Title: Legitimacy of military interventions in Africa in the post-Cold-War - UN Security Council primacy, African Peace and Security Architecture' (APSA) and subsidiarity

Abstract
The United Nations Security Council (UN SC) has primacy over the decision to enforce peace in all member states. With the end of the Cold War, the negotiations over this primacy involved not only states but, especially in Africa, emerging regional and sub-regional organizations. Using regime theory and process tracing, this paper analyses the extent to which UN SC de jure primacy on authorising peace enforcement military operations has been contested in Africa since the end of the Cold War. The analysis focus: on security structures, particularly the African Peace and Security Architecture (APSA), and the role that the 'principle of subsidiarity' has in safeguarding UN SC primacy, and; the empirical evidence of the legality of military interventions in Africa. This paper demonstrates that, although the post-Cold War period can be characterised by neorealist interaction amongst some actors (United States, Nigeria and South Africa), since 2000, the African Union (AU) and European Union (EU) have engaged in a more neoliberal institutional approach within APSA. Also from 1990 up to 2010 there has not been an improvement on the legality of the military interventions. Additionally, exceptions to UN SC primacy are inscribed at different levels of policy, and the 'principle of subsidiarity' and APSA do not explicitly and fully safeguard UN SC primacy. The paper concludes that the way subsidiarity is implemented may or may not reinforce UN SC primacy as a foundational principle of the security intervention architecture.

Ricardo Sousa
International Institute of Social Studies - Erasmus University of Rotterdam

Ricardorps2000@yahoo.com
Introduction

Since the Second World War, the primacy of the United Nations Security Council (UN SC) has been a key reference of the security regime and a safeguard to the sovereignty of states. The primacy is conferred to the UN SC through the Charter, which grants it the foremost authority in matters of peace and security and exclusive responsibility for the authorization of military interventions into a country. In practice, this means that, if a military intervention in a state is to be considered legal, it needs UN SC authorization, with the exception of cases of self-defence. But Regional Organizations (RO) and Sub-Regional Organizations (SRO) with peace and security mandates have emerged during and after the Cold War period and have been involved in military interventions (of the peace enforcement type) with and without UN SC authorization.

A push from the international community and pull from the local actors has occurred, particularly in Africa, over the development of a security regime that can rely to a great extent on itself to operate. This has been consubstantiated on the African Peace and Security Architecture (APSA) with the subsidiarity principle purposed to govern the APSA inter-organizational relations, determining the allocation of functions (in particular decision-making) along its various organizational levels of governance at the global, regional, sub-regional and state levels. The subsidiarity principle prescribes that the allocation of power should be to the lowest level unless it is determined that a more central level can better perform the tasks.

The objective of the paper is to determine if UN SC de jure primacy is being challenged by the institutional developments, namely in the decision-making mechanisms of the APSA and its implementation of the principle of subsidiarity. Regime theory hypotheses based on neorealism and neoliberal institutionalism are tested through process tracing based on three data sources: primary

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1 Research for this paper was partly in the context of the project “Monitoring Conflicts in the Horn of Africa” of the Centre of African Studies – ISCTE, Lisbon University Institute (PTDC/AFR/100460/2008) funded by the Portuguese Science and Technology Foundation. The author would like to thank useful comments, in particular João Correlo, John Cameroon, colleagues at the Research School in Peace and Conflict at the Peace Research Institute Oslo (PRIO) and comments at presentations, in particular the seminar in Addis Ababa on the 17th of December 2012, at the Organization for Social Science Research in Eastern and Southern Africa (OSSREA); any remaining errors are my own.

2 Other sources of challenges, such as judicial decisions and bilateral or multilateral security arrangements are not analysed here. An analysis of de facto UN SC primacy is not provided here.
documents of international organisations; academic books and journals; and semi-structured interviews of officials of international organizations.³

The analysis is relevant because of the perceived loss of value of UN legitimacy in interventions (Job, 2004) and the need “to see the use of force in the name of peace exercised judiciously, and controlled by legitimate authority according to acceptable principles and standards” (Malan, 1999, page unavailable). Furthermore, the UN SC’s raison d’être is its legitimizing authority, and any erosion of this power contributes to a weakening of the UN, its Charter as a whole and of the security regime (Boulden, 2003; Coleman, 2007).

Research gap

Regimes have been defined as the principles, norms, rules, and decision-making procedures that govern state behaviour in specific issue-areas (Krasner, 1982). The focus of this paper is on the observance of the regime rule of UN SC primacy, which means that the legality of military interventions depends on the UN SC being the forum of decision-making, which in itself is affected by the UN subsidiary relations with the AU (implicitly also with the SRO).⁴ These processes are explained by competing hypotheses derived from neorealism and neoliberal institutionalism with constructivism and post-colonial theory analysed under alternative explanations.

For neorealism, the international system is anarchical requiring states to focus on security. This security is achieved through the acquisition of military or economic power. Therefore, power and a rational analysis of its distribution, relative power, will determine the cooperative behaviour of states (Waltz, 1979). If state cooperation occurs, it is not necessarily institutionalized, as it can also happen outside of institutions. Institutions are the embodiment of the regime in which international norms reflect only the distribution of power among states, which means that norm change can occur only when the power distribution changes (Florini, 1996). The stability of the system and the relevance of its institutions can

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³ An initial forty-eight exploratory interviews were conducted in April and May of 2011 in Addis Ababa, Ethiopia, and Nairobi, Kenya, to identify main issues regarding the institutional security architecture in Africa. As a result, the issue of this paper was identified and the paper developed based mainly on secondary and official sources. In December of 2012, in a second visit to Addis Ababa, Ethiopia, twenty-three confirmatory interviews were conducted to validate some of the findings. The interviewed were senior officials of multilateral, diplomatic, civil society and academic organizations.

⁴ In this context, the text refers to institutions as specific international organizations working within regimes.
occur if a hegemon is able to enforce institutional norms and rules (Kindleberger, 1986). This hegemonic process is not only determined by coercion but also by the result of compromises between different actors in a process of consent (Gramsci, 1971).

For neoliberal institutionalism, the system is characterized by the interdependence of states. This interdependence means that states acting out of rational self-interest want to cooperate (also through institutions) to reduce transaction costs and to have trust in reciprocal agreements (Newman, 2007). International organizations are in this way more relevant and can help to stabilize some shared values and norms. In this process, organizations can develop an identity and possibly autonomy in relation to the state. They are a promise of integration with a peace potential to solve the self-help view of anarchical state relations (Keohane, 1989). Cooperation is considered a value in itself with benefits for the state. Therefore, even in the case of hegemonic decline, governments may be willing to counterbalance the possible associated regime decline (Keohane, 1984). Although neoliberalism may consider norms more enduring and influential than neorealism, both consider them determined by fixed (powerful) state preferences, therefore exogenous to the theory (Florini, 1996).

Since the inception of the UN, three main issues permeate the literature on the security architecture relevant to this debate: regionalism and globalism, institutionalism and the legality of interventions.

On the dichotomy of globalism versus regionalism and specifically regarding the UN, two visions are predominant: one of international idealism with strong regionalism of security functions and another, globalist, of a hegemonic realism centred in the UN SC (Adibe, 2003). Although the literature on regional systems flowered in the 1960s, the intensification of the Cold War caused it to recede due to the overwhelming preponderance of a realist global system perspective (Lake and Morgan, 1997).

With the end of the Cold War, a constructivist regionalist perspective of security became more visible. Linked to concepts of territoriality, security and system structure of neorealism, this perspective is also a response to the threats of globalisation (Buzan and Waever, 2009). Such conceptual developments combined with the UN disengagement from Africa led to specific proposals for a renewed regionalism in the institutional security architecture. Such was the case of the “regional-global security mechanism” proposal with regional agencies responsible for security regions and with a permanent membership at the UN SC (Graham and Felicio, 2006).
At the Organization of African Unity (OAU) level, the institutional debate in the 1960s opposed the “Casablanca group”, which advocated a more centralized organization, in favour of the “Monrovia group”, which endorsed a sub-regional approach based on “state nationalism” (Walraven, 2010). The latter decentralized model prevailed and with it the reinforcement of the principle of non-interference in the internal affairs of the member states, which also meant a freeze on the debate over the possibility of interventions. The next period of significant regional security debate occurred in the late 1990s with the revision of the OAU. An institutional view of a “peace pyramid” (Nhara, 1998) with the UN at the top, followed by the OAU and then the SRO, was juxtaposed to the centrality of nation-states that made “fruitless” attempts for above state level institutional coordination (Malan, 1999). The outcome of the process was the creation of the AU with peace and security assuming a central place in the organisation, including the erosion of the doctrine of non-interference (Kindiki, 2003). This change occurred in the context of the debate over regionalism referred to above, which would have diverse proposals: some aspiring for further AU involvement in sub-regional security models (Boulden, 2003, among others); others, more conservative, looking for possible developments of existing AU structures (Engel and Porto, 2010, Akokpari et al., 2008, Makinda and Okumu, 2008, among others); and some more centralized possibilities of a union regional government (Murithi, 2007). These debates culminated in the reinforcement of the existing APSA structures around 2008, although its sub-regional dimensions were to be determined specifically on the modes of the relationship between the AU and SRO.

The legality of military interventions has been a critical issue of the Westphalian sovereignty of nation-states and recently directly connected to three events: the Rwanda genocide and the Kosovo and Iraq interventions. The failure of the international community to intervene in the Rwanda genocide in 1994 triggered a global reassessment of humanitarian issues, interventions and sovereignty. As a result, the doctrine of the “Responsibility to Protect” (R2P) was presented globally in 2001 and adopted at the 2005 World Summit (Newman and Richmond, 2001). Regionally in Africa, the right of humanitarian intervention was at the core of the change of the Charter from OAU to AU in 2000 (Powell, 2005). Also, the unauthorized UN SC interventions in Kosovo in 1999 by NATO and in Iraq in 2003 by the United States raised significant issues to neorealist perspectives on the interpretation of law and of the UN

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5 Which provide no role for external agents on the domestic affairs of a state.
6 R2P is a norm claiming that sovereignty is not a right but involves responsibilities for states to provide security for their populations. If states fail to fulfil those responsibilities it can be the international community, through a UN mandate, to perform them.
Charter as well as on the differentiation between the legality and the legitimacy of interventions (Price and Zacher, 2004; Coleman, 2007, among others). In the aftermath of these events, the normative developments that became institutionalized reflected a bigger concern about avoiding an unresponsive international community if faced with genocide than about avoiding unauthorised interventions (Thakur, 2004).

Finally, the principle of subsidiarity underpinned much of the research on the institutional relationships between the UN, the AU and the SRO. Its explicit use can be traced back to the work of Knight (1996) formulating a possible subsidiary model of the UN and OAU relationship, even if such a model has been considered idealistic and incompatible with existing conditions (Job, 2004). Then, isolated accounts applied the principle to specific areas. For the area of humanitarian action, O’brien (2000) argued for a bottom-up model on the subsidiarity relationship between UN and the AU, and Helly (2009) suggested that this relationship should also involve the EU. Voeten (2005) proposed the existence of an elite pact on the use of subsidiarity between the UN SC and RO to have stability, even if such a pact is prone to issues of accountability and legality. A study by Moller (2005) operationalized subsidiarity to institutions in Africa from a hegemonic theory perspective.

Despite these contributions, further clarification is required of the link between decisions over the use of force (legality of interventions) within its institutional setup (relationship between the UN and the AU and within APSA) analysed through the lense of the principle of subsidiarity. This is justified by the fact that the only effective subsidiarity relationship developed so far is between the EU and the UN (Job, 2004). On the contrary, there is no operative reference in the AU constitutive act to the need for prior approval by the UN SC of any AU intervention, an omission which can accommodate an understanding that AU enforcement action can occur without UN SC authorization (Graham and Felicio, 2006). In fact, the perceived value of UN legitimacy seems to have been lost in the 1990s with some perspectives considering that the hierarchical position of the UN vis a vis RO is in danger of unravelling (Job, 2004). Despite these, the consensus is that the challenge is to make the UN Security Council work better and not to find alternative sources of authority (ICISS 2001: XII). For these reasons, whether UN SC primacy is upheld or not is important. This has implications on the need to understand the UN “laissez-faire” attitude about enforcing its own rules and how some ways of empowering RO may undermine the ability of the UN to pursue its core objective (Boulden, 2003). At the AU level, the implications of institutional subsidiarity are on the need to formalize a consensus and to apply consistently a
consultative decision-making mechanism between the UN and the AU\(^7\) (African Union, 2012, 23). This lack of consensus is also identified in the application of subsidiarity within the APSA, between the AU and the SRO, where the governing principles of sub-regionalism remain unclear and insufficiently considered (Laurie Nathan December 2010 interview quoted in Ancas, 2011).

**Theoretical mechanisms**

This paper uses process tracing (Checkel, 2009; Beach and Pedersen, 2011) to test three competing explanations of how UN SC primacy is de jure upheld in APSA subsidiarity. This means that the unit of analysis consists of the decision-making mechanisms for military interventions in Africa. In the alternative explanations constructivism and post-colonialism will be analysed. The different hypotheses are validated through tests of strength (Bennett, 2010)\(^8\). The two main principles of UN SC primacy and subsidiarity are presented next followed by the proposed explanations.

UN SC primacy is established through Article 2(4) of the UN Charter (1945), which states that “members [of the UN] shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state...” with two exceptions: the right of self-defence (Article 51) and, if a decision is made by the UN Security Council, in cases of a threat to peace, breach of peace or act of aggression (Chapter 7). It is this latter exception that affords UN SC primacy on decisions over the use of force, a primacy which has overriding authority over all states through Article

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7 Together with the decision-making mechanisms, the other two components of subsidiarity, burden-sharing and division of labour, also require clarification (African Union 2012).

8 There are four types of tests based on the interaction if evidence is necessary (imply a statement “only if”) or sufficient (imply a statement “if”). A straw in the wind test provides neither a necessary nor a sufficient criterion to establish or disprove a hypothesis. This can be the case for probabilistic predictions, the failure of which may reflect only the downside probabilities. A hoop test provides a necessary but not sufficient criterion for accepting the hypothesis; therefore, it may eliminate alternative hypotheses but not totally validate a passing hypothesis. Therefore, the hypothesis needs to “jump through the hoop” to remain under consideration. The example is answering a question of the type: “Was the accused in the state on the day of the murder?” If the accused was in the state, he/she may or may not be the murderer, but, if the accused was not in the state, he/she could not have done it. A smoking gun test is a sufficient but not necessary criterion for the hypothesis. The example is a situation where a smoking gun is seen in the suspects hand moments after the shooting, which constitutes quite conclusive proof of guilt, but a suspect not seen with a smoking gun is not proven innocent. Passing confirms the hypothesis, but failing does not eliminate it. A doubly decisive test is a necessary and sufficient criterion to accept a hypothesis. It is a combination of the hoop and smoking gun tests. The example is when a security camera captures the face of the murderer in the act. This confirms one hypothesis and eliminates others. (Van Evera 1997; Bennett 2010). It is normally the combination of more than one type of test and of confirmed and failed results that together give more credibility to a hypothesis than to others.
103, which stipulates that states’ commitments to the Charter prevail over other agreements or obligations (for instance to institutions) that they may have.

The principle of subsidiarity was applied to governance systems in 1957 in the Treaty of Rome, which established in Article 3b:\(^9\) “In areas which do not fall within its exclusive competence, the Community [the central authority] shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.” (EU, 2002). Subsequently, in the 1997 EU’s Treaty of Amsterdam, subsidiarity was made more operative through three guidelines: (1) that power should be allocated to the lower unit; (2) that the decision to allocate power should be based on efficiency, which in the European context is the degree to which it fosters democratic governance; and (3) that power should be exercised by the member state affected by that power.

One hypothesis considers that powerful states would be interested in maintaining the status quo and, therefore, in controlling the decision-making mechanism, while, at the same time, limiting institutional strengthening, in particular with regard to institutions that they do not control. This means that UN SC primacy would not be de jure reinforced through subsidiarity (and eventually even bypassed) at the AU level; at the same time, it would also not be revoked altogether, as the latter could mean significant changes to the status quo and relative power distribution. Hegemony, if exercised, would be outside of the institutional set-up unless hegemonic power could be exercised through institutions. The latter could be the case in some sub-regions of Africa, where the end of the Cold War opened up spaces for regional influence.

Another hypothesis develops when the hegemon is not able to provide the common good (security) and needs to accept alternative security mechanisms. These could be based on local state initiatives or formulated around regional and sub-regional institutions. In either case, there would be pressure to formalize subsidiarity to maintain some order in the system. This would mean that UN SC primacy would somehow be recognized within the new architecture’s decision making mechanisms but not significantly reinforced, as institutional strengthening is not an end but a means.

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\(^9\) Later adopted in the EU treaty under Article 5.
A final hypothesis develops when states identify the benefits from increased institutional cooperation and have a stake in reinforcing UN SC primacy. This means more inter-institutional development (UN, RO and SRO), reinforcement of the provisions connecting APSA to UN SC primacy and formal attribution of decision making power from UN SC to other institutions.

Table 1 - International relations mechanism and UN SC primacy

<table>
<thead>
<tr>
<th>Status quo maintenance</th>
<th>UN SC primacy unchanged</th>
<th>APSA no recognition of UN SC</th>
<th>UN SC exclusive decision-making role</th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure to provide security</td>
<td>UN SC primacy adapted</td>
<td>APSA recognizes UN SC</td>
<td>UN SC decision making recognizing other agents</td>
</tr>
<tr>
<td>Institutional security</td>
<td>UN SC primacy revised</td>
<td>APSA reinforces UN SC</td>
<td>UN SC decision making alongside APSA</td>
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</table>

The information collected to ascertain these mechanisms was based first on the analysis of treaties, conventions, official policy reports and decisions of international organisations, which were then complemented by semi-structured interviews and secondary sources. The process followed an iteration of deductive and inductive analysis (Bennett and Checkel, 2012) especially relevant because of the possibility of making two field missions 18 months apart.

The security regime architecture

UN Charter and subsidiarity

The architecture of enforcement action is characterised by three components: who has the power to decide; what are the lawful grounds for peace enforcement missions; and who can implement such missions. The focus of this paper is on the decision-making process, which is connected to its justifications (the lawful grounds) but separate from the implementation mechanism (more related to division of labour and burden sharing), the latter two of which are not dealt with in this paper.

Subordinated to the UN SC primacy presented before, there is an embryonic form of regional security in Chapter VIII of the 1945 UN Charter. Chapter VIII provides that the UN SC “can utilize regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall
be taken under regional arrangements or by regional agencies without the authorization of the UN SC...” (Article 53.1). This UN SC primacy regarding decisions and its delegation of implementation to RO are generally accepted (Simma, 1999; Knight, 1996), even if some other substantive issues remain controversial on the understanding of the decision-making mechanisms or justifications for interventions.

**OAU/UN relationship**

The 1963 Charter of the Organization of African Unity (OAU) had no specific references to SRO and had limited provisions on peace and security, delimited to the peaceful settlement of disputes. With no reference to “peace enforcement” functions, during the first three decades of OAU existence, the main developments were in the economic area.

At the end of the Cold War, there was a demand for multilateral security operations to which the UN had no capacity to respond\(^\text{10}\). Therefore, the UN pulled RO and SRO involvement. This led to a process of negotiations (also characterised as devolution in Boulden, 2003) over the division of labour and the burden sharing of these missions but less so on sharing the UN SC decision-making primacy.

In 1992, the UN report entitled *Agenda for Peace*, identified the contributions to be made by RO to peace, including the area of peace-making. While safeguarding the United Nations Security Council’s primacy, the report considered that “regional action as a matter of decentralization, delegation and cooperation with the United Nations” (64) could support the Council’s work and that, if authorized by the Council, RO initiatives could be supported by the UN. In 1995, the *Supplement to an agenda for peace* report defined the cooperation between the UN and RO in the fields of consultation, diplomatic support, operational support, co-deployment and joint operations. The cooperation is to observe mechanisms of consultation; UN primacy; division of labour; and consistency of standards across organisations (especially in peacekeeping operations - PKO). The division of labour was the main development from the report 1992 version, when it clearly stated that the UN SC retains the authorisation for PKO in all cases (UN SC primacy) but that the UN implements only those not requiring

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\(^{10}\) During the five years after 1990, the UN initiated 21 PKOs compared to 18 in the first forty four years of its existence. From 1995 to 1999, an additional 11 PKOs were started. (UN, 2012)
the use of force. Enforcement missions were to be implemented by “contract” to an existing RO or an ad hoc coalition led by a leading nation (Lewis and Marks, 1998: 13).

In tandem with these processes, RO and SRO pushed for further peace and security functions. At the OAU regional level, the Mechanism for Conflict Prevention, Management and Resolution (Cairo Declaration) was established in 1993, stemming from the creation of a conflict Management Division at the OAU in the previous year. Even if referring to human suffering and state collapse, the OAU military involvement was limited to consensual observer missions and, if the situation deteriorated, would refer the case to the UN. Even if not successful in practice, the mechanism was an attempt to rethink responses to intra and inter-state conflicts (Kindiki, 2003). At the sub-regional level, the Economic Community of West African States (ECOWAS) and Souther African Development Community (SADC) were actively assuming peace and security roles. ECOWAS was involved in PKOs in Liberia in 1990, in Sierra Leone in 1997, in Guine-Bissau in 1999 and in the Ivory Coast in 2003. SADC was involved in PKOs in Lesotho and DRC in 1998 and developed competences in early warning beginning in the late 1980s. All of these SRO military interventions were marked by controversy over legality and motivation (Berman and Sams 2003); with only one previously authorized by the UN SC (Guine-Bissau, 1999).

With the end of the Cold War around 1990, the neorealism perspective persisted globally and sub-regionally, marked by a lack of global (UN) and regional (OAU and SRO) institutional strengthening, especially after the 1993 Somalia debacle. The ECOWAS and SADC developments during the 1990s were mainly caused by the need for legitimacy of realistic hegemonic players, namely South Africa and Nigeria in their respective sub-regions. This can be considered a valid double decisive test for hegemonic realism in the period. Within this context, there is no conceptual development of subsidiarity in decision-making, which can be considered a passing straw in the wind (see more details in alternative explanations).

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11 A previous proposal was rejected in the 1992 Dakar Summit with a decision to keep OAU out of peacekeeping (Kindiki 2003).
12 Observer missions’ mandate is to oversee ceasefires between belligerents; peacekeepers are located alongside the parties but not in an interposing position.
13 At this stage, OAU had a short track record of interventions: in PKO in Chad in 1980 and observer missions in Rwanda in 1990 and in Burundi in 1993.
14 In 1989 the Berlin wall fell and in 1991 the Union of Soviet Socialist Republics is dissolved.
With the lack of international action in response to the 1994 Rwanda genocide, the UN withdrawal from Africa in the following years, and the 1998 Great War of Africa in the DRC, a regional consensus developed on the need for African ownership of its own security. If the agglutinating principles of the OAU and African diplomacy had been the shared history of “humiliation and colonization by the white race” (Mazuri, 1977: 27), the failure to act in Rwanda triggered the aggregation of the political will to address the issue of security structurally, which was formalized in the creation of the AU. The principles of African unity, responsibility to protect and try-Africa-first developed to become the political references for security in the region in the following years (Chissano, 2011).

**AU/UN relationship**

The constitutive act of 2000 creating the AU re-conceptualises and significantly enlarges the scope of the RO and of its peace and security functions, creating the foundations for what came to be known as the APSA. The new organisation is the result of three projects: the Libyan pan-Africa unity project, the Nigerian lead Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA), and the South African New Partnership for Africa’s Development (NEPAD) project (Tieku, 2004).

Among the AU objectives is the effort to “promote peace, security, and stability on the continent” (Article 3f), and a watershed development was the charter amendment of 2003 establishing the possibility that the AU might intervene in a member state if so decided by the Assembly in situations of “war crimes, genocide and crimes against humanity as well as a serious threat to legitimate order” as a way to restore peace and stability (Article 4h). These formulations are in tandem with the classical principles of sovereign equality (Article 4a), non-interference by any member state (Article 4g) and the new “right of Member States to request intervention from the Union in order to restore peace and security” (Article 4j).

Of special relevance is the lack of extensive reference to the UN in the new AU charter; the sole substantive reference is among the objectives in “encouraging cooperation, taking due account of the Charter of the United Nations...” (Article 3e). Therefore, the connection between the AU and the UN (and UN SC primacy) is made indirectly through the requirement that the AU’s member states respect primarily the obligations to the UN (Article 103 of UN Charter). This absence was a reflection of the post-Rwanda political environment wherein African governments (especially from the Great Lakes region)
were keen on marginalizing the UN from political involvement in the region’s affairs (United Nations 1998 and interview).

This process (and its subsequent developments) is the most significant event of neoliberal institutionalism regionally and is a passing hoop test for institutional strengthening, even though it took about a decade to consider fully forms of the AU to reinforce UN SC primacy.

In 2002, the main AU structure solely dedicated to peace and security was established in the AU Peace and Security Council (AU PSC). The protocol establishing it specifically recognizes the UN SC’s primary responsibility in peace and security and stipulates that the guiding principles are those enshrined “in the Constitutive Act, the Charter of the UN and the Universal Declaration of Human Rights.” (Article 4). It then develops a full configuration of peace functions, which are later referred to as APSA, including peacemaking, peace-support operations and intervention (pursuant of Article 4h and j). It prescribes a “close harmonization, co-ordination and co-operation” between Regional Mechanisms (RM) and the Union (Article 7j), a “partnership for peace and security” between the AU and the UN (Article 7k) and that “any external initiative in the field of peace and security on the continent takes place within the framework of the Union’s objective and priorities” (Article 7l). To perform its functions, the AU PSC establishes African Standby Forces (ASF) sub-regionally\(^\text{15}\) (Articles 13.1 and 13.3), a panel of the wise (Article 11) and a continental early warning system (Article 12). It further considers the possibility of ASF cooperation with the UN or other organisations (Article 13.4) and that the AU PSC will cooperate and work closely with the UN SC (Article 17). The RM\(^s\) (which are SRO) are formulated for conflict prevention, management and resolution, and considered part of the AU’s security architecture with a “primary responsibility for promoting peace, security and stability in Africa” (Article 16.1). The AU PSC objective is to harmonize and coordinate with the RM in a partnership determined by comparative advantage with a reciprocal duty to inform each other’s initiatives.

The policy framework for the establishment of the ASF released in 2003 considers a series of practical needs for UN/AU coordination and the requirements that the AU must meet to be able to have UN support. The recommendations are for the AU to be the sole African mandating authority for peace operations (3.15.a.1) (African Union 2003, part I, 22), in a hierarchical format, in which the control is

\(^{15}\text{There is one RM for each ASF in each one of the five sub-regions. An RM can match the RECs or aggregate more than one REC in one RM. An ASF is composed of about 5,000 personnel (depending on states’ contributions) with more than two-thirds being troops and the remaining being civilians and police.}\)
centralised or dependant on the AU PSC (3.17 and 3.18) (African Union 2003, part I, 25) but with a
division of responsibilities among the AU, sub-regions and member states based on different types of
missions.\textsuperscript{16} The policy framework further recommends that “19.1...the OAU could undertake peace
support operations excluding peace enforcement with a mandate from the Central Organ and/or within
the framework of joint operations with the UN and Sub-Regional Organizations” (African Union 2003,
part II, a6).

Based on an African Chiefs of Defence Staff meeting in 1997, the policy framework further recommends
that “the conflict situation should guide the level at which the OAU considers involvement. In an
emergency situation, the OAU should undertake preliminary preventive action while preparing for more
comprehensive action which may include the UN involvement. The emphasis here is for speed of action
and deployment. As a principle, the OAU should take the first initiative in approaching the UN to deploy
a peace operation in response to an emergency in the continent. If the UN is unresponsive, the OAU
must take preliminary action whilst continuing its efforts to elicit a positive response from the world
body” (1.4.b) (African Union, 2003, part I, 1)\textsuperscript{17}. A similar position was taken by African heads of state in
2005 with the Common African Position on the Proposed Reform of the United Nations (Ezulwini
Consensus).

This recommendation was seconded by the UN report entitled \textit{A more secure world: our shared
responsibility}, which considered the role of ROs to be vital within the UN’s primary responsibility for
peace and security. It identifies a series of measures to organise action among the organisations and
that “authorization from the Security Council should in all cases be sought for regional peace operations,
recognizing that in some urgent situations that authorization may be sought after such operations have
commenced.” (United Nations, 2004: 71).\textsuperscript{18}

These dispositions are connected to a possible interpretation of UN SC primacy, in which retroactive
approval constitutes a valid UN SC authorization of an intervention. The underlying idea is that
responsible nations will act under an international paradigm and will seek the highest level of
legitimation, and, only if not given, will they proceed to other levels, as in a “legitimacy pyramid”

\textsuperscript{16} The ASF is devoted to small scale rapid response capacity later to be replaced by UN missions.
\textsuperscript{17} Although the reference is to a document of 2003, it quotes a policy document of 1997, when the AU was the OAU.
\textsuperscript{18} This decision over “peace operations” can be considered also to cover peace enforcement operations, specially
considering the recognition of being exceptions to the UN Charter.
(Coleman, 2007). Nevertheless, this perspective has been criticized on the grounds that it allows for the possibility of strategies for “forum shopping” for legitimacy by states to legitimize interventions (Job, 2004)\(^\text{19}\).

Alongside these regional developments, between 1992 and 2006 there occurred a structured attempt by the actors involved and other stakeholders to establish a systematic relationship between the UN and RO based upon Chapter VIII. (Langenhove et al., 2012). Several inter-organizational formal meetings undertook this effort with outcomes at the level of policy in several reports. By 2006, the UN report on *Regional-Global Security Partnership: Challenges and Opportunities* observed that the “challenge now is to articulate a common vision for a global architecture, interlocking such capacities based on comparative advantages and clear division of labor.” (p. 3). On an academic level, this policy can be connected to the “regional-global security mechanism” (Graham and Felicio, 2006) or “regional multilateralism” (Hettne and Soderbaum, 2006) proposals\(^\text{20}\).

However, such ambitious proposals were more pragmatically addressed in the 2008 Report of the *African Union-United Nations panel on modalities for support to African Union peacekeeping operations*, better known as the Prodi report, as Romano Prodi was its chairman. As the name suggests, it focused on the financial and logistical resource requirements of such cooperation. It recommended the use of the UN assessed funding to support the United Nations Security Council’s approved AU operations with two conditions\(^\text{21}\): (1) each case of support must be approved independently by the Council and UN General Assembly; and (2) the AU mission must transition to the UN within six months. On the basis of UN SC primacy, the report elaborated on the UN and the AU relationship highlighting the quick response possibility of the AU, with SRO and states referred to as the “building blocks” of African peace capacity. The report singled out ASF’s role within the APSA as a “major undertaking”, in which it could be “easy to lose direction”, and called for the AU to drive the process in terms of setting the objectives with clarity and realism. (United Nations, 2008: 6)

\(^\text{19}\) The same AU policy recommendation would not grant this possibility of “retroactive approval” to the (SRO) RMs for both peace enforcement and peace support operations cases (African Union, 2003). But, this duality of treatment may be under consideration to the extent that a more recent AU report considered that the principles of subsidiarity that apply to the relationship between the UN and the AU should also apply to the relationship between the AU and the RECs/RMs (African Union, 2012).

\(^\text{20}\) In 2006, the UN’s ten year capacity building programme for the AU also started in the area of peace and security.

\(^\text{21}\) The possibility of UN financing RO PKO was proposed in the 1992 UN *Agenda for Peace* and in 2005 by the AU on the “Ezulwini Consensus” (African Union, 2005).
This reluctance to ascribe decision-making roles to RO and SRO is in line with the “overwhelming consensus” in maintaining UN SC primacy on military interventions (ICISS, 2001: XII). Also, in 2007, the nomination of Secretary-General Ban Ki-moon produced a shift in UN regionalism policy; the new policy is less ambitious and focused in Africa (Bellamy and Williams, 2005; Langenhove et al., 2012). This new policy has been criticized with reference to the Brahimi report of 2003, which was set out as a UN “think anew” on peace operations. This report failed to question the role of peace operations in the wider context of international politics and to interrogate both the epistemological (identification of the valued knowledge) and ontological (which are “their” crises that merit attention from “us”) bases of peace operations (Bellamy and Williams, 2005).

Despite these limitations, the 2008 Prodi report marks the political support at the UN level of important developments that were occurring regionally. In January 2008, the AU signed the Memorandum of Understanding with RECs and RM enabling the operationalization of APSA. This recognized AU primary responsibility for peace and security in Africa and adherence to the principles of subsidiarity, complementarity and comparative advantage (Article 4.4). Among other initiatives, it considered the existence of representation in each other’s offices (AU in RECs/RM and vice versa) with the efforts of coordination vested in the AU (Article 21) along with the responsibility to inform the UN SC of the activities of all.

The negotiation over a more global or regional based security mechanism that occurred in this period is a smoking gun for neoliberal institutionalism, in which the final option of maintaining the UN SC intact with its primacy reinforces the global institutionalism without being a neorealist position of dismantling institutions. In fact, the 2008 Prodi report reinforced regional institutions even if through resource dependence based on UN SC primacy.

In 2008, the EU became a main contributor to the development of APSA, focusing mainly on supporting AU missions and bodies. The plan highlighted the importance of the subsidiarity principle in the relationship between the AU and RECs, which are considered to be the building blocks of the AU. (European Union, 2011). Although the beneficiaries of the funding facility are the AU and SRO, the latter’s requests need to have political approval of the AU. (European Union, 2008: 5.3 and 5.6) This policy has been linked to Africa’s economic, security and emigration relevance to the EU.
The United States continued a more bilateral approach initiating AFRICOM in 2007. The new initiative contemplated a security component focusing on capacity building of partner African state’s intended to reduce conflict, improve security, defeat terrorists and support crisis response. The American policy has been justified mainly in terms of security, specifically regarding preventing terrorism; economy, wherein the region is predicted to represent 25% of American oil imports by 2015; and, in geostrategic terms, regarding the presence of India and Brazil in the continent, but most significantly the China-African relations (Govern, 2001).

China’s policy toward Africa emphasises sovereignty and non-interference. China’s main interests are supplies of energy and raw materials, with about one third of China’s crude oil imports in 2010 coming from Africa. Its policies focus on four sections: trade, investment, development aid and migration (Asche and Schüller, 2008). Complementing these are policies on multilateral diplomacy and peacekeeping (Wissenbach, 2009); regarding the latter, the Chinese preferential mode of engagement has been institutional, either by supporting the UN PKO or the AU.22

The structure adopted was to a great extent the hierarchical institutional “pyramid” (Nhara, 1998), with the UN on the top followed by the RO providing a critical link with the SRO at the bottom of the pyramid. Nevertheless, states continue to constitute a critical actor in security, determining the contributions to multilateral efforts, voting institutional decisions or being the focus of direct foreign support.

American actions are more bilateral and not aimed at reinforcing the institutional mechanisms, which is better explained by a neorealist perspective. Although the UN SC primacy remains unchanged the cases of interventions that bypass it have become more contentious than during the Cold War. A passing hoop test is the American lack of reinforcement of the UN and the OAU/AU. This is based on a preference for bilateral or ad hoc coalitions or multilateral institutions which are closer to its decision making behaviour (such as in NATO). In the alternative, a country based programme was developed with AFRICOM in 2007 to address specific concerns. At about the same time, the AU and EU met with a

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22 In 2013, China became the thirteenth personnel contributor to the UN PKO (UN PKO, 2013) with 1,868 persons and offered the new AU headquarters in Addis Ababa estimated to have cost $200 million USD (Bayoumy, 2012). India and Brazil are also contributors to the UN PKO, with the former being the second biggest contributor with 7,840 personnel and with deployments in significant missions in Africa (DRC and South Sudan), and the latter with a contribution of 2,202 personnel, mainly to the mission in Haiti (United Nations, 2013).
mutual interest around a shared value of multilateral institutionalism, and the EU initiated structured support to the APSA in 2008. This EU behaviour passed the hoop test explained by neoliberal institutionalism. This initiative also identifies explicitly the principle of subsidiarity for the first time.

The AU APSA assessment report (African Union, 2010) made some general developments on the principles of subsidiarity. Overall, the principle seems to be associated with the identification of the executing agency of a mission or a division of labour regarding implementation but not regarding who makes the decision itself. More significantly, the AU report on the relationship between the AU and the UN focussed on subsidiarity, without being normative; but, it identified a series of challenges for its conceptualization and operationalization (African Union 2012).

Another passed smoking gun for neoliberal institutionalism is the growing acknowledgement of the UN SC primacy throughout the 2000s in AU documents, with the most relevant evidence in this 2012 AU report addressing directly the UN and the AU relationship and the requirements for a principle of subsidiarity.

**Empirical evidence**

In order to complement the conceptual analysis it is important to identify more objectively the practice of military interventions. With that purposes a dataset was developed of military interventions in Africa’s intra-state conflicts processes with two dimensions: UN SC authorization and agency. Focusing on the primacy of UN SC it identifies (in decreasing order of legitimacy) if: interventions had UN SC authorization; were recognized (by a UN SC decision or a UN SC presidential statement), or were not authorized or recognized by the UN SC. For agency it identifies if the intervention is unilateral – by an individual state - or multilateral by a coalition, a SRO, a RO or the UN. In this specific analysis it is considered that multilateralism (undifferentiated) is less illegitimate than unilateral interventions, when not authorized by the UN SC. Table 2 summarizes the dataset along these two dimensions. There are 89 interventions in 19 countries for the period between 1989 and 2010.

The UN SC authorized 39% of interventions and never authorized or recognized 40% of the interventions. This means that 60% of interventions have some sort of legitimacy (either authorized or recognized) and 61% start without UN SC authorization. If UN interventions are not considered, these
later percentages change to 44% and 84% respectively, meaning that less than half have some legitimacy and almost all start without UN SC authorization.

Individual states are the main single intervening agent and non-UN multilateral interventions surpass UN interventions. Individual states interventions account for 31 interventions (35%), followed by the UN with 24 interventions (27%) and then RO with 18 (20%) and 10 by SRO (11%). There is only one UN-AU intervention and 5 coalitions interventions.

<table>
<thead>
<tr>
<th>Agency</th>
<th>Authorized</th>
<th>Post factum recognized</th>
<th>Not authorized or recognized</th>
</tr>
</thead>
<tbody>
<tr>
<td>UN</td>
<td>16</td>
<td>8</td>
<td>36%</td>
</tr>
<tr>
<td>UN-AU</td>
<td>0</td>
<td>1</td>
<td>0%</td>
</tr>
<tr>
<td>Reg. Org.</td>
<td>0</td>
<td>4</td>
<td>2%</td>
</tr>
<tr>
<td>Sub-Reg.Org.</td>
<td>0</td>
<td>1</td>
<td>1%</td>
</tr>
<tr>
<td>Coalition</td>
<td>2</td>
<td>1</td>
<td>0%</td>
</tr>
<tr>
<td>Individual</td>
<td>0</td>
<td>2</td>
<td>0%</td>
</tr>
<tr>
<td>States</td>
<td>0</td>
<td>2</td>
<td>0%</td>
</tr>
<tr>
<td>Sub totals</td>
<td>18</td>
<td>17</td>
<td>30%</td>
</tr>
<tr>
<td>Totals</td>
<td>35</td>
<td>36</td>
<td>36%</td>
</tr>
</tbody>
</table>

Looking at changes of interventions authorization and agency within a country there are four main patterns. A bottom-up legitimation, both in terms of authorization (from not recognized or authorized, to recognized and then to authorized) as well as in terms of agency (from individual states, to SRO/RO, to the UN). A non-authorized individual state intervention is replaced by an ECOWAS, SADC, CEMAC (or other SRO) or by the AU/OAU with recognition, which itself is replaced by the UN. This process occurs in relative populous and big countries with protracted conflict. A second pattern is middle up legitimation, also in terms of authorization and agency. This pattern is similar to the above but starts

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23 A few other single patterns can be identified: short lived authorized humanitarian case (Somalia, 1992) or protracted conflict starting with UN intervention (Western Sahara, 1991), and; different termination of backlogs of the Cold War, one successfully by the UN (Mozambique, 1992) and another unsuccessfully by the UN followed by individual states involvement (Angola, 1990 and 1999).

24 A few cases had particular attention due to its particularities which could bias the results: the Second Congo War, but interveners have been coded in group not over-representing individual states interventions (like in other cases); Comoros successive missions, but they reflects effective interventions in different periods, and; DRC EU interventions, but also which reflect a new dynamic of interventions.

with an authorized or recognized RO/SRO and ends with the UN. This occurs mainly in the sub-region of ECOWAS with one exception\textsuperscript{25}. A third pattern is single non-authorized individual states interventions. This occurs more in shorter or localized conflicts in smaller countries.\textsuperscript{26} The forth pattern overlaps with some of the above but reflect the particular type of non-regional and non-UN interventions, mostly France and EU with an additional case of the UK and another of the USA. France interventions are under a bilateral security treaty with previous colonies and the majority is not authorized or recognized (3), with one being recognized and another authorized. EU interventions (4) are all authorized. These interventions are short lived and either are taken over by RO/SRO interventions with either authorization or recognition or have no continuation\textsuperscript{27}.

In between decades authorizations are the same but in the context of more activity by non-UN actors and decreased UN activity. Also the number of UN interventions (in particular after 2005) have decreased, there is an increase on the number of RO interventions (although driven by the EU in DRC (3) and AU in Comoros (4), the former authorized and the later not authorized or recognized) and similar numbers of intervention and legitimacy of SRO and coalition interventions. The number of not authorized and not recognized individual states interventions are the same between decades, although with four new authorized or recognized interventions (two by South Africa, one France and another UK) compared to one in the previous decade (Nigeria and Guinea). In between decades there is an increase on the percentage of UN SC authorizations of non-UN interventions (partially driven by EU interventions but also ECOWAS, AU and South Africa) with small decreases of recognized interventions and increase of not authorized or recognized interventions (again driven by the AU Comoros interventions).

It is important to see these results having in mind APSA lack of operational readiness in military action. By 2010 none of the African Stand by Force (ASF) of APSA, the operative arm for military (also with police and civilian components) interventions of the AU PSC, had an operational brigade. (AU, 2010) In addition the Exercise Amani Africa of 2010 to test the ASF preparedness was considered positive in the strategic areas of gathering participants from different countries, operational areas of intra AU


procedures and development of common processes. However the exercise did not test the capacity of AU to organize and manage a PKO. (Nieuwkerk, 2011) This is nevertheless not an impediment for RO and SRO activity as demonstrated in the data. In fact Bellamy and Williams (2005) concluded that the main implication of non-UN peace operations is that it may reduce the likelihood that poorer parts of the world will enjoy the benefit of high-quality peace operations.

In conclusion intervention legitimacy eroded in the last two decades more in terms of authorization than agency.28 Between decades there is one less authorized and two less recognized interventions and four more not authorized or recognized interventions. But for the first time there are authorized interventions for RO and SRO and individual states. In terms of agency, UN interventions halve (to 8) which was offset in numbers with an increase in multilateral (5) and individual states (3) interventions. This increase in non-UN multilateralism is done through more not authorized or recognized interventions neutralizing its increased legitimacy effect. At the same time the increase in unilateral interventions (from 14 to 17) is done though an increase (from 1 to 4) of the number of authorized and recognized interventions, which balances out the legitimacy of agency. Therefore agency changes do not seem to have improved or deteriorated legitimacy.

Alternative explanations

The alternative hypothesis of social constructivism requires special attention, particularly regarding the process of transition of the OAU to the AU.

In constructivism, regime norms help determine state preferences. Norms shape goals, the perception of interests, and means to achieve goals. They also provide an essential behavioural reference in the context of limited rationality and uncertainty. Together with self-interest, norms and values are considered an essential component in states’ behaviour, and states aims are an endogenous variable. (Florini, 1996) The system is not deterministic, since changes may occur in socially constructed interests, identities and state relationships (Newman, 2007). In fact, constructivism considers that “anarchy is what states make of it” (Wendt, 1992). Therefore, the construction of international organizations will depend on the consensus over values and norms. This cognitive process of shared understanding affords

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28 These results are slightly driven by some cases (Comoros after 2004 and DRC after 2003) which if removed would lead to stagnation of authorizations and agency between decades.
agency not only to system or states levels but also to domestic political, cultural and civil society actors (Rittberger et al., 2006).

The OAU to AU transition was a significant norm change, which required a new organisation that would attempt to convert an anarchic security system into a shared understanding of responsibility. The new AU had fourteen objectives, nine more than those of the OAU, and three of which were dedicated to peace and security. (Kindiki, 2003) In this development, it was not the individual rational self-interest of states that triggered the process but a shared value of the need for security autonomy. Therefore, this is a passed smoking gun test for constructivism on strengthening institutions regionally even without UN SC primacy reinforcement (or even undermining it). But the capacity to transform values into law and structure was conditioned by more than shared values changing state preferences. At the sub-regional level, there was a lack of clarity and consensus over the relationship between the AU and SRO with tensions between the AU and ECOWAS and SADC. At the regional level, the relation between the UN and the AU in the early 2000s was marked by a negotiation over the level of globalism and regionalism. In both of these, rational decisions regarding state interests determined the process29, therefore failing a double decisive test.

Regarding subsidiarity, constructivists would argue that such principle is the result of a shared value. In fact, subsidiarity was extensively used in the economic and social integration policies for decades at the OAU and the AU, and its principles of hierarchical relations were implicit in several internal security documents before the principle was named explicitly. The subsidiarity development was more a result of operational requirements (universal to institutional developments) than a shared idea. Therefore, it can be considered a failed straw in the wind.

Post-colonialism constitutes another alternative explanation for the reinforcement of UN SC primacy and subsidiarity.

Post-colonialism focusses on the dynamics of oppression, identities and the processes of autonomy. It grows out of the awareness of a Western superiority based on its development and rationality, where the West essentializes subaltern societies as static and underdeveloped (Said, 1978; Spivak, 1988)

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29 The possibility of being driven by a state’s power (neorealist) can be downplayed considering the lack of veto rights on the AU PSC.
Within post-colonialism, this essentialism has been challenged by the notion of hybridity, an evolving multiculturalism of (racial/ethnic) mixes. (Bhabha 1994) Neo-colonialism is identified as the form that Western powers have to maintain an indirect control over the previous colonies, via political, cultural and economic channels. (Slemon, 1991) Such a process is a phase of the bigger picture of the globalization of capitalism associated with imperialism. Overall, the processes are viewed in the perspective of the result of or reaction to the process of (neo) colonisation, also with “spaces” where black (or African) people make their own history instead of being passive participants in the history of others. (James, 1963)

In this case, a reinforcement of UN SC primacy would favour the ex-colonial Western powers, and a formal structure of subsidiarity would chain RO and SRO to this central decision-making mechanism, in which subaltern African countries have no representation with the power of veto. Institutional strengthening would be justified in the context of providing this structure with the means to execute its objectives. The objectives would be in line with veto holders with a seat at the UN SC, mainly concerned with pursuing the interests of Western transnational organisations in African states.

However, such a proposal fails a hoop test in the important process of transforming from the OAU to the AU. This process has several specific regional attributes not in line with a post-colonial theory: it is a result of a process of disengagement of the West from African security; APSA structure reflects singular characteristics of African diplomacy (for instances the panel of the wise or pan-Africanism); and its conceptualization is owned by African states. Even if subsidiarity became explicit in connection to the EU’s support of APSA, it did not mean a foreign imposition (as mentioned before, the principle already existed). In addition, here subsidiarity development can be considered a failed straw in the wind test.30

Conclusion

In summary, theory must be contextualized in space, time (Rittberger et al., 2006) and agency. Therefore, in the same space and time more than one theoretical explanation can coexist.31

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30 The other likely process to be explained by post-colonialism is the failure to materialize a regional security model in the 2000s. However, such a process is more related to a power and interest dynamic of dominant states than necessarily linked to post-colonial dynamics, with an example in the freeze of UN SC reform in 2005.

31 For instance, a region (period or actor) may be explained by neorealism while another region (period or actor) by neoliberal institutionalism.
The main, case specific, results of the analysis are that UN SC primacy exceptions are inscribed at different levels of policy, and the principle of “subsidiarity” and APSA do not explicitly fully safeguard UN SC primacy. This is the result of processes in the last decades that can be characterised in the aftermath of the Cold War as mainly neorealist at both global and regional/sub-regional levels. The post-Cold War regime transition was determined in 1993 by the Somalia crisis, which met the definition of a neorealism stance of the United States and a process of institutional (UN) disengagement. The latter, together with the failure to intervene in Rwanda in 1994, led to a regionally neoliberal institutional outlook from African states that led to the creation of the AU in 2000 and to the EU’s structural support of APSA in 2008. This regionalisation of security is connected to UN SC primacy by a resource dependence of RO and SRO on UN support. Empirically the legality of military interventions in the last two decades has not improved.

The way the subsidiarity principle develops in the African institutional security will determine if UN SC primacy is reinforced or undermined. This paper concludes with some reflections on the way the principle has been applied so far. Revising the three guidelines for implementation of the principle of subsidiarity within the EU, one can identify the following adaptations to the African context.

The allocation of power does not need to be to the lowest unit and is determined by concerns over control. The application of subsidiarity to the security field means a more top down approach, with less de-centralisation and less allocation of power to lower units (in comparison to its application in the economic and social affairs area in Africa or governance system in Europe).

The decision to allocate power is based on efficiency. But, in this case the efficiency test is the degree to which it prevents conflict escalation (a first response action). This analysis concludes that the test regarding legality connected to UN SC primacy has not been included in the APSA subsidiarity formulations.

Regarding the principle that power should be exercised by the member state affected by that power, in this case its direct applicability is for the SRO of the country affected to be able to decide and, if not the SRO, then the AU. Although the SRO can request the AU to intervene (and then the UN), the SRO are not delegated the power of decision. For the AU vis a vis the UN, such a prerogative may exist in exceptional
circumstances. Therefore, the power of decision (not of implementation) is withhold from the multilateral organisation closer to the member state affected (SRO) but not from its upper level (AU).

Although humanitarian concerns may guide us into thinking that it is better to make a mistake by intervening than by not intervening, the realities of military intervention occur outside, or on the frontiers, of the responsibility to protect and, therefore, the importance attached to the principles and rules of the regime that structure interventions.

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