

**UNIVERSITY OF NAIROBI**

**INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES**

**CHALLENGES IN THE IMPLEMENTATION OF THE RESPONSIBILITY TO PROTECT:**

**A CASE STUDY OF THE AFRICAN UNION**

**BY**

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**Declaration**

I, (**Rita Nangira Namano**) hereby declare that this research project is my original work and has not been presented for a degree in any other University.

Signed..... Date.....

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This project has been submitted for examination with my approval as University Supervisor;

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## **Dedication**

This project is dedicated to my parents Mr. Anthony Namano Wanjala and the late Rosemary Kanini Mburia for always believing in me and pushing me to achieve my dreams. To my brothers, Bernard Wanjala Namano for the proofreading and criticism, George Munene, for his steadfast support. To Kiriboti, the Mibeys, and lastly my beloved daughter Dorothy Kaari for their dedicated support, understanding, utmost sacrifice, and encouragement.

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## **List of Acronyms and Abbreviation**

<b>ACHPR:</b>	African Commission on Human and Peoples' Rights
<b>ACIRC:</b>	African Capacity for Immediate Response to Crises
<b>ACJ:</b>	African Court of Justice
<b>ACRWC:</b>	African Charter on the Rights and Welfare of the Child
<b>ACtHPR:</b>	African Court on Human and Peoples' Rights
<b>AI:</b>	Amnesty International
<b>AMISOM:</b>	African Union Mission in Somalia
<b>APSA:</b>	African Peace Security Architecture
<b>Art.:</b>	Article
<b>ASF:</b>	African Standby Force
<b>AU:</b>	African Union
<b>AUCIL:</b>	African Union Commission in International Law
<b>CBOs:</b>	Community Based Organizations
<b>CEWS:</b>	Continental Early Warning System
<b>CPA:</b>	Comprehensive Peace Agreement
<b>CSOs:</b>	Civil Society Organizations
<b>EAC:</b>	East African Community
<b>ECCAS:</b>	Economic Community of Central African States
<b>ECCC:</b>	Extraordinary Chambers in the Courts of Cambodia
<b>ECOMIG:</b>	Economic Community of West African States in the Gambia
<b>ECOWAS:</b>	Economic Community of West African States

<b>FARDC:</b>	Forces Armées de la République Démocratique du Congo (Armed Forces of the Democratic Republic of the Congo)
<b>FDSCI:</b>	Defence and Security Forces of Côte d’Ivoire
<b>FGS:</b>	Federal Government of Somalia
<b>GA:</b>	General Assembly
<b>GDP:</b>	Gross Domestic Product
<b>HIF:</b>	Humanitarian Intervention Framework
<b>HOSG:</b>	Heads of State and Government
<b>HR:</b>	Human Rights
<b>HRW:</b>	Human Rights Watch
<b>ICC:</b>	International Criminal Court
<b>ICGLR:</b>	International Conference on the Great Lakes Region
<b>ICISS:</b>	International Commission on Intervention and State Sovereignty
<b>ICJ:</b>	International Court of Justice
<b>IDIS:</b>	Institute of Diplomacy and International Studies
<b>IDPs:</b>	Internally Displaced Persons
<b>IGAD:</b>	Intergovernmental Authority on Development
<b>IHL:</b>	International Humanitarian Law
<b>IHRL:</b>	International Human Rights Law
<b>LAS:</b>	League of the Arab States
<b>LRA:</b>	Lord Resistance Army

<b>MFA:</b>	Ministry of Foreign Affairs and International Trade
<b>MONUSCO:</b>	United Nations Organization Stabilization Mission in the Democratic Republic of the Congo
<b>OAU:</b>	Organization of African Unity
<b>OHCHR:</b>	Office of the United Nations High Commissioner for Human Rights
<b>OIC:</b>	Organisation of Islamic Countries
<b>PCRD:</b>	Post-Conflict Reconstruction and Development
<b>PKOs:</b>	Peacekeeping Operations
<b>PSOs:</b>	Peace Support Operations
<b>PNC:</b>	Police Nationale de Congo (Congolesse National Police)
<b>POC:</b>	Protection of Civilians
<b>POW:</b>	Prisoners of War
<b>R2P:</b>	Responsibility to Protect
<b>RECs:</b>	Regional Economic Communities
<b>ROs:</b>	Regional Organisations
<b>ROL:</b>	Rule of Law
<b>SALWs:</b>	Small Arms Light Weapons
<b>SC:</b>	Security Council
<b>SCR:</b>	Security Council Resolution
<b>SCSL:</b>	Special Court for Sierra Leone

**SG:** Secretary-General

**SSR:** Security Sector Reforms

**TGNU:** The Government of National Unity

**UDHR:** Universal Declaration of Human Rights

**UN:** United Nations

**UNGA:** United Nations General Assembly

**UNHRC:** United Nations Human Rights Council

**UNPROFOR:** United Nations Protection Force (Yugoslavia)

**UNSC:** United Nations Security Council

**WSOD:** World Summit Outcome Document

## Abstract

Responsibility to Protect doctrine adoption and application was due to mass atrocities against various populations. This study, therefore, evaluated the challenges that the African Union faces in human rights protection through the implementation of the doctrine. The study provided an overview of the doctrine and its application in various African conflicts. The theoretical framework used in this study was Krasner's international regime theory. This theory helped to understand that power is devolved amongst existing institutions which operate as implicit coalitions based upon principles, norms, rules and decision-making procedures all working towards desirable outcomes. Mixed method research was used in the study and the primary data was collected by use of questionnaires, a sample size of 100 was selected by the researcher using purposive sampling. The researcher used her own judgment in selecting the target population with practical knowledge on the subject. The findings of the study include: (a) the African Union implementation of the Responsibility to Protect in protecting its population against the atrocity crimes, (40.24% n=33) of the respondents renounced that the doctrine is significant in resolving African conflicts (b) the respondents agreed that the AU has established various mechanisms to uphold human rights, (48.78% n=40) indicated the AU was highly effective in legislative formulation, that the Union was effective in institutional establishment (45.12% n=37) and structural establishment was effective with (46.34% n=38) and had not borne the intended results (c) it was evident that the AU faces significant challenges in the achievement of human rights in Africa, through the implementation of the R2P doctrine hence the ineffectiveness with (48.78% n=40) and highly ineffective (15.85% n=13). An indication of inadequate resources, lack of political will, bottlenecked decision-making processes, justification and execution of the doctrine, ASF's capability and the use of nascent norms to ongoing conflicts were some of the discussed challenges. The study finally recommends that the population should be involved in conflict mitigation and human rights protection, the AU should address the procedural flaws in the decision making process and approach each conflict individually, the international community should adopt the ICISS recommendations and early warning mechanism while scaling up the application of the R2P doctrine in cases atrocity crimes' commission to uphold human rights and maintenance of universal peace and security.

# CHAPTER ONE

## INTRODUCTION

### 1.1 Background to the Study

The Responsibility to Protect (R2P) doctrine is a political obligation made by the United Nations member states, through their respective Heads of State and Governments (HOSG) during the World Summit held in 2005 to collective responsibility on matters with regard to securing people.<sup>1</sup> To that effect, the member's key objective is to protect its populations from ethnic cleansing, crimes against humanity, war crimes, and genocide, hereafter (international crimes or atrocity crimes) through cessation and prevention of violence through peaceful means. Should the state fail in carrying out this obligation, the universal community has the mandate to intervene. Hence, since its inception, the doctrine has been a tool that has been used by the global community to clearly understand the relation between crisis, conflict and humanitarian emergencies. Thus, a paradigm shift to the responsibility to protect from the right to intervene, which stands more focused on humanitarianism rather than sovereignty.

During the 1990s the international community's failure to protect the non-combatants from human rights abuse and atrocities in the 1992 Rwanda and the 1995 Srebrenica genocide, forced the unanimous adoption of the R2P doctrine. This would ensure that the genocide cases do not repeat. Hence, to some extent, this translates to the fact that, some of the states would have failed if this doctrine would not have been adopted. The state would not be the protector of the population's rights but the violator of the same. The adoption of this doctrine, therefore, means that the state is obligated in ensuring and that the likelihood of the perpetrators both the state actors and non-state actors, internal or external, do not carry out human rights violation crimes against the population.

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<sup>1</sup> United Nations Document. United Nations Office on Genocide Prevention and the Responsibility to Protect Accessed (May 4,2018) Available at: <http://www.un.org/en/genocideprevention/about-responsibility-to-protect.html>

States have to uphold the International Law as it is the foundation upon which they are expected to fulfill. These legal responsibilities are to ensure just treatment of the population within their jurisdiction as well as maintain positive relations with other States.<sup>2</sup> It is upon this background that R2P is a norm of International Law, and states are expected to uphold it as it addresses the fundamental human rights, use of force among others.

Since human rights are vital issues that address the fundamental rights of mankind, the global community is obliged to deliberate on human rights issues using international instruments which include the 1948 United Nations Declaration on Human Rights (UDHR), so as to promote and preserve peace and security.<sup>3</sup>

The R2P doctrine does not have a dedicated legislative framework, however, it is dependent on the International Humanitarian Law; Geneva Convention and its four Additional Protocols, the Rome Statute of the International Criminal Court and the International Criminal Law for implementation.<sup>4</sup>

The dynamism of Africa's peace and security arena had been adversely affected in the post-Cold era, mainly due to the evolving nature of intrastate conflicts which stem from weak governance, stifled democracy, and public participation. The civil wars witnessed thus far have had grave human rights abuses, destruction of resources which has in turn impeded and has continuously impeded the rights and justice of the affected populations.

Also, the lack of legality of the OAU in interfering with the member States internal affairs resulted to the 1994 Rwandan genocide, the Southern African struggles for liberation,<sup>5</sup> the en masse Great Lakes region's human rights abuse, in addition to the increase in coup d'états in

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<sup>2</sup> United Nations. "Uphold International Law" Accessed (August 2,2018) Available at: <http://www.un.org/en/sections/what-we-do/uphold-international-law/>

<sup>3</sup> Smith R K M Textbook on International Human Rights (Oxford 2005)

<sup>4</sup> Australian Red Cross. "International Humanitarian Law and the Responsibility to Protect: A handbook.

<sup>5</sup> Murithi T. 'The Responsibility to protect as enshrined in Article 4 of the Constitutive Act of the African Union', *African Security Review*, Vol. XVI No. 3,(2008)pp.109-137

the continent. This led to the OAU's transformation to AU. The AU was mandated to address the Continent's economic, social and cultural development through various regional integrations- regional economic communities.<sup>6</sup> Due to the vicious nature of African conflicts towards the socio-economic advancement of the continent, the Constitutive Act was recognized as a tool for implementation towards enabling a positive environment towards maintaining peace, security, and stability.<sup>7</sup> AU's avenue of non-interference from OAU's non-indifference provides for the continent's right of intervention in other member states. The AU's approach strives for the promotion of the non-indifference rights. These rights include good governance, peace security, stability, democracy, and human and people's rights,<sup>8</sup> which are expected to be protected at all cost.

In the African context, the principle was enshrined in Article 4(h), five years before the UN embraced the RtoP principle.<sup>9</sup> This was due to the international community's failure to decisively and timely intervene in African conflicts such as the Rwandan genocide, the Southern African struggles for liberation,<sup>10</sup> the mass human rights infractions in the Great Lakes region as well as the increase in the number of coup d'états in African countries. The global adoption provided the AU with the non-indifference approach in security.

## **1.2 Statement of the Problem**

Despite numerous high-level meetings' deliberations, resultant treaties that have been documented, and the intended outcome with respect to safeguarding human rights has to this day not been achieved. The continuous disrespect of human rights and justice of the populations emanating from civil and structural conflict.

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<sup>6</sup> African Union, "Constitutive Act" 2000 Art. 4(f)

<sup>7</sup> *ibid.* Preamble para.8

<sup>8</sup> *Ibid.* Art. 3

<sup>9</sup> *Op. cit*

<sup>10</sup> Murithi T. 'The Responsibility to protect as enshrined in Article 4 of the Constitutive Act of the African Union', *African Security Review*, Vol. XVI No. 3,(2008)pp.109-137



Within the context that all Nations are bound to support the United Nations Charter, the International Human Rights Law (IHRL) and the International Humanitarian Law (IHL)<sup>11</sup> among additional key documents and treaties, there have been persistent human suffering. The best intentions of the global and regional organizations towards the implementation of these documents has been a challenge. This is mainly due to lack of political will, the posturing of the leaders, repetitive lack of answerability by the perpetrators to the national, regional or universal courts like the International Criminal Court, the African Court of Human and Peoples' Rights<sup>12</sup> and the African Court of Justice.

A clear conceptual understanding of the policies, the AU's resource inadequacy, which directly affect operations among them: resource allocation, capacity, capability and preparedness in cases of human rights violation, limited Security Council mandates, are some of the factors that have promoted impunity hence a repetitive tendency in violating the civil liberties and the social justice of the populace.

The incessant violation of the R2P doctrine in the international system has had a negative impact towards respect of the fundamental rights and freedoms of the population which has caused a ripple effect in the instability of the affected stakeholders; individuals, states, regions and in consequence, the global peace and security. The efforts made in the morphing conflicts seem to be watered down because in most cases since there is no peace to keep.

### **1.3 Objectives of the Study**

This study's general objective is to explore some of the challenges associated with the implementation of the Responsibility to Protect by the African Union.

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<sup>11</sup> Evans G. Implementing the Responsibility to Protect: Lessons and Challenges (May 4, 2018) <http://www.gevans.org/speeches/speech437.html>

<sup>12</sup> Organization of African Unity OAU (9<sup>th</sup> June 1998). "Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights" Accessed (July 1, 2018) Available at <http://www.africancourt.org/en/images/Basic%20Documents/africancourt-humanrights.pdf>

The specific objectives of this study are:

1. To assess the extent to which the global R2P doctrine offers a solution to human rights abuse to the African conflicts.
2. To examine and analyse the measures to be taken in the utilization of the R2P doctrine by the AU in upholding the human rights and justice of its population in Africa.
3. To investigate and analyse the levels of success in using the R2P doctrine in the achievement of human rights in Africa.

#### **1.4 Research Questions**

The specific questions that guided this study included:

1. How can the global R2P doctrine offer solution to human rights abuse to the African conflicts?
2. What are the measures to be taken in the utilization of the R2P doctrine by the AU in upholding the human rights of its population?
3. What are the levels of success in using the R2P doctrine in the achievement of human rights in Africa?

Answers to these questions will give a reliable knowledge of the challenges faced by the AU in the implementation of the R2P doctrine.

#### **1.5 Literature Review**

This section presents both the theoretical and empirical literature review. It also reviews the scholarly evidence from the journals, books, articles and online documents.

##### **1.5.1 Theoretical Literature Review**

The theoretical literature has been reviewed to help identify and analyse the key debates around the implementation of the Responsibility to Protect by the African Union.

### ***1.5.1.1 Idealism***

Proposed by Hegel, the idealism theory inclines towards states being guided by the normative principle in addressing all issues affecting their population as well as their interests.<sup>13</sup> The established internationally accepted norms have brought about the establishment of the global and regional bodies. They include the UN, Regional Mechanisms (RMs) such as NATO, EU, AU the Arab League, Regional Economic Communities (RECs) such as EAC, SADC, ECOWAS, among others. These RECs play a significant task in upholding the human rights and justice of their relevant populations by ensuring that peace and security in their respective regions are maintained and if there's lack thereof, it keeps the peace.

For that reason, the principle of having an international system with the collective responsibility in all its undertakings has been guided by various international agreements and treaties which have ensured that the basic rights and liberties of the people are safeguarded.

The collective responsibility of these global actors within the UN Charter gives the sole responsibility, though limited, to the Security Council to authorize action without the target State's consent on human intervention matters. This means that the UN Charter and international law outrightly promote non-coercive ways for global law enforcement except in instances where civilians are to be protected.<sup>14</sup> As such, human intervention is more of a fiduciary relationship, where other States have the option to get involved over another States legal issues.

The main reason for the establishment of the OAU was to address human rights to justify the decolonization struggle and liberation of Africa as colonialism did not support human rights.

Its successor the AU unequivocally established human rights an integral element in its

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<sup>13</sup> Garrett Jan. Hegel: An Overview (April 9, 2008) Accessed September 3, 2018. Available at: <http://people.wku.edu/jan.garrett/303/hegellex.htm#Notes>

<sup>14</sup> Ibid. Article 5

obligation as provided for by the Constitutive Act.<sup>15</sup> Thus giving clear defining human rights as an embodiment of the political, social, economic, civil, and cultural rights also regarded as norms that universally protect everyone and must not be violated.<sup>16</sup>

During its adoption, the OAU was more focused on the non-interference and non-interventionism in member states' domestic matters hence leading to impunity and gross human rights abuse. This was attributed to the fact that the OAU's mandate was limited hence could not mandate the other Member States to interpose in another's domestic affairs.

The change in mandate was deemed necessary as the intended outcome was that it could provide for the intervention in these conflicts. It was therefore within the new African Peace Security Architecture (APSA), that the R2P was entrenched.<sup>17</sup> From this normative framework, the AU was able to intervene in conflicts such as the Darfur, Sudan in 2003. Hence, by 2005, the adoption of the normative framework by the UN through the R2P norm had equivalence to Article 4(h).

Art. 4(h) of the Constitutive Act,<sup>18</sup> provides a legal background and the obligation for the African States to intervene and/or protect the population from heinous acts anywhere in the continent.

This theory is applicable to this study because the researcher has used it to explain why R2P doctrine is dependent on the global and regional framework for the successes in its implementation of an ideal world where there is no conflict.

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<sup>15</sup> Gawanas B., *'The African Union: Concepts and implementation mechanisms relating to human rights'* in Bösl A. and Diescho J. (ed) *Human Rights in Africa Legal Perspectives on their Protection and Promotion*, (Windhoek, Macmillan Education Namibia, 2009) pp.135-163: 135

<sup>16</sup> Nickel, J. "Human Rights", *The Stanford Encyclopaedia of Philosophy* (Spring 2017 Edition), Edward N. Zalta (ed.), <https://plato.stanford.edu/archives/spr2017/entries/rights-human>. Accessed on (Jul 4, 2018)

<sup>17</sup> Ibid.

<sup>18</sup> Op. cit.

### *1.5.1.2 Classical Liberalism*

Classical liberals are of the opinion that every human being has fundamental human rights and must be protected by the state. That they all have the right to protect them and do what they ought to do so long as there is no violation of others' rights, and that they can go against the law if the people's rights are threatened.<sup>19</sup>

Liberalism theory is established on the basis that, the global system has the ability to bring about universal peace and security through complementary cooperation for furtherance of their interests, compared to when a state goes separately. The non-state actors, states and the regional systems that the state belong to for the purposes of presenting their interests to the international community.<sup>20</sup> To this end, an enabling environment is created either in the presence or absence of a hegemon, to have formalized agreements which would guide their strategic and economic interests.<sup>21</sup>

Sharife posits that the adoption of the "right to intervene" is conceived to be a threat to the developing countries as it tends to disregard the existing territorial structures and sovereignty with regard to power and politics. The Security Council's mandate is biased as some countries are protected at the expense of others.<sup>22</sup>

The neo-liberalism theory is sufficient for this study because the R2P doctrine relies on the UNSC and the regional organizations to uphold it. The responsibility of the global community is legislatively provided for and all states are required to adhere to them, so as to protect the rights and justice of the population.

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<sup>19</sup> Doyle m. and Recchia S. "Liberalism in International Relations", International Encyclopaedia of Political Science (2011), p.1434. Accessed (July 13, 2018)

<sup>20</sup> Slaughter A-M. International Relations, Principal Theories Accessed (September 3,2018) Available at: [https://www.princeton.edu/~slaughtr/Articles/722\\_IntlRelPrincipalTheories\\_Slaughter\\_20110509zG.pdf](https://www.princeton.edu/~slaughtr/Articles/722_IntlRelPrincipalTheories_Slaughter_20110509zG.pdf)

<sup>21</sup> Burchill S. "Liberalism" in Theories of International Relations 3 ed. (New York, Palgrave Macmillan, 2005) p. 55-81:65

<sup>22</sup> Sharife, K. "Just War in Africa." Harvard International Review. July 12, 2012. Accessed (July 22, 2018). Available at: <http://hir.harvard.edu/article/?a=2750>

## ***1.5.2 Empirical Literature Review***

### ***1.5.2.1 The global R2P doctrine is a solution to human rights abuse to the African conflicts***

In all conflicts either with or without violence, the human rights of the population are bound to be infringed. Hence, the need for all individuals, states, regional organizations and international organizations' cognizance of the implementation of the R2P doctrine. The study has established that this doctrine is a sufficient tool in offering solution to preventing and upholding human rights abuse and justice to the affected population before and after signing of the Comprehensive Peace Agreements (CPAs). As a consequence, the doctrine protects the vulnerable population from the atrocity crimes.

To better understand R2P, Thakur breaks this norm into different relatable aspects; political, conceptual, normative, procedural and operational. Conceptually, R2P redefines the linking the nation and its citizens while defining the jurisdiction and authority distribution within its territory and the international community. Normatively, R2P redefines the state's sovereignty as responsibility towards protecting its citizen, thus inclined towards the victims' safety and security. The non-intervention obligation by other states is not upheld due to the shift in the rights and views of the intervening states. Procedurally, R2P can only be approved by the UN through the UNSC and operationally, protect its civilians against mass atrocities are done by the intervening troops are achieved through clear rules, of engagement (Security Council Resolutions), complimentary relations with the local authorities, humanitarian-based organizations. The civilians' humanitarian rights are given priority over the troops' safety and security.<sup>23</sup>

The formulation of the R2P principle according to Gareth Evans is advantageous in making it clear of the primary responsibility that the states have in the protection of civilians (POC) with

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<sup>23</sup> Thakur R. "The Responsibility to Protect at 15" 2016. Accessed (Jul 4, 2018) Available at [https://www.chathamhouse.org/sites/default/files/publications/ia/inta92-2-10-thakur\\_0.pdf](https://www.chathamhouse.org/sites/default/files/publications/ia/inta92-2-10-thakur_0.pdf).

the help of the global community and by extension the regional organizations, should the state fail or be unwilling to carry out the responsibility.

Through this doctrine, the Security Council passes clearly defined mandate to the peacekeepers to preserve global peace and security through a designated operation. Also, the international community is mandated to offer capacity either financial or capacity building to ensure as is required through the second pillar of the R2P doctrine.

In the African continent, the AU and the RMs and RECs play a critical role in upholding the doctrine. In the African continent, the most prominent regional mechanisms that have contributed towards maintaining peace and security in their respective regions include ECOWAS, EAC.

All states as prescribed in the first pillar of the doctrine, have the utmost responsibility of upholding the R2P doctrine. Thus, states are the primary human rights and justice protector of its population. For instance, the willingness of the Kenyan government through the Kenyan troops to be incorporated into AMISOM to counter terrorism in the region was approved by the UN to guarantee the safeguarding of the rights and justice of its people including the region's security and peace.<sup>24</sup>

#### *1.5.2.2 Utilization of the R2P doctrine by the AU in upholding the human rights and justice of its population*

Human rights inclusive of justice are fundamental freedoms of the population hence the responsibility of the regional organizations to protect them. As prescribed in the UN Charter and the UDHR, all states are accountable for the rights of those living within their borders. The

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<sup>24</sup> United Nations. Resolution 2036 (2012). Adopted by the Security Council at its 6718th meeting, on 22 February 2012. Accessed (September 27, 2018) Available at: [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/2036%282012%29](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2036%282012%29)

international community has the collective responsibility in ensuring global peace and security and the same is extended to the regional arrangements.<sup>25</sup>

Through the adoption and practice of the R2P doctrine by the RMs and RECs that the states belong to, the international legislative normative and institutional frameworks are tailor-made to suit their respective regions, to assist in upholding this responsibility. This is because, the RECs and RMs are mostly equated to conflict systems, which are best suited to deal with the conflicts due to their proximity. Even though the conflict systems tend to overlap each other, the clear treaties and agreements are the guiding principles that guide their operations geared towards maintaining regional peace and security.

Criddle and Bellamy suggest that the legality of humanitarian intervention is based on the following merged sources: a) an oppressed legal right to defend the populace against mass atrocities and the authority that the UNSC has in the restoration of global peace and security.

<sup>26 27</sup> To this end, the Security Council acts as a trustee that gives approval to the intervening States before taking up any responsibility abroad. This is achieved through clearly outlined SCRs that only benefit the target State while seeking for no interest advancements of the intervening State. This translates to the fact that, the SCRs are purposive, as they are limited in humanitarian objectives. Also, the SCRs are institutional as they seek to generate and uphold relationships between the international communities, the regional organizations and all the States whose people are to be protected.<sup>28</sup> Equally, regional organizations have the best chances of resolving conflicts due to their proximity to the conflict-stricken zones and epicentres.

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<sup>25</sup> United Nations. UN Charter Chapter VIII

<sup>26</sup> Bellamy A. *Responsibility to Protect. The Global Effort to end Mass Atrocities*, (Cambridge: Polity 2009)p. 63

<sup>27</sup> Paust J. 'International Law, Dignity, Democracy and the Arab Spring' *Cornell International Law Journal*, Vol.46 No. 3, (2013) Issue. 1, Article 1. Available at: <http://scholarship.law.cornell.edu/cilj/vol46/iss1/1>

<sup>28</sup> *ibid.*



Moreover, the voluntary intervening states and regional organizations provide direct protection through military interventions. Neither of these States is legally bounded to militate on the government or elements.

Gaulme posits that, with the best intention from the international community to commit to the R2P doctrine, the international community has been unable in attaining the stability and security in the African continent.<sup>29</sup> This is because R2P is more focused on averting renewed state and regional wars, while ignoring the grass root conflicts which in the end tend to morph into full-blown conflicts. For instance, the Great Lakes conflict system has had its fair share of conflict which includes but not limited to: the Rwandan genocide, the Burundi civil war and the present crisis, Central African Republic (CAR) and the ongoing Darfur conflicts.

The lack of action that the AU has towards some conflicts has been wanting. This may be attributed to situations such as the mass graves discovery in Eastern DRC; Kabila's refusal to hold elections; sudden restriction of peaceful protests; humanitarian crisis; poverty; and the pillage of natural resources such as tantalum, tungsten, tin, gold, coltan, oil among others.<sup>30</sup>

Also, with democracy as one of the pertinent rights to the population, the African democratic space has been stifled. This is due to the protection that the leaders accord each other thus the appearance that the AU is condoning their actions. For instance, the May 2018 Burundian constitutional referendum to agree to the extension of President Pierre Nkurunziza's term in office until 2034.<sup>31</sup> Also, the crisis that followed the May 2015 elections was not addressed by the AU. This crisis resulted in deaths, IDPs, refugees' influx into the CAR.

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<sup>29</sup> Gaulme F. *"Beyond Postcolonial Blues: A New Framework for African Security"* in *Afrique Contemporaine*: No 218, 2006/2 Security and development. De Boeck Supérieur, Cairne Internationale p. 86

<sup>30</sup> Mhaka T. *"The African Union: An exclusive club for brutish despots"* (June 9, 2018) Aljazeera. Accessed (August 6, 2018) Available at: <https://www.aljazeera.com/indepth/opinion/african-union-exclusive-club-brutish-despots-180607100707234.html>

<sup>31</sup> Aljazeera. *"Burundi opposition leader rejects referendum ahead of result"* (May 19, 2018). Accessed (August 6, 2018) Available at: <https://www.aljazeera.com/news/2018/05/burundi-opposition-leader-rejects-referendum-result-180519150507413.html>

Similarly, the ACtHPR which is expected to uphold human rights in the continent has not fully exercised its mandate in delivering justice to the population.<sup>32</sup> This may be attributed to the non-committal standpoint that the AU members have towards recognizing the capability of the Court to handle cases. The ratification of the Protocol has been done by thirty (30) state and only eight (8) states have shown confidence in the dispensation of its intended mandate.<sup>33</sup>

### *1.5.2.3 R2P doctrine's achievement of human rights*

The R2P doctrine has been successful in resolving various conflicts, hence protecting the rights and justice of the population. The global community failed in the exacerbation of the 1990s conflicts – either in peacekeeping, humanitarian aid, international diplomacy, regional involvement, refugee and IDPs, it was deemed fit for seeking a conscience instrument to protect humanity.<sup>34</sup> The absence of the international community in the Rwandan massacre inclusive of the extent to which the global community could have taken action in Kosovo had it make a resolve to come up with ideas to protect humanity.

The Pan-Africanism slogan, “*African solutions to African problems*” was informed by the absence or non-involvement of the international community in many African conflicts and the increase in civil conflicts in Africa. Henceforth, the AU members pledged to resolve their disputes peacefully through “negotiation, mediation, conciliation or arbitration”, so far great strides have been made<sup>35</sup> though not so much. For instance, ECOWAS has been the most resourceful and active sub-regional organization in Africa as witnessed in Gambia’s presidential elections between then-President Yahya Jammeh and Adama Barrow, his challenger who won the elections in December 2016. Through the decision passed by the UN,

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<sup>32</sup> Organization of African Union. “*Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights*” (June 1998) Accessed (August 6, 2018) Available at: <http://www.african-court.org/en/>

<sup>33</sup> Ibid. OAU. As at April 2018

<sup>34</sup> Bellamy A. The Three Pillars of the Responsibility to Protect. *Pensamento Proprio* Vol. 41 pp.35-64

<sup>35</sup> OAU Charter Art. III (4)

AU, and ECOWAS, ECOBRIG, a military operation, was given the mandate to cross into the Gambia even though it did not have a clear legal mandate (the lack of intervention) and acceptance by the President-elect Barrow. All along, the involved organizations used the R2P principle to warn Jammeh. R2P clarifies the fact that non-consensual coercive military force was a last resort, hence using the notions responsibility to react through means such as diplomacy, economic, political, legal, and in worst case scenarios, military intervention and responsibility to ensure post-conflict peacebuilding in conflict-stricken societies.<sup>36</sup>

Bellamy posits that in any armed conflict, it is against international law for states to allow for the deliberate killing of non-combatants, genocide and that the obligation lies with the states to ensure that it prevents and punishes the perpetrators. States have to that extent ensure that the right to life of its population is well protected and the actions that may include forced displacement are avoided. The state internalizes the norm and all its inhabitants and state actors<sup>37</sup> are expected to uphold the legal requirement. <sup>38</sup> Even though the PSC strongly condemned the violation of the IHL through disproportionate use of force and lethal force against nonviolent demonstrators. The High-Level Committee was then established by the AU to ensure use of diplomatic means and cessation of human rights violation. The Libyan invasion by the NATO-UNSC coalition went against the (SCR 1970 and 1973 (2011)) referring to R2P in the preface of a Chapter VII resolution.<sup>39</sup>

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<sup>36</sup> Gareth Evans. "Five Thoughts for Policy Makers on R2P" (April 13, 2007) Accessed (Jul 6, 2018) Available at <http://www.responsibilitytoprotect.org/index.php/component/content/article/35-r2pcs-topics/932-gareth-evans-offers-five-thoughts-for-policy-makers-on-r2p>

<sup>37</sup> Ward T., *Ethics of Destruction Norms: norms and force in international relations* 38 (2001). Ian Hurd and Alexander Wendt 1999 identify coercion, interest and belief/legitimacy as sources of norm compliance. See Ian Hurd, *Legitimacy and Authority in International Politics*

<sup>38</sup> Best G., *War and Law since 1945* (1994); *The Right to life in International Law* (B.G. Ramcharan ed., 1985); William a. Schabas, *Genocide in International Law: The Crimes of Crimes* (2000)

<sup>39</sup> United Nations Secretary General's Report: "The role of regional and sub-regional arrangements in implementing the responsibility to protect" A/65/877-S/2011/393 27 June 2011, Available at [www.un.org/en/ga/president/65/.../Report%20of%20the%20SG%20to%20MS.pdf](http://www.un.org/en/ga/president/65/.../Report%20of%20the%20SG%20to%20MS.pdf) pp 10

As civilians are protected by *jus cogens* norm, and the expectation placed on the state, and the international courts to punish the perpetrators who at times avoid punishment, the mass killing issue has continued to be at the center of world politics. This translates to the fact that the civilian population is denied justice and the continuous perpetrators' impunity and justification condone repetitive abuse of the populace's rights. The kind of punishments passed are more inclined towards diplomatic and economic sanctions, hence not punitive as is expected.

Perpetrators may legitimize their actions on the violation of population immunity based on the differences in norms. They include a) principle of military necessity (a legitimate authority targeting civilians to achieve a legitimate goal, as is in counterinsurgency and terrorism situation. Also, selective extermination may be carried out against some civilians based on the "we versus them" ideology by the different groups); b) denial that the violation of intentional killing of civilians ever existed. This is achieved through covering up of evidence and prosecuting lower-ranking perpetrators, providing humanitarian aid to the survivors; and c) contestation of the existing norm and project for new norms to be adopted if the perpetrators are powerful.<sup>40</sup>

This, therefore, means that the biggest challenge that may hinder the success of R2P include: conceptual clarity, institutional preparedness, and political enthusiasm. Evans clarifies that the political and the practicality of the doctrine have to be streamlined for the doctrine's success.

It is noteworthy to say that African conflicts are mostly a result of structural violence, natural resources and the unconstitutional changes of power either through coup d'états or refusal to relinquish power. Even though the AU has the goodwill to resolve such conflicts the over-reliance on the SC, the donors and the political will of some African leaders proves futile.

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<sup>40</sup> Finnemore M. & Sikkink K. International Norm Dynamics and Political Change, 52 International Organisation. 887, 902-04 (1998).

## **1.6 Knowledge Gap**

From the above literature review, this study has established that there's insufficient information on how the global R2P doctrine offer solution to human rights to the African conflicts. It is also evident that measures to be taken in the utilization of the R2P doctrine by the AU in upholding the human rights abuse and justice in Africa is not very clear. Also, there's need for investigation and analysis of the levels of success in using the R2P doctrine in the achievement of human rights in Africa.

## **1.7 Study Hypotheses**

The study will test the following hypotheses:

- H<sub>01</sub> The R2P as a global tool in protecting human rights does not have a significant role in the AU's obligation in upholding human rights.
- H<sub>02</sub> Measures taken in the implementation of the R2P doctrine by the African Union in upholding the human rights and justice have not borne the intended results.
- H<sub>03</sub> The African Union does not face significant challenges in the achievement of the human rights in Africa, through R2P doctrine implementation.

## **1.8 Justification of the Study**

### ***1.8.1 Academic Justification***

The findings of this study will be of importance to the learners who would wish to research on this topic, hence contributing to the field of knowledge in International Relations.

### ***1.8.2 Policy Making Justification***

To the policymakers, it will inform and recommend to them the best way to strengthen implementation and carry out monitoring and evaluation while effecting the R2P principle.

## 1.9 Theoretical Framework

The study has been anchored on international regime theory.<sup>41</sup> The theory is in the idealist school of thought, that is, the existence of structures. The theory proposes that power is distributed amongst existing institutions that include: international, regional organizations, sub-regional organizations, states among others.

The clear definition of the international regime was formulated by Krasner, include “principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of IR.”<sup>42</sup>

International regime theory suggests that power is dispersed amongst a number of agents, including states, international organizations, multi-national companies, and so on, that operate as implicit coalitions under similar understandings of procedures and desirable outcomes. In its applicability, the R2P doctrine is guided by human rights principle. This principle is supported by the UDHR, Rome Statute of the International Criminal Court, International Humanitarian Law. Normatively, the practicality of it is achieved through sustenance of this fundamental issue through diplomacy talks by the UNGA, UNSC, United Nations Human Rights Council, Office of the United Nations High Commissioner for Human Rights, International Court of Justice, Human Rights Watch, Amnesty International among other human rights institutions.

The fact that there exists an international institution, the UN and its institutions, inclusive of the regional organizations as provided for in the UN Charter Chapter VIII<sup>43</sup> and the established institutions ensure commitment and accountability in upholding human rights.

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<sup>41</sup> Anu B. Regime Theory (February 2007). Max Planck Encyclopedia of Public International Law, February 2007.

<sup>42</sup> Krasner S. "Structural Causes and Regime Consequences: Regimes as Intervening Variables," in Krasner, International Regimes, pp. 1-21

<sup>43</sup> United Nations Document. The United Nations Charter, San Francisco 1945

Through the ratified global legislative frameworks, (treaties and agreements) states have the collective responsibility of securing the population from human rights violation hence promoting global and regional peace and security and keeping the peace where necessary, even though the human rights still remain a problem.

International regime theory thus started as an alternative to realism and served as an instrument to help describe the specific distribution of power and recognize relevant actors within a global issue area. Over the next two decades, international regime studies became quite popular, describing developments in specific issue areas related to the environment, finance, human rights, security, and technology, as well as trade.

In the African Union's context, the normative and institutional structures that exist include the Constitutive Act specifically Art. 4 (h) and the Peace Security Council (PSC) Protocol inclined towards protecting the human rights of vulnerable populaces from international crimes. Also, APSA's six pillars whose organization and main beliefs, values, and objectives address crises and conflict avoidance, management and resolution, post-conflict rebuilding and continental advancement proved to be an avenue for the legitimization and a continental peacemaker of AU. The accountability part of upholding the rights and justice of the vulnerable population was adopted by instituting the African Commission on Human and Peoples' Rights.

When justice is sought, all trials should be conducted by the public and international institutions<sup>44</sup>, capacity building should be carried out in the affected state and structural reforms should be done so as to have a positive long-term effect. Also, the alternatives for selection include sanctions, mediation, international criminal justice, and military force.<sup>45</sup>

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United Nations Charter. Accessed (August 2, 2018) Available at: <http://www.un.org/en/sections/un-charter/chapter-viii/index.html>

<sup>44</sup> Pattison J. *The ethics of diplomatic criticism: The Responsibility to Protect, Just War Theory and Presumptive Last Resort*. European Journal of International Relations 2015, Vol. 21(4) 935–957:941. Accessed (July 21, 2018) Available at <http://journals.sagepub.com/doi/pdf/10.1177/1354066115572491>

<sup>45</sup> Op. cit.

## 1.10 Research Methodology

This section presents the methodological approaches that have been used in this study, they include research design, the target population, and sample size, validity and reliability, data collection method and procedures, data analysis and technique, study location, analysis period, data analysis and reporting, ethical consideration and scope and limitations of the study.

### 1.10.1 Research Design

The study was conducted using a cross-sectional design often referred to as survey design. This is because the intended data to be gathered is as at that particular point in time in relation to the dependent and independent variables.<sup>46</sup>

### 1.10.2 Research Population and Sample Size

The total target population was the Ministry of Foreign Affairs and International Trade-the Directorate of Africa and African Union staff, Professionals and Academicians in the Diplomacy and International Studies fields from the University of Nairobi and other relevant higher learning institutions as indicated in *Table 1* below.

The sample size for this study was 100 respondents composed of 50 MFA staff and Professionals, and 50 Academicians as represented in *Table 1*.

The study will derive a sample using the Yamane formula as presented here below:-<sup>47</sup>

$$n = \frac{N}{1 + N(e)^2}$$

Where :

n= sample size required

N = number of people in the population

e = the allowable error (10%)

Calculated as:

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<sup>46</sup> Bryman A. *Social Research Methods* (New York: Oxford University Press, 2016).

<sup>47</sup> Yamane, Taro. *Statistics: An Introductory Analysis*, (1967) 2nd Edition, New York: Harper and Row.



$$n = \frac{22315}{1 + 22315(e.1)^2} = 99.9$$

The sample size and sampling procedure for the study are presented in the table below:

*Table 1: Sample size and sampling procedure*

<b>Target population</b>	<b>Population size</b>	<b>Sample size</b>	<b>Sampling procedure</b>
MFA staff	810	50	Purposive sampling
Academicians	700	50	Purposive sampling
<b>TOTAL</b>	<b>1,500</b>	<b>100</b>	

*Researcher's (2018)*

### **1.10.3 Unit of Analysis**

The unit of analysis is the African Union's capability in implementing the R2P doctrine.

### **1.10.4 Sampling Procedures and Techniques**

The sampling procedure that was used in this study was the simple random purposive sampling.<sup>48</sup> Purposive sampling is a sampling technique that allows for the non-zero chance of being selected.<sup>49</sup> Lavrakas posits that this technique produces a sample which logically represents the population. Hence applying the population's expert knowledge in sample elements' selection through the distribution of non-probability sampling, as a result representing the population's cross-section.

<sup>48</sup> Lavrakas, P.J. *Encyclopedia of Survey Research Methods*. Thousand Oaks, CA: Sage Publications, Inc., 2008. doi: 10.4135/9781412963947.

<sup>49</sup> Survey Monkey. *Non-probability Sampling* (2018). Accessed (August 2, 2018) Available at: <https://www.surveymonkey.com/mp/non-probability-sampling/>

### **1.10.5 Validity and Reliability**

The study used content validity as the questions asked were the true representation of the qualities that were supposed to be measured. The questions asked were to be correctly answered by individuals who are proficient both in knowledge and practice in this field.<sup>50</sup>

### **1.10.6 Data Collection and Procedures**

For the main purposes of gathering information, the study was dependent both on primary and secondary data. The primary data was obtained using questionnaires or structured interviews appropriate to this study. The use of standardised questionnaires and interviews are the preferred research method for the collection of information, from a selected group of people.<sup>51</sup>

The secondary data was gathered from the UN, OAU and AU main documents. Other sources included the relevant journals, articles, and reports from known authors on the subject matter.

The collected data assisted in analysing the challenges of the implementation of the Responsibility to Protect by the African Union.

### **1.10.7 Data Analysis and Technique**

The study used both qualitative and quantitative data. Bryman suggests, that the mixed method provides for the contextualization of the analysis through which gaps that may be left by either the qualitative method or quantitative method are filled.<sup>52</sup>

### **1.10.8 Study Location**

The study location for this study will be carried out in Nairobi, Kenya.

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<sup>50</sup> Karras, D.J., MD. Statistical Methodology: 11. Reliability and Validity Assessment in Study Design, Part B (February 1997). Academic Emergency Medicine. Accessed (August 31, 2018) Available at: <https://onlinelibrary.wiley.com/doi/pdf/10.1111/j.1553-2712.1997.tb03723.x> p.144

<sup>51</sup> Pennsylvania State University. "Using Surveys for Data Collection in Continuous Improvement" Innovation Insights (2006) Accessed (July 24, 2018) Available at

<http://www.virginia.edu/processsimplification/resources/PennState%20Surveys.pdf>

<sup>52</sup> Op cit. p. 638

### **1.10.9 Analysis Period**

The analysis period dated since the inception of the then OAU including the future of the AU in putting into practice the Responsibility to Protect and furtherance of international peace and security.

### **1.10.10 Data Analysis and Reporting**

Data clean-up was conducted. It involved editing, coding, and tabulation. It was then analysed using quantitative methods such as frequency distribution, percentages, mean and standard deviations and qualitative methods such as content analysis which analysed meaning expressed through words.

The final data was analysed both qualitatively and quantitatively using descriptive analysis. The study data was analysed through the Excel computer application packages and the results presented using percentages and bar charts to clearly show the trend of the distribution.<sup>53</sup>

### **1.10.11 Ethical Consideration**

The participation was voluntary hence harmlessness in cases where the participant opted not to participate. Any findings that seem contradictory to the research design were disclosed. All relationships emanating from data analysis were disclosed whether they prove or disprove the research hypotheses. Data findings and analysis were presented in a transparent way. Any difficulties that were experienced during the research were also reported.

## **1.11 Scope and Limitations of the Research**

The limitations of this research were the short amount of time needed to complete this research, respondents' availability and the high costs that were incurred in carrying out the study.

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<sup>53</sup> Mugenda & Mugenda. *Research Methods: Quantitative and Qualitative Approaches*. Nairobi: African Centre for Technology Studies (ACTS) Press.

## **1.12 Chapter Outline**

This section provides the sequential order of the project. They include:

Chapter one- Challenges in the implementation of the Responsibility to Protect: case study of the African Union, provides the overview of the topic, hypotheses, justification, theoretical framework, and the methodology of the study.

Chapter two- Assessment of solutions offered by the global Responsibility to Protect doctrine to human rights abuse in Africa, investigates some of the solutions that the AU has embraced in the implementation of the RP doctrine.

Chapter three- Measures taken by the African Union in the utilization of the Responsibility to Protect doctrine

Chapter four- The levels of success of the responsibility to protect doctrine in Africa will examine the successes and the challenges that the AU faces in the implementation of the doctrine.

Chapter five- Presentation of data findings and analysis, analyses the findings of the topic challenges faced by the African Union in the implementation of the Responsibility to Protect.

Chapter six- Conclusions and Recommendations. The chapter presents suggestions for further study.

**CHAPTER TWO**  
**ASSESSMENT OF SOLUTIONS OFFERED BY THE GLOBAL**  
**RESPONSIBILITY TO PROTECT DOCTRINE TO HUMAN RIGHTS ABUSE**  
**IN AFRICA**

**2.1 Introduction**

This chapter reviews the international legal framework, the conceptual evolution of the global R2P doctrine and the spectrum of the various responsibilities in the doctrine. It also emphasises on R2P doctrine's implementation in the prevention of mass atrocities.

**2.2 International Legal Framework of the Global Responsibility to Protect Doctrine**

The R2P doctrine is better understood if the notion of humanitarian intervention is clarified. Humanitarian intervention is the forceful intervention of a group of state or a state with an inclusion of military means so as to end massive human rights' infractions. At this point, the concerned state's sovereignty is not acknowledged.<sup>54</sup> The state's sovereignty is outlined in Article 2(7) of the Charter where the UN is not allowed to interfere in the domestic affairs of any state.

These two principles prohibit the use of force<sup>55</sup> simultaneously, protects human rights.<sup>56</sup> These norms exist in various customary international laws. To that effect, the justice-seeking international institution, the International Court of Justice (ICJ) appreciates the *jus cogens* standard and specific general acceptance of the state's commitment to respect human dignity and desist from carrying out gross human rights' infractions by creating a platform for the atrocity crimes not to be committed.

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<sup>54</sup> Francioni F. and Bakker C. Responsibility to Protect, Humanitarian Intervention and Human Rights: Lessons from Libya to Mali. Transworld Working Paper 1 5 April 2013 p. 3

<sup>55</sup> The UN Charter Art. 2(4)

<sup>56</sup> Ibid. Art. 1(3)

To legally practice these two conflicting norms, humanitarian intervention is approved only by the UNSC in any state where the atrocity crimes are being committed as outlined in the UN Charter, Chapter VII. It would also be legally approved by the UNSC if its objective is to fulfil the commitments of all, to end the atrocities. With R2P doctrine having the non-indifference principle, a continental organization, RECs/RMs, can intervene in a failed state without seeking for the UNSC's approval, hence still be legal.<sup>57</sup> This means that there is a lack of clarity as to when and how the humanitarian intervention is allowed in international law.<sup>58</sup>

The legislative debate on the legality of the doctrine is that it is rooted in international law even though it is a 'non-binding' political commitment.<sup>59</sup> It is aimed at sharing moral beliefs on the supremacy of human rights. It is therefore known that, the legislative framework for intervention is available at the global, the continental and sub-regional arrangements.<sup>60</sup>

### **2.3 Conceptual Progress of the Global Responsibility to Protect Principle**

R2P doctrine development has been influenced by various events. At first, the failure of the international community and lack of legal obligation in Rwanda in 1994 resulted to the massacre. Next, the inability of the 1995 United Nation Peacekeeping force (UNPROFOR) in Bosnia to intervene due to insufficient mandate led to the Srebrenica genocide. The unauthorized intervention of the US through NATO in Kosovo in 1999 was and still is controversial.<sup>61</sup> To address Kofi Annan's dilemma on the moment where the international community could intervene for humanitarian reasons, the Canadian government formed the

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<sup>57</sup> Hehir A. *Humanitarian Intervention after Kosovo. Iraq, Darfur and the Record of Global Civil Society*, (2008) Basingstoke and New York, Palgrave Macmillan.

<sup>58</sup> *Op. cit.* p.4

<sup>59</sup> Bellamy A.J. and R. Reike /*Global Responsibility to Protect 2* (2010) 267–286 269 and Centre for Conflict Resolution, Preventing Genocide and the Responsibility to Protect: *Challenges for the UN, Africa, and the International Community*, policy advisory group seminar report, 13-15 December 2007.

<sup>60</sup> Vlavourou G. *Africa is failing the Responsibility to Protect its citizens* March 6, 2014. Accessed November 6, 2018. Available at: <https://www.pambazuka.org/governance/africa-failing-responsibility-protect-its-citizens>

<sup>61</sup> *Ibid.* p.6

International Commission on Intervention and State Sovereignty (ICISS) in 2001.<sup>62</sup> The ICISS Report outlines the R2P doctrine's three distinctive elements: responsibility to prevent (conflict prevention), responsibility to react and promptly respond to every violent situation and gross human rights violation and the responsibility to rebuild which is post-conflict peacebuilding.<sup>63</sup> Furthermore, the Report outlines the primary authority of the Security Council in deciding on humanitarian intervention and the possibility of the General Assembly in carrying out the same mandate. Also, the regional organizations' circumstances under which they could seek for intervention's legitimate approval by the UNSC are provided for.

The ICISS Report's recommendations laid the foundation for the R2P doctrine, as it was endorsed at the World Summit in 2005. Paragraphs 138-140 provides for the mandate that guides the doctrine. Hence guided by the UN Charter's Chapter VI and VIII, the World Summit Outcome Document (WSOD) affirmed the duty that every single nation had the responsibility to protect its populations including the global community, had the mandate to use the appropriate peaceful and diplomatic means.<sup>64</sup> Therefore, the idea was that, for a state to be acknowledged as sovereign, (right of sovereignty), it had the responsibility to protect its population. Accordingly, this ruling is equated to obligation and not just a "right".<sup>65</sup>

The UN Secretary-Generals' Implementation Strategy, the SG highlighted the importance of the involvement of the sub-regional, regional and international instruments in protecting the population to the UNGA. The presentation based on R2P's tripartite pillars; the principal duty

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<sup>62</sup> United Nations. The Responsibility to Protect Who is responsible for protecting people from gross violations of human rights? (March, 2012) Accessed October 27, 2018 Available at:

<http://www.un.org/en/preventgenocide/rwanda/pdf/bgresponsibility.pdf>

<sup>63</sup> Op. cit.

<sup>64</sup> World Summit Outcome Document Paras 138-139. Adopted as a General Assembly Resolution 60/1 (2005)

<sup>65</sup> Deng, F., Kimaro, S., Lyons, T., Rothchild, D., and Zartman I. W. 1996. Sovereignty as responsibility: conflict management in Africa. Washington, DC: Brookings Institution Press.

of the state to defend its populace, and the global community to decisively and timely interpose in conflicts and its role in upholding the R2P doctrine.

Having noted that some member states would misuse the doctrine, the SG recommended for the development of the supporting strategy, standards, tools, processes and practices to counter the inappropriate use of the doctrine. Even though the recommendations proffered were adopted by the UNGA, the subsequent strategies have had some members doubt the doctrine's effective implementation. The scepticism experienced in the international community has to this date, been uncertain on the legislative foundation of the doctrine.

#### **2.4 Spectrum of the Responsibilities in the Responsibility to Protect Doctrine**

Badescu suggests that the R2P doctrine provided a solution to the intervention challenge that engulfed the international community in the 1990s.<sup>66</sup> In order to address this issue, the solutions offered by the R2P doctrine were to be guided by the tripartite pillars; the principal commitment of the state is to defend its people, the global community to decisively and timely intervene in conflicts and its role in upholding the R2P doctrine.<sup>67</sup> Pillar one of the doctrine is guided by the *jus cogens* concept; pillar two and three are based on the collective responsibility of other states in protecting the masses from the atrocity crimes.<sup>68</sup> It should be acknowledged that in implementing the doctrine, there is no prescribed sequence to be followed in using the three-pillar strategy and none of the pillars is deemed to be important than the rest. Thus, the application of either of the pillar is dependent on the strength and practicability in quelling conflicts.<sup>69</sup> The success of the solutions proffered to the human rights in Africa are as informed by the three distinctive elements of the R2P doctrine.

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<sup>66</sup> Badescu, C.G. *Humanitarian Intervention and the Responsibility to Protect: Security and Human Rights* (2011) New York: Routledge p. 168

<sup>67</sup> United Nations, 2009. President of the 63rd session UNGA, Interactive thematic dialogue of the UN GA on the R2P, 23 July 2009, p.2

<sup>68</sup> Bellamy A.J. and R. Reike / *Global Responsibility to Protect 2*, p. 280

<sup>69</sup> UN. UN General Assembly A/63/677. *Implementing the responsibility to protect: Report of the Secretary-General* (2009) p.2



The Responsibility to Prevent; is based on the three-pillar strategy of the doctrine. It is meant to ensure that preventive diplomacy is employed in countering crimes which have negative implications on the population. According to Evans, this element is responsible for addressing the root causes and human crises that contribute to a violent environment for the population.<sup>70</sup> Welsh presents R2P as a preventive tool for international crimes.<sup>71</sup> The adoption of the preventive diplomacy approach is the first and desirable way to ease conflicts before they become violent. The flexibility therein includes early warning data analysis, fact-finding missions, negotiations, legal advice which reduces the decision for military intervention.<sup>72</sup> The doctrine was first used in resolving the Kenyan 2007/8 post-election violence (PEV). It proved to be a success due to the non-military, prompt and coordinated approach that the AU and the international community employed the doctrine's preventive element.

Moreover, the AU's conception of the Continental Early Warning System (CEWS) is meant to expect and prevent conflicts while providing timely apropos information on evolving violent conflicts, based on specifically established indicators in Africa.<sup>73</sup> The Union has in the past not used this approach in the continent's conflicts as it has paid too much attention in post-conflict as is the case in Darfur in 2004, Libya in 2011 and Mali in 2012.

The Responsibility to react (humanitarian intervention); complies using the state's sovereignty and diplomacy as provided in international law. This response is justified only in situations where there are conditions that warrant human need, hence the relevant procedures, for

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<sup>70</sup> Gareth Evans The Solution: From "The Right to Intervene" to "The Responsibility to Protect" in Understanding the Responsibility to Protect p.41; ICISS , *The Responsibility to Protect*, p.xi

<sup>71</sup> Reike, R. "The 'Responsibility to Prevent': An International Crimes Approach to the Prevention of Mass Atrocities." *Ethics & International Affairs* 28, no. 4 (2014): 451

<sup>72</sup> EIP Explainer. What is preventive diplomacy? Accessed (September 17, 2018) Available at: <http://eip.org/en/news-events/eip-explainer-what-%E2%80%98preventive-diplomacy%E2%80%99>

<sup>73</sup> African Union. "A Guide for Those Working With and Within the African Union: African Union Handbook 2017". African Union Commission and New Zealand Ministry of Foreign Affairs and Trade/Manatū Aorere p.64

instance, internal prosecution, sanctions and in the extreme, military intervention.<sup>74</sup> The UN Security Council has the authority utilise this concept. Similarly, the AU can intervene in other member states as provided by the non-indifference principle where there is the gross human rights violation. This principle was adopted by the Union with the main focus of the OAU's lack of interference principle's failures.

The success of this element is dependent on the international community, the warring groups, the individual and the state. Each group has a role to play so as to tackle the root causes through peaceful means; dialogue, negotiation, and mediation.<sup>75</sup>

Responsibility to rebuild; countries out of conflict are different in status hence the need to reconstruct their economy, structures and infrastructure, reconcile their population and recover in all its population aspects. This would, therefore, mean that the peacebuilding stage is critical in hindrance of any repeat of rights and fundamental liberties' violation hence the need for the global assistance.

As a consequence, the Policy Framework on Post-Conflict Reconstruction and Development (PCRD), the PCRD committee, a subset of the Department of Peace and Security the Union has played a critical in post-conflict reconstruction, decentralization of structures, and promotion of public participation.<sup>76</sup> In the 2016 Summit, the Assembly pledged support in promoting its efforts towards peace and reconstruction of Libya.<sup>77</sup> An all-inclusive post-conflict environment, creates an enabling environment for human rights promotion.

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<sup>74</sup> Gareth Evans. *Ibid.* p.41; ICISS, *The Responsibility to Protect*, p. xi

<sup>75</sup> *Op cit.* UN Resolution A/RES/62/13)

<sup>76</sup> African Union Handbook (2017) p.68

<sup>77</sup> *Ibid.* AU Handbook p.23. At the High-Level Committee, as agreed in the Peace and Security Council Communiqué of 23 September 2014, (Assembly/AU/Dec.598(XXVI)

Since there is no prescribed sequence to be followed in using the three-pillar strategy none of the pillars is deemed to be important than the rest. Thus, the application of either of the pillar is dependent on the strength and practicability in quelling the conflict.<sup>78</sup>

The WSOD thus gives the UNGA the mandate to implement the R2P doctrine by ensuring that the Refugees and Internally Displaced Persons (IDPs) are protected from atrocity crimes.<sup>79</sup>

The practicality of this R2P aspect is not observed as presented in Kenya's PEV and the recent Rohingya refugee crisis mainly due to insufficient resources.<sup>80</sup> According to OCHA, as October 24, 2018, the appeal remains less than 45 per cent funded for the Rohingya case. This therefore links to the fact that the implementation of the doctrine is based on the needs of the population and is not dependent on mandates.<sup>81</sup> Also, the shortfall in repatriation, and resettlement of the refugees and the IDPs shows these aspects have not been given the necessary attention by the implementing bodies.<sup>82</sup>

## 2.5 Summary of Key Findings

Chapter two assessed the international legal framework, the conceptual evolution of the global R2P doctrine and the spectrum of the various responsibilities in the doctrine. It also examined the global R2P doctrine's evolution and the extent of the global doctrine in cessation of the international crimes. R2P doctrine's applicability and philosophical approach in the prevention of mass atrocities against refugees and IDPs.

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<sup>78</sup> Ibid.

<sup>79</sup> WSOD. Paragraph 139

<sup>80</sup> United Nations Office for the Coordination of Humanitarian Affairs. Rohingya Refugee Crisis. Accessed (November 12, 2018) Available at: <https://www.unocha.org/rohingya-refugee-crisis>

<sup>81</sup> Rimmer S.H. *New Issues in Refugee Research: Refugees, internally displaced persons and the 'responsibility to protect'*. (March 2010). Research Paper No. 185. Accessed (November 12, 2018) Available at: <http://www.unhcr.org/4b97b0909.pdf> p.5

<sup>82</sup> Cohen R. *The responsibility to protect: The Human rights and humanitarian dimensions*, Harvard Human Rights Journal Annual Symposium, February, 2009. Accessed (November 12, 2018) Available at <https://reliefweb.int/report/democratic-republic-congo/responsibility-protect-human-rights-and-humanitarian-dimensions>

Also, importance of cooperation between the UN as prescribed in the UN Charter with the ROs and subregional organizations have borne some positive outcome in resolving African conflicts. It evaluated the past efforts before and after the adoption of the doctrine.

The analysed objective of this chapter was to assess the extent to which the global R2P doctrine offers a solution to human rights abuse to the African conflicts. The literature obtained justifies that the R2P doctrine as a global tool in protecting human rights has a significant role in the AU's obligation in upholding human rights.

This chapter applied the international regime theory in the sense that the state's obligation and the interconnectedness to the ROs while being part of the international community ensures that there is the adherence to the established standards to ensure the human rights protection and justice of the population.

## CHAPTER THREE

### THE MEASURES TAKEN BY THE AFRICAN UNION IN THE UTILIZATION OF THE RESPONSIBILITY TO PROTECT DOCTRINE

#### 3.1 Introduction

This chapter will discuss the actions taken by the African Union to ensure success in the implementation of the R2P doctrine. It will assess the AU's non-indifference principle and Humanitarian Intervention, the operational link between R2P and the AU, the role of regional economic communities in R2P implementation and the relevance of the measures taken in human rights protection in Africa resolve African conflicts.

#### 3.2 The Non-Indifference Principle and Humanitarian Intervention

Before the OAU's disbandment, the organization played an insignificant role in upholding human rights of its population. This was due to the fact that the leaders were the perpetrators of these acts of violence hence the unlikely consequences.<sup>83</sup> The transition of AU represented a clear policy transition from "non-interference to non-indifference." Most policies adopted thereafter, made reference to human rights protection denunciation and refutation of impunity as well as acknowledging human life's sanctity. Thus, the R2P doctrine deems Sovereignty as a responsibility.

The implementation of the principle does not provide for standards for coercion in upholding the three pillars, which Member States are to refrain from invoking.

In a philosophical perspective, the R2P doctrine has the basis of the non-indifference principle, as the continental organization, RECs/RMs, upon approval by the UNSC or RO can intervene in any state where the atrocity crimes are being committed.

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<sup>83</sup> Sarkin, J. The Responsibility to Protect and Humanitarian Intervention in Africa (August 3, 2012). *Global Responsibility to Protect* 2(4) (2010) 371–387.

### **3.3 Operational Link between R2P and the AU in Human Rights Protection in Africa**

The doctrine has been adopted in various continental documents at the regional and sub-regional levels, even though African states still face conflicts.

The absence of the international community in African conflicts drove the pan-Africanism agenda of finding *African Solutions to Africa's Problems*. The early adoption of R2P by the African nations through the Constitutive Act Art. 4(h) and earlier on, through OAU's mechanism for Conflict Prevention, Management and Resolution (CPMR) in 1993, had not been efficient in accounting for crises in Sierra Leone, Liberia or Rwanda.

For the main purpose of implementing the doctrine, the AU established the Peace and Security Council and established relevant protocols, agreements, and treaties that have consequentially established various committees and institutions in the AU. The establishment of PSC Protocol; APSA- Panel of the Wise (POW), the Peace Fund (PF), the African-Standby Force (ASF) and the CEWS; the judicial bodies; ACtHPR and the Commission. These mechanisms recognise the roles of the RECs/RMs in achieving the peace and security in Africa.<sup>84</sup> Emphasis is thus made by consensus that the AU can militarily interpose in a member nation in cessation of the commission of atrocity crimes.<sup>85</sup>

### **3.4 The Role of Regional Economic Communities in R2P Implementation**

The engagement of RECs in the implementation of the doctrine is important as they are the closest to the conflict zones compared to the global community and the AU. This proximity to the local communities propagates positive engagement and commitment to participate in upholding the peace and security objective. The obligations of the EAC, ECOWAS, SADC,

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<sup>84</sup> Op. cit.

<sup>85</sup> Dersso S., The role and place of the African Standby Force within the African Peace and Security Architecture, Institute for Security Studies paper, 209,(2010), (Accessed, November 6,2018) Available at: <https://issafrica.org/research/papers/the-role-and-place-of-the-african-standby-force-within-the-african-peace-and-security-architecture>

and COMESA promote cooperation beyond the collective borders in matters concerning diplomacy, peace and security, global relations and politics.<sup>86</sup>

The importance of intergovernmental organizations having the explicit mandate on peace and security and the implementation of R2P doctrine is portrayed by the International Refugee Rights Initiative (IRRI). Apart from promoting development, the IRRI creates conditions necessary for stability and security.<sup>87</sup> The mechanisms acknowledge the past efforts in the implementation of the doctrine.

As outlined in Art. 5 of the ICGLR Pact- Non- Aggression Protocol and Mutual Defence in the Great Lake Region, and Art. 8 of Pact- the Protocol for the Prevention and the Punishment of the Crime of Genocide, War Crimes and Crimes against Humanity and all forms of Discrimination, provides for non-forceful intervention and recognizes the international crimes, elimination as well as their punishment.<sup>88</sup>

### **3.5 Relevance of the Measures Taken by the AU in the Implementation of R2P Doctrine**

The nascence of the Pan-African agenda sought to provide solutions that would protect Africa's internal weakness from being exploited by the Western world. The Union made requisite efforts to establish various legislations, structures and institutions such as the establishment of APSA have been made by the Union towards the implementation of R2P. However, the existence of these measures are not supported by the member states who are not willing to uphold the basic human rights of their populations which proves to be a challenge to the fulfilment of the doctrine and any other mechanism that has been put in place.<sup>89</sup>

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<sup>86</sup> International Refugee Rights Initiative,6

<sup>87</sup> International Conference on the Great Lakes Region. *The Pact on Security, Stability and Development for the Great Lakes Region*. (December 2006 Amended November, 2012) Accessed November 6, 2018. Available at: <http://www.icglr.org/index.php/en/the-pact>

<sup>88</sup> The Pact on Security, Stability and Development in the Great Lakes Region

<sup>89</sup> Gumede S. The African Union and the responsibility to protect. *African Human Rights Law Journal* (2010) Accessed November 7, 2018 Available at: [http://www.ahrlj.up.ac.za/images/ahrlj/2010/ahrlj\\_vol10\\_no1\\_2010\\_sabelo\\_gumedze.pdf](http://www.ahrlj.up.ac.za/images/ahrlj/2010/ahrlj_vol10_no1_2010_sabelo_gumedze.pdf) p.135-160:160

As suggested by the ICISS and the kinds of conflicts the continent faces, the AU upholds the right to intervene and not the global community. Thus, the R2P doctrine is the primary responsibility of the individual states of which the failure to individually uphold this responsibility is passed to the AU.<sup>90</sup> This right to intervene therefore means that the Union should come up with clear mandates for each conflict.

With the perception that African nations are not acknowledged at the UNSC, and the permanent five members' veto power, it is imperative for the international community to ensure that when it comes to resolution of African conflicts, great attention is directed towards them as most of them are characterised with mass atrocities. Doing this will ensure that the R2P doctrine, considered a moral doctrine and the sanctity of human life are upheld. Also, the non-intervention principle that the UN has should be amended especially when the international crimes occur.

As the continent is marred with state failure, mass atrocities, and civil wars the affected states tend to shun the doctrine. The autocratic leadership and the leaders' loyalty owed to each other proves that the Africa leaders are ready to disregard the ICC Treaty and the accountability culture.<sup>91</sup> For instance, the Darfur genocide perpetrated by Bashir and his militia has gone unpunished hence setting an impunity trend to the South Sudanese region that has resulted to continuous disregard to human life, unlike in the Western African region where the prosecution of Charles Taylor has had some relative quiet on atrocious crimes. The supremacy of a nation is associated with the imperative human rights' protection of its population which most of the African countries fail to uphold.

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<sup>90</sup> Dembinski M. & Reinold T. Libya and the Future of the Responsibility to Protect – African and European Perspectives. Peace Research Institute Frankfurt (PRIF) 2011 Report No. 107. Accessed November 7, 2018 Available at: [https://www.hsfk.de/fileadmin/HSEK/hsfk\\_downloads/prif107.pdf](https://www.hsfk.de/fileadmin/HSEK/hsfk_downloads/prif107.pdf)

<sup>91</sup> Abdulai, E.S. 2010: The Standoff between ICC and African Leaders Debate Revised, in: Oxford Transitional Justice Research. Debating International Justice in Africa, OTJR Collected Essays, 2008–2010, 9-11, Accessed November 7, 2018 Available at: [https://www.law.ox.ac.uk/sites/files/oxlaw/abdualai\\_african\\_leaders\\_final\\_otjr1.pdf](https://www.law.ox.ac.uk/sites/files/oxlaw/abdualai_african_leaders_final_otjr1.pdf)



For the R2P doctrine to be successful, the Union should not undermine the global justice mechanisms but should come up with ways to embrace “Universal Justice” and not “African Justice” which protects the vulnerable groups in conflict states.<sup>92</sup> This will ensure that the African continent becomes categorical on international crimes hence embracing the *jus cogens* approach.

### **3.6 Conclusion**

With the numerous enacted human rights frameworks to support the R2P doctrine and their implementation to some extent is wanting. Hence, the legal norms are not the only measures that can be attributed to the AU but the practicality of unpacking the doctrine’s theory to fit into the resolution of different conflicts in the continent. This is because the establishment of various institutions such as APSA has been important though to some level lacking in the practice. It should be noted, though APSA plays a critical role in upholding the R2P doctrine, it is not a viable solution to human rights protection and justice. Other factors such as the political elite’s intention, adequate resources among others affect the *modus operandi* with respect to human rights protection have to be well attuned to the legislation and institutions in the international community and continental.

For the main purpose of addressing the shortfall that the OAU had, the adoption of the doctrine by the AU meant that the states had the responsibility to protect, thus doing away with veneration for sovereignty and non-interventionism. The doctrine addressed sovereignty as the responsibility to protect the population and not absolute control over the population.

### **3.7 Summary of Key Findings**

This chapter presented the measures that have been adopted by the AU in the implementation of the R2P doctrine. It was analysed under the following sub-topics: the non-indifference

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<sup>92</sup> Convention on the Prevention and Punishment of the Crime of Genocide, Adopted by Resolution 260 (III) A of the U.N. General Assembly on 9 December 1948. Entry into force: 12 January 1951. Article 1

principle and humanitarian intervention, operational link between R2P and the AU in human rights protection in Africa, the role of Regional Economic Communities in R2P Implementation

The chapter aimed at investigating the objectives of the measures taken by the Union in the utilization of the R2P doctrine, in upholding the human rights and justice of its population in Africa. This objective is meant to test the hypothesis whether the measures taken in the implementation of the R2P doctrine by the African Union in upholding the human rights and justice have not borne the intended results. The findings have proved that the measures taken by the Union in the establishment of the frameworks and their applicability have not borne the intended results hence proving the hypothesis.

This chapter illustrates the applicability of the international regime theory. International cooperation in collective security, trade, and human rights through regimes is essential. The institutionalisation of norms, acceptable rules, and procedure in the international community arena and regional organizations. The role played by the RMs/RECs has been so involving and fruitful in the realization of the established guiding principles.

**CHAPTER FOUR**  
**THE LEVELS OF SUCCESS OF THE RESPONSIBILITY TO PROTECT**  
**DOCTRINE IN AFRICA**

**4.1 Introduction**

This chapter presents the African Union's successes in the implementation of the R2P doctrine. It will analyse the achievements and challenges in utilizing the R2P doctrine in the protection of human rights of the African population before and after the adoption of the doctrine. The successes will be gauged since the ratification and adoption of the doctrine by the African member states through its various regional organisations and continental organisation, the African Union. Through this analysis, the challenges, the consequences, both intended and unintended that are faced in the implementation of the doctrine will be identified and the relevant measures to counter them discussed.

**4.2 Past Efforts in the Protection of Human Rights in the Absence of the R2P Doctrine**

African continent and the world over was faced with vast challenges in the absence of the doctrine as there was no instrument that the international community would fail to address genocide and other gross human rights violation.<sup>93</sup>

The R2P principle became the widely acceptable norm by the international community. Even though there existed the IHL and the Geneva Conventions, the UNSC would at times approve the use of coercive force in weak states.

To address this issue, the international community attached this predicament to the "responsibility to protect" thus moving away from not depending on the right that outsiders have in intervention, but on the responsibility that they now had on protecting the population against gross human rights violation.<sup>94</sup>

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<sup>93</sup> Parliamentary Hearing at the United Nations. Background Document: Session 1 New York, 20-21 November 2008 Accessed on (September 17, 2018) Available at: <http://archive.ipu.org/splz-e/unga08/s1.pdf>

<sup>94</sup> Ibid.

Before the adoption of the doctrine, there was a massive violation of human rights that the OAU failed to intervene in conflicts for instance Angola, Somalia, the Democratic Republic of Congo, Liberia, Rwanda, and Sierra Leone that it should have.

### **4.3 The Practicality of the Implementation of R2P**

Various instruments have been established by the AU to realize peace and security. The existence of these instruments has not been adequate in dealing with the crises despite the intent that the RO has in achieving its objectives. From the restructuring of its peace and security architecture to challenges in conflict management and the call for reforms on the relationships between the UN and ROs, it may be said that the AU has at least made attempts to implement the doctrine even though there exist some paucities.<sup>95</sup>

#### **4.3.1 Kenya**

Kenya's 2007/8 PEV was considered a humanitarian and political crisis, triggered by the disputed general elections, the ethnic violence led to the deaths of more than 1,100 people and 650,000 were displaced.<sup>96</sup> According to Kofi Annan, the resolution of the 2007/8 Kenyan PEV proved that indeed RtoP can work.<sup>97</sup> The disputed presidential elections resulted in widespread violence and commission of crimes against humanity. The effects of this conflict were felt across the region, continent, and the world due to Kenya's geostrategic position. To resolve the conflict, the Panel of the Eminent Persons was convened by Kofi Annan, Graca Machel, Benjamin Mkapa, Ghanaian President George Kufuor then AHSG Chairman, among other Heads of State to mediate the conflict. The Kenyan Government turned down the idea of having peacekeepers into the country to assist in keeping the peace. Through mediation, the panel

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<sup>95</sup> Williams P. The African Union's Conflict Management Capabilities. CFR International Institutions and Global Governance Program Working Paper, pp. 1-32.

<sup>96</sup> Human Rights Watch. Kenya: Post-Election Killings, Abuse Investigate Police Use of Excessive Force; Uphold Right to Peaceful Protest. August 27, 2017. Accessed November 5, 2018. Available at: <https://www.hrw.org/news/2017/08/27/kenya-post-election-killings-abuse>

<sup>97</sup> Kabau, "The Responsibility to Protect and the Role of the Regional Organizations: an Appraisal of the African Union's Interventions" Goettingen Journal of International Law, 4(1), 2012, p.65

held numerous meetings and discussions that ended up in the signing of the power-sharing agreement between President Kibaki and Raila, later on the Prime Minister. The case was referred to the ICC to get justice for the people for the people against who the crimes against humanity had been committed; those who had lost their lives, IDPs as required by the PSC Protocol Art. 17(1).

The success of the R2P in the Kenyan case was mainly due to early response the use of mediation, combined with sufficient resources, regional and international support.<sup>98</sup>

However, the referral of the alleged perpetrators some of who are still at large, and the recent acquittal of the two cases from Hague; the PEV's root causes of it are still unaddressed hence the present tension whenever elections are held. The prosecution thereof could amount to the deterrence of future violence but the current situation further drives the impunity culture.

#### ***4.3.2 Côte d'Ivoire***

The November 2010 Ivory Coast's election ensued into political and ethnic violence where ex-Prime Minister Alassane Dramane Ouattara won the elections against the outgoing President Laurent Gbagbo nevertheless the Constitutional Council declared the latter as the winner. At the time, the 60,000 armed forces were controlled by Gbagbo who declined to stand down despite the recognition of the newly elected president by the regional bloc ECOWAS, continental body the AU, the EU, and the UN. Thereafter an armed conflict erupted with war crimes being committed by both camps. Five months in, April 2011, civilians bore the brunt with over 1,000 losing their lives, with more than 500,000 internally displaced, with the

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<sup>98</sup> The Global Centre for the Responsibility to Protect. *The Responsibility to Protect and Kenya: Past Successes and Current Challenges*. Policy Brief. 13 August 2010. Accessed November 5, 2018. Available at: <http://www.globalr2p.org/media/files/the-responsibility-to-protect-and-kenya-past-successes-and-current-challenges.pdf>

spillover effect of the conflict felt by Liberia where close to 100,000 people fled to.<sup>99</sup> The State had indeed failed to uphold the first pillar of R2P.

Also, the AU did not have a clear strategy to ensure the cessation of violence and ensure a peaceful transition of government. The AU did not act in “a timely and decisive manner” hence failed in upholding pillar three of the doctrine to respond to the situation. To resolve the crisis, the High-Level Panel was created upon ECOWAS’ decision to recognize Ouattara as the elected leader. The High-level Panel came up with a resolution that the new leader forms a Government of National Unity (GNU) to quell the conflict. However, both camps could hear none of it. This proposal showed that the AU had not carried out a comprehensive conflict analysis as it had opted for a Band-Aid solution. This translated to the essence that the Union did not really understand this conflict in respect to the violence intensity, the root causes, the actors among other aspects, as it should have, to reach an acceptable and attainable resolution. Hence the use of the GNU solution as was the case in the 2007/8 Kenyan PEV and Zimbabwe which was impractical as it had opted for non-military reaction, without putting into the consideration the divided security forces the Defence and Security Forces of Côte d’Ivoire (FDSCI), militias and mercenaries.

Despite the fact that the AU and ECOWAS had acknowledged Ouattara as the winner, the two bodies did not play the critical protagonist in respecting the rule of law and democracy on the Ivorian population. The RECs/RMs and the Union both showed that they did not have the capacity to turn the theoretical R2P doctrine to practicality. To prevent the R2P doctrine, the organizations should have sought for ways to entice Gbagbo to peacefully relinquish power before the electioneering period.

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<sup>99</sup> International Coalition for the Responsibility to Protect. (n.d.). *The Crisis in Cote d’Ivoire*. Available at: <http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-ivory-coast>

The infractions of international legislative framework which included: the Humanitarian Law and Human Rights Law had the UNSC pass a resolution to uphold pillar three of the doctrine.<sup>100</sup>

### 4.3.3 *Libya*

The effect of frustration and aggression by the population brought about the Arab spring which started in Tunisia, on December 17, 2011, with the self-immolation of Mohamed Bouazizi in the capital, protesting against continuous harassment and humiliation by the authority. The Arab Spring uprising sought to address the autocratic rule, structural violence such as lack of employment, meager resources, corruption, elitism; unequal opportunities; impeding them from exercising their political freedom. This caused a ripple effect of the uprising to other Arab countries such as Egypt against Hosni Mubarak, Morocco, Iraq against Saddam Hussein and later on Libya and the subsequent toppling and assassination of Muammar Al-Gaddafi. Gaddafi's 41-year rule spread to Benghazi later on the opposition capital and promised to stay in power and destroy all those against his rule. At this juncture, the AU, the states and other stakeholders condemned this move and the PSC strongly condemned the violation of the IHL through excessive coercion and lethal force against the peaceful demonstrators.<sup>101</sup> The AU insisted on using diplomatic means despite the continued human rights' violation, hence the High-Level Committee establishment. The committee among other international and regional committees came up with resolutions calling for a ceasefire, political reform leaving out the resignation of Gaddafi,<sup>102</sup> through a "road map" to restore peace in Libya.

The Arab League, a regional organization, made a request to the UNSC to institute a no-fly zone over Libya's territory to ensure POC and provide humanitarian assistance.<sup>103</sup> The

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<sup>100</sup> UN Document. "United Nations Security Council Resolution S/RES/1975(2011)." *United Nations*. 30 March. Accessed March 23, 2018.

<sup>101</sup> AU PSC, "Communique of the 261<sup>st</sup> meeting of the Peace and Security Council", 23 February 2011 Accessed: May 21, 2018 Available at <http://www.peaceau.org/uploads/psc-communique-on-the-situation-in-libya.pdf>

<sup>102</sup> ICRtoP Libya

<sup>103</sup> *ibid.*

member states, authorized through the UN Security Council SCR 1970 sanctioned Gaddafi's family and regime members; imposed an arms embargo, reaffirmed Libya's responsibility to protect and promised to bring this matter to the ICC and to the Prosecutor, passed arms ban, travel prohibition and asset freeze for the Gaddafi's and humanitarian assistance. In addition, the UNSC Resolution 1973 was passed to ensure an immediate end to violence while ensuring safe passageway for humanitarian and medical supplies, that all essential procedures to ensure POC in populous zones, imposed a no-fly zone in Libya's airspace, enforced the arms ban, sanction on flights and reiterated on asset freeze. The Libyan case was the only conflict which had the mentioned resolutions referring to the R2P in the preamble of Chapter VII resolution.<sup>104</sup> Various ROs made relevant discussions including the Gulf Cooperation Council (GCC) which called on the UNSC to protect the civilians while enforcing a no-fly zone over Libya, the Organization of Islamic Cooperation (OIC) also called for a no-fly zone over Libya excluding foreign peacekeepers, while the League of Arab States (LAS) called for an immediate impose of a no-fly zone on Libyan military aviation and to institute safe zones for Libya's populace.

The AU on the other hand through its Roadmap to Peace and Security in Libya on 19 March 2011 demanded for the instant end of aggressions, collaboration amongst the Libyan system to expedite the distribution of humanitarian support, the safeguard of the foreign citizens together with African migrants, and the espousal and application of political reformations to eliminate the root causes of the crisis.

The PSC's roadmap fruition was frustrated by the Security Council's refusal to authorize its flights to Libya. Later on there were outcries against the NATO- UN SC coalition, that it had overstepped the SCR 1973 mandate. On 20 October 2011, the intervention was termed

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<sup>104</sup> United Nations Secretary General's Report: "The role of regional and sub-regional arrangements in implementing the responsibility to protect" A/65/877-S/2011/393 27 June 2011, Available at [www.un.org/en/ga/president/65/.../Report%20of%20the%20SG%20to%20MS.pdf](http://www.un.org/en/ga/president/65/.../Report%20of%20the%20SG%20to%20MS.pdf) pp 10



“successful” after the capture and subsequent assassination of Gaddafi by the National Transitional Council rebel group and his dead body publicly dragged.

It is noteworthy that African conflicts are mostly as a result of structural violence, natural resources and the unconstitutional changes of power either through coup d'états or refusal to relinquish power. The AU has the goodwill of resolving such conflicts through the reliance on the SC, the donors and the political will of some African leaders prove futile.

Concisely, Libya's gross human rights violation was considered an actual case of R2P. The Libyan government was the main perpetrator in violating the population's rights. Different ROs and sub-regional organizations for instance, the PSC's AU, LAS, and OIC condemned the government's crackdown on the opposition. The CNN effect came into play as the UNSC adopted a resolution reminding Libya of its R2P.<sup>105</sup> Further bloodshed resulted to more discussions, more resolutions passed, imposing an arms embargo, to establishing a prima facie case to the ICC against Gaddafi and his regime.<sup>106</sup> The furtherance of the violation had the concern raised by the GCC calling to the UNSC to implement essential measures to ensure POC.<sup>107</sup> The UNSC later on passed Resolution 1973 with conditions to the Libyan government for its withdrawal. The conditions included permission for unlimited humanitarian access, withdrawal of military forces bases, and cease attacks on civilian populated areas.

The study established that the practicality of the R2P doctrine in the Libyan intervention was achieved by all the states acceptance of the doctrine, by fulfilling pillar two of the R2P doctrine by protecting its population even though the intended results were not achieved after the intervention, as the post-conflict reconstruction was not well planned for.

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<sup>105</sup> UN. S-15/1 (February 25, 2011)

<sup>106</sup> UNSCR 1970

<sup>107</sup> Resolution 7360 of the Council of the Arab League meeting at the Ministerial level, (12 March 2011).

#### ***4.3.4 South Sudan Enigma***

The application of the R2P doctrine in the South Sudan conflict has been puzzling. This is mainly because the State has plunged back to conflict despite the many processes that were supported by the neighbouring states, RECs/RMs such as IGAD, the AU and the international community have intended for the cessation of violence through ratification of the Comprehensive Peace Agreement (CPA) by the conflicting groups in April 2013.

Seeking justice for the population through the doctrine has been elusive due to the caveat given to the international community by Salva Kiir and Riek Machar that any efforts that would pursue justice would destabilize the continuance of post-conflict reconstructions by rolling back to war.

This happened after Salva Kiir of SPLM-IG pointed an accusatory finger towards Riek Machar-SPLM-IO is characterized by the inability to contain the number of guerrillas aligned to the allegiance of its commander. In consequence, ethnically based armed units characterize the current state and the preceding conflict.

The current state of SS spells out that secession is not a guarantee for peace and democratic stability. This is simply because the leadership that picks up after the liberation struggle will always determine the participation, growth and development of the just formed state. However, in the event that their selfish interests over power the desire for growth and wellbeing of the state, then nothing different will characterize such a state than what is experienced in SS to date and the recent signing of another “void agreement”.

#### **4.4 Challenges of the AU in the Implementation of the R2P Doctrine**

With more than three-quarters of conflict happening on African territory, the AU has had its fair share of challenges while implementing the R2P doctrine. The ROs have through and through been able to achieve the implementation of the doctrine through the establishment of

various mechanisms and the application of the same in the conflicts. The approaches that have been used to resolve these conflicts include: negotiations, consensual interventions, but the provision of using military force has proved to be a challenge.

#### ***4.4.1. Legal challenges***

Some specialists are of the opinion that R2P doctrine is a legal justification for action by the international community.<sup>108</sup> However, most scholars and legislators are of the opinion that the R2P doctrine is not a global legal norm as it lacks clarity and is yet to be properly legislated.<sup>109</sup> Should the doctrine be defined as a legal norm, then this would be a dangerous move as suggested by Strauss.<sup>110</sup> This would have the redefinition of sovereignty, the extent of intervention and to a point would promote stronger nations to forcefully intervene in some states.<sup>111</sup> These states would resist intervention, should there be incidences where they fail to apply the basic principles (the pillars) of R2P. This would lead to the unintended consequence of universality where the doctrine would not be applicable to every State.

The normative limitation of the UN Charter and the lack in pinning the R2P doctrine to a specific legal framework has been one of the key challenges. This ambiguity has been costly to the international community and the continents' organizations as the organizations have been both able and unable to intrude in violent conflicts because of "state sovereignty and the principle of non-interference."

To address this challenge, the AU has been instrumental in legitimizing the doctrine through the African Peer Review Mechanism.<sup>112</sup>

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<sup>108</sup> Bannon A.L., 'The Responsibility to Protect: The UN World Summit and the Question of Unilateralism', *The Yale Law Journal*, 115 (2006), p. 158.

<sup>109</sup> Stahn C. 'Responsibility to Protect: Political Rhetoric or Emerging Legal?' *American Journal of International Law*, 101/1 (2007), p. 102.

<sup>110</sup> Strauss E., 'A Bird in the Hand is Worth Two in the Bush – on the Assumed Legal Nature of the Responsibility to Protect', *Global Responsibility to Protect*, 1/3 (2009).

<sup>111</sup> *Ibid.*

<sup>112</sup> *Ibid.*

The inconsistency in linguistic in the Constitutive Act and the PSC Protocol contradicts the UN Charter Articles 2(4) and 53(1). The employment of regional arrangements and the states in forceful intervention is considered to be against territorial integrity hence the inconsistency in the UN purposes. Also, any enforcement action must be permissible by the UNSC.

The Constitutive Act and the Protocol, therefore present a contradiction to the UN Charter's Article 103 with regard to upholding the supremacy of the Charter which is considered the guiding legislative framework for international community operations.

#### ***4.4.2. Political action***

Despite the establishment of supporting legislative, normative and structural frameworks, the doctrine has been challenged with the lack of political will needed for its implementation. The lack of good governance and the reluctance of the subsequent governments to protect its population has impeded the success in the implementing the doctrine.<sup>113</sup> The continued posturing of the leaders, who most of the times are the perpetrators has resulted to the unwillingness and the inability to protect the continent's and the state's population from the mass atrocities.

The lack of understanding as to when the R2P doctrine should be invoked has been a challenge. Thus, the selective and opportunistic approach that the decision-making bodies have adopted have been done in an unjustified, unfavourable manner hence the implementation of R2P doctrine compromised. This indiscriminate and impulsive application of the doctrine has led to the exacerbation of the existing conflicts that have led to anarchy, proliferation of small arms light weapons (SALWs) and the spill-over of terrorism and other crises and conflicts. Consequently, there has been the emergence of new cycles of violence and escalation of acts of violence hence failure in POC.

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<sup>113</sup> The Stanley Foundation. Implementing the Responsibility to Protect. January 15-17, 2010. Tarrytown: New York

The Panel of the Wise for that matter has not fully played its role as the continental mediators' pool in a professional manner. As witnessed during the search for the mediator for the Kenyan 2007/8 PEV, Ramaphosa who had business dealings with Raila Odinga's family was unsuitable as he would have sided with one party rather than be neutral. A mediator from within the conflict "insider-partial" has proven to be more successful in resolving conflicts than the "outsider-impartial" as (s)he does not really understand the ins and outs of the conflict compared to the former, who due to interconnectedness, has a better understanding and is trusted with the constituents.<sup>114</sup> This is what the Union ought to have understood.

The Union's composition of the PSC has at one point been authoritative in governance issue, or have been in conflicts. The present tenure of PSC members with conflicts to resolve include: the DRC, Burundi, Chad, Nigeria and previously, Libya, Sierra Leone, among others. The PSC *modus operandi* is that each member has a vote and any decision reached is through the simple majority hence consensus.<sup>115</sup> This provision has led to the continued posturing and 'protection' of the leaders thus influencing the decision to be favourable to them.

#### ***4.4.3. Structural challenges***

The African Standby Force is a critical component of APSA though marred with interoperability challenges. From inadequate resources to a collaborative approach amongst the respective states and regions, to politics, to unclear operational command, to the regional bases set up, the ASF has indeed had its share of challenges. The resulting challenges have been due to the incomprehensibility of the relatedness between the Security Directorate and AU Peace.

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<sup>114</sup> Wehr, P. and Lederach J.P. *Mediating conflict in Central America* (1991) Journal of Peace Research 28: p.85-98.

<sup>115</sup> Ibid. PSC Protocol Art. 8 (13)

#### ***4.4.4. Inadequate resources***

The AU's budget is funded by donors (33 percent of the revenue) and the rest from the contributions of the member states. With utmost 30 countries defaulting on the payments either partially or completely, the Union over-relies on donor support for implementation of the R2P doctrine and other Pan-African geared activities.

To address the financial inadequacy, the AU adopted the historic decision by the HOSG to execute a 0.2 percent duty on all eligible imports.<sup>116</sup> This would ensure self-reliance to promote and sustain the Union's peace support operations (PSOs) and the Operational Budgets from 2017. Also, a section of the AU members have come up with an alternative solution through the African Capacity for Immediate Response to Crises (ACIRC), a voluntary initiative founded on the capacity of the countries that has been recognised by the AU as a transitional arrangement.<sup>117</sup>

In essence, the R2P proved to be a challenge in its application in Libya as the Union and the RECs/RMs did not have adequate financial support and sufficient resources for implementing the doctrine.

#### ***4.4.5. Justification***

From an international perspective, there have been a myriad of concerns with regard to the invocation of the doctrine. The lack of specificity to come up with a convincing narrative sufficient to justify the invocation of the doctrine has been lacking. The evidence mobilization and narrative construction is expected to be founded on the noticeable and demonstrable

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<sup>116</sup> African Union. What Is Financing of the Union. Assembly/AU/Dec.605 (XXVII). Adopted in "Retreat on Financing of the Union" during the 27th African Union Summit held in Kigali, Rwanda in July 2016. Accessed (September 18, 2018) Available at: [https://au.int/sites/default/files/pages/31953-file-assembly\\_au\\_dec\\_605\\_financing\\_the\\_au.pdf](https://au.int/sites/default/files/pages/31953-file-assembly_au_dec_605_financing_the_au.pdf)

<sup>117</sup> AU. Assembly/AU/Dec.515 (XXII). Decision On The Operationalisation Of The African Capacity For Immediate Response To Crises Doc. Assembly/AU/4(XXII), Accessed November 6, 2018. Available at: [https://archive.au.int/collect/auassemb/import/English/Assembly%20AU%20Dec%20515%20\(XXII\)%20 E.pdf](https://archive.au.int/collect/auassemb/import/English/Assembly%20AU%20Dec%20515%20(XXII)%20 E.pdf)

happenings on the ground. These presentations are not to be influenced by the stronger nations, should not be a political view of a group, and should not emanate from the *CNN effect* or the social networking platforms.

The justification to invoke the doctrine has in the past been a challenge as the approach utilised has lacked experience in the implementation of the third pillar hence never been transparent as a set of universally acceptable standards have never been applied. To address the impartiality challenge, there is need for the UN inclusive of the ROs to come up with a standardised mechanism to apply the doctrine using similar concepts and collective involvement of the member states.

#### ***4.4.6. Execution***

The most important result for the R2P doctrine is to protect the rights and justice of the population. As a result, the execution of the doctrine in some of the conflicts has been debatable as the intention was not upheld but further abused. This can be accredited to the doctrine's selective application due to global power politics and *realpolitik*. These proxy wars have always resulted to double standards application. This dilemma thus seeks for answers to understand the organisation that has been entrusted with its execution and the use of veto. The Libya attack by NATO upon invoking the R2P doctrine is an example that lacked in execution in practice, this attack lacked the responsibility to protect the civilians as NATO only sought to pursue its goals and not to protect the rights and justice of the population.

### **4.5 Summary of Key Findings**

This chapter investigated the achievement realized by the AU in human rights' protection using the R2P doctrine. It investigated the past efforts in human rights' protection in the absence of the doctrine, R2P doctrine and its achievement in the protection of human rights and the challenges of the AU in R2P doctrine's implementation.

This chapter sought to investigate and analyse the levels of success in using the R2P doctrine in the achievement of human rights in Africa. This objective was made to test the hypothesis whether the African Union does not face significant challenges in the achievement of the “human rights in Africa”, through R2P doctrine implementation. The study established that the AU faces numerous challenges in the implementation of the doctrine which include: legislative, the goodwill of the leaders, structural challenges, and inadequate resources among others.

The importance of the international regime theory is presented in the study. This is through acknowledging the importance of implementing the agreements, procedures, and treaties as documents of diplomacy which are considered the international regimes. African conflicts have had significant successes and shortfalls from intervention of conflicts whose resolutions have been passed by the relevant institutions, and the universal documents and principles.

Hence, to assist in countering the challenges that are faced or are to be faced in the future, it would be prudent to come up with responsible, protective, and universally acceptable measures in applying the R2P doctrine. The moral duty in the protecting human rights should override the legal obligation. This would be achieved by having a UN standby force capability that is autonomous and has full capacity to be mandated in executing a justified and universally acceptable R2P in a predictable, provable and accountable manner at the directive of the UNGA.

Also, these organizations should come up with proper measures best suited for each conflict and not opt for the quick fixes which tend to address the conflict in the short-term and by no means in the long-run.



## CHAPTER FIVE

### PRESENTATION OF DATA FINDINGS AND ANALYSIS

#### 5.1 Introduction

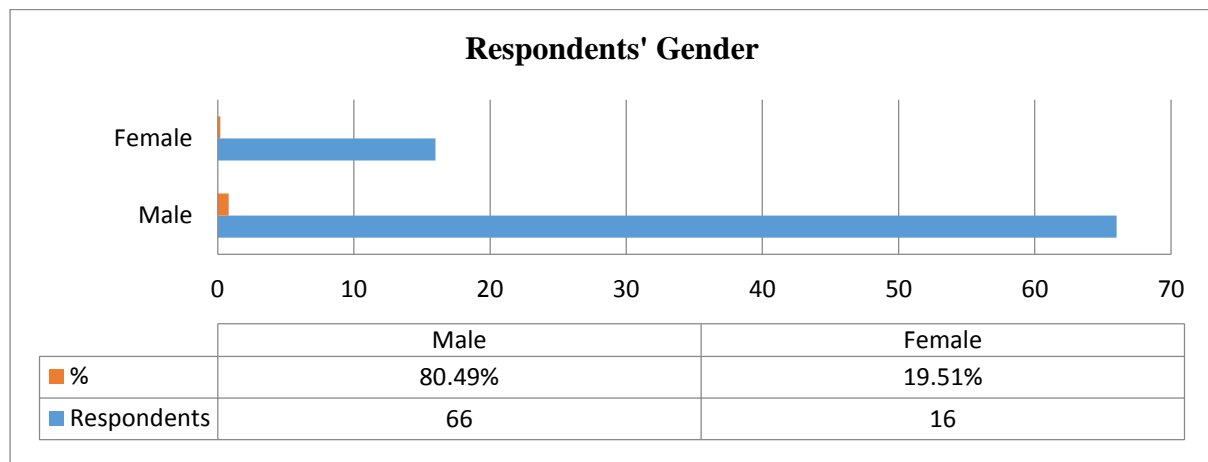
This chapter presents the analysis of the data collected with the hypotheses and theoretical framework stated. The return rate for the questionnaires was 82 out of the 100 that were disseminated to the potential respondents. The analysis for this study was therefore based the 82% response rate using descriptive analysis.

#### 5.2 Biodata

In order to get the respondents' biodata, the researcher divided the biodata section in sub sections of: gender, age group, the highest level of education attained, and occupation.

##### 5.2.1 Gender

Figure 1: Respondents' Gender

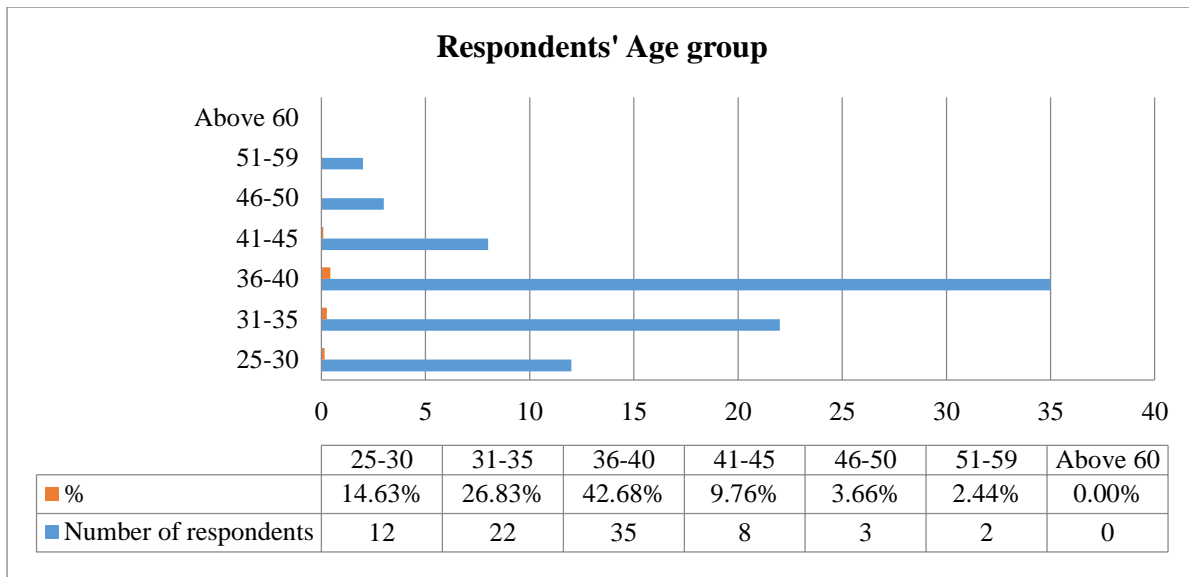


As per the study, the majority of the respondents were male with 80% compared to the female who were represented with 20%.

##### 5.2.2 Age group

The respondent's age group were sought and are represented as follows:

Figure 2: Respondents' Age Group

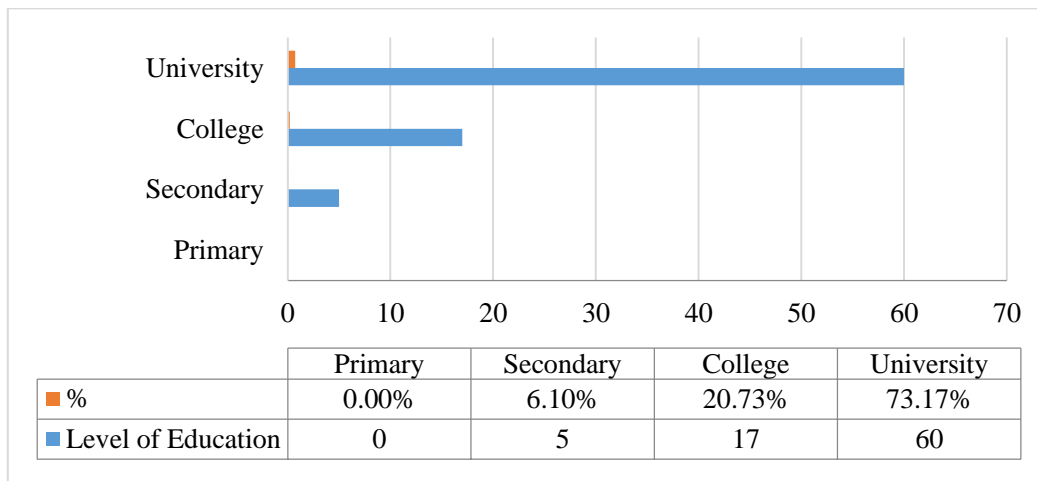


The bar chart represents the age groups of the respondents where 42% of the respondents were in the 36-40 age group followed by the 31-35 age bracket with 26%. There was no respondent in the Above 60 age bracket.

### 5.2.3 Highest level of education attained

The respondents' level of education were as represented in the bar chart below:

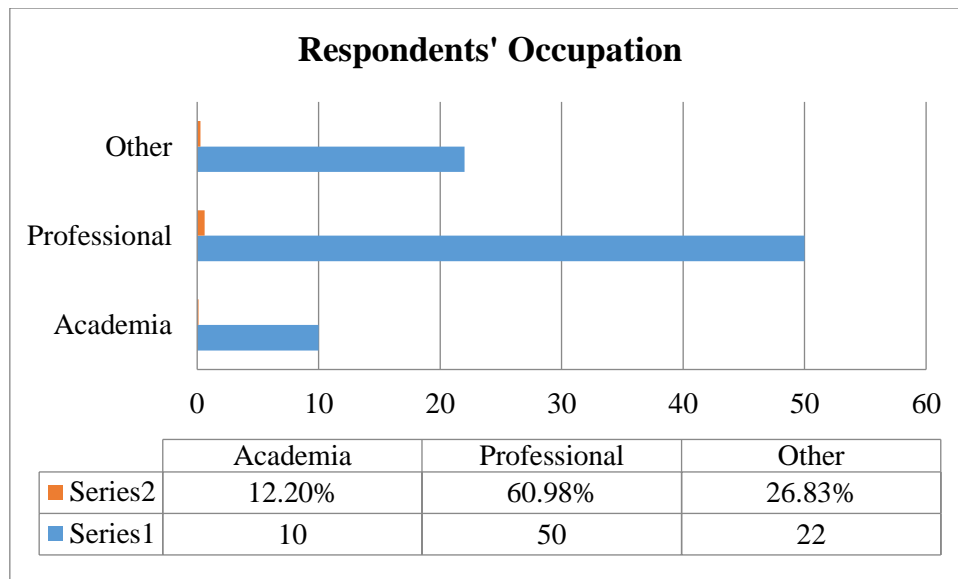
Figure 3: Respondents' highest level of education



73.17% of the respondents had University as their highest level of education while there were no respondent with primary education.

### 5.2.4 Occupation

Figure 4: Respondents' Occupation



The occupation with the highest number of respondents was the Professionals with 50 respondents which is equivalent to 60.98% of the respondent while the Academia was composed of 10% of the total percentage.

### 5.3 The extent to which the global Responsibility to Protect (R2P) doctrine offers a solution to human rights abuse to the African conflicts

#### 5. The human rights protection at the forefront of the AU's objective

Asked if the AU has human rights at the forefront of its objectives, respondents were of the opinion that that despite the mechanisms established by the Union such as the Humanitarian Intervention Framework (HIF), African Court, NEPAD's Peer Review Mechanism little results have been accomplished as there are continuous conflicts still beleaguering the continent hence a unanimous response.

#### 6. Did the OAU uphold the protection of human rights in the Continent?

The respondents' opinion was that despite its preamble supporting the UDHR, the Organization did not uphold the human rights of its population. This is because, the-then Continental

organisation allowed the significant abuse of human rights in the African states. They include but not limited to: Uganda during the reign of Idi Amin; the Central African Republic during Boukasa's era; Somalia during Siyad Barre's period in office; the Gambia conflict in West Africa among others. It also allowed the Heads of States who were being accused of human rights violation to take up the OAU Chairmanship. For example Idi Amin of Uganda and Robert Mugabe of Zimbabwe and allowed the leaders who had gotten to power through coup d'états to take the reins of the OAU hence promoting impunity while exuding the unwillingness of the organisation in protecting the population against the perpetrators of the violation of human rights.

Coups in West Africa with the imposed coup leaders legitimized were the norm of the day and their tenures marred with massive violation of human rights vide the four international crimes as multiparty politics were discarded and people branded for purges.

However, it cannot only be said that the Organisation did not do much in the protecting human rights as it exceeded on framework formulation but lacked in their implementation. This may be attributed to the fact that there was continuance in human rights violation as was the case in Egypt during Moubarak's reign and South Africa during the Apartheid era when the Organisation was at the realm.

***7. Was the transition from OAU to AU pivotal in the protection of human rights and justice in Africa?***

Most respondents agreed that significant transition of the OAU to AU pivotal in the human rights' protection and justice in Africa was not pivotal as it would have been expected.

Except for the fact that, what drastically changed or improved was the development of norms and institutions on human rights protection unlike the OAU. The Humanitarian Intervention

principle was instituted hence assisted in the resolution of civil wars such as in Sierra Leone and Liberia.

One of the Academicians highlighted that the Union's efforts in coming up with these norms has been part of the challenge as it is faced with the dilemma of using nascent norms and institutions to prevent the violation of human rights. These tested norms do not provide the AU with the best foundation to resolve these grave abuses hence might pose more problems to the ongoing or current conflicts.

#### ***8. The role and purpose of the R2P doctrine.***

The respondents were of the outlook that the R2P doctrine is principally meant to weaken the AU's principle of humanitarian intervention. To that point, the OAU principle of humanitarian intervention was very important and the AU's notion of humanitarian intervention was intentionally taken over by the international community. The global R2P doctrine was crafted without the African context and intentions. This has led to situations where the doctrine has to some extent not been useful in addressing the African conflicts, due to the significant impediment to the continuation on humanitarian intervention during wars.

The transition of the OAU to AU promoted the same argument that the humanitarian intervention principle was doing before that is, not to sit back and watch as the perpetrators carried out the prescribed atrocity crimes. Thus putting human rights at the core of its operation.

#### ***9. The adoption and implementation of the R2P doctrine sufficient in resolving African conflicts.***

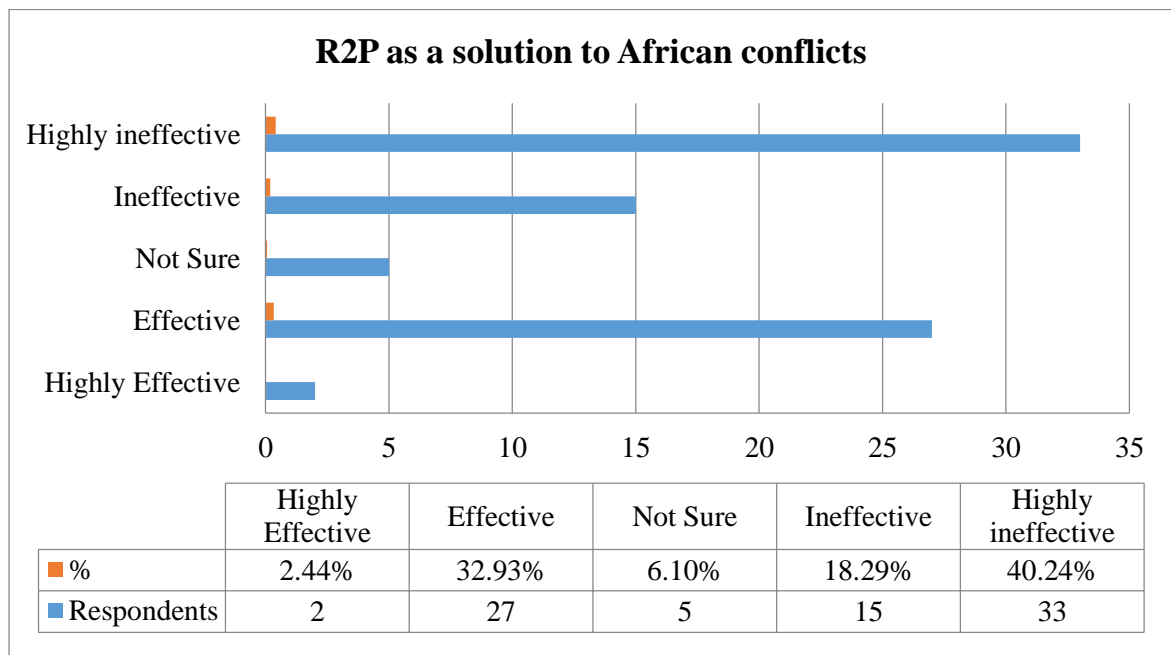
The Academicians were of the opinion that the adoption and implementation of the R2P principle has not been sufficient in resolving African conflicts. This is mainly because, the Union has not been pragmatic on the framework because of inadequate resources to achieve the implementation of the doctrine in the African context. This challenge has seen the AU settle

more on the theoretical part of the framework hence the inability to intervene in Burundi, South Sudan- Darfur continuance and the AU still being stuck in Somalia.

One of the Professional was of the idea that as much as the doctrine covers much, there is need for more to be done to ensure equal application of the doctrine. For any resistance experienced from the doctrine implementers, clear sanctions have to be drawn for further insulation of the principle from undue political manipulation resulting to biased application.

**10. The extent to which the R2P doctrine offered a solution to human rights abuse to the African conflicts?**

Figure 5: R2P as a solution to African conflicts



The bar chart shows that 40.24% of the respondents believe that the R2P doctrine is highly ineffective in offering solutions to human rights in African conflicts, while 2.44% believed that the doctrine was highly effective to protection of human rights in Africa.

#### **5.4 Measures taken in the utilization of the R2P doctrine by the AU in upholding the human rights and justice of its population**

##### **11. Some of the measures that have been taken by the AU so as to uphold human rights and justice of its population.**

The African Continent has HIF which preceded the R2P doctrine hence the present relation between R2P and HIF. This shows the AU having the capacity and the basis to intervene in cases of the four international crimes.

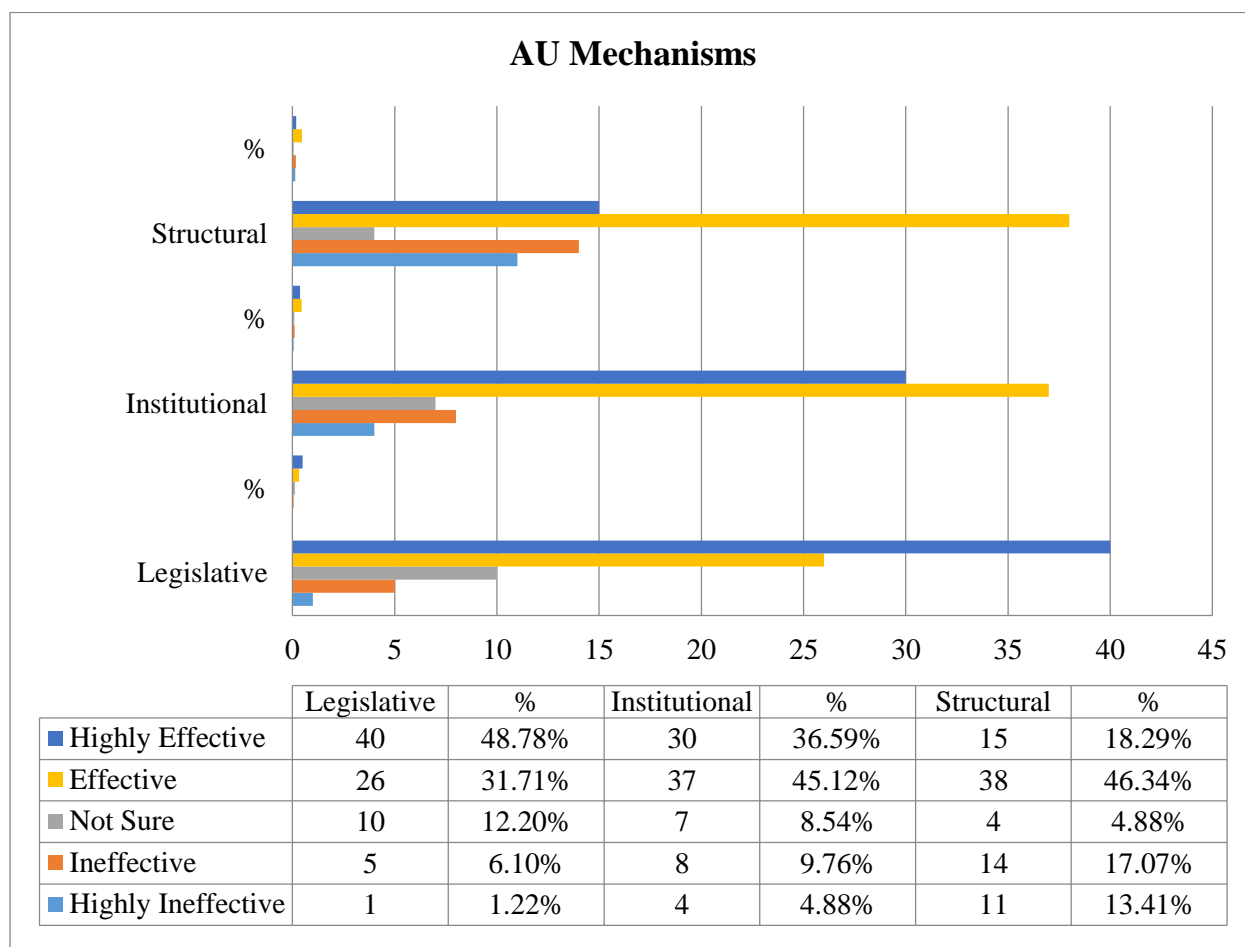
In a philosophical perspective, the R2P doctrine has the basis of the non-indifference principle, as the continental organization, RECs/RMs, upon approval by the UNSC or RO can intervene in any state where the atrocity crimes are being committed. This principle assists the achievement of African

Also, the AU's efforts towards the establishment of the NEPADs Peer Review Mechanism, the African Court and the institutions contained in the APSA instrument.

Despite the AU having the best intentions in putting in place the measures, it has not been successful in the intervention but passing resolutions on human rights violations. The objectives of these resolutions are not always met due to the inability to intervene in African conflicts hence grave human rights violation.

##### ***12. The effectiveness that the AU has shown towards the protection of human rights through the establishment of various mechanisms:***

Figure 6: Effectiveness of AU mechanisms



As illustrated in the bar chart above, 48.78% of the respondents believe that the AU has been highly effective in the establishment of legislative framework. However, for the institutional mechanisms put in place by the AU are highly ineffective and the structural mechanisms have been effective towards advancing human rights protection in Africa.

***13. The AU’s establishment of the various mechanisms been fundamental in the protection of human rights.***

Various establishment of protocols on good governance, ROL and elections active involvement in mediation processes across the continent. For instance the South Sudan mediation through the High-Level Mission in Darfur that was led by Thabo Mbeki; Kenya’s 2007/8 PEV whose mediation were led by the AU and supported by the UN; the continuous engagement of the Special Envoys in Mauritius, Mauritania, Comoros, Madagascar, Libya, Côte d’Ivoire. These



efforts are indeed positive and their employment have been key in ending some of the conflicts. Also, the resolve that the AU no longer allows for ascension to power through coup d'états has seen the Continent not to have government overthrows.

***14. AU's advocacy for reforms from the UN on matters with regard to African composition at the Security Council?***

Principally every UN member state can advocate for reforms and even present their issues to the Security Council.

One of the respondents pinpointed that veto power issue has always been a challenge. This is because, the five permanent members are the highest contributors and hold the powers. As such, with the present challenge that the African continent have insufficient resources to even deal with its problems and its reliance on external support, it would be impossible for the Continent to even match either of the five member contributions to the UN pooled money.

Hence as much as there is need for UN reforms, sufficient attention should be geared towards equal resolution of non-Western countries (Asia, African) conflicts by avoiding biasedness, proxy wars and not necessarily advocate for the reforms as this course is unattainable.

Some of the respondents were optimistic to the UN reforms advocacy as it would democratize the UN hence get better reaction to African issues as they form utmost three quarters of the agenda at the UN. This aspect of the research was balanced.

***15. The need for the International community to revise the R2P doctrine in order to link it to the relevant legislative framework and subsequently the establishment of the relevant Institutions.***

Most respondents were of the opinion that there was no need for the international community to revise the R2P doctrine to the relevant legislative and subsequent establishment of the relevant institutions since this has already been done through the development of the doctrine

by the RECs/RMs, continental organisations whose legislative and institutional frameworks expressly reference the doctrine.

For the proponents, this linkage and realignment would insulate the doctrine from politically biased machinations as well as sanctions provision.

***16. The relationship between the AU and the regional economic communities need to be strengthened***

From the onset, all the RECs/RMs signed the memorandum of understanding (MOU) with the AU, defining the responsibilities for each, which would have guided the relations between them. Yet there is little respect of these responsibilities emanating from the competition in resolving the various conflicts and problems in Africa. This has been experienced with the tussle amongst the RECs and the AU. In Somalia, there have been push and pull over certain issues that undermine the efforts of attaining peace.

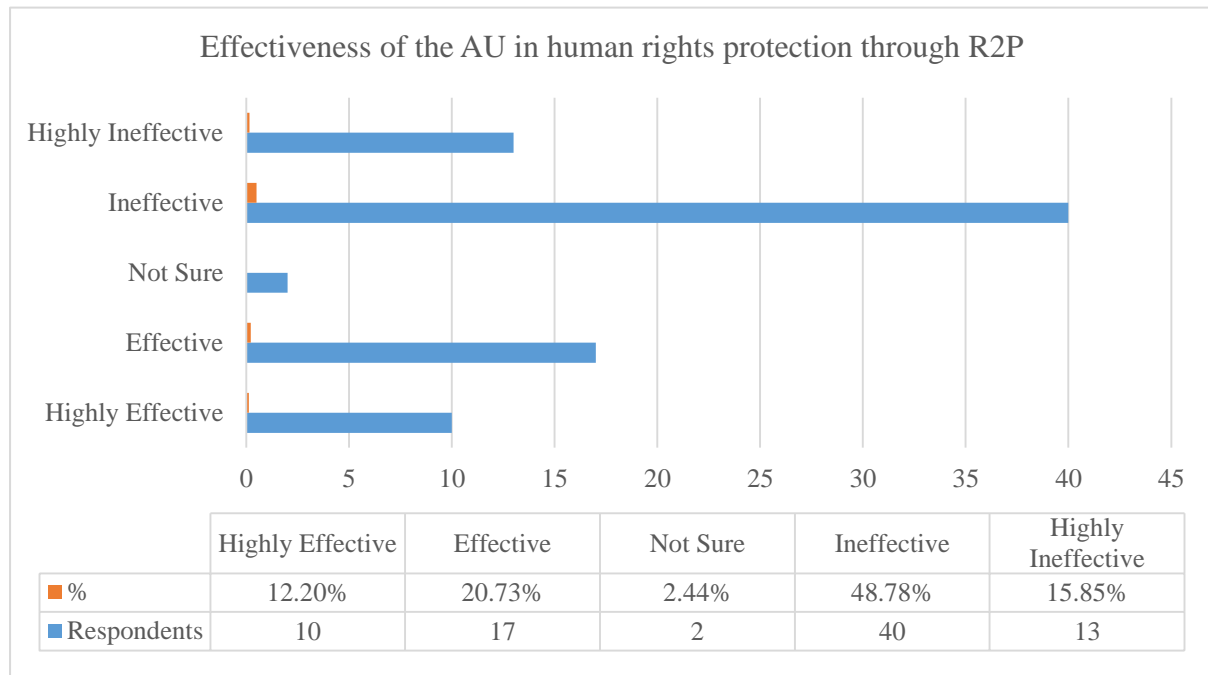
With the expectation that the RECs are supposed to be the building blocks of APSA, the implementing partners of the African programmes should ensure peace and security in their respective regions. This support is complementary with the main aim of achieving peace and security in the region and the continent. In the South Sudan conflict, IGAD leads the PSOs and conflict resolutions supported by the AU.

This competitive approach should be countered by pooling resources with the RECs/RMs such as IGAD while the AU should supply the financial resources for the peace operations rather than support its envoys to IGAD to find the unachievable resolutions. This approach would also promote answerability of the RECs/RMs to the Continental organisation.

**5.5 The levels of success in using the R2P doctrine in the achievement of human rights in Africa**

**17. The level of success the AU has achieved in human rights protection in Africa through the implementation of the R2P doctrine**

Figure 7: Effectiveness of the AU in human rights protection through R2P



According to 48.78% of the respondents, the AU has been ineffective in the achievement of human rights protection through the doctrine, while 12.20% were of the opinion that it has been highly effective.

**18. Some of the levels of success that the AU has had in the implementation of the R2P doctrine? With regard to:**

*a) Legal*

It was mentioned that the AU has made great strides in coming up with the best legal frameworks with utmost intention of protecting human rights and promoting the social, economic stature of its population. This success has set a foundation to some of the universal

documents. However, this has only been in a theoretical perspective hence the need to put up the necessary effective institutions and mechanisms for applied purposes.

*b) Political will*

There has been quantifiable political will of the HOSG in the application of the doctrine. This has been realized through the formation of mediation teams who act as mediators in resolving conflicts. Also, the zeal that some of the member states have had in the achievement of sustainable peace and security in their respective regions has been instrumental. For instance, IGAD and Kenya have played critical role in the South Sudan peace process.

Also, through political influence, African leaders have called for the AU to ensure it supports the AU agencies in respect to humanitarian intervention and POC. Case in point is the DRC, which has benefitted from this move.

*c) Inadequate resources*

The AU has found strategies for resource mobilization through developing countries and the strong collaboration and partnership with donors and other partners to ensure sustainable financing. Even though the funds are not enough to operationalize all its operations in relation to peace and security, it has continuously worked with the least resources that it has at its disposal.

**19. Successes that have been realized by the AU in the implementation of the R2P doctrine**

The respondents observed that since the establishment of the AU there has been the establishment of various legislatives, institutions and structures that address human rights' protection. The practicality of these mechanisms have been realized through cessation of violence in various conflicts, the continuous search for peace through various non-coercive

approaches such as in the DRC, South Sudan among others . These approaches have been facilitated by the international community, the ROs and the member states, military and financial assistance in the war torn countries such as Somalia, in protecting human rights in all its member states. The AU's active involvement in mediation processes across the continent such as in the South Sudan conflict through the High Level Mission in Darfur, the creation of hybrid courts to address the cases of human rights agenda in addition to the establishment of the protocol on good governance, ROL and elections is an accolade to the Union.

Also, in protecting the rights and justice of its population, the Union through the PSC has at various point and time, suspended some of its members from participating in AU's business

### ***20. Challenges faced by the Union in the implementation of the R2P doctrine***

The respondents put forward the challenges faced by the Union in the implementation of the R2P doctrine as presented and briefly discussed in this sub-section.

#### ***a) Legislative, Institutional and Structural Mechanisms***

The AU has been effective in establishing the norms and institutions that are partly respected and implemented. Despite the sufficient frameworks there is a very big disconnect between their existence and their implementation.

To revolve around the mechanisms that have in part done away with coups, some countries have had their Constitutions changed by those in power. This is to ensure that they remain in power thus humiliation of the national processes to hold onto power. Some of the leaders that have used this tactic and succeeded include: Nkurunziza of Burundi; Museveni of Uganda; Kagame of Rwanda. An example of those who have failed include Obasanjo of Nigeria among others.

The superimposing conduct that the AU has had towards some of the conflicts in its Member States has been appalling. The Union has not followed-up on the aftermath of the resolved conflicts in maintaining the peace. Also, most of the protracted African conflicts have not been given their fair chance on the necessary processes such as conflict analysis. The utmost concern is that those that have had the chance to attain the Comprehensive Peace Agreements (CPAs), the peace and stability resulting from this have been short-lived.

An example is the South Sudan's independence from Khartoum (the-then common enemy of Darfur) was expected to culminate to peace, rather, it made it even worse with the new State plunging back to civil war in December 2013. The South Sudan situation clearly presents a scenario where the AU has not sternly called on the two leaders to ensure cessation of violence and have consequences if they fail to.

The leaders are mostly the perpetrators of the four crimes has always been an impediment in protecting the human rights of its population. At times, it seems as though the leaders' interests supersede those of their populations as they keep on protecting each other from justice.

***21. Some of the recommendations that you would proffer to counter the challenges that are faced by the Union in the implementation of the doctrine? With regard to the challenges mentioned.***

The respondents proffered the following recommendations to counter the challenges that are faced by the AU in the implementation of the doctrine as discussed below. They include:

To address the bottlenecks in the decision making processes of the AU, it was deemed necessary to ensure that clear structural decisions are made especially in allowing for intervention in cases where the population's rights were violated. The AU should be firm in addressing these abuses, its reluctance thereof would lead to more future scenarios like Burundi

where the AU had the muscle to forcefully enter to cease the violence against the populations but failed.

Protraction of African conflicts have mostly been due to proxy wars fought by some Western nations. The continental organisation should repudiate external interference meddling or fuelling African conflicts. Addressing this issue would realise the decline of actors in the conflict hence easier to resolve due to the minimised interests. Likewise, it should deal with external actors that use some African states to fuel conflicts in other African states as was the case with Eritrea and Ethiopia that played adversarial roles in undermining the stability in Somalia.

The AU should also seek for ways to strengthen the individual states' democratic institutions and values, civic education and protection of human rights. This would be achieved by encouraging public participation through CSOs/CBOs.

***22. Final comments on the topic: Challenges of the implementation of the Responsibility to Protect: A case study of the African Union***

The respondents observed that R2P is a significant doctrine and the Continent, Regional Organisations must not only embrace it but they must walk the talk when it is necessary to intervene. Some of them considered the topic to be good research topic and had the opinion that it could not have come at the opportune time to retrace the steps and actions that might have not been tackled in the correct way.

The challenges that are faced in the implementation of R2P by the AU should be addressed as this would realise a principle that puts human rights at the centre of planning for humanitarian intervention.

R2P is a doctrine that specifically narrows down to address human rights violation. This means that the specificity addresses issues with regard to the atrocity crimes where violation of human rights is a common denominator. This entails the human rights denial to certain or specific communities through the persecution of a group of people based on religion, culture, ethnic group.

Some respondents had the view that the doctrine is a good idea but had not been effective in the resolution of African conflicts.



## CHAPTER SIX

### SUMMARY, CONCLUSION AND RECOMMENDATIONS

#### 6.1 Introduction

This chapter presents the summary of the findings, conclusions based on the findings and recommendations with regard to challenges of the implementation of the Responsibility to Protect by the African Union. The chapter also presents recommendations for further studies.

#### 6.2 Summary of Findings

The study investigated the challenges of the implementation of the R2P doctrine by the AU. The study provided a broad overview of the global and regional application of the doctrine as an instrument for upholding human rights protection. It presented the importance of involving the ROs and sub-regional organisations in the protection of the populations' rights and justice as these organisations are in proximity to the conflict zones. It also offered the actions that the global community and the ROs have used in ending the atrocity crimes. Thus, the study adds to the body of knowledge concerning the R2P doctrine in protecting human rights.

Chapter one formed the foundation for the study discussing the background of the study emphasizing on the continuity in human rights violation despite the adoption and the expectation to uphold the doctrine by all member states, the objectives of the study were to identify the extent to which the global R2P doctrine offers a solution to human rights abuse to the African conflicts, the measures to be taken in the utilization of the R2P doctrine, the levels of success in using the R2P doctrine in the achievement of human rights in Africa as well as the challenges encountered in R2P doctrine implementation. Literature review presented literature from various R2P doctrine scholars, justification, theoretical framework, hypotheses, research methodology, scope and limitations of the research and chapter outline.

Chapter two assessed the solutions that the global and the ROs have put in place to ensure the implementation of the doctrine. This has been achieved through the establishment and application of the legislative, normative, preventive and coercive based approaches. The adoption of the three R2P elements; responsibility to prevent, responsibility to react and the responsibility to rebuild, in applying the *jus cogens* principle.

Chapter three discussed the measures taken by the AU in the implementation of the R2P doctrine in upholding the human rights and justice of its population in Africa. The measures include the nexus between the non-indifference principle and humanitarian intervention, the operational nexus between the AU and the doctrine implementation, the role of regional economic communities in addition to the relevance of the measures taken by the AU in implementing the R2P doctrine.

Chapter four provided a critical overview of the successes, the practicality of the doctrine in resolving African conflicts and challenges faced by the AU in the implementation of the R2P doctrine. The case studies were based on Kenya, Cote d'Ivoire, Libya, and South Sudan.

Chapter five presented the data findings and analysis with regard to the study. The collected primary data was analysed and presented using bar charts, tables and interpreted.

Chapter six provides the summary, key findings, conclusion and recommendations.

### **6.3 Key Findings**

The data analysis supports the objectives and confirms  $H_{01}$  and  $H_{02}$  while disproving  $H_{03}$  of the study hypotheses. The study sought to assess the challenges faced by the African Union in the implementation of the Responsibility to Protect doctrine in protecting its population from the atrocity crimes. The importance of the doctrine was pointed out as an instrument to deal with the situation in cases of infractions of human rights and the humanitarian intervention emanating from the commission of the four atrocity crimes. The data provided sufficient

evidence that the R2P doctrine's adoption and subsequent implementation has been insignificant in AU's obligation in upholding human rights hence confirmation of the first hypothesis. This is attributed to the AU's use of nascent normative and institutional frameworks, the selective use of the doctrine promoted by bottlenecked decision-making mechanisms. With mass infractions of human rights in Africa and beyond. The R2P doctrine has not been sufficiently invoked by the Security Council, the ROs and the states to address these violations. Thus the confirmation of the hypotheses that the establishment of the various legislative, institutional and structural mechanisms have not borne the intended results. It was also conclusively determined that the AU faces various challenges in the implementation of the doctrine due to legislative, political indecisiveness, inadequate resources, execution, justification among others. This, therefore, disproved the hypothesis that the AU does not face significant challenges in the achievement of the human rights in Africa, through the implementation of the R2P doctrine.

#### **6.4 Conclusion**

Responsibility to Protect is a preventive diplomatic action is aimed at preventing human rights infractions with regard to the international crimes against a population. It applies the three pillars; the principal responsibility of the state to protect its population, the timely and decisive global community's intervention in conflicts and its role in upholding the R2P doctrine. It also applies the three elements of responsibility to prevent based on: (a) the diplomatic approach of conflict resolutions through alternative dispute resolution, good offices to end mass atrocities situations as applied in Kenya 2007/8 PEV to cease violence and loss of life and property and international community's resources. (b) The responsibility to react through forceful intervention as used in Libya and (c) The responsibility to rebuild based on post-conflict reconstruction vide the establishment of good governance, ROL, elections frameworks and structures. In implementing doctrine, the global and regional organisations face challenges such

as insufficient funding, political inaction, the selective approach in applying the doctrine by disregarding the early warning system in impending conflicts and sovereignty of a member state. The study investigated the challenges encountered by the AU in implementing the R2P doctrine. From the study, it was acknowledged that the R2P is an important doctrine and the continental and regional organisations should implement it and intervene when necessary. The UN should emphasise on the application of the UN Charter Chapter VIII which highlights the importance of involving the regional organisations in maintaining universal peace and security.

## **6.5 Recommendations**

Based on the findings of this study, the following recommendations are made as below:

### ***6.5.1 To the International Community***

1. The doctrine should be amended to include the ICISS recommendations to avoid the in its application.
2. The application of the doctrine should be equal to all the member states to avoid selectivity and biasedness.
3. The international community should fully embrace the early warning mechanism. This is to be done through passing resolutions after thorough situation assessment wherever the atrocity crimes are being committed.
4. The mandates passed in the resolutions should be strictly tailor-made for the conflict.

### ***6.5.2 The African Union***

1. The PSC should emphasize to the member states on the need for consistency, effectiveness of approaches as each conflict is different. Thus the Union should see to it that each conflict is addressed individually and not to apply an unclear “copy and paste” approach.
2. In order to address the procedural flaws in the decision making process, the Union should come up with stringent, uncompromising mechanisms to be followed to the letter.

3. The AU Commission's role should be well defined to avoid situations such as the 2016 Burundi crisis.

### **6.5.3 Academia**

1. The lack of proper understanding portrayed by the public to the doctrine, should be addressed through holding open forums, training and conferences. This can be achieved through collaboration with the relevant training institutions and diplomacy and international studies related organisations.

### **6.5.4 The States**

1. The States should come up with clear follow-through accountability measures to address the impunity of mass atrocities perpetrators. Any intent to commit any of the crimes should be promptly addressed.
2. There should be continuous involvement of the public in mitigation of conflicts.
3. Appointments of staff in the human rights protection directorates should be based on the understanding of the subject matter so as to utilize the knowledge pool.

## **6.6 Areas for Further Research**

The study specifically focused on African Union's implementation of the R2P doctrine by assessing the established mechanisms, the measures taken, the achieved successes and the faced challenges.

1. Future research can focus on the implementation of the doctrine by different continental, regional and sub-regional organizations.
2. It would be beneficial to the body of knowledge if an assessment of the application of the doctrine is cascaded to intra state conflicts.

## REFERENCES

### Books

- African Union. "A Guide for Those Working With and Within the African Union: African Union Handbook 2017". African Union Commission and New Zealand Ministry of Foreign Affairs and Trade/Manatū Aorere 2017
- Antunes S. and Camisao I. "Introducing Realism in International Relations Theory" (February 27, 2018). E-International Relations Students. Accessed on: August 31, 2018 Available at <https://www.e-ir.info/2018/02/27/introducing-realism-in-international-relations-theory/>
- Badescu, C. (2011). *Humanitarian Intervention and the Responsibility to Protect: Security and Human Rights*. 2011: New York: Routledge.
- Bangamwabo, F-X. 2009. "International criminal justice and the protection of human." In *Human Rights Protection in Africa: Legal Perspectives on their Protection and Promotion*, by A. and Diescho, J. Bösl, 104-131. Windhoek: Konrad-Adenauer-Stiftung. Accessed September 27, 2018.
- Bellamy A. *Responsibility to Protect. The Global Effort to end Mass Atrocities*, (Cambridge: Polity 2009)
- Best G., *War and Law since 1945 (1994); The Right to life in International Law*
- Bradford A., *Regime Theory* (February 2007). Max Planck Encyclopedia of Public International Law, February 2007. Accessed (August 1, 2018) Available at SSRN: <https://ssrn.com/abstract=2770647>
- Bryman A., *Social Research Methods* (New York: Oxford University Press, 2016).
- Burchill, S. "Liberalism" in *Theories of International Relations* 3ed. (New York: Palgrave Macmillan, 2005) p.55-81
- Deng, F., Kimaro, S., Lyons, T., Rothchild, D., and Zartman I. W. 1996. *Sovereignty as responsibility: conflict management in Africa*. Washington, DC: Brookings Institution Press.
- Finnemore & Sikkink, *International Norm Dynamics and Political Change*, 52 *International Organization*. 887, 902–04 (1998).
- Gareth E. "Five Thoughts for Policy Makers on R2P" (April 13, 2007). Accessed on (Jul 6, 2018) Available at <http://www.responsibilitytoprotect.org/index.php/component/content/article/35-r2pcs-topics/932-gareth-evans-offers-five-thoughts-for-policy-makers-on-r2p>

- Gaulme F. “*Beyond Postcolonial Blues: A New Framework for African Security*” in *Afrique Contemporaine*: No 218, 2006/2 Security and development p. 85-100
- Gawanas B., ‘*The African Union: Concepts and implementation mechanisms relating to human rights*’ in Bösl A. and Diescho J. (ed.) *Human Rights in Africa Legal Perspectives on their Protection and Promotion*, (Windhoek, Macmillan Education Namibia, 2009) pp.135-163
- Hegel G.J: An Overview (April 9, 2008) Accessed September 3, 2018. Available at: <http://people.wku.edu/jan.garrett/303/hegellelex.htm#Notes>
- Hehir A. *Humanitarian Intervention after Kosovo. Iraq, Darfur and the Record of Global Civil Society*, (2008), Basingstoke and New York, Palgrave Macmillan.
- Hurd I. and Wendt A. *Identify coercion, interest and belief/legitimacy as sources of norm compliance* (1999)
- Wehr, P. and Lederach J.P. *Mediating conflict in Central America*, (1991). *Journal of Peace Research* 28: p.85-98
- Yamane, Taro. (1967). *Statistics: An Introductory Analysis*, 2nd Edition, New York: Harper and Row.

## **Journals**

- Aluko O. “The Organisation of African Unity and Human Rights.” *The Round Table*. (1981) 1:283, 234-242, DOI: [10.1080/00358538108453526](https://doi.org/10.1080/00358538108453526)
- Aneme G.A. “*Apology and trials: The case of the Red Terror trials in Ethiopia*” (2006)6 *African Human Rights Law Journal* p. 66-67.
- Anu B. *Regime Theory* (February 2007). *Max Planck Encyclopedia of Public International Law*, February 2007.
- Bannon A.L. “The Responsibility to Protect: The UN World Summit and the Question of Unilateralism”. *The Yale Law Journal*, 115 (2006), p. 158
- Bellamy A. ‘The Three Pillars of the Responsibility to Protect.’ *Pensamento Proprio* Vol. 41 pp.35-64
- Bellamy, A.J., and Reike R. “The Responsibility to Protect and International Law.” *Global Responsibility to Protect 2*, 2010 (Martinus Nijhoff Publishers) II: 267-286.
- Francioni F. and Bakker C. “Responsibility to Protect, Humanitarian Intervention and Human Rights: Lessons from Libya to Mali.” *Transworld Working Paper*, 15 April (2013) p.3

- Gumedze S. The African Union and the responsibility to protect. *African Human Rights Law Journal*, (2010) Accessed November 7, 2018 Available at: [http://www.ahrlj.up.ac.za/images/ahrlj/2010/ahrlj\\_vol10\\_no1\\_2010\\_sabelo\\_gumedze.pdf](http://www.ahrlj.up.ac.za/images/ahrlj/2010/ahrlj_vol10_no1_2010_sabelo_gumedze.pdf) p.135-160
- Ibrahim M. A. “*Evaluating a decade of the African Union’s protection of human rights and democracy: A post Tahir assessment.*” *African Human Rights Law Journal* (2012) 12 p. 30-68
- Kabau, “*The Responsibility to Protect and the Role of the Regional Organizations: an Appraisal of the African Union’s Interventions*” *Goettingen Journal of International Law*, 4(1), 2012, p.65
- Karras, D.J. MD. “*Statistical Methodology: 11. Reliability and Validity Assessment in Study Design, Part B*” (February 1997). *Academic Emergency Medicine*. Accessed (August 31, 2018) Available at <https://onlinelibrary.wiley.com/doi/pdf/10.1111/j.1553-2712.1997.tb03723.x> p.144-149
- Kindiki K. “*The normative and institutional framework of the African Union relating to the protection of human rights and maintenance of international peace and security: A critical appraisal*”. *African Human Rights Law Journal (AHRLJ) Volume 3 No 1* 2003, pp. 97-117 Accessed: (August 9, 2018) Available at <http://www.ahrlj.up.ac.za/kindiki-k-2>
- Krasner S., "Structural Causes and Regime Consequences: Regimes as Intervening Variables," in Krasner, *International Regimes* Available at <http://www.ir.rochelleterman.com/sites/default/files/krasner%201982.pdf>
- Kuperman, Alan J. *Political Science Quarterly* 124, no. 3 (2009): 590-91. Accessed (Jul 4, 2018) Available at <http://www.jstor.org/stable/25655735>
- Kuwali, D. "Protect Responsibly: African Union's Implementation of Article 4(h) Intervention", *Yearbook of International Humanitarian Law* 11 (2008):51-108. doi:10.1017/S1389135908000512.
- Lavrakas, P.J. *Encyclopedia of Survey Research Methods*. Thousand Oaks, CA: Sage Publications, Inc., 2008. doi: 10.4135/9781412963947.
- Mugenda & Mugenda. *Research Methods: Quantitative and Qualitative Approaches*. Nairobi: African Centre for Technology Studies (ACTS) Press.
- Murithi T. *The Responsibility to protect as enshrined in Article 4 of the Constitutive Act of the African Union*, *African Security Review*, Vol. XVI No. 3, (2008) pp.109-137



- Okere, B. O. "*The Protection of Human Rights in Africa and the African Charter on Human and Peoples' Rights: A Comparative Analysis with the European and American Systems.*" *Human Rights Quarterly* 6, no. 2 (1984): 141-59. doi:10.2307/762240
- Olusola O. and Amadu S. '*The O. A. U. and Human Rights: Prospects for the 1980s and beyond.*' *Human Rights Quarterly*, Vol. 8, No. 1 (Feb. 1986), pp. 89-103 Accessed: (August 15, 2018) Available at <https://www.jstor.org/stable/pdf/762047.pdf>
- Ouguergouz, F. *Chapitre I. La problématique des droits de l'homme en Afrique In: La Charte africaine des droits de l'homme et des peuples: Une approche juridique des droits de l'homme entre tradition et modernité* [online]. Genève: Graduate Institute Publications, 1993 (generated August 4, 2018). Available on the Internet: <http://books.openedition.org/iheid/2195> ISBN: 9782940549375. DOI: 10.4000/books.iheid.2195.
- Pattison J. '*The ethics of diplomatic criticism: The Responsibility to Protect, Just War Theory and Presumptive Last Resort.*' *European Journal of International Relations* 2015, Vol. 21(4) 935–957:941
- Paust J., '*International Law, Dignity, Democracy and the Arab Spring*' *Cornell International Law Journal*, Vol.46 No. 3, (2013) Issue. 1, Article 1. Available at: <http://scholarship.law.cornell.edu/cilj/vol46/iss1/1>
- Powell, K. "*The African Union's emerging peace and security regime.*" ISS Monograph No. 119, May, 2005. Accessed September 6, 2018. Available at: [http://www.nsiins.ca/content/download/African\\_Union.pdf](http://www.nsiins.ca/content/download/African_Union.pdf).
- Ramcharan ed., (1985); William a. Schabas, *Genocide in International Law: 'The Crimes of Crimes'* (2000)
- Reike, R. "The 'Responsibility to Prevent': An International Crimes Approach to the Prevention of Mass Atrocities" *Ethics & International Affairs* 28, no. 4 (2014): 451–76. doi:10.1017/S0892679414000604.
- Rosa GE, Sow CB. "*The Role of Colonialism in the Construction of Human Rights.*" *Journal of Civil & Legal Sciences*, 2016, Vol 5(3) Accessed (August 3, 2018) Available at <https://www.omicsonline.org/open-access/the-role-of-colonialism-in-the-construction-of-human-rights-2169-0170-1000195.pdf> doi:10.4172/2169-0170.1000195
- Sarkin, J. '*The Responsibility to Protect and Humanitarian Intervention in Africa.*' (August 3, 2012). *Global Responsibility to Protect* 2(4) (2010) 371–387.

Sharma and Welsh. *“The Responsibility to Prevent: Overcoming the Challenges of Atrocity Prevention”*. (London: Oxford University Press, 2015)

Stahn C. ‘*Responsibility to Protect: Political Rhetoric or Emerging Legal?*’ *American Journal of International Law*, 101/1 (2007), p. 102.

Strauss E., ‘*A Bird in the Hand is Worth Two in the Bush*’ – on the Assumed Legal Nature of the Responsibility to Protect, *Global Responsibility to Protect*, 1/3 (2009).

The Global Centre for the Responsibility to Protect. *The Responsibility to Protect and Kenya: Past Successes and Current Challenges*. Policy Brief. 13 August 2010. Accessed November 5, 2018. Available at: <http://www.globalr2p.org/media/files/the-responsibility-to-protect-and-kenya-past-successes-and-current-challenges.pdf>

Tiruneh, B.T. 2010. “Establishing an Early Warning System in the African Peace and Security Architecture: Challenges and Prospects.” *Kofi Annan International Peacekeeping Training Centre*.

Ward T., *Ethics of Destruction Norms: norms and force in international relations* 38 (2001).

Williams P. ‘*The African Union's Conflict Management Capabilities*.’ CFR International Institutions and Global Governance Program Working Paper, pp. 1-32.

### Online Documents

African Union, *the Constitutive Act* (2000) Accessed (May 19, 2018) Available at [https://au.int/sites/default/files/pages/32020-file-constitutiveact\\_en.pdf](https://au.int/sites/default/files/pages/32020-file-constitutiveact_en.pdf)

\_\_\_\_\_, Peace and Security Council Communiqué of 23 September 2014, (Assembly/AU/Dec.598 (XXVI) Accessed (September 16, 2018)

\_\_\_\_\_, PSC, “*Communique of the 261<sup>st</sup> meeting of the Peace and Security Council*”, 23 February 2011 Accessed (May 21 2018) Available at <http://www.peaceau.org/uploads/psc-communicue-on-the-situation-in-libya.pdf>

\_\_\_\_\_, Assembly/AU/Dec.515 (XXII). Decision on the Operationalisation of the African Capacity for Immediate Response to Crises Doc. Assembly/AU/4(XXII), Accessed November 6, 2018. Available at: [https://archive.au.int/collect/auassemb/import/English/Assembly%20AU%20Dec%20515%20\(XXII\)%20 E.pdf](https://archive.au.int/collect/auassemb/import/English/Assembly%20AU%20Dec%20515%20(XXII)%20 E.pdf)

\_\_\_\_\_, Assembly/AU/Dec.605 (XXVII). Accessed (September 18, 2018) Available at: [https://au.int/sites/default/files/pages/31953-file-assembly\\_au\\_dec\\_605\\_financing\\_the\\_au.pdf](https://au.int/sites/default/files/pages/31953-file-assembly_au_dec_605_financing_the_au.pdf)

\_\_\_\_\_, “*African Peace Security Architecture*” 2012. Accessed (September 7, 2018). Available at: <http://www.peaceau.org/en/topic/the-african-peace-and-security-architecture-apsa>.

\_\_\_\_\_, *Protocol Relating to the Establishment of the Peace and Security Council of the African Union*, (2002 Available at: [https://au.int/sites/default/files/treaties/7781-treaty-0024\\_-\\_protocol\\_relating\\_to\\_the\\_establishment\\_of\\_the\\_peace\\_and\\_security\\_council\\_of\\_the\\_african\\_union\\_e.pdf](https://au.int/sites/default/files/treaties/7781-treaty-0024_-_protocol_relating_to_the_establishment_of_the_peace_and_security_council_of_the_african_union_e.pdf) Art. 17(1)

Available at: [https://au.int/sites/default/files/decisions/29514-assembly\\_au\\_dec\\_588\\_-\\_604\\_xxvi\\_e.pdf](https://au.int/sites/default/files/decisions/29514-assembly_au_dec_588_-_604_xxvi_e.pdf)

EIP Explainer. What is preventive diplomacy? Accessed (September 17, 2018) Available at <http://eip.org/en/news-events/eip-explainer-what-%E2%80%98preventive-diplomacy%E2%80%99>

Human Rights Watch. *Kenya: Post-Election Killings, Abuse Investigate Police Use of Excessive Force; Uphold Right to Peaceful Protest*. August 27, 2017. Accessed (November 5, 2018). Available at: <https://www.hrw.org/news/2017/08/27/kenya-post-election-killings-abuse>

International Commission on Intervention and State Sovereignty (ICISS), *Responsibility to Protect Report*. Accessed (May 18, 2018) Available at <http://responsibilitytoprotect.org/ICISS%20Report.pdf>

International Criminal Court, *Rome Statute of the International Criminal Court* (last amended June 11, 2010) 17 July 1998, A/CONF. 183/9, *entered into force* 1 July 2002. Accessed (September 9, 2018) Available at: <https://undocs.org/A/CONF.183/9>

International Conference on the Great Lakes Region. *The Pact on Security, Stability and Development for the Great Lakes Region*. (December 2006 Amended November, 2012) Accessed November 6, 2018. Available at: <http://www.icglr.org/index.php/en/the-pact>

Organization of African Unity, “*OAU Charter*” (25<sup>th</sup> May 1963), Addis Ababa. Accessed (May 21, 2018) Available at [https://au.int/sites/default/files/treaties/7759-sl-oau\\_charter\\_1963\\_0.pdf](https://au.int/sites/default/files/treaties/7759-sl-oau_charter_1963_0.pdf)

\_\_\_\_\_, “OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M” *Banjul Charter*” November 28 to December 7, 1979. Banjul, Gambia. Accessed August 4, 2018. Available at: [http://www.achpr.org/files/instruments/achpr/banjul\\_charter.pdf](http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf)

\_\_\_\_\_, “Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights” (June 1998)  
Accessed (August 6, 2018) Available at: <http://www.african-court.org/en/>

United Nations, *Charter of the United Nations*, Available at <http://www.un.org/en/charter-united-nations/index.html>

\_\_\_\_\_, “Framework of Analysis for Atrocity Crimes. A tool for prevention “  
2014. United Nations Office on Genocide Prevention and the Responsibility to Protect. Accessed October 15, 2018. Available at:  
[http://www.un.org/en/genocideprevention/documents/aboutus/Doc.3\\_Framework%20of%20Analysis%20for%20Atrocity%20Crimes\\_EN.pdf](http://www.un.org/en/genocideprevention/documents/aboutus/Doc.3_Framework%20of%20Analysis%20for%20Atrocity%20Crimes_EN.pdf)

\_\_\_\_\_, “The Responsibility to Protect. Who is responsible for protecting people from gross violations of human rights?” (2012) *Outreach Programme on the Rwanda Genocide and the United Nations*. New York: Department of Public Information, March. Accessed October 27, 2018. Available at:  
<http://www.un.org/en/preventgenocide/rwanda/pdf/bgresponsibility.pdf>.

\_\_\_\_\_, UN document [A/59/565](#), *A More Secure World: Our Shared Responsibility* (2004)

\_\_\_\_\_, “Uphold International Law” Accessed (August 2, 2018) Available at:  
<http://www.un.org/en/sections/what-we-do/uphold-international-law/>

\_\_\_\_\_, UN document [A/RES/60/L.1](#), *2000 Millennium Report: report of the Secretary General* (2005) Accessed (May 4, 2018) Available at  
[https://www.un.org/en/events/pastevents/pdfs/We\\_The\\_Peoples.pdf](https://www.un.org/en/events/pastevents/pdfs/We_The_Peoples.pdf)

\_\_\_\_\_, UN document [A/RES/60/L.1](#), *World Summit Outcome Document: report of the Secretary General* (2005) Paras 138-139 (May 4, 2018) Available at  
<https://documentsddsny.un.org/doc/UNDOC/GEN/N05/487/60/pdf/N0548760.pdf?OpenElement>

\_\_\_\_\_, UN General Assembly. “Culture of Peace.” *UN Resolutions A/RES/52/13*, 1997. New York. Accessed September 16, 2018. Available at  
<http://www.un.org/documents/resga.htm>.

\_\_\_\_\_, UN General Assembly. 2018. “United Nations Peacekeeping.” UN Resolution A/C.5/72/25 5 July 2018. Accessed September 24, 2018. <https://access-ods.un.org/TMP/9075843.09577942.html>

\_\_\_\_\_, United Nation Office on Genocide Prevention and the Responsibility to Protect <http://www.un.org/en/genocideprevention/about-responsibility-to-protect.html>

\_\_\_\_\_, *United Nations Charter* [Online] Available at <http://www.un.org/en/documents/charter/>

\_\_\_\_\_, Parliamentary Hearing at the United Nations. Background Document: Session 1 New York, 20-21 November 2008 Accessed on (September 17, 2018) Available at: <http://archive.ipu.org/splz-e/unga08/s1.pdf>

\_\_\_\_\_, Security Council Resolution 2036 (22 February 2012). Accessed (September 27, 2018) Available at:

[http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/2036%282012%29](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2036%282012%29)

\_\_\_\_\_, Security Council Resolution S/RES/1975(30 March 2011).” Accessed March 23, 2018. Available at:

[http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/1975%20%282011%29](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1975%20%282011%29)

Pennsylvania State University. “Using Surveys for Data Collection in Continuous Improvement” Innovation Insights (2006) Accessed (July 24, 2018) Available at <http://www.virginia.edu/processsimplification/resources/PennState%20Surveys.pdf>

Slaughter, Anne-Marie. International Relations, Principal Theories Accessed (September 3, 2018) Available at

[https://www.princeton.edu/~slaughtr/Articles/722\\_IntlRelPrincipalTheories\\_Slaughter\\_20110509zG.pdf](https://www.princeton.edu/~slaughtr/Articles/722_IntlRelPrincipalTheories_Slaughter_20110509zG.pdf)

Survey Monkey. Non-probability Sampling (2018). Accessed (August 2, 2018) Available at <https://www.surveymonkey.com/mp/non-probability-sampling/>

## **Reports**

Bellamy A.J. and Reike R. Centre for Conflict Resolution, *Preventing Genocide and the Responsibility to Protect: Challenges for the UN, Africa, and the International Community*, policy advisory group seminar report, 13-15 December 2007.

Dembinski M. & Reinold T. Libya and the Future of the Responsibility to Protect – African and European Perspectives. Peace Research Institute Frankfurt (PRIF) 2011 Report No. 107. Accessed November 7, 2018 Available at:

[https://www.hsfk.de/fileadmin/HSFK/hsfk\\_downloads/prif107.pdf](https://www.hsfk.de/fileadmin/HSFK/hsfk_downloads/prif107.pdf)

Human Rights Watch. *Killing Without Consequence. War Crimes, Crimes against Humanity and the Special Criminal Court in the Central African Republic*. (July 5, 2017) Accessed October 27, 2018 Available at:

<https://www.hrw.org/report/2017/07/05/killing-without-consequence/war-crimes-crimes-against-humanity-and-special>

International Commission on Intervention and State Sovereignty, *Responsibility to Protect* Report (December 2001), Ontario Canada (Accessed 18 May 2018) Available at <https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/18432/IDL-18432.pdf>

International Refugee Rights Initiative, *From Non-interference to non-indifference: the African Union and the Responsibility to protect* 6 September 2017. (Accessed 20 May 2018) Available at <https://reliefweb.int/report/world/non-interference-non-indifference-african-union-and-responsibility-protect>

Rimmer S.H. *New Issues in Refugee Research: Refugees, internally displaced persons and the 'responsibility to protect'*. Research Paper No. 185. (March, 2010) Accessed November 12, 2018 Available at: <http://www.unhcr.org/4b97b0909.pdf>

United Nations Secretary-General, *High-level Panel Report on Threats, Challenges and Change, A more secure world: our shared responsibility*, UN Document A/59/565 (27 June 2004) Accessed May 15 2018 Available at [https://www.un.org/ruleoflaw/files/gaA.59.565\\_En.pdf](https://www.un.org/ruleoflaw/files/gaA.59.565_En.pdf)

\_\_\_\_\_, SG's Bulletin on the Observance by United Nations Forces of International Humanitarian Law of 6 August 1999 (ST/SGB/1999/13)

\_\_\_\_\_, *The Role of Regional and Sub-Regional Arrangements in Implementing the Responsibility to Protect*, UN Document A/65/877-S/2011/393 (27 June 2011) Accessed 21 May 2018. Available at: [www.un.org/en/ga/president/65/.../Report%20of%20the%20SG%20to%20MS.pdf](http://www.un.org/en/ga/president/65/.../Report%20of%20the%20SG%20to%20MS.pdf) pp

10

Williams P. *The African Union's Conflict Management Capabilities*. CFR International Institutions and Global Governance Program Working Paper, pp. 1-32.

World Bank. *Conflict, Security, and Development*. World Development Report, Washington DC: The International Bank for Reconstruction and Development / The World Bank.(2011) ( Accessed September 18, 2018.

[https://siteresources.worldbank.org/INTWDRS/Resources/WDR2011\\_Full\\_Text.pdf](https://siteresources.worldbank.org/INTWDRS/Resources/WDR2011_Full_Text.pdf) .

## Internet Sources

Central Bank of Kenya (CBK). *Annual GDP*, 2018. Accessed (September 25, 2018)

Available at <https://centralbank.go.ke/annual-gdp/>

Dersso S., The role and place of the African Standby Force within the African Peace and Security Architecture, Institute for Security Studies paper, 209, (2010), (Accessed, November 6, 2018) Available at: <https://issafrica.org/research/papers/the-role-and-place-of-the-african-standby-force-within-the-african-peace-and-security-architecture>

Global Centre for the Responsibility to Protect. “*New UN report details atrocities and civilian protection challenges in CAR.*” Atrocity Alert, No. 128, 24 October 2018. Accessed October 27, 2018. Available at:

<http://createsend.com/t/j9DC53A3DE44F1CE82540EF23F30FEDED>

International Coalition for the Responsibility to Protect. “*References to Responsibility to Protect (RtoP, R2P) in Security Council Resolutions.*” Accessed October 27, 2018.

Available at:

<http://www.responsibilitytoprotect.org/index.php/component/content/article/35-r2pcs-topics/5221--references-to-the-responsibility-to-protect-in-security-council-resolutions>

\_\_\_\_\_, ‘*The Crisis in Cote D’Ivoire.*’ Accessed October 26, 2018. Available at: <http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-ivory-coast>

Khadija S. ‘*Just War in Africa.*’ Harvard International Review. (July 12, 2012). Accessed on (July 22, 2018). <http://hir.harvard.edu/article/?a=2750>

Mhaka T. “*The African Union: An exclusive club for brutish despots*” Aljazeera. (June 9, 2018) Accessed (August 6, 2018) Available at

<https://www.aljazeera.com/indepth/opinion/african-union-exclusive-club-brutish-despots-180607100707234.html>

Ramesh T. “The Responsibility to Protect at 15” 2016. Accessed (Jul 4, 2018)

[https://www.chathamhouse.org/sites/default/files/publications/ia/inta92-2-10-thakur\\_0.pdf](https://www.chathamhouse.org/sites/default/files/publications/ia/inta92-2-10-thakur_0.pdf).

United Nations, United Nation Office on Genocide Prevention and the Responsibility to protect Accessed (May 4, 2018) Available at

<http://www.un.org/en/genocideprevention/about-responsibility-to-protect.html>

United States Agency for International Development (January 18, 2017). “*African Union.*”

Accessed (August 4, 2018) Available at <https://www.usaid.gov/african-union/history>

Vlavourou G. *Africa is failing the Responsibility to Protect its citizens* (March 6, 2014).

Accessed (November 6, 2018). Available at:

<https://www.pambazuka.org/governance/africa-failing-responsibility-protect-its-citizens>

Vries, P., “Just War: The Naiveté of “Responsibility to Protect” World Policy. May 24, 2012.

Accessed (July 5, 2018). <https://worldpolicy.org/2012/05/24/just-war-the-naivete-of-responsibility-to-protect/>

### **Speeches**

Cohen R. ‘The responsibility to protect: The Human rights and humanitarian dimensions’,

Harvard Human Rights Journal Annual Symposium, February, 2009. Accessed

(November 12, 2018) Available at: <https://reliefweb.int/report/democratic-republic-congo/responsibility-protect-human-rights-and-humanitarian-dimensions>

Evans G. Implementing the Responsibility to Protect: Lessons and Challenges Accessed

(May 4, 2018) <http://www.gevans.org/speeches/speech437.html>

The Stanley Foundation. Implementing the Responsibility to Protect. January 15-17, 2010.

Tarrytown: New York



## APPENDICES

Appendix 1: Letter of Transmittal



**UNIVERSITY OF NAIROBI**  
College of Humanities and Social Sciences  
**Institute of Diplomacy and International Studies**

Tel : (02) 318262  
Telefax : 254-2-245566  
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Website : www.uonbi.ac.ke  
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E-mail : director-idis@uonbi.ac.ke

P.O. Box 30197  
Nairobi  
Kenya

September 19, 2018

TO WHOM IT MAY CONCERN


RE: RITA NANGIRA NAMANO – R52/87368/2016

This is to confirm that the above-mentioned person is a bona fide student at the Institute of Diplomacy and International Studies (IDIS), University of Nairobi pursuing a **Master of Arts degree in International Conflict Management**. She is working on a research project titled, **“CHALLENGES IN THE IMPLEMENTATION OF THE RESPONSIBILITY TO PROTECT: CASE STUDY OF THE AFRICAN UNION”**.

The research project is a requirement for students undertaking Masters’ programmes at the University of Nairobi, whose results will inform policy and learning.

Any assistance given to her to facilitate data collection for her research project will be highly appreciated.

Thank you.

  
Professor Maria Nzomo,  
Director, IDIS

&  
Professor of International Relations and Governance



**NATIONAL COMMISSION FOR SCIENCE,  
TECHNOLOGY AND INNOVATION**

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When replying please quote

NACOSTI, Upper Kabete  
Off Waiyaki Way  
P.O. Box 30623-00100  
NAIROBI-KENYA

Ref. No. **NACOSTI/P/18/18367/25813**

Date: **13<sup>th</sup> October, 2018**

Rita Nangira Namano  
University of Nairobi  
P.O. Box 30197-00100  
**NAIROBI.**

**RE: RESEARCH AUTHORIZATION**

Following your application for authority to carry out research on *“Challenges in the implementation of the responsibility to protect: case study of the African Union”* I am pleased to inform you that you have been authorized to undertake research in **Nairobi County** for the period ending **12<sup>th</sup> October, 2019**.

You are advised to report to **the County Commissioner and the County Director of Education, Nairobi County** before embarking on the research project.

Kindly note that, as an applicant who has been licensed under the Science, Technology and Innovation Act, 2013 to conduct research in Kenya, you shall deposit **a copy** of the final research report to the Commission within **one year** of completion. The soft copy of the same should be submitted through the Online Research Information System.

  
**BONIFACE WANYAMA  
FOR: DIRECTOR-GENERAL/CEO**

Copy to:

The County Commissioner  
Nairobi County.

The County Director of Education  
Nairobi County.

## Appendix 3: Interview Questionnaire

### Challenges in the implementation of the Responsibility to Protect: A case study of the African Union

Filling out this questionnaire will assist the policymakers and relevant academicians to understand the challenges of the implementation of the *Responsibility to Protect in the Case study of the African Union*. Your answers will assist them come up with appropriate approaches to address human rights and justice violation of the population.

#### PART A: BIODATA

Please tick the most suitable response

##### Gender

Male  Female

##### Age Group

25-30  31-35  36-40   
41-45  46-50  51-59  Above 60

##### Highest level of Education attained

Primary  Secondary  College  University  Other

##### Occupation

Academia  Professional  Other

#### PART B: THE EXTENT TO WHICH THE GLOBAL RESPONSIBILITY TO PROTECT (R2P) DOCTRINE OFFERS A SOLUTION TO HUMAN RIGHTS ABUSE TO THE AFRICAN CONFLICTS

1. In your own opinion, are human rights protection at the forefront of the AU's objective?

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2. Did the OAU uphold the protection of human rights in the Continent?

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3. Was the transition from OAU to AU pivotal in the protection of human rights and justice in Africa?

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### Appendix 3: Interview Questionnaire

#### Challenges in the implementation of the Responsibility to Protect: A case study of the African Union

4. In your own opinion, what is the role and purpose of R2P doctrine?

5. Is the adoption and implementation of the R2P doctrine sufficient in resolving African conflicts?

6. To what extent has the R2P doctrine offered a solution to human rights abuse to the African conflicts?

Highly Effective	Effective	Not sure	Ineffective	Highly Ineffective

#### **PART C: MEASURES TO BE TAKEN IN THE UTILIZATION OF THE R2P DOCTRINE BY THE AU IN UPHOLDING THE HUMAN RIGHTS AND JUSTICE OF ITS POPULATION**

1. What are some of the measures that have been taken by the AU so as to uphold human rights and justice of its population?

2. How effective has the AU been towards the protection of human rights through the establishment of various mechanisms:

Mechanism	Highly Effective	Effective	Not sure	Ineffective	Highly ineffective
Legislative					
Institutional					
Structural					

3. Has the AU's establishment of the various mechanisms been fundamental in the protection of human rights?

### Appendix 3: Interview Questionnaire

#### Challenges in the implementation of the Responsibility to Protect: A case study of the African Union

4. Is it necessary for the AU to advocate for reforms from the UN on matters with regard to African composition at the Security Council?

Yes [ ] No [ ]

If yes why?

5. Is there a need for the International community to revise the R2P doctrine in order to link it to the relevant legislative framework and subsequently the establishment of the relevant Institutions?

Yes [ ] No [ ]

If yes why?

6. Do you think the relationship between the AU and the regional economic communities' need to be strengthened?

Yes [ ] No [ ]

If yes why?

#### PART D: THE LEVELS OF SUCCESS IN USING THE R2P DOCTRINE IN THE ACHIEVEMENT OF HUMAN RIGHTS IN AFRICA

1. What is the level of success of the AU been in the achievement of human rights protection in Africa through the implementation of the R2P doctrine?

Highly Effective	Effective	Not sure	Ineffective	Highly Ineffective

2. What are some of the levels of success that the AU has had in the implementation of the R2P doctrine? With regard to:

a) Legal

### **Appendix 3: Interview Questionnaire**

#### **Challenges in the implementation of the Responsibility to Protect: A case study of the African Union**

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b) Political will

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c) Inadequate resources

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3. What are some of the successes that have been realized by the AU in the implementation of the R2P doctrine?

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4. Are there challenges faced by the Union in the implementation of the R2P doctrine?

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5. What are some of the recommendations that you would proffer to counter the challenges that are faced by the Union in the implementation of the doctrine? With regard to the challenges mentioned:

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6. What are your final comments on the topic challenges of the implementation of the Responsibility to Protect: a Case study of the African Union

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**THANK YOU**

### **Appendix 3: Interview Questionnaire**

#### **Challenges in the implementation of the Responsibility to Protect: A case study of the African Union**