

The African Union's humanitarian policies: A closer look at Africa's regional institutions and practice

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Abstract

This article sheds light on the legal instruments and policies adopted by the Organization of African Unity/African Union (AU) in relation to international humanitarian law. It also offers analysis on the role of the AU institutions that provide humanitarian and disaster relief. The article highlights the importance of the institutions established to improve the capacity of regional and national institutions for humanitarian prevention and response. It reflects on the reasons why the AU focuses on early warning systems to address the root causes of conflicts and humanitarian disasters, rather than only adopting reactive policies after the fact, in order to save lives and prevent human suffering.

Keywords: African Union, regional institutions, AU Constitutive Act, OAU Charter, Peace and Security Council, migration, refugees, African Standby Force, internally displaced persons, AU Humanitarian Policy Framework, African Humanity Agency, humanitarian disasters.

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Historically and today, Africa has been subjected to heinous violence. Since 1946, it has been the scene of one third of all armed inter- and intra-State conflicts,¹ and since 1989, the site of 75% of the world's conflicts between non-State actors.² The international community's inability to adequately address tragedies like the collapse of the Somali State, the Rwandan genocide, the long-running conflict in the Democratic Republic of the Congo and the crisis in Darfur has animated discussions of emerging African capacities to protect populations at risk of grave human rights abuses³ and international humanitarian law (IHL).

In Africa, 80% of catastrophes are caused by internal conflicts and other forms of socio-political instability that have severe impacts on people's lives and livelihoods.⁴ Moreover, the COVID-19 pandemic has exacerbated problems such as climate change, political instability, conflicts and diseases, combined with an increase in internally displaced persons (IDPs), refugees and migrants.⁵ All these factors contribute to asset losses, infrastructure damage, food insecurity, poverty and hunger that impede future growth and development in the African continent.

In April 1999, the First Organization of African Unity (OAU) Ministers' Conference on Human Rights in Africa, held in Grand Bay, Mauritius, called on the OAU secretary-general to develop appropriate strategies and take measures to sensitize and raise awareness among the African population about human rights and IHL, in the Grand Bay (Mauritius) Declaration and Plan of Action.⁶ Part of this instrument is devoted to discussing how IHL is being put into action across the continent.⁷

The transformation of the OAU into the African Union (AU) augmented the engagement of the organization in the field of IHL. Some aspects of IHL can be traced in the Constitutive Act – the founding document of the AU – and other legal instruments pertaining to the establishment of the AU's organs, as will be detailed later. Moreover, be it in drawing up policies or in action taken on the

- 1 Lotta Themnér and Peter Wallensteen, "Armed Conflicts, 1946–2013", *Journal of Peace Research*, Vol. 51, No. 4, 2014.
- 2 Mohammed Ayooob, *The Third World Security Predicament*, Lynne Rienner, Boulder, CO, 1995; Walter Barrows, "Ethnic Diversity and Political Instability in Black Africa", *Comparative Political Studies*, Vol. 9, No. 2, 1976.
- 3 Kristiana Powell, *The African Union's Emerging Peace and Security Regime, Opportunities and Challenges for Delivering on the Responsibility to Protect*, ISS Monograph Series No. 119, North-South Institute, 2005.
- 4 W. Alade Fawole, "Review Article: A Continent in Crisis: Internal Conflicts and External Interventions in Africa", *African Affairs*, Vol. 103, No. 411, 2004.
- 5 "Does Africa Need Its Own Humanitarian Agency?", *ISS PSC Report*, 8 June 2021, available at: <https://issafrica.org/pscreport/psc-insights/does-africa-need-its-own-humanitarian-agency> (all internet references were accessed in July 2022).
- 6 Grand Bay (Mauritius) Declaration and Plan of Action, 1st OAU Ministers' Conference on Human Rights in Africa, Grand Bay, April 1999, paras 20, 21.
- 7 *Ibid.*, para. 14.

ground through peacekeeping operations, the AU Commission operates in collaboration with different international institutions working on IHL such as the International Committee of the Red Cross and the Office of the UN High Commissioner for Refugees.⁸

This article will endeavour to take a closer look at the AU's legal instruments and institutions as they relate to the inclusion of IHL, examine the mandates given to different organs of the AU for humanitarian action, and appraise the implementation of the AU's instruments.

The rules and institutions within the AU framework

The Constitutive Act

Due to the political dynamics that led to the establishment of the OAU, especially fighting against colonialism, the organization was founded on respect for sovereignty and the principle of non-intervention in the internal affairs of States. Four of the seven basic principles outlined in Article 3 of the OAU Charter were concerned with African States' sovereignty and territorial integrity.⁹ In practice, the OAU regarded these as cardinal principles prohibiting it or any member State from scrutinizing an African State's domestic activities. Hence, it operated within this State-centric approach based on principles of State sovereignty and non-intervention.

The AU's Constitutive Act marked a complete shift from the OAU's cardinal principles by redefining sovereignty. Sovereignty was no longer considered as absolute, and the right of the organization to intervene in the affairs of its member States found its way to Article 4(h) of the Constitutive Act. This provision mandates the AU to "intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide, and crimes against humanity".¹⁰ This not only establishes the legal foundation for intervention, but also obligates the AU to intervene in order to prevent or stop the commission of such heinous crimes against humanity anywhere in the continent.

Hence, it can be said that the balance of obligations has changed. From honouring the absolute sovereignty of a State, based on the non-intervention principle, Article 4(h) established a collective framework obligating the entire membership of the AU to intervene in the affairs of any member State that failed

8 See, for example, the Algiers Summit of July 1999, calling for a review of the OAU Charter; the Fourth Extraordinary Summit in Sirte in September 1999, which called for the creation of the AU; the Lomé Summit of July 2000, which adopted the Constitutive Act of the AU and the Solemn Declaration on the Conference on Security, Stability, Development and Cooperation in Africa; and the Maputo Summit of July 2003.

9 Charter of the Organization for African Unity, 479 UNTS 39, 13 September 1963 (OAU Charter), Art. III (2).

10 Constitutive Act of the African Union, Lomé, 11 July 2000 (AU Constitutive Act), Art. 4(h).

to protect its citizens from grave violations of IHL, including genocide, war crimes and crimes against humanity.

Consequently, it can be concluded that the Constitutive Act regards that sovereignty comes with obligations, including the responsibility of individual States to protect their civilians against violations of IHL; should a State fail to do so, it is an obligation on the AU member States to intervene. This notion of the collective responsibility to protect civilians was innovative at the time and was later introduced in the 2005 World Summit Outcome resolution adopted by the United Nations (UN) General Assembly,¹¹ known today as the Responsibility to Protect (R2P). Articles 138 and 139 of this resolution, which define the R2P, provide that “[e]ach individual State has the responsibility to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity”,¹² and that

[t]he international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council ... in cooperation with relevant regional organizations.¹³

For the AU, the R2P is no longer a guiding principle but an obligation embedded in its founding document, that should be carried out by the member States of the organization. This can be considered a precedent where a governmental regional organization creates a legal obligation on its States to intervene in the affairs of another member of the same organization, in certain situations, contrary to the principle of absolute respect of sovereignty and non-interference in the internal affairs of States.¹⁴

The AU did not stop at finding solutions to conflicts through intervention, but also attempted, in the Constitutive Act, to address the root causes of those conflicts, hence reducing human suffering and the need to resort to IHL. In Article 13(1)(e), the Constitutive Act gives the Executive Council explicit powers to “coordinate and take decisions on policies in areas of common interest to the Member States, including ... environmental protection, humanitarian action, and disaster response and relief”. This was the basis for establishing several specialized agencies within the AU to deal with such matters, as will be detailed later.

11 UNGA Res. 60/1, “2005 World Summit Outcome”, 24 October 2005, available at: www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_60_1.pdf.

12 *Ibid.*, Art. 138.

13 *Ibid.*, Art. 139.

14 One of the objectives for the establishment of the AU, as stipulated in Article 4 on the principles of the Union, is to “promote democratic principles and institutions, popular participation and good governance”: AU Constitutive Act, above note 10, Art. 3(g). The Constitutive Act expressed the unwillingness of States to tolerate grave human rights violations such as war crimes, crimes against humanity and genocide, and the responsibility of States to intervene and protect citizens from such violations.

Unlike the OAU Charter, the Constitutive Act also emphasizes human rights. This indicates an inclusive approach towards the protection of humans in the continent. Although it doesn't fall within the ambit of humanitarian law, honouring approved universal human rights law provisions is perceived to limit the root causes of internal violence and conflicts. One of the Constitutive Act's goals is to "promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments".¹⁵ The AU has carried out studies to protect human rights not only in peace time but also during armed conflicts, including the study entitled *Addressing Human Rights Issues in Conflict Situations*¹⁶ and the "General Comment on Article 22 of the African Charter on the Rights and Welfare of the Child: Children in Armed Conflict".¹⁷

The PSC Protocol and related instruments

Following the Constitutive Act, evidence of the promotion of IHL is visible in the provisions of Articles 3, 4, 7 and 13 of the Protocol Relating to the Establishment of the Peace and Security Council (PSC).¹⁸ One of the PSC Protocol's objectives is to prevent conflicts through the promotion and encouragement of democratic practices, good governance and the rule of law, as well as to protect human rights and fundamental freedoms, the sanctity of human life, and IHL (Articles 3(f), 4 (c) and 7(m)).

Additionally, Article 13(13) of the Protocol, which deals with training for the Standby Force, states that "[t]raining on International Humanitarian Law and International Human Rights Law, with particular emphasis on the rights of women and children, shall be an integral part of the training of [Standby Force] personnel". The AU's peace and security plan is incomplete without adherence to IHL, which led to its inclusion in the training of forces as a key element in implementing the rules on the ground.

Moreover, according to Article 11(v) of the Draft Framework for a Common African Defence and Security Policy, one of the policy objectives of the AU is to create a framework for humanitarian action in order to guarantee that IHL is respected during conflicts between and within African nations.¹⁹ This was

¹⁵ *Ibid.*, Art. 3(h).

¹⁶ AU and African Commission on Human and Peoples' Rights, *Addressing Human Rights Issues in Conflict Situations: Towards a More Systematic and Effective Role for the African Commission on Human and Peoples' Rights*, Banjul, 2019, available at: https://www.achpr.org/public/Document/file/English/ACHPR%20Conflict%20Study_ENG.pdf.

¹⁷ AU and African Committee of Experts on the Rights and Welfare of the Child, "General Comment on Article 22 of the African Charter on the Rights and Welfare of the Child: Children in Armed Conflict", Lesotho, 2020, available at: www.acerwc.africa/wp-content/uploads/2020/01/Draft-General-Comment-on-Article-22_English.pdf.

¹⁸ Protocol Relating to the Establishment of the Peace and Security Council of the African Union, 9 July 2002 (PSC Protocol), available at: <https://au.int/en/treaties/protocol-relating-establishment-peace-and-security-council-african-union>.

¹⁹ Draft Framework for a Common African Defence and Security Policy, AU Doc. EX/EX/CL/2 (III), Sun City, 21–25 May 2003, p. 8.

recommended by the African Chiefs of Defence Staff during their Third Conference in May 2003.²⁰

The Specialized Technical Committee on Migration, Refugees and Internally Displaced Persons

The Specialized Technical Committee (STC) on Migration, Refugees and Internally Displaced Persons was established by Decision Assembly/AU/Dec.227(XII), adopted on 3 February 2009 by the AU Conference of Heads of State and Government, held in Addis Ababa, Ethiopia.²¹ Decision Assembly/AU/Dec.365 (XVII) adopted in principle the *Progress Report of the Commission on the Implementation of Decision Assembly/AU/Dec.227(XII) on the Specialized Technical Committees*, which detailed the main activities of this STC,²² to deal with matters relating to issues of migration and forced displacement in Africa.²³

This STC meets in ordinary sessions every two years to follow up on developments in relation to all issues pertaining to migration in all forms, including ways to enhance means to protect their rights during times of peace and war, and proposes possible legal instruments or the establishment of new structures to enhance the work of the AU in the field. It is worth noting that the Protocol relating to the Free Movement of Persons was produced by this STC.²⁴

The African Union Humanitarian Policy Framework

The African Union Humanitarian Policy Framework was put in place in 2015.²⁵ Paragraph 19 of the Framework states that the foundation of the Framework is “anchored on the principles of International Humanitarian Law”. The goal of the Framework is to provide the AU, as well as other humanitarian actors and stakeholders, with the strategic approaches and guidelines necessary to improve their capacity for humanitarian situation prevention, preparation, response and mitigation.²⁶ Internally, the Framework entrusts the Humanitarian Affairs

20 See Policy Framework for the Establishment of the African Standby Force and Military Committee, AU Doc. EXP/ASF-MS/2(1), Addis Ababa, 12-14 May 2003 (ASF Framework), p. 42.

21 AU Assembly, Decision Assembly/AU/Dec.227(XII) on the Specialised Technical Committees, AU Doc. EX.CL/496(XIV), Addis Ababa, 3 February 2009, available at: https://au.int/sites/default/files/decisions/9559-assembly_en_1_3_february_2009_auc_twelfth_ordinary_session_decisions_declarations_message_congratulations_motion.pdf.

22 AU Assembly, Decision Assembly/AU/Dec.365(XVII) on the Specialised Technical Committees, AU Doc. EX.CL/666(XIX), Malabo, 1 July 2011, available at: https://au.int/sites/default/files/decisions/9647-assembly_au_dec_363-390_xvii_e.pdf.

23 To date, the STC has not adopted its rules of procedure, so its full mandate has not yet been published.

24 Protocol to the Treaty Establishing the African Economic Community relating to the Free Movement of Persons, Rights of Residence and Right of Establishment, adopted by the 30th Ordinary Session of the Assembly of Heads of State and Government, Addis Ababa, 29 January 2018, available at: https://au.int/sites/default/files/treaties/36403-treaty-protocol_on_free_movement_of_persons_in_africa_e.pdf.

25 African Humanitarian Policy Framework, AU Commission, Department of Political Affairs, Refugees and Displaced Persons Division, 20 November 2015, available at: www.peaceau.org/uploads/humanitarian-policy-framework-rev-final-version.pdf.

26 *Ibid.*, para. 14.

Division of the Department of Political Affairs with the mobilization of the “collective African Union response”, in coordination with other organs such as the African Commission on Human and Peoples’ Rights and the AU Rapporteur on the Human Rights of Refugees, Returnees and IDPs.²⁷

The Framework encourages strategies for strengthening capacities and capabilities within the context of the entire agreed-upon set of AU policies and positions.²⁸ It further emphasizes the doctrine of using Africa’s resources for Africa’s humanitarian action to guide humanitarian action on the continent. In addition, it puts responsibility on the AU to come up with predictable and adequate funding for emergency preparedness and humanitarian response as critical for effective and timely humanitarian action, as well as the implementation of the Framework.²⁹ It also encourages member States to put aside 1.5% of their GDP for humanitarian action.³⁰

The African Standby Force

According to its Constitutive Act, the AU is empowered to intervene in situations of severe danger (such as when genocide or war crimes are being committed) in order to protect human life.³¹ The African Standby Force (ASF) is a component of the African Peace and Security Architecture, which was created when the AU was established. The PSC Protocol mandated the creation of the ASF.³² The Foundation Document, which was agreed at the conference of African Chiefs of Defence and Security in Maputo, Mozambique, in May 2003, provides the theoretical underpinning for the ASF.³³

According to the PSC Protocol, the ASF was envisaged to be composed of standby multidisciplinary contingents with civilian and military components in their countries of origin and ready for rapid deployment at the appropriate notice.³⁴ This is why, in accordance with the Protocol, member States were asked to establish standby contingents for participation in PSC- or AU Assembly-approved peace support missions.³⁵ According to the ASF Policy Framework, “Rapid Deployment Capability” was to be established that could intervene in cases of genocide and grave human rights abuses within fourteen days, as envisaged under Article 4(h) of the Constitutive Act.³⁶

However, the AU is still working to have the ASF ready for deployment in crisis situations, though some progress has been made recently. As an important first step, the opening of the ASF’s continental logistics hub in Douala on 5

27 *Ibid.*, para. 32.

28 *Ibid.*, para. 78.

29 *Ibid.*

30 *Ibid.*, para. 80.

31 AU Constitutive Act, above note 10, Arts 4(h), 4(j).

32 PSC Protocol, above note 18, Art. 13.

33 *Report of the Conference of African Chiefs of Defence and Security*, Maputo, May 2003, pp. 2–12.

34 PSC Protocol, above note 18, Art. 13.

35 *Ibid.*, Art. 17(a).

36 ASF Framework, above note 20, para. 2.29.

January 2018 was a success.³⁷ The AU's ability to give logistical support to peace operations will be bolstered by the new base. After the Amani Africa II field training exercise in South Africa,³⁸ the ASF was deemed fully operational by the AU Specialized Technical Committee on Defence, Safety and Security in 2016. For the ASF's military, police and civilian components, AU command post training and exercises have been conducted.³⁹ In 2017, AU heads of State and the PSC tasked a team with verifying the operational readiness of ASF regional standby forces, identifying gaps and issues, and giving suggestions.⁴⁰ However, while West, Southern and East Africa showed great progress in the establishment of their regional standby forces, the team found that Central and North Africa were still far behind in operationalizing the ASF.

The African Humanitarian Agency

The AU Assembly decided in its Decision Assembly/AU/Dec.604(XXVI) of 30 January 2016, in Addis Ababa, Ethiopia, to

establish an African Humanitarian Agency which should be anchored on regional and national mechanisms and funded with Africa's own resources; and to request the [AU] Commission to embark on the process for the establishment of such an architecture anchored on principles of pan-Africanism and African shared values.⁴¹

The African Humanitarian Agency (AfHA) is expected to receive funding from the regular AU budget as well as creative funding sources to ensure local ownership. The AfHA is also designed to thrive on collaborations with numerous stakeholders at various levels.⁴²

When operational, the AfHA would be expected to fill a critical gap in African humanitarian action by effectively coordinating the handling of African humanitarian emergencies.⁴³ This would include contributions at the strategic level, synchronizing and exchanging best practices throughout the continent with member States responsible for the ultimate protection of citizens, either directly or through regional organizations, particularly the Regional Economic

37 PSC, *Communiqué of the 1007th Meeting of the African Union Peace and Security Council on the Status Report/ Roadmap to the full Operationalization of the African Standby Force and the AU Continental Logistics Base*, 8 July 2021.

38 The AU conducted a field training exercise to support and fast-track the operationalization of the ASF. The exercise was organized in coordination with Amani Africa and involved military, police and civilian components of the ASF.

39 *Report of the 9th Ordinary Session of the Specialized Technical Committee on Defence, Safety and Security*, June 2016.

40 PSC, *Report of the 678th Meeting of the Peace and Security Council of the African Union on Its Activities and the State of Peace and Security in Africa*, April 2017.

41 AU Assembly, Decision Assembly/AU/Dec.604(XXVI), 30 January 2016, para. 9(ii).

42 *Ibid.*

43 AfHA, "Concept Note: Validation Meeting of the Report on the Modalities for the Operationalization of an African Humanitarian Agency", Addis Ababa, May 2020, para. 2.

Communities (RECs).⁴⁴ The AfHA is expected to be involved in humanitarian operations in member States in collaboration with emergency response and assessment teams, RECs, regional bodies, and member States.⁴⁵ The AU, through the AfHA, is expected to assist and intervene when nationals of member States are in need. The AfHA will thus combine a strong strategic focus with a modest operational footprint. Collaboration, advocacy (with a focus on humanitarian law), coordination (with a focus on information analysis and management), partnerships, capacity-building and resource mobilization are some of the expected roles of the AfHA.⁴⁶ The AfHA, in collaboration with the UN, civil society and the diaspora, will execute measures to help governments and local authorities strengthen their capacity and fulfil their responsibilities.⁴⁷

AU agencies for the prevention of humanitarian disasters

It was noted at the beginning of this article that conflicts within the African continent are a result of many factors, including natural disasters and national and regional health crises. To address these issues, the AU established several agencies and mechanisms to work together to ensure that appropriate action is taken in time of disasters and to work towards prevention and minimizing the effects of such calamities.

The Africa Centres for Disease Control

Within its efforts towards the prevention of conflicts and conditions conducive to the spread of violations of human rights law and IHL, the AU has created a number of institutions to deal with humanitarian threats and crises that are complex in nature and at times overlapping. These include political instability and conflict, climate change, and the recent COVID-19 pandemic, not to mention Ebola and other outbreaks that the continent has had to deal with. The Africa Centres for Disease Control and Prevention (Africa CDC) is a specialized technical institution of the AU established to support member States' public health initiatives and strengthen the capacity of their public health institutions to detect, prevent, control and respond to disease threats in a timely and effective manner.⁴⁸ Africa CDC assists AU member States in addressing deficiencies in their public health infrastructure, human resource capacity, disease monitoring, laboratory diagnostics, and preparedness and response to health crises and catastrophes.⁴⁹

44 *Ibid.*

45 Draft Statute of the African Humanitarian Agency, Addis Ababa, January 2020, Art. 6.

46 *Ibid.*

47 *Ibid.*, Art. 23.

48 Statute of the Africa Centres for Disease Control and Prevention, 2016 (CDC Statute), Art. 3.

49 *Ibid.*, Art. 3(e).

Africa CDC was established by the 26th Ordinary Assembly of Heads of State and Government in January 2016 and officially launched in January 2017.⁵⁰ It provides an avenue for member States to communicate and exchange information and lessons learned through public health interventions.⁵¹ Africa CDC has been at the forefront in fighting the COVID-19 pandemic; a few months before the crisis took on the magnitude that we eventually witnessed, the AU launched the AU COVID-19 Response Fund, which aims to raise resources to strengthen the continent's COVID-19 response by supporting pool procurement of diagnostics and other medical commodities by Africa CDC for distribution to member States, and to mitigate the pandemic's socio-economic and humanitarian impact on African populations.⁵²

African Risk Capacity

The African Risk Capacity (ARC) Group is made up of the ARC Agency, an AU specialized agency created in 2012 by the 18th Ordinary Session of the AU Assembly, and ARC Insurance Company Limited (ARC Ltd), a hybrid mutual insurer and the Group's commercial affiliate, founded in 2014.⁵³

The ARC Agency was founded to assist African governments in improving their capacity to effectively plan for, prepare for, and respond to natural catastrophes caused by extreme weather occurrences, as well as outbreaks and epidemics.⁵⁴ ARC Ltd, on the other hand, provides complementary risk pooling and risk transfer services. Together, the two organizations provide capacity-building and contingency planning services to member States, as well as access to cutting-edge early warning systems and risk pooling and transfer facilities to help build resilience against natural catastrophes such as droughts and tropical cyclones.⁵⁵

The Special Emergency Assistance Fund

At the 20th Ordinary session of the then OAU, convened in Addis Ababa in November 1984, the heads of State and government decided to establish the Special Emergency Assistance Fund for Drought and Famine in Africa (SEAF).⁵⁶ From 18 to 20 July 1985, the 21st Ordinary Session of the Assembly adopted the SEAF Statute.⁵⁷ There are two main goals for the SEAF: to offer emergency aid to African nations that are suffering from drought or famine, and to support the efforts of African governments in reducing their reliance on foreign aid.⁵⁸ Acts of

50 AU Assembly, Decision Assembly/AU/Dec.499 (XXII), 22nd Ordinary Session, January 2014.

51 CDC Statute, above note 48, Art. 3.

52 See the AU COVID-19 Response Fund website, available at: <https://au.int/en/auccovid19responsefund>.

53 AU Assembly, Decision Assembly/AU/Dec.391-415(XVIII), 18th Ordinary Session, January 2012.

54 Agreement for the Establishment of the African Risk Capacity Agency, 23 November 2012.

55 *Ibid.*

56 AHG/Decl.1-3(XXI) and AHG/Res.136(XXI), 21st OAU Ordinary Session of Assembly of Heads of State and Government, July 1985.

57 *Ibid.*

58 Statute of the Special Emergency Assistance Fund for Drought and Famine in Africa, July 1985, Art. 3.

symbolic support from the SEAF are intended to show cooperation with the afflicted countries and persuade other nations to do their part by providing financial assistance.⁵⁹ Member States, organizations and individuals make voluntary donations to the Fund, while the AU provides a mandatory contribution.⁶⁰

Some observations and recommendations

While, as demonstrated throughout this Article, the AU has robust regional humanitarian laws and institutions, the challenges lie in the lack of implementation. The Constitutive Act and the PSC Protocol have laid down the framework for effective conflict prevention schemes, but there is a lack of political will to enforce those mechanisms. Conflict is increasing the number of IDPs in the continent; for example, in the East African area, there are more than 8.3 million IDPs and more than 4.6 million refugees. Conflicts in Ethiopia, Somalia, South Sudan and Sudan are mostly to blame.⁶¹ Due to the ongoing violence in the north of the nation and the recent climatic catastrophes, Mozambique has more than 1 million IDPs.⁶² Thus, the AU should focus more on preventing crises and less on treating their symptoms; an emergency reaction is more expensive than responding to an early warning that people are at risk. Human security, rule of law, good governance and economic development are all goals that the AU's member States should strive towards. Violent conflicts that result in mass atrocities need a thorough and coordinated approach, as the causes are so complex. Prevention should be the main concern that the AU should focus on in order to encourage member States' adherence to their commitments to avoid mass atrocity crimes, particularly in light of the institutional, financial and political difficulties that the AU faces in implementing Article 4(h) of the Constitutive Act and R2P.

When crises do occur, there exists an all-encompassing strategy to deal with them. Indeed, cognizant of the evolving dynamics of natural catastrophes, threats to livelihoods, growing terrorism and violent extremism, and disease outbreaks across Africa, it is not necessary to build a new structure for the AU. The major challenges facing the organization include a lack of long-term funding, a lack of coordination within and across existing bodies, a failure to apply current normative frameworks, and a lack of commitment from member States. Aside from humanitarian responses, the AU's implementation problem extends to the whole organization – but the AU does not require the creation of a new organization to guide sound policies and effective responses to humanitarian crises in Africa. Instead, it is necessary to examine the current institutions that are accountable for humanitarian action. There are several institutional gaps that need to be

59 *Ibid.*, Art. 6.

60 *Ibid.*

61 Gedifew Sewnet Yigzaw and Endalsasa Belay Abitew, "Causes and Impacts of Internal Displacement in Ethiopia", *African Journal of Social Work*, Vol. 9, No. 2, 2019.

62 "Does Africa Need Its Own Humanitarian Agency?", above note 5.

addressed in order to come up with long-term solutions for effective early response and prevention. As previously noted, securing funding for humanitarian action is a major difficulty: currently, the European Union funds 80% of the AU's programme budget while external players fund 100% of the budget for peace operations.⁶³ It is imperative that the AU look for new sources of finance, especially in light of donor weariness and dwindling humanitarian aid from conventional donors.

An entirely new finance strategy is needed, one that focuses on non-traditional contributors like the private sector and African philanthropists, rather than conventional donors like the US government. Military force should not be equated with, or perceived through the lens of, Article 4(h) intervention; instead, preventative methods of all kinds should be considered.

63 *Ibid.*