



Austria in the UN Security Council *African experience, issues and prospects*

Review of Proceedings

Background

The international community faces many challenges including armed conflicts, climate change, poverty, hunger and the proliferation of small arms and weapons of mass destruction. Many of these challenges are most stark in Africa – a continent that regularly occupies the largest slice of attention of the Council during its deliberations as well as in the requirement for resources devoted to conflict prevention, management and post-conflict peace building.

It is therefore encouraging to note that continued global attention has delivered concrete results. International engagement with Africa has changed dramatically since the fall-out of the events in Rwanda and Somalia in the mid-nineteen nineties and the extent of international engagement in Africa is virtually unparalleled – although the dangers of distraction due to other issues, notably the emerging economic crisis, is ever present. Today Africa often takes the lead and has developed innovative practices in engaging with instability and insecurity. It also has an increasingly vocal voice in associated international matters including those that relate to the need for changes in global governance.

Austria is determined to work hard to continue international support for Africa during its tenure and entered the Security Council at a time when democratic South Africa concluded its first two-year term, having vigorously championed several of matters of importance to Africa. Amongst these are conflict prevention and resolution, and the relationship of the UNSC and regional organisations, the African Union in particular. It was felt that there is much to be gained from an exchange of views between Austria and South Africa who has, through its role in NEPAD, the APRM and its support to the AU, championed an African agenda.

The broad base of expertise on African issues in the academic and think tank community in South Africa, as well as the opportunity to interact with colleagues close to UNSC issues motivated the organization of a workshop at the beginning of the Austrian UNSC tenure. A synopsis of discussions is contained below and the conference agenda attached.

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The discussion was organized according to the attached seminar agenda that touched on various strategic issues currently before the UNSC, namely the Responsibility to Protect (R2P), the Report of the African Union-United Nations panel on modalities for support to African Union peacekeeping operations (Prodi Report), the International Criminal Court (ICC) and the rule of law, as well as UNSC reform. The final section drew together key discussion threads and

conclusions.

The South African experience in the UNSC

In 2007/08, South Africa was elected as a non-permanent member of the UNSC with the highest number of recorded votes in the elections for a Security Council seat. Council membership was considered by South Africa as a yardstick of how far it had progressed since the days of apartheid and a testament to South Africa's new standing in the international community. The country's membership was underpinned by a collective interest to advance fundamental principles and to proceed from the premise that multilateralism and respect for international law are the most appropriate means of achieving global political and economic stability and security.

During its tenure South Africa was particularly instrumental in helping to revitalise the debate on the relationship between the UN and regional organisations in terms of Chapter VIII of the UN Charter.

Participants described South Africa as a regional power, rather than a 'middle power', and therefore saw privileges, obligations and responsibilities for SA different from African counterparts or middle powers like Canada or Norway. South Africa's foreign policy today could not easily be defined in neo-realist or liberal institutionalist terms due to the fundamental policy changes with the end of apartheid.

It was argued that South African foreign policy could be explained by looking at former President Thabo Mbeki as a second-generation nationalist. The first feature would be to reconcile with existing power holders and to win significant political and economic concessions for doing so. Second would be an anti-imperial posture, and finally, reflecting a mix of principle and pragmatism, the need to engage the global order with a view to reforming it.

Since 1994 South Africa has moved from an isolated, politically belligerent, globally defensive agenda to one that is supportive of multilateralism and involves political partnerships, regional leadership and global engagement. Also, South Africa has played a leading role in popularizing the African agenda in the international community. Scholars are still discussing the role South Africa should play in foreign policy. One school of thought participants discussed was South Africa as a defender of principals in foreign policy (generally seen as closest to NAM), while others saw the need for strategic partnerships as essential for South Africa's interests.

Either way, South Africa is perceived as having begun to play its role as a regional power, and doing so with growing confidence. Its orientation under former president Mbeki was characterized as being that of 'engagement and subversion from within – certainly not appeasement – a realist paradigm from the South'. Generally participants acknowledged that its term was not uncontroversial and that the country has some way to go in the communication of its message, both domestically and diplomatically.



Austria's contribution and priorities

Different to South Africa, Austria is not a regional power, but a member of the European Union which includes some of the global economic powers and two permanent UNSC members, the UK and France. Its foreign policy is therefore shaped by these considerations.

Since becoming a member of the United Nations in 1955, Austria has put particular emphasis on peacekeeping and conflict prevention, and, with some 60,000 troops, has become one of the largest troop contributors for UN operations. For the years 2009 and 2010, Austria has been elected as a non-permanent member of the UN Security Council for the third time. Austria is intent to continue its traditional role as a facilitator for solutions on behalf of all members in an impartial and balanced way, and wants to give particular attention to the concerns of smaller Member States.

As a non-permanent member, participants were informed that Austria would work for political solutions that are based on the rule of law, the protection of human rights,



the necessity of constructive dialogue and effective multilateral cooperation. It would continue to actively support the UN's work for conflict prevention and peacebuilding as well as all efforts for further disarmament and non-proliferation.

Austria's endeavour is to ensure the Security Council strengthens a rules-based international system. The main question to consider should not be how to stop the Security Council

exceeding its power, but how to ensure it did not shirk from exercising the responsibilities it had, as was the case during the genocide in Rwanda.

African multilateral conflict management and the UNSC (Prodi report)

The so-called Prodi report explores how the United Nations and the African Union can enhance the predictability, sustainability and flexibility of financing of United Nations-mandated peace operations undertaken by the Union, with a particular focus on the expeditious and effective deployment of well-equipped troops and effective mission-support arrangements.

The panel recommended the establishment of a multi-donor trust fund for the purposes of supporting African Union peacekeeping capacity that should be premised on African ownership. The objective in creating this fund is both to consolidate the various current sources of support for the African Union and to secure additional resources from current and new donors building on the current European Union-funded African Peace Facility. Among its main purposes would be to build capacity within the African Union to conduct the range of activities associated with early warning, conflict prevention, conflict resolution and post-conflict reconstruction.

In addition, the panel recommended the use of United Nations-assessed funding to support United Nations-authorized African Union peacekeeping operations for a period of no longer than six months. To qualify for such support, the panel believed that two conditions should be met: (a) a case-by-case approval by the Security Council and General Assembly; and (b) an agreement between the African Union and the United Nations that the mission would transition to United Nations management within six months.

Participants were reminded that the drafters of the Prodi report had to deal with a complex mandate, and were impeded by the fact that they did not have the opportunity to visit operational areas of peacekeeping deployment.

Five interpretive conclusions are evident from the report and were elaborated on in the discussion:

- The need to reaffirm collective responsibility for international peace and security to counter the current trend of benign neglect and selective interpretation. The reality is that the P5 do not really wish to engage on peacekeeping in Africa.
- Non-African countries and new partners have interests in Africa beyond investments and stability – reflected in the commodities boom till recently. For its part Africa wants to build a support network for peace and security beyond its traditional (largely European) partners, to include countries such as China and others.
- As the environment for peacekeeping improves, the capacity needs grow. This complexity needs more, not less support and greater engagement. Capabilities and demand need to be aligned.
- The UN/AU relationship is still evolving. It is still largely a technical not a political arrangement. This should change. Peacekeeping in Africa should be linked up with political instruments. Elsewhere, African ownership of peacekeeping appears to be framed by dependency, which is not a healthy situation.
- It is important to align capability and demand. More responsiveness is needed. Peacekeeping in Africa is less about technical questions, and more about political solutions. Therefore, peacekeeping needs to be linked to other political instruments.

In the discussion, some felt that the report was driven by an acute sense of crisis, while others felt that peacekeeping had taken up too much room in the consideration of peace and security issues in Africa. The UNSC should rather focus on prevention and/or reconstruction. Also, a definition of what constitutes a global threat is not yet forthcoming.

The bifurcation of peacekeeping in Africa - AU/UN peacekeepers on the one hand and private security companies protecting commercial interests on the other – was considered with concern. The presence of both in given circumstances could exacerbate a crisis.

The arguments around the “African response” were dealt with, with either argument brought forward: the West is not to be trusted, at the same time African crises also demand a global response. At this point in the discussion, as well as at other times, participants acknowledged that the intellectual debate is still fraught with contradictions and gaps, which need to be addressed in order to reach greater depth.

Several called on current UNSC members to keep the debate on the Prodi report going, and to work with it, as time prevented the drafters to sufficiently develop all aspects of the discussion. There was also a call to establish a history, and an

analysis of the results of AU peacekeeping. The African situation needed a champion, if was felt.

Responsibility to Protect (R2P)

The idea of advancing R2P in cases of grievous human rights violation cuts to the heart of the question of the relationship between sovereignty and intervention. The seminar discussed the question on how to respond to the concept with much energy given ongoing turbulence in the Great Lakes, Horn of Africa, Zimbabwe and elsewhere. Too some the R2P agenda is little more than the imposition of a 'liberal peace' – reflective of the realist agenda that still drives global politics. To others it presents hope for a more responsive global approach to gross violations of human rights.

Reflecting on the subsequent international response – from academic analysis to state practice – it seems that the ICISS attempt has largely failed. Indeed, R2P had little to say to Iraq, Afghanistan and Palestine. The response reveals some uncomfortable truths: one, that the old global dividing lines – North / South, West / East, rich / poor – still drive much of the dynamics of global politics; that state sovereignty (and its cousin, the national interest) persistently trumps calls for humanitarian intervention. The discussion first seemed to follow the perception that R2P is seen by many in the developing world as an imposition by the West of its version of peace, democracy and development (a 'trojan horse') and in its place we seemingly have a new (national security) paradigm: the West now talks of how to respond to fragile, failing or failed states! Participants then pointed out that R2P is not about intervention - only as a last resort. Some felt that if international law is applied too positively, it would not be able to deal with African issues. It was also felt that one would need to give the R2P concept more time to grow. It could be a way to address Chapter VII shortcomings (national interest, capability, power).

R2P is a noble idea that has been endangered despite the early de facto inclusion of the concept in the Constitutive Act of the AU. Generally participants felt that one should not allow the concept to get sullied, but that it should be kept viable for a later stage – although this may require a return to a minimalist interpretation given the rise of China and the foreign policy implications of its domestic practices.

UNSC, ICC and Rule of Law

The UNSC has greatly expanded its powers since it was established in 1946 and tasked by the Charter to maintain peace and international security. Since then it has appropriated considerable additional powers for itself as the world's legislator, judge and executive. It has expanded the range of its activities, including the establishment of international criminal tribunals, the maintenance of complex sanctions regimes, the protection of civilians and the temporary administration of territory. Following the 11 September 2001 attacks in the United States, the council assumed even greater importance in combating terrorism and the proliferation of weapons of mass destruction.

The Security Council has therefore grown beyond its initial function as a political forum and frequently serves important legal functions; establishing binding rules of general application, making determinations of law or fact and overseeing the implementation of its decisions. While the new way of working has made possible swift and decisive action in response to perceived threats to international peace and security on the basis of international law, it has raised questions about the legal parameters that determine how the Council's new functions are exercised.

Some discussants preferred that the Council should limit itself to using its "extraordinary powers for extraordinary purposes" and should not decide that which does not need to be decided. This applied to issues such as sanctions targeted against individuals, which have often been applied without due consideration for the harm they can do and for the legal rights of those sanctioned. In entrenching the rule of law elsewhere, the council has sometimes failed to apply it to its own activities, particularly that of the P5. Participants recommended the UNSC to adopt appropriate measures, such as giving those who are targets of UN sanctions the right to a fair hearing. The Council were not to abandon its new legal role, but to acknowledge it and to adopt measures and procedures appropriate to the judiciary.

While it was laid out that the UNSC is an extraordinarily powerful instrument for promoting the rule of law at both national and international levels, it was considered more legitimate and most effective when the council submits itself to the rule of law, as there can be no peace without justice. It was also mentioned that the Council should refer legal matters to the UN's explicitly legal bodies, such as the International Criminal Court (ICC).

Participants also discussed the development of international criminal justice initiatives in Africa, and the role of the ICC in particular. The Court has generated much debate since it opened its doors in July 2002. It is currently investigating four situations in Africa: Uganda, DRC, CAR and Sudan.

The ICC's recent decision to issue an arrest warrant for Sudanese President Omar Al-Bashir for crimes against humanity and war crime has been criticised by a number of African leaders, including the Chairperson of the AU Commission. These criticisms are captured in statements to the effect that the ICC is a Western, or imperialistic initiative; that it is some form of colonial throwback; or the imposition of a developed world's form of justice on Africa; and that the Court is unhealthily preoccupied with the African continent.

Participants held divergent views on the role of ICC in Africa. Some expressed concern about the way the Court is seemingly targeting the continent, and that its actions in relation to Sudan could undermine peace prospects in the country. Others expressed the view that the Court should be supported, and that many of recent criticisms against the Court are based on a number of myths and misconceptions that need correcting. They argued that the Court is an important institutional innovation, and possibly one of key developments in international diplomacy since the end of the Cold War.

A measure of the Court's rise is the number of States that have joined founding treaty, the Rome Statute. Since entering into force on 1 July 2002, it has been

signed by 139 States and ratified by 108. Of those 108 states parties, 30 – a significant proportion – are African. Africa is also the largest regional grouping on the Assembly of States Parties; three judges on the Court are from the Africa, including the First Vice President; and the Deputy Prosecutor is African. Moreover, Africa was an important driver for the development of the Rome Statute. Arguments that the Court is a Western creation cannot therefore be substantiated.

On the question of whether the Court is targeting Africa, participants highlighted that three of the four ICC investigations on the continent came about as a result of state self-referrals. The fourth (Sudan) came before the Court as a result of Chapter VII UN Security Council referral (through Resolution 1593). Indeed this referral mechanism is clearly envisioned in the Rome Statute.

The ICC is a tool for justice on a continent where impunity (the polar opposite of justice) has been emblematic. Africa has already demonstrated a clear commitment to the ideals and objectives of the ICC by taking a key role in its establishment, and leading the way in terms of signing and ratifying the Rome Statute. There are concerns that these efforts will – if the recent anti-ICC rhetoric is to be believed – slowly be replaced by a “push-back” against the Court. This would be a blow to the rule of law on the continent.

UNSC Reform

The discussions on R2P served to introduce the issue of the legitimacy of the UNSC which is widely accepted as being under threat. Some civil society participants felt that the G8+5 had already taken over in clout and problem-solving capacity, in particular, as poverty was perceived as the greatest threat to security from an African perspective. The North was seen as duplicitous with regard to non-proliferation and arms sales.

Yet the UNSC remains key to global governance and its mandate needs constant reinforcement for the Council holds the power of definition of global security issues. While the G77 has great potential it remains divided on UN reform. Apart from reform and enlargement of the UNSC, upon which there is general, but no specific agreement, much needs to be done such as the transformation of UNEP into a fully blown UN Environmental Organization, or the establishment of an equivalent to the UNSC to deal with economic issues.

Some participants heavily criticised the African position, which still holds on the Ezulwini Consensus (2 permanent seats and 5 non-permanent seats for Africa). One voice cautioned against creating a new category of UNSC members – permanent without veto power.

Arguments for and against the UNGA and the UNSC as inclusive or not sufficiently democratic institutions were advanced, and participants agreed that reform followed power. Economic or military power, though?

Amongst others, some of the challenges relate to the debate on security sector reform which is largely limited to what needs to be done in the South, ignoring the

major challenges in the North, such as lack of movement on nuclear disarmament as reflected in the lack of adherence made in terms of the NPT, the abuse of international arms sales, the unilateral resort to force by countries such as the USA, the selective application of international human rights, etc. Speakers cautioned that while economic power may have moved from West to East, the balance of military power remains unchanged.



The meeting also briefly discussed the IBSA initiative and the potential that it has in the emerging global balance of power. Generally participants felt that the initiative had not yet realized its true potential and that the economic crisis has served to detract attention.

Conclusions

Alongside the multitude of challenges discussed during the course of the meeting, the range of actors is increasing; not only new emerging powers, but non-state actors, smaller actors as well as more empowered and informed people globally. A more inclusive international architecture is required for sustainable stability and prosperity.

The seminar took a frank approach to issues on the agenda of the UNSC and advanced the mutual understanding of recently developed concepts in international law as well as peace and international security.

The meeting concluded that no-one on the UNSC should feel too small or too weak to be a player. Seeking a seat on the Council is not only an honour that countries

aspire too, but adds obligations to actively work for global security – particularly in those regions most affected by instability, notably Africa.

South Africa needs to build confidence in her own positions. Sometimes the impression is created that South Africa apposes initiatives on ideological grounds or simply on the basis that they originate from the West and that proposals advanced by others, including non-democratic countries, are inherently more palatable.

Africa needs the UNSC more than any other region, for as the world becomes increasingly complex and changes occur at greater speed, the UN system offers Africa some protection. Instead of the proliferation of single-issue multilateral diplomacy that tax the capacities of even developed countries, the UN system offers a more manageable system for engagement in global issues.

While much of the UNSC time is spent on Africa, there is notable progress with regard to peace and security. Africa has a lot to gain from UNSC reform – yet the continent needs to work actively to help develop an interlocking system of global peace and security where the instruments at international (UN) and African (AU) levels are integrated and used in support of one another.

International justice is the most modern of agendas of the international community. It was considered the most important conflict prevention instrument. And justice is the best guarantor for long-term peace.

The meeting pointed to the extent to which foreign policy is often an exercise in hypocrisy. One country's principle is another's double standards – challenges that both South Africa and Austria have to face as members of the UNSC. Civil society participants underscored that realism seems to rule the UNSC, while power shifts from the USA to China on the one hand and from the private sector back to government in line with the current economic crisis on the other.

Finally there was some concern about global instability at a time of economic uncertainty and flux. The world is changing towards greater multipolarity which is inherently more unstable than either a bi-polar or a unipolar world. Would it be wise to change key institutions now?

Austria in the UN Security Council
African experience, issues and prospects

Thursday, 26 February 2009

Protea President Hotel in Cape Town
Bantry Bay

Format: Short presentations (15-20 minutes) with responses of 10-15 minutes followed by discussion.

9.30 Coffee/Tea

Session 1: Chair Dr Jakkie Cilliers, ISS

10.00 Welcome, Dr Otto Ditz, Austrian Ambassador to South Africa

10.15 South African experience in the UNSC
Presentation - *Deputy Vice Chancellor Adam Habib, University of Johannesburg*
Discussion

11.15 Responsibility to Protect (R2P)
Presentation – *Prof Anthoni van Nieuwkerk, Centre for Defense and Security Management*
Response – *Mr Pal Martins, Pax Africa*
Discussion

12.15 Coffee/Tea break

12.30 African multilateral conflict management and the UNSC (Prodi report, etc)
Presentation – *Prof. Monica Juma, Africa Institute of South Africa*
Response – *Director Tanki Mothae, Head of the SADC Organ Secretariat, Gaborone*

13.30 Buffet Lunch
Lunch Speaker – *HE Paul Boateng, High Commissioner of the UK to South Africa*

Session 2: Chair Ambassador Otto Ditz

- 15.00 Austria's contribution and priorities – ICC and rule of law issues
Presentation – *former Austrian Secretary of State for European and
International Affairs Hans Winkler*
Response – *Professor Maxi Schoeman, University of Pretoria*
Discussion
- 16.00 Coffee/Tea break
- 16.30 UNSC and global governance
Presentation – *HE Dennis Pietton, Ambassador of France
to South Africa*
Response – *Dr Laurie Nathan, University of Cape Town*
Discussion
- 17.30 Conclusions – Jakkie Cilliers
- 18.00 Drinks