order to restore peace and stability to the Member State of the Union upon the recommendation of the Peace and Security Council;"(Article 4 (h) in the Constitutive Act of the African Union)

The thesis has two ambitions: One empirical and one theoretical. The empirical ambition is to understand how this decision came about. By investigating which factors that contributed to the agreement reached through Article 4 (h), I

seek to get a fuller picture of the political backdrop in the African states involved. Consequently, the thesis will look at the surroundings in which the most important decision makers found them selves at the time. Who were the initiators to this change in policy? What motivations did they have? In seeking answers to these questions, it is crucial to test the empirical data with some concept of what motivations states and state leaders, have when they make decisions in concert. Hence, the thesis needs to utilize a theoretical framework in order to get an understanding of how and why Article 4 (h) came about.

The theoretical ambition is to find out how well this change in intervention politics can be accounted for in the framework of available international relations theory (IR theory). That sovereign states would agree to hand their exclusive right to self-governing and non-interference over to a continental organization sounds odd in the ears of many IR theorists. States are, in many theories, the solid unit of investigation. It is a unit that inhibits certain values and rights that it will maintain, regardless of changes in the world. The concept of sovereignty is one of such values. It defines a line between entities in the international system, and although non-governmental organizations are allowed to operate in between these lines, the lines gives meaning to the understanding of how states relate to one another and fits in to meaningful analysis of the state system. How well then do our I -theories explain how this decision could see the light of day?

The research questions for this thesis will be:

1:Why is the African Union, in article 4 (h) of the Constitutive Act, breaking with its hard and fast line of non-intervention?

2: To what extent can mainstream IR theories account for the policy change of article 4 (h) in the Constitutive Act of the African Union?

2. Research Method

Both of the two research questions are in them selves ambitious and perhaps impossible to answer fully. The obvious reason for this is that there is an endless list of possibilities that could have affected the decision makers in the states to decide what they have decided. It would be impossible to take all these in to consideration. In much the same way, the theoretical ambition needs to be narrowed down. The limits of this thesis prevent it from analyzing every possible hypothesis from the vast pool of IR theories. It is therefore necessary to concretize how the thesis will embark on answering these questions.

2.1 Research Design

The research questions and the approach to investigate these questions suggest a case study design. Yin claims that a case study has a distinct advantage when "a "how" or "why" question is being asked about a contemporary set of events, over which the investigator has little or no control" (2003:9). This thesis is investigating the reasons why a political decision was made, but also how IR theory is equipped to account for the implications of this decision. It is thus posing both a "how" and a "why" question. This leads me to consider a case study to be the design that has the greatest potential to answer the research questions. Because the thesis consists of two research questions that present two different ambitions within the same case and with different units on different levels, this study falls within what is called an embedded single-case-design (Yin 2003: 42). This design allows analysis of both the state leaders that were significant to the decision making process, but also the surroundings in which they found them selves in. This implies that the thesis aspire to test three well-formulated theories. As the thesis proceed it will hopefully reveal some of the background and circumstances of the main actors in the case and go on to

test the three different IR theories through analysis. This design should thus offer a chance to fulfill both ambitions of the thesis: To investigate and understand why the state leaders ratified article 4 (h), and to what extent IR theory can account for this outcome.

2.2 Empirical Considerations

The collection of data for this thesis was not without difficulties. The best way of determining which ones of the decision makers in the process that were significant in initiating the change would have been to read transcripts from the sessions in which they were discussed. This has however proved to be impossible for me to obtain. As the Ministerial Council at the Norwegian embassy in Addis Ababa wrote me: "Even if such information exist at the AU, which I doubt, it is not likely that you will be able to access it […] in my experience with the organization" (Rye 2006 [personal email]). This has rendered me with second-hand sources and news-statements. There has been written a great deal about different subjects surrounding the creation of the African Union. Many prominent writers and academics have done impressive and interesting observations and analysis on the subject. I have been forced to rely on their description of the reality I have set out to explore. This has both strengths and weaknesses. The obvious strength with basing the selection of data on previous research is that the likelihood of getting a good selection of the primary actors in the process is great. The "risk" of leaving out an important party because of the lack of funds or capabilities in other areas is divided amongst many, and I have been privileged enough to be able to gain from the work of others. The set of specifications for the population can thus be defined as 1) possibility of voting at the Head of State and Government Assemblies of the OAU, 2) being mentioned by more than two observers as one of the main actors in the creation of the AU (Frankfort-Nachmias &

Nachmias 1996:180). I consider my choice of main actors in this thesis to be founded on solid ground and to be as uncontroversial as possible.

The weakness of course, is that through second-hand information I am not able to determine if there is any information that may have been useful to my objective that is not available to me. I have to trust that the image gathered from the different articles and books I have had access to is as complete as possible and gives me a valid ground to test my hypotheses on. I do however believe that this weakness is a minor one. As will be revealed in Chapter 5, my choice of empirics has had the benefit of being able to base it self somewhat on the analysis of others. The benefit of several concurring articles that describes the background and motives of some of the African State leaders for ratifying the Constitutional Act strengthens the reliability of the data selection (e.g. Tieku 2004). This has provided me with the opportunity to make the chapter on empirics briefer than otherwise. The intricate analyses of the background of the main actors as such is already provided elsewhere. The task has been to use the relevant information to fit my thesis.

2.3 Methodological Considerations

In a case study, such as this one, there are many potential problems that may arise if the researcher is not thorough and particular in what is being done and how it is being done. Many questions need to be asked in the outset of a research design in order to ensure that the design is consistent with the kind of research one wants to conduct. These questions concern such topics as validity, reliability and the possibility of generalization.

2.3.1 **Validity**

My research questions ask both a "why" and a "how" question respectively. The empirical research question, number 1, is addressing the issue of why a change has occurred. The thesis will proceed to explain this change through as series of theoretical hypotheses. In this respect it is important to develop a sufficient set of operational measures (Yin 2003: 35). This thesis will employ three different theories to explain the policy change in question. Derived from these theories will be three different operational sets, that each contains the theory's position on state sovereignty and the importance of this. As this is the policy change the thesis aim to explain, the operational sets of measurements should be complete and sufficient. This strengthens the confidence that the choice of theories and the operationalization that follows does not constitute a problem of validity. As described above the selection of data does not stem from a mere intuitive choice of who would be the main actors in this decision. As the thesis will demonstrate as it proceeds, the selection of the main actors, and also on what aspects of their background that has been included, is a result of what various and several researchers have done prior to this thesis. Though there is an endless pool of possible data that could be included in the thesis, the format demands that some limitations must be made. Based on the selection of these academics, but also on the data that has been presented through this selection, the data should prove sufficient for an analysis of this kind.

The concern of generalization from case studies has been widely debated (Yin 2003:37). The question of whether it is possible to say something general based on the findings of just one case is not easily answered. In the case of this thesis the ambition of generalization is limited to the testing of the theories. As such it will be an analytical generalization (ibid). The first research question seeks to explain why the policy change was made, but does not seek to find any universal or general laws that may be applicable to other cases. The second research question however, means to investigate if any such regularity already

has been accounted for in any of the three theories that are being tested. Though both questions are being answered through the same thesis, by the same tools, the different questions poses different aspects and also different ambitions, as has already been emphasized. However it is important to state that the test for external validity lays in the potential for the second research question to challenge, test and strengthen/weaken well-formulated IR theories.

2.3.2 **Reliability**

"The goal of reliability is to minimize the errors and biases in a study" (Yin2003: 37). In this thesis I have strived consistently throughout the process to select theories that are respected and well founded in the academic literature. This has been a conscious choice in order to use theories that are not just easy to recover, but that should also be familiar to most political scientists. In this manner I believe that I have created a possibility for readers of this thesis to easily follow my arguments and analysis and thus be able to arrive at the same conclusions as my findings. The data collection has been characterized by lack of available first hand information. This has left me with the option of relying on the findings of others. To compensate for this I have chosen to trust academic literature and where available supplemented the information with news stories or other documentation. As a result, the chapters describing the contemporary events are all relying on two or more sources. Fortunately for this thesis the empirical background for the creation of the African Union is thoroughly described and analyzed in academic literature. I feel confident in the selection of main actors and the additional information on this case that has been provided by academic literature.

2.4 Structure of the Thesis

The first chapter has already provided an introduction to the thesis and to the research questions that will be investigated throughout the thesis. It has also

given an explanation to why these questions should be answered and why they deserve attention academically. Chapter 2 is dedicated to describe the research design, what kind of research that will be conducted and the methodological problems and considerations that needs to be addressed in this respect.

Chapter 3 will then proceed to describe the historical context to the thesis. It should provide the reader with a sufficient insight to the African state building and consolidation and also with an understanding of the position state sovereignty has had on the African continent. There will also be a discussion of what the article in question (Article 4 (h) in the Constitutive Act) actually entails, but without any prophetic ambitions as to how it will affect the interstate politics.

Chapter 4 presents the theoretical framework for the thesis. In this chapter a brief introduction to the three well-founded IR-theories realism, liberal institutionalism and constructivism, will lead to a hypothesis for each. For each hypothesis an operational set is listed to define what findings that need to be identified to strengthen the explanation of each. With these criterions in place the hypotheses are ready for testing and it is timely to present the actual case on which they will be tested.

Chapter 5 will then go through the case. This chapter is structured such that three state leaders will be presented as the main actors of the decisional process. The outset from where they each made their initiatives in relation to the decision is presented one by one. After these three presentations follows a section that is concerned with the surrounding political environment. This section focuses on the world rather then just the immediate proximity of the actors, but is mainly concerned with the political actions and ratifications that concern state sovereignty prior to the decision in question.

Chapter 6 is concerned with how much explanation force each hypothesis has to the decision, when considering the information provided in chapter 5, and also conscious to the information from chapter 3. The chapter is structured to best handle the listed criterion to the hypotheses. As the theories offer different perspectives of how the world can best be explained, the different sections vary somewhat in structure, but are all designed to best fulfill its purpose. I shall go through each of the listed criteria in such a way that it becomes possible to see whether the hypotheses have reason to be strengthened or weakened. This will in turn reveal which one of the theories best explains the decision at best, or at least show which ones are the least plausible explanations. Through this process I hope to shed some light and new perspective on a political act that is both little debated intellectually and also unprecedented in African history and, at the time of the birth of this article, in political history in general.

3. History/ Background

To better understand why the research question and more importantly the significance of the change in intervention policy, it is important to give a brief description of how the African state system has been up until this decision. This chapter will therefore first briefly discuss the Westphalian state system in order to allow for a better understanding of what this term actually means. The focus then moves on to describe how African politics were in general terms up until the process of colonization. It will briefly touch on how the colonial powers defined the states and decided on the borders. Even though this constitutes a major impact on the premises of this thesis the process of this decision will prove to be less significant. However, the great variation in political culture between pre-colonial Africa and the colonial powers will also give a possibility to get some perspective on why it could have been important for the new African state leaders after the liberation to keep the borders of colonial times. Finally, the change that the new article constitutes is discussed briefly. The shift from a rigid regime of non-intervention has been formally ratified, and to understand what the thesis is concerned with, it is important to state what this change consists of. The discussion will mention some of the aspects of the article and touch on what implications this might have on inter-state politics on the African continent. In sum, the chapter should give a sound historical background on what the thesis analysis is concerned with.

3.1 The Westphalian State

"From the perspective of any particular state what it chiefly hopes to gain from participation in the society of states is recognition of its

independence of outside authority, and in particular of its supreme jurisdiction over its subjects and territory" (Bull 1977: 17)

In today's world, every state could more or less be said to be a part of what Bull defines as an international society. This implies recognizing certain common interests and values. They feel bound to some set of rules in their interaction with each other, such as the right of independence and an obligation to honor agreements that are made and that they should be subject to certain limitations in exercising force against one an other (Bull 1977: 13). At the same time they cooperate in institutions and abide to the conventions of war and the process of diplomacy (Ibid.). Within this definition comes the concept of sovereignty. Even though sovereignty as a concept of individual states was established, some of the principles like the right of non-intervention, equality of states in respect of their basic rights, and the rights of states to domestic jurisdiction were worked out by the theorists of the eighteenth and nineteenth century (Bull 1977: 35). Nevertheless, these concepts are the ones that is commonly associated with the modern state system and often referred to as the Whestphalian state system (Dunn & Shaw 2001: 13).

Bøås and Dokken (2002:12) give a short introduction to the Westphalian state system and the post-colonial African state: The nation-state as a sovereign authority over a certain territory is often associated with the peace agreement in the Westphalia in 1648. What distinguishes this state model from other models are, first and foremost the significant division between economic institutions in the private sector and the political institutions in the public sector. In the modern Westphalian state the sovereignty is more than a juridical brand. Sovereignty is real and substantial in the sense that the state governs autonomous, and that it has an economic base of resources and an ability to defend it self. Furthermore it is a prerequisite that the state has monopoly on

coercion and means of enforcement, but that the military power is directed outwards against external threats, and not inwards. Law and order is presumed to be upheld by the publics support to the governing organs and the bills and rules these impose. One last criterion that is usually associated with the Westphalian state system is the national state (Ibid.). This implies that one or more groups inside the state relate to the state in the sense that there is something that distinguishes them from others outside the state. This can often be an understanding that stems from ethnic or cultural inheritance.

The governing of such states has been seen as personal government. It has been said that states of this kind has a vague division of the public and the private sphere, or that it has a "politics of the belly", meaning that the political praxis mostly is executed to ensure ones own wellbeing (Ibid). It is, regardless of how one defines it, commonly accepted amongst Africa-researchers that this type of state functions between a legal, bureaucracy-rational framework and a person-based framework (Ibid.). In most cases the separation between office and person or politics and economy is only real on paper. The result of this is that political position requires position in the financial life, and vice versa. This does create a different social arrangement than the one we find in the Westphalian nation-state. This logic is exactly what has created a state that is weak and strong at the same time: The state is weak, but the government and leaders are amazingly stabile (ibid: 13).

3.2 States and Power in Africa

The African state system is, and has been, very different from the "western" type of state systems. One of the most important reasons for this may be the way the states are constituted, which differs substantially from the way the "western" states were built. In Africa the issue was never scarcity of land, like for instance in Europe (Herbst 2000: 13). The challenges of a state leader in African states before the colonial period, was governing the people, rather than

governing a limited area of land. "The fundamental problem facing state-builders in Africa – be they pre-colonial kings, colonial governors, or presidents from the independent era – has been to project authority over inhospitable territories that contain relative low densities of people"(Ibid: 11). The need for borders was therefore mainly to protect the people inside them, not to mark the end of one leaders reign. There were states, and political culture, but it was not built on the same structures and rules as the ones we know from Europe (Ibid: 37). The mere criteria for consolidating power was different, inter alia because there was no need to occupy more land in order to enhance ones power; it was how many people that were in your tribe or kingdom[2](Ibid: 55). The cost of expanding was simply too high compared to the gain of it (Ibid: 56). And protecting borders was only necessary all the while there were people within them. There was rarely any need to protect territory as such, for the mere purpose of keeping land. Thus, prior to the colonies there was really no substantial state-building in Africa that could be compared to the European model (Ibid: 37) When the Europeans colonized the continent they developed a need to divide it between them (Ibid: 66). This was done, as is commonly known, not to govern the territory most efficient or to cooperate with the indigenous population, but to avoid further conflict between the occupying forces[3]. The Berlin Conference of 1884/5 is one of the reasons why many of the state borders in Africa look like they do. In fact as much as 44% of the borders today are correlating with astrological lines or are parallels to some other set of lines (Ibid: 75).

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[2] There were exceptions to this, like the emperor Haile Salaisse who named his son Asfa-Wasen (Amharic for "expand the frontiers") (Herbst 2000: 35).

[3] The Berlin Conference of 1884/5 regulated the European colonization and trade in Africa and is often seen as the formalization of the "Scramble for Africa". (Herbst 2000: 71)

3.3 State politics in pre-colonial Africa

"Pre-colonial African states had precisely the opposite physiology of many in Europe: [T]he power of assets was concentrated in the centre with gradations to the hinterland. The European model of placing significant assets in the hinterland to protect against outsiders and to make the boundaries real was neither viable nor relevant" (Herbst 2000: 57). As stated above, costs of extending power over inhospitable areas with relative low densities of people has confined this type of politics on the pre-colonial African leaders. Herbst (2000:13) argues that leaders confront three sets of issues when building their states: the cost of expanding the domestic power infrastructure; the nature of national boundaries; and the design of state systems. In Europe, from the start of the fifteenth century, the population density had increased in such a way that states were beginning to fight over land to expand them selves and make room for their population. The scarcity for land made the state politics very different in Europe than in Africa, much because the need to centralize power, raise taxes, recruit new soldiers and fiercely controlling the states hinterland became an absolute criteria for existence. The struggle for the survival of the state was formed by the increasing density of the population (Ibid.). The state building was thus formed after the need for protection and expansion; the states became warrior states. These principles of necessity that created the European states are not applicable to describe the African state building, nor the politics between African state leaders. Because determining factors such as scarcity of land and population growth were vastly different, there were not any contesters over bits of land (Ibid: 39). The consequence of this was that the power of the state and its independence was not dependent on controlling the hinterland of the state. It was, of course necessary to reach the frontiers and it was necessary to execute power, but there were rarely any plans or need for expansion or developing of roads or any other means for reaching the hinterland faster or more efficient (Ibid: 28). The cost of extending the power was often much higher than the

benefit, since the need was not present. For that reason there were not many roads to the outer skirts of a kingdom in Africa (Ibid: 56).

3.4 Colonisation and State Consolidation

When the Europeans colonized the Continent, they divided the land, as already stated, for practical purposes and to ensure the peace between them. Many of the dividing lines were in unexplored parts of the continent. Some in what was already scarcely populated land, and some dividing tribes or old kingdoms (Dunn & Shaw 2001: 15). The colonists ruled with the principles of respecting these borders, as was natural since they were artificially created for this exact purpose (Ibid/Herbst 2000: 71). When they then left the continent, the question of what was to become of the old colonies and what one was to do about the separating borders that divided the continent, in what now had to be seen as arbitrary lines arose. The decision to maintain the borders and emphasize the principles of sovereignty and non-intervention may have been a practical way of avoiding mayhem and anarchy on the continent (Bøås & Dokken 2002: 78).

The new leaders of the liberated African states, realizing that they lacked the capacity to govern their states in their full extension, and even more so the capacity to protect their borders against potential aggressors, agreed on these principles in order to maintain balance and stability on the continent (Ibid.). They formed the Organization of African Unity (OAU) where the official purpose was to promote unity and solidarity between the member states. The organization was constructed around the principles of state sovereignty and nn-intervention to achieve this purpose (Ibid: 80). This development did in part secure some stability on the continent, save for power struggles and civil wars within the countries, and many of the problems Africa is facing today is related to this state structure (Ibid: 78). The principles of sovereignty and non-intervention were upheld, and thus wars between countries were not the

problem it might have been. This is not of course to say that everything was in perfect order. It was not.

Consolidating state power by maintaining artificially made borders in Africa has disregarded nationality and ethnicity within those borders (Dunn & Shaw 2001: 15). "Specifically, the departing colonial powers selected a group of post-colonial African leaders drawn from upper elites who had more in common with their former colonial masters than the people they would govern" (Ibid.). The OAU has been referred to as a "dictators club", and the agreement of non-intervention has seemed to function as a cushion for the dictators by giving them the space they need to execute the power they want, by any means they see fit (BBC 2002).

On the other hand these principles might have been the lesser of two evils at the time they were chosen. As Clapham (1996: 35) notes, "[b]oth models of administration and languages of rule followed the colonial pattern. There was, in short, no alternative". It might be that the decision to keep the borders of the colonial powers and thus enforcing the principle of non-intervention as a securing means was the safest way of keeping stability on the continent as previously noted (Bøås & Dokken 2002: 78). But as Bøås and Dokken suggest, this should perhaps not be seen as a conscious collective decision, but rather as an implicit agreement not to voice the pan-African ideas too loud (Ibid.).

3.5 The apostasy of sovereignty?

Article 4 (h), as it was originally written in the Constitutive Act stated that the AU had the "right to intervene in a Member State pursuant to a decision of the

Assembly[4] in respect of grave circumstances, namely; war crimes, genocide and crimes against humanity." Though human rights violations are not mentioned and the article has a passive rather than an active mandate to the Union; it has a right, not a duty, article 4 (h) constituted a major change against the former practice of the OAU. That the Assembly could decide to intervene autonomously gave the AU an authority it's predecessor the OAU has never had. It became an independent actor on a whole new level, and it had political measures unprecedented in the history of pan-African politics. This meant that Africa had a theoretical possibility of never seeing another tragedy like the genocide in Rwanda in 1994 that "demonstrated the virtual impotence of the OAU in the face of violent conflict within its member states"(Murithi 2008: 72). The AU act is the first international treaty to recognize the right to intervene for a humanitarian purpose (Humanitarian intervention) (Baimu & Sturman 2003:40). These points make it easy to understand, from a humanitarian and from a peace promoting view why the AU would adapt this principle. It had been demonstrated in the past that the rigid non-intervention policy of the OAU, though well intended, was one of the principles that crippled the organizations ability to act (Murithi 2008: 72).

Nevertheless, a state leader that agrees to these terms surrenders sovereignty on some level. If the AU is granted the right to intervene without the consent of a member state, tough dependent on the Assembly, the state has effectively given up the right to defend it self from at least some exterior factors. Even though the criteria under which the resolution is bound are meant to help the people of the state, it is the state leader, and thus the government that has to consent to the resolution. Regardless of how a state is organized, it be democracy or autocracy, this seem like abandoning power. And so came the amendments.

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[4] "Assembly" means the Assembly of Heads of State and Government of the Union. The Assembly is composed of the Heads of States and Government or their duly accredited representatives and is the supreme organ of the Union.

At the Heads of State and Government of the AU's first extraordinary session on 3 February 2003 Libya, especially, proposed a number of amendments, many to make the AU stronger and to unite the continent further. This was all in the spirit of the earlier proposal by Libya of the United States of Africa (Baimu & Sturman 2003: 38). The most important one in this context is the amendment to Article 4 (h). This amendment, which was adapted at the session, extended the AU's rights of intervention. The right was extended to include "serious threat to legitimate order to restore peace and stability to the Member State of the Union upon the recommendation of the Peace and Security Council;" as a criteria for intervention. As Baimu and Sturman (2003: 42) points out this last ground for intervention has little to do with the former ones. The original grounds for intervention – war crimes, crimes against humanity and genocide – are all designated in the Rome statute as crimes of "greatest concern to the international community" (Ibid.). Furthermore they are all grounds that are on accord with the Declaration of Human Rights and thus designed to protect people from some gruesome and coercive force. This new ground seems to be a shift in "emphasis of the grounds of the AU's ground to intervene, from humanitarian justification to the rationale of preserving "order""(Baimu & Sturman 2004: 38). The fact that the proposal came from Libya's leader Ghaddafi and that the advancement of human rights, democracy and good governance was "the antithesis of how [he] had ruled his country for the last three decades", induces the idea that the new emphasis was intended to serve the government rather than the people in the states (Ibid.)

Of course these are not necessarily mutually exclusive intentions. It is possible to restore legitimate order with the people's best interest in mind. It may, as Baimu and Sturman (2003: 41) again point out, rest upon how "legitimate order" is defined. In their analysis Baimu and Sturman (Ibid) assume that a "*legitimate order* can only result from a free and fair election", based on an OAU definition. However, a fair and free election is not an uncontested term. African states, African regional organizations (e.g. The Southern African

Development Community (SADC)), international NGOs and the international community differ in their conception of this principle. The Zimbabwean presidential election of 2002 is one example where there have been different opinions of the legitimacy of the election. Baimu and Sturman (2003:41) notes that " OAU and SADC observers as well as observers from African countries such as South Africa and Tanzania were prepared to conclude that even if they were not free and fair they were at least legitimate" in regards to the Zimbabwean election (2002). This uncertainty of what constitutes legitimate order does shake the motivations for the grounds of intervention. It might suddenly seem as though the amendment is creating a loophole for the AU's first attempt to an article to actually protect the people of Africa, after more than 40 years of protecting the governments. Not only are the intentions questionable, but also the amendment seems to be passed out of pragmatic and political reasons, thus abandoning ideology completely. If keeping Libya onboard was so important that one could abandon one of the principles that are truly contrasting the AU from the OAU, then the article might almost seem unnecessary. While the original Article 4 (h) looked to be the remedy for OAU's impotence in disputes in their member states, the amendment could in fact put this impotence right back. Even though the AU now has the right to intervene, it could be possible for the government to dismiss whatever problem would cause the AU to intervene as a "serious threat to legitimate order". In which case the intervention could be toothless with regard to the people in the state. Though this thesis will not discuss the actual effects of the constitutional act, it is interesting to note in such a radical ratification as Article 4 (h). The theoretical possibility of an autonomous intervention from the AU remains however. The change stands and history has changed.

3.6 Summary

This chapter has given a brief historical introduction to the African history of state building and sovereignty. It has been important to emphasize that the

African relationship to the sovereign state and the Westphalian state system is widely different from the European. The indigenous political culture of the pre-colonial African nations were not concerned with the same state-building mechanisms as the Europeans that came and sought domination. The reasons for this was, inter alias that the variables over how one consolidates power was different in Africa than it was in Europe. The population density was lower; the landscape in parts less hospitable and the land was vastly greater. "[W]hereas European states defined them selves and fixed their boundaries in competition with neighboring states much like themselves, African ones formed islands of relatively settled government. […] Dissidents or defeated groups could strike out into the borderlands to conquer or establish kingdoms of their own" (Clapham 1996: 29). Such differences made the clash of European imposition a heritage that proved difficult to avoid. The African states that map the continent today has not progressed "naturally" and is thus inhibited by this. The Westhalian state system has been adopted after the independence of the African states to maintain government in the states, but has been upheld in disregard to cultural, national and socio-economic variables that dates back in time before the colonization. This principle has crippled the continental organization, the OAU, that was created to promote unity and solidarity between the member states, and rendered instead a rigid principle of non-intervention that made member states and others horrified spectators to atrocities occurring within "sovereign borders". When the successor, the African Union (AU), now has created Article 4 (h) that permits the AU to intervene under certain circumstances, it is important to note that the amendments that were ratified soon after does in part contradict the original intention of the article. Though not opting to engage in a legal analysis, the thesis would be incomplete without a comment to this event.

4. Theory

Dunn and Shaw (2001) claim that traditional IR theory is not applicable to the African continent. The reasons they present for this is both reasonable and plausible. For example there is the claim that IR theory, being developed solely by 'western' theorists, by whom they mean Western Europeans and Northern Americans, and discussed almost exclusively on or through situations regarding these counties and areas (Bøås & Dokken 2002:36). The argument is that these theories do not encapsulate the major historical differences between these two very different areas of the world (Dunn & Shaw 2001:4). One obvious difference is the nation-state building, and the different conditions and political traditions and culture that played out in these areas (Bøås & Dokken 2002:36). On the African continent, it is argued, there was no real development in state building that could measure up to the European state model until the colonist period began (Herbst 2000:37). This is not to say that the African people was not living in a political environment, but the need to build and protect state frontiers were not present in the same way it was in Europe at the time before and during the process of the Westphalian peace treaty (Clapham 1996: 29).

Some argues that political atmosphere that exist on the African continent today is artificially developed and does not represent the political culture that was developing in Africa before it was interrupted, so to speak (Dunn & Shaw 2001: 14). What this means is that Africa's challenge to IR theory is quite simply that what is commonly assumed to be actors in international relations cannot be viewed as actors in the same way as with the so called western states that are for the most part constructed through war, nationalism and diplomacy. The African states on the other hand were, mostly, constructed to avoid just that, but between the colonial powers, not the indigenous people on the continent. This makes the African states different as they are not necessarily

nations, and thus not necessarily eager to maintain the state (Clapham 1996: 9-10). If we accept this, then there is really no real reason to allow the states to be the actors that represent the people in them. The African state has yet to reach maturity and in that respect state-centric theories may not be well suited (Dunn & Shaw 2001: 27).

4.1 Choosing the right approach

This thesis will analyze an introduction of a new policy to the African continent that is contradictory to the earlier practice. This policy is implemented through the Constitutive Act of the AU. The states are the primary actors in this union. They are represented trough their leaders, although these are not always elected by the people, they are meant to represent the people. Being the head of the organ that has monopoly on power, the leaders are in a way representing the fate of the people of their state, if not their will, at the lest in the relationship to the AU. Because the AU relies on the states as actors I feel that the problem of using traditional IR theory is reduced, as the thesis is not directly addressing the state-nation relationship.

As the authors of 'Africa's Challenge to IR Theory' challenge the only IR theory available, they render little to work with. The analyzing process will be difficult not only to accomplish in it self, but also to get acknowledgement for its validity without such theory. There is also the question whether or not Dunn and Shaw's criticism is correct. Though their theoretical reasoning is logically valid it does have some premises that can be contested. One is that they do not acknowledge that the so-called "traditional IR theory" is made from a desire of generalizing so that political behavior can be compared athwart cultural differences. This thesis will investigate a political decision that has been made by state leaders in their capacity as actors. Though internal differences may cause a different perception of nationality within a state that does not remove

the possibility to treat the state as a state. This should permit this thesis to employ IR-theory to this case study. Furthermore, the issue of developing new theories for African politics would make any political analysis of this kind of subject delayed until such were developed. To say that no analysis of African politics is possible with today's tools is a bold, but not an uncontestable statement. As the thesis focuses on the states and their leaders decisions, it will not be as much concerned with cultural and ethnic differences internally in the state. Thus the critique issued should not be as relevant to this case study as it would be to other attempts to understand African politics.

To give an understanding as broad and deep as possible I believe that it is important to investigate the issue at hand from more than one perspective. There could, and probably will be, more than one reason for the change in politics by the union. The objective of this thesis is not to investigate *if* there has been a change, but *why* there has been a change. That there has actually been a change is documented by the empirics presented both in the introduction and in the background chapter of the thesis and is an historical fact. The challenge then is to seek what theory is best suited to analyze that fact.

When dealing with an International Organization (IO) there is a vast pool of different theories from where to pick analytical tools. As it has been aptly put: "[W]hen we choose a theoretical framework, we should choose one whose assumptions approximate the empirical conditions of the IO we are analyzing, and […] we should be aware of the biases created by these assumptions" (Barnett et al.1999:704). With that in mind one needs to assess what options are available as tools to solve the inquiry.

The thesis will investigate the creation of Article 4 (h) from the notion that the main actors are states. The primary objects of analysis will be the actions of the

states. The theories that seem to be most eligible to explain this are three dominant perspectives within international relations, namely realism, institutionalism and constructivism (Dokken & Bøås 2002: 39). There are critics of such theories as neorealism and liberal institutionalism that argue that these theories do not look at what IOs do (Bauer 2004:7). The feature these have in common is that their ontological view does not permit them to address intergovernmental organizations as actors "[…] because ontologically, they are theories about states" (Bauer 2004:8). However, as mentioned earlier, the actors of both the AU and the former OAU are the states through their respective leaders. Through the meetings of the OAU the states have in fact established a new organization in the AU. As the states are the principals in the organization and they indeed are the ones this resolution will affect, this might be a good focal point for analysis. Indeed: If the states are allowed the responsibility of creating the AU and consequently Article 4 (h) in the Constitutive Act, then it would seem that we are approaching a sensible angle from where to ask our *why*:

In order to make a meaningful analysis of the case presented by the thesis it is important to determine what we can expect to find from the tools we are using. It is necessary to specify what we can call evidence of the sort of behavior that the hypothesis describe. To do this I will list criteria to the hypothesis of each theory. What should be found in the case in order for a theory to be considered a valid explanation?

4.2 Realism

This theory presents some very interesting aspects to my thesis. That realist seem to have no faith in institutions but still claim to be able to explain their existence through the considerations of the states leaves us with a state centric point of view. A presumption in the theory that the only actors in the

international society are the states leaves no decisional power for any IO. When an article in the Constitutional Act claims the right of autonomous intervention; that breaks with the constitutional principals of this theoretical framework. To ratify this for any state would be unthinkable. Yet, as mentioned above, that is what happened. The realist claim to be able to explain international politics implies that there is a solution for this. A presentation of the theory will reveal how realists expect states to act and under which circumstances they accept cooperation between them.

Realism has five assumptions about the international system. The first one is that the international system is anarchic. This simply means that independent political units without any central authority comprise the international system. States are the major actors in world affairs (Grieco 1988: 488). It does not mean that it is chaotic or riven by disorder. It means that because there is no "government over governments", sovereignty inheres in states (Mearsheimer 1995: 10).

The second assumption is that "states inherently possess some offensive military capability, which gives them the wherewithal to hurt and possibly destroy each other" (Mearsheimer 1995:10). States are potentially dangerous to each other and consequently the international environment will punish states that fail to protect their vital interests or pursue objectives beyond their capabilities. Hence states are "sensitive to costs" and behave as unitary – rational actors (Grieco 1988:488).

The third assumption is that "international anarchy is the principal force shaping the motives and actions of states" (Ibid). Thus states can never be certain of other states intentions. (Mearsheimer 1995:10).

The forth assumption is that the most basic motive driving states is survival (Mearsheimer 1995:10). States "are preoccupied with power and security, are predisposed towards conflict and competition, and often fail to cooperate even in the face of common interests (Grieco 1988:488).

The fifth assumption is that states are instrumentally rational (Mearsheimer 1995:10). This means that they think strategically as to how they behave in the international system.

These five assumptions, put together, can create incentives for states to think and sometimes behave aggressively, even though none of the assumptions alone suggest that states should behave competitively (Ibid).

According to Mearsheimer, three main patterns of behavior result from the combination of these assumptions.

1. States in the international system fear each other (Ibid:11). In a world where all states have some capability to offend against another, all states must be at least suspicious to other states and whether they have reasons to be aggressive. Because states main concern is survival, security becomes vital. The assumption that there is no central authority in the international system makes the security issue crucial. "The possible consequences of falling victim to an aggression […] illustrate why fear is a potent force in world politics. […] The horrible consequences of war sometimes cause states to view each other not just as competitors, but as deadly enemies" (Ibid).

2. Each state in the international system aims to guarantee its own survival (Ibid). Because there is no higher authority and other states must be seen as potential threats, states tend to feel alone and vulnerable. (Ibid). Alliances may occur, but these are only temporary marriages of convenience, and might easily break as states operate in a self-help system and should always be selfish (Ibid). This is true in the short term as well as the long term, because if a state loses in the short term, it might not be around for later (Ibid).

3. "[S]tates in the international system aim to maximize their relative power positions over other states" (Ibid). This is simply because the more power you have over other states or in relation to other states, the less you have to fear from them. "This logic creates strong incentives for

states to take advantage of one another, including going to war if the circumstances are right and victory seems likely" (Ibid:12). The ultimate goal of course is to become the only hegemon in the system, completely out scaling all other states.

All states are influenced by this logic, which leads to a world in a constant security competition. States are thusly both offensively and defensively oriented as they both seek to take advantage over other states and also are on the lookout not to be taken advantage over (Ibid).

4.2.1 Cooperation in a Realist World

Even when states share common goals, anarchy fosters competition and conflict, and this inhibits cooperation between them (Grieco1988:485). In spite of the logic of security competition and uncertainty of what other states might think or do, cooperation is not entirely impossible and does occur (Mearsheimer1995:12). It is however, sometimes difficult to achieve and always difficult to sustain. The reason for this, according to realism, is that two factors inhibit cooperation: relative-gains considerations[5] and concern about cheating (Ibid). Realists find that states are positional and will thus not only worry about what they get out of a cooperative arrangement, but also whether or not the other parties will get more than they do. Because states in a realist world is concerned with the balance of power, they will always be concerned with how much assets the other states have and how they might become increasingly threatening. "…[C]ooperation among states has its limits, mainly because it is constrained by the dominating logic of security competition, which no amount of cooperation can eliminate (Ibid:10)." This thoroughly complicates cooperation between states. Even though a state is satisfied with a

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[5] One differs between absolute gains and relative gains. With absolute gains the parts are concerned about what they get for themselves and do not care if the other party gets more or less than them selves. With relative gains, however, the main concern is who gets more in comparison to the other. For a discussion on Absolute-/relative-gains see Robert Powell (1999: 1303-1320).

partner's compliance in a joint arrangement, it might nevertheless exit from it if the partner is achieving greater relative gains (Grieco1988:487). As Mearsheimer puts it: "… [S]tates concerned about absolute gains need only make sure that the pie is expanding and that they are getting at least some portion of the increase, while states that worry about relative gains must care also about how the pie is divided, which complicate cooperation efforts" (Mearsheimer1995:13). The same insecurity makes concerns about cheating a major obstacle for cooperation. Especially in the military realm is this acute as a military advantage dramatically can change the balance of power (Ibid).

4.2.2 Institutions in a Realist World

Although realists hold that "international institutions affect the prospects for cooperation only marginally" (Grieco 1988:488), they do recognize that states sometimes operate through institutions (Mearsheimer 1995:13). However they believe that these simply are constructed based on states calculations of self-interest in the international balance of power (Ibid). In other words they believe that states will construct or join in a cooperative initiative only if it suits its self-interest at the time. This does not mean that a state has to agree with everything the institution is campaigning, but finds that it is a more risky proposition to remain outside the institution and thus joins the institution enthusiastically. "In short, the balance of power is the independent variable that explains war; institutions are merely an intervening variable in the process" (Ibid).

4.2.3 Realism applied on the case

According to the abovementioned principles, if realism has the most valid explanation we should expect to find evidence of motives that gains the major actors in the case. Since realism is based on the assumption that all states are unitary rational actors, we should expect to find some evidence of this. We should also expect to see that the patterns of behavior described above dictates

the behavior of the main actors to some extent. As realists believe that states never surrender decisional power to organizations the hypothesis of how this article came about from a realist point of view must be:

H1: Article 4 (h) was adapted to accommodate the main actors goals, but will not be upheld at the expense of their interests.

In this case one should expect to find some evidence of some self-enhancing motivation with the main actors, moreover that the state leaders are explicitly promoting states interests and that the states act according to the three patterns of behavior mentioned to seek power, security and wealth. These are the criterions that should be met in order to strengthen this hypothesis.

4.3 Liberal Institutionalism

Liberal Institutionalism argues that although states are the decision makers in the international society, and though they are in fact egoistic rational actors in an anarchic world, cooperation through institutions is not unlikely. This theory could therefore induce an aspect to the increased commitment to the African Union that realism refuses. Where there is common ground to be found and states have goals that may be reached through cooperation, states may seek this option. The benefits that IOs have to offer such efforts of cooperation, makes this all the more likely according to this theory. Though the theory still maintain that the states are the decision makers and that surrendering of sovereignty thus will seem unlikely, the possibility that the state leaders decided to give an integrated cooperation a chance does not seem impossible. The creation of article 4 (h) may have come as a consequence of the three main actors' realization that further integration was needed in order to make the new

organization effective. In order to decide how this theory would explain the creation of Article 4 (h), the thesis will now explore the premises of this theory.

Liberal institutionalism, though it has been one of "[t]he major challenger[s] to realism" (Grieco1988:486), does not directly address the question of how to prevent war, but focus on "explaining why economic and environmental cooperation among states are more likely than realists recognize" (Mearsheimer 1995:14). However it does not define cooperation as equivalent with harmony. Cooperation can occur in a mixture of conflicting and complementary interests (Axelrod et al.1985: 226). Liberal institutionalism, like realists, treats states as rational egoists in an anarchic world, where cooperation and institutions does not occur frequently or across conflict lines (Keohane et. al.1995:39). According to Axelrod and Keohane actors likeliness to cooperate depends on three situational dimensions; mutuality of interest, the shadow of the future and the number of actors (Axelrod et al.1985: 228).

A good aid to describe and analyze the likelihood of actors cooperating is game theory. A good description to illustrate how the prospect of cooperation can change is Prisoners Dilemma, which is a game where the highest payoff is rewarded the part that defects, given that the other party chooses to cooperate. The problem is that no party has information of what the other one will do. If they could agree to cooperate they would both achieve the second highest payoff, but since they have no way of knowing this they will both defect and both get the second worst payoff, the lowest one being the situation where one party is defected on by the other party after choosing to cooperate. Thus the Prisoners Dilemma has a preference ordering for both parties of DC > CC > DD > CD. This situation is easily depicted in the anarchic world order states operate in. However, the circumstances may change in such a way that the preference ordering changes to CC > DC > DD > CD. In this case it is a less conflictual game called a Stag Hunt (Axelrod et al. 1985:229). One example of this is that after world wars the pay-off matrix can shift temporarily to a Stag

Hunt as a result of the victorious states may prefer to cooperate to hold down the defeated aggressor. These co-operations are, however, easily disposed for defection after a relative short period of time. If one side fears that the other might defect, the game changes to Deadlock with preference order DC > DD > CC > CD, where the dominant strategy is defection for both sides and the likely outcome is DD (Axelrod et al. 1985:230).

4.3.1 Relative Gains and Cooperation

Relative gains is, as mentioned earlier, actors concerns about what the other parties in any cooperation gets in comparison to what the actor it self gets. With realists the relative-gains logic has been a vantage point in their arguments against cooperation. Liberal institutionalists however believe that institutions themselves can be the very remedy for this. Obviously they recognize that where two states have fundamentally conflicting interests, institutions will not be significant (Keohane et al.1995:44), but there are other situations where relative gains can be significant and institutions increases the likelihood and the possibility for international cooperation. Keohane (1995:44) finds that the issues that need to be confronted in this aspect is "1) the conditions under which relative gains are important; and 2) the role of institutions when distributional issues are significant – that is, when relative gains are at stake". There are great variations in the extent to whether relative gains matter or not. It relies heavily on the conditions in the surroundings, such as how many actors that are involved and whether military advantages favors defense or offence (Keohane et al. 1995:44). Duncan Snidal (Keohane et al.1995:44) has shown that relative gain concerns rarely affect the probability of cooperation if there are more than two actors and/or the prospect of great absolute gains is present.

As for the second issue it is essential to identify two problems states are faced with when attempting to cooperate. One is the fear of being cheated. There is

usually also a problem of "coordinating their actions on a particular stable cooperative outcome (solving the problem of multiple equilibria, in game theoretic terminology)" (Keohane et al. 1995:45). Usually more than one cooperative outcome exits and the states involved might not agree upon which one is the best. Disagreement on how to cooperate is the principal barrier to cooperation in such coordination games (Keohane et al.1995:45). Institutions, all though not the only solution[6], may provide the necessary mechanisms such as "constructed focal points" for cooperation in complex coordination situations involving many states (Keohane et al.1995:45).

Liberal theory argues that institutions, by providing information to the participating states about how the gains are distributed, may eliminate the problem of states worrying that they are not getting as much as the next state. The possibility of assuring for example that the gains will be equally distributed over time or by disclosing information of military resources and capabilities, makes cooperation that much more likely, according to the relative gains logic (Keohane et al.1995:45-46). The disclosing of information also minimizes the fear of being cheated as it is presented with the example of the Prisoners Dilemma –game.

4.3.2 Liberal Institutionalism applied on the case

Liberal Institutionalism has the same basic presumptions as realism but the assumptions in respect to cooperation are somewhat different. In the event of concurrent interests institutionalism suggest that states may be willing to cooperate without the necessity of hidden agendas. As such, the following hypothesis can be presented:

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[6] Keohane notes that Stephen Krasner as argued that coordination problems can be solved by the unilateral exercise of power by the strongest state in "Global Communications and National Power: Life on the Pareto Frontier" April 1991.

H2: The main actors found enough common ground, goals and interests that they introduced a policy of intervention.

The theory is based on the assumption that state leaders have some concurring interest that will benefit the state, but through cooperation with others. One should thus expect to find evidence for this. Also, there should be evident that the state leaders are promoting the states interests. Furthermore, that the creation of the AU and Article (h) gives the states a mutual benefit that will increase the states absolute gains is a prerequisite for this hypothesis to be strengthened.

4.4 Constructivism

Constructivism addresses a whole new perspective compared to the two abovementioned theoretical approaches. It delivers a new possibility for explaining why the state leaders of the AU decided to ratify Article 4 (h). When the states are not the only possible agents of change, and their preferences are not given, but can in fact be altered from an outside agent, other types of questions need to be asked. If the social structures are granted as a given, what may cause an actor to change its preferences, or rather to discover them? Is it possible that the state leaders were "socialized" to adjust their preferences? Is there a "teacher" in this context that have influenced the states to adjust their preferences in such a way that pan-Africanism all of a sudden is such a good idea that they are wiling to give up state sovereignty for it? Or could they have another motive for giving this new initiative such increased power? Who would in any event be this "teacher"?

This theory is different from the two previous ones from the outset. Where the two other theories base their claims on the assumption that all states have a specific set of interests, Martha Finnemore (1996:1) argues that this is not

necessarily so, exogenously. In stead of treating states interests as stabile assumptions that can be the basis for interstate analysis, she holds that state interests and the way states define their interests is something that needs to be problematized. "Aspirations to develop a generalizable theory of international politics modeled on theories in the natural sciences and economics have led most international relations scholars in the United States since the 1960s to assume rather than problematize state interests"(Ibid).

It is not that she does not agree with the general assumptions that states want power, security and wealth, but she goes further to ask what kind of power, security and wealth do they want? And what do they want with it? "Ultimately, power and wealth are means, not ends" (Ibid: 2), she claims and goes further to say that "States are embedded in dense networks of transnational and international social relations that shape their perceptions of the world and their role in that world. States are *socialized* to want certain things by the international society in which they and the people in them live"(Ibid)[7]. That states might be taught preferences in this social context is precisely what Finnemore is saying: "Receptivity to the teaching of preferences implies a more social character for states than is generally acknowledged in international relations theory. It implies that the international environment is more than a 'billiard table' constraining state action. It implies that states are embedded in a social structure and are 'socialized' to a degree not allowed by the more conventional, self-contained conceptions of the state. The role of 'teacher' for international organizations similarly implies a more active and causal character than most theories currently allow. Most international relations theories are strongly state-centric. International organizations may mediate state interaction by providing rules of the game, supplying information, monitoring behavior, or creating transparency; ultimately, however, they are understood to be creations of states and servants of state interests. According them a more autonomous

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[7] Emphasis original.

and causal status, particularly as shapers of actor's interests, would violate the fundamental structure of neorealist and neoliberal theories. It would embed states in a more diverse context of causal factors and push beyond 'the limits of realism'" (Ibid: 13). One of the fundamental issues here will thus be to acknowledge whether there in fact is a "teacher" situation here and if so if that could cause the African Union to change its preferences.

4.4.1 Learning and teaching

What is essentially the case in this theory is "whether, analytically, one treats actors, capabilities, and preferences as given and derives social structures from their interaction, or whether one takes the social structures as a given and treats actors, their preferences and powers, as defined by the social system(s) in which they are embedded (Ibid: 14)." The theory goes on to suggest that state interests are defined in the context of "internationally held norms of what is good and appropriate"(Ibid: 2). This influences the decision makers and it influences the public who may support those decision makers or restrict their power (Ibid.). When the world is changing, the states will adapt its behavior and its interests will adjust accordingly. Finnemore argues that though the assumptions that states want power, security and wealth are good assumptions, states are not always faced with a threat for e.g. survival. Therefore, it is important to look at the internationally held norms and values. These change over time and thus create coordinated shifts in state interests and behavior across the system (Ibid.). It is these "patterns of coordinated, system-wide redefinition of interests that look odd form conventional perspectives"(Ibid: 3). States' redefinitions of interests are often not the consequence of external threat or demands by domestic groups, but shaped by internationally shared norms and values that "shape and give meaning to international political life"(Ibid.). This is contesting what conventional theories share as basic assumptions: that preferences are unproblematic and that the source of state preferences is located within the state (Ibid: 7). Under these assumptions one would expect

different actors with different preferences to act differently. "Similar action by dissimilar actors in the absence of constraint is anomalous under these theories"(Ibid: 6). Within a social structural framework however, it is to be expected that international norms of behavior and shared values make similar behavioral claims on dissimilar actors (Ibid.). This could be addressed with the argument that the state administrations are responding to an already existing issue that needs to be dealt with and is thus looking elsewhere for solutions to a similar problem, in which case the "impetus for the learning lies within the states"(Ibid: 12). Finnemore however investigate cases where there are active teachers[8]. In these cases the interest of the states change after a new "interest" is presented and then "taught" by a different actor (Ibid: 12). Both the definition of the "problem" and the strategies for solving it came from outside the state. Thus, the theory states that the states need not be the agents of change. IOs or other social structures can affect state preferences in a variety of ways.

4.4.2 Constructivism applied on the case

The theory triggers a magnitude of these questions, many of which seem relevant, but out of reach for the scope of the other theories applied here. The main actors, whom the thesis addresses in the next chapter, represent different states and thus different interests and different capabilities. Does this theory present the relieving answer to how they could unite on such an article? The questions are, if nothing else, intriguing enough to deserve answering. Since constructivism is very different from the former theories the expected findings should differ accordingly. The basic assumption that states will act as rational

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[8] Finnemores book "National Interests in International Society" (1996) investigates the cases of how the International Committee of the Red Cross (ICRC) "taught" international decision makers in states to adapt the first Geneva Convention, how the United Nations Educational, Scientific, and Cultural Organization (UNESCO) "taught" states that they needed a science bureaucracies and how the World Bank "taught" states a new definition of the needs of developing countries.

unitary actors for example is not a prerequisite for action in constructivism. Socializing however is an important factor that should be significant in presence for this theory to be of explanatory value. The hypothesis from this teory can be presented as:

H3: The AU was socialized to adapt a policy of intervention.

If constructivism can explain this case it should be evident that there is a trend in the world in general that leads towards this behavior as the creation of Article 4 (h). If such a trend can be established it should also be possible to identify that the events in this case are influenced by that trend (there is a "teacher" situation). Finally, to strengthen this hypothesis, there should not be evidence of strategic actor behavior.

4.5 Summary

This chapter has gone through the different aspects of choosing a theory for analysis of the case. A critical review of the applicability of using IR theory on African politics in general and on the case specifically has been presented. Though the thesis recognizes the critique to be relevant and valid, the case study that this case investigates should be able to proceed and benefit form an analysis based upon three of the most dominating IR theories. These three have then been presented with a following contextualization and a general hypothesis to the case. To every hypothesis there are certain criteria listed to provide an operational set to enable analysis. Hence the thesis is now equipped with three different hypotheses with a set of operational criteria that enables testing of each hypothesis. The three theories provide a broad specter of possible reasons to explain this event. The focus on both actor and structural variables and different conceptions on states willingness to commit to and international organization should provide the thesis with a good and complete analysis of the data. The next chapter will be dedicated to presenting this data.

5. States, Leaders and Surroundings

This chapter will build on the results of the previous one. We have seen that the description of the hypotheses in the previous chapter ask for some specific evidence in order to either strengthen or weaken the different explanations. Hypotheses 1 and 2 explicitly mention main actors and state leaders actions. Thus it is important to look at what reality these actors found themselves in at the time of the decision. In this chapter I will make a selection of the main actors in the creation of this article. I will describe what circumstances they where operating within and to some extent what reasons they may have had to want a closer level of cooperation with other African states and/or a stronger continental organization. Hypothesis 3 suggests that there exist some kind of trend in the international community, and that this trend is socializing the AU and it principal actors in to behaving in a particular manner. It is therefore necessary to have a look at what measures that have been made internationally in the area of intervention and state sovereignty. This chapter will do so. The chapter is divided into an introduction and a selection of the main actors; a description of their situation; and finally a description of the international measures on intervention and state sovereignty.

5.1 The relevant information

"National sovereignty can only be meaningful if it discharges a certain level of responsibility in providing adequate protection and assistance to citizens and all those under state jurisdiction"

Olusegun Obasanjo (March 2001) in Deng & Zartman

The creation of the AU was filled with "political and *realpolitik* difficulties, the clash and accommodation of strategic self-interests and foreign policy postures of the major actors inside and outside Africa" (Francis2006:25). The wave of democratization in Africa in the early 1990s was certainly a factor in reforming the OAU, as was the civil wars, where the genocide in Rwanda caused the strongest response. This however, is not enough to explain the magnitude and speed of the transformation into the AU (Sturman2004:1). As Thomas Kwasi Tieku shows in his article *"Explaining the Clash and Accommodation of Interests of Major Actors in the Creation of the African Union"* (2004) there were mainly three actors in this process, and they each had a different agenda that led to the establishment of the AU. The main actors Tieku identifies are the president of South Africa Thabo Mbeki, the president of Nigeria Olusegun Obasanjo and Libya's leader Colonel Muammar al-Ghaddafi.

Tieku's article claim that it was the decisions of the presidents Obasanjo and Mbeki to reform the Organisation of African Unity (OAU) to accommodate their new foreign policies and Colonel Ghaddafi's attempt to use the OAU to re-emerge into African politics that led to the creation of the AU (Tieku2004:251). It is impossible to identify these three state leaders as the *only* causes to the creation of the AU. The OAU was inhibited by numerous problems that made the organization ineffective and it might have been time to change it after all. Also the post-Cold War Africa was facing diverse and pressing problems that, like the independence of the 1960s forced the African leaders to consider the project of pan-African unity (Francis2006:25). However these three state leaders actively engaged in reformative measures that, where they to be accommodated, would change the OAU drastically. Hence these state leaders made an active choice to be a part of something that led to the creation of the AU and, more specifically for this thesis, article 4 (h) in the

Constitutional Act. It might also be a timely reminder at this point that this thesis will not investigate why or how the African Union was created, but rather why the rigid principle of sovereignty and non-intervention was abandoned. The concept of sovereignty has been strongly embedded in the Organization of African Unity and thusly in the political culture of international African politics. The massive turnover in this respect must obviously be seen in context with the world, but also as an African act. Through the UN the practice in the international politics of the world has turned away from the rigid sovereignty regime. The world has since the UN-pact gradually been building this down through ratifying conventions of international proportions and allowing neutral observers to control whether they are being properly conducted. This has, though not so much formally, been a surrendering of the unique power that state sovereignty provided state leaders after the European peace in Westphalia in 1648. The African continent has, as discussed above, for different reasons been holding on to this concept. But there has, according to some, been "an emerging phenomenon in the regionalization of conflict management and the sharing of responsibilities for international peace and security between the United Nations and regional intergovernmental 'collective security' organizations or coalitions of willing states in Africa" (Francis 2006: 117).

Now that they are formally leaving this principle the question of *why* emerges. After that question, of course, comes the question of *how* to find the *why*. The theories presented above are tools that can be used to give a better understanding of how international politics work under certain circumstances and given certain presumptions. These theories give us perspectives on how we should understand the actors in international relations. Now one must choose what part of the world that is necessary to analyze in order to get a picture as complete as possible. It is obviously not possible to include everything that happens in the world in an analysis. It is physically impossible. The problem is how to select what part of reality that needs to be investigated in order to get a

full worthy picture of what happened and who participated in the most significant parts of the process. Prior to the Sirte summit the Executive Council was already presented with two other proposals (Tieku2004:253). The first one, supported by South Africa, asked the Council to study and make recommendations on how to overhaul the OAU. The second one was Nigeria's proposal on implementing the CSSDCA into the OAU. Ghaddafi's proposal of the 'United States of Africa' now made the number of proposals to adjust or change the OAU three (Tieku2004:261). To accommodate all three proposals as best they could, the 33 African leaders attending the summit decided to replace the OAU altogether. I have chosen to focus on the main actors in the process of the decision. The actors in the African Union (AU) are the states. The spokespersons for the states in the AU are the state leaders. Thusly, what I need to do to identify the major actors in the decision process is to identify the most significant state leaders in the process. The main literature on the subject supports my decision of these three leaders. The next important step is to describe the circumstances and background under which these leaders were subject to when making the decision of implementing Article 4(h) into the new African Union.

5.2 Mbeki:

> *"…none of our countries, relative to the Union enjoys unlimited sovereignty and is therefore free to do with its people what it wishes."*
> -Thabo Mbeki in a speech given at the Nigerian Institute of International Affairs, Lagos, December 06, 2003

South Africa was the last member to join the OAU, two months after the inauguration of President Nelson Mandela in 1994. Though Mandela's rise to power, and the establishment of democracy in South Africa was greeted with joy on the continent, there was also some grudging over the "moral heavyweight authority on the scene" (Sturman2004:3). Mandela declared a new foreign policy based on the promotion of human rights and democracy (Ibid.). From its earlier branding as an international pariah, the country was now assuming its new role as a growing middle power in the world (Schraeder2001:230). South Africa accounted for almost one third of Africa's total GDP (Sturman2004:3), and this new moral line was met with suspicion from the neighboring states and co-members of the South African Development Community (SADC). In fact Zimbawean President Mugabe rallied Angola and Namibia to isolate South Africa in the regional organization (Ibid.).

When Mbeki was chosen president of South Africa in 1999 he continued his predecessor Mandela's liberal politics in order to enhance South Africa's image internationally and thus increase international trade. This was a hard case to sell with some of his own party fellows in the ANC and also it was not popular outside the country that he openly criticized military governments as rouge states, as some of these had harbored the ANC during the Apartheid regime in South Africa (Tieku 2004:254). Both Mbeki and Mandela had realized that the future of post-Apartheid South Africa acting as an economic giant in inter-African politics was in a peaceful and stabile Africa (Francis 2006:27). Consequently Mbeki adjusted his strategy and instead called upon a "reconstruction of the African identity in order, first, to conclude the work of earlier Pan-Africanist movements and, second, to re-invent the African state to play its effective and rightful role on the global terrain. According to the South African Government, the African Renaissance is a 'holistic vision … aimed at promoting peace, prosperity, democracy, sustainable development, progressive leadership and good governance'" (Tieku2004:255). Mbeki cleverly

reintroduced the phrase 'African Renaissance' to serve as the conceptual framework of the new approach and thus took the position as the leader of this phrase that had been "the strengthening of democratic practices and economic liberalization throughout Africa since the fall of the Berlin wall in 1989" (Schraeder2001:233). This was an easier package to sell and far less provoking than the earlier open condemnation of non-democratic states and the aggressive liberal line that was first drawn up. The SADC was practically paralyzed in regards to political and security issues after the Mandela government had condemned the invasion of Angola, Namibia and Zimbabwe in the complex war of the Democratic Republic of Congo (Sturman2004:3). South Africa's expressed desire to become a permanent member of the UN Security Council (UNSC) did not seem to have a future in SADC after that (Sturman2004:5). It was within this context that Mbeki decided that reforming the OAU at his first appearance at the 1999 summit in Algiers, would be the best approach to achieve his goals (Tieku2004:255). He felt that the image of the OAU needed improvement and that the organisation might be strengthened by working actively to achieve the goals of the African Renaissance (Tieku2004:255). To influence the Assembly of Heads of State and Government, however he got help from president Obasanjo.

5.3 Obasanjo:

The road to the Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA) and also Obasanjo's role in Article 4 (h) in the Constitutive Act started at the Kampala Forum on Security, Stability, Development and Co-operation in Africa in Kampala, Uganda from the 19th day of May to the 22nd day of May 1991. This was obviously before the African Union was established, but the general principles of the proposed CSSDCA states amongst other things that 'The security, stability and development of every African country are inseparably linked with those of

other African countries' (OAU/AU Summit (a)). The declaration from the Kampala Conference recommends the heads of States and Governments in Africa to launch the CSSDCA (Ibid.), but the African Heads of State and Government meeting in the OAU rejected it at the 1991 Summit in Abuja, Nigeria. This was primarily due to the opposition of Libya's Muammar al-Ghaddafi, Sudan's Omar Hassan Ahmed el-Bashir and Kenya's Daniel Arap Moi (Tieku2004:258). Obasanjo had then been working on these ideas since an expert meeting in his own organization, the African Leadership Forum in collaboration with the Organization for Economic Co-operation and Development (OECD) in Paris 1990(Ibid.). The issue of CSSDCA disappeared from the OAU agenda as subsequent attempts from Obasanjo failed and his criticism of the government in his own country led to his imprisonment in 1995.

Nigeria had previously been involved in the peacekeeping operation in Liberia in 1990, when the Economic Community of West African States (ECOWAS) had made the unprecedented move of establishing a common peacekeeping force to help end the bloodshed of the civil war that was going on in Liberia (Human Rights Watch 1993). The force, known as the Economic Community Cease-Fire Monitoring Group (ECOMOG), comprised of a vast majority of Nigerians and justified its intervention with the argument that it was no longer an internal conflict "since thousands of their own nationals were trapped in Liberia and tens of thousands of refugees had fled to neighboring countries" (Ibid.). The intervention was not a complete success as the ECOMOG-force was said both to take sides in the conflict and failing to maintain the discipline of a peacekeeping force by e.g. not hitting civilian targets (Ibid., also Human Rights Watch 2003). The ECOWAS has nevertheless kept their initiative for peacekeeping in the region. In 1999 the organization changed its definition of security to involve humanitarian security (Ball & Fayemi2005:6.4.1). It has established a Mediation and Security Council that will deliberate on the level of Heads of State and Government as well as on the Ministerial and

Ambassadorial (Ibid.). "As stipulated in the Protocol, ECOMOG's tasks will entail: observation and monitoring; peacekeeping and restoration of peace; humanitarian intervention in support of humanitarian disaster; enforcement of sanctions including embargo; preventive deployment; peace-building, disarmament and demobilization; and policing activities"(Ibid). As mentioned, Nigeria took a considerable role in ECOWAS peacekeeping initiative. Although the OAU had given rhetorical support to the initiative on a number of occasions, the formal support seemed to be hindered by the non-intervention policy of the organization (Aning2000). The initiative was thus still kept on the regional level, leaving the financial, human and political costs to the ECOWAS states.

Due to the structure of the OAU it became imperative for Obasanjo to reform the organization; in particular he "wanted to reposition the OAU so that it would become the central institution for dealing with Africa's security, stability and development challenges" (Tieku2004:257). This seemed difficult within the limits of the present organization. Obasanjo's victory at the election in 1999 gave him an opportunity to re-introduce the document for the OAU. By now it was even more important for Obasanjo to get the Pan-African organization to assume responsibility for the security, stability and development of the continent. The peacekeeping operation in Liberia and Sierra Leone was revealed to be costing $ 1 million during the presidential election campaign. This aggregated so much displeasure among the public that a drastic reduction in Nigeria's involvement in Sierra Leone had become imperative for the new government (Tieku2004:259). Obasanjo's People's Democratic Party (PDP) was even more obligated to do something about this situation after Obasanjo declared, during the election campaign, that "it was unacceptable for Nigeria to waste money in Sierra Leone when those funds could be used to develop Nigeria" (Doyle 1999). The Obasanjo government created a new Ministry of Co-operation and Integration in Africa, whose work was supported by a new Peace and Conflict Resolution Institute, was mandated to develop a policy that

would help institutionalize the ideas of the CSSDCA within the OAU (Tieku2004:259). The idea was to enable the OAU "to take centre-stage in the resolution and management of domestic conflicts in Africa" (Ibid.). This was, of course, to ensure external help in regards to the Sierra Leone situation amongst others, and also to secure Nigeria's vanguard role in West Africa without having to be put in a similar situation in the future (Ibid.). PDP reasoned that through this action, "future African peacekeeping missions could also be borne by other relatively well endowed African countries" (Ibid.). It was against this background that Obasanjo went to the OAU summit in Algiers in July 1999.

5.4 Ghaddafi:

After a long period of volatile foreign politics towards the sub-Saharan Africa, Ghaddafi arrived at the OAU summit in Algiers in June, 1999 with an entourage of 200. His re-entry into African politics, after a longer period of promoting Libya as the "Greater Arab Homeland"[9], and the "base for the liberation of Palestine"(Ogunbadejo1986:34) has been the object of much speculation. What is clear is that it represented a definitive shift in Ghaddafi's foreign politics (Huliaras2001:11).

The foreign politics of Libya had not been unknown to interventionist behavior. Though not through any official declaration or multinational agreement, Ghaddafi had for many years been concerned with the internal affairs of others. Especially in the 70's and 80's, Libya was involved in the internal affairs of a number of African countries, supporting regimes Ghaddafi approved of or aiding liberation or opposition movements (Huliaras2001: 6). The involvement in sub-Saharan Africa was "…directed towards liberating

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[9] The name of the Libyan state-owned radio was for three decades known as the "Voice of the Greater Arab Homeland", but was renamed the "Voice of Africa" in 1998 (Huliaras2001:10).

African countries under colonial or apartheid regimes, isolating Israel and propoganding Islam"(Huliaras2001: 6). Hence Ghaddafi supported numerous African independence movements (in Angola, Guinea-Bissau, Mozambique and Zimbabwe) and offered significant economic and military support to states that were willing to cut ties with Israel (Huliaras2001: 6). The intervention in Chad is by far the most significant external involvement Libya has ever had[10] (Huliaras2001: 6). For many years Ghaddafi had been looking to the Arab world for mutual co-operation, unity and support. This is visible in his vital efforts to build an alliance with Egypt and Somalia from his proposals of forming federations with both in his early years in office, through multiple different involvements in supporting opposition groups and employing diplomatic pressure in many years to come (Ogunbadejo1986: 34-42). These attempts failed miserably however, and led to hostility between the USA friendly governments of Egypt and Sudan, and Libya. Libya's support of opposition groups and plots against both state leaders of Egypt and Sudan caused them to state that Ghaddafi was a "vicious criminal, 100 per cent sick and possessed by the demon" and a "split personality – both evil", respectively (Ogunbadejo1986: 35). The Chad conflict proved to make Ghaddafi even more unpopular amongst the western governments involved, herein France and the USA, who both was compelled to send considerable forces to aid the Habré government in Chad[11](Ogunbadejo1986: 44-45). Furthermore the Lockerbie

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[10] This happened after Libya's leader Ghaddafi sent armed forces into the country to support the current leader of the state capitol of Chad, Goukhouni Ouddei. Ouddei and Ghaddafi had agreed on an alliance to put Chad in a political union with Libya, but due to civil war inside Chad Ghaddafi deployed forces to ensure the victory of his ally. The neighboring states saw this as a problem and a potential threat to regional stability and pleaded the OAU to act on the matter. This led to an agreement where Libyan forces would withdraw and be replaced by a peacekeeping force from the OAU. Ouddei accepted this as he was still leading the fraction that controlled the state capitol, and thus the leader of the legitimate government as far as OAU policy was concerned. However, when the planned negotiations broke down as a result of Ouddei's refusal to accept his main adversary as an equal opponent, fights broke back out. The peacekeeping force of the OAU kept neutral through these fights and Ouddei was forced to surrender the capitol to the other rebel army. When the OAU found itself in a country that was no longer invaded by Libyan forces and with a new government in place, it also found their reason to stay seized to exist. The proposal of a political union with Libya was gone and the territorial boundaries would remain. This made it easy for the OAU to return to their original strategy; to recognize the party who controlled the capitol at any given time as the legitimate government (Bøås & Dokken2002:86).

[11] For a more detailed description of the USA and French involvement in the conflict, read Oye Ogunbadejo "Qaddafi and Africa's International Relations" (1986). See Table of Authorities for details.

bombing[12] incident where Libyan officials were accused of international terrorism culminated in to Security Council sanctions (United Nations Security Council) and worsened Libya's face towards the western world and the USA in particular, whom have maintained unilateral sanctions towards Libya (U.S. Department of State 2007).

During his many years of struggling with UN-sanctions and unilateral sanctions from the USA, Libya never got any significant support from the Arab community (Huliaras2001:12). From the sub-Saharan Africa and the OAU, however, he got support both through actively breaking the no-flight-sanctions[13] and also at the 33rd OAU annual summit in 1997, Harare, Zimbabwe, where the African leaders noted the "These obnoxious sanctions affect not only the Libyan people, but also the neighboring countries as well as the African workers from other countries from the continent" (Ibid.). The support from black Africa was evident and reaffirmed at the fifth Extraordinary Session of the Assembly of Heads of State and Government of the OAU where the session added resolutions addressing the Lockerbie Issue (EAHG/Dec. 3(V)) and a "Special Motion of Thanks to the leader of the Great Socialist Libyan Jamahiriya Brother Muammar Al Ghaddafi"(OAU/AU Summit (b)).

It being evident that two of the most significant African leaders were aiming to reform the OAU, Ghaddafi quickly invited the African leaders to Sirte, Libya for an extraordinary summit from 6 to 9 September in 1999 in order to 'discuss ways and means of making the OAU effective' (Tieku2004:260). But Ghaddafi also had his own reasons for inviting to this summit. The Libyan leader had been in the "vanguard for the creation of an African Union as a concrete manifestation for the political willingness to unite Africa in the post-Cold War

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[12] On 21 December 1988 a bomb destroyed Pan Am flight 103. The remains landed in and around the Scottish town of Lockerbie.

[13] In July 1998 the acting chairman of the OAU, the President of Burkina Faso flew to Libya, thus breaching the air embargo. In the autumn of 1998, several othe African leaders followed his example by arriving Tripoli by air. These included the heads of state of Niger, Chad, Mali, the Central African Republic, Eritrea, Uganda, Gambia and Zimbabwe (Huliaras2001:13).

era" (Francis2006:25). Not only did this present an opportunity for him "to take credit for the re-launch of continental integration initiatives in Africa" (Tieku2004:261). He also wanted to state his return to African geopolitics and his commitment to black Africa (sub-Sahara). This is the context to which Ghaddafi announced in public media that he was inviting the African leaders to an extraordinary summit to create a 'United States of Africa' (Tieku2004:261).

5.5 Surroundings

The creation of Article 4 (h) in the constitutive act of the AU is by no means the first mention of intervention in the history of international relations. Though it is historical in it being the first international treaty to recognize the right to intervene on the basis of a humanitarian purpose (Baimu & Sturman 2003:40). However, the idea of intervention, to defy the sanctity of sovereignty has been much debated and also executed prior to this. "The creation of havens in Kurdistan in 1991 was a watershed indicating the extent to which sovereignty was under siege" (Chopra & Weiss 1995:89). The operation came after a Security Council Resolution (688) which insisted "that Iraq allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq and to make available all necessary facilities for their operations" (UN Resolution (i)). Though Cuba, Yemen and Zimbabwe voted against the measure and China and India abstained, it still had an effect in putting humanitarianism on the international agenda, battling the concept of sovereignty (Chopra & Weiss 1995:89).

Since the UN Charter of 1945 the concept of sovereignty has been formalized for all its members. Article 2 (1) states that all members are sovereign equals and that neither circumstance nor anything in the Charter shall permit the organization to intervene in any member state (Article 2 (7)). The Article also demands that no member stat shall be permitted to use force or the threat of

force in their international relations, but settle their international disputes in such a manner that international peace and security, and justice, are not endangered (Article 2 (3-4)). This sets the standard of conducting international relations through the organization and in the spirit of the principle of state sovereignty. The need to codify and specify the circumstances under which interference in domestic affairs from any outside agent was considered against the potential risk of abuse from states of such a definition and left out[14] (Chopra & Weiss 1995: 92). Bound from the charter however, the UN and the world did recognize the need for some form of humanitarian intervention. In December 1988 the General Assembly adopted Resolution 43/131, which formally recognized civilians rights to international aid and the role of NGOs in the event of disasters, man-made or natural (UN Resolution (ii)). In 1990 these rights were reaffirmed by General Assembly Resolution 45/100 (UN Resolution (iii)). And, as Chopra and Weiss (1995:95) puts it: "with the passage of Security Council Resolution 688 four months later, the issue of humanitarian interventions was thrust squarely onto the international political stage when the acute needs of 1, 5 million Kurds were interpreted as a threat to international peace and security". Put in other words: The internal affairs of one sovereign state were considered to be of a nature such that it was a threat to international security. This trend followed with the expanding role of the United Nations. This included election monitoring, promoting of human rights and humanitarian affairs. These tasks had formerly been considered to be beyond the competence of the Security Council, but were now included in the first summit of 1992 (Chopra & Weiss 1995:95). The same year UN troops were deployed in Yugoslavia and Cambodia, and the use of force to deliver humanitarian assistance in Bosnia (Resolution 776) and Somalia (Resolution 794) were authorized by the Security Council. This was of course never in conflict with Article 2 in the Charter. There were never any talks about leaving the concept of sovereignty, but these tendencies showed will to reflect on the way the international society was built.

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[14] For a discussion of the legal debate on this subject see Chopra & Weiss (1995).

The Organization of African Unity was also involved in this and the Chairman of the OAU spoke at the forty-seventh regular session of the General Assembly to this effect. The OAU had previously always followed the principles of non-interference in domestic affairs, respect of territorial boundaries and state sovereignty. This had been, as have been discussed, the way for the OAU to maintain stability between the states on the continent. One of the most important instruments to achieve this was that the OAU accepted who ever was in control of the states capitol as the legitimate government (Clapham 1996: 112). There are two exceptions to this, prior to the abovementioned cases. The first one was the invitation of the new Democratic Arab Republic of Sahrawi in 1980, which led Morocco to leave the organization three years later in protest (Bøås & Dokken 2002: 85). The other exception was in regards to Chad where the OAU actually intervened in the state due to extreme domestic disturbances. The OAU did little other than show will to act and thus creating room for negotiations (Ibid: 86). The OAU force never participated in battle, but stood by and watched as one of the rebel armies triumphed over the other and did not outgrow its stay after one leader safely commanded the state capitol (Ibid.). As this example shows, the international relations on the African continent have been mainly focused on keeping the stability *between* the states. Even the intervention in Somalia through Resolution 794 was stated in the resolution to be of "unique character […], deteriorating, complex and extraordinary nature, requiring an immediate and exceptional response" (UN Resolution (iv)). Being extreme or not, this intervention was initiated and organized through the UN, and as the example above shows, the policy of the OAU was mainly focused on maintaining the *inter* state stability that the non-intervention system provided. The rest of the world however has not made these situations remain unique, and this was not the last time interventions were made with international consensus and for the sake of humanitarianism. Indeed the report "The Responsibility to Protect" put forward by the International Commission on Intervention and State Sovereignty in 2001 deliberates over the issue of "the

so-called "right of humanitarian intervention": the question of when, if ever, it is appropriate for states to take coercive – and in particular military – action, against another state for the purpose of protecting people at risk in that other state"(Evans &Sahnoun2001:VII). The Report suggests some core principles in regards to the concept of sovereignty and also principles of military intervention. Suffice to mention here are the basic principles of sovereignty: "A. State sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself.

B. Where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect"(Evans &Sahnoun2001:XI). The report debates this issue and does also make recommendations as to how the international community should respond to such situations as mentioned under "B" above and to what responsibility and under what authority it deems it appropriate and necessary to break the principle of non-intervention. The report stands as further testimony that humanitarianism is now on the international agenda, "battling the concept of sovereignty" (Chopra & Weiss1995:89).

5.6 Summary

This chapter has presented the actual events that took place in relation to the creation of article 4 (h). There has been made a selection of three main actors and these have been described along with their surrounding circumstances. Also the general surroundings relevant to this kind of politics in the world have been addressed. It was emphasized that the three actors described above had their own individual agenda, both for the continental organization, but also for their own state. There does also seem to be some evidence of a norm in the international society when it comes to intervention in the name of humanitarianism from the discussion above. This together should deliver what

the operationalization asks for. We now have the facts to check and the tools to check them with. What remains is to put them together.

6. Analysis

This chapter will check the criteria listed in the theory against the information above. To do this should render us with an understanding of how much these theories actually can explain of the case at hand. This will thus be somewhat of a theory-testing chapter. The chapter will use the criteria listed in the operationalization earlier and the events described in the previous chapter to see what is a better fit. From here it should be possible to analyze which of the presented theories offers the better explanation for this decision. The chapter will go through each one of the three hypotheses, each in its own segregated part.

6.1 The Realist Criteria – Were they met?

This part of the analysis will go through the main actors actions and measure them with the criteria listed in the description of the hypothesis, based on the presentation of realism in chapter 4.2. As realism is an actor based theory, I find it natural to structure the analysis in such a manner that I deal with each actor according to the theory. The end of this part will sum up my considerations up in a brief conclusion, before moving on to the next part, which will be the next hypothesis. The hypothesis for this part is:

H1: Article 4 (h) was adapted to accommodate the main actors goals, but will not be upheld at the expense of their interests.

6.1.1 South Africa:

Even though the Mbeki government has stated its commitment to the AU and the pan-African vision on several occasions (e.g. Mbeki, Feb 3. 2003, Mbeki,

Sept. 16 2004), this does not give reason to believe that the government does not calculate its decisions and moves strategically with its own interests in mind. Though realists believe that the world is anarchy and the strongest state will prevail, it also sees the value of positioning in accordance with the environment if one is not in the position of hegemony. As chapter 5 has shown the Mbeki government adjusted its strategy towards its neighbors. This was a strategic move. Not only did South Africa gain a political calm where there had been rattling, but it also managed to persuade the African community that it would use its position as a regional giant to invest in the continent and contribute to peace and development (Schraeder 2001:230). "[I]t is objectively in the interest of all Africans to encourage the realization of these goals throughout our Continent, at the same time as we pursue their attainment in each of our countries" (Mbeki, Oct. 11. 1999). It is not difficult to take South Africa's change in foreign policy in account for a rational actor argument. The first liberal strategy was not well received by its neighbors. The Zimbabwean initiative to isolate South Africa in the SADC clearly shows that South Africa was conceived as a regional threat. To keep the solo strategy would have been difficult. Mbeki also realized that with unstable neighbors it would be difficult to maintain a profile as a serious business partner for foreign investors. A long-term plan to stabilize Africa and especially the region around South Africa may therefore have seemed like a good idea for the state.

The investments put in to this was not necessarily solely intended to be of good will or idealism. It also provided South Africa with a good opportunity to gain a reputation as an international actor with diplomatic capabilities and ambitions to be counted on by the international community. Such a reputation is worth a great deal in future prospects of investments in the state, but also opens up for possibilities of great influence in other areas. The noted interest in a permanent seat in the UNSC in one such occasion. Even though South Africa must have expected that a large part of the economic burden would lay with them, there was still a potential of greater outcome to be expected in the future. There

should therefore be reason to believe that South Africa acted as a unitary rational actor when it decided that it would play an active role in expanding the continental organization. There are, however, in the mind of a realist, other benefits from this behavior that supports the hypothesis. Settling the dispute with its neighbors would give South Africa the peace it wanted in the region. This strongly supports the motivation of security. Although South Africa may never actually have been at the verge of war with its neighbors it is important to remain friendly with its closest in a security dilemma. No one wants an enemy brewing next door. In a clever move South Africa has maintained its position as a regional giant, positioned it self central in the continental organization an at the same time abstain from criticizing and thus making enemies inside the region. It has made it a non-conflict situation, as far as such is possible. Though all of this seems to be in perfect order, a strategic vision to life, it is almost as Article 4 (h) fits in as a fail-safe in South Africa's plan. Through exhibiting the state in a diplomatic, pro-development, democratic light, it should have nothing to fear by "giving up" sovereignty. There is little or no risk for the South African government to surrender the right to deny the AU free entry in to domestic affairs. Not in Africa where "South Africa is without question the leading power on the […] continent"(Schraeder 2001: 230), and not while South Africa prevails as one of the stabile and profitable states (ibid).

6.1.2 Nigeria:

These strategic considerations are not inconspicuous when we look at the other actors from the same perspective. Nigeria had for a long time been bleeding financially through their support in their neighboring states (Doyle 1999). This was a tense issue in the domestic arena and change was imperative for Obasanjo in order to claim both legitimacy and sincerity as he had made this a strong argument in the electoral campaign (ibid). This is perhaps the first area where it seems almost obvious from a realist point of view to want Article 4

(h). The long standing battle from Obasanjo to get recognition for his project of the CSSDCA shows that he had realized that West Africa's need for external influence or aid to stabilize it self was important. The great Nigerian initiatives through ECOWAS and ECOMOG are further confirmation of Nigeria's commitment to regional stability (Bøås & Dokken 2002: 101). The motivation for this initiative was highly motivated by security. Bøås & Dokken (ibid) claim that the background for the ECOMOG initiative in Liberia was motivated by the Nigerian governments desire to keep the Liberian president Samuel Doe in power. Nigeria wanted to keep Doe in power as a regional ally and also because this would put the Liberian government in Nigeria's debt (ibid). Even though this failed it serves as an example of how interstate cooperation could have realist motives. ECOMOG has been dominated by Nigeria, with the supreme commander being Nigerian from 1990 until at least 2002(Bøåa & Dokken 2002:102). That this had direct consequences for Nigeria, at least in the eyes of Obasanjo, becomes evident through his explicit campaign statement that Nigeria could no longer spend substantial means carrying the peace project of its neighbors (Tieku 2004:259).

This fact also goes in to account for the point of wealth that is central to realists. Where Obasanjo claims that Nigerian money should be used in the best interest of the Nigerian people (Doyle 1999), he speaks right in to the heart of the realists. This is also exactly where the change in interventionism comes in. With a strong mandate to intervene in states the AU has the opportunity to actively participate in the development of peace and democracy in Africa. To the state of Nigeria, that need not worry any more about peace and democracy in their neighborhood outside the fact that it will make the region more stabile and thus increase their security (Bøås & Dokken 2002:103), this is a golden chance to lay the responsibility of keeping stability over to the AU. This will have to be a long-term perspective, as the AU is not well funded, but it is not difficult to see how a rational unitary actor will calculate this to be a profitable investment. As the CSSDCA was a Nigerian initiative and was made a part of

the Constitutive Act, this provides Nigeria with international and, more important, continental credibility (Tieku 2004:262). Nigeria, as one of the initiators, can thus expect to be a party to be recognized and included in major decision-making processes. This is influence and influence increases power. The Nigerian rational to ratify Article 4 (h) can thus easily be summed up as one states quest to increase security, power and wealth. Realism has no problems explaining this event.

6.1.3 Libya:

Muammar al-Ghaddafi has been searching for reliable allies for a long time, during which he has made some impressive u-turns, re-building bridges some would have expected to be burned and long gone (Huliaras 2001:10-11). Considering Libya as a rouge state has not been a controversial statement in the past (BBC 2001). With sanctions from the UN and the USA, Libya has been looking around to make friends with its enemy's enemies. Proposing marriage to the Arab world demanded a cold shoulder to "Black Africa", but when this turned out to be a failure Ghaddafi made a 180° turn and opened his arms to the African identity again (Huliaras 2001: 5).

To claim these shifts in alliances to be strategic is hardly a bold statement. As chapter 5 describes, the Libyan foreign policy has been dominated by a wish to increase power and security. When the African leaders showed will to ignore the international sanctions imposed on Libya, the state was not reluctant to turn over its stated ideology and kinship with the Arab community, and welcome the African support. Ghaddafi even "pronounced that the 'Arab world is finished' and declared Africans and not Arabs as Libya's real supporters" (Huliaras 2001:11). Libya even went as far as suggesting the idea of the United States of Africa, which was a plan consisting of far more than surrendering of sovereignty rights (Tieku 2004:261). Though the stated goal of this plan was indeed to help Africa rise and claim its position in the world, it is not easy to

ignore the obvious advantages that lay in the suggestion for Libya. With Ghaddafi's hopes of becoming the president of this federation that would give him control of a joined force and a common foreign politics, he would indeed have found him self a solid ground to stand on and a much more powerful place from which to be firm and unafraid of the international community. In doing so he would have gained a relative increase in the state's power, security and wealth. Though this ambitious plan did not get to see the light of day, Ghaddafi still had a good strategic reason to commit himself to the African continental politics (ibid: 262). After the African leaders had proven commitment to Libya as an African state by ignoring the international flight prohibition, Libya had every interest in grooming its allies (Huliaras 2001:13).

Though little evidence suggest that article 4 (h) was a goal in it self in the Libyan plan to make Africa more integrated with Libya, it should be seen as a bi-product and at that one that did not go by unnoticed. Libya must have fully expected something like article 4 (h) when it joined the lobbying for a reformed continental organization. Though the United States of Africa had a much more committing and severe consequence for the sovereignty of the African states, the Libyan leader was expecting to be the leader of this federation. Disappointment and skepticism of surrendering sovereignty without expanding power is evident by the proposed and ratified amendment to the Act (Tieku 2004: 262-263). By amending the phrase "threat to legitimate order" Muammar Ghaddafi could have made a loophole for governments in somewhat exposed positions. The theory that the Libyan government had no intention in allowing the AU to intervene uninvited to intrude in domestic business in Libya does seem to be strengthened. Of course the actual effect of the amendment is not really interesting in relation to the hypothesis. But what is interesting is that it inserts a theoretic possibility for the states governments to make certain reservations in what they will allow from the public and feel legitimate to strike down upon without risking that the AU intervenes. Or rather, it gives the state leaders, who are the people's representatives in the AU a theoretic possibility

to cooperate to ensure that the "legitimate order" in states is never threatened. It would seem plausible to claim that Libya's goals, though not fully accommodated, were represented through the creation of Article 4 (h) and its amendments.

6.1.4 Summary – the realist hypothesis:

So, was the article created to accommodate the main actors? Looking at their behavior and their intentions leads us to believe that this is so. That the three main actors in the initiative to reform the OAU initiated processes that, though they may not have had a specific idea that that was how the document would look in the end, led to this significant change in interstate politics in Africa, seems to be a statement it is easy to get behind. The main criterion of realisms view of states behavior seems to have been met by every actor. All three states have specific rational reasons for making the commitment to the new AU stronger and they all behave strategic. What need to be mentioned, however is that not all of the actors met their goals. In fact Ghaddafi does not seem to be much better of, with the exception of having tied his allies closer to him. From a realist point of view this may even seem as a Phyrric victory. Though the initial motivation can be credited to a realist train of thought, the strategy was a very risky one if the main goal was not to tie the state closer to the African Union. Sovereignty is a very expensive price to pay. It is not necessarily a relative increase in power for Libya. On the other hand, Libya was not the strongest party in the negotiations. The Southern and Westerns "giants" both represented greater powers. In this respect realists would be right in their claim that the stronger states prevail. "The most powerful states in the system create and shape institutions so that they can maintain their share of world power, or even increase it"(Mearsheimer 1995:13). However, since realists does not have great faith in the influence of institutions, but see them as "an intervening variable"(ibid), states is not expected to follow the resolutions of an institution if it does not suit the state at the moment. Such an argument further increases

the explanation force of the realist hypothesis. H1 is thus a highly plausible explanation for the decision of ratifying Article 4 (h).

6.2 The Liberal Institutionalist Explanans

In this part of the analysis I will proceed with analyzing the actions of the main actors, only this time through the oculars of liberal institutionalism. I will, as in the previous part, focus on the presented theory above and the criteria in relation to H2. Since the previous part focused on the actors and was structured accordingly, I find it more useful to structure this part differently in order to enhance the differences between the two theories, although they are both actor-based theories. In doing so I believe that the analysis gains quality, both for the reader, but more importantly it becomes clearer why these two hypotheses does not rest on the same presumptions. The hypothesis for this part is:

H2: The main actors found enough common ground, goals and interests that they introduced a policy of intervention.

6.2.1 Searching for common ground

Article 4 (h) represents a major leap of faith. It is, as discussed earlier, actually asking of each state that ratifies it to surrender one of the most basic concepts that constitute a modern state: the sovereign right to rule within domestic boundaries. In order for states to make this commitment there should be some reward at the end of the road. When the three major actors behind the initiative to reform the OAU launched their initiatives each of them had ideas that implied further integration. The African Renaissance, the CSSDCA and the United States of Africa were projects that urged to greater integration with the argument that it would benefit all to work together. Obasanjo's long time

struggle to get the importance of cooperation on security and development through to the leaders of the OAU clearly states that he believes in cooperation. That it also benefits Nigeria does not belittle the possibility that the wish to cooperate is a sincere one. It is actually something that can easily be used as an argument to support this theory. To promote an idea on the grounds that it will benefit one self as much as the next does not necessarily take away credibility from the project. Some might even say that it adds honesty to the argument. Nigeria has also, through many years of inserting money and means in to efforts to stabilize its neighbors in domestic disturbances, showed a will and a desire to join in a common project (Bøås & Dokken 2002: 101). However the motivation for this, as discussed above, Nigeria has been taking initiative in organizing and working in institutions.

When president Mbeki of South Africa reintroduced the African Renaissance-project, he aimed at continuing the work of earlier pan-Africanist movement. This project is a 'holistic vision … aimed at promoting peace, prosperity, democracy, sustainable development, progressive leadership and good governance' (Tieku 2004:255). The rhetoric is thus not so different from that of the CSSDCA. That the South African government and the Nigerian government had some goals in common seems clear. They also both seem to be interested in cooperating in order to achieve this. As is mentioned earlier, South Africa's rise from apartheid and back in to international politics was conceived, by some, as a potential threat (Sturman 2004:3). The alienation that the liberal economic line, but also the criticizing of undemocratic governments, created in relation to the other African states did not seem to be a popular idea (Tieku 2004:254). To improve bilateral interests with its immediate neighbors, a shift was needed. It was, however, important to maintain and develop an interest for foreign investors, thus it would be important to look serious and stabile, also with concern to the immediate environment. In other words it is a good incentive to contribute to the development and stabilization of other African states. South Africa would also be a natural candidate for a significant

role in the AU. As a regional economic giant to be reckoned with the state could be pretty sure that it would not just be one vote in a lot of others (Schraeder 2001: 230). There was thus little to fear for South Africa when committing to the article, that such power would be abused to its disadvantage. In fact the pay-offs may have seemed to be greater from the possibilities of cooperating than from those of maintaining the status quo.

Libya had god reasons to commit to the African community as well. The Libyan experience of African leaders allegiance was that it was first and foremost African. Though Libya had been trying to approach an Arab community, but after failed attempts to get the other Arab states to oppose the sanctions from the USA had given up, Africa was prepared to welcome the state back and showed it. Libya answered by turning around and embracing "Black Africa". Ghaddafi called for Africa to unite and stet that "It is time to unite the African continent and work for development" (Arabic News 1999). There is no question about whether Ghaddafi had been searching for allies for some time. That he seized this opportunity and made attempts to make it as solid as possible is therefore not surprising. With his proposals for a joint foreign policy and one "single 'African Army' with a single joint command staff to secure peace and stability, avert the outbreak of any internal armed dispute and to safeguard the sovereignty, security and safety of the Union"(Cilliers 2003), it seems obvious that there were common ground. Libya would want somewhere strong to depend on and to lean on. In such matters Libya should be eager in making the AU as strong as possible.

6.2.2 Protecting interests while abandoning sovereignty?

Though the states in no way are dissolving their formal sovereignty, it is a big step in the direction of abandoning power over how one is governing a state. The only state leader of the three that seems to be clearly concerned about this is Libya. The amendment to the Act that was proposed by Libya and ratified by

the AU is very different from the remaining text of the original Article 4 (h). It draws attention from the obvious intention of protecting the citizens from atrocities either from its own government or where the national government fails to provide such protection. The amendment focuses on the event of a hostile takeover of a state or a coup d'état. This is not to say that it demolishes the force of the article, or takes the theoretical capability out of the AU, but it does prepare the AU to potentially intervene on the government's side in a conflict. With the bad reputation the OAU suffered under as a "dictators' club", one has to wonder what kind of decision the AU would make in the event of a democratic movement making a stand against an autocratic ruler (Francis 2006:28). Though democratic progress is an explicit goal for the AU, internal unions between state leaders may come to weigh heavy in the event of a potential intervention. In the relation to specifically protecting their interests, Libya seems to be the only state that is explicitly concerned with this.

This does however not mean that South Africa and Nigeria is oblivious to the fact that they are allowing a larger authority to command the destiny of their borders sanctity. As mentioned above they have great benefits to expect from this. "The move to create the AU was not initiated only by Mbeki; the very idea of the AU is at the core of the attempts of South Africa's ruling African National Congress (ANC) to improve the image of Africa in order to attract foreign investment and make the new South Africa an important global trading nation"(Tieku 2004:253). In other words: South Africa is protecting its own interests in the very creation of the union. Protecting their own interests may be exactly what they are doing, only within the forms of the organization.

Nigeria has for many years participated in regional security politics (Bøås & Dokken2002: 101-105). The desire to contribute to peace in its neighboring states may have sprung from a self-enhancing motivation (ibid: 101). Nevertheless Nigeria has been taking regional responsibility and Obasanjo has personally been involved in the development of the CSSDCA (Tieku 2004:

258). This initiative calls on African leaders to redefine of the concept of security to involve "both a human security issue and as an interdependent phenomenon" (ibid: 256). On the human security issue the CSSDCA states that '[t]he concept of security must embrace all aspects of society ...[and that the] security of a nation must be based on the security of the life of the individual citizens to live in peace and to satisfy basic needs', while "[a]s an interdependent phenomenon, it urged African leaders to see the security of their states 'as inseparably linked to that of other African countries'"(Ibid.:256). That Obasanjo was committed to cooperation as the best possible means to this end seems obvious. Bearing in mind that Nigeria was effectively spending 1 million US dollars a day on the peacekeeping mission of ECOMOG in Sierra Leone (Ibid: 259), puts great incentives for Nigeria's state interests to divide this burden. Nigeria has some experience with regional cooperation for its own wellbeing (Bøås & Dokken 2002:101). This might not be any different.

6.2.3 Summary – the liberal institutionalist hypothesis

This theory offers some interesting perspectives to the analysis that realism holds as unlikely. H2 suggest that the main actors actually has a sincere wish to cooperate and to create an organization that will work effectively, such that their interests is best fulfilled. This seems evident in the actions of Obasanjo and Mbeki. They both had opted for a more including and committing cooperation and both for their own reasons. In short; South Africa wanted the AU to be stronger in order to stabilize the continent and thus induce investors to engage in commerce with the African states; The African Renaissance, while Nigeria needed help with peacekeeping missions in their region and wanted cooperation on development and security: the CSSDCA. To both these states, these expected benefits were great in value. Where this argument would not hold in a realist paradigm, it stands firm within the realm of liberal institutionalism, because of the emphasis on absolute gains. Where realists

would claim that an actual commitment to a continental organization with autonomy to intervene would be impossible in a security dilemma, liberal institutionalists may respond that the security dilemma is of minor importance just *because* of the continental organization with autonomy to intervene. The article in question makes the security dilemma a minor issue, if there is trust in the organization. Libya may not be gaining anything by this article per se. The plan of a United States of Africa proved to grandiose for the General Assembly. Nevertheless it stands little to lose and everything to gain from strengthening its alliances. If the AU grows strong and Libya is on board as a major actor, that increases Libya's power in the world. And Libya is on board as one of the major actors. In terms of absolute gains, it seems as though all the main actors has reason to expect an increase. We have also seen that all of the three main actors had incentives for increased cooperation and that this correlated with the goal of enhancing the states own interests. If such is the case, then H2 makes a strong case of explaining the research question.

6.3 The Constructivists – are they just semantic truoblemakers?

The theory in this part of the analysis is a structure based theory and this part will be structured as such. The emphasis is whether or not the criteria pointed out in the discussion of the hypothesis are met and, as with the two previous parts a brief summary and conclusion will follow at the end. The hypothesis for this part is:

H3: The AU was socialized by a general international trend to abandon its hard and fast line of non-intervention.

6.3.1 A trend in the world

That there has been a trend towards re-defining the importance of sovereign borders internationally is illustrated in chapter 5. The UN has, though not removing its articles on the sovereign rights of states in its charter ratified several resolutions of interventions in different states for humanitarian purposes. Humanitarian intervention has become a phrase in international politics and the criteria for such has been developed and expanded on occasion depending on the situation and its demands (Evans & Sahnoun 2001:2). That Africa should follow this trend should not be unnatural. Though state sovereignty in Africa has a somewhat different origin than the rest of the world, and especially the western world, the trend that has been established is highly relevant for the continent. The willingness to do so however demands a greater political leap in Africa in general than in for instance Europe. As I establish earlier in this paper the state sovereignty in Africa serves a different purpose in addition to the usual one that one might be more accustomed to when dealing with traditional nation-states. It has been an important instrument in stabilizing the state system on the continent, and not so much as a prevention of invasion from outside hostility and protection of self-determination. To commit to a trend that has not been established formally in any document would be a radical move, perhaps even more so because the norm of state sovereignty has been so strong in the OAU. But why has the norm been so strong in Africa? It has not been this papers mission to reveal the reasons for the quick adaptation of the established state system the western powers left behind, but is this not also learning of sorts? It would seem that the African state system of non-intervention and rigid focus on state sovereignty has been an inheritance of the colonists. Though the reasons for keeping the system may have been for stabilizing interstate relations, opportunistic despotic leaders want for power or merely for practical administration, the system was not an African invention. To a continent that has been built up on states without nationality, the pan-African plan may be a good alternative, as good as any:

The trend in the world being a guiding arrow to point the way. Chapter 5.5 describes a trend in the world that challenges the traditional way of looking at state sovereignty. The African Union has made an unprecedented resolution to allow an interstate organization to have autonomous powers of intervention.

6.3.2 The trend becomes the norm

That the main actors of the creation of the AU have been behaving in accordance to the aforementioned trend is as difficult to deny, as it is to verify. Nigeria has been involved in peacekeeping missions and been greatly concerned with cooperation and development beyond its borders for some time, especially through ECOWAS/ECOMOG. The motivation for this may be security, power, wealth or all of it. It is difficult to say, as actions can be taken into account for different motivations easily. There is no problem stating that the Nigerian plan of intervening with its neighbor's politics has been to ease things domestically. That this is something a realist would do. However it might as well be for benign reasons to help people in need. It may be both. Acting on a notion of shared understandings does not automatically imply being ethically good intended (Finnemore 1996:6). Aiding an unstable state with armed forces and money is nevertheless within the trend of intervention. Though there is not an international resolution behind it, the means of aid is within the same concept. To actively help a country that struggles internally without yielding to the concept of state sovereignty. If the state's motivation is not its relative power measured with other states or the security situation around its own borders, but rather something else, like humanitarianism, then the trend described in Chapter 5 is actively socializing states in position to act. If this is the case, then the Nigerian effort in the neighbor states, the struggle to get recognition for the CSSDCA and the reform of the AU is all a socializing process that states derive their preferences from. It goes further with the South African initiative to bring not just the southern African region or its own state in to the international community but the entire continent with the pan-African

plan. The desire to raise Africa as a continent, to "re-invent the African state to play its effective and rightful role on the global terrain" (Tieku 2004: 255) shows a will that goes beyond a state-centric frame of mind.

The complete turnover would be Libya that has had an absolute state-centric way of thought and now is ready to commit fully to the AU and the idea of cooperation for the common good before anything.

6.3.3 Active teachers or self-taught states

The signs of Africa behaving in a manner that is in accordance with the rest of the world is not absent. The question remains: Is there a "teacher" in this situation? This question is not easy to answer. An obvious place to look would be the UN. The before mentioned resolutions could be seen as a norm-giving initiative of sorts, though it does not imply that other organizations take this upon them self to enforce. In fact the UN record of upholding the force behind words of promise in situations such as these is blemished with some ugly failures over the years. The situations of Rwanda, Kosovo, Bosnia and Somalia "occurred at a time when there were heightened expectations for effective collective action [and] have had a profound effect on how the problem of intervention is viewed, analyzed and characterized" (Evans &Sahnoun 2001:1). These four situations were all different situations where the UN for different reasons failed either to make a decision on how to act, or failed to answer to the tasks they had set forward to do. As it is put in the "Responsibility to Protect"-report: "It raises the principle that intervention amounts to a promise to people in need: a promise cruelly betrayed"(ibid: 1). This could point in the direction of not a "teacher" situation, but rather a "learning" process. "To the extent [the] states are taught, they are self-taught"(Finnemore 1996:12). This means that unlike the expectations in the theory presented by Finnemore, the "problem" is not identified by an active teacher, but the "solution" is suggested in the before mentioned trend and the state leaders that came together to create the AU

"learned" from it. What they then might have learned from cases such as Somalia and Rwanda, where the UN involvement have been less successful or a complete failure, is that "for all the rhetoric about the universality of human rights, some human lives end up mattering a great deal less to the international community than others (Evans &Sahnoun 2001:1). This may have been part of a reason for African decision makers to give authority to act on such incidents to an all-African organ: An African solution to an African problem (Fomunyoh 2005). Though such initiatives as the ECOMOG had had various degrees of success in the past (Human Rights Watch 1993 & 2003), there is no necessity in this pathology being inherited to the next. If this stands, then the active teacher that Finnemore describes in her cases is non-existent in this case. The implication of which will be a weakening of the claim that the AU was "taught" the necessity of a policy of non-intervention. The claim that the AU was *socialized* however seems to fit regardless of the teaching/learning difference.

6.3.4 Summary – the Constructivist hypothesis

It cannot be completely falsified that the actions of the decision makers of the states in the AU could be the result of learning that seems to stem of this growing trend in the international society. Neither can it be completely verified. It is evident that Article 4 (h) of the Constitutional Act represent a change in inter state policy for the African state leaders. That their interests have changed seems to be confirmed by this fact. As the theory claims and as is also specified in chapter 4, there are certain things to look for in order to determine whether H3 should be given any significance in explaining this phenomenon. The first, and perhaps the most important one is the fundamental difference from the two other theories employed here: That states can alter their interests based on how commonly shared norms and values change in the international society. The empirics seem to support the claim that such a change of norms and values indeed has taken place. Chapter 5.5 describes a

world where the concept of state sovereignty is clearly under review. As we have seen through this paper, this concept has been especially strong on the African continent and in fact embedded by ratification in the former continental organization; the OAU. The norm of humanitarian intervention is now mandated the AU through the Constitutional Act and it is difficult to ignore the arguments of Martha Finnemore's constructivism that will have us believe that this is interconnected with the rest of the international community's efforts in the same direction. That the AU has in fact made a decision that is historical not only in Africa, but is unprecedented in history does however point in the direction of learning rather than teaching. Finnemore's theory that states change their interests and thus behavior on the account of specific influence from outside actors does not therefore seem to have won any additional validation through this analysis. But then again, that was never the intention of this thesis. What the theory does seem to have done however is to provide a very sensible point from where to look at the case of analysis in this thesis. Though the "teaching" seems to be unlikely as an explanation here, H3 does not seem to be much falsified as a valid explanation. The change in norms and values seems well documented and the states consequential change in interests seems plausible as a result. Though we may never know the exact intentions of the decision makers involved and their possible ulterior motives, H3 has proved a useful and powerful explanation.

7. Conclusion

As the thesis aspires, so it delivers a case study of the decision in the Constitutional Act of the African Union that allow the organization to make an autonomous intervention in any of its member states: Article 4 (h). The thesis has described how the political environment around the decision makers were prior to this decision, it has shown what motivations they may have had and it has described what historical background the African states had on the subject of state sovereignty. Thus far the thesis has been a case study that has collected and presented the vital information to describe, and to some extent understand how Article 4 (h) could be included in the Constitutional Act. The thesis has proceeded with a presentation of tools that has enabled a theoretical analysis of the case. To this analysis the thesis has included an additional ambition: To test to what extent these tools, the IR theories, can account for the creation of Article 4 (h). Both the ambition to explain why Article 4 (h) was created and the ambition to test the theories explanatory value on the case have been satisfied in chapter 6. That is to say: the analysis for both ambitions has been made through chapter 6, what remain to do is to conclude. That will be the ambition of this chapter. To fulfill the two ambitions presented in the first chapter of the thesis, this chapter will go through the findings and the preliminary conclusions in chapter 6 and answer the research questions with conclusions as far as it is possible.

7.1 Why is the African Union breaking with its hard and fast line of non-intervention?

The means to answer this question has been through the criterion of the three IR theories applied to the thesis. Chapter 6 has systematically gone through the

applicability of the three different hypotheses, and made considerations to whether they are strengthened or weakened. What this has shown is that each hypothesis is able to give a reasonable explanation for why Article 4 (h) was created. The hypotheses are all plausible as explanations. Their differences do however force them to put significance to certain parts of the information, whilst other information is attached lesser significance. This is an epistemological difference that does little to describe the significance of what information is presented. This is also the reason why it is impossible to falsify any of the hypotheses. The analysis is thus unable to determine an exact answer to the first research question. Instead it answers it three different times, with three different answers. All three theories have proven capable of giving some credible explanation to the question. Though the data does not equally support all explanations.

The realist hypothesis (H1) is strongly supported from the outset by the fact that three state leaders with different agendas can be identified as main actors in the process. This supports the premises in realism that presupposes that states are the actors in an anarchical world and that they act based on rational strategic decisions (Mearsheimer 1995: 10). That one such decision is to equip a continental organization of which they are members with an authorization to intervene in any member state, does however, not seem to be in concert with the realist rationale of the competitiveness that inhibits the nature of anarchy. To surrender sovereignty to an international organization would presume that their commitment is not truthful or that the actors recognize some immediate advantage to joining the organization (ibid: 13). There is little evidence that legitimize a presumption such as this. Then again, there typically would not be.

The hypothesis that would be able to account for this is the liberal institutionalist (H2). This theoretical framework recognize the anarchical state the states find themselves in and agree with the realists when they suggest that states are operating in their own self-interest. However, the criterions for the

hypothesis show that H2 expect states to cooperate if this increases that self-interest. The evidence for this is much more conspicuous as the three state leaders all have their own projects that corresponds with cooperation in the AU. Mbeki presents the African Renaissance, Obasanjo the CSSDCA and Ghaddafi, though seemingly in an "ad hoc" fashion, the United States of Africa. Chapter 5 describes how these initiatives presented great incentives for the state leaders to strive for a more efficient and thoroughly integrated cooperation. That the creation of Article 4 (h) should increase both the absolute gains and the states individual interests seems plausible through this. For H1, however, this seems to be a weakening point.

None of the two hypothesis do, however, pay much attention to the development of political environment that chapter 5 describes under 5.5. They do both operate under the assumptions that states are sensitive to other states behavior, but the "trend" that is described in chapter 5 must be said to consist of more than that. The constructivist hypothesis H3 focuses mainly on this as a determining factor to explain how states define their interests (Finnemore 1996: 2). This hypothesis is not necessarily contradictory to the previous one. It could also be complementary. Though the premises for the theories are widely different, the explanations are not mutually exclusive.

It may be tempting to suggest that Article 4 (h) was created because *The main actors found enough common ground, goals and interests that they introduced a policy of intervention"*(H2), and *" The AU was socialized by a general international trend to abandon its hard and fast line of non-intervention."*(H3). Based on the findings of this thesis this is the most covering explanation. To be sensitive to other states could be fair enough reason to want to adapt a closer relationship to other states, but security does not seem a plausible argument to enter a cooperation that entails weakening of the states sovereignty. And as this is "the most significant difference between the AU and its predecessor the OAU" (Sturman 2004: 1), that has to be included in any "instrumentally

rational" considerations (Mearsheimer 1995: 10). This leads naturally to the second ambition of the thesis: to test to what extent these three IR theories can account for the creation of Article 4 (h).

7.2 IR theory's ability to account for Article 4 (h)

The second ambition of the thesis is to find what extent IR theory can account for the creation of Article 4 (h). This is a critical question for two important reasons in this thesis. Firstly, this article represents a policy that is unprecedented in history. It is therefore timely to ask whether or not IR theory is equipped to explain this measure in interstate relations. Secondly, as the previous section indicates, the creation of Article 4 (h) has more than one plausible explanation.

Dunn & Shaw (2001: 27) argues that no traditional IR theory is adequate for Africa. The argument throughout their book is based around the argument that state-centric IR theories cannot explain or predict African state behavior, as "historically, African political systems were based pluralistic nations, not homogenous states" (ibid). I have argued earlier in this thesis that since the case investigated in the thesis is not one that presumes democratic processes in the states involved, nor is concerned with the cultural or political applicability of the Westpahlian state system on the African continent, but rather is a political decision between state leaders, this critique does not apply to this analysis. The question of whether or not IR theory can account for the creation of Article 4 (h) in this case study should therefore not be concerned with this problem, and will not be further discussed to this respect.

Nevertheless, the political implications of Article 4 (h) are of such a nature that the IR-theories that have been presented in this thesis do not directly address them. None of the above-mentioned theories expect the possibility of a state voluntarily agreeing to transfer the right to command its sovereignty to occur.

The two actor based theories would certainly stifle at the idea that their units of analysis fades out one of their more defining traits. There is no argument within the realist framework that would condone the surrendering of sovereignty. Neither would liberal institutionalism, though prone to cooperation and focused on "explaining why economic and environmental cooperation among states are more likely than realists recognize" (Mearsheimer 1995:14). To make the cooperation as committing as to allow the AU intervene autonomously does not seem likely. The most probable angle from where these theories would aim to explain this type of behavior would be if one state were planning to cheat the others. In such a case realism would make a strong argument and an informal explanation. This would supply the realist argument that institutions only are constructed based on states calculations of self-interests in the international balance of power (ibid: 13). In the case investigated here, however, this is not possible to control for. It would thus be an unintelligible assumption without any root in the empirical findings. No meaningful discussion would do this.

The remaining theory, constructivism, does include a theoretical possibility of accounting for such a policy implementation as Article 4 (h). It depends on how far an analyst is willing to extend the argument that states define their interests in the context of "internationally held norms of what is good and appropriate"(Finnemore 1996: 2). It would be possible to argue that this is a feasible result of the socializing of states interests. The theory is contesting the basic presumption of the two other theories: that preferences are unproblematic and that the source of state preferences is located within the state (ibid: 7). This theory might thus be the only of the three that is prepared to account for a sincere surrendering of sovereignty to an international organization. The problem of assessing this is that the explanatory potential rests with each analyst's subjective belief in the theory's criteria. Another problem is that this analysis falls under the criticism of using the theory with the states as analytical units (Bøås & Dokken 2002: 37). The advantage with this has been that it has

been possible to include several actors in the analysis of how they were influenced by the abovementioned trend. The disadvantage has proven to be that some of the theory's potential has been sacrificed to do so.

7.3 Final Remarks

The conclusion this far has been ambivalent and perhaps more ambiguous than concrete. This stems from the nature of the findings in the case. The stark reality is that in order to explain the creation of Article 4 (h) in the Constitutive Act of the African Union one needs applicable analytical tools, and the tools applied in this thesis do not provide a definite answer. As previously mentioned, it is impossible to falsify any of the hypotheses completely, and it would not be fair to do so. All of the presented hypotheses have explanatory potential. Nevertheless, I have argued that they all end up wanting.

That the African Union has commenced in an unprecedented co operational project has already been established. Nowhere has any international organization formalized authority such as the right to intervene as the African Union has, through Article 4 (h) (Baimu & Sturman 2003: 40). Hence, explaining an event of this magnitude has not been of any concern to any IR theory. Through this thesis three different, well-formulated and feasible theories have been applied to explain this phenomenon. As this conclusion, based on the previous analysis, show none of the hypotheses appear to provide a sufficient explanation. This does not imply that the theories are insufficient, but rather that some other variables that are not included in the case are in play. Bøås and Dokken (2002: 14) note that the "most important unit of analysis in the [international] system is the sovereign state" and practically every conflict in Africa "transcends borders and have consequences far beyond a single state". This indicates that there might be more to the criticism presented in Dunn and Shaw's book "Africa's Challenge to International Relations Theory" than first assumed. The case investigated in the thesis contains a reliable set if

data to analyze to the best of the applied theories assumptions. Even so, the hypotheses do not, in this authors view, represent sufficient explanations. It may be that internal factors within the African states, which are not accounted for in the development of our IR theories, play a role that this case study does not capture. "In Africa, the state is yet to reach maturity. Therefore, the realities of political, social, cultural, religious and other important connections to nations and ethnic group cannot be ignored or dismissed in new African(ist) approaches for understanding contemporary African phenomena" (Dunn & Shaw 2001: 27).

Though the data in this thesis has been presented as simplistic as possible, I have complete faith in the validity and reliability of the case study of this thesis. However, my conclusion cannot escape that the findings of the analysis point to a lack in explanatory force, and thus fails to satisfy the ambition of the first research question to some extent. This indicates that the theories used do not account for all the possible variables that may be in play here. Though suffice to conduct a meaningful analysis, the information presented may not contain these variables. Although the theories might not require, nor be able to absorb such variables as mentioned by Dunn and Shaw (ibid) the theoretical analysis is complete. The substantial explanation however is rendered lacking, as none of the hypotheses provide a credible explanation for any state to surrender sovereignty to a continental organization such as the African Union.

This thesis should thus, in conclusion be recognized as further testimony to Africa's vast political complexity and political analysts challenge in explaining this satisfactory. Though it has been shown that the theoretic framework that exists today is not inadequate, the variables that are rendered untested deserve a framework that allows them to be subjects of further inspection. The challenge of including complex diversities between analytical units that are not necessarily equal is yet to be answered. To thoroughly analyze the

inter*national* relations of Africa, the challenge is to move the focus away from inter*state* relations.

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