

Who is calling the shots?

A comment on Amvane's "UN peacekeeping and the developing world"

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In his thought-provoking essay on [UN peacekeeping and the developing world](#) Gabriel Amvane sheds light on the mismatch between the fact that while peacekeeping operations are mainly carried out in and by states from the global South, it is the casualty-averse countries from the global North that fund these operations and thus call the shots in decision-making about where to deploy, with what mandate, and for how long. This results in a highly asymmetric and unsatisfactory relationship from the perspective of the developing world, as peacekeeping operations are generally only authorized when important players on the UN Security Council have a vested interest in their deployment, thus contradicting the notion that peacekeepers ought to be deployed "in the unique interest of the international community as a whole", as Amvane puts it. In order to correct the imbalance between developed and developing nations, Amvane suggests "[p]ursuing consultation and cooperation between the Council and the TCCs [Troop Contributing Countries]; ... granting some permanent seats to TCCs from developing countries; and lastly, changing the rule of recruitment for the Chief of the DPKO [Department of Peacekeeping Operations], and reserving that post to the main TCCs from the Global South".

While I agree that all of these are sensible measures (fraught with a number of political difficulties, however, especially with regard to the suggested reform of the UN Security Council), in this contribution I would like to discuss a fourth option not contemplated by Amvane, namely the empowerment of (sub-)regional organizations with a peacekeeping mandate from the global South. As I will discuss in this post, this option is certainly appealing from a political and legitimacy-enhancing point of view, yet harbors certain legal difficulties as it risks undermining the UN system of collective security.

Actors such as the Economic Community of West African States (ECOWAS) or the African Union (AU) have accumulated considerable peacekeeping experience over the years; moreover, as the decision about whether and where to deploy is inevitably motivated by vested political interests, it makes sense to allocate responsibility for peacekeeping at the level of governance that is closest to the conflict – which is usually a (sub-)regional organization from the global South. These actors generally possess intimate knowledge of the situation, they tend to enjoy greater local legitimacy than external intervenors and have stronger incentives to respond to a given crisis. Take ECOWAS' 2017 intervention in The Gambia, which stabilized a highly volatile post-election situation, removed a long-running autocrat from power and thus ultimately enabled the inauguration of democratically-elected President

Adama Barrow. How did this happen? In late 2016, the people of The Gambia had voted the country's authoritarian leader, President Yahya Jammeh, out of power. However, Jammeh refused to transfer power to his legitimate successor, Adama Barrow. The African Union Peace and Security Council [reacted](#) by threatening to take all necessary measures to ensure Jammeh would give up power, and the ECOWAS Authority of Heads of State and Government [did the same](#). The UNSC later commended ECOWAS's position in [Resolution 2337](#), even though the threat of force was technically speaking illegal. On 19 January 2017 Senegalese forces entered The Gambia and shortly thereafter Jammeh agreed to step down.

The intervention in The Gambia provides an instructive example of peacekeeping as multi-level security governance, where deference to the principle of subsidiarity enabled a legitimate and effective response to a post-election crisis and empowered actors from the global South to come up with local solutions to local problems. Admittedly, however, the intervention proved rather problematic from a *legal* point of view: While UNSC Resolution 2337 expressed support for ECOWAS's efforts, it did not authorize the use of force. In UN terminology, the clause "all necessary means" constitutes a mandate for military intervention, yet Resolution 2337 does not use this phrase. Instead, it [welcomes](#) ECOWAS's commitment to ensure, "by political means first, the respect of the will of the people of The Gambia." The fact that the resolution does not refer to Chapter VII of the UN Charter also underlines that it was not meant to be read as an authorization to use military force.

This leaves the right to intervention by invitation as the sole remaining potential legal basis for ECOWAS' operation. However, international law, at this point, does not know a right to request the use of force by a President in exile who has never been in effective control of the state in question. Thus, by intervening without either a legitimate invitation from the host state or a UN Security Council mandate, ECOWAS' use of force – all the while bolstering the rule of law domestically – violated the rule of law internationally, because an organization from a lower level of governance arrogated to itself powers that were reserved to an authority at a higher level of governance.

It is important to note, however, that in the progressive development of international law, a breach of the law may already contain the seeds of a new rule. The case of The Gambia might therefore possibly trigger an expanded understanding of the concept of intervention by invitation to include invitations issued by heads of state who are not, and never have been, in effective control of "their" state. Although state practice is not (yet) uniform, there is some evidence to support this view: after the adoption of Resolution 2337, Russia's Ambassador to the UN explained to the press that [should political means to resolve the crisis fail, Barrow could request military assistance](#), indicating Russia's acceptance of the notion that a democratically-elected head of state who has never been in effective control of the state in question is nonetheless entitled to invite foreign military assistance. Britain's Deputy UN Ambassador equally declared that ["it's very clear that if president Barrow asks for assistance, then that's something as the legitimate president of Gambia he's perfectly entitled to do"](#). Whether or not these particular views expressed by Russia

and the UK are indicative of the emergence of a new intersubjective consensus on a broadened conception of the right to intervention by invitation remains to be seen.

Now, what does the case of The Gambia teach us about the role of the developing world in peacekeeping? First of all, it shows that locating authority for mandating and executing peacekeeping operations at lower levels of governance may empower actors from the global South and thus correct the imbalance between developed and developing nations noted by Amvane in his essay. However, while the operation was both legitimate and effective, it was nonetheless illegal, thus underlining that acting outside the UN system has problematic rule of law implications. At the same time, however, the operation demonstrates that actors from the global South are not merely norm-takers but are equally (co-)authors of new norms, as ECOWAS' intervention has the potential to contribute to the progressive development of the law of intervention by invitation.

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