

AFRICAN MULTILATERAL RESPONSES TO THE CRISIS IN ZIMBABWE: A RESPONSIBILITY TO PROTECT PERSPECTIVE

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Abstract

The Responsibility to Protect (RtoP) represents one of the key normative developments towards mitigating global human rights violations. Normatively, the RtoP advances the notion of responsible sovereignty by obligating states to protect their people from humanitarian catastrophe and emphasises the residual role of the international community in the event of lack of capacity or the state's unwillingness to protect. It is in this context that this article examines the RtoP mitigation measures instituted by the Southern African Development Community (SADC) and the African Union (AU) as regional multilateral institutions in responding to the crisis in Zimbabwe. The article considers the extent to which the responses have been guided implicitly or explicitly by RtoP principles. The evolution and consolidation of the humanitarian crisis has been considered, with specific focus on the human security impact of government policies, in particular, Operation *Murambatsvina* (the destruction of what were deemed illegal housing structures in major cities in Zimbabwe in May 2005) and the unprecedented 2008 electoral violence as a result of increased militarisation of governance structures. Debate on the applicability of RtoP to the crisis in Zimbabwe is thus located within the broader framework of the normative theories of international relations that forms the basis of RtoP. The article argues that escalation of the government induced humanitarian crisis was as a result of lack of timely or effective responses by both the AU and SADC. Again, the AU and SADC responses were significantly influenced by diverse, often mutually exclusive, interpretations of the main causes of

the crisis. Another salient finding is the extent to which politicisation of RtoP and lack of political will undermined RtoP operationalisation.

1. Introduction

The 21st century dispensation in Zimbabwe may be described as the crisis decade because the country moved from one crisis to another. Certain policy miscalculations escalated both economic, political, and social crises in the Zimbabwean state. Zimbabwe's adoption of anti-inflationary economic policies in the 1990s such as the Economic Structural Adjustment Programmes (ESAP) and privatisation of public enterprises led to massive redundancies, a decline in the income of workers and worsening living standards (Parsons 2007; Saunders 1996). While shrinkage in public service jobs seriously affected school-leavers and graduates from colleges and universities, the introduction of user-fees in educational institutions and the health sector further impacted on most urban working-class families, and the peasantry. Thus, a reversal of social sector gains in the early years of independence became obvious. Nationwide discontent, particularly between 1996 and 1999 resulted in food riots, looting and disruption of economic activities (Onslow 2011). The Zimbabwean state responded to these developments with brutal force, characterised by beating, torture and arbitrary arrests of striking citizens. The consequence of this brutal reaction was political mobilisation by the opposition and the fatal eroding of the Zimbabwe African National Union-Patriotic Front (ZANU-PF)'s political dominance in the 2000 elections (Reeler 2009; Zimbabwe Human Rights NGO Forum 1998).

Beside series of trade union strikes, the Zimbabwean state also wrestled with meeting continued demands of the War Veterans' Association, whose members felt marginalised and excluded in the political and economic processes of the state. Intense pressure from the war veterans forced the ZANU-PF led government to concede to their demands in 1997 through populist policy response whereby large and unbudgeted pay-outs of Z\$50 000 and a monthly pension of Z\$2 000 were awarded to each of the estimated 70 000 former liberation fighters (Mlambo and Raftopoulos 2010). This policy produced a serious negative effect on the Zimbabwean political economy. Furthermore, military intervention in the protracted conflict of the Democratic Republic of the Congo (DRC) in 1998 further stressed Zimbabwe's budgetary and fiscal capacities. As Simba Makoni succinctly noted Zimbabwe spent the equivalent of US\$200 million on the DRC intervention. This repres-

ented a significant percentage of its gross domestic product (GDP). As a result of poor economic and political choices, the government of Zimbabwe's legitimacy was slowly but surely eroded.

Worsening standards of living and growing dissatisfaction with the Zimbabwean government, cemented a civil society coalition to challenge Mugabe's legitimacy as leader of the country (Gevisser 2009). The need for collective action among civic groups, such as the Zimbabwe Congress of Trade Unions (ZCTU), the National Constitutional Assembly (NCA), student union groups, and the business community, culminated in the formation of the Movement for Democratic Change (MDC) in September 1999 (Bratton and Masunungure 2008). The emergence of the MDC as an equal power contender forced the Mugabe regime to use military force as a strategy for forcing civilian compliance. Increased militarisation of governance structures led to increased crises especially electoral violence during the 2002, 2005 and 2008 elections. The destruction of what were deemed illegal housing structures in major cities in May 2005 under the guise of Operation *Murambatsvina/Restore Order* was among scorched earth policies meant to punish perceived MDC supporters. Operation *Murambatsvina* and the 2008 pre- and post-election violence did not only result in forced displacement of people, destruction of urban sources of living and property, but also politically related killings, beatings, torture, arbitrary arrests and detentions of perceived 'enemies of the state'.

The Zimbabwe crisis degenerated into a serious humanitarian catastrophe and this occurred concurrently with the fast-moving and highly politicised debate on the RtoP. In this regard, this article seeks to examine regional multilateral institutions' handling of the Zimbabwean humanitarian crisis. The extent to which multilateral institutions' responses were guided implicitly or explicitly by RtoP principles, namely prevention and reaction is discussed. The efficacy of the instruments invoked by the AU and SADC in delivering on their multilateral mandate of prevention and reaction in the Zimbabwe crisis is equally highlighted and examined. The article contends that inadequacies or deficiencies inherent in the implementation of Pillar One of the RtoP concept by the Zimbabwean state necessitated the African regional multilateral institutions' to resort to Pillar 2 of the RtoP norm. Thus, a further objective of ascertaining the actual instruments or tools that were invoked by the two African regional multilateral institutions in operationalising their responsibilities to prevent and react is also pursued. The article is structured into five sections including the introduction. The second section provides conceptual clarification of the normative principle of RtoP and

how it is connected to the broader notion of human security and the ethical considerations in the discourse of international politics. The third section examines the scope and nature of the humanitarian catastrophe in Zimbabwe, while the fourth section discusses the African regional multilateral responses to the crisis as informed by the RtoP norm. The fifth and last section concludes the discussion by examining the efficacy of RtoP as it was applied to the crisis in Zimbabwe.

2. The international norm of RtoP

The protection of populations at risk is a historical concern of the international community and is addressed in various legal documents and customary provisions. Article 24 of the United Nations (UN) Charter bestows pivotal responsibility on the UN Security Council to preside over the maintenance of international peace and security, and the Charter also recognises the legitimate, if ancillary, role of regional organisations. In the course of the evolution of international humanitarian law (IHL), the discourse was informed by the international community's adherence to legal obligations under human rights covenants and treaties, the evolution of municipal law, and the developing practices of states, regional organisations, and the UN Security Council itself.

The most recent codification within the discourse of international humanitarian obligations is, however, represented by a nascent norm of RtoP. Fundamentally, RtoP entails the reconceptualisation of state sovereignty as a 'responsibility' rather than a 'right' as espoused by the original Westphalian concept (Thakur 2011; Evans 2008; ICISS 2001). The essential contention is that the legal principle that runs concomitant to state sovereignty, namely 'non-intervention', should never be allowed to shield crimes against humanity. For this reason, it is emphasised that sovereign states have a primary obligation to protect populations within their jurisdiction from catastrophic harm caused by internal wars, insurgency and ethnocentric violence, to name but a few scenarios. The global community also has a continuing moral duty to assist states with capacity-building in order to meet their domestic responsibilities in this regard. However, in crisis situations where the state in question is unable or unwilling to protect its own people, the principle of non-intervention should yield to that of responsibility borne by the wider international community (World Summit Outcome Document 2005).

As a more nuanced contribution to the debate on humanitarian intervention, RtoP does not merely focus on the international community's reaction to crises but, more importantly, embraces a continuum of

continuous vigilance on matters of human security. In this regard, three key responsibilities are bestowed on states in the global society of nations. Firstly, a 'Responsibility to Prevent', which entails a duty to address the root causes, as well as direct consequences, of internal conflicts and other man-made catastrophes. Secondly, a 'Responsibility to React', that is, a duty to respond to situations of serious humanitarian crises with appropriate (and, in some cases, unilateral) measures, such as sanctions, while in more extreme cases, military intervention for the protection of civilians in life-threatening situations. Finally, there is a 'Responsibility to Rebuild', which is meant to provide, after humanitarian intervention, assistance with recovery, reconstruction, reconciliation, and addressing of the causes of the crisis the intervention was designed to arrest or avert, so as to prevent a possible recurrence (ICISS 2001: x). These triad components of RtoP are essential for a holistic, legitimate and accountable approach to human security

Theoretically, the notion of RtoP is linked to the re-emergence of ethical considerations in the practice of humanitarian intervention in the post-Cold War political order. This can be broadly situated within normative theory in international politics. The normative paradigm as a branch of international political theory, as pointed out by Frost (2000: 11), "... proffers simple and practical answers to complex issues in the conduct of international relations, more specifically the vexing question on what to legitimately do when a state infringes on the rights of its people". Despite changing the vocabulary of 'humanitarian intervention' to 'RtoP', the normative value of RtoP is that it pins the responsibility to protect citizens to the state at the national level, and to the global community through the UN Security Council at the international level. The UN Security Council is, therefore, considered the epicentre of RtoP at the international level. In this regard, Thakur (2007: 247) observes that RtoP is more of a linking concept that bridges the divide between the international community and the sovereignty entitlements of states. In essence, RtoP represents the reinterpretation of the sovereignty-human security nexus.

In order to justify the entry point of the international community into the domestic affairs of those states defaulting on their duties and obligations, the RtoP further derives insights from the 'English School' of international relations or the International Society theory. The theory places emphasis on "shared norms and institutions within global society". This tradition gives a human security focused approach to the praxis of intervention for human protection. The normative contribution of the 'international society theory' lies in its call for national responsibility, inter-

national responsibility, and an overarching humanitarian responsibility. Armstrong (2014) elaborates on international responsibility, noting that states derive their foreign obligations from their membership of international society. This involves upholding citizens' rights as beneficiaries of government and, as defined by international law, government as a duty-bearer to citizens under its protection. They note how this international obligation is complemented by humanitarian responsibility in which, by virtue of existing in a community of humankind, states should exhibit fundamental respect for human rights obligations not only inside their own countries but also in a global context (Jackson and Sorensen 2016).

From a case-based approach, the Zimbabwean case involved evidence of large-scale, government-orchestrated human rights abuses, and attracted significant international attention, albeit with vastly different outcomes and approaches. More so, the Zimbabwe crisis attracted RtoP focused analysis because it was state induced and had both elements of violent and non-violent threats to the welfare of Zimbabwean people. There is strong evidence to show that the government of Zimbabwe abdicated on its duties and obligations under international law by inflicting unnecessary suffering on its people.

3. The humanitarian catastrophe in Zimbabwe

It is often assumed that governments pursue certain policies and actions in the interest of the state and its people. In reality, however, regime interests are often masqueraded as state interests, especially in developing African countries. In pursuing regime interests, states lose control of the direction of their policies and actions. Differently stated, every state action or policy is assumed pursued in the best interest of the state and its people, at least in principle. However, poor implementation, poor timing, insufficient resources among others, often derail the goals or objectives of state policies and actions. In this regard, well intended policies often end up producing unintended consequences. In the Zimbabwean context therefore, certain state policies and actions while intended for regime survival were disguised as state interests. While intended for a limited time, space and effect produced serious humanitarian crises and a long lasting effect on Zimbabwean politics, economy and society between 2000 and 2009. Implicated state actions and policies are subsequently considered.

3.1 Electoral related human rights abuses

ZANU-PF's defeat to the MDC in its bid to amend the constitution in February 2000 brought about near normalisation of electoral violence in Zimbabwe. The proposed new constitution was intended to empower the state to acquire land without compensation, to permit President Mugabe to seek two additional terms in office, and to grant government officials immunity from prosecution (Ploch 2010). The referendum defeat was the first post-independence electoral defeat for ZANU-PF, tarnishing the myth of its invincibility. The referendum defeat unsettled the government which reacted by purging the judiciary and mobilisation of ZANU-PF militias (Bratton and Masunungure 2008; Machakanja 2010). The most catastrophic outcome of the defeat was the invasion of farms through an operation code-named the *Third Chimurenga*, or *Jambanja*. The violent seizure of farms was spearheaded by war veterans, implicitly supported by the government which made little effort to prevent or punish acts of violence and intimidation (Stiff 2000). Human rights violations caused by land invasions spilled over into 2001 as the country prepared for the 2002 presidential elections.

While land invasion caused humanitarian crises, the crises escalated with the promulgating of repressive legislation such as the Public Order and Security Act (POSA) and the Access to Information and the Protection of Privacy Act (AIPPA). POSA was a mirror-image of the Law and Order Maintenance Act (LOMA) of the colonial minority regime that gave the police and security agencies the right to use all necessary force to suppress the opposition (Coltart 2007). The promulgation of POSA prior to the March 2002 presidential elections facilitated the harassment, intimidation, and torture of MDC supporters (Mapuva and Muyengwa-Mapuva 2014). AIPPA was used to prevent journalists from reporting on forced evictions, arbitrary arrests, beatings, torture, and politically inspired killings. The democratic media space and the freedom of assembly were constrained, if not entirely closed. Promulgation of repressive legislation culminated in the detention and arbitrary arrest of opposition party supporters, mainly from the MDC. In fact, MDC President, Morgan Tsvangirai, was detained on treason charges a week before the 2002 presidential elections. The use of these laws was even more extensive in the 2005 parliamentary elections, where it was reported that more than 600 MDC supporters were killed and many were detained without trial (Mapuva and Muyengwa-Mapuva 2014).

The promulgating of draconian laws and opposition resistance to

them resulted into full scale militarisation of Zimbabwean governance structures, increased state aggression and sustained gross human rights abuses. Rupiya (2005: 117-118) described this as "governance through [the] military" and it is characterised by the re-emergence of the Joint Operations Command (JOC) in 2000. The JOC has existed since independence, but after the *Gukurahundi* killings in the 1980s, it played a less active role in domestic politics. Besides being a non-statutory organ of governance in Zimbabwe, the JOC resurfaced as a critical actor in the 21st century politics of Zimbabwe. The JOC symbolised revival of the colonial system and a setback to national efforts to democratise the political system in Zimbabwe (Chitiyo 2009). It became obvious that the JOC, was acting as ZANU-PF's shadow politburo. It also confirmed allegations the JOC has always been at the centre of the formulation and implementation of government policies, including the "delimitation of [constituencies], voter registration, voter education, campaigning, manning command centres, and results announcements" (The Zimbabwean 2011: 4).

There are serious concerns over militarisation of governance and its implications for democracy particularly as state security apparatus presided over vote-rigging and voter intimidation, causing both physical violence and psychological harm (Bratton and Masunungure 2008). Conspicuous conducting of punitive and inhumane operations, including Operation *Makavhoterapapi* (translated as 'whom did you vote for') in April prior to, and effected after, the June 2008 run-off elections (Chitiyo 2009) was carried out by security agencies.

Military and security chiefs vowed not to tolerate any leader without liberation struggle background. In their jointly issued decree in January 2002 they vowed not to salute a president "lacking liberation war credentials" (The Zimbabwean 2011: 20). This position was reiterated by Army Chief of Staff, Major-General Martin Chedondo, in 2008 when he stated: "soldiers are not apolitical ... only mercenaries are apolitical" (The Zimbabwean 2011: 20). Brigadier-General Douglass Nyikayaramba also publicly declared his ZANU-PF political affiliation and vowed not to allow Morgan Tsvangirai, the MDC President, to rule Zimbabwe because he lacked liberation struggle background (The Zimbabwean 2011: 20). Securitisation of the state "resembles a party state duality, in which the security and military servicemen serve the party and not the state ... security forces are, essentially politicians in uniform" (Masunungure 2011: 85).

The militarisation of politics and the politicisation of the military in Zimbabwe led to the vilification of opposition politicians as 'sell-outs'

and impinged on the main task of the security forces, namely to respond to human security needs. Depiction of the opposition as 'sell-outs' stemmed from pre-independence liberation war discourse, whereby fellow black Zimbabweans who deserted the aims of the war of liberation in favour of supporting the Rhodesian minority regime, were labelled as 'sell-outs', translated as *Vatenges* in the Shona language (Marowa 2009). State-controlled media (Smiles 2006) also projected MDC supporters as Western puppets undermining the gains of the liberation struggle. Thus, a serious breakdown in civil-military relations and rapid decline in 'public trust' in Zimbabwe became apparent (Hendricks and Hutton 2009: 4).

Worrying features of the militarisation of governance structures in Zimbabwe included the emergence of youth militia. Following ZANU-PF's constitutional referendum defeat in 2000 and the subsequent electoral gains of the MDC in parliamentary elections, a new Ministry of Youth Development and Employment Creation was established, together with a National Youth Service, NYS (Nyakudya 2007). The chief objective, according to the architects of the NYS, was "... [to shape] youths in a truly Zimbabwean manner", and was meant to instil a sense of patriotism and responsible leadership, to prepare the youth 'for the world', and to "work for their country" (Solidarity Peace Trust 2003: 4). Since 2000, the NYS wing served as an auxiliary force for ZANU-PF. These could commit wanton human rights violations: beating, harassment of villagers, burning of houses and crops, as well as maiming with impunity.

The 2008 electoral violence was unprecedented because it was sanctioned by the executive order. President Mugabe had urged the people to establish "an almost military/war like leadership which will deliver" (Muleya 2008: 1). He declared war on the opposition party supporters when he infamously remarked: "We fought for this country and a lot of blood was shed. We are not going to give up our country because of a mere 'X' [a cross on a ballot paper]. How can a ballpoint fight with a gun?" (Muleya 2008: 1). These pronouncements, coupled with the spread of violence throughout the country, forced the MDC leader to pull out of the race. The March 2008 election marked the first time that the ruling ZANU-PF lost both the presidential and parliamentary contests, even in their traditional strongholds like President Mugabe's home constituency, Zvimba (Zimbabwe Election Support Network-ZESN 2008). The consequences of the loss were huge in terms of human rights violations as the Zimbabwe Association of Doctors for Human Rights (ZADHR) 2008 report showed. Security forces were re-

ported to have prevented ambulances carrying opposition victims from accessing medical facilities. Thus, state-orchestrated violence prompted retaliatory attacks in areas controlled by the MDC.

The systematic nature of the violence resulted in the displacement of people, destruction of property, particularly of suspected MDC supporters, torture, arson, murder, rape, intimidation, abductions, and disappearances (Masunungure 2011). There were also several reports of summary execution of polling agents in a campaign that brings to mind Prunckun's (2014: 178) description of a strategy: "kill one and frighten ten thousand". Impunity and selective or partial application of the rule of law meant that women were exposed to sexual harassment, indiscriminate torture, and beatings by war veterans and the youth militia. Since 2000, written material and video documentaries from Solidarity Peace Trust and other human rights focus groups reveal many cases where women were raped by veterans or militia, often in full view of their husbands and children (Masunungure 2011). What makes electoral violence an RtoP deserving case is the fact that human rights violations were perpetrated with the state security forces assuming the command responsibility.

Beside draconian laws, militarisation of governance structures and state orchestrated electoral violence, there was also Operation *Murambatsvina*. These legislations and the scorched-earth policies produced gross human rights abuses. A consideration of this is necessary in the context of RtoP discussion.

3.2 Operation *Murambatsvina*/Restore Order

Operation *Murambatsvina* in 2005 remains a policy blunder by the Zimbabwean government that had serious human security implications. It remained the most publicised, post-independence human rights violation by the Zimbabwean state and involved the demolition of what were alleged as 'illegal' urban settlements (Dzimiriri and Runhare 2012; Tibaijuka 2005). The government claimed the action was aimed at stopping money laundering, black market, and illegally erected home industries in the informal sector (Bracking 2005). According to an official report of the UN Special Envoy to Zimbabwe in 2005 Operation *Murambatsvina* took a particularly heavy toll on vulnerable groups, such as women, the elderly, child-headed households and people living with HIV/AIDS (Tibaijuka 2005). An estimated 70 000 people lost their homes, while 20 per cent of urban dwellers were affected either by loss of shelter or source of income, especially those unemployed who depended on the

informal sector for survival (Tibaijuka 2005). An estimated 80 per cent of people living with HIV/AIDS at the time were displaced and some re-located to remote places with no access to medical care (Ploch 2010).

What makes Operation *Murambatsvina* quite poignant from an RtoP perspective is the involvement of the military and other security forces in the destruction of houses and cottage industries. Operation *Murambatsvina* was launched in May 2005, at the peak of the winter season in Zimbabwe, thereby leaving uprooted victims without any shelter. Moreover, this took place when Zimbabweans were still reeling from the state-induced violence surrounding the 2005 parliamentary elections in which ZANU-PF lost to the MDC in most urban centres. Coincidentally, the ruling party lost the 2005 elections in the cities and Operation *Murambatsvina* was confined only to urban centres. The strange coincidence supports allegations that the action was a scorched-earth policy to punish urban-dwellers for abandoning ZANU-PF. The action was also intended to "prevent mass protests over the growing economic crisis" (Ploch 2010: 23).

Indiscriminate destruction of housing had a catastrophic impact, especially on lower socio-economic groups. Most of whom were taken, against their will, to camps run by the police and where conditions were dire, lacking water, proper shelter, and basic sanitary facilities (Amnesty International 2010). In terms of the Rome Statute of the International Criminal Court (ICC), evidence supports the argument that Operation *Murambatsvina* constituted a crime against humanity. It was state orchestrated and resulted in internal displacement of over 700 000 people. This fits into the ICC's definition of a forced displacement. Through the action, the Zimbabwean government also violated the International Bill of Human Rights and the African Charter on Human and People's Rights. Operation *Murambatsvina*, also contradicted Zimbabwe's constitutional provision on the rights of citizens to personal liberty and protection from inhumane treatment (Constitution of Zimbabwe: Act 30 of 1990, Section 5 as Amended; Act 14 of 1996, Section 6, as Amended).

Considering the political undercurrent of the action, it is argued that the Zimbabwean government deliberately caused and, subsequently, failed to meaningfully address the humanitarian ramifications of Operation *Murambatsvina*. International pressure over the "unintended consequences of Operation *Murambatsvina*", forced the government to launch a reconstruction project Operation *Garikai/Hlalani Kuhle* ('live well') in June 2005. Probably, in anticipation of the final report of the UN Special Envoy to Zimbabwe, Anna Kajumulo Tibaijuka. While the objective was to rebuild and readdress the harm caused by the demolition

of homes and shelters, the proposal was essentially unrealistic on the basis of a general state of lawlessness and serious economic meltdown (Fontein 2009). Thus, Solidarity Peace Trust reported in 2005 that houses constructed as part of Operation *Garikai/Hlalani Kuhle* were seized by the police and the military and few allocations to civilian population were done on the basis of party affiliation (Solidarity Peace Trust 2006). Thus, proof of ZANU-PF membership became an exclusionary tactic against opposition party members. Exclusion of opposition members from housing allocation was confirmed in a report by Amnesty International in 2010. The report showed that five years after Operation *Murambatsvina*, many uprooted victims have continued to live in plastic shacks and no-one, except for a few humanitarian organisations, cared about their plight.

Despite evidence of state orchestrated victimisation, exclusion and political repression, the UN Special Envoy to Zimbabwe failed to take drastic measures against the Zimbabwean government. In this regard, it is significant to discuss the regional multilateral responses to the Zimbabwean crisis within the context of RtoP.

4. The AU response to Zimbabwe's crisis

The logic behind the RtoP is to eliminate controversies surrounding intervention by advocating global multilateralism. Therefore, responses to the Zimbabwean crisis are analysed at regional multilateral level. This includes the AU and SADC of which Zimbabwe is a member. RtoP architects stress the critical role of regional and sub-regional institutions, in matters of human rights promotion. This is mainly on account of geopolitical proximity, shared historical (political) and cultural (often ethnic) experiences, detection of early-warning signs and provision of open communication channels. More importantly, when conflicts erupt, the chances for regional spill-over effects are practically inevitable, hence the need for regional stakeholders to invest in sustainable peace and stability (Kabau 2012). In the case of Zimbabwe, the AU and SADC were notable regional institutions that adopted multilateral responses to the crisis situation.

The AU's involvement in the Zimbabwean crisis finds legal justification in the AU Constitutive Act (2000), specifically Article 4(h), in which the organisation pledges to intervene in member states in the event of severe violation of human rights (Spies and Dzimiriri 2011; Mwanasali 2008). In addition, the AU Peace and Security Council (PSC), pursuant to Article 5(2) of the Constitutive Act, is mandated to deliver on

"collective security and early-warning arrangements to facilitate [a] timely and efficient response to conflict and crisis situations in Africa" (Mwanasali 2008). The crisis situation in Zimbabwe, therefore, offered a golden opportunity for the AU to live up to its mandate and put its words into action. Paradoxically, the AU adopted a cautious approach on Zimbabwe, fearing that a confrontational approach might prompt the country's withdrawal from the organisation (Gottschalk and Schmidt 2004).

In the aftermath of Operation *Murambatsvina* in 2005, the AU mandated Commissioner Bahame Nyandunga, the then Special Rapporteur for the AU-CHPR on Refugees, Asylum-Seekers and Internally Displaced Persons, to carry out a separate fact-finding mission on Operation *Murambatsvina*, between 30 June and 4 July 2005 (ReliefWeb 2005). Unlike the UN report, there was no condemnation of the *Murambatsvina* demolitions. Instead, the AU further nominated former Mozambican President Joaquim Chissano to initiate dialogue and persuade President Mugabe to negotiate with the MDC (Murithi and Mawadza 2011). While these initiatives can be interpreted as "diplomatic non-indifference" (Murithi 2009: 96) by the AU, Mugabe's defiance that he could not negotiate with the opposition MDC whom he accused of selling-out to the British government showed the AU's lack of capacity to control Mugabe. Since then, violence intensified and this also included the police's brutal attack on, and detention of, the MDC leadership on 11 March 2007 while on prayer meeting in Highfields, Harare. The detention of the MDC leadership attracted regional and international condemnation and culminated in the AU mandating SADC to facilitate political dialogue in Zimbabwe.

Prior to the 2008 presidential election run-off, the AU's Pan-African Parliament (PAP) through its Observer Mission played an early warning role by issuing a statement on the potential destabilisation of the entire country as a result of political violence (AU-PAP 2008). A report compiled by Marwick Khumalo, the mission leader, concluded that "the current atmosphere prevailing in the country did not give rise to the conduct of free, fair and credible elections" (AU 2008: 20). The PAP recommended both the SADC and AU leadership to engage with political parties and come up with a negotiated, transitional settlement. Unfortunately, the continental leadership failed to take heed and continued with the run-off elections.

A significant preventive modality by the AU after the violent and disputed 2008 run-off presidential elections involves the creation of a Government of National Unity (GNU) in Zimbabwe. Even though the

whole process of resolving the political impasse in Zimbabwe through dialogue was relegated to SADC, the AU remained resolute in its support of the Mbeki-led SADC facilitation team. The AU's delegation of authority to SADC to mediate in the crisis in Zimbabwe is in line with the AU Peace and Security Council (AU-PSC) statutes, which stipulates that "regional mechanisms are part of the overall security architecture of the African Union" (Murithi and Mawadza 2011). Other notable humanitarian support by the AU included pledging US\$100 000 towards alleviating the effects of the cholera outbreak in the country (ReliefWeb 2008).

Even so, the AU's involvement in the crisis demonstrated that the organisation played a peripheral role, to the point of allowing the ZANU-PF leadership to dictate the timing and methodology of resolving the crisis. In this regard, the AU's lack of bold action may be explained by the fact that the founding of the organisation, as successor to the Organisation of African Unity (OAU), coincided with the onset of the Zimbabwean crisis. Its conflict resolution structures were, therefore, still in embryonic stages and too weak to address the complexities of the situation in Zimbabwe. Moreover, the main drivers behind the AU's founding, the presidents of three key African states (Olusegun Obasanjo of Nigeria, Thabo Mbeki of South Africa, and Muammar Gadhafi of Libya), were all sympathetic to the Mugabe regime. Again the roots of the Zimbabwean crisis remained disputed. Several African leaders blamed it on foreign actors attempting to dislodge Mugabe from power and to punish the regime for its land reform initiatives. The subscribers to this hypothesis lament that the Western imposed sanctions are responsible for the humanitarian strife in Zimbabwe.

Generally, the continent-wide reaction to the crisis in Zimbabwe was fraught with division and paralysis. More than anything else, the unchecked escalation of political violence in Zimbabwe exposed a tardy coordination in multilateral responses. But, at the level of community leadership African voices were not silent, and not all African leaders shied away from confronting the Mugabe regime. An example is Ghana's parliamentary debate on Zimbabwe, where Ghanaian parliamentarians openly supported sanctions and even proposed military intervention by the UN as an option to resolving the crisis (Kotey 2008). In solidarity, Archbishop (and Nobel Peace Prize laureate) Desmond Tutu of South Africa urged the AU and the international community to intervene with force in Zimbabwe, and explore possibilities for military intervention under the auspices of the RtoP norm (BBC News 2008). As mentioned previously, Botswana urged other countries in Southern Africa not to

recognise Mugabe, following the illegitimate presidential run-off election in 2008, and called for Zimbabwe's suspension from SADC. Prime Minister Raila Odinga of Kenya, during a press interview, also urged the AU to deploy peacekeepers to Zimbabwe for preventive measures, but this elicited condemnation from most of the AU leadership (Campbell 2008).

The AU's initiative to engage with the Zimbabwe crisis needs to be commended for complying with its stated paradigm shift "from non-interference to non-indifference" (Murithi 2009: 94). However, its deflection and relegation of responsibility for resolution of the conflict to SADC, leaves a lot to be desired.

5. The SADC response to Zimbabwe's crisis

The SADC leadership has been engaged with the political developments in Zimbabwe since the contested 2000 parliamentary elections. Its focus as expressed at the August 2000 SADC Summit in Windhoek, Namibia, was addressing the economic situation in Zimbabwe in order to contain any spill-over effects into neighbouring countries (SADC 2000). To achieve this objective, the SADC facilitated political dialogue between the Zimbabwe government and the Western donor community, while at the same time engaging the opposition MDC (Pallotti 2013). In its initial approach, the SADC leadership, however, avoided debating human rights violations in the country including electoral violence and evidence of the harassment of opposition party supporters in both the 2000 parliamentary and 2002 presidential elections.

It was only after the 11 March 2007 police attack on the MDC leadership discussed above that SADC had to appoint former South African President, Thabo Mbeki, as the chief mediator in the Zimbabwe crisis. The Mbeki-brokered mediation had initial success when it induced some reform in the electoral laws of Zimbabwe prior to the March 2008 'harmonised' elections. The resulting conditions of relative stability allowed the MDC to campaign freely. However, renewed political violence prior to and after the March 2008 'harmonised' elections demonstrated that SADC lacked a 'Plan B' and, consequently, it could not muster any robust approaches to end the crisis.

At the political level, the unfolding humanitarian crisis in Zimbabwe caused major divisions within the regional fabric of SADC. In particular, the period following the 2008 elections saw major disagreements with regard to crisis-response mechanisms and led to a deterioration of relations among member states, with Botswana and Zambia

calling for intervention to protect humanity at risk. Such divisions were once predicted by Hawkins (2003) while discussing the potential contagious effects of the economic crisis in Zimbabwe. Hawkins warned about a serious risk of lasting damage to the regional economy and its peoples, as well as the commitment to democratic principles and good governance. The ruptures within SADC structures showed that the region was confronted with the "challenge of living up to democratic principles while, at the same time, preserving the values of the liberation struggle".

Nevertheless, amidst a global outcry, SADC attempted to present a unified front in its approach to the crisis, and pressured ZANU-PF and the two MDC factions to enter into the Global Political Agreement (GPA) on 15 September 2008. As part of the agreement, Mugabe would retain his position as President, the MDC-T, Tsvangirai, would serve as Prime Minister, while the MDC-M, Mutambara, would occupy the position of a Deputy Prime Minister (MoU 2008). The GPA, however, faced massive resistance from ZANU-PF's lack of political reform which included refusal of the co-sharing of the critical ministry of home affairs even though SADC had recommended this. Interestingly, no punitive measure was instituted against ZANU-PF. This was due to politics of solidarity that characterises SADC interstate engagements. As noted by Murithi and Mawadza (2011), SADC countries have a collective memory of painful experiences with racial domination and colonialism, and this has fostered a formidable sense of solidarity. Furthermore, the extent of this regional solidarity is embedded in a sense of 'comrades-in-arms' who strive to preserve the gains of the liberation struggle in which they fought side by side, regardless of nationality. As a result, the geopolitics of the region fostered relational ties that have stood the test of time. It can be argued, therefore, that the politics of solidarity inhibited SADC from taking a tough stand against the Mugabe regime and, by extension, impacted on the organisation's implementation of its RtoP duties.

It is also important to note that the SADC Protocol on Politics, Defence and Security (in particular, Article 11.2) restrains the organisation from conducting any military intervention activities in member states (SADC 1996). Unlike the AU Constitutive Act, which calls for intervention when a crisis constitutes a threat to regional security, the SADC Protocol still regards sovereignty as sacrosanct, hence also the principles of territorial integrity and non-interference in domestic affairs (Adolfo 2009). It only provides for the peaceful resolution of disputes through mechanisms such as "mediation, conciliation, negotiation, and

arbitration" (Adolfo 2009: 11). This lack of policy harmony between SADC and the AU would mean that any condemnation of the Zimbabwe government would be merely a rhetoric and no decisive action could be invoked.

The SADC dilemma in the Zimbabwean crisis situation also reveals Mugabe as an astute politician, who has manipulated the race card to his own advantage. Knowing the status of both South Africa and Namibia as countries which just emerged from white racial domination, he skilfully managed to convince the SADC leadership that Western-imposed sanctions were a racial ploy meant to reverse the gains of the liberation struggle. Raftopoulos (2003: 8) notes that "the mobilisation of race as a legitimate force has been used to justify the battle against historical inequalities, while trying to [shrewdly] conceal structures that increase such inequalities".

This solidarity within SADC manifested itself in several ways. In 2008, at the height of food shortages and the outbreak of cholera, the group did not take Mugabe to task but instead decided to constitute the Zimbabwe Humanitarian and Development Assistance Framework (ZHDAF) under which all SADC member countries were expected to contribute according to their available resources and capabilities. But such initiatives could only reduce the humanitarian crisis and could not hope to produce a lasting solution. Again, at the SADC Heads of State and Government Extraordinary Summit on 30 March 2009 in Swaziland, member states agreed to "stage a diplomatic campaign to lift sanctions against Zimbabwe and mobilise resources to support Zimbabwe's economic recovery" (SADC 2009).

There are several explanations as to why the MDC lost favour with the SADC bloc. Firstly, the roots of the MDC as a political party are anchored in the capitalist ideology. Its constitutive coalition of civil society organisations and trade unions in its quest for change does not have a Marxist revolutionary foundation like the African National Congress (ANC) and ZANU-PF, for example (Mapuva 2010). Secondly, there is a perception among most of the African leadership that the MDC is 'counter-revolutionary' and a Western political puppet. Raftopoulos (2003) points out that continued adherence to revolutionary principles by SADC member states poses a challenge for the post-independence transformation of liberation movements into democratic political institutions. Again, from an ideological perspective, what constitutes legitimate rule in the eyes of SADC leaders seems to be the revolutionary credentials of former liberation movements, such as the ANC in South Africa, the South West Africa People's Organisation (SWAPO)

in Namibia, and the *Movimento Popular de Libertação de Angola* (MPLA) in Angola, to cite a few (Dobell 1998). Indeed, SADC leaders who have provided the staunchest support to Mugabe have been his fellow liberation struggle leaders, such as Thabo Mbeki of South Africa, Sam Nujoma of Namibia, and Eduardo dos Santos of Angola. This is in stark contrast to President Ian Khama of Botswana and the late President Levy Mwanawasa of Zambia, who represent a post-liberation and more pragmatic generation of SADC leaders. In addition, Mbeki's revival of the 'African Renaissance' discourse, which called for African solutions to African problems, might have triggered the intensification of anti-Western, anti-imperialist rhetoric.

From a scholarly viewpoint, it would be unfair to totally fault SADC's handling of the Zimbabwean humanitarian crisis. The first notable development is that under SADC pressure, and for the first time since the formation of the MDC, ZANU-PF conceded to sharing the political space, made amendments to the POSA and AIPPA legislation, and opened the draft constitution to public discussion. Also, SADC mediation can be credited for facilitating the draft constitution, as well as Section 64(1)(e) of the Election Act, which empowered the election presiding officer in each constituency to count all the ballot papers and post the result outside the polling station, before handing the ballot boxes to the central electoral office (which, paradoxically, should have been the normal practice). The Mbeki mediation evidently induced a relatively peaceful atmosphere leading to the 29 March 2008 'harmonised' elections, and this allowed the MDC to campaign in both urban and rural areas. Equally, the signing of the GPA in September 2008 and the subsequent formation of the Government of National Unity (GNU) in April 2010, with all its imperfections, would not have taken place without SADC-sponsored mediation.

Despite the portrayal of the GPA as a "marriage of convenience" (it "failed in its first 100 days", especially in light of Mugabe wielding more influence over and control of the security forces), it paved the way for the establishment of an inclusive government on 13 February 2009, as provided for by the GNU (Welz 2010: 605). More so, due to SADC pressure, the Mugabe-led government conceded to a constitutional amendment, which paved the way for the creation of the offices of Prime Minister and Deputy Prime Minister (*Government Gazette Extraordinary* 2009). To a certain degree, it proved to be a feasible conflict-resolution strategy and a signal of commitment to the prevention element of the RtoP principle by the SADC leadership. The inception of the GNU brought a ray of hope and was followed by the re-opening of

schools, the resuming of work by civil servants, hospitals starting to function again, the cholera epidemic subsiding, shops being stocked with new inventory, and the valueless Zimbabwe dollar being shelved for the United States (US) dollar. Political violence also abated. Thus, for ordinary Zimbabweans the SADC-initiated power-sharing arrangement brought relative stability in the post-GNU period, both economically and politically, even though the root causes of the crisis had not been addressed.

Despite the touted benefits of preventing and resolving political conflicts through political agreements, internal cracks within the GNU quickly became apparent. Among these is President Mugabe's unilateral appointment of key public servants, such as those of the Attorney-General, the Reserve Bank Governor, and military commanders. Attempts at bringing a political solution to the Zimbabwe crisis were eclipsed by the fact that ZANU-PF still wielded most power and while the opposition was reduced to a mere marginal player in the post-crisis scheme of things (Mazarire 2013). More so, the re-emergence of ZANU-PF's hegemonic tendencies and resistance to political reform compromised human security and demonstrated the AU and SADC's failure to deliver on RtoP in Zimbabwe (Muzondidya 2013; Raftopoulos 2013). The GNU arrangement has also not succeeded in putting an end to nepotism within the state security apparatus. The police, the army and the secret intelligence service are allegedly at the service of the President, and youth militia and war veterans continue to perpetrate violence against MDC supporters (Raftopoulos 2013). Moreover, lack of security-sector reform has been a major shortcoming. The RtoP preventive 'tool box' recommends security-sector reform and strengthening of the judiciary as integral to satisfying the 'responsibility to prevent' (Evans 2008). So far, however, these requirements have not been met, and this may imply a lack of political will on the part of the SADC leadership to exert the necessary pressure on Mugabe. The architects of the GNU can thus be taken to task for not considering the critical role of the state security forces in the governance structures of Zimbabwe. The army and state security agencies still populate key strategic ministries, thereby hindering any form of transition to what might begin to resemble a democratic society. Moreover, repressive legislation like POSA and AIPPA are still on the statute books, and these are allegedly arbitrarily applied against opposition supporters. All of these developments may lead to the assertion that the GNU did not fully satisfy the preventive elements inherent in the RtoP notion, and that ZANU-PF and the MDC remain strong and ardent political opponents whose col-

laboration under the GPA political model proved to be a totally unrealistic expectation.

Recent trends and developments in the SADC region, however, suggest that regional leaders are becoming less tolerant of ZANU-PF's undemocratic political conduct. Between 16 and 18 March 2010, the SADC Troika on Politics, Defence and Security met and South African President, Jacob Zuma, set 31 March 2010 as a deadline for implementing reforms in Zimbabwe (Chitupa-Mashiri 2011). Such reforms include conducting a land-audit, removing media restrictions, ending the use of hate speech, restoring the rule of law, and enacting constitutional reforms, among other outstanding GPA issues (Chitupa-Mashiri 2011). The slow pace of political reform in Zimbabwe may be attributed to the fact that ZANU-PF has remained the 'Big Brother', both in the GNU and within SADC.

But, in both the 31 March 2011 SADC Troika Summit in Livingstone, Zambia, and the 11 and 12 June 2011 Summit in Sandton, South Africa, the regional leadership managed to shake up Mugabe and his image of political invincibility. During these summits, SADC produced a draft road map for conducting free and fair elections, in line with the SADC guidelines governing the conduct of elections. The SADC troika also, for the first time, openly criticised Mugabe for his continued use of violence against opposition party supporters and his failure to address outstanding GNU issues (SADC 2011). The SADC, through President Zuma, came up with a Joint Monitoring and Implementation Committee (JOMIC) in order to ensure that GPA dictates are followed. By producing a road map, it can be inferred that SADC tried to bolster its strategy of pursuing RtoP through preventive diplomacy, since there is a decree that no elections will be conducted before reforms are realised, not only of the Constitution, but also of the security sector which is deemed to be instrumental in electoral-related violence (SADC 2011).

6. Conclusion

This article set out to examine how the normative principles of the RtoP guided SADC and the AU as regional multilateral institutions in their response to the crisis in Zimbabwe. Regardless of the labels that were used to describe Zimbabwe, it was manifestly clear from the findings that the government of Zimbabwe had defaulted on its RtoP obligations. Not only did it fail to protect its population, the government actively orchestrated and perpetrated violence by using state security forces against civilians. Notably, state-driven political violence resulted in the

death or injury of thousands of people, with several millions internally displaced or forced to flee to neighbouring countries. It emerged from the findings that despite the position that regional organisations are at the epicentre of the RtoP's operationalisation and have a pivotal role in overseeing invocation of all three of its dimensions (prevention, reaction, and rebuilding) in the case of Zimbabwe, both SADC and the AU's position was found wanting, especially their 'RtoP compliance'. Despite the gravity of the humanitarian situation in Zimbabwe, geopolitical factors such as regional solidarity undermined the realisation of the operational utility of the RtoP. Coupled with the lack of political will, giving primacy to regime security as opposed to human security militated against coordinated implementation of the prevention and reaction elements of the RtoP. Reading from the escalation and widening of the crisis, it is evidently clear that preventive measures were largely ineffective. Early-warning 'failures' in many instances can be linked to the unwillingness of key state actors to adopt robust confrontational measures against the Mugabe regime.

It was argued that, although the GNU was a commendable move in the light of the 'relative peace' that prevailed subsequently, state-orchestrated electoral violence could have attracted stronger and more urgent reaction, such as the preventive deployment of peacekeepers. Arguably, this may be because these measures were not well thought-out, but merely implemented to prevent a further escalation of the humanitarian crisis. Moreover, despite meeting the prevention and reaction continuum of the RtoP, the SADC and AU quest for protecting civilians through peace agreements such as the global political agreement suffered from partiality and a failure to address the root causes of the conflict. In essence, peace brokering, failed to the extent that it did not pre-empt, prevent, and effectively manage the crisis. As previously noted, South Africa opted for 'quiet diplomacy', which can be interpreted as non-interference in the internal affairs of a member state, even though the crisis was already causing serious social problems in neighbouring countries. Unlike the 'Responsibility to Prevent', that was somehow realised, the 'Responsibility to React', especially its robust military components were never considered. Both the AU and SADC did not act with requisite urgency as provided for in the AU Constitutive Act, article 4(h) and the normative precepts of the RtoP. Possibly this was due to the observation that the crisis in Zimbabwe was not an armed insurgency.

From the discussion thus far, it is clear that RtoP is essentially a political debate, notwithstanding the fact that it has sought to make the

praxis of intervention for human protection more nuanced. The very fact that the RtoP is a political construct for guiding states towards delivering on their mandate to protect their populations from all avoidable humanitarian crises, explains the contestation between law and politics. The law-politics nexus is subject to the general weaknesses of international law, as well as the fact that recent additions, such as the ICC, have a somewhat ambiguous relationship with the mandate of the UN Security Council. This is in line with the context that the majority of the Council's permanent members are not signatories to the Rome Statute of the ICC, yet have the power to refer cases (such as that against Sudan's Omar al-Bashir) to the Court. A huge gap in the conceptual development of the RtoP is caused by such contradictions in the political relationship between statutory bodies at the global level and, equally so, by contradictions in (or even the total absence of) localised RtoP law in the regional context.

A significant finding is that since states are the most important actors in international politics and vital to the operationalisation of RtoP principles, it can be concluded that their disagreement over the implementation of RtoP implies that its principles have not yet succeeded in guiding the international community from polemics to action as envisioned by RtoP proponents. A significant finding of the study was the extent to which the politicisation of RtoP undermines its operationalisation. From the lack of political will to implement decisions, or to respond to the early warning of looming catastrophe, to the real or perceived agendas of intervening entities, the RtoP debate is continually subject to a political narrative. This is evidenced by the fact that the Zimbabwe case has seen no timely, effective, or lasting responses to the humanitarian crises that were caused and perpetuated by various government institutions. It would seem that the alignment of state interests, rather than the severity or consequences of a specific humanitarian crisis, determines the nature of state responses

This observation raises serious concern regarding the RtoP norm localisation. The flagrant disregard shown by the government of Zimbabwe towards its 'Responsibility to Protect' is an indictment of the extent to which RtoP principles have been localised in African countries. Quite evidently, more research is required to guide policymakers and advisors, especially in Africa, on the internalisation of an RtoP 'culture' within their countries and regions. This applies equally to legal instruments, such as national constitutions, and social tools, such as incorporating the concept of RtoP into school and tertiary curricula, professional training for civil servants, and so on. There exists an imperat-

ive, for pro-active mobilisation since the concept of RtoP does not automatically cascade to regional and domestic levels. Another incisive observation concerns a youth focused approach to RtoP. Humanitarian crises across the globe have seen the instrumental role of young people, the youth, as they are typically co-opted as agents for destructive engagements, while higher political structures in government institutions assume command responsibility. Non-statutory security structures such as the Border Gezi militia in Zimbabwe, were responsible for mass atrocities. It is, therefore, recommended that RtoP research should also entail a 'youth prism' with an eye on making the next generation of leaders in Africa more 'RtoP smart'. This would have specific, practical educational implications. Another recommendation concerns building political will at the international level. While experts agree that the element of prevention in RtoP, amongst others through early warning, should be prioritised, the article shows that the effectiveness of such tools is conditional upon the political will to respond appropriately and timeously. This is probably the most elusive of RtoP requirements. Therefore, practical tools to mobilise political will need to be developed, for utilisation, more crucially, at the regional level.

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