

African Union Peacekeeping Operations: Challenges and Emerging Issues

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Abstract

By the year 2022, the Constitutive Act of the African Union (AU) would have been in operation for twenty years. One of the major bases for cooperation under the new institutional framework of the AU was that all member States of the union had to observe some fundamental norms, values and standards including but not limited to, respect for human rights, democratic governance and the total condemnation of unconstitutional change of government. If a member state fails to observe this standard, she could be subjected to political, economic and social sanction. The Constitutive Act of the AU in its Article 4(h) states that the AU has the right of intervention in a member State pursuant to a decision of the Assembly in respect of grave circumstances, namely; war crimes, genocide and crimes against humanity and by the Article 4(j) of the same Act, a member State can even request for intervention from the union in order to restore peace and security. In the light of these provisions, the AU has intervened in some countries e.g. Burundi, Comoros and Mali among others through peacekeeping operations. This article will therefore critically analyze the challenges and emerging issues faced by contingents to these peacekeeping mission fields.

Keywords: African Union, Peacekeeping, Challenges, Emerging issues.

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I. INTRODUCTION

Peace Operations in Africa faces a range of strategic and operational challenges that have left many of them struggling to achieve their mandates [¹]. These perennial problems highlight the persistent absence of sustained political support as well as the tendency to misapply the peacekeeping tool [²]. Africa faces several challenges in its endeavors to implement her integration and development agenda [³]. After years of transiting from the Organization of African Unity (OAU) to the African Union (AU) and, it is impossible to ignore the relevance of problems encountered towards a

meaningful continental integration [⁴]. About seventeen years after the creation of the AU, citizens of Africa are yet to realize a full integration into governance structures of the continent.⁵ When the newly mandated AU replaced its predecessor, the OAU, many were hopeful of, and subscribed to the new vision of the AU—a peoples-driven AU [⁶].

The creation of new organs such as the Economic, Social and Cultural Council (ECOSOC), the Pan Africa Parliament (PAP), the Peace and Security Council (PSC) as well as the adoption of the New Partnership for Africa's Development (NAPAD) and its African Peer Review Mechanism (APRM) heightened hopes for a continental body more responsive to the voices of its citizens [⁷]. Despite achieving decolonization and conflict resolution on the

¹ P. D. Williams, "Enhancing U.S Support for Peace Operations in Africa" *Council on Foreign Relations, Council Special Report No 73*, (2015). <https://www.cfr.org/report/enhancing-us-support-peace-operations-africa> accessed 13 July, 2019.

²ibid.

³M. M. Mkwezalamba and E. J. Chinyama, "Implementation of Africa's Integration and Development Agenda: Challenges and Prospects" *1 African Integrational Review* (2007) p. 1.

unpan1.un.org/intradoc/groups/public/documents/idep/unpan025957.pdf accessed 13th July, 2019.

⁴B. Saroja, "Proliferation of Small Arms in South Asia: An Arc of Instability", *1 International Journal of Social Science & Interdisciplinary Research* (2012) pp. 152-161.

⁵ibid.

⁶ ibid.

⁷ A. Afedo, "Background to the OAU" *14 Nigerian Journal of International Affairs* (2009) pp. 12-36.

continent, the OAU fell far short of achieving its original, idealistic and purpose envisioned by the likes of Dr. Kwame Nkrumah, Sekou Toure and Julius Nyerere [8]. Africa is not a monolith. Not in religions, not in economic systems, and especially not in languages [9]. As a result, there are inherent difficulties in attempting to create a cohesive force from widely disparate populations. Should a nation's military choose only soldiers who speak the same 126 languages; numerous others will be disenfranchised, which can lead to internal dissent [10]. On the other hand, it can be costly in both money and time to train and fully integrate a military force of different linguistic backgrounds [11].

II. Challenges of peacekeeping operations in africa

A. *Infrastructural Challenge*

One of the challenges that the AU has to contend with in its effort to promote peace keeping operations in Africa is the inadequate and inefficient infrastructure, especially transport and communications [12]. In addition, the challenge the AU has to contend with in its effort to integrate African economics is the prevalent of civil strife and conflicts. The lack of sustained political commitment to put in place agreed policies and plans has been one of Africa's major shortcoming and in the context of the AU, this is an issue that needs to be addressed [13]. It is pertinent to point out that in spite of the transformation of the OAU to the AU; Africa is still the poorest continent in the world with almost half of its population still living in absolute poverty. This is despite the fact that Africa ranks as most richly endowed continent in terms of natural resources [14]. Finally, almost every mission in

Africa suffers from a variety of operational capability gaps. The standard problems include difficulties with rapid deployment and mission start-up capabilities; logistics supply, which is intensified by operating in environments with little infrastructure, placing a premium on air transport; transportation, including availability of armored vehicles and aviation units; medical and engineering units; intelligence, surveillance, and reconnaissance capabilities; and communications. In addition, suicide bombings and Improvised Explosive Devices (IEDs) pose a range of relatively novel challenges to peacemakers, especially in Somalia and Mali. Future operations are likely to encounter these threats more frequently.

The diversity in African countries' sizes, national resources, level of development and connections to global markets has been a major stumbling block to successful peace keeping operations [15]. Obviously, many African states achieved only political independence and not economic independence as their economies are still tied to the apron string of the Western powers [16]. They depend on foreign aid and loans to supplement their annual budget [17]. Many African countries also face internal economic problems. Agriculture, which is the backbone of African economies, is on the decline, while African exports face constant fluctuations and occasional decline in international market [18]. For instance, Benin Republic does not have the same economic interests as its giant oil-rich neighbour, Nigeria [19]. Similarly, South Africa and Malawi do not experience the costs and benefits of the regional trade arrangements in the same way [20].

B. *Disunity among the States of African Union*

Another challenge is the membership of Morocco, an important African country since 1984 [21]. It should be noted that Morocco has been outside the OAU because of the recognition and admission of the Saharawi Arab Democratic Republic (SADR) by the organization [22]. Furthermore in spite of their exit, the

⁸ J. A. Adeyeye, "A Comparative Analysis of the Charter of the Organization of African Unity (OAU) and the Constitutive Act of the African Union (AU), 6 *Groningen Journal of International Law*, (2018) pp. 215-241 <<https://ugp.rug.nl/GROJIL/article/view/35453>> accessed 27 August, 2020.

⁹ R. L. Fieldman, "Problems Plaguering the African Union Peacekeeping Forces" 24 *Defence & Security Analysis* (2008) pp. 267-279.

¹⁰ A.U Commission "Agenda 2063" (2015) <<https://www.un.org/en/africa/osaa/pdf/au/agenda2063.pdf>> accessed 27 August, 2020.

¹¹ A. M. Sule, "Nigeria's Participation in Peacekeeping Operations" A Thesis Presented in Partial Completion of The Certificate of Training in UN Peace Support Operations, at Peace Operations Training Institute, New York. <https://www.researchgate.net/publication/327762249_Mandates_in_the_success_of_a_peacekeeping_missions_a_case_study_of_Liberia> accessed on 26 August, 2020.

¹³ Ngwane, (n 10).

¹⁴ A. A. Ola and S. O. Ehiane, "Mission with Hindrance: African Union (AU) and Peacekeeping Operations" 5 *Journals on Africa Union Studies* (2016) pp. 113-135. <https://hdl.handle.net/10520/EJC188634>. accessed 26 August, 2020.

¹⁵ *ibid.*

¹⁶ *ibid.*

¹⁷ C. R. Majinge, "The Future of Peacekeeping in Africa and the Normative Role of the African Union" 2 *Goettingen Journal of International Law* (2010) pp. 463-500.

¹⁸ C.C.R./F.E.S., "The African Union at Ten: Problems, Progress and Prospects", *International Colloquium Report 'Berlin Germany* (2012)

<<http://www.ccr.org.za/index.php/media-release/reports/seminar-reports/item/867-the-african-union-at-ten-problems-progress-and-prospects>> accessed 13 July 2019.

¹⁹ Ola and Ehiane (n 14).

²⁰ E. Harsch, "Making African Integration a Reality" 12 *African Recovery*, (2002) p.11.

<<https://www.un.org/africarenewal/magazine/...2002/making-african-integration-reality>> accessed 10th July 2019.

²¹ I.C.C.R./F.E.S., (n 18).

²² A. De-Waal, "Darfur and the Failure of the Responsibility to Protect" 38 *International Affairs*. (2007)

crisis generated over the matter has persisted, rearing its head intermittently within the ranks of the organization, to the extent that Morocco now wants to join ECOWAS [23]. Morocco has not subscribed to the Constitutive Act of the AU. She has recently joined the Community of Sahel-Saharan States (CEN-SAD) and also continued to retain membership of the LEMA to institutions recognized as RECs and building blocs of the AU [24]. Another major obstacle is the known division among African as Franco and Anglo-phone countries which has disunited African peoples [25]. Many issues have been decided not on their merit but on this line of divide. For example, appointing a Secretary-General for the continental organization has been politicized on this line of divide [26].

The greatest challenge before the AU in our views of is how to incorporate the generality of Africans into integration schemes in the continent [27]. There is enough evidence to support the fact that, apart from all else, regional efforts have failed in Africa because such efforts side-tracked the people. In this wise, the AU itself seems to have fallen into the same pit, as did the OAU, which it replaced [28]. Its Act seems more an instrument for 'building a coalition of states' rather than 'uniting of people' as obvious in the provisions for the Union's structure and decision-making process [29].

C. Absence of Mission Support

A well-functioning system for mission support is a critical factor for the success of peace operations, but continues to be the weakest and most neglected

pillar of African peace operations [30]. The difficult security environments in which African peace operations operate entail various challenges as regards mission support. Globalization in this context implies that all conflicts have causes and effects linked to developments in the global system, and it is thus in the interest of the maintenance of global peace and security to find better and more predictable ways in which regional and international partners can work together in mandating the undertaking regional operations [31].

There has been insufficient investment in planning and management of missions, in particular the support pillar [32]. It is obviously difficult to plan for operations when the context is rapidly changing and there is little knowledge of what assets and capabilities will be available [33]. Compounding these challenges, everything – from aviation and fuel to communications – has been dependant on the partners, which is an obvious impediment to mission planning and execution [34].

On the ground, parallel standards exist for troops deployed to UN and AU in the same theatre. Reimbursement rates and support are provided according to the mission to whom one belongs, not the country or situation to which one is deployed [35]. The inequality of reimbursements also impacts on what member-state contributions are made available to what missions (AU and UN). The life-span of equipment decreases and maintenance costs increase because of the nature of the African peace operations [36]. For example, in Somalia the budget for fuel or tyres for vehicles becomes exhausted as tyres are frequently rendered useless because of the prevalence, far beyond mission-planning assumptions, of Improvised Explosives Devices (IEDs) and mines operation [37].

²³ J. A. Adeyeye, "Morocco's Attempt at Joining the Economic Community of West African States (ECOWAS): Legal and Political Considerations" 1 *International Review of Law and Jurisprudence* (2019) pp. 158 – 167 <https://www.nigerianjournalsonline.com/index.php/IRJ/article/view/273/266> accessed 16th July 2019.

²⁴ Ola and Ehiane, (n 14).

²⁵ D. J. Francis, "Peacekeeping in a Bad Neighbourhood: The Economic Community of West African States (ECOWAS) in Peace and Security in West African", 9 *African Journal Online* (2009) p. 90. <<https://www.ajol.info/index.php/ajcr/article/view/52180>> accessed 26 August, 2020.

²⁶ I. Brian-Vincent & J. Dauda, "African Union, Conflict, and Conflict Resolution in Africa: A Comparative Analysis of the Recent Kenya and Zimbabwe Conflict", 1 *International Journal of Development and Conflict* (2011) pp. 61-83.

²⁷ D. Olubomehin & D. Kawonishe "The African Union and Challenges of Regional Integration in Africa" (The African Studies Association of Australia and Pacific (AFSAAP) Annual Conference 26-28 November) University of West Australia. *The African Studies Association of Australia and the Pacific* (AFSAAP) (2004) <<https://afsaap.org.au/assets/olubomehin.pdf>>. Accessed 26 August, 2020.

²⁸ *ibid.*

²⁹ Ola & Ehiani (n 14) 129.

³⁰ D. Hampton, "Creating Sustainable Peacekeeping Capability in Africa" *Africa Security Brief no 27, National Defence University* (2014). <<https://africacenter.org/.../ASB27EN-Creating-Sustainable-Peacekeeping-Capability-in-...>> accessed 13 July, 2019.

³¹ *ibid.*

³² *ibid.*

³³ African Union, Executive Council Twenty-Fifty Ordinary Session, June 20-24, 2014, doc.Ex.cl/828 (XXV) <https://au.int/sites/default/files/decisions/9662-ex_cl_dec_813_-_850_xxv_e-1.pdf> accessed 13 July 2019.

³⁴ *ibid.*

³⁵ *ibid.*

³⁶ J. P. M. Kobbie, "The Role of African Union in African Peacekeeping Operations". Being a Project Submitted to U.S Army War College, Carlisle Barracks, in Partial Fulfillment of The Requirement of Master of Strategic Studies Degree 2009. <<https://apps.dtic.mil/dtic/tr/fulltext/u2/a500610.pdf>> accessed 13 July, 2019.

³⁷ *ibid.*

Contingent-Owned Equipment (COE) remains a significant challenge [38]. Not all TCCs and PCCs have their own equipment, so one option would be to establish a pool of equipment that these can draw from. TCCs could be provided with loans to buy equipment delivered directly to the missions, for subsequent reimbursement.

Another challenge is the issue of maintaining good relations with the host state – a crucial factor in the success (or failure) of most peace operations [39]. In Eritrea, Chad, Burundi, and Sudan, the host government has ejected peace operations; in the DRC and South Sudan, the governments have complained bitterly about the peacekeepers but allowed them to stay [40]. This has generated debate over whether peacekeepers should cross the ‘Darfur line,’ that is, deploy into theater where the host regime officially consents to a mission but erects numerous obstacles to hamper its activities [41]. The other challenge related to consent arises when international actors play a role in deciding who counts as the local de jure authorities, as occurred in Ivory Coast after the contested 2010 elections [42].

The multifaceted mandates assigned to peace operations have also blurred the lines between activities traditionally kept distinct. Numerous contemporary ‘peacekeeping’ operations in Africa have involved war fighting, stabilization, counterinsurgency, counterterrorism, atrocity prevention, state building, and regime-consolidation tasks – particularly in the Central Africa Republic (CAR), Mali, the Democratic Republic of Congo (DRC), and Somalia, where the United Nations and the AU have explicitly designated enemy groups. Most of these tasks far outstrip the current principles and guidelines on which UN peacekeeping is based [43]. Consequently, the need to clarify the limits of peace operations and distinguish them from war fighting, counter-terrorism, or counterinsurgency is urgent [44].

D. Instability of the Government of Some African States

³⁸ Sule, (n 11)

³⁹ Williams, (n 1)

⁴⁰ *ibid.*

⁴¹ B. Jones, R. Gowan and J. Sherman, “Building on Brahimi: Peacekeeping in an Era of Strategic Uncertainty” New York: New York University Center on International Cooperation, (2009) p. 12.

⁴² W. Maathai, “As Protests Engulf North Africa, Where is the Voice of the Africa Union”, *Inter Press Service* <<http://www.ipsnews.net/2011/03/as-protests-engulf-africa-where-is-the-voice-of-the-africa-union>>. accessed on 13th July 2019.

⁴³ United Nations, *Peacekeeping Operations: Principles and Guidelines* (New York: UN Department of Peacekeeping Operations and Department of Field Support, 2008).

⁴⁴ *ibid.*

Despite the optimism at the launch of the AU, African continent has subsequently continued to experience security and governance challenges [45]. An ‘Afro-Arab’ spring swept across north Africa beginning in January 2011, toppling long – ruling autocratic regimes in Tunisia, Egypt and Libya. The emerging state of South Sudan, which was created in July 2011 after five decades of bitter wars, remains fragile. Military coups took place in Mauritania in 2005, Madagascar 2009, Mali and Guinea Bissau in 2012 and part of Ethiopia in 2009 democratic Republic of Congo (DRC) Somalia, Sudan, Central Africa Republic (CAR) continued to experience one turbulent or other [46].

In the case of Mauritania, African countries were even divided when the civilian government of that country was toppled in 2005 [47]. Some African heads of state supported the ouster of the then president, Maaouiya Ould Sid’ Ahmed Taya, citing Taya maladministration, while other African head of state did not support it, relies on African Charter on Democracy and Good Governance [48]. In addition peacekeeping operations are marred by corruption. There are allegations that state contingents bribe their ways to be included in the contingent [49]. There are also reports that it is an avenue for TCC to corrupt them by ear making fund that will never be released to the contingent [50]. As of year 2020, there was still a military coup in Mali bringing back the hand of progress in that West African Country [51].

E. Xenophobic Attacks

One other core challenge faced by Africa is the issue of xenophobic attack especially is South Africa. Xenophobia is hatred of foreigner immigrants in other states [52]. Between 2007 and 2009 hundreds of African

⁴⁵ I.C.C.R./F.E.S., (n 18)

⁴⁶ *ibid.*

⁴⁷ J. A. Adeyeye, “A Dog and Its Bad Name” *The Punch* (Lagos, Nigeria 7 September 2005) 15.

⁴⁸ *ibid.*

⁴⁹ The Punch, “The Plight of Nigerian Peace Keepers” *The Punch* (Lagos, Nigeria 21 April, 2008) 19; O Dare ‘ECOMOG: A Time to Account’ *The Nation*, (Lagos, 2 August 2008) 32; The Herald, ‘Azazi denies Embezzlement of Soldiers Entitlements’, *The Herald* (Ilorin 14 July 2000) 1-2; F Sorowei ‘ Army Grants 27 Convicted Soldiers Pardon’, *Saturday Punch*, (Lagos, Nigeria 4 December ,2010) 28.

⁵⁰ *ibid.*

⁵¹ Aljazeera News Network “Mali Coup Leader meet Mediators seeking return to Civilian Rule” (2020) <<https://www.aljazeera.com/news/2020/08/mali-coup-leaders-meet-mediators-seeking-return-civilian-rule-200823000202483.html>> accessed 27 August, 2020.

⁵² I.C.C.R./F.E.S., (n 18) 24: A. Adepegba and R. Olademeji “South African Minister’s Comments on Xenophobic Attacks Reprehensible” *The Punch* February 27,2017: J. W. Swigert “Challenges of Peacekeeping in Africa” Statement Before the Africa Subcommittee of the House International Relations Washington, D.C. (2004)

immigrants have been killed. It is still this same Africans that will be meeting on peace keeping missions without resentment for one another [53]. Xenophobic attacks are flagrant disrespect for rule of law and other international legal instruments [54]. It is important to note that people migrating in search of safer and more prosperous living conditions is as old as man and the right of any person to leave any country is enshrined in the 1948 Universal Declaration of Human Rights and the 1965 International Convention on the Elimination of All Forms of Racial Discrimination [55]. The International Covenant on Civil and Political Rights [56] provides for the rights to life [57], and security of person [58]. - and States have an obligation to ensure these 'without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status', [59] as contained in the International Convention on the Elimination of All Forms of Racial Discrimination [60].

III. Emerging Issues

Under this sub-heading, we shall discuss Funding, Training and Logistics, Human Rights and Humanitarian Rights Abuses, Health Challenges and other social problems. Others are; Human Trafficking, Rape/ Sexual Offenses, Abduction and Child Soldiers.

IV. Funding

Peace operations in Africa also face a range of financial challenges [61]. The United Nations maintains a workable system to pay for its operations, though powerful member states generally try to keep missions

as small as possible [62]. In contrast, the AU has a system on paper that has never worked effectively in practice, leaving the AU in a constant search for predictable, sustainable, and flexible funding [63]. The fundamental problem is the lack of major indigenous sources of funding, which has left the AU unable to deploy and sustain peace operations in the field. As a result, African calls for local ownership and leadership are dramatically undermined. This financial reality is reflected in the AU's 2015 budget, in which only \$8.7 million (2.3 percent) of its programmatic budget of \$379 million is paid for by AU member states: external partners, including the United States, are expected to pay the rest [64].

Despite the strategic and financial problems, peacekeepers in Africa are routinely mandated to carry out complex, multifaceted, and difficult tasks in highly volatile environments [65]. For example, the most recent UN operation, the Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), was mandated to implement twenty-seven priority tasks and fourteen additional tasks ranging from protecting civilians 'from threat of physical violence' to seizing illicit weapons and promoting 'the rapid extension of state authority' [66]. Most peacekeepers in Africa work in active war zones where there is no peace to keep—a trend reflected in the now-regular deployment of Special Forces in several theaters, notably Mali, the DRC, and Somalia. Unsurprisingly, more peacekeepers are dying as a result [67].

<<https://20012009.state.gov/p/io/rls/rm/2004/39154.htm>> accessed 13th July 2019.

⁵³J.A Adeyeye "Xenophobic Attacks: Implications for African Union Constitutive Act", 6 *Lexigentia: Law Journal of Lloyd Law College* (2019) pp.56-80. www.lldlawcollege.edu.in accessed 28 August, 2020.

⁵⁴ *ibid.*

⁵⁵The Universal Declaration of Human Rights (U.D.H.R) is a declaration adopted by the United Nations General Assembly (U.N.G.A) on December 10, 1948. See generally Articles 5 and 12. And also the international Covenant on Civil and Political Rights adopted by the U.N.G.A on December 16, 1966, and which entered into force on March 23, 1976; Articles 2, 17 (i) thereof.

⁵⁶ U.N. General Assembly, *International Covenant on Civil and Political Rights, United Nations, Treaty Series*, 999 <<http://www.unhcr.org/refworld/docid/3ae6b3aa0.html>>, accessed Aug. 14, 2018.

⁵⁷ *ibid.*, Article 6.

⁵⁸ *ibid.*, Article 9.

⁵⁹ *ibid.*, Article 2.

⁶⁰ U.N. General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination, United Nations, Treaty Series*, 660, <<https://www2.ohchr.org/english/law/cerd.htm>> accessed Aug. 14, 2018.

⁶¹ Kobbie, (n 39).

⁶² *ibid.*

⁶³The Protocol Relating to the Establishment of the Peace and Security Council of the African Union (2002) stipulates a funding system whereby member states contributing contingents bear the cost of their participation during the first three months and the AU commits to reimburse those states within a maximum period of six months and then proceed to finance the operation. It was not until January 2013 that the AU, for the first time, decided to cover part of the cost of one of its peace support operations (the African stabilization mission in Mali, AFISMA) from assessed contributions of AU member states.

⁶⁴ Contingents bear the cost of their participation during the first three months and the AU commits to reimburse those states within a maximum period of six months and then proceed to finance the operation. It was not until January 2013 that the AU, for the first time, decided to cover part of the cost of one of its peace support operations (the African stabilization mission in Mali, AFISMA) from assessed contributions of AU member states.

⁶⁵ Williams (n 1).

⁶⁶ U.N. Security Council, Resolution 2149, April 10, 2014.

⁶⁷ More than one hundred U.N. peacekeepers have died in all but one of the last twelve years. Most UN fatalities remain due to illness, especially in Africa's malarial zones, rather than malicious attacks, which have remained relatively steady over the last decade. The AU, however, has suffered the majority of its fatalities during combat in its Somalia operation.

The United States is the single largest financial supporter of UN and African peace operations in Africa. Washington provides voluntary support to the overall budget of the AU, as well as support to countries involved in peace operations. At the United Nations, the United States is part of a periodic process that currently sets its assessed contributions at 22 percent of the regular budget (which covers special political missions) and 28.4 percent of the peacekeeping budget [68]. Since the United States is a UN member state, these contributions are international treaty obligations [69]. In 1994, however, Congress capped the U.S. contribution, appropriated through its Contributions for International Peacekeeping Activities (CIPA) account, to the UN's assessed peacekeeping budget at 25 percent of the total. Since then, each administration needs to acquire an annual waiver to pay its obligations at the assessed rate above the 25 percent cap, which Congress has refused for the last two years [70]. Part of President Obama's commitment to supporting and reforming UN peacekeeping operations involves increasing U.S. financial support to peace operations in Africa, including efforts to clear the backlog of arrears [71].

In September 2014, the United States organized another summit convened by Vice President Joe Biden that succeeded in generating new peacekeeping commitments from more than thirty countries [72]. Biden said the US would 'review' its contributions to peacekeeping by assessing gaps Washington 'is uniquely positioned to fill,' sharing the US military's knowledge of 'confronting asymmetric threats,' and helping the UN 'deploy advanced technology' [73]. The review of US contributions is ongoing indeed; there have been internal reviews of one sort or another for the last few years within US government agencies [74].

But the summit did lead to the UN unprecedented purchase of US expeditionary bases for its mission in the CAR, considerable interest from the UN Mine Action Service in whether it could acquire V-shaped anti-mine vehicles for its operations, and the deployment of a US army-assessment team to evaluate how the UN mission in Mali can counter IED threats [75]. Even as at 2020, the AU could not start to use fund

for its peacekeeping operations because the fund was less than expected. So many AU member countries could not fulfill their financial obligations to the continental body, AU has therefore postponed the usage of the fund still 2023 when hopefully other defaulting countries would have paid up [76].

A. Training and Logistics

One of the serious problems confronting AU peacekeeping operations is in the area of training and logistics [77]. The peacekeepers are not adequately trained for the operation. Peacekeepers do not know the differences between operational mandate and Status of Forces Agreement (SOFA) the mandate of peacekeeping operation must be distinguished from the legal basis regulating the implementation of the mandate [78]. The legal framework is founded on SOFA that is concluded between the UN and host state. Among other things, the SOFA allows the establishment of the mission; importation of equipment and flying right; and incorporates the privileges and immunities of the peacekeepers which define the legal limits that peacekeepers are bound to when implementing a mandate's broad objective and specific instructions [79]. For example, while a mandate will include a request for ceasefire verification, the legal framework will ensure operation needs of the mission and that, unless the UN waves immunity, in the event any peacekeeper commits a crime during such the duration of the mission, he or she will not be subject to the host state's legal system [80]. The SOFA sets specific terms for the conduct, privileges, immunities, and jurisdictions of the military and civilian employee on matters such as criminal and civil jurisdiction [81].

Peace enforcement operations typically require that the intervening organization be willing to employ

⁷⁶The Guardian, "African Union delays plan to start using Fund for Security Operations" *The Guardian*, Wednesday, February 12, 2020, 9.< www.guardian.ng> accessed 13 February, 2020, p. 9.

⁷⁷M. Ndulo, "United Nation Peacekeeping Operation and Security and Reconstruction" *Cornell Law Library* (2011) < scholarship.law.cornell.edu/facpub/188> accessed 13 July, 2019.

⁷⁸ibid.

⁷⁹S. Sheeran and others, *U.N Peacekeeping and the Model Status of Forces Agreement*, London, University of Essex, (2010) p. 75 <[file:///C:/Users/user/Downloads/Model%20SOFA%20Preliminary%20Report%20\(August%202010\)%20\(.pdf\).pdf](file:///C:/Users/user/Downloads/Model%20SOFA%20Preliminary%20Report%20(August%202010)%20(.pdf).pdf)> accessed 26 August, 2020.

⁸⁰U.N. Department of Peacekeeping Operations, Peacekeeping Best Practices Unit, Handbook on United Nations: Multidimensional Peacekeeping Operations (2003) p. 13. <https://peacekeeping.un.org/sites/default/.../peacekeeping-handbook_un_dec2003_0.pdf> accessed 13th July 2019.

⁸¹ibid.

⁶⁸Williams (n 1).

⁶⁹ ibid.

⁷⁰ ibid.

⁷¹D. Brooks, "Army Leaders Discus Benefits of a Regionally Aligned Force", *Fayetteville Observer*, <<https://www.fayobserver.com/article/20141015/news/310159756>> accessed 13th July 13, 2019.

⁷² The Guardian (Nigeria), August 10, 2014<www.guardiannews.com> accessed 11 July, 2019.

⁷³ ibid.

⁷⁴ ibid.

⁷⁵Brooks, (n 71).

offensive force to deny one or more parties the option of using violence to achieve their political aims [82]. In other words, peace enforcement operations imply that the intervening force must be willing and able to engage in combat, and this implies that TCCs must have the will and means to use force [83]. In the AU experience to date, the only countries that have been willing to do that are those whose national security interests are affected by the conflict, for instance, Ethiopia, Djibouti, and Kenya in Somalia, or those that have national strategic interests to do so, for instance, Burundi and Uganda in Somalia [84]. This is an aspect of peace enforcement that is fundamentally different from UN peacekeeping, where the impartiality principle implies that TCCs should have no interest in the conflict [85].

It also helps to further explain why UN peacekeeping operations are not well suited for combat operations [86]. Another requirement for peace enforcement operations is that the command and control system should be geared for combat. In the AU context, civilian leadership and military command can range on a spectrum from a lead-nation approach, such as in the early days of AMISOM, to a more networked approach, as in the case of the Lord Resistance Army (LRA) and Boko Haram operations [87].

In networked approaches, the AU provides strategic-level political direction and coordination, but the members of the coalition act independently and coordinate at the operational and tactical levels [88]. In a lead-nation approach, for instance when South Africa led the AMIB, unity of command is achieved through the core capabilities contributed by the lead-nation, and by providing overall command and control to the whole operation [89].

Often, as is the case also in AMISOM in Somalia, each major TCC has control over a sector

⁸²D. Warner, *Human Right and Humanitarian Law: the Quest for Universality*, The Hague, Martinus Nijhoff Publishers, (1997) p. 131.

⁸³ibid.

⁸⁴ ibid.

⁸⁵ ibid.

⁸⁶ C. De Coning, "Peace Enforcement in Africa: Doctrinal distinctions between the African Union and United Nations" 38 *Contemporary Security Policy* (2017) pp. 145-160.

<<https://www.tandfonline.com/doi/full/10.1080/13523260.2017.1283108>> accessed 13 July, 2019.

⁸⁷ E. Barlow "The Rise, Fall, and Rise Again of Boko Haram" *Vojta Drmota for Harvard International Review* (2017)<<http://hir.harvard.edu/article/?a=14477>> accessed 16 July, 2019.

⁸⁸ A.U, Policy Framework for the Establishment of the African Standby Force and Military Staff Committee, Addis Ababa, Ethiopia (2003)< www.peaceau.org/.../policy-framework-for-the-establishment-of-the-african-standby-f-...> accessed 13 July, 2019.

⁸⁹ ibid.

within which it is able to employ its national command and control system, according to its national doctrine, at the tactical level [90]. The Force Commander, typically from the lead-nation, thus has control over own national forces and coordinates with the sector commanders of the other TCCs to try to ensure as much strategic coherence and overall unity of command as is possible under the circumstances [91].

The AU's stabilization operations should, however, not be misunderstood as an attempt to impose a military solution on a conflict [92]. They are a part of a larger political intervention where the role of the peace support operations is to contain violence and generate stability so that political solutions can be pursued [93]. The AU has, either as part of its stabilization operations or simultaneously, used its special envoys, special political missions, and good offices tools to seek lasting political solutions, overseen ultimately by the political direction provided by the PSC and Assembly of Heads of State and Government [94].

B. Human Rights and Humanitarian Rights Abuses

International human rights law is an integral part of the normative framework for UN peacekeeping operations [95]. The Universal Declaration of Human Rights, which sets the cornerstone of international human rights standards, emphasizes that human rights and fundamental freedoms are universal and guaranteed to everybody [96]. UN Peacekeeping Operation should be conducted in full respect of human rights and should seek to advance human rights through the implementation of their mandate [97].

⁹⁰ ibid.

⁹¹ ibid.

⁹² A.U. communiqué of the 565th meeting of peace and Security Council of the African Union held on 17th December 2015. Addis Ababa < www.peaceau.org/.../communique-of-the-565th-meeting-of-the-psc-on-the-situation-i-...> accessed 13th July 2019.

⁹³ R. Smith, *The Utility of Force: The Art of War on the Modern World* London, Knopf, (2007) p. 150

⁹⁴ L. Gelot, *Legitimacy, Peace Operations and Global-Regional Security: the African Union-United Nations Partnership in Darfur*. London, Routledge, (2012) p. 201; M. Peter "Between Doctrine and Practice: The U.N Peacekeeping Dilemma" *Global Governance* (2015) pp. 351-370.

<https://www.researchgate.net/.../283466878_Between_Doctrine_and_Practice_The_UN_...> accessed 13 July, 2019.

⁹⁵ J. Darcy, "Human Rights and Humanitarian Action: A Review of the Issues" *A Background Paper Prepared for the Workshop on Human Rights and Humanitarian Action Convened by the IASC Sub-Working Group and co-hosted by UNICEF, THE UN High Commission for Human Rights and ICVA*, Geneva (2004)

<<https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/2311.pdf>> accessed 26 August, 2020.

⁹⁶ibid.

⁹⁷ibid.

AU Peacekeeping personnel-whether military, police or civilian-should act in accordance with international human right law and understand how the implementation of their tasks intersect with human right [98]. Peacekeeping personnel should strive to ensure that they do not become perpetrators of human rights abuses [99]. They must be able to recognize human rights violation or abuse, and be prepared to respond appropriately within the limit of their mandate and their competence [100].

International and managerial law is known also as ‘the law of war’ or ‘the law of armed conflict’ and restricts the means and methods of armed conflict [101]. International or humanitarian Law is contained in four Geneva Convention of 1949 [102] and their two Additional Protocols of 1977 [103], as well as in rules regulating the means and methods of combat. International or managerial law also includes conventions and treaties on the protection of cultural properties and the environment during armed conflict, as well as protection of victims of conflict [104].

International or humanitarian law is designed to protect person who do not participate, or are no longer participating, in the hostilities; and it maintains the fundamental rights of civilians, victims and non-combatant in an armed conflict [105]. It is relevant to AU Peacekeeping operations because these missions are often deployed into post-conflict environments where violent may be ongoing or conflict could reignite [106]. Additionally, in post-conflict environment there are

⁹⁸J. Darcy and C. A. Hofmann, According to Need? Needs Assessment and decision making in the Humanitarian Sector, *HPG Report* 15, ODI, London < <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion.../285.pdf> > accessed on 17 July, 2019.

⁹⁹ibid.

¹⁰⁰ibid.

¹⁰¹N. Leader, “The Politics of Principles: The Principles of Humanitarian action in Practice”, *HPG Report* 2 ODI, London (2000). < <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion.../305.pdf> > accessed on 17 July, 2019.

¹⁰² Geneva Convention of 1949 <<https://www.icrc.org/en/.../geneva-conventions/overview-geneva-conventions.htm> > accessed on 17 July, 2019.

¹⁰³ Two Additional Protocols 1 and 2 to the Geneva Convention, 1977

<<https://www.icrc.org/eng/resources/documents/misc/additional-protocols-1977.htm>> accessed on 17 July, 2019.

¹⁰⁴ ibid.

¹⁰⁵ Report of the International Commission on Intervention and States Sovereignty (The Responsibility to Protect). <<http://www.dfait-maeci.gc.ca>> accessed on 17 July, 2019.

¹⁰⁶ ibid.

often large civilian populations that have been targeted by the warring parties, prisoners of war, and other vulnerable groups to whom the Geneva Convention or other humanitarian law would apply in the event of further hostility [107].

C. Health Challenges and other Social Problems.

One of the major health concerns surrounding AU peacekeeping is the potential for peace keepers to be ‘vectors’ of disease – to spread infection through the local community [108]. As well as the obvious negative health impact on affected civilians, such events can have a number of other damaging effects including straining relations between mission and the host community, worsening a crisis situation by imposing a new disease burden, and potentially making parties to conflicts less willing to consent to the presence of an AU mission [109].

Prior to 2010, Human Immune Virus (HIV)/ Acquired Immune Deficiency Syndrome (AIDS) were the most prominent issue in this regard [110]. Although, the Security Council was primarily concerned about peacekeeper health, its first deliberations on HIV/AIDS in 2000 were also promoted in part by the fear that peacekeeping personnel could spread HIV among the local population [111]. In Resolution 1308 the Security Council.

“Request(ed) the Secretary-General to take further steps towards the provision of training for peacekeeping personnel on issues related to preventing the spread of HIV/AIDS and to continue the further development orientation and ongoing training for all peacekeeping personnel on these issues” [112].

¹⁰⁷ D. Rieff, *A Bed for the Night: Humanitarianism in Crisis*, London, Vintage, (2002) p. 150.

¹⁰⁸ Associated Press, “UN Announces First Two Deaths of the Peacekeepers from COVID 19” <<https://www.theglobeandmail.com/world/article-un-announces-first-two-deaths-of-peacekeepers-from-covid-19/>> accessed 31 May, 2020. The U.N. Secretary General while announcing the deaths of the first tow peacekeepers in UN peacekeeping operations also stated that the all UN peacekeeping operations worldwide there are now 137 confirmed cases: 90 in Mali, 21 in DR Congo, 17 in Central Africa Republic (CAR), 3 in South Sudan, 3 in Cyprus, 1 in Lebanon, 1 in Darfur Sudan and 1 in UN Truce Supervision Mission in the Middle East; See also The Herald, (Nigeria) ‘UN Bars Nigerian Police Officer from Peacekeeping Missions Over Sexual Assault on Congolese Woman’ < www.Nigeria.herald.ng > accessed 3 October, 2018.

¹⁰⁹ ibid.

¹¹⁰ ibid.

¹¹¹ H. Feldbaum, K Lee and P Patel ‘The National Security Implication of the Pandemic of HIV/AIDS’ [2016] (3) (6) *PloS Med* <https://doi.org/10.1371/journal.pmed.0030171> accessed on 17th July 2019.

¹¹² U.N. Security Council Resolution 1308 (July, 17, 2000), UN Doc, S/RES/1308.

The concern that peacekeepers could infect members of the host population with HIV was again highlighted in Resolution 1983 in 2011, which called for a strengthening of 'efforts to implement the policy of zero tolerance of sexual exploitation and abuse in AU missions' [113] This policy is clearly broader than HIV in its concerns (being partly in response to a number of sexual abuse scandals involving peacekeeping personnel) but also addresses it and other sexually transmitted infections [114].

Since 2010, however, the cholera in Haiti, which was traced back with some confidence to UN peacekeepers, has been at the forefront of debates around the responsibility of missions to protect the health of the host population. It is also the clearest example in the history of peacekeeping of the detrimental health impact that missions can have [115].

The cholera crisis in Haiti first became apparent in October 2010, only a few months after the earthquake that devastated much of Port-au-Prince and the surrounding area. Cholera spreads rapidly and can cause severe illness very quickly. Infected patients can die within twelve hours. This rapid onset was certainly evident in Haiti-previously a cholera-free country, where those infected would have had no pre-existing immunity. In the case of over hospital, St. Nicolas Hospital in saint-Marc in the Artibonite River Delta, there were 404 hospitalization of suspected cholera cases on October 20th alone (one every 3.6 minutes) and 44 deaths [116]. It would be difficult for any health system to deal with such a rapidly developing public health emergency, let alone one as under-equipped and under-resourced as that found in Haiti [117].

As the first occurrence of cholera in Haiti for over a century, the outbreak caused immediate

speculation over its source [118]. Amid accusations from some quarters that soldiers serving with MINUSTAH were responsible for introducing cholera to the country, UN Secretary-General Ban Ki-moon convened an independent panel to investigate the outbreak.

The panel used a variety of approaches in its work including molecular analysis of samples, epidemiology and hydrological analysis, and visits to hospitals and medical facilities. Although the panel's final report did not provide conclusive evidence that the origins of the outbreak lay with Nepalese peacemaking troops, it did find that it originated in Mirebalais (the site of a MINUSTAH camp) and that the bacteria was of the type found in South Asia.

Examination of the MINUSTAH camp found deficiencies in the pipe work in the toilet/showering area, which could have led to the contamination of an open drainage ditch, as well as a nearby open septic pit into which 'black water waste' (including human feces) was emptied. This was another potential source of the contamination of the local river system [119]. The report's authors concluded. 'The sanitation conditions at the Mirebalais MINUSTAH camp were not sufficient to prevent contamination of the Mere Tributary System with human fecal waste' [120]. The report also strongly emphasized the fact that the outbreak, which it stressed 'was not the fault of, or deliberate action of, a group or individual', was exacerbated by a range of circumstances, including poor water and sanitation provision in Haiti; the regular use of river water for washing, bathing, and drinking; the lack of immunity among the Haitian population; and poor facilities and conditions in hospitals treating patients [121].

In an article written after the publication of their report, the members of the independent panel reflected on the reaction to it-of particular interest was the UN's reaction. The immediate response of the organization, the panelists noted, was to argue that the report did not present 'conclusive scientific evidence links the outbreak to the MINUSTAH peacekeepers or the Mirebalais camp' and that 'anyone carrying the relevant strain of the disease in the area could have introduced the bacteria into the river' [122]. In November 2011, a group of NGOs filed a legal case against the UN on behalf of 5,000 victims of the cholera outbreak. In response, the UN asserted its legal

¹¹³ U.N Security Council Resolution 1983 (June 7, 2011), UN Doc. S/RES/1983.

¹¹⁴ U.N. Department of peacekeeping Operations "Conduct and Discipline" 2014, <www.un.org/en/peacekeeping/issues/cdu.shtml> accessed 9 July, 2019. The policy forbids 'sexual relations with prostitutes and with any person under 18, and strongly discourage relations with beneficiaries of assistance(those that are receiving assistance food, housing, aid, etc....as a result of a conflict, natural disaster or other humanitarian crisis, or in a development).

¹¹⁵ I. Kurzban, B. Lindstrom and S. Jonsson, panel of discussion by American Society of International Law on Haiti Cholera Crisis <<https://www.bu.edu/ilj/2014/11/03/access-to-justice-for-victims-of-cholera-in-haiti-accountability-for-u-n-torts-in-u-s-court/>> accessed 9 July, 2019.

¹¹⁶ A. Cravioto and others, 'Final Report of the Independent Panel of Experts on Cholera Outbreak in Haiti,' May 4, 2011, 16, <www.un.org/News/dh/infocus/haiti/UN-cholera-report-final.pdf> accessed 09 July, 2019.

¹¹⁷ *ibid.*

¹¹⁸ *ibid.*

¹¹⁹ L. C. Ivers, "First Case of Cholera in Haiti" <<https://www.ncbi.nlm.nih.gov/pubmed/22232448>>. accessed on 17 July, 2019.

¹²⁰ *Ibid.*, 23.

¹²¹ *ibid.*

¹²² D. Lantagne, G. B Nair, C F Lanata, and A Cdravioto, "The Cholera Outbreak in Haiti: Where and How it Begin" 379 *Current Topics in Microbiology and Immunology* (2013) pp. 145-164.

immunity, and Ban Ki-moon made it clear that the UN would not compensate victims [123]. Further suits were later filed, including a class-action one in a New York court by Marie Laventure, whose parents had died, and others in March 2014 that argued that the UN had waived its immunity in the Status of Forces Agreement [124] reached with the government of Haiti [125]. Yet, outside of the courts, the UN has been making efforts to address some of the health-related issues that have arisen in Haiti, including Secretary-General Ban Ki-moon's backing of an appeal to eliminate cholera in Haiti and the use of MINUSTAH's logistical capabilities to help battle the epidemic [126].

Added to this, is the Ebola outbreak in Liberia where it was reported that a Nigerian peacekeeper contacted Ebola in that country [127]. In 2013 – 2014 there was serious outbreak of Ebola virus in Liberia, Sierra Leone and Guinea which housed both the UN and AU peacekeepers. The peacekeeper was promptly evacuated to The Netherlands for treatment. Ebola is a highly communicable disease that spreads quickly. It took the invention of the international community to eradicate the virus from the above mentioned countries [128].

D. Human Trafficking

Human trafficking is a destructive phenomenon afflicting many post-conflict environments and, which can seriously impede AU peacekeeping and other United Nations objectives in host countries [129]. The trafficking of human beings is a serious crime and a severe form of exploitation and abuse which perpetuates insecurity, vulnerability and grave human rights abuses suffered by post-conflict societies. This is

particularly so in situations where serious human rights violations and exploitation - such as sex slavery, forced labour (including child soldiers), forced pregnancy, forced pregnancy terminations and systematic rape campaigns - have been perpetrated during conflict, often as an organised feature of the conflict. The main victims of human trafficking are women and, very frequently, children.

An agreed definition of human trafficking now exists under Article 3 of the 'Palermo Protocol' on trafficking in persons [130]. Which has come into force on 25 December 2003. This internationally agreed definition focuses on exploitation of human beings – be it for sexual exploitation, other forms of forced labour, slavery, servitude, or for the removal of human organs. Trafficking takes place by criminal means through the threat or use of force, coercion, abduction, fraud, deception, abuse of positions of power or abuse of positions of vulnerability. It relates to all stages of the trafficking process: recruitment, transportation, transfer, harbouring or receipt of persons. Trafficking is not just a transnational crime across international borders - the definition applies to internal domestic trafficking of human beings [131].

In the peacekeeping context, human trafficking is simultaneously a gross violation of individual human rights and an assault on the rule of law. Human trafficking in post-conflict environments feeds social vulnerability and, in many instances, it is a major organized crime activity, which undermines the rule of law and supports the corruption of power structures, thus impacting on efforts to build a sustainable peace. Human trafficking is a low risk, high revenue primer for organized crime activities. Often the same figures that were in a position to exploit war-time economies are in a position to move quickly into high revenue, illicit goods and service economies in post-conflict environments [132].

Trafficking is a process which seeks out vulnerable individuals, and then exacerbates their vulnerability (through violence, forced movement, slavery, servitude, coercion, threat and / or deceit) and then subjects them to severe exploitation - often forced prostitution or forced labour - to generate revenue for a third party, often organised crime networks. As it is a fast, low cost, low risk and high revenue activity, organised crime groups may use human trafficking as

¹²³ R. Roshan, K. Lall and E. Pilkington, "UN Will Not Compensate Haiti Cholera Victims, Ban Ki-moon tells President," (The Guardian, February 21, 2013). <www.theguardian.com/world/2013/february/21/un-haiti-cholera-victims-rejects-compensation> accessed 9 July, 2019.

¹²⁴ United Nations, *Agreement between the United Nations and Government of Haiti Concerning the Status of the United Nation Operation in Haiti*, (Port-au-Prince, July 9, 2004) <<http://opinionjuris.org/wp-content/uploads/4-status-of-forces-agreement-1.pdf>> accessed 9 July 9, 2019.

¹²⁵ *La Venture and others v United Nation and others* [2014], 1:14-cv-01611 (New York Eastern District Court, , <www.documentcloud.org/documents/103738-140311-laventure-v-un-field-complaint-2.html> accessed 9 July, 2019.

¹²⁶ United Nations Stabilization Mission in Haiti, 'Cholera Outbreak in Haiti'

<www.un.org/en/peacekeeping/missions/minorstah/emergency.shtml> accessed 9 July 2019.

¹²⁷ L. Akande, 'Nigerian Peacekeeper in Liberia Contracts Ebola, says UN', *The Guardian* (Lagos Nigeria, 28 December, 2014) p. 4.

¹²⁸ *ibid.*

¹²⁹ Darcy and Hofmann (n 98).

¹³⁰ Protocol to Prevent, Suppress and Punish Human Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention Against Transnational Organized Crime (2000). <<https://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>> accessed 26 August, 2020.

¹³¹ Rieff, (n 107)

¹³² *ibid.*

an early method to test routes and to identify corruptible officials [133]. Once routes are established, commodities such as drugs and weapons are often used along the same routes. If rule of law and political structures are corrupted, then organised crime is very difficult to weaken making good governance and rule of law reform even more difficult to pursue [134].

E. Rape/ Sexual Offences

Sexual violence in conflict is not a new phenomenon [135]. Throughout history, armies have considered rape to be one of the legitimate spoils of war, and sexual violence was tacitly accepted as unavoidable through the early twentieth century [136]. In recent decades, however, successive legal rulings have outlawed sexual violence and recognized it as a crime against humanity and war crime, beginning in 1992, when the UN Security Council declared the massive, organized, and systematic detention and rape of women in the former Yugoslavia to be an international crime [137]. This decision paved the way for more robust adjudication of such incidents worldwide [138]. Today, sexual violence in conflict can violate national criminal law and international law and constitute a war crime, crime against humanity, or act of genocide—even in the absence of death [139]. It can be perpetrated against women, men, girls, or boys by uniformed members of an army, members of a non-state armed group or terrorist organization, or civilians. Perpetrators are predominantly but not exclusively male; examples from the DRC, Rwanda, and elsewhere demonstrate that women have played active roles in all aspects of armed conflict, including ordering or perpetrating rape [140].

In 2017, the United Nations identified forty-six parties to ten conflicts as ‘credibly suspected’ of committing rape or other forms of sexual violence; seven of the parties were designated as ‘terrorist Groups’ because of links with the Islamic State and al-Qaeda [141]. Yet though some conflicts are characterized by widespread sexual violence, not all are. A significant number of armies and rebels in recent wars did not rape civilians: one analysis of 177 armed groups in twenty African countries found that 59 percent were not reported to have committed sexual violence [142]. Another analysis of ninety-one civil wars between 1980 and 2012 revealed that 17 percent were not characterized by sexual violence [143]. Variation in prevalence is driven in part by leaders of armed organizations who, based on ideology, alternatively may order, tolerate, or prohibit rape by their soldiers; therefore, understanding the conditions that foster sexual violence in conflict is critical to improving responses to the practice in different contexts [144]. Contrary to conventional wisdom, factors such as state failure, prevalence of contraband funding, and abduction of fighting forces are better predictors of sexual violence than ethnic warring [145].

¹³³ *ibid.*

¹³⁴ H. Slim, “Not Philanthropy but Rights: Right-Based Humanitarianism and the Proper Politicization of Humanitarian Philosophy in War”, *International Journal of Human Rights* (2010) p. 85. <<https://www.tandfonline.com/doi/abs/10.1080/714003759>> accessed 26 August, 2020.

¹³⁵ J. Bigio and R. Vogelstein “Countering Sexual Violence in Conflict” *Council on Foreign Relations; Center for Preventive Action Women and Foreign Policy* (2017). <<https://www.cfr.org/report/countering-sexual-violence-conflict>> Accessed 16 July, 2019.

¹³⁶ *ibid.*

¹³⁷ *ibid.*

¹³⁸ M. Forst, “Technical Assistance and Capacity-Building: Report of the Independent Expert on the Situation of Human Rights in Haiti”, UN Human Rights Councils, March 2009,

<<http://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.5.pdf>> accessed 16 July, 2019.

¹³⁹ Conflict-Related Sexual Violence as defined by the United Nations can take the form of rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls, or boys that is linked to a conflict.

¹⁴⁰ For example, the cases against Agnes Ntamabyariro and Pauline Nyiramasuhuko for crimes against humanity in

Rwanda, including ordering, aiding, and abetting rape; K. Johnson, and others, “Association of Sexual Violence and Human Rights Violations with Physical and Mental Health in Territories of the Eastern Democratic Republic of the Congo”, (304) *Journal of the American Medical Association*, (2010) pp.53–62; L. Sharlach, “Gender and Genocide in Rwanda: Women as Agents and Objects of Genocide”, 1 *Journal of Genocide Research* (1999) p.16; P. Landesman, “A Woman’s Work”, (*New York Times Magazine*, September 15) (2002) <<http://www.nytimes.com/2002/09/15/magazine/a-woman-s-work.html?mcubz>> accessed 11 July, 2019.

¹⁴¹ United Nations (U.N), “Report of the Secretary-General on Conflict-Related Sexual Violence” S/2017/249, April 15, 2017, <<http://www.un.org/en/events/elimination-of-sexual-violence-inconflict/pdf/1494280398.pdf>> accessed 11 July, 2019.

¹⁴² D. K. Cohen and R. Nordås, “Do States Delegate Shameful Violence to Militias? Patterns of Sexual Violence in Recent Armed Conflicts” 59 *Journal of Conflict Resolution*, (2015) pp. 77–98.

¹⁴³ D. K. Cohen, “Explaining Rape During Civil War: Cross-National Evidence (1980–2009)” August 2013, <<http://www.belfercenter.org/publication/explaining-rape-during-civil-war-cross-national-evidence-1980-2009>> accessed 11 July, 2019; R. Nordås, “Sexual Violence in African Conflicts” *CSCW Policy Brief No. 1, Peace Research Institute Oslo*, (2011),

<<https://www.prio.org/utility/DownloadFile.ashx?id=204&type=publicationfile>> accessed 11 July, 2019.

¹⁴⁴ D. K. Cohen, A. H. Green and E. J. Wood, “Wartime Sexual Violence” Special Report no. 323, (United States Institute of Peace, February 2013), <<https://www.usip.org/sites/default/files/resources/SR323.pdf>> accessed 11 July, 2019.

¹⁴⁵ Cohen (n143).

Conflict-related sexual violence varies widely in form and severity. Groups or individuals commit conflict-related sexual violence for any number— or combination—of reasons, including as a deliberate tactic of war, an act of opportunism, a form of troop payment, an effort to build group cohesion, or a tool of ethnic destruction [¹⁴⁶].

Sexual violence in conflict zones can be employed as a deliberate tactic to terrorize civilians. The strategic nature of such violence is manifested by the selective targeting of victims from opposing ethnic, religious, or political groups, mirroring the fault lines of the broader conflict or crisis. The brutality of conflict-related sexual violence, as well as the shame and stigma suffered by survivors, is integral to the logic behind sexual violence as a tactic of war and terror. Armed or extremist groups and individual aggressors employ this tool to denigrate the enemy, create stigma, and unravel protective kinship networks [¹⁴⁷].

In recent years, conflict-related sexual violence has emerged as a core element of the ideology and operation of extremist groups, such as Boko Haram and the Islamic State [¹⁴⁸]. These groups use sexual violence to terrorize populations into compliance, displace civilians from strategic areas, and entrench an ideology of suppressing women's rights to control reproduction and provide labor [¹⁴⁹]. Some violent extremist groups also promote the enslavement of women and girls as a form of currency in a shadow economy, generating revenue from sex trafficking, sexual slavery, and extortion through ransom. For example, the United Nations estimates that ransom payments extracted by the Islamic State from the Yazidi community amounted to between \$35 million and \$45 million in 2014 alone

¹⁴⁶ United Kingdom Foreign & Commonwealth Office, "A Declaration of Commitment to End Sexual Violence in Conflict", September, 2013, <<https://www.gov.uk/government/publications/a-declaration-of-commitment-to-end-sexual-violence-in-conflict> > accessed on 16 July, 2019; J. Kerry and W. Hague, "Preventing Sexual Violence Is a National Security Imperative" *Huffington Post*, <http://www.huffingtonpost.com/johnkerry/preventing-sexual-violence_b_4856070.html> accessed on 16 July, 2019.

¹⁴⁷ *ibid*.

¹⁴⁸ Bigio and Vogelstein, (n 135); T. Appiah. "Peacekeeping and Regional Lessons Learned for a Code of Conduct", *Paper Presented at the Preparatory Meeting on the Draft West African Code of Conduct for the Armed and Security Forces, Accra, 24-26 October, 2005*. <https://www.researchgate.net/publication/281209818_Chapter_11_When_Military_Leaders_Differ_from_Their_Political_Leaders_Overcoming_Leadership_Challenges> accessed 26 August, 2020.

¹⁴⁹ U.N. "Sound of Silence: Dealing with the Legacy of Sexual Violence as a Weapon of War" (2014) <<https://www.unfpa.org/news/sound-silence-dealing-legacy-sexual-violence-weapon-war>> accessed 27 August, 2020.

[¹⁵⁰]. And even as the Islamic State loses territory and control of physical resources, the group continues to profit from the 5 enslavement of an estimated two thousand women and girls, many of whom are bartered and sold as commodities [¹⁵¹].

Sexual violence is also used by state forces, armed groups, and terrorists as a form of torture against captured belligerents and their relatives and civilians, both to impose punishment and as a tool to extract information [¹⁵²]. Use of this practice as a torture method, primarily against men and boys but occasionally against women and girls, has been documented in a range of conflict situations, including during Peru's civil war between 1980 and 2000, against Sunni detainees in Iraqi prisons in the 2000s, and in Syria's prisons today [¹⁵³].

¹⁵⁰ U.N, 'Report of the Secretary-General on Conflict-Related Sexual Violence.' (n 140).

¹⁵¹ A.Swanson, "How the Islamic State Makes Its Money", *Washington Post*, November 2015, <<https://www.washingtonpost.com/news/wonk/wp/2015/11/18/how-isis-makes-its-money/> > accessed 11 July, 2019; K. F. Crawford, *Wartime Sexual Violence* (Washington, DC: Georgetown University Press, (2017), <<http://press.georgetown.edu/book/georgetown/wartime-sexual-violence>> accessed on 16th July, 2019.

¹⁵² U.N, "Conflict-Related Sexual Violence"; UN, 'Sexual Violence: A Tool of War', *Background Note*, April 1998, <<http://www.un.org/en/preventgenocide/rwanda/pdf/Background%20Sexual%20Violence%202013.pdf> > accessed 11 July, 2019; S. Marochkin and G. Nelaeva, "Rape and Sexual Violence as Torture and Genocide in the Decisions of International Tribunals", 4 *Human Rights Review* (2014) p.15. <<https://link.springer.com/article/10.1007/s12142-014-0322-6> > accessed 11 July 2019.

¹⁵³ Cohen, (n 143); M. Leiby, "Wartime Sexual Violence in Guatemala and Peru", *International Studies Quarterly*, (2009),

<http://www.micheleleiby.com/downloads/isq_wartime_sexual_violence.pdf > accessed 11 July, 2019; Human Rights Watch, "No One Is Safe": Abuses of Women in Iraq's Criminal Justice System", February 6, 2014, <<https://www.hrw.org/report/2014/02/06/no-one-safe/abuse-women-iraqs-criminal-justice-system>> accessed 11 July 2019; K. Redmon, "The New Abu Ghraib", *Atlantic*, (2010),

<<https://www.theatlantic.com/international/archive/2010/05/the-new-abu-ghraib/39841/> > accessed 11 July, 2019; M. Forestier, "Rape as a Tactic of the Assad Regime", *Centre for Women, Peace + Security* (blog), March 2017, <<http://blogs.lse.ac.uk/wps/2017/02/01/you-want-freedom-this-is-your-freedom-rape-as-a-tactic-of-the-assad-regime-marie-forestier-32016/> > accessed 11 July, 2019; J. L. Green, "Collective Rape: A Cross-National Study of the Incidence and Perpetrators of Mass Political Sexual Violence, 1980–2003" (Ph.D. diss., Ohio State University, 2006). <https://digitalrepository.unm.edu/cgi/viewcontent.cgi?article=1003&context=pols_etds&httpsredir=1&referer=> accessed 26 August, 2020.

Sexual violence in conflict also can proliferate in the absence of a deliberate strategy, flourishing under a command structure that fosters a climate of impunity. State collapse and the dissolution of protective political, legal, economic, and social systems have been shown to contribute to sexual violence carried out by state armed groups, rebel groups, peacekeeping and security forces, and civilians in times of upheaval [¹⁵⁴]. Among state and non-state forces, sexual violence frequently occurs in conjunction with other opportunistic crimes against civilians, such as looting and killing [¹⁵⁵].

State forces are more likely than rebels or pro-government militias to be reported as perpetrators of sexual violence [¹⁵⁶]. State forces can employ sexual violence strategically or opportunistically in detention facilities and during operations against civilians, such as in the context of urban warfare, during house searches, and at checkpoints. One study, for example, found that in African conflicts between 2000 and 2009, 64 percent of government actors were reported as perpetrators of sexual violence, compared with 31 percent of rebel groups and 29 percent of other militias [¹⁵⁷].

Peacekeepers and security forces tasked with protecting civilian populations also commit sexual violence against highly vulnerable people under their protection: a 2017 report found an estimated two thousand allegations of sexual exploitation and abuse by peacekeepers and UN personnel around the world [¹⁵⁸].

¹⁵⁴ Cohen, Green and Wood (n 144); Cohen and Nordas, (n 142), CSCW Policy Brief no. 2, Peace Research Institute Oslo, 2012, <http://file.prio.no/publication_files/csw/Nordas-Cohen-Sexual-Violence-in-African-Conflicts-1989-2009-CSCW-Policy-Brief-02-2012.pdf> accessed 11 July 2019.

¹⁵⁵ U. N, “Conflict-Related Sexual Violence” (n 140); S . Meger, *Rape Loot Pillage: The Political Economy of Sexual Violence in Armed Conflict* (Oxford: Oxford University Press, 2016),

<<http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780190277666.001.0001/acprof-9780190277666>> accessed 11 July, 2019.

¹⁵⁶ Cohen, Green and Wood (n 144); Cohen and Nordás, (n 142).

¹⁵⁷ *ibid.*

¹⁵⁸ The term sexual exploitation and abuse describes forms of sexual violence that involve abuse, by force or under coercive conditions, of a position of vulnerability, differential power, or trust for sexual purposes. The term applies to sexual violence committed by any staff of the United Nations against members of a vulnerable population and is prohibited under Provision ST/SGB/2003/13 (UN, “Glossary on Sexual Exploitation and Abuse”, 5 October, 2016), <https://reliefweb.int/sites/reliefweb.int/files/resources/un_glossary_on_sea.pdf> accessed 26 August 2020.; B. F. Duramy, “From Violence Against Women to Women’s

Conflict-related sexual violence sometimes manifests as a currency in which women and girls are treated as wages of war, provided implicitly or explicitly to fighters as a form of in-kind compensation for enlistment or service. For example, UN reports document that pro-government militias in South Sudan were allowed, and even told, to rape women in lieu of payment of government wages in recent years [¹⁵⁹].

A number of extremist groups—including Boko Haram and the Islamic State—offer sexual compensation to recruit young men through the promise of ‘wives’ or sex slaves. The Islamic State, for example, deftly uses social media and its slickly produced online magazines, *Dabiq* and *Rumiyah*, to connect sexual violence to the spiritual fulfillment of recruits who serve a vital role in promulgating the next generation of an Islamic caliphate [¹⁶⁰]. Online recruiters promise men beautiful brides and young women loving husbands. In practice, the Islamic State provides thousands of male recruits with kidnapped women and girls as wives and traps many female recruits in dorms for indoctrination and forced marriage [¹⁶¹]. Some

Violence in Haiti”, 19 *Columbia Journal of Gender and Law*,(2010) 1029,

<<http://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1571&context=pubs>> accessed 11 July, 2019; Associated Press, “UN Child Sex Ring Left Victims but No Arrests”, April 12, 2017,

<<https://www.apnews.com/e6ebc331460345c5abd4f57d77f535c1/AP>> accessed 11 July, 2019.

¹⁵⁹ U.N. News Centre, “Killings, Rapes in South Sudan Continued ‘Unabated’ After July 2016 Violence”, *U.N Reports* 16 January, 2017, <<http://www.un.org/apps/news/story.asp?NewsID=55975#.WVFUVvvyu70>> accessed 11 July, 2019; U.N (O.H.C.H.R), “South Sudan: U.N Report Contains ‘Searing’ Account of Killings, Rapes and Destruction”11, March, 2016,

<<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17207&LangID=E>> accessed 11 July, 2019.

¹⁶⁰ Z. Salbi, “ISIS Recruits Young Syrians with the Promise of Wives from the Women’s Market”, *New York Times*, May 2016,

<<https://nytlive.nytimes.com/womenintheworld/2016/05/24/isis-recruits-young-syrians-with-the-promise-of-wives-from-the-womens-market/>> 11 July, 2019; M . Bloom, ‘How ISIS Is Using Marriage as a Trap,’ *The World Post*, 2016, http://www.huffingtonpost.com/mia-bloom/isis-marriage-trap_b_6773576.html>accessed 11 July, 2019; D Denby, “The Perfect Children of ISIS”, *New Yorker*, November 2015, <<http://www.newyorker.com/culture/cultural-comment/the-perfect-children-of-isis-lessons-from-dabiq>> accessed 11 July, 2019.

¹⁶¹ Institute for Strategic Dialogue, “Till Martyrdom Do Us Part: Gender and the ISIS Phenomenon”, 2015,

women, however, are willingly recruited by these extremist organizations to support radical ideologies and become the wives of fighters, often in hope of gaining freedoms and access to resources [¹⁶²].

Armed groups that recruit through abduction or press-ganging are more likely to perpetrate rape: a review of ninety-one civil wars, for example, found that state and non-state groups employing forced recruitment practices committed significantly more rape against civilians [¹⁶³]. Groups that recruit members through abduction have less internal social cohesion than groups that recruit volunteers, and thus attempt to build social bonds and unit cohesion through rape, particularly gang rape, of women or men [¹⁶⁴].

In its most extreme manifestation, mass rape is used by armed groups as part of a broader strategy of ethnic cleansing against a perceived enemy. As defined in Articles II and III of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, acts of sexual violence in conflict can constitute genocide—even absent death—when used to instill terror in a civilian population of a certain national, ethnic, racial, or religious group; force dislocation; and force pregnancy so that the aggressing actor ‘invades’ the targeted population’s bloodlines in order to destroy future generations [¹⁶⁵].

Campaigns of genocidal rape have been documented during conflicts in Bosnia, East Timor, Guatemala, Rwanda, and Uganda, among others [¹⁶⁶]. During the 1994 Rwandan genocide, for example, mass rapes were an integral part of the concerted campaign

by Hutu politicians and militia leaders to rid the country of its Tutsi minority. Rwandan women were subjected to sexual violence on a massive scale, perpetrated primarily by members of the infamous Hutu militia group known as the Interahamwe, as well as by civilians incited to violence by extremist propaganda and threats [¹⁶⁷].

In recent years, Burmese government forces reportedly have committed ethnically motivated rape and gang rape against women and girls amid escalating conflict in the Rakhine State. Rights groups assert that this sexual violence is not random or opportunistic, but is rather part of a systematic attack against the Rohingya minority. Witness accounts detail how perpetrators in many cases threatened or insulted victims during assaults using language derogatory to Rohingya Muslims [¹⁶⁸].

Sexual violence committed by troops can represent a lack of discipline associated with weak command and control or a poor focus on objectives. For example, in the DRC, a mass rape of more than 150 civilians in 2011 was attributed to lax command and control structures by local armed forces [¹⁶⁹]. Pervasive sexual violence by state forces often indicates that a command hierarchy is simply too weak to enforce a policy forbidding this crime; indeed, recent reports from the UN special representative of the secretary-general for sexual violence in conflict specifically link spikes in sexual violence to weak command and troop discipline [¹⁷⁰].

In security partnerships, rape and other civilian abuses damage the mutual trust that is critical to successful collaboration. For example, the director general of the international military staff of the North Atlantic Treaty Organization (NATO) reports that conflict-related sexual violence obstructs the success of

<http://www.strategicdialogue.org/wpcontent/uploads/2016/02/Till_Martyrdom_Do_Us_Part_Gender_and_the_ISIS_Phenomenon.pdf > accessed 11 July, 2019.

¹⁶² International Crisis Group (I.C.G), “Nigeria: Women and the Boko Haram Insurgency”, Report No. 242, December 2016, <<https://www.crisisgroup.org/africa/west-africa/nigeria/nigeria-women-and-boko-haram-insurgency> > accessed 11 July, 2019.

¹⁶³ Cohen, Green and Wood (n144),

¹⁶⁴ *ibid.*

¹⁶⁵ International Committee of the Red Cross, “Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)”, August, 1949,

<<https://treaties.un.org/doc/publication/unts/volume%2078/volume-78-i-1021-english.pdf> > accessed 11 July, 2019.

¹⁶⁶ C. A. Mackinnon, “Genocide’s Sexuality”, *Nomos* 46, 2005, 209–33; Editorial Board, “When Rape Becomes Genocide”, *New York Times*, 5 September, 1998, <<http://www.nytimes.com/1998/09/05/opinion/when-rape-becomes-genocide.html> > accessed 11 July, 2019; L. Wolfe, “Reckoning With a Genocide in Guatemala”, *Women Under Siege* (blog), February, 2012, <<http://www.womensmediacenter.com/women-under-siege/reckoning-with-a-genocide-in-guatemala> > accessed 11 July, 2019.

¹⁶⁷ B. Nowrojee, “Shattered Lives”, (H.R.W, September 1996),

<https://www.hrw.org/sites/default/files/reports/1996_Rwanda_20Shattered%20Lives.pdf > accessed 11 July, 2019.

¹⁶⁸ H.R.W, “Burma: Security Forces Raped Rohingya Women, Girls”, 6 February, 2017,

<<https://www.hrw.org/news/2017/02/06/burma-security-forces-raped-rohingya-women-girls> > accessed 11 July, 2019.

¹⁶⁹ Stop Rape Now, “Congolese Women Again Bear the Brunt of Indisciplined Security Forces,” Statement by the Special Representative of the Secretary-General on Sexual Violence in Conflict Margot Wallström, 23 June, 2011, <<http://www.un.org/sexualviolenceinconflict/wp-content/uploads/2012/07/SRSG-Statement-on-Congolese-Women-23-June-2011.pdf> > accessed 11 July, 2019.

¹⁷⁰ U.N, “Matrix: Early Warning Indicators of Conflict-Related Sexual Violence”, 2011, <http://peacemaker.un.org/sites/peacemaker.un.org/files/MatrixEarlyWarningIndicatorsCSV_UNAction2011.pdf > accessed 11 July, 2019.

NATO priorities and slows down conflict-resolution processes [171]. Because military units and law enforcement bodies that respect human rights and prevent sexual violence are Implications for US Interests more effective at promoting security, the failure to incorporate training on sexual violence prevention into security cooperation efforts with foreign allies undermines US interests [172].

Conflict-related sexual violence also displaces people from their homes, which deprive them and their families of their livelihoods, property, and access to health and educational services, thereby undermining post conflict economic and social recovery [173]. Entire villages can be displaced by mass rape or the threat of mass rape, which unravels networks that provide social and economic safety nets instrumental to effective recovery [174].

In situations of conflict and instability around the world—including in Guatemala, Iraq, Libya, and Syria—fear of rape drives families to flee their homes. For example, a 2013 International Rescue Committee study of displaced persons who fled Syria for neighboring Jordan and Lebanon found that a majority identified the danger of rape as a primary reason for leaving cities under siege. Respondents cited numerous instances of women and girls, including young girls, being dragged away and raped at makeshift checkpoints set up by armed groups in regime-controlled areas [175]. Similar concerns have driven displacement in other

regions: for instance, threats of abduction spurred the 2014 exodus of two hundred thousand members of the Yazidi community in the Sinjar region of northern Iraq, and Islamic State militants reportedly still hold several thousand Yazidi women in sexual slavery [176].

Although fear of conflict-related sexual violence drives displacement, those fleeing sexual violence remain vulnerable to attacks once they have left their homes [177]. Women and girls living in refugee camps or as unregistered refugees in informal camps or urban settings face significant risks of sexual violence committed by armed groups, peacekeeping and security forces, and civilians. Attacks frequently occur in overcrowded housing situations or when women and girls leave the relative protection of shelter to use sanitation facilities or collect firewood, water, or other items. In Darfur, for example, rights groups have documented scores of cases of rape of women and girls traveling along rural roads collecting provisions, and almost a third of the victims were raped by multiple perpetrators [178].

Conflict-related sexual violence also heightens insecurity by signaling a government's inability or unwillingness to protect its citizens, particularly when this crime is perpetrated widely with impunity. The lower the trust in the state, the more difficult it becomes for a government to implement economic, social, or political reforms, thereby limiting the capacity to end a conflict or rebuild after a war has ended [179]. Moreover,

¹⁷¹ North Atlantic Treaty Organization, "Taking Action on Conflict-Related Sexual and Gender-Based Violence" October 19, 2016, <http://www.nato.int/cps/en/natohq/news_136168.htm > accessed 11 July, 2019.

¹⁷² "Women, Peace, and Inclusive Security", Special Issue, March 6 *PRISM*, (2016) pp. 2–210; K. Lonsway and others., "Gender Sensitive Police Reform in Post Conflict Societies", UN Development Fund for Women and U.N Development Program, October, 2007, <<http://unwomen.org/~media/Headquarters/Media/Publications/UNIFEM/GenderSensitivePoliceReformPolicyBrief2007eng.pdf> > accessed 11 July, 2019; T. Denham, "Police Reform and Gender", Geneva Center for the Democratic Control of Armed Forces (D.C.A.F), 2008.

¹⁷³ World Bank, "Forced Displacement and Development", March 25, 2016,

<<http://siteresources.worldbank.org/DEVCOMMINT/Documentation/23713856/DC2016-0002-FDD.pdf> > accessed 11 July, 2019.

¹⁷⁴ N Jones and others "The Fallout of Rape as a Weapon of War", Overseas Development Institute, 2012, <http://cdn.basw.co.uk/upload/basw_100421-5.pdf > accessed 11 July, 2019.

¹⁷⁵ International Rescue Committee, "Syria Displacement Crisis Worsens as Protracted Humanitarian Emergency Looms", (Press Release, 14 January, 2013), <<https://www.rescue.org/press-release/syria-displacement-crisis-worsens-protracted-humanitarian-emergency-looms>> accessed 11 July 2019.

¹⁷⁶ H.R.W, "U.N Panel Reports on I.S.I.S Crimes on Yezidis", June 21, 2016,

<<https://www.hrw.org/news/2016/06/21/un-panel-reports-isis-crimes-yezidis> > accessed 11 July, 2019.

¹⁷⁷ "Guiding Principles on Internal Displacement" Annex to U.N. Doc. E/CN.4/1998/53/Add.2 "Further Promotion and

Encouragement of Human Rights and Fundamental Freedoms, Inclusion of the Question of the Programme and Methods of

Work of the Commission on Human Rights, Mass Exoduses and Displaced Persons: Report of the Representative of the

Secretary-General, Mr. Francis M. Deng, Submitted Pursuant to Commission Resolution 1997/39", February 11, 1998;

H.R.W, 'No Protection: Rape and Sexual Violence Following Displacement,' April 12, 2005; Donald Steinberg,

"Preventing and Responding to Sexual Violence Against Women Displaced by Conflict", *I.C.G.*, July 2010,

<<https://www.crisisgroup.org/global/preventing-and-responding-sexual-violence-against-women-displaced-conflict> >

accessed 10 July, 2019.

¹⁷⁸ *ibid.*

¹⁷⁹ U.N Department of Economic and Social Affairs and U.N.D.P, "The Challenges of Restoring Governance in Crisis

and Post conflict Countries", 2007,

<<https://publicadministration.un.org/publications/content/PDF/s/ELibrary%20Archives/2007%20The%20Challenges%20of>

youth exposure to acts of violence—including all forms of sexual violence—lessens trust in government institutions, including judicial systems, security forces, and electoral processes [180]. Exposure to such violence reduces cooperative behavior among affected communities and undermines programs and institutions designed to aid victims of conflict, hindering the public provision of goods and services, weakening social networks, and exacerbating economic and political instability [181].

Declining trust in the government's ability to provide recourse for crimes committed against civilians also feeds grievances against the state, which makes citizens more likely to join or support non-state armed groups and increases the risk of conflict relapse. In northern Nigeria, for example, although the Boko Haram insurgency is driven by a complex mix of historical, political, economic, and ethnic antagonisms, the perceived inability of the government to effectively neutralize militants and protect villages was exacerbated by slow progress in delivering on its promise to free the nearly three hundred schoolgirls captured from the northern town of Chibok in 2014 [1]. A perceptible absence of legal justice for sexual violence survivors leaves citizens vulnerable to exploitation and recruitment by 'effective' armed groups [182].

The effects of conflict-related sexual violence also restrict women's political and civic participation, thereby undermining governance and increasing the likelihood of recurring conflict. An analysis of fifty-eight post conflict states between 1980 and 2003 found that the risk of conflict relapse was near zero when women made up at least 35 percent of the legislature, even when controlling for a host of other factors thought to be associated with relapse. When women were unrepresented in parliaments, however, the risk of relapse increased over time [183].

%20Restoring%20Governance%20in%20Crisis%20and%20Postconflict%20Countries.pdf > accessed 10 July, 2019; A. De Juan and J Pierskalla "Civil War Violence and Political Trust: Micro level Evidence From Nepal", 33, *Conflict Management and Peace Science*(2016) 67–88, <<http://journals.sagepub.com/doi/abs/10.1177/0738894214544612>> accessed 10 July, 2019 .

¹⁸⁰M. L. Cullen and N. J. Colletta, "Violent Conflict and the Transformation of Social Capital: Lessons from Cambodia,

Rwanda, Guatemala, and Somalia", (World Bank, 2000); R. Putnam and L. Feldstein, *Better Together: Restoring the American Community* (Simon & Schuster, 2003) 85.

¹⁸¹ibid.

¹⁸²ibid.

¹⁸³J. H. R. DeMeritt and others, "Female Participation and Civil War Relapse, [2014] (16) (3).", *Civil Wars*, 362; M. O'Reilly, "Why Women? Inclusive Security and Peaceful Societies", *Inclusive Security*, (2015).

F. Abduction

The use of abducted victims by peacekeepers for sexual and other services has been a source of major embarrassment and political damage to AU PKOs [184]. Despite the fact that involvement is usually not widespread, the political and moral stigma attached to this behaviour can taint entire missions [185]. This can leave missions exposed and vulnerable to attacks on their credibility with the community and key players in the peace process. Opponents of peace missions are increasingly aware that the issue can be effectively exploited to undermine the moral authority and political leverage of UN operations, especially in missions with governance and rule of law mandates [186].

This perception of a large-scale use of the services of victims by peacekeepers is exacerbated by an equally strong perception that peacekeeping institutions do not take the issue seriously [187]. This latter perception is extremely damaging for peacekeeping and has been compounded by 'boys will be boys' attitudes of the past. It is essential that DPKO takes this issue seriously as it can undermine implementation of rule of law and institutional reform mandates, provide material for anti-UN elements, obstructionists and negative media campaigns, and impede the achievement of mission objectives and damage UN credibility [188].

Abduction is a serious problem for modern peacekeeping [189]. It is a damaging dynamic in post-conflict communities and an issue that has tainted peacekeeping in the past [190]. Where peacekeepers become entangled in the issue through the use of abducted victims for sex or other forms of forced

¹⁸⁴ U.S Department of State, *Strategy to prevent and Respond to Gender-Based Violence Globally, June, 2016*, <<https://www.state.gov/documents/organization/258703.pdf>> accessed on 16th July, 2019.

¹⁸⁵ ibid.

¹⁸⁶ V. K. Vojdik, "Sexual Abuse and Exploitation of Women and Girls by U.N Peacekeeping Troops", 15 *Michigan State University Journal of International Law* (2007) p. 44.

¹⁸⁷ ibid

¹⁸⁸ C. Ferstman, "Criminalizing Sexual Exploitation and Abuse by Peacekeepers" *United State Institute for Peace*. <<https://www.usip.org/sites/default/files/sr335-criminalising-sexual-exploitation-and-abuse-by-peacekeepers.pdf>> accessed on 16th July, 2019.

¹⁸⁹ J. Ameh "Nigerian Soldiers Father 250,000 Children in Liberia" *The Punch* (Lagos Nigeria, 12 July, 2010) 18; see also E. Peltier "U.N Peacekeepers in Haiti said to have Fathered Hundreds of Children" *The New York Times*, 18 December, 2019. <<https://www.nytimes.com/topic/destination/haiti>> accessed 1st May 2020.

¹⁹⁰ ibid.

labour, the problem compounds itself^[191]. International interest in this issue will be sustained, and criticism of AU involvement will continue to be severe. AU peacekeeping must find a way to engage seriously and constructively the issue both in DPKO and in field missions. Experience has shown that there is no easy solution for dealing with the issue of abduction. DPKO will deal with the issue within three broader frames of reference – abduction as, first, a grave and exploitative human rights abuse; second, as an issue of discipline and accountability for peacekeepers; and, third, as a serious crime and violation of international norms (often involving organized crime and corruption)^[192].

G. Child Soldiers

Today, the phenomenon of child soldiers concerns an estimated 200,000 to 300,000 children throughout the world, who are principally in twenty countries^[193]. The majority are active in Africa (100,000) and, to a lesser extent, in the Middle East and Asia. Out of the thirty-one countries where there were armed conflicts in 1998, 87 per cent used child soldiers below the age of 18 years and 71 per cent children under the age of 15 years^[194]. The figures have remained stable since then. In the meantime, the number of armed groups using child soldiers has grown from twenty-three in 2002 to forty in 2006 and fifty-seven in 2007^[195]. These figures indicate that international regulation is at least partly successful. It also leads to the conclusion that child soldiers are more and more often used in irregular armed groups.

The two Additional Protocols to the Fourth Geneva Convention of 1949, adopted in 1977, have helped to generalize and regulate the application of international humanitarian law in relation to civilian populations caught up in internal conflict. The Rome Statute of the International Criminal Court (ICC)

adopted in 1998 and entered into force in 2002 declares ‘conscripting or enlisting children under the age of 15 years into the national armed forces or using them to participate actively in hostilities’ is a war crime’. Moreover, the International Labour Organization considers child soldiering as one of the ‘predefined worst forms’ of child labour since 1999^[196]. In 2000, the Optional Protocol to the Convention on the Rights of the Child (CRC) on the involvement of children in armed conflicts, raised the minimum age for the compulsory recruitment and direct participation in hostilities from 15 years to 18 years. Since 2002, when it entered into force, 123 countries have ratified the Optional Protocol^[197]. Since February 2007, sixty-six governments have subscribed to the Paris Principles and Guidelines on children associated with armed forces or armed groups^[198].

In 2005, the UN Security Council (UNSC) passed Resolution 1612 to set up a ‘monitoring, reporting and compliance mechanism’ to help enforce compliance among groups using child soldiers in armed conflict^[199]. International legal standards have thus been developed in the past 30 years, but progress is slow and uneven. Despite resolutions and statements of intent, the situation may be worsening. UNSC Resolution 1612 speaks of a ‘lack of overall progress on the ground’^[200]. The difficulty of applying these standards is that most cases involve failed states, intra-state conflicts, non-state actors, paramilitary organizations, organized crime, minorities, vulnerable groups, and/or mobile or displaced populations. The situation raises questions about the growing rift between developed countries and groups or regions marginalized within the international community.

Child soldiers are not a recent phenomenon. On the contrary, in Modern European societies, it was formerly commonplace for children to be enrolled in field regiments, although society was then substantially different. By the end of the eighteenth century in certain regions of France, up to a third of children were killed or abandoned, in particular in towns at the times of

¹⁹¹ Aljazeera Network, “U.N Peacekeepers Rapes in Central Africa Republic”, News Monitored on Aljazeera Network on Wednesday 12 August, 2015 at 7.00pm.

¹⁹² E. Sidebotham, J. Moffat and K. Jones, “Sexual Violence in Conflict: A Global Epidemic”, 18, *The Obstetrician and Gynecologist* (2016) pp. 247-250; O. A. Ilesanmi, “Gender and Armed Conflict in Africa: An appraisal of U.N.S.C Resolution 1325” 38 *Nigerian Journal of International Law*(2012) 103-117.

¹⁹³ S. Maslen, “The Use of Child Soldiers in Africa: An Overview: Child Participation in Armed Conflict in Africa” *A Country Analysis of Child Recruitment and participation in Armed Conflict* <mhtml:file://C:\Users\user\Desktop\The-Use-of-Children-as-Soldiers-in-Africa-report.mhtml> accessed 12 July, 2019.

¹⁹⁴ Coalition to Stop the Use of Child Soldiers, (Child Soldiers Global Report 2008); Ra’dda Barnen, Swedish Save the Children, <http://www.rb.se/eng/> accessed 10 July, 10, 2019.

¹⁹⁵ U.N.I.C.E. F, “Number of Armed Groups or Forces using Child Soldiers increases from 40 to 57”, 12 Feb. 2008, <http://www.unicef.org/media/media_42833.html> accessed 10 July, 2019.

¹⁹⁶ I.L.O Convention No. 182 Worst Forms of Child Labour, entered into force 19 Nov. 2000.

¹⁹⁷ Office of the United Nations Commissioner for Human Rights, < https://www.ohchr.org/en/pages/home.aspx> accessed 10 July, 2019.

¹⁹⁸ Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, <http://www.unhcr.org/refworld/pdfid/465198442.pdf> accessed 10 July 2019.

¹⁹⁹ U.N.S. C Resolution 1612 (2005), < http://www.undemocracy.com/S-RES-1612(2005).pdf> accessed 10 July, 2019.

²⁰⁰ Center for Defence Information, “U.N enters ‘Era of Application’ in its Campaign against Child Soldiers” 12 Oct. 2005.

famine or hardship [²⁰¹]. Many abandoned children joined regiments, while the youngest child in large families was often also entrusted to them. They became so-called 'lost children', who often served in the front ranks and the most exposed positions. In this way, they 'paid their debt' to society [²⁰²].

In modern times, society underwent a substantial transformation, with an increased regulation of the population. It saw the development of general conscription, but also the establishment of a minimum age for service in national armed forces. The population became increasingly controlled through the advent of mandatory public schooling and mandatory general conscription [²⁰³]. This can be seen in the creation of the scout movement and also in the development of physical education in school and youth movements, which were required and determined by military needs [²⁰⁴].

It can be argued that the overarching consequences of the increasing complexity of war is the concentration of conflicts in urbanized and densely populated areas and the increasing toll on civilian populations in conflict. The end result of this complexity is a generalization of protracted crisis: a third of the present conflicts are over 30 years old [²⁰⁵]. And the longer the conflict, the more it impacts upon the livelihoods and future generations, impacting children.

Today, a majority of child soldiers are found not in regular national armies, but rather in armed groups, guerrillas, paramilitary or military forces organized by dissident or secessionist movements, by terrorist organizations or organized crime [²⁰⁶]. This is the case of the highly publicized left-wing Revolutionary Armed Forces of Columbia (FARC), which accounts for 80 per cent of the child soldiers in Countries like, Sierra Leone, Liberia, DRC and South Sudan [²⁰⁷].

It can be argued that paramilitary or rebel groups will more frequently resort to the use of child soldiers, as these groups are often active against authoritarian regimes. As the men in age of bearing arms in these countries are often drafted in the

regular/national military forces, the sections of the population from which these movements typically recruit are peripheral/rural populations, clandestine or marginal/persecuted minorities, vulnerable or displaced populations, as well as children below the nominal age of conscription.

The erosion of the Westphalia system after the fall of the Berlin Wall, which some scholars have described as the development of 'neo feudalism', have generally weakened central authorities and encouraged the arming of rebel groups fighting the central authority. This is the case in the Philippines, where 13 per cent of the 10,000 strong Moro Islamic Liberation Front (MILF) are children. This is a clear case in Chad with the United Front for Democratic Change (FUC) with over 1,000 child irregulars and rebel groups in the Democratic Republic of the Congo (DRC) accounting for over 30,000 children abducted in paramilitary forces. In Uganda, the rebel Lord's Resistance Army has used over 30,000 boys and girls as soldiers in the past 30 years. In the failed state of Somalia, all groups have resorted to the use of child soldiers, accounting for an estimated 200,000 individuals in the past 16 years [²⁰⁸].

Children belonging to minorities, mobile or displaced populations 'may be at greater risk of recruitment or use by armed forces or armed groups due to reduced social protection and coping mechanisms, discrimination on the basis of their displaced status or their perceived allegiance with a belligerent' [²⁰⁹]. Marginal, minority, or immigrant populations may be specifically targeted for recruitment in the armed forces for their social or ethnic differences. In particular, Communist regimes in the 1960–1980s through the use of mass youth movements used recruitment and displacement of populations as a tool of integration and population control.

In any case, the difficulty of tracing these children once they have been recruited, reuniting them with their families and reintegrating them in their community poses extraordinary demands on humanitarian organizations. In particular, the application of the 1951 Refugee

Convention must take into account age and gender when delivering the status of refugee. In the case of internally displaced persons (IDPs), international pressure as well as 'name and shame' will need to complement the soft law available.

Newly independent states, having to come to terms with poverty, lack of skilled workers and

²⁰¹ *ibid.*

²⁰² *ibid.*

²⁰³ U.N.I.C.E.F., *The State of the World's Children 1999*, (Oxford: Oxford University Press, 1998) pp. 158.

²⁰⁴ *ibid.*

²⁰⁵ Human Security Report Project, *Human Security Report 2005*, Vancouver, Oxford University Press, (2005) p.86; A. Vautravers, "Security Forum 2008 Proceedings" (Identity and Conflict, Geneva, Webster, (2008).

²⁰⁶ R. Rosenblatt, *Children of War*, New English Library, 1988 p.186.

²⁰⁷ *ibid.*

²⁰⁸ Coalition to Stop the Use of Child Soldiers, (Child Soldiers Global Report 2008),

<www.childsoldiersglobalreport.org/> accessed 10 July, 2019.

²⁰⁹ *ibid.*

technical expertise, as well as governance issues, can often not afford to mobilize adults in order to settle conflicts or wage their wars. A conjunction of structural economic and demographic disequilibrium prevents them from mobilizing the most productive, sedentary and experienced forces of the country, as we will point out below. Youth labour can be seen as less costly, available as it is nearly unlimited, easier to mobilize and, some will argue, 'expendable'.

This raises both the child labour and the child soldier warning signals. We will consider in this respect that both issues are linked, requiring the recognition that the potential of these children needs to be realized in constructive ways. Education is expensive [210]. But sacrificing the youth for short-term goals will durably affect development, as children are seen solely from an immediate productivity perspective and not, as they should, in long-term factors of production, social and economic change, future active members of the socio-political community.

The population in Africa was estimated at 922 million in 2005. It has doubled in the past 28 years and quadrupled in the past 55 years [211]. Over 40 per cent of the population in Sub-Saharan African countries are below the age of 15 years. Out of fifty-three countries, individuals in twenty-eight countries have a life expectancy at birth below 50 years; while forty-three have a life expectancy of below 60 years. The average population growth is 3 per cent.²¹² But exogenous factors (such as HIV/AIDS, health, and conflicts), and endogenous changes in behaviour will limit Africa's demographic growth. On the other hand, the highest population growth is expected in Western Asia. The most rapidly growing countries are: India, China, Pakistan, Nigeria, Ethiopia, Indonesia, the US, Bangladesh, Zaire, and Iran [213].

The structure of the population will create imbalances. According to UN estimates, the population will age globally, seeing an increase in the number of people aged 65 years or over from 131 million in 1950 to 371 million in 1994. The projected numbers of older

persons will double by 2025 and may reach 1.4 billion by 2050, representing one-tenth of the global population. A significant proportion of this is due to the ageing of the 'baby boom' generation in Europe, in North America, in Japan and more significantly, in China [214].

In order to 'pay' and 'care' for the ageing population, pressure on the active population will necessarily increase. In several countries, the social contribution length is increasing for both men and women. We may witness, in the coming decades, increased pressure to obtain younger and younger workforce. In parallel, where the age pyramid still has a wide base – in particular in Africa, children will be under increased pressure to work in their home country or emigrate to find work abroad.

For many young people in precarious situations, in countries without perceptible prospects of personal development and economic or employment security, joining armed groups can be seen as a form of group and individual security. Bearing arms, in many parts of the world, is seen as a sign of authority and power. It may guarantee access to food, commodities, and favours outside of the rule of law. A symptom is the AK-47 Kalashnikov, copied and produced in millions by developing countries, readily available for a few dollars on open markets, and known in some parts of the world as the 'African credit card' [215].

It can be argued that lawlessness and the development of armed groups, disputing central authorities and the rule of law, are intrinsically linked. Here again, a pragmatic policy of 'nation-building' is necessary to ensure that weak governments can find the support and international legitimacy to assert themselves over centrifugal forces and groups. This may, in turn, be contradicted by the present trend towards the notions of human security, responsibility to protect and democratization, which, like the international designation of rogue or failed states, in effect weaken sovereignty, legitimacy and central authorities.

It can be argued that children are easier to lead and command than adults. Without analyzing the psychological grounds for this (pride, lack of experience and self-confidence, rite of passage, gregarious instincts, peer imitation and paternalistic models), historical examples of the children abducted or enrolled in armed groups are, in numerous cases, held under influence by alcohol, drugs, or other substances. While this may ensure some measure of 'loyalty', it

²¹⁰ S. Tawil and A. Harley "Education, Conflict and Social Cohesion", Geneva, U.N.E.S.C.O International Bureau of Education, 2004.

²¹¹ U.N. Department of Economic and Social Affairs, U.N Population Division, "World Population Prospects: The 2006 Revision", <<http://esa.un.org/unpp/>> accessed 10 July, 2019.

²¹² U.S Central Intelligence Agency, *The 2008 World Fact book*, (Washington D.C, Directorate of Intelligence, 2008), <<http://www.cia.gov/library/publications/the-world-factbook/>> accessed 10 July, 2019.

²¹³ International Institute for Applied Systems Analysis (I.I.A.S. A), "Asian Demographic & Human Capital Data Sheet 2008" (chapter 1), <<http://www.iiasa.ac.at/Research/LUC/Papers/gkh1/chap1.htm>> accessed 10 July, 2019.

²¹⁴ *ibid.*

²¹⁵ H. J. Reichen, "One Year in the M.O.N.U. C", *Identity and Conflict*, 12. <<http://www.webster.edu.gh/securityforum/documents/sf2008.pdf>> accessed 26 August, 2020

cannot be ignored that this encourages criminal activities and war crimes. We will therefore argue that the fight against child soldiers necessitates increased cooperation and collaboration in the fight against drugs and crime: from narcotics to corruption, illegal traffics, and small arms smuggling how repeated use of fanaticized youth groups in times of war.

V. CONCLUSION

The OAU founding Charter committed members to work towards ‘a larger unity’, while Article 3 promised respect for state sovereignty and integrity, and emphasized non-interference in the internal affairs of member states [²¹⁶]. The AU Constitutive Acts of 2002 also balances continental solidarity with territorial sovereignty. However, notwithstanding the voluntary nature of many of the AU’s compliance mechanisms, and the body’s intergovernmental rather than supranational nature, it has been equipped with greater capacity and powers to increase continental unity than was its predecessor. The regional body has been strengthened by an improved administrative structure, including the AU Commission: through efforts to establish common policies in key areas including defence, as outlined in the Constitutive Act; and through the creation of the Peace and Security Council, which has the power to intervene in cases of constitutional crisis, including coup *d’ état*, and to protect the lives and human rights of Africans.

Nevertheless, the AU Commission is increasingly assertive, although not yet in a position to speak on behalf of Africa. The continent also lacks adequate representation on, or influence over, the strategic direction and actions of the UN Security Council, the Breton Woods institutions – the World Bank and the International Monetary Fund (IMF) – and the World Trade Organization (WTO), all of which continue to be dominated by powerful largely Western countries. In the context of an increasingly globalised world, the exclusion of a significant African voice at such for a must be reversed as a manner of urgency through increased leverage and professionalism representing Africa’s interests. Specialized agencies on the continent should network to provide lists of African experts who can be called upon to attend important multilateral meetings and help to shape policy, particularly in the key area of international law. In addition, certain national leaders could be appointed as appointed as spokespersons on critical issues [²¹⁷].

Strong leadership is forged by effective responses to important contemporary issues. NEPAD’s continued marginalization, represent major causes around which continental leaders can campaign and frame global debates. However, the preponderance of the voices of the more powerful African states at different multilateral fora on these and related issues can sometimes fragment African voices rather than provide continental leadership [²¹⁸]. The invitation of African leaders to the G8 has represented, for many Africans, a form of participation without voice. And the G20, according to critics, does not reflect African priorities, even though South Africa is part of this body. The AU and the RECs should develop clear, coordinated positions on their goals and the strategies for achieving them- for example, in relation to China at the Forum on China- Africa Cooperation (FOCAC) [²¹⁹]. Japan at the Tokyo International Conference on Africa Development (TICAD) [²²⁰], and in respect of other rapidly emerging economies in the global South such as Brazil and India. In particular, the sub- regional and regional bodies should adopt a clear, common position engaging the BRICS economic bloc (Brazil, Russia, India, China, and South Africa) and its African content.

²¹⁶ O.A. U, “OAU Charter”, (1963) <www.au2002.gov.za/docs/key_oau/oau_charter.pdf> accessed on 17 July, 2019.

²¹⁷ M.I. Uhomoibhi, “Who Speaks for Africa?” <<https://www.unicef.org/wca/africa-we-want>> Accessed 17 July, 2019.

²¹⁸ United Nations Peacekeeping Operation: Principle and Guidelines (U.N Department of Peacekeeping Operations and Department of Field Support, 2008).

²¹⁹ C.C. R, “*Taming the Dragon* ‘Defining Africa’s Interests at the Forum on China- Africa Cooperation (FOCAC)”, *Policy Brief*, Tshwane, South Africa, < www.ccr.org.za> accessed on 13-14 July, 2009.

²²⁰ C.C.R./F.E. S, *Accelerating the Tokyo International Conference on African Development (TICAD) initiative*, Policy Brief, London, England, www.ccr.org.za accessed on 17 July, 2019.

