The African regional collective security system under international law

Summary

The aim of this study was to analyse the concept of a regional collective security system in the light of the evolution of its institutions and normative tools, with particular reference to the role currently played by regional organisations in peacekeeping and security, with particular focus on the African Union. With *perestroika* and the subsequent collapse of the Soviet Union, the bipolar world has given way to a multipolar world that allows new players to emerge on the international arena, and that brings new challenges in terms of peace, security and the protection of human rights. As these challenges have proved extremely difficult for the United Nations to address, there is a need to involve other regional and sub-regional actors who have remained on the sidelines so far.

The complex nature of the crises that followed the end of the Cold War and the reluctance of traditional peacekeepers to engage in resolving conflicts that they did not have full control over resulted in decentralisation which has in turn led to regional organisations taking responsibility for peace and security issues. At the same time, the evolution of the concept of collective security itself made it possible to equip these organisations with more repressive coercive measures. It also gave them a legitimate right to intervene, and this right too, was subject to numerous transformations as the decentralisation process progressed, evolving from the right to intervene on a consensus to a coercion base right, while at the same time the legitimacy and legality of intervention was gaining approval and conformation through the recognition by international organisations of the concept of the duty to protect and to intervene in humanitarian matters. Hence, this decentralisation became an important turning point in the approach to collective security policy.

The radical changes of the face of the crises that characterised the early 1990s posed new challenges to the restoration of peace and security and led regional organisations to engage more deeply in peace efforts. The growing number of intra-state conflicts, particularly inter-ethnic ones, full of violence rarely seen in such intensity since the Second World War, as well as the emergence of internationalised terrorism and other crisis factors, such as pandemics or anticipated climate change, have prompted the United Nations and regional organisations to adopt new normative tools, ranging from the duty to protect, through the extension of the right to humanitarian intervention, to a more proactive declaration of the principle of respect for human rights, allowing for coercive action to be taken to restore social peace and protect the victims of acts of violence, often of poorly identified magnitude and impact, committed by armed groups.

The simultaneous fall in the number of conventional interstate conflicts means that the consensual, mainly military, approach to crisis management by sending 'blue helmets', which was characteristic of the Cold War period, is becoming obsolete. Today, new peace-keepers should engage in a more global and multidimensional crisis management, starting from the protection of civilians to the restoration of state structures and the organisation of free elections. The relatively passive attitude of the international community in the face of many genocide crises, as in Rwanda in 1994 or in today's Libya, Somalia and Sudan, requires that regional organisations take responsibility for their own security by creating and subsequently implementing permanent collective security mechanisms equipped with legal tools confirming their right to preventive intervention.

Africa, which after the end of the two ideological blocs of the North is losing its strategic importance, also suffers from a lack of commitment on the part of the great powers and a curtailment of the economic and military aid provided earlier to either the Marxist-Leninist regimes or the regimes currently allied with the West. The simultaneous collapse of the latter has resulted in a revival of ethnic and religious nationalisms, favouring in particular the emergence of fundamentalist terrorist movements. The growing number of crises within and between states, often caused by the rejection of the principle of the inviolability of borders resulting from de-colonisation proclaimed in 1964 by the Organisation of African Unity (OAU), leads to secession and inter-ethnic conflicts with asymmetrical and multidimensional characteristics, extremely violent and difficult to understand in western countries. Peace-keeping operations by Western powers such as the one in Somalia, which are sometimes dangerous and involve very high human costs, combined with the cuts in military budgets that followed the end of the Cold War, have too, eventually, discouraged these powers from engaging their forces directly on the African continent. The incapability of the OAU to respond to these threats, as well as randomly operating bilateral military cooperation agreements or friendship pacts, together with the impossibility of the UN to act on all fronts at the same time, mean that a contribution of regional and sub-regional organisations and their involvement in the global peace efforts has become indispensable. The traditional perception of security is changing with globalisation, and the compression of the concepts of time and space.

The new 'borderless' economy reduces the autonomy of states. In addressing global issues, national priorities are becoming outdated. Hence, a universalist and regionalist perspective turns out to be the most appropriate. As a consequence, the international community favours a new interpretation of security and chooses as a new priority the enhanced protection of human rights through the establishment of social peace and strengthening the governance structures. Under the positive effect of the terms „global village", „interdependence", „a world without borders" or „the new millennium" that have been in recent years in use, ideas, social practices, institutions and the approach to international problems have been changing fundamentally, encouraging the introduction of new political strategies. A new international civil society is emerging.

Given their cumulative impact, these changes require new forms of interaction, cooperation, management and integration that will coexist with the old forms and transform the parameters of peace-keeping and security currently described as random variables that must be able to adapt and respond to the numerous crises whose characteristics and components are constantly evolving. The parameters of a collective security system are

indicators of continuity; in other words they are standards, well established procedures and institutional equivalents that exert pressure on all fundamental transformations. They also constitute the basic rules and principles of the organisation of the system, defining its objectives, means and resources necessary to achieve them, including the mechanisms for strengthening the response capacity and increasing its adaptability. In order to solve the endemic crises that are shaking the African continent, it is therefore necessary to control these new variables by strengthening collective security mechanisms, going beyond the diplomatic methods preferred by the OAU, and to strengthen certain parameters by creating a more integrating continental organisation with more repressive collective security tools, capable of controlling all the variables that characterise the threat to peace and security on the continent. Thus the of the new *sui generis* regional organisation, the African Union, aimed to achieve these objectives by building an integrated policy of collective security, the African Peace and Security Architecture, based on the pyramid structure, and the activities of the Peace and Security Council, as a subsidiary body fully involved in the coordination of this project.

However, it proved completely ineffective to intervene only externally, using military or other Western forces to act in a given country, with the absence of global and multidimensional solution to the crisis, and without building social peace, good management or economic development. In this context, AU leaders recognised the need to implement a comprehensive policy of continental stabilisation and made a moral and concerted commitment to fight corruption, to pursue a structural reform of the judiciary in order to increase the efficiency of public institutions, and to promote administrative and territorial decentralisation. This self-assessment of the peace and security challenges made it possible to develop a system of collective security based on sound governance principles. Such a reading of these ideas is in line with the desire of the Peace and Security Council to promote peace and strengthen, through the Pact for Mutual Assistance, the Non-Aggression Pact with sub-regional mechanisms of predicting, preventing, managing and resolving crises. Common security is therefore understood as a public good and no group may claim the right to take over the monopoly on its management.

In order to achieve its full potential, such a mechanism must involve an increasing number of actors, pay particular attention to the role of gender in the development process and promote a greater interest of civil society in security issues. Such a perception of the reform of the security sector should ultimately lead to a recovery of the system at the national level of each country. In a situation where structures are of value only to those who benefit from them, professionalisation is essential on the ethical, conceptual and operational levels in relation to all actors. This approach requires cooperation between various local, national and international actors, with the use of bilateral and multilateral mechanisms that provide real support for these initiatives. The management of collective security – a pillar of democratic governance – strengthens the civilian power and subordinates it to an army which, if such a situation arises, accepts democratic and civilian control. Legislative institutions, civil society organisations and security management require the missions of the armed forces and the security forces to be reassessed so that their service to society can be re-established.

The army-nation relationship thus strengthened will transform the naturally pragmatic African armies into professional armies being the pillars of democracy and respecting human rights. This view assumes the construction and, as the ultimate goal, the

establishment of a supranational community operating in the field of humanitarian aid, education, human rights and the environment. The establishment of an intergovernmental structure bringing together the common foreign and security policy, supported by a permanent dialogue and equipped with a crisis and conflict management mechanism, will lead to the achievement of these objectives. It seems that this is indeed the ambition of the African Union.

In view of the above, it may be concluded that the African Union is making considerable legislative progress when compared to the Organisation of African Unity, which it replaced in 2002. Its founding act has brought about a radical change in the doctrine of peace and security. This was done by approving the African Union's right to intervene and through the introduction of a system of sanctions. Thus the normative evolution carried out by the AU requires positive recognition as it attaches greater importance to peace and security than the OAU did. As a matter of fact, the strict respect for non-interference enshrined in the principles of the OAU Charter made the former African regional organisation famous for its inertia or a failure to act whenever it came to conflict resolution. The African Union, as a new continental organisation which freed itself from the rigidity of the Charter of the no longer existing OAU and its principle of non-interference in the affairs of its members, has proved to be more ambitious and determined.

To conclude this study of the normative innovations introduced by the African Union in the area of peace and security, it should be noted that today impunity or total freedom of control through terror or oppression of the people would be no longer possible because the African Union is doing nothing about it. After all one of the AU's fundamental objectives is to put an end to this type of abuse. The creation of the AU has opened a new era for peace, security and stability on the continent. Thus, the new normative achievements are to be welcomed.

Contemporary conflicts are very complex. With the end of the Cold War, conventional armed confrontations between two states and regular armies gave way to multidimensional internal crises caused by numerous factors. Conventional, consensual or forced peacekeeping operations, based solely on military tools, have given way to multidimensional mechanisms requiring the intervention of many actors, where the mere imposition of a ceasefire by the conventional armed force is no longer sufficient to resolve the conflict or the threat of an uneven nature.

This complexity allows for many different ways of solving crises, one of which is based on the principle of subsidiarity. Africa has one of the most advanced structures for strengthening peace and security in the world, the African Peace and Security Architecture (APSA). Its unique structure at the regional level, and this must be stressed, enables it to build close links between the African Union and sub-regional organisations. And it is the principle of solidarity which constitutes the fundamental aspect of effective functioning of this network, currently continuously strengthened.

The role of Regional Economic Communities (RECs) in the peace process in many African states is an example of how the principle of subsidiarity can affect the peace process. The proximity of regional or sub-regional organisations involved in resolving conflicts increases their credibility and, above all, enables better understanding and awareness of local issues, while being at the same time part of a sustainable peace process. There is no doubt that the RECs play a key role at each stage of the process, although this does

not mean that there are no loopholes in the system. There is a widespread concern that mandates may be duplicated, that there will be rivalry or unnecessary competition with no coordination, or that there will often be disputes concerning sub-regional leadership – sometimes resulting from self-proclaimed declarations – or that the REC will resist the AU interfering in the internal affairs of its members. Here, indeed the RECs have no resources, internal capacity or even the political will to act, unlike larger international organisations. However, these shortcomings should not serve as a pretext for the exclusion of RECs, but ought rather be an inspiration for finding better ways to cooperate and coordinate, for defining the division of tasks and for finding areas of unanimity in order to increase the capacity of the RECs of resolving certain African problems.

Thanks to the African Peace and Security Architecture, the continent now has a system for conflict prevention, conflict resolution and management that is, in its theoretical sense, consistent and responsive to crises in the area, while the establishment of the Peace and Security Council is an undeniable element of progress, even though serious improvements are still needed. The functioning of the system could still be improved, in particular by strengthening the coordination between the African Union and the RECs. The Malian crisis has clearly demonstrated the limitations of the current system which failed to provide a satisfactory solution at a continental level, while also highlighting the weaknesses of the APSA in conflict prevention. Even assuming that this would be an overly bold exercise, it may be necessary to establish the African Union's supervision of the REC for a transitional period. However, it is worth noting that the final operationalisation of the African Rapid Reaction Force and its squads deployed within five RECs is one of the undeniable successes. It is worth noting that this whole process has surprised many Western analysts.

With the emergence of various „road maps" leading to a conceptual evolution of these collective security tools towards greater multidimensionality, it is clear that the AU and the RECs showed their actual potential in resolving crises. The question now is whether the political leaders will put into practice their willingness to use these mechanisms as previously stated. The political procrastination, particularly during the Burundi crisis, may cast doubt on their intentions. How, then, can we imagine „africanisation" of an effective response to the repeated crises that are shaking the continent?

The establishment of an organised African armed force capable of implementing the decisions of the Peace and Security Council as well as the existence of the necessary legislative tools for their implementation is, unfortunately, not sufficient to remove the political antagonisms that are still present. Some of the actors in this process are concerned about the specific instrumentalisation of the peace and security mechanisms that might benefit the hegemonic powers. Moreover, with regard to the issue of Africa's own financial resources, it is clear that the African Union cannot manage crises on the continent acting on its own without the help of external players. The reason for that it, to a large extent, the limited financial capacity of African countries, but above all the lack of political will and vision, which manifests itself in the stagnation in the implementation of aspirations declared at major African conferences.

The African Peace and Security Architecture is still being developed, but it reflects the ideal vision of Africa and its sub-regions for peace and security on the continent. The regional and sub-regional economic integration that is to close the formation of APSA, does *de facto* introduce democratisation. Moreover, the APSA, an expression of collective

or cooperative security, recognises multilateralism as a strategic framework for predicting, preventing, managing and resolving conflicts and crises.

The establishment of the APSA is a logical continuation of Africa's efforts to bring peace to the world. The implementation of this mechanism is a collective work that requires constant efforts. This in turn means that there is no one social component that can be considered more relevant. The APSA acts as an integrated indicator of national security policy, the effectiveness of which can only be ensured by a profound transformation of the security sector. An effective reform of this sector only takes place when all the actors – partners in the field of sustainable development – work together and are controlled.

It is also important that although the military and security indicator remains, of course, the most relevant through its multidimensionality, it needs to be complemented by a firm and voluntary commitment by most participants in the process in order to promote strong and sustainable growth and reduction in poverty by eliminating unproductive expenditure and improving education, health, social protection and essential infrastructure. It is important to note that while this political consensus is regularly declared, there is often a lack of willingness to act. This raises the question about the model of integration chosen by Africa. This question is also often asked in the case of other regional organisations, such as the European Union, which are trying to find their way. As in the EU, and as in any other area, real African integration in collective security can be achieved only through vertical links between the AU, the RECs and the Member States, as well as on a horizontal basis between the Member States, notably within the framework of the RECs. This can be done following the example of the process already started by ECOWAS. However, the creation of a purely centralised framework, often regarded as containing too many elements of coercion, does not allow such objectives to be achieved.

Only respect for individuality, sensitivity, diversity of cultures, traditions and languages, but also the sharing of a common heritage and, crucially, the righteous government of each Member State suffering from endemic corruption, are the factors that will allow a degree of consensus to be reached that is necessary to achieve a coherent and balanced integration. The African Union and the RECs, in particular through the APSA, are expected to play a coordinating but also catalytic role in this integration. The question therefore remains whether the African Union is indeed equipped with the institutional and regulatory tools needed for this kind of integration process or whether, as in the case of the European Union, they will need to be thoroughly and regularly redesigned so that the regional organisation can ultimately fulfil its aspirations.

However, nicely formulated declarations of principles are not enough and they will not improve the situation of Africa, the most demographically dynamic continent, in the face of the current and the future crises, and accumulating climatic and migratory threats. Only an integrationist, energetic, coordinated and voluntary policy on security, governance and economic development will be capable of meeting the challenges facing the continent. Unfortunately, as it seems, the time factor has now become crucial and African leaders must be aware of this.