Chapter XX

The African Union and Reactions to International Crimes

by Djacoba Liva Tehindrazanarivelo

1 Introduction

In Africa, as in other parts of the world, international crimes and serious violations of human rights are principally committed in the context of internal conflicts and disturbances. With regard to the collective resolution and management of such internal conflicts, the Organisation of African Unity (OAU), the first African continental organisation, failed to act effectively, though it succeeded in liberating the continent from colonial rules and racial domination, as well as in resolving some inter-State conflicts. This is mainly due to the unrestricted attachment of OAU Member States to the principle of non-interference in their internal affairs. Until the end of the Cold War,

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*The author would like to commend the Institute for Security Studies in Pretoria, South Africa, for its excellent website through which primary documents of the African Union, used for this contribution, have been accessed (http://www.issafrica.org/).

these States tended to consider the way they treated their own population as part of their internal affairs.

Against this background, some African sub-regional organisations started intervening in a State from their region to restore peace and stability, and protect the population therein. The Economic Community of West African States (ECOWAS) initiated such practice, with its military intervention in Liberia, in 1990, to restore peace and stability in that State, and later in Sierra Leone (1997) and Guinea Bissau (1998).\(^2\) This is the beginning of the addition of the maintenance of peace and stability to the economic and integration agenda of African regional organisations. The OAU itself, it was said, "encouraged Regional Economic Communities (RECs), largely fashioned for economic imperatives, to embrace conflict prevention, management and resolution as a core mandate."\(^3\) One factor behind such move is the acknowledgement that no economic development will come without peace, security and stability between and within States. Throughout years, one could find in various African instruments affirmations of a close link between development, good governance, human rights, security and stability.\(^4\)

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\(^3\)JUMA, M. (ed.): Compendium of Key Documents Relating to Peace and Security in Africa, Pretoria 2006, at 18. In the OAU texts, and now the African Union’s, Regional Economic Communities refer to African sub-regional organisations.

\(^4\)See, for instance, Art. 2 (a) of the 1999 ECOWAS Protocol; Art. 3 of the Common Market for Eastern and Southern Africa (COMESA) Constitutive Act; and Art. 124 of the East African Community Treaty. At the continental level, the 1993 Cairo Declaration on the occasion of the thirtieth anniversary of the OAU recognised “the need for establishing a close link between development, democracy, security and stability in the years ahead as the most ideal formula for fulfilling the legitimate aspirations of the peoples of Africa to a decent life, progress and social justice” (AHG Decl. 1 (XXIX), 30 June 1993, par. 8). The 2000 Constitutive Act of the African Union affirms also the “need to promote peace, security and stability as a prerequisite for the implementation of [...] development and integration agenda” (Preamble). The New Partnership for African Development (NEPAD) Framework Document, adopted in Abuja in October 2001, states that “African leaders have learned from their own experience that peace, security, democracy, good governance, human rights and sound economic management are conditions for sustainable development” (par. 71). Finally, one of the principles and values forming the basis of the Common African Defence and Security Policy is “the fundamental link and symbiotic relationship that exists between security, stability, human security, development and co-operation, in