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ABSTRACTS

Features

Whither peacekeeping in Africa: 
Revisiting the evolving role of the United Nations

Theo Neethling

Post-Cold War turbulence between 1990 and 1994 led to huge UN peacekeeping operations and the cost of these operations increased six-fold over this period. However, as the number of peacekeepers declined sharply towards the end of the 1990s, critics were quick to contend that the UN Security Council had been lax in carrying out its mandate and responsibility to maintain international peace and security. Specifically, it was argued that the Security Council had limited responsibility and commitment to deploy Blue Helmets in sizeable numbers on the African continent where involvement in conflicts had been among the UN’s most challenging endeavours. The tide has turned in
recent years and today the UN deploys more peacekeepers in international peacekeeping theatres than ever before – the majority on African soil. The question arises: What does this imply with regard to the political will of the international community to invest in or contribute to peacekeeping operations in Africa? Furthermore, where does this leave important African roleplayers such as the AU and the envisaged African Standby Force? Against the above background this article aims at providing a better understanding of UN peacekeeping operations with special reference to African peacekeeping challenges.

**The use of force in UN peacekeeping: The experience of MONUC**

Jim Terrie

UN peacekeeping missions are often criticised for their failure to protect civilians and use force against militias and other armed groups operating complex conflict environments such as the Democratic Republic of Congo. Faced with these challenges UN peacekeeping missions such as MONUC are often reluctant to apply military force. The reasons for this can be found in a range of political, institutional and operational constraints that limit the effective use of force by UN missions and bring into question the efficacy of UN peacekeeping missions in complex conflicts. Despite these constraints, in the period 2005–2007 MONUC was able to apply force effectively to change the security dynamics in the eastern Congo, particularly in the Ituri district. However, challenges elsewhere, especially in the Kivus region, again showed the limits of UN peacekeeping.

**AMIS in Darfur: Africa’s litmus test in peacekeeping and political mediation**

Allan Vic Mansaray

This article aims to look at the Darfur conflict within the framework of conflict resolution and peacekeeping under the African Union. The operational effectiveness of the African Union Mission in Sudan (AMIS), which was mandated to deal with the conflict, is critically examined. In addition to analysing the adequacy of the mandate attention is focused on the critical issues of finance, logistics and, most importantly, politics as it relates to the AU-led mission. The article concludes that efforts to operationalise the efforts the African Union’s peace and security architecture, including the African Standby Force, are steps in the right direction but with enormous challenges.

**Peacekeeping and peace enforcement in Africa: The potential contribution of a UN Emergency Peace Service**

Annie Herro, Wendy Lambourne and David Penklis

This article argues that a United Nations Emergency Peace Service could have helped to overcome some of the practical and political obstacles faced by the UN Assistance
Mission in Rwanda (1993–1994) and the AU Mission in Sudan and UN support packages in Darfur (2006–2008). From a practical perspective such a service could have provided sufficient numbers of highly trained and well-equipped troops at short notice to supplement these peacekeeping missions, or offered ‘first-in, first-out’ assistance. From a political perspective, since the personnel of such a service would be at the disposal of the UN, it could have overcome governments’ unwillingness to expose their nationals to security threats in countries perceived to be of little economic, political or strategic significance. Filling these gaps might help to alleviate the short-term suffering of the civilian populations until a more robust peacekeeping operation could be deployed and a viable political solution achieved.

**Africa Watch**

**Dealing with the fast-changing environment in the eastern DRC**

Henri Boshoff

The recent split in the Congrès National pour la Défense du Peuple (CNDP) and the arrest of General Laurent Nkunda have changed the political and military situation in the eastern DRC. To complicate matters, Rwanda has re-entered the DRC under the pretext of joint operations going after the Forces Démocratiques pour la Libération du Rwanda. This came within a month of the Ugandan Defence Force entering the Ituri area in pursuit of the Lord’s Resistance Army. The Forces Armées de la République Démocratique du Congo, Rwandan Defence Force and CNDP forged an unholy alliance and went after the FDLR in a joint operation. According to the RDF the operation would not last longer than 21 days. These actions have resulted in a lot of unhappiness among Congolese citizens and even politicians. The possibility of unrest in the bigger cities like Kinshasa, Kisangani, Lubumbashi, Bukavu, Goma and Kalemi is a reality. That MONUC was not involved in the planning of joint operations aggravates the situation. The possibility of human rights violations and war crimes are real, indeed. There is a need for political intervention from the Southern African Development Community and the African Union to bring the roleplayers back to the formal process and implement the Amani Process.

** Essays**

**Developing indicators for evaluating the national implementation of regional law on arms in Africa**

Denise Garcia

The spread of arms and the resulting armed violence undermine good governance in Africa more than in any other continent. The Southern African Development Community
(SADC), the Eastern African states, and the Economic Community of Western Africa States (ECOWAS) are advancing towards a regional approach to tackling the scourge of small arms proliferation and have enacted legally binding instruments in this regard. The main reason for the subregional approach is that Africa is the worst-hit region in the world by unrestrained arms availability. This has devastating consequences that imperil human security and threaten the continent’s achievement of development goals.

Lighting up the intelligence community: An agenda for intelligence reform in South Africa

Laurie Nathan

In 2006 the South African Minister of Intelligence established the Ministerial Review Commission on Intelligence in order to strengthen controls of the civilian intelligence organisations, ensure alignment with the Constitution and prevent illegality and abuse of power. At the end of 2008 the commission released its report. This article sets out an agenda for intelligence reform in South Africa by presenting the commission’s findings and proposals regarding adherence to the Constitution, the White Paper on Intelligence, ministerial control and responsibility, the domestic intelligence mandate, intrusive measures, and transparency.

Commentaries

SADCBRIG intervention in SADC member states: Reasons to doubt

Deane-Peter Baker and Sadiki Maeresera

The Southern African Development Community Brigade (SADCBRIG) is a regional multidimensional peace support operations instrument as provided for by the African Union Standby Force Policy Framework. One of the five regional brigades that make up the African Standby Force, the SADCBRIG will be a tool of the subregion’s political leadership for military intervention in any future conflict situation while diplomatic solutions are being sought. This article argues that the political/strategic challenges that the subregion is likely to face in tasking the brigade in one of its future roles – uninvited military intervention in a member state in order to restore peace and security – make it unlikely that the brigade will be employed for this purpose, at least in its envisioned rapid response role.
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Introduction

Post-Cold War turbulence between 1990 and 1994 led to huge international peacekeeping operations and the cost of these operations increased six-fold over this period. Troop strength burgeoned from about 12,000 to well over 70,000, with costs growing from half a billion dollars to over three billion. In this regard UN peacekeeping operations swiftly moved from traditional military peacekeeping tasks to multidimensional operations in disintegrating and ‘failed states’. Furthermore, the situations in Bosnia-Herzegovina and Somalia in particular gave a new role to peacekeeping forces. In both the former Yugoslavia and Somalia combat conditions, combined with hostility towards the UN from at least one of the parties, led to the partial or limited use of enforcement action.¹

At the request of the Security Council, the then Secretary-General of the UN, Dr Boutros Boutros-Ghali, presented An agenda for peace in July 1992. In this document he
proposed a significant broadening of the UN’s use of military force to prevent conflict, halt aggression, and supervise and enforce ceasefires and post-conflict peace-building. Where ceasefires had been agreed on but not complied with, Boutros-Ghali urged the Security Council to consider deploying peace enforcement units that were more heavily armed than traditional peacekeeping forces.²

However, when the UN’s record since 1993 is analysed, one feature emerges quite clearly: stark evidence of a reluctance on the part of the UN Security Council to become involved in conflicts in Africa since the events in Somalia that resulted in the deaths of 18 US troops. In 1993, the time of the UN’s involvement in Somalia, UN peacekeeping forces in Africa numbered almost 40 000. By June 1999, they had dwindled to fewer than 1 600. It is also interesting to note that where there were seven concurrent UN peacekeeping operations on the African continent in 1993, in June 1999 there were only three.³

Against this background it was often argued that the UN Security Council had been lax in carrying out its mandated duty to maintain international peace and security in general and in Africa in particular. In fact, the world body has reduced its commitment to peacekeeping although the need for such operations has grown significantly. In the words of Berman and Sams: ‘At a time of growing challenges to African peace and security, UN peacekeepers are either conspicuously absent from the region or, if present, have had their roles substantially marginalised.’⁴

Yet, in 2009 a record number of about 113 000 uniformed and civilian peacekeepers maintained stability in several conflict-stricken states across the globe. ‘Today we are larger and spread more widely than ever before, with mandates that are more complex and robust than ever,’ said the UN Under-Secretary-General for Peacekeeping Operations, Mr Alain Le Roy, to the UN Security Council on 23 January 2009, noting that a surge in peacekeeping over the past decade continued until today.⁵ In comparative context, the figure for uniformed peacekeepers (military personnel, police officials, and military observers) stood at 78 444 in July 1993 and after reaching a low towards the end of the 1990s was gradually boosted to reach 90 883 in January 2008.

As far as Africa is concerned, this included large-scale multidimensional peacekeeping operations in the Democratic Republic of Congo (DRC), Liberia, Sudan (two operations) and Côte d’Ivoire. Moreover, of the 20 peacekeeping operations worldwide administered by the UN Department of Peacekeeping Operations in the international community on 1 April 2008, 10 were in Africa.

The question arises: What does this imply or signify with regard to the political will of the international community to invest in or contribute to peacekeeping operations in Africa? Furthermore, what about the role and potential contributions of important African roleplayers such as the AU and the envisaged African Standby Force?
This article aims at providing a better understanding of UN peacekeeping operations with special reference to African peacekeeping challenges. Specifically, the UN’s completed and current peacekeeping operations are reviewed, as well as the main troop contributing nations. In the final analysis, the discussion focuses on Africa’s contemporary peacekeeping requirements in the context of current international peacekeeping trends and related developments on the African continent.

Profile of UN peacekeeping operations: 1991–2000

UN peacekeeping operations have undergone significant fluctuations in the period 1991–2000. Thirty-six (or two-thirds) of the 54 peacekeeping operations set up between 1948 and 2000 were established after 1991. Eight peacekeeping operations were under way at the beginning of 1991 but with the rise in peacekeeping requirements – particularly in the Balkans and Africa – the number of operations increased to 18 by the middle of 1994. The number went down to 15 by the end of 2000.

During the 1990s the deployment of uniformed peacekeepers also fluctuated widely. At the beginning of the decade there were relatively low levels of uniformed deployments with a total strength of about 10 000. Their numbers increased and reached a peak of some 78 000 in 1993. This was largely the result of expansions in the UN Operation in Somalia (UNOSOM II) and the United Nations Protection Force in the former Yugoslavia (UNPROFOR). In late 1994, UNPROFOR alone consisted of nearly 40 000 troops. In 1993 the former UN Secretary-General, Boutros Boutros-Ghali, stated that ‘my role is becoming more difficult … because of the multiplication of problems: Yugoslavia, El Salvador, Cambodia, Somalia, Angola, South Africa, Mozambique. The UN has never had to deal with six or seven problems at the same time.’

It has already been noted that the situations in Bosnia-Herzegovina and Somalia in particular had given a new role to peacekeeping forces. In the former Yugoslavia and Somalia combat conditions, combined with hostility towards the UN from at least one of the parties (in contrast with the consent and cooperation on which traditional peacekeeping operations were based), led to the partial or limited use of enforcement action in accordance with Chapter VII of the UN Charter. Furthermore, UNPROFOR in the former Yugoslavia had been the first force to include mechanised infantry battle groups organised and equipped for high-intensity combat operations. In another departure from traditional peacekeeping operations, members of multinational forces began applying force, including attack helicopters and armoured fighting vehicles, to disarm rival factions.

However, it is commonly known that the UN has suffered serious setbacks since 1993 in Somalia, Rwanda and the former Yugoslavia. As a result, the world body retreated...
from its earlier ambitious vision for peacekeeping presented in *An agenda for peace*. As far as Africa is concerned, the US experience in Somalia marked a turning point, if not a watershed, in American contributions to peacekeeping operations\(^\text{10}\) – especially as regards involvement in African conflicts.

By the end of 1995 the number of UN peacekeeping operations had dropped to 16, compared with 17 at the end of 1994. However, this masked the termination of three large operations, namely UNOSOM II, the UN Operation in Mozambique (ONUMOZ) and the UN Observer Mission in El Salvador (ONUSAL). Also, UNPROFOR had been split into three separate operations and, following the Dayton agreement, two of these had been replaced by much smaller operations.\(^\text{11}\) Accordingly, by 1995 the numbers of uniformed peacekeeping personnel had dropped sharply. As of January 1996, the total deployment of uniformed personnel stood at approximately 29,000, less than half the previous level. The numbers continued to decline from 1996 until the middle of 1999, by which time they had dropped to 12,000. This trend was only reversed late in 1999 with the commencement of large peacekeeping operations in Kosovo, East Timor and Sierra Leone.\(^\text{12}\)

**Profile of UN peacekeeping operations: 2001−2007**

An analysis of UN peacekeeping operations indicates that from the total of fifteen missions under way on 1 January 2001, four were deployed in Africa, two in Asia, five in Europe and four in the Middle East (see table 1 on page 6).

In table 2 the strength of the above missions is analysed in terms of uniformed personnel deployed by the UN on 1 January 2001 with regard to missions with a strength of 1,000 uniformed peacekeepers and beyond.

According to the UN Department of Public Information, a total of 37,719 uniformed UN peacekeepers were deployed on 1 January 2001. This means that there had been an increase in the number of uniformed personnel in UN peacekeeping operations since the sharp decline in 1995. Furthermore, where the UN’s peacekeeping budget was decreased towards the end of the 1990s, reaching US$1 billion in 1998, it was increased again in 1999–2000 and reached a figure of nearly US$3 billion in the budgetary cycle 2000/01.\(^\text{13}\) (As far as the location of UN peacekeeping operations was concerned, it is also clear from the above information that Africa was a most important arena for the UN – with UNAMSIL and MONUC among the five largest missions – although the Middle East and Central/Eastern Europe posed equally important challenges to the UN Security Council.)

The importance of Sierra Leone to the UN is evident from the fact that in 2004 some 13,000 UN peacekeepers were deployed in Sierra Leone. To some observers UNAMSIL
### Table 1 Missions deployed as of 1 January 2001

<table>
<thead>
<tr>
<th>Region</th>
<th>Mission Description</th>
<th>Start Date – End Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Africa</td>
<td>UN Mission for the Referendum in Western Sahara (MINURSO)</td>
<td>Apr 1991 –</td>
</tr>
<tr>
<td></td>
<td>UN Mission in Sierra Leone (UNAMSIL)</td>
<td>Oct 1999 – Dec 2005</td>
</tr>
<tr>
<td></td>
<td>UN Organisation Mission in the DRC (MONUC)</td>
<td>Dec 1999 –</td>
</tr>
<tr>
<td></td>
<td>UN Mission in Ethiopia and Eritrea (UNMEE)</td>
<td>July 2000 –</td>
</tr>
<tr>
<td>Asia and the Pacific</td>
<td>UN Military Observer Group in India and Pakistan (UNMOGIP)</td>
<td>Jan 1949 –</td>
</tr>
<tr>
<td></td>
<td>UN Transitional Administration in East Timor (UNTAET)</td>
<td>Oct 1999 – May 2002</td>
</tr>
<tr>
<td>Europe</td>
<td>UN Peacekeeping Force in Cyprus (UNFICYP)</td>
<td>Mar 1964 –</td>
</tr>
<tr>
<td></td>
<td>UN Observer Mission in Georgia (UNOMIG)</td>
<td>Aug 1993 –</td>
</tr>
<tr>
<td></td>
<td>UN Mission in Bosnia and Herzegovina (UNMIBH)</td>
<td>Dec 1995 – Dec 2002</td>
</tr>
<tr>
<td></td>
<td>UN Interim Administration Mission in Kosovo (UNMIK)</td>
<td>June 1999 –</td>
</tr>
<tr>
<td>Middle East</td>
<td>UN Truce Supervision Organisation [Jerusalem] (UNTSO)</td>
<td>June 1948 –</td>
</tr>
<tr>
<td></td>
<td>UN Disengagement Force [Syrian Golan Heights] (UNDOF)</td>
<td>June 1974 –</td>
</tr>
<tr>
<td></td>
<td>UN Interim Force in Lebanon (UNIFIL)</td>
<td>Mar 1978 –</td>
</tr>
</tbody>
</table>


### Table 2 Uniformed personnel deployed as of 1 January 2001

<table>
<thead>
<tr>
<th>Peacekeeping Operation</th>
<th>Strength</th>
</tr>
</thead>
<tbody>
<tr>
<td>UNAMSIL (Sierra Leone)</td>
<td>10 420</td>
</tr>
<tr>
<td>UNTAET (East Timor)</td>
<td>9 287</td>
</tr>
<tr>
<td>UNIFIL (Lebanon)</td>
<td>5 802</td>
</tr>
<tr>
<td>MONUC (DRC)</td>
<td>5 537</td>
</tr>
<tr>
<td>UNMIK (Kosovo)</td>
<td>4 450</td>
</tr>
<tr>
<td>UNMIBH (Bosnia and Herzegovina)</td>
<td>1 813</td>
</tr>
<tr>
<td>UNMEE (Ethiopia and Eritrea)</td>
<td>1 777</td>
</tr>
<tr>
<td>UNFICYP (Cyprus)</td>
<td>1 246</td>
</tr>
<tr>
<td>UNIKOM (Iraq/Kuwait)</td>
<td>1 096</td>
</tr>
<tr>
<td>UNDOF (Syrian Golan Heights)</td>
<td>1 034</td>
</tr>
</tbody>
</table>

Features 7

signalled the ‘UN’s return to Africa’ after the major (Western) powers ‘retreated’ from African peacekeeping since the twin failures of Somalia and Rwanda in the early 1990s. The mission’s achievements have been numerous and it shepherded the peace process to regularise much of the once war-ravaged country’s diamond-mining industry that had fuelled the conflict.\textsuperscript{14}

However, the UN Under-Secretary-General for Peacekeeping Operations, Jean-Marie Guéhenno, specifically urged the US, as the world’s only superpower, to fulfil its commitments to UN peacekeeping. He pointed out that of the personnel contributed by 86 nations to UN operations in 2002, less than 2 per cent were US personnel, three-quarters of whom were posted in Kosovo. A single US soldier was posted with the Ethiopia-Eritrea UNMEE mission.\textsuperscript{15}

Profile of contemporary UN peacekeeping operations: 2008

In 2008, the numbers of UN peacekeepers were unprecedented: 20 UN peacekeeping operations were administered on four continents. The budget for peacekeeping grew to nearly US$7 billion in the 2007/08 period. Africa was still the major arena for UN peacekeeping operations, but much had changed since 1 April 2001. An analysis of the 20 peacekeeping operations administered by the UN Department of Peacekeeping Operations on 1 April 2008 shows that 10 were in Africa. This explains why over 70 per cent of the approximately 90 000 uniformed peacekeepers deployed in 2008 could be found in Africa. The focus on Africa is also reflected in the fact that the bulk of the UN’s peacekeeping budget of nearly US$7 billion in the 2007/08 period was budgeted for African peacekeeping operations. In fact, the UN Under-Secretary-General for Peacekeeping Operations specifically referred in his 2007 report to the General Assembly that the Department of Peacekeeping Operations had begun mounting two ‘new, highly unique and complex operations in Darfur and Chad/Central African Republic, while continuing to support 18 current operations’.\textsuperscript{16} The missions deployed on 1 April 2008 are listed in table 3 on page 8.

In table 4, the strength of the above missions is analysed in terms of uniformed personnel deployed by the UN on 31 March 2008 for missions with 1 000 uniformed peacekeepers and beyond.

A total of 90 429 uniformed UN peacekeepers (including 76 529 military personnel, 11 218 police officials and 2 682 military observers) were deployed on 31 January 2008. This means that there had been a (further) steady increase in the number of uniformed personnel in UN peacekeeping operations since the beginning of the decade. Where the UN’s peacekeeping budget was decreased towards the end of the 1990s, reaching
### Table 3 Missions deployed, 1 April 2008

<table>
<thead>
<tr>
<th>Africa</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>UN Mission for the Referendum in Western Sahara (MINURSO)</td>
<td>Apr 1991 –</td>
</tr>
<tr>
<td>UN Mission in the Democratic Republic of Congo (MONUC)</td>
<td>Dec 1999 –</td>
</tr>
<tr>
<td>UN Mission in Ethiopia and Eritrea (UNMEE)</td>
<td>July 2000 –</td>
</tr>
<tr>
<td>UN Mission in Liberia (UNMIL)</td>
<td>Sept 2003 –</td>
</tr>
<tr>
<td>UN Operation in Côte d’Ivoire (UNOCI)</td>
<td>Apr 2004 –</td>
</tr>
<tr>
<td>UN Mission in Sudan (UNMIS)</td>
<td>Mar 2005 –</td>
</tr>
<tr>
<td>UN Integrated Office in Sierra Leone (UNIOSIL)</td>
<td>Dec 2005 –</td>
</tr>
<tr>
<td>UN Mission in the CAR and Chad (MINURCAT)</td>
<td>Sept 2007 –</td>
</tr>
<tr>
<td>UN Integrated Office in Burundi (BINUB)*</td>
<td>Jan 2007 –</td>
</tr>
<tr>
<td>AU/UN Hybrid Operation in Darfur (UNAMID)</td>
<td>July 2007 –</td>
</tr>
<tr>
<td><strong>Asia and Pacific</strong></td>
<td></td>
</tr>
<tr>
<td>UN Military Observer Group in India and Pakistan (UNMOGIP)</td>
<td>Jan 1949 –</td>
</tr>
<tr>
<td>UN Assistance Mission in Afghanistan (UNAMA)*</td>
<td>March 2002 –</td>
</tr>
<tr>
<td>UN Integrated Mission in Timor-Leste (UNMIT)</td>
<td>Aug 2006 –</td>
</tr>
<tr>
<td><strong>Europe</strong></td>
<td></td>
</tr>
<tr>
<td>UN Peacekeeping Force in Cyprus (UNFICYP)</td>
<td>Mar 1964 –</td>
</tr>
<tr>
<td>UN Observer Mission in Georgia (UNOMIG)</td>
<td>Aug 1993 –</td>
</tr>
<tr>
<td>UN Interim Administration Mission in Kosovo (UNMIK)</td>
<td>June 1999 –</td>
</tr>
<tr>
<td><strong>Middle East</strong></td>
<td></td>
</tr>
<tr>
<td>UN Truce Supervision Organisation [Jerusalem] (UNTSO)</td>
<td>June 1948 –</td>
</tr>
<tr>
<td>UN Disengagement Force [Syrian Golan Heights] (UNDOF)</td>
<td>June 1974 –</td>
</tr>
<tr>
<td>UN Interim Force in Lebanon (UNIFIL)</td>
<td>Mar 1978 –</td>
</tr>
<tr>
<td><strong>Americas</strong></td>
<td></td>
</tr>
<tr>
<td>UN Stabilisation Mission in Haiti (MINISTAH)</td>
<td>June 2004 –</td>
</tr>
</tbody>
</table>

*Political or peacebuilding mission.


### Table 4 UN uniformed personnel, 31 March 2008

<table>
<thead>
<tr>
<th>Peacekeeping operation</th>
<th>Strength</th>
</tr>
</thead>
<tbody>
<tr>
<td>MONUC (DRC)</td>
<td>18 408</td>
</tr>
<tr>
<td>UNMIL (Liberia)</td>
<td>13 866</td>
</tr>
<tr>
<td>UNIFIL (Lebanon)</td>
<td>12 341</td>
</tr>
<tr>
<td>UNMIS (Sudan)</td>
<td>9 952</td>
</tr>
<tr>
<td>UNOCI (Côte d’Ivoire)</td>
<td>9 216</td>
</tr>
<tr>
<td>UNAMID (Darfur – Sudan)</td>
<td>9 213</td>
</tr>
<tr>
<td>MINUSTAH (Haiti)</td>
<td>8 997</td>
</tr>
<tr>
<td>UNMIK (Kosovo)</td>
<td>1 993</td>
</tr>
<tr>
<td>UNMIT (Timor-Leste)</td>
<td>1 579</td>
</tr>
<tr>
<td>UNDOF (Syrian Golan Heights)</td>
<td>1 047</td>
</tr>
</tbody>
</table>

US$1 billion in 1998, it was increased (again) in 1999–2000 and reached nearly US$3 billion in the budgetary cycle 1 July 2000 to 30 June 2001. This figure stood at nearly US$7 billion for the period 1 July 2007 to 30 June 2008 – a figure that accords with increased international peacekeeping responsibilities. As far as Africa goes, US$1.28 billion of the said budget was destined for Darfur alone. It is evident that conflict in Africa had required even greater attention from the UN Department of Peacekeeping with over 46 000 uniformed peacekeepers in 2008 – the majority of uniformed UN peacekeeping personnel – deployed to conflict situations in Africa.

The question remains: What does this imply or signify with regard to the political will of the international community to contribute to peacekeeping operations in Africa? First, one should be mindful that many of the UN’s challenges in and focus on Eastern and Central Europe (specifically the former Yugoslavia) terminated in recent years, which practically paved the way for the UN to shift much of its focus to African conflicts. Second, de Coning does not view the latest trends in peacekeeping as a significant shift in the political will of the international community to invest in peacekeeping operations in Africa. The rationale to invest more in peacekeeping operations was rather founded on the (American-based) post-9/11 belief that failed states are ideal staging and breeding grounds for international terrorists. De Coning also argues that there is currently a kind of informal division whereby most Western countries contribute to NATO or EU operations in Europe and the Middle East while most UN peacekeeping troops are from countries in the developing world.

**African peacekeeping requirements in international context**

Towards the end of the 1990s it was often asserted that Africa was on the receiving end of the so-called Somalia effect, in other words Western disenchantment as a result of the failure of ‘new-generation’ peacekeeping operations in Africa. It is common knowledge that the UN terminated its involvement in the Angolan peace process in February 1999 after years of futile peacekeeping efforts by no fewer than four peace missions. The termination of the UN’s involvement in Angola marked the end of a decade of international military presence in the Angolan civil war. The UN’s endeavours in the DRC and Sierra Leone were further proof that the UN has not always been in a sufficiently strong position to put a lid on hostilities in complex emergencies in Africa. Berman and Sams stated as early as 2000 that ‘years after the failure to stop the genocide in Rwanda, insufficient progress has been made to respond appropriately, let alone to prevent, a similar catastrophe’.

In the past, Western governments have been almost falling over themselves to send troops to Eritrea and Ethiopia. For example, in May 2000 the nations involved in the multinational UN Standby Forces High Readiness Brigade (SHIRBRIG) were
approached to commit the brigade to the peacekeeping effort in Ethiopia and Eritrea – and they immediately responded positively. However, this peacekeeping effort was different to those in Sierra Leone and the DRC. First, the war was nearing its end and the UN was not required to enforce peace, as has too often been the case in Africa in the

Table 5 Contributions to UN peacekeeping operations, 28 February 2001

<table>
<thead>
<tr>
<th>Country</th>
<th>Observers</th>
<th>Police</th>
<th>Troops</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nigeria</td>
<td>26</td>
<td>205</td>
<td>3 320</td>
<td>3 551</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>53</td>
<td>169</td>
<td>3 318</td>
<td>3 540</td>
</tr>
<tr>
<td>Jordan</td>
<td>29</td>
<td>838</td>
<td>1 863</td>
<td>2 730</td>
</tr>
<tr>
<td>Kenya</td>
<td>36</td>
<td>62</td>
<td>1 930</td>
<td>2 028</td>
</tr>
<tr>
<td>Ghana</td>
<td>31</td>
<td>290</td>
<td>1 629</td>
<td>1 950</td>
</tr>
<tr>
<td>Australia</td>
<td>26</td>
<td>120</td>
<td>1 649</td>
<td>1 795</td>
</tr>
<tr>
<td>India</td>
<td>25</td>
<td>620</td>
<td>796</td>
<td>1 441</td>
</tr>
<tr>
<td>Ukraine</td>
<td>12</td>
<td>230</td>
<td>1 177</td>
<td>1 419</td>
</tr>
<tr>
<td>Pakistan</td>
<td>60</td>
<td>391</td>
<td>872</td>
<td>1 323</td>
</tr>
<tr>
<td>Poland</td>
<td>26</td>
<td>175</td>
<td>989</td>
<td>1 190</td>
</tr>
</tbody>
</table>

1990s. Second, the peacekeeping objectives were clear and there was far less danger or political risk than in Sierra Leone and the DRC. This coincided with critical views that the five permanent members of the Security Council – led by the US – have become increasingly reluctant to commit their troops to UN peacekeeping efforts, particularly in Africa. Moreover, the five permanent members of the Security Council have embraced Chapter VIII of the UN Charter disingenuously, to lend both respectability and legitimacy to international peacekeeping.25

If Africa’s position is considered in the international context, it should be noted that the increase in troop contributions to the UN in the early 2000s was mainly the result of developing countries contributing troops to peacekeeping operations. Only two of the top ten contributors at the beginning of 1991 were developing countries, namely Ghana and Nepal. By 28 February 2001 the overwhelming majority of the top ten contributors of uniformed personnel to UN peacekeeping operations worldwide were developing countries – and three of them were African states, namely Nigeria, Kenya and Ghana.26 The top ten countries in the UN’s profile of contributors to UN peacekeeping operations on 28 February 2001 are ranked in table 5 and represented in graphic format in figure 1.

Contributions from the five permanent members of the UN Security Council are listed in table 6.

<table>
<thead>
<tr>
<th>Country</th>
<th>Observers</th>
<th>Police</th>
<th>Troops</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>42</td>
<td>827</td>
<td>1</td>
<td>870</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>43</td>
<td>227</td>
<td>327</td>
<td>597</td>
</tr>
<tr>
<td>France</td>
<td>43</td>
<td>189</td>
<td>268</td>
<td>500</td>
</tr>
<tr>
<td>Russian Federation</td>
<td>73</td>
<td>126</td>
<td>109</td>
<td>308</td>
</tr>
<tr>
<td>China</td>
<td>42</td>
<td>60</td>
<td>0</td>
<td>102</td>
</tr>
</tbody>
</table>


Interestingly, in 1993 France was the largest contributor to UN peacekeeping operations with around 6 000 troops, while the United Kingdom’s contribution had increased fivefold since the end of the Cold War, to 3 700.27 Today a different picture emerges. The UN’s profile of the top ten contributors to UN peacekeeping operations on 31 March 2008 is represented in table 7 and in graphic format in figure 2.

It is clear that the majority by far of the top ten contributors of uniformed personnel to UN peacekeeping operations worldwide are still developing countries – with African
states (still) taking three top positions, namely Nigeria, Ghana and Senegal. It should also be noted that a number of other African states were contributing substantial numbers of uniformed personnel to UN peacekeeping operations as of 31 March 2008, namely Senegal (2 558), Ethiopia (1 828), Benin (1 345), Egypt (1 230), South Africa (1 771),

**Table 7** Top ten contributors, 31 March 2008

<table>
<thead>
<tr>
<th>Country</th>
<th>Observers</th>
<th>Police</th>
<th>Troops</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pakistan</td>
<td>121</td>
<td>814</td>
<td>9 694</td>
<td>10 629</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>99</td>
<td>945</td>
<td>8 003</td>
<td>9 047</td>
</tr>
<tr>
<td>India</td>
<td>86</td>
<td>535</td>
<td>8 343</td>
<td>8 964</td>
</tr>
<tr>
<td>Nigeria</td>
<td>98</td>
<td>625</td>
<td>4 692</td>
<td>5 415</td>
</tr>
<tr>
<td>Nepal</td>
<td>47</td>
<td>557</td>
<td>3 063</td>
<td>3 667</td>
</tr>
<tr>
<td>Ghana</td>
<td>69</td>
<td>607</td>
<td>2 636</td>
<td>3 312</td>
</tr>
<tr>
<td>Jordan</td>
<td>73</td>
<td>952</td>
<td>2 052</td>
<td>3 077</td>
</tr>
<tr>
<td>Rwanda</td>
<td>22</td>
<td>145</td>
<td>2 841</td>
<td>3 008</td>
</tr>
<tr>
<td>Italy</td>
<td>19</td>
<td>54</td>
<td>2 800</td>
<td>2 873</td>
</tr>
<tr>
<td>Uruguay</td>
<td>68</td>
<td>16</td>
<td>2 505</td>
<td>2 589</td>
</tr>
</tbody>
</table>


**Figure 2** Contributions to UN peacekeeping operations, 2008
Morocco (1 562), and Kenya (1 061) — which placed these countries in the top 25 bracket of contributors to UN peacekeeping missions.

Contributions from the five permanent members of the UN Security Council are listed in table 8.

Table 8 Contributions: UN Security Council, 31 March 2008

<table>
<thead>
<tr>
<th>Country</th>
<th>Observers</th>
<th>Police</th>
<th>Troops</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>65</td>
<td>195</td>
<td>1 718</td>
<td>1 978</td>
</tr>
<tr>
<td>France</td>
<td>26</td>
<td>113</td>
<td>1 785</td>
<td>1 924</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>17</td>
<td>62</td>
<td>269</td>
<td>348</td>
</tr>
<tr>
<td>United States</td>
<td>16</td>
<td>268</td>
<td>13</td>
<td>297</td>
</tr>
<tr>
<td>Russia</td>
<td>96</td>
<td>71</td>
<td>123</td>
<td>290</td>
</tr>
</tbody>
</table>


Only two of the permanent members of the Security Council made any significant troop contributions to UN peacekeeping operations, namely China and France. Interestingly, Africans have been playing a fairly prominent role in the UN Department of Peacekeeping in New York in recent years. In 2007, no less than 48 per cent of the leadership of this institution came from developing countries.28

The above figures disguise some additional peacekeeping contributions by African states. Between 2003 and 2007 the African Union (AU) undertook two major peacekeeping operations, in Burundi and Sudan, with specific reference to the recently conducted African Union Mission in Burundi (AMIB) and the African Mission in Sudan (AMIS) – operations that involved some 10 000 peacekeepers. This begs the question: Does this imply that African roleplayers and troop-contributing countries are now able to take charge of peacekeeping challenges on the continent and what does this imply with regard to the future role of the UN in Africa? Having said this, one should be mindful that troop contributions reflect only one dimension of international geopolitical realities. The financing of peacekeeping operations is another side of the coin. As of 1 January 2008, the top ten financial contributors to UN peacekeeping were the United States, Japan, Germany, the United Kingdom, France, Italy, China, Canada, Spain and the Republic of Korea. The US is responsible for 26 per cent of the UN peacekeeping budget, while Europe’s combined contribution amounts to about 43 per cent. In fact, together, the US, Japan and Europe – the trio of main funders – are responsible for close to 90 per cent of the UN peacekeeping budget. Europe and the US were also the major financial contributors to AU peacekeeping with specific reference to the recently conducted missions in Burundi (AMIB) and Sudan (AMIS).29
Contemporary peacekeeping trends and developments in Africa

The establishment of the African Union in Durban, South Africa, in July 2002 was inter alia inspired by the desire to ‘promote peace, security and stability on the (African) continent’.30 Importantly, the AU Constitutive Act – in stark contrast to the non-interference principle that underpinned the former Organisation of African Unity (OAU) since 1963 – establishes in article 4(h) the right of the Union to intervene in a member state pursuant to a decision of the Assembly (of heads of state or government) in respect of grave circumstances, namely war crimes, genocide and crimes against humanity.31 The Constitutive Act of the AU furthermore provides for action to ‘promote and defend African common positions on issues of interest to the continent and its peoples’ and it paves the way for ‘the establishment of a common defence policy for the African continent’.32

Significant progress has been made in recent years in the development of a cohesive African peace and security system when African defence functionaries agreed on the modalities of an African Standby Force (ASF) in 2003. The ASF is intended to provide the AU Peace and Security Council with a rapid deployment capability for a multiplicity of peace support tasks, including preventive deployment, swift intervention, classical peacekeeping and peacebuilding. The aim is also to provide the AU and other roleplayers on the African continent with a firmer foundation for undertaking peacekeeping endeavours and thus to move towards a less ad hoc way of responding to crises than in the past. The ASF will consist of five subregionally based brigades (3 000 to 4 000 troops) in addition to a sixth, continental formation based at the AU headquarters in Addis Ababa, Ethiopia. This will provide the AU with a combined standby capacity of 15 000 to 20 000 peacekeepers towards 2010.33

The ASF clearly represents a serious political intention on the part of African leaders to set up a multinational peacekeeping force and there are great expectations of the AU being able to rapidly deploy the long-desired ASF as a Pan-African ideal. Yet, more than mere political will and commitment is needed as peacekeeping operations are immensely costly affairs played out in messy theatres. Recent peacekeeping experience has revealed that the AU suffers from a lack of strategic management capacity and has no effective mechanisms for operational level mission management. In addition, it has insufficient logistical support and lacks the ability to manage logistics, lacks capacity in communication and information systems, and is wholly dependent on external partners in specific technical fields.34 Adequate funding for airlift resources, for instance, is crucial in rapid deployment and is indeed a cause for concern in the African context. The absence of an airlift capability means virtually no peacekeeping operation is possible – to mention only one of the many pressing operational factors. Currently, very few African states have any strategic lift capabilities worth mentioning. If the ASF is to be worthy of the ‘standby’ in its name, strategic lift and related logistical support in the field will have to be in place.35
In view of the above, some challenges encountered by the now defunct OAU dating back to its peacekeeping operation in Chad in 1981 seem to remain challenges in the African context. Considering some of the most serious peacekeeping challenges that the AU had to deal with – in Burundi and Sudan (Darfur) in recent years – it could be stated that the African continent is still battling with some of the ‘old OAU challenges’, notably inadequate allocation of financial and logistical resources.36

In January 2007 the AU promised a force of 8 000 to form the African Union Mission to Somalia (AMISOM) with a view to keeping the peace in Mogadishu after Ethiopia’s invading forces, with tacit Western approval, had battered the Islamist militias in an attempt to sustain a shaky Somali government. But only 1 600 Ugandan troops deployed early in 2008 in accordance with the AU undertaking. As can be expected, observers were quick to contend that the AU and African countries have failed to deliver.37 In view of the above Baker observes that ‘the case of AMISOM is by no means the first time this capabilities gap has become evident. While the AU has unquestionably played an increasingly important role in peacekeeping on the continent, its responses have typically been slow, logistically creaky and piecemeal.’38

Although African leaders have recognised the need to address peace and security issues on the continent, their ability to undertake credible and effective peacekeeping missions is constrained. They are not yet in a position to respond militarily to peace and security crises without direct assistance, especially from Western countries or donors.39 In other words, while there is no lack of political support for the development of the ASF, valid concerns persist about the financial implications of implementing AU objectives. If the recent experience of AMIS is to be taken as a yardstick, the AU’s plan to work towards multidimensional peacekeeping and intervention operations (peace enforcement) towards 2010 seems quite ambitious. Even if peace enforcement proves to be viable it would perhaps only be viable to the extent that the ASF could play a role in stabilising a crisis situation for a limited period. Solomon and du Rand rightly argued that the focus of peacekeeping operations has shifted towards a more integrated approach, including reconstruction, development, stability, civilian involvement and humanitarian aspects. This integrated approach to peace on the African continent demands even more resources from a cash-strapped continent and, in turn, necessitates wider international support. In short, Africa cannot ‘go it alone’ in providing the stability that is essential for development. ‘As problems become more intricate and more multidisciplinary, so must the answers.’40

The momentum of peacekeeping operations should be maintained. Besides, the UN is the only institution that can coordinate the multidimensional components required to conduct a complex peacekeeping operation, especially with regard to humanitarian action and post-conflict peacebuilding. As de Coning rightly points out: ‘The AU and African sub-regional organisations thus do not have the capacity to undertake complex peacekeeping operations on their own. They would need to join forces with other
institutions like the UN, donor agencies and NGOs whenever they were to deploy in a complex peace operation context.41

Developing a capacity to manage peace enforcement likewise poses considerable challenges in terms of the full range of scenarios envisaged for the ASF. In this regard, one should be mindful that the UN Security Council is unlikely to deploy any new peace enforcement operations in Africa. Already in 2000, the so-called Brahimi Report of the Panel on UN Peace Operations stated that ‘[t]here are many tasks which the United Nations peacekeeping forces should not be asked to undertake, and many places they should not go’42 – and nothing points towards any new development in this regard. This leaves the ASF in quite a predicament and basically compels the AU to get itself and the respective subregional brigades geared towards the undertaking of robust enforcement operations.

However, because African roleplayers such as the AU generally lack staying power and adequate financing, they need to work towards finding an appropriate measure of burden-sharing between the UN and African roleplayers. Specifically, the AU will have to rely on the UN to oversee the required humanitarian and developmental action in a conflict situation. In this context, the practice whereby the AU deployed AMIB in 2003, followed by a UN mission in 2004, namely the UN Mission in Burundi (ONUB), seems to be a pointer towards a possible future UN-AU working relationship. It points towards a readiness on the part of the AU to contribute towards stabilisation operations, but also to work towards drawing or relying on the sustainability and multidimensional capability of the UN to build on that momentum.43

Recently a most significant development in Africa relates to the formation of the UN-AU Hybrid Operation in Darfur (UNAMID) as a replacement for AMIS after African troops exchanged their green berets for blue on 31 December 2007. UNAMID is intended to be a hybrid UN-AU undertaking composed of almost 20 000 troops, more than 6 000 police officials, and a significant civilian component – and as such will become one of the largest peacekeeping operations in history.44 In this case the UN and the AU have sought to assemble a force that would represent a predominantly ‘African character’ while retaining both the impartiality and competency required to undertake this challenging mission.45 This development coincides with Cilliers’ view that ‘[t]oday it is accepted that the AU will deploy first, opening the possibility for a UN follow-on mission’.46

Appraisal and conclusion

This article aims at providing a better understanding of UN peacekeeping operations with special reference to African peacekeeping challenges. It is clear from the above that the post-Cold War period witnessed both the changing and evolving nature of
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peacekeeping and the growing need for peacekeeping operations. The problems and challenges that the UN encountered and faced on the African continent in particular reflected the peculiar difficulties of peacekeeping as involvement in African conflicts have been and are still among the UN’s most important and challenging endeavours. In fact, the African continent has had a critical impact on defining the limits and possibilities of the post-Cold War order and the place of the UN (which still has the ultimate responsibility for maintaining international peace and security) in this context.

Over 70 per cent of the approximately 90 000 uniformed UN peacekeepers deployed in 2008 can be found in Africa and Africans are strongly represented in current UN peacekeeping missions. The focus on Africa is also reflected in the fact that the bulk of the current UN peacekeeping budget is budgeted for African peacekeeping operations. Other developments have included new partnerships between the UN and African roleplayers. The deteriorating situation in Darfur and the difficulties faced by the AU in this conflict-stricken region in recent years required a new type of mission, namely a large hybrid operation in Darfur (UNAMID). This is yet another case where African roleplayers and armed forces have been paving the way for the deployment of UN peacekeepers. In the meantime, challenges on the African continent have continued because by early 2009, some key elements of UNAMID were still not in place.

During a day-long session of the UN Security Council on 23 January 2009 on ‘a growing demand for peacekeeping missions with increasingly complex and multidimensional mandates and confronted with human and financial resources’, the UN Under-Secretary-General for Peacekeeping Operations, Mr Alain Le Roy, stressed that 2009 was a pivotal year for peacekeeping. UN peacekeeping was clearly overstretched, he stressed. In view of this, he admitted that a number of peacekeeping operations faced risks that were so significant that there was a potential for operation failure, with terrible consequences for the UN. In this regard, he pointed towards the fact that even at full strength, UNAMID would continue to face daunting challenges in Darfur.

In the African context, there are great expectations of the AU being able to rapidly deploy an all-African standby force for future peacekeeping challenges. After all, this will be the realisation of a long-desired Pan-African ideal. However, the AU is almost wholly dependent on external roleplayers and partners to assist in addressing critical capacity gaps and provide much-needed finances. It needs the involvement of the UN and other international roleplayers if the ASF is to hold any promise for a more joined-up approach in African peacekeeping requirements.

At the same time, there appears to be some challenges concerning the future UN-AU relationship. Specifically, African troop contributors may have to choose between UN and ASF peacekeeping missions. This will have to be addressed – especially given the disparities of resources available to the two types of missions. One way of dealing with
this could be to rely on Pakistani, Indian and Bangladeshi troops, as these nations have been major troop-contributing nations to UN peacekeeping missions in recent years.\textsuperscript{49}

It can be argued that the way forward with African peacekeeping challenges is to pursue a more integrated approach to peace and security on the continent between the two most important roleplayers, namely the UN and the AU, and that the UN needs to play a meaningful role in the future of the ASF.\textsuperscript{50} After all, the UN remains the pre-eminent organisation responsible for international peace and security. Africa is arguably still the most important regional setting for UN peacekeeping operations and UN peacekeeping operations are still essential instruments for the international community in maintaining international peace and security in general and Africa in particular.

Notes

7 Quoted by I Kemp, Peacekeeping between the battle lines, \textit{Jane's Defence Weekly}, 13 March 1993, 23.
8 Riza, Parameters of UN peace-keeping, 18.
13 Ibid.


SHIRBRIG was established by several Western nations to create a multilateral high-readiness potential with a view to improving the UN’s conflict management capacity.


Chapter VII provides for a subsidiary but integral role for regional organisations in the maintenance of international peace and security.


See article 3(f) of the Constitutive Act of the African Union.


See articles 3(d) and 4(d) respectively of the Constitutive Act of the African Union.


B Thobane with T Neethling and F Vrey, Migrating from the OAU to the AU: exploring the need for a more effective African peacekeeping capability, *Supplementa ad Scientia Militaria* II (2007), 111–112.


H Solomon and A du Rand, Constraints in African peacekeeping.


De Coning, The future of peacekeeping in Africa, 6–7; De Coning, Refining the African Standby Force concept, 23.


50 Ibid, 19.
The use of force in UN peacekeeping: The experience of MONUC

Jim Terrie

In order for the UN to keep the peace it has to enforce it sometimes.¹

General Patrick Cammaert, MONUC Divisional Commander

Introduction

In the post-Cold War period the opportunity existed for the international community to take a more direct role in attempting to solve conflicts. One of the consequences was an increase in the intervention of military forces for humanitarian purposes. This had a direct impact on the scale and scope of UN peacekeeping missions which soon found themselves, especially in Somalia and Bosnia, in situations that they were unprepared to respond to. Subsequent successes in Kosovo and East Timor by non-UN forces in part rehabilitated the notion of intervention, but these were offset by the UN’s failures in the Balkans, Sierra Leone and the Democratic Republic of Congo (DRC).
The UN mission in the DRC, MONUC, was established in 1999 as an observer mission but by mid-2003 it faced collapse. The French led an EU force to stabilise the region of Ituri that had seen some of the worst atrocities. The respite allowed the UN to reconfigure and reinforce its mission but it was again challenged and failed in mid-2004 when Congolese Tutsi rebels led by dissident General Laurent Nkunda captured the town of Bukavu, which was being protected by UN forces. An article in *The Economist* in December 2004 asked provocatively and perhaps rhetorically, ‘Is this the world’s least effective UN peacekeeping force?’ The near collapse of the mission led to even further and more substantial reinforcement. From early 2005 the Eastern Division of MONUC, under the command of Major General Patrick Cammaert from the Netherlands, expanded its use of force, confronting militias and creating an improved security situation in the eastern DRC.

MONUC’s problems are both specific to the mission itself and symptomatic of the challenges and problems of UN peacekeeping operations. These include poor management, doctrinal confusion and an over-stretched force operating with too few troops. However, while the mission evolved to meet the changing situation on the ground, these changes have largely been made as a consequence of events rather than in anticipation of them – often after violence has occurred, with Congolese civilians paying the price. The greatest challenge has been to use the available force effectively in order to protect civilians, the mission, broader peace process and occasionally regional stability. This article will discuss the experience of MONUC, particularly in the period 2005–2007, to assess the evolving use of force and assess the impact and lessons for UN peacekeeping more broadly.

**From crisis to credibility**

The capture of Bukavu by rebels in 1994 caused serious reflection as to the viability of the mission. Bukavu exposed the weaknesses in MONUC’s operational capacities, especially its inadequate troop levels, lack of coherence and poor understanding of the utility of force. More fundamental was the misunderstanding within the mission and the UN as to what the role of the UN in the DRC was. High-ranking officials in the UN have suggested that MONUC did not have a coherent military strategy to speak of and this as well as a wider doctrinal void within the UN contributed to serious failures.

The UN Secretary-General’s Third Special Report on the DRC (16 August 2004) was an overdue attempt at grappling with the realities of the situation in the DRC and the challenges that MONUC faced. In response to the UNSG’s request UN Security Council Resolution 1565 (1 October 2004) authorised MONUC to raise its ceiling to 16 700 troops. The resulting restructuring of the force led to a number of significant
enhancements: the establishment of a divisional headquarters in Kisangani to command tactical operations in the east; the deployment of full Indian and Pakistani brigades into North and South Kivu respectively (adding to the four battalion Ituri Brigade); and the establishment of a divisional reserve utilising the South African Battalion.

In late 2004 the armed groups in Ituri engaged in frequent inter-fighting as they battled for control of resources. Much of the fighting has resumed an inter-ethnic characteristic that had abated since late 2003. A number of brutal massacres were perpetrated and more than 10,000 civilians sought refuge over the Ugandan border. Faced with growing criticism for failing to act, MONUC began to shift from reactive to preventive operations and increased its presence in the vicinity of some vulnerable and displaced people. MONUC officials publically denied that such cordon and search operations were focused on any particular militia group despite clear knowledge as to who was responsible for atrocities against civilians. This inevitably brought it into conflict with those militia groups attacking civilians – perhaps deliberately.

On 25 February 2005, during one such operation, FNI (Forces Nationalistes et Intégrationistes) militia, left largely unchallenged in Ituri, ambushed a group of UN peacekeepers, killing nine Bangladeshi soldiers. In response the newly appointed Eastern Divisional Commander, General Patrick Cammaert of the Netherlands, sent reinforcements and commenced extended security operations, which resulted in MONUC forces killing 50–60 FNI militia. There were some accusations that MONUC acted punitively. Statements focusing on perpetrators being ‘brought to justice’ reinforced this perception. The UNSG described the killing of the FNI militia as ‘self-defence’, which strictly was true as it appears that UN Pakistani troops conducting cordon and search operations were fired upon first after being caught in a market place of Loga, and came under attack from 300–400 militia. This fire fight, the largest for UN troops since Somalia, resulting in a four-hour battle supported by helicopter gun ships and reinforcements in order to extract them, resulted in the serious wounding of two peacekeepers. While MONUC can be criticised for its failure to conduct such cordon and search operations since early 2004, after it had established sufficient force levels in Ituri, there now appeared to be an undeclared policy of placing peacekeepers in locations that were likely to not only deter militias but also increase the likelihood of coming into conflict with them. The Special Representative of the Secretary-General, William Swing, stated on 13 March 2005 that the militias would have a deadline of 1 April to enter the disarmament programme. MONUC’s military Chief of Staff was less equivocal: ‘If you do not surrender your arms by 1 April you will be treated like armed bandits and war criminals and we will chase you.’ The intensity of fighting increased in early 2005 and resulted in a number of casualties and incidents. However, despite the increased violence, what was indisputable was the significant increase in those entering the disarmament programme – in the order of 14,000 by mid-June 2005. This was mostly as a consequence of MONUC’s increasingly effective operations against the militias.
It was unclear whether these actions heralded a deliberate change in MONUC’s concept of operations to act more aggressively and that ‘the armed groups do not have any other choice but to disarm’\textsuperscript{15} or whether the actions were merely a continuation of the existing concept of operations and ‘in keeping with the mission’s robust mandate’ [own emphasis].\textsuperscript{16} In respect of the use of force, the mandate itself – while increasing the range of tasks – did not explicitly move beyond the paradigm of protecting those ‘under imminent threat of physical violence’\textsuperscript{17} with ‘all necessary means, within its capacity and in the areas where its armed units are deployed’.\textsuperscript{18} While the mission was more capable and better organised, the mandate did not explicitly require any pre-emptive action on the part of MONUC, instead calling on MONUC ‘to deploy and maintain a presence in the key areas of potential volatility’. This left the mandate open to interpretation by the commanders on the ground, and in Kinshasa and New York. Regardless of the official or unofficial policies and decisions, the message that MONUC was willing to use deadly force against militias had an effect.

However, the range of statements from UN staff after the events of early 2005 reflected confusion, division and uneasiness over a more active role for MONUC forces. Within MONUC and the UN headquarters in New York there was immediate objection, especially from some in political and humanitarian affairs who wanted all offensive operations by MONUC to cease.\textsuperscript{19} This was especially after reports were received that civilians had been killed in fighting between MONUC and militias – despite information that the militias had deliberately used civilians as ‘human shields’.\textsuperscript{20} In a briefing at the UN on 4 March 2005, the Deputy Director of the Africa Division in the Department of Peacekeeping Operations (DPKO) stated that MONUC was ‘sticking to its mandate of protecting people’\textsuperscript{21} but that it was ‘not the peacekeepers’ role to go on the offensive and take out the militias preying on civilians. We are not engaged in a war. We need basic security on the ground so that the parties themselves can create peace and establish some kind of legitimate government.’\textsuperscript{22}

The obvious response would be to question how MONUC was going to protect civilians while precluding the use of effective military force to do so. The preferred alternatives from those objecting to direct action against the militias included an emphasis on more ‘passive measures’ such as the arms embargo, despite the demonstrated lack of required capacities. These objections distorted the notion that a new more ‘robust doctrine’ of UN peacekeeping operations was being applied as was being rhetorically proclaimed by DPKO.\textsuperscript{23}

This view was also in contradiction to view of the divisional commander, Major General Patrick Cammaert, who was determined that he was going to make a difference – to the relief of those within the mission who believed that past failures had seriously undermined the mission’s credibility, morale and effectiveness.\textsuperscript{24} General Cammaert was resolute after receiving criticism about the actions undertaken by MONUC troops saying that:
Those guys who are so critical, let them come down here and get their boots muddy … Everyone can talk but I will get on and do my own thing … If we have an opponent that engages you or misbehaves, he will feel the consequences. It’s very simple.25

General Cammaert’s views on the use of force were clearly spelt out after he ended his time as divisional commander. He acknowledged that in protecting those in ‘imminent threat of physical violence’ on occasion ‘the only way to disarm local and foreign armed groups who have conducted barbaric attacks with guns, spears and/or machetes is through the [proactive] use of lethal force’.26 Therefore the rules of engagement (ROE) issued stated that where there is a ‘threat of imminent and direct use of force, which is demonstrated through action, which appears to be preparatory to a hostile action, only a reasonable belief [own emphasis] in the hostile intent is required’.27 These ROE and the proactive leadership of General Cammaert added reality to the notion that MONUC had moved on from its failures of 2003/04 and was actively conducting robust peacekeeping.

While MONUC had numerous successes, especially against the militias in Ituri, it was clear that there were limitations to its operational influence, especially in the Kivus where the challenges remain significantly greater. This included the rebellion by General Nkunda that threatened to destabilise North Kivu. In response MONUC took a more proactive role where needed. In its defence of the town of Sake, North Kivu, in November 2006, when Congolese Army troops crumbled in the face of Nkunda’s advance. MONUC’s operations, including the use of attack helicopters, killed many of Nkunda’s fighters. Notably there were far fewer objections or protests from within the UN compared to the killing of militia in Ituri early 2005 and it appeared that there was an acceptance of the consequences of MONUC troops using force where necessary.28

The biggest challenge for MONUC has been dealing with foreign armed groups, especially the Rwandan Hutu FDLR (Forces Démocratiques de Libération du Rwanda, Democratic Liberation Forces of Rwanda). Their continued presence of the FDLR has in part contributed to the continued resistance of General Nkunda, who claims to be acting to protect the Congolese Tutsis. MONUC has adjusted its operations to maintain pressure on the FDLR. The most significant change has been the use of mobile operating bases which has seen MONUC contingents leaving their barracks and establishes a presence in the areas previously controlled by the FDLR. This patrolling in mass approach destabilised the FDLR but was mainly focused on providing protection to civilians while the Congolese Army carried out operations against the FDLR. However this has had limited affect due to the weakness of the Congolese forces.29 While MONUC has preferred to allow the DRC government and its army to lead the way in dealing with issues such as Nkunda and the FDLR, the Congolese lack the capacity and often the political will to resolve these issues. This has often left MONUC in a situation where while it is the only viable and cohesive security force in the eastern DRC it has
deferred to the notion of Congolese sovereignty. This has often resulted in MONUC (again) being accused of failing to act to protect those threatened by armed groups or the Congolese army itself (whose own human rights record is poor).

However, the momentum and impetus for MONUC to take a more direct role in dealing with ‘spoilers’ such as Nkunda or foreign armed groups on Congolese soil such as the FDLR or the Ugandan Lord’s Resistance Army (LRA) have been created. Certainly, undertaking a concerted military campaign against the FDLR, a far more battle hardened and ideological opponent would require more troops than MONUC has at present but more significantly, these operations would require a far more comprehensive acceptance and application of the use of force. The DRC’s problems are the product of dysfunctional national and regional politics, and the long-term solutions will lie with the corresponding parties. However, to date they have not shown sufficient resolve to do so. Therefore the current problem is how to best respond to the immediate consequences of the conflict and how the UN and MONUC can use its available resources effectively in the short term – this include its military peacekeepers.

Many of the improvements in operational effectiveness were a result of the purposefulness that General Cammaert had gone about using the forces he had to make a difference. After his departure in February 2007, it took six months to fill the important position of Commander Eastern Division and it appears that the present mission leadership has not continued his momentum. Given that the changes General Cammaert instituted did not go unchallenged and there have been numerous other leadership changes within the mission, notably the mission chief, the Special Representative of the Secretary-General (SRSG), it is likely that military operations will return to a reactive mode, in part reinforced by the preference for the Congolese Army to do the bulk of the fighting. It also raises the question as to whether the ‘robust’ peacekeeping undertaken was largely a product of specific conditions and personalities rather than a deliberate expansion of UN strategy and therefore reflecting a lack of coherence and consistency in UN peacekeeping’s understanding and application of force.

Understanding and applying force

The use of force has always been recognised by the UN, at least implicitly, as a necessary aspect of managing conflict affected environments. However, as Trevor Findlay notes: ‘All the other weaknesses of UN peace operations are amplified when the use of force is badly handled.’ The use of force has largely been framed by the ‘bedrock’ principles of impartiality, consent and minimum force but has also been repeatedly used as an excuse for military inaction in the face of war crimes and genocide. The Brahimi Report challenged some of these principles and stated that: ‘In some cases, local parties consist not of moral equals but of obvious aggressors and victims, and peacekeepers may not
only be operationally justified in using force but morally compelled to do so."33 Similarly, the report states: ‘[W]hen the United Nations does send its forces to uphold the peace, they must be prepared to confront the lingering forces of war and violence, with the ability and determination to defeat them,’ and notes the need ‘to project credible force if complex peacekeeping, in particular, is to succeed.’34 However, as Mark Malan notes, neither the Brahimi Report nor Kofi Annan’s subsequent appraisal got to grips ‘with the principal doctrinal issue of intervention – the appropriate and effective use of military force in pursuit of the mandate’ and they offered ‘no new and credible concept of operations, but rather reiterates the validity of the ‘classic’ peacekeeping principles of impartiality, consent and the non-use of force’.35 Therefore despite the acknowledgement in the Brahimi Report of clear failures in understanding and applying force and the consequences thereof, the UN Secretary-General subsequently stated that he did not interpret any portions of the panel’s report as a recommendation to turn the United Nations into a war-fighting machine or to fundamentally change the principles according to which peacekeepers use force’.36 Putting aside the case of exaggeration by association, this was clearly a rebuttal of many of the insights of the Brahimi Report, as well as earlier ones concerning Rwanda and Srebrenica.

This lack of strategic and doctrinal clarity is largely to be expected. John Hillen states that: ‘UN military operations have their own grammar (no matter how unintelligible), but their logic is the logic of the UN’s political character.’37 Hillen’s Clausewitzean argument is that effective military operations require a necessary political commitment and military legitimacy, which the UN lacks as it is in not ‘a form of embryonic world government but an international corporation’.38 UN peacekeeping in complex environments is highly reliant upon military operations and cannot escape the logic that Hillen and others draw. In fact, the linkage goes a long way to explain the weaknesses of UN military operations. The diffuse mandate derived from broad multilateralism (central to the UN’s claim of legitimacy) and diplomatic compromise directly frames the nature of military responses that the UN generates. In normal military operations the deployment of the military is aimed at projecting force, usually applying it coercively. In peacekeeping the logic is often reversed where the deployment of military forces is often an end in itself and the actual use of force is a secondary consequence. While peacekeeping is not the same as war the Clausewitzian logic still applies. While military forces are only an element of the overall peacekeeping structure they need to be used wilfully in order to effectively contribute to the mission objectives. Any assumption to the contrary that UN peacekeeping, due to its international ‘legitimacy’ and non-warlike intent, is somehow different when it comes to the role of military forces and the logic of force, is flawed. Such beliefs lie at the root of the UN’s inability and reluctance to utilise force effectively and is largely derived from the UN’s political structure and ‘culture’ where force, while recognised as sometimes necessary, is seen as anathema to the institution’s broader pacific purpose. This is best illustrated in relation to the capture of Bukavu in mid-2004. Prior to Bukavu the head of DPKO postured that:
It is highly important that the armed groups operating in Congo, who poison the atmosphere in the region, understand that the time has come to give up their weapons. We are prepared to increase pressure and squeeze on those armed groups. Understand that their time is up.39

During the crisis, faced with a deteriorating situation the focus changed to maintaining the UN’s ‘neutrality’.40 Much of the post-event justification changed to describing the UN’s role in the DRC as being to ‘broadly ensure law and order and is better served as a confidence building actor than as a security provider’.41

Tactically, the main flaw in the UN’s military approach is the value placed on ‘deterrence through presence’ – the expectation that the mere presence of UN forces is sufficient to deter aggressors has more often than not proven to be false. Deterrence is only valid if credible, and while credibility is partly contingent on force strength, it also relies on an adversary’s belief that force will be used, often beyond the level of ‘minimum necessary force’ and pre-emptively if necessary. An adversary’s belief that it can ‘snipe’ at UN forces and that there will not be a strong response, greatly undermines the inherent threat that accompanies the deployment of armed peacekeepers.42 However, once peacekeeping forces are located in an area, they do alter the dynamics and calculations of those in proximity, regardless of the stated mandate or mission. For civilians there is an expectation that the UN presence will mitigate the insecurity and when needed, protection will be provided. For belligerents, armed UN peacekeepers will represent a threat to their viability. This will usually prompt them to test the peacekeepers’ resolve in order to determine the degree that they will need to modify their behaviour. This test was often failed by MONUC in 2003/04.

Despite tactical successes since early 2005, one of the fundamental problems for MONUC was that it lacked a doctrinally based coherent campaign plan that clearly identified the roles and task of its military forces in achieving the wider objectives of the mission and made clear the context and applicability of military force. Promoting political progress and humanitarian objectives necessitates a secure environment. While political progress and reconciliation can increase security it is also the case that ongoing insecurity and atrocities can undermine and negate political progress. The oft used statements (mainly used rhetorically) that ‘there can only be a political solution’ or ‘there is no military solution’ are as obvious as they are nugatory. It is clear that often security has to be created and the military component of any peacekeeping mission needs to be prepared to do this where it is needed. Moreover, the threat of violence inherent in military force must be calibrated with other mission tools to achieve the strategic objectives. The challenge for a mission is to understand its environment and to apply force skilfully and purposefully.

The UN has – somewhat belatedly, it could be argued – recognised the need for a better understanding of the dynamic of force. The UN has developed a conflict continuum that
defines the use of force as inversely proportional to consent and impartiality. The current UN ‘Capstone Doctrine’ attempts to define the boundaries of force and consent as follows:

Although on the ground they may sometimes appear similar, robust peacekeeping should not be confused with peace enforcement, as envisaged under Chapter VII of the Charter. Robust peacekeeping involves the use of force at the tactical level with the authorization of the Security Council and consent of the host nation and/or the main parties to the conflict. By contrast, peace enforcement does not require the consent of the main parties and may involve the use of military force at the strategic or international level, which is normally prohibited for Member States under Article 2(4) of the Charter, unless authorized by the Security Council. 43

Figure 1 The limits of peacekeeping 44

While this continuum creates a general framework for thinking about operations between traditional peacekeeping and war fighting, the distinction and application of ‘robust peacekeeping’ and ‘peace enforcement’ is a lot greyer than the doctrine implies. Correspondingly so is the distinction between ‘minimum force’ and ‘enforcement’ as different ‘consent prompting techniques’. This is especially so for commanders and troops on the ground in complex conflict environment where the link between ‘tactical’ and ‘strategic’ can either be indistinguishable (such as General Nkunda’s rebellion) or inconsequential (such as the militias in Ituri).

The UN doctrine assumes a high degree of linearity and consistency in the relationship between impartiality and the application of force. MONUC’s experience shows that there
is a great deal of fluidity in the belligerent parties and the overall security environment that makes such a ‘doctrinal approach’ problematic in the reality of operations and perhaps requiring a degree of operational flexibility that is likely to be beyond UN forces. One of the initial problems in the UN was in understanding consent and impartiality as they applied to local ‘spoilers’ and ‘main parties’. The capture of Bukavu is illustrative of a lack of clarity. General Nkunda had been a member of the Rassemblement Congolais pour la Démocratie (RCD), a party to the peace agreement and member of the transitional government. His attack on Bukavu was in part due to internal conflict with the RCD and an attempt to assert his influence. The capture of Bukavu is illustrative of a lack of clarity. General Nkunda had been a member of the Rassemblement Congolais pour la Démocratie (RCD), a party to the peace agreement and member of the transitional government. His attack on Bukavu was in part due to internal conflict with the RCD and an attempt to assert his influence. The confusion led many, including the UN spokesman, to justify MONUC’s lack of action as consistent with its mandate which prohibits action against parties to the peace agreement. However, the UN clearly failed to make the necessary distinctions as to Nkunda’s position as a ‘spoiler’, his objectives, previous actions and the consequent threat to overall stability of the country. This failure underwrote failure to apply force when it may have made a difference.

In Ituri, MONUC peacekeepers were able to overcome institutional resistance in part because the task was relatively simpler as none of the militias had significant or durable links to the main Congolese parties. Although these links existed, as they did to Uganda and Rwanda, they diminished as the peace process progressed. The current Capstone Doctrine states that: ‘The ultimate aim of the use of force is to influence and deter spoilers working against the peace process or seeking to harm civilians; and not to seek their military defeat [own emphasis].’ However, it seems clear that MONUC’s operations were aimed at bringing about the demise of the militias by arresting their leaders, forcing their disarmament, generally diminishing their influence, and using deadly force if needed to achieve these ends. While some may see this as a question of semantics it is axiomatic that the ‘defeat’ of militia groups who show ongoing hostile intent, through various means including military force, was necessary to achieve the wider objectives of protecting civilians and pacifying Ituri. It is certain that regardless of the stated intent, military officers were aware of the effect of these operations on the militia’s survivability. The operations in Ituri also moved beyond the notion that force should ‘always be calibrated in a precise, proportional and appropriate manner, within the principle of the minimum force’. General Cammaert was clear that: ‘In the reality of the DRC, however, opponents often give MONUC forces little warning. Therefore the urgency of the situation dictates that UN soldiers immediately use deadly force to stop aggression.’ Practically, prescriptive boundaries between reactive and pre-emptive uses of force are overly restrictive for forces on the ground, as well as being insufficient criteria in defining a transition from ‘robust’ peacekeeping to peace enforcement.

Alex de Waal warns that ‘once an intervening force begins to fight, it can do nothing else’. This is certainly true in some respects but the degree that it is problematic is arguable. Most of the militia leaders in the DRC that have surrendered and agreed to enter the disarmament programme have only done so after being confronted by resolute UN forces; before that they had a free hand to loot, kill and rape. This progress has not
solely been a result of military force as there have also been political and social incentives, but contra de Waal’s assertion, force is but one element of promoting progress and when sanctions are enhanced by incentives the overall effect is seldom negative. The use of force doesn't necessarily negate other options and may reinforce them.

The early experience of MONUC and many other missions also shows that the opposite of de Waal’s assertion is also true – sometimes if it doesn’t fight it can do nothing. Certainly an initial application of force can lead to escalation; however, this should be expected and planned for. This is where the principle of minimum force is problematic, as incrementally and reactively increasing force from a low base is far more difficult than initially using the ‘maximum necessary’ level of force and then decreasing as compliance is achieved. This was one of the key lessons of the non-UN interventions in East Timor, Sierra Leone and Operation Artemis in Ituri. While UN forces may not be as technically capable as first world armies, they often have considerable capability and experience that can be brought to bear against most belligerents in complex conflicts. It is however, important to acknowledge that the decision to escalate should be a deliberate one and UN forces should be prepared, equipped and supported to do so. A mission that deploys with no capability or expectation that it will have to create some dominance initially is likely to face serious problems if not failure and this has been the case on numerous UN missions.

Similarly, the UN and the troop-contributing countries (TCCs) must accept *prima facie* that that they may have to fight (and kill) and that the use of force is often consistent with achieving the mission’s objectives. Force is most effective when applied with true impartially – those that offend the most will have the most force applied. The demonstration of intent to use deadly force will create clarity on the part of all belligerents as to the consequences of transgression – it will also create clarity for the mission and UN Headquarters. This is particularly the case with ‘spoilers’ who largely remain outside of the normal requirements of consent as the justification and execution of the mission is not contingent on the consent of the spoilers.

**Conclusion**

Alex de Waal points out that once peacekeepers use force then it is difficult to undo the consequences. But instead of seeing this as a constraint it should be accounted for in the preparation and use of UN peacekeeping forces. As occurred in MONUC, UN forces are often able to apply military force robustly and, especially in Ituri, were able to greatly influence the security environment and progress the mission objectives as a whole. The influence in the Kivus was more limited; whether MONUC could more fully apply force to the problems of General Nkunda or the FDLR and extend their use of ‘robust’ peacekeeping is dependent on a range of factors. With more troops the areas of influence can be extended and greater force ratios would be available. However, taking on these
opponents would mean the UN taking a deliberate decision to take on the primary responsibility for security from the nascent but problematic Congolese Army. From a military standpoint and given the forces this seems logical; however, it departs from the overall political objective of MONUC to assist in the re-establishment of state capacity. The consequence is that MONUC is caught in-between supporting a government that lacks capacity and a reluctance to do too much itself. In the security sphere this means that MONUC forces have had to go beyond the normal peacekeeping principles in applying force tactically.

Defining how far UN forces can or should go in applying force is problematic. There is no neat division between ‘robust peacekeeping’ and peace enforcement. At various times the difference tactically is likely to be indistinguishable in a complex conflict with a high degree of fluidity in belligerent forces. UN commanders on the ground need to be guided by their mandate and ROE but be prepared to use the forces at their disposal prudently but with deliberate purpose. MONUC’s Eastern Division, under General Cammaert, was able to demonstrate these principles effectively on numerous occasions. However, these actions were largely a confluence of numerous factors of leadership, necessity and opportunity. While they provide some precedence it is unlikely that the experience has or will have sufficient impact on the development of UN peacekeeping overall. Each UN mission will have its own parameters and constraints from which the mission commanders will have to determine if and how to apply force robustly. While there is definitely scope for UN forces to apply robust peacekeeping in other situations, the degree to which such an approach can expand and become doctrinally embedded in the UN is greatly restricted by UN’s political and institutional constraints upon the effective use of force.

Notes

3 See the UN’s report *MONUC and the Bukavu Crisis 2004* (March 2005). While the report deals in some detail with the failures within the mission, it fails to address in detail any institutional or operational failures by the UN itself.
5 According to sources this was largely due to the insistence of the mission to ‘tell it like it is’, although there were reportedly 6–7 redrafts before it was finally accepted by the UN in New York.
6 United Nations, Security Resolution 1565, 1 October 2004. Although this was a welcome and necessary reinforcement it fell well short of the 23 900 troops that the Secretary-General requested and meant that a presence could not be established in Katanga or Kasai.
7 Fighting between the FNI and FAPC was partly driven by a struggle for the control of mining zones and taxes and customs collection in Aru and Malagi.
8 The ambush was partly in response to an earlier arrest of FNI militia and the seizure of weapons.
9 Humanitarian organisations such as Médecins Sans Frontières and German Agro Action were unhappy with MONUC’s search operations because they had not been informed beforehand. AAA’s vehicles were looted by UPC militias the same day in Katato. MONUC replied that such operations are secret and
cannot be known in advance, which was a reasonable expectation given the usual lack of operational and information security that typifies UN operations.

10 Agence France-Presse, *DRC: MONUC is determined to proceed with actions against Ituri armed groups*, 16 March 2005.


12 Interviews, Kinshasa, February 2005.

13 IRIN, *DRC: Uncooperative fighters will be hunted down, MONUC says*, 1 April 2005.

14 According to an ISS report: ‘[P]rior to the launch of MONUC’s robust actions and the setting of the ultimatum, only 2000 militia had been demobilised. By late April, this figure had risen to 11 394, S Wolters, *Is Ituri on the road to stability? An update on the current security situation in the district*, ISS Situation Report, 12 May 2005.


16 Margaret Carey, Deputy Director of the Africa Division DPKO; IRIN, *DRC: UN troops killed 50 militiamen in self-defence, Annan says*, 4 March 2005.


18 Ibid. Fighting between FARDC factions in North Kivu in late 2004 in an environment aggravated by threats from Rwanda to enter the DRC revealed, unlike Bukavu, the actual limits of MONUC’s mandate and presence. MONUC’s mandate does not authorise it to intervene, other than to protect affected civilians, in the case of either inter-state conflict or between recognised parties of the transitional government. But in response to the Bukavu crisis, the UN Secretary-General’s spokesman, Fred Eckhard, said that ‘[i]t’s for the [Congolese] parties to sort out – when war breaks out, the role of peacekeepers ends’ (J K Stearns, *The other African crisis*, *Washington Post*, 13 August 2004). The implication would have been correct if the ‘war’ in Bukavu had been between factions of the transitional government. However, the statement was a misrepresentation of the situation on the ground as the transitional government that MONUC was tasked to support was being attacked by a ‘spoiler’ group.


20 Interviews, UN staff, Kinshasa, February 2005.

21 *Peacekeepers seek a stronger hand in DRC*, IOL, 4 March 2005.

22 Ibid.

23 *UN forces to operate more aggressively*, ISN Security Watch, 24 May 2005.

24 Interviews, UN staff, Kinshasa, February 2005.

25 UN forces at last take the fight to Congo militiamen, *Telegraph*, 7 March 2005

26 Cammaert, Learning to use force on the hoof in peacekeeping, 6.

27 Ibid.

28 Interview, Cammaert, 5 June 2008.

29 Despite a considerable effort in the area of security sector reform, ‘FARDC lacks the capacity to undertake significant offensive operations in the near future. Addressing that deficit will require the institution of a system of leadership vetting and review, increased joint operational planning and better training. MONUC is conducting an assessment to determine the capabilities and limitations of FARDC in terms of offensive operations and to identify priority areas where the Mission and international partners could help enhance FARDC capabilities.’ 25th report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo, S/2008/218, 2 April 2008, 9.

30 An attempt to arrest the second in command of the LRA, located in Garumba National Park, in January 2006 led to the deaths of eight Guatemalan Special Forces troops.

31 Interview DPKO, June 2008.


34 Brahimi Report, viii.


39 UN vows tough action against militia fighters, Reuters, 26 May 2004.
40 Interviews Kivus and Kinshasa, July and August 2004; also see Stearns, The other African crisis. Many UN staff, including those involved in decision-making positions during the Bukavu crisis, seemed unable to distinguish between the principles of ‘neutrality’ and ‘impartiality’.
41 Meeting notes, OCHA/InterAction meeting in New York, 30 July 2004.
42 Interviews in 2004 with militia leaders in Ituri indicated their lack of respect for MONUC troops, largely stemming from the reluctance of MONUC to use force effectively when confronted.
47 United Nations peacekeeping operations, 35.
48 Ibid.
49 Cammaert, Learning to use force on the hoof in peacekeeping, 7.
AMIS in Darfur: Africa’s litmus test in peacekeeping and political mediation

Allan Vic Mansaray

Introduction

The ongoing conflict in Darfur continues to defy solution despite efforts by the African Union (AU) and United Nations (UN) to resolve it. The administration of George W Bush has referred to the conflict as genocide, while the then UN Under-Secretary-General for Humanitarian Affairs, Jan Egeland, called it one of the worst humanitarian crises in the world. Genocide has constantly been ascribed to events in Darfur and the word seemed to have gained currency around the world. Writing in the Harvard International Review, Elsea Zachary opines that the crisis in Darfur amounts to civilians facing genocide. Luis Moreno Ocampo, the prosecutor of the International Criminal Court (ICC), recently sought an arrest warrant for President Omar al-Bashir of Sudan on charges of genocide, crimes against humanity and war crimes.
Despite a lack of consensus on the right label for the conflict in Darfur, the situation – which is characterised by mass killings, massive displacement of civilians from their villages or towns, the rampant raping of women and girls, and looting and destruction of property – has created a humanitarian crisis that requires robust international response; a response that has fallen short of expectations over the past four years. Darfur is clearly a conflict that has been fought with a total disregard for International Humanitarian Law by all sides to the conflict. This is the tragedy that AMIS was mandated to deal with but with neither the mandate nor the wherewithal to do so. Its successor, the hybrid United Nations African Union Mission in Darfur (UNAMID), is now grappling with the same crisis.

The situation in Darfur has the tendency to be, if it is not already, a scar on the conscience of Africa and the international community. In 1994 the genocide in Rwanda resulted in the loss of about 800,000 lives under the watch of the international community.4 As usual regrets were expressed with the promise ‘never again’, a cliché that holds little value to the thousands of victims in Darfur. Today there is no denying that we face an ongoing humanitarian tragedy in Darfur and again the world is watching whilst debating which label best fits this tragedy. The uneasy question remains as to whether the international community will allow another ‘state-sponsored terror’ to go unchecked only to express regrets later with aid being sent to the few survivors.

There has been much publicity by African leaders on finding ‘African solutions to African problems’. Local initiatives are assumed to work more effectively than foreign or imported strategies that tend to ignore the local culture and realities. The AU, since its transformation from the Organisation of African Unity (OAU), has technically ‘abandoned’ the principle of non-interference in the affairs of member states with the establishment of the Peace and Security Council (PSC) in 2003, aimed at resolving conflicts on the continent.5 This paradigm shift indicates a proactive and pragmatic response to the myriad of intra-state conflicts that gripped several of its member states in the post-Cold War era. However, the bold initiative by the AU to deploy AMIS in Darfur not only exposed the limitations of the AU to mount and sustain a robust peace operation but also the fault lines in the international system.

Efforts to develop the AU’s continental security architecture to deal with conflicts which have largely retarded the continent’s growth have been welcome news to many, especially in war-afflicted places like Liberia, Uganda, Sierra Leone, the Democratic Republic of Congo (DRC) and Darfur. It created a feeling of optimism that the AU would at least serve as a deterrent to the marauding warlords and dictators who commit atrocities against their people with impunity. The establishment of the AU marks a significant step in Africa’s efforts to take responsibility for developments in its backyard. But as demonstrated by the challenges that dogged AMIS, implementation of the AU’s peace and security mandate remains a daunting challenge.
AMIS – opportunities and challenges

A careful examination of why a resolution of the Darfur crisis remained elusive despite the presence of about 7,000 AU soldiers is now essential. Five years into the conflict defenseless civilians of Darfur continue to bear the brunt of atrocities unleashed by the Janjaweed militia, government forces and rebel groups. With millions internally displaced, others forced to become refugees and 250,000 killed, Darfuris would not wish for anything more than an end to their misery.

The reasons highlighted for the AU’s inability to contain the Darfur conflict include, but are not limited to, the restricted mandate of AMIS, piecemeal cooperation of the Sudanese government, rebel activities, lack of adequate logistics and political divisions within the AU itself. These factors hindered the performance of the beleaguered AU force.

Restricted mandate

Broadly, the AMIS mandate as agreed upon came about after protracted negotiations among the warring factions under the auspices of the AU in 2004. The mandate was restricted to monitoring the terms of the ceasefire agreement between Khartoum and the rebel factions, and protecting themselves and those monitoring the ceasefire agreement. This mandate – amidst difficulties in its initial implementation – was enhanced to AMIS II five months later with a strengthened force. The new force was mandated to ensure that all parties complied with the Humanitarian Ceasefire Agreement (HCFA), which was signed in N’Djamena on 8 April 2004 between warring factions, help in confidence-building among the various factions, improve the general security in Darfur, and oversee the return of internally displaced persons and refugees. Of particular significance was task number seven of the new mandate, which authorised AMIS to ‘protect civilians whom it encountered under imminent threat and in the immediate vicinity, within resources and capability’.

One cannot help but ponder the ambiguity of this task. On the one hand AMIS was supposed to protect civilians who were the prime targets of the Sudanese government and its militia allies. On the other hand AMIS recognised that this same government had the prime responsibility to protect the very civilians it was persecuting.

With the rebel factions also involved in looting and human rights violations, the mission of AMIS became more challenging as it attempted to minimise the suffering of civilians. The mandate should have made the protection of civilians the sole and primary responsibility of AMIS since all indications pointed to the government’s complicity in the atrocities. With the deteriorating state of affairs in Darfur many argued that a major handicap of the AU force was its mandate. Implementing a protection of civilians mandate with the limited number of troops and resources at its disposal proved impractical.
Despite these difficulties some key players, including President Paul Kagame of Rwanda, emphasised their commitment to protecting civilians in areas under the control of their troops in Darfur. He told Rwandan forces, before they left for Darfur, that their mandate would include the use of force if necessary to protect Darfuri civilians. The AMIS Force Commander at the time, General Festus Okonkwo, expressed a similar opinion. Such pronouncements irritated the Sudanese government as it preferred, and even hoped for, a narrower interpretation of the mandate.

A stronger and broader mandate could have slowed the activities of Sudanese troops and their allied Janjaweed militia. Unfortunately, AMIS troops later had to fight for their own survival as rebels and Janjaweed militia targeted them. In extreme cases AMIS troops were abducted or killed by various militia groups.

**Piecemeal cooperation from the Sudanese government**

Serious doubts have been expressed over the commitment of the Sudanese government to resolve the crisis in Darfur. In particular, rebel groups accused the government of being reluctant to reach a political settlement while it continued using the Janjaweed to unleash mayhem on innocent civilians. While some have expressed skepticism about rebel accusations others such as Alex de Waal, a prominent observer of Sudan noted that:

> In the Darfur talks themselves, the Khartoum delegation has stonewalled on major issues. It objected to upgrading the small AU observer force from 300 to 3,500, with an increase in its mandate to include protecting civilians, and was then forced to accept this measure by the UN Security Council. The government’s negotiating strategy reflects an emphasis on short term tactical advantage, with no attention on how to reach a political solution.

Sudan on many occasions voiced its opposition to the deployment of an expanded AU force or a hybrid AU/UN force saying it would violate the country’s sovereignty, a subterfuge which few people buy given the character of the government. De Waal makes the point that “the government wants to keep Darfur solely as a security brief, precisely so as not to have to address the political issues.”

A former AU sector commander in Darfur expressed frustration as to how the Sudanese government made it very difficult for funds to be transferred from Addis Ababa to AU troops on the ground. The process involved a long-winded route before funds reached AU personnel in Sudan. This not only delayed remittance of funds but also created some apprehension among the troops deployed eventually resulting in low morale among the troops. Based on its antics, it appeared as if Khartoum’s sole interest was to frustrate the AU. Other instances showed how the government acted in bad faith by misleading AMIS officers or giving false information on crucial matters. This sort
of attitude diverted AMIS from investigating real atrocities while sapping the meager resources and energy of personnel.

While the Sudanese government gave the impression of doing its best to resolve the conflict in Darfur, evidence proved that it was actually undertaking activities that intensified the conflict. A brigadier general of the Sudanese military explained to an AMIS observer that he was given orders to protect civilians and open the roads to commercial traffic. At the same time he had orders from Khartoum to 'clear all the villages on the main road to Khartoum'. Needless to say, his priority was the latter based on the fact that he allowed the Janjaweed militia and some of his uniformed troops to launch an attack on Labado in January 2005. He gave the excuse that they were not his troops but then added, ‘This is my mission. I am a military man. I am going to follow my orders and continue on this attack.’

A further dent in the government’s credibility occurred when a document seized from a Janjaweed official exposed the complicity of Khartoum in activities of the notorious militia group. The document explicitly ordered commanders and security officers in Darfur to ‘change the demography of Darfur and make it void of African tribes’, something the government always denied. The seized document implicitly urged ‘killing, burning villages, farms, terrorizing people, confiscating property from members of African tribes and forcing them from Darfur’. On this score Khartoum goes on record as having abdicated its responsibility to protect its civilian population.

In a BBC interview in 2004, Seth Appiah-Mensah, a former sector commander of AMIS, voiced concern about the Sudanese government’s complicity with the Janjaweed. Appiah-Mensah told the BBC that while his mandate was severely restricted, ‘he had no doubt the Sudanese government was arming the Janjaweed militia’. He further revealed that the militia was getting arms like AK47 and G3 from the government, as these were not traditional weapons that ordinary people could just lay hands on. For him it was difficult to distinguish government forces from the Janjaweed as both groups worked closely together.

AMIS doubted the sincerity of the government on the basis that the latter hardly kept its promise. Khartoum committed to disarm the Janjaweed militia in an agreement reached with the Humanitarian Ceasefire Commission on 8 April 2004 as well as the Abuja Protocols of 9 November 2004. Contrary to the spirit of these agreements the militia continued to cause mayhem among civilians while the government looked the other way. A Janjaweed militia leader, Musa Mohamed Hassab, admitted the complicity of Khartoum in the activities of the militia. Musa said: ‘We were told to fight by the government. We also wish for this. Why should we stop now?’ He even acknowledged that they were provided with logistics including weapons, food, money and ID cards. It is hard to figure how the militia could have operated so freely and with such ease without the knowledge/support of Khartoum.
Musa Hilal, one of the most prominent militia leaders in the north of Darfur, revealed to Human Rights Watch how government military officers organised attacks by the Janjaweed and other militias sponsored by the government commonly known as the Popular Defence Forces (PDF). Musa admitted: ‘All of the people in the field are led by top army commanders … These people get their orders from the western command center and from Khartoum.’16 This revelation by Musa Hilal was widely broadcast around the world and caused quite an embarrassment for Khartoum which had consistently denied any links with the Janjaweed.

Humanitarian agencies also levied accusations against the Sudanese government for often denying them access to Darfur. NGOs and private individuals who exposed government atrocities risked not getting visas to re-enter Sudan. In many instances visas and permits for NGOs were deliberately delayed, blocked or rationed. Even the then Under-Secretary-General of the UN Office for the Coordination of Humanitarian Affairs (OCHA), Jan Egeland, condemned the government when he was refused access to Darfur.17

**Fractured rebel groups**

While the lack of cooperation by the Khartoum government undermined the operations of AMIS, the activities of the various rebel factions did not help AMIS achieve any meaningful outcome in Darfur. Most reports on the situation in Darfur mainly focused on the failure of Khartoum to meaningfully engage with the rebels and peacefully resolve the conflict. However, it would be a misconception to describe the various rebel factions as more than willing to negotiate peace with the government. It is no secret that the rebels committed atrocities in the conflict. In a nutshell it became difficult if not impossible to identify the ‘good guys’ in the conflict. All parties to the conflict carry blame, albeit to varying degrees.

The two major rebel factions, the Justice and Equality Movement (JEM) and Sudan Liberation Movement/Army (SLM/A), have both suffered from internal squabbles and splintering since the start of the conflict. Atrocities and violations of human rights have been attributed to various rebel groups by different sources operating in Darfur. Jan Pronk, the UN Secretary-General’s special representative to Sudan, in a 2005 report to the Security Council noted cases of rebels attacking police, hijacking humanitarian aid vehicle and kidnapping aid workers.18 These cases of lawlessness became commonplace among the rebels who conveniently blamed the government and Janjaweed militia for most of the atrocities in Darfur.

As corroborated by O’Neill and Cassis, the JEM and SLM/A rebel groups actually intensified ‘their abductions, extortion, harassment and looting activities in the summer of 2005’, which the UN Secretary-General described as ‘predatory warlordism and...
This reckless behaviour went to the extent of the SLM/A erecting illegal checkpoints in their strongholds while carrying out acts of ‘banditry, armed robbery and looting, culminating in a vicious attack on nomads in Al Malam in South Darfur on August 25’. One reason that could be advanced for these acts – while not justifying them – is the internal struggle within the rebel movements that resulted in the formation of splinter groups. The lack of a cohesive leadership created an opportunity for lawlessness and opportunistic ventures. Even Arab nomads complained of raids on their settlements by rebel forces.

Activities of uncontrolled or renegade elements of the splintered SLM/A rebel group have been noted by aid organisations in Darfur. A scathing report by one such aid agency in West Darfur paints a highly disturbing picture of the threat to those trying to deliver aid. On one occasion a whole team of aid workers travelling was beaten, harassed and had personal belongings seized. In another incident the SLM/A faction of Mini Minawi (now Senior Assistant to the President) alleged to have been involved in raiding an aid compound in December 2006 where a French aid worker was raped. His group was also suspected of an ambush in which five AU peacekeepers were killed. The activities of the splintering rebel groups created a hostile environment, thereby compounding the difficulties that confronted AMIS.

**Inadequate planning**

It has been an easy pastime for skeptics to blame AMIS for not being able to stop the carnage in Darfur. Those who have been in Darfur or closely engaged with the conflict do not make sweeping condemnations of AMIS as they know the monumental challenges these troops faced on the ground, especially with regard to logistics and finance.

AMIS deployed in Darfur with very little planning for such a complex and dangerous mission. The AU had no experience, as an organisation, in peacekeeping although regional bodies like the Economic Community of West African States (ECOWAS) and Southern African Development Community (SADC) have been involved in peacekeeping operations. Also, individual African countries have been involved in UN peacekeeping missions around the world as far back as the 1960s and performed with distinction. However, the AU’s first significant test at peacekeeping in Darfur (after Burundi) proved abysmal, to say the least.

In interviews this writer conducted with officials at the UN who were closely involved in the Darfur crisis, the recurring theme was that the troops were too poorly equipped to have made any significant impact. According to one sector commander he was deployed when the AU had only 35 people on the ground, three vehicles, US$5,000 and 12 troops. Besides, it was only after a two weeks’ assessment that this deployment was made. Thus inadequate planning hampered AMIS’ operation.
Granted that the AU volunteered where others like the UN initially hesitated, the AU ought to have made the necessary sacrifice to put more boots on the ground. The bottom line is that a purely symbolic intervention can prove futile: humanitarian intervention must be undertaken with sufficient force to make a positive impact. The deployment of very few troops and monitors in such a hostile zone was a bad calculation on the part of the political leadership of the AU, especially the Peace and Security Council which authorised the mission.

**Logistics and financial challenges**

In terms of logistics AMIS lacked the military material and support mechanisms that could have at least served as deterrence to the government forces, Janjaweed militia or rebel groups who challenged AU personnel on many occasions. Deterrent is a very important strategy in military warfare as heavy weapons and ammunition could have at least slowed down the activities of especially the Janjaweed, who are believed to be responsible for most of the atrocities during the initial stages of the conflict.24

A former AMIS sector commander argues that AMIS’s shortcomings and limitations were due to a ‘seriously constrained’ concept of operations, a chronic lack of resources, and serious ‘strategic and operational gaps’. He further cited the lack of civil–military coordination and inadequate medical services as challenges that dogged the mission.25 These shortcomings eventually undermined any meaningful achievement on the part of AMIS. To exacerbate the problem, ‘the AU did not have adequate communication capacity to relay information’.26 O’Neill and Cassis noted that for AMIS to make an impact it needed more air transport capacity to transport troops, acquire sophisticated intelligence gathering equipment (including satellite surveillance), maintain a constant presence around displaced camps, and conduct night patrols.27

AMIS basically operated under short-term arrangements. Financial support for the mission’s operation was far from adequate. For instance, funds would be approved for a three-month period after which the mission waited for more financial goodwill to continue its work.28 This sort of ad hoc arrangement hampered the operations of the mission as it made planning beyond three months impossible. A significant source of funding came through the Africa Peace Facility (APF) funded by the European Union to the tune of 350 million euros.29 Since the mission continued to be crippled financially, its activities could only be predicted on a short-term basis.

African countries that provided troops could hardly afford the cost for the deployment and sustenance of their troops. So military and civilian personnel could only be deployed if funds were provided or at least promised by the AU or some other source. Any war commander or planner will tell you that you do not carry out a successful mission based on promises or the kind of short-term ad hoc arrangements which...
characterised the beleaguered AMIS. According to Human Rights Watch there were even delays in constructing offices and accommodation in several locations, including Abu Shok and Kalma, for the civilian component of AMIS II. Complications with local subcontractors were commonplace.\(^30\)

In short, the necessary finance and logistics were not available to carry out a successful mission. Some senior African representatives at an International Peace Academy seminar in Accra in 2006 aptly noted: ‘You do not go to war on somebody else’s money.’\(^31\)

**Political cleavages within the AU**

It is not unusual for differences to arise when attempting to resolve conflicts. In terms of the Darfur crisis there was and continues to be tension between African leaders who believed in taking a hard line against the Sudanese government and those who preferred the soft approach. Many Arab countries in Africa seemed sympathetic towards the Sudanese government while those in sub-Saharan Africa appeared to be frustrated with Khartoum’s failure to rein in the Janjaweed. It is not clear whether this has to do with the Arab–Black Africa divide that sometimes impinges on discussions regarding continental matters. The Sudanese government is dominated by those who see themselves first as Arabs and therefore lean more towards the Arab nations in Africa. On the other hand, the predominantly black African rebel groups see themselves as victims of oppression and marginalisation by their Arab compatriots.

Another unfortunate dimension is the support given to either the Sudanese government or rebel groups by other African states, mainly those bordering Sudan. Eritrea, for instance, has not been on good terms with the regime in Khartoum and hence provided some level of support for rebel leader Abdul Wahid M Nur and even hosted him for some time in Asmara. Chad has also been accused of supporting the rebel groups in Sudan. On the other hand, allies of Sudan support it in its battle against what they view as a domestic insurgency. The distrust among countries in the region has exacerbated and further complicated the search for political settlement in the Darfur crisis.

**The Darfur Peace Agreement**

 Sadly, the much-heralded Darfur Peace Agreement (DPA) encountered significant problems during negotiations and after it was signed. The agreement consisted of four main areas: power sharing, wealth sharing, comprehensive ceasefire and security arrangements, and Darfur–Darfur dialogue and consultation.\(^32\) Only the government of Sudan and one rebel faction of the SLA, led by Minni Manawi, signed the DPA on 5 May 2006. Both the splinter group of the SLA led by Abdoul Wahid and JEM refused to sign arguing that their concerns and interests were not adequately addressed. In effect the DPA was already malfunctioning from day one.
This DPA complicated the Darfur problem with the appointment of Mini Minawi as Senior Assistant to the President, the fourth highest position in the Government of National Unity, as well as chair of the Transitional Darfur Regional Authority. Minawi’s appointment created a lot of tension between his faction and those who failed to sign the DPA. The main contention of the non-signatories was that the agreement overlooked many of their concerns, which included ‘individual (as opposed to group) compensation, the immediate disarmament of the Janjaweed, a vice presidential position reserved for Darfur and justice for those who experienced atrocities’.

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The government was only too eager to create the impression that it was doing enough to bring the rebel factions on board for a peaceful resolution of the conflict. But the approach of appeasing one faction while ignoring the others turned out to be a recipe for chaos as the rift only widened between the signatories and non-signatories of the DPA. Strategically, the regime in Khartoum skilfully played its hand to divide the factions and made them appear to be in disarray and therefore not serious about peace in Darfur. For the rebels their splintering could not have come at a worse time.

Jack Christofides of the UN, who was involved in the DPA negotiations, opined that there was a wrong assumption that the peace agreed upon could hold. He noted that Dafuris themselves were not ready to compromise, hence the fractured and splintering nature of the rebel factions. The SLA and JEM could not even put forward a common and united position. Civilians were caught in the middle of a war that had no winning side. Christofides aptly put it this way: ‘The government of Sudan has not lost the Darfur battle and the rebels have not won’.

While the issues of wealth-sharing and security during the negotiations were not simple, the most difficult part had to do with power-sharing. Whatever the goodwill of the AU and UN in trying to bridge the gap between the government and rebel groups, the warring parties, especially the rebels, were either totally uncompromising with regard to their positions or presented a long list of demands that made compromise very difficult and angered many. Overall, genuine commitment was in short supply, which impacted on the DPA when it was signed.

What clearly emerged out of the conflict in Darfur after four years was that the AU alone could not bring the conflict to an end. To some observers, including this author, the AU’s perceived failure in Darfur exposed the limitations of the notion of ‘African solutions to African problems’. While the AU had its own problems in tackling the Darfur crisis, the actions of outside powers like China and Russia, who continue to support Khartoum through arms sales in return for oil, greatly undermined the efforts of the AU to make significant gains in Darfur. This alliance at the expense of ordinary Darfuris exposed the fractured nature of the international system, in its response to the Darfur crisis, as Khartoum continues to capitalise on the support from two powerful friends, Russia and China, both with permanent seats on the Security Council.
UNAMID: An answer to the Darfur crisis?

The reality that the AU needed massive assistance in both manpower and logistics from the international community to resolve the Darfur issue could no longer be ignored. Hence the decision by the UN to partner with AMIS was certainly music to the ears of the peacekeepers and human rights activists. An overstretched and ill-equipped AMIS certainly needed outside help. Resolution 1769 passed on 31 July 2007 paved the way for the creation of an AU UN hybrid force, UNAMID, for deployment in Darfur for an initial period of twelve months with strength of roughly 26 000 military, police and civilian personnel.36

It is quite difficult to predict how successful UNAMID will be if it is not provided with the necessary number of troops and much-needed logistics. The lack of command and control among the increasing number of rebel groups that have emerged since the signing of the DPA has created a hostile security environment for the peacekeepers. This is also a problem for humanitarian aid workers who must rely on UNAMID for safe passage despite their desire to maintain their neutrality.

For the new mission to make any significant impact on the ground its operational capacity must be improved to the highest level. This involves providing the necessary aircraft to move troops to and around Darfur, make enough vehicles available for day and night patrols, provide satellite surveillance in case of threat to civilians and troops, and maintain round the clock presence around displaced camps.37 For quite some time now UNAMID has been appealing for attack helicopters, which are crucial to its operation, with no luck. Out of the 26 000 troops earmarked only 9 000 have been deployed, the bulk of them re-hatted from AMIS. UNAMID peacekeepers have come under attack with unknown groups killing seven peacekeepers in July of last year.

African peacekeeping: Looking ahead

It is now worth examining the future of peacekeeping on the continent since Africa faces the daunting task of ending other conflicts even once the Darfur crisis has been resolved. Rebel activities in Chad, the Central African Republic, northern Uganda, Somalia, the DRC, Algeria, Nigeria’s Delta region, and Niger pose a huge challenge to the continent’s pervasive intrastate conflicts.

Various factors have generally given rise to conflicts in Africa. Henry Anyidoho, former Deputy Force Commander and Chief of Staff of the United Nations Assistance Mission in Rwanda (UNAMIR), highlights some key factors as issues relating to religion, ethnicity, dispute over traditional boundaries, resource sharing, inequitable distribution of political and economic power, struggle for reform and democratization of political and economic systems, and negative legacies of colonial rule.38 Michael E Brown has analysed the causes of conflict in four major areas as structural factors (weak states and ethnic geography),
political factors (discriminatory political institutions), economic and social factors, and cultural/perceptual factors like cultural discrimination. All these factors have resulted in one type of conflict or the other in Africa and must therefore be carefully considered when attempting to resolve conflicts. Good governance, upholding human rights and proper resource management are all necessary ingredients for stability. With the world becoming tired of sending troops to wars that do not directly affect them, Africa must do everything possible at the continental level to minimise conflicts or be in a position to contain emerging ones. There is therefore an urgent need for Africa to build on the structure of AMIS to serve as a first response team wherever conflict breaks out on the continent.

Conclusion

If Sudan is to enjoy any peace, the government needs to reach a political settlement with the rebels. While the possibility of external military intervention is remote, this should not serve as comfort for Khartoum or the rebel groups. If UNAMID fails to resolve the conflict, internal resistance is likely to intensify. Sustained internal resistance would put the whole society in a very uncomfortable position. The recent attack on the outskirts of Khartoum is a clear sign that even Khartoum is not so safe. Also the request by the ICC prosecutor to indict President Omar al-Bashir should serve as a warning to all factions that the best option is to reach for a political settlement. External pressure from Sudan’s neighbours who fear instability spreading to their countries might encourage the government to reach a political settlement.

As a continent Africa’s attempt to resolve the crisis in Darfur, while commendable, certainly highlights areas that need to be addressed to stabilise conflict zones. AMIS has served as an eye opener and a lot could be learned from its operation in Darfur. The challenges AMIS faced in terms of its mandate, planning, mission support, finance and logistics and overall coordination could serve as important lessons for future peacekeeping efforts by the AU. Here it is vital to mention that the proposed African Standby Force (ASF) will face similar challenges as AMIS. It is therefore necessary that, among other things, funding and the provision of military hardware (like attack and transport helicopters) be made a priority in order to effect any positive change in conflict zones. African leaders must demonstrate genuine political will and make the necessary sacrifice to invest in peacekeeping operations on the continent and move away from the tradition of knocking at the UN’s door every time there is a crisis. Of course there could be initiatives with outsiders powers to enhance the capability of the ASF. Since Africa is the continent that plays host to more intra-state conflicts, African-led efforts to resolve these conflicts must be made a priority in the 21st century.

It is also vital to respect conventions such as the African Charter on Human and Peoples’ Rights adopted by the OAU in Nairobi in June 1981. Strengthening the
African Peer Review Mechanism would certainly help in the area of good governance. The AU and regional economic communities provide a unique opportunity to address the debilitating development and security issues that have plagued the continent in the post-Cold War era.

**Notes**

9. Ibid.
10. Author’s interview with Seth Appiah-Mensah on 9 August 2007 at the UN Headquarters in New York City.
12. Ibid.
16. Ibid.
20. Ibid.
22. Ibid.
24. Ibid.
26. Ibid.
29. Ibid.
34 Ibid.
35 Author’s interview with Jack Christofides at UN Headquarters in New York, 8 August 2007.
37 Ibid, 73.
Peacekeeping and peace enforcement in Africa: The potential contribution of a UN Emergency Peace Service

Annie Herro, Wendy Lambourne and David Penklis

Introduction

Despite a drop in the number of African countries involved in conflict, Africa’s history of colonisation and the absence of democratic governance have led the continent down a path of civil wars, genocides and other forms of violence. Of the 58 Chapter VII-mandated United Nations peacekeeping operations since 1990, 32 have been in Africa and mostly in response to civil strife. Notwithstanding this wealth of experience, UN peace operations in Africa are still struggling to achieve their mandates, especially when the use of force is required to protect civilians and successfully implement a peace agreement.

Two interconnecting features of the contemporary political landscape are relevant to this discussion on peacekeeping and peace enforcement in Africa. First, the end of the Cold War relaxed the bi-polar paralysis in the UN Security Council (UNSC). This
increased the number of peace operations deployed as well as complicated the roles they were expected to play. Second, there was a normative transformation in peacekeeping. This was initiated by the belief in a moral imperative to use force to protect victims and a broadening of the Westphalian definition of threats to international peace and security to include gross human rights violations. This shift culminated in the agreement by leaders at the World Summit of 2005 that states have a primary responsibility to protect their own populations against ‘atrocity crimes’ and that the international community has a responsibility to act when governments neglect to protect the most vulnerable members of their states.3

The infamous UN failures in Somalia and Rwanda triggered significant reforms and measures to improve peacekeeping performance generally and in Africa specifically. Seminal UN policy reports – from the Brahimi Panel on United Nations Peace Operations (2000) to the High Level Panel on Threats, Challenges and Change (2004) and In Larger Freedom (2005) – highlight the problems facing the UN peacekeeping system as well as some potential solutions. Despite subsequent reforms, complaints about weak doctrine, unrealistic and unclear mandates, inadequate resources, delays in deployment and poor planning of missions are still common. Other familiar criticisms include the lack of coordination among peacekeepers from different nations once deployed – manifested in diverse rules of engagement, operating procedures and weapons systems – as well the absence of well-trained and adequately equipped peacekeepers.

This article explores whether a United Nations Emergency Peace Service (UNEPS) could have addressed some of the failings of the peacekeeping operations in Rwanda (1993–1994) and Darfur (2006–2008). Both the Rwanda and Darfur civil wars have been accompanied by mass human rights violations perpetrated either directly or indirectly by the respective governments.4 In Rwanda, however, a larger proportion of the population was killed and the genocide occurred over a much shorter time period.5 In Darfur forced displacement – and the related consequences of disease and malnutrition – has been the primary cause of death rather than direct killing as was the case in Rwanda. However, in both cases the outcome of inadequate peacekeeping resources, political will and mandates was a failure to protect civilians and deter atrocities.

We consider possible entry points at which a UNEPS could have been deployed, if it existed, to supplement the UN Assistance Mission in Rwanda (UNAMIR) and the African Union Mission in Sudan (AMIS) and UN Support Packages in Darfur. We examine whether a UNEPS could have overcome some of the political and practical challenges facing these peacekeeping missions. In particular, we explore how it could have helped to alleviate in the short term the suffering of the civilian populations until it was possible to deploy a more robust peacekeeping operation and a viable political solution could be achieved.
A United Nations Emergency Peace Service

The idea of a standing UN military force is not new. The UN’s architects proposed an international army at the Dumbarton Oaks Conference in 1944, making the idea of a standing military force older than the organisation itself. While article 43 of the UN Charter called for the establishment of military forces at the disposal of the UNSC, representing the first attempt to provide a standby UN rapid reaction force, Article 44 captures the resistance to the idea, giving states the option to contribute forces to UNSC-endorsed operations.6

The desire for a standing UN capacity to deal with peace and security issues never disappeared. From 1948 to 1995 over a dozen proposals were made,7 ranging from ambitious suggestions for a permanent standing UN army to a more loosely arranged standby system. In his report entitled *An agenda for peace*, former UN Secretary-General (UNSG) Boutros Boutros-Ghali maintained that to ensure the ‘credibility of the United Nations as a guarantor of international security … [the] ready availability of armed forces on call could serve, in itself, as a means of deterring breaches of the peace …’.8 He went on to recommend that the UNSC consider using peace-enforcement units in clearly defined circumstances, and that they be available on a permanent basis and under the command of the Secretary-General.9 Around the time that this report was released, the Canadian government conducted a comprehensive study on the feasibility of a rapid reaction capability that favoured incremental reform within the UN Secretariat as opposed to developing a UN standing army. Such an approach was seen to involve fewer risks and obligations and was preferred over the creation of a supranational peacekeeping force because it would give states greater control over international peace and security issues.10

The closest the UN has come to the ‘peace enforcement units’ envisaged by Boutros-Ghali are the UN Standby Arrangement System (UNSAS) and Standby High-Readiness Brigade for UN Operations (SHIRBRIG). Both UNSAS and SHIRBRIG are supported by a UN supply and logistics depot in Brindisi, Italy, which was created in 1994. However, these mechanisms have resulted in similar deployment delays and shortages of personnel and equipment as those faced by the UN Department of Peacekeeping Operations (DPKO). This is primarily because each participating member state retains the right to decide on a case-by-case basis whether it will provide assistance and troops. Other efforts to develop a reliable capability for rapid action include regional forces and ad hoc mechanisms such as NATO, the Economic Community of West African States in Liberia and Sierra Leone and the European Union battle group. These groups, however, are not able to deploy immediately and do not possess the full range of expertise needed to prevent mass human rights violations.

One of the latest proposals for a UN rapid-reaction arrangement, which is gaining support in various countries, is that of a UN emergency peace service, designed to prevent genocide
and crimes against humanity. UNEPS is envisaged as a ‘first-in, first-out’ service. It would supplement existing UN and regional operations as well as other early warning and preventive capacities at the UN rather than be expected to perform the full spectrum of the UN’s conflict management functions. It would be permanent, based at UN designated sites, including mobile field headquarters, and be able to respond immediately to an emergency. UNEPS personnel would be individually recruited from among those who volunteer from many countries so it would not suffer the delays of ad hoc forces, the reluctance of UN members to deploy their own national units or gender, national or religious imbalance. Its personnel would be expertly trained and coherently organised to avoid the challenges of a lack of skills, equipment, cohesiveness and experience in resolving conflicts. UNEPS would be a dedicated service with a wide range of professional skills within a single command structure, prepared to conduct multiple functions in diverse UN operations. This would enable it to avoid divided loyalties, confusion about the chain of command or functional fragmentation. It would provide an integrated service encompassing 15 000 to 18 000 civilian, police, judicial, military and relief professionals, which would enable it to deploy all the components essential for peacekeeping and enforcement operations. UNEPS could be a bridge between preventative services and reactive responses to mass atrocities. Research is being conducted on the cultural and political feasibility of establishing such emergency peace services on a regional basis in Southeast Asia as well as in Africa.

Rwanda

After the signing of the Arusha peace accords by the Rwandan government and the Rwandan Patriotic Front on 4 August 1993, the UN was requested to provide an international force to ensure implementation. From the beginning, the UN Assistance Mission in Rwanda was plagued by delays in deployment, an inadequate number of troops and equipment, a weak mandate, and limited political will from UN member states to support the mission. It took two months before the UNSC resolution authorising UNAMIR was passed, and another five months before the force was fully deployed in late March 1994. Despite the estimate of UNAMIR’s reconnaissance mission, led by Lieutenant General Romeo Dallaire, that 4 500 troops would be required, only 2 548 military personnel were approved. If the UNAMIR force had been stronger, the Hutu extremists might have been deterred and their ability to move so quickly to expand the killings from Kigali into rural areas might have been restricted. Furthermore, peacekeeping reinforcements were not forthcoming, despite several requests by Belgium in the first few months of 1994 after signs of the impending genocide had begun to emerge. The US and UK were reportedly reluctant to move from a Chapter VI consensual peacekeeping operation to the higher risk confrontational peace enforcement.

According to Bruce Jones there was an intelligence gap between the regional process which resulted in the Arusha accords, and the structure of the international force that was
ultimately deployed by the UN. Jones argues that the outcome of the Arusha process was deeply flawed because of the reliance upon false assumptions about the willingness of the parties to implement the power-sharing agreement. As a result, UNAMIR came to Rwanda as a neutral intervention force expecting a relatively straightforward mission to implement a peace agreement that would lead to a transitional government. The failures in peacemaking and peacekeeping resulted in a lack of preparedness for the challenges of peace enforcement. Because of its lack of intelligence about the underlying political dynamics, the UN had no contingency plans for responding to an escalation of violence, far less to the scale of the genocide that ensued.

A UNEPS with strong regional connections might have been able to overcome the inadequacies of the UN force that was sent to implement the Arusha peace accords. First, such a UNEPS might have been able to bridge the intelligence gap and have been better informed about the regional peacemaking process and the potential for a Hutu extremist ‘spoilers’ backlash. Second, a better prepared and stronger mission might have been able to deploy more quickly and ensure that the losers would cooperate with the implementation of Arusha. Finally, the availability of a UNEPS might have been able to overcome the reluctance of the UNSC to authorise a Chapter VII peace enforcement mandate based on a more realistic assessment of the existing threats and because they would assume responsibility for military risks.

The major problem in the lead up to the genocide was the lack of political will of member countries to provide UNAMIR with adequate equipment, trained forces and firepower. The consensus seems to be that, at that stage, while a Chapter VII mandate would have been the ideal, the genocide could have been averted even without it.

In response to the escalating violence during April and increasingly compelling evidence of genocide, the UNSC reduced UNAMIR after ten Belgian peacekeepers were killed and threatened to completely withdraw the mission. However, Dallaire refused to leave and stayed in Rwanda with a severely reduced force of 450 minimally armed and poorly supplied troops. Dallaire’s forces were only mandated to use force in self-defence, not for the protection of Rwandans. And yet, despite its limited mandate, UNAMIR still managed to save 32 000 Rwandan lives.

Why were the troops withdrawn rather than being increased and given a Chapter VII mandate to protect Rwandans? Michael Barnett argues that an ‘ethic of indifference’ was created by the UN’s preoccupation with its own survival which influenced the organisation to avoid another peacekeeping failure. This could help to explain the overoptimistic view of the situation in Rwanda as UNAMIR was being established. According to former UNSC President Colin Keating, the council was preoccupied with crises elsewhere, including those in Bosnia, Somalia, North Korea and Haiti. He also points out that information flow from the Secretariat was inadequate and the force
structure ‘bore no relationship to what was really needed’. Keating reports that, in the absence of information from the Secretariat after the genocide had begun, he obtained personal briefings from humanitarian organisations which he passed on to the UNSC, but by this time a number of troop-contributing countries were already threatening to withdraw because of the growing risk to their troops. The problem was not so much a lack of troops but rather a lack of political will to provide the necessary logistical support, which he argues was also potentially available. Testament to this is the impressive logistics of the evacuations of nationals and subsequent response to the humanitarian crisis in Goma refugee camps. Filip Reyntjens goes further and claims that the evacuation troops could have restored order in Kigali and averted the genocide.

While no-one can know for certain that the genocide could have been prevented, Dallaire and others have argued that the scale and duration of the genocide would at least have been reduced if elite troops had been available to the UN during the genocide. The Independent Inquiry into UN actions during the Rwandan genocide concluded that even the existing UNAMIR force of 2 500 (if fully deployed and equipped) would still have been able to stop or at least minimise the massacres in Rwanda. According to Dallaire, a Chapter VII-mandated intervention force of 5 000 troops could have prevented the genocide, even if deployed 24 hours after it began on 7 April 1994. The force could have assisted with the return of refugees and displaced persons, as well as the cessation of hostilities and ensuring the successful delivery of humanitarian aid. Building on Dallaire’s proposal, the Carnegie Commission on Preventing Deadly Conflict offered an alternative strategy for ending the genocide, and recommended the creation of a standing peacekeeping capacity to facilitate such interventions in the future.

On the other hand, Kuperman argues that the Dallaire/Carnegie plan of a 24-hour deployment of 5 000 troops in Kigali would not have been sufficient to stop the massacres already spreading rapidly throughout Rwanda. According to Kuperman the majority of Tutsi would have been killed before the required mandate could have been obtained and the troops and logistical support promised and deployed. He also argues such a plan would have sustained unacceptable levels of casualties or even failure. Such a deployment could have provided hope, he concedes, but not guaranteed success, which begs the question of whether saving some lives is better than saving none.

The challenges facing UNAMIR could arguably have been overcome in the early stages of the genocide by a standing force such as UNEPS. A UNEPS could have addressed one of the crucial factors identified by the Carnegie Commission report – an available force that was well-trained and equipped to ‘overcome a dangerous yet ambiguous and unpredictable threat’ without the additional need of political will from nation states. A UNEPS could have moved quickly to reinforce UNAMIR either in January or February 1994 in response to Dallaire’s cable and other evidence of instability; in early April as soon as the killings began; or later in April once there was incontrovertible evidence of
genocide. By the time the UNSC was convinced of the need to act in early May, the existence of a UNEPS might also have been beneficial as it could have facilitated a quick deployment. Instead, because of the US threat to veto and debates over military strategy, the UNSC resolution was further delayed and UNAMIR II was never deployed.29 As Kuperman argued, deployment of additional forces in late April or early May would have been too late to prevent the majority of the killings. However, it could still have saved lives and ended the genocide sooner. It would have been more effective than the French Operation Turquoise which was not authorised until late June and was accused of doing more to protect the fleeing génocidaires than those being targeted for extermination.30

The Independent Inquiry report made several recommendations resulting from the Rwanda experience which have subsequently been implemented, including the increased focus on protection of civilians in UN peacekeeping mandates.31 The report also recommended an improvement in UN capacity for peacekeeping and rapid deployment, and a number of UNSC members specifically supported the call for a rapid reaction capacity. The French and American representatives focused on the need to expand the lessons learned from Rwanda to the whole of the Great Lakes region, with a particular emphasis on responding adequately to the crises in Burundi and the Democratic Republic of Congo (DRC), including implementation of the Lusaka Peace Agreement. Yet as we will now argue, the international community is still struggling to apply these lessons to the violence in Darfur.

**Darfur**

The Darfur conflict hit the agendas of the UNSC and the African Union’s Peace and Security Council in 2004. Since then, we have seen the deployment of AMIS (2004–2007) and the authorisation of a 20 000-strong, Chapter VII-mandated AU-UN Hybrid Mission (UNAMID) (2007) that is still struggling to become fully operational. Two other UN interventions were mounted in an attempt to support AMIS and its metamorphosis into UNAMID, namely the Light and Heavy Support Packages (2006–2007).32 Sandwiched in-between was UNSC Resolution 1706, authorising the expansion of the UN Mission in the Sudan (UNMIS)33 into Darfur under a Chapter VII mandate. This resolution made deployment conditional on the consent of the Government of Sudan (GoS), who failed to provide it.34 These many resolutions and operations have not resulted in a credible deterrence or reduction in attacks on civilians and humanitarian workers in Darfur.

Could the existence of a standing UN rapid reaction force have been an effective tool to help the international community respond to the violence in Darfur? We examine some of the operational and political obstacles that AMIS and the UN support packages faced in their efforts to protect civilians, and consider whether a UNEPS could have overcome them. Our analysis refers to the time when the Under-Secretary-General for Humanitarian Affairs, Jan Egeland, after returning from his fourth mission to the region, said that ‘the situation in
West Darfur, and in Darfur at large, [is] closer to the abyss than I have witnessed since my first visit in 2004.35 Because of the GoS’s intransigence there was no political opening for any intervention, including a UNEPS, prior to the agreement to deploy AMIS.36

Despite the ongoing atrocities which might have morally justified an armed intervention, a UN peace enforcement mission against the expressed wishes of the Sudanese government was, and still is, politically unachievable. Kofi Annan made this clear in 2006 when he said: ‘The fact is, without the consent of the Sudanese government, we are not going to be able to put in the troops. So what we need is to convince the Sudanese government to bend and change its attitude and allow us to go in.’37 Indeed, the International Crisis Group argues that coercive military intervention in Darfur for civilian protection purposes would be unjustified because it is unclear whether such action would do more good than harm.38 Furthermore, a coercive intervention force would require tens of thousands of robust troops (probably much more) to fight its way into Darfur and protect itself against opposing Sudanese forces.39

AMIS’ ineffectiveness was largely due to a combination of practical and political challenges. Practically, there was an absence of adequate equipment and materiel – including helicopters, ground support and intelligence apparatus – and financial resources in the AU to deploy a robust peacekeeping operation.40 Those with the resources (the EU and US) did not provide enough support to sustain such a mission. Politically, the GoS, its militia, and allies in the UNSC have been obstructing attempts by the international community and the AU to end hostilities. But ultimately, there was an absence of political will – internationally, regionally and bilaterally – to support unified and sustained pressure on Sudan to end its campaign of atrocities in Darfur.

By October 2006 AMIS comprised over 7 000 uniformed personnel (6 143 military personnel and 1 360 police), although the authorised strength was 10 000 military personnel and 1 500 police.41 Despite some EU support, AMIS lacked the resources to adequately protect civilians and humanitarian workers.42 AMIS was thus largely an observer mission, not authorised to disarm the militias or penalise the government or rebels for the ceasefire violations.43

The EU and US were prepared to provide funding and limited logistical support but no troops. In fact, even funding began to wane as the main financial backers sought to shift financial responsibility to the broader international community.44 The SHIRBRIG members, despite being the most advanced mechanism for UN peace operations to date, lacked the combined commitment to mount a deployment at brigade strength (5 000 troops) and many governments were unwilling to participate without this assurance.45

The urgency of the situation and need for action was ever present and clear. In a November 2006 communiqué, Kofi Annan recommended a peacekeeping force of 17 000
with 3 000 police. At the same time he warned the UNSC that it may take months for these forces to be deployed even though the ‘Darfurians can not wait another day’. This critical situation still had not been addressed eight months later when the rapid deployment of troops and supplies to support AMIS was requested by the UNSG in his letter to the President of the Security Council ‘as an immediate priority … through the generation and deployment of the heavy support package’. However, the personnel and equipment promised in the UN Light and Heavy Support Packages suffered from deployment delays which were exacerbated by an inhospitable Sudanese government. According to the report of the UNSG on UNAMID, ‘At the transfer of authority UNAMID will have at its disposal essentially the same assets which are currently on the ground for AMIS. Consequently, in its early phase, UNAMID will still have limited capacity to bring about the desired early effect on the ground, and on the lives of the population of Darfur.’

If a dedicated UNEPS existed that was specifically designed to protect civilians and ensure rapid deployment to complex emergencies, it might have been able to support AMIS in the transition towards mounting UNAMID, an operation that would have been logistically and financially sustainable and capable of contributing meaningfully to the restoration of security and the protection of civilians in Darfur.

First, a readily deployable standing capacity could have eliminated the time gap between the authorisation of UN support packages and their full deployment. A UNEPS could have responded rapidly to the UNSC call on 19 December 2006 for the immediate deployment of a UN support package to buttress AMIS. One of the key obstacles to the swift deployment of the UN support packages was the lack of security in the face of inadequate infrastructure in Darfur and the AMIS camps. It there had been a UNEPS with deployable military elements which could have been assigned to accommodate the deployment of additional battalions, it might have been possible to overcome some of these obstacles. Such a UNEPS would have needed to be self-sufficient and combat ready and have sufficient air support and medical and mechanised units to allow it to be highly mobile and fully capable of establishing in hostile areas, repelling attacks and protecting convoys and establishments.

Second, such a service could potentially have addressed the problem of insufficient political will among governments to support the operation. It would have achieved this by providing a secure environment and the reassurance that risk to personnel, enabling units and equipment would be limited. UNEPS would possibly have been able to help fill the AMIS gaps in frontline reinforcement through the provision of well-trained and fully equipped, combat-ready troops, aircraft, communications equipment and combat and engineering vehicles. It could also have provided the deployable military elements assigned to each mission, such as helicopter squadrons and engineering units. The security and support provided by a UNEPS could have assisted with the deployment...
of the HSP 2 250 military personnel in the areas of transport, engineering, signals and logistics, surveillance, aviation and medical services by ensuring that they were adequately protected.

Third, since UNEPS personnel would have had an international composition, made up of a balanced variety of countries, cultures and religions, its presence could have helped to avert regional accusations of neo-colonialism and the political quagmire of sending American (or Western) troops into a Muslim country after the Iraq and Afghanistan interventions. UNEPS personnel would have been trained in gender and human rights sensitivities and thus could have been able to address the needs of internally displaced persons and issues such as sexual and gender-based violence which are still significant problems in Darfur.50

Although a UNEPS could have helped overall to address the practical challenges of AMIS and the UN support packages, the political challenges would have remained. The GoS has continually obstructed the AU, imposing uncalled for curfews and bureaucratic obstacles. Most significantly, it has denied the AU a reliable supply of fuel, especially for AU aircraft.51 The Light and Heavy Support Packages were both delayed by stalling tactics on the part of the Sudanese government. These aspects suggest that a UNEPS would have been subjected to the same interferences as were AMIS and the UN support packages.

The existence of a UNEPS could, however, have motivated the international community to apply more pressure on Khartoum to agree to meaningful intervention by addressing the problem of insufficient political will among governments to support AMIS and kickstart UNAMID via the UN support packages. By addressing the political risks associated with casualties in peacekeeping, a UNEPS could have sidestepped the cost-benefit calculations made by states – a key factor that prevented meaningful intervention in Darfur. The problem that remains is the support the GoS receives from China, Russia and Arab states which have economic and political interests in opposing intervention. However, if the rest of the international community were less wary of the costs associated with peacekeeping operations, they might also be motivated to influence these countries to withhold their protection of the regime in Khartoum.

Conclusion

While a UNEPS would not provide the full spectrum of UN conflict responses, it could help to overcome some recurring practical and political obstacles that prevent governments from mounting operations capable of halting mass violence. From a practical perspective, a UNEPS could provide sufficient numbers of highly trained and well-equipped troops at short notice to supplement existing peacekeeping operations or offer a ‘first-in, first-out’ service. Politically, a UNEPS could respond to the domestic
political backlash associated with ‘body bags’ when governments expose their nationals to security threats in countries which have little perceived economic, political or strategic significance.

In Rwanda and Darfur the peacekeeping missions lacked sufficient well-trained troops, equipment and mandates to provide adequate protection to civilians and stop the violence. In Rwanda there was inadequate intelligence on the dynamics of the peace process as well as the impending genocide which arguably prevented the construction of a suitable operation to match the political landscape. In Darfur the UNSC was clearly aware of the atrocities but failed to act. Each situation appears to confirm Gregory Stanton’s allegation (as paraphrased by Eyal Mayroz) that as far as some key Western governments are concerned, there are two types of humanitarian ethics – and the second one is for Africans.52

We have argued that a UNEPS might have been able to protect Rwandans, especially if it had been deployed during the initial stages of UNAMIR’s presence and immediately after the killings commenced in Kigali.53 A UNEPS with strong regional connections could have filled the intelligence gap that led first to a flawed peace agreement and second to the UN’s failure to prevent the genocide. In Darfur we argued that a self-sufficient and combat-ready UNEPS with adequate deployable military elements might have been able to provide reassurance to governments contributing to the UN support packages that their equipment and personnel would be protected. A more representative and gender sensitive service stemming from a UNEPS could have given the mission greater legitimacy in the eyes of the people of Darfur as well as the GoS. A UNEPS that could act to support regional peacekeeping efforts could also have appeased the Sudanese government’s demand for ‘African solutions to African problems’.

In the final instance both cases reveal that unless the political and conflict resolution resources of the international system are strengthened and become more readily accessible, multilateral security will never be able to reach its full potential.

Notes

3 This commitment was strengthened when the UNSC unanimously endorsed Resolution 1674 in 2006, which reaffirmed the responsibility to protect doctrine (see The responsibility to protect: report of the International Commission on Intervention and State Sovereignty, Ottawa: International Development Research Centre, 2001).
4 The violence in Darfur is not a clear-cut case of intentional annihilation of an ethnic group, and hence some observers feel that a ‘genocide’ label should not be used – see for example S Straus, Rwanda and Darfur: a comparative analysis, Genocide Studies and Prevention 1(1) (2006), 41–56, 51.
60 African Security Review 18.1 Institute for Security Studies

5 Straus, Rwanda and Darfur, 43–44.
9 Ibid, paragraphs 43–44.
11 The UNEPS proposal is being developed in consultation with the DPKO and alongside efforts to advance other UN peacekeeping and security sector reforms, including the Stimson Center’s proposal for a standing UN rule of law and police capacity. R C Johansen (ed), *A United Nations emergency peace service: to prevent genocide and crimes against humanity*, New York: World Federalist Movement, Institute for Global Policy, 2006.
12 Much work has been done on developing an African Standby Force, such as on-call ‘brigades’ comprising military units plus civilian and police experts in each of the five main regions of the continent, supported by a common doctrine and logistic backup. There are concerns, however, about its political and practical feasibility.
13 UNAMIR was mandated to secure Kigali, monitor the ceasefire, expand the demilitarised zone, demobilise forces, assist with mine clearance, provide humanitarian assistance and monitor security during the period leading up to democratic elections (UNSC Resolution 872, 5 October 1993).
16 Key Hutu extremist elements in the Habyarimana regime, the incumbent government at the time of the genocide, felt they were being marginalised and would lose power as a result of the Arusha accords – see Jones, *The Arusha peace process*, 140.
17 We are not suggesting here that the development of a UNEPS with strong regional connections would obviate the need for the UN to develop its own system of early warning to ensure its better preparedness to counter genocide or other mass violence.
18 While UNAMIR was officially reduced to 270 personnel, the number deployed never actually fell below 450 – see Feil, *Preventing genocide*, 51.
20 In An insider’s account, in D Malone (ed), *The UN Security Council: from the Cold War to the 21st century*, Boulder, Colo: Lynne Rienner, 2004, 510, C Keating attributes this to the Secretary-General’s reluctance to share information fully with the UNSC (especially Dallaire’s January cable to New York) and Rwanda’s place on the UNSC which would have meant it was privy to all the information and discussions taking place there.
21 Ibid, 510.
22 Within days of the commencement of the genocide, 500 French paratroopers were working out of Kigali airport to evacuate French nationals and 1 000 Belgian paratroopers were assembled in Nairobi. At one stage R Dallaire (in *Shake hands with the devil: the failure of humanity in Rwanda*, London: Arrow Books, 2003, 284) discovered that 250 US marines were on their way to Kigali to support UNAMIR and protect US nationals, but they were diverted to Bujumbura in Burundi.
23 As cited in A J Kuperman *The limits of humanitarian intervention: genocide in Rwanda*, Washington, DC: Brookings Institution Press, 2001, 92. Kuperman argues, however, that the likelihood that these forces could have made a significant difference was minimal because the Belgians and French were supporting opposite sides in the conflict, while the Americans would not risk another Somalia and the domestic political backlash associated with ‘body bags’.
26 Ibid.
27 Kuperman (ibid, 87) quotes Dallaire as telling BBC reporters in February, six weeks before the genocide commenced, that he would have needed 40,000 troops to guarantee safety in Rwanda.
28 Feil, *Preventing genocide*, 17

29 Keating, An insider’s account, 509. The US President signed Policy Decision Directive 25 (PDD 25) on 3 May 1994 which restricted US engagement in foreign wars following the debacle in Somalia. The French, of course, did offer to send troops eventually with the belated Operation Turquoise authorised by the UNSC under Chapter VII on 22 June 1994. But given the well-known bias of the French in support of the Rwandan government, elements of which were committing the genocide, the impartiality of French elite troops sent in earlier would have been in question, as indeed it was in relation to Operation Turquoise (see J Mayall, Humanitarian intervention and international society: lessons from Africa, in Jennifer M Welsh (ed), *Humanitarian intervention and international relations*, Oxford: Oxford University Press, 2006).

30 Mayall, Humanitarian intervention and international society, 120–141.
32 From June 2005 to 31 December 2007, NATO also provided assistance to AMIS. Together with the EU, it was involved in the coordination of AMIS personnel airlift as well as the provision of training to AMIS personnel.
33 UNMIS was authorised on 24 March 2005 under Chapter VI following the signing of the comprehensive peace agreement between North and South Sudan.
34 The UNSC adopted Resolution 1706, which called for the strengthening of UNMIS by up to 17,300 military personnel and up to 3,300 civilian police and 16 Formed Police Units, on 31 August 2006.
36 It is debatable whether a UNEPS could make a difference if deployed to Darfur today; however, this is beyond the scope of this article.
38 International Crisis Group, Getting the UN into Darfur, *Africa Briefing* 43, International Crisis Group, 12 October 2006. This would violate the intervention criterion of proportionality. Furthermore, Eyal Mayroz (Ever again? The United States, genocide suppression, and the crisis in Darfur, *Journal of Genocide Research* 10(3) (2008), 362, 364) argues that every non-military option for addressing the situation in Darfur had not been explored. Last resort is another criterion for coercive military intervention – see International Commission on Intervention and State Sovereignty, *The responsibility to protect*.
43 International Crisis Group 2006. Getting the UN into Darfur, 10.
44 Ibid, 3.
46 United Nations News Centre, Annan awaits Sudan letter on hybrid UN force of Darfur.
47 United Nations Secretary General, Report of the Secretary General and the Chairperson of the African Union Commission on the hybrid operation in Darfur, United Nations, 5 June 2007, paragraph 128.
49 One of the recommendations was that the UN should take the lead in assisting in the expansion of AMIS camps to accommodate the deployment of two additional battalions, the three new sector headquarters, and elements of the HSP (see Mayall, Humanitarian Intervention and international society). Based on the assessment of Peter Langille (Bridging the commitment–capacity gap: a review of existing arrangements and options for enhancing UN rapid deployment, New York: Center for UN Reform Education, 2002, 94) of the general requirements of a UNEPS, a deployable cell, tailored to the demands of Darfur, could have overseen mission requirements with a view to ensuring self-contained, smaller logistics elements for the duration of the mission.
50 Human Rights Watch, Darfur 2007: chaos by design.
51 Reeves, UN support package: Sudan buys time and diplomatic advantage.
52 Mayroz, Ever again? The United States, genocide suppression, and the crisis in Darfur, 380.
53 Once the genocide had spread to rural areas, where 95 per cent of Rwandans lived, the logistical challenges of intervening to stop the genocide might have required a much greater show of military force and resulted in a morally and politically unacceptable loss of life.
Dealing with the fast-changing environment in the eastern DRC
Henri Boshoff

Demobilisation, disarmament and reintegration in the Democratic Republic of Congo:
The numbers game
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Dealing with the fast-changing environment in the eastern DRC

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The split in the CNDP

At the beginning of January 2009, General Jean Bosco Ntaganda, the military chief of staff of the CNDP (*Congrès National pour la Défense du Peuple*), twice announced Laurent Nkunda’s dismissal as head of the rebel movement in eastern Congo, accusing him of mismanagement and obstructing peace. Ntaganda said that the CNDP’s leadership no longer accepted Nkunda as leader. This was quickly denied within the CNDP and several high-level representatives refused to recognise Ntaganda as their new leader. They accused him of high treason but did not question his current functions. This battle for leadership of the CNDP was not accompanied by armed clashes within the forces of the CNDP. Meanwhile, negotiations between the government and the CNDP were continuing in Nairobi, but little progress was made. This was soon to change with the Ihusi Declaration and the arrest of Nkunda by the Rwandan government, however.
The Nairobi talks

When negotiations between the Congolese government and the CNDP in Nairobi had no positive outcome, the government – which refuses to allow the Congolese parliamentarians to participate in the negotiations – at first accused the CNDP of sabotaging the negotiations. On his part, the mediator, former president of the Republic of Tanzania Benjamin Mkapa, called for a cessation of hostilities ahead of a summit of the heads of state from the region scheduled for 31 January 2009. Nkunda declared that he would not sign a ceasefire as long as the FARDC (Forces Armées de la République Démocratique du Congo, Armed Forces of the Democratic Republic of Congo) remained outside the buffer zones. All eyes were on a high-level meeting on this conflict that took place on 31 January in Addis Ababa, Ethiopia, ahead of the AU summit. The meeting was organised by the African Union and the International Conference on the Region of the African Great Lakes. The Ihusi Declaration and the arrest of General Nkunda have resulted in the suspension of the Nairobi talks, given developments on the ground. The CNDP have surrendered to the FARDC and have terminated the Nairobi process. The mediator, former Nigerian president Olusegun Abasanjo, had a different opinion and said the conference of 31 January 2009 would take place.

The Ihusi Declaration

Against the background of the ongoing Nairobi talks, a meeting was held on 16 January 2009 at the Ihusi Hotel in Goma between the CNDP, PARECO (Patriotes Résistants Congolais, Congolese Resistance Patriots), the DRC government and Rwanda. However, the direct participation of Jean Bosco Ntaganda in these consultations in a public place like Ihusi raises serious questions as to the intentions of the government of the DRC and MONUC to arrest him while there is an international ICC warrant out for his arrest.

The signatories to the Ihusi Declaration agreed to the following:

- CNDP and PARECO are to place their forces under the operational command of the FARDC

- The CNDP is ready for integration into the FARDC under the supervision of a joint commission

- The CNDP is committed to peace in the DRC

- The CNDP is ready to fight the FDLR (Forces Démocratiques pour la Libération du Rwanda, Democratic Forces for the Liberation of Rwanda)
The FARDC is to build confidence in the eastern DRC and ensure the return of peace to the region

The CNDP will immediately dismantle all roadblocks in North Kivu

The government of the DRC is to accelerate the implementation of the Goma Agreement and the implementation of the Amani process (the process ending the war with the CNDP and integrating the CNDP into the FARDC)

The announcement of a possible split in the CNDP came as a surprise and questions are being asked about the position of Nkunda and how serious the split between him and Jean Bosco Ntaganda was. It seems that Rwanda has lost confidence in Nkunda and has concerns that his political ambition has become too big. This also explains the split in the CNDP. That Jean Bosco was willing to negotiate with the DRC government, which is supported by Rwanda, has created the ideal scenario for the governments of Rwanda and the DRC to deal with the issue of the CNDP and FDLR.

This is all well and good, but there is concern about the process to be followed. According to the Uhusi agreement, the CNDP agrees to go into brassage but stated that the CNDP and PARECO would come under the command of the FARDC in operations against the FDLR. This is where the challenge will be should MONUC or a regional body such as SADC or the AU be allowed to observe these operations. The question raised by Congolese parties on political oversight has not been addressed by the Congolese government.

Rwanda back in the DRC and the arrest of Nkunda

On 4 December 2008 the representatives of the DRC and Rwanda signed the so-called ‘Four on Four Agreement’ that makes provision for the FARDC, supported by the Rwandan Defence Force (RDF), to forcefully disarm the FDLR. The idea of forcefully disarming the FDL has come a long way and even formed the basis of the Nairobi Agreement signed in 2007. Past operations against the FDLR have failed. The possibility of RDF involvement in the eastern DRC has already raised concern in the Kivus. After the IHUSI Declaration, the RDF was ready within days, indicating that the intervention was well planned.

Rwanda has undertaken to give logistical and intelligence support to the FARDC/CNDP/PARECO force. This quickly changed when more than three thousand RDF troops with heavy military weaponry entered the DRC on 20 January 2009 to go after the FDLR. *Umoja Wetu* (Our unity) is the code name for the joint Rwanda-DRC military offensive against the FDLR. The force has been divided into two – one group linked up
with FARDC T55 tanks and infantry combat vehicles and deployed to Masisi. The other group deployed to Rutusuru, the headquarters of General Nkunda.

On 22 January FARDC elements were in combat with three battalions of General Nkunda. They failed to arrest him and General Nkunda fled to Rwanda where he was arrested by the Rwandan government. The capability of the combined FARDC/CNDP/PARECO force is suspect, however; even with RDF support a military solution may not be possible. Before 2002 the RDF had 20,000 soldiers in the Kivus and even they could not defeat the FDLR.

The possible outcome of such an operation is deeply concerning. We have already seen what the LRA did after being attacked by a combined FARDC, Ugandan and South Sudanese military – they dispersed into smaller groups and attacked civilians. Until now the operation in Ituri against the Lord’s Resistance Army (LRA) has not been successful and the rebels are continuing to attack civilians. The FDLR has in the past used the same tactics with great success. Maybe the government of the DRC should reconsider their modus operandi and rather brassage the CNDP, PARECO and other signatories to the Goma Agreement as part of the Amani process. Demobilisation and repatriation should be left to MONUC and the FARDC.

It is unfortunate that the DRC has returned to the 2002 situation with both the Ugandan Peoples’ Defence Force (UPDF) and RDF back in the eastern DRC. Ugandan and Rwandan armies backed several Congolese rebellions over the last 15 years under the pretext of hunting down their rebels in the DRC. In a worst-case scenario, after six months the FDLR, CNDP and LRA could all still be there, as well as the Rwandans and Ugandans!

**MONUC originally excluded**

MONUC was excluded from the negotiations of 4 December 2008 between the DRC government and Rwanda, as well as the talks that led to the Ihusi Declaration. We are seeing a repetition of what happened in 2007 when the mixage process between the CNDP and FARDC led to a humanitarian disaster. MONUC has in the interim put in place contingency plans to deal with the possible consequences. These include the following:

- Early identification of possible flashpoints
- Likely reaction of the FDLR
- Impact on civilians
- Possible attacks on IDP camps by the FDLR
- Possible tasks in support of the FARDC
- Protection of civilians
Ambassador Alan Doss, the Special Representative of the UN Secretary-General in the DRC, has already said that the Congolese government has the responsibility to protect its citizens against violence and that MONUC will do its best to execute its mandate to protect civilians. The Rwandan/Congolese military offensive started on 24 January and both sides declared that they had had successes.

Following a request from the DRC Minister of Defence after the operation has started, Mr Doss has put in place a MONUC team to work with the joint DRC/Rwanda operation in Goma. The goal for the group of six to eight staff military officers sent to assist with the operation is to boost the presence and gradual inclusion of UN civilian staff in planning the operation and to work on issues such as humanitarian coordination and the demobilisation of former Congolese or ethnic Rwandan Hutu fighters. MONUC underscored that it will not participate in any transaction in which Bosco Ntanganda, the leader of the predominantly Tutsi National Congress in the CNDP militia, will play a role.

**Joint operations and possible reaction from the FDLR**

While a plan bringing the FARDC and RDF together with a single objective is a positive development, the launch of an offensive against the FDLR holds many risks of collateral damage to civilians and of mass displacement. MONUC has been kept out of the decision-making process. The FARDC has not shared any inputs on the joint FARDC/RDF operations with MONUC so far. Conduct of joint operations against the FDLR is likely to invite reprisal killings in FDLR-dominated areas. Since MONUC has a mandate to protect the population, its exclusion from the planning process and denying it freedom of movement by the FARDC is likely to impair its capability to protect vulnerable sections of the population. It is improbable that the FARDC, which is already in a state of disarray, can be integrated with the CNDP to undertake any viable operation in the near future. Allegations of a first FARDC/RDF confrontation with the FDLR has already been denied, indicating that was in fact an incident between the FARDC and the Mayi-Mayi. It is foreseen that the FDLR will resist any such attacks in both North and South Kivu.

**Conclusion**

Recent developments present us with major opportunities, as well as risks. With the necessary political will of the governments of the region, fully backed by the international community, solutions could be found for issues that have remained unresolved for years. The significant reversal of the balance of power in the Kivus is remarkable – for the first time since 1999 there is a united force in place against the FDLR. There is now a
real opportunity for a fast-track implementation of the main objectives set out by the Nairobi Communiqué and the Goma Conference. The integration of the CNDP and other groups into the FARDC also opens up a unique opportunity for the international community and the AU to help the DRC to build a credible and professional security sector, especially its armed forces.

There are significant risks, however. In particular there are real concerns regarding the humanitarian consequences of operations against the FDLR. In addition to the risk of civilians being caught in the crossfire, the FDLR could launch violent attacks against civilians. Such attacks could escalate hostilities along ethnic lines. It is estimated that some 300,000 to 350,000 more people could be affected by operations against the FDLR in North Kivu alone. The situation is expected to be even more difficult in South Kivu, where the FDLR is deeply entrenched.
Demobilisation, disarmament and reintegration in the Democratic Republic of Congo: The numbers game

Henri Boshoff

Introduction

The situation in the Democratic Republic of Congo (DRC) continues to evolve very rapidly. Recent events have significantly reshaped the political and military landscape in the Kivus and have major implications for the role of the United Nations. The joint Rwandan-Congolese operation has impacted on the demobilisation, disarmament and reintegration (DDR) of the Congrès National pour la Défense du Peuple (CNDP) as well as the disarmament, demobilisation, repatriation, resettlement and reintegration (DDRRR) of the Forces Démocratiques pour la Libération du Rwanda (FDLR). In both cases it has speeded up the process.

DDR of FDLR

On 20 January 2009, some 2 000 Rwandan troops crossed the border north of Goma into the DRC. The Joint Rwanda-DRC forces were deployed in an arc along two main axes, one towards the north in the area of Rutshuru and Kanyabayonga, and one toward
the west from Mushaki to the Masisi area. On 22 January 2009 the DRC government announced the arrest of Laurent Nkunda by the Rwandan authorities. The DRC-Rwanda joint operation planned against the FDLR, entitled ‘Operation Umoja Wetu’, or ‘Our unity’, would be completed by 28 February, according to the Congolese government. The operation was marked as a success in North Kivu.

MONUC has reported that they have repatriated 1 003 combatants and their dependants. The number of repatriations in the 48 days prior to 18 February equals the number of repatriations in the whole of last year. Since 1 January 2009, UNHRC has also voluntarily repatriated 883 civilians to Rwanda (see figure 1).

The success of the operation is uncertain because the FDLR in their stronghold, South Kivu, has not been dealt with and Rwanda is due to withdraw. The plan is to replace Rwandan troops with MONUC troops in operations in South Kivu. The concern of the population in North Kivu is what will happen when Rwanda withdraws: will MONUC be able to protect them against possible FDLR retaliation?

### DDR of CNDP

The FARDC has also started an ‘accelerated plan’ for the integration of the CNDP and other armed groups into the FARDC. The plan initially envisioned the establishment of regroupment sites for the CNDP at Rumangabo and Kimo in North Kivu. Two

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**Figure 1 DDR/RR weekly repatriation of 2009**

![Chart showing weekly repatriation of 2009](image-url)
regroupment sites for PARECO (Patriotes Résistants Congolais) and the Mayi-Mayi have also been identified at Murambiro and the Nyaleke brassage and training centre (see map 1). It is expected that the newly established units will be sent for training or refreshment courses once the operations against the FDLR are over. Until 18 February, 3 548 CNDP elements and 2 000 members of PARECO and the Mayi-Mayi have been integrated into a pool of 9 335 FARDC troops (see table 1).

This is the wrong option, however, considering the failure of the 2007 mixage process.

**Conclusion**

The question can be asked if these figures can be seen as real successes. As for the joint Rwanda-Congolese operation, an estimated 2 000 FDLR combatants and their families have been repatriated to Rwanda, leaving 4 000 more behind of which the most are in South Kivu. It is expected from the FARDC and MONUC to deal with them, but this approach seems to have been unsuccessful in the past. As for the integration of CNDP into the FARDC, the plan is integration, not demobilisation. That means the integrated CNDP soldiers will stay in Kivu fighting against the FDLR, which will not solve the problem considering what happened in 2007 with the mixage process.
### Table 1 CNDP accelerated integration

<table>
<thead>
<tr>
<th>Centre</th>
<th>Unit</th>
<th>FARDC</th>
<th>CNDP</th>
<th>Total</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total elements who are currently in the course of being integrated</td>
<td></td>
<td>9,335</td>
<td>3,548</td>
<td>12,883</td>
<td></td>
</tr>
<tr>
<td>Rumangabo (1st AI Brigade)</td>
<td>1st Battalion</td>
<td>333</td>
<td>155</td>
<td>488</td>
<td>Already integrated</td>
</tr>
<tr>
<td></td>
<td>2nd Battalion</td>
<td>316</td>
<td>184</td>
<td>500</td>
<td>Already integrated</td>
</tr>
<tr>
<td></td>
<td>3rd Battalion</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rutshuru (2nd AI Brigade) Operation completed. Should close soon</td>
<td>1st Battalion</td>
<td></td>
<td>150</td>
<td></td>
<td>Already integrated</td>
</tr>
<tr>
<td></td>
<td>2nd Battalion</td>
<td></td>
<td>132</td>
<td></td>
<td>Already integrated</td>
</tr>
<tr>
<td></td>
<td>3rd Battalion</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>4th Battalion</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mubambiro</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Should open 11 Feb</td>
</tr>
<tr>
<td>Tshengerero</td>
<td>2nd Brigade</td>
<td></td>
<td>3,000</td>
<td></td>
<td>Already integrated</td>
</tr>
<tr>
<td>Kahunga</td>
<td>2nd Battalion</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kibirizi</td>
<td>2nd Battalion</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nyamilima</td>
<td>2nd Brigade</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nyongera</td>
<td>2nd Battalion</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: MONUC briefing at ISS, 20 February 2009.
Developing indicators for evaluating the national implementation of regional law on arms in Africa
Denise Garcia

Lighting up the intelligence community: An agenda for intelligence reform in South Africa
Laurie Nathan
Developing indicators for evaluating the national implementation of regional law on arms in Africa

Denise Garcia

The spread of arms and the resulting armed violence undermine good governance in Africa more than in any other continent. The Southern African Development Community (SADC), the Eastern African states, and the Economic Community of Western Africa States (ECOWAS)1 are advancing towards a regional approach to tackling the scourge of small arms proliferation and have enacted legally binding instruments in this regard.

There are three main reasons for the subregional approach by Africans to this issue. First, Africa is the region worst affected by arms misuse and unrestrained arms availability. This has devastating consequences that imperil human security and threaten the continent’s achievement of development goals. Second, it is much harder to find consensus on controversial negotiation issues vis-à-vis restraining arms proliferation at the international level than at the regional level. Strong countries like the US, China, Iran, the Russian Federation and Pakistan can block the approval of measures that
are dear to Africa. Third, there are characteristics of the proliferation of arms that are specific to each of these African subregions, which makes a regional approach more effective in the long term. For instance, there is very little endogenous arms production capacity in these regions, and most of the problem lies in abundant external supply (for example the overwhelming majority of Kalashnikov rifles, the most common weapon in Africa’s conflicts, come from outside the continent), poor regulation of the intra-regional circulation of arms left over from conflicts during the Cold War, conflicts throughout the 1990s and afterwards, porous borders, and the unregulated activity of arms brokers.

An overarching impetus for the regionalisation of approaches to tackling arms proliferation and availability in Africa is that scarce resources that must be used for development in Africa are diverted to arms procurement and conflict. The cost impact of conflict on African development was approximately US$300 billion between 1990 and 2005, according to the International Action Network on Small Arms, Oxfam and Saferworld. Their study entitled *Africa’s missing billions* represents the first ever estimate of the overall effects of conflict on gross domestic products across the continent. Conflicts weaken the African economy by 15 per cent annually, and the continent loses an average of US$18 billion as a result of conflict.

International efforts to curb the scourge of arms proliferation were initiated in Africa in the 1990s. Mali was the first country to invite the UN to assess the situation of weapons proliferation in the post-conflict situation that pertained in that country in 1994. This pioneer assessment resulted in the first initiatives to curb arms proliferation and the enactment of the first ever politically binding instrument to tackle arms proliferation, the Moratorium on Importation, Exportation and Manufacture of Light Weapons in West Africa of 31 October 1998. The first international politically binding document was the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small arms and Light Weapons in All Its Aspects (PoA), negotiated under the auspices of the UN in 2001. It set up the first internationally agreed set of norms and standards concerning most aspects of the illicit trade in small arms, and will serve as a reference here.

In this article I will outline the legal and political frameworks of two of the three existing African subregional legally binding regimes to control arms, in other words those for the East African and SADC regions. From these, and based upon internationally agreed emerging norms, I will elicit initial indicators, with their coding protocols, for ease of access to small arms. These indicators, under the rubric of the rule of law, are grouped as ‘legal’ and ‘black market feeders’ sub-indicators. Another indicator not tackled here yet, but which also falls under the rule of law rubric and which could be taken into account in future research, is compliance with gun laws. This study aims to present an initial modest compilation of indicators that can be applied in a much-needed research agenda on this area. My compilation of indicators includes the coding protocol. Its
application may be premature, however, given the relatively recent entry into force of these instruments. The subsequent application of the codes created here will also be the object of future research.

Therefore, this study is an attempt to initiate a compilation of indicators to assess the ease of access to arms, and can serve as a guide to policy-making and future research. Similar previous work by and large focuses on two types of investigation. One consists of indicators that usefully ‘measure the [dimensions of the] threats that unregulated access to small arms poses to civilian populations and the relief and development communities as a whole’. This line of work has therefore focused on an appraisal of the consequences of the abundance of weapons and their unrestricted use. Second, research has focused on indicators that estimate reasons for individual or group demand for arms.

Let us first briefly examine the measures taken in the two areas in question to control the use of and trade in small arms and light weapons.

**East Africa: Central Africa, the Great Lakes and the Horn of Africa**

The construction of a legal and political framework for limiting arms in this subregion happened in three parts. The first was the negotiation of the politically binding Nairobi Declaration on Small Arms by the ministers of foreign affairs of the countries of the Great Lakes region and the Horn of Africa, signed in 2000. Its chief purpose is the encouragement of a coordinated agenda for action for the subregion to promote human security, aiming at adequate laws to control the possession and transfer of small arms through a series of concrete measures. The second was the creation of the Nairobi Secretariat on Small Arms to coordinate the action by each member country’s national focal point on small arms in the Great Lakes region and Horn of Africa. The secretariat’s work encompasses crime, conflict and instability and interacts broadly with civil society: NGOs, religious organisations, academics, journalists and private sector organisations. The third part was the evolution of the Nairobi Declaration into a parallel legally binding instrument, the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa, adopted in April 2004. As a result, the secretariat was elevated to the Regional Centre on Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa (RECSA), an international organisation aiming to effectively implement the Nairobi Declaration and the Nairobi Protocol, the latter of which came into force in 2006. The Nairobi Protocol and RECSA could potentially have a conflict management role in tandem with the regional Inter-Governmental Authority on Development. The Nairobi Protocol also demonstrates the tendency to search for regional solutions to the problem of arms circulation. For instance, article 15 calls on states to establish mechanisms for ‘cooperation
among law enforcement agencies strengthening regional and continental cooperation among police, customs and border control’ (emphasis added).

In the areas relevant to this study, the Nairobi Protocol articulates provisions on arms destruction in a comprehensive manner, including in surplus, crime and post-conflict situations (paragraphs 8, 9 and 12, respectively). It also substantially incorporates the issue of arms brokering. Paragraph 11 calls on state parties to enact a national system for regulating dealers and brokers of small arms and light weapons that includes licensing, registering all brokers operating within their territory, authorisation for each individual transaction taking place, full disclosure on import and export licences or authorisation, and the provision of accompanying documents giving the names and locations of all brokers. On arms in civilian ownership, the Nairobi Protocol is the most evolved regional instrument adopted after 2001. In its article 2, where the objectives of the protocol are laid out, there is a commitment to ‘prevent, combat and eradicate the illicit manufacturing of, trafficking in, possession and use of small arms and light weapons in the sub-region’. In article 3, on ‘Legislative Measures’, states are required to adopt legislative and other measures to establish the illicit possession and misuse of small arms and light weapons as criminal offences under their national laws. Article 5 is entirely dedicated to the ‘Control of Civilian Possession of Small Arms and Light Weapons’ and commits states to a wide range of measures, including heavy minimum sentences for armed crimes and the carrying of unlicensed arms; and the prohibition of the civilian possession of semi-automatic and automatic rifles, machine guns and all light weapons.

Nonetheless, the Nairobi Protocol is insufficiently grounded in international humanitarian law and development language. The sole mention of development is that the spread of arms has a harmful effect on development in the region, which appears only in the preamble. However, the most deadly and prolonged conflict in the continent is located in this subregion: the conflict in the Democratic Republic of Congo has killed almost five million people. In addition, the situation in Somalia and the virulent relations among the countries in the Horn demand that the Nairobi Protocol should have more provisions on the key problems of the region: disrespect for humanitarian law and the effects of the spread of arms on development.

**Southern African Development Community**

The SADC Protocol on Firearms, Ammunition and Related Materials aims to create regional controls over trafficking and arms possession. A related organisation is the Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO), which was formed in 1995 to tackle cross-border criminal activity. SARPCCO’s priorities are to reduce the trafficking of firearms and their use in crime in the region. SARPCCO recently constituted a regional coordinating committee (RCC) to be the primary implementation body for the
SADC Protocol. The RCC met for the first time in March 2008 to start capacity building in a number of SADC countries and to establish cooperation with RECSA.\textsuperscript{7}

The chief goal of the SADC Protocol, in force since November 2004, is to prevent, combat and eradicate the illicit manufacturing of firearms, ammunition and other related materials, as well as their excessive and destabilising use, trafficking and possession. The protocol also seeks to regulate the import and export of legal small arms and thus curb the transit of these weapons into and within the region. In addition, it aims for the harmonisation of national legislation across member states on the manufacture and ownership of small arms and light weapons. Thus, the SADC Protocol marks a further significant development in the efforts of the states of Southern Africa to tackle the scourge of small arms and light weapons.\textsuperscript{8} The main challenges these countries\textsuperscript{9} in the SADC region face are obsolete national legislation, precarious peace processes, porous borders, a lack of capacity on the part of both governments and civil society to effectively monitor the legal and illegal movement of firearms, and a lack of data from which to assess the improvements that may result from the effective implementation of the SADC Protocol.\textsuperscript{10}

The SADC Protocol contains strong provisions on weapons destruction where states agree that surplus, redundant or obsolete arms and ammunition and other related materials resulting from the re-equipment or reorganisation of armed forces should be securely stored, destroyed or disposed of in a way that prevents them from entering the illicit firearms market or flowing into regions in conflict or to any other destination in a way that is not fully consistent with agreed criteria for restraint. Thus, destruction is the preferable method for handling surplus. The protocol advances a complete definition of ‘brokers’ and all aspects of arms brokering. However, it falls short of fully articulating the components of a system to control this activity, except for encouraging the enactment of legislation containing provisions that regulate firearm brokering in the territories of state parties. Remarkably, in its article 5, ‘Legislative measures’, the SADC Protocol calls for the prohibition of the unrestricted possession of small arms by civilians; the total prohibition of the possession and use of light weapons by civilians; the regulation and centralised registration of all civilian-owned firearms in SADC members’ territories; and measures ensuring that proper controls are exercised over the manufacturing, possession and use of firearms, ammunition and other related materials.

Legal indicators applied to the Nairobi Protocol and SADC Protocol

Below I advance four legal indicators constituting the tenets of the rule of law that are pertinent to ease of access to small arms, according to the PoA: the control of all aspects of arms production, circulation and transfer; the criminalisation of illicit arms production, circulation and transfer; the regulations on arms exports authorisations;
and the cooperation of states regarding the security of ports, borders, airspace and the continental shelf. I apply these to the variability, law and intrinsic characteristics of the two subregional level frameworks analysed here.

Control of all aspects of arms production, circulation and transfer

**Nairobi Protocol**

In its article 3, ‘Legislative Measures’, state parties undertake to incorporate in their national laws measures ensuring that proper controls be exercised over the manufacturing of small arms and light weapons; provisions promoting legal uniformity; and minimum standards regarding the manufacture, control, possession, import, export, re-export, transit, transport and transfer of small arms and light weapons.

**SADC Protocol**

State parties commit themselves to enact the necessary legislation and take other measures to establish the relevant criminal offences under their national law to prevent, combat and eradicate the illicit manufacturing of firearms, ammunition and other related materials, and their excessive and destabilising accumulation, trafficking, possession and use (article 5.1). To achieve this aim, they take on the task of coordinating procedures for the import, export and transit of firearm shipments; and enacting provisions promoting legal uniformity and minimum standards in respect of the manufacture, control, possession, import, export and transfer of firearms, ammunition and other related materials (article 5).

The following coding protocols will apply in this regard. Coding protocol (1) will make ease of access more difficult and (5) will facilitate access. This applies in each of the indicators discussed below.

1. A state will be awarded a 1 if it is able to exercise effective control over the production of small arms and light weapons within its areas of jurisdiction, and over the export, import, transit or retransfer of such weapons, in order to prevent the illegal manufacture of and illicit trafficking in small arms and light weapons, or their diversion to unauthorised recipients (if it has established laws or measures covering all these areas and is applying them).

2. A state will be awarded a 2 if established laws exist covering at least four of the areas mentioned above and these laws are operational in practice.

3. A state will be awarded a 3 if established laws exist covering at least two of the areas mentioned above and these laws are operational in practice.
A state will be awarded a 4 if established laws exist covering the areas mentioned above, but they are not yet operational.

A state will be awarded a 5 if it has not enacted any laws covering the areas mentioned above.

Criminalisation of illicit arms production, circulation and transfer

Nairobi Protocol

In article 3, it is stated that each state party shall adopt such legislative measures as may be necessary to establish as criminal offences under its national law the illicit trafficking in small arms and light weapons, the illicit manufacturing of small arms and light weapons, the illicit possession and misuse of small arms and light weapons, and the violation of arms embargoes mandated by the UN Security Council and/or regional organisations.

SADC Protocol

State parties commit themselves to enact the necessary legislation and take other measures to sanction criminally, civilly or administratively under their national law the violation of arms embargoes mandated by the UN Security Council (article 5.2). In addition, in a provision dealing with law enforcement specifically, state parties aim to promote cooperation with international organisations such as the International Criminal Police Organisation and the World Customs Organisation (article 15).

A state will be awarded a 1 if it has adopted legislative measures to establish as criminal offences under its domestic law the illegal manufacture, possession and violations of embargoes of small arms and light weapons, and if such activities have been prosecuted under appropriate national penal codes.

A state will be awarded a 2 if it has adopted legislative measures to establish as criminal offences under its domestic law at least three of the areas mentioned above, and if such activities have been prosecuted under appropriate national penal codes.

A state will be awarded a 3 if it has adopted legislative measures to establish as criminal offences under its domestic law at least one of the areas mentioned above, and if such an activity has been prosecuted under appropriate national penal codes.

A state will be awarded a 4 if it has adopted legislative measures to establish as criminal offences under its domestic law at least one of the areas mentioned above.

A state will be awarded a 5 if it has not adopted any law regarding these areas and no related prosecutions have taken place.
Regulations on arms exports authorisations

*Nairobi Protocol*

On this matter, the document could have been stronger on the issue of establishing what exactly are ‘legal uniformity’ and ‘an effective system’. As a consequence, it falls short of mandating strong controls on arms exports authorisations. The Nairobi Protocol instructs states to establish provisions promoting legal uniformity and minimum standards regarding the manufacture, control, possession, import, export, re-export, transit, transport and transfer of small arms and light weapons (article 3Cv). To do this, each state party should establish and maintain an effective system of export and import licensing or authorisation, as well as measures on the international transit of arms. Before issuing export licences or authorisations for shipments of arms, states should verify that the importing states have issued import licences or authorisations; and that, without prejudice to bilateral or multilateral agreements or arrangements favouring landlocked states, the states have, at a minimum, given notice in writing, prior to shipment, that they have no objection to the transit (article 10).

*SADC Protocol*

States undertake to enact the necessary legislation and take other measures to establish the necessary criminal offences under their national law in order to prevent, combat and eradicate the illicit manufacturing of firearms, ammunition and other related materials, and their excessive and destabilising accumulation, trafficking, possession and use. In addition, states parties undertake to coordinate procedures for the import, export and transit of firearm shipments (article 5).

1. A country will be awarded a 1 if it has enforceable laws that are being applied in practice requiring its arms export authorisations to be issued according to strict national regulations and procedures that cover all small arms and light weapons and are consistent with its existing responsibilities under relevant international law, taking into account in particular the risk of diversion of these weapons into the illegal trade; i.e. it should maintain an effective national system of export and import licensing or authorisation for the transfer of all small arms and light weapons, as well as measures on international transit, with a view to reduce the ease of access.

2. A country will be awarded a 2 if it has enforceable laws that are being applied in practice requiring arms export authorisations to be issued according to strict national regulations and procedures that cover all small arms and light weapons and are consistent with its existing responsibilities under relevant international law, taking into account in particular the risk of diversion of these weapons into the illegal trade.

3. A country will be awarded a 3 if it has laws concerning the above.
4  A country will be awarded a 4 if it has a general law or regulation on arms export authorisations

5  A country will be awarded a 5 if it has no laws concerning the above

Cooperation of states regarding the security of ports, borders, airspace and the continental shelf

**Nairobi Protocol**

The states in the subregion recognise in the protocol’s preamble that the inadequate capacity of states in the region to effectively control and monitor their borders, poor and sometimes open immigration and customs controls, and the movement of armed refugees across national borders in certain countries have greatly contributed to the proliferation of illicit small arms and light weapons. Thus, states undertake to strengthen their operational capacity by strengthening subregional cooperation among police, intelligence, customs and border control officials in:

- Combating the illicit circulation and trafficking in arms and suppressing criminal activities relating to the use of these weapons

- Enhancing the capacity of national law enforcement and security agencies, including appropriate training on investigative procedures, border control and law enforcement techniques, and the upgrading of equipment and resources

- Establishing and improving national databases and communication systems

- Acquiring equipment for monitoring and controlling small arms and light weapons movements across borders (article 4)

This is consolidated by law enforcement measures where state parties commit themselves to establishing appropriate mechanisms for cooperation among law enforcement agencies, including strengthening regional and continental cooperation among police, customs and border control services to address the illicit proliferation, circulation and trafficking of small arms and light weapons (article 15).

**SADC Protocol**

State parties undertake to improve their operational capacity in general, and particularly that of police, customs, border guards, the military and the judiciary, by carrying out national training programmes for police, customs and border guards, the judiciary and other agencies involved in preventing, combating and eradicating the illicit manufacturing
of firearms, ammunition and other related materials and their excessive and destabilising accumulation, trafficking, possession and use; by establishing and improving national databases and communication systems; and by acquiring equipment for monitoring and controlling the movement of firearms across borders (article 6).

1. A country will be awarded a 1 if it has enacted laws that are now in practice vis-à-vis the security of its ports, borders, airspace and continental shelf; has adequate state capacity to oversee arrivals and departures of possibly illegal weapons cargos; has active ties of cooperation with regional police bodies and Interpol; and actively suppresses criminal armed activity.

2. A country will be awarded a 2 if it has enacted laws that are now in practice vis-à-vis the security of its ports, borders, airspace and continental shelf; has adequate state capacity to oversee arrivals and departures of possibly illegal weapons cargos; and has active ties of cooperation with regional and international police bodies.

3. A country will be awarded a 3 if it has enacted laws (not yet in practice) vis-à-vis the security of its ports, borders, airspace and continental shelf; has adequate state capacity to oversee arrivals and departures of possibly illegal weapons cargos; and has active ties of cooperation with regional and international police bodies.

4. A country will be awarded a 4 if it has not enacted laws vis-à-vis the areas above, but has at least requested assistance on this issue.

5. A country will be awarded a 5 if it has not taken any action.

**Black market feeder indicators**

There are five areas that, if not addressed, will result in greater ease of access to small arms and may constitute black market feeders that increase the circulation of small arms. These areas are:

- Whether or not a country has legislation on civilian gun ownership.
- How pervasive the work of brokers is in the country’s territory, and whether the country has enacted legislation on brokering.
- Whether the country has enacted legislation regarding and adopted the practice of destroying weapons that are deemed surplus in its inventories, or that were seized in crime prevention activities (related to this measure, the security of arsenals and warehouses is vital).
- Whether the country has established provisions vis-à-vis the transfer of weapons to non-state actors.
Whether the country has enacted parameters for arms imports

I will now focus on the first three issues.

Civilian gun ownership

**Nairobi Protocol**

The objectives of the protocol include preventing, combating and eradicating the possession and use of small arms and light weapons in the subregion (article 2). In the legislative measures set out by the protocol, state parties commit themselves to incorporate legislation on illicit possession and misuse of small arms and light weapons (article 3 iii). This is strengthened by the responsibility of state parties to enact laws to prohibit the unrestricted civilian possession of small arms, including the total prohibition of civilian possession and use of all light weapons and automatic and semi-automatic rifles and machine guns (remainder of article 3).

An entire provision of the Nairobi Protocol is devoted to the ‘Control of civilian possession of small arms and light weapons’. A condition for the withdrawal of small arms and light weapons licences is advanced. The protocol is also innovative in its introduction of harmonised, heavy minimum sentences for small arms and light weapons crimes and the carrying of unlicensed small arms and light weapons; and the prohibition of civilian possession of semi-automatic and automatic rifles and machine guns and all light weapons (article 5).

**SADC Protocol**

State parties are mandated to enact legislation establishing arms possession as a criminal offence. The protocol takes a radical and welcome step when it requires members to prohibit the unrestricted possession of arms by civilians (article 5). This stringent requirement is deepened when state parties undertake to consider a joint review of criteria for the issuing and withdrawing of firearm licences, and to establish and maintain national electronic databases of licensed firearms, firearm owners and commercial firearms traders within their territories (article 7).

Coding protocol (1) will make ease of access more difficult and (5) will facilitate access. This applies to all three indicators discussed here.

1 A country will be awarded a 1 if it has enacted legislation concerning the five of the elements mentioned above and if this legislation is in practice (that is, if there is evidence of criminal prosecutions for violations)
A country will be awarded a 2 if it has enacted legislation concerning at least three of the elements mentioned above and if this legislation is in practice (that is, if there is evidence of criminal prosecutions for violations).

A country will be awarded a 3 if it has enacted legislation concerning at least three of the elements mentioned above and if this legislation is in practice (that is, if there is evidence of criminal prosecutions for violations).

A country will be awarded a 4 if it has enacted legislation on a few elements and/or requested assistance in this regard.

A country will be awarded a 5 if it has done nothing, not even requested assistance.

**Regulations on arms brokering**

*Nairobi Protocol*

In the protocol’s preamble, the subregion’s states express their concern about the supply of arms into the region and also express awareness of the need for effective controls of arms transfers by suppliers and brokers *outside* the region to prevent the problem of illicit arms. This includes concern regarding measures against the transfer of surplus arms to the region. As the preamble is the part of the document that will set out the legal intentions of the rest of the document, here the state parties seem to be placing responsibility for their problems outside the continent. Africa is often seen as a problem requiring outside solutions. Even though arms brokering is indeed a quintessentially global problem, arms transfers are not ‘imposed’, and they are always a two-way street.

Then, the protocol modestly calls for state parties to incorporate provisions regulating brokering (article 3C). The protocol goes on to call on states to establish a ‘national system’ for regulating arms brokers that shall include the regulation and registration of all manufacturers, dealers, traders, financiers and transporters through licensing; and for ensuring that such persons seek fully transparent authorisation for their businesses (article 11). The document fails to mandate states on establishing the appropriate penalties for all illicit brokering activities. In addition, the protocol falls short of connecting violations of UN Security Council arms embargoes to the work of brokers (it only refers to arms embargo violations in their links to ‘illicit trafficking’ in general, which is not sufficient to typify a crime connected to brokering). In this important aspect, the Nairobi Protocol is inadequate in comparison to the PoA at the international level.

*SADC Protocol*

The protocol falls short of establishing robust measures for criminalising arms brokering activities inside the territories of the state parties, calling on states to simply enact
provisions that regulate firearms brokering (article 5). Thus, SADC countries are likely to see ease of operations by brokers in their territories. The system of joint legislation is weaker than the one set by the PoA. As in the Nairobi Protocol, there is no mention of the criminalisation of violations of UN Security Council-mandated arms embargoes in accordance with the Charter of the UN.

1 A country will be awarded a 1 if it has developed and started implementing adequate national legislation or administrative procedures regulating the activities of those who engage in small arms and light weapons brokering, including measures such as the registration of brokers and the licensing or authorisation of brokering transactions.

2 A country will be awarded a 2 if it has developed adequate national legislation or administrative procedures regulating the activities of those who engage in small arms and light weapons brokering, including measures such as the registration of brokers and the licensing or authorisation of brokering transactions.

3 A country will be awarded a 3 if it has developed adequate national legislation or administrative procedures regulating the activities of those who engage in small arms and light weapons brokering, including measures including at least two of the areas above.

4 A country will be awarded a 4 if it has requested assistance to take action on the above.

5 A country will be awarded a 5 if it has done nothing in this regard.

**Weapons destruction**

**Nairobi Protocol**

The protocol instructs states to adopt a series of measures dealing with the disposal of state-owned arms and undertaking to put in place programmes for the collection, safe storage, destruction and responsible disposal of surplus or obsolete arms resulting from peace agreements, the demobilisation or reintegration of ex-combatants, or the re-equipment of armed forces or other armed state bodies. It requires that arms shall be securely stored, destroyed or disposed of in a way that prevents them from feeding the illicit market or flowing to regions in conflict (art. 8). By the same token, there is a provision for the disposal of confiscated or unlicensed arms. Here, state parties set in place measures to allow the confiscation of arms that were illicitly manufactured or trafficked. This provision is interesting, as it anticipates the development of work with communities as well as the establishment of joint operations across borders among state parties to locate, seize and destroy arms left over after conflicts and civil wars, which is a welcome development (article 9).
SADC Protocol

The protocol mandates state parties to adopt programmes for the collection, safe storage, destruction and responsible disposal of firearms rendered surplus through peace agreements, the demobilisation or reintegration of ex-combatants, and the restructuring of armed forces or police forces (article 10).

1 A state will be awarded a 1 if it has enacted and already implemented measures ensuring that all confiscated, seized or collected small arms and light weapons are destroyed; and if armed forces, police forces or all other bodies authorised to hold small arms and light weapons establish adequate and detailed standards and procedures relating to the management and security of their stocks of these weapons. These standards and procedures should include appropriate locations for stockpiles; physical security measures; regular reviews of stocks of small arms and light weapons held by armed forces, police and other authorised bodies; the putting in place of programmes for the responsible disposal, preferably through destruction, of such stocks; the adequate safeguarding of such stocks until disposal; working with communities on the issue of weapons destruction; and carrying out joint operations with other states.

2 A state will be awarded a 2 if it has enacted and already implemented measures ensuring that at least three of the areas mentioned above are covered.

3 A state will be awarded a 3 if it has enacted and already implemented measures ensuring that at least one of the areas mentioned above has been covered.

4 A state will be awarded a 4 if it has enacted legislation on the areas mentioned above.

5 A state will be awarded a 5 if it has not taken any appropriate measures in this regard.

Conclusion

This study is a prelude to future review and evaluation of whether the membership of regional protocols results in the enactment of national laws on restricting and prohibiting access to arms, the carrying out of best practices, and changes in behaviour in Africa. Once this is established, future research will be able to examine if there are resulting improvements in the security situation. There are two important qualifications here: one is that the recent establishment or entry into force of these protocols may make it premature, at this stage, to assess the enactment of new legislation in all state parties. The second is that some of the countries in question are the least capable of implementing the required measures. Therefore, the establishment of legislation and its application may take longer, depending on legal and financial assistance and cooperation among regional members and international donors.
The multilateral history of containing arms is in its infancy. In spite of this, regional efforts in Africa are promising in setting precedents for stronger international commitments, like the Arms Trade Treaty now in pre-stage negotiations at the UN. Arms proliferation will only be effectively addressed, especially in Africa, if a comprehensive and all-inclusive approach is adopted. The enactment of the protocols discussed in this paper is an initial step. Many more measures at the community, national, regional and international levels are necessary, and many are indeed being undertaken.

Notes

1. The case of ECOWAS is examined by the author in: Arms restraint and regional international law making – the case of the Economic Community of West African States, African Security Review 18(2).


6. For the text of the SADC Protocol, see Small Arms Survey database, ‘Resources’, ‘Documents from Regional and other International Forums’, ‘Africa’, http://www.smallarmssurvey.org/files/portal/databases/copyright.html. Within the SADC framework, South Africa, for instance, one of the driving forces of the process leading to the PoA, has vigorously developed new legislation on domestic arms control and on export, marking and brokering. The penalty for illegal possession of small arms has been raised to a maximum of 25 years imprisonment, and South Africa has destroyed hundreds of thousand of weapons, also cooperating with and providing training for neighbouring countries, notably Mozambique.


9. Angola, Botswana, the DRC, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

Lighting up the intelligence community:
An agenda for intelligence reform in South Africa

Laurie Nathan*

In 2005 a prominent businessman complained to the Minister of Intelligence, Ronnie Kasrils, that he was under surveillance. The Minister requested the Inspector General of Intelligence to investigate the matter. The Inspector General found that the National Intelligence Agency (NIA) had conducted illegal surveillance and that the Director General of the Agency, Billy Masetlha, had unlawfully intercepted the communication of ruling party and opposition politicians.1 The mischief had its roots in Project Avani, a political intelligence project set up to assess the impact of the presidential succession battle within the African National Congress (ANC) on the stability of the country. Through this project NIA had ostensibly intercepted e-mails from high-profile political figures purportedly conspiring to thwart Jacob Zuma’s bid to become the ANC president. The

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Inspector General concluded that the e-mails had been fabricated and recommended disciplinary action and criminal charges against those responsible. Masetlha and two other officials were dismissed. Opposition parties and civil society groups expressed fear of a return to the sinister machinations of the apartheid security forces.

In the aftermath of the crisis, the Minister established the Ministerial Review Commission on Intelligence. He declared that it was necessary ‘to use this lamentable episode at NIA to undertake fundamental reforms aimed at preventing such abuses in the future. To do so, we need to review legislation and strengthen regulations, operational procedures and control measures’. It was also necessary to tackle ‘the perfidious mentality that enabled these dirty tricks to take place’ and ensure that ‘the reforms are placed in the public domain so as to rebuild public confidence and trust’.2

The commission comprised Joe Matthews, a former Deputy Minister of Safety and Security, who chaired the body; Dr Frene Ginwala, the first Speaker of South Africa’s democratic Parliament; and the author. Our terms of reference stated that ‘the aim of the Review is to strengthen mechanisms of control of the civilian intelligence structures in order to ensure full compliance and alignment with the Constitution, constitutional principles and the rule of law, and particularly to minimise the potential for illegal conduct and abuse of power’.3 We were mandated to focus on executive control; control mechanisms relating to intelligence operations, intrusive methods of investigation and covert funding; political and economic intelligence; political non-partisanship; and the balance between secrecy and transparency. The review covered the following bodies: NIA; the South African Secret Service (SASS); the National Intelligence Coordinating Committee (NICOC); the National Communications Centre (NCC); the Office for Interception Centres (OIC); and Electronic Communications Security (Pty) Ltd.4

The commission scrutinised the intelligence legislation, regulations and operational policies, met with the heads of the intelligence organisations and received submissions from them, had discussions with other government bodies, the Minister and President Thabo Mbeki, and did research on intelligence controls internationally. We presented our report to Minister Kasrils in August 2008. The following month he resigned in solidarity with President Mbeki, who had been asked by the ANC to step down. On the eve of his departure Kasrils declassified the commission’s report, resulting in an unprecedented public disclosure of classified intelligence policies. NIA attempted unsuccessfully to block publication of the report.5

In his resignation statement, Kasrils said that he had considered carefully whether national security would be compromised by the release of classified information. Having asked the commission to remove two quotes regarding intelligence methods, he was satisfied that no harm would arise from publication of the report. He pointed out that the constitutional principles of accountability and openness empower citizens,
Essays protect their rights, help to prevent abuse of power and apply to the intelligence services as much as to any other organ of state. He described the report as an ‘extraordinary accomplishment’ although he did not agree with all the findings and proposals. Aspects of the report were critical of the services but ‘this is nothing to be ashamed of as criticism and self-criticism are signs of a strong and healthy democracy that is committed to improvement and progress’. Kasrils concluded that the release of the report was in the public interest and that it would enhance debate and provide a platform for intelligence reform.6

In November the new Minister of Intelligence, Dr Siyabonga Cwele, told the commissioners he was satisfied that they had fully discharged their mandate. Once the intelligence services had commented on the commission’s report, he would make recommendations to Cabinet. Following Cabinet’s deliberations, he would inform the public of government’s response.

It is not possible in the available space to provide a comprehensive overview of the commission’s 300-page report. Instead, this article seeks to outline an agenda for intelligence reform by concentrating on the main findings and proposals regarding adherence to the Constitution; the White Paper on Intelligence; ministerial control and responsibility; the mandate of NIA; intrusive measures; and transparency.

Adherence to the Constitution

The main functions of intelligence services are to predict, detect and analyse internal and external threats to security and to inform and advise the Executive about the nature and causes of these threats. The services are thereby expected to contribute to preventing, containing and overcoming serious threats to the country and its people. In order to fulfil these vital functions, intelligence services throughout the world are given special powers to operate secretly and to acquire confidential information through surveillance, infiltration of organisations, interception of communication and other methods that infringe the rights to privacy and dignity.

There is ample historical evidence that politicians and intelligence officers can abuse these powers to infringe rights without good cause, interfere in politics and favour or prejudice a political party or leader, thereby subverting democracy. They can intimidate the government’s opponents, create a climate of fear and manipulate intelligence in order to influence state decision-making and public opinion. Given these dangers, democratic societies are confronted by the challenge of constructing rules and controls that prevent misconduct by the intelligence services without constraining the services to such an extent that they are unable to fulfil their duties. In short, the challenge is to ensure that the intelligence agencies pursue a legitimate mandate in a legitimate manner.
This challenge lies at the heart of intelligence reform in South Africa. Notwithstanding their grave responsibilities and the perils they might have to face, the intelligence agencies and other security services are at all times and in all respects bound by the Constitution. The Constitution states that the security services must act, and must teach and require their members to act, in accordance with the constitution and the law;7 that national security must be pursued in compliance with the law, including international law;8 and that no member of any security service may obey a manifestly illegal order.9 The security services are obliged to respect constitutional rights10 and they are prohibited from prejudicing or furthering the interests of political parties.11

South Africa's intelligence legislation and governance arrangements have undergone dramatic transformation since the end of apartheid in 1994 and now compare favourably with those in established democracies.12 Nevertheless, there are many instances of a failure to adhere to the Constitution. For example, the Minister of Intelligence has issued secret regulations that are known only to the intelligence community. The intelligence legislation permits the Minister to do this despite the constitution's clear statement that regulations must be accessible to the public.13 Similarly, the Constitution provides that the Auditor General's reports must be submitted to the relevant legislature and must be made public;14 the audit reports on the intelligence services, however, are presented only to the parliamentary Joint Standing Committee on Intelligence (JSCI) and are classified.

Although the constitution states that national budgets and budgetary processes must promote transparency and accountability,15 the annual budgets of the intelligence services are secret; they are reviewed by the JSCI but are not presented to Parliament. By executive decision the members of the services are excluded from the labour rights in the Bill of Rights; this limitation of rights is not covered by legislation as required by the constitution. Most seriously, as discussed further below, the intelligence services infringe the right to privacy through intrusive methods that are unconstitutional.

As a general rule, according to the constitution, the National Assembly must facilitate public involvement in the legislative and other processes of the Assembly and its committees, conduct its business in an open manner and hold its sittings and those of its committees in public.16 The Assembly may not exclude the public from a sitting of a committee unless it is reasonable and justifiable to do so in an open and democratic society.17 The Intelligence Services Oversight Act of 1994 reverses this approach and makes secrecy the general rule: no person other than members of the JSCI and its staff may be present during the proceedings of the committee, except with its permission. In practice, the JSCI holds all its meetings in secret.

The commission argued that these deviations from the Constitution are unsound and impermissible. This view was shared by the National Treasury with respect to the intelligence budgets; by the Auditor General with respect to the audit reports on the
intelligence services; by the Inspector General and the State Law Adviser with respect to labour rights; and by the Inspector General with respect to the use of intrusive measures.

The White Paper on Intelligence

The aim of the White Paper on Intelligence of 1994 was to provide a framework for understanding the philosophy, mission and role of intelligence in the post-apartheid era. The white paper has two core themes – democracy and the rule of law, and a holistic approach to security – which were intended to guide the transformation of the intelligence community. The main strength of the document is that it lays out a democratic philosophy and set of principles on security and intelligence.

The main weakness of the document is that it does not translate the philosophy and principles into meaningful policies. For example, it emphasises the importance of democratic control and oversight of the intelligence services but says little of substance about the relevant mechanisms. It does not discuss ministerial accountability and devotes just four lines to parliamentary oversight. It identifies a need to ‘separate the functions of intelligence’ and ‘control access to the Executive’ but does not explain these ideas. The topic of training is dealt with in four lines, effectiveness and standards are covered in eight lines, secrecy and declassification receive five lines and covert action gets a scant four lines.

A white paper is meant to present national policy on a sector of governance with sufficient clarity and detail to guide the formulation of laws, strategies and departmental policies. If a white paper has major gaps, there is a risk that departmental activities will lack focus and cohesion. There is also a risk that significant policy positions that ought to be taken by the Executive and approved by Parliament will instead be determined by government officials without parliamentary input. This problem has in fact occurred in the intelligence sector. Many critical policy issues – regarding relations with foreign intelligence services, political and economic intelligence, counter-intelligence and intrusive measures – have been addressed only in secret regulations and internal directives.

A new white paper on Intelligence is required. In addition to the concerns raised above, the current white paper was written more than ten years ago. The domestic, regional and international security environments have changed markedly since then and there is much to be learnt from the experiences of local and foreign intelligence services. There is also a need to consolidate the proposals emanating from the various intelligence reviews conducted in South Africa over the past five years.

The new white paper should cover the mandates, functions and powers of the intelligence organisations; executive control, responsibility and accountability; civilian oversight; the coordination of intelligence; intelligence relations with other countries; secrecy and
transparency; and ensuring respect for the Constitution and the rule of law. The process of preparing the white paper should include parliamentary hearings following a call for public submissions.

**Ministerial control and responsibility**

Section 209(2) of the Constitution states that the President must either assume political responsibility for the control and direction of the civilian intelligence services or designate a member of Cabinet to assume that responsibility. Since 1999 the President has appointed a Minister of Intelligence who, in terms of the constitution, is accountable to the President, Cabinet and Parliament for the exercise of his or her powers and functions.

The National Strategic Intelligence Act of 1994 contains two striking omissions in this regard. First, there is the anomaly that the intelligence services have no legal obligation to provide intelligence to the Minister. The Minister might consequently be unaware of significant intelligence gathered by the organisations that fall under his or her control. In these circumstances the Minister would be unable to fulfil adequately his or her duty to assume responsibility for the intelligence services, account to Parliament and advise the President and Cabinet on national strategic intelligence.

Second, the Act does not indicate who is authorised to task the intelligence services to gather and supply intelligence. Is this authority limited to the Minister or does it extend to the President, other ministers and civil servants? The legislation provides that a national department, provincial administration or provincial department can request NIA, SASS or NICOC to supply it with departmental intelligence. The intelligence bodies are not obliged to seek ministerial approval when responding to such requests or even to inform the Minister thereof. Nor does the Act indicate which official in a department is entitled to request intelligence.

The Act should be amended to provide for the supply of intelligence to the Minister and for ministerial authorisation for tasking the intelligence services. The Minister’s powers in relation to intelligence reports and tasking, and limitations on the exercise of those powers, should be addressed in a ministerial directive that is drawn up in consultation with and approved by the JSCI.

Another set of problems exists in relation to supplying intelligence to the President. The Act states only that NIA must inform the President of any threat or potential threat to the security of the Republic or its people. In practice, the heads of the different intelligence organisations have often reported to the President on a variety of matters, sometimes without the Minister’s knowledge. This has the potential to generate conflict, it can be misused for political mischief and it undermines the Minister’s responsibility and control.
The supply of intelligence to the President by NIA, SASS and NICOC should be regulated by legislation, ministerial regulations or a presidential directive. The rules should state that intelligence given to the President must also be given to the Minister. The Minister is appointed by the President and is therefore mandated and trusted by the President to receive sensitive information; if the Minister loses the President’s trust, then he or she can be dismissed. The bottom line is that the Minister cannot fulfil his or her functions properly if kept in the dark about strategic intelligence.

Sharing intelligence with foreign intelligence services about citizens and other people living in South Africa is an extremely sensitive issue. The focus of any such intelligence should be confined to the planning or commission of a crime, ministerial approval for sharing the intelligence should be required, and the existing ministerial regulations on this subject should be made public.

There is a glaring absence of ministerial regulations and directives. This is most problematic with respect to politically sensitive matters like intrusive operations. Policies and rules on these matters, which ought to have been made by the Executive, have instead been made by the heads of the services. In consultation with the JSCI, the Minister should issue regulations on the conduct of intelligence and counter-intelligence operations; the supply of intelligence to the Executive and government departments; and the Inspector General’s investigations, inspections and certification of reports. The regulations should be published in the Government Gazette.

**NIA’s mandate**

**Intelligence mandate**

There are three major problems with NIA's intelligence mandate. First, the mandate is much too broad. The National Strategic Intelligence Act requires NIA to focus on threats and potential threats to the security of the Republic and its people, on internal activities, factors and developments that are detrimental to national stability, and on threats and potential threats to the constitutional order and the safety and well-being of the people of South Africa. Since the country's features include intense political competition, sporadic violence and acute underdevelopment, a vast array of issues fall within the Agency's purview. NIA has compounded the problem by interpreting its mandate in so expansive a fashion as to encompass the thematic focus of virtually every state department. This is impractical and unnecessary and it detracts from NIA's focus on serious criminal threats.

Second, a number of the key terms in the Act are imprecise and ambiguous. Concepts such as the ‘security of the Republic and its people’, ‘national stability’ and ‘threats to the constitutional order’ are politically loaded and can be interpreted in different ways. NIA's
mandate has in fact been reinterpreted three times since 1994 but this process has occurred exclusively within the state and has not been subject to public and parliamentary debate.

Third, the overly broad mandate has given rise to a political intelligence focus that is not confined to criminal activity. It entails monitoring and reporting on the impact of policy decisions by government, transformation within state departments and competition within and between political parties. This focus is plainly inappropriate in a democracy. It draws NIA into the arena of party politics, politicises the Agency, creates the risk of interference in the political process and opens the door to spying on people and organisations that are engaged exclusively in lawful activity.

In its submission to the commission, NIA expressed several concerns about its mandate. It believes there is no clear definition of ‘threats to the Republic’ and ‘threats to national security’, leading to incoherent interpretations of the mandate and posing difficulties for prioritising and targeting. A further problem is that Executive tasking of NIA across the broad spectrum of human security and political issues could impact on the neutrality of the Agency and create tension between NIA and the Executive.

NIA argued that it should not be responsible for monitoring the impact of political rivalry on national stability and advising the Executive on the effectiveness of government decisions. These functions might be abused and might be perceived as efforts by a party political apparatus to deal with political opponents in an undemocratic manner. This would compromise NIA’s credibility. NIA concluded that it should limit its focus within the political arena to suspected unconstitutional actions by political parties or their members, subject to the constitutional obligation that the security services do not behave in a partisan manner.

In the view of the commission, the National Strategic Intelligence Act should be amended so that NIA’s intelligence mandate is not based on imprecise terms like ‘national stability’. Instead, the mandate should be formulated with reference to large-scale violence, terrorism, sabotage, subversion, espionage, proliferation of weapons of mass destruction, drug trafficking, organised crime, corruption, and specified financial crimes. The legislation should state explicitly in this regard that ‘security threats’ exclude lawful advocacy, protest and other activities.

Notwithstanding this focus on serious crime, NIA’s mandate would be entirely different from that of the police. Whereas the police are responsible for law enforcement and criminal investigation leading to prosecution, the Agency should have the following functions: to predict, detect and analyse the designated threats; to gather intelligence on the plans, methods and motivation of persons responsible for the threats; to discern patterns, trends and causes in relation to the threats; to forewarn and advise the Executive accordingly; and to contribute to law enforcement and preventive action by providing intelligence to the police, the prosecuting authority and other government departments.
In order to perform these functions, NIA will have to carry out non-intrusive monitoring of the political and socioeconomic environment. The political intelligence focus as currently conceived should be abandoned completely. NIA should also abandon its economic intelligence focus in support of national economic policy. There is no need for an intelligence organisation to cover macro-economic and social issues, duplicating the work of experts within and outside of government.

**Counter-intelligence mandate**

According to the National Strategic Intelligence Act, NIA’s counter-intelligence mandate entails four functions, two of which are clear and properly regulated: to protect intelligence and classified information, and to conduct security screening operations. The other two functions – to impede and neutralise the effectiveness of foreign or hostile intelligence operations, and to counter subversion, treason, sabotage and terrorism – are not described precisely and are not regulated.

What is meant by ‘impede’, ‘neutralise’ and ‘counter’? Which counter-intelligence measures are legitimate and which are illegitimate? NIA’s submission to the commission noted with concern that the legislation does not provide clear guidelines on countermeasures. In fact, the Act does not provide any guidelines at all. Nor is there executive policy on the use of countermeasures. This is extremely dangerous, raising the spectre of political manipulation and infringements of constitutional rights. The Act should define precisely and regulate the use of countermeasures. It should prohibit the intelligence services from disseminating false information and from interfering with lawful activities in South Africa and other countries.

The Act’s definition of ‘subversion’ should be amended. This term is defined as ‘any activity intended to destroy or undermine the constitutionally established system of government in South Africa’. Since the definition does not require subversive activity to be illegal, it is possible that lawful political action might be adjudged to be ‘undermining’ and thus subversive. The better approach, as in the Canadian Security Intelligence Service Act of 1984, would be to define subversion as having a violent or otherwise criminal character.

**Intrusive operations**

Intrusive methods of intelligence gathering, such as spying on people and tapping their phones, infringe the rights to privacy and dignity and might also breach political rights. Consequently, they are unconstitutional unless permitted by law. Legislation currently allows intelligence officers to intercept communication and enter and search premises. Other intrusive methods – such as infiltrating an organisation, physical and electronic surveillance, and recruiting an informant – are not governed by legislation and are thus unconstitutional.
The use of intrusive measures must be subject to safeguards that prevent abuse of power and unjustified violations of rights. The Constitutional Court has insisted on this in relation to search and seizure operations, asserting that ‘the existence of safeguards to regulate the way in which state officials may enter the private domains of ordinary citizens is one of the features that distinguish a constitutional democracy from a police state’. More specifically, the court has ruled that search and seizure operations may not be undertaken without judicial authorisation.

The Minister should introduce legislation that governs the use of all intrusive measures by the intelligence services. The legislation should be consistent with Constitutional Court decisions regarding infringements of the right to privacy and should therefore contain the following safeguards:

- The use of intrusive measures should be limited to situations where there are reasonable grounds to believe that (a) a serious criminal offence has been, is being or is likely to be committed; (b) other investigative methods will not enable the intelligence services to obtain the necessary intelligence; and (c) the gathering of the intelligence is essential for the services to fulfil their functions as defined in law.

- The intelligence services should be prohibited from employing intrusive measures in relation to lawful activities unless these activities are reasonably believed to be linked to the commission of a serious offence.

- The use of intrusive measures should require the approval of the Minister. There is currently no legislative obligation on the intelligence services even to inform the Minister that they are spying on someone. This amounts to throwing the principle of ministerial accountability out the window. It allows for ‘plausible deniability’ but this is patently undemocratic.

- Resort to intrusive measures should be authorised by a judge. The legislation should prescribe the information that the applicant must present in writing and on oath or affirmation to the judge. The application must provide sufficient detail to enable the judge to determine whether the circumstances warrant the use of intrusive measures.

- Intrusive methods should only be permitted as a matter of last resort.

- The intelligence services must delete within specified periods (a) private information about a person who is not the subject of investigation where the information is acquired incidentally through the use of intrusive methods; (b) private information about a targeted person that is unrelated to the planning or commission of a serious criminal offence; and (c) all information about a targeted person or organisation if the investigation yields no evidence of the commission or planning of a serious offence.
Some aspects of the intelligence services’ operational policies on intrusive measures are inconsistent with the constitution and legislation. For example, there are policies that suggest incorrectly that the right to privacy is limited to citizens; in fact, this right applies to everyone in South Africa.24 The intelligence chiefs should ensure that these errors are corrected and the Minister should request the Inspector General to certify the revised policies. The Minister and the heads of the services should also take steps to enhance the quality of legal advice in the intelligence community.

The NCC, which intercepts electronic signals such as cell phone conversations, is engaged in eavesdropping that is unconstitutional and unlawful. This is because the centre fails to comply with the requirements of the Regulation of Interception of Communications and Provision of Communication-Related Information Act of 2002, which prohibits the interception of communication without judicial authorisation.

In June 2008 Minister Kasrils tabled in Parliament the National Strategic Intelligence Amendment Bill, which was intended to regulate and ensure the legality of the NCC’s operations. The draft legislation was constitutionally flawed, however, since it allowed for infringements of privacy on overly broad grounds and did not provide for judicial authorisation.25 In October 2008 the Bill was rejected by the parliamentary committee that reviewed it. This was a triumph for democracy and should prompt a parliamentary review of all intrusive measures.

Transparency

The constitutional principles of transparency and access to information are fundamental tenets of governance. They are binding on all organs of state, and the dangers associated with secrecy – lack of accountability, abuse of power, infringements of rights and a culture of impunity – are directly applicable to the intelligence sector. This sector remains obsessed with secrecy, however. Its emphasis on secrecy with some exceptions should be replaced with an emphasis on openness with some exceptions. The exceptions should not be justified on the basis of the vague notion of ‘national security’ but should instead be motivated in terms of the significant harm that disclosure might cause to the lives of individuals, the intelligence services, the state or the country as a whole.

The following steps would enhance transparency in the interests of accountability and democracy without undermining the country’s security:

- The National Intelligence Priorities approved annually by Cabinet should be subject to parliamentary consultation and debate. Information that is extremely sensitive could be withheld.
All ministerial regulations on intelligence should be promulgated in the *Government Gazette*, and the existing regulations that are secret should also be published in this manner.

Executive policy on intelligence operations should be in the public domain.

The intelligence services should put their annual reports on their websites and the Minister should table these reports in Parliament. The services should also publish periodic security assessments on their websites.

The annual budgets and financial reports of the intelligence services and the audit reports on the services should be tabled in Parliament. Information that would endanger security or compromise intelligence operations should be withheld.

NICOC and the Office of the Inspector General should set up websites that include detailed information about their functions and activities.

All the intelligence organisations should have on their websites a section that assists members of the public who want to request information in terms of the Promotion of Access to Information Act of 2000. The organisations should also produce the information manuals required by this Act.

The Protection of Information Bill, tabled in Parliament in 2008, was roundly criticised by media groups and human rights organisations and should be revised in order to ensure closer alignment with the constitution.

The JSCI should set up a website and take steps to facilitate public and parliamentary debates on intelligence policy. The JSCI is the only parliamentary committee that does not have a website and its annual reports to Parliament are uninformative.

**Conclusion**

This article has outlined an agenda for intelligence reform in South Africa. Further details and motivation can be found in the report of the Ministerial Review Commission on Intelligence. The report also contains findings and recommendations on the Inspector General of Intelligence, the internal controls and institutional culture of the intelligence services, and control and oversight of intelligence funding.

The extent to which the reform agenda is implemented will depend on the disposition of the new Minister of Intelligence, Cabinet and the JSCI. Non-governmental organisations, research bodies and the media have a vital role to play in this regard.
need to abandon the notion that the intelligence sector is so sensitive that it lies outside the public domain, exercise their right to discuss and influence a critical component of national policy, and promote democratic reform of this sector. Public engagement will strengthen accountability in an area that is characterised by excessive secrecy and thus by insufficient accountability.

Notes

2 R Kasrils, Launch of Ministerial Review Commission on Intelligence by the Minister for Intelligence Services, Cape Town, 1 November 2006.
3 The commission’s terms of reference can be found in Ministerial Review Commission on Intelligence, Intelligence in a democracy: final report of the Ministerial Review Commission on Intelligence to the Minister for Intelligence Services, the Honourable Mr Ronnie Kasrils, MP, 10 September 2008, 286-287. The report is available at http://www.ssronline.org/edocs/review_commission_final_report20080910.doc.
4 For an overview of these organisations and the intelligence legislation, see Ministerial Review Commission, Intelligence in a democracy, 35–42.
8 Ibid, section 198(c).
9 Ibid, section 199(6).
10 Ibid, sections 7(2) and 8(1).
11 Ibid, section 199(7).
13 Section 101(3) of the Constitution. Contrary to this provision, section 6(4) of the National Strategic Intelligence Act of 1994 and section 37(5) of the Intelligence Services Act of 2002 allow the Minister to issue regulations that are communicated only to the people affected thereby in a manner determined by the Minister.
14 Section 188(3) of the Constitution.
15 Ibid, section 215(1).
16 Ibid, section 59(1).
17 Ibid, section 59(2).
19 Section 1 of the National Strategic Intelligence Act defines ‘departmental intelligence’ to mean ‘intelligence about any threat or potential threat to the national security and stability of the Republic that falls within the functions of a department of State, and includes intelligence needed by such department in order to neutralise such a threat’.
20 Section 36(1) of the constitution provides that the rights in the Bill of Rights may only be limited in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.
21 The relevant legislation is the Intelligence Services Act of 2002 and the Regulation of Interception of Communications and Provision of Communication-Related Information Act of 2002.
22 *Mistry v Interim Medical and Dental Council of South Africa* 1998 (4) SA 1127 (CC), paragraph 25.
23 See *Park-Ross and Another v Director: Office for Serious Economic Offences*, 1995 (2) SA 148 (C); and *Investigating Directorate: Serious Economic Offences and Others v Hyundai Motor Distributors (Pty) Ltd and Others: In Re Hyundai Motor Distributors (Pty) Ltd and Others v Smit NO and Others*, 2001 (1) SA 545 (CC).
24 The Constitutional Court has interpreted other constitutional rights in this fashion where the right, according to the Constitution, is held by ‘everyone’. See *Lawyers for Human Rights v Minister of Home Affairs* 2004 (4) SA 125 (CC); and *Mohamed v President of the Republic of South Africa* 2001 (3) SA 893 (CC).
25 For a critique of this Bill, see Ministerial Review Commission on Intelligence, Submission on the National Strategic Intelligence Amendment Bill [B 38-2008], submitted to the Ad Hoc Committee on Intelligence in the National Assembly, 10 July 2008, available at http://www.intelligence.gov.za/commission.
SADCBRIG intervention in SADC member states: Reasons to doubt
Deane-Peter Baker and Sadiki Maeresera

African peacekeeping and the private sector
Chris Taylor
SADCBRIG intervention in SADC member states: Reasons to doubt
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Introduction

Territorial disputes, armed ethnic conflicts, civil wars and externally instigated armed rebellions are some of the main threats to subregional peace and security. These threats require a rapid response from a well-trained military entity that can be deployed to intervene in a conflict zone while a political solution to a crisis is being sought. Any subregional response to a conflict situation by member states requires synchronised political and military operational procedures in order to achieve a timely intervention. The military interventions in the Democratic Republic of Congo (DRC) and Lesotho crises illustrate past divisions among SADC member states on when and how it is prudent to take rapid military action as a group.

The recent creation of the SADC Standby Brigade has created hope that the subregion now has a mechanism that will at the very least enable military interventions as envisaged
in article 13 of the protocol establishing the Peace and Security Commission of the African Union, which allows for intervention in a member state in respect of grave circumstances or at the request of a member state in order to restore peace and security in accordance with article 4(h) and (j) of the Constitutive Act.

While a memorandum of understanding (MOU) was concluded among SADC member nations in order to provide a sound legal basis for their cooperation in the establishment of the SADCBRIG, and whilst the roadmap for the operationalisation of the brigade covers the period up to 2010, it is the argument of this article that the brigade’s effectiveness as a subregional mechanism for future military interventions in member states will be significantly affected by political and strategic operational challenges.

Before discussing those challenges it is necessary to give a brief outline of the subregional policy framework of the SADCBRIG.

The subregional policy framework of the SADC Brigade

Pursuant to article 5(2) of the Constitutive Act of the African Union (AU), the Protocol on the Peace and Security Council (PSC) was established as a collective security and early warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa. Within the framework of article 13 of the PSC Protocol the AU Commission is mandated to establish an African Standby Force (ASF) which will consists of five standby brigades in each of the five regions in Africa. It is within this arrangement that the SADC Interstate, Defence and Security Committee (ISDSC) set up a technical team comprised of military planners, which saw the establishment of the Planning Element (PLANEM) in Gaborone, Botswana, in April and May 2005. An MOU was signed between member states to regulate the establishment of the standby brigade. Like the other African regional standby forces, the SADC Brigade is part of the ASF.

The conceptual framework of the SADCBRIG is designed in such a way that the earmarked troops or personnel pledged to the brigade remain in their countries of origin at an ‘on call’ level of alert for the duration of the assignment, in line with the response times as prescribed. According to the expectations of SADC, the brigade and its components will typically be deployed under a UN or AU mandate. It should, however, be noted that the planning and preparations of the SADCBRIG do cater for deployment under the mandating authority of SADC itself. In this case, the applicable management structures will consist of the following:

1. The SADC Summit of Heads of State and Government (the mandating authority of the SADCBRIG). All contributions to the AU peace support operations will
be subject to the approval of the SADC Summit on the recommendations of the
country that chairs the SADC Organ on Politics, Defence and Security Committee
(OPDSC)

- The chairperson of the SADC OPDSC
- The Ministerial Committee of Ministers of Foreign Affairs, Defence, Public Security
  and State Security (plenary) from all SADC countries that have signed and ratified
  the Organ Protocol
- The Inter-State Defence and Security Committee (ISDSC) consisting of all Ministers
  of Defence, Public Security and State Security
- A newly established SADC Committee of Chiefs of Defence Staff
- The SADC PLANEM. This will be composed of regional military and civilian staff
  on secondment from member states. Unlike other regional economic communities
  (RECs) which have permanent brigade headquarters and planning elements, SADC’s
  PLANEM is an autonomous structure which will not be incorporated into the
  SADCBRIG during the actual missions. It will manage the SADC standby system
  and assure responsibility for monitoring force preparation in troop contributing
  countries up to the point when the mission preparations commence. It is important
  to note that the precise relationship between the SADCBRIG, its PLANEM, the
  brigade headquarters and the SADC Secretariat is not yet clear.

As noted above, the main purpose of the brigade is to participate in missions as envisaged
in article 13 of the PSC of the AU, which includes the mission of ‘intervention in a
member state in order to restore peace and security in accordance with article 4(h) and
(j) of the Constitutive Act’. In what follows we will outline the central political and
strategic challenges to the SADCBRIG being utilised in this way.

National interests and common values

The absence of common national interests and common values among member states
inhibits the development of trust, institutional cohesion, common policies and unified
responses to crises. Member states are generally reluctant to surrender sovereignty to
a security regime that encompasses binding rules, and resist ceding decision-making
power on security issues to regional organisations. History has shown that member
states of regional organisations have often encountered serious differences of opinion on
policy matters, and in crisis situations that has led to independent or divergent courses
of action. SADC once witnessed a division between militarist and pacifist camps. The
DRC conflict revealed dramatically the strategic importance of that foreign policy rift. As Tapfumaneyi noted, the split once crippled the Organ and gave rise to the notion of ‘two SADCs’. The initial decisions to intervene in the DRC and Lesotho in 1998 revealed significant and divisive policy positions among member states. It is reasonable, therefore, to ask whether in future SADC member states will be able to achieve sufficient consensus to enable the rapid deployment of the standby brigade to any conflict situation, particularly one involving a SADC member country, and even more so when that country does not invite the intervention. In all likelihood it will also take a considerable amount of effort and significant time for member states to be able to agree on common values and achieve the mutual trust and shared vision necessary to enable a deployment. This is clearly a significant problem for a force designed as a rapid reaction tool.

The mandate to intervene

The UN Charter allows member states to form subordinate groupings in order to assist with the maintenance of peace and security. As stated in article 52(1) of the UN Charter, ‘[n]othing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations’. Article 53 further states that enforcement action under regional arrangement or by regional agencies should not be taken without the authorisation of the Security Council. On the other hand, article 6(4) of the SADC Mutual Defence Pact (MDP) stipulates that the AU and the UN Security Council need to be notified soon after a military response by member states. There is clearly a legal tension here, one which is likely to impact on the potential for the rapid deployment of the SADCBRIG. The SADC Mutual Defence Pact is regarded as a collective defence strategy. It is far from clear, however, that ‘collective defence’ (as, for example, articulated in article 6(1), which views ‘an armed attack on a state within the sub region as an attack against all’) provides adequate justification for ‘intervention in a member state in respect of grave circumstances’.

Van Nieuwkerk points out that, while in essence the MDP allows for collective self-defence and collective action – stating that ‘an armed attack against a state party shall be considered a threat to regional peace and security and such an attack shall be met with immediate action’ – the text of the pact also states that parties have the option of choosing how to respond to a call for immediate action, presumably including the classic ‘do nothing’ policy option. This is likely to result in a scenario in which a section of member states would remain ‘hawks’ (preferring military solutions), others being ‘doves’ (opting for more peaceful approach and diplomatic initiatives or other non-military means), while others still would position themselves as ‘penguins’, not opting
for any particular position but instead remaining ‘outside’ the problem whilst they
publicly appear determined to solve them.7 Almost all SADC member states will in one
way or another be contributors of units or sub-units that form part of the brigade, and
these will be based in their respective countries. Faced with the (likely) scenario of a
difference of opinion among contributing nations regarding the mandate to intervene, or
over appropriate policy, it would remain a significant challenge for the subregion to get
together all these respective units and rapidly deploy the brigade for timely and effective
military intervention.

Conclusion

While we welcome the emergence of the SADCBRIG, and indeed the other components
of the African Standby Force, we have written this short article as a caution against undue
optimism regarding the potential utility of the SADCBRIG as a tool to intervene rapidly
in a SADC member state in order to restore peace and security – this despite the fact
that, as Jakkie Cilliers has pointed out, the original purpose of the ASF was precisely to
address this sort of situation in order to ‘never to allow another genocide like Rwanda’.8
Barring significant changes to current political and strategic realities, that task, should it
arise, will in all likelihood have to be undertaken by other roleplayers.

Notes

issafrika.org/index.php?link_id=3&slink_id=465&link_type=12&slink_type=12&tmpl_id=3 (accessed
25 November 2008).
2 Ibid.
4 A W Tapfumaneyi, Some reflections on the current conflict in the DRC: explaining Zimbabwe’s military
5 As noted in M Malan, Regional power politics under cover of SADC – running amok with a mythical organ,
2008).
7 N Ngoma, Hawks, doves and penguins: a critical review of SADC military intervention in the DRC, ISS
issafrica.org/index.php?link_id=3&slink_id=5907&link_type=12&slink_type=12&tmpl_id=3 (accessed
25 November 2008).
African peacekeeping and the private sector

Chris Taylor

That mass atrocities are being committed in Africa escapes no one. Unlike many global issues, this is not one that is under-reported or ignored. It fills television screens and newspapers around the world every day. Sadly, one of the areas that frequently features in this context is the African continent.

Somalia, Sudan and the Democratic Republic of Congo (DRC) all continue to be plagued by seemingly intractable and predictable conditions of chaos and human suffering. The state of violence in East Africa is particularly alarming, despite its centre front position on the world stage with the attendant wringing of hands and outrage on the part of the global audience. Darfur continues to unravel both because the Sudanese government continues its attacks on non-Arab civilians and its support of Janjaweed militia and because rebel groups like the Justice and Equality Movement and Sudan Liberation Army continue to fight each other. Caught in the middle are the millions of innocent citizens who cannot escape the violent politics of the region. More than 300 000 people
have been killed and nearly three million displaced in Darfur. The hybrid AU/UN force of roughly 10 000 is still at only half its mandated strength with no real hope of reaching full capacity.

The DRC, where more than five million have lost their lives in the last ten years, continues to be aided by an inadequate UN force of 17 000, mainly comprising troops from Pakistan, India and Bangladesh. Although another 3 000 troops have been authorised and nearly US$7.5 billion has already been spent on peacekeeping in the DRC, the efforts of the international community have thus far been exorbitantly expensive but woefully ineffective. Indeed, a 1999 UN report found that nearly 100 000 peacekeepers would be necessary for success, but only 6 000 were initially authorised.

The UN recently authorised a 5 000-person force for Chad and is now considering whether any troops should be authorised for Somalia in view of Ethiopia’s withdrawal of the troops who were supporting the fragile interim Somali government.

These and other missions share a common challenge, namely a lack of capacity to fulfil the mandate. One reason for this state of affairs is the paradoxical situation in which the stronger the mandate, the greater the possibility that it will result in a political quagmire, and therefore the less inclined stronger member nations will be to contribute troops. This paradox has led to ‘Westernless’ peacekeeping forces in Africa. To be fair, not all Western nations have been absent, but the permanent members of the UN Security Council seem to be more interested in passing resolutions that lead to painfully slow implementation than in contributing their own well-trained troops. This places the greatest burden of meeting the demanding mandates on those member nations that have the least experienced, least trained and least well-equipped troops – a combination that almost guarantees a prolonged, inefficient presence at great cost but with no assurance of success.

Enough resolutions have been passed, enough white papers have been written and enough checks have been deposited. The time has come to explore other avenues to improve capacity.

African nations should lead peace operations on their own continent. In a recent article in the *Journal of International Peace Operations*, Lieutenant Colonel Birame Diop, a Senegalese air force pilot and technical adviser, noted that the AU’s creation of a peace and security council as well as a panel of elders is evidence of Africans’ commitment to finding ‘local’ solutions. However, the AU suffers from a lack of capacity in training, equipment and support, three things that are critical to any peacekeeping operation. When these are in place, they allow the force to take advantage of critical points of intervention and change the momentum in favour of a more secure environment. Without these key pillars of success, even the best missions will find this difficult to achieve. Thus, if member nations
cannot or will not provide the necessary support, how can peacekeeping missions be successful? The question that therefore needs to be answered is: How can we enable African nations to provide and lead their own peacekeeping operations to success?

Part of the solution lies in the capabilities of the private sector and their ability to support peacekeeping forces. These peace support companies have a wealth of experience in Africa and in peacekeeping and can be used to assist the AU, UN, EU and NATO troops in fulfilling their mandates. But too often when private companies are mentioned in the context of African peacekeeping the conversation turns to stories of ‘Mad Mike’ Hoare in the 1960s, Executive Outcomes in Sierra Leone and the coup attempt in Equatorial Guinea that resulted in the conviction and imprisonment of Simon Mann and an ongoing investigation by the British government into the alleged role of former prime minister Margaret Thatcher’s son, Mark Thatcher.

The overwhelming majority of private companies are transparent, guided by codes of conduct and abide by international human rights laws. It is in their best interests to do so. As with any industry, there are ‘bad apples’, but they are in the minority. In some cases industry groups like the International Peace Operations Association and the British Association of Private Security Companies have refused membership to companies that would in their opinion damage the reputation of their industry. (In this regard it is worth noting, however, that a logical argument can be made for having as inclusive as possible a trade association that operates under an open code of conduct which could serve to bring less reputable companies into the open, raise the global standard and ensure better accountability by all.) While it is imperative to consider the social, political and financial benefits and costs of using both armed and unarmed private actors and companies, it is irresponsible not to discuss this enormous potential capacity openly and honestly and weigh it against the needs of peacekeeping missions, especially when innocent lives are at stake.

The time has surely come to explore the capability the private sector could bring to peace support operations.

Private companies already provide a myriad of services to the UN and other international organisations. The UN hires private firms for logistic, linguistic and interpretation and protection services. These private companies to some extent use local resources and hire locals, stimulating local growth to the benefit of stability in the community.

But there are other services the private sector can provide that could have an immediate and positive impact on even the toughest peacekeeping missions. Aviation assets are critical to success in Africa but member nations generally find it extremely difficult to contribute to this. For example, although helicopters would make the AU/UN hybrid force in Darfur more responsive, more logistically capable, and far more efficient, no-one
was able to provide desperately needed aircraft even after UN Secretary General Ban Ki-Moon extended a plea to all member states. The solution would be for the UN to contract air support in the form of safe aircraft, qualified pilots and complete maintenance packages to meet its needs from the private sector. A further glaring gap in equipment is armoured vehicles. In any contingency operation protective vehicles are necessary to transport peacekeepers safely so they can perform their duties. Member nations may be willing to provide troops for missions but may be unable to supply the vehicles necessary to provide such support services, including maintenance. Private companies have the capacity to supply comprehensive vehicle packages, complete with driver and maintenance training programmes, that can build sustainable African capacity in peacekeeping operations.

Furthermore, aerial surveillance platforms which could be provided by private companies would help force commanders view their entire area of responsibility and allow them to allocate resources efficiently and to prevent violence rather than respond to it. Where atrocities do take place, aerial surveillance could capture the crimes and provide a record of evidence of human rights violations at subsequent trials. Broadcasting the surveillance globally could also present member nations and their citizens with a view of the harsh reality and compel them to take action. A record of crimes committed could also be used at reconciliation courts.

There are already successful African peacekeeping support programmes that make use of private sector resources. Successful partner programmes contracted to the private sector to enhance African peacekeeping include the African Crises Response Initiative, which developed into the African Contingency Operation Training and Assistance Programme responsible for the training of thousands of peacekeepers, the US State Department’s Africa Peacekeeping Program which offers training, logistics and construction programmes for building sustainable African capacity, and initiatives such as the Global Peace Operations Initiative of the US and G8 partners, which has trained some 40 000 peacekeepers worldwide. Such programmes and partnerships should be renewed and encouraged.

While no single programme can resolve a specific conflict situation, the speed with which the private sector can respond to fill gaps and contribute to African solutions is noteworthy.

Finally, the use of private security services, if properly planned, integrated and overseen, can add significant value to peacekeeping missions that have insufficient personnel.

Imagine the improved impact the current AU/UN force in Darfur could have if internally displaced persons camps were protected by trained, UN/AU-certified private security professionals supported by helicopters, vehicles and aerial surveillance to provide the mission commander with improved flexibility and complete control of his
area of responsibility. There would be considerably fewer deaths, stemming from a more efficient and successful mission.

Peacekeeping operations in Africa are likely to continue for the foreseeable future, and they will be long on demands and short on resources. If the ultimate goal is human security, all options to ensure the safety of innocent civilians should be considered. The time has come to take a dispassionate and pragmatic look at the full spectrum of capabilities the private sector can bring in support of African peacekeeping operations. Proper use of this capacity can only enhance the success of these missions, by enabling African forces to play their part.

No peacekeeping mission should fail because of a lack of vehicles, air support, training or language difficulties, when the private sector has the ability to provide these services. We should look for ways in which every bit of the capacity the private sector has to offer could be used in a partnership with African forces, not preclude its use. When the international community can honestly say that it has exhausted all options for supporting global peacekeeping missions, perhaps ‘never again’ may become a reality at last.

Notes

3 See http://www.bapsc.org.uk.
Traditional justice and reconciliation after violent conflict: Learning from African experience
Luc Huyse and Mark Salter (eds)

Understanding Somalia and Somaliland: Culture, history, society
Ioan M Lewis
Conflicts are part and parcel of each and every society but have devastating effects on development. Efforts at reconstruction after a conflict has come to an end have characterised every post-conflict phase, with traditional justice and reconciliation being two of the modern strategies that have been put in place to re-orient societies recovering from conflict towards development. This book provides an analysis of the use of traditional justice and reconciliation in societies that were once riddled with conflict. It focuses on selected African countries against the backdrop of the high rate of conflict on the African continent as a whole.

Chapter 1 is an introductory chapter by Luc Huyse and contains a conceptual outline of the issues and a discussion of the research methods used by the reviewers. He provides a
broad overview of the five case studies, noting that the ‘case studies report a considerable diversity in the reception of traditional mechanisms’ (p 21).

Chapter 2 by Bert Ingelaere explores Rwanda’s Gacaca courts. It begins with a survey of the historical issues to the conflict in Rwanda up to the genocide in 1994. With regard to the Gacaca courts the author distinguishes between what he terms the ‘old’ and the ‘new’ system and describes the design, use and centrality of the Gacaca court system as a dispute settlement mechanism. He notes that ‘the Gacaca process is a very complex in the perception and experience of the ordinary Rwandans’ (p 44). Ingelaere also discusses other traditional justice mechanisms that were adopted and different actors who were central figures in the post-genocide era and ends with an evaluation of the strengths and weaknesses of the Gacaca system.

Victor Igreja and Beatrice Dias-Lambranca analyse issues of restorative justice and the role of magamba spirits in the post-civil war period in the Gorongosa district of Mozambique. The authors discuss the historical issues underlying the Mozambican civil war and analyse the nature and dimensions of the conflict. The effect of the conflict on the people in Gorongosa sets the stage for the involvement of magamba spirits in the healing process in the post-civil war era. The authors observe that ‘although the peace agreement brought immense relief to the victims, from a transitional justice perspective the Mozambican authorities did not develop any specific policy to deal with the abuses and crimes perpetrated during the civil war’ (p 61). Igreja and Dias-Lambranca use experiences of individuals to analyse the major issues in the healing processes using the magamba spirits.

In chapter 4 James Ojera Latigo discusses tradition-based practices in the Acholi region of northern Uganda. He provides a historical background to the conflict and also describes the causes of the conflict. He proceeds with an analysis of efforts to resolve the conflict, the extent of success and the current status of the conflict. The author next examines the Acholi traditional justice system and reconciliation mechanism and evaluates their role in attempts to achieve justice and reconciliation in Uganda. Finally, the author evaluates the strengths, weaknesses, opportunities and challenges of the traditional justice system and the achievement of reconciliation in northern Uganda.

Based on events in Sierra Leone, Joe A D Alie analyses the role of tradition-based practices of Kpaa Mende in achieving reconciliation and justice after the conflict in 1991. This chapter provides a chronology of the conflict, an analysis the causes of the conflict and an examination of the nature and dimensions of the transition to peace. The author describes transitional justice issues against the background of the Truth and Reconciliation Commission and the Sierra Leone Special Court and then looks particularly at traditional justice and reconciliation with reference to the Kpaa Mende. He notes that ‘the Kpaa Mende have developed complex ways of dealing with crime
and punishment’ (p 136). He provides an assessment of the tradition-based approach and concludes that ‘societal resources such as indigenous accountability mechanisms are very useful in peace building, especially after violent conflict. They have the potential to facilitate re-integration and healing process, since the community members can easily associate with them’ (p 145).

In chapter 6 Asumpta Naniwe-Kaburah analyses the role of the institution of bashingantahe in Burundi as an example of tradition-based practice and reconciliation. She discusses the historical background of the Burundian state and the conflict and then traces the development of transitional justice, with particular reference to the institution of bashingantahe. She analyses the success and challenges of the institution and finally notes that ‘culture does not change overnight. Mindful of this, once it is back on its feet the institution of bashingantahe can play its full social and political regulatory role in the maintenance of peace and social cohesion and as a moral and cultural reference point’ (p 175).

In the last chapter Luc Huyse draws conclusions based on the major issues raised in the preceding chapters. He also makes policy recommendations for improving the use of tradition-based practices in post-conflict societies, noting that these recommendations should be translated ‘by reading them through the lenses of the particular case in focus, also keeping in mind criteria such as the current phase of the conflict; […] the degree of internalization of the conflict; the nature of the legacy of violence, the type of transition; the degree of legitimacy of tradition-based justice and reconciliation practices’ (p 198).

To those involved in issues of conflict resolution the text is a must read. It deals with pertinent issues and provides critical post-conflict strategies for enhancing sustainable development in societies that have to deal with the devastating effects of conflict.

Reviewed by Percyslage Chigora, a lecturer in political science, international relations and development in the Department of History and Development Studies at the Midlands State University of Zimbabwe
Understanding Somalia and Somaliland: Culture, history, society*

Ioan M Lewis

The publishers could hardly have timed better the release of this new short volume by the doyen of Anglophone Somali scholars, Professor I M Lewis. For more than fifty years he has been writing authoritatively about Somali society and may claim to have set the pattern for studies that have dealt with the complex clan and identity dynamics that partially shape political life in the region. Indeed, there have been critics among younger generations of Somali scholars who have accused him of anthropological reductionism and of contributing to a view that sees Somali politics in terms of a violent and primordial social system.

Not surprisingly, Lewis continues to emphasise inter- and intra-clan rivalries, though he is at pains to remind of the shifting and multi-layered nature of individual identities. There will be historians who continue to object that this is a view resulting from an

optical distortion common among anthropologists and ethnographers, and that a more rounded account would see clan and identity as only two among many causative phenomena in the recent history of Somalia. Nevertheless, this is an uncommonly well-written little book, which in the space of less than 140 elegantly composed pages manages to convey more about the political history of Somalia than has evidently been considered by most of the international diplomats whose unfortunate task it has been to assist in the rebuilding of state structures there.

The international diplomatic and political communities come in for a good deal of criticism from Lewis, their general ignorance about Somalia’s past and failure to use a more imaginative and flexible approach to modeling the country’s political future being only two of the shortcomings noticed by the author.

This brief account takes us easily through the basics of the clan/kinship structure, the colonial period and the path to independence in the Italian and British protectorates. It deals with the pseudo-socialist dictatorship of Siyad Barre and illustrates the pervasive interplay of Somali and Ethiopian politics within the context of broader global competition. The section dealing with the political chaos of the 1990s is particularly well handled, though it obviously deserves a more extensive treatment. The rise of the Islamic courts movement is dealt with sympathetically, unlike the international community’s ill-considered haste to recognise the transitional federal government.

Lewis’s championing of Somaliland will also grate with some readers with a more nationalistic viewpoint, though he makes some interesting observations about the path of that state to ‘independence’ and the alternative trajectories chosen by Puntland and other regions.

The onus is now upon Lewis’s critics to produce an alternative account of modern Somalia as accessible, as eloquent and as timely as this one. In the meantime, Professor Lewis has done us all a service by writing this compelling little volume, which will both inform and promote continued debate.

Reviewed by Richard Cornwell, a senior research fellow in the Africa Security Analysis Programme at the ISS Pretoria office
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