

# **WILL THE LOWEST BE FIRST? SUBSIDIARITY IN PEACEMAKING IN AFRICA**

**Laurie Nathan, Centre for Mediation in Africa, University of Pretoria**

**Presented at the International Studies Association 2016 Annual Convention**

**Atlanta, 16-19 March 2016**

## **Introduction**

Over the past decade, peacemaking in African conflicts has been characterised by growing cooperation between the United Nations (UN), the African Union (AU) and the regional economic communities (RECs).<sup>1</sup> Permanent and ad hoc structures have been set up to facilitate consultation and collaboration on mediation processes and peace operations throughout the continent. Yet there have also been cases of significant tension and competition between the peacemaking bodies, with extremely harmful consequences for the management and resolution of conflict. These cases include the Central African Republic (CAR) in 2013-15 (Welz 2014); Côte d'Ivoire in 2010-11 (Apuuli 2012); Darfur in 2009-11 (Khadiagala 2016); Guinea-Bissau in 2012 (ICG 2012); Libya in 2011 (De Waal 2013); Madagascar in 2009-10 (Nathan 2013); and Mali in 2012-13 (Weiss and Welz 2014).

This paper explores the negative side of the balance sheet, examining the reasons for and possible solutions to the major clashes that arise from time to time between the UN, the AU and the RECs.<sup>2</sup> Two factors lie at the heart of the problem: these organisations and their member states sometimes have substantially divergent interests, strategies and normative preferences in relation to a particular conflict and its resolution; and there is no international consensus on the principles or criteria for deciding which organisation should lead the peacemaking endeavour, and thus determine the strategic approach, in any given conflict.

The paper focuses on the question of whether the principle of subsidiarity could provide an appropriate guideline for establishing the order of precedence in peacemaking on the continent and thereby avoid the problem of organisational rivalry. In other words, should the peacemaking community accept that, as a general rule, conflicts ought to be tackled in the first instance at the lowest level, namely by the relevant REC? Only if this fails or is not possible would the AU assume the lead, with the UN serving as the intervener of last resort.

The principle of subsidiarity means that a central authority should play a secondary role, performing only those functions that cannot be performed at a more local level. It has its roots in the Catholic Church and has become part of European Union law, governing

---

<sup>1</sup> The RECs include the Community of Sahel-Saharan States (CEN-SAD), the East African Community (EAC), the Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS), the Intergovernmental Authority on Development (IGAD) and the Southern African Development Community (SADC).

<sup>2</sup> This paper is informed by the author's involvement in projects to build the peacemaking capacity of the AU and the RECs, including as the Team Leader of the 2014 Assessment of the African Peace and Security Architecture (APSA), commissioned by the AU and the European Union.

relations between regional institutions and member states (Van Kersbergen and Verbeek 2007). In the African context it is one of the principles underpinning the relationship between the AU and the RECs in the field of peace and security (Memorandum of Understanding 2008). Furthermore, the AU believes that its partnerships with both the UN and the RECs would be clarified and enhanced by elaborating and forging a consensus on subsidiarity. It is convinced that the development of a shared understanding of this principle would help to minimise competition and discord among the peacemaking bodies, demarcate responsibilities, expedite policy and operational harmonisation and ensure African ownership of peace initiatives (e.g. AU PSC 2012a, 2012b, 2013a; AUC 2014a).

This paper argues, to the contrary, that subsidiarity is not the key to overcoming the predicament of peacemaking tension and rivalry. The principle is contested and will remain so. It has not been endorsed by the UN, while the AU's stance is inconsistent, promoting subsidiarity in UN-AU relations but not in AU-REC relations. In practice, moreover, the RECs have a mixed record of conflict management and resolution. They have certain assets, such as good knowledge of the causes and dynamics of conflicts in their neighbourhood, but they also have liabilities related to inadequate capacity and partisan interests. Their engagements have often been sub-optimal, and at times counter-productive, because of their weak capabilities and because the national interests of their members give rise to divisions within their ranks and to biased interventions.

The paper first outlines the causes of the problem of organisational competition and tension in peacemaking. It then reviews the primary legal and policy texts on subsidiarity and relations between the UN, the AU and the RECs. This is followed by an investigation of the pros and cons of subsidiarity in practice. The conclusion summarises the limitations of subsidiarity and proposes that attention should be paid to strengthening the modalities for consultation, coordination and harmonisation between the state decision-making forums of the organisations. In the course of the discussion the paper considers the cases of CAR, Guinea-Bissau, Madagascar, Libya, South Sudan and Zimbabwe.

## **The Causes of Organisational Competition and Tension**

The causes of organisational competition and tension in peacemaking can be divided into two categories, structural and contingent. The structural causes encompass basic and fundamental issues. The basic issue that constitutes the point of departure is one of mandate: all the organisations in question have incorporated the promotion and maintenance of peace and security into their legal instruments. They therefore have a formal commitment to address conflicts that reach a certain level of intensity. The overlapping mandates in respect of the same geographical territories are bound to generate rivalry and friction.

Notwithstanding the cooperation that exists between the UN, the AU and the RECs, they have found it difficult to prevent and manage rivalry and tension because they have not reached an agreement on the principles and modalities for doing so. In particular, there are no robust mechanisms for consultation and coordination on peacemaking between the UN Security Council (UNSC), the AU Peace and Security Council (PSC) and the state decision-making forums of the RECs, such as the SADC Organ on Politics, Defence and Security.

The more fundamental issues flow from the anarchic nature of the international system. The organisations in question are legally independent entities that are not arranged in a formal

hierarchy and they comprise sovereign states, with diverse interests and values, that are not subordinate to other states. As a result, competition among the organisations and among the states is inevitable and is not easily regulated and managed. When competition arises, considerations of international law, political power and resources may be relevant, favouring the UN, but we will see that the RECs have often been able to keep the UN and the AU at bay.

The contingent causes of competition and tension arise from the fact that the organisations and their member states may have different interests, strategic approaches and/or normative orientations in respect of a given conflict. The details of these factors naturally differ from one case to another. They are illustrated by two examples below, the Madagascar crisis in 2009, where SADC prevailed over the UN and the AU, and the Libyan war in 2011, where the UN prevailed over the AU.

In March 2009 Andry Rajoelina, the mayor of Antananarivo, ousted President Marc Ravalomanana with the support of the Malagasy army. Over the next year international attempts to restore constitutional order were impaired by strategic disputes between the UN, the AU and SADC and by unseemly squabbles over the leadership of the mediation.<sup>3</sup> The main strategic disagreement revolved around the position taken by SADC, which initially demanded the unconditional reinstatement of Ravalomanana and threatened to use force if this demand was not met. The UN and the AU, by contrast, pushed for multi-party negotiations without preconditions. In their view, SADC's position exacerbated the crisis and impeded the quest to find a diplomatic solution.

The UN launched a mediation process in April but the AU soon made a bid to take the lead. Overriding the protests of its mediator, the UN backed down since it wished to support African peacemaking and did not regard the coup as a priority.<sup>4</sup> In June SADC abandoned its militarist posture and appointed former President Chissano of Mozambique as the lead mediator. The AU was opposed to SADC taking the reins but could not block Chissano as he was the most senior of the international envoys working on the crisis. The awkward compromise was that Chissano would head a joint mediation team 'under the auspices of the AU' (e.g. AU PSC 2009). In reality he was accountable to the SADC Summit. In November the Malagasy politicians signed an accord at the AU headquarters in Addis Ababa. When the accord broke down, the UN envoy, Tiébilé Dramé, tried to broker a solution but the AU objected and sent a *démarche* to the UN Secretary-General pressing for his recall.<sup>5</sup> The Malagasy opposition parties then requested a further round of negotiations. Chissano ignored the AU and convened talks in Maputo in December. Rajoelina refused to participate and Chissano went ahead without him, causing Rajoelina to withdraw from the mediation. Thereafter he attempted unsuccessfully to engineer a transition to elections through a domestic process of negotiations facilitated by civil society groups. It was only in mid-2011 that the external mediation became more settled, with SADC now firmly in control. In January 2014 constitutional order was finally restored through elections.

The Libyan civil war, which began in February 2011, was a vastly more serious affair in terms of loss of life and the antagonism it engendered between the UN and the AU. Throughout the war the AU was riven by internal divisions, overtaken by events on the ground and marginalised by the UNSC (Apuuli 2012). From the outset it pursued a strategy

---

<sup>3</sup> This discussion on Madagascar is based on Nathan 2013. See also Gavigan 2010, ICG 2010.

<sup>4</sup> Author's discussion with UN official, New York, November 2012.

<sup>5</sup> *Ibid.*

of diplomacy. Its ‘roadmap’ included an immediate cessation of hostilities and the adoption of reforms necessary to eliminate the causes of the crisis, and it appointed a committee of five African presidents to facilitate an inclusive dialogue among the Libyan parties on the appropriate reforms (AU PSC 2011a). The UNSC, on the other hand, passed Resolution 1973 authorising the use of military force to protect civilians and imposing a no-fly zone on Libya (UN Security Council 2011). This paved the way for NATO attacks to advance the Western goal of eradicating the Gaddafi regime. The UNSC engaged more closely with the Arab League, which supported the no-fly zone, than with the AU.

The war marked the nadir of AU-UN relations. The AU was furious that the UNSC ignored its views, rode roughshod over its diplomatic ventures and allowed NATO to abuse the protection mandate of Resolution 1973 for the purpose of regime change (e.g. AU Assembly 2011). The AU later concluded that the UNSC’s approach had been a terrible failure, leading to long-term anarchy and sectarian violence in Libya and contributing to small arms proliferation in the Sahel region. During the crisis, however, the AU did not have a credible game plan. The rebels and key international actors had no confidence in the AU’s peacemaking initiative because the organisation was split over whether Gaddafi should step down and had long tolerated his domestic tyranny and regional mischief (Apuuli 2012). In discussions with the AU mediators in April 2011, the rebels insisted that Gaddafi must leave office immediately. The PSC’s response was that there could be no preconditions for the commencement of negotiations (AU PSC 2011b, para 9). This shut the door on any chance of a diplomatic solution.

In the Madagascar and Libyan cases, and in the other cases discussed later in this paper, the inter-organisational clashes stemmed from a combination of divergent interests, strategies and political preferences, perceived by one or more of the organisations to be incompatible. Such clashes are likely to occur in the future and we turn now to the question of whether subsidiarity could help to alleviate the problem.

## **Legal and Policy Perspectives on Subsidiarity**

### *UN-AU*

At the apex of the relevant legal instruments lies the UN Charter, which in Chapter VIII deals with regional arrangements and agencies for peace and security. Article 52(3) asserts that the UNSC shall encourage the development of pacific settlement of disputes through these arrangements and agencies. However, this does not detract from the rule that the UNSC enjoys ‘primary responsibility for the maintenance of international peace and security’ (Article 24(1)). Other than in situations of collective self-defence, moreover, regional enforcement action requires the authorisation of the Security Council (Article 53(1)). In terms of the Charter, then, the primacy of the Council trumps the principle of subsidiarity. Over the past decade the UNSC and the UN General Assembly have passed numerous resolutions endorsing the role of regional organisations in the realm of peace and security but they never tire of underlining the Council’s primacy (e.g. UN Security Council 2007, 2009, 2012, 2014; UN General Assembly 2009, 2013).

Another common feature of the UN resolutions is their strong focus on Africa. They now refer habitually to the importance of ‘developing effective partnerships between the United Nations and regional organizations, in particular the African Union’ (e.g. UN Security

Council 2014). Several factors account for the attention devoted to the AU: the high incidence of conflict on the continent; the weak resource base of the AU and the RECs, which makes them dependent on the UN, especially with regard to peace operations; the African fear that the UNSC has grown, or might grow, weary of supporting these operations; and the uneasy political relationship between the UN and the AU.

Since the Libyan debacle in 2011, when this uneasy relationship became adversarial, the AU has been pushing for the development of ‘a more effective strategic partnership’ with the UN (e.g. AU PSC 2012a, 2012b, 2013a). According to the AU, such partnership should be based on four principles: support for African ownership and priority-setting in relation to peace initiatives on the continent; flexible and innovative application of the principle of subsidiarity; a mutually agreed division of labour underpinned by complementarity; and the comparative advantage of the AU and the RECs, which is based on their political legitimacy among their member states, familiarity with local conflict dynamics and parties, and flexibility and adaptability in dealing with security challenges (AU PSC 2012a).

The AU argues that subsidiarity lies at the heart of Chapter VIII of the UN Charter and has three elements, namely consultative decision-making, division of labour and burden sharing. The UN and AU do not have a common perspective on these issues and should engage in a dialogue on them in order to foster political coherence (AU PSC 2012a, paragraph 95). Even if consensus cannot be reached, an important first step would be agreement on ‘an innovative and bold approach to applying the spirit of Chapter VIII’ (ibid). It is unclear what precisely the AU means by this phrase and by the notion of ‘flexible and innovative application of the principle of subsidiarity’.

In 2010 the UN Secretary-General and the Chairperson of the AU Commission (AUC) set up the Joint Task Force on Peace and Security, comprising senior officials who meet bi-annually, to promote coordination on strategic issues of common concern. This forum has not realised its potential to play an influential role in problem-solving, dispute resolution and long-term strategic thinking.<sup>6</sup> A more significant development has been the establishment of the UN Office to the African Union (UNOAU), based in Addis Ababa and headed by a UN official with the status of Under Secretary-General. In 2014 UNOAU and the AU Peace and Security Department prepared the Joint UN-AU Framework for an Enhanced Partnership in Peace and Security (UN-AU 2014). The Framework is an operational document that aims to make the partnership more systematic, effective and results-oriented by facilitating collaboration throughout the conflict cycle, from the earliest indications of emerging conflict.

### *AU-RECs*

The relationship between the AU and the RECs is governed by two documents, the first of which is the 2002 Protocol on the PSC (AU 2002). Article 16 states that the regional mechanisms for conflict prevention, management and resolution are part of the overall security architecture of the AU, which has the primary responsibility for promoting peace, security and stability in Africa. The PSC and the Chairperson of the AUC shall harmonize and coordinate the activities of the regional mechanisms to ensure that they are consistent with the objectives and principles of the Union and shall work closely with these mechanisms to ensure effective partnership between them and the PSC (Article 16(1)).

---

<sup>6</sup> Author’s discussions with UN and AU officials, Addis Ababa, December 2013.

The Protocol implies that the AU and the RECs exist in a hierarchical relationship, with the AU being the superior body. Yet the situation is more complicated than this, both legally and politically. The RECs are independent legal entities, governed by their own charters, and they are not formally subordinate to the AU. In ratifying the AU's legal instruments, African states have consented to be bound by the decisions of the Union but when crises erupt, as discussed below, they sometimes head off in different directions and there is little the AU can do to rein them in.

This problem was evident in the 2013 rebellion in CAR. When Michel Djotodia, the leader of the Séléka rebels, seized power, the PSC called for the 'complete isolation' of the perpetrators of the unconstitutional action and imposed a travel ban on them (AU PSC 2013b). Nevertheless, ECCAS decided to recognise Djotodia, albeit as the 'head of state of the transition' and not the 'president of the republic' (Reuters 2013). Displeased AU officials viewed this recognition as a transgression of the Union's policy on unconstitutional change of government (Welz 2014, 606). The ECCAS states and other Francophonie countries in Africa also ignored the AU travel ban, welcoming Djotodia in their capitals (Dersso 2013).

The CAR example highlights both the autonomy of the RECs and the inherent tension between the principle of subsidiarity and the primacy of the AU's responsibility for peace and security on the continent. The tension is exacerbated by the absence of a reliable mechanism for ensuring consultation and coordination between the PSC and its REC counterparts when determining an appropriate response to a given conflict. As the 2010 assessment of the African Peace and Security Architecture (APSA) put it: 'There appears to be a disconnect between the AU PSC and similar organs in the RECs. This is a crucial gap given that enforcing PSC decisions rests with its members who are also members of the RECs.... Thus, without proper coordination, implementing PSC decisions will be significantly diminished, potentially undermining the credibility of the PSC' (Fisher et al 2010, paragraph 189).

The main mechanisms for consultation between the AU and the RECs are the AU Liaison Offices based at the RECs and the RECs Liaison Offices located at AU headquarters in Addis Ababa. The establishment of these offices over the past five years has improved communication between the organisations. Yet it does not address the disconnect that exists at the state decision-making level. The RECs liaison officers complain that they are excluded from the PSC's closed-door deliberations on conflicts but this is hardly surprising since the officers represent the secretariats and not the member states of the regional bodies.

The second important African text, which is intended to give substance to Article 16 of the PSC Protocol, is the 2008 memorandum of understanding (MoU) on cooperation between the AU and the RECs in the area of peace and security (Memorandum of Understanding 2008). The MoU purports to be a binding legal instrument, whose objectives include contributing to the full operationalization and effective functioning of APSA and fostering closer partnership and coordination in the maintenance of peace, security and stability. It sets out a number of principles that include recognition of, and respect for, the primary responsibility of the AU in the maintenance of peace, security and stability; acknowledgement of the role and responsibilities of the RECs in their respective areas of jurisdiction; and adherence to the principles of subsidiarity, complementarity and comparative advantage.

The MoU is a sound framework at a high level of generality but it suffers from two limitations. The first is that it is an agreement between the AUC and the secretariats of the RECs rather than an agreement among the member state forums of these organisations. There

is no equivalent contract between the PSC and its counterparts in the regional bodies. This missing piece of the puzzle is very significant. While a working level concord on cooperation is useful, this is not the level at which strategic decisions get made in the course of conflict management and resolution.

Second, the MoU emphasises cooperation between the AU and the RECs but does not offer sufficiently clear guidance on the nature of their relationship. It upholds the maxims of subsidiarity, complementarity and comparative advantage without specifying the meaning of these elastic terms. The notion of ‘comparative advantage’ is appealing but in the absence of elaboration it begs the critical question: in any given situation, how is comparative advantage to be determined? The tensions that arise between the AU and the RECs are often due precisely to disagreement on which of them has a comparative peacemaking advantage in relation to a particular conflict. Furthermore, the MoU muddies the water by embracing the principles of both primacy and subsidiarity, which in practice, if not in theory, are contradictory.

For obvious reasons, the RECs maintain that subsidiarity should be the salient principle. Within the AUC, on the other hand, there are divergent views: some senior officials support subsidiarity while others favour the primacy of the Union and interpret this to mean that the RECs are subordinate to the AU.<sup>7</sup> Notwithstanding these different views, the AUC believes that the absence of a clear definition and shared understanding of subsidiarity has created friction between the AU and the RECs in crisis situations and inhibited policy and operational harmonization in a range of areas, including the African Standby Force (AUC 2014b).

Given this perspective, the AUC and the RECs want to forge clarity and consensus on the meaning of ‘subsidiarity’. The responsibility for doing this has been allocated to the Joint Task Force on Strengthening Relations between the AU and the RECs/RMs in the Area of Peace and Security, set up in the first quarter of 2014. The Joint Task Force is expected to develop a strategy and action plan for, among other things, implementing the commitments of the relevant legal instruments, developing modalities for collaboration and coordination at the strategic decision-making level, and designing modalities for the implementation of the principles of subsidiarity, complementarity and comparative advantage (AUC 2014a).

### **The Pros and Cons of Subsidiarity in Practice**

Behind closed doors UN and AU officials express frustration at the various deficiencies in continental and regional peacemaking ventures. In their public statements, though, the two organisations extol the virtues of proximity. According to the UN, the benefits include a good understanding of the causes and dynamics of conflicts in the neighbourhood, the building of trust among member states through frequent interaction, and the incorporation of international norms on governance and conflict management into regional charters (e.g. UN Security Council 2008, 2014). The AU has raised two further benefits: regional bodies are more flexible and adaptable than other external interveners and may at times have greater legitimacy in the eyes of national actors (AU PSC 2013a). African peace operations have responded to crises more quickly than the UN and have been more willing to take risks and incur casualties (Ero 2016). In addition, a regional organisation that has a unified position on

---

<sup>7</sup> Author’s discussions with AU and REC officials, Addis Ababa, December 2013.

a conflict in a member state might be able to bring considerable pressure to bear on the protagonists.

Stacked against these benefits of proximity are a number of actual and potential liabilities. The actual liabilities are the weak capacity of the AU and the RECs. This has been most evident in the sphere of peace operations, which suffer from deficits in funding, equipment, logistical support, intelligence, air assets and communication systems. In 2013 an assessment of the African Standby Force, which comprises regional standby forces, made the following observations: all the AU operations to date had required the support of the UN and other external partners; most of the regional standby arrangements were designed and staffed at levels that were unsustainable without outside support; and the reliance on external funding meant that the AU and RECs could not make their own independent decisions on the mandate, scope, size and duration of operations (Independent Panel of Experts 2013, 21, 29, 31-2; see also Ero 2016).

Less visible but equally troubling is the limited capacity and expertise of the AU and the RECs to conduct mediation. Since 2007 several RECs have set up mediation support units, modelled on the UN Mediation Support Unit, but these entities are severely under-resourced in terms of funds, staff and technical proficiency.<sup>8</sup> Long-term mediation processes led by the AU and the RECs have been dependent on donor funding, with adverse effects that include inappropriate donor prescriptions and pressure on the mediators to proceed with undue haste (e.g. Nathan 2006).

Mediation undertaken by the AU and the RECs is frequently rushed, unsystematic and unviable.<sup>9</sup> The ECCAS mediation for CAR in 2013 is a vivid example of this. In December 2012 the Séléka rebels launched a campaign to overthrow President Bozize. ECCAS persuaded them to enter into talks with the government and oversaw the signing of the Libreville Agreement, which established a transitional government of national unity. The mediation took just three days, with the mediators drafting an accord for the signature of the parties rather than facilitating negotiations between them. The ‘peace talks without talks’ were bound to fail because they did not entail dialogue and confidence-building among the protagonists, they neglected to address the root causes of the perennial crisis in CAR, and no provision was made for monitoring and other mechanisms to support implementation of the agreement (Tumutegyereize and Tillon 2013). The failure came two months after the signing of the accord, via the coup of March 2013.

The potential liabilities of subsidiarity and proximity relate to the RECs and their member states having partisan interests in a conflict and the outcome thereof (Zartman 2016). In African peace operations the countries that deploy troops have sometimes pursued their own interests at the expense of those of the country in crisis, and missions have been held hostage to regional power plays and competition, prolonging and even exacerbating the conflict (Ero 2016).

In mediation endeavours the partisan interests of the RECs have had three negative consequences: they have militated against the mediation imperatives of fairness and impartiality, reducing the disputant parties’ confidence in the REC’s peacemaking efforts;

---

<sup>8</sup> The author has been involved in designing mediation support units for the AU, ECOWAS, IGAD and SADC. At the time of writing (August 2015), the AU was in the process of establishing such a unit.

<sup>9</sup> A notable exception is the AU High-Level Implementation Panel for Sudan and South Sudan, headed by former President Mbeki.

they have compromised democratic principles; and they have thwarted the development of a unified and consistent stance by international actors. These consequences are discussed below with reference to the mediations undertaken for Guinea-Bissau, South Sudan and Zimbabwe.

In January 2012 the president of Guinea-Bissau died of natural causes and Raimundo Pereira became the interim president. The first round of the ensuing presidential election was won by the prime minister, Carlos Gomes Júnior, representing the ruling Partido Africano da Independência da Guiné e Cabo Verde (PAIGC). Although the international community declared the election free and fair, the other presidential candidates rejected the result. In the midst of this dispute the military seized power and arrested Pereira and Gomes Júnior. ECOWAS imposed sanctions, embarked on mediation and prepared a roadmap for the transition. The roadmap cancelled the election, dismantled the government, accepted that Pereira and Gomes Júnior would be replaced and envisaged a 12-month transition leading to new elections (ECOWAS 2012). Within a month of the coup, the junta accepted the roadmap and stood down.

Unsurprisingly, the PAIGC rejected the ECOWAS plan and insisted that the interrupted election be allowed to continue. It dismissed the regional body as a ‘credible mediator’ and accused it of having capitulated to the army and legitimised the coup (PAIGC 2012). The ECOWAS position was also strongly opposed by the UN, the AU and the Community of Portuguese Speaking Countries, all of which called for a resumption of the electoral process (ICG 2012). ECOWAS was perceived to have sacrificed democracy for self-interested and opportunistic reasons, generating much unhappiness among the other external actors.

The major cause of the coup was the army’s antagonism towards the security sector reform programme of Gomes Júnior and towards the presence in the country of an Angolan military mission, known as MISSANG, which had served as a stabilising and protection force following a mutiny by Guinea-Bissau soldiers in 2010. When the junta took power in 2012 it demanded the withdrawal of MISSANG. ECOWAS was keen to accommodate this demand because some of its member states, including Burkina Faso, Ivory Coast, Nigeria and Senegal, resented Angola’s military influence in their region (ICG 2012, 12-13). It therefore struck a deal with the junta, the essence of which is captured in a statement made by an ECOWAS official a few days after the coup: ‘If the [junta] authorities accept a return to normal constitutional order, ECOWAS will replace the Angolan troops’ (ICG 2012, 11).

Unlike the Guinea-Bissau case where the REC was relatively united in its partisan approach, the IGAD mediation to end the civil war in South Sudan was riven by competing national interests. After the war began in December 2013, IGAD set up a mediation team, comprising Sudan, Kenya and Ethiopia, that took instructions from the Summit. Its bid to stop the fighting was severely impaired by the conflicting agendas of its members (ICG 2015). Uganda deployed troops in defence of the South Sudan government and was thus simultaneously a belligerent party and a member of the mediation ensemble. Khartoum, on the other hand, armed the South Sudan rebels (Conflict Armament Research 2015). Sudan and Uganda had long been engaged in proxy hostilities, arming each other’s rebel movements, while Kenya, Ethiopia and Uganda vied for regional influence.

The divisions within IGAD weakened international support for its peacemaking process, impeded it from marshalling external actors around a common position, reduced its leverage over the disputants and prevented the Summit from reaching a consensus on strategy and the content of a negotiated settlement (ICG 2015). These problems were compounded by the

organisational weaknesses of the mediation, which proceeded in fits and starts in the absence of a contingent of senior staff who could maintain momentum when the top mediators were engaged elsewhere (ibid., 16). The net result was that the parties had little confidence in the IGAD process. At the time of writing (September 2015) the party leaders had just signed a peace agreement brokered by IGAD but it was uncertain when the ‘imposed deal’ would hold (Lynch and O’Grady 2015).

SADC’s response to the crisis in Zimbabwe in the 2000s reflected both unity and disunity, and both partisan action and inaction by a REC, with all the negative consequences referred to above. From 2000 onwards the Zimbabwean government was faced with the prospect of losing power in an election to the Movement for Democratic Change (MDC). It attempted to suppress its opponents through violence and repressive legislation. Yet the posture of the SADC Summit was one of regime solidarity, lauding President Robert Mugabe and turning a blind eye to the abuse of human rights and manipulation of the electoral system (Nathan 2012, 64-76). Clothed in anti-imperialist rhetoric, SADC’s protective stance kept the AU and the UN at bay while doing nothing positive to address the deteriorating situation.

In 2007, as Zimbabwe’s economic meltdown impacted on its neighbours, the Summit appointed President Thabo Mbeki of South Africa as the SADC mediator for Zimbabwe. A firm adherent of the anti-imperialist doctrine, Mbeki was repeatedly accused of being biased in favour of Mugabe (e.g. ICG 2008). When state violence intensified in the run up to the 2008 election, some of the SADC countries broke ranks. Botswana, Malawi, Mauritius and Tanzania argued that Mugabe should step down, a transitional government should replace his regime, and Mbeki’s mediation team should be made more balanced by including other African leaders (ibid). But when Mugabe lost the popular vote and then won a presidential poll that was violent and deeply flawed (e.g. SADC Electoral Observer Mission 2008), the Summit continued to recognise him as the president of Zimbabwe, effectively endorsing his subversion of democracy. Mbeki thereafter mediated negotiations that resulted in the formation of a coalition government.

In light of the Zimbabwe and Guinea-Bissau experiences, as well as the IGAD mediation for Sudan in 2002-2005, the ECOWAS mediation for Burkina Faso in 2014 and many other cases, it is apparent that the RECs are often (though not always) able to mediate the resolution of a major conflict. Nevertheless, the preceding discussion demonstrates that subsidiarity and proximity in peacemaking are not an unqualified good. In addition to the problem of limited capacity and expertise, there is a risk that mediation undertaken by a REC will be driven not only by a collective interest in stability but also by partisan national or regional interests that are divisive and antithetical to democracy.

## **Conclusion**

Contrary to the expectations of the AU and the RECs, it does not appear that the principle of subsidiarity can provide a sound and acceptable basis for determining the leadership of peace interventions in Africa. There are three reasons for this. First, the relevant organisations have incompatible perspectives on the matter. The AU’s position is contradictory, promoting subsidiarity in terms of AU-UN relations but not in terms of AU-REC relations, whereas the UN has an ambivalent stance, content to support the maxim of ‘African solutions to African problems’ unless a particular conflict is of great concern to the UNSC, in which case the primacy of the Council prevails. It is only the RECs that wholeheartedly endorse the

principle. These different perspectives are grounded in the founding charters of the organisations and reflect the core interests of their dominant members. It is therefore improbable that convergence around subsidiarity will be forged in the foreseeable future.

Second, the RECs are not adequately resourced to undertake effective peace interventions. With respect to preventive diplomacy and mediation, this challenge could possibly be overcome through capacity-building activities supported by the UN and other actors. With respect to peace operations, sustainability appears unlikely. As observed above, the RECs' plans for the regional standby brigades do not envisage self-sufficiency but instead depend on external assistance (Independent Panel of Experts 2013).

Third, the political, strategic and economic interests that motivate the RECs to intervene in conflicts in their neighbourhood may lead to partisan engagements. In many instances the parochial national interests of member states have militated against securing local and international support for the REC's peace ventures, impeded progress in negotiations and undermined a cohesive approach among external actors. The RECs have sometimes produced unsustainable agreements, provoked forum shopping by the parties and compromised the democratic principles espoused by the AU. In short, proximity can be a curse as much as a blessing.

For all these reasons, the concept of 'subsidiarity' will remain contested. It might be more productive to focus on decision-making modalities around the concept of 'partnership'. As noted throughout this paper, the relevant texts stress the imperative of peacemaking partnerships between the AU and the RECs (e.g. AU 2002, Memorandum of Understanding 2008), as well as between the UN and the AU (e.g. AU PSC 2013a, UN Security Council 2014). Much effort has been devoted to building partnerships between the secretariats of these bodies. The weak and missing links lie at the vastly more important level of the UNSC, the PSC and the state decision-making forums of the RECs. It is at this level that major inter-organisational disputes emerge. Consequently, it is at this level that mechanisms are most required for consultation, coordination and harmonisation on peacemaking.

Such mechanisms would not prevent or overcome tension and competition in all instances. Indeed, they would probably be least effective when they were needed most, namely in situations of acute political and strategic disagreement. In these situations the organisations and their dominant states might ignore the constraints of partnership in favour of freedom of action. Nevertheless, the mechanisms could, at the least, provide predictable avenues for addressing the disagreements and, at best, create stable platforms for building partnerships at the earliest phase of the international response to conflicts. The guiding principle would be partnership rather than subsidiarity or primacy. The exact nature of the partnership, including questions of leadership and division of labour, would be based not on a general template but on the organisations' comparative advantages in the circumstances of each case. Determining the contours of the partnerships on this basis would be a demanding exercise but it would be less arduous and fractious, and more productive, than devoting time and energy to adversarial contestation and power plays.

## References

Apuuli, Kasaija. 2012. "The African Union's Notion of 'African Solutions to African Problems' and the Crises in Côte d'Ivoire (2010-2011) and Libya (2011)." *African Journal on Conflict Resolution* 12 (2): 135-160.

AU (African Union). 2002. *Protocol Relating to the Establishment of the Peace and Security Council of the African Union*.

AUC (African Union Commission). 2014a. "Terms of Reference, Joint Task Force on Strengthening the Relations between the African Union, Regional Economic Communities and Regional Mechanisms for Conflict Prevention, Management and Resolution in the Area of Peace and Security." Unpublished document.

AUC (African Union Commission). 2014b. "Concept Note, Expert Roundtable on Disaggregating the Principle of Subsidiarity in African Peace Operations, Nairobi, 11-12 August 2014." Unpublished document.

AU (African Union) Assembly. 2011. *Decision on the Peaceful Resolution of the Libyan Crisis*. Extraordinary session of the AU Assembly, Addis Ababa, 25 May.

AU PSC (African Union Peace and Security Council). 2009. "Press Statement." 200<sup>th</sup> meeting of the PSC, Addis Ababa, 21 August.

AU PSC (African Union Peace and Security Council). 2011a. "Communique." 265<sup>th</sup> meeting of the PSC, Addis Ababa, 10 March.

AU PSC (African Union Peace and Security Council). 2011b. "Communique." 275<sup>th</sup> meeting of the PSC, Addis Ababa, 26 April.

AU PSC (African Union Peace and Security Council). 2012a. "Report of the Chairperson of the Commission on the Partnership between the African Union and the United Nations on Peace and Security: Towards Greater Strategic and Political Coherence." Presented at the 307<sup>th</sup> meeting of the PSC, Addis Ababa, 9 January.

AU PSC (African Union Peace and Security Council). 2012b. "Communique." 307<sup>th</sup> meeting of the PSC, Addis Ababa, 9 January.

AU PSC (African Union Peace and Security Council). 2013a. "Report of the Chairperson of the Commission on the African Union – United Nations Partnership: The Need for Greater Coherence, Peace and Security Council." Presented to the Peace and Security Council, 397<sup>th</sup> Meeting at the Level of Heads of State and Government, New York, 23 September.

AU PSC (African Union Peace and Security Council). 2013b. "Communiqué." 363<sup>rd</sup> meeting of the PSC, Addis Ababa, 25 March.

Conflict Armament Research. 2015. "Weapons and Ammunition Airdropped to SPLA-iO Forces in South Sudan." London, June. [http://www.conflictarm.com/wp-content/uploads/2015/06/Weapons\\_and\\_ammunition\\_airdropped\\_to\\_SPLA-iO\\_forces\\_in\\_South\\_Sudan.pdf](http://www.conflictarm.com/wp-content/uploads/2015/06/Weapons_and_ammunition_airdropped_to_SPLA-iO_forces_in_South_Sudan.pdf)

Dersso, Solomon. 2013. "The Best Option to Settle the CAR Crisis?". Al Jazeera, 5 December. <http://www.aljazeera.com/indepth/opinion/2013/12/best-option-settle-car-crisis-20131246152625650.html>.

De Waal, Alex. 2013. "African roles in the Libyan conflict of 2011." *International Affairs* 89 (2): 365-379.

ECOWAS. 2012. "Final Communique of the Extraordinary Summit of ECOWAS Heads of State and Government", Dakar, 3 May.

Fisher, Louis, Alhaji Bah, Abeer Mniema, Hortense Okome, Meissa Tamba, Jonas Frederiksen, Alaa Abdelaziz and Richard Reeve. 2010. "African Peace and Security Architecture (APSA) 2010 Assessment Study." [www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/RO%20African%20Peace%20and%20Security%20Architecture.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/RO%20African%20Peace%20and%20Security%20Architecture.pdf).

Gavigan, Patrick. 2010. "The 2009 Madagascar Crisis and International Mediation." Conflict Prevention and Peace Forum, Social Science Research Council, New York.

ICG (International Crisis Group). 2008. "Negotiating Zimbabwe's Transition." *Africa Briefing* 51.

ICG (International Crisis Group). 2010. "Madagascar: Crisis heating up?" *Africa Report* 166.

ICG (International Crisis Group). 2012. "Beyond Turf Wars: Managing the Post-Coup Transition in Guinea-Bissau." *Africa Report* 190.

ICG (International Crisis Group). 2015. "South Sudan: Keeping Faith with the IGAD Peace Process." *Africa Report* 228.

Independent Panel of Experts. 2013. "Report of the Independent Panel of Experts: Assessment of the African Standby Force and Plan of Action for Achieving Full Operational Capacity by 2015." Addis Ababa, 10 December.

Lynch, Colum and Siobhan O'Grady. 2015. "South Sudan's Peace Deal May Not Be Worth the Paper Its Written on." *Foreign Policy* website, 26 August. <http://foreignpolicy.com/2015/08/26/south-sudans-peace-deal-may-not-be-worth-the-paper-its-written-on/>.

Memorandum of Understanding on Cooperation in the Area of Peace and Security between the African Union, the Regional Economic Communities and the Coordinating Mechanisms of the Regional Standby Brigades of Eastern and Northern Africa. 2008.

Nathan, Laurie. 2006. "No Ownership, No Peace: The Darfur Peace Agreement." *Working Paper* 2 (5), Crisis States Research Centre, London School of Economics.

Nathan, Laurie. 2012. *Community of Insecurity: SADC's Struggle for Peace and Security in Southern Africa*, Farnham: Ashgate.

Nathan, Laurie. 2013. "A Clash of Norms and Strategies in Madagascar: Mediation and the AU Policy on Unconstitutional Change of Government." *Mediation Arguments* 4, Centre for Mediation in Africa, University of Pretoria.

PAIGC (Partido Africano da Independência da Guiné e Cabo Verde). 2012. "PAIGC Communiqué on ECOWAS Coup in Guinea-Bissau". 11 May. <https://groups.yahoo.com/neo/groups/theafricanobserver/conversations/topics/12366>.

Reuters. 2013. "Regional Leaders Recognise C. African Rebel Chief." 18 April. <http://www.reuters.com/article/2013/04/18/centralafrican-chad-idUSL5N0D54S320130418>.

SADC Electoral Observer Mission. 2008. "Preliminary Statement Presented by the Hon. José Marcos Barrica on the Zimbabwe Presidential Runoff and House of Assembly By-Elections Held on 27 June 2008." Harare, 29 June.

Tumutegereize, Kennedy and Nicolas Tillon. 2013. "Central African Republic: Peace Talks without Talks. A New Model of Perpetuating Violent Conflicts?". Website of Conciliation Resources, March. <http://www.c-r.org/comment/central-african-republic-libreville-talks-kennedy-tumutegereize-nicolas-tillon>.

UN (United Nations) General Assembly. 2009. *Cooperation between the United Nations and the African Union*. A/RES/63/310. 14 September.

UN (United Nations) General Assembly. 2013. *Cooperation between the United Nations and the African Union*. A/RES/67/302. 16 September.

UN (United Nations) Security Council. 2007. *Statement by the President of the Security Council*. S/PRST/2007/7. 28 March.

UN (United Nations) Security Council. 2008. *Report of the Secretary-General on the Relationship between the United Nations and Regional Organizations, in particular the African Union, in the Maintenance of International Peace and Security*. S/2008/186. 24 March.

UN (United Nations) Security Council. 2009. *Statement by the President of the Security Council*. S/PRST/2009/3. 18 March.

UN (United Nations) Security Council. 2011. *Resolution 1973*. S/RES/1973. 17 March.

UN (United Nations) Security Council. 2012. *Resolution 2033*. S/RES/2033. 12 January.

UN (United Nations) Security Council. 2014. *Resolution 2167*. S/RES/2167 (2014). 28 July.

UN-AU (United Nations - African Union). 2014. "Joint UN-AU Framework for an Enhanced Partnership in Peace and Security." Unpublished document.

Van Kersbergen, Kees and Bertjan Verbeek. 2007. "The Politics of International Norms: Subsidiarity and the Imperfect Competence Regime of the European Union." *European Journal of International Relations* 13 (2): 217-238.

Weiss, Thomas and Martin Welz. 2014. "The UN and the African Union in Mali and Beyond: A Shotgun Marriage?" *International Affairs* 90 (4): 889-905.

Welz, Martin. 2014. "Briefing: Crisis in the Central African Republic and the International Response." *African Affairs* 113 (453): 601-610.