

**AN ASSESSMENT OF AFRICAN UNION'S APPLICATION OF THE
RESPONSIBILITY TO PROTECT DOCTRINE**

BY

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DECLARATION

I, the undersigned, do hereby declare that this thesis is my original work, and has not been submitted to any other college, institution or university other than the United States International University-Africa, for academic credit.

STUDENT

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This thesis has been presented for examination with my approval as the assigned supervisor.

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DR. TOM ONDITI

DEDICATION

This work is dedicated to DKR, AMK & MMK.

To the people who continue to suffer at the hands of unjust and authoritarian practices, may this paper be eye opening and provide viable solutions for implementation by the African Union, so that you may know peace!

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OPERATIONAL DEFINITION OF TERMS

Crimes against Humanity: Inhumane acts which would constitute crimes in most of the world's national criminal law systems, committed as part of a widespread or systematic attack against civilians. Crimes against Humanity have not been codified in any treaty. They include *inter alia* murder, extermination, enslavement; deportation or forcible transfer of population, imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of International Law, torture, rape and sexual slavery.

Genocide means killing or causing serious bodily or mental harm or deliberately inflicting conditions of life calculated to bring about a groups physical destruction in whole or in part, or imposing measures intended to prevent births, or forcibly transferring children in whole or in part of a group committed with intent to destroy such a national, ethnical, racial or religious group.

Humanitarian Intervention: The use of military force and non-military forms such as humanitarian aid and international sanctions against another state to end the violation of human rights.

Invasion: A military offensive in which large parts of combatants of one geopolitical entity aggressively enter territory controlled by another such entity with the objective of either conquering, liberating or re-establishing control or authority over a territory.

Military Intervention: The deliberate act of a nation or a group of nations to introduce its military forces into the course of an existing controversy.

Responsibility to Protect: A norm emerging in the international system which sets forth that states have a responsibility to protect their citizens from genocide, war crimes, crimes against humanity and ethnic cleansing.

Sovereignty: The right of a state to exercise supreme power and authority over its territory.

War Crime: an action carried out during the conduct of a war that violates accepted international rules of war

ABBREVIATIONS AND ACRONYMS

ACHPR	African Commission on Human and People's Rights
AMIB	Africa Mission in Burundi
AMU	Arab Maghreb Union
APSA	African Peace and Security Structure
ASF	Africa Standby Force
AU	African Union
CAR	Central African Republic
CEN-SAD	Community of Sahel-Saharan States
CEWS	Continental Early Warning System
COMESA	Common Market for Eastern and Southern Africa
DDR	Disarmament, Demobilization and Reintegration
DRC	Democratic Republic of Congo
EAC	East African Community
EASF	Eastern Africa Standby Force
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of West African States

EU	European Union
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICISS	International Commission on Intervention and State Sovereignty
IGAD	Inter- Governmental Authority on Development
NARC	North African Regional Capability
NATO	North Atlantic Treaty Organization
OAU	Organization of African Unity
OHCHR	Office of the IN High Commissioner for Human Rights
PSC	Peace and Security Council
R2P	Responsibility to Protect
SADC	Southern African Development Community
UDHR	Universal Declaration of Human Rights
UNAMID	African Union United Nations Mission in Darfur
UNHCR	United Nations High Commissioner for Refugees
UNSC	United Nations Security Council
US	United States of America

CHAPTER 1:

INTRODUCTION

This chapter addresses topics that provide a contextual background to the study. The first section provides a brief overview of the evolution and transition from the OAU to the AU and the development of the Responsibility to Protect principle as a norm within its directive while the second section reviews the gap and the problem that is arrived at in the AU effecting its mandate on achieving peace and security in Africa and further explains how the paper seeks to answer the issues arrived at.

1.1 BACKGROUND OF THE STUDY:

The African Union's Constitutive Act in Article 3 defines the Union's objectives which include the promotion of peace, security and stability in the African continent while at the same time defending the sovereignty, territorial integrity and independence of African member states. The Responsibility to Protect is a doctrine of prevention that commits states to take action against genocide, war crimes, crimes against humanity and ethnic cleansing when the populations are at grave risk and upon the state's failure to do so either because of a lack of ability or willingness (Rosenberg, 2009).

Unlike its predecessor, the Organization of African Unity (OAU), whose main purpose was to bring African nations together in order to collectively fight for the independence of African countries from European nations, the African Union was formed in 2002 with a different aim altogether. The AU stands for democracy, human rights and economic development and the

creation of unity and cooperation amongst African member states (Badejo, 2008). There is general consensus and understanding that respecting and upholding human rights contributes to the prevention of conflict and promotion of security. Notably, there are 55 sovereign states subscribing to the AU's objectives and mandate.

While the OAU was founded on the principles of state sovereignty and non-interference, the AU on the other hand was founded on the principle of non-indifference. As a lesson from the failures and purported inadequacies of the OAU, the AU has adopted a much more interventionist standpoint in effecting its mandate and specifically through its legal frameworks, and institutions (Muriithi, 2009). This was a direct response to the criticism that arose in the 1990s after the OAU failed to intervene in various conflict situations in Africa particularly in the Rwanda Genocide, which remains one of the worst acts of mass murder ever committed globally. Arguably, the AU was established to protect the security of the continent. Article 4(H) of the AU Constitutive Charter explicitly provides for the right of the Union to intervene in a member state pursuant to a decision of the Assembly in respect of grave circumstances. This makes the AU the only body in the world that recognizes the right of intervention in a member state on humanitarian and human rights grounds.

According to the ICISS Report (Sovereignty, 2001), the Responsibility to Protect principle primarily addresses the aspect of the right to humanitarian intervention and when it is appropriate and necessary to take steps and measures - especially military in order to intervene in situations in a state so as to prevent the population at risk.

The world and particularly Africa today is faced with many crises including internal war and civil strife, rebellions and state failure (Gumedze, 2010). R2P comes in at the point where

populations are suffering due to ethnic cleansing, genocide, war crimes and crimes against humanity and the state is unable or unwilling to protect its citizens.

Key to note, which is going to be a subject of interrogation later in this paper in the context of AU's application of this principle, are the 3 elements which form the basics of Responsibility to Protect i.e; the Responsibility to Prevent, the Responsibility to React - specifically captured in Article 4H of the AU Constitutive Charter, and the Responsibility to Rebuild.

R2P in Africa and specifically in the AU arose out of the idea of "African Solution to African Problems." The continent adopted this notion in order to seek solutions to African crises without blindly defending the sovereignty of states to the detriment of the African population. The International community had remained fairly silent during the Rwandan Genocide and the atrocities that had been committed in the former Yugoslavia. By the time the United Nations Security Council had thought of sending in troops to Rwanda, the Genocide was over by months, and so was the case of intervention by the French approved by the UN. Former UN Secretary General Boutros Boutros Ghali made a comment stating that,

“The failure of Rwanda is 10 times greater than the failure of Yugoslavia. Because in Yugoslavia the international community was interested, was involved. In Rwanda nobody was interested.”

(Suever, 2013)

In the Millennium Report by the then Secretary General, Kofi Annan, he recollected these failures by the international community and specifically by the UNSC and challenged states by asking;

'If humanitarian intervention is indeed an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica in gross and systematic violations of human rights that offend every precept of common humanity?' (Annan, 2000)

This concept is by and large accepted in the world over. In the 2005 World Summit attended by over 170 Heads of State and Government, all member states endorsed and reiterated their commitment to prevent genocide, war crimes, ethnic crimes and crimes against humanity.

1.2 STATEMENT OF THE RESEARCH PROBLEM

The theory and functioning behind the creation of R2P was to bring about peace and security within weak states that are unable or unwilling to protect their own citizens. Globally, R2P is accepted as a commitment by Governments to prevent and end genocide, war crimes, ethnic cleansing, and crimes against humanity as well as to create the necessary conditions and avoid circumstances that will prevent such crimes.

Following this and given the increased number of weak states, conflicts and human rights violations among the AU members, the AU embraced R2P in its structures.

However, the puzzle and enigma is that despite the AU embracing and putting in place structures to oversee the implementation of R2P so as to achieve peace and security in the continent, Africa still has the highest number of conflicts in the world with human rights violations still widespread. The AU's response to these conflict situations has been limited putting to doubt the effectiveness of the AU's structural and operational implementation of the doctrine.

This study therefore seeks to assess the Union's application of the doctrine and to what extent it has been successful in effecting it.

1.3 RESEARCH QUESTIONS

1. To what extent has the AU applied the Principle of R2P in achieving Peace and Security in Africa?
2. What are the structural, legal and operational strengths and limitations to AU's application of R2P?
3. How can the AU's Responsibility to Protect be improved/ enhanced to achieve Peace and Security in Africa?

1.4 OBJECTIVES OF THE STUDY

1.4.1 MAIN OBJECTIVE

To analyze the application of R2P principle by the AU in achieving Peace and Security in Africa

1.4.2 SPECIFIC OBJECTIVES

1. To investigate the structural legal and operational challenges in the AU's application of R2P.
2. To give recommendations on how the AU can enhance its effectiveness in the application of R2P hence achieving Peace and Security in Africa.

1.5 JUSTIFICATION AND SIGNIFICANCE OF THE STUDY

According to Adams, the failure to end atrocities and protect civilians in the case of Africa is not from a failure of R2P, but a failure of the imperfect actors and institutions tasked to implement the doctrine. The study is important first and foremost because it deals with the issues of peace and security and basic human rights, the key machinery without which threatens the survival and continued existence of the individual, state, various regions and the international community (Adams, 2008).

Though close to 17 years old now, R2P is still regarded as a fairly new principle whose achievement is not necessarily as straightforward as it may seem on paper, but a learning curve with a lot of lessons to be learnt. Having membership of 55 sovereign states, the AU is Africa's hope for achieving democracy, human rights and economic development. As we shall see later on in this paper, Africa clearly lacks proper mechanisms to safeguard peace in the continent and where such mechanisms are in place, they have been ineffective or have not been implemented for one reason or another. The continued conflicts within the region, the continued disregard for human rights in conflict situations and poor leadership in conflict situations necessitates and justifies this study.

The research, analysis and findings in this paper may be used by agencies within the AU, various Governments, sub-regional organizations, human rights organizations and even Academia in contributing towards the improvement of the role of the Union in achieving peace through various means as will be seen in the recommendations and conclusion of the same.

This research will also bring meaning and help to actualize the concept of African solutions to African problems at a time when international intervention is diminishing and further expected to

be limited especially since the United States, one of the major contributors in the United Nations is seeking to cut 50% of its funding in UN programs (Lynch, 2017).

1.6 SCOPE

In ascertaining whether the AU has been effective in its application of R2P, naturally the paper looks at its intervention within Africa, specifically in countries that have and continue to experience violent conflicts and are at the risk of experiencing violent conflict. The study interrogates the measures that the AU has put in place in order to prevent conflicts, how it has attempted to intervene in conflict situations and how it has helped to rebuild states after conflict. The period that this paper shall cover is from 2001 to date as this marks the beginning of the formation of the Union. Though the concept of R2P was accepted by the world in 2005 at the world summit, the idea had been inculcated within the structure and framework of the Union before then.

1.7 LIMITATIONS AND DELIMITATIONS OF THE STUDY

The study is mostly based on secondary data as opposed to an expansive field study due to limited resources to undertake the same. Part of the primary data was done in the form of expert opinions of various officers and scholars in the peace and security field and humanitarian sectors. The secondary data emanated from a review of books, journals and articles within the field.

1.8 CHAPTER SUMMARY

This thesis has five chapters. Chapter 1 gives a background to the research, which highlights the importance of the African Union in addressing the issues of Peace and Security in the continent and a background of the concept of R2P. The gap as highlighted in the problem statement is that

there is continued existence of conflicts in the region and a perceived failure by the AU to address these issues using the legal machineries, structures and principles at their disposal. Chapter 1 also highlights the objectives and the delimitations of the study. Chapter 2 addresses the literature review which will provide a contextual background for the study by giving an empirical and theoretical review. The first section provides an overview of the fundamental nature, mandate and structure of the AU while the second section looks at the working application of the R2P principle and its pillars in Africa and within the globe and any challenges that have been brought out in its implementation. Chapter 3 describes the research methodology used to answer the research questions established in Chapter 1. It also includes the research design, data sources, the procedures in data collection, data collection instruments and techniques of analysis and presentation. Chapter 4 gives details of the findings of the research including the descriptive and inferential analysis which are presented and discussed under each objective. Chapter 5 presents a summary of findings, conclusions and recommendations of the study to the stakeholders involved as well as the study implications and recommendations for further research.

CHAPTER 2:

LITERATURE REVIEW

2.1 INTRODUCTION

This Chapter will provide a contextual background by studying the findings and empirical evidence of different authors around the central themes of Peace and Security in Africa, the Responsibility to Protect Doctrine and the AU and its intervention in conflict situations in Africa. The paper will then cap off this section with an explanation of the evidence provided using various International Relations theories hence providing an understanding of the actions or inactions of the Union in various conflict situations and for this reason narrowing down the specific gaps that the study intends to fulfill.

2.2 EMPIRICAL REVIEW

2.2.1 Background of AU and AU Approaches to Peace and Security

The history of the African Union (AU) is connected to the formation of Organization of African Unity (OAU) on 25 May 1963. The OAU's mandate was to collectively establish, maintain and uphold peace and security in Africa. OAU's power to intervene in conflict situation in Africa was inhibited by high and arguably blind respect for sovereignty, territorial integrity and independence of the member states as a result of its principle of non-intervention (Ezeibe, 2014). This means that the OAU could not intervene in conflict situations in Angola, the Democratic Republic of the Congo (DRC), Liberia, Rwanda, Sierra Leone and Somalia in the 1990s when essentially it should have.

The African Union was then launched at the 2002 Durban Summit instantly becoming the leading institution for the protection and the promotion of human and people's rights in Africa (Gumedze, 2010). The Constitutive Act of the AU which was adopted in July 2000 spells out the objectives of the Union. Article 3 (f&g) state that the AU shall promote peace, security and stability on the continent as well as democratic principles and institutions, popular participation and good governance.

To further augment its peace and security mandate to prevent, manage and resolve conflicts the AU established the Peace and Security Council (PSC) in March 2004. The PSC is an important organ with regards to the peace architecture whose functions include; recommending intervention to the heads of states and Governments in grave circumstances, instituting sanctions, facilitating humanitarian action and peace building and peacekeeping processes. The PSC is assisted by the Commission of the AU, the Panel of the wise, the Continental Early Warning System and the Africa Standby Force. This is the most critical institutional component of the African Union's peace and security architecture more so in regard to an interventionist model. The AU's new security regime is premised on several customs which are both old (based on the Charter of the OAU) and new ones emanating from the Constitutive Act. The AU is guided by the principle of non-indifference which means that it overtly recognizes the right to intervene in a member state on humanitarian and human rights ground (Hanson, 2009). The AU Act specifically commits the AU to intervene in civil wars within member states and when there are clear indications of human right abuses and in specific circumstances.

Other than the ideology of non-indifference, the AU's right of intervention is derived from the ideal of Pan-Africanism, the dictates of which stipulate that African countries can no longer remain unsympathetic and unresponsive to the conflict and suffering that occurs in their

environs, and that African countries have the principal responsibility of ascertaining and maintaining the peace and security architecture on the continent (Muriithi, 2009).

With the AU having received a much broader peace and security mandate than its predecessor, the Organization of African Unity, and having institutionalized R2P at the legal and political levels of the organisation, the organization encompassing the AU Peace and Security Architecture (APSA) seemed more than ready to adopt a much more interventionist security approach and to provide ‘African solutions to African problems (Spies, 2016).

2.2.2 The Responsibility to Protect.

The concept of responsibility to protect was comprehensively put together in 2001 by the International Commission on Intervention and State Sovereignty (ICISS). Traditionally and to date, forceful intervention for humanitarian purposes has been problematic due to the highly cherished principles of state sovereignty and non-intervention. The traditional conceptualization of sovereignty has been an effective guard for a state in respect of its domestic affairs despite its misconduct or atrocities exerted towards its people (Kabau, 2012). As a way of resolving intervention difficulties associated with the traditional approach, the Commission used an allegorical strategy by conceiving the idea of sovereignty as a responsibility rather than exclusive absolute control.

The responsibility to protect notion therefore seeks to challenge the traditional understanding of state sovereignty by allowing regional organizations and other actors in the international system to intervene in cases where serious human rights violations are taking place. The concept is therefore viewed as a legal and ethical obligation and promise of the international community, acting through organizations such as the UN and Africa’s regional organizations including the

AU, ECOWAS and EAC, to protect citizens from genocide, war crimes, crimes against humanity, or ethnic cleansing (Gumedze, 2010). From a policy perspective, R2P speaks to the propagation of state failure and violent internal conflict. As a concept, the responsibility to protect is a fluid one which presupposes that it can be employed at various levels in order to ensure the protection of citizens.

R2P is also considered as a peace building thought that combines the pillars of prevention, reaction and rebuilding into a comprehensive framework' (Frere, 2016). Reaction in this case ranges with options from the persuasive to the coercive.

2.2.3 Application of R2P in the AU

The African continent is inextricably linked to the development of the Responsibility to Protect norm and R2P's moral and ethical understanding and construction of the duties associated with state sovereignty. With the African Union (AU) having institutionalized R2P in its legal-institutional foundation, Africa and the world were ready to see APSA's prowess and ramped-up interventionist approach to security (Spies, 2016).

According to Africa Briefing Report (2011) however, there remains a disconnect between the African Union's (AU) ability on paper and its actual impact in actual crisis situations. Since 2004, the norms, values and principles that the African Union purportedly holds dear, have been unevenly applied to states that have fallen foul of them. AU's lack of good communication tools, management capacity and positive visibility especially in crises such as in Libya and Côte d'Ivoire have soiled the integrity, ability and influence as well as the reliability of the organization (Ezeibe, 2014). Seemingly as has been brought out in the gap of this study, the AU does not have the capability to wield and enforce the powers it has within its mandate to reduce

occurrences of conflict in Africa. In the case of Togo for example, it took the joint leadership and efforts of ECOWAS and the AU to reverse the coup d'état that took place after the death of the President in February 2005. In Mauritania, the blanket application of sanctions by the Union after the coup d'état did not bring the expected change and a turnaround of the military takeover. This was the case despite the suspension of its membership by the AU and broader international efforts to persuade and convince for a return to democratic government. Darfur was a particularly tough and exceptional test about how such developing norms and principles should be applied. The Darfurian case shows that it is obvious that both the AU and the wider international community have failed to change Sudan's behavior (Aning, 2008).

AU's lack of influence over external interventions led by the UNSC and its permanent members the United States, China, Russia, France, and Britain – who often have their own more insular interests, has more often than not led to unwanted outcomes. Again, AU's mission in Darfur was not clearly set out due to the opposing views of the members of the AU about the mission's purpose. The Union in this case admitted its limitation and joined with the UN in a UN-AU Hybrid Mission in Darfur (UNAMID).

The AU had an opportunity of setting its record straight during the humanitarian crisis that ensued after the 2010 elections in Côte d'Ivoire. As the crisis unfolded, however, it became clear that the AU was not only unable to operationalize its institutionalized R2P mechanisms, but also reluctant to invoke R2P explicitly to solve the crisis. This has raised serious qualms about the AU's readiness and enthusiasm or lack thereof to intervene in its member states when humanitarian atrocities are perpetrated by governments against their own people, and bringing severe misgivings and mistrust on the AU's promise to provide 'African solutions to African problems' (Spies, 2016). The AU's attempts at a peaceful resolution of the Côte d'Ivoire crisis

were hindered a number of times by internal separation and difference in opinions between member states that undermined the credibility of the AU as the main political mediator. These divisions were mirrored within the AU mediation team (Africa Briefing Report, 2011).

In mid-December 2015, the PSC took its most daring action to date to halt the crisis in Burundi by approving the deployment of a 5,000-strong African Prevention and Protection Mission in Burundi. After giving the Burundian government 96 hours to approve the deployment, the PSC expressed its 'resolve' to invoking Article 4(h) of the Constitutive Act - which was never the case. The challenge in implementing R2P here is the question as to why consent had to be sought to deploy troops and secondly, the fact that the AU did not react forcefully to the Burundian government's decision to reject the mission. This is a challenge especially with past AU experience in Darfur, where it was faced with a unreceptive Sudanese government, and the general take home in terms of lessons for R2P was that being flexible on the conditions of a deployment aimed at protecting civilians hinders the effectiveness of the mission (Studies, 2016).

Adejo is of the opinion that the establishment of the AU intervention mechanism amounts to the mere repainting of the OAU with a coat of fresh paint, adding that the AU has failed to tackle the internal structural problems that are essential for effective intervention (Adejo, 2001).

2.3 THEORETICAL FRAMEWORK

There are a number of complementary and competing theories that seek to give an explanation for the evidence as explained by the empirical evidence.

2.3.1 The Post-Colonial School of Thought:

The Post-Colonial School of thought alludes to how states have responded to the influence, manipulation and effects of colonialism on cultures and societies. The theory presupposes three stages; that first states become conscious of their social, psychological and cultural inadequacies imposed by being a colonized state and therefore fight for their ethnic and political independence which they hold so dear to them while at the same time recognizing the cultural overlaps and hybrid nature of different people within a state and different states within a system. The formation of the OAU initially was to address the issues arising from colonialism in Africa. Because states in Africa fought a long time to gain autonomy, they jealously guard the perks that come with it including state sovereignty.

On the other hand, the concept of African Solutions to African Problems assumes that the issues Africans face are complex and unique to them and that they (Africans) should be the ones to offer solutions. This is the reason as to why states cooperate for the greater good. Seeking help from outsiders reverts to the initial reliance and dependence state that African states were in previously and which they are trying to steer away from.

2.3.2 Realism:

Realism is a model and theory in International Relations based on the principle that world politics is fundamentally and unchangeably a struggle among self -interested states for power and position under a system of anarchy, with each state pursuing its own state interest.

Opposite from the liberal view point, realists main goal is to attain power and it does this through a self-help system where there is no reliance on international organizations for the protection of

the state. It regards the state as the main actor in international politics hence any actions by states within international organizations serve to protect the state's national interests. Morgenthau's realist view is that war is to be expected and anticipated to a realist because humans are selfish in nature and all they want is to service their own selfish interests at the expense of moral and human rights considerations. The sovereignty of the nation state, based on the dual principles of equality and non- interference are key to realism. It is the principle of non-interference that has shielded states from having other states meddling in their affairs.

2.3.3 Neo- Liberalism and Liberal Institutionalism

The central thinking of this thesis is influenced by the Liberal school of thought and its various strands. Liberalism is a paradigm predicated on the hope that the application of reason and universal ethics to international relations can lead to a more orderly, just and cooperative world and that international anarchy and war can be policed by institutional reforms and laws that empower international organizations. Liberalism is a moral, political and economic theory that places the most fundamental value on the individual human being (Moyn, 2014).

The concept of neo-liberalism suggests a particular account of the development of liberal thought. It is increasingly common to claim that international human rights law is a neoliberal phenomenon (Moyn, 2014).

Liberal institutionalism is a strand of the liberal theory where it is argued that meaningful and lasting forms of cooperation is possible under a system of anarchy. Liberal institutionalists agree with realists on the concept and existence of anarchy. In reaction to Mearsheimer's critique and book "The False Promise of International Institutions" Robert Keohane asserted that institutions

played a big role in the conduct of state behavior and the task was to discover how, and under what conditions institutions can aid (Wheeler).

Liberalists assume a positive view of the human nature where reason, rationality and moral principles are applied in international relations and that the international system is based on the plural society of state and non-state actors. They assert that cooperation can help achieve national interests and steer their focus on other notions of security such as human security and human rights.

This theory explains the AU's formation and interventionism as one that emanates from a shared understanding and history of joint partnership and collaborative efforts amongst states for the greater good of Africa as well as a means of achieving regional integration. It also justifies the different institutions within the AU such as the judicial and human rights institutions mandated with the task of upholding human rights. Because of the belief that war is not inevitable, liberalists and institutionalists within the AU have tried to explore means to restore peace to various crises in Africa. This theory therefore best explains the functioning of AU's R2P in promoting peace and security in Africa.

CHAPTER 3

METHODOLOGY

3.1 RESEARCH DESIGN:

This research employed a Qualitative Research Design because it seeks to gain insight and explore the reasons for decisions and the intricate findings of the AU's application of the R2P principle. It is concerned with opinions and experiences of those involved such as Government officials, and it's a study of the social and political dynamics as they occur naturally without alterations. The research is a case study as it looks specifically into the workings of the African Union.

3.2 DATA COLLECTION METHODS AND ANALYSIS

The research was conducted in Nairobi as the city hosts a number of humanitarian and peace and security agencies including those of the United Nations. The study largely employed a desktop review and analysis of works and studies undertaken by previous authors on the topic and matters related.

The research also employed primary methods of data collection through individual open -ended interviews. The interviews helped to shed light on the thinking of various actors on whether truly the AU is capable of achieving the mandate before it while specifically offering practical and actionable solutions from actual implementers in the field. The interviews also tested the information and feasibility of recommendations given by previous authors.

The Respondents were key informants from three major stakeholders knowledgeable in the subject matters; that is the African Union, the Government of Kenya and Academia.

These Respondents were picked using the convenience and snowballing methods, as these are the most convenience methods with the time allocated to conduct the study. The Respondents have the capacity and recognition from their respective institutions to be giving correct information avoiding the issue of false data collection and a false representation of the institutions which they represent. The inclusion of members of Academia in this case was deliberate in helping to give unbiased information and opinions which may have not been disclosed for reasons such as protection of institutions. The interviews employed the use of recorders and note writing and the information was transcribed for the purpose of data collection and analysis.

3.3 ETHICAL CONSIDERATIONS

The interviews were based on voluntary participation and informed consent of respondents involved. The Respondents wished to maintain their confidentiality.

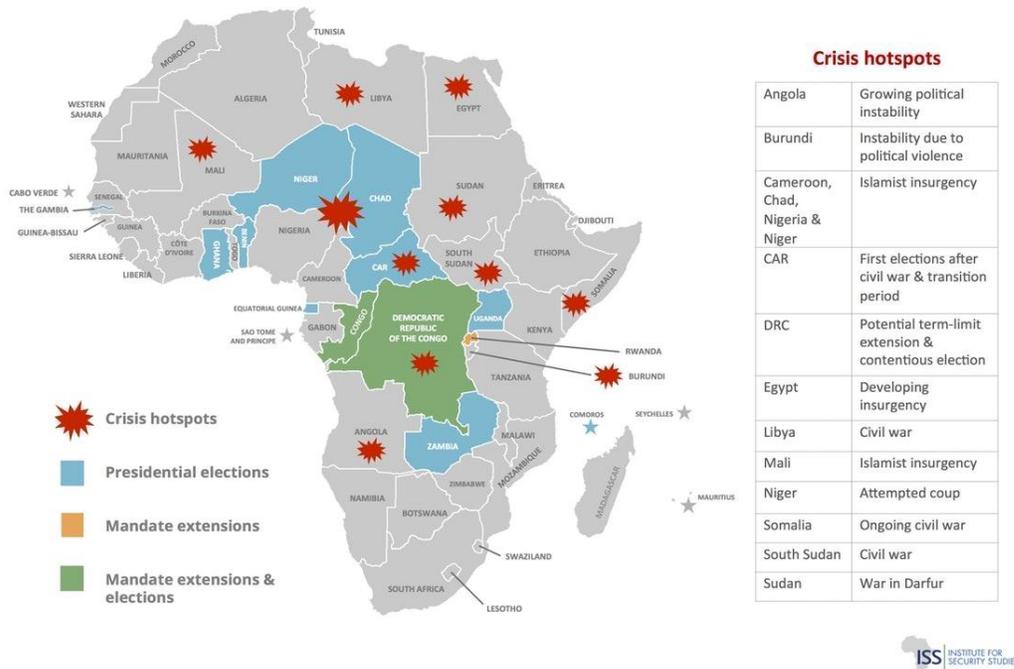
CHAPTER 4

THE APPLICATION OF THE R2P PRINCIPLE IN AFRICA

The idea of peace and security seems like a myth to many in Africa judging from the number of conflicts ongoing in the continent in the last 2 decades. While the number of conflicts around the world is assessed to have declined 40 per cent between 1992 and 2005 and the number of states in Africa with ongoing conflict has decreased, a number of African states are still beset by genocide, crimes against humanity, killings, torture, and other civil and political rights violations (Sarkin, 2009).

In the 1990s, 3 million out of 160 million Africans were killed in countries consumed by civil war which accounted for 79 out of 82 conflicts in Africa then. An estimated 300,000 child soldiers are involved in ongoing or recent armed conflicts around the world. It has also been estimated that 2 million children died and 6 million children were wounded as a result of conflict in the years between 1994 and 2004 (Sarkin, 2009). The UN High Commissioner for Refugees (UNHCR) states that there are about 37 million displaced people around the world as a result of conflict. Many of these people are in Africa, the largest numbers coming from the Democratic Republic of Congo (DRC), Sudan and Somalia.

Africa in 2016



The responsibility to protect doctrine embraces three distinct duties; that of prevention of conflict and other man-made crises, reaction and responding to situations of violence and atrocities and finally rebuilding which entails the recovery, reconstruction and reconciliation (Murithi, 2009).

The test of the viability of the R2P principle lies in its implementation which presently is proving difficult as many African States irrespective of their political configuration, wealth or stability adhere to the principle of sovereignty (Ekiyor, 2007). The traditional notions of state sovereignty cabin the domestic affairs of a state within the purview of that state, regardless of its misconduct, no matter how atrocious, towards its people.

The AU can and has provided the mechanisms for the implementation of the concept through various approaches, including peaceful negotiations and consensual interventions, but the issue lies with the implementation of forceful intervention which is politically problematic to

implement despite having the legal backing (Kabau, 2012). In any case, the idea of forceful intervention comes in when peaceful negotiations and consensual interventions have failed.

4.1 LEGAL MECHANISMS:

The most crucial element in the establishment of the AU and its organs was the challenge to move away from the overly state-centric character of the OAU and its concomitant lack of civil participation (Simbeye, 2016). Because of the principle of non-interference, the OAU was an ineffective collection of states, mostly led by autocrats, who refused to take any action if it involved the domestic affairs of other members (Taylor, 2013). This resulted in their move from the notion that sovereignty trumps everything to the principle of non-indifference which meant that human rights in the AU would now play a greater role in the work of the Union than they did in the OAU.

In its objectives as listed in the AU Constitutive Act, whereas the Union purposes to defend the sovereignty, territorial integrity and independence of its Member States (Article 3b) it also has the right and duty to promote peace, security, and stability on the continent (Article 3g). Article 3h states that the Union shall also promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments including the Universal Declaration of Human Rights, the Declaration of the rights of the Child, the ICCPR and the ICESCR among many others accepted globally (The African Union Constitutive Act, 2000).

The Union is governed by a number of principles envisaged in Article 4 of the same Act including the recognition and respect of sovereignty, interdependence and borders of the Member States as well as the peaceful resolution of conflicts through appropriate means and the

prohibition of the use of force among member states of the Union. The Act commits the members to accelerate political and economic integration of the continent, including through the development of a common African security and defense policy. Noteworthy however is Article 4(h) which specifically speaks of 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 (The African Union Constitutive Act, 2000). The AU Act is the only of its kind explicitly recognizes the forceful intervention of states in the event of gross violation of human rights.

The Act also provides for the functions of the various institutions. Specifically, the PSC's authority is derived from article 20 of the Constitutive Act as inserted by article 9 of the Protocol on Amendments to the Constitutive Act 2003 together with article 2 of the 2002 Protocol Relating to the Establishment of the Peace and Security Council of the African Union.

On the face of it, therefore, the Constitutive Act of the AU appears to give an important place to human rights and an indication that they will play a significant role in the AU. However, there has been considerable concern that institutions such as the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights do not appear to feature in the Act (Murray, 2004). Udombana (2002), notes that the AU Act provides only a skeletal framework, leaving behind many issues that must be fleshed out. The Act did not give enough details in terms of its institutional structure but merely mentions that the AU Assembly shall 'give directives to the Executive Council on the management of conflicts, war and other emergency situations and the restoration of peace.' This gap was however rectified with the adoption of the Protocol Relating to the Establishment of the Peace and Security Council also known as the PSC Protocol (Sarjo-Bah, Choge-Nyangoro, Dersso, Mofya, & Murithi, 2014).

Further the AUs commitment explicitly to R2P was reiterated prior to the September 2005 World Summit in the March Ezulwini Consensus of 2005.

4.2 INSTITUTIONAL AND STRUCTURAL MECHANISMS:

The AU has various organs within it mandated with different tasks. These include the Assembly of the Union, the Executive Council, The Pan-African Parliament, Judicial and Human Rights Institutions including the African Commission on Human and Peoples' Rights, African Court on Human and Peoples' Rights and the African Committee of Experts on the Rights and Welfare of the Child, the Commission, the Permanent Representatives Committee, the specialized technical committees, financial institutions such as the African Central Bank, the African Investment Bank and the African Monetary Fund, the Economic, Social and Cultural Council, the Peace and Security Council and finally legal organs including the AU advisory Board on Corruption and The AU Commission on International Law.

The Assembly is the Union's supreme organ and comprises Heads of State and Government from all Member States. It determines the AU's policies, establishes its priorities, adopts its annual program and monitors the implementation of its policies and decisions. It may give directives to the AU Executive Council and Peace and Security Council on the management of conflicts, war, acts of terrorism, emergency situations and the restoration of peace. The AU Constitutive Act provides for the Assembly to decide on intervention in or sanctions against Member States in specific circumstances. However, it delegated this mandate to the Peace and Security Council when it became operational in 2004 (The African Union, 2012).

The PSC is the standing organ of the AU for the prevention, management and resolution of conflicts. The PSC's core functions are to conduct early warning and preventive diplomacy,

facilitate peace-making, establish peace-support operations and, in certain circumstances, recommend intervention in Member States to promote peace, security and stability. The PSC also works in support of peace-building and post-conflict reconstruction as well as humanitarian action and disaster management.

Courtesy of the Peace and Security Council Protocol adopted in Durban in July 2002, the Union has also established the African Peace and Security Architecture (APSA) which is involved in decision-making processes relating to the prevention, management and resolution of crises and conflicts, post-conflict reconstruction and development in the continent. APSA denotes the umbrella term for the main AU mechanisms for promoting peace, security and stability in Africa. The protocol outlines the various components of the APSA and their respective responsibilities. The APSA should not be seen as a monolith, but as a set of institutions and bodies with different mandates, objectives and composition. The main pillar of the APSA is the PSC, which is supported, in the discharge of its mandate, by 5 other structures, namely: the Commission, the Panel of the Wise, the Continental Early Warning System (CEWS), the African Standby Force (ASF) and the Peace Fund (The African Union, 2012). Articles 8 and 16 provide for the Military Staff Committee and Regional Mechanisms for Conflict Prevention, Management and Resolution as additional components of the APSA (Sarjo-Bah, Choge-Nyangoro, Dersso, Mofya, & Murithi, 2014).

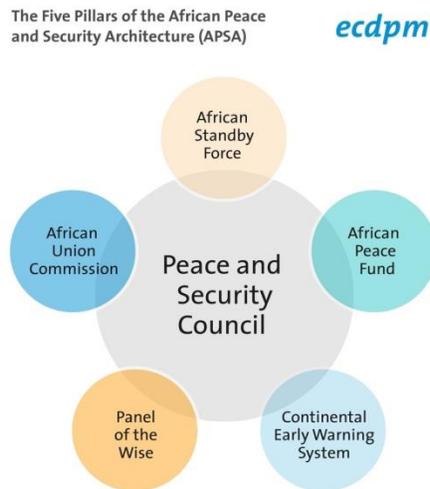


Figure 2: The APSA

The relationship between the AU and the Regional Economic Communities/Regional Mechanisms for Conflict Prevention, Management and Resolution (RECs/RMs) is a key APSA component. These primarily are ECOWAS, EAC, SADC, IGAD, ECCAS, AMU, COMESA, CEN-SAD, NARC and EASF. Relations between the PSC and other AU organs, such as the Pan-African Parliament and the African Commission on Human and Peoples’ Rights, as well as with civil society organizations, is equally fundamental for the promotion of peace, security and stability in Africa. The Union also recognizes two mechanisms for coordinating the African Standby Force which are the East Africa Standby Force coordination mechanism and the North African Regional Capability (Williams, 2011). Furthermore, the PSC Protocol provides for partnerships between the AU, on the one hand, the United Nations (UN) and other relevant international stakeholders, on the other hand (The African Union, 2012).

4.2.1 The Peace and Security Council:

This body is made up of 15 members on a rotational basis. Article 7 of the Protocol on the Establishment of the Peace and Security Council of the African Union (PSC Protocol) stipulates the PSC's mandate, including to anticipate and prevent disputes and conflicts, as well as policies that may lead to genocide and crimes against humanity; undertake peacemaking and peace building functions in order to resolve conflicts where they have occurred; authorize the mounting and deployment of peace support missions; recommend to the assembly intervention in a member state in respect of grave circumstances as provided for in Article 4 (h) of the Constitutive Act and support and facilitate humanitarian action in situations of armed conflicts or major natural disasters. The PSC serves as a collective security and early-warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa (European Centre for Development Policy Management, 2016).

According to the Peace and Security Department of the AU, the PSC has significantly increased its working methods to enforce its roles. These improvements can be seen in the timeliness in convening meetings to address conflict and crisis situations, better organized elections for the membership of the PSC, increasing coordination and cooperation with Regional Economic Communities/Regional Mechanisms in addressing conflict and crisis situations, laying down the foundation for interaction with civil society organizations in the promotion of peace, security and stability in Africa and increased cooperation with the UN Security Council and the EU Political and Security Committee in addressing conflict and crisis situations in Africa (African Union Peace and Security Department, 2010)

4.2.2 The Commission acts as the executive/administrative branch or secretariat of the AU.

4.2.3 The Continental Early Warning System

Aims to collect data and analyse potential conflicts and threats to peace and security in Africa. In order to achieve this, the system works with the UN and other international partners, academics, research centres and NGOs. It operates an observation and monitoring centre known as a Situation Room located with the AU's Conflict Management Division of the African Union, where information is actually collected and analysed. Information in the field is collected by the observation and monitoring units of the Regional Mechanisms for Conflict Prevention, Management and Resolution.

4.2.4 The African Standby Force

This is an African peacekeeping force composed of military, police and civilian contingents. It acts under the direction of the African Union and will be deployed in times of crisis in Africa.

4.2.5 The Peace Fund

The fund is intended to finance AU-led peace support operations. Its budget is made up of a contribution from the AU's regular budget and voluntary contributions from African and international donors.

4.2.6 The Panel of the Wise:

Article 11 of the 2002 Protocol created the Panel of the Wise. It is a consultative body of the African Union, composed of five members who are selected by the Chairperson of the AU Commission and appointed for three-year terms by the AU Assembly. It is mandated to provide the PSC and the AU Assembly with advice on preventing, managing and resolving conflicts either suo motu or on request. It takes the actions it deems appropriate ‘to support the efforts of the PSC and those of the Chairperson of the Commission for the prevention of conflicts (Karock, 2014). As people who have made outstanding past contributions to peace, security, and development, members are tasked with using their expert knowledge and moral authority to resolve conflicts peacefully such as engaging in preventive diplomacy and supporting the AU’s peacemaking initiatives by facilitating communication channels between conflict parties, the PSC, and the AU Commission.

4.3 A PRACTICAL APPROACH TO R2P:

The AU has faced major obstacles during its first decade with its practical achievements falling short of its ostentatious declarations of intent, its small number of bureaucrats struggling to keep the organization working effectively and efficiently, and its member states have often been divided over how to respond to Africa’s conflicts. Williams attributes these deficiencies as stemming from three problems. First, the AU attempted to refashion the continent’s peace and security architecture at a time when crises and armed conflicts engulfed much of Africa. Local governments and external donors were thus forced “to build a fire brigade while the neighborhood burns. Second, the AU took on formidable conflict management challenges without possessing any big sticks or many tasty carrots. It thus lacked sources of leverage crucial

for resolving armed conflicts. Third, AU reform efforts became entangled in broader debates about the appropriate relationships between the United Nations and regional organizations (Paul Williams, 2011).

4.3.1 The Responsibility to Prevent

Preventive Diplomacy is the first alternative among others in Conflict Prevention. The term refers to actions or institutions used to keep political disputes between or within nations from escalating into armed conflict (Gerenge, 2015). Preventive Diplomacy allows for the early and peaceful resolution to a conflict. Within the R2P framework, preventive diplomacy offers a set of tools to be used on a case by case basis by a wide range of actors to peacefully respond to threats and occurrences of mass atrocities by facilitating political solutions (International Coalition for the Responsibility to Protect). Generally, the African Union still has a lot to do to build on the culture of prevention in Africa (Kuwali & Viljoen, 2014).

The Continental Early Warning System falls under this function with its primary function being to provide policy makers with timely information indicating what is happening on the ground and the available policy options on the basis of which they can adopt appropriate strategic responses in order to prevent a conflict (Kuwali & Viljoen, 2014).

The AU practices and all the progress in the continent indicate that the AU has paid increasing attention to post-conflict resolution than on development and prevention particularly (Alemu, 2014). The AU has been reluctant to respond to conflicts at an early stage. The evidence shows that it does not pay attention to the CEWS and various international commission reports which identified crimes against humanity for example in Darfur in 2004. In Libya and Cote D'Ivoire in

2011, it was slow to assert itself before the conflict worsened and led to the military intervention. The AU also failed to protect civilians in Mali in 2012 (Alemu, 2014).

a) The First Intervention - Burundi (2003)

The AU intervened in Burundi to build peace and enable the establishment of a more robust UN peace operation. The AU's 2003 peace operation in Burundi, also known as the African Union Mission in Burundi (AMIB), was the first AU operation wholly initiated, planned and executed by its members. In this regard, it represents a milestone for the AU in terms of self-reliance in operationalizing and implementing peace building. In Burundi, the AU was effectively mandated to build peace in a fluid and dynamic situation that could easily have led the country to relapse into violent conflict. In this regard, this AU mission had elements of R2P (Murithi, The Responsibility to Protect as Enshrined in Article 4(h) of the AU Constitutive Charter, 2013).

The African Mission in Burundi was AU's first peace operation. Burundi's issue began in 1992 after the introduction of multi-party politics and democratization process and the subsequent killing of the first democratically elected president - Hutu Melchior. This led to violence throughout the nation which lasted for decades. The Burundian Civil War was an armed conflict that lasted 12 years from 1993 - 2005, as a result of ethnic division between the Hutu and the Tutsi groups in Burundi. A number of peace agreements were attempted and negotiated but it was not until 2000 when the Arusha Peace and Reconciliation Agreement mediated by former president of Tanzania, Mwalimu Julius Nyerere and Former president of South Africa, Nelson Mandela was signed. In 2006, all factions of the warring sides had signed the agreement.

The African Union responded by deploying AMIB to strive towards ensuring favorable conditions for the establishment of a UN peace keeping mission. The mission managed to

stabilize Burundi to the extent that thought it could take over the process, however, it also indicated the various structural gaps that the AU had as an organization and the gaps that the member states had. Of most importance was the issue of funding (Svensson, 2008).

An assessment of the situation shows that AMIB failed in DDR largely due to the funding pitfall.

A number of AU missions have however been established to foster political dialogue and reconciliation. These include the AU Mission for CAR and Central Africa (MISAC), African Union Mission in Sudan (AMIS), African Mission in Somalia (AMISOM) among others.

b) Restoring Peace in Kenya:

The flagrantly flawed presidential election in Kenya in December 2007 announced as having been won by the former president Mwai Kibaki, produced not only its worst political crisis since independence, but waves of ethnic violence across the capital Nairobi, the rural Rift Valley and other regions of the country with estimated 1300 civilians killed and between 350-600,000 displaced (Schneider, 2010).

In the elections that were held in 2007, the state through the police and the judiciary were seen to either be partisan as a result of their appointment by the presidency in the situation of the judiciary or reluctant to quell the mass atrocities ongoing in the situation of the police. Despite the fact that violence had already occurred in the post-election violence in 2007/2008, the AU appointed former UN Secretary-General Kofi Annan in 2008 to lead the mediation process in Kenya with the support of the DPA's Electoral Assistance Division (Halakhe, 2013). This eventually led to the 2-page Power sharing agreement signed by the different factions in February 2008 and thus maintaining peace and calm in a situation which would otherwise have been very severe.

The success of R2P's preventive diplomacy in Kenya is attributed to the fact that there was political will of the disputing parties to resolve conflicts through peaceful measures and to accept external assistance to facilitate these processes.

c) The Political Impasse in DRC:

Kabila has been president of the DRC since January 2001 when he took over from his father, President Laurent Kabila, after his death. Kabila won the elections in 2006 and 2011 and his term was due to expire in December 2016 but in September 2016, electoral authorities announced elections would not be held until early 2018. The postponed presidential elections resulted in political violence and increased instability (Global Centre for the Responsibility to Protect, 2017). However, in an agreement signed with the opposition in December 2016, Kabila was allowed to stay in power beyond the end of his term that month, so long as he held elections before the end of 2017. In May 2017, Kabila announced 60 Ministers and deputy Ministers of his Government and kept the same people from his previous government in charge of key ministries, including foreign affairs, interior, justice and mines, going against the December 2016 agreement (DWNNews, 2017). This has further angered the people of DRC.

There are concerns that the DRC could slip back into the civil wars of 20 years ago which left hundreds of thousands dead. Populations in the eastern Democratic Republic of the Congo remain at risk of possible mass atrocity crimes perpetrated by armed groups. The Office of the UN High Commissioner for Human Rights (OHCHR) has noted that Kamuina Nsapu has perpetrated atrocities against civilians and that the government's armed forces have used disproportionate force in its response to the militia. According to the UN Office for the Coordination of Humanitarian Affairs, of the 2.2 million internally displaced persons in the

DRC, over 1 million are in the Kasai region. Populations in the region have witnessed increased clashes during February and March. On 9-13 February the army reportedly killed over 100 people, including 39 women, during clashes with the group (Global Centre for the Responsibility to Protect, 2017).

In this context of growing instability, there have been repeated calls for the AU to intervene in the situation and implement its tools for preventative action in the DRC and as the key voice needed to which has the tools to weigh in on the mandate issue. The AU's 2007 Charter on Democracy Elections and Governance makes provisions to sanction member states if they manipulate legislation for the purposes of staying in power. But the AU has been relatively absent from the debate on the DRC (Wolters, 2016). AU has been urged to learn from Burundi's experience and call for President Kabila and members of his government to respect democracy in line with the African Charter on Democracy, Elections and Governance. The UN has expressed concerns over the use of force by Government to silence dissenting views. Authorities continue to arrest protesters (Kode, 2016).

The AU Commission Chair however appointed Mr. Edem Kodjo as the facilitator of the national dialogue after receiving a request from the Congolese Government to address the issues related to the upcoming elections of DRC. Kodjo unfortunately stepped into a process initiated by the Government which is not supported by the opposition and therefore has not established the independence and neutrality needed to aid the situation. Opposition perceives this move as one that is political with the intent of extending Kabila's stay in power. This notion is further supported by the fact that in the first communiqué by the AU on DRC, the Union made no

mention of the Charter on Democracy, Elections and Governance or respect of Constitutional term limits which is the root of the tension but instead spoke of the determination of the Union to support the DRC on the path of political dialogue in accordance with the AU Constitutive texts (ISS, 2016).

The DRC situation acts as a true test of the AU's applicability of lessons learnt from the past if any, and whether R2P is really going to work in the African context.

d) The Stand for Democracy in Gambia:

The Gambia's Constitutional Crisis of 2016 began after the presidential elections that were held on December 1st 2016. The then president Yahya Jammeh had been unexpectedly defeated by Adam Barrow. To the surprise of many in the country, Jammeh initially conceded defeat. On 9th December 2016 however, Jammeh decided to reject the outcome of the elections due to what he termed as serious and unacceptable abnormalities during the electoral process. In the days that followed this announcement, security and military leaders backed Jammeh and there was military occupation in most parts of the country. Security officers took over the election offices and prevented the officers from entering the building.

The transition in the Gambia is a clear case of prevention in which ECOWAS, the AU and the UN were all united behind the will of Gambian people. However, ECOWAS played the biggest role in comparison to the AU and the UN by mediating over the process. The AU simply declared Jammeh's actions as null and void.

In January, the former President of the Gambia, Yahya Jammeh, decided to facilitate an immediate and orderly transition process and transfer of power to President Adama Barrow after

concerted mediation efforts by a number of African leaders to help resolve the crisis in the country following the presidential elections in December. The preventive diplomacy in Gambia avoided bloodshed, restored democracy and averted a humanitarian disaster - so much so that 45,000 Gambians who fled to Senegal and 7,000 to Guinea-Bissau are now returning home (The Seattle Times, 2017).

The situation demonstrated the democratic maturity of political actors and voters, which should serve as a reference for other countries in the continent. This case was a perfect example of the RECs coordination efforts with the AU and the international community in fostering peace. However at the end of the day, the AU's role in Preventive Diplomacy was minimal.

4.3.2 The Responsibility to React:

In 2002, the AU Assembly adopted a broad definition of “unconstitutional changes of government” to include the overthrow of a democratically elected government by its military, mercenaries, or armed rebels as well as the refusal of an incumbent government to relinquish power after losing a free and fair election. In 2009, it broadened this interpretation to include the use of illegal means to maintain power. Since 2003, the AU has consistently condemned every successful coup on the continent, namely those in the Central African Republic (2003), Guinea-Bissau (2003), São Tomé and Príncipe (2003), Togo (2005), the Comorro islands, Mauritania (2005 and 2008), Guinea (2008), Madagascar (2009), and Niger (2010). The Union has also made public statements in favor of democratic governance. (Paul D Williams)

Three countries have been suspended because of their actions in the political scene Madagascar was suspended after the 2009 political crisis, Guinea-Bissau was suspended after the 2012 coup

d'état, and the Central African Republic was suspended after the conflict in 2012-2013 (Taylor, 2013)

The word intervene in Article 4(h) implies that the AU Assembly can authorize military force for humanitarian protection purposes without the host government's consent or prior to a UN Security Council resolution arguably in possible contradiction to Article 53 of the UN Charter. There is the questionable commitment of many AU member states to the idea of humanitarian intervention. To date, Article 4(h) has never been invoked to justify military action against a member state even in cases where a relevant international commission actually identified crimes against humanity or where the UNSC suspected that such crimes were occurring.

a) To Intervene or Not to Intervene? Darfur (2004/05)

The Darfur Conflict is regarded as the test of the Responsibility to Protect applicability by the UN and the AU. The Darfur conflict commenced in 2003, and by the turn of 2005, there were widespread and systematic atrocities that included killing of civilians, displacements, destruction of villages, rapes and other types of sexual violence that amounted to crimes against humanity (Kabau, 2012).

Much like the other disputes in Sudan, the crisis in Darfur is based on economic and political marginalization of non-Arabs but has roots that stem from far past (Dullaghan). In February 2003 the Darfur region which is on the border of eastern Chad and western Sudan was afflicted by violent conflict between the Sudanese government and a pro-government militia referred to as the Janjaweed, and two rebel movements, the Sudan Liberation Movement / Army and the Justice and Equality Movement. According to Human Rights Watch and Amnesty International among others, the conflict resulted in widespread atrocities committed against civilians such as

ethnically targeted campaign of mass killings, destruction of property, use of rape as a weapon of war and forced displacement which uprooted people from their homes, generating a displaced populace and refugee spillover into neighboring countries, particularly about 250,000 persons fled to Chad. (Murithi, 2009). United to End Genocide recorded 300,000 lost lives and 2.7 million displaced persons.

In March 2003, the UN likened the situation to that of the Rwandan Genocide stating that it was one of the worst situations in the world. In 2004, the European Parliament called the actions by the Government of Sudan tantamount to Genocide which sentiment was shared by the US State Department and Secretary of Defence.

The African Union on the other hand was of a different opinion. It stated that whereas the situation was serious, it amounted to mass suffering and not genocide (Dullaghan). The responses of the AU PSC consisted chiefly of ad hoc steps rather than a systematic or strategic approach to the crisis.

Eventually, the Union responded to the situation in various ways. During the conflict, several ceasefires were signed and broken. The AU brokered a ceasefire - the N'djamena Humanitarian Ceasefire Agreement which largely went unobserved and shortly after, the United Nations Security Council came to the aid of the AU, initially, the Union's role was limited to providing a small force of military observers to monitor the April 2004 ceasefire agreement between the Sudanese government and two Darfurian rebel groups. In October, the A.U. agreed to expand its force to include more than 3,500 monitors, peacekeepers, and civilian police.

It is argued that despite the gross violations of human rights in June 2004 when the African Union intervention in Darfur began, the Union decided to deploy peacekeepers rather than

conduct a humanitarian intervention (Kabau, 2012). In other words, the AU's intervention was deemed as inappropriate and the Union failed in achieving R2P.

b) Whose Continent is it Anyway? - The Libyan Debacle.

Libya perhaps faces the most unique aspect of the AU's engagement of R2P, with various perspectives on whether it was successful or not.

When the conflict exploded, the AU took the responsibility to engage all the different stakeholders in Libya with the hope of finding an amicable solution to the crisis. On 10th March 2011, the PSC created the AU High-Level Ad Hoc Committee on Libya which was tasked to find means to stop the escalation of the Libyan crisis and which was seen as a commendable effort. The idea of this was informed by President Museveni of Uganda who was sympathetic to Gaddafi and insisted that the crisis in Libya was an African one and should be regarded and treated as so and solved by Africans (Sithole, 2012).

Sithole (2012), notes that the committee came up with the AU roadmap to peace which was a genuine attempt at conflict resolution and not merely an attempt to shore up Gaddafi's appearance of legitimacy. The roadmap sought to bring all the stakeholders around the table for purposes of working out the modalities of implementing a five-point plan whose objectives were to protect the civilians and the cease hostilities, provide humanitarian assistance to affected populations, commence the political dialogue among the Libyan parties in order to reach an agreement for implementing modalities for ending the crisis, establish and manage an inclusive transitional period and finally the adoption and implementation of political reforms necessary to meet the aspirations of the Libyan people.

Under the spirit of brotherhood, Gaddafi accepted the roadmap, but the rebels argued that the offer was a political maneuver by the AU given Gaddafi's ties with some African countries ever since he abandoned Pan-Arab ideology in favor of Pan-African ideology, and the fact that he assisted some of the African countries in various ways. As far as the Union was concerned for the crisis, the AU Commission and the PSC decided to adhere to a political solution to the Libyan Crisis which failed (Vlavonou, 2014). Indeed the R2P principle is not limited to use of force but also involves diplomatic, humanitarian and other peaceful means.

To others however, the AU failed *ab initio* on its approach to the crisis. As described, it was never perceived as an impartial actor and similarly failed to deliver firm commitments from the Gaddafi regime or the National Transitional Council that would lead to talks. The international community, particularly NATO and the UNSC brought up the issue of military intervention dubbing the negotiated route ambiguous and unrealistic. The AU could not intervene as it was not strong enough to protect the civilians. The crisis rapidly escalated to a point where the UN Security Council 'had to' consider the use of military force to halt mass atrocity crimes that were already occurring as the Gaddafi regime used tanks, aircraft and troops to suppress mass protests.

The failure by the AU to compel other actors towards its political approach points towards the illusion of 'dogmatic pacifism'. The Libyan crisis exposed the AU as dysfunctional with emphasis on a ceasefire and negotiations which were highly premature and unrealistic. The PSC's tepid and tardy response together with the ambivalence over the future of Gaddafi set the basis for subsequent marginalization with the UNSC (Mabera F. W., 2014).

Writing in the *New York Times* on November 7th, 2011, David Rieff argued that the Libyan intervention had done "grave, possibly irreparable, damage" to R2P adding that supporters of the

concept ought to be mourning rather than celebrating (Bellamy, 2012). Upon evaluation of the crisis, it can be said that the AU failed in executing R2P in Libya by failing to see the roadmap through. Not only did it fail in communication of its political preference to the public but also failed to act in a timely manner in dispatching its High Level Panel to Libya. At the end of it all the AU was overtaken by events and was undermined by other stakeholders in the international community who were actually pursuing their own interests.

c) The Sleeping Peacekeepers - The Case of Cote d'Ivoire (2011)

Ivory Coast descended into political and ethnic violence in 2010 following the November elections that saw long-term president Laurent Gbagbo voted out in favour of Alassane Ouattara. Gbagbo, who controlled the nation's 60,000-strong armed forces, refused to step down despite recognition of Ouattara as the legitimate winner by the UN, AU, ECOWAS and the EU. In the armed conflict that ensued, there were reports of war crimes committed by forces loyal to both Gbagbo and Ouattara. As of April 2011, the then Secretary General Ban Ki Moon reported that over 1000 civilians had died as a result of the clashes and the UN High Commissioner for Refugees stated that more than 500,000 Ivoirians were forcibly displaced and 94,000 others had fled to Liberia out of fear (International Coalition for the Responsibility to Protect).

The AU and ECOWAS demonstrated their incapacity to secure respect for democracy and the rule of law in one of its member states.

When responding, the AU took time to agree on a strategy of peaceful resolution regarding President Gbagbo's departure while the situation deteriorated (Hara, 2011). The AU firstly endorsed ECOWAS' decision recognizing Ouattara as president of the country (Abatan, 2015) and moved to create the High Level Panel for the Resolution of the Crisis in the state on 28

January 2011 to devise a solution for the complex crisis that afflicted the country. The finding was that Ouattara should form a Government of National Unity- but none of the parties wanted to hear of that suggestion. The application of AU's principle in arriving at this solution was a mere copy-paste of the solutions arrived at in Kenya and Zimbabwe and did not take into account the intricate level to which the political conflict had reached and the reasoning of the opposing factions. It also failed to consider the military, economic and political factions of the state (Tiago Faia, 2011). The focus in this case is by the lackluster nature of a non-military reaction to the situation.

In terms of preventive Diplomacy, the AU and the international community in general should have come up with a viable plan, prior to the election, to entice Gbagbo to respect the election outcome, and to leave peacefully if he lost the Presidential ballot (Global Centre for the Responsibility to Protect). The AU should arguably have been more prepared to effectively deal with the crisis and implement the responsibility to prevent. (Abatan, 2015)

d) Permission to Intervene - Burundi 2015:

The Arusha deal that was signed included an ethnic power-sharing formula and it also stipulates that no president may serve more than two terms. On 25 April 2015, the ruling political party in Burundi, the National Council for the Defense of Democracy - Forces for the Defense of Democracy (CNDD-FDD) announced that president Pierre Nkurunziza would run for a third term in the 2015 presidential elections, on the basis that his election in 2005 was by Parliament and not by the people of Burundi.

The announcement sparked protests by those opposed to Nkurunziza and those who claimed a third term would be a violation of the country's constitution which says no President can be

elected more than twice. As a result of the protests the government also shut down the country's internet and telephone network, closed all of the country's universities and government officials publicly referred to the protesters as terrorists.

On 13th May 2015, Major General Godefroid Niyombare attempted and failed in a coup d'etat. This contributed to the violence before and after the elections held on 21st July without the opposition (Buchanan, 2015).

In response the AU chairperson Nkosazana Dlamini-Zuma called on the government to postpone the election because of the instability; she condemned in the strongest terms the coup attempt and called for a return to constitutional order and urged all stakeholders to exercise utmost restraint. In a show of utter defiance, Burundi kicked out the AU Special Representative in Burundi, Boubacar Diarra, for his stand against the 3rd term. On June 15th the AU PSC issued a communique on Burundi that proposed a series of consultations led by the then president of Tanzania, Jakaya Kikwete and three observer missions to Burundi (human rights, militia disarmament and elections) - the opposition welcomed the AU recommendations. After an attack on military sites in Bujumbura on 11th December 2015, the African Union Peace and Security Council authorized MAPROBU (**African Prevention and Protection Mission in Burundi**), a peacekeeping mission of up to 5,000 peacekeepers and threatened to invoke Article 4(h) of the Constitutive Act of the African Union, allowing it to deploy an intervention force even without the host government's consent, if the government of Burundi did not accept MAPROBU within 96 hours.

MAPROBU's mission was large and ranged from the prevention of any deterioration of the security situation, monitor its evolution, and report developments on the ground, contribute, within its capacity and in its areas of deployment, to the protection of civilian populations under

imminent threat, contribute to the creation of the necessary conditions for the successful holding of the inter- Burundian dialogue and to the preservation of the gains made through the Arusha Agreement.

The situation in Burundi was so severe that Amnesty International published satellite images believed to be mass graves close to where December's killings took place. In January 2006 however, President Nkurunziza threatened to counter the deployment of external peacekeepers after the African Union announcement to send in 5,000 troops to protect civilians from escalating violence between government and rebel forces. He stated that it would be in violation of Burundi borders, and will perceive it as an attack against the country and fight back. So in response, the African Union decided against sending peacekeepers to Burundi after President Nkurunziza's comments suggesting that AU's move would amount to an invasion. At the end of it, it was decided that for the troops to be deployed, Bujumbura had to grant permission.

Seemingly, the AU attempted to deploy an array of instruments to prevent a full-scale crisis. However the assertion that the AU did all it could have done in the situation is questionable. In this scenario, we saw attempts of Responsibility to Prevent when the AU Commission warned in late 2014 of the likelihood of a crisis breaking out and sent special envoys such as Edem Kodjo and then Senegalese mediator Ibrahima Fall. In June 2015 the PSC, at its summit of heads of state and government in Johannesburg, decided to send human rights observers and military experts to Burundi. Sanctions were adopted in October 2015 against stakeholders who constitute obstacles to peace. However, the AU's bold approach did not prevent Burundi from organizing elections in July 2015.

The whole idea of implementation of Article 4H is in a circumstance where the Government is unwilling or unable to protect its own civilians. The idea therefore of heeding to Nkurunziza's threat that the AU's intervention would amount to an intervention shows utmost unwillingness of the Union's application of Article 4H. Needless to say, after Nkurunziza's re-election for another five-year term the situation in the state continues to deteriorate.

e) The South Sudan Conundrum;

Interestingly, one of the initial key thinkers of the notion of Responsibility to Protect is a diplomat known as Francis Deng who hails from South Sudan. However, nowhere has the implementation of R2P been more problematic than in the State. South Sudan devolved into civil war in December 2013, when its President Salva Kiir Mayardit accused former Vice President Riek Machar of plotting against the regime (Rossi, 2016).

According to the New York Times in 2016, Riek and Machar 'allegedly' wrote that any disciplinary justice meted out "even under international law" would destabilize unity efforts - loosely translated to 'If you try to bring us to justice, we will bring back war'. They invoked the name of the international community, calling on it to back their non-punitive plan for a mediated reconciliation.

According to International Coalition for Responsibility to Protect, R2P in the South Sudan state is dire because both the Government and the rebels are responsible for mass atrocities. This was detailed in a report by the UN Assistant Secretary General for Human Rights in January 2014 (International Coalition for Responsibility to Protect). Some writers argue that the African Union is the most credible authority to handle the South Sudan crisis given its All-Africa composition and given that it is not a failed state but a failed transition. The initial transition under another

authority of the United States, Britain and Norway failed and IGAD members have shown conflicting interests in South Sudan (Mamdani, 2017).

The African Union has established a commission of inquiry to investigate violations of humanitarian law in South Sudan. The commission was sworn in on 12 March 2014 and submitted its first preliminary report on 27 June 2014. In the report, the commission requested more time to verify the crimes it had found and determine whether they constitute international crimes. The Peace Accord that was signed on 17th August 2015 required the AU to set up a hybrid court to investigate and prosecute individuals suspected of perpetrating atrocities. However, since the agreement was signed, the AU and South Sudanese authorities have made little progress in setting up the court. In the meantime, hostilities have continued and recently escalated, further worsening the human rights situation for millions of South Sudanese people (Amnesty International, 2016)

Many have suggested an AU trusteeship. The AU would oversee an inclusive political process based on democratic reform basically entailing the consultation of civic and political groups excluded the first time and build an efficiency political and institutional foundation (Garett). It should incorporate the High Level Oversight Panel whose leaders should be African appointed by the Peace and Security Council of the African Union and jointly mandated with the UNSC. The panel should oversee the appointment of a three-person Transitional Executive drawn from the Equatorial, Upper Nile and Bahr el Ghazal regions of South Sudan and chosen through broad consultation, vetted by an expanded all-South Sudan Political Parties Convention and ratified by Parliament. The members of the Cabinet who were appointed in 2013 and who have overseen the conflict all this while should not be party to such proceedings (Mamdani, 2017)

Hon Reath Muoch Tang, a South Sudanese former member of parliament has criticized the AU for failing to resolve African conflicts, saying that the Union has become an entity where most African leaders promote themselves instead of coming up with solutions for the betterment of the continent (South Sudan News Agency, 2017). In May this year, Civil society leaders from South Sudan travelled to Addis Ababa to meet with the new African Union chief and demand a more concerted effort to stop fighting in the world's youngest nation citing that the situation is getting worse on a daily basis. So far, AU's applicability of R2P in South Sudan seems to have failed, the AU has been noticeably absent in the state. (Garett)

4.3.3 The Responsibility to Rebuild

The responsibility to rebuild requires the international community to provide full assistance in the wake of post conflict situations for recovery, reconstruction, and reconciliation efforts. This element has been embraced widely by a majority of states as it even has legal backing (Nash, 2010). One of the key aims of the principle is to ensure that the need for protection intervention would not arise again as the capacity of domestic authorities to realize their protection responsibility would be augmented through rebuilding assistance.

The AU has developed a policy of post conflict reconstruction and development which was adopted in Banjul in July 2006 which is intended for the recovery, reconstruction and development challenges involved after conflict and which recognizes that these processes are complex requiring determination, long-term commitment, the mobilization of massive resources, as well as cooperation and close coordination at all levels.

However, in the context of its application in Africa, there are a few case scenarios that prove otherwise. The peace-building field is desperate for more effective responses to countries facing or emerging from conflicts (Carvalho & Lucey, 2016). The Libyan intervention for example has highlighted the rebuilding aspect of the responsibility to protect principle that has to date been overshadowed by the debates on the use of force (Keranen, 2016). Granted the responsibility to rebuild is a costly exercise.

4.4 THE STRUCTURAL AND OPERATIONAL CHALLENGES OF IMPLEMENTING R2P:

4.4.1 Structural Challenges:

The Africa Standby Force faces the challenge of interoperability; it must develop common doctrine, systems, tactics, techniques, and procedures owing to the fact that it incorporates twice as many states as the EU or NATO. However, the ASF has difficulty in achieving collaboration due to the varying national approaches. Politically, an effective ASF requires very high levels of interstate cooperation, something that even the deeply integrated states in the EU have struggled with in creating rapid reaction forces. Second, the ASF lacks operational-level command and control because there is no mechanism between the AU Peace and Security Directorate and the ASF brigades. Further in addition to this, the specific interests of states and fight for regional hegemony have made it a hurdle for the ASF to set up regional bases throughout the continent.

There lacks a uniformity of application on two levels, the first being that there is no general consensus and understanding by the leaders on when R2P should apply and where it does apply, it is not uniform. For example in the cases of South Sudan, Libya and Cote D'Ivoire R2P to

some extent has applied but financial constraints, emotional investment and geo-politics affected the nature, intensity, urgency and depth of each of the responses.

The AU has yet to clarify an adequate division of labor between itself and the work of the UN Security Council, as well as what a strategic partnership between the two institutions really means.

Despite a series of initiatives, the AU has failed to secure sustainable, predictable, and flexible financing for its conflict management activities. Only about seven to ten countries contribute 80 to 90 percent of troops and cash for AU missions. Unlike the UN, the AU does not have a reliable system for reimbursing member states' contributions to peace operations. All levels of the R2P require a level of financial resources that AU member states have been unwilling or unable to commit (Williams, 2011) and as such the AU remains largely dependent on donors such as NATO and EU states to provide airlift support.

Simply put, the AU lacks practical military capacity for humanitarian intervention. Even in a situation where the assembly wanted to invoke Article 4(h) it would struggle to quickly marshal the necessary military capabilities, except against the smallest and weakest AU member states. Therefore the strength of the State is also a factor that limits intervention. The AU's reluctance to endorse UNSC intervention to protect civilians in Libya in 2011 merely reinforces this point.

The Panel of the Wise cannot effectively perform its duties due to financial constraints. It is understaffed. The other structures also lack a substantive core of civilian specialists, such as a cadre of trained police, to help carry out its operations. AU military forces also routinely lack niche technologies, capabilities, and intelligence and are only capable of operating independently

during small operations. Finally, the AU's infrastructural capacity, in terms of resource hubs and logistical systems to support and maintain its operations, remains deficient.

The Panel of the Wise has also failed to act in a professional mediator manner as is required from them, by sending mediators who possess a conflict of interest and may be openly biased in solving disputes in the Continent. This has slowed down mediation processes in Africa. The case of Raila Odinga in Cote d'Ivoire and Kodjo in the Gambia come to play.

4.4.2 Legal Challenges:

The pro intervention language in the AU Constitutive Act and AUPSC presents a dilemma because they arguably conflict with Articles 2(4) and 53(1) of the U.N. Charter. Levitt quotes Rudolf Bernhardt who stated that if the members of a regional arrangement, or even two States, agree that in case of internal disturbances or other events within one of the States concerned, the other State can intervene with military forces without the consent of the de jure or de facto government, the compatibility of such a special agreement such as the AU Constitutive Act and the AUPSC Protocol with the Charter becomes doubtful and must in principle be denied. Here, the territorial integrity of all States and the prohibition of the use of force are at stake. An agreement permitting forceful intervention would hardly be compatible with the Charter and would fall under Article 103 (Levitt, 2003). Critics of R2P within the AU therefore think that its placement within the Charter and the Protocol is against International norms and Law.

4.4.3 The Leadership and Political Will:

Political will, in Africa and elsewhere, is usually slow, hard to set into motion and deaf to prevention early warnings (Helly, 2008) and reaction to situations for reasons that we will see below.

In 2010, the AU declared that it would be the year of "African Peace and Security" and new council members of the PSC were elected in Addis Ababa. The majorities of these members are/were at the time authoritarian regimes and thus questioning the fact whether the Union was really serious in protecting democracy within Africa. Electing such states appeared to run directly counter to one of the AU Assembly's showpiece announcement of its commitment to take a harder line on a wider range of unconstitutional forms of governance (Williams P. , 2010).

The countries with long histories of internal discord like Libya, Zimbabwe, Chad, and Equatorial Guinea have enjoyed seats on the influential PSC which relies on consensus for its decision-making. There is obviously a conflict of interest where members engaged in armed conflicts when included on the PSC agenda. PSC Protocol Article 8.9 states that "any Member of the Peace and Security Council which is party to a conflict under consideration by the Peace and Security Council shall not participate either in the discussion or the decision making process relating to that conflict or situation. Such Member shall be invited to present its case to the Peace and Security Council as appropriate, and shall, thereafter, withdraw from proceedings. (The African Union, 2003)". This has caused considerable problems in previous years, particularly when the PSC addressed armed conflicts in which Council members Ethiopia and Sudan were directly involved.

Williams (2011) further states that a number of the members within the AU are not said to follow the principles and ideals as embodied in the PSC Protocol. According to the Freedom House

Report (2010) Chad, Cote d'Ivoire, Equatorial Guinea, Libya, Mauritania and Zimbabwe are not free, and further Chad, Djibouti, Equatorial Guinea, Libya, Mauritania and Rwanda are defined as autocracies. From the foregoing, it is safe to add Burundi to that list. It is therefore difficult to collectively implement or enforce R2P where the implementers are the same perpetrators of human rights or could be in a similar situation in their various states under the guise of sovereignty. This reasoning best explains the inapplicability of 4H in the Burundi situation on account of a 'threat' by Nkurunziza. It also explains the support of Mugabe and Museveni to the Libyan situation. The failures of the AU in this respect go back to Africa's age-old problem: too many of its leaders, out of a misplaced sense of post-colonial solidarity, and are hesitant to criticize their peers, however vicious the situation (The Economist, 2010).

To further explain this situation, in a policy briefing by SAIIA (South African Institute of International Affairs) it noted that South Africa as one of the most powerful states in the continent needs to be careful of the position it takes on R2P. The brief notes that the State will continue to emphasize the importance of regional responses to threats to peace and security. Based on the probability that most future humanitarian crises that might warrant an R2P response will be in Africa, South Africa cannot afford to be overly enthusiastic about supporting interventions on the basis of protecting human rights (Smith K. , 2015). For the state, it is about their personal interests and relative gains.

Another political challenge is ensuring that member states actually deploy assets when the union calls. In the case of AMIB for example, the estimated cost of the intervention was to cost US\$110M, but at the end of the mandate, the AU had spent USD\$134M. The total number of pledges that were received were to the tune of USD 50M and only USD 10M was placed in the trust fund. The states within the AU possibly perceive funding to the AU as the least of their

Foreign Policy priorities (Svensson, 2008). African states do not have a good track record of making their own funds available to pay for continental conflict management activities.

In addition there has been far too little high-level sustained engagement and leadership from AU member states in terms of promoting what the AU can and should do in its R2P context to gain consensus.

The AU also has ongoing internal disputes regarding what values and principles the organization should prioritize. While the organization is expressly opposed to unconstitutional changes to government, questions have arisen if rebellions or coups are actually helpful for human rights and democracy in certain circumstances. The Libyan case is a perfect example where UNSC's intervention was in no doubt a mistake. Had the AU put their foot down and asserted their position on a way forward, Libya would probably be in a better state than it is in now.

In terms of meaningful engagement, few African governments consistently send their top diplomatic talent to the AU, which means that the Diplomats sent to discuss issues, have no good grasp of the essential elements to be discussed (Williams, 2009).

CHAPTER 5

SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

One cannot be the cause of the problem and at the same time the solution!

The AU's approach to R2P as part of its security culture is often influenced by a number of factors which sometimes are at odds with its protection norms. These include an abhorrence of external influence, the influence of global political culture, the complexity of R2P as soft law, traditions of mutual peer-shielding, the specific states self-interest, the spread of neo-patrimonial regimes and the continued privilege of regime security over human security (Mabera F. W., 2014). Essentially, what is observed from this paper is that whereas the intentions of the AU were good in effecting R2P, this norm is still far from reality in the African context.

On analysis of the findings, the structural and legal framework of AU's R2P is guided by the Liberal theory, however, the application of R2P is guided by the Realist thought. The paper evidences illiberal actions by liberal institutions because of the states that make them. Realism explains the action and inaction by states in employing the R2P principle. The inaction by leaders especially in the AU in responding to the Burundi crisis can be attributed to the fact that African leaders do not want to set a precedent of intervention in a country against the consent of the crisis state - as this may be used against them in future, this at best is a show of the selfish interests of the states. The Panel of the Wise has failed in mediation by picking mediators with interests and relations with either of the factions. Realism also explains the current South Sudan situation - African leaders stand to "lose" relations if they are seen to be against their own member.

Granted, the African continent would be worse off without the AU and the little strides it has made towards achieving peace and security, but the institutionalization and operationalization needs more effort by the states and structures constituting the Union. The use of a R2P framework on a consistent basis could dramatically affect its activities, mandate, resolutions and decisions. Were the AU to reach consensus on an intervention in an R2P case, disagreement on the shape it should take is always possible (Helly, 2008).

The Responsibility to Protect notion continues to fail outside the continent such as in areas like in Syria, Israel and Palestine. For the principle to work in Africa, an overhaul of the system is necessary or in the alternative, a restriction of the role of R2P to only the Prevention and Peace-building aspects. The issue of intervention still remains a forever thorny topic amongst Africans. The practical examples of Kenya, Burundi, South Africa and Gambia wanting to pull out of the ICC further supports of thinking of authoritarian regimes wanting to retain their power positions and not being held accountable for atrocities towards their civilian populations.

Technical reforms are urgently needed to strengthen the AU Commission, especially its Peace Support Operations Division and the Peace and Security Council's secretariat to enhance the AU's capacity to undertake effective early warning and response, mediation initiatives, as well as targeted sanctions and to ensure the African Standby Force becomes genuinely operational. Such reforms will only succeed, however, if accompanied by more proactive and sustained high-level political support. What Africa needs is a complete overhaul of the leadership system, one that does not have immediate ties to the colonial pasts and the authoritarian regimes that emerged thereafter. This will directly solve the issue of lack of political will and funding. Most urgently, the AU's senior leadership need to forge a strong and productive relationship with the UN's new

Office to the African Union and encourage more AU member states to develop and prioritize their own peacekeeping and mediation capabilities.

Preventive diplomacy requires the political will of disputing parties to resolve conflicts through peaceful measures and to accept external assistance to facilitate these processes. This may involve building trust and creating political space for negotiation, through humanitarian assistance or preventive deployment, to reduce imminent threats of conflict. Effective monitoring and early warning systems are essential to react to situations in preventive stages. Though mechanisms exist in some regions and UN bodies, cooperation and communication between these instruments can be improved. Preventive diplomacy efforts must be given the necessary financial and human resources in a timely and predictable manner, requiring the political will of all actors to prioritize prevention and for states to coordinate in the provision of these resources. Diplomatic initiatives must be sustainable, and provide an opportunity for states to develop mechanisms to address root causes of conflict and resolve future disputes peacefully (International Coalition for the Responsibility to Protect).

A useful step taken by the AU is the establishment of field offices that monitor conditions where the AU believes it necessary. If fully effected, these field offices can play many of the functions envisaged within R2P while increasing visibility of the AU in achieving its mandate (Sarkin, 2009). In the African context, the implementation of R2P can be enhanced through strengthening of regional organisations and examination of the level of institutionalisation of R2P in the various structures. Finally, measures should be taken to ensure that the relationship between the AUPSC and the UNSC are built around principles of complementarity, subsidiarity and comparative advantage. There should be less burden-shifting and more burden-sharing when it comes to protection from mass atrocities (Mabera, 2015)

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