

## **The Principle of ‘African solutions to African Problems’ under the spotlight: The African Union (AU) and the Libya Crisis**

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### **Introduction**

Inspired by the events in Tunisia and Egypt (also called the ‘Arab Spring’), in which ordinary people took to the streets to force out the governments there, the people in Eastern Libya began an uprising against the government of Muammar Qaddafi in mid-February 2011. The rebels immediately took control of several towns — including Benghazi, the second biggest town in Libya. As the rebellion rolled out west towards Libya’s capital, Tripoli, the Qaddafi government mobilized its forces to confront it. By the end of the month of February 2011, Qaddafi’s forces had been able to take back several towns that had been overrun by the rebels and were threatening a bloodbath in Benghazi. In the meantime, the African Union’s Peace and Security Council (AU PSC) met one week after the rebellion broke out and issued a communiqué spelling out its intention to send a fact-finding mission to Libya. As the PSC was preparing itself, and in response to the threat from Qaddafi forces to crush the rebellion, the United Nations Security Council (UN SC) passed resolution 1973 authorizing the use of force to protect the civilian people. This marked the beginning of western countries’ intervention in the Libya crisis.

In the aftermath of the failure of the international community in the 1990s to decisively deal *inter alia* with the genocide in Rwanda and state collapse in Somalia, African countries resolved to craft their own solutions to the problems emerging on the continent. This marked the origin of the notion of ‘African solution to Africa’s problems’ which was later to become one of the founding principles of the AU. It should be recalled that the inauguration of the OAU in 1963 represented the institutionalisation of pan-African ideals. However, the organisation was impotent in its efforts to positively influence national politics, monitor the internal behaviour of member states, and prevent human rights atrocities. The OAU Charter contained the provision to defend the sovereignty, territorial integrity and independence of member states which came to be translated into the norm of non-intervention. The transformation of the Organisation of African Unity (OAU) to the AU was meant to be a policy shift by which the new organisation would become an effective mechanism to deal with the numerous problems afflicting the continent. Thus, the notion of ‘non-interference’ was replaced with that of ‘non-indifference’, meaning that member states of the AU should be concerned with events happening in the neighbourhood.

Nevertheless, the crisis in Libya has exposed the hollowness of the AU being an African solution to Africa’s problems. This paper argues that the ‘marginalization’ of the organization in the crisis is self-inflicted because had it taken a very strong stance when the crisis broke out, it would have laid a strong basis to preclude the eventual entry of the UN in Libya. However, from the very beginning, the organization took half-hearted measures in its reaction to the crisis which

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eventually resulted in its being overridden by the western powers using the UN SC to intervene in the country. Moreover, the AU is also saddled with problems including lack of capacity (especially financial) and fissures within its ranks, which preclude it from playing a very active and meaningful role in Africa's crises.

### **The Crisis in Libya**

During his 42 years of rule, Qaddafi imposed a repressive system of government devoid of any of the institutional features common even to many of the world's most undemocratic regimes.<sup>2</sup> When he took over power in a military coup in September 1969, Qaddafi introduced his so-called Third Universal Theory which advanced the idea that "people should directly run the activities and exercise the powers of government."<sup>3</sup> The result of this system over the years has been the virtual absence of any development of a state bureaucracy or any form of institutionalized governmental structure. In Qaddafi's Libya therefore, there is neither a constitution in the modern sense nor are there any political parties.

The immediate trigger of the current crisis was the events in neighbouring Tunisia and Egypt where, between January and February 2011, the people forced out Presidents Ben Ali and Hosni Mubarak respectively, in public demonstrations and protests. In the case of Libya, the protests began on 15 February in the eastern city of Benghazi where people staged a protest against the government for arresting a human rights campaigner. As in Tunisia and Egypt, opposition groups used social network computer sites such as *Facebook* to call on people to stage protests. The lethal and indiscriminate use of force by security forces on un-armed protesters resulted in condemnation by the international community. The protesters established a Transitional National Council (TNC), headed by former Justice Minister Mustafa Mohamed Abud Al Jeleil, to spearhead the struggle against the Qaddafi government.

### **The AU and Conflict Resolution**

While establishing the AU, African leaders recognized the scourge of conflicts in Africa as constituting a major impediment to the socio-economic development of the continent.<sup>4</sup> They also noted that the need to promote peace security and stability are a prerequisite for the implementation of development and integration agenda.<sup>5</sup> Whilst the AU is guided by the objective of "promot[ing] peace, security and stability on the continent"<sup>6</sup>, it is also based on the principle of "respect for sanctity of human life...".<sup>7</sup> The AU leaders recognised the failures of the OAU in the area of conflict resolution. Due to the doctrine of non-intervention, the OAU became a silent observer to the atrocities committed by some of its member states. A culture of impunity and indifference was cultivated and became entrenched in the international relations of the African countries. Thus, learning from the lessons of the OAU, when the Africa leadership

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<sup>2</sup> Institute for Security Studies (ISS), *Peace and Security Council Report no. 21*, Addis Ababa, April 2011, p. 3.

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

<sup>4</sup> Constitutive Act of the African Union (2000), preamble para. 9.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*, article 3(f).

<sup>7</sup> *Ibid.*, article 4(o).

decided to establish the AU, they adopted a much more interventionist stance in the organisation's legal frameworks and institutions. Apropos of the legal framework, for example, the Constitutive Act opined that "the Union had a right 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."<sup>8</sup> Also, member states were given a right to request intervention from the Union in order to restore peace and security.<sup>9</sup> Finally, the member states of the Union were enjoined to respect democratic principles, human rights, the rule of law and good governance.<sup>10</sup> These principles were a marked departure from Charter of the OAU.

With regard to institutions, the AU sought to create robust conflict resolution organs to replace those of the moribund OAU. During the formative process of the AU, the Assembly of Heads of State and Government of the OAU meeting in Lusaka, Zambia in July 2001, adopted Decision 8 on the implementation of the Sirte Declaration (on the establishment of the AU, adopted in 1999), including the incorporation of other Organs. It was on the basis of this decision and Article 5(2) of the Constitutive Act that the AU PSC replaced the Central Organ of the OAU Mechanism for Conflict Prevention, Management and Resolution, established under the 1993 Cairo Declaration. The Cairo Declaration had "signalled Africa's determination to resolve its own problems."<sup>11</sup> But the OAU's Mechanism on CPMR was not effective at all; as it did not deal, for example, with the 1994 genocide in Rwanda, nor the crises in Liberia and Sierra Leone.

The Protocol relating to the Establishment of the PSC was adopted by the inaugural meeting of the Assembly of the Union held in Durban, South Africa in July 2002 and entered into force on 26 December 2003. Due to the conflicts on the continent, the PSC has been compelled to deal mainly with country-focused issues and thus, when the crisis in Libya broke out, it was immediately seized of the matter.

### ***The 22 February PSC Communiqué***

At its 261<sup>st</sup> sitting held on 23rd February 2011, the PSC discussed the crisis in Libya and, in the ensuing communiqué, took a decision to "urgently dispatch a mission of Council to Libya to assess the situation in the ground."<sup>12</sup> However, there was no mission which was dispatched "urgently". The failure of the PSC to act without delay in the crisis set the basis upon which it came to be marginalized by the UN SC. Had the PSC immediately established the fact-finding mission, it would have been very difficult for the UN SC to ignore it in the conflict. Besides this, the Charter of the UN recognizes the existence of regional arrangements or agencies to deal with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided the activities undertaken are consistent with the purposes and principles of the UN.<sup>13</sup> Moreover, regional arrangements are enjoined to make every effort to achieve

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<sup>8</sup> *Ibid.*, article 4(h).

<sup>9</sup> *Ibid.*, article 4(j).

<sup>10</sup> *Ibid.*, article 4(m).

<sup>11</sup> Christopher J. Bakwesegha, "The Need to Strengthen Regional Organizations: A Rejoinder", *Security Dialogue*, 24(4), 1993, p. 378.

<sup>12</sup> African Union (AU), *Communiqué of the 261<sup>st</sup> Meeting of the Peace and Security Council*, Addis Ababa, para. 6.

<sup>13</sup> Article 52(1).

peaceful settlement of local disputes through such regional arrangements before referring them to the Security Council.<sup>14</sup> Thus, the failure of the PSC to immediately establish the fact finding mission paved the way for the UN SC to pull the rug from the feet of the AU in the Libya crisis.

The AU having failed to act without delay allowed the UN SC to seize the initiative. On 26th February 2011, acting under Chapter VII, the UN SC passed Resolution 1970 which effectively precluded the AU from being the lead organization to deal with the Libya situation.<sup>15</sup> Once this resolution was passed, it meant that whatever the AU would do in future regarding the Libyan situation, would be secondary to what the UN SC did; as it must be remembered that the UN SC has the primary responsibility for maintaining international peace and security.<sup>16</sup>

### ***The 10th March PSC Communiqué***

The next meeting of the PSC on Libya on 10 March 2011 was held against the backdrop of fast-developing events, as Qaddafi's forces were threatening to overrun the rebel stronghold of Benghazi, while there were calls to the UN SC from the other regional bodies (such as the Arab League) to impose a no-fly zone on Libya to protect civilians. One would have expected the PSC, faced with the deteriorating situation in Libya to act decisively, for example, by requesting the intervention from the Union in order to restore peace and security.<sup>17</sup> However, the PSC did not do such a thing, and instead, took two important decisions which also came to be overtaken by the UN SC action. First, it established a roadmap through which the Libya crisis could be resolved, including calling for: urgent African action for the cessation of all hostilities; cooperation with the competent Libyan authorities to facilitate the timely delivery of humanitarian assistance to the needy populations; protection of foreign nationals, including African migrants living in Libya; and adoption and implementation of political reforms necessary for the elimination of the causes of the current crisis.<sup>18</sup> Secondly, the PSC established an AU High Level *ad hoc* Committee (hereinafter '*ad hoc* Committee') on Libya comprising five heads of state and government, together with the chairperson of the Commission.<sup>19</sup> The committee was mandated to: engage with all the parties in Libya and to continuously assess the evolution of the situation on the ground; facilitate an inclusive dialogue among the Libyan parties on the appropriate reforms; and, engage AU's partners, in particular the Arab League (AL), Organisation of Islamic Conference (OIC), the European Union (EU) and the UN to facilitate coordination of efforts and seek their support for the early resolution of the crisis.<sup>20</sup> However, as the subsequent events were to show, the two decisions were overtaken by events happening elsewhere.

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<sup>14</sup> Article 52(2).

<sup>15</sup> UNSC, Resolution 1970, S/RES/1970 (2011), 26 February 2011.

<sup>16</sup> Article 24(1) UN Charter.

<sup>17</sup> Article 4(j) of the Constitutive Act of the AU states: "The right of the Member States to request intervention from the Union in order to restore peace and security."

<sup>18</sup> AU, *Communiqué of the 265<sup>th</sup> Meeting of the Peace and Security Council, PSC/PR/COMM.2 (CCLXV)*, 10 March 2011, para. 7.

<sup>19</sup> *Ibid.*, para. 8. The five were named as: Congo-Brazzaville; Mali; Mauritania; South Africa and Uganda.

<sup>20</sup> *Ibid.*



In the subsequent days after the establishment of the *ad hoc* Committee, the UN SC passed resolution 1973, which authorised member states that have notified the UN Secretary General, acting nationally or through regional organizations or arrangements, and acting in cooperation with the UN Secretary General, to “take all necessary measures” to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi.<sup>21</sup> This paved the way for military attacks against Libya by the western powers. The resolution also imposed a no-fly zone over Libya, which meant that the *ad hoc* Committee could not travel to the country without UN authorisation.

Whilst since passing resolution 1973 the UN SC has not passed any other resolution on Libya,<sup>22</sup> various institutions of the AU continued to be seized of the situation in Libya. For example, at its 10<sup>th</sup> meeting held on 12 May in Addis Ababa, the AU’s Panel of the Wise expressed deep concern at the situation in the country. It thus called for an immediate and complete ceasefire, and an end to all attacks on civilians.<sup>23</sup>

## Observations

### *Arab and African unease at the UN/NATO intervention*

In its response to the Libya crisis, the UNSC appeared to give priority to the Arab League over the AU. But both organisations eventually came to feel as though their views were not heard. Resolution 1973 explicitly recognized the important role of the Arab League states in matters relating to the maintenance of international peace and security in the region.<sup>24</sup> The Council only “took note” of the AU PSC’s decision to send the *ad hoc* Committee to Libya in its operative declaration of the resolution.<sup>25</sup> In other words, the resolution recognized the primacy of the Arab League over the AU in the Libya crisis. Appearing on the BBC programme, Hard Talk on 25 March 2011, Jean Ping the Chairperson of the AU Commission decried the sidelining of the AU in the Libya crisis.<sup>26</sup> He raged against the fact that the international community was not consulting the organisation. He said, “Nobody [has] talked to us, nobody has consulted us.” Asked if he felt that the AU was being ignored, he answered, “totally, totally.” Despite the acknowledgement of its role, the Arab League also became concerned with the military action in Libya once it started. In a statement on 20 March 2011, the League’s Secretary General Amr Musa issued a strong statement claiming that the air strikes went beyond the scope of the resolution to implement the no-fly zone.<sup>27</sup> He said he was concerned about civilians being hurt in the bombing. This raised serious anxiety over the commitment of the League’s resolve and the

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<sup>21</sup> UN SC, Resolution 1973, S/RES/1973 (2011), 17 March 2011, para. 4.

<sup>22</sup> The UN Secretary General Ban Ki Moon has continued to emphasise the UN’s leading role to resolve the Libya crisis. He observed that ‘there are many actors and the UN is playing a central coordinating role.’ Cited in ISS, *Peace and Security Council Protocol no. 25*, August 2011, p. 10.

<sup>23</sup> ISS, *Peace and Security Council Protocol no. 24*, July 2011, p. 9.

<sup>24</sup> Resolution 1973, para. 5.

<sup>25</sup> *Ibid.*, para. 2.

<sup>26</sup> BBC Hard Talk, ‘AU ‘ignored’ over Libya crisis’, 25 March 2011 at <http://news.bbc.co.uk/2/hi/programmes/hardtalk/9436093.stm> (accessed on 27 March 2011).

<sup>27</sup> Cited in ISS, *Peace and Security Council Report no. 21*, p. 7.

durability of the international unity in the Libya crisis. So, while it was clear that Gaddafi had few friends, both Arab and African states were uneasy at the scale of the North Atlantic Treaty Organization (NATO) intervention.

### ***Lack of AU commitment to peacekeeping***

However, the talk of “African solutions to African problems” has not been backed with serious resources by the African countries in order to carry it through. So far, the record of AU peacekeeping is still wanting.<sup>28</sup> Yes, the AU in total departure from the OAU has intervened in many more crises in Africa than its predecessor organisation. However, the chronic failure to raise enough financial and human resources to conduct such operations has been embarrassing to the organisation. A few examples will suffice here. When the crisis in Darfur, Sudan began in 2003, the AU decided to send in a 7,000 strong Observer Mission in Darfur.<sup>29</sup> The total budget of the force of US\$26 million was largely funded by the donors.<sup>30</sup> This prompted then chairperson of the AU Commission Alpha Konare to declare that “it is my sincere hope that AU member states will also contribute to the funding...”<sup>31</sup> This was not to be, prompting analyst Tim Murithi to opine that “the AU effort [left] a lot to be desired.”<sup>32</sup> In the end, the AU was forced to concede UN’s intervention in the crisis by the establishment of the UN/AU Hybrid Mission in Darfur (UNAMID).

Somalia possibly represents a test case for AU peacekeeping as the UN has been reluctant to establish a mission in the country.<sup>33</sup> The AU Mission in Somalia (AMISOM) was first deployed in March 2007 by a decision of the AU PSC of 19 January 2007. Subsequently, the mission got the support of the UN SC under resolution 1744. Initially, a number of countries came forward to contribute troops to the mission, including Nigeria, Ghana, Malawi, Burundi and Uganda. However, only Burundi and Uganda actually raised troops for the mission. Nigeria and Ghana developed cold feet about the mission<sup>34</sup> while Malawi failed to contribute to the mission because of internal politics within the country. The president lost his majority in parliament and thus could not convince anyone that it was in the country’s interest to participate in AMISOM.<sup>35</sup>

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<sup>28</sup> cf. In November 1981, the OAU decided to send a peacekeeping force to Chad. The force whose estimated cost was between USD 150-300 million annually was under-funded and thus the mission was a total failure. See Amadu Sesay, ‘The limits of Peace-keeping by a Regional Organisation: The OAU Peacekeeping Force in Chad’, *Conflict Quarterly*, Winter 1991, pp. 7-26.

<sup>29</sup> This was also called the AU Mission in Sudan (AMIS).

<sup>30</sup> Among the donors included the European Union (EU) contributing Euros 12 million and the United Kingdom USD 3 million.

<sup>31</sup> Report of the Chairperson of the Commission on the situation in Darfur, 25 May 2004.

<sup>32</sup> Tim Murithi, “The African Union’s evolving role in peace operations: the African Union Mission in Burundi, the African Union Mission in Sudan and the African Union Mission in Somalia,” *African security Review*, 17(1), 2008, p. 77.

<sup>33</sup> Previously in early 1990s, the UN established the United Nations Operation in Somalia I (UNOSOM I) and UNOSOM II. But these missions were finally pulled out of the country in 1995. Since then the UN has been reluctant to establish another mission in the country.

<sup>34</sup> Privately the two countries complained that the mission was a sub-standard one i.e. not to the level of a UN peace keeping mission.

<sup>35</sup> See Kasajja Phillip Apuuli, ‘The UN-Led Djibouti Peace Process for Somalia 2008-2009: Results and Problems’, *Journal of Contemporary African Studies*, 28(3): 2010, p. 268.

AMISOM has suffered from chronic lack of funds and were it not for the support of the EU, the mission would even have failed to be deployed in the first place.<sup>36</sup>

But there has been a silver lining in the AU's efforts at peace keeping. The AU Mission in Burundi (AMIB) that was launched in 2003 was judged a success. It was wholly initiated, planned and executed by the AU members.

### ***Divisions among AU members***

The Libya crisis exposed the fissures within the AU members and thus the failure of the organization to mount a united front in the matter.<sup>37</sup> In this regard, three positions emerged among the members to deal with the situation. The first position advanced by *inter alia* Uganda, South Africa and to an extent Kenya,<sup>38</sup> accepted UN Resolution 1973 in principle but was critical of the way the NATO countries were conducting their operations in Libya. To these countries, NATO's operations went beyond the contours of Resolution 1973 and in effect were part of "regime change doctrine". The second position advanced by the likes of Rwanda, supported the NATO attacks on Libya. President Kagame in particular, is reported to have argued that "the Libyan situation had degenerated beyond what the AU could handle". The third position, advanced by the likes of Zimbabwe, Algeria and Nigeria opposed NATO's operation in Libya and viewed it as Western countries using the UN to get rid of the Qaddafi regime. In fact, President Mugabe has accused NATO of being a "terrorist organization" fighting to kill Qaddafi.<sup>39</sup> So with these varied positions, the AU could not mount an effective intervention in the crisis.<sup>40</sup>

### ***Failure to take a position on the future of Qaddafi***

The AU in its roadmap failed to pronounce itself on the future of Qaddafi in and after the negotiation of the political solution to the crisis. While, western permanent members of the UN SC – France, United Kingdom (UK) and the United States – were resolute in their demand that Qaddafi relinquish power,<sup>41</sup> the AU was ambivalent on the issue at best. Asked if Qaddafi had to leave power, President Jacob Zuma was of the view that "if he (Qaddafi) had to go, the issues to

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<sup>36</sup> The EU supported the initial deployment of AMISOM with Euro 15 million.

<sup>37</sup> See Charles Onyango Obbo, 'No-fly zone strikes terror in leaders' hearts', *The East African*, 28 March 2011 available at <http://allafrica.com/stories/201103280142.html> (accessed 25 August 2011).

<sup>38</sup> Kenya's Vice President, Kalonzo Musyoka was quoted observing in Parliament that "he preferred negotiations with Qaddafi rather than the aerial bombardments by the French, British and United States forces." He said this was his personal view and thus it was not clear if it was that of the government too. Cited in *ibid*.

<sup>39</sup> Radio Netherlands Worldwide (RNW), 'Zimbabwe: Dictatorship out of fashion', 23 August 2011. Available at <http://allafrica.com/stories/201108240023.html> (accessed 26 August 2011).

<sup>40</sup> cf. The indictment of President Bashir by the International Criminal Court (ICC) in March 2009 also elicited varied positions within the AU. Whilst the position of the organization is not to cooperate with the court to execute the arrest warrant, individual members of the organization such as Botswana, South Africa and Uganda broke ranks and stated that they would arrest the Sudanese leader and hand him to the ICC, if they ever get a chance. Thus the AU's position on the matter sounds hollow.

<sup>41</sup> BBC News, 15 April 2011. See story 'Libya letter by Obama, Cameron and Sarkozy.' The leaders observed that "... it is impossible to imagine a future for Libya with Qaddafi in power ... Qaddafi must go and go for good."

be addressed were when, where and how that happens.”<sup>42</sup> At the 17<sup>th</sup> AU Summit meeting in Malabo, Equatorial Guinea, some African officials announced that Qaddafi should leave power for a democratic transition to take place. The UK’s Minister of the UN and Africa Henry Bellingham was quoted saying that most foreign ministers at the Malabo meeting were telling him privately that they felt Qaddafi should go.<sup>43</sup> But the final decisions of the Assembly on Libya called for no such action. Moreover, being the only major organisation that had not called for the imposition of sanctions or a no-fly zone on Libya, the AU carried very little credibility especially with the rebels. This could partly explain why they were reluctant to buy into its political roadmap.

This ambivalence on the role of Qaddafi hampered the AU’s mediation efforts. After the establishment of the *ad hoc* Committee, the AU was trying to sell its roadmap to resolve the crisis in Libya to the two main protagonists – the Qaddafi government and the TNC. The Committee was able to travel to Libya from 9 to 11 April 2011. It met with Qaddafi on 10 April, who accepted the AU roadmap on Libya including the specific issue of “the ceasefire and deployment of an effective and credible monitoring mechanism.”<sup>44</sup> But when the Committee travelled to Benghazi the next day to meet the TNC, it was a different matter. Despite extensive discussions between the Committee and the TNC there was no agreement “due to a political condition put forward by the latter as a prerequisite for the urgent launching of discussions on the modalities for a ceasefire.”<sup>45</sup> The political condition advanced by the TNC was that it could not negotiate an end to the crisis unless Qaddafi relinquished power. According to the TNC, Qaddafi and his government had lost all legitimacy to govern the country and thus could not therefore be interlocutors in finding a solution to the crisis. Thus, the TNC refused to agree on the crucial issue of the cessation of hostilities.

Nevertheless, the AU PSC and the *ad hoc* Committee have continued to pursue the implementation of the roadmap. At the end of May 2011, President Zuma, a member of the Panel travelled to Libya and met both belligerents. However, whilst Qaddafi’s government accepted his call to adopt the AU roadmap as the only solution to resolve the conflict, the TNC rejected the proposal arguing that it could not accept any settlement which did not entail the departure of Qaddafi. Also, ahead of the 17<sup>th</sup> AU Summit meeting in Malabo, Equatorial Guinea, the *ad hoc* Committee met twice, in Pretoria on 26 June and in Malabo on 30 June, and adopted a Framework Agreement on a Political Solution to the Crisis in Libya. The proposal was aimed at bringing the crisis to an end, ensure the effective protection of the civilian population including the provision of humanitarian support, and ushering in a political process that will make it possible to meet the legitimate aspirations of the Libyan people to democracy, rule of law, good governance and respect for human life. The framework was endorsed by the Assembly of Heads

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<sup>42</sup> ISS, *Peace and Security Council Protocol no. 25*, p. 10.

<sup>43</sup> ISS, *Peace and Security Council Protocol no. 24*, p. 9.

<sup>44</sup> AU, *Peace and Security Council 275<sup>th</sup> Meeting, PSC/MIN/COMM.2 (CCLXXV)*, 26 April 2011, para. 6. See also ISS, *Peace and Security Council Protocol no. 22*, ISS: Addis Ababa, May 2011, p. 11 (observing that Qaddafi fully accepted the AU’s proposed roadmap).

<sup>45</sup> ISS, *Peace and Security Council Protocol no. 22*, p. 11.

of State and Government at the Malabo Summit and was presented to both parties in the Libya crisis.<sup>46</sup>

### ***The PSC was overtaken by events***

On Sunday 21 August, rebels launched an offensive to take Tripoli from Qaddafi's forces. They made rapid progress and by the end of the week had overrun much of the capital although sporadic fighting continued in parts of the city. Whilst Qaddafi went into hiding, he continued making radio broadcasts urging his followers to fight and take back the city. As at the time of completing this piece, the AU *ad hoc* Committee and PSC were meeting in Addis Ababa Ethiopia to craft a response regarding the events in Libya.<sup>47</sup> In the final communiqué of its 291<sup>st</sup> meeting, the PSC declined to recognize the TNC as the legitimate authority in Libya.<sup>48</sup> Citing Article 30 of the Constitutive Act of the AU which bars governments which come to power through unconstitutional means from participating in the activities of the organisation, the PSC reaffirmed its stand that all the stakeholders in Libya come together and negotiate a peaceful process.<sup>49</sup> This position would involve the inclusion of elements from the Qaddafi regime to be part of the new government.<sup>50</sup> But again the fissures that have characterised the AU's intervention in the crisis continued. Whilst the *ad hoc* Committee and PSC deliberated on the need for the formation of an all-inclusive transitional mechanism to lead Libya in the interim as a new Constitution is drafted to provide for elections, the governments of Ethiopia and Nigeria recognised the TNC as the authority in charge of Libya.<sup>51</sup> Nigeria's move irked South Africa that the Secretary General of the African National Congress (ANC), Gwede Mantashe criticised the country by declaring that it was "jumping the gun in recognising the rebels as representatives of Libya."<sup>52</sup> In reply, President Goodluck Jonathan affirmed that his government stood by the recognition of the NTC (sic) and that Nigeria's foreign policy "would not be dictated to her by the government, party or opinion of another country."<sup>53</sup> Rwanda has also broken ranks with the

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<sup>46</sup> AU, 'Official Presentation by the AU to the Libyan Parties of a Proposal on a Framework Agreement for a Political Solution to the Crisis in Libya,' *Press Release*, Malabo, 1 July 2011. See also AU, PSC 285<sup>th</sup> Meeting, *Press Statement*, PSC/PR/PS/2. (CCLXXXV), 13 July 2011.

<sup>47</sup> Tabu Butagira, 'Libyan rebels corner Qaddafi', *Daily Monitor*, 26 August 2011, p. 4. See also Jenny Vaughan, 'AU calls for 'inclusive' transition in Libya', *Agence France Press* (AFP), 26 August 2011.

<sup>48</sup> AU, Communiqué of the 291<sup>st</sup> Meeting, Addis Ababa, 27 August 2011.

<sup>49</sup> *Ibid.*, para. 5.

<sup>50</sup> The South African government issued a press release upon President Zuma's return from the Addis Ababa meeting and explained that "there is more than one group that claims authority and support in Libya, and a solution will need to include all of them. They must all come together and negotiate a peaceful process that will lead to the formation of an inclusive transitional government and democracy in Libya." See South African Government (Pretoria), 'President Jacob Zuma returns from African Union PSC meeting', 27 August 2011 at <http://allafrica.com/stories/201108270016.html> (accessed 30 August 2011).

<sup>51</sup> Tesfa-Alem Tekle, 'African union snubs new revolutionary masters', *Sudan Tribune*, 26 August 2011 at <http://allafrica.com/stories/201108270009.html> (accessed 28 August 2011).

<sup>52</sup> Paul Ohia and Mamilola Oyedele, 'South Africa kicks against country's recognition of Libyan rebels', *This Day*, 24 August 2011 at <http://allafrica.com/stories/201108250732.html> (accessed 28 August 2011).

<sup>53</sup> Ahamefula Ogbu, 'Jonathan-No going back on recognition of new government in Libya', *This Day*, 26 August 2011 at <http://allafrica.com/stories/201108260797.html> (accessed 28 August 2011).

AU position by reiterating its unequivocal support to the TNC.<sup>54</sup> Whilst altogether there are eleven AU members that have recognised the TNC, there is another 41 states that have declined to recognise it thus further deepening the divisions within the organisation in the Libya crisis.

### **Conclusion**

The formation of the AU was precisely so that there could be pan-African solutions for African problems. The AU's institutions, powers and objectives are meant to amount to a fundamental shift away from the constraints imposed on actions under the OAU charter.<sup>55</sup> But from Zimbabwe to Libya, the AU has been as much of a paper tiger as the old OAU, which was derided as little more than a "dictator's club." First, the AU was marginalised in the Libya crisis by the UN SC intervention. The ignoring of the organisation could be explained by the fact that its own members who are currently sitting in the Council as non-permanent members, voted for resolution 1973. In effect thus, the AU acquiesced and accepted the Council's action(s). By crying wolf thereafter showed the disingenuousness of the organisation.

Secondly, the AU's interventions in member states to resolve conflicts has suffered from inadequate and sometimes lack of financial resources. The failure to fund the AU Observer Mission in Darfur, Sudan is very instructive. The AU due to lack of financial resources was forced to depend on donations to fund the mission and eventually was forced to concede UN's intervention there.

Thirdly, the organisation has been saddled with problems of fissures within its ranks that even when it has intervened in a member state, most often, the intervention is feeble. Its members have not often spoken with one voice on issues concerning the continent. As I have shown above, three positions emerged among the AU members in the Libyan crisis which resulted in the much touted AU Roadmap to resolve the crisis being still born. The recognition of the TNC as the legitimate authority in Libya has further deepened divisions within the AU member states, with some supporting and others opposing the recognition.

Based on the above observations therefore, I can conclude that whilst it should have been the AU to organise the defence of the Libyan people against Qaddafi, the organisation by its own commissions and omissions, has demonstrated that it is far from being an "African solution to Africa's problems".

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<sup>54</sup> *The New Times*, 27 August 2011. See story 'Rwanda urges AU to back NTC', at <http://allafrica.com/stories/201108270005.html> (accessed 29 August 2011).

<sup>55</sup> Kofi Oteng Kufor, "The collapse of the OAU: Lessons from Economics and History," *Journal of African Law*, 49(2), 2005, p. 132.