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The African Union Approach to the Protection of Civilians in Darfur and Somalia

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Introduction

The African Union from its inception in 2002 has been saddled with the responsibility of having to respond to the numerous conflicts on the continent as a consequence of its obligations within the provisions of its Constitutive Act and the Protocol Relating to the Establishment of the Peace and Security Council, including the UN Charter on the role of regional arrangements in the maintenance of international peace and security.

It is the recognition of that responsibility that has guided the response of the relevant organs of the African Union in dealing with the issues of peace and security and in defining the nature and type of mandates they issue to the peace support operations that have so far been established to support the restoration of peace and stability in countries affected by conflicts, which in many cases are often prolonged. The upshot of such high level conflicts is that it puts the lives and well-being of the civilians in these zones in jeopardy, and this has resulted in humanitarian concerns being at the fore of the *raison d'être* of continental intervention through peace support operation, and thereby being at the core of the principles behind the African Peace and Security Architecture.

At the same time, the experience of the continent, exemplified by the horrors of the Rwandan genocide and the atrocities perpetrated in Sierra Leone both informed the resolve on the continent never to allow such occurrence to take place again. This was given concrete expression in the Constitutive Act of the African Union and restated in the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, that the Union has the right 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”. This far reaching provision of both the Constitutive Act and the Protocol Relating to the Establishment of the Peace and Security Council is an expression of the continental abhorrence for impunity and a commitment to combat the phenomenon.

It is in this light that the challenges of meeting the protection needs of civilians during armed conflicts on the continent can be situated. “Protection, therefore, sits at the cross roads of political, humanitarian, judicial and physical security efforts undertaken by many different and sometimes adversarial, international, regional, national, and non-state actors”.

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It is unfortunate that one of the characteristic features of this endeavour in Darfur and Somalia is the lack of understanding as well as coordination amongst these actors.

Humanitarian Considerations as Key Concerns in Darfur and Somalia

It is instructive to note that the conflicts in the Darfur and Somalia have resulted in the most devastating human catastrophes on account of its effects on the civilian populations. They have resulted in grave humanitarian crises which led to the Peace and Security Council of the African Union mandating peace support missions to primarily, among other reasons, support the alleviation of the suffering of the civil populace in these zones.

In the Darfur, the conflict, which has as part of its root causes, violence induced by environmental considerations, led to a humanitarian crisis of unprecedented proportion. It was this humanitarian crisis that brought the conflict to the attention of the international community in general and the African Union, in particular. The violence visited by one group against the other, of which the latter seemed to enjoy the backing of the central government of Sudan raised so much concern which culminated in the authorization of a peace support operation and the establishment of the African Union Mission in Sudan in 2004.

The Peace and Security Council of the African Union, in April 2004 created as a first step, a Ceasefire Commission (CFC) and kickstarted AMIS with an Observer Mission to the Darfur. By July 2004, the Observer Mission transformed into a peace support operation, with a robust mandate to ensure the effective implementation of the ceasefire agreement, including in major part the protection of the civilian population of the Darfur. The intention of the Mission’s mandate was to achieve the disarmament and neutralization of Janjaweed Militia, the protection of civilians and facilitation of the delivery of humanitarian assistance as well as guarantee access of humanitarian workers to communities in dire need. The Mission was to increase in the first instance, the number of its military observers. This was to be followed by the deployment of a force that will have as its immediate task the capability of providing physical protection to the civilian population, before it eventually assumes a more robust posture in terms of strength.

On the whole AMIS had as part of its mandate, to give protection to the civilian population, including humanitarian operation, that are under imminent threat and danger in the Mission’s immediate vicinity. The formulation of the mission’s mandate was informed by the fact that there was an increase in the violence against the civilians, humanitarian workers including AMIS personnel. The situation was further compounded by the share size of the Darfur (which is said to be about the size of France) and the inadequate number of troops to monitor, observe and carry out effective operation. In short, the mission lacked the requisite capacity to deliver

effectively on its mandate, particularly, as it concerned meeting the humanitarian objective of providing protection and assistance to populations in need against physical violence and other forms of abuse.

With regard to African Union's involvement in Somalia, again humanitarian consideration and the need to support a central authority was at the heart of the intervention. It is perhaps necessary to point out that the initiative to intervene in Somalia after several years of conflict and neglect by the international community including the African Union was taken by the Inter-Governmental Authority for Development (IGAD) in 2005. This was a measure taken to address the protracted crisis and desperate situation that the conflict had created. IGAD, however, lacked the basic institutional framework for effective conflict management, beyond employing preventive diplomatic means which was not appropriate in a conflict situation that had lasted about 14 years prior to that intervention. The sub-regional organization had however, brokered a political agreement which had resulted in the formulation of a Transitional Federal Government (TFG) based on an agreed formula by Somalia stakeholders that is representative of all the clans, including the minorities, in 2004. IGAD's bid to authorize a peace support operation was borne out of two considerations – first to allow for the Transitional Federal Government it had helped establish exercise national authority inside Somalia and second, to alleviate the considerable and unprecedented human suffering that the protracted conflict have visited on the civilian population. However in the absence of institutional and legal frameworks, the mission did not take-off.

It was against this backdrop and the deepening and worsening humanitarian situation in Somalia, that led the Peace and Security Council of the African Union, at its 69th Session in January 2007 to undertake to transform the IGAD Mission in Somalia (IGASOM) to the African Union Mission in Somalia (AMISOM). The Peace and Security Council in authorizing the Mission and formulating its mandate, was mindful of the need to back a central authority as a pre-requisite of re-establishing national authority and rebuilding the requisite structures of governance in Somalia in the face of total breakdown of law and order, which has resulted in the collapse of the state. The effect of this, is the evolution of an unprecedented humanitarian catastrophe. Over 300,000 Somalis are displaced in various camps around the country; while very many more are refugees in neighbouring states and in the wider diaspora.

The mandate of AMISOM was therefore, to:

- To protect the transitional Federal government of Somalia and its institution;
- To assist in the delivery of humanitarian relief and access for workers;
- To establish necessary conditions for the post conflict reconstruction of Somalia.

It is however, unfortunate that though humanitarian consideration was very high on the list of considerations when reaching the decision to establish AMISOM and subsequently to deploy, the tasks of the mission made relatively little provision specifically for protection of civilians. This lacuna in the development of the mandate as well as supporting directives in the area of protection of civilians is a major concern for the mission's leadership, as it is ill prepared to deal with the nature of the conflict, which is not only unconventional, but of urban warfare in nature, which broadly dictates that responses by AMISOM troops to attacks automatically affects non-

combatants, coupled with inability to distinguish between combatants and civilians in such situation.

Challenges of Protection of Civilians

It is important to recognize the fact that protection of civilians in conflict situation necessarily involves activities undertaken to improve the security of the population and people at risk and to ensure the full respect for the rights of groups and the individuals recognized under several international instruments, including the African Charter on Human and Peoples Rights, the Kampala Convention on Internally Displaced Persons, and the Convention Governing the Specific Aspects of Refugee Problems in Africa. Furthermore, it is also important to note that the protection of civilians remains the primary and on-going responsibility of host state authorities and that African Union's actions in relation to protection of civilians are to complement the efforts of host state authorities and their capacity to deliver on security and prevent abuses including threats to physical protection.

The principal challenge to the African Union in fulfilling its role of protecting civilians in conflict zones is the lack of clarity of mission directives in this area. The mandate was not clearly understood, particularly, by commanders at all levels of the operation. At the same time, the strength of the mission was inadequate for the task at hand. There was no pre-deployment training and orientation, particularly, for Commanders, who were basically in direct line of authority with the troops. At the level of interaction with other international actors, there was little understanding of each other's role, and therefore, an absence of coordination of activities. The net effect of this was also the fact that the civil populace could not base their expectation on a realistic understanding of the role of AMIS. For example, there was no clear cut mandate for the police component of the mission due to insufficient pre-deployment assessment and planning, a reflection of the insufficient appreciation of the role of the police in most peacekeeping missions, as key to the physical civilian protection and law and justice efforts.

This is also clearly the case in Somalia where physical protection of the civilian population is sometimes at stake due to the nature of the conflict and the activities of the insurgency that operates from populated sections of urban areas and response to their attacks constitute physical threats the civil populace. Due to this particular challenge, the pre-deployment training of AMISOM Troops is now to include these aspects, while troops contributing countries are encouraged to train their forces in counter-insurgency in urban setting. These measures are aimed at reducing to barest minimum the collateral damages of counter-attacks. Every Peace support operation personnel are to be given core individual and collective training aimed at heightening their awareness of, and responsiveness to, protection threats and needs, particularly, the protection of vulnerable groups.

Another challenge is the lack of effective coordination between the Military, Civil Police and Civilian components of AU Missions in dealing with Protection issues in general. Missions lack a multi-faceted and coordinated approach with clear differentiated responsibilities for the military, civilian police, and civilian components. The absence of adequate information on emerging or existing conflicts does not allow for adequate planning and mandate formulation that clearly defines roles and responsibilities between mission components. It is assumed that

such definitions will take into account and consider threats to, and protection needs of, civilians, including groups with special needs such as women, children, internally displaced persons and refugees. There should be training that will address the roles and responsibilities of the different components, including ways of working with other actors engaged in protection. This should in fact, inform the scope of the protection of civilian mandate. This will equally be guided by incorporating it in the drafting of all additional strategic documents of the mission, including concepts of operations, use of force directives, directives to heads of mission, status of force agreements and Memorandum of Understanding between AU and Troop Contributing Countries or Regional Standby Forces. At the moment an appropriate code of conduct has been developed governing the behavior of mission personnel.

Due to the fact that AU Missions have as its largest component the Military, a negative attitude is generated by many humanitarian agencies in the mission area. This was particularly the case in Darfur. This negative attitude is fostered due to the absence of a CIMIC Cell. Many humanitarian agencies are very reluctant to share information with the mission because of the misconception that it was a military mission solely. Therefore, there is essentially no dialogue and interaction between civilian and military actors in humanitarian emergencies that is necessary to protect civilians and humanitarian principles. There is therefore, a need to establish effective CIMIC Cell in all the Missions in order to avoid unnecessary competition, minimize inconsistency and when appropriate pursue common goals in a coordinated and well planned manner.

The challenges at the operational levels have been significantly compounded by the shortcomings experienced in the outcomes of the peace processes in the Darfur and Somalia. In the Darfur for instance, pressure at the negotiating table, lack of inclusiveness of all the stakeholders, lack of understanding by some international actors and other international pressure groups all combined to undermine AU's leadership in providing an enduring solution to the political problem in that region. The ineffectiveness of the Darfur Peace Agreement (DPA) of May 2006, led to serious international criticism of the African Union, which resulted in loss of crucial trust and credibility by AMIS of a large part of the local population as well as with several parties to the conflict.

In Somalia, the slow pace of political developments within the peace process has impacted negatively on issues of protection of civilians. This is also coupled with the fact that the security situation is worsening by the day, with increased activities of the insurgency. The most crucial point here is the inability to expand the scope of reconciliation and deepened dialogue to the level where political gains capable of moving the peace process in a positive direction is achieved. The absence of this positive development means that security and stability is still elusive. The resulting effect of this on protection issues is that it is not high on the agenda of the mission. The issues are perceived to be long term in nature and not always of high priority in the face of the desire to first defeat the insurgents as immediate measure towards establishing a more secured and stable environment.

Conclusion

It is noteworthy to state that though, the African Union has at the core of the African Peace and Security Architecture (APSA), human security consideration and protection of civilian issues are encapsulated therein. However, in practical terms recent experiences have shown that the willingness to protect civilians in conflict situation is yet to be matched with the capacity to effectively do so. This has led to considerable tension at the operational level between the different actors in these conflict zones on the continent. The situation is further worsened by the mistrust between the parties to the conflict, including by those that are driven by ideological premise, who lack the knowledge of International Humanitarian Law and other bodies of law who through their actions create unsafe situations for the affected population.

It is in this light that in addition to the challenges enumerated earlier it is important to highlight the need for greater coordination and collaboration between the international community at large and the local community with regard to the local awareness raising on the concept of protection. It is equally important to bring to the fore the role of the Heads of Mission in actualizing the protection of civilians in the mission area and ensuring the effective implementation of the mission's mandate in this regard. It is envisaged that Heads of Mission will be tasked directly to develop mission specific and mission-wide strategy for achieving and maintaining protection of civilians, which indicates the mission's protection activities in consultation with the mission's senior leadership, the civilian population, other protection actors, and as appropriate, host authorities.

Given the challenges, including the dearth of capacity, the African Union continues, in the face of modest means and inadequate resources, to provide alleviating measure to the suffering of the civilian population both in Darfur and Somalia. In Somalia, it continues to provide community services to alleviate the suffering of the civilian population both in Darfur and Somalia. In Somalia, it provides medical services and portable water to the population within its immediate vicinity. It is expected that this will assist in winning the hearts and minds of the population, while in the Darfur the AU embarked preventive actions on issues surrounding the return of displaced populations.

It is therefore, envisaged that when the AU Guideline on Protection of Civilians (which is being developed with the support of the Australian Government) is finally adopted, it would be given wide publicity amongst humanitarian actors, local authorities, and affected groups.