

INTERVENTION IN AFRICAN CONFLICTS BY THE UNITED NATIONS SECURITY COUNCIL

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ABSTRACT

This paper addresses the African conflicts in the Democratic Republic of Congo, Sudan, Uganda, Angola, Liberia, Sierra Leone, Rwanda, Somalia, Burundi and Ethiopia-Eritrea. Intervention by the United Nations Security Council to restore or maintain peace and security is examined. The intervention in, or response of the Security Council to conflicts in Africa is assessed against the background of its Charter-based mandate and an emerging international responsibility to protect vulnerable populations against conflict where states and their governments are unable to do so. In so doing, the perception that Africa has been and remains marginalised by the Security Council is evaluated and suggestions made on how Africa should respond to its own conflicts.

1. INTRODUCTION

Over past decades, post-colonial Africa has been 'host' to the greatest number and the most brutal conflicts in the world. It is estimated that conflict in Africa was responsible for approximately 90 per cent of the total number of war deaths in the 1990s, and that nine of the

ten bloodiest conflicts of the decade were played out in Africa.¹⁾ Despite the need for conflict resolution, the perception persists that the plight of Africans appears, until recently, not to have featured on the priority list of the United Nations (UN) Security Council (hereafter the Security Council) or its key members.²⁾

This article focuses on African conflicts in the Democratic Republic of Congo (DRC), Sudan, Uganda, Angola, Liberia, Sierra Leone, Rwanda, Somalia, Burundi and Ethiopia-Eritrea and examines intervention by the Security Council to restore or maintain peace and security. UN Charter provisions and Security Council practice are analysed in order to identify reasons for the lack of or inconsistency in Security Council action in Africa. The intervention or response of the Security Council to conflicts in Africa is compared with other conflicts outside the African continent. By comparing the Security Council response with the extent and severity of each individual conflict, the article assesses both the Security Council's performance in the fulfillment of its duty to restore international peace and security, and whether Africa has been and remains marginalised by the Security Council. Special emphasis is placed on the responsibility of the African Union to maintain peace and security in Africa, coupled with an emerging international duty to protect vulnerable populations.

2. THE MANDATE OF THE UNITED NATIONS SECURITY COUNCIL TO MAINTAIN PEACE AND SECURITY

The current activities of the Security Council must be understood against the backdrop of the scope of its practice which has developed since its inception. The primary responsibility of the Security Council is the maintenance of international peace and security by ensuring prompt and effective action by the UN.³⁾ In its earlier years, the Security Council acted almost solely in cases of war between states. Today, the Security Council views its mandate as including internal conflicts such as civil wars, human rights violations and terrorism.⁴⁾ The composition of the Security Council and, more specifically, its decision-making process are subject to considerable controversy. While decisions on procedural matters in the Security Council are

taken by an affirmative vote of nine members,⁵⁾ decisions on all other matters are taken "by an affirmative vote of nine members including the concurring votes of the permanent members".⁶⁾ The right to say no, also known as the rule of the 'Great Power Unanimity' or the veto, is thus granted to each of the five permanent members of the Security Council, namely the United States (US), Russia, China, the United Kingdom (UK) and France. When the permanent five first obtained their positions of power after World War II, it was in a UN composed of 51 members. Years of decolonisation, self-determination and secession have resulted in a current membership of 192 independent states. The composition of the Security Council has not kept pace with these changes and the Council still operates by giving effect to the entrenched privileges of the victors of a bygone war.

Since no African state is a permanent member of the Security Council, even on a procedural level African states are disempowered in influencing decision-making. This feeds the perception that Africa cannot effectively influence a Security Council decision as to what constitutes a threat to or breach of world peace and security, nor can it influence the UN action that should follow such a decision. Predictably, the veto has been invoked by permanent members when they have perceived their own interests to be under threat, thus depriving the Security Council not only of much of its effectiveness, but also of authority and legitimacy.

Perceptions of the marginalisation of Africa are based on the Security Council's early practice. In its first 44 years (1946-1989) the Security Council made only three determinations of a breach of peace under article 39:⁷⁾ Korea in 1950,⁸⁾ the Falkland Islands/Islas Malvinas in 1982⁹⁾ and Iran-Iraq in 1987.¹⁰⁾ Africa is conspicuous by its absence from this list. Before 1990, the Security Council condemned only two African states for aggression, namely South Africa¹¹⁾ and (Southern) Rhodesia.¹²⁾ During the 1946-1989 period, the Security Council likewise explicitly determined the existence of a threat to the peace in only these two African countries, Rhodesia¹³⁾ and South Africa with regard to its nuclear weapons programme.¹⁴⁾ The Security Council did, however, in 1961 express concern that events in the Congo threatened international peace and security.¹⁵⁾

The end of the Cold War period in 1990 had a profound effect on the power play of non-African role-players in Africa, and liberated the Security Council to operate in accordance with its original man-

date. Sadly, African states have not benefited from this opportunity. Since 1990 many conflicts have erupted in Africa, resulting in some of the bloodiest wars in world history and leading to untold misery. As the following discussion will show, the Security Council failed genocide victims in Rwanda in the 1990s and remained unable to protect the people of Darfur, Zimbabwe and the DRC in 2008.

3. CONFLICTS IN AFRICA

Conflicts in Africa differ significantly from one another. It is suggested by Porteous that they do, however, share the following common characteristics:¹⁶⁾

- The main underlying causes of these wars are the weakness, the corruption, the high level of militarisation, and in some cases the complete collapse of the state involved.
- Multiple belligerents are involved in fighting for a multiplicity of often shifting economic and political motivations.
- These conflicts have serious regional implications.
- Belligerents resort to brutal tactics ranging from mass murder and ethnic cleansing, to amputation, starvation, forced labour, rape and cannibalism, to secure their strategic objectives.

The African conflicts in the DRC, Sudan, Uganda, Angola, Liberia, Sierra Leone, Rwanda, Somalia, Burundi and Ethiopia-Eritrea all comply with some of these characteristics. The nature of these conflicts are indicated in a tabular form (see *Table 1*), pointing to the seriousness of the conflict (as indicated by the number of lives lost and persons displaced) and the time span between the start of the conflict and foreign intervention, that of the Security Council in particular.

4. SECURITY COUNCIL INTERVENTION AND THE RESPONSIBILITY TO PROTECT

The preceding overview indicates slow, if not inadequate, Security Council intervention, not living up to its envisaged role of maintaining peace and security. The death tolls in some of these conflicts were

Table 1: Intervention in African conflicts					
	Start of conflict	Lives lost	Problems additional to the conflict	Internally displaced persons and refugees	Intervention
DRC	1998	5.4 million	Malaria and pneumonia Malnutrition	1.5 million	2000 - MONUC (peacekeeping force)
Sudan	1983	2 million	Starvation Malnutrition	4 million	2004 – AMIS (AU mission) 2004 – UNAMIS peace support mission (hybrid-mission) 2005 – UNMIS
Uganda	Early 1980s	12 000	Child soldiers Child sexual slavery	1.4 million	None
Angola	1974 - 2002	600 000	Starvation Malnutrition	3 million	1989 – UNAVEM I 1991 – UNAVEM II 1995 – UNAVEM III (peacekeeping and observer mission)
Liberia (1 st Civil War)	1989 - 1996	250 000	Child soldiers	1 million	1990 – ECOMOG (ECOWAS peacekeeping force) 1993 – UNOMIL (observer mission)
Liberia (2 nd Civil War)	1999 - 2003		Child soldiers Rape Forced labour	250 000	UNMIL (peacekeeping force)
Sierra Leone	1991 - 2002	50 000	Child soldiers	2 million	UNAMSIL (peacekeeping force)
Rwanda	1994	800 000	Genocide	2 million	UNAMIR (peacekeeping force)

Table 1: Intervention in African conflicts

	Start of conflict	Lives lost	Problems additional to the conflict	Internally displaced persons and refugees	Intervention
Somalia	1991	1 million	Warlordism	1.6 million	1992 – UNISOM I & II 1993 – UNITAF (humanitarian and peacekeeping force) 2007 – USA military intervention AMISOM (AU mission)
Burundi	1993	200 000		507 000	UNOB (peacekeeping force)
Ethiopia & Eritrea	1997	100 000	Drought Famine	700 000	2000 – UNMEE (peacekeeping force)

Sources:

"The Democratic Republic of Congo", available at <http://www.globalissues.org/article/87/the-democratic-republic-of-congo> (accessed on 5 September 2008); "Democratic Republic of Congo Situation Report", *Conflict Trends*, Issue1, 2008, p 28; "Sudan Civil War", available at <http://www.globalsecurity.org/military/world/war/sudan.htm> (accessed on 5 September 2008); "Mission Background", available at <http://www.unmis.org/english/background.htm> (accessed on 3 September 2008); "Northern Uganda: Children paying with their lives for UN Security Council inaction", available at http://www.oxfam.org/en/news/pressreleases2005/pr051219_uganda (accessed on 7 September 2008); "The war in Angola", available at http://www.raceandhistory.com/cgi-bin/forum/webbbs_config.pl/noframes/read/534 (accessed on 7 September 2008); Chesterman, S, *Just War or Just Peace? Humanitarian Intervention and International Law*, 2001, p 137; "United Nations Angola Verification Mission", available at http://www.un.org/Depts/dpko/dpko/co_mission/unavem_p.htm (accessed on 7 September 2008); UN mission in Liberia. See <http://www.un.org/Depts/dpko/missions/unmil/>; "Sierra Leone Civil War", available at http://en.wikipedia.org/wiki/Sierra_Leone_Civil_War (accessed on 7 September 2008); "Rwanda Civil War", available at <http://www.globalsecurity.org/military/world/war/rwanda.htm> (accessed on 7 September 2008); "Somalia Civil War", available at <http://www.globalsecurity.org/military/world/war/somalia.htm> (accessed on 8 September 2008); <http://www.globalsecurity.org/military/world/war/somalia.htm> (accessed on 8 September 2008); "Burundi Civil War", available at <http://www.globalsecurity.org/military/world/war/burundi.htm> (accessed on 8 September 2008); "UNOB", available at <http://www.un.org/Depts/dpko/missions/onub/> (accessed on 8 September 2008); "Conflict between Ethiopia and Eritrea", available at <http://www.globalissues.org/article/89/conflict-between-ethiopia-and-eritrea> (accessed on 8 September 2008); Ethiopian_War#Casualties.2C_displacement_and_economic_disruption (accessed on 8 September 2008); and "UNMEE", available at <http://www.un.org/Depts/dpko/missions/unmee/index.html> (accessed on 8 September 2008).

literally one thousand times those of minor, yet high profile conflicts in Haiti, Kosovo and Israel.¹⁷⁾ In all of these African conflicts, Security Council involvement was either absent, or when it occurred, was hardly proportionate to the conflict. The most glaring example is the Rwandan genocide which made an appeal to the collective conscience of mankind and brought Security Council lack of action under the spotlight. The lack of attention accorded to African conflicts contrasts sharply with the Security Council's willingness to respond rapidly in cases of international terrorism. With the bombing of the World Trade Center in the US on 11 September 2001, the Security Council adopted a resolution relating to the attack only one day later on 12 September 2001.¹⁸⁾ No African conflict has been accorded such urgent and timeous intervention. The Security Council's reluctance to determine the existence of a threat to the peace in major conflicts occurring in Africa, contrasts noticeably with its attempts to become engaged in small-scale conflicts and non-conflict situations where non-African role-players' interests are at stake. These practices reinforce the perception of an approach biased towards the North.

For effective fulfillment of its Charter-based mandate, it could reasonably be expected of the Security Council to react consistently and objectively using quantifiable criteria. It would be ideal if the Security Council's response to a threat to peace was to be proportionate to the severity of the conflict, hence devoting more attention to it the more serious the conflict becomes. As has been pointed out, the composition and decision-making processes in the Security Council are not democratic. By over-accommodating the political interests of its permanent members, inconsistent decisions are encouraged. The politically and economically powerful players of the northern hemisphere are thus juxtaposed against Africa and the South. It is against this background that various proposals for reform of the Security Council were voiced and calls were made to strengthen the rule of law in Security Council decision-making which would increase predictable behaviour, prevent arbitrariness and ensure basic fairness.¹⁹⁾

In a study published in 2003, Hawkins proposes a system in terms of which the levels of the conflict and of Security Council responses are assessed and compared.²⁰⁾ The level of conflict is measured by considering the following four indicators:

- the number of conflict related deaths;

- the number of refugees and internally displaced persons;
- the level of humanitarian emergency; and
- the spillover of the conflict into neighbouring countries.

Level settings of one to ten are suggested for each indicator.

The level of Security Council response is illustrated by the following scale (see *Table 2*). The three columns respectively indicate the nature of the response; the level setting of response; and examples of African conflicts in respect of each response. The scale displays that a disproportionately low-level engagement has characterised Security Council involvement in Africa, particularly during the 1990s. This is in stark contrast with Security Council responses to minor conflicts in Haiti, Albania, Kosovo and East Timor, all with death tolls of less than 3 000, where Security Council responses were at levels between seven and ten.²¹⁾

Predictably, Hawkins comes to the conclusion that there are major imbalances between the level of conflict and the level of Security Council response. He refers to instances of high levels of Security Council response to situations where it was doubtful whether a threat to peace ever existed, as opposed to a lack of Security Council response to large-scale wars and loss of lives, which made an appeal to the collective conscience of mankind.²²⁾ Although the proposed model goes a long way towards facilitating a principled approach, it is questionable whether it could be implemented within the current structure and decision-making processes of the Security Council.

Notable in this regard are the suggestions by former UN Secretary-General, Kofi Annan, voiced in his report, *In Larger Freedom: Towards Development, Security and Human Rights for All*.²³⁾ The Secretary-General's report calls for the reshaping of the UN and proposes that the Security Council should be broadly representative of the realities of power in today's world. As far as the use of force is concerned, the report proposes as a priority area for action that "(t)he Security Council should adopt a resolution setting out the principles to be applied in decisions relating to the use of force and express its intention to be guided by them when deciding whether to authorize or mandate the use of force".

Such a principled approach by the Security Council should be viewed against the background of a call for the responsibility to pro-

Table 2: Level of Security Council Response		
Response	Level	Example
No discussion	0	Uganda
Procedural discussion	1	Sudan Ethiopia
Discussion	2	-
Press statement	3	-
Presidential statement	4	Republic of the Congo DRC
Resolution: Measures under Chapter VI of the Charter	5	-
Resolution: Provisional measures (determination of threat/breach of the peace)	6	DRC Burundi Sierra Leone Somalia Ethiopia and Eritrea
Resolution: Sanctions (targeted at leadership)	7	-
Resolution (targeted at general population)	8	Angola
Resolution: Passive enforcement (primarily enforcing the <i>status quo</i>)	9	Rwanda Ethiopia
Resolution: Active enforcement (enforcing a major change in the <i>status quo</i>)	10	-
Sources: S/PRST/1997/43 and S/PRST/1997/47; S/PRST/1999/17; Security Council Resolution 1234 (1999). UNSC Resolution 1012 (1995); Security Council Resolution 1132 (1997); and Security Council Resolution 733; Security Council Resolution 1177 (1998), 1226 (1999) and 1227 (1999).		

tect the vulnerable by the UN, which has increasingly come under the spotlight.²⁴⁾ At the 2005 World Summit it was agreed by heads of state and government that when national authorities are manifestly failing to protect their populations from the crimes of genocide, war crimes, ethnic cleansing and crimes against humanity, governments "are prepared to take collective actions, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional and sub regional organizations as appropriate".²⁵⁾ The 'responsibility to protect' is discussed by Kofi Annan in his *In Larger Freedom* report and a call is made for the rule of

law in order to meet the challenges of the 21st century. In this regard:

The international community should embrace the "responsibility to protect", as a basis for collective action against genocide, ethnic cleansing and crimes against humanity. All treaties relating to the protection of civilians should be ratified and implemented. Steps should be taken to strengthen cooperation with the International Criminal Court and other international or mixed war crimes tribunals, and to strengthen the International Court of Justice.

The following aspects of Annan's exposition of the 'responsibility to protect' are noted. It comprises three consecutive levels — each of which must be exhausted before the next can be accessed. Annan explains that the 'responsibility to protect' lies first and foremost with individual states, whose duty it is to protect their populations. If national authorities are unwilling or unable to protect their citizens, then the responsibility shifts to the international community to use diplomatic, humanitarian and other methods to help civilian populations. If these measures appear inadequate, "the Security Council may out of necessity decide to take action under the Charter, including enforcement action if so required".²⁶⁾ The 'responsibility to protect' is justified as collective action in the case of three crimes, namely genocide, ethnic cleansing and crimes against humanity. It is further noted that the 'responsibility to protect' is set within the context of the rule of law and not within that of peace and security.

The concept of responsible sovereignty as basis for the 'responsibility to protect' was again mooted by the present Secretary-General, Ban Ki-Moon.²⁷⁾ He regards the norm as "a concept; not yet a policy, not yet a reality", yet firmly anchored in international law. It rests on the following three pillars:

- States have the primary legal obligation to protect their population from the following crimes: genocide, war crimes, ethnic cleansing and crimes against humanity.
- The commitment of the international community to assist states in meeting these obligations. This demands early preventative steps which "should neither require unanimity in the Security Council nor pictures of unfolding atrocities that shock the conscience of world".

- The responsibility of states to act in a timely and decisive manner in accordance with the tools provided by the UN Charter to protect populations from the four listed crimes.

Ban Ki-Moon's exposition, apart from extending the concept's application to four crimes, builds on the foundation laid by his predecessor. He acknowledges the profound implications of this concept, yet reiterates that it in fact enhances the rule of law and does not alter the obligations of states under the Charter to refrain from the use of force. The uneasy relationship between calls for a rule of law and maintenance of Charter obligations is, however, clearly evident. Although the 'responsibility to protect' attempts to remedy shortcomings in the international legal order and gives the international community and Security Council a caring face, it remains controversial and will not become accepted practice overnight.

5. A RESURGENCE OF SECURITY COUNCIL INTEREST IN AFRICA?

Assertions that the Security Council is seriously engaged in Africa are often supported by claims that 70 per cent of the Council's work is devoted to African affairs. The time devoted to discussing African problems is, however, not matched by the level of actual Security Council engagement. The number of presidential statements and resolutions adopted by the Security Council relating to a particular conflict are not necessarily an indication of the seriousness with which the Security Council regards the matter.²⁸⁾

The question may well be asked whether the Security Council has not reached a turning point in its handling of African conflicts. There appears to be a renewed interest and commitment to seriously and effectively engage with Africa and its conflicts. The Security Council adopted a resolution in 2005 on conflict prevention, particularly in Africa.²⁹⁾ In a report by the Secretary-General on the implementation of the resolution, he mentions that the UN is bolstering its partnership and close co-operation with the African Union (AU) on several prevention and peacekeeping initiatives.³⁰⁾ He refers to a noticeable gap between rhetoric on prevention of conflict and effective measures to achieve that end. He commends regional arrangements

for the maintenance of international peace and security as long as they are consistent with the principles of the UN, and as long as the Security Council authorises enforcement actions and is kept fully informed.³¹⁾

The resurgence of Security Council interest in Africa is evident from its involvement in Darfur and willingness to become involved in Zimbabwe. The UN and AU have joined forces in combined peace-keeping efforts in the Sudan. As far as Zimbabwe is concerned, possible Security Council sanctions turned on the question whether the Zimbabwean post-election crisis constituted a threat to international peace and security, bringing it within the scope of the Security Council mandate. A resolution was proposed by the UK and the US in the Security Council on 11 July 2008, calling for an arms embargo, and financial and travel restrictions on Mugabe and 13 other regime leaders on the basis that the Zimbabwean situation threatened peace in Southern Africa. Ironically, Security Council involvement in Zimbabwe was blocked by Africa's allies, namely Russia, China and South Africa.³²⁾ It was maintained on behalf of the opposing states that the situation in Zimbabwe did not constitute a threat to international peace and security and that the Security Council therefore had no mandate to impose sanctions.

6. AFRICAN PERCEPTIONS ON SECURITY COUNCIL INTERVENTION

How do Africans, both the leaders and the general population, respond to the call for closer co-operation in the light of the apparent reluctance of the Security Council to become involved in the resolution of continental conflicts? In the light of the history of genocide, war crimes, ethnic cleansing and crimes against humanity in Africa and the predictable tardy reaction from the Security Council, it could be expected that an international duty to protect vulnerable populations from abuses of power would be welcomed by Africans. A poll conducted in October 2004 by GlobeScan Incorporated³³⁾ of 10 809 Africans in eight African states,³⁴⁾ found that 65 per cent of Africans interviewed believed that the Security Council should have the right to intervene militarily to prevent human rights abuses such as genocide, while only 19 per cent were opposed.

At a conference aimed at probing African responses to military intervention sponsored by the Washington-based Fund for Peace, a conference statement was produced which indicated the following:³⁵⁾

- Military intervention should be guided by international law and regionally acceptable processes and norms.
- The Security Council is the preferred authorising body for military intervention.
- In emergencies, urgent military intervention may be authorised by the AU or sub-regional organisations, but Security Council approval must be obtained *ex post facto*.
- Military intervention is legitimate when mass killings, mass atrocities or ethnic cleansing occur or threaten to occur.

Although military intervention is but one component of the 'responsibility to protect', it is notable that the instances warranting such intervention coincide with crimes that would merit such protection.

This is not necessarily the view of African leaders and members of government. The 'responsibility to protect' would condone an international interest in the rule of law within countries and would scrutinise the behaviour of leaders. Hence, the view is that the 'responsibility to protect' would condone foreign interference in domestic affairs. Ban Ki-Moon rejects the view that the 'responsibility to protect' is a Western intervention imposed on the global South: "Nothing could be further of the truth. It was the first two African Secretary-Generals of the United Nations — Boutros Boutros-Ghali and Kofi Annan — who first explored evolving notions of sovereignty and humanitarian intervention".³⁶⁾ In fact, the African Union had as early as 2000 asserted the right to intervene under circumstances of war crimes, genocide and crimes against humanity.³⁷⁾

7. AFRICA'S RESPONSIBILITY TO DEAL WITH CONTINENTAL CONFLICTS

Security Council performance in Africa, or lack thereof, is influenced both by non-participation by African states in the decision-influencing core of the Security Council, as well as by perceptions among

African leaders that Security Council intervention equals Western paternalism. What remains, is the responsibility of regional and sub-regional organisations such as the AU to claim ownership of and responsibility for African conflicts. The importance of regional action is also intrinsic in the 'responsibility to protect'.

Any African peacemaking and peacekeeping will, of course, have to fall within the scope of the UN Charter.³⁸⁾ The Charter allows regional institutions to take steps towards maintaining regional peace and security.³⁹⁾ The AU is geared for such action through the Peace and Security Council (PSC).⁴⁰⁾ The PSC appears to have been designed as a 'regional model' of the Security Council. It is a standing decision-making organ responsible for the prevention, management and resolution of conflicts. Accordingly, the PSC is described as a "collective and early warning arrangement to facilitate timely and efficient response to conflict" in Africa.⁴¹⁾ The PSC is composed of 15 states elected on the basis of equitable regional representation.⁴²⁾ Each state has one vote. Decisions are taken by consensus. Where consensus cannot be reached on a non-procedural matter, a two-thirds majority of voting members is required.⁴³⁾ At least as far as composition and decision-making processes are concerned, the PSC appears to have avoided the shortcomings which have bedeviled the effective operation of the Security Council.

The Preamble to the protocol establishing the PSC (henceforth the Protocol) reiterates the primary responsibility of the Security Council for the maintenance of international peace and security; refers to the provisions of the Charter on the role of regional agencies; and emphasises the need for closer co-operation between the UN and the AU. In this regard close co-operation between the PSC and the Security Council is imperative.⁴⁴⁾

The Protocol embodies the usual litany of guiding principles traditionally associated with unqualified sovereignty under the AU, such as respect for sovereignty and territorial integrity of member states, non-interference of member states in one another's internal affairs, and respect for borders inherited on achievement of independence. These principles are, however, balanced by a respect for the rule of law and the right of the AU to intervene pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity.⁴⁵⁾ These grave circumstances cover three of the four crimes encapsulated in the

'responsibility to protect', the fourth being ethnic cleansing.

8. CONCLUSION

African conflicts in the post-independence period paint a bleak picture of the quality of governance at a national and international level. Conflict in the states identified, has spilt over to destabilise regions, if not the continent as a whole. The track record of the Security Council in maintaining peace and security in Africa has been dismal. As a result many Africans have lost their lives due to genocide, ethnic cleansing, crimes against humanity and war crimes. Although ordinary Africans turn to the Security Council for protection from governmental and non-governmental sponsored atrocities, the governing élite jealously guard their sovereignty against any form of outside regulation or intervention.

The historical marginalisation of African conflicts by the Security Council can be ascribed to various factors. The Security Council lacks the true international character of the General Assembly and with its five permanent members, who are at the same time all nuclear powers, form an exclusive club. The decision-making mechanism of the Security Council lends itself to politically motivated decisions as opposed to consistent value-driven decisions. This has led to accusations that the Security Council only protects the strategic interests and reacts to the political motives of the permanent members, especially when it comes to intervention. Currently, Africa appears to lack the strategic importance necessary to engage these permanent member interests.

Despite an emerging regional peace and security regime within the AU, Security Council involvement remains both legally and politically indispensable. In terms of an international hierarchy of norms governing the use of force and intervention, the UN Charter reigns supreme. Despite various calls for far-reaching UN reform, it must be expected that any reform will be slow and difficult, if at all possible. For the time being, therefore, optimal functioning of the Security Council within existing confines appears the most feasible option. The 'responsibility to protect' may be regarded as an effort to move the Security Council, the international community as a whole, regions, and individual states towards a rule-based and principled protection of core values under international law. A consistent and value-driven

approach, where Security Council involvement is proportionate to the conflict in question, would increase the global credibility of the Security Council, especially amongst non-members.

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1. Hawkins, V, "Measuring UN Security Council Action and Indication in the 1990s: Lessons from Africa", *African Security Review*, Vol 12, No 2, 2003, p 1.
2. The Security Council is considered to be the executive body of the United Nations. It is composed of 15 members: five permanent members (United States of America, United Kingdom, Russia, China and France), and ten non-permanent members, who are elected by the General Assembly for a term of two years. The SC originally consisted of 11 members, but was enlarged to 15 members in 1965 in accordance with an amendment to the Charter.
3. Article 24 of the UN Charter provides: "In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf".
4. Chesterman, S, "The UN Security Council and the Rule of Law", *Final Report and Recommendations from the Austrian Initiative, 2004-2008*, Institute for International Law and Justice, New York School of Law, p 1.
5. United Nations, *Charter of the United Nations*, Article 27(2).
6. *Ibid*, Article 27(3).
7. Should such a determination be made under article 39, the Security Council shall make recommendations, or decide on measures to be taken in accordance with articles 41 and 42 to maintain or restore international peace and security. See also Kirgis, F L, "The Security Council's First Fifty Years", *American Journal of International Law*, Vol 85, 1995, p 506.
8. United Nations Security Council, Resolution 82 (1950) (Korea) adopted 9-0-1 (Yugoslavia abstaining and the USSR not present).
9. United Nations Security Council, Resolution 502 (1982) (Falklands/Malvinas) adopted 10-1-4 (Panama against; China, Poland, Spain and the USSR abstaining).
10. United Nations Security Council, Resolution 598 (1987) (Iran-Iraq) adopted unanimously.
11. See, for example: United Nations Security Council, Resolution 387 (1976) (South Africa-Angola); United Nations Security Council, Resolution 567 (1985) (South Africa-Angola); United Nations Security Council, Resolution 568 (1985) (South Africa-Botswana); United Nations Security

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 15. United Nations Security Council, Resolution 161 (1961) Preamble B.
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 17. Hawkins, V, *op cit*, p 1.
 18. See United Nations Security Council, Resolution 1368 (2001) and United Nations Security Council, Resolution 1373 (2001), in which the Security Council recognised the inherent right of self-defence of a state, before proceeding to condemn the terrorist acts in question.
 19. Chesterman, S, *op cit*, p 25.
 20. Technical adviser with the Japanese NGO, Association of Medical Doctors of Asia (AMDA) International.
 21. Hawkins, V, *op cit*, pp 6-7.
 22. *Ibid*, p 4.
 23. United Nations, *In Larger Freedom: Towards Development, Security and Human Rights for All*, November 2005.
 24. The concept was developed by Francis Deng, the Special Advisor for the Prevention of Genocide to the UN Secretary-General in the 1990s.
 25. United Nations, 2005 World Summit High-level plenary meeting of the 60th session of the General Assembly. See <http://www.un.org/summit2005/>.
 26. United Nations, *In Larger Freedom...*, *op cit*, p 84.
 27. Address by Ban Ki-Moon, "Responsible sovereignty: International co-operation for a changed world", Berlin, 15 July 2008. See <http://www.un.org/News/Press/docs/sgsm11701.doc.htm>
 28. This may, according to Hawkins, be a cover for its lack of willingness to become seriously involved in finding a solution. Hawkins, V, *op cit*, p 5.
 29. United Nations Security Council, Resolution 1625 (2005).
 30. United Nations, S/2008/18.
 31. See <http://appablog.worldpress.com/2008/04/16/africa-security-council-high-level-meeting>.
 32. United Nations Security Council, SC/9396. The result of the Council's vote was nine in favour (Belgium, Burkina Faso, Costa Rica, Croatia, France, Italy, Panama, UK, US), to five against (China, Libya, Russian Federation, South Africa, Viet Nam), with Indonesia abstaining. South Africa was a non-permanent member of the Security Council for the term 2007-2008.

33. A global public opinion and stakeholder research firm with offices in Toronto, London and Washington. See [http://www.globescan.com/news/archives/GSPIPA Darfur.html](http://www.globescan.com/news/archives/GSPIPA%20Darfur.html)
34. Angola, Cameroon, Ghana, Kenya, Nigeria, South Africa, Tanzania and Zimbabwe.
35. Locke, M, "African perspectives on intervention and internal war", *African Security Review*, Vol II, No 1, 2002. Available at <http://www.iss.co.za/pubs/ASR/11No1/Locke.html>.
36. United Nations Security Council, SC/9301.
37. *Ibid.*
38. See article 2(4) of the UN Charter which provides: "All Members shall refrain in their international relations from the threat or use of force, against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations".
39. United Nations, *Charter of the United Nations*, Article 52.
40. African Union, constituted in terms of the *Protocol Relating to the Establishment of the Peace and Security Council of the African Union*, adopted on 9 June 2002 and entered into force on 26 December 2003.
41. African Union, Article 2 of the *Protocol Relating to the Establishment of the Peace and Security Council of the African Union*. The Council is supported by the Commission, a Panel of the Wise, a Continental Early Warning System, an African Standby Force and a Special Fund. See Article 3.
42. *Ibid*, Article 5.
43. *Ibid*, Article 8(12) and (13).
44. *Ibid*, Article 17(1) and (3).
45. *Ibid*, Article 4.