Transferring Policy: The African Union's Protection of Civilians Policy in Peacekeeping Missions in Somalia and South Sudan

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Abstract

The African Union's (AU's) doctrine underlying Peace Support Operations (PSOs) highlights the fact that the AU should take the lead in providing political direction for all AU PSOs. This includes mainstreaming the standards and operating procedures applicable to the Protection of Civilians (PoC). The PoC guidelines mandate the AU to support and complement the efforts of the host state by enhancing its capacity to secure civilians and prevent abuse against them. The guidelines have allowed the AU to develop and grow its institutional capacity and emerge as the continent's leading institution. It provides fragile member states with technical support through African-led and AU-mandated missions (crafting the concept of operations, training and implementation and procedures for peace operations). However, little is known about how the AU transfers its PoC policy to member states during peacekeeping missions. This paper assesses the institutional capacity of the AU and its ability to influence specific national PoC

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policies and approaches through AU PSO and United Nations Peacekeeping Operations (UN PKOs). The paper highlights that although the AU has made progress in PoC policy, it has not been implemented effectively and practically in South Sudan and Somalia, despite being a significant priority for the organisation.

Keywords: Protection of Civilians, African Union, AMISOM, UNMISS and Peace Support Operations

1. Introduction

In 2009, the African Union (AU) began developing a framework for a consolidated protection response. This would later lead to draft guidelines for the Protection of Civilians (PoC) in AU Peace Support Operations (PSO) (Williams, 2013:3). Later in 2012, the AU Peace and Security Council (AUPSC) imposed that the PoC should feature in all AU PSOs (PSC, 2012). This effort reflects two patterns often witnessed by international organisations. First, a pattern of leadership where the institution (the AU in this case) leads and demonstrates a bold willingness to pioneer a new agenda. Second, is a pattern where the AU, like other institutions, mirrors other international organisations like the United Nations (UN), the Regional Economic Communities/Mechanisms (RECs Ms) or the European Union (EU). Nevertheless, when it comes to the AU leading on matters related to the PoC during AU PSOs, there has been a particular focus on the military aspect of physical protection (Okeke and William, 2017).

Observations from across the continent note that evolving threats have meant that many of the African-led and AU missions are heavily militarised deploying counterinsurgency strategies within their operations. These missions include the African Union Mission in Somalia (AMISOM) which is now the African Union Transition Mission in Somalia (ATMIS). However, many of these operations miss key multidimensional approaches as intended within the design of their doctrines. These missions often have underlying population-centric or good governance strategies, designed to win the "hearts and minds" of the population as a primary means to counterinsurgencies and building states.

In missions where the AU plays a more supportive role, linked to international peacekeeping efforts like the United Nations Mission in South Sudan (UNMISS), the AU appears to be less visible. Also, its efforts appear to be left to communiques from the AU PSC that attempts to nudge the AU mission into action. As Appiah-Mensah and Eklou-Assogbavi (2012) state, responsibilities in the UN PKO for the PoC rest with the military, police, and civilian components. However, these responsibilities are predominantly a military undertaking in AU PSOs (Appiah-Mensah and Eklou-Assogbayi, 2012). This suggests that AU PSOs are not deployed to implement ceasefires or peace agreements after violent conflict has seized. Rather, they have to intervene amidst ongoing conflict and protect civilians, or stop a violent insurgency or insurrection (Somalia, CAR and Mali).

In addition, it suggests that AU PSOs are deployed to protect and support the state against identified aggressors and it operates in support of and, where feasible, alongside host nation forces. This significantly distinguishes them from the UN peacekeeping doctrine's principles of consent, impartiality, and minimum use of force, naturally allowing for the PoC. Additionally, the AU's civilian component is not formally institutionalised like its military equivalent (Tchie et al., 2022). Therefore, the AU PSOs, for the most part, have focused on carrying out peace enforcement tasks and it lacks multidimensional features like UN PKOs (Bara and Hultman, 2020). Finally, the AU PSOs remain relatively small and underfunded, but due to doctrinal differences from UN PKOs, it produces different PoC responses (de Coning, 2017).

This paper assesses how the AU seeks to achieve its PoC goals in two missions. The first mission is AMISOM, which was deployed in 2007 and ended in 2022 (AMISOM, 2021). The second mission is UNMISS, where the AU provides support through its field mission. The paper draws on qualitative interviews with senior experts from the AU, the UN as well as PoC advisors and civil society organisations working in the two states. The data collection process was conducted remotely due to the COVID-19 pandemic, but it sometimes involved face-to-face interviews with senior officials based in Ethiopia, Kenya and from UN regional offices. The study deployed a series of semi-structured questions with participants

and utilised an existing network of officials from the two organisations. Additional interviews were conducted through a snowballing process which assisted the authors to collect more data from experts in the field. Respondents' contributions have been anonymised to ensure security and encourage an open dialogue. The interviews were conducted during the third quarter of 2021 to the end of quarter one in 2022. Finally, the authors went through several AU reports, official documents and PSC reports to ascertain where the AU were officially positioned with regards to the outcomes of the suggested policies.

The paper finds the AU statements and documents highlight a growing commitment to PoC, albeit inconsistent. However, implementation of this policy has not been institutionalised. We also find that acquired knowledge, lessons, expertise and policies on PoC in AU PSOs and through the AU's support to the UN PKOs are not transferred to national and local stakeholders.

The paper is divided into five sections. The first section outlines the AU's history on PoC, exploring how the AU's relationship with PoC has developed and where the institution rests on the PoC matters. It explores how the AU, in partnership with the RECs/RMs, approaches the matter of PoC through the principle of subsidiarity. The second section draws on the first case of Somalia, touching on the initial levels of indiscriminate violence that AMISOM found itself struggling with. It moves to explore how these challenges helped the AU move towards a PoC policy in PSOs. The third section explores the AU's role in PoC in South Sudan. It evaluates how the PoC is intended to be implemented through its field office within: (1) the Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCSS); and (2) the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS). The fourth section examines the AU PSC and African Union Commission's (AUC) response to PoC in South Sudan. It also looks at whether there are advantages of having the AU in South Sudan and if the AU leaves a legacy of PoC to host states. The final section provides some concluding thoughts.

2. The AU's protection of civilian doctrine

Conflicts on the African continent are complex and often linked to the legacy of colonialism and ethnic-regional hostilities (Ifeoma, 2011). However, within this context, the AU is the leading actor responsible for peace maintenance on the continent and ensuring civilian protection. The indigenous model of protection holds that conflict management strategies are local. Also, the effective management of conflict should be aligned to the local context, and solutions should derive from local settings (Lund, 2021). It is in this context that the traditional African perspective of conflict is viewed and considered to be a problem in societal relationships, values, and beliefs (Lund, 2021). Therefore, conflict resolution and management aim at restoring healthy relationships and creating harmony within communities through communal identity initiatives such as healing and resolution (Lund, 2021). Within this framework and following the paralysis of the international community to prevent the genocide in Rwanda and address the horrific situations in Liberia and Sierra Leone, African leaders took preventative action. They made certain provisions in Articles 4(h) and (j) of the Constitutive Act of the AU (2000). These provisions, among others, enable the AU to use force, as a last resort, for the prevention of war crimes, grave violations of human rights, and genocide.[1] The turn from the Organisation of African Unity's (OAU's) non-interventionist principle to the AU's institutionalised mechanisms marked a new direction for the continent (Murithi, 2012). These mechanisms aim to intervene in the internal affairs of member states to protect civilians and respond to war crimes, genocide and mass atrocities against civilians (Apuuli, 2012).

The success of African-led PSOs during the early 1990s to the late 2020s encouraged the AU and the RECs/RMs to develop Africa's capacity to deploy operations to deal with insecurity. This increased the number and

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1   Art. 4 of the Protocol on Amendments to the Constitutive Act of the African Union, adopted by the 1st Extra-Ordinary Session of the Assembly of the African Union, Addis Ababa (Ethiopia), 3 February 2003. The Protocol shall enter into force thirty days after the deposit of instruments of ratification by a two-thirds majority of the Member States. The Protocol also amends Article 5 of the Constitutive Act to include the Peace and Security Council as one of the organs of the Union.

capacity of PSOs being deployed across the continent. It resulted in the African Standby Force (ASF) initiative launched in 2003 which forms part of the African Peace and Security Architecture (APSA). The APSA was structured on objectives, principles, values, and decision-making processes to prevent, manage, and resolve crises, conflicts, and post-conflict reconstruction and development on the continent (de Coning et al., 2016). The APSA also included conflict resolution mechanisms focused on protecting and securing the state, with little focus on human security (Sesay and Omotosho, 2011). In this context, the PoC in Africa is underpinned by the APSA which is a crucial AU mechanism to promote peace, security, and stability on the continent. The APSA is underpinned by five pillars: (1) early warning and conflict prevention; (2) peace-making; (3) peace-support operations; (4) peacebuilding and post-conflict reconstruction; and (5) development. This is strengthened by four approaches which fortify the work of the APSA: (1) the promotion of democratic practices; (2) good governance and respect for human rights; (3) humanitarian action; and (4) disaster management (APSA, 2003). Therefore, the transition from the OAU to the AU can be viewed as a regime with normative and institutional change where its stance focuses on "non-indifference" whereas its predecessor focused on "non-interference" (Dersso, 2011).

In 2009, the AU began working on a framework for the PoC with the AU PSC. They recognised that their previous missions such as the African Union Mission in Burundi (AMIB), the African Union Electoral and Security Assistance Mission to the Comoros (MAES) and the African Union Mission for Support to the Elections in Comoros (AMISEC), and The African Union Mission in Sudan (AMIS I and II) (de Coning et al., 2016) were inadequate to deal with and respond to the protection needs of civilians (AU, 2011). The AU understood that protection in African-led PSOs would have to be paramount in ensuring that the rights of individuals in the conflict-affected areas are safeguarded. As a result, the AU, through the APSA, decided that the PoC should be mainstreamed across the whole spectrum of the AU's peace, security, and stability processes. The PSC defined the PoC as "activities undertaken to improve the security of the population and people at risk, and to ensure [the] full respect of the rights

of groups and the individual recognised under the regional instruments" (AU, 2012). This meant, conceptually, that the AU viewed the PoC strategy as part of four tiers (AU 2013a): (1) protection as part of the political process; (2) protection from physical violence; (3) rights-based protection; and (4) the establishment of a protective environment (AU, 2013a). This means the AU conceptually views protection from physical violence in highly insecure environments through four phases (AU, 2012). Phase One is prevention, which is protection based on minimising the risk of escalation of uncontrolled violence. Phase Two is pre-emption, which is protection based on measures that preclude or defeat imminent threats. Phase Three is response, which is protection based on the proportionate use of force. Phase Four is consolidation, which is protection based on ensuring that threatening groups are not able to restore their fighting capability (AU, 2013a).

Essentially, the AU recognised that political engagement is a strategy that will protect civilians, given that combatants often do not fully commit to protecting them. The AU also recognised that the four phases may co-exist in a mission, but protection is not seen as sequential. This demonstrates that protection from an AU perspective separates physical protection from political stabilisation processes, as seen in Somalia and the Central African Republic. In these countries, the AU deployed forces and mandated peacekeepers to support state authorities in protecting their citizens (Alhali and Akpasom, 2015). While the AU's approach to PoC is robust and emphasises a multidimensional approach to PSOs (Dembinski and Schott, 2013), the AU's own track record demonstrates that it has taken a militarised approach towards ensuring PoC (Gelot, 2017). This is largely because the AU is often deployed as a first responder to settings where there is no peace and often has a peace enforcement mandate. However, given the high-risk environment in which AU PSOs are deployed, the AU PoC approach is often associated with high casualty rates among intervention forces (Okeke and Williams, 2017).

2.1 Protection as a political process

The inherent nature of the PoC, whether in the mandating or implementing process, remains a political process. The AU underscores that the peace process should be well-managed, and that justice and

accountability are the "best form[s] of protection for a civilian population" (AU, 2012). This is in line with African indigenous models of protection. These models focus on seeking restorative justice and atonement, compared with western concepts of protection which often seek to blame or eliminate the lawbreakers (Okeke and Williams, 2017). However, the AU's predominant military approach to PoC (contrary to the indigenous model) has not been matched by a robust political strategy that could build sustainable peace when PSOs are deployed (Okeke and Williams, 2017).

The indigenous model understands conflict as a breakdown of societal beliefs, values, networks, and relationships (Brock-Utne, 2001). Whereas rights-based protection is based on monitoring individuals and groups to ensure that human rights are adhered to. It requires that PoC mandates are developed in such a way that they respond in a timely and decisive manner to incidents of human rights violations (Hunt, 2019). The rights-based protection is derived from the Constitute Act of the AU. In this Act, Article 4 (J) does not require the AU to get consent from member states to intervene in the resolution and management of conflict. An example of this approach was the AU's attempt to deploy 5 000 peacekeepers to Burundi during the 2015 election crisis. In this case the AU responded to early warning indicators and wanted to deploy human rights observers (ICG, 2016).

However, the rescinding of the AU PSC decision to deploy the African Prevention and Protection Mission in Burundi (MAPROBU) demonstrated that the AU required more time. Also, the decision should have been taken at heads-of-state level and not at ambassador level which was limited to providing advice. The MAPROBU (declared on 17 December 2015) was envisaged as deployment under Scenario Six of ASF deployment scenarios. This is to be undertaken with or without the consent of the government to prevent genocide and mass atrocities in line with the ASF-deployment scenarios. However, the Burundian government rejected the force. In fact, the authorisation of Article 4(h) under Scenario Six requires at least a two-thirds majority of heads of state for such a decision to be adopted. In other words, unilateral intervention without the explicit consent of the state requires an

assembly-level decision. Eventually, the AU PSC at the heads-of-state level overturned the decision in January 2016 in order to establish MAPROBU (AU PSC, 2016).

2.2 Subsidiarity

The AU Constitutive Act recognised RECs/RMs as building blocks of the AU (Dembinski and Schott, 2013). There are eight recognised RECs/RMs. The AU acknowledges these building blocks. The cooperation between the AU and RECs is based on a memorandum of understanding (MoU) signed in 2008. Also, it is guided by the principles of subsidiarity, complementarity, and comparative advantage (AU, 2022). The principles are not understood in the same way across all RECs/RMs, especially in terms of the division of labour or the correct actions that should be undertaken (Vanheukelom, 2016). This is even more pronounced regarding what constitutes protection and the role of the RECs as opposed to that of the AU. Yet, the PSC protocol does not explicitly refer to subsidiarity or that the partnership modality should be determined by the comparative advantage of each of the RECs/RMs (Vanheukelom, 2016).

Part of the challenges relates to the fact that not all RECs have the same institutional capacities. Moreover, some of the RECs existed before the AU and therefore have longer established processes for dealing with security matters. For example, the Economic Community of West African States (ECOWAS) has been dealing with regional security issues since 1993 through the Treaty of Lagos. The Treaty states that ECOWAS is responsible for the "maintenance of regional peace, stability and security through the promotion and strengthening of good neighbours" (ECOWAS, 2022). Then there is the issue of who takes the lead in protecting civilians during conflicts and within deployed missions. This becomes murky when the AU and the RECs have a different understanding of who is supporting whose initiative on the ground. The next section draws on the case of Somalia, exploring how the mission contributed to assisting the AU to move towards a PoC policy in its PSO.

3. Somalia

AMISOM was a unique African enforcement mission deployed in 2007. It was led by the AU and designed to provide support and protection to civilians of Somalia, with provision by the UN to provide logistics *support* amongst other support (AMISOM, 2021). The AU had initially planned a six-month mission, followed by a UN mission. However, a lack of buy-in from the United Nations Security Council (UNSC) meant the UN could not deploy a multidimensional PKO (Samatar, 2007). Despite AMISOM's challenges, such as a lack of initial investments and resources as well as a reluctance to deploy forces from some African Troop Contributing Countries (TCCs) (TRF, 2007), AMISOM made significant progress. It succeeded in areas where neither the UN nor the United States (US) was able to achieve success during the early 1990s under the United Nations Operation in Somalia I (UNOSOM I) (1992–1993), the United Nations Operation in Somalia II (UNOSOM II) (1993–1995), and the US-led Unified Task Force (1992–1993) Operation Restore Hope (Tchie, 2022). Troops from Burundi and Uganda were among the first to be deployed as part of AMISOM to fight Harakat al Shabaab al-Mujahideen (al-Shabaab) in Mogadishu. The forces had to fight without essential logistical support, training on PoC and the training required for close-quarter urban fighting (Williams, 2017a). This resulted in a steep learning curve for the two TCCs. AMISOM, working with allied armed groups, succeeded in prolonged urban combat against local militia forces, demonstrating a high degree of adaptability. However, it has also led to intense clashes in local areas where civilians resided and gave rise to concerns of indiscriminate fire against civilians. This proceeded with the creation of the Federal Government of Somalia (FGS) and the liberation of areas across the south from al-Shabaab through a clear-hold-build strategy (Williams, 2017b; Bruton and Williams, 2014; 2018). Its core tasks included: (1) protecting senior Somali Transitional Federal Government (TFG) officials and others engaged in the political reconciliation process; (2) conducting an enforcement campaign against al-Shabaab and other actors determined to destroy the TFG; (3) supporting the Somali security forces; (4) implementing a range of civil-military assistance projects

(including delivery of water and medical services to the local population); (5) engaging in policing tasks; and (6) providing training and logistical support to TFG security forces (Menkjhaus, 2007).

Over time, AMISOM developed a PoC framework within its AU PSO doctrine by drawing upon the AUC expertise and devising its own strategy, despite not having a clearly defined PoC mandate. In 2010, AMISOM – due to its indirect-fire policies – developed various corrective actions designed to meet its obligations under International Humanitarian Law (IHL) (ICRC, 2002). This reform process was primarily seen as one of the approaches to dealing with the large PoC gap. This gap was emerging in part due to the type of warfare that AMISOM was partaking in. It included developing a refined indirect-fire policy, revising its rules of engagement (ROE), and updating its political communications strategy. Despite the best intentions, the plans to correct the challenges did not fully amount to a PoC policy in order to ensure that AMISOM could effectively realise a proactive PoC mandate. Instead, what emerged was an attempt to avoid the challenges that were emerging from a PoC standpoint. AMISOM was not alone, as the UN was also trying to develop its full PoC policy during this period. Various challenges were facing the UN. These included conceptual clarification over whether protection activities are the mission's primary mandate or part of its many tasks. Also, how this is embedded into the identity and culture of the mission and its staff. While AMISOM had no policy or doctrine with regards to PoC for AU PSOs at the time, it was still obliged under IHL to protect civilians as part of its broader remit. However, AMISOM's mandate to protect the TFG made it part of the armed conflict in many ways, adding a layer of complexity. It also reduced AMISOM's desire to venture further and conduct patrol to ensure PoC (Williams, 2013).

Williams notes that the only other AU PSO mission with a specific PoC language was the AU Mission in Sudan. This mission transformed into the AU-UN Hybrid Operation in Darfur (UNAMID) in early 2008, so it is unclear why the AU never developed this policy earlier (Williams, 2013). AMISOM's ROE, stated that TCCs could use force in some situations beyond self-defence, including "to afford protection to

civilians under imminent threat of physical violence" (AMISOM ROE, 2007). However, outside of AMISOM's ROE, there were no formal documents or doctrine on PoC matters. In addition, there was little effort to communicate and transfer this discussion to the national actors or forces, specifically the Somalia National Army (SNA). As one respondent remarked, "We were overworked and trying to do our best given a very restrictive environment and being attacked daily did not help". Further adding, "We could not systematically transfer this to the national force fully … while there was some training etc., our everyday work with state institutions differed" (Non-attributable comment, 2022). Another respondent indicated that some effort was made through AMISOM's training to SNA, but this was nowhere near the levels needed to transfer institutional knowledge to forces (Non-attributable comment, 2022). A further challenge was the flood of actors providing training, and it was unclear "how much knowledge and focus there was on PoC training and capacity building to SNA forces" (Non-attributable comment, 2022). In the revised 2010 ROE, AMISOM was given further direction on how forces were to protect civilians. Rule no. 1.7 stated, "Use of force, up to and including deadly force, to protect civilians, including humanitarian workers, under imminent threat of physical violence is authorised ... sought from the immediate superior commander." However, it is still unclear whether this was ever developed during the mission's lifespan.

Parallel to these developments, in 2010, in Kampala, the AU Assembly requested the AUC to develop a framework for action and provide guidelines on PoC in AU PSOs (AU, 2010). While draft guidelines for PoC in AU PSOs were institutionally developed, the AU was slowly moving to formalise its understanding of PoC in line with global debates. The Assembly, the AUC, and others insisted that the AUC develop this aspect. However, little was reflected in AMISOM's mandate that would allow them to implement and transfer the PoC policy to state entities or to troops operating in AMISOM-deployed sectors. Therefore, the AU would eventually frame the PoC as "all activities aimed at obtaining the full respect for the rights of the individual recognised under regional instruments including the African Charter of Human and Peoples' Rights, the Convention on Internally Displaced Persons, and the

Convention Governing the Specific Aspects of Refugee Problems in Africa, and international law including Humanitarian, Human Rights and Refugee law" and not as a specific PoC policy in AMISOM's mandate. Nevertheless, significant challenges were emerging. Also, pressure arose for the AUC to adopt a PoC policy, especially since AMISOM's resources and capabilities were structurally limited and not set up to do multidimensional PKOs or PSOs. AMISOM would need better monitoring, evaluation and coordination mechanisms and a means of collecting further intelligence and information on operations. This would have been crucial for ensuring compliance with developing a policy on PoC within the IHL framework (Williams, 2013).

AMISOM's Concept of Operations (CONOPS) in late 2011, adopted by the AU in 2012, did not indicate or flag the PoC as part of the mission's mandate nor was there a mention of the need to pass on this developing capacity to the national forces or the state and its institutions. This means that while the PoC was absent from the CONOPS, it primarily focused on the mission. There was no focus on institutionally transferring acquired knowledge to the state as the mission evolved and once the mission had transitioned. Since AMISOM's initial deployment was focused on the military, there was a general lack of relevant PoC doctrine, guidelines, and training (Giffen, 2010). Equivalently, African Training Centres of Excellence were "figuring out what PoC meant as was most of the western world" (Non-attributable comment, 2022). In 2011, the AMISOM Mission Implementation Plan identified PoC as one of AMISOM's five critical diplomatic and political tasks. In its words, "AMISOM is committed to the adherence and implementation of International Humanitarian Laws and Rules of Engagements approved for the mission" (AMISOM, 2011). The AU PSC 326th meeting in June 2012 may have been the trigger for "mainstreaming PoC issues" in its press statement. It indicated that it was important for the AUC to re-examine its standard operating procedures for PSOs and "PoC must form part of the mandate of future AU missions" (AU, 2012). Nevertheless, the AU-PSC memo and subsequent documents also missed several opportunities to transfer the institutional lessons learned on PoC to the state. It also did not support the state's overall capacity to develop long-term and sustainable PoC policies.

Since 2015, AMISOM's operations have been subdivided into smaller operations (Leopard Hunt and Badbaado) in Lower Shabelle. However, little had changed when it came to its PoC policy. AMISOM took five years to adopt an explicit PoC mandate after the mission was deployed. A PoC mandate was only adopted in May 2013. This is the same amount of time that it took to dislodge al-Shabaab from the capital. AMISOM's malfunction on PoC originated from three challenges. First, the failure to protect civilians from attacks conducted by al-Shabaab. Second, AMISOM failed to protect people where the terrorists had become embedded among civilians. Third, a failure to protect civilians when it came to mistaking them for al-Shabaab has led to indiscriminate violence against civilians, especially indirectly by failing to protect others from al-Shabaab snipers and attacks (UK Government, 2017). The sea of change from donors meant that from 2015, AMISOM's focus changed. It pivoted towards degrading threats and creating a stable environment instead of seeking ways to transfer its PoC knowledge to state forces. Leading up to the London conference (2017) and its transition from AMISOM to ATMIS, AMISOM primarily focused on three mandates: (1) reduce the threat posed by al-Shabaab and other armed opposition groups; (2) enable the gradual handing over of security responsibilities from AMISOM to the Somali Security Forces (SSF) contingent on the SSF's abilities and political and security progress in Somalia; and (3) provide security to enable the political process at all levels and stabilise efforts, reconciliation and peacebuilding in Somalia. The UNSC Resolution 2372 (2017), which was re-authorised by Resolution 2520 (2020), endorsed AMISOM to carry out these three priority tasks. By mid-2018, the Somali Transition Plan was endorsed and stipulated a phasing of AMISOM based on a transfer of security responsibility to SSF and other state security institutions between 2018–2021 (AMISOM, 2017). The reduction of AMISOM forces was intended to phase in and increase effective SNA as part of the broader SSF efforts. However, due to past political disagreements, progress was limited, and AMISOM has been working in an ad hoc manner to accommodate a growing suite of demands.

The AU would adopt a PoC policy for AU PSOs. However, the mandated task of protection for AMISOM would move away from being mandate-focused to adopting an institutional focus through its AU-PSO doctrine in an attempt to meet the mission's IHL and international obligations to donors (Tchie, 2022). However, AMISOM did not reconfigure its operations to carry out holistic forms of PoC. Instead, it continued with heavy military operations designed to degrade al-Shabaab while trying to uphold its obligations under IHL. The AU has moved to institutionalise its AU PoC doctrine within PSOs, but this is yet to transfer to newly formed African-led PSOs conducted by the RECs/RMs or member states. For example, there has been a growing trend across the continent to move away from large-scale PKO and AU PSO to coalitions of the willing, labelled Ad-hoc Security Initiatives (ASIs) such as: (1) the AU-authorised Regional Cooperation Initiative against the Lord's Resistance Army, RCI-LRA (2011–2019); (2) the Multinational Joint Task Force against Boko Haram in the Lake Chad Basin, MNJTF (2015–ongoing) (MNJTF, 2022); and (3) the G5 Sahel Joint Force (FC-G5S) (2017–ongoing) (UN, 2021; de Coning et al., 2022). However, there is no specific PoC policy for each mission, despite the AU providing support to these missions. Finally, with this new emergence, it is unclear how much engagement the AU has with these ASIs on its PoC policy and how it ensures that ASIs adhere to these policies.

4. South Sudan

South Sudan's independence was built upon half a century of wars (Wassara, 2015). Factionalism within the national government saw the formation of two distinct camps. These two camps supported either President Salva Kiir or Vice President Riek Machar, contributing to the outbreak of violent conflict in 2013 (Tchie, 2021). These factions extended into the military, with President Kiir reported having independently recruited up to 7 500 soldiers that were not absorbed into the national army (AUCISS, 2014). Factionalism within the leadership trickled into broader society and the conflict would later be characterised as an ethnic war (Jok, 2021). The armament of ethnicity was demonstrated mainly by the independent mobilisation of militaries along ethnic lines that saw the specific confrontation between Dinka and Nuer soldiers

(Tchie, 2019 in IISS; Wassara, 2015). Despite signing the R-ARCSS in September 2018, the conflict has been continued by non-signatory armed groups (Cone, 2019). As a result, South-Sudanese citizens are finding themselves in an awkward situation of neither war nor peace.

Partly as a response to deal with ongoing conflict in South Sudan, the United Nations Mission in South Sudan (UNMISS) was mandated to ensure the protection of civilians. However, as a cross-cutting issue they also focused on preventing and responding to conflict-related sexual violence, child protection, and human rights (Verneij, 2022). Nonetheless, the AU was allocated the role of leading the Commission of Inquiry into human rights violations during the civil war. The commission was positioned to have a more forceful and direct role (Day, 2022). Economic issues that mainly related to oil and water were addressed, whether through the Comprehensive Peace Agreement (2005) or the Agreement of the Resolution of the Conflict in South Sudan (2015) (Day, 2022). In addition, the peace processes were negotiated on the wrong assumption that South Sudanese political elites would implement an agreement toward the well-being of the people (Donais and Solomon, 2022). In fact, ongoing conflicts are also part of the "unresolved power struggle among an ageing political class" (Donais and Solomon, 2022). Muddying the rivalry contestation is the promise of economic spoils gained from a high political office used for self-enrichment and ethnic military patronage. Towns like Yei were the centre of the conflict, where government soldiers during a counterinsurgency killed, raped, and tortured civilians. This led to the displacement of thousands of people (HRW, 2016). Finally, violence has shifted from the public to the personal domain, with increasing evidence of sexual and gender-based violence, especially against women and girls (Ellsberg et al., 2021).

4.1 The African Union Peace and Security Council and the African Union Commission's response

A central feature of the APSA is that PoC and human security should prioritise all AU interventions. By redefining state sovereignty, the AU's Constitutive Act allows for the right of the organisation to intervene in a member state in grave circumstances. This creates the legal basis for the AU to intervene and prevent or stop heinous crimes against civilians.

Therefore, the AU has a legal obligation to pursue PoC across the full spectrum of peace and security processes from prevention to the post-conflict phase, including in South Sudan (Dersso, 2017). Although the AU does not have a PSO in South Sudan, its participation in the country's pre-independence was relatively strong before the civil war broke out. However, the AU's initial support was unclear and uncoordinated, with the organisation often appearing and then handing over the mediation process to the Inter-Governmental Authority on Development (IGAD). Subsidiarity in the APSA context is based on three elements: (1) decision-making; (2) division of labour; and (3) burden-sharing. Therefore, the AU's principles of subsidiarity focused on regional mechanisms dealing with local conflicts (Motsamai, 2017). However, in reality, the partnership between the AU and the RECs/Ms is challenging. The challenges pertain to understanding how, where, and what type of intervention is needed by the AU or the REC/Ms, especially in the area of PoC.

For example, in 2007, the AU PSC, through the 89th Communique, issued the establishment of the AU Liaison Office in Juba. The office was established to monitor the Comprehensive Peace Agreement. It was mandated to monitor and report on the political and security situation and propose options for building a viable nation (AU Juba, 2022). When the conflict broke out in 2013, the AU PSC declared, at its 409th session, its readiness to assist in resolving the conflict through peaceful means (AU, 2013b). At its 411th meeting, the AU PSC mandated the Commission of Inquiry on South Sudan, separate from the formal IGAD-led mediation process. The purpose of the three-month Commission was to investigate,

> human rights violations and other abuses committed during the armed conflict in South Sudan and make recommendations on the best ways and means to ensure accountability, reconciliation and healing among all South-Sudanese communities (AU, 2014).

The Commission recommended that an African-owned, legal mechanism sponsored by the AU should consist of South-Sudanese judges and lawyers. Therefore, a hybrid court was to be formed and designed to deal

with the atrocities of the conflict. The one recommendation of the report was that certain aspects of justice must be deferred. The purpose was so that a peaceful environment could be established to build institutions that could formally support justice processes (Onapsam-Onapa, 2019). The AU Ad Hoc Committee (C5) on South Sudan was also established to bolster continental support for the peace process. The C5 is made up of five African regions, including Algeria, Chad, Nigeria, Rwanda, and South Africa. As per the AU PSC 484th meeting, the initial mandate decided that the C5 would enhance the IGAD-led mediation (Amani Africa, 2019). But in July 2016, the AU announced that it had approved the deployment of a regional military force to South Sudan. The purpose was to enhance the UN force of 12 000 that was already stationed in South Sudan. The regional force was never deployed.

This was later followed by the AU PSC 645th meeting held on 22 December 2016. At this meeting, the PSC adopted a decision regarding the mandate of the AU High-Level Implementation Panel on Sudan and South Sudan (AU HIP) (AU, 2016). The mandate of the AU HIP was extended for another period of twelve months, starting from 01 January 2017; it should be noted that this panel mainly worked on Sudan-South Sudan conflicts and less on the internal South Sudan conflict. This is why in October 2016, the then chairperson of the AUC launched a campaign to address the challenges of women in South Sudan and establish some form of accountability (AU, 2016). The campaign should have been the first step toward establishing a hybrid court in South Sudan. The R-ARCSS in 2018 mandated that a Hybrid Court of South Sudan be established. The AU was to take the lead on its formation. The role of the AUC is to provide structural and institutional guidelines for the Hybrid Court for South Sudan (HCSS). These guidelines should refer to the location of the court, its infrastructure, funding, enforcement mechanism, judges' composition, judges' privileges and immunities, and applicable jurisprudence (IGAD, 2018). The AU Commissioner, Moussa Faki Mahamat, committed to signing a MoU on establishing the AU HCSS in 2021 (AU, 2021). However, by the end of 2022, there was no evidence of any action taken with regard to establishing the court, truth-telling or any sort of compensation mechanism (HRW, 2021).

Nevertheless, by 2019, the implementation of the Revitalised Agreement in South Sudan stagnated. The Ad hoc Committee required that the AU, IGAD and C5 step up their political engagements with political leaders in South Sudan (AU, 2019). All these interventions yielded little results in cementing peace or protecting civilians, as evidenced by the extension of the transitional period (Reuters, 2022) and continued attacks against civilians (Global R2P, 2022).

4.2 The comparative advantage of the African Union in South Sudan

Due to the conflict in South Sudan becoming more localised, there is a critical gap in understanding how different types of conflict affect individuals, households, and communities (Dowd and Kumalo, 2022). According to the AU, UNMISS bears the primary responsibility of PoC. The reason given for this is that the AU does not have the logistical capability, not even complementarily, to support any PoC initiative (Non-attributable comment, 2022). Therefore, political support for peace processes is interpreted in South Sudan as a hands-off approach to PoC regardless of the APSA mandate. The AU has a strategic advantage with regard to political engagement in South Sudan, especially in terms of bringing actors together in support of the UNMISS mandate (Day, 2022). However, despite this, the AU does not consider PoC issues in these forums in South Sudan. In addition, the AU liaison office in Juba does not view its own efforts in relation to PoC, neither does it see PoC as part of its mandate. A challenge in South Sudan is that the AU and external actors seek quick fixes instead of identifying opportunities to work on longer-term engagements (Donais and Solomon, 2022). Beyond high-level visits and engagements in the Reconstituted Joint Monitoring and Evaluation Commission, the AU has not supported a process of accountability or ended impunity and crimes committed against civilians (HRW, 2021). The current achievement has mainly been due to IGAD taking a behind-the-scenes approach without any real PoC strategy or focus from the AU or jointly with UNMISS. Nevertheless, the AU, through its diplomatic influence, ensured that the warring factions signed the various peace agreements. (Non-attributable comment, 2022). Another challenge for the AU regarding PoC in South Sudan is

that processes are not institutionalised or passed down to the various institutions at state or regional level in the country (Motsamai, 2017).

5. Conclusion

The paper assesses the AU's PoC efforts in two different cases to shed light on some of the challenges with implementing the AU's PoC policy and ensuring that this is transferred to the host nation. The AU has done well to adapt and approach the PoC needs on paper especially in the field of PSOs. The PoC policy, lessons, and acquired knowledge in the cases of Somalia and South Sudan are of great importance. However, it was not transferred or adopted by the state or its entities within the respective states that the AU operated in, and this remains a challenge. The two cases demonstrate that when the AU leads, there are important consequences. In these cases, the AU is more inclined to meet its PoC commitment (due to the PSC authority) and avoid challenges with what seems to be reputational damage control. However, when it is not leading but instead partnering with a large entity like the UN or a UN PKO through its field office or mission, the situation changes. In these cases, the AU on the ground lacks any ability to fully implement its policies. In addition, the analysis finds no evidence that AU PoC policies are being transferred to national and local actors. It means the institutional knowledge and capacity of PoC are being lost and not transferred to the states beyond the missions. This creates a potential issue for the AU once the missions have left.

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