The Future of Peacekeeping in Africa and the Normative Role of the African Union

Charles Riziki Majinge[*]

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[*]   LL.B. (University of Dar Es Salaam, Tanzania), LL.M (Northwestern University
        School of Law, Chicago), Doctoral Candidate (London School of Economics and
        Political Science, England). I am grateful to a good friend and colleague Matthias
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        disclaimer applies. Riziki@gmail.com.

Abstract

While it has been the responsibility of the United Nations to conduct peacekeeping operations on the continent, the trend is gradually changing. African Union and its regional organizations (RECs) are increasingly assuming responsibility of securing peace and stability on the continent. Many reasons militate in favour of this trend. Chiefly the unwillingness of the United Nations Security Council and of the developed countries to intervene timely and adequately to avert humanitarian catastrophes as happened in Rwanda, Southern Sudan and Angola. Furthermore, the desire of Africa to take steps to address its own problems without heavily relying on assistance from the international community whose availability is neither assured nor sufficient. This contribution argues that Africa can no longer expect the international community to shoulder the burden of peacekeeping in some of the most intractable conflicts on the continent without taking steps to participate actively in the process itself. While Africa has expressed its desire to address its own problems through the vision of "African solutions for African Problems", African leaders must show greater willingness to fund and strengthen institutions they establish to carry out this vision. Lastly, the paper contends that the international community, especially the developed states, should take genuine and adequate measures to assist Africa realize its vision. A strong African Union capable of securing peace and stability on the continent is in the best interests not only of Africa but also of the international community as a whole.

A.   Introduction

Conflict among organized human groups is as old as human society itself. Peacekeeping missions enjoy growing popularity as the international community's tool of choice for conflict containment in different parts of the world.[1] Essentially the goal of peacekeeping is not the creation of peace but the containment of war so that others can search for peace in stable conditions. The concept of peacekeeping is based on two major tenets. First,

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[1]   E. G. Berman & K. E. Sams, *Peacekeeping in Africa: Capabilities and Culpabilities*, United Nations Institute for Disarmament Research (2000), 26-39; see also, D.J Francis, 'Peacekeeping in Africa', in R. E. Utley (ed.), *Major Powers and Peacekeeping: Perspectives, Priorities, and the Challenges of Military Intervention*, (2006), 102.

the need to halt armed conflict in order to create a semblance of a stable environment in which negotiations can occur. The second purpose is to function as a deterrent against the outbreak of armed hostilities, following arrangement of ceasefire.[2] Traditionally it has been the responsibility of the United Nations (UN) to maintain peace and security.[3] The United Nations Charter bestows upon the UN through its Security Council the responsibility to maintain peace. But as will be shown in this contribution the concept of peacekeeping has evolved since the early 1950s when the UN started seriously considering peacekeeping as an effective tool to maintain peace and security of the world until today when the organization is maintaining thousands of blue helmets around the world.[4]

Over the years, the UN has undertaken several peacekeeping missions of varying scope, duration and degree of success. Most of them involved conflicts of multiple dimensions.[5] During the Cold War, the UN could hardly do the job for which it was created. Global collective security, the underlying precepts of its Charter, was impossible in a world divided into hostile camps between the Eastern Block led by U.S.S.R and Western Block led by U.S.A. Admittedly, the UN as a neutral organization helped to bring small conflicts to an end, keep them from flaring anew and keep them from being a source of tension between the major powers. In fact, during this period the UN was more associated with the mediation of conflicts, the monitoring of ceasefire arrangements and the separation of hostile armed forces than actual peacekeeping.[6]

The end of the cold war in the early 1990s fundamentally changed the security trajectory of continental Africa. The global geo-political and strategic relevance of the continent was gradually - yet markedly -

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[2]   K. P. Magyar & E. Conteh-Morgan (eds), *Peacekeeping in Africa: ECOMOG in Liberia* (1998), 12-27; see also F. H Fleitz, Jr, *Peacekeeping Fiascoes of the 1990s: Causes, Solutions and US Interests* (2002), 3-5; for further reading on this topic, see L. M. Howard, *UN Peacekeeping in Civil Wars* (2009).

[3]   For the work of the UN Security Council as pertains to peacekeeping in Africa, see N. MacQueen, *United Nations Peacekeeping in Africa Since 1960* (2002); see also E. de Wet, *The Chapter VII Powers of the United Nations Security Council* (2004), 256-268.

[4]   The first mission explicitly labelled "peacekeeping" was the UN Emergency Force (UNEF) dispatched to the Sinai Peninsula following the Suez Crisis of 1956; see W. J. Durch (ed.), *The Evolution of the UN Peacekeeping: Case Studies and Comparative Analysis* (1993), 7.

[5]   *Id.*, 1-11.

[6]   *Id.*, 1.

diminished. The major powers' interests to win strategic friends and allies on the continent had virtually disappeared. Several Cold War defence alliances, military and technical assistance were terminated or remodeled to reflect the wave of democratization and human rights, which was emerging after the fall of the iron curtain. African dictators whose stay in power had largely depended on these Cold War alliances were caught off guard with these new developments. Further, these changes came at a time when the UN Security Council was gradually developing lacklustre indifferences to the plight of the continent because major powers were becoming more selective to be engaged in large-scale overseas mission considered of low strategic value.

This indifference was partly reinforced by the UN Peacekeeping experience in Somalia, which ended in total failure. In 1992, the United Nations Security Council authorized the United Nations Operation in Somalia (UNOSOM) with the mandate to maintain law and order and also facilitate the delivery and deter attacks against humanitarian relief operations.[7] This mission failed to bring peace and stability in Somalia and also led to the loss of lives of many soldiers from the United States, which was the major western power involved in peacekeeping in Somalia. It was the first time ever the UN had left a country without fulfilling its aims. Indeed, almost fifteen years since the withdrawal of the UN troops from Somalia in 1995, the UN has consistently expressed its willingness to deploy peacekeeping forces in Somalia when the "appropriate time comes" but up to today the organization has been unable to do so. Meanwhile, common Somalis continue to endure suffering.

The declining interests of the Security Council in African conflicts was practically demonstrated by the Security Councils' increasing application of political considerations rather than humanitarian needs in intervening in African conflicts. For example, while conflicts in Rwanda or Angola costing many lives went silent through the corridors of the Council, conflicts in the Balkan and Middle East were dealt with swiftly. At the same time, major powers were willing to commit their resources and troops as well as massive funds to enforcement operations without the Council's authorization. In fact, the increased participation of major powers like the

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[7]   SC Res. 751, 24 April 1992; this Resolution was later reinforced by SC Res. 775, 28 August 1992 to strengthen the UN Operation; for a detailed overview of UN involvement in Somalia see C. E. Philipp, 'Somalia - A Very Special Case' in A. von Bogdandy and R. Wolfrum (eds), *Max Planck Yearbook of United Nations Law*, Vol. 9 (2005), 517-554.

US in peacekeeping operations was done selectively and largely premised on the need to protect *national* rather than *collective* interests.[8]

During the outbreak of the DRC conflict in the late 1990s the UN Security Council authorized the establishment of the UN Observer Mission in DRC (MONUC). The primary mandate of the mission was to supervise the withdrawal and disengagement of rebel forces and provide protection for humanitarian aid. When the conflict escalated in 2003 the UN authorized the expansion of the mission - making it the largest in the world. Despite resources and mandate given to the mission it has failed to bring peace in DRC. With more than a decade since its establishment, Congo is still embroiled in conflict. The mission has failed to consolidate peace and disarm the rebel groups who are accused by neighbouring countries of Rwanda and Uganda of fueling instability in their countries. The challenges, facing the mission include inadequate financial resources and the inadequate number of peacekeepers who are too few, given the vast size of DRC.

Various responses to African security challenges have not only been slow, but also reluctant, reflecting the strategic marginality of the continent. Much needed assistance has not been forthcoming, and when pledges were made, the pledge fulfillment has been too slow and perennially inadequate to mitigate the effect of conflicts on the victims and to facilitate transition from emergencies to recovery and development.[9] Nowhere is this reality more vivid than in Southern Sudan. Despite the signing of the Comprehensive Peace Agreement in 2005 between rival factions, the region is still struggling in the transition from conflict to recovery. It is partly because of this reality and little interests by major powers in the Security Council that arguments have been made to the effect that Africa should take a more proactive role in addressing its own peace and stability challenges.

This paper is divided as follows: Part two of the paper provides an overview of the concept of the African solutions for African problems as has been conceptualized by the African Union (AU). Part three reviews the legal framework upon which the Organization of African Unity (OAU) historically undertook peacekeeping mission in different African countries.

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8   See B. Simma, 'NATO, the UN and the Use of Force: Legal Aspects', 10 *European Journal of International Law* (1999) 1, 1-22; see also D. S. Sorenson, 'The United States' in D. S. Sorenson & P. C. Wood (eds), *The Politics of Peacekeeping in the Post Cold War Era*, (2005), 117.

9   G. Prunier, *Darfur: The Ambiguous Genocide,* (2007), 137-138; see also W. v. Genugten *et al.*, *The United Nations of the Future: Globalization with a Human Face* (2006), 144-145.

This part also discusses the experience gained by the OAU in course of peacekeeping in different hotspots on the continent like Chad and Rwanda. It also evaluates lessons identified by the organization while undertaking peacekeeping exercise. Part four examines various peacekeeping initiatives undertaken at the auspices of regional bodies like the Economic Community of West Africa (ECOWAS) amidst fragility of consensus among Member States. Specifically this part addresses ECOWAS involvement in Liberia and Sierra Leone respectively. Similarly part five of this work takes stock of the Southern African Development Community (SADC) involvement in peacekeeping mission in the Democratic Republic of Congo (DRC) a country, which has been embroiled in successive dictatorship and political instability since its independence from Belgium in 1960.

The birth of the AU at the dawn of the 21st Century and its enhanced engagement in peacekeeping initiatives as a tool to address conflicts and instabilities on the continent is examined under part six of the contribution. Under this part legal framework upon which AU conducts peacekeeping mission and specific peacekeeping initiatives undertaken by the organization in Burundi and Darfur are discussed in detail. Finally, the concept of African solutions for African problems is addressed under part seven of the paper. In this part, the concept is extensively discussed and its viability or practicality within the African context carefully examined. Also under the same part, the paper examines the future of peacekeeping on the continent. Essentially the paper addresses the question as to whether the AU through this concept of African solutions for African problems can effectively and successfully use peacekeeping missions as a tool of choice to address perennial conflicts in deadly hotspots like Mogadishu or Goma. The paper concludes by making some modest recommendations both to the African Union and the international community in the quest of making the concept of African solutions for African problems a reality.

B. Overview of the Concept of African Solutions to African Problems

Underlying the concept of African renaissance is the growing recognition and determination by Africa to find African solutions for African problems. This sentiment is well reflected in the African Union Constitutive Act and its Protocol on Peace and Security Council, which reaffirm the determination of Africa to be a master of its own destiny. Nowhere has the vision of African solutions for African problems been

more challenged than in the peace and security realm. The AU has struggled to mobilize resources to address various security challenges with minimal success. From Somalia to Darfur the organization is increasingly looking towards the international community to provide resources to match the preponderance of the security challenge on the continent. It is this inability of the organization to secure peace and stability on the continent on its own which provides a reality check on the practicality of the concept of African solutions for African problems.

The endeavour of putting the concept of African solutions for African problems into practice has not been an exclusive challenge of the AU only. Instead even regional peacekeeping efforts undertaken under the auspices of ECOWAS and SADC have faced similar challenges. For example, despite the commendable work of ECOWAS Mission in Sierra Leone and Liberia, the Security Council had to approve UN led and much resourced missions in both countries (UNAMSIL and UNAMIL for Sierra Leone and Liberia respectively). The same can be said of DR Congo where after a brief intervention by SADC, the UN approved MONUC as the primary organ to secure peace and stability in this war ravaged country. As such realizing the concept of African solutions for African problems is a challenge to both regional organizations and the AU itself. In this contribution, I examine the previous efforts undertaken by the OAU and later the AU and other regional organizations like SADC and ECOWAS to realize the vision of African solutions for African problems. I decipher the challenges encountered and give modest proposals on some possible mechanisms to realize this vision where Africa can ably take charge of challenges to its own peace and security.

C.   OAU Peacekeeping in Africa

I.   Legal Framework for the OAU

The involvement of the OAU in peacekeeping has always been minimal. The OAU undertook only three peacekeeping operations during its 36 years of existence.[10] Despite the keen interests, at least theoretically, of African Nations to resolve their conflicts themselves, they have in most cases failed to achieve this goal. This scenario is recounted by the former

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[10]   G. Kieh, 'International Organizations and Peacekeeping in Africa', in K. P. Magyar & E. Conteh-Morgan (eds), *Peacekeeping in Africa: ECOMOG in Liberia* (1998), 22-28.

OAU Secretary General who stated that: "Traditionally a strong view has been held that conflicts within states fell within the exclusive competence of the states concerned. Arising from the basic assertion was the equally strong view that it was not the business of the OAU, to pronounce itself on those conflicts and that the organization certainly had no mandate to involve itself in the resolution of problems of that nature. In consequence, the organization had to standby in apparent helplessness as many of these conflicts have torn countries apart, caused millions of death, destroyed infrastructure and property, created millions of refugees and displaced persons and caused immense hurt and suffering to men, women and children."[11]

The main legal framework regulating peacekeeping in Africa undertaken under the aegis of the AOU is first and foremost the UN Charter. The Charter recognizes the existence of regional arrangements to deal with threats to peace and security. It should however be noted that such arrangements are qualified by the requirements to conform to the purposes and principles of the United Nations.[12] Further, the Charter compels regional arrangements and agencies to first address such threats through amicable means before taking such drastic measures involving the use of force.[13]

The OAU Charter had no express provision regulating the use of military force as an instrument of conflict resolution. The absence of external rules for collective intervention in the Charter can be explained partly by the values attributed to non-intervention, which was entrenched and faithfully adhered to in the Charter by the member states.[14] Instead the OAU Charter reaffirmed the application of the various traditional methods of conflict resolution for addressing conflicts on the continent, such as the use of negotiations, mediation, arbitration and conciliation.[15] Indeed the

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[11]   Quoted in K. Powell, 'The African's Union Emerging Peace and Security Regime: Opportunities and Challenges for Delivering on the Responsibility to Protect', Working Paper, The North-South Institute (2005), 14, Hamburg; also quoted in C. Peck, *Sustainable Peace: The Role of the UN and Regional Organizations in Preventing Conflict* (1998), 160.

[12]   R. Zacklin, 'The Use of Force in Peacekeeping Operations', in N. Blokker & N. Schrijver (eds), *The Security Council and the Use of Force* (2005), 91-92.

[13]   Art. 52(2) and (3) of the United Nations Charter.

[14]   T. Lyons, 'Can Neighbours Help? Regional Actors and African Conflict Management', in F. M. Deng & T. Lyons (eds), *African Reckoning: A Quest for Good Governance* (1998), 69-75.

[15]   Art. III(4) Charter of the Organization of African Unity.

organization established the Commission for Mediation as one of the principle organs of the organization.[16]

II. The OAU Peacekeeping Experience

The history of peacekeeping under the aegis of the OAU is fraught with both, success and failure.[17] Despite having no express provision in the OAU Charter, the organization had used peacekeeping as a tool to bring peace on three occasions, twice in Chad and once in Rwanda. Largely the peacekeeping options by the OAU were undertaken after realizing that its traditional methods of conflict resolution as provided in the Charter were ineffective and that new challenges required new thinking.

The conflict between Chad and Libya[18] in 1981 furnished the OAU with its first major peacekeeping experience and a first test of its capability to resolve conflicts on its own continent.[19] Under this initiative, a force consisting of troops from Benin and Zaire was to be deployed in Chad. The mandate of the force included supervision of the ceasefire, ensuring the freedom of movement, disarming the combatants, the restoration of order, and the establishment of the new Chadian army.[20]

Serious obstacles stood in the way for the successful operation of the mission. For example, Guinea and Togo that were to contribute troops could not do so partly because of a lack of funds.[21] The ceasefire that was to be enforced before the deployment of troops collapsed before the arrival of forces from contributing countries.[22] The fact that OAU member states failed to honour and remit their financial contributions to the organization to fund the mission was the decisive factor for the failure of the mission.[23] Summarizing the difficulties encountered by the Mission in Chad, one of the force commanders stated that throughout the duration of the OAU peacekeeping mission in Chad, member states were long on rhetoric and

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[16] *Id.*, Art. VII(4).

[17] T. Mays, *Africa's First Peacekeeping Operation: The OAU in Chad 1981-1982* (2002), 52-53.

[18] See generally, R. Lemarchand, 'The Crisis in Chad' in G. J. Binder *et al.*, (eds) *African Crisis Areas and US Foreign Policy* (1985), 239-256.

[19] Magyar & Conteh-Morgan, *supra* note 2, 24.

[20] *Id.*

[21] A. Sesay, 'The Limits of Peacekeeping by Regional Organizations: The OAU Peacekeeping Force in Chad', 11 *Conflict Quarterly* (1991) 1, 15.

[22] *Id.*

[23] *Id.*

resolutions but short on implementing the same, especially when the financial contributions were involved. Little or no funds were made available for collective administration of the force. Such a situation could not but lead totally to the collapse of the mission and it did.[24]

The second attempt of the OAU in peacekeeping was again in Chad, commonly referred to as Chad II. This mission was organized in the wake of the failure of the first intervention in Chad. Unlike its predecessor, the number of countries, which were willing to commit troops was more significant and the size of the force was projected at 3000.[25] The mission had limited success. It managed to enforce the ceasefire and establish temporary security zones where belligerents could be separated, but as usual these limited successes were outweighed by the challenges, which complicated the effectiveness of the mission. For example, the battalion from Zaire, which was to take care of medical needs of all the troops, went with doctors but without any drugs or medical equipment:[26] while the battalion from Benin, which was to take care of communication could not travel because of lack of communication equipments and uniforms. With multiple challenges confronting the mission, its success was eclipsed by the failure of the parties to hold the peace. It is no wonder then that the conflict in Chad continued despite the earlier commitment of the organization to secure peace.[27]

The third attempt by the OAU to secure peace and security through peacekeeping mission was in Rwanda. This mission was created in the wake of the Arusha Peace Accord between the Rwandan government and the rebels of the Rwanda Patriotic Front concluded in Arusha in 1992. This Accord required the parties among other things to (i) form a new transitional government (ii) form a new army and (iii) hold new elections. Concerned with the shaky outcome in the implementation of the accord, the OAU decided to form a peacekeeping mission to facilitate the implementation of the accord.[28] The specific mandate of the force was to establish security zones and secure ceasefire. This mission comprised 130 troops from Congo

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[24]   T. Mays, *supra* note 17, 128-129.

[25]   Magyar & Conteh-Morgan, *supra* note 2, 25.

[26]   G. Klay Kieh Jr., 'Resolving African Conflicts', 5 *Peace Review - A Journal of Social Sciences* (1993) 4, 447-454.

[27]   See C. Clapham, 'Problems of Peace Enforcement: Lessons to be Drawn from Multinational Peacekeeping Operations in Ongoing Conflicts in Africa', in T. Zack-Wiliams, D. Frost & S. Thomson (eds), *Africa in Crisis: New Challenges and Possibilities* (2002), 215-217.

[28]   Magyar & Conteh-Morgan *supra* note 2, 26-27.

Brazzaville, Tunisia and Senegal. Interestingly the mission was approved and lasted only for two months.[29] The outcome of the mission was largely successful with both, Rwandese and the rebels, praising the mission for the successful completion of their tour of duty. This assessment can be measured in the short spell of the mission. The mission lasted for fewer than sixty days and then was handed over to the United Nations.[30]

III.   Evaluation and Lessons Identified

Critical analysis of these three missions undertaken by the OAU reveal that the organization had neither comprehensive nor defined legal criteria for peacekeeping missions during its existence.[31] Indeed as already shown above, the OAU Charter made no provision for peacekeeping options. Rather it included a provision for a Commission of Mediation whose role was to solve conflicts through peaceful means.[32] This problem is succinctly elaborated by a former OAU official who stated that "even though the OAU and its Charter came into existence as the continental framework for the promotion of the African collective will to ensure collective security and collective development, we have been unable in over thirty years to craft a comprehensive security architecture to drive the peace and security agenda of the continent. This is in spite the establishment in Cairo in 1993 of the Continental Mechanism for Conflict Prevention, Management and Resolution".[33]

Thirty years after its formation in 1993, the organization decided to establish the OAU Mechanism for Conflict Prevention, Management and Resolution. The main goal of this mechanism was to prevent, manage and resolve conflicts on the continent.[34] It should however be noted that from the beginning this mechanism was not bound to accomplish much, primarily because it did not depart from the principle of non-intervention. This argument is well captured by the then Secretary General of the

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[29]   *Id.*

[30]   *Id.*

[31]   F. David, *Uniting Africa: Building Regional Peace and Security Systems* (2006), 122-123.

[32]   *Id.*, 121.

[33]   *Id.*

[34]   G. P. Okoth, 'Conflict Resolution in Africa: the Role of the OAU and AU', in A. Nhema & T. Zeleza (eds), *The Resolution of African Conflicts: The Management of Conflict Resolution and Post Conflict Reconstruction* (2008), 22-33.

Organization, Salim Ahmed Salim, who, after the formation of the mechanism, noted that "the mechanism would be guided by the objectives and principles of the OAU Charter, in particular, the sovereign equality of member states, non interference in the internal affairs of the states, their inalienable right to independence existence, the peaceful settlement of disputes as well as the inviolability of boarders inherited from colonialism. It was further supposed to function on the basis of the consent and cooperation of the parties to a conflict."[35]

The inability of the organization to resolve some conflicts on the continent through peacemaking and peacekeeping are mainly attributable to the loose arrangement in the Charter setting up the organization. The immediate needs and fears of the founding members characterized the organization's structure and agenda. Many countries reeling from colonial domination had no desire to have a *supra*-nation organ dictating terms from far away in Addis Ababa.[36] Two main goals of the organization from its inception were to solidify African solidarity and Pan Africanism and to protect the hard won individual sovereignty, hence the reluctance to intervene in domestic affairs of other countries.

With multiple conflicts bedevilling the continent for much of its existence it would be hard placed for example to know why the organization intervened in some conflicts and not in others. The conflicts in Angola or Southern Sudan is a case in point. While these conflicts claimed thousands of lives the organization did not intervene militarily. The indifference displayed by OAU to conflicts in its member states reaffirm the argument that the decision to intervene in any given conflict was highly dependent on some factors. These factors include (i) the OAU Charter which would have been the basis for any likely intervention and which was premised on the doctrine of non-intervention in domestic affairs of member states and the sovereign equality of states; (ii) the member states lack of willingness to commit required financial resources to undertake such mission; and (iii) the lack of political willingness of member states to commit their resources and diplomatic credibility to specifically intervene in affairs of other states.

It is against this background of the OAU peacekeeping experience that it is important to discuss the contemporary role of African regional organizations in peacekeeping efforts. In fact, efforts undertaken by some

[35]   Speech by the OAU Secretary General to the Assembly of Heads of States and Government, Cairo, Egypt, 28-30, June, 1993.
[36]   S. M. Makinda & F. W. Okumu, *The African Union: Challenges of Globalization, Security and Governance* (2008), 19-29.

regional groups have yielded some positive outcomes compared to those of the OAU. The Liberian experience demonstrates how international and in particular western interests in Africa evaporated in the aftermath of the Cold War. The failure of the US to intervene militarily in Liberia which some would consider its "step child"[37] because of its close historical alliance, drove home the reality check of the Post Cold war era for Africans.[38] It is this reality, which compelled African countries to re-examine their historical dependence on the western powers to address its security challenges. Whether subsequent peacekeeping efforts under the aegis of the regional organizations succeeded in filling the void of the OAU in peacekeeping can be examined in light of the regional initiatives undertaken for this purpose.

IV.   Peacekeeping Under the Auspices of ECOWAS

1.   ECOMOG in Liberia

ECOWAS was established by the Treaty of Lagos in 1975 with the main goals to promote trade, cooperation and self reliance among its members.[39] Originally the ECOWAS treaty did not contain any explicit provisions that could justify its intervention in conflicts. But because of the multiple conflicts, which bedevilled the region since the inception of the organization, the community adopted a protocol on Mutual Assistance in Defence which was signed in 1981.[40] The Protocol stipulated that member states will consider any threat or act of aggression against any member state as a threat or act of aggression against the entire community.[41] It also made the provision to the effect that member states of ECOWAS were committed to provide each other with aid and assistance for their defence against all those threats or acts of aggression.[42] Further, the Protocol made a provision to the effect that in case of an internal conflict fueled by external support and likely to endanger security and peace in the entire community, the

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[37]   Liberia: America's Stepchild, PBS television broadcast, October 10, 2002.

[38]   See generally A. Adebajo, 'From Congo to Congo: United Nations Peacekeeping in Africa After the Cold War', in I. Taylor & P. Williams (eds), *Africa in International Politics: External Involvement on the Continent* (2004), 195-209.

[39]   K. van Walraven, 'Some Aspects of Regional Economic Integration in Africa', in *Hague Yearbook of International Law* (1991), 114-115.

[40]   ECOWAS Decision A/SP3/5/81.

[41]   Protocol Relating to Mutual Assistance on Defence, Art. 2, 29 May 1981, 1690 U.N.T.S. 51.

[42]   *Id.*, Art. 3.

community would be authorized to take measures. Specifically the community was empowered to convene an extraordinary session and decide on military action. However, no military intervention was authorized if the conflict remained purely an internal affair with no external meddling.[43]

The history of effective peacekeeping missions by ECOWAS dates back in 1989, when ECOMOG (ECOWAS Cease-fire Monitoring Group), intervened in Liberia to quell the civil war, which had erupted between the rebels led by Charles Taylor and the government of Liberia under Samuel Doe. The decision to establish ECOMOG was taken by the ECOWAS members' heads of state as the primary organ to maintain peace and stability in Liberia. The mandate of ECOMOG was specifically to conduct a military operation for the purpose of monitoring the ceasefire between the rebels and the government, clear the Liberian capital of all threats of attack and establish and maintain law and order. It was also charged with controlling acquisition and flow of arms from neighbouring countries into the hands of the rebels in Liberia.[44] The funding of the mission was decided to be drawn from a Special Emergency Fund, which was established for that purpose. But given the reality of financial difficulties, which faced many ECOWAS member states, the financial burden was shouldered by Nigeria and some other few countries like the US.[45]

Making decision to authorize ECOMOG, ECOWAS heads of state argued that regional peace and security were necessary conditions for effective cooperation and that the frequent conflicts and disputes between member states had a negative effect on the ultimate goal of ECOWAS.[46] Despite these arguments some ECOWAS members like Burkina Faso and Ivory Coast were against military intervention, insisting rather on diplomacy.[47] ECOWAS was seen and considered by some of its members as a regional organization formed solely for economic integration and development and not a political organ to interfere in the domestic affairs of

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[43]   *Id.*, Art. 18 (2).

[44]   ECOWAS Decision A/DEC. 1/8/90; see also, D. Francis, *supra* note 31, 174.

[45]   K. Kufour, 'The Legality of the Intervention in the Liberian Civil War by the Economic Community of West African States', 2 *African Journal of International and Comparative Law* (1993) 3, 523-524.

[46]   See generally, K. van Walraven, T*he Pretence of Peacekeeping, ECOMOG, West Africa and Liberia* (1999).

[47]   E. Lumsden, 'An Uneasy Peace: Multilateral Military Intervention in Civil Wars', 35 *New York University Journal of International Law and Policy* (2003) 3, 819.

its member states.[48] Indeed, while rejecting the mandate of ECOMOG, Charles Taylor argued that the intervention contradicted Art. 3(2) of the OAU Charter and Art. 2(4) of the UN Charter which forbid interference in the domestic affairs of member states.[49] Further, he argued that the intervention went against Art. 2 of the 1978 ECOWAS Protocol on Non-Aggression, which reaffirmed that "each member state shall refrain from committing, encouraging or condoning acts of subversion, hostility or aggression against territorial integrity or political independence of member states."[50]

The OAU was not involved militarily in the planning or funding of the mission and rather offered moral support to the initiative. When the OAU Secretary General was asked about the legitimacy of the mission from the OAU point of view he reiterated his full support to the mission. He said he considered the ECOWAS intervention in Liberia as timely and a bold decision by regional members to address security challenges in their region. He further contended that there would be no justifications to leave Liberians to fight and kill each other.[51] The Nigerian President whose country had shouldered the larger part of the responsibility justified the military intervention of ECOMOG in Liberia on humanitarian grounds. He argued that "we are in Liberia because events in that country have led to massive destruction of property, the massacre by all parties of thousands of innocent civilians including foreign nationals, women and children. Some of whom had sought sanctuary in churches, mosques, diplomatic missions, hospitals and under Red Cross protection contrary to all recognized standards of civilized behavior and international ethics and decorum".[52] The UN did not respond to calls for effective engagement and eventual takeover from ECOWAS of the mission. Rather its Secretary General wrote to the ECOWAS Chairman that he was "wishing the organization's initiative in Liberia every success".[53] Meanwhile the President of the Security Council,

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[48]   A. Adeleke, 'The Politics and Diplomacy of Peacekeeping in West Africa: The Ecowas Operation in Liberia', 33 *The Journal of Modern African Studies*, (1995), 576-578.

[49]   J.M Taw & A.G, *US Support for Regional Complex Contingency Operations: Lessons from ECOMOG*, 22 Studies in Conflict and Terrorism (1999), 62-65.

[50]   Protocol on Non-Aggression, 22 April 1978, 1690 U.N.T.S. 40.

[51]   The OAU Secretary General, *West Africa,* 22-28 October 1990, 2690.

[52]   Adopted from I. Udogu, 'Economic Community of West Africa: From an Economic Union to a Peacekeeping Mission?' 7 *The Review of Black Political Economy* (1999) 2, 67.

[53]   Taylor rejects Bamako initiative, West Africa, November (1990), 2289-2290.

on behalf of the Council, commended the efforts made by the heads of state
and government of the ECOWAS to promote peace and normalcy in
Liberia.[54]

Although the civil war was contained for a while, peace continued to
elude Liberia. Marginal successes especially in the areas disarmament,
demobilization and reintegration were achieved under ECOMOG. The
serious response by the UN came almost three years after the war broke out.
In November 1992, the Security Council adopted a resolution calling
belligerents to observe a ceasefire and endorsed arms embargo on weapons
and military equipments destined for Liberia with the exception of arms to
ECOMOG.[55] The Security Council initiative resulted in the establishment of
the UN Observer Force in Liberia (UNOMIL). ECOWAS continued playing
an active role with the support of the International Contact Group on Liberia
comprising Britain, USA, Morocco, Nigeria, Senegal and Ghana. It
successfully negotiated the peace deal which required Charles Taylor to step
down. Indeed in 2003 Charles Taylor left the country and sought asylum in
Nigeria, which paved way for the transitional government to assume power
and conduct election.

2.   ECOMOG Intervention in Sierra Leone

With the unqualified success in Liberia and anarchy reigning in Sierra
Leone, in 1997 ECOWAS was again compelled to intervene in Sierra Leone
where the civil war had erupted and claimed thousands of lives. In the Sierra
Leone crisis, the international community was complacent to send military
intervention to reinstate the government, which had been democratically
elected in 1996. Indeed, with the fresh memory of the UN peacekeeping
fiasco in Somalia and the ongoing conflict in the former Yugoslavia, little
room was left for the effective UN intervention. Following the overthrow of
the legitimate government of Tejan Kabbah in Sierra Leone, ECOMOG
altered and extended its already stretched resources in the Liberian conflict
to cover Sierra Leone. This was done by stationing the ECOMOG troops
under the previous Status of Force Agreement signed between the

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54   The situation in Liberia, initial proceedings, Decision of 22nd January 1991, (2974th
      Meeting) Statement of the President, available at
      http://www.un.org/en/sc/repertoire/8992/CHAPTER%208/AFRICA/item%2002_Libe
      ria.pdf (last visited 26 August 2010).
55   SC Res. 788, 19 November 1992.

government and ECOMOG to prevent the spread of the Liberian crisis in the neighbouring country.

Just like the ECOMOG intervention in Liberia, the ECOMOG presence in Sierra Leone was neither approved by the Security Council nor the OAU. Some commentators have argued that the intervention was not an ECOMOG intervention, but that of Nigeria, supported by Guinea and Ghana, because it finds no basis in the ECOWAS legal framework.[56] However, it can be argued that if the doctrine of humanitarian intervention is recognized as a rule of international customary law, then a state or a group of states in this case ECOMOG were justified to intervene to avert humanitarian catastrophe and remedy serious violations of human rights. Earlier, the final Communiqué of a meeting of ECOWAS foreign ministers in Conakry in June 1997 argued that every effort was made to restore the lawful government by using dialogue, arms embargo and force. It did not authorize outright military intervention[57] because the decision to intervene is reserved to the Authority of Heads of State and Government.[58] The Final Communiqué of the Heads of State and Government of ECOWAS which had been adopted in Bamako[59] is considered as the basis for the ECOWAS intervention. Specifically the Communiqué stated that "sub regional forces shall employ all necessary means to implement the decision of the heads of state and government."[60] Indeed the OAU Chairman expressed his strong support to the ECOWAS "noble mission" to restore peace and stability in Sierra Leone.

The intervention of ECOMOG led by Nigeria was legitimized later by the UN Security Council.[61] The OAU was largely supportive of the efforts of the ECOWAS as a legitimate organ with responsibility to secure peace and stability within the broader goals of the OAU Charter. These two peacekeeping campaigns made ECOMOG an example of how regional

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[56]   M. Goldmann, Sierra Leone: 'African Solutions to African Problems?', in 9 *Max Planck Yearbook of United Nations Law (2005),* 468-471.

[57]   SC Doc. S/1997/499, 27 June 1997, available at http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Chap%20VII%20S%201997%20499.pdf (last visited 26 August 2010).

[58]   Protocol Relating to Mutual Assistance on Defence, Art. 6(3), 29 May 1981, 1690 U.N.T.S. 51.

[59]   Decision of the ECOWAS Authority of 29 August 1997, see Annex II to Doc. S/1997/695, Article 2.

[60]   Security Council, *supra* note 57, Art. 6.

[61]   SC Res.1132, 8 October 1997.

groups can take charge of their own problems when the international
community is not willing to commit troops and resources to secure peace
and stability. Arguably, the UN did later authorize a peacekeeping mission
but only after seeing the initiatives of the countries in the region. It may be
argued that the international community endorsed the outcome of the
intervention rather than the means used to accomplish the outcome. Because
of these efforts some scholars have been inclined to argue that the
intervention of ECOMOG showed that West African countries had gone
further than any other African sub region in efforts to establish a security
mechanism to manage its own conflicts.[62] Though the international
community played a significant role in both interventions, namely Liberia
and Sierra Leone, it is undisputable that ECOWAS played a leading role in
both operations.

V.   SADC Intervention in Congo (SADCC)

SADCC was launched in 1980 by Southern African countries
formerly of the Frontline States.[63] It was tasked to coordinate and harmonize
economic cooperation within its member states. Its main objective was to
reduce economic dependence from Apartheid South Africa and intensify
regional efforts in close partnership with the OAU and other pan African
initiatives to dismantle the Apartheid regime in South Africa.[64] With the end
of apartheid in South Africa, SADC adapted to new challenges by evolving
its mission to accommodate security and political challenges, which were
facing its member states.

In 1996, the SADC Heads of States and Governments approved and
adopted a Protocol of the Organ on Politics, Defence and Security
Cooperation.[65] This organ established a subcommittee called the Interstate
Defence and Security Committee, which was meant to enhance peace and
security among its member states. Zimbabwe was given the mandate by
ISDSC to coordinate and harmonize peacekeeping in SADC countries. The
specific mandate and functions of the Organ included the promotion of

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[62]   A. Adedeji, *Building Peace in West Africa: Liberia, Sierra Leone and Guinea Bissau*
(2002), 15.

[63]   For the history of SADCC and later SADC see generally, I. Mandaza (ed.),
Reflections on the Crisis on the Democratic Republic of Congo (1999).

[64]   *Id.*

[65]   SADC, Protocol on Politics, Defence and Security Cooperation, 14 August 2001.

political cooperation among member states and evolving common political values and institutions, and the protection of the people and safeguard of the development of the region against instability arising from a breakdown of law and order and intestate conflict.[66] It was further charged with the task of cooperating fully on regional security and defence through conflict prevention, management and resolution.[67]

The first test of peacekeeping for SADC came in 1997 during the DRC conflict when the Kabila government was challenged by rebels advancing from the eastern part of the country. It also faced challenges emanating from the military unrest in Lesotho and renewed fighting in Angola after the breakdown of the Lusaka Peace Accord between National Union for the Total Independence of Angola (UNITA) and the government of Dos Santos. The response of the OAU in these conflicts was marginal and instead the governments looked at the regional organization to mobilize the required resources to intervene. Just like in ECOWAS where there was lack of common approach between member states, in SADC also member states could not agree on the united position to respond to the crises in DRC, Lesotho and Angola.[68]

To address the conflict in DRC, Namibia, Zimbabwe and Angola decided to send troops.[69] The justification of the intervention was based on "the need to secure its sovereignty, restore law and order, and protect a legitimate government of President Kabila".[70] The decision was not taken by the full SADC Summit. Rather it was made by the SADC defence ministers under the aegis of Interstate Defence and Security Committee.[71] During the 18th SADC Summit in Mauritius, the Summit issued a Declaration stating that the Summit

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[66]   *Id.*, Art. 2 (2).

[67]   *Id.*

[68]   S. Fredrik, 'Whose Security? Comparing Security Regionalism in West and Southern Africa', in J. J. Hentz & B. Morten (eds), *New and Critical Security and Regionalism, Beyond the Nation State* (2003), 167; 175.

[69]   *Id.*, 172-176; see M. Rupiya, 'A Political and Military Review of Zimbabwe's Involvement in the Second Congo War', in J. Clark (ed.), *African Stakes of the Congo War* (2002); see also, K. P. Coleman, *International Organizations and Peace Enforcement: The Politics of International Legitimacy* (2007), specifically see chapter four, 75-115.

[70]   South African Defence Forces Communication Bulletin, 57/98, 22 September 1998.

[71]   The intervention was approved by SADC Defence Ministers in Harare, Zimbabwe in August 1998.

> "welcomed initiatives by SADC and its Member States intended to assist in the restoration of peace, security and stability in DRC". The declaration further "... commended the Governments of Angola, Namibia and Zimbabwe for timorously providing troops to assist the Government and people of DRC".[72]

Though the SADC Summit did not approve the intervention in DRC, nevertheless, it supported the initiative afterwards.

Another opportunity for SADC to intervene in internal affairs of its member states arose in Lesotho after election disputes which culminated with unrest within the country. South Africa, which was the leading nation in this mission, argued that outside intervention was requested by the Prime Minister of Lesotho in accordance with the SADC Agreement and that the mission was undertaken under the full authority of SADC.[73]

Examining the peacekeeping experience of SADC, it can be argued that the organization performed better in some countries and marginally in others. For example, in Lesotho, it managed to quell the violence and restore peace and stability. In Angola together with other organizations like the UN, it managed to facilitate the Lusaka Peace Accord and the surrender of the rebel group of UNITA, which ushered in a new era of relative peace in the country. The intervention in DRC is considered largely a failure. The war is still ongoing and to date peace is still elusive. These partial successes can partly be attributed to the willingness of member countries to work together and also the presence of South Africa with considerable resources to support peacekeeping efforts of the organization.

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[72] *Final Communiqué of the 1998 SADC Summit of Heads of State and Government,* 15 September 1998, para. 20, available at http://www.info.gov.za/speeches/1998/98b24_4629811399.htm (last visited 26 August 2010).

[73] Coleman *supra* note 69, specifically see chapter five, 120-148, this Chapter is about the DRC.

VI. The birth of AU and the Evolution of Peacekeeping in Africa

The transition from the OAU to the AU[74] fundamentally changed the norms underpinning the peacekeeping concept as it was previously known and implemented under the OAU. The newly adopted Constitutive Act of the African Union discarded the old concept of absolute non-intervention in the domestic affairs of its member states.[75] In fact, the Organization upheld this right, but with qualifications. The Constitutive Act confirms the principles of sovereign equality among member states, respect of borders existing after independence and non-interference by any member state in the internal affairs of others.[76] However, the principle of non-interference had effectively encouraged a culture of impunity in a number of African countries.[77] The effect of this culture of non-intervention meant that OAU was a silent observer to atrocities committed in most African countries. Indeed the AU Chief Legal Counsel while commenting on the importance of the amendment and expansion of Art. 4(h) of the Constitutive Act stated that "the addition of Art. 4(h) was adopted with the sole purpose of enabling the AU to resolve conflicts more effectively on the continent, without ever having to sit back and do nothing because of the notion of non-interference in the internal affairs of member states."[78]

The normative differences between the AU and the OAU are significant. These differences reflect the desire and understanding of African leaders to create a strong institution capable to comprehensively address challenges facing Africa and its people. While the OAU Charter unequivocally committed itself to the principle of the "sovereign equality of all member states" the AU Constitutive Act rephrases the principle as the "sovereign equality and interdependence among member states of the Union". Another major difference is that the OAU Charter adopts a rigid

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[74] For overview of the creation of the AU see T. Maluwa, 'The Constitutive Act of the African Union and Institution Building in post Colonial Africa', 16 *Leiden Journal of International Law* (2003) 1, 157-170.

[75] AU Constitutive Act*,* 11 July 2000, Art. 4, 2158 U.N.T.S. 1.

[76] *Id.*, 4(h).

[77] S. Gomes, 'The Peacemaking Role of the OAU and the AU: A Comparative Analysis' in J. Akokpari *et al*. (eds), *The African Union and Its Institutions (*2008), 113-125.

[78] B. Kioko, 'The Right of Intervention Under the African Union's Constitutive Act', 85 *International Review of the Red Cross* (2003) 852, 807-817.

policy of non-interference in internal affairs of another state.[79] In contrast, the AU Constitutive Act provides for non-interference of any member states in the domestic affairs of another, but it retains the right of the AU to intervene in the affairs of a member state pursuant to the decision of the AU Assembly in respect of grave circumstances such as averting genocide, war crimes or crimes against humanity. As well in case of serious threat to legitimate order or to restore peace and security to the member state of the Union upon the recommendation of the Peace and Security Council.[80]

1.   AU Legal Framework

The AU Constitutive Act makes a provision for the establishment of the Peace and Security Council as an organ of the organization.[81] The initiative to establish a Peace and Security Council (PSC) stems from the decision of the 37th Ordinary Session of the OAU Heads of State and Government in Lusaka in 2001.[82] This Session decided to incorporate the OAU Mechanism for conflict prevention in the AU Constitutive Act but with enhanced authority. Subsequently, in the following Summit, the name was changed from Conflict Prevention Mechanism to the PSC.

The PSC is responsible for coordination and harmonization of continental efforts in conflict resolution and peacebuilding.[83] The Protocol makes an explicit link between security and "democratic practices, good governance, the rule of law, protection of human rights and fundamental freedoms, respect for the sanctity of life and international humanitarian law".[84] It provides the criteria for intervention in internal conflict to protect and safeguard life, and to prevent them from spilling into the neighbouring countries.[85] The Protocol further calls for creation of the African Standby Force (ASF) to give teeth to the Council's peacekeeping efforts. According to the Protocol, the Standby Force "shall be composed of standby multi-disciplinary

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[79]   Art. III (2) OAU Charter.
[80]   See *supra* note 75, Art. 4(h) AU Constitutive Act.
[81]   *Id.*, Art. 5(f).
[82]   OAU Decisions and Declarations 37th Ordinary Session of the Assembly of the Heads of State and Government of the OAU, Decision AHG/DEC.1 (XXXVII), 11 July 2001.
[83]   Protocol on Peace and Security Council, 9 July 2002, Art. 3 (d), available at http://www.africaunion.org/root/AU/organs/psc/Protocol_peace%20and%20security.pdf. (last visited 26 August 2010).
[84]   *Id.*, Art. 3(f).
[85]   *Id.*, Art. 4.

units with civilian and military components in their countries of origin and ready for rapid deployment at appropriate notice."[86] The ASF is conceived along the lines of the UN "standby arrangement" where a state identifies, trains and equips specific contingents for peacekeeping operations until the time comes for their deployment.

According to the Protocol establishing the PSC, its main functions include preventive diplomacy, peacemaking, peacekeeping and peace support operations and post conflict peacebuilding.[87] The PSC as the principle organ of the AU for peacekeeping and peacemaking on the continent is also tasked with spearheading coordination and cooperation between regional mechanisms and the AU in preservation of peace and security.[88] Since its establishment the AU has committed itself to secure peace and security in some troubled hotspots on the continent.[89] The efforts of the organization in Burundi and Darfur are cases in point. In the following discussion both initiatives will be examined in light of the growing recognition of the organization to assume responsibility for security challenges on the continent.

2.   AU Experience

a)   AU Peacekeeping Mission in Burundi

The OAU and later AU had engaged in Burundi since the overthrow and assassination of the first democratically elected President of Burundi in 1993. But the full-fledged mission did not materialize until 2003 when the African Union authorized the creation of the African Union Mission in Burundi (AMIB).[90] The full deployment of the AU Mission stemmed from the ceasefire Agreement between the Burundi government and the rebels in December 2002. The Agreement had specifically provided that "verification

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[86]   *Id.*, Art. 13.

[87]   *Id.,* Art. 6.

[88]   *Id*., Art. 7.

[89]   Since its creation, the AU has sent peacekeepers to Darfur, Somalia and Burundi. In 2008, its member states Tanzania, Senegal and Sudan intervened in Comoro to restore law and order under the auspices of the African Union; see the AU decision: Assembly/AU/DEC. 186 (X).

[90]   Decision Central Organ/MEC/AMB/Comm. (XCI), adopted by the 91st Ordinary Session of the Central Organ of the Mechanism for Conflict Prevention, Management and Resolution at Ambassadorial level in April 2003.

and control of the ceasefire agreement shall be conducted by an African Union Mission".

The mandate of AMIB was among other objectives to: establish and maintain the liaison among the warring parties; provide VIP protection of returning leaders; and to monitor and verify the implementation of the ceasefire agreements.[91] The mission was also responsible for facilitating and providing technical assistance to the Demobilization, Disarmament, and Reintegration (DDR) process. It was also mandated to facilitate the delivery of humanitarian assistance, including to refugees and internally displaced persons and coordinate mission activities with the UN presence in Burundi.[92]

The success of AMIB was mixed.[93] While the ceasefire was not fully implemented because the rebels continued fighting, the mission managed to stabilize most parts of the country. This success created a conducive environment for the eventual deployment of UN troops.[94] Compared to other missions that had been undertaken previously by the predecessor of the AU, the AMIB had no problem with having a valid mandate. Rather it faced "traditional challenges", which had plagued its successors elsewhere namely: the challenge of financial resources and the inability of troop contributing countries to deploy troops in a timely manner. The fact that South Africa was the leading nation in AMIB made a difference given the fact that South Africa is the most economically powerful on the continent. Nevertheless, it can rightly be argued that AMIB achieved significant success partly because of the commitment of South Africa and other troop contributing countries like Ethiopia and Mozambique to shoulder the financial and human responsibility to sustain the mission.[95]

b)   The AU intervention in Darfur and the Concept of "African Solutions for African Problems"

The conflict in Darfur is synonymous with the African Union peacekeeping efforts on the continent. Perhaps it is one of the missions

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[91]   *Id.*

[92]   *Id.*

[93]   M. Timothy, *The African Union: Pan Africanism, Peace building and Development* (2005), 91-95.

[94]   F. Agoagye, 'The African Mission in Burundi: Lessons Learned from the First African Union Peacekeeping Operation', 2 *Conflicts Trends* (2004) 2, 9-15.

[95]   *Id.*

which have come to define the capabilities and weaknesses of the organization as pertains to the concept of peacekeeping on the continent.[96] The involvement of the organization in Darfur has attracted mixed appraisals. Most Africans consider the mission as a bold statement on the willingness of Africa to confront its own challenges and realize the promise of providing African solutions for African problems. Yet others, especially those involved in humanitarian assistance, have constantly referred to the mission as one which is "largely ineffective, poorly equipped, financed and managed".[97] To many the mission has miserably failed to live up to the responsibility of protecting the civilians as envisaged under its mandate.

The AU involvement in Darfur stems from the PSC decision taken in 2004. Under this decision the PSC determined the situation in Darfur to constitute threat to peace and security of the region and the entire continent. It authorized the Chairperson of the Commission to deploy the AU observer mission to monitor the ceasefire agreement signed between the government and rebels and ensure full compliance by the parties.[98] In October of the same year the PSC adopted a resolution asking the Chairperson of the Commission to enhance the capability of the mission by providing more personnel to that Mission. The mandate of the Mission was expanded to include protection of civilians "whom it encounters in danger of imminent threat".[99] Effectively, the mission was granted significant power to use force to defend civilians in imminent danger.

The willingness of the organization to commit troops from its own member states to address security challenge in Sudan can be seen as a significant departure from previous attempts when the OAU was unwilling to intervene in domestic affairs of other countries. There are several reasons as to why the AU took the lead in intervening in Sudan. They include the fact that the AU was eager to do "something" in light of the massive violations of human rights which were taking place in Darfur and its desire to be different from the defunct the OAU, which had maintained passive

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[96]   S. Appiah-Mensah, 'The African Union Mission in Sudan: Darfur Dilemmas', 15 *African Security Review* (2006) 1, 2-19.

[97]   For comprehensive account and international response on Darfur conflict and especially the indifference of the western countries to help the African Union fulfill its mandate, see K. Funk & S. Fake, *The Scramble for Africa: Darfur, Intervention and the US* (2009).

[98]   AU Peace and Security Council Resolution PSC/AHG/Comm. (X), 25 May 2004.

[99]   *Id.*, PSC/PR/Comm. (XVII) 20 October 2004.

engagement despite egregious human rights violations on the continent.[100] Further, as Sudan did not allow any international involvement in the conflict, the AU remained as the only credible institution to intervene.[101] The fact that there was a deep division within members of the Security Council on the correct approach to address the conflict negated any possibility of consensus within the international community on what to do.[102]

The mission faced insurmountable challenges from the start. Inadequate funding, poor logistical arrangements and the vast and complex territory of Darfur became the hallmark of the mission's operation. Still despite the serious challenges which faced the mission, it may be argued that, at least symbolically, it was an achievement for the organization, which had struggled to reassert its relevance before its own people on the continent. Further the fact that the Sudanese government and the rebels agreed to submit to the authority of the AU to the extent of signing the Darfur Peace Agreement at the auspices of the AU in Abuja, lend credence to the legitimacy of the organization in addressing peace and security challenges on the continent.[103] Moreover, to the extent that Sudan had rejected UN involvement in Darfur while insisting the unique role of the AU in addressing the Darfur conflict can partly be seen as recognition by African countries that the AU, if supported with necessary tools, can play a crucial role in the peace and security on the continent.

Arguably, the conflict of Darfur in Sudan is and has been a litmus test for the newly created AU. From the beginning the organization was actively involved in the resolution of the conflict. While previously the organization waited for the decision of the UN Security Council to send troops and allocate financial resources, in Darfur the organization was proactively taking the lead to address the conflict, by sending the Peacekeeping Mission

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[100] See C. Heyns & F. Viljoen, 'The Regional Protection of Human Rights in Africa: An Overview and Evaluation', in P. Zeleza & P. McConnaughay (eds), *Human Rights, Rule of Law and Development in Africa* (2004), 135-140.

[101] Sudan always characterized the Darfur conflict as the African Problem as such asked AU to get more involved in solving the conflict. See the report of the AU Chairperson on the Situation in Darfur PSC/PR/2(V), 13 April 2004, 4.

[102] See report Human Rights First; Investing in Tragedy: China's Money, Arms and Politics in Sudan, (2008), specifically pages 17-20.

[103] J D. Rechner, 'From the OAU to the AU: A Normative Shift with Implications for Peacekeeping and Conflict Management, or Just a Name Change', 39 *Vanderbilt Journal of Transnational Law* (2006) 2, 543, 570-75.

and also by embarking on the political process.[104] It can also be argued that by empowering AMIS to protect civilians in eminent danger reflected how the peacekeeping role is evolving from one of purely enforcing ceasefires between the belligerents to one of protecting civilians who in most cases have been ignored to their own peril. The mission lasted for less than four years until it was transformed into joint peacekeeping efforts between the AU and the UN.

The idea of African solutions for African problems is a relatively new concept which lay behind the birth of the AU. Unlike before, when most of the calamities bedevilling the continent were blamed on the colonialists and their successors, the new concept signals a new and more constructive attitude. It realizes that it is not enough to blame the west for Africa's problems. It rather acknowledges that Africa must be responsible for its own challenges. Be that as it may, the notion of African solutions for African problems is easier stated than realized in practice. Nowhere has the concept of African Solutions for African problems been challenged more than in Darfur. The Mission from its inception was poorly equipped. African member states provided troops for the mission but the organization could not mobilize sufficient resources to sustain the mission, which prompted the organization to seek external assistance. Here below I analyze whether these initiatives of the AU can be taken as the basis for future interventions by the organization somewhere else in other conflict spots on the continent.

VII. Whither African Solutions for African Problems?

1.   The Concept in Practice

Clearly Darfur has shown and proved what the African Union can do on its own without external assistance. It has displayed both, the strength and the limitations of what it can realistically achieve in its efforts to maintain peace and security on the continent. The perennial challenge of financial and material shortages which has always characterized the peacekeeping efforts of the OAU have not spared the AU. It is this never

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[104]   Political efforts to address the Darfur conflict were reflected at first in the appointment in June 2005 of the notable Tanzanian diplomat and the former OAU Secretary General Salim A. Salim as the AU Chief Mediator between the rebels and the government of Sudan; press release available at http://www.africa-union.org/News_Events/Press_Releases/26%202005%20Press%20Release%20-%20Salim.pdf (last visited 26 August 2010).

ending challenge of resources, which casts a shadow of doubt on the practicality of the concept as espoused by the organization. The question is whether the AU can mobilize its own resources to address security challenges on the continent. The reality in Darfur has shown that the concept is good in theory, but its success will greatly depend on the willingness and readiness of the "international community" to provide the required resources.

It is because of the marginal success of the "African Solutions for African Problems" concept in facing up the challenge in Darfur, the organization decided to request for the establishment of a hybrid mission replacing the AU's force.[105] With the international community considering AMIS as a failure for its inability to protect people in Darfur it was expected that the same international community could adequately finance the work of the mission. This was not the case. UNAMID has faced similar challenges like its predecessor; it has struggled to acquire necessary resources to undertake its vital mission to protect people.[106] In the beginning, the hybrid mission in Darfur was hailed as an excellent partnership between the UN and the AU in fostering the ability of the organization to take the lead in addressing its own problems. Despite this assessment, many human rights advocates consider the mission as another latest broken promise by the west to assist Africa.[107]

UNAMID has struggled to get the required armoured vehicles and helicopters to conduct patrols. Though it is a hybrid, which is a joint mission between the UN and the AU, it largely depends on the UN budgetary assessment. The AU member states have provided a significant number of troops even though the available troops heavily depend on the UN to fund their salaries and other requirements. This experience suggests that a partnership or hybrid mission between the UN and the AU is not necessarily a panacea to the continent's peacekeeping challenges.[108] Expressing his disappointments on the failure of the international community to fund the mission, which was established amidst high expectations the then commander of UNAMID troops remarked that "we remain desperately under-manned and poorly equipped. Our long shopping list of missing

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[105]   See SC Res. 1769, 31 July 2007.
[106]   NGO Joint Report on Darfur, Grounded, *The International Community's Betrayal of Darfur* (2008).
[107]   G. Prunier, *supra* note 9, 138-143.
[108]   T. Murithi , 'The African Union's Foray into Peacekeeping: Lessons from the Hybrid Mission in Darfur', 14 *Journal of Peace, Conflict and Development* (2009) 1, 15.

equipments make shameful reading".[109] The report commissioned by western NGOs exposes the weakness of this once heralded partnership between the UN and AU in promoting an African solution to African problems.[110] A partnership premised on the need to strengthen the African capability to address its own challenges without necessarily relying on the external help from the developed countries.

The then AU Chairman Konare, frustrated by the unwillingness of AU member states to meet their financial obligations, stated that "member states must absolutely break off from improvisation and systematic recourse to external assistance. They must demonstrate their remarkable political will to empower the instrument they have established from crushing external dependence".[111] The swelling of member states arrears and the dwindling of their assessed contributions are also a cause of great concern. For example, during the launch of the AU in Durban, 13 out of 52 countries had no arrears, while only 16 countries had met their financial obligations. The total arrears stood at more than 40 Mio USD.[112] All these challenges have cast doubt on the ability of the African Union to shoulder its own responsibility to secure peace and stability on the continent.

2. The Future of Peacekeeping in Context

Arguably, the duty to maintain peace and security of the world squarely falls on the shoulders of the UN Security Council.[113] But in reality the Security Council has not determined the criteria for when particular situation merits the intervention by the world body. The decision is rather based on political considerations than actual human suffering.[114] In some

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[109]   Fake, Funk, *supra* note 97, XVI.

[110]   NGO Joint report, *supra* note 106.

[111]   AU Statement of the Chairperson of the Commission on the launching of the Peace and Security Council of the African Union, 25 May 2004, 5, available at http://www.africa-union.org/Official_documents/Speeches_&_Statements/HE_Alpha_Konare/Statement-CP%20Alpha%20konare%20-Africa%20Day.pdf (last visited 26 August 2010).

[112]   M. Mwanasali, 'From Non Interference to non Indifference: The Emerging Doctrine of Conflict Prevention in Africa', in Akokpari *et al.*, *supra* note 77, 56-57.

[113]   Chapter VII Charter of the United Nations.

[114]   H. Kusano, 'Humanitarian Intervention: An Interplay of Norms and Politics', in M C. Davis *et al.*, *International Intervention in the Post Cold War World: Moral Responsibility and Power Politics*, 2004, 128-130; see also, S. Chesterman, *Just War of Just Peace? Humanitarian Intervention and International Law* (2002), 126-132.

cases, African conflicts have claimed thousands of lives with little international intervention even when clearly minimal intervention from the Council could have averted a humanitarian catastrophe. It is this ambiguity of the Council in authorizing and sufficiently equipping peacekeeping missions which provides a reality check for the African countries to scale back their expectations from what the international community through the UN Security Council can offer to Africa. There is a conspicuous poverty of human and financial resources facing African countries. Such equipment like transport planes, personnel carriers and telecommunications are either in short supply or non-existent. What is clear then is that African countries will continue to rely on unpredictable and insufficient external support to address peacekeeping challenges on the continent.

As eloquently stated by the Gambian representative to the UN, "a typical African country in conflict is poor, with weak government and public institutions, a small private sector, high illiteracy, a narrow skills base and limited capabilities for guaranteeing security and that state of affairs is rendered even more dire by civil strife, whose effects on the economy and the society at large are debilitating."[115] This assertion reflects the true picture of most African countries today especially those in conflict. Unfortunately, most of these countries experiencing civil strife are the ones supposed to contribute to the AU capability to keep peace and security on the continent. This would be a major challenge indeed for countries, which also must battle to address other intractable challenges within their own boarders.

Africa has partnered with the European Union and other western and non-western countries to address peace and conflict challenges. In 2001, the EU established the Rapid Reaction Mechanism to address political or emergency related situations in countries undergoing "severe political instability or suffering from effects of technological or natural disasters".[116] In a similar move, in 2003 the EU signed an assistance package of what is called Peace Support Facility to strengthen Africa's capacity to make interventions in conflict prone areas. These initiatives though highly timely and laudable, raise a serious concern as to their sustainability as regards to continued funding from rich countries. By and large the AU is

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[115] See C. Grey-Johnson, Beyond Peacekeeping: The Challenge of Post Conflict Reconstruction and Peacebuilding in Africa', available at http://www.un.org/Pubs/chronicle/2006/issue1/0106p08.htm (last visited 3 June 2010).

[116] D. Bach, in Akokpari *supra* note 77, 362-363.

overdependent on the goodwill of international donors to carry out its core mandate of keeping peace and securing stability on the continent. As to whether Africa will manage to carry out its obligation, relying on the ever unpredictable resources from rich countries remains the biggest question, facing the AU as it attempts to take lead in addressing African challenges.

If the more developed countries in the world, particularly those in Europe and North America, are not prepared to get involved on the ground in Africa, then it is to a certain degree incumbent upon them to provide the kind of assistance African countries require in carrying out these operations to match their rhetoric with tangible actions. Assistance nearly always comes with a price tag, more often than not a political one. The sooner the states of Africa get themselves organized the sooner they will be able to pool what resources they have and learn from their collective past experiences. They will be able to make better use of what assistance they can obtain and hopefully gradually reduce their dependence on external help.[117]

Further, the effectiveness of the peacekeeping operations under the aegis of the AU greatly hinges on the ability of the force to keep peace. Again, the experience in Darfur has shown that African military personnel have marginal experience in keeping the peace in conflict zones like Darfur or Somalia. For example, a report commissioned by the Enough Project in 2008, a humanitarian think tank based in Washington D.C., argued that the peacekeepers in Darfur find it extremely difficult to protect themselves against external attacks from rebels - something which cast a serious doubt as to the peacekeepers ability to protect civilians.[118] In light of the growing commitment of the AU to secure peace and stability in different hotspots on the continent, member states should equip their military personnel with advanced training specifically to keep peace. Despite the clear commitment and steps to establish Africa Standby Force, it is not clear whether this force can venture to keep and secure the peace in a most difficult and hostile terrains in places like Goma or Mogadishu.

Regional organizations like ECOWAS and SADC have a crucial role to play in strengthening future peacekeeping operation on the continent. Unlike any other regional institution on the continent, ECOWAS and SADC have considerable experience in peacekeeping. ECOWAS for its part has

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[117]   R. May & G. Cleaver, 'African Peacekeeping: Still Dependent?', 4 *African Studies Centre* (1997) 2, 18.

[118]   J Fowler & J. Prendergast, *Keeping our Word: Fulfilling the Mandate to Protect Civilians in Darfur* (2008), 1-7.

sent in soldiers to secure peace and stability in some hostile hotspots like
Liberia, Guinea Bissau and Sierra Leone. Similarly, SADC has been
involved in Burundi and Democratic Republic of Congo. These two
institutions could provide a strong complementary support to the African
Union in its efforts to secure peace and stability on the continent. Indeed,
the AU has recognized the important role of regional organizations in
peacekeeping by stating that regional brigades shall constitute the African
Standby Force (ASF)[119] which is slated to be unveiled in 2010. ASF is
envisaged to cooperate where possible with the UN and sub-regional
African organizations in securing peace and stability in Africa. Further,
regional institutions like IGAD, could play a pivotal role in securing peace
and stability especially in the Horn of Africa, given its experience in conflict
resolution especially its central role in the negotiations and eventual signing
of the Comprehensive Peace Agreement in Sudan between the government
and SPLM rebels. Indeed IGAD member states like Uganda, Kenya,
Ethiopia and Djibouti are heavily involved in the Somalia peace process in
one way or another. As such their experience in the regional could be vital
for the AU efforts.

Despite the efforts of the AU to mobilize its own resources to
intervene in intractable conflicts, the experience in Somalia where the AU
authorized the African Mission in Somalia (AMISOM) in January 2007, is
hardly encouraging. The AU, as part of its African solutions for African
problems concept and as an alternative to a dithering, detached and
disengaged international community,[120] authorized the Peacekeeping
Mission to replace the withdrawing Ethiopian troops and support the
fledgling but internationally recognized Transitional Federal Government of
Somalia. Burundi and Uganda have contributed the largest share of troops
but as always these troops suffer from inherent lack of resources. For
example, out of the total yearly budget of around 600 Mio USD for 2008,
AMISOM received less than 50 Mio USD in contribution.[121]

Indeed, this frustration is echoed by the then AU Special Envoy for
Somalia Ambassador Nicholas Bwakira who contended that AMISOM is
doing an international duty yet the international community has been

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[119]   PSC Protocol, *supra* note 83, Art. 13.
[120]   Murithi *supra* note 108, 15.
[121]   See the briefing report to the Security Council by the AU representative to the UN
available   http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-
8CD3-CF6E4FF96FF9%7D/SOMALIA%20S%20PV%205837.pdf (last visited 26
August 2010).

unwilling to pay up the bill.[122] This argument of Ambassador Bwakira is premised on the fact that collective peace and security of the world is the responsibility of the UN through its Security Council. Similarly, despite promises by the Security Council to assist and eventually replace AMISOM by a stronger and better funded Multinational force "at an appropriate time",[123] nothing has materialized. The UN Secretary General has not hidden his disappointment about the unwillingness shown by the rich countries especially Permanent Members of the Security Council to take the lead to secure peace and stability in Somalia. Despite approaching more than 50 countries, no country has been willing to take the lead of such a Multinational force.[124]

As the experience in Somalia demonstrates, the fact that AU member states might be willing to contribute troops for peacekeeping they would correspondingly expect the AU to foot the bill for the costs involved. Otherwise there would be no incentive of having troops under the auspices of the organization if it cannot actively work with the international community to secure the necessary resources required. The advantage of having troops deployed under the auspices of the UN would naturally be a funding possibility. Since the UN is composed of diverse countries both rich and poor, it would ensure that substantial funding would be secured to sustain peacekeeping mission in such hotspots like Somalia. In the absence of the UN, the AU should devise strategies both internal and external of securing needed resources to support such missions.

This endeavor would perhaps be appealing if the rich countries are not asked to send in troops to Africa, if instead they are asked to contribute towards securing peacekeeping resources in the framework of the UN. As experience has shown, African countries are capable of contributing

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[122] See the interview of Ambassador Bwakira by Voice of America in November 2009 where he contended that AMISOM troops have spent five months without getting their salaries. Indeed Ambassador Bwakira argued international community to honour their commitments and promises. For example out of nearly US$300m pledged during donor conference to support Somalia in April 2009 in Brussels, by November 2009, only 3 million had been realized. Available at http://www1.voanews.com/english/news/africa/AU-Envoy-Says-AMISOM-Troop-Payments-Remain-In-Arrears--73895107.html. (last visited 26 August 2010).

[123] SC Res. 1814, 15 May 2008.

[124] See UN SG Report; Give African Forces in Somalia Substantial, Credible Backing Urges as Security Council Considers Challenges Facing Horn of Africa Country, available at http://www.un.org/News/Press/docs/2008/sgsm12011.doc.htm (last visited 26 August 2010).

requisite troops for peacekeeping missions. What they lack are necessary resources to undertake the missions. Literally speaking, under this arrangement, the AU would manage and conduct peacekeeping operations on the continent on behalf of the UN as the ultimate institution with responsibility to maintain global peace and security. Furthermore, having all peacekeeping missions coordinated under the aegis of the AU would have some advantages. Politically it would play well with some African countries who consider outside intervention as an opportunity for western countries to meddle into internal politics of African countries. Hence, they would be comfortable of having African troops in their countries rather than having multinational forces. Financially, it would make the AU a focal point body to undertake the collective appeal for resources from the international community rather than having regional organizations like ECOWAS or SADC making their separate appeal for resources. This option, where Africa is ready and willing to take the lead to address its peace and security challenges, should be appealing to the international community and especially the resource-rich countries, since it eliminates the option of asking them to contribute troops to secure peace and stability in Africa.

Ultimately, the future of peacekeeping in Africa rests in African hands. Indeed even the UN has reinforced the concept of burden sharing by encouraging and arguing the international community to support African efforts to address peacekeeping challenges on the continent. The Former UN Secretary General has stated that "within the context of the United Nations primary responsibility for matters of international peace and security, providing support for regional and sub regional initiatives in Africa is both necessary and desirable. Such support is necessary because the UN lacks the capacity, resources and expertise to address all problems that may arise in Africa. It is desirable because wherever possible the international community should strive to complement rather than supplant African efforts to resolve African problems".[125] This assertion by the UN Secretary General can only be realized with the genuine commitment of the western countries to genuinely and adequately support efforts of African countries to assume larger role in maintaining peace and stability in Africa. It is increasingly becoming apparent that western countries are becoming less and less interested to send in peacekeeping troops to the African continent to secure peace and stability.

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[125]   The causes of conflict and the promotion of durable peace and sustainable development in Africa, Report of the Secretary General, UN Doc. A/52/871 - S/1998/318, 13 April 1998, para. 41.

VIII. Conclusion

Although AU is numerically the largest regional body in the world boosting more than fifty countries in its membership column, it is also the most underfunded and the poorest of its type in the world. It is clear that there exists a wide gulf between what is desirable for the successful operation of peacekeeping in Africa and what is actually in place or may be offered by African countries. The future of peacekeeping on the continent fundamentally hinges on the political will of African states first to realize that it is Africa, which should be responsible for Africa. Whatever assistance may come "along the way" should be seen as a complement to what exists already. Further, it does not help when the international community criticizes African peacekeeping efforts, as "ill-equipped, ineffective, underfunded and not up to the job"[126] when the same international community cannot take steps to strengthen and enhance the capability of the AU to better undertake peacekeeping missions.[127] The international community has a political duty through the UN to keep peace and stability worldwide, as such the commitment to provide resources to African peacekeeping efforts can be justified on this political duty of the international community which is enshrined in the UN Charter.

From the preceding discussion on various efforts undertaken by the OAU and later AU on one hand and regional institutions like ECOWAS and SADC on the other, it is clear that the major challenge facing peacekeeping on the continent has been mobilizing required tools to successfully undertake such missions. As experience has shown there is a great disconnect between the political will of African countries and what they can actually do on their own. The political will of African countries can only stretch to their willingness and readiness to send their troops in harm's way in the most hostile terrain of Mogadishu or Darfur. It is incumbent upon the international community to complement the efforts of the AU by giving the organization the necessary resources through the traditional UN framework to enhance the African capability to secure peace and stability on the continent. Admittedly, the international community through the UN could demand greater accountability from AU for resources allocated for this purpose. For example, the UN could require the AU to use the former's

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[126]   Funk & Fake, *supra* note 97, 100-101.
[127]   A. De Waal, 'Darfur and the Failure of the Responsibility to Protect', 38 *International Affairs* (2007) 6, 1040-1045.

standards of accounting and provide financial reports from time to time. This could in the process enhance the AU's accountability and transparency while making available required resources at its disposal.

Regional institutions like ECOWAS or SADC have a pivotal role to play to complement the AU's efforts to maintain peace and stability on the continent. The future role of these institutions could be envisaged as that of supporting and mobilizing the required resources especially troops to secure peace and stability under the aegis of AU. This could allow the AU to be a focal point in appealing for resources from the international community, instead of having separate regional bodies like ECOWAS or SADC make their separate appeal for resources. This partnership can only succeed if the AU is capable of mobilizing the required resources on behalf of troops contributed by these bodies. In the absence of this crucial aspect, regional bodies will see no added value of having their troops work under the aegis of the AU while they are being asked to stretch into coffers to foot the bill for their troops.

The experience in Darfur has shown that the much touted hybrid alternative which is the joint AU and UN peacekeeping mission, is not a panacea to the peacekeeping challenges afflicting Africa. Despite spending millions of dollars UNAMID is still far short of required tools to secure peace and stability in Darfur. Yet even if half of the financial resources spent by the international community in Darfur were more wisely spent to strengthen African capability to maintain peace and stability in Africa, the situation would be much better than it currently is.[128] It is a tragedy that the UN Security Council as the guarantor of peace and security of the world has deliberately failed to secure resources to enable African Mission in Somalia (AMISOM) do its job to the extent that AMISOM soldiers can go five months without pay. Yet AMISOM is doing what the UN is supposed to be doing. A duty clearly enshrined in the UN Charter whose membership includes African countries. This indifference by the Security Council has to be ultimately addressed, if at all the world and Africa in particular is to witness the credible peacekeeping efforts on the continent. Clearly, peacekeeping efforts in Africa will succeed and bear concrete results if the international community is to be willing and ready to provide resources and specifically money to African led peacekeeping initiatives.

African solutions for African problems is a dream, which can be fulfilled only when both African countries and the international community

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[128]   Murithi, *supra* note 108, 15.

join to work together. In the present state where the majority of African countries are economically struggling and politically unstable, it would be difficult for Africa to take charge of its peace and stability without external assistance. Further, at a time when the UN is proposing its own "capstone doctrine" for peacekeeping operations, Africa should be at the forefront of debates on modalities for the development of new types of peacekeeping operations, which would be availed adequate resources by the international community to carry out their missions.

The United Nations and rich countries should encourage and tangibly support the efforts of the AU. Certainly, the AU as an institution faces its own internal problems concerning both human and material resources management. But this should not be the reasons why rich countries should not be at the fore to help the organization. Even the UN has not been abandoned despite its countless internal problems and criticism.[129] Rather means should be improvised to reform the organization while enabling it to fulfill its core mission of securing peace and stability in Africa. A peaceful, stable and prosperous Africa is in the best interests of the world and in particular Africans themselves who have perennially endured untold sufferings resulting from these conflicts.

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[129] M. Templeton, 'The Achievements and Shortcomings of the United Nations' in R Thakur (ed.), *Past Imperfect, Future Uncertain: The United Nations at Fifty*, (1998), 15-31. Also see M. Boot, 'Paving the Road to Hell: The Failure of the UN Peacekeeping', The Council on Foreign Relations, March/April 2000.