


FEATURE

## 'Responsibility to protect' and the African Union: Assessing the AU's capacity to respond to regional complex humanitarian and political emergencies

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### ABSTRACT

Despite its many institutional and political weaknesses and limitations, the African Union (AU) has been developing a variety of tools and mechanisms to respond effectively to complex disasters and emergencies (both natural and manmade) by building up a comprehensive regional security architecture. Furthermore, it has become the first and only regional or international organisation to enshrine the principle of 'responsibility to protect' (R2P) in its Constitutive Act. This regional approach to and formal endorsement of the R2P principle allowed it to assume a particular place in the promotion of peace and security in its area. This article aims to critically assess the effectiveness of the AU on the African continent by exploring its real capacity in preventing and responding to emergencies and violent conflicts, and therefore in rendering the principle of R2P operational. The article argues that the formalisation of principles does not necessarily mean their effective implementation. The organisation's use of the R2P principle is also greatly conditioned by internal and external factors.

### KEYWORDS

African Union; responsibility to protect; peace and security; capacity; prevention and response

'Over time, the processes of socialization and a few more success stories in the field may encourage more African states to increase the resources they commit to the PSC [Peace and Security Council]. Let us hope so, because if Africans don't take this institution to heart, who else will?'<sup>1</sup>

### Introduction

The African Union (AU) is the only regional or international organisation that has enshrined the principle of the 'responsibility to protect' (R2P) in its Constitutive Act, thus allowing the organisation the right to intervene in a member state on humanitarian and human rights grounds. Although many affirm that these new objectives are still only an aspiration, the AU has been developing a variety of tools and mechanisms to respond effectively to complex disasters and emergencies (both natural and manmade). Despite the many conflicts and crises that have afflicted the continent, there has been some progress in conflict prevention, namely through the development of new multilateral instruments and mechanisms. However, one of the major obstacles to fully rendering operational these instruments and mechanisms has been the AU's continuous and recurrent lack of resources and political will in providing

the necessary capacity to intervene as an effective and active conflict prevention and/or resolution actor.<sup>2</sup>

With this in mind, this article critically analyses the various strategies and tools adopted by the AU, assessing their effectiveness as well as their capacity in preventing and responding to emergencies and disasters in Africa. This analysis is crucial to better understanding the AU's role as a leading security organisation on the African continent. Drawing from the emergence of, and debate on, the principle of R2P, the article builds on the idea that many obstacles and constraints remain at the level of the AU's real capacity to enforce and implement such norms and principles, even though multilateral relations in Africa are undergoing significant changes in terms of norms and institutions. These normative and institutional changes may influence fundamental transformations at the level of the responses to peace and security challenges on the continent.<sup>3</sup>

The first section of this article analyses the concept of R2P, discussing its interpretation, evolution and critiques. Subsequently, R2P is discussed within the specific AU security architecture, and then the way in which the AU has implemented (or not implemented) the norm is analysed based on specific cases. The final section points to the fact that the formalisation of R2P within the AU institutional architecture does not necessarily imply its implementation, since various internal and external factors also weigh on the organisation's capacity to render the R2P principle operational.

## **The responsibility to protect**

In general, the acknowledgement of the principle of 'responsibility to protect' has become consensual regarding its first two pillars: the responsibility of states to protect the populations within their own territory (primary responsibility) and the responsibility of the international community to assist states in fulfilling their obligations (secondary responsibility). Additionally, it is also generally accepted within the United Nations (UN) that R2P is justified in cases of 'genocide, war crimes, ethnic cleansing and crimes against humanity'.<sup>4</sup> It should be noted, however, that the influential 2001 International Commission on Intervention and State Sovereignty (ICISS) Report that triggered most of the discussions on R2P is less restrictive than the UN documents when it comes to justifying intervention. It defines the 'just cause threshold' for intervening as:

Large scale loss of life, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation; or large scale 'ethnic cleansing', actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape.<sup>5</sup>

These different documents – the ICISS Report (2001) and the UN resolutions (2005 and 2006) and report (2009) – reflect the different stages in R2P's progression in terms of the consolidation of its contents and implementation. The ICISS Report specifies the elements that R2P entails: the responsibility to prevent – R2P's 'single most important dimension' – the responsibility to react and the responsibility to rebuild.<sup>6</sup> The debate and criticisms regarding R2P derive from the efforts and attempts to operationalise it and, particularly, the second element, wherein the international community is responsible for reacting in a timely and decisive manner. The ICISS Report clearly states that, in these cases, 'the principle of non-intervention yields to the international responsibility to protect'.<sup>7</sup> The ICISS, nevertheless, identifies sovereignty as one of the foundations of R2P, in the sense that 'state sovereignty implies

responsibility, and the primary responsibility for the protection of its people lies with the state itself.<sup>8</sup> Consequently, only when states fail to protect their people (whether through inaction or inability) does the international community have the responsibility to protect. Military intervention is identified as an ‘exceptional and extraordinary measure’ to be rendered operational only in cases of ‘large scale loss of life’ and ‘large scale “ethnic cleansing”’.<sup>9</sup> Moreover, the locus of authority of R2P resides with the UN Security Council (UNSC).<sup>10</sup> In this context, R2P constitutes a political instrument that attempts ‘to overcome the divisive North-South debates over “humanitarian interventions” and build a broad consensus’ regarding the international community’s response to cases of genocide, ethnic cleansing, war crimes and crimes against humanity. ‘On a legal level, R2P attempts to reconcile two sometimes diverging principles of international law: state sovereignty and human rights.’<sup>11</sup> The ICISS Report recommends that the concept of ‘humanitarian intervention’ be dropped ‘to appease humanitarian organizations who argue that military action is incompatible with humanitarian aid’ and that ‘rather than posing the debate in the confrontational terms of human rights “trumping” sovereignty or “the right of intervention” undermining “the right of state sovereignty”, intervention should be seen as compatible with the concept of sovereignty’.<sup>12</sup>

The idea of ‘sovereignty as responsibility’ holds that sovereign states are responsible for the welfare and protection of the population living within their jurisdiction, and that they are accountable for discharging this responsibility both internally to their own population, and externally to the international community.<sup>13</sup>

Policy-wise, R2P ‘addresses the proliferation of state failure and violent internal conflict’.<sup>14</sup> Saxer also considers R2P as ‘a peacebuilding concept’ that ‘combines the long-established pillars of prevention, reaction (with options from the persuasive to the coercive) and rebuilding into a comprehensive framework’.<sup>15</sup> But Chandler points out that ‘the Commission underestimate[d] the problems involved in distinguishing international interventions which may be motivated by moral, humanitarian, reasons from those which are motivated by traditional Realpolitik concerns of the Great Powers’.<sup>16</sup> In fact, several developing countries argue that R2P is an instrument to legitimise interventions and that their ‘state sovereignty’ risks being placed ‘in the hands of the few’ (i.e. the UNSC Permanent Five).<sup>17</sup>

In 2005, R2P was endorsed by the UN General Assembly, stating that UN members

are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII ... should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.<sup>18</sup>

This responsibility was reaffirmed by the UNSC in 2006. Translating R2P ‘from words to deeds’ was identified by UN Secretary-General Ban Ki-moon as a challenge that he intended to address during his mandate.<sup>19</sup> Furthermore, R2P ‘has also become part of the working language of international engagement with grave humanitarian crises’, such as in the cases of Darfur and Kenya.<sup>20</sup>

Despite this apparent momentum, R2P has been denied by some and evaded by others,<sup>21</sup> and even initial supporters have come to criticise the 2005 and 2006 UN resolutions, labelling them as ‘R2P lite’.<sup>22</sup> This situation derives from the continuous association of R2P with non-consensual military intervention. As Bellamy explains, on the one hand, for several states, ‘R2P is simply a more sophisticated way of conceptualizing and hence legitimizing humanitarian intervention’; and, on the other hand, in other states, initial supporters of R2P, it is considered ‘inadequate’ because the 2005 and 2006 UN resolutions did not provide clear

criteria on when coercive military intervention might be justified, nor do they indicate the alternative 'decision-making process in situations where the Security Council is deadlocked'.<sup>23</sup> The scepticism around R2P is often related to the conceptual confusion derived from the probably irrevocable association of R2P with coercive military intervention justified with humanitarian reasons.<sup>24</sup> Moreover, the lack of consensus on when and how to intervene, as illustrated by the cases of Libya and Syria, has rendered R2P inoperative. Additionally, institutional preparedness and political will are also part of the problem of rendering such a principle operational.<sup>25</sup>

Edward Luck, who was special adviser to the UN secretary-general on R2P between 2008 and 2012, was tasked with – among other things – working on the conceptual clarification of R2P and creating a broader consensus for this norm. In regard to this issue, Luck points out that R2P's core elements already existed in Africa in the 1990s, becoming codified in the AU's Constitutive Act in 2000 (Art. 4). He argues:

There's nothing new here in terms of international law. It's all based on existing international law. It's not a radical idea, unless you think expecting national leaders to take responsibility for the way they treat their people is a radical idea. We think this is why states were born: states were born to protect people.<sup>26</sup>

The then special adviser clarified that the 2005 UN General Assembly Resolution states that R2P rests on three pillars: (1) the primary role of each individual state to protect the populations within its territory from genocide, war crimes, ethnic cleansing and crimes against humanity as well as these crimes' incitement; (2) the international community's commitment to assist states in fulfilling these obligations; and (3) the UN member states' affirmation of their responsibility to respond in a timely and decisive manner to help protect populations from the listed crimes.<sup>27</sup> Throughout his mandate, the special adviser insisted on three important aspects of R2P as a means to clarifying the concept and its application. First, the focus on prevention, which should be the main element when implementing R2P:

For us the job isn't response, the job is prevention. Many people think that responsibility to protect is all about the use of military force after the bodies start piling up. For us, that isn't morally acceptable. The Secretary-General has said this. It simply is not morally acceptable to base your strategy on the fact that there will be these crimes. The strategy should be based on helping the state succeed in preventing these crimes.<sup>28</sup>

Second, 'it all has to be under the UN Charter, it has to be through the UN'.<sup>29</sup> And third, R2P should remain confined to the four most extreme crimes and violations identified. In this way, 'the concept is regarded as "narrow but deep", in that the tools necessary for its implementation run deep, whether at the level of the UN, regional and sub-regional organisations, Member States or civil society organisations'.<sup>30</sup> The current Special Adviser to the UN Secretary-General on R2P, Jennifer Welsh, appointed in July 2013, is further developing her predecessor's mandate, which is rooted in the 2005 World Summit Outcome document (paragraphs 138 and 139).<sup>31</sup>

In 2009, the UN General Assembly held a three-day debate on R2P. For some, the debate was a success, with a consensus reached on several elements, including: (1) the AU's Constitutive Act as a significant juncture in the evolution of R2P; (2) genocide, war crimes, ethnic cleansing and crimes against humanity as the scope of R2P; (3) the primacy of prevention; (4) R2P as a derivative principle of international law; and (5) the relevance of political will. However, others, such as Hehir, have argued that a closer analysis of the agreement

reached reveals its superficiality and that R2P still 'lacks substance and is at most an emotive political rallying cry'.<sup>32</sup> According to Hehir,

R2P does not impose new responsibilities on states or formally alter the legal status of sovereignty, nor does it impose a duty on 'the international community' or the Security Council to intervene if a particular crisis is deemed to require external involvement. While states may have supported R2P in the General Assembly debate in 2009, what they were supporting was a reassertion of the status quo.<sup>33</sup>

Amnéus, for instance, argues that the international discourse on R2P has not yet contributed to the evolution of legal customary rights or obligations.<sup>34</sup> Labonte, differently, argues that there has been a double manifest failure in upholding R2P by both national authorities and the international community.<sup>35</sup> This author draws attention to the fact that in the face of such a double manifest failure, humanitarian actors are most likely to attempt to fulfil a tertiary responsibility to protect, although this is an unreasonable expectation.<sup>36</sup> Despite R2P's manifest limitations, some authors argue that this principle has potential and has already changed the way in which these circumstances are thought about. Hunt and Bellamy, for instance, argue that R2P and peace operations are mutually reinforcing and, consequently, peace operations offer a legitimate means to implement R2P, whereas R2P provides a facilitating norm for harnessing political will and consolidating the legitimacy and credibility of peace operations.<sup>37</sup> Bellamy also identifies some important contributions R2P can make to the practice of military intervention, namely regarding moral hazard, moving away from exclusive military responses, and the political commitment to protection that reiterates both international and national obligations.<sup>38</sup> Another perspective is offered by Badescu and Weiss, who highlight the fact that '[b]oth application and misapplication – in rhetoric and in reality – can foster a norm's advancement'.<sup>39</sup> The authors argue that these dynamics 'put emerging norms like R2P more firmly into place' and, consequently, conclude 'that the responsibility to protect is unlikely to be dislodged any time soon'.<sup>40</sup>

## **The African Peace and Security Architecture (APSA)**

Since its creation in 1963, the Organization of African Unity (OAU) aimed at providing a regional framework for collective regional action in the field of security, peace and stability, as well as regional economic integration to stimulate development among its members. However, the limited and fragile experience of the OAU in consolidating a framework for regional security and integration made it clear that most of the member states showed a greater concern for individual and national interests than collective ones. This ended up rendering the OAU's operational capacities tenuous. In this context, the transformation of the OAU into the AU in 2002 can be seen as representing not only a change in name, but also a structural change in terms of the institutional apparatus of this regional organisation aimed at better responding to the various and complex peace and security threats in Africa. This transformation was matched by the creation of new organs and institutions, such as the Peace and Security Council (PSC) and Commission, the Court of Justice, the Pan-African Parliament and the Economic, Social and Cultural Council, which aimed at reinforcing the multilateral dimension of the AU. At the same time, it also gave way to the emergence and enshrinement of new norms, principles of action and strategies to respond to regional conflicts and emergencies. In fact, besides the promotion of regional integration, protection of sovereignty, territorial integration and independence of member states, the

peaceful settlement of disputes and conflicts, and non-interference in the internal affairs of member states, the AU included other principles that may even contradict some of the above-mentioned ones, such as 'the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity'.<sup>41</sup> The document was amended in 2003 to also include intervention in the face of 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'.<sup>42</sup> In order to move away from the limited stance of the OAU, the AU has thus evolved from a culture of non-intervention to one of non-indifference when it comes to war crimes, crimes against humanity and genocide, and issues related to peace and security in the region.<sup>43</sup>

Other important instruments of the AU were also made available to facilitate conflict management and support peace and good governance in Africa. The AU's Constitutive Act outlines a wide range of policies and strategies that contribute to its mandate in terms of peace and security, such as the Assembly and the aforementioned PSC.<sup>44</sup> As such, the AU has managed to create and establish the African Peace and Security Architecture (APSA), which brings together different approaches and strategies to respond to various economic, social, political and military challenges on the continent.<sup>45</sup> The legal basis of the APSA is formed by the PSC Protocol (adopted in 2002) and the Common African Defence and Security Policy (CADSP) adopted in 2004 by the AU Assembly. This architecture is based on five pillars that are defined within the protocol, namely: the PSC itself, the Panel of the Wise (preventive diplomacy and conflict resolution), the Continental Early Warning System (CEWS), the African Standby Force (ASF), and the Peace Fund.<sup>46</sup> From all these instruments and organs, particular attention must be given to the PSC, which is central to the debate on the real AU capabilities and its role as a peace and security actor.

Initially, the PSC was considered by most African leaders as having great potential in terms of promoting peace and stability on the continent and marking an 'historic watershed in Africa's progress towards resolving its conflicts and the building of a durable peace and security order'.<sup>47</sup> According to the protocol,

the PSC has broad tasks to perform, namely to promote peace, security and stability in Africa, to anticipate and prevent conflicts, to promote and implement peacebuilding and post-conflict reconstruction, to consolidate peace and prevent resurgence to violence, to coordinate and harmonize continental efforts in the prevention and combating of international terrorism, to develop a common defence policy for the AU and also to promote and encourage democratic practices, good governance and the rule of law, protect human rights and respect for human life and international humanitarian law, as part of efforts to prevent conflicts.<sup>48</sup>

Clearly inspired by the structure of the UNSC, but adapted to the African political reality, the PSC can play two distinctive roles: one as a collective forum for the discussion of peace and security issues and another as an arena in which member states interact,<sup>49</sup> though not always seeking consensus, on multilateral interests. Both roles directly or indirectly influence the capacity of the PSC in particular and the AU in general to perform as a credible and effective peace and security actor on the continent. The PSC is supposed to act as 'a standing decision-making organ for the prevention, management and resolution of conflicts', serving as a 'collective security and early-warning arrangement to facilitate timely and efficient responses to conflict and crisis situations in Africa'.<sup>50</sup> Under the PSC Protocol, CEWS was also established with the aim of anticipating and preventing violent conflicts through the use of thorough

monitoring instruments in close collaboration with the UN and its agencies, as well as with other African institutions and civil society organisations.<sup>51</sup>

Adding to this framework, the ASF was established as a force for the deployment of peace support missions and intervention, in line with Article 4(h) and (j) of the AU Constitutive Act. The initiative for action comes from the commission, drawing on troops from member states and comprising a military, police and civilian dimension.<sup>52</sup> The interest from and commitment by member states to participate in PSC deliberations on peace and security issues as well as to embrace and fulfil its statements are considered important factors for the evaluation of the AU's capacity to perform its role successfully.<sup>53</sup> Although this is valid for many other intergovernmental organisations, it is of particular relevance in the case of the AU due to its composition and the poor record of many of the member states when it comes to respecting fundamental principles of human rights and freedoms, rule of law, or even their willingness and/or capacity to maintain order and security within their own territorial borders.

In terms of norms, Article 4 of the PSC Protocol identifies the main principles it should pursue, based on the same guiding principles included in the AU Constitutive Act, the UN Charter and the Universal Declaration of Human Rights. These principles include the peaceful settlement of disputes, non-interference and respect for the territorial integrity of sovereign countries, along with bolder principles giving the AU the right to intervene in response to particularly serious human rights violations and crimes (war crimes, genocide, crimes against humanity), as referred to in Article 4(h).<sup>54</sup> Article 7(e) of the PSC Protocol also specifically states that the PSC

can recommend to the Assembly of Heads of State intervention, on behalf of the Union, in a Member State in respect of grave circumstances, namely war crimes, genocide and crimes against humanity, as defined in relevant international conventions and instruments.<sup>55</sup>

However, as asserted by Engel and Porto, there are still various challenges to the consolidation and effectiveness of the APSA.<sup>56</sup> Firstly, the AU is not actually free from the influence of member states and may well provide a forum for the self-help strategies of its own members that may contradict the enshrined norms. Secondly, and related to the previous point, the institutionalised behaviour of the AU based on these agreed norms has often been questioned and compromised by some member states that clearly privilege self-help strategies,<sup>57</sup> such as Sudan and Zimbabwe, violating fundamental principles of human rights, good governance and rule of law. Finally, there are also clear capacity limitations in the way in which the APSA was framed, namely financial problems as well as logistic and operational vulnerabilities when it comes to responding to crises.<sup>58</sup> In practice, the AU's limited capacity and resources for early warning and conflict prevention have led to a structural focus on conflict resolution rather than prevention. Additionally, a lack of coordination capacity from the various mechanisms and organs involved in this peace and security architecture further contributes to delaying policy implementation and limiting the organisation's full capacity to act.<sup>59</sup>

Concerning R2P, and as Tim Murithi argues, despite all the legal, normative and institutional developments at the AU level, 'having a principle enshrined in the Constitutive Act and making sure that countries live up to it are two entirely different things'.<sup>60</sup> This is particularly true in the case of the AU, which has, since its creation, demonstrated important structural and political vulnerabilities and limitations. In fact, and although the R2P principle is implicit in Article 4(h) of the Constitutive Act, there is still a significant gap between intentions, implementation and capabilities. The AU has been incapable of deploying military means to react and respond to such threats. The case of the African Union Mission in Sudan (AMIS), for example, showed the

inability of the AU to contain violence. The AU has also failed to address intervention dilemmas, which has resulted in delaying important decisions to intervene in many African settings.<sup>61</sup> Engel and Porto stress:

In several cases, member states have been reluctant to use Article 4(h). In fact, the PSC is often accused of ignoring serious situations ... Thus the perception of the AU's continued inability to take concrete action seems to be taking hold, perhaps because of the concern that not only will Article 4(h) always be open to interpretation, but there is always the possibility of circumventing it via the non-interference norm.<sup>62</sup>

Furthermore, many African states have also somehow 'misappropriated the term R2P and have used it to justify military confrontation with non-state actors. Some have come so far as to use R2P to justify the invasion and occupation of other countries'.<sup>63</sup> In this sense, a combination of weak mandates, sparse resources to finance preventive and responsive mechanisms, and a lack of political will on the part of member states have resulted in a gloomy picture of the AU's capacity to perform actively and successfully as a peace and security actor in the region. In fact, the AU has not been able to perform as a mechanism for the prevention of conflict or other structural issues that stimulate bad governance and disrespect for the rule of law. Rather, it has served more as a mechanism to respond to crisis, namely through crisis-management instruments such as the deployment of peace operations. Overall, the AU has proved not to have the real capacity to perform a high-level military role due to a lack of resources and having to rely on collaboration with other international organisations – namely the UN, the European Union (EU) and, to a lesser extent, the North Atlantic Treaty Organization (NATO). This of course raises other important and complex questions, particularly concerning the checks and balances among these organisations and the interests at stake for the main deciding powers when it comes to intervention. These issues will be analysed in the following section.

## **The AU and other international actors: Dynamics of cooperation within difference**

As analysed before, the AU's security regime is built on a wide mandate for the promotion of peace and security. The PSC plays a leading role in the organisation's structure, bringing together member states in an equal voting process, though not necessarily requiring unanimity. This provision differentiates the AU from other international organisations at the time of decision-making, as it requires two-thirds of votes to approve a resolution.

In line with R2P, 'the AU stresses that military intervention should be considered a last resort and suggests a range of non-military measures to respond to crises before calling for intervention'.<sup>64</sup> Therefore, it is a clear guiding principle that preventive diplomacy, negotiations and facilitation mechanisms, along with other diplomatic efforts, will be pursued before approving intervention, particularly in cases where the territorial integrity of states is at stake. Intervention in this framework does not require the consent of the state in question, and the two-thirds majority voting procedure clearly constitutes an endorsement of the R2P principle, granting the AU a simultaneously flexible and robust legitimate capacity to act. Powell adds that the so-called 'Ezulwini Consensus' (AU 2005) constitutes 'the common African position on the UN reform', and that it encapsulates R2P principles.<sup>65</sup> It is interesting to note, nevertheless, that '[o]vercoming political problems is an intrinsic part of international diplomacy. In the AU, PSC ambassadors have sought to overcome problems of political will by establishing an



informal norm of consensus'.<sup>66</sup> This informal procedure has been conferring added legitimacy to the decisions made. Although this consensual basis for decision-making has prevailed, the invocation of Article 4 has not yet occurred. This is the more relevant, in our view, when it comes to the protection of civilians, within the context of R2P.

The particular meaning of 'protection of civilians' in peacekeeping and peace enforcement operations has been a contested one, with no clear definitions in the documents released by the UN, the EU or NATO. Only the AU advanced a specific definition of the concept in its document 'Guidelines for the Protection of Civilians in AU Peace Operations':

[a]ctivities undertaken to improve the security of the population and people at risk to ensure the full respect for the rights of groups and the individual recognized under regional instruments ... and international law, including humanitarian, human rights and refugee law.<sup>67</sup>

According to Lilly, the legal interpretation should constitute the framing for action, meaning that civilians should be protected from harm during all military operations. From the main EU and NATO documents related to civilian protection within their peace operations, this dimension is highlighted as fundamental – 'acting towards protection'.<sup>68</sup> For the AU, civilian protection is at the core of its R2P commitments. Consequently, it has made an effort to conceptualise the term. Despite limits, this signals a strong interest from member states to render R2P operational and effective:

[O]f the four AU peace operations that have been conducted to date, only one, AMIS in Darfur (2004–07), had an explicit protection mandate. While AMIS's successor, the UN/AU hybrid mission in Darfur, UNAMID [the African Union–United Nations Mission in Darfur], continues to have a protection mandate this is not the case for AMISOM [African Union Mission in Somalia] in Somalia and the AU RTF [Regional Task Force] for the LRA [Lord's Resistance Army], which face the greatest protection challenges of AU peace operations. Since both are peace enforcement operations without protection mandates, the AU Guidelines are arguably irrelevant.<sup>69</sup>

Despite this acknowledgement, the formalisation of R2P principles through the definition of concepts in order to facilitate implementation still faces many challenges. A fundamental one is the relationship of the AU with other actors in the promotion of security, and how it might benefit from collaboration, as well as affirm itself in the African security regime and institutional architecture through difference. There is no formal institutional cooperation between the AU and the UN, though the framing for collaboration has thus far been through Chapter VIII of the UN Charter on regional organisations. The AU recognises the UN as the primary actor in the promotion of international peace and security, in line with the other regional organisations, and seeks to promote close linkages in order to facilitate concrete action implementation in the field. For example, according to Powell, the Department of Political Affairs (DPA) and the Department of Peacekeeping Operations (DPKO) have assisted in establishing plans for the ASF and the Military Staff Committee, and a liaison assistance cell to the AU was set up within the DPKO (contributing to the Darfur deployment).<sup>70</sup> Close cooperation was clear in the case of AMIS in Darfur, taken over by the UN after three years, becoming the hybrid operation known as UNAMID.<sup>71</sup> Golaszinski states:

The AU's reaction to the Darfur crisis shows that the AU is able to develop political programmes, show commitment to and give effect to those programmes. Based on its own analysis and withstanding external pressures, the AU did not wait for the UN, which was again split on this issue, in finding resolutions to this conflict.<sup>72</sup>

Despite the difficulties the AU faced in Darfur, and the need for UN assistance that resulted in the creation of the hybrid mission, the decision to go into the field demonstrates the capability to decide and attempt to implement the decisions made. The obstacles the AU faces are, nevertheless, many, as further analysed. Also,

the AU's recent experiences in Burundi suggest the emergence of a division of labour between the AU and UN, whereby the AU will deploy a military mission to respond to immediate crises and to create conditions sufficiently stable for the Security Council to authorise deployment. The AU may provide the security dimension of a broader humanitarian effort and political process with the UN and other international actors performing the civilian functions that typically form part of complex peace operations.<sup>73</sup>

Apart from this trend, which might imply a task division between the two organisations, the way the AU has been acting in Burundi and Darfur 'may also reveal the emergence of a two-tiered system of international security where African regional organizations are deployed to contexts of extreme insecurity with fewer resources and stronger mandates than a UN mission'.<sup>74</sup> If these signals consolidate as a trend, they may raise tensions between the two organisations with regard to the capability to act and deliver, as well as to manage regional security issues. Also, the AU is very dependent on external funding for its activities, not only regarding financial support, but also, and not less importantly, logistical equipment. This has not prevented the positive assessments of its missions: 'Despite [their] capacity shortages, AU peace operations not only have been largely executed efficiently but also have proved effective in an array of conflicts such as in Burundi and Comoros.'<sup>75</sup> But the external input is evident in all operations conducted in Africa, highlighting the financial constraint as a strong obstacle to autonomous action:

Even in the cases where African regional organizations have played leading roles – notably the ECOWAS [Economic Community of West African States] missions in Liberia (1990–97 and 2003) and Sierra Leone (1997–99) and the AU missions in Burundi (2003–04), Sudan (2004–07), and Somalia (2007– ongoing) – they have often received important forms of assistance from external actors. One key indicator of the importance of external support for African conflict management initiatives is the OAU/AU Peace Fund. Between 1993 and 2005 this fund received a total of approximately \$68 million. Roughly \$45 million of this rather paltry sum (as far as peacekeeping operations are concerned) was provided by non-AU members.<sup>76</sup>

The issue of material resources has been managed mainly through close relationships with other international organisations, in particular the UN and the EU, and with regard to contributions from individual countries, with European countries being the biggest donors – particularly France, Germany, the United Kingdom (UK) and the Scandinavian countries – besides the United States (US), Canada and China.<sup>77</sup> On a political level, the AU member states have been clear in their intention to act in the case that the UN is not ready or willing, and this is envisaged without a UN mandate, in exceptionally severe circumstances.<sup>78</sup> In the words of a senior AU official, 'Africans know that if we have to wait for the UN, people will die.'<sup>79</sup> The history of Rwanda is still present, and avoiding the repetition of such violent scenarios is clearly a concern on the AU's agenda. In this setting, the AU–UN relationship remains fundamental, and even if the trend is for a division of competencies and task allocation, support from the UN will remain important to the work of the AU, especially in the field.

The AU–EU relationship is also relevant for analysis here. On the one hand, the relations between the two organisations have become increasingly institutionalised with the EU

Strategy for Africa of 2005 and the Africa–EU Strategic Partnership framed in 2007, aimed at the promotion of political dialogue, support for the peace and security architecture in Africa, and provision of predictable funding for peace support operations.<sup>80</sup> On the other hand, the EU has become a role model in terms of the development and consolidation of the AU's structures. 'Modelled after the EU, the AU represents a seismic shift in African thinking. Gone are the state-centric principles of non-intervention and Westphalian sovereignty.'<sup>81</sup> The AU has, nevertheless, kept a more flexible decision-making process, responding to fewer organisational levels than the EU regarding the setting up of a mission. A good example of how the AU has been modelling its consolidation on the EU is the creation of the ASF, which replicates the EU's Battlegroups.<sup>82</sup> This standby force has been facing many limitations with regard to its real capacities to act and respond to security challenges, with no adequate instruments or training. Nevertheless, it signals a willingness at the institutional level to empower the organisation, reflecting AU members' commitment to a stronger organisation in the field. The EU African Peace Facility (2004) is another concrete illustration of the institutionalised relationship the EU has developed with the AU. The African Peace Facility is basically a fund geared towards supporting peace operations, capacity building and early responses to complex situations. The sources allocated within this framework come from the development sector. This framework of action reflects the constant struggle the AU faces regarding funding allocation. On the one hand, funds are most urgent at the security capacitation level, but, on the other hand, development funds are directed at – and needed for – addressing structural conditions for long-term development as part of a broader strategy to respond to instability and insecurity. The AU has been seeking to bridge these two dimensions, strengthening its response assets. Still, this is very limited in terms of the challenges the AU faces in the fragmented and unstable African context.

As for AU relations with NATO, they are almost residual, and some authors have argued for a strategic approach to be developed and concrete mechanisms to be put in place to assist in delivering security and protection means to Africa.<sup>83</sup> Some argue that the potential for cooperation between the two organisations is clear, especially with regard to the ASF.<sup>84</sup> The sharing of expertise and training could be most useful to the AU; in fact, the organisation has been debating which of its overall capabilities it should focus on and turn into an asset. The AU has been claiming responsibility for guaranteeing African security, to some extent responding to the 'African ownership and responsibility' issue that has been mentioned numerous times, particularly by Western countries and organisations: 'the "African solutions" approach represents a normative defence of the pluralist conception of international society and a rejection of neocolonial enterprises'.<sup>85</sup> This line of reasoning has historical roots and is to a great extent based on the European disengagement from Africa after the end of the Cold War, leading to comments such as 'Western policy in Africa is its absence', accompanied by pressure for the development of a continental security architecture.<sup>86</sup> In fact, 'there seems to be a greater political will amongst African leaders to deal with the problems on the continent from a continental platform'.<sup>87</sup> Despite the push for an African leadership and 'solution' to the problems in Africa, due to

[l]acking a Pan-Africanist orientation and leadership, the AU has largely remained unknown to the African people, who have yet to be directly touched by or involved in its work. The AU will continue to be distant from the African people as long as it is member state-driven rather than people-driven.<sup>88</sup>

This is a fundamental issue regarding legitimacy to act, which needs to be carefully addressed, particularly regarding civilian protection.

Another fundamental issue in this regard is how the AU relates to other African regional organisations, and particularly regional economic communities (RECs), as there are no established procedures for cooperation. In this regard, legitimacy and credibility issues may be raised, as the AU seeks to be recognised as the most relevant actor in providing for the security of the African continent:

The 'African solutions' approach has revolved around African efforts to develop a new continental security architecture complete with a hugely enhanced set of peacekeeping capabilities, as set out in the founding documents of the African Union (AU) and its related organs. For their part, Western states have provided the financial and technical support for this endeavour. Before 2002, Africa's conflict management activities were conducted in a largely ad hoc fashion. When African states conducted what they claimed were peace operations, they did so primarily under the cover of the relevant subregional arrangements, notably the Economic Community of West African States (ECOWAS) in Liberia (1990–97), Sierra Leone (1997–2000), and Guinea-Bissau (1998); and the Southern African Development Community (SADC) in Lesotho (1998) and the DRC (1998). In theory, however, the Organization of African Unity's (OAU) conflict management framework was supposed to centre on the Mechanism for Conflict Prevention, Management, and Resolution. Adopted in 1993, the mechanism's primary objective was the anticipation and prevention of conflicts. Consequently, OAU members made a conscious decision not to involve the organization in peacekeeping operations. Rather optimistically, they hoped that a focus on preventive diplomacy would dramatically reduce the need for subsequent peace operations on the continent. Unfortunately, this proved not to be the case, and the mass killings in Burundi and Rwanda (1993–94) quickly forced the OAU to revisit its self-imposed ban on peacekeeping.<sup>89</sup>

There is general consensus in the literature that the 'AU can more easily represent African security interests globally and has a better ability to raise the long-standing international institutional support that Africa evidently needs.'<sup>90</sup> A policy of disunion and disengagement among these institutions might only contribute towards exacerbating already complex problems. The lack of resources has been widely discussed, as already mentioned, and from the experience gained this far, there are a number of aspects that need to be taken into particular account, including:

the recognition that African countries have few or no specialized peacekeeping units; that effective peacekeeping must have adequate resources and not be over-dependent on external assistance, as this severely undermines timely and effective deployment and operation of missions; and that the AU's difficulties in deploying its forces can partly be addressed through improvement of its members' military capabilities. Effective AU peace support missions also need deployment and sustainment capabilities, combat effectiveness, capable command, control, communications and intelligence, as well as professional training, including education in civil-military relations, international humanitarian law and human rights.<sup>91</sup>

It should be highlighted, however, that 'a lack of resources can always be compensated for; a lack of political will cannot.'<sup>92</sup> Both the AU and ECOWAS lack resources, but Western countries have been willing to finance and support operations within these organisations' frameworks as they alleviate the burden of getting involved. The main concern that has been voiced in this regard is that sharing the burden cannot be made just for the sake of national constituencies' support. It should closely follow events in the field in order to assure good conduct, efficiency in resource allocation and balance in terms of the countries directly involved, avoiding a *directoire* or even hegemonic-led operations that could undermine the credibility of the whole stabilising effort. This has, however, been a limited problem, as decision-making has been pursued within the AU through consensus building, and operations benefit from both external support and the direct involvement of various

African countries.<sup>93</sup> This 'mission' comes as a result of what are added-value conditions of this organisation, regarding its membership, procedural mechanisms and commitment to fostering security. In 2009, the assessment of three regional organisations active in peace operations showed that

the AU has 53 member states, the OAS [Organization of American States] has 35 member states and the EU has 27 member states, yet these organizations in order from slowest to quickest response rates are as follows: the EU, OAS and AU. ... In contrast with assumptions on EU effectiveness, the EU takes the longest to respond to conflict, and the AU responds particularly quickly despite its high membership.<sup>94</sup>

The AU has thus been playing a fundamental role in promoting security in its enlarged area, taking on a proactive role in the management of violence in contexts where the UN and other international organisations are not willing to intervene. Despite the limited resources and, at most times, limited logistic and financial support from other organisations, the AU has demonstrated a willingness to engage further in the stabilisation of the continent.

## Concluding remarks

With the AU's institutional and normative apparatus, Africa has one of the most advanced and extensive security architectures in the world, aimed at addressing conflict prevention, management and resolution, as well as post-conflict reconstruction objectives.<sup>95</sup> As analysed before, there have been some positive achievements at the level of the AU's action when it comes to promoting peace and stability in the region as well as in responding to security threats, especially when it comes to the imposition of sanctions as responses to internal political and military instability in countries such as Togo (2005), Mauritania (2005, 2008), Guinea (2008) and Madagascar (2009).<sup>96</sup> The AU has also shown its capacity for playing an important political role by suspending the Central African Republic (CAR) from involvement in all AU activities following internal violence and instability and after rebels seized power in the country, imposing travel bans and asset freezes on insurgent leaders. Also, in terms of deployment and performance of peace operations, and especially given the difficult conditions in terms of human and financial resources, the AU has managed 'to perform relatively well in the past few years namely in places like Burundi and the Comoros'.<sup>97</sup> Concerning the political relevance of the AU in general and of the PSC in particular, one can affirm that in principle it has the 'capacity to become a very important institutional framework to persuade member-states in getting more involved in the Union's activities and change the behaviour of the parties involved in conflict and crisis situations through mediation, sanctions and peace operations'.<sup>98</sup>

Nevertheless, several constraints hamper the AU's activities and the effective implementation of all the instruments and principles enshrined in the constitutive documents, some of which remain, to a great extent, still aspirations without much operationalisation. In fact, and despite the many instruments and crisis-response mechanisms defined within the APSA framework, the AU's effective capacity in this field still faces many challenges. Even though the AU has made a significant effort to create and consolidate an effective and working peace and security architecture and conduct peace operations, it is still far from being able to operationalise a true and effective R2P regime. This has been demonstrated by its inability to effectively respond to grave humanitarian situations such as the one in Darfur (or even those in Libya and Syria).<sup>99</sup> To some extent, many of these constraints

are common to other international organisations, including: hard bargaining among member states; issues of political willingness to intervene and contribute in terms of personnel and/or funds; and the allocation of sufficient, adequate and timely resources. In the case of the AU these limitations more than likely result from the fact that it is composed mainly of poor, developing and authoritarian states who are unable or unwilling to activate both the principles and capacities of the AU in the field of peace and security. Also, when compared to the EU and NATO, the AU has the advantage of allowing for majority voting and therefore rendering the process of decision-making more flexible. And, if necessary, it has a very specific mandate with regard to R2P and its enactment. The AU is disadvantaged by a scarcity of resources, in human and material terms, which constitutes a fragility that needs to be dealt with in order for its mandates to be fully implemented, including with regard to civilian protection:

In a context where capacities are stretched to the limits, and where organizational development, training and recruitment of staff is urgent, the questions on the sustainability of the AUs capacity as a consolidated peace and security actor remain.<sup>100</sup>

Despite this gloomy picture, and following Finnemore and Barnett's view of international organisations' ability to develop a certain degree of autonomy from the states that created them, one can also say that the AU may come to develop its own autonomous power.<sup>101</sup> This might be pursued through its commission, the chair of which has a significantly different and enhanced capacity in comparison to the secretary-general of the OAU, being able 'to exercise some leverage both through its role in drafting reports and recommendations and influencing the opinion of member-states'.<sup>102</sup>

As affirmed by Murithi, there is consensus that 'much pain and suffering would have been prevented if the AU enhanced and strengthened its mechanisms for preventive diplomacy and early response to potential conflicts before they escalate'.<sup>103</sup> The comparative advantage of the AU in this regard is that it has the normative, legal and institutional framework already established. This means, should there be the necessary political will to decide on an R2P intervention, the AU member states have already agreed in its Constitutive Act on the where, when and how to intervene. In order to avoid more pain and suffering in the future on the African continent, it is urgent and crucial that the AU finds a way to operate along more coherent lines, wherein the enshrined principles are fully respected and put into practice in order to finally transition from a world of words to a world of action.

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