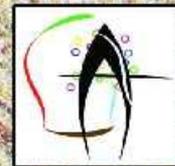




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**L'Afrique et les défis du XXIème siècle**  
**Africa and the Challenges of the Twenty First Century**  
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إفريقيا وتحديات القرن الواحد والعشرين

**DRAFT VERSION**  
**NOT TO BE CITED**

**Has the African Union Delivered in its  
'Responsibility to Protect'?**

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## Introduction

It has been a decade since the African Union was created to replace the OAU. In these years there have been attempts to conceptualize and promote a continental notion of collective security through the redefinition of sovereignty. Traditional conception of sovereignty strongly associated with the OAU underscored non-interference in the domestic affairs of African states. On the other hand, the notion of 'sovereignty as responsibility' - defined in terms of the primary responsibility of the state to the preservation and respect of the rights of the population within the state - became one of the distinctive features of the AU. The establishment of the AU marked a putative shift from the traditional principle of non-interference to non-indifference. AU's interventionist framework was reflected in the introduction of Article 4(h) in the AU Constitutive Act which allowed for the 'right to intervene' in states where there is a gross violations of human rights. The AU interventionist stance coincided with the conceptualization, development and endorsement of 'Responsibility to Protect' (commonly referred to as R2P). R2P was first coined in 2001 by the International Commission on Intervention and State Sovereignty (ICISS) as a global consensus on the practice of humanitarian intervention. It was deliberated upon by the UN member states, modified and endorsed at the 2005 UN World Summit Outcome. The AU is therefore often regarded as part of the historical development and a key actor in the promotion and practice of R2P. This article provides a reflection of the AU attempts to implement R2P in Africa. Two main conclusions are drawn: first, the AU has experienced both precarious success and challenges in the implementation of R2P. Three case-studies are identified to defend this premise namely: Darfur (Sudan), Kenya and Libya. The justification for adopting these case studies is because the AU played or continues to be recognized as a dominant actor in resolving these crises. This paper argues that the AU encountered operational difficulties the promotion of R2P in Darfur, was perceived as successful in Kenya and, has been overwhelmed by the pattern of extra-regional intervention in Libya. Second, the difficulties of the AU to deliver R2P is perhaps complicated by three main factors namely: the conceptual confusion between preventive R2P and R2P as intervention; the renewed tension between sovereignty as responsibility and traditional notion of absolute sovereignty intensified the the increased securitization of African states following the 9/11 attacks and; the limits of the AU Peace and Security framework to cope with 'new' form of security challenges such as the rise of 'home-grown' terrorism and post-election violence. Such limits have led to *ad hoc* short-term measures rather than long term solutions to Africa's conflict-related atrocities.

## **Historical Overview of the connection between AU and R2P**

In 2005, UN member states endorsed R2P as an international framework for the prevention and responses to mass atrocities namely: genocide, war crimes, ethnic cleansing and crimes against humanity. This endorsement was contained in paragraphs 138 and 139 of the 2005 World Summit Outcome document. The concept of R2P was however first coined by the 2001 International Commission on Intervention and State Sovereignty (ICISS), an independent commission sponsored by the Canadian government and tasked with finding a political consensus the controversial notion and practice of humanitarian intervention. The ICISS report concluded that it is the primary responsibility of the state to protect its population from gross violations of human rights. However, if the state is unable or unwilling to fulfill such responsibility, the international community should borne such responsibility (ICISS 2001). The ICISS report influenced debate, negotiations and modifications of R2P before the UN endorsed it. Despite the importance of the ICISS report to the UN endorsement of R2P, the ‘heart and soul’ of R2P is often rooted in Africa. For example, UN Secretary General Ban ki-Moon stated that,

“some contend that R2P is a Western or Northern invention, being imposed on the global South. Nothing could be further from the truth. It was the first two Secretaries-General of the United Nations – Boutros Boutros-Ghali and Kofi Annan – who first explored evolving notions of sovereignty and humanitarian intervention. And the African Union has been explicit: in the year 2000, five years before the Summit declaration, the African Union asserted “the right of the Union to intervene in a member state pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity” (UN Doc. 2008).

Further, the linkage between the AU and R2P is boosted by the general position of African states on R2P prior to the 2005 World Summit Outcome. AU member states endorsed R2P in a common position paper (known as the *Ezulwini* Consensus) at AU Executive Council seventh extraordinary session in Addis Ababa. The common position paper on R2P states that,

“authorization for the use of force by the Security Council should be in line with the conditions and criteria proposed by the Panel, but this condition should not

undermine the responsibility of the international community to protect..."(AU Executive Council 2005:6).

Despite these connections between the AU and R2P, several critics have continued to underscore that such historical representations are a legitimizing tool for entrenching neo-colonial trusteeship (Shani 2007; Warner 2003). It is important here to provide a deeper explanation of the historical interpretation of AU and R2P as often provided by most supporters of R2P. The thesis that the 'heart and soul' of R2P is rooted in AU could be partly explained through some of the initiatives and processes that influenced the creation of AU. A significant initiative that would be explained subsequently is the Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA). The justification for underscoring the CSSDCA initiative is because it captures how the Africa in general and the AU in particular is perceived as an important historical trajectory in the conceptualization and development of R2P (Welsh 2010).

The CSSDCA was purportedly an African civil society initiative promoted to find solution to the post-Cold War political and economic challenges especially in relation to civil wars in Africa. It was a normative agenda crystallized following the establishment of the African Leadership Forum (ALF) in 1988 by the initiative of Olusegun Obasanjo (who was at that time a former Nigeria military Head of State). CSSDCA was tasked to find enduring solutions to prevalent crises in Africa like wars, human rights violations, economic underdevelopment and instability and, poor governance through emphasis on African solutions to African problems. Such regional solidarity or pan-Africanism is rooted in anti-colonial struggles but gained resonance following the end of the Cold War (Abdul-Raheem 1996). The demise of Cold War rivalries between the Superpowers (US and the USSR) increased perception especially from African leaders of the increasing marginalization of the continent. Such perception was reinforced following the reluctance of powerful extra-regional actors to effectively respond to crises - for example, Somalia (1993) and Rwanda (1994). The CSSDCA framework therefore aspired to search for comprehensive solutions to these crises from within.

The security component of the CSSDCA presented one of its most radical proposals. This was because it challenged the OAU's principle of non-interference through a re-definition of sovereignty as responsibility towards 'human security'. That is, African states

were required to concede some of their sovereignty and to broaden the notion of security to include human security. Traditional notion of security was based on the realist thinking of the state as the main referent and closely tied to military power seen as necessary for safeguarding territorial integrity. The CSSDCA document however expanded on such restricted definition to include “political, economic, social and cultural dimensions” (Deng and Zartman 2002; Levitt 2003). Deng and Zartman noted that the promotion of an African notion of collective security implies that the “security of one African country’s individuals is also relevant to other African countries” (2002:118).

The CSSDCA agenda was challenged from the outset for various reasons. A major criticism of the CSSDCA was that despite its emphasis on the “African solutions to African problems”, it was directly linked to a similar European experience. The CSSDCA framework mirrored and was supported by the officials that had produced the 1975 Helsinki Document for Europe and North America which culminated into the Conference on Security and Cooperation in Europe (CSCE). Officials of the CSCE and the CSSDCA worked closely in the design, content and planned implementation strategy of the CSSDCA framework. In fact, it was after the 1990 Paris meeting between officials of the CSCE and Obasanjo-led ALF that the CSSDCA framework was developed. It thus come as no surprise that although the CSSDCA framework was renamed ‘calabashes’, it was similar to the CSCE’s ‘baskets’ formulation of security, cooperation, human rights and implementation (ALF, 1991). Also, only few African leaders like Museveni and Nyerere supported the CSSDCA proposals. Other African leaders especially leading Islamist regimes resisted the CSSDCA. For example, Libya and Sudan viewed the linkage of the CSSDCA to the CSCE as a direct assault on OAU’s non-interference principle and a challenge to domestic authority. Further, the CSSDCA was proposed at a time when its leading pioneer (Obasanjo) was one of the candidates for the UN Secretary-General position. Some saw Obasanjo’s forefront campaign as a trajectory of boosting his chances of success and as a result his adversaries in the elections were determined in limiting the extent to which the CSSCDCA would be incorporated into the OAU framework (Interview with Francis Deng, New York, 28/02/08). Problems associated with lack of clarity of the Kampala document to OAU members and poor timing were also responsible for its lack of endorsement by the OAU. In 1995, the CSSCDCA appeared to have suffered its final blow following the imprisonment of Obasanjo by the Nigerian military junta, General Sani Abacha for allegedly plotting a coup.

By the late 1990s however, there was resurgence in the CSSDCA agenda for the following reasons. First, some of the frontrunners of the CSSDCA agenda assumed significant political positions in the continent. For example, Obasanjo was released from prison and became a democratically elected President of Nigeria in 1999. As President, Obasanjo was influential in re-introducing the CSSDCA proposal into the agenda of the OAU. Two, it seemed there were collective interests among most African states to transform the principles, institutions and operations of the OAU (Tieku 2004). The history of such collective interests transcends the CSSDCA. For example, there have been repeated attempts by African states to promote increased regional political and economic cooperation and integration such as the 1980 Lagos Action Plan and the 1995 creation of the African Economic Community (AEC). However, the CSSDCA proposals as contained in the Kampala Document such as the redefinition of traditional notions of sovereignty and security were directly relevant to the institutional redesign that marked the transition from the OAU to the AU. It is important to also underscore that the Kampala Document was endorsed by African states at the thirty-fifth Session of the OAU Assembly of Heads of State and Government held between July 10-12 2000 (African Union 2000). Key recommendations of the Memorandum of Understanding of the CSSDCA were adopted by African states at the Durban Summit in July 2002 which symbolized the birth of the AU.

One of the main recommendations of the CSSDCA which influenced and/or coincided with the development of AU peace and security architecture was the possible use of force for the protection of human rights. This provision was introduced in the AU Constitutive Act as contained in Article 4(h) which stipulates that African states in accordance with the decision of the Assembly have the right to intervene “in respect of grave circumstances, namely war crimes, genocide and crimes against humanity (AU Constitutive Act, 2002). It is in view of this provision that the Peace and Security Council (PSC) was established to replace the moribund OAU’s Mechanism for Conflict Prevention, Management and Resolution. The PSC is “a collective security and early-warning arrangement to facilitate timely and efficient response to conflict and crisis situation in Africa” (AU, 2002).<sup>1</sup> It is composed of fifteen member states of which ten are elected to serve for two years and five to serve for three years. The PSC functions as an important source of

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<sup>1</sup> Within the PSC, there are four pillars at various stages of development namely: Continental Early Warning System (CEWS); Military Staff Committee; Panel of the Wise and, Africa Peace Facility Fund.

recommendation to the AU Assembly – that is, all Heads of State and government – which is the highest organ of the AU.

In sum, the transition from the OAU to AU and its attendant constitutional and institutional re-arrangement was the outcome of various historical processes, initiatives and contestations (see Francis, 2006; Tiekou, 2004). This section underscored the importance of the CSSDCA as part of this historical narrative and, importantly of why linkages are often drawn between the AU and R2P. Such interpretation should not be misconstrued as an assertion of the dominant influence of the CSSDCA initiative in the establishment of the AU peace and security architecture. Rather it is to highlight how and why supporters of R2P has often framed its historical root within Africa.

### **AU and the Practice of R2P in African States: not yet a winning game?**

Since the creation of the AU and the 2005 endorsement of R2P, there have been various forms of violence in some African states with potential or actual mass atrocities. Notable examples include post-election violence (Zimbabwe, Kenya, Ivory Coast), war (Darfur, Sudan) and, popular uprising (Libya). This section focuses on three cases (namely, Darfur, Kenya and Libya) to assess the extent to which the AU's strength(s) and weaknesses in the prevention and/or response to mass atrocities. The exclusion of the cases of Ivory Coast and Zimbabwe from this analysis is based on the premise that the interventions to end post-election violence in these countries were strongly influenced and led by RECs grouping notably SADC and ECOWAS respectively. RECs and the AU purportedly share similar visions on continental peace and security. However, RECs have evolved independently from the AU and hence have differentiated political, economic and institutional cultures that may sometimes be inconsistent with the AU (Hoste and Anderson 2010). In contrast, in the cases under review, the AU was or continues to be regarded as the most dominant continental actor in the prevention and response to mass atrocities. Analyses of AU intervention in these three case studies suggest that whilst the AU may have achieved some progress in the prevention of mass atrocities, there are considerable weaknesses in how the AU is able to effectively respond to actual mass atrocities.

The 2003 escalation of violence in Darfur between the government of Sudan and rebel movements (notably SLA and JEM) was a litmus test for realizing the pan-African vision of 'African solutions to African problems' (Baldo 2006; Mansaray 2009). AU role in Darfur was also perceived as a building block for promoting R2P in the continent especially

by those that closely associate the R2P framework with the AU Constitutive Act (particularly Article 4h). The main factor that influenced the AU and indeed broader international interventions in Darfur was the preservation of the Comprehensive Peace Agreement which ended over two decades of war between North and South Sudan. Due to the huge political and financial resources in the CPA by the AU and international actors (led by the US, Britain and Norway), there was an attempt to preserve the CPA even if it meant that the Darfur crisis remained unresolved. This partly explains why from the outset the AU faced significant difficulties in promoting an end to war in Darfur which were challenged. Such difficulties are discernible in various ways.

First, the AU-led peace agreements on the Darfur crisis were flawed. The 2004 Humanitarian Ceasefire Agreement (also known as the N'djamena agreement) was the first peace agreement supported by the AU.<sup>2</sup> However it was severely criticized mainly because it existed in two versions (Flint and De Waal 2008; Toga 2007). The first version was signed by representatives of the SLA and the GoS on 8 April 2004. Flint and De Waal (2008) noted that later that day, the GoS insisted that an extra sentence should be added to the text. Specifically, the GoS demanded that a text stating that "the Sudanese government shall commit itself to neutralize the armed militia" should be added to paragraph 6 of the agreement (Flint and De Waal 2008:175). That sentence was included in the agreement and received the stamp of the Chadian authorities even though the rebel movement neither made an input nor endorsed its inclusion in the agreement. This was an evidence of the powerful influence of the GoS in deciding the direction of the Darfur peace process. Other criticisms of the N'djamena agreement included its hasty formulation and the lack of technical details such as the absence of maps to guide the ceasefire mission (Flint and De Waal, 2008). The Abuja peace process which led to the 2006 Darfur Peace Agreement (DPA) was also severely challenged. On 5 May 2006, the DPA was signed after the seventh round of peace talks between these parties was signed on 5 May 2006 (Nathan 2007; Toga 2007). But, while the GoS and the SLA/M signed that agreement, the JEM and the Abdel Wahid faction of the SLA refused to sign. There was also a link between the lack of consensus on the DPA and the increased level of insecurity in Darfur (Fadul and Tanner 2007). Some analysts that were involved in the peace talks significantly attributed the lack of consensus and in fact the overall failure of the DPA to the 'deadline diplomacy' rather than concerted efforts by the

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<sup>2</sup> This agreement was initially led by Idris Deby, the Chadian president but with the support of the African Union following AU Consultations with the Sudanese government led by Baba Gana Kingibe, the AU Special Envoy on Sudan.

mediation team to resolve all the underlying issues of contention (De Waal 2007; Nathan 2007; Toga 2007).

Second, the AU peacekeeping mission in Darfur was severely challenged and eventually replaced with a joint AU/UN mission. AMIS was created and deployed in 2004 in accordance with the N'djamena agreement. It was composed of 132 observers that were protected by 300 troops. AMIS was enhanced through the deployment of about 7,000 troops drawn from African states in July 2005. There are some that argue that despite its operational challenges, the AMIS was initially successful in the reduction of the level of violence in Darfur (Agwai 2008; Appiah-Mensah 2004; Flint and De Waal 2008). Overall assessment seems to suggest that AMIS “died a death of a thousand cuts, in matters big and small” (Flint and De waal, 2008 p.178). This conclusion is often derived from the consensus that AMIS lacked operational capacity primarily because it did not have adequate equipments on the ground and effective leadership for sustained successes. Such limited capacity is related to the heavy reliance of the AU on support from donor states which have been inconsistent and incoherent. The failure of AMIS is summed up in the estimated deaths of over forty soldiers following the end of the mission in December 2007. There are other aspects of the AU response in Darfur that has been criticized. In particular, the ICC intervention in Darfur was strongly opposed by AU member states. As a substitute, the the AU inaugurated a High-level Panel on Darfur in March 2009. The panel led by Thabo Mbeki, former President of South Africa was tasked with making recommendations on how to address the issues of peace, reconciliation and justice in Darfur. The Panel concluded its mandate in October 2009 with a report recommending a hybrid Sudan-International court as a solution for addressing justice and reconciliation in Darfur (AU 2009). This proposal is still awaiting concrete implementation.

In contrast, it seems the AU achieved significant progress in its response to the 2007-08 post election violence in Kenya as described below. Within the discourse on R2P, supporters of this framework have often described the AU intervention in Kenya as a classical example of the implementation of R2P (Cohen 2008; Luck 2008; Tutu 2008). In December 2007, violence broke out in Kenya following the disputed presidential election. There were disputes over the election results which re-elected Mwai Kibaki as President. As a result, supporters of Raila Odinga, the main opposition presidential candidate resorted in violent protests against Kibaki-led government. Within weeks, over 1,500 deaths were

recorded and about 300,000 displaced persons (Bellamy, 2010). The AU responded to Kenyan post-election violence in a relatively timely and decisive manner. The AU coordinated diplomatic and mediation efforts of the AU Panel of eminent persons led by Kofi Annan, the former UN Secretary General. This Panel is one of the pillars of the AU Peace and Security Council. The outcome of AU-led mediation efforts in Kenya was a successful brokered power-sharing agreement between Kibaki and Odinga. There are suggestions especially by R2P supporters that without such timely response, there was a possibility of large-scale mass atrocities. That is why the AU-led intervention in Kenya is often referred to as a classical example of the implementation of the R2P. For example, Kofi Annan noted that,

“saw the crisis in the R2P prism with a Kenyan government unable to contain the situation or protect its people. I knew that if the international community did not intervene, things would go hopelessly wrong. The problem is when we say “intervention,” people think military, when in fact that’s a last resort. Kenya is a successful example of R2P at work” (Cohen 2008).

While the case of Kenya was explicitly regarded as an example of the implementation of R2P, the AU response to the crisis in Libya and its connection to the R2P has generated more controversies and criticisms than consensus. On 18 February 2011, popular protests erupted in major cities in Libya notably in the Eastern region of Benghazi. These protests were aimed at ending over four decades of rule of Muammar Ghaddafi. These protests were also partly fuelled by successful popular protests for regime changes in Tunisia and Egypt. In response, the Libyan government led a military campaign to halt the protests. Since the escalation of violence, human rights groups notably Human Rights Watch (HRW) have reported and documented gross human rights violation perpetrated by security forces loyal to Ghaddafi and allies (HRW 2011). Such mass atrocities served as justification for the UNSC to adopt resolutions 1970 and 1973. The latter resolution called for an imposition of a no-fly zone in Libya. France, Britain and the US initiated but transferred the implementation of the no-fly zone to NATO. At the time of writing this article, NATO has continued to provide assistance to the National Transitional Council, the main opposition group. Some AU states supported the passage of UNSCR 1973. Specifically, Nigeria, Gabon and South Africa voted in favor of the UNSCR 1973 as non-permanent members of the UNSC.

The AU has however largely pursued a political solution in the current Libyan crisis. On 10 March 2011, the AU Peace and Security Council established an *ad hoc* High Level Committee on Libya comprising five African states (namely, Mauritania, Republic of Congo, Mali, South Africa and Uganda). It must be noted also that the UNSCR 1973 acknowledged the role of the AU High Level Committee on Libya in the facilitation of dialogue and political reforms in the country. The AU through the Committee on Libya has continued to find political solutions to the Libya crisis but with little success. For example, on 20 March 2011, the Libyan authorities denied the AU Committee members permission to enter Libya to meet with parties to the crisis. Further, the AU proposal for a peaceful settlement of the crisis was rejected by the TNC. In addition, President Jacob Zuma's mediation visit to Libya to meet with Ghaddafi yielded little progress. It should be noted also that AU limitations in finding a political solution to the Libyan crisis may have been (in)advertently undermined by the pattern of extra-regional intervention to the crisis notably, the allegation of the disproportionate NATO airstrikes against the Ghaddafi regime and the International Criminal Court indictment of Ghaddafi and his allies. Even though such extra-regional interventions may be justified because of the AU's limited 'timely and decisive' action in Libya. Yet, the problems with NATO intervention and how such disproportionate action and the ICC purported 'un-timely' issue of arrest warrants against Ghaddafi and some of its associates may have created parallel and perhaps antithesis interventions by the AU and Western-led intervention in Libya. This has clearly made AU's political intervention in the Libyan crisis more challenging.

These three case-studies analyzed above demonstrate that the AU has experienced both difficulties and progress in preventing and responding to mass atrocities. The AU was criticized in its response to the Darfur crisis, praised in the case of Kenya and overwhelmed by international intervention in the crisis in Libya. Most R2P proponents have often rejected the AU and wider intervention in Darfur as a test case for the R2P primarily because the crisis commenced before the R2P was endorsed by the UN. Rather, AU response to the post-election violence in Kenya is often viewed as a classical example of the implementation of the R2P. The case of Libya has however divided even R2P proponents primarily because of the perception that the allegation of NATO's disproportionate use of military power may undermine the concept and practice of R2P (Annan 2011; Chandler 2011; Economist 2011; Whitaker 2011). In general, there is no consensus on whether the pattern of AU interventions to the crises under review can be specifically described as an implementation of R2P. Such

lack of consensus has significantly contributed to the challenges of the AU in the implementation of R2P in Africa. In the final section, this article provides an explanation of some factors that may account for the difficulties of the AU in the delivery of R2P.

### **Explaining the challenges of the AU in the Implementation of R2P**

It is not uncommon to encounter strong criticisms against the AU in the implementation of R2P in African states. Besides the support (for instance, in Darfur) or outright substitution (for example, NATO intervention in Libya) of the role of the AU in some crises in Africa is often perceived as evidence of the operational weakness of the AU in its practice of R2P. It is true that there are challenges facing the AU in the promotion of peace and security in Africa. Yet, this section underscores some of the specific challenges encountered by the AU in the promotion and implementation of R2P. Three main factors will be explained namely: the inherent conceptual challenge of the R2P, renewed tension between sovereignty as responsibility as traditional notion of sovereignty and, the limits of the AU Peace and Security architecture in confronting the challenges of the post-2000 era. Together these three factors provide an insight into why the AU seems unable to provide a robust support for and effectively implement the R2P.

#### ***Inherent Conceptual Challenge of R2P***

There was optimism on R2P by AU states prior to the 2005 UN endorsement of the R2P. As stated in earlier section, AU states voiced support for the R2P through its common position paper (known as the *Ezulwini* Consensus). However, AU members states receded in their support for R2P following some of the compromises and modifications made to the 2005 UN Summit Outcome document (Bellamy 2006; Okeke 2010). It is important to note here that the novel contribution of the R2P as initially conceptualized by the ICISS was the possibility of achieving a political consensus on the most controversial aspect of the discourse and practice of humanitarian intervention - that is, the use of force to protect population at risk without the consent of the host state. Since the R2P was endorsement by UN member states, there has been an incremental shift away from the focus on military intervention to an international consensus on preventive R2P (Chandler, 2010). Edward Luck, UN Special Adviser on the R2P and other proponent of R2P has consistently underscored that “prevention is the single most important” pillar of the R2P framework (Luck 2008). However, such repeated argument has some profound criticisms. First, it denies the intentions of the R2P as initially developed by the ICISS report of finding an international

consensus on R2P as intervention. Second, there is an antithesis between prevention of mass atrocities and the conceptualization of R2P. Alex Bellamy describes such incompatibility by noting that, “one cannot sustain a commitment to the long-term prevention of genocide and mass atrocities as part of R2P while also conceptualizing R2P as primarily a speech act that acts as a catalyst for action” (2008, p.160). Luck however notes that such incompatibility could be potentially blurred at an operational level especially when R2P as an action does not necessarily involve military intervention. The problem with Luck’s argument is that he overlooks the critical knowledge that mass atrocities are not barbaric isolated events but often rooted in inequalities and conflict (Chandler 2010), sometimes rooted in global-historical political and economic conditions (Ayers 2010).

This conceptual challenge of the R2P does have implications for the AU’s promotion and practice of AU. First, it does not provide a consensus on what R2P means in general and specifically its conception to the AU Peace and Security Architecture. Second, there is a conceptual shift away from intervention to prevention. This shift does not meaningfully contribute to the development of AU’s interventionist framework as embedded in Article 4(h) of the AU Constitutive Act.

### *Renewed Tension between Sovereignty as Responsibility and Traditional Sovereignty?*

The birth of the R2P and its consequent endorsement by UN member states was perceived as historic in the pursuit for the redefinition of sovereignty as responsibility. Traditional sovereignty was defined in terms of absolute control and non-interference in the domestic affairs of state. Indeed, post-Cold War security challenges such as poverty, war, military rules characterized by gross violations of human rights led to a rethink of the traditional conception of sovereignty. A previous section of this paper has highlighted the contributions of the CSSDCA in developing an African-led definition of sovereignty as responsibility. Kofi Annan, former UN Secretary also challenged the broader international community to rethink the notion of sovereignty in numerous statements as the UN Secretary General. One of Annan’s most notable intellectual challenges on the importance of redefining sovereignty especially in the discourse and practice of humanitarian intervention is,

“...if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how *should* we respond to a Rwanda, to a Srebrenica – to gross and systematic

violations of human rights that offend every precept of our common humanity?"(Annan 2000:47).

The notion of sovereignty as responsibility and indeed the birth of R2P may have been regarded as a 'new' international norm. There seems to be renewed skepticism of this international liberal framework of R2P especially amongst African governments. Such pessimism may have been influenced and strengthened by two main events. First, the increased US-led securitization of Africa intensified in the wake of the 9/11 attacks against the US. It has been argued that Western powers especially Britain and the US are increasingly engaging with Africa within the category of "danger/fear/security" that has prompted the linkage of that continent with the US-led War on Terror (Abrahamsen 2004:680). However, most analysts appear to attribute the deepened securitization of Africa to the US visible and explicit militarized engagement with the continent. Abramovici (2004) documents the intense US military involvement in Africa especially since 9/11. For example, the US formally established in 2004 the Pan Sahel Initiative (PSI) as a counterterrorism measure in the Sahelian states like Chad, Mali, Mauritania and Niger (Abramovici 2004; Keenan 2007, 2009, 2011). On a broader scale, existing US military assistance to Africa like the Africa Crisis Response Initiative (ACRI) was transformed into the African Contingency Operations Training Assistance (ACOTA) in 2002. ACOTA has been subscribed to by forty-four African countries and is now more focused on providing counterterrorism training to military personnel or what has been described as "offensive" cooperation (Abramovici 2004:688). Also worthy of mention is the creation of the US African Command in 2007 purportedly designed to "to support and enhance existing U.S. initiatives that help African nations, the African Union, and the regional economic communities succeed" ([www.africom.mil](http://www.africom.mil)). Yet, AFRICOM has been described as an epitome of the US "total militarisation of Africa" (Keenan 2009; Volman 2003; Volman 2007). In addition, the US is increasingly ensuring its enduring military [physical] presence in Africa through the creation of permanent military bases. An example of the latter is Camp Lemonier in Djibouti (Leymarie 2003).

The second event that may have renewed the tension between sovereignty as responsibility and traditional sovereignty amongst African governments is the pattern of international intervention in Libya. The ostensibly disproportionate NATO military strikes, ICC indictments and, increasing legitimization of the fragmentation of Libya through the

Western support and recognition of the TNC have come under severe criticisms by African governments. For example, President Jacob Zuma of South Africa has repeatedly stated the NATO's action in Libya undermines the AU's efforts to reach a political settlement (BBC 2011). There are several implications of such international intervention to the AU's embrace and implementation of R2P. First, it could rejuvenate and possibly validate the criticisms of R2P as a tool for legitimizing neo-colonial trusteeship (Duffield 2007; Shani 2007; Warner 2003). Second, it could potentially reverse the push for the redefinition of sovereignty as responsibility especially within Africa. As Jennifer Welsh notes, R2P "was born in an era when assertive liberalism was at its height" (2010:429). Welsh further contend that "as the liberal moment recedes, and the distribution of power shifts globally, the principle of sovereign equality may enjoy a comeback" (Welsh 2010:429). Within the Africa context, the likelihood of the re-emergence of traditional sovereignty may be enhanced by the need to limit the possibility of misguided Western military intervention recently informed by lessons learnt drawn from NATO-led intervention in Libya. This could ultimately extinguish the drive for the AU to embrace and implement R2P.

#### *Revisiting the Adequacy of the Africa Peace and Security Architecture of the AU*

The Africa Peace and Security Architecture (APSA) was established by the AU to promote continental peace and security. It consists of four pillars namely: the Continental Early Warning System (CEWS), Peace and Security Council, the Panel of the Wise and the Africa Standby Force. The creation of the APSA suggests that the AU in collaboration with RECs is able to deliver on Africa's security challenges. It seems however that the APSA was created with the mindset of the challenges of the immediate 1990s in Africa. In the post-Cold War era, Africa was characterized by genocide, unprecedented level of civil wars, coup d'état, chronic poverty and so on (Adedeji 1999; Chabal 1999). While some of these challenges still persists, there have been some improvements of political and economic conditions of the immediate post-Cold War era. From the late 1990s, there were sweeping waves of democratic transitions in various African states (Salih 2007). Further, there are fewer numbers of civil conflicts and improvement in the economic conditions of post-conflict states notably Angola and Sudan. The conflict between North Sudan and the SPLM (often regarded as Africa's longest civil war) ended with the signing of the 2005 Comprehensive Peace Agreement (CPA). In 2011, South Sudan became an independent state following a successful popular referendum.

Notwithstanding, there are ostensibly 'new' forms of instability that has characterized some African states. The first is the frequency of post-election violence notably in Zimbabwe, Kenya, Ivory Coast and to a lesser extent Nigeria. In such situations, the AU and RECs have often pursued ad hoc and short-term conflict resolution strategies. For example, power-sharing agreement seems to be one of the main ways of resolving post-election violence as observed in Zimbabwe and Kenya. Perhaps, such strategy may inadvertently serve as a catalyst for post-election violence in future democratic processes with the intended goal of a regional-led power-sharing arrangement. The second form of instability is the rise of religious extremist terrorist networks and religious violence. The emergence of the 'Boko Haram' terrorist group in Northern Nigeria and incessant religious violence in Jos (Nigeria) are notable examples. The 'Boko Haram' terrorist group has carried out some ambitious attacks (characterized by the first ever suicide-bombing in the country) across Northern Nigerian states including Abuja, Nigeria's political capital. There have clearly been attempts to link these forms of instability with the practice of R2P. Yet, the fluid nature of these crises has made challenged AU's effort in providing long-term solutions to these problems. It is therefore important for the AU to revisit its peace and security framework in light of current security challenges confronting the continent.

## **Conclusion**

This paper provided an assessment of the AU's attempts to promote and implement R2P in African states. It unpacked the historical connection often made by supporters of R2P that this framework is rooted in the 'heart and soul' of Africa. This was achieved through an analysis of the efforts of the CSSDCA to mainstream the idea of sovereignty as responsibility in the AU Constitutive Act. The CSSDCA significantly but not exclusively contributed to the AU Peace and Security framework. Despite the purported historical roots of R2P in African states in general and AU in particular, there have been notable challenges of the AU in the promotion and implementation of R2P. This paper explained how the AU intervention in Kenya was perceived as a success story in the implementation of R2P. However, the AU faced significant challenges in the case of Darfur and has been overwhelmed by the pattern of international intervention in the current crisis in Libya. The final section of this paper explained provided some explanations why the AU continues to face significant challenges in the implementation of R2P. Three main issues were identified namely, the inherent conceptual confusion of R2P; the increasing retreat away from liberal interventionism fuelled

by the intensification of US-led securitization of the continent following 9/11 attacks and; the limits of the AU Peace and Security framework to search for long term conflict resolution strategies especially in 'new' forms of security threats such as post-election violence and 'home-grown' terrorism. The conclusion that can be drawn from this analysis is that despite the inherent moral significance of promoting and implementing R2P, it is important for the AU to revisit the conceptual, operational, institutional and perhaps structural constraints that continues to challenge and undermine its efforts to deliver R2P.

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