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Building and securing African peace

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ABSTRACTS

Features

Peacebuilding: Imperialism’s new disguise?
Constanze Schellhaas and Annette Seegers

Peacebuilding has been promoted as a new international paradigm guided by humanitarian values and with the objective of bringing peace and justice to war-torn countries. Critics say, however, that peacebuilding is a form of imperialism designed to serve the interests of the powerful in the Bretton Woods system by pacifying and even re-colonising the countries of the South. We assess these perspectives to better understand the main issues and implications of this unfolding debate. Despite the appearance of something new, peacebuilding has the same assumptions as modernisation theory, the Bretton Woods path of development. Most peacebuilding literature, by being non-reflexive, helps legitimise this dominant ideology.
Towards a sustainable peace and reconciliation in Côte d’Ivoire
Bernard N Owusu-Sekyere

The article begins with a profile of the Ivorian civil war which remains at management stage pending the result of a successful democratic election to seal the various agreements signed between the government and the rebel parties. Taking examples from West Africa, a case is presented for constituting and pursuing a reconciliatory process that deals with the hurts and harms arising from human right abuse and extra-judicial killings by both the state army and rebel forces. Reconciliation processes in Latin America and sub-Saharan Africa are examined and a truth and reconciliation commission is proposed for Côte d’Ivoire.

Niger Delta militancy and the challenge of criminalising terrorism in Nigeria
Isaac Terwase Sampson

This article examines the dilemma of the Nigerian Legislature in enacting legislation on terrorism with regard to the Niger Delta militancy. It argues that although Nigeria requires legislation on terrorism, such efforts should take cognisance of its peculiar sociopolitical and legal development. It warns that a Western approach to terrorism legislation may exacerbate violence in the Niger Delta in view of the people’s persistent opposition to anti-terrorism legislation as a government ploy to criminalise their campaigns for justice. It further contends that in spite of its criminal manifestation, the Niger Delta crisis stems from genuine grievances about amongst others sustained state neglect, protracted desecration of the local environment and destruction of sources of livelihood. The article concludes by offering political and legal strategies for combating terrorism in Nigeria without exacerbating the Niger Delta situation.

People-to-people peacemaking and peacebuilding: A review of the work of the New Sudan Council of Churches
Titus Agwanda and Geoff Harris

This article examines the peacemaking work of the New Sudan Council of Churches in southern Sudan, particularly since 1997, which focuses on reaching peace agreements between conflicting parties. This peacemaking work has had impressive successes but its effectiveness is under threat from a number of factors following the 2005 comprehensive peace agreement which have resulted in high levels of intra- and inter-community violence. In traditional communities, conflict-resolving procedures are often limited when faced with contemporary conflicts. To protect these peace agreements and to help build sustainable peace, this article recommends a greater emphasis on peacebuilding, in both its conflict prevention and recovery aspects. A four-stage model of peacebuilding is proposed and seven important components of a peacebuilding strategy are presented.
Essays

The potential impact of HIV/AIDS on the South African armed forces: Some evidence from outside and within

Lindy Heinecken

HIV/AIDS has wide ramifications for the armed forces, especially in those regions where the epidemic is most prevalent. Understanding how this disease affects armed forces and more specifically the SANDF as regional military power is not only of national but also of regional and international concern. In this article an attempt is made to uncover how HIV/AIDS affects force procurement, namely the ability to recruit suitable candidates for military service in South Africa. The discussion then moves to within the SANDF and an effort is made to indentify possible problem areas in terms of personnel shortages by looking at current rates of attrition in certain age and occupational categories. In light of this, the impact on force employment and deployment is assessed. In the final section the influence HIV/AIDS has on force sustainment is discussed, as well as the health, financial and diplomatic and human rights implications this disease poses for armed forces.

Arms restraint and regional international law making:
The case of the Economic Community of West African States

Denise Garcia

This article analyses the political evolution and legal structure of the Economic Community of Western African States (ECOWAS) Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Material, adopted in 2006, within the broader context of the small arms debate at the regional (initiatives by Mali) and international levels, principally at the United Nations. The ECOWAS Convention breaks new ground as it is based on human security, international humanitarian law, sustainable development and human rights principles. The ECOWAS Convention is groundbreaking in many respects. It is innovative especially vis-à-vis basing its text on international humanitarian law, international human rights law and development needs. In comparison with all other instruments of law on small arms, it is one of the most evolved.

Enhancing counterterrorism cooperation in eastern Africa

Eric Rosand, Alistair Millar and Jason Ipe

In this article an overview is provided of the terrorist threat and vulnerabilities in eastern Africa, where all countries have been victimised by terrorism in one form or another, and of the capacity of governments to respond.
The article highlights both the lack of sub-regional counterterrorism cooperation and the emphasis that has so far been placed on the need for military, law enforcement, and other security-related responses to the threat. It calls for a broader-based, long-term strategy in eastern Africa not only to thwart and respond to terrorist attacks, but to prevent the violent radicalisation of local populations which might resort to terrorism in the future.

The article looks at the response at the sub-regional level and what has developed into the primary mechanism for fostering deeper sub-regional cooperation, the Intergovernmental Authority on Development’s Capacity Building Programme against Terrorism, and how these may be improved. It also examines how the United Nations can help strengthen that cooperation and the opportunity offered by the UN Global Counter-Terrorism Strategy. It argues that ICPAT, with its technical focus and relative success to date, offers a solid foundation to improve counterterrorism cooperation in eastern Africa and between the sub-region and the United Nations, and has a key role to play in carrying forward implementation of the UN Strategy, serving as an interlocutor between the sub-region and the international community.

It concludes that counterterrorism efforts in eastern Africa need to be grounded in the needs and priorities of countries in the sub-region and that more must be done by key counterterrorism donors, UN agencies, and others not only to enhance the security-related capacities of countries in sub-region but to address the underlying conditions conducive to the spread of terrorism there as well.

**Commentaries**

**The scramble for mineral resources in Cameroon: How can the government learn from previous conflicts and social responsibility failures?**

Rexon T Nting

All across Africa there are conflicts of different levels of intensity that are linked to mineral resource capture and post-investment failures regarding social responsibility. Owing to an increase in commodity prices, the Republic of Cameroon has recently experienced an influx of transnational companies wishing to exploit its mineral deposits.

This article argues that as a result of high levels of government corruption, conflicts linked to social responsibility failures are bound to occur unless appropriate measures are taken. It suggests that the best way to avoid conflict is to institute a system of checks and balances and engage the local community in the management of revenues generated by mineral exploitation.
Peacebuilding: Imperialism’s new disguise?
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Introduction

Since the early 1990s a growing emphasis on peacebuilding has marked the international community’s responses to conflicts.² Supporters of peacebuilding have promoted it as a new international idea, usually tracing it back to then United Nations Secretary-General Boutros Boutros-Ghali’s *An Agenda for Peace* in 1992 in which he proposes responsibilities and responses for the UN and the international community. Peacebuilding is expressed in different forms – a set of policies, a humanitarian agenda, or a way of conflict resolution – but all involve the idea of efforts made to prevent a relapse into conflict.³

We analyse debates about peacebuilding in order to clarify its character and history. We argue that despite appearing as something new, peacebuilding has the same
assumptions as modernisation theory. Once considered dead, modernisation theory has been reborn, in radicalised form, as peacebuilding. The stages of modernisation, once understood to progress over many decades, have been shortened. Projects are ambitious, at times involving no less than a fundamental change of behaviour and values in target populations and these, too, in short order. Projects are claimed by powerful countries and coalitions of the willing prepared to interfere in domestic affairs, with outsiders’ direct influence on the domestic affairs of countries in the South increasing by leaps and bounds.

Why was this revised form of modernisation needed? Bretton Woods hegemons needed a strategy for dealing with challenges to the status quo.

We start by describing peacebuilding as presented by its promoters. In the second part we focus on various concepts of imperialism. Part 3 considers the discourses of peacebuilding and imperialism together, outlining the main arguments of critics. This is followed by our own critical assessment of these positions.

Our type of discourse analysis is primarily a historical one, starting with the origins of a concept (of imperialism) and following it through the various phases. We are interested in academic and research communities, as well as practitioners and authors of the UN, international financial institutions and international non-governmental organisations (INGOs).

**Terminology**

- ‘Peacemaking’ refers to activity aimed at bringing warring parties to an agreement
- ‘Peacekeeping’ consists of activity to secure compliance with agreements
- ‘Peacebuilding’ refers to efforts intended to avoid a relapse into conflict
- ‘Peace operations’ is an umbrella term referring to preventative diplomacy, peacemaking, peacekeeping and peacebuilding

**Part I: Peacebuilding – a description**

The UN and associated scholars describe the conflicts of the 1990s as ‘new’ wars characterised by the breakdown of political, economic and social order; the targeting of civilian populations; the production of an increasing number of refugees and internally displaced persons; and violence that was senseless, gratuitous and uncontrolled. The point was ‘to do something about it’, not because national interests were involved but
because the international community had a ‘responsibility to protect’ and the human conscience was an international creature.\textsuperscript{9}

Although it was quickly pointed out that the conflicts of the 1990s were not really different to what had been seen before,\textsuperscript{10} the international community expanded its peacekeeping mandate. Before 1989 conflicts tended to be seen as internal affairs, not to be interfered with except with the consent of the parties involved. When peace operations did occur during this period, the main tasks were to separate the armed forces, position troops between the belligerents, and provide humanitarian assistance.\textsuperscript{11} In contrast to this first generation of peace operations, second-generation peace operations during the 1990s wanted, besides reducing the level of violence, to construct more just societies.\textsuperscript{12} The involvement of the international community broadened in terms of policy sectors involved, deepened in terms of the engagement with the internal workings of societies, and lengthened in terms of stages of conflict.\textsuperscript{13} The early goals were mainly concerned with military demobilisation and political transitions to electoral democracy.\textsuperscript{14} An Agenda for Peace broadened the agenda to alleviate the effects of war on the population and tackling ‘the root causes of emergencies’.\textsuperscript{15}

How are ‘root causes’ understood?

Most actors – especially the World Bank and the UN – have mainly focused on causes in the national context. Some highlight ‘ethnic conflict’ or ‘politically ethnicity’,\textsuperscript{16} others ‘failed’ or ‘collapsed’ states, the latter being defined as ‘a situation where the structure, authority (legitimate power), law, and political order have fallen apart … [and] the state itself, as a legitimate, functioning order, is gone’.\textsuperscript{17} Other scholars see structural factors as the deepest causes of violent conflict,\textsuperscript{18} namely ‘economic despair, social injustice and political oppression’,\textsuperscript{19} but again the structures refer to national causes. The way to deal with structural causes is to (re-)build a democratic system and to liberate the market. Economic liberation means both the internal restructuring of a nation into a capitalist economy (for example privatisation of state assets) and its integration in the global capital market (for example opening the market to foreign investment). Benefits will trickle down. Democracy empowers formerly excluded parties and provides procedures for peaceful conflict resolution. Equipped with a liberal democratic polity and a market-oriented economy, war-torn societies are less likely to relapse into fighting.\textsuperscript{20} The basic peacebuilding formula is thus:

\[
\text{Democracy + Market Economy = Peace}
\]

Getting to peace so understood, involves three sets of tasks:

- Security transition involves disarming and demobilising combatants; re-integrating them into civilian life; reforming military and police forces; facilitating the return of refugees and internally displaced persons; de-mining; and recovery of light weapons
Democratic transition involving all the elements required of a free and fair election, as well as support for the judicatory, legislative bodies, and civil society

Socioeconomic transition involves promotion of a market economy

Paris is correct when he says: ‘Peacebuilding is in effect an enormous experiment in social engineering.’

As the peacebuilding experience lengthened, actors have been compelled to acknowledge that intentions and impact may have little to do with each other. Political and economic liberalisation in many cases had the ‘perverse’ effect of actually destabilising the peace processes. Some aid was actually harmful. To the question whether peacebuilding actually does build peace, there are usually two (sometimes overlapping) approaches.

The first approach is managerial and reformist in nature, focuses on the micro-level of action such as the design, conduct and outcome of specific operations, and addresses issues of efficacy and professionalism. Inefficacy comes from, for example, the competitive nature of democratic and capitalist systems which can sharpen confrontations in already divided societies. Inefficacy also comes from feeble effort: peacebuilding ‘done on the cheap, from day to day … neither provides a stable long term security guarantee, nor creates the conditions under which local leadership takes over’. The critics typically argue that the existing formula of peace should be maintained but implementation needs to be reformed.

The second approach places peacebuilding in the context of the international system and questions the legitimacy of the enterprise. To these critics peacebuilding has a progressive rhetorical cover but is in fact a tool of riot control or even neo-imperialism designed to re-colonise regions of the South. This perspective favours a historical-structural type of analysis and focuses more on the macro-level, engaging more critically with the relationship between peace operations, power structures in world politics, and ideology.

**Part II: Imperialism and the development discourse**

In the late 19th century the term ‘imperialism’ was used to describe control by a greater power over less powerful territories or nationalities. This meaning has stuck: imperialism and even the concept of neo-imperialism developed in the 1960s refer to a relationship of domination of one set of people over another.

One of the main debates among early scholars was whether capitalism produced or destroyed imperialism. Scholars like Hobson, Schumpeter or Kautsky maintained that ‘a
purely capitalist world’ would contain ‘no fertile soil to imperialist impulses’. In contrast, writers such as Lenin, Hilferding and Rosa Luxemburg argued that imperialism was a logical stage in the evolution of capitalism. Capitalism depended on economically virgin territories not only in the initial stages but more so during its maturity or the ‘highest stage of capitalism’. Lenin saw that in the late 19th century, production and finance had become monopolised. Monopoly capitalism was bound to expand, including by the export of capital, economic penetration, colonialism, conquest and war. Imperialism served the purpose of postponing the collapse of capitalism, albeit for a limited period of time, by acquiring raw materials and markets, creating extra profits and getting rid of surplus.

A second major debate revolved around the impact of imperialism in dominated areas. Marx thought that capitalist expansion would have a progressive effect and without regret noted the destruction of ‘backward’ systems as a necessary stage of history’s path. Later scholars, however, recognised the devastating effects of imperialism despite it eventually leading to capitalism.

What is important about the Marxist-Leninist explanations is their linking of imperialism to the economic interests of the imperial powers. Lake categorises them as metrocentric theories due to their focus on the internal characteristics of imperial states. Post-World War II theories of imperialism by Arendt, Lichtheim and Fieldhouse tended to focus on extreme nationalism but were often as metrocentric as earlier theories. Metrocentric theories naturally attracted criticism, for example for ignoring the role played by indigenous people and their political elites. Fieldhouse argued that colonial rule resulted from the breakdown of tradition in overseas territories and the inability of the local elites to deal with the political problems caused by European economic penetration. Only when previous forms of cooperation between local elites and European settlers collapse do European leaders feel the need to fill the consequent power vacuum and to reconstruct collaboration. To Fieldhouse, imperialism is a highly complex process.

In another significant innovation, Robinson and Gallagher noted that imperial forces were by no means obliged to constantly resort to the formal means of power. Informal economic expansion, for example, was no less imperialistic than formal territorial domination. British imperialism throughout the 19th century preferred informal control, resorting to formal measures only when they saw their economic interests threatened. Formal autonomy is indeed something of a façade. As Nkrumah argued: ‘The essence of neo-colonialism is that the state … [is] independent and has all trappings of international sovereignty. In reality its economic system and thus its internal policy is directed from outside.’

With formal decolonisation in the 20th century, relations were no longer described in the terms of coloniser/colonised but developed/underdeveloped, with ‘development’ meaning that underdeveloped areas were going to be improved. The development discourse is a rather complex and continuously changing battleground; we cannot fully engage with
it here, but some understanding of its main components allows better comprehension of the critique of peacebuilding as neo-imperialism.

In the development discourse, the modernisation school is convinced that the Bretton Woods system is a progressive force. Modernisation theory conceptualises a world divided into areas of modernity and areas of tradition and backwardness, the so-called ‘Third World’. Underdevelopment would be cured by modernising norms and values (for example, about labour and private property). According to Rostow all societies lie within one of five historical categories: traditional societies, the precondition for the take-off stage, the take-off stage, the drive towards maturity stage, and finally the age of high mass consumption. The West is in the latter two stages and the West’s experience can be replicated in any other country with one exception: whereas modernising pressures built up gradually within Western societies, the developing countries will be exposed to pressures from the outside and make progress at a fast rate. Fast development in the South or Third World is possible and with the assistance of the developed countries, can secure full inclusion in a global capitalist system.

Theorists of underdevelopment saw in modernisation a revised or neo-form of imperialism. Developed areas’ selfishness required exploitation of others: the core was rich because it exploited the periphery. Although the causes of underdevelopment related to the international capitalist system, modernisation theory suppressed this fact. The way to liberation was exiting the world system, for example through self-reliance, such as subsidising local industries and limiting the importation of manufactured goods.

By the 1980s the development discourse was not very alive: there was just the Washington Consensus (WC). How did this happen?

Most of the numerous development projects had not fulfilled the hopes placed in them and an ever-greater part of the South was sliding into poverty. The IMF blamed, among others, the bloated bureaucracies of Third World countries, low productivity, and borrowing too much – all national-level sins. Supporters of the WC attacked ‘Third Worldism’ for failing to condemn the behaviour of selfish Third World elites but also, more internationally, low levels of foreign investment, poor world prices for primary products, and worsening terms of trade. Whatever the reasons for the crisis, the South was compelled to live under a new orthodoxy: fiscal austerity; control over inflation; trade and capital account liberalisation; privatisation; and deregulation of markets. Drastic cuts in public services and subsidies were required. What was needed was a more efficient working of the market.

The success of the WC was partly due to the demise of the Third World as a pressure group. The Third World split into ultra-rich oil-producing countries, least-developed countries characterised by extreme poverty, and in-between some newly industrialising
countries. Theories of underdevelopment received a final blow with the break-up of the Soviet Union: the major model of alternative development was gone. The WC seemed triumphant; yet, on closer and functional examination, all was not so well.

First, the WC was in general not an emotionally and morally satisfying discourse and in the context of war-torn countries, it was actively dissatisfying. Austerity, for example, could once be inflicted on post-Nazi Germany because ordinary people supported the Nazis. But to argue for imposing extra hardship on innocent victims was something else, and on the victims of ‘new’ wars something else altogether.

Second, the WC had its critics. Even Joseph Stiglitz, then chief economist at the World Bank, warned that liberalisation makes things go from bad to worse. The critics that mattered more, however, were human rights, humanitarian or left-of-centre INGOs because these organisations were the primary, some would say the dominant, actors in the world of development. To satisfy – and thus mobilise – this audience, the discourse would have to speak their language. Peacebuilding, instead of the dreaded WC, could strike just the right notes.

Third, the WC’s policies and mechanisms, like that of modernisation theory, ran in the medium to long term. The effects of the ‘new’ wars, however, could not stop soon enough. Modernisation’s formulas would stay but in a concentrated form and it acquired a suitable terminology, one that conveyed a sense of urgency.

Fourth, the discourse of the WC is highly economistic. But the new imperialists wanted much, much more from the South’s war-torn countries. They wanted to incorporate, for example, new ideas about society, like ‘civil society’ and ‘social capital’.

Finally, the new discourse had to be systematically connected to conflict-resolution discourses. And the connection was found in democracy, understood in minimalist terms as a system that resolved conflict. The pioneer of this school is Schumpeter, although conflict management scholars, for example Lederach, follow the same line.

In short, the Washington Consensus needed a new legitimation that applied to war-torn countries and got it. As Modernisation moved to the house of Peacebuilding, Development arose phoenix-like from the ashes.

Part III: Peacebuilding – imperialism’s new disguise?

What are the features of peacebuilding that, according to its critics, make it an imperialistic enterprise? And what, if anything, was new about it?
Root causes

Instead of the micro-level or forces internal to a country, critics have emphasised external factors.

One group of authors is particularly critical of ‘the silence surrounding the role of interventionary core capitalism in perpetuating poverty through discriminatory policies that structure the global economy’. Tandon, for example, notes how explanations of the causes of Africa’s conflicts neglect the international dimension. To him the real causes of poverty and underdevelopment, and hence peacelessness, lie in the unequal manner in which Africa is integrated into the global economy:

> Rich natural resources are taken away from the continent at a fraction of their value. The terms of exchange between Africa’s natural resources and the West’s capital-and-knowledge intensive technologies continue to remain the basis for vast seepage of net value out of Africa and into Europe, the USA and Japan … Africa’s poverty does not just ‘exist’, it is systematically created. It is created not by any conspiracy. It is created by the simple operation of the so-called ‘law of the market’.

Bendaña comes to a similar conclusion. Economic crises, instability and violence are fed by the insistence on market deregulation. The programmes of the IMF, World Bank and other donors which are supposedly aimed at speeding up development and building peace and whose acceptance is often a condition for development assistance or debt relief, are part of the problem. Bendaña quotes a UN Report of 2002 which reveals that poverty is increasing in those developing economies that have the most open trade regimes.

Repressive discourse complements these policies. Fetherston, for example, who approaches discourse in the same way as Bourdieu, Jabri or Nordstrom, stresses how the discourse fails to depict structural violence. Authors are oblivious as to how they construct, reproduce and maintain a particular vision of order, including shameless claims of ‘new’ conflicts created by ‘ethnic rivalry’ and ‘roguish’ behaviour.

Poverty containment, re-imperialisation and unreflexive discourse

The critique that peacebuilding efforts represent a new policy of poverty containment is best expounded by Duffield, who posits that the South or Third World – which is usually ignored by the WC and Bretton Woods – becomes relevant when what is bred there (by underdevelopment crime and ‘terrorism’) threaten international stability. The consequences of poverty must be contained either in a form of ‘international riot control’ and/or the provision of a minimalist international welfare to prevent ‘the poor
and hungry masses of “the south” … from fleeing towards the rich contented “north”.

The WC’s victims have to be kept at bay by doctoring the dysfunctions.

Instead of arguing that peacebuilding wants to contain poverty, others see a new form of imperialism: the Bretton Woods hegemons talk about a ‘liberal peace’ but actually want to recolonise the South to gain or increase access to its raw materials and cheap labour force.

Tandon, for example, argues that the strategy of ‘liberal peace’ is motivated primarily by profit – especially in conquered markets in Africa. Even a large proportion of the aid budget here is transferred to multinational companies and other institutions of the North. A recipient country can be by-passed for up to 98 per cent of aid allocated to it. Post-war ‘liberalisation’ in Mozambique, for example, is not in the interests of rural producers and cannot meet their current needs. Yet the liberal peace legitimation continues, because it is not about Mozambique but the ‘interests of global capital’. The new will to intervene and protect carry preferences of the hegemonic power and its allies, who are able to legitimate their actions by identifying with, and using the language of, the interests of the international community.

But it is not only the hegemons’ discursive cunning that plays a role in maintaining a certain status quo: most of peacebuilding theory itself helps legitimise the dominant ideology. It does so by focusing on the micro-level and by being non-reflexive.

Peacebuilding authors devote most of their attention to ‘policy relevance’ or offering advice to policymakers, concentrating so intently on operational details that they have neglected the role that peacebuilding plays in diffusing norms and institutional models. Paris describes these practices as a ‘modern rendering of the mission civilisatrice’.

Yet these imperial assumptions go unquestioned. Along with the focus on operational detail goes a claim to be apolitical, which obscure the fact that it is usually the interests, values and priorities of the interveners, not of the victims, that shape peacebuilding. If peacebuilding is to become more politically self-aware, it needs to be placed in a global context of power relations.

Both Pugh and Duffield note how countless UN reports, consultancy documents, INGO briefings and academic works contain descriptions of the ‘new’ wars with them–us dichotomies. ‘Their’ wars are presented as illegitimate, internal and identity-based, and are characterised by unrestrained destruction, abuse of civilians, and reliance on privatised violence. By implication, ‘our wars’ are between states, are legitimate and politically motivated; actors show restraint and respect civilians; etc. This binary construction wants to capture the moral high ground to legitimise actions while avoiding the injustices produced by the liberal peace.

Most mainstream peacebuilding theory, by presenting the prevailing international framework as incontestable, by focusing on policy issues, pretending to be apolitical, and
constructing ‘them’ and ‘us’ dichotomies, helps to legitimate what critics regard as either international riot control or the latest phase of imperialism.

Who dominates?

The relationship between internationals and the locals is a key issue in peacebuilding, with local ownership often defined as the key to peace. The level of international control over post-conflict societies has reached such heights, however, ‘neo-imperialism’ is a more appropriate description than ‘peacebuilding’.

Peacebuilding supporters like Ignatieff and Rieff say that direct external control, including by military means and a foreign civilian administration, is a necessary but temporary evil. What these authors fail to see is that foreigners have gained new forms of wide informal influence in the internal affairs of post-war states. The old imperialism stuck to controlling behaviour; the new imperialism wants to reconstruct social relations and change behaviour and attitudes through levels of metropolitan monitoring, intervention and regulation unprecedented since the colonial period.

Some level of multilateralism does exist in the peacebuilding enterprise, but it is the Western powers that are seen to dominate the agenda. And within the West, one nation and its allied multinational corporations call the shots. There are some claims about the essentially benign nature of US hegemony, but, besides Foster, critics like Cox and Panitch are convinced US hegemony is deeply yet subtly materialistic, malignant, unaccountable and unopposed. These claims are rejected by Paris. Of course, peacebuilding is not a purely altruistic enterprise, he states; it is connected to the national security interests of states. But its costs are exceptionally high and missions have occurred in the poorest and most economically stagnant areas of the world.

In peacebuilding’s brand of imperialism the international community is the intervener and is willing to countenance unprecedented levels of intrusion and degrees of social engineering. Control is not exerted directly or territorially as in the colonial projects of the past; it consists of management of processes and the encouragement of capacities and potentialities. ‘Standards’ of acceptable behaviour are conveyed to war-torn parts of the South.

And with modernisation theory reinvented and radicalised, it has one more chance to work.

Summary and conclusion

Is peacebuilding a new form of imperialism? Our intention in posing this question was not to come up with a simple ‘yes’ or ‘no’. Instead the aim was to highlight and better understand some of the main issues and implications of this unfolding debate.
Peacebuilding clearly legitimates the Bretton Woods hegemons’ control in war-torn parts of the world (and more). Outsiders’ influence in the domestic affairs of Southern countries has increased, directly, through interim administrations and military presence and indirectly, through the greater dependence on international aid. The quality of influence has also changed. Peacebuilders are concerned not only with rebuilding infrastructure or redistributing material resources, but also attempt to transform societies by changing the attitudes and behaviour of people living within them. Peacebuilders are now ‘getting inside the head to govern the hand’.95

Scholars ask of peacebuilding: Is it driven by humanitarian or mainly self-interests? Does peacelessness result from a lack of integration into the global capitalist economy or from the way economies have been integrated (the root causes of violence)? Will the peacebuilders help the majority of people or is the objective to maintain a status quo that benefits a minority (positive and negative peace)? Will the actual impact be as intended?

These questions are strikingly similar to the debate between modernisers and their critics in the 1960s. Peacebuilding gave modernisation a second chance to make development work. Most peacebuilding literature, by focusing on the micro-level and by being non-reflexive, helps to legitimise this second chance of modernisation theory.

Research on peacebuilding has to become more critically self-conscious. Instead of just looking for managerial solutions, future studies on peacebuilding could do well by showing linkages or how the whole fits together. Scholars could do well to address how peacebuilding practices may actually legitimise and help reproduce the social structures that cause violent conflict in the first place.

Notes

1 We are grateful for the comments and suggestions of Professors Mervyn Frost and Markus Kornprobst. All errors are our own.
2 We use the terms conflict and war interchangeably, referring to organised violence involving a minimum annual cost of 1 000 deaths.
4 We use the terms colonialism and imperialism interchangeably, referring to a relationship of domination of one set of people over another and where the domination crosses recognised boundaries, nationalities, and/or sovereign territories.
5 Our definitions are those of the UN. See http://www.un.org/peace/.
8 C M Stephenson, New approaches to international peacemaking in the post-Cold War period, in Michael


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Towards a sustainable peace and reconciliation in Côte d’Ivoire

Bernard N Owusu-Sekyere

Introduction

This article explores the possibility of genuine reconciliation, healing and forgiveness in Côte d’Ivoire. Formerly one of the most stable countries in sub-Saharan Africa, Côte d’Ivoire was plunged into protracted civil war between its northern part and southern section in 2002. The aftermath of the armed conflict and plans to organise fresh presidential and parliamentary elections remain fragile partly as a result of the concentration of the conflict resolution processes at the top political level. This article considers the need for a truth and reconciliation commission (TRC) in post-conflict Côte d’Ivoire similar to that established by South Africa after the collapse of apartheid to deal with past violations of human rights and to help recreate trust in South African society1 and that established in Sierra Leone, which was based on the

Keywords sustainable peace, reconciliation, post-conflict, peacebuilding, violence
Lomé Peace Agreement and jointly signed by the Sierra Leone government and rebel parties in July 1999 to deal with war injustices and heal the rift in society caused by the atrocities committed during the war. The Sierra Leone TRC also contributed to a national vision as a unifying goal for the country’s future. The words of the former president of Mozambique, Joaquim Chissano, at the 2007 Albert Luthuli Memorial Lecture in Durban, prove instructive in this regard: ‘[C]onflict resolution goes beyond prevention and management. It goes into establishing the root causes of the conflict or the underlying incompatibility of a conflict, including attempts to get the parties to mutually accept each other’s existence.’ The article takes cognisance of this imperative and proposes truth and reconciliation processes as a means of building sustainable peace in Côte d’Ivoire.

**Actors in and background of the Côte d’Ivoire conflict**

The key actors in the Ivorian conflict are the government and two rebel parties. The Ivorian government is regarded as strongly southern-ethnocentric, representative of the Baoule and Bete ethnic groups, and with a strong emphasis on what is popularly known as ‘Ivoirite’ or ‘pure Ivorian-ness’. At the outbreak of the conflict Laurent Gbagbo was the country’s president and he was elected in a controversial election in 1998. Gbagbo’s party is the Ivoirian Popular Front (FPI), which used its parliamentary majority to put in place an electorate centred on the controversy of full ‘Ivoirite’ citizenship. (This aspect will be explained below.)

The rebels comprise two militia forces. One of these is the Mouvement Populaire du Grand Quest (MPIGO, or Popular Ivoirian Movement for the Great West) which is based at the western border of Côte d’Ivoire. This group also contains insurgents from neighbouring Liberia and former Revolutionary United Front (RUF) Sierra Leonean soldiers. The second rebel group is the Mouvement pour la Justice et la Paix (MJP, or Movement for Justice and Peace) which occupies the northern part of Côte d’Ivoire. Members of this group identify themselves as former soldiers and ‘young Ivorians’ (former student leaders) whose aim is to liberate the North from discrimination. They are mainly northern Ivoirian citizens. Guillane Soro, a radical former student leader, is a key figure in the MJP. The political issue at the heart of the conflict is a constitutional one. In terms of the Constitution the president should be a ‘pure’ Ivoirian, in that the parentage of the presidential candidate should be full-blood Ivoirian without a mix from other countries, such as from its Burkina Faso or Mali neighbours. This part of the Constitution was challenged in 1993 by Ouattara, a presidential candidate from the North. Ouattara claimed that this constitutional requirement was not an original provision but an insertion orchestrated to bar him from contesting the presidential elections and to favour Henri Bédié, a presidential candidate from the South. By
extension, the provision was meant to prevent other potential northern candidates from acceding to the presidency in Côte d’Ivoire within the context of ‘Ivorité’ ideology and difference.6

The ethnic-economic connection is central to understanding the Ivorian civil war. Northern Côte d’Ivoire is underdeveloped and its people live in abject poverty and have limited income-earning opportunities and access to social services. Sandrine Mesplé-Somps7 argues that the northern Ivorians suffer from stark income inequality. The consequence imposed by being born to a northern farmer father, the most common occupation, is an income well below that of southerners (see table 1).

### Table 1 Mean per capita income, in US$

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Farmer</td>
<td>100</td>
<td>n/a</td>
</tr>
<tr>
<td>Non-farmer – low education level</td>
<td>204*</td>
<td>n/a</td>
</tr>
<tr>
<td>Non-farmer – high education level</td>
<td>313*</td>
<td>n/a</td>
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<tr>
<td>Place of birth:</td>
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<tr>
<td>North</td>
<td>100</td>
<td>100</td>
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<tr>
<td>Abidjan</td>
<td>203*</td>
<td>173*</td>
</tr>
<tr>
<td>Elsewhere</td>
<td>110*</td>
<td>124*</td>
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* At 1% significance


According to Mesplé-Somps:

Non-egalitarian public policies have been implemented since the colonial period to nowadays: farmers are used to finance [a] public budget that [is] almost [all] spent to finance urban facilities (much more in Abidjan than in other towns). Dualism against agriculture has been coupled with an unequal access to education. [Both these] elements induce low intergenerational mobility that reinforces inequality of opportunity.8

This aspect of structurally induced inequality of opportunities has continually drawn the ire of the educated Ivorian northerners, mostly from the army and academic institutions, as this quote from Soro illustrates:

If you are from the North, you are subhuman, according to the government. We want a united Côte d’Ivoire. We want a country that lives in harmony and includes everyone.9
It is instructive to note the religious demography of Côte d’Ivoire in the analysis of the North–South schism in the country. The affluent and developed southern sector is dominated by Baoulé and Bété people, of whom Christians make up 25 per cent, Muslims 40 per cent and traditional religion adherents about 35 per cent. The Muslims are generally groups who have migrated to Côte d’Ivoire from various parts of West Africa, especially Burkina Faso and Mali. The strong ethnic differences and stereotyping normally manifest along these religious lines but obviously none of the groups dominates based on numbers.10

These social differences have been politicised along ethnic and nationality lines, in line with the concepts of conflict theory. Social differences can indeed lead to economic marginalisation and ethno-religious discrimination, and thus constitute a basis for structural violence.11 The Ivorian conflict is fundamentally the result of politicised ethno-economic and religious differences.

**Experience of the truth and reconciliation processes**

Since December 2008 the government and the Northern parties have pledged to pursue peace to its conclusive end. Currently, the conflict appears to be unstable as preparations for the upcoming elections in December 2009 are taking place – a decade after the inception of the Ivorian intra-state armed conflict.12 The ‘momentum’ generated since the end of 2008 towards a democratic election is reported to be waning.13 The UN has called for a concerted effort by the two parties not to derail the possibility of the December 2009 election after repeated postponements. The main concern as reported in April 2009 to the UN Security Council by the United Nations Operation in Côte d’Ivoire (UNOCI) depends on sustaining the process of ‘reunification’.14

In spite of the ceasefire, the peace process has not been completely successful and this state of affairs is likely to continue until the comprehensive demobilisation and reintegration of combatants of some of the rebel groups has taken place. Agreements have been reached regarding the compilation of a new voters’ register and the issuing of national identity cards for the December 2009 elections, and reports indicate that so far, 6 081 625 people out of a total of 8 600 000 voters have registered.15 Refugee returnees are currently being settled as the situation is gradually improving in some parts of the country.16

The post-conflict management period requires Côte d’Ivoire to put into place mechanisms aimed at peacebuilding, such as democratic institutions and national reconstruction programmes, to ensure a sustainable peace. According to Andrew Rigby reconciliation ‘is not an occurrence’17 and can be achieved only within an appropriate
reconciliatory framework which seeks to transform hostilities into positive coexistence. Historically, some TRCs have contributed to such a framework. For example, TRCs in South American countries such as Argentina, Chile, Brazil, Uruguay and El Salvador have helped to partially clarify uncertainties regarding military regimes’ atrocities, disappearances and killings.\textsuperscript{18} However, these TRCs took place during the transition from military to civilian democratic regimes and may not work in the Ivorian situation.

The influence of the outgoing military governments had weakened the effectiveness of South American TRCs. South Africa’s TRC does, however, provide an example of a truth commission which worked without state interference. In South Africa, the truth led the way towards an understanding by victims of who did what and why.\textsuperscript{19} Such a truth is like a declaration without compulsion. ‘Acknowledgement’ should provide salient and satisfactory answers to questions of what transpired, why it transpired, and who was responsible.\textsuperscript{20} Hence, the National Unity and Reconciliation Act, which was enacted in 1995, set four tasks for the South African TRC:\textsuperscript{21}

- To determine the causes, nature and extent of the gross violation of human rights
- To facilitate the granting of amnesty to those who applied for it (based on prescribed conditions)
- To enable victims/survivors of violations to provide their own account of their experiences
- To compile a comprehensive report including recommendations to prevent future violation of human rights

The Sierra Leone TRC was formed because ‘Sierra Leoneans had a need to express and acknowledge suffering, a need to relate their stories and experiences, a need to know who was behind the atrocities, a need to explain and contextualize decisions and conduct, a need to reconcile with former enemies, a need to begin personal and national healing and a need to build accountability in order to address impunity’.\textsuperscript{22} The Act which created the Sierra Leone TRC made provision for three tasks, namely statement taking, hearing and reporting. The framework made provision for two auxiliary units, namely an investigation/research unit and a legal/recommendation advisory unit. In these examples the input of formation into the TRCs was based on public opinion and public contributions, and public confidence in the TRCs supported the investigative processes and outcomes.

The relevance of truth is that it makes it possible to clarify the underlying issues that have precipitated and/or sustained the conflict. It can also prevent inaccurate historical recording. Politicians alone cannot make this happen. John Lederach posits that the entire range of social structures should participate in the cooling-down period to make way for reconciliation.\textsuperscript{23}
This lends legitimacy of the process and forms a basis for trust. Furthermore, dealing with root causes helps create an atmosphere conducive to the achievement of the first and most difficult phase, namely to establish legitimacy. Experts suggest that the level of enmity and demonising of opponents should be reduced through the use of middle-level figures and grassroots leaders who are able to communicate the process to the communities they represent. The broad inclusiveness does not only facilitate better communication but also emphasises the legitimacy of the process. The overarching aim is to establish enduring security and peace. However, this has not been the case in Côte d’Ivoire.

The failure of the government to carry on with the mandated peace requirements that should have led to a democratic election in October 2006 was perceived as a miscarriage of justice by northern Ivorians and the international community. So too, was the government’s failure to cooperate with and support the efforts of interim Prime Minister Banny. The government knew that the Northerners’ demand for recognition meant that they should be eligible to vote. However, the government did not conduct a voters’ registration process, using the failed disarmament of the rebels as a pretext for their failure to do so. The government therefore did not guarantee justice and security for the opposition. This drew international criticism, because it did not augur well for the peaceful democratic process necessary for building trust and enduring peace. In addition, ethnic nationalism and xenophobia undermined the efforts of ECOWAS to promote reintegration.24 Given this state of affairs, certain initiatives are required to ensure strong peacebuilding efforts so as to guarantee sustainable peace.

There is a need to heal social rifts and address injustices and human rights violations. Issues that are a barrier to trust, security and justice must be removed. Reframing the conflict to facilitate a peace that unites the nation begins with measures that foster forgiveness and stimulate the healing and peacebuilding process. In the words of Alpha Blonde, a musician and UN ambassador for peace in Côte d’Ivoire:

Forbidding the concept of Ivoirité is the first part of Côte d’Ivoire’s healing … Not only saying [Ivoirité] is forbidden; it’s abolished, it’s illegal, but on the ground, we have to see that too. To see that the police will not – just because of your name, because of the way you dress – see if you deserve to be humiliated or not, and look at you like a second-class citizen.

Such measures can pave the way for peaceful elections and enduring democracy.25

In most post-conflict situations, it is the TRC that meets the needs of parties. In South Africa and Latin American countries the introduction of such a mechanism following politically motivated human rights violations resulted in a lasting reconciliation process. The root cause of the Ivorian conflict lies in political, ethnic and religious human rights violations. At the heart of the crisis in Côte d’Ivoire is that identity labels were politically
engineered to serve the myopic and narrow interest of particular elites. Therefore, reaching a viable agreement based on a mutual desire for reconciliation should be followed by a truth commission, fashioned after the South African or Sierra Leonean model. This should take the form of verifying human rights violations, reconciling affected victims of the conflict and the offenders, and paving the way for social and national reconstruction. The essence of reconciliation is to build a new future of security and unity in diversity.

**Reconciliation in Côte d’Ivoire**

Forgiveness is being addressed last because it is such a gradual development and is contingent on the level of trust which is brought about through acknowledgement, confession and apology and, in some cases (as happened in Mozambique), a religious dimension which requires repentance. It is a personal acknowledgement, embedded in the deepest will, that requires time for reflection and self-will before it can be achieved, especially in cases of violent loss and damage. The relevance of forgiveness in the Ivorian context is that it should promote better healing of individuals and groups who were targets of undue violence and destruction of life and property. This requires a truth commission that offers the affected individuals and groups the opportunity to vent their anger and hurt.26

The selection and composition of an Ivorian TRC should take cognisance of the inadequacies of the South American TRCs to avoid a politicised agenda controlled by the head of state and threatened by the military. The two African examples offer substantive positive lessons in the selection and provision of a legal framework for enactment of a TRC in the African context. The selection of members of an Ivorian TRC should take place after a successful presidential and parliamentary election. The TRC should comprise eminent personalities which proportionally represent various sectors of the country. The nominees should command respect and be seen to be impartial and honest. The commission should reflect the desire for national unity and represent both major and minority ethnic groups, various religious and political factions, and NGOs. Whilst it is expedient to avoid prescribing a precise formula which could stifle local creativity and ownership, the following subsections contain suggestions, recommendations and a planning framework based on the needs that result from the conflict and underlying factors that contributed to it.

The extent of violence in Côte d’Ivoire does not approach that of Sierra Leone and Liberia. However, there have been significant human rights abuses, committed by both government and rebels, which require some retributive justice. But the essential focus should be on reconciliation, which means that restorative justice should be the paramount consideration. The TRC should be ‘a process whereby all the parties with stake in a particular offence and its implications for the future’ receive proper and fair redress, after acknowledgement and pardoning processes.27
Disarmament

The increase in crime in the country as a result of small arms proliferation requires urgent action internally and regionally. It requires the enforcement of the ECOWAS Convention on Small Arms and Light Weapons, and the prohibition or curtailment of local manufacture is germane to stability and sustainable reconciliation in all post-conflict states.

A legitimate election

Côte d'Ivoire is yet to emerge out of its conflict cycle and its ability to do so and to maintain peace will be defined by the nature and outcome of the election processes. The election is unfortunately encountering delays due to so-called ‘technical’ hitches regarding voters' registration, citizenship and identity authentication. In their flight from conflict, many Ivorian refugees – especially those from the North lost their identity documents.

A widely accepted account of ‘truth’

The Ivorian conflict has been sustained by subjective truths, entrenched myopic group perceptions, incorrect assumptions as well as political and ideological intolerance. In Gandhi’s view, such subjective truth results in discrimination (based on subjective judgement by one’s own standards) and violence occur because one party did not understand another group’s behaviour and the implied meaning thereof.

Subjective truth is a lie. Therefore one party’s perceptions, if misconstrued by another culturally divergent group, result in a breakdown of rapport and ultimately in conflict. This often leads to disregard of the first party’s humanity and their entitlement to fairness. It is a widely accepted truth that a TRC can facilitate reaching the real, objective ‘truth’, which should in turn lead to denouncement of the subjective view of other people, the essence of regret for harm caused as a result of subjective views, and readiness to provide redress and pursue coexistence based upon forgiveness. In this case there is a need for the recognition of every Ivorian to the right to live and right to freedom of practice of group culture, religion and other group identity aspects without these factors becoming instruments of discrimination and dehumanisation.

Acknowledgement and reparation

Sustaining reconciliation requires not only that key national leaders append their signatures to a peacemaking agreement, but also public declaration and public acknowledgement of excesses of violence committed during a conflict situation. Criminal events such as violation of women and killings should be denounced. There is evidence that a lack of such public denunciation stifles the reconciliation process as it hinders the willingness of individuals and collective bodies to forgive. Therefore a legitimate democratic election
and the winning party should publicly acknowledge this and proceed with the needed reparation, which should also be stipulated by a truth, reconciliation and reconstruction commission (TRRC).

‘Binding forces’

Binding forces are needed to resolve the Côte d’Ivoire case. One example of such a binding force is the UN appointment of the popular musician from the North as its ambassador for peace. His performance pulls people from previously opposing sides together and he is able to communicate peace through his songs. The post-conflict period will require programmes and activities that serve to integrate various ethnic groups. Providing condensed TRRC reports in various languages, as was done in Sierra Leone, will also serve to heal and reconcile the population. Other post-conflict objectives, such as setting and then working towards achieving national goals and an agenda for poverty eradication, would serve to provide a broader outlook on the national agenda which will move the country beyond narrow, segregated and regional perspectives.

Addressing structural inequalities and material needs

The level of disparity among ethnic groups which underlie the conflict and the political chasm left in the wake of the conflict requires post-conflict projects that serve to unite former adversaries and provide recognition of each group’s needs. Provision of education, health facilities and basic amenities, among others, should receive priority. It is in the context and spirit of reconciliation that parties demonstrate their understanding and acceptance of each other’s issues or biases. Accordingly it is crucial that the government budget focus should shift to issues affecting human security, rather than state security. In Côte d’Ivoire this requires a political will that can take practical steps to correct underdevelopment in the North. For example, future attempts at increasing armament or military expenditure at the cost of critical development concerns will discourage trust and breach the relevance of reconciliation for peace and social development. Furthermore, experience has shown that excessive military expenditure does not deter rebel activity, instead this is more likely to be achieved by the state fulfilling its role in social services delivery and fair economic distribution.

An on-going effort

To reconcile and unite people that not so long ago were calling each other enemies, requires time and a concerted effort. This fact was reiterated by the Special Court of Sierra Leone, too:

The reconciliation process is not finished when people peacefully co-exist.
Reconciliation needs to go further: people need to understand that the only
future they have is a common one and that the only way forward towards development is by working together. Working together requires more than tolerance and respect. It requires consultation, debate and agreement, an understanding of the fact that common interests can be in conflict with personal interests and that co-operation requires compromise. 

At this time Ivorian citizens and the international community need to be patient to allow genuine reconciliation to take root and permeate Ivorian society.

Conclusion

There is a possibility of maintaining sustainable peace in Côte d’Ivoire. The profile of the conflict reflects a crisis on three levels, namely in the personalisation, identity and cross-border phases, in all of which acceptance and reconciliation is the key to transforming the stalemate or crisis-levelling stage. That can be pursued by means of a conflict transformation and process-oriented approach, underscored by the realisation that it takes time to work on the root and underlying factors. The approach considers the various parties and seeks to bring in not only the top level actors but make sure the negotiation parties include members from all social levels. The traditional state-level mediation is structural and ignores the relational dimension of the conflict. This relational dimension has been shown to be concerned with the reconciliation of the nation at large, not only the elitist faction, and with healing of the most afflicted through the opportunity to forgive and to promote healing.

So, to facilitate transformation of the conflict into peaceful coexistence, I propose that a post-conflict and post-election truth, reconciliation and reconstruction commission, whose task shall be establishing mechanisms for sustaining the post-conflict peace process, be set up. A tribunal type arbitration similar to the Sierra Leone special court can be set to deal with conflict issues and acute human rights abuses.

Notes

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8 Ibid.

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Niger Delta militancy and the challenge of criminalising terrorism in Nigeria

Isaac Terwase Sampson

Introduction

‘With the high rate of militant activities in [the] Niger Delta, attack[s] on oil installation[s], kidnapping and other violent activities in the region, one wonders if we have not acquired a terrorist status. We need this bill to end it all.’

– Senator Anyim Ude

‘We should ensure that we do not go back to draconian ways where freedom of expression will be hampered by the bill. We need to revisit the bill to propound a national security bill that will capture our culture, tradition and political development. We cannot jump into it because developed nations are doing it. It must be in tandem with our socio-economic and political development.’

– Senator Nkech Nwogu

Keywords terrorism, justice, militancy, terrorism legislation, Niger Delta
The statements above capture the dilemma inherent in Nigeria’s quest to provide a legislative solution to what is perceived as the greatest threat to international peace and security (terrorism) and what has gained notoriety as Nigeria’s greatest security challenge (Niger Delta militancy). Recognising it in his seven-point agenda, President Umaru Musa Yar’Adua acknowledged that the Niger Delta crisis gives his administration nightmares. However, it appears that in spite of the president’s anxiety over the Niger Delta situation, the Nigerian Legislature (National Assembly) is resolved to risk controversy by using a legislative strategy to deal with terrorism, in particular to remedy the Niger Delta militancy situation.

In the aftermath of the 9/11 attacks, the UN Security Council passed several resolutions in condemnation of international terrorism and called on all member states to enact or amend existing legislation to criminalise all acts of terrorism. In Nigeria the National Assembly seized the opportunity of criminalising terrorism to subsume the Niger Delta militancy, since they argued that the latter had taken on a terrorist dimension.

Accordingly, the Nigerian government initiated two pieces of legislation to address its security challenges. The first was the inclusion of two sections in the Economic and Financial Crimes Commission (Establishment) Act, 2004, followed by the presentation of the Prevention of Terrorism Bill to the Senate in 2006.

However, both these pieces of legislation met stiff opposition from some sections of the Nigerian population, and especially from the Niger Delta community, who contended that the bill was a ploy by government (using the Legislature) to criminalise their legitimate agitations for resource control. Their sustained opposition and criticism from other groups led to the defeat of the bill in September 2006, with most senators arguing that the definition of terrorism in the bill was too wide.

In 2007 the government resolved to enact comprehensive anti-terrorism legislation, basing its necessity on the escalating Niger Delta upheavals. This culminated in a new anti-terrorism bill before the Senate, but with the same content as the 2006 bill. Intriguingly, the unanimous rejection of the 2006 bill witnessed a dramatic reversal, as most senators gave the new bill qualified approval.

From the foregoing the following questions arise: Is the militancy in the Niger Delta terrorism a liberation struggle or mere criminality? Is an anti-terrorism law the solution to the perennial conflict in the Niger Delta? How can Nigeria criminalise terrorism without thereby exacerbating the Niger Delta crisis?
Niger Delta militancy:
Causes, origins and dimensions

The Niger Delta region covers an area of about 75 000 km² in landmass and is located in the southernmost region of Nigeria. It is Africa’s and the world’s third largest mangrove grove, one of the world’s biggest freshwater swamps and Nigeria’s most bio-diverse area. The Niger Delta is home to over 30 million people who live in about 13 400 aboriginal communities, mainly farmers and coastal fishermen, and belong to over 40 ethnic groups. The region has an estimated 40 billion barrels in oil reserves in addition to its enormous wealth in forest and water resources. The Niger Delta region is of critical geo-strategic importance in the global energy equation and for national economic survival. In 2002 Nigeria was the fifth largest supplier of crude oil to the United States, with exports averaging nearly 600 000 barrels per day. This figure trebled by 2006 before the upsurge of militancy in the region.

Despite the enormous natural resources of the Niger Delta, its strategic significance to global energy security, and its importance to Nigeria’s national survival, the region has suffered perennial neglect. Although oil is produced from its bowels, the Niger Delta remains in poverty, deprivation and environmental despoliation. The magnitude of the environmental impact of oil exploration/extraction activities in the Niger Delta area has been documented in the literature. Poverty in the region is on the increase and is the highest of all six of Nigeria’s geo-political regions. In its Human Development Index the 2006 Niger Delta Human Development Report paints a gloomy picture of the delta, recording a score of 0,564 with 1 being the highest score.

In terms of Nigeria’s legal regime, ownership of land and all mineral resources vest in the state. In terms of section 44(3) of the 1999 Nigerian Constitution, the entire property in and control of all mineral oils and natural gas in, under or upon the land or territorial waters and the exclusive economic zone of Nigeria are vested in the federal government. Similarly, state ownership of land in Nigeria has also been given statutory authority. In terms of section 1 of the Land Use Act, all land is vested in the state and held in trust for the use and benefit of all Nigerians. The combined effect of these provisions is that the federal government, through the Nigerian National Petroleum Corporation, grants exploratory and production rights to multinational oil corporations (MNOCs) through joint venture agreements. The result of this exploitation has been that the host communities are excluded from participation and do not share in the benefits, either.

The exclusion of local communities from the economic benefits of oil production triggered demonstrations against the entrenched legal order by those demanding resource ownership, leading to sporadic revenue-sharing configurations. From the initial post-independence formula in which each region was allowed to retain 50 per cent of the
tax revenue derived from the area, the formula depreciated persistently until it was later abolished in 1982 and replaced with a special package of 1.5 per cent of federal revenue for the development of oil-producing areas. The special fund was increased to 13 per cent in 1996 but has since stagnated.

Attempts at increasing the revenue received by the Niger Delta region have met with vicious opposition from the government, which is representative of three major ethnic groups. Okaba argues that ‘as an integral part of the pathologies of the state-led accumulation process, elites of the big three (Hausa/Fulani, Yoruba, Igbo) have in spite of their occasional squabbles united themselves in their outrage against the principle of derivation which has drastically declined now that the major resources have shifted from cocoa (in the Yoruba West), groundnut (in the Hausa/Fulani North), and palm oil (in the Igbo East) to oil and gas extracted from the bowels of the minority ethnic groups who inhabit the Niger Delta wetlands’. This assertion was manifest at the last political reform conference in 2005, where the major ethnic groups ganged up against the Niger Delta delegation and denied its request for a 50 per cent share of income derived from resource exploitation.

The militancy in the Niger Delta is therefore occasioned by the endemic poverty of the locals, flagrant environmental degradation and destruction of livelihood sources by MNOCs, marginalisation and inequitable distribution of revenue, repression and human right abuses. A preponderance of scholarly works give credence to these assertions; for instance, Imobighe argued that instead of creating real wealth for the people of the Niger Delta region, the prosperity generated from oil production in the region has brought about environmental dislocation, instability, corruption and repression. It is paradoxical that rather than guarantee social and economic security, oil has become a source of insecurity to the aborigines, and rather than a guarantor of human security in the delta, the state has become its major violator.

Niger Delta militancy is not a new phenomenon. As early as 1966, Isaac Jasper Adaka Boro, a former police officer from the delta, led a rebellion against the Nigerian state with the aim of achieving liberation for the Niger Delta people. Boro recruited 40 men into an organisation known as the Niger Delta Volunteer Force and trained them in the use of firearms and explosives. On 23 February 1966 the men attacked a police station at Yenagoa, raided the armoury and kidnapped some officers (including the police officer in command of the station), blew up oil pipelines and engaged the police in a gunfight. They further declared the Niger Delta an independent republic. However, this republic lasted only 12 days, after which Boro and his men were arrested, tried for treason and sentenced to death (though the sentence was not carried out).

In the 1990s the resurgence of local resistance against the Nigerian state and the MNOCs took a more radical but non-violent turn. In 1990 Ken Saro-Wiwa, an Ogoni
environmental activist, founded the Movement for the Survival of the Ogoni People (MOSOP) to fight persistent human and environmental rights abuses, continuous economic deprivation and social and political disenfranchisement. The movement used non-violent strategies similar to the civil rights movement of the 1960s in the US.

The MOSOP drafted the Ogoni Bill of Rights which sought to secure a share of the oil revenues from Ogoni land, reduce environmental degradation by the MNOCs and secure political autonomy and participation in the affairs of the republic as a distinct and separate entity. The activities of MOSOP received local and international attention and permeated to other Niger Delta communities, so that protests against the activities of MNOCs escalated. On 4 January 1993 MOSOP organised a mass protest which attracted approximately 300,000 participants. This was followed by a riot in May 1994 during which four pro-government Ogoni leaders were murdered by irate youths, thus setting the stage for the arrest and subsequent hanging of Saro-Wiwa and eight of his colleagues by the military junta led by General Abacha.

The extreme repression of the protests by the military government momentarily calmed down the agitators. However, the resistance resurfaced with greater intensity in 1998, when Ijaw youths gathered in the town of Kaiama to endorse what would later become known as the Kaiama Declaration. The youths declared that all land and natural resources within the Ijaw territory belonged to Ijaw communities and further denounced all laws that robbed their people of their land and resources. The Kaiama Declaration was the harbinger of the contemporary form of violence by the militants, who abandoned the non-violent stance of Saro-Wiwa, and embraced massive disruption of oil installations, car bombings, taking of hostages (especially expatriate workers and politicians), and indiscriminate attacks on and killing of security/military personnel as their modus operandi.

Unfortunately, whereas the genuine agitations of the Niger Delta people for environmental and resource equality attract sympathy, the struggle has been fouled by being mixed with obviously criminal substance, thus begging the question whether their activities constitute terrorism, a liberation struggle or sheer criminality. In the next part of this article an attempt is made to answer this question.

**Niger Delta militancy: Terrorism, liberation struggle or criminality?**

Scholars and analysts are still grappling with this intractable question. Nevertheless, the analysis below attempts to provide a thesis that gives qualified justification to the people’s dissent as a form of liberation struggle against human rights violations by the state and
MNOCs. In order to provide an analytical solution to this question, it is necessary to start with a short conceptual analysis of terrorism and liberation struggles.

Section 15 of the Economic and Financial Crimes Commission (Establishment) Act, which is the existing law on terrorism, defines it as follows:

... any act which is a violation of the Criminal Code or the Penal Code and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to any person, any number or group of persons or causes or may cause damage to public or private property, natural resources, environmental or cultural heritage and is calculated or intended to intimidate, put in fear, force, coerce or induce any government, body, institution, the general public or any segment thereof, to do or abstain from doing an act, or to adopt or abandon a particular stand point or to act according to certain principles; or disrupt any public service, the delivery of any essential service to the public or to create a public emergency; or create general insurrection in a state; or any promotion, sponsorship of, contribution to, command, aid, incitement, encouragement, attempt, threat, conspiracy, organizing, or procurement of any person, with the intent to commit any acts stated above ...

On the other hand, a revolutionary struggle is associated with a political programme aimed at a fundamental transformation of a social order. It is defensive in nature because it does not aim at attaining privileges or protecting vested interests of one group at the expense of others. Instead, it usually takes the form of resistance against obvious social evils such as exploitation, domination, repression and discrimination. Its goals are greater equality, justice and freedom for an increased number of the population. A liberation struggle, otherwise known as ‘self-determination’, is an important principle of international law and indeed regarded as a fundamental human right.

The operational basis of the right to self-determination is, however, subject to deception, as states generally concede it only to the extent to which exercising it will not lead to any action that could cause the disintegration of the sovereign state or violate its territorial and political integrity. States have persistently argued that only colonised peoples, people under foreign political, economic or cultural domination and the entire population living in an independent and sovereign state qualify as ‘people’ for the purpose of exercising the right to self-determination. Consequently, states generally resist attempts by the UN, its organs and scholars to expand the frontiers of this right to cover minority groups.

The boundary between legitimate dissidence or freedom fighting and terrorist activity is a difficult one which involves a question of perspective and which is vulnerable to
changes in judgement over time. Africa has a history of colonial subjugation by Western powers and many African nations earned their liberation through revolutionary violence, which the West regarded as terrorism. Indeed, great African leaders like Nelson Mandela, Oliver Tambo and Sam Nujoma were labelled terrorists and the revolutionary movements they founded to achieve self-determination as terrorist organisations.

Viewed against the definition of terrorism in the Economic and Financial Crimes Commission (Establishment) Act, the militancy in the Niger Delta may therefore appear to constitute terrorism. In practice, however, the issue is more complex. One problem with a general and all-inclusive definition of terrorism (as the one in the Economic and Financial Crimes Commission (Establishment) Act) is that it could criminalise the legitimate acts of persons struggling against state oppression or to set up a free state and hence conflict with the right to self-determination.

For the Niger Delta people, the struggle in the region is for self-determination against expropriation of their natural resources by the Nigerian state and not terrorism as the state asserts. Analysts on the whole support the view that the conflict in the region is a result of a history of injustice, inequality and inequity. On this basis, therefore, their violence against the state and the oil companies that personify this injustice, is justified in accordance with the principles of a liberation struggle.

Second, the militant groups in the Niger Delta enjoy substantial local support. From the Ogoni Bill of Rights in 1990 to the Kaiama Declaration of 1998, the people of the Niger Delta have always been unanimous in their desire to assume ownership of their resources and they have consequently endorsed a militant approach to realise these goals. Although the political elites in the region may seem removed from the militants as far as political goals are concerned, the fact that they do support the aim of resource control is indicative of their underlying support. This support of the Niger Delta political elites is also implicit in the sophistication of the militant groups (in terms of armament and strategy), the enormous resources at their disposal and the elite’s persistent opposition to branding the militants as terrorists.

Consistent with the African Union’s position on terrorism and the theoretical extrapolations reviewed above, one can therefore argue that the Niger Delta militants are not terrorists but liberation fighters. Unfortunately, Nigeria’s response to the liberation struggle is consistent with state practice in relation to self-determination. The Nigerian state crushed a cessation attempt by the Igbos between 1968 and 1970 and the Adaka Boro 12-day revolution in 1966, and refused to acknowledge the Ogoni Bill of Rights of 1991 or the Kaiama Declaration of 1999. It is therefore unlikely that the renewed insurgency in the delta will be treated differently, particularly as the state refers to their activities as terrorism and the Joint Task Force has declared war on the militants.
Equally, it is inappropriate to refer to the militants as common criminals or ‘criminal terrorists’ as some scholars do. Although the concept of criminal terrorism in itself is confusing, Wilkinson defines criminal terrorism as the systematic use of acts of terror for objectives of private material gain. This definition does provide a framework for the determination of whether Niger Delta militancy should be regarded as terrorist or criminal activity. This type of terrorism is often carried out by an individual or a few individuals, and is geared towards personal enrichment or satisfaction, with no gain for the masses. It has no bearing on the struggle for reform, social justice and human rights in the society. In terms of this definition criminal terrorism is therefore organised crime that has no relevance to the people.

It is noteworthy that the Niger Delta struggle – like most armed struggles – has some criminal ramifications; for instance emerging indices show that militant groups like the Niger Delta Peoples Volunteer Force (NDPVF) and the Niger Delta Vigilante (NDV) force are actively deployed and were paid by high-ranking politicians to disrupt election proceedings. These groups are also engaged in the illicit ‘blood oil’ traffic. There is no question that oil bunkering does indeed fund various militant activities, and that some of them certainly belong to organised criminal groups. Furthermore, the purpose of more than 90 per cent of the kidnappings that took place in the region between 2002 and 2005 was to extort ransom from the state and oil companies. A recent research report has also revealed that over 96 per cent of the cases of hostage taking, pipeline vandalism, election rigging, political cultism and other forms of criminality in the Niger Delta region were sponsored and masterminded by politicians in control of state power to achieve personal aims.

It is nevertheless argued that organised crime – not simply extortion and sabotage – and legitimate grievances can coexist. However, although criminal activities provide the requisite finances for the rebellion, the criminal ramifications of the struggle should not overshadow its core objective of attaining self-determination. As eloquently argued by the Centre for Democracy and Development (CDD):

[T]he wall between economic crisis and political agitation is a very thin one, and there are now indications that some ‘economic’ hostage-takers of yesterday have evolved into political activists in their own right, seeing the kidnapping of oil workers as not only a legitimate form of political protest but also a practical means of raising funds to finance their struggle for self-determination.

From the analysis above, one can argue that the coexistence of certain criminal activities with genuine liberation violence in the Niger Delta does not mean that it should be equated with terrorism, but neither is it organised crime simpliciter.
Anti-terrorism legislation in Nigeria: The problems with the solution

Since 2002, the National Assembly (NASS) has embarked on a legislative pathway to criminalise terrorism via the Economic and Financial Crimes Commission (Establishment) Act. However, the inchoate nature of counterterrorism provisions in the Act led to the exploration of a more comprehensive legal framework, and in turn to the presentation of the Prevention of Terrorism Bill to the Senate in 2006. Although it was defeated, a similar bill presented two years later, in 2008, has passed the second reading amid intense debate among senators on the appropriateness or otherwise of some provisions, especially as they relate to the violence in the Niger Delta.

It would undoubtedly be short-sighted to suggest that Nigeria does not require a law on terrorism, but the concern is the arbitrary definition of terrorism and the replication of Western provisions without considering the unique sociopolitical and legal developments in Africa. Africa endured prolonged Western imperialism where sociopolitical relations were characterised by repression and state violence. Colonial laws were not just made to confer economic advantages on the colonisers but – most importantly – to repress the resentment and resistance of the colonised peoples.

The early post-colonial African states were not fundamentally different in their approach to sociopolitical and legal relations from that of the Western colonial governments. Although political independence brought some change in the composition of the state governments, the character of the state remained much as it was in the colonial era; it continued to be totalitarian in scope, presented itself as an apparatus of violence, had a narrow social base, and relied for compliance on coercion rather than authority.43 With the proliferation of military regimes during the bipolar era, African dictators inflicted the most gruesome human rights abuses on their subjects through draconian decrees, while taking refuge under the protective shield of their superpower patrons. It is against this background that the new wave of legislation on counterterrorism in Africa is feared as a tool for undermining democracy and personal liberty in the guise of fighting international terrorism.44

In Nigeria, the arrest of opposition political stalwarts on trumped-up charges of terrorism seems to validate this assertion. Just before the 2007 general election, the director general of the Atiku Abubakar campaign, Dr Iorchia Ayu, was arrested and charged under the Economic and Financial Crimes Commission (Establishment) Act for funding terrorism. Ayu allegedly donated 1.5 million naira (US$12 500) to Paul Santos Ofana and Timi Frank, who were charged with receiving the money with the intent of using it to recruit and mobilise terrorists and sponsor acts of terrorism in the Niger Delta region. This is in line with the provisions of sections 8(1), (2) and (4)(a) of the anti-terrorism bill before the Senate which seeks to confer on the President powers to declare an individual or a group a terrorist or terrorist organisation respectively, where it
appears reasonable that the person or organisation constitutes a risk to national security. Given the level of political intolerance in Nigeria and the demonstrated contempt for opposition, this provision will be a licence for tyranny.

Specifically, one should ask what the underlying problems are with Nigeria's efforts to criminalise terrorism in the context of the Niger Delta crisis. First, the enactment of anti-terrorism legislation is aimed specifically at the Niger Delta region. Even in the Economic and Financial Crimes Commission (Establishment) Act, the definition of terrorism was couched in such a manner that it would include the Niger Delta militants. The 2006 bill expanded the boundaries of the definition to cover acts that may occasion serious economic loss, thereby subsuming sabotage to oil installations with their accompanying economic losses, under the definition of terrorism. The intention of criminalising the Niger Delta militancy became blatantly obvious in the last Senate debate on the anti-terrorism bill of 2008. The point of departure of most senators was the need to enact an anti-terrorism law because of the escalating violence in the Niger Delta.45

Second, the adoption of a Western-style definition of terrorism is problematic, for according to the Niger Delta inhabitants the application of terrorism as defined in the bill will certainly lead to the Niger Delta militants being classified as terrorists. This will give the state the licence to treat the militants as terrorists and criminals. Although the Senate initially excluded the definition of terrorism from the new bill, the Niger Delta senators insisted during the second reading that a definition is essential to clarify the matter. In the words of Senator George Sekibo from the Niger Delta: 'I want us to define what terrorism actually means. Until that is done, we will not be able to identify who a terrorist is. We cannot use America's definition here in Nigeria.'46

These issues account for the persistent opposition to the enactment of anti-terrorism legislation by the Niger Delta communities. In 2006 the leaders of the Ijaws (the major ethnic group spearheading the Niger Delta struggle) condemned the Prevention of Terrorism Bill as 'a forerunner of possible genocide, aimed at Ijaws and everyone who dares to challenge government's injustice against citizens'.47 This was reiterated in the Kaiama Declaration which stated: 'We are tired of being labelled saboteurs and terrorists. It is a case of preparing the noose for our hanging. We reject this labelling.'48 At the second reading of the Anti-Terrorism and National Security Bill of 2007, Niger Delta senators unanimously declared that the agitation of the Niger Delta people for justice should not be equated with terrorism. Opposition to the bill is supported by the locals and militant groups, which portends grave danger to national security if it is not resolved.

The fact that an institution like the NASS referred to the Niger Delta militants as terrorists has highlighted that the government intends to include the militants in the definition and put in doubt its sincerity to tackle socioeconomic problems in the
delta region. This is in stark contrast to the federal government claims to be genuinely concerned about finding a lasting solution to the problem. As was stated earlier, the Yar’Adua administration has identified the Niger Delta crisis as one of its greatest challenges and has made the economic transformation of the area a priority. The Niger Delta featured prominently in Yar’Adua’s seven-point agenda and continues to feature in government pronouncements. Practical efforts include the constitution of a technical committee to harmonise the various recommendations made in several studies and ultimately create a Niger Delta ministry to implement the master plan.

However, the divided government attitude to the crisis has led to cynicism and a general dearth of trust and confidence among the locals about the government’s intentions, leading them to reject a Niger Delta summit and the creation of a Niger Delta ministry.49 A strategy is therefore required to tackle terrorism in Nigeria in a way that will prevent the escalation of the Niger Delta crisis.

**Conclusion: Suggested reforms**

The impact of the issue of terrorism and the Niger Delta crisis on Nigeria’s national security requires absolute caution to prevent the state from being negatively affected by the process of solving the militant and perceived terrorist issues. Combating terrorism in Nigeria will require measures that extend beyond the introduction of specific counter-terrorism legislation to the implementation of democratic principles.50 An attempt to criminalise local agitations for resource control by labelling it terrorism may create more security challenges for Nigeria than it solves; accordingly, this article offers the following dual strategy for addressing the Niger Delta militancy and combating genuine terrorism in Nigeria.

**Political approach**

The following political measures are suggested:

- **Consolidation of democracy**, which includes respect for the rule of law and fundamental human rights, independence of the judiciary and the development of a sound electoral system that will guarantee stability and political succession.

- **The entrenchment of good governance** that among others ensures government accountability to civil society, reduction of corruption, initiation of sustainable economic reforms, and civil society participation in decision-making. According to the UN Development Programme failure of governance, characterised by endemic corruption and rent-seeking in the Niger Delta, is the fundamental source of frustration and disillusionment in the region.51 The entrenchment of good governance is therefore fundamental to the reduction of dissent in the region.
Sustainable economic development, which guarantees an equitable distribution of wealth and the realisation of public good for a greater number of people. Sustainable economic development will reduce the incidence of dissent and conflict in the Niger Delta.

**Legislative approach**

In spite of the utility of legislation to the maintenance of security, the Legislature must divorce its legislative efforts in combating terrorism from the Niger Delta issue by avoiding reference to the militants as the basis for the enactment of an anti-terrorism law.

Specifically, this article suggests the following legislative measures:

- The amendment of the penal laws to capture elements of the crime of terrorism that are lacking at present. Acts such as attempting to injure with explosive substances, kidnapping, deprivation of liberty, compelling action by intimidation and destroying or damaging an inhabited house or a vessel with explosives are offences in Nigeria's existing penal codes. Therefore it would be more appropriate to include other elements of terrorism that are reasonable within the context of the Nigerian socio-political milieu into the existing penal regime. This will avoid the antagonism inherent in the enactment of fresh legislation.

- Constitutional and legislative reforms to amend provisions that have ceded all mineral resources and land in Nigeria to the state. This will give the local communities a substantial stake in their land and resources, while allowing the federal government to retain some regulatory control. In this regard, parties to the memoranda of understanding for oil exploration and exploitation should include not only the federal government and the multinational oil corporations, but also the host communities.

**Notes**

10 Ibid.
14 Okaba, Petrodollar, the Nigerian state and the crisis of development in the Niger Delta region, 27.
15 T O Imobighe, Conflict in Niger Delta: a unique case or model for future conflicts in other oil producing countries? In Merz and Yates, Oil policy in the Gulf of Guinea, 102.
17 Ibid.
18 Adeola, Environmental injustice and human rights abuse, 51.
20 See Adeola, Environmental injustice and human rights abuse, 55.
21 For more details, see Emeka, Conflict in the Niger Delta.
22 See the full text of the Kaiama Declaration at http://www.dawodu.net/kaiama.htm (accessed 14 October 2008).
24 Ibid.
25 See among others articles 1(2) and 55 of the Charter of the United Nations.
26 For instance, see the Speech of Xie Bohua (alternate representative of the Chinese delegation to the UN) to the Third Committee of the General Assembly on 10 November 2003, in UN Doc A/C.3/58/SR.27.
29 See C C Harmon, Terrorism today, London: Frank Cass, 2002, 281, who shows that the African National Congress was listed as a terrorist organisation.

35 The concept is confusing in the sense that terrorism in itself is a crime, which means that the prefix ‘criminal’ is rather superfluous. An act can therefore be terrorism simpliciter or another crime called by this name.

37 O Nwolise, Terrorism: evolution and dimensions, Lecture delivered to course 15 participants, at the National War College, Abuja on 7 November 2006, 6.
39 Okaba, Petrodollar, the Nigerian state and the crisis of development in the Niger Delta region.
41 Watts, The rule of oil, 45.
45 Aziken and Inalegwu, Niger Delta senators bicker.
46 Ibid.
50 Anneli Botha, Initiatives to prevent and combat terrorism in Southern Africa, in Wafula Okumu and Anneli Botha (eds), Understanding terrorism in Africa: building bridges and overcoming the gaps, Pretoria: ISS, 2008, 73.
People-to-people peacemaking and peacebuilding: A review of the work of the New Sudan Council of Churches

Titus Agwanda and Geoff Harris

Introduction

Sudan has been the scene of civil wars and associated catastrophes for the past fifty years. The origins, progression and effects of these wars have been studied by various scholars. In brief, military regimes favouring northern Islamic-oriented governments over non-Islamic, non-Arab southern Sudanese have dominated national politics since the country’s independence in 1956, resulting in two long-running civil wars. The first ended in 1972 with an agreement which granted the south a degree of regional autonomy but war broke out again in 1983, emphasising the large gap between the official discourses of peace and the unofficial pursuit of political and economic domination by armed violence. As many as two million people died from war and famine during this second civil war. The comprehensive peace agreement (CPA) signed in 2005 provides...
for southern autonomy until 2011, when a referendum on independence is due to be held. A separate war which broke out in Darfur in 2003 has resulted in between 200 000 and 400 000 deaths. As we shall discuss later, the larger political struggle has fostered a culture of violence in intra- and inter-community conflicts.

The New Sudan Council of Churches (NSCC) has a long history of involvement in these conflicts, which is documented in the above references and several of its own publications. This article focuses on the period since the 1997 dialogues held between NSCC and the Sudan People’s Liberation Movement (SPLM). These dialogues resulted in the NSCC receiving the backing of the SPLM and other political movements to move across ethnic and political lines in order to promote reconciliation between southern Sudanese groups. The SPLA/M recognised the NSCC as a neutral body with special responsibilities to serve the people of southern Sudan, making it the natural facilitator of community-level dialogue between conflicting factions. This mandate was reinforced in 1998 at a meeting held in Lokichogio between Nilotic leaders from the East and West Banks of the Nile and church leaders. This meeting gave traditional leaders the opportunity to give their own mandate to the NSCC to advance and guide the peace process and marked the birth of the people-to-people peacemaking (PTP) process, ‘a deliberate and facilitated process that encourages communities, leaders and people involved in conflict situations to reach agreements among themselves for stopping conflicts, achieving reconciliation and promoting healing, peace and justice among and for people in their communities’. Following this meeting, PTP conferences began and over forty dialogues have subsequently been facilitated by the NSCC.

The aims of this article are to explain the principles and practices of the PTP peacemaking process; to argue the case for greater NSCC emphasis on peacebuilding; and to make recommendations to the NSCC concerning its future peacemaking/peacebuilding work.

**The people-to-people peacemaking process**

PTP is based on the principle that the responsibility for peace rests with individuals and communities themselves. For the PTP process to work, then, the desire for peace by people involved in a conflict must be supplemented by an acceptance of this responsibility.

The approach recognises that ethnic conflicts are fuelled by negative attitudes and perceptions which perpetuate distrust, misunderstanding and division and emphasises that these can only be tackled by fostering dialogue between those involved in conflict. The emphasis on dialogue draws on the history of the people of southern Sudan, who prior to external influences – primarily the Sudanese government and the increasing availability of more deadly weapons – relied on processes of dialogue between chiefs, elders and community members to address important community issues and to undertake conflict
The use of traditional conflict resolution procedures in the PTP process is not to maintain the status quo but to facilitate mutually agreeable solutions to conflicts.

PTP experience has shown that dialogue is central in helping parties reach a common understanding of the conflicts in which they are involved and the appropriate collective action to be taken; in so doing, it has built connectedness between the parties. Two major examples were the inter- and intra-ethnic conferences of Wunlit (the Nuer-Dinka Peace and Reconciliation Conference held at Bahr el Ghazal, 27 February – 7 March 1999) and the East Bank People to People Peace and Reconciliation Conference (held at Liliir, 9–15 May 2000). The latter produced the Liliir Covenant between the Anyuak, Dinka, Jie, Kachip, Murle and Nuer, an agreement which is basically holding despite persistent problems and skirmishes.

Overall, the PTP dialogues have been effective vehicles for building the desire for peace, stopping fighting, building understanding and cooperation, commencing practical steps to build peace in communities, establishing peace councils and border courts and facilitating reconciliation. Indeed, this process of peacemaking must be viewed as a critical foundation for subsequent peacebuilding, that is, the building of social, political and economic structures and processes which address the underlying causes of conflict.

The PTP process, peacemaking and peace agreements

The mission of NSCC explicitly includes advocacy for human rights and the promotion of unity, equality and peace among the diverse peoples of southern Sudan. Like a herder of livestock, the NSCC has been ‘leading from behind’ in the process of peace and justice by facilitating dialogue between those seeking peace with the objective of securing a peace agreement.

The NSCC’s broad understanding of peace is close to that of shalom in Hebrew, which implies well-being, prosperity and security premised on just social, political and economic institutions. This is similar to the concept of peace developed by Johan Galtung, which includes negative peace (the absence of direct violence) and also positive peace – the minimising of structural violence which arises from social, political and economic structures which favour some groups and disadvantage others and thus provides a foundation for conflict and violence. Both a reduction in absolute poverty and inequality are important, based on the premise that people whose needs are met are likely to be less hostile to each other and more willing to work together to expand the gains of peace. This requires more than peacemaking, which traditionally implies the use of diplomatic means to persuade parties in conflict to cease hostilities and to negotiate a peaceful settlement of their dispute.
A review of the PTP process, characterised by its trademark conferences, shows that it has been largely concerned with peacemaking. In this task it has managed to avoid a major weakness of traditional peacemaking that Galtung has described as ‘the single-shot high table at the top for the leaders’, which restricts the process to the participation of a few people. On the contrary, PTP has invested much effort in ensuring that communities as well as their leaders are involved in the conferences and the subsequent peace agreements.

The PTP process has four main stages:

■ The awareness stage, in which the demand for peace is built
■ The strategy development phase, in which peace strategies are proposed and debated
■ The adoption of the peace agreement
■ The consolidation phase, in which an effort is made to implement the peace agreement and build a sustainable peace

The second and third of these occur largely through dialogues held during peace conferences, the main vehicle used in the PTP process. The NSCC acknowledges that a peace conference is only an event whose outcomes – peace agreements and new relationships – cannot be sustained without further contributions, for example enhancing the capacity of communities to sustain the negotiated peace, to improve development and service provision, and to encourage reconciliation. Attempts to integrate such components into the PTP can be seen in the provisions for peace consolidation under the fourth stage. Steps under this phase include the wide dissemination of the details of a peace agreement and the establishment of peace committees to follow up, monitor and strengthen the agreement, and generally promote peace-enhancing activities. Much peace consolidation work has the potential to be synonymous with peacebuilding and conflict transformation processes.

**Peacebuilding: the consolidation of peace agreements**

It is now widely accepted that horizontal inequalities – inequalities of income and wealth with a strong ethnic element – are very often significant underlying causes of conflict. Peacebuilding involves tackling this type of structural violence through the long-term transformation of economic, political and social systems so as to create relationships based on equity and justice. The tasks of peacebuilding are thus synonymous with those of development; it emphasises the importance of reducing the underlying causes of conflict and thereby the likelihood of violent conflict breaking out. Peacebuilding can
perform either a conflict-prevention function or a post-conflict recovery function, on both. The question is the extent to which the NSCC has engaged in the consolidating work of peacebuilding.

The NSCC has indeed spent a considerable amount of its resources on education (for example provision of materials to primary schools) and health programmes, as well as development and rehabilitation programmes in partnership with the NGO Christian Ecumenical Action in Sudan (CEAS), for example building schools and health facilities and sinking boreholes. However, the NSCC’s activities between 2003 and 2006 have largely focused on peacemaking, as its various reports make clear. This emphasis may place important limitations on the overall effectiveness of the NSCC’s work.

Nathan has identified a number of reasons why mediation efforts in Africa have frequently not resulted in a sustainable peace and Hartwell examines the role of ‘spoilers’ in the reoccurrence of fighting which often erupts just after a peace agreement has been signed. Our emphasis here concerns the longer term and is related to the argument of Brand-Jacobsen and Jacobsen: peace agreements often fail because they are not supported by significant attention to the underlying causes of a conflict which, as we have seen, often involve ethnically based inequalities. A recent evaluation of the NSCC’s peace and justice programme by the Local Capacities for Peace Project largely fails to identify the weakness of this link in the work of the NSCC. In its conclusion, however, it does recognise that peacemaking without accompanying peacebuilding cannot result in a just and lasting peace and recommends that the NSCC channel peacebuilding work to appropriate bodies:

A quick fix does obviously not solve the underlying problems, and very often one incident of violating the accord is enough to make fighting erupt again … [A] peace process is not an event, but a long process with different stages. Such a process does not end with the signing of an agreement, since it requires locally-owned follow-up structures to guard the peace. This means that there is need for capacity building of the respective representatives, not only in issues of reconciliation and justice, but also with competence in addressing other needs of the communities. Social services and trauma-healing are two of the most frequently mentioned subjects in this respect. This does not mean that members of peace councils and peace committees should now engage in development activities, but they need to be enabled to channel such requests effectively, so that the peace ‘pays off’.

**The need for comprehensive peacebuilding**

Societal conflicts are inevitable whenever scarce resources are unequally distributed between groups. In the case of southern Sudan, the problem is compounded by a
multiplicity of divisive factors such as cultural, ethnic and religious issues. The first independent Sudan population census (1955–1956) reported that seven major ethnic groups inhabited Sudan. They were subdivided into 46 smaller groups that spoke different languages and followed different religious creeds. Over 70 per cent of the population lives in rural areas. Inter-group competition over natural resources is even more acute and conflict-generating in southern Sudan because of the prevailing mode of living which can be described as ‘traditional rain-fed agriculture and livestock raising’. Clashes between farmers and nomadic herdsmen have long occurred and are increasing along with the increase in human and animal populations. Furthermore, although all of rural Sudan is relatively underdeveloped, the rural parts of southern and western Sudan are even more so. Rural populations in those areas still manifest cultures and behaviour patterns of traditional communities (such as identity group solidarity, the warrior male image, or the tradition of taking revenge).

Traditional methods of conflict resolution were well developed. The Nuer and the Dinka, the two largest ethnic groups in the south, traditionally moved through each other’s areas to water their cattle. They lived side by side for generations, with well-understood traditional borders and extensive cooperation between the tribes. Although one group occasionally raided the other’s livestock, they avoided full-scale conflicts, at least until the civil war resumed in 1983. A shared understanding of conflict ensured that fighting, if it did break out, did not become too fierce or destructive. Women, children, the elderly and sick and unarmed people from the opposing side were not targeted; crops, property and homesteads were not damaged. Traditional conflict resolution methods were practised, including story telling, the sharing of past wounds and rituals for reconciliation, all built on a common commitment to peace. This experience accords with studies of the nature and effectiveness of traditional African conflict-resolution methods.

Over the years, however, the patterns of conflict have changed. Inter- and intra-community conflicts have become more sophisticated and devastating as a result of outside influences and the proliferation of modern weapons. Armed conflicts now frequently involve the aggressive targeting of any member of the opposing group and the destruction of their property and environment. Under these circumstances, as we argue later, the effectiveness of traditional conflict-resolution mechanisms is under threat.

The struggle against the northern government resulted in a spirit of unity and comradeship and preoccupied many southern communities. Following the signing of the CPA in 2005, some of that energy has been diverted into inter- and intra-community conflicts, supported by several other factors. Twenty years of civil war has left behind a culture of violence where destruction and retribution are seen as the norm and the arms used during the civil war are available for use in the inter- and intra-community conflicts. Many communities are characterised by resource shortages, poor access to services, and idle and armed ex-fighters who can easily turn to cattle raiding within and without their communities. The absence of effective justice systems means that there is little or no deterrent effect.
The prolonged war and the inter- and intra-community conflicts together have resulted in the destruction of physical, social, economic and political infrastructure, poverty, food insecurity, deaths and injuries, the breakdown of family structures, loss of trust and broken relationships and an increase in the number of internally displaced persons (IDPs). A reasonable prospect of peace is a necessary condition for the return of refugees and IDPs but may not be sufficient, given the poverty of their communities and the lack of basic services. The return of people means increased competition for limited resources such as water points and pasture land which may already be inadequate for the host communities. They may well be suffering from trauma and may be subject to stigma and reproach for having left in the first place.

Moreover, the many years of conflict in Sudan has created various types of current and ex-combatants who can be variously identified as rebels, militias, bandits, rogues, and terrorists who have gained certain benefits from the conflict. As a result, the signing of the CPA has already produced spoilers who, as Hartwell states, ‘exist only when there is a peace process to undermine’. The spoilers in southern Sudan can emanate from many sources, including various rebel factions who feel that they have not been given the degree of recognition accorded to SPLA/M; militias who have control over certain territories and have the backing of the Khartoum government; armed cattle camp youth groups (gelwongs) formerly used by both the SPLA and the Khartoum government to protect villages under them; and ‘bandits, rogues and terrorists’. As Hartwell argues, peace creates spoilers because ‘it is rare in civil wars for all leaders and factions to see peace as beneficial and even if all parties come to value peace, they rarely do so simultaneously, and they often strongly disagree over the terms of an acceptable peace’. If such groups perceive that the outcomes from the CPA may not be in their best personal or political interests, they may lose hope and use violence in attempts to undermine the agreement. A successful transition from war to peace therefore requires that parties to a conflict who benefit from violence are able to benefit to a greater extent from peace.

Addressing this kind of situation requires comprehensive peacebuilding efforts which go beyond single-track peacemaking initiatives. Given the changing circumstances within southern Sudan – such as the prospect of the return of refugees and IDPs, the widespread lack of infrastructure and social facilities, poverty, illiteracy and food insecurity – peacemaking alone will not suffice. As the NSCC clearly recognises, sustainable peace and genuine reconciliation is only possible when basic human needs of the conflict parties are met. It follows that addressing the basic needs and concerns of the people before attempting to build forgiveness and reconciliation is an essential step on the road to sustainable peace.

The challenges facing the NSCC’s capacity to effectively support peacebuilding was recognised by the NSCC and later by the LCPP, which recommended that
the organisation should establish partnerships and networks to try to ensure that peacebuilding did occur. This intention, however, seems to always be overshadowed by the peace agreement and the establishment of peacemaking structures such as peace councils and committees. In practice, PTP remains a single-track system with emphasis on peacemaking of the kind scholars now commonly refer to as track II activities – that is, non-official and non-coercive activities such as consultation and facilitation conducted in the form of problem-solving peace conferences and workshops. While PTP has had impressive successes, we can identify six important constraints which it faces.

The first two of these have already been discussed. First, traditional conflict resolution processes are facing challenges from non-traditional conflicts and/or more intense traditional conflicts. Second, peacemaking without a strong complementary peacebuilding component may not result in sustained peace because the underlying causes may remain. Third, PTP requires heavy significant input from specialists in order to reach a successful peace agreement, to establish the local councils and committees to implement and monitor it, and to train the members of these bodies. Fourth, traditional culture both constrains and promotes conflict. Respect for leadership and traditions of restoration and forgiveness clearly support peacemaking and peacebuilding work, but there is also a strong desire for revenge among the Dinka and Neur as well as a culture of cattle rustling and theft. Fifth, many peace agreements are built on certain conditions or the provision of certain services, often by government, and their fulfilment is frequently outside the control of the NSCC and the PTP process. Finally, there can be important gaps in the recovery process and in the provision of justice which may impede the establishment of better relations between the parties to a conflict. The ending of armed conflict is likely to depend, among other things, on the disarming of ex-combatants, restoration of the rule of law and an effective process – whether based on retributive or restorative justice – to deal with the perpetrators of crime and other human rights abuses. It is recognised^{29} that without the rule of law and an effective police and court system, the sustainability of peace is fragile. Revenge as a means of justice will lead to continued lawlessness, human rights abuses and cattle rustling, thereby jeopardising the chances of sustainable peace.

**Recommendations on peacebuilding by the NSCC**

We have noted the current emphasis on peacemaking in NSCC work and emphasised the importance of a process of peacebuilding. In this section, we spell out some important peacebuilding activities for consideration by the NSCC. We have mentioned earlier recommendations that NSCC ensure that peacebuilding occur by networking and partnering. This does not seem to have been successful and there seems to be a case for the NSCC to protect and enhance its peacemaking activities by engaging directly in peacebuilding.
In the third section, we presented the four main stages in PTP’s peacemaking work, of which the fourth – consolidating and sustaining peace – points to peacebuilding. We can identify four stages in the peacebuilding process:

- Encouragement of communities and stakeholders to accept the importance of peacebuilding as a complement to peacemaking
- A decision by communities and stakeholders to engage in peacebuilding and on the organisational processes to be followed
- Discussion and agreement on specific projects and programmes
- Implementation of cooperative action and monitoring its progress

We offer seven specific peacebuilding activities for consideration by the NSCC, presented roughly in the sequence in which they could be carried out:

- Dealing with the psychological and physical traumas of war
- Building the rule of law
- Encouraging community discussion concerning traditional attitudes and practices which encourage conflict and violence
- Disarming ex-combatants and reintegrating them into civilian life
- Promoting income-earning opportunities
- Deciding what to do about the past
- Building friendships between previous enemies, including the encouragement of forgiveness and reconciliation

Much has been written on each of these seven activities and we will comment only on the second last – how to deal with a bad past. Under the broad headings of retributive and restorative justice, there are various ways available, ranging from amnesia (pretending that it did not happen) through to truth commissions. Nations and communities need to decide which approach they wish to follow, hopefully built on a commitment to the rule of law. The important principle is that the past is dealt with in a way that is acceptable to most of the community. If not, past injustices can easily provoke new cycles of violence, vigilante justice and revenge, and peace agreements will not hold. Finally, it is important to note that the seven peacebuilding activities listed above call for high levels
of skill, wisdom and experience and this needs to be built over time. This will start with peacebuilders employed by the NSCC and hopefully will transfer to community peacebuilding committees and individuals.

Notes

2 For example, see New Sudan Council of Churches, Leading from behind: a strategic review of the southern Sudanese People-to-People peace process and the support role NSCC is undertaking, Nairobi: NSCC, 2000; and New Sudan Council of Churches, Inside Sudan, the story of People-to-People peacemaking in southern Sudan, Nairobi: NSCC, 2002.
4 Nyang’oro, Local level intergroup peace building, 1–7.
7 Nyang’oro, Local level intergroup peace building; A Mohamed, Inter-group conflicts and customary mediation: experiences from Sudan, African Journal on Conflict Resolution 2 (1) (2002), 12–22.
8 NSCC, Building hope.
11 NSCC, Building hope.
19 LCPP, Evaluation report, 14.
21 NSCC, Inside Sudan.


24 Hartwell, *Violence in peace*, 12.


27 NSCC, *Leading from behind*.


29 NSCC, *Operational plans 2004–5*.


Ghana:
Will oil resources strengthen democracy?
David Zounmenou

Elections calendar 2009
Ghana: Will oil resources strengthen democracy?

David Zounmenou

Within the next two years Ghana will join the ranks of the oil-producing states. Although this development could lay the foundation for sustainable socioeconomic development to underpin the country’s progress in its national democratisation process, it also raises certain fears and concerns. Depending upon how Ghana’s leaders use their good fortune the country could either become one of the wealthiest and most stable democracies in Africa, or remain poor and aid dependent. The question in some minds is whether Ghana’s government will manage an oil boom any better than the other resources it already possesses. The current political context and achievements in the establishment of an effective system of governance may allow for cautious optimism.

President John Atta Mills has completed his first hundred days as Ghana's head of state since his election in what was the closest presidential race since the democratisation process began in 1990. Though it is too soon to pass judgement on the new government’s performance,
there are indications of what the leadership stands for and where the country is heading. Certainly, too, the peaceful transfer of power from one elected regime to another marks an important step in the consolidation of Ghana’s democracy. The country’s democratic institutions have survived the electoral tensions and moved on in ways rarely encountered in Africa, where stagnation and even reversals too often followed what was hailed as the third wave of democracy. Nor has the possession of natural resources always helped create a peaceful political environment or promoted state survival. It is understandable, therefore, that local and international media and civil society organisations have warned of the potential risks Ghana faces as it seeks to exploit its new wealth. The precipitate fall in the global oil price notwithstanding, the proceeds from the exploitation of the Ghana’s oil and hydrocarbons could easily tempt the ruling elite to use it as a tool for self-enrichment and political manipulation, as has happened elsewhere in West Africa.

The enthusiasm with which the National Democratic Congress took power was moderated by Ghana’s domestic economic climate and the global economic and financial meltdown which forced the new government to redefine its priorities – the 2009 budget anticipates a funding deficit of more than 11 per cent. Despite the economic progress realised by the country since 1992, a third of the population remain mired in acute poverty, struggling to meet basic needs such as water, health and education services. According the United Nations Development Programme (UNDP), Ghana ranks 135 out 177 in terms of the Human Development Index (HDI).

Democratic consolidation will depend to a great extent on whether the government is perceived to be responding to the socioeconomic needs of citizens. In this respect, Ghana still has some way to go: formidable challenges – ethnic tensions, transparency – continue to pose a latent threat to the democratisation process, and the rule of law needs to be strengthened.

Decades of mismanagement and corruption have cast serious shadows across the prospects for socioeconomic development, even in countries with abundant resources. In some contexts resource wealth has become a curse and has contributed to the development of patrimonial, corrupt and inefficient regimes, with the concomitant acute poverty and chronic sociopolitical instability. Uneven resource distribution sometimes has fuelled the emergence of rebel movements and other entrepreneurs of violence such the Movement for the Emancipation of the Niger Delta in Niger (MEND) in Nigeria. Most, if not all, of Africa’s oil-rich countries – Nigeria, Angola, Equatorial Guinea, Chad, Gabon and Congo-Brazzaville – amply illustrate the paradox of mass poverty in the midst of plenty. Will Ghana manage to escape a similar fate; or will the discovery of oil undermine democratic consolidation and good governance?

Even before the UK firm Tullow Oil announced in 2007 that Ghana possessed large deposits of oil, the country was already well endowed with natural resources such as
gold, timber, and extensive fertile lands that had supported many decades of exports of cash crops such as cocoa. And though Ghana has had its share of political instability, the country has not experienced major conflict that could explain its underdevelopment. However, Ghanaians are well aware that, until now, corruption and poor development decisions in the country’s mining regions have squandered much of the country’s wealth. Will matters turn out differently in the case of oil?

It is estimated that by 2011 Ghana will be producing some 120 000 barrels of oil per day, along with significant quantities of gas. The International Monetary Fund has predicted that government revenues from oil and gas could reach a cumulative US$20 billion over the production period 2012–2030 for the Jubilee field alone. Can Ghana avoid Nigeria’s tragedy and other African states’ experience of wasted resources and the resultant volatile political environment? As we saw during the recent election campaign, the prospect of controlling massive oil revenues contributed to the intense rivalry between the two major parties, the New Patriotic Party (NPP) and the National Democratic Congress (NDC).

In March 2009, the international aid agency Oxfam America and the Ghana-based development organisation Integrated Social Development Centre (ISDOEC) published a report, *Ghana’s big test: oil’s challenge to democratic development*, in which they warned that the recent oil discoveries could undermine the consolidation of its democratisation process. The previous year, Ghana’s newsletter *Democracy Watch* observed that Ghana’s emergence as an oil-producing nation would pose a significant test for the country’s fragile democracy, a test that Ghana could not afford to fail. The report focused upon the opacity of the operations of oil companies and lack of transparency and accountability in the state’s management of mineral wealth elsewhere, but its real value was to attempt to pre-empt a national oil debacle and assist Ghana in avoiding the curse that often comes with the abundance of resources. The report went further to identify critical steps for the Ghanaian government, donors, oil companies, civil society and media to take in order to move quickly but deliberately in anticipation of the coming oil boom. These include transparent revenue and payment practices, open and competitive contract bidding, and active participation by civil society. The report also recommended a moratorium on new exploration licences to allow the development of the legal and regulatory regime and government institutional capacity to keep pace with the development of the sector. Of course, it remains to be seen whether the government will pay heed to this advice.

There are some hopeful signs: in February this year the government convened a National Forum on Oil and Gas Development in Accra, which sought to bring together actors from civil society, banks, media and oil companies to adopt sound measures for the productive and effective management of the extractive industry. The forum considered certain key issues as vital for a regulatory framework to help leaders manage oil resources. These included contract negotiations for fair share of revenues, effective resource and revenue
management, local content and infrastructure issues, environmental management and security, and the protection of national interests.

The government has also invited experts from Norway, Canada and Britain to assist in designing the regulatory framework and efficient oil revenue management practices. In a public announcement a month after he took office, President Mills called for public disclosure of all present and future oil contracts, a review of the legal framework of the oil sector, and wider public participation in decision-making around oil projects. He also promised accountability on the part of all public officials and asked Ghana’s development partners and non-government agencies to support the government’s efforts to build transparency and anti-corruption initiatives. This suggests that the government is aware of what is at stake though, obviously, the government will be judged on concrete actions rather than promises.

Another key initiative worth noting aims at addressing the skills shortage in the oil sector – young Ghanaian graduate engineers are undertaking studies in various disciplines in oil and gas exploration and production in an initiative sponsored by Tullow Oil as part of the company’s bid to develop and strengthen local capacity in its upstream industry operations. Some of these engineers, all young graduate employees of the Ghana National Petroleum Corporation (GNPC), have gone to London and Cape Town, from where they will be assigned to specialist institutions in the United Kingdom and South Africa.

Yet, according to Democracy Watch, much remains to be done if the scourges of corruption, waste, mismanagement and profligate spending are to be defeated. Nor has democracy transformed overnight a predatory political class into self-disciplined steward-trustees of the public interest. The challenge remains whether President John Atta Mills and the NDC administration will take the steps necessary to make Ghana, its democracy and its oil revenue management an exception and a model of political stability and socio-economic development that will provide substance to the quest of the first president, Kwame Nkrumah, to establish control of the political kingdom as an essential foundation for a prosperous Ghana.
## Elections calendar 2009

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The potential impact of HIV/AIDS on the South African armed forces: Some evidence from outside and within
Lindy Heinecken

Arms restraint and regional international law making: The case of the Economic Community of West African States
Denise Garcia

Enhancing counterterrorism cooperation in eastern Africa
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The potential impact of HIV/AIDS on the South African armed forces: Some evidence from outside and within

Lindy Heinecken

Introduction

At the 2007 International Department of Defence HIV and AIDS Conference in Pretoria, the then Deputy President, Phumzile Mlambo-Ngcuka, expressed the concern that ‘HIV/AIDS in the armed forces could pose a significant security threat’. What she was implying is that every soldier infected by HIV/AIDS erodes the capacity of the military to execute their mandate in much the same way as this disease incapacitates its human host. The following analogy sums this up:

The immune system is like the body’s army. It is full of little soldiers that are always looking out for bad guys and then killing them as soon as they are spotted. When someone gets HIV what happens inside his or her body

Keywords armed forces, HIV/AIDS, capacity, peacekeeping, human rights
is that the virus is slowly sneaking up on all the little soldiers in the immune system army and killing them one by one. In this way the immune system army is getting weaker and weaker all the time. Inside the body the immune system army gets weaker because it has fewer and fewer soldiers to fight the sickness. More and more sicklinesses are getting into the body and causing bigger and bigger problems. What HIV does is make the immune system army so weak that just about any other sickness can kill them.3

According to the South African National Defence Force’s (SANDF) own estimates a quarter of its body of soldiers are HIV positive, and many have already died.4 Shell claims that if the pandemic were a war, South African generals would be seated in the tents of ignominy signing articles of capitulation in every single theatre of the conflict.5 But, as he says, if only ‘it was a war’, then one could at least attempt to destroy the enemy, or come to some peace agreement. Unfortunately, this enemy is invisible and secretly continues to wear away the abilities of the institutions its affects. Thus knowledge of how this disease is impacting on armed forces is as critical as intelligence is to warfare.

As the SANDF grapples with ways to prevent this disease from infecting and killing its soldiers, so it tallies the costs in terms of recruitment, training, preparing operationally ready forces and meeting the demands of expensive AIDS treatments, while at the same time ensuring that its policies are not in violation of the human rights of its members.

In this article I reflect on these issues and examine the potential impact HIV/AIDS has on the SANDF at various levels. My analysis is based on evidence contained in recent publications, empirical findings from other sectors within South African society, information obtained from personnel statistics, and conversations with SANDF military personnel. The purpose of this article is to provide some factual base from which to uncover the long-term impact this disease may have on the organisational and operational capacity of the South African armed forces, which at present is still the leading military power in the region.

**Why is HIV/AIDS of strategic concern?**

As a chronic disease, HIV/AIDS has wide ramifications for the armed forces, especially in those regions where the epidemic is most prevalent. National estimates for 2007 for countries in Southern Africa indicate that the adult prevalence rate exceeds 15 per cent in eight countries in the region with at least five countries – Botswana, Lesotho, Swaziland, Zimbabwe and South Africa – close to or beyond the 20 per cent infection rate.6 Although accurate figures of the exact extent of infection in militaries are hard to come by, most claim that infection rates are between 3 and 10 per cent higher than national averages. For example, in Kenya in 2005 the national average was 6,4 per cent,
while the military averaged 9.4 per cent; and in Botswana a 30 per cent national average is contrasted with 40 per cent in the military. It is of great concern that the leading regional military power, South Africa, reports infection rates of between 22 and 25 per cent, about 3 per cent above the national average.

Most of the armed forces in the region now openly state that AIDS accounts for over half of in-service mortality. The impact is so severe that in some cases, certain African armed forces have been unable to deploy a full contingent or even half of their troops at short notice. In March 2003 the Malawi Defence Force reported that troop strength was down by more than 40 per cent as a result of HIV deaths and in Mozambique it was reported that ‘the country is no longer able to recruit and train police officers fast enough to replace those dying of AIDS’. The SANDF faces similar challenges, with death rates peaking in the age category 30–39 years, which indicates that members have become infected in their early twenties.

This has severe implications for national armed forces. At the organisational level, the disease ‘undermines military effectiveness through its medium- and long-term consequences which result in capacity deficits and personnel attrition, increased costs for training and replacing deceased staff, absenteeism, emotional strain, exhaustion, compromised productivity, loss of morale, internal dislocations and spiralling military health costs’. This affects the operational capability of armed forces and their ability to not only defend their nations and maintain civil order, but to provide fit, healthy and qualified personnel for peacekeeping and other humanitarian aid missions. As many become infected in their early twenties, it becomes more difficult to staff peacekeeping missions with soldiers who are HIV negative.

While fit healthy HIV-positive soldiers are able to perform peacekeeping duties, there are other concerns that stretch beyond the health and operational implications this disease poses. This relates more directly to the sexual conduct of peacekeepers whilst on deployment. Concern that peacekeepers may serve as vectors for the spread of the disease have been reinforced by ongoing accusations of sexual abuse perpetrated by peacekeepers. Knowingly sending HIV-positive troops to conflict zones can have serious trust and diplomatic implications. Not only are host countries becoming less willing to accept HIV-positive peacekeepers, but other nations may be less willing to contribute personnel to multinational peacekeeping operations where other contingents have high infection rates.

In this regard the SANDF faces a challenge. A recent ruling on the exclusion of HIV-positive members from recruitment and deployment has obliged the SANDF to review its policies of not enlisting or deploying HIV-positive soldiers. The effect of the court order is that a blanket exclusion of HIV-positive individuals is unlawful. This does not mean that the SANDF must now hire or deploy all HIV-positive individuals, but that
a nuanced policy that allows for HIV-positive persons who are still fit enough to be considered for employment, deployment and promotion, is implemented.16

**Impact of HIV/AIDS on the SANDF**

Understanding how this disease is affecting the SANDF is not only of national but of regional and international concern given that South Africa is at present the largest troop-contributing country to peacekeeping operations in the region. In this article I attempt to uncover how this disease may affect the ability of the SANDF to create, train, deploy and maintain an effective military force.

**HIV/AIDS and force procurement**

Force procurement refers to the ability to acquire suitable recruits for the armed forces. As with most armed forces, the SANDF selects candidates based on a wide range of criteria including character traits, educational qualifications, and physical, mental and overall health profile. In terms of their medical profile, recruits found medically unfit on psychological and medical grounds are at present not recruited. In terms of current policy, HIV/AIDS is managed in the same way as any other chronic, progressive and potentially fatal disease. Thus, recruitment restrictions that apply to other comparative diseases, apply equally to HIV/AIDS. While intending to reduce the incidence of HIV within the ranks upon entry, this policy is not only highly controversial, but may limit the ability to recruit suitable personnel in a shrinking skills market.

At present recruitment does not pose a major challenge. In fact, the SANDF has an oversupply of applications of which only a small portion (fewer than 3 500 members) were recruited into the voluntary Military Skills Development System (MSDS) in 2007. Of interest is that only 1 882 members completed their two-year initial contract period. In 2008, only 2 506 reported for duty, of whom 96 per cent were black and 31 per cent were female.17 Owing to budgetary constraints, this is way short of the 10 000 the SANDF envisaged recruiting every year and will impact on the SANDF’s ability to rejuvenate its ageing forces and supply sufficient personnel for peacekeeping operations. The question is: What does the long-term future hold given our society’s youth health profile? Armed forces aim to recruit precisely the age group at greatest risk for HIV infection – those between the ages of 18 and 26.

The 2006 STATS SA estimates of HIV infection in the age group 15–19 were 3,2 per cent for males and 9,4 per cent for females. This increases dramatically in the age groups 20–24 with figures estimated at 6 per cent for males and an alarming 23,9 per cent for females. Among females, HIV prevalence is highest in the 25–29 age cohort, with figures peaking for males in the age group 30–34, where for the first time they
overtake female infection rates. Similar statistics are cited by ASSA, with projections for the 20–24 age category for males being slightly higher at 7,2 per cent and females 26,5 per cent, and for the age cohort 25–29 males 21,8 per cent and females 32,5 per cent (figure 1). These estimates concur with the HSRC household prevalence survey conducted in 2006.

Should HIV status continue to be a criterion for enlistment, it may affect the SANDF in a number of ways. First, the cohort of suitable young recruits that meet the specified health assessment standards is likely to decline unless there is a notable change in infection rates among the youth in years to come. Second, as women are more affected in the younger age cohort, there may be difficulties in meeting gender targets, which at present are around 30 per cent. Third, the results of a recent survey among educators indicate that black Africans have a significantly higher HIV prevalence rate than other population groups (ELRC 2005:56). As reflected in recent SANDF intakes, whites are no longer volunteering for military service. For example, in 2006, at the lower levels whites comprised only 6,7 per cent of the forces – 2007 figures are down to 2,3 per cent for privates (troops). This implies that a larger number of applicants may be health non-compliant. Fourth, the level of education among the youth is likely to decline given the growing cohort of AIDS orphans who may either not have had the opportunity to complete their formal schooling, or had a disrupted education (figure 2).
While it differs from society to society, many armed forces and police tend to draw recruits from the poor and disadvantaged youth. The same applies to the SANDF and former SADF, which tended to attract recruits from the middle to so-called lower classes. Although the SANDF has no shortage at present in terms of applicants, it does struggle to recruit members with the necessary mathematical skills for certain specialised posts, and this situation is likely to worsen. A UNAIDS/UNICEF report on orphan estimates for 2003 indicated that 13 per cent of all children in South Africa under the age of 17 were orphans, of whom 48 per cent were AIDS orphans. It is estimated that by 2010, orphans will make up 19 per cent of all children. In terms of actual numbers this amounts to 3,1 million orphans under the age of 18. Invariably orphans suffer from higher levels of malnutrition, lower school enrolment and stigma. They are also exposed to an environment where they are socially, culturally and economically more prone to HIV infection.

Traditionally, armed forces seek to recruit young adults with a specific character profile – fit young individuals who display leadership skills, are well-adapted emotionally, have at least completed secondary school, and have no criminal record. Thus, the need to monitor how this disease is affecting the youth of South Africa and those volunteering for military service is essential for defence personnel planning. To cite an example, in 2003 in Mozambique with an infection rate of only 13,6 per cent, more than half of recruits tested HIV positive. Where HIV status is used as a criterion for recruitment...
irrespective of CD4 count or viral load, it may eliminate a potential pool of otherwise suitable candidates. Here the SANDF may need to review their current force design and assess which posts should be filled by military personnel with a specific medical classification, which posts can be filled by civilians where HIV status is not a criteria, which functions can be outsourced, and how many reserves need to be trained and maintained to ensure an adequate operational capacity.

HIV/AIDS and force preparation

The impact of HIV on recruitment is negligible compared to the effect it has on human resource management within the Department of Defence (DOD). The military is a highly vulnerable organisation as HIV prevalence tends to peak in the age group 25–44 for both sexes, which is the age at which they are most productive and deployable. Furthermore, the military provides exactly the right circumstances for infection to take place. Personnel are generally placed in single-sex barracks (hostels), away from their families for considerable periods and on a regular basis. They generally serve in remote locations where recreational activities are limited, where alcohol and drug use are common and sex workers are abundant. Added to this, they are often deployed to high-risk environments where exposure to this disease is heightened. This makes the military a highly vulnerable institution and more likely to have employees with high infection rates.

The DOD reported that during 2006, 34 810 members underwent a comprehensive health assessment – over half of the uniformed component. Of these 70 per cent received a ‘green status’, which implies, among other things, that they were HIV negative. From this one can deduce that HIV prevalence is below 30 per cent among the uniformed component of the SANDF and that the infection rate may well be around the claimed national average, between 23 and 25 per cent for the economically active sector of the population. However, whether the spread of HIV across the different age groups resembles the national average is disputable, as the demographic profile in terms of age, gender and race differs.

On closer scrutiny by age, for example, deaths in the DOD (including civilians) peak in the 25–39 cohorts, declining steadily until retirement. When compared to the national death profile for 2005, an interesting pattern emerges (figure 3). For DOD personnel, death rates are higher in the age bracket 30–39 years, but notably lower in the younger (18–24 years) and older (50–64 years) cohorts. In the younger cohort, this is because the SANDF does not currently recruit anyone who is HIV positive into the uniformed services. That death rates are notably higher in the 30–39 age group indicates that a substantial number become infected while in service. However, what appears encouraging is that when one examines DOD death statistics over the past six years, one observes a decline in death rates in the 25–29 cohort and the same, although to a slightly
lesser extent, in the 30–34 year bracket, with those in the ages 35–39 showing a slight tapering off before picking up in the 40–44 age group (figure 4).

If one is to relate age to various rank categories the greatest loss in terms of personnel is in the middle ranks from major to lieutenant-colonel. In terms of non-commissioned officers, this would equate to the rank groups sergeant to warrant officer grade 2. However, these statistics imply that these members are becoming infected at a very early stage in their military careers, which will affect their suitability for deployment. At present the greatest number of people infected with HIV are in the lower ranks: the troops on the ground and those in junior leadership positions because of the skewed age profile of those serving in the lower ranks. These make up the greatest percentage of the peacekeeping forces.

As with most statistics, the trends reflected in figure 4 must take into consideration certain mitigating factors. The recent decline in death rates may be due to the non-renewal of service contracts of those who are HIV positive (although this is difficult to verify at this point). A further explanation is the impact of antiretrovirals (ARVs), which may be slowing down the death rates. In 2004 Project Phidisa was launched to make ARVs available to soldiers, and also to provide improved clinical management, psychosocial support and family-oriented care for HIV-affected military families.26

Clearly not all these deaths are related to HIV/AIDS. National statistics for 2005 indicate that more than 90 per cent of all deaths are due to natural causes, although in the age groups 20–24 and 25–29 a higher proportion of deaths can be ascribed to non-natural causes.27 After this the percentage of non-natural deaths declines significantly. HIV/AIDS as a cause of death is under-reported because the majority of deaths due to HIV

Figure 3 Comparison of Department of Defence and national deaths, 2005

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are misclassified under either tuberculosis or respiratory infection. However, most analysts agree that AIDS constitutes around 47 per cent of all deaths and a staggering 71 per cent of all deaths in the age category 15–49 years. Thus, we can assume that DOD deaths due to HIV/AIDS are at least similar, if not higher than national estimates.

Here due consideration must be given to other variables such as the racial/gender mix of the SANDF. We know that nationally women have a higher rate of infection in the age groups 20–24 years and 25–29 years; it is only after the age of 35 years that male infection rates overtake those of women. As with men, women enter the SANDF with a HIV-negative status. If one is to extrapolate this to the SANDF, one can assume that because of the lower percentage of women in the SANDF and their negative status upon employment there will be a difference in HIV infection statistics between the national and DOD profile.

Towards the end of 2007 approximately 19 per cent of uniformed personnel were women. While only 11 per cent served in the senior ranks of brigadier general and above, they were well represented in the junior officer ranks of second lieutenant and lieutenant (35 per cent) and captain (36 per cent). This is typically the age category 25–29 years. If one compares these rank groups to teachers in the same age group, it is alarming to find that young black female educators (18–24 years old) had a much higher HIV prevalence of 17,4 per cent, compared with 12 per cent among their male counterparts. The sex differences

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**Figure 4 Department of Defence, death profile by year and age**

![Death profile by year and age](image-url)

*Source: Department of Defence, Personnel statistics, 2000–2006*
widened substantially for black educators at age 25–29, where women had a prevalence of 30.4 per cent as contrasted with 24.5 per cent among men in the same age group.30

The race and age profile of the SANDF also differs from the national profile. There are proportionately fewer black Africans (69.7 per cent) and more whites (17.7 per cent) in the SANDF than in the general population. Coloureds make up 11.5 per cent of the total staff composition of the SANDF and Asians 1.2 per cent. This too may influence the prevalence rates, as indicated above. Few whites are joining the SANDF and those who serve at present tend to be clustered in the upper non-commissioned officer ranks (staff sergeant or warrant officer) and officer ranks (major to colonel) (mostly late thirties to 50 years old). In terms of race and age this segment generally has a lower overall HIV prevalence rate.31 Most SANDF members serve in the ranks of private (20 586 members) of whom only 2.3 per cent are white. However, due to the legacy of the flexible service system introduced in 1994, a vast number of poorly paid and educated troops over the age of 30 years serve in these ranks.32

In terms of their level of education, the overwhelming majority of those serving in the SANDF have only completed 12 years of formal schooling to Grade 12. The officer ranks are more highly educated than the non-commissioned ranks. As reflected in the educators’ survey, both education and income influence HIV prevalence. In terms of the latter, almost half of all uniformed members earn below R60 000 per annum, and again it is the lower non-commissioned ranks that make up the bulk of these members.

As the epidemic is still in the infection stage, with few physically ill or dying from AIDS, the overall impact is uncertain, except that we can assume with relative certainty that the SANDF is more adversely affected than broader society. Although the highly acclaimed and supported ARV programme may mitigate the impact, the long-term effect remains disturbing. To date there have been no institutional assessments to determine exactly what sectors are most vulnerable, what the critical posts are, and what should be done to avoid future gaps. Currently gaps are filled either by assigning these duties to another member in the unit (over and above his/her normal duties) or letting the task stand over until the ‘sick’ member returns, or the vacant post is filled. Besides the obvious implications for military leadership and continuity of command, a major consideration is how to provide the required quality and quantity of personnel to meet current deployment commitments.

One can assume from attrition and vacancy rates that there are certain terms of shortages, but this cannot be ascribed solely to HIV. Based on conversations with military personnel, it is clear that the army (as compared to the navy and air force) is the most affected given that it is both the largest arm of service and the most frequently deployed. Judging from current shortages (whether due to HIV or not), the branches in the army most
affected are the infantry, logistics, combat support (including health practitioners in the medical service) and intelligence sectors. These branches are all critical components of peacekeeping operations.

Besides HIV, the SANDF faces many challenges in ensuring that there are sufficient adequately trained soldiers. Rising operational commitments, which at the same time have been associated with declining operating budgets, have impacted severely on force preparation. As money cannot be taken from salaries or equipment contracts, it invariably comes from training and maintenance budgets. As Romer-Heitman pointed out: ‘For the better part of a decade the SANDF has not been able to train properly, to maintain its equipment properly, or to maintain its infrastructure. Proper unit training is almost impossible, causing operational capability to decline.’

This situation is exacerbated by personnel shortages in certain age and skill categories. Clearly this has a spillover effect on future operations, as many of the current members in the junior ranks are either over-age, unfit or ill, and therefore not deployable.

**Force employment and deployment**

South Africa supports the current UN recommendation to deploy only medically fit soldiers, and this includes an HIV-negative status. The argument against deploying HIV-positive soldiers on peacekeeping missions stems from the following:

- Medical treatment available during peacekeeping missions may not be adequate to meet the special requirements of peacekeepers with HIV
- Peacekeepers have to undergo deployment vaccinations and may be exposed to diseases during deployment, both of which pose additional risks to their health
- The presence of HIV-positive peacekeepers poses the risk of transmission to medical personnel, fellow peacekeepers and the civilian population

With the high HIV prevalence rate within the ranks, the SANDF grapples with the challenge of ensuring sufficient personnel for deployment. The current expectation is that every African Standby Force in the region maintains a brigade of about 3 000 infantry soldiers as well as 1 258 logistical specialists, signallers, engineers, military police and civilian support staff for rapid deployment in Africa at appropriate notice. A battalion commander preparing for deployment confirmed in an interview that out of the approximately 18 000-strong SA infantry corps, the army struggles to meet the requirements to supply current rotations. To have three battalions in the field (which equal one brigade) there needs to be at least 3 000 personnel in force preparation, an equal number in combat readiness training and similar numbers entering the system (ideally between 9 000 and 12 000 personnel at various stages).
Another factor affecting the SANDF’s ability to sustain an operationally effective force is attrition due to members not qualifying for contract renewal (because of their health status or other reasons) or resigning. The most critical is attrition in the middle ranks of skilled personnel in key posts such as airspace control, aircrew, anti-aircraft, artillery, combat navy, engineers and technical posts and health practitioners – especially where skills have market value. A recent report, for example, slates the private sector for poaching its ‘trained’ naval personnel.

Unlike business, the military cannot readily recruit personnel from the civilian labour market to fill gaps left by ‘unplanned’ attrition as a result of deaths, sickness, medical discharge or resignation. Particularly for the army, which carries the main brunt of peace support operations, this means that personnel have to be supplied from a variety of units prior to deployment, and often there is not sufficient time to create ‘cohesive units’. Consequently ‘units are made up by fragments of other units due to health and welfare reasons, resulting in troops working under commanders they do not know and with equipment that is neither theirs nor their responsibility’. Clearly this compromises force readiness and performance in the field.

As the SANDF currently only deploys HIV-negative soldiers, the concern is how many become infected on deployment. Loneliness, frustration and peer pressure combined with access to drugs, alcohol and sex workers induce soldiers to engage in risky behaviour. Their relative anonymity as foreigners also frees them from social norms that guide their behaviour when they are with their families or in their own communities and cultures. During 2006, the SANDF had almost 3 500 members deployed in various operations across the African continent, with the largest contingents serving in the Democratic Republic of Congo (DRC), Burundi, Sudan and the Comoros. While national HIV rates in these countries are comparatively low, national prevalence rates of Southern African states supplying troops to these peacekeeping missions exceed 15 per cent.

In the survey conducted among South African teachers, for example, frequent nights away from home per week were significantly associated with a HIV-positive status. Those who always slept at home had the lowest HIV prevalence (8,6 per cent), whilst those who were away one or two nights per week had a significantly higher HIV prevalence (16,5 per cent). An even higher prevalence was indicated for those who were away from home six nights or more (27,6 per cent). In comparison, a study by the Civil Military Alliance found that peacekeepers returning from Liberia and Sierra Leone had infection rates more than double those of non-peacekeepers. The risk of HIV infection doubled with each deployment in conflict zones, suggesting a direct link to duty in war zones. Among Nigerian troops deployed to Sierra Leone, HIV prevalence increased from 7 per cent after one year to 10 per cent after two years and to more than 15 per cent after three years in the operational area.
Often neglected is the gender dimension of military deployment and the impact this may have on HIV transmission. Whereas male soldiers tend to find alternative sexual partners either through consensual relationships or commercial sex workers, women soldiers are more likely to form relationships with soldiers on base. This does not make them less vulnerable to sexual exploitation or HIV infection. Where they face sexual abuse or harassment by their own comrades, few report this due to the impact it may have on their own careers, or acceptance among male compatriots. On base there are reports that ‘personnel were allowed to visit brothels and run brothel-like activities in the camp’.

The unacceptable sexual behaviour of SANDF soldiers engaged in peacekeeping operations has signalled the need to bring greater discipline to troops, coupled with a stronger sense of the moral code of military treatment of civilian populations. From this one can deduce that the more professional and disciplined a force, the lower the level of HIV infection. This boils down to good leadership and a sense of responsibility, with the knowledge that there are certain sanctions imposed for sexual misconduct, as well as some serious personal consequences. In this regard, knowing that one will not be deployed if one becomes HIV positive is a powerful financial deterrent.

One should not ascribe infection rates solely to deployment. We often ignore what is happening back home. The high divorce rate among military personnel indicates that not only soldiers but also their spouses form relationships with other partners during long periods of absence. Given the high prevalence of HIV/AIDS within our borders, it may well be that soldiers become infected not on deployment, but when they return. In South Africa there is a lack of research on military families and the impact HIV is having on family relations within the armed forces.

**Force sustainment and human rights implications**

The extent to which the SANDF is able to sustain their operational effectiveness is not only a matter of human resources, but also of finance. The challenge in these times when armed forces have been downscaled to minimum force strength is the need to keep training sufficient numbers. This is a huge challenge as current budget constraints have restricted the number of recruits the SANDF has been able to enlist and train at the point of entry. This means that the SANDF does not have a sufficient reserve capacity to call upon, nor does it make use of civilian contractors or private military companies to fill personnel gaps or to expand capacity in times of operational need. Thus, the under-utilisation of personnel because of their HIV status has far-reaching implications for force design and how the SANDF in future will balance the mix between uniformed posts, civilians, contractors and reserve forces.

The effect of constantly having to recruit, train, and retrain personnel is expected to have a significant impact on the future personnel budget and various options need to
be considered to provide a large enough personnel pool as the pandemic unfolds. An immediate strategy to sustain force readiness is to train members more broadly to enable soldiers to perform an array of tasks. Multi-skilling allows a degree of flexibility and an ability to fill critical posts more readily from within the ranks. Even so, the greatest challenge lies with having to accommodate large numbers of HIV-compromised members who are unable to perform the tasks for which they have been trained. The inability to dismiss and the need to utilise unfit, untrained personnel in support functions could erode operational effectiveness even further. Complicating the placement of HIV-compromised people is the reduction in the number of posts available, as many support posts have been civilianised, rationalised, or outsourced in recent restructuring and in many cases are already overstaffed.

Even though the provision of ARVs may mitigate the effect of skills loss and preserve military command in the short term, the long-term implications are daunting. HIV-positive members may be deployed internally in borderline duties and in support of the South African Police Service. Recent reports proclaim that many HIV-positive soldiers on ARVs ‘are now running around in the mountains and are now serving in border control units’. The dilemma is that HIV infection rates are generally higher along border posts and where members become tempted to partake in risky sexual behaviour, this could complicate the administration of ARV treatment. HIV is a rapidly mutating and adaptable virus and deploying soldiers who have been exposed to various strains raises concerns vis-à-vis the spread of the virus within the country’s borders.

Then there is the cost of maintaining long-term ARV treatment. In the 2008 DOD annual report it is indicated that the DOD received an additional R32 million to assist with its ARV rollout. At present ARVs are provided to all members and their dependants through the US-funded Phidisa programme. This five-year programme, which commenced in 2004, provides ARVs at six military hospitals and it is hoped that it will eventually provide ARV treatment at all the 65 military health clinics throughout the country. Although the DOD already has 16 accredited ARV treatment sites, human resource shortages have impacted negatively on the process of ARV roll-out.

The question is whether this initiative can be sustained in the long run and if not, what are the implications? Will government be pressurised to provide more funding to the SANDF to manage the impact of HIV/AIDS on the forces? In Zambia, for example, military members argued that they should have priority access to more government funding for ARVs because they are in a high-risk job and because they contribute to world peace. In Rwanda, high-ranking officers increasingly have access to ARVs that the general population does not have. According to Elbe, ‘this is part of the wider development in Africa, whereby the soldiers of many countries now have greater or better access to health care and AIDS medicines than the civilian population’.
Many militaries in the region are committed to providing treatment for their soldiers. These costs increase where armed forces are compelled by human rights activists to recruit and deploy HIV-positive soldiers (as will possibly be the case in South Africa). Aids activists claim that there is substantial evidence to show that ‘HIV-positive people, who are asymptomatic, are able to undertake difficult physical activity with no adverse effects on their health – in fact, regular exercise is beneficial to their health’. Although the SANDF does not dismiss members on the basis of their HIV status, it has now been forced to review its policies in terms of the recruitment, promotion and utilisation of HIV-positive members for peacekeeping operations.

Besides the obvious healthcare costs, should HIV status be considered an unfair discriminatory practice in recruitment, the SANDF may have to cope with a higher attrition rate due to deaths at a younger age. This will increase training costs and lead to additional losses in the middle ranks, even with ARV treatment. The deployment of HIV-positive members on peacekeeping operations has other implications in terms of sub-optimal healthcare provision, nutrition and compliance whilst on deployment, which may pose serious risks not only to the individual concerned, but also to those reliant on the member in military operations. While nobody can condone discrimination against HIV-positive members, the implications for morale, discipline, and military effectiveness needs serious consideration as it extends beyond the human rights of individual soldiers.

Last, but by no means least, are the diplomatic implications of deploying HIV-positive soldiers to war-torn areas in Africa. With the litany of sex charges against SANDF peacekeepers, sanctioning the deployment of HIV-positive soldiers could result in the SANDF being a vector of the disease in conflict zones. Already countries such as Eritrea have requested the UN Security Council not to allow peacekeepers who are HIV positive into their country. Hence the seriousness of this pandemic and how it is being managed by African armed forces has far-reaching implications for national and international security as it may affect many more lives than those already infected by the deadly virus.

**Concluding remarks**

If we reflect on what we know about the pandemic in South Africa’s and other armed forces in the region, it is clear that this disease has severe implications for the overall effectiveness of national armed forces. As with the human body, HIV/AIDS slowly erodes the institutional capacity of the military at various levels. At the level of recruitment, there will be fewer suitable recruits to serve in the military in South Africa in future. There will be fewer young recruits who are physically fit, well educated and have the character traits desired by most professional armed forces. The SANDF is well advised...
to monitor how this disease is impacting on its recruitment pool from not only a health but also a sociological perspective.

At the level of force preparation, close monitoring of which segments of the military are most affected and vulnerable requires similar scrutiny. We already know that the combat branches are more vulnerable, but what are the estimated shortages and how does one deal with this? Here, some thought needs to go into the future force design to give the SANDF the necessary functional and numerical flexibility to meet mission requirements. HIV/AIDS and affirmative action have been responsible for high attrition rates at the heart of the institution – at tactical and operational level. At present the SA Army is the hardest hit but is coping, and there are promising signs that infection rates may be on the decline. Nonetheless, this is a long-wave epidemic and astute planning is needed to cope with this evasive disease.

On force employment the question of health standards is possibly the most critical issue. Already there is talk of lowering standards in terms of certain health criteria, and this may include HIV status. The implication of deploying HIV-positive soldiers has far-reaching ramifications for the SANDF at the institutional, social, economic and political level that stretch way beyond the human rights of individuals, but may in effect undermine the human rights of precisely those who the armed forces are constitutionally obliged to defend. Whose human rights should weigh more heavily – those of soldiers who want to serve on external deployment for ‘money’, or the state’s obligation to maintain a disciplined, cost-effective and efficient defence force?

HIV/AIDS does not only undermine the operational, but also the entire organisational effectiveness of armed forces as they become obliged to divert resources away from line functions, training and deployment, while exacerbating existing capacity and skills shortages. ARVs may slow down skills loss, but this is not a long-term solution, especially where the armed forces are reliant on external funding. Projects like Phidsa are essential in helping us understand the course of the epidemic, but not the long-term future impact on the military. More open discussion and analysis of recorded data is required to inform decision-making, planning and policy formulation for without this knowledge, armed forces will lack the ‘intelligence’ they need to combat the enemy within.

Notes

1 This is a revised version of a paper presented at the Conference on Trends, Impact and Policy Development on HIV/AIDS and African Armed Forces, Institute for Security Studies, Pretoria, 2–5 December 2007.

8 SANDF fighting different battle in form of HIV/AIDS.
14 Ibid, 776.
15 South African Security Forces Union and Others v Surgeon General and Others, High Court of South Africa, Transvaal Provincial Division, Case No 18683/07.
29 Ibid.
32 The SANDF is hamstrung by the inability to dismiss members who under the previous service system have permanent contracts and at the same time does not have sufficient funds to take in enough service volunteers in the military skills development system to rejuvenate its forces. As a result, it sits with a rising number of ageing, unfit and unhealthy troops which it cannot deploy.


34 Ibid.

35 Note that this has recently been contested in the case *SASFU versus the Surgeon General and Others*, leaving a policy void that the SANDF is still grappling with.


37 Interview with a lieutenant colonel currently preparing for deployment to the Democratic Republic of Congo.


43 Accurate statistics for war-torn regions appear inaccurate, thus figures quoted in the UNAIDS update 2007 should be read with some caution.

44 Education Labour Relations Council, *The health of our educators*.


48 Van Rynveld, SANDF has become grim joke.

49 Garrett, HIV and national security, 10.

50 SANDF fighting different battle in form of HIV/AIDS, 6.


Arms restraint and regional international law making: The case of the Economic Community of West African States

Denise Garcia

Former President Alpha Oumar Konaré of Mali asked the UN Secretary-General to send a mission to Mali in 1993 to assess the situation caused by the widespread availability of weapons in that country. This historic visit gave rise to a series of national, regional and international efforts to contain arms proliferation. In parallel, there were other initiatives taking place especially in the United States through the work of two scholars who first called attention to the ‘real weapons of mass destruction’. By the same time, a few articles were published about the impacts of the widespread availability of arms in some regions in the world. The Timbuktu Flame of Peace, a symbolic act that took place in Mali in March 1996, and where approximately 3 000 arms were burned, was the decisive event that spurred awareness within the international community regarding the necessity of destroying post-conflict weapons. This served as an impetus for the Economic Community of West African States (ECOWAS) to approve the declaration

Keywords ECOWAS, small arms, Mali, legal indicators, international law
Mali continued to play a leading role within the UN General Assembly, building on the momentum created by the Flame of Peace, by furthering its sponsorship of many resolutions. The underlying rationale for these resolutions was that the illicit circulation of massive quantities of small arms through the world hinders development and contributes to insecurity. These resolutions were instrumental in not only instigating the arms control efforts of the countries in the sub-Saharan region, but also generally raising awareness at the international level regarding small arms proliferation. The actions by Mali prompted meetings of the states of the sub-region to establish regional cooperation. Ultimately these efforts culminated in the Bamako Declaration of 1 December 2000, which defined a common African position vis-à-vis curbing arms.

The West African Action Network on Small Arms (WAANSA) estimates that the conflicts in the region have resulted in over two million deaths over the past decade. In particular, ‘[t]he outbreak of violent civil conflict in Liberia in December 1989 and in Sierra Leone in March 1991 marked the beginning of a change to the political and security configuration of the sub-region’. Sierra Leone, Liberia, Guinea and Côte d’Ivoire became part of a network of illegal small arms trafficking routes, with these arms being supplied in exchange for natural resources such as rubber, timber and diamonds. These countries experienced over a decade of violent cross-border illegal activity. It is estimated that there are approximately eight to ten million illicit weapons concentrated in West Africa. Even peaceful countries like Ghana have experienced an ‘upsurge in gun-related crimes, believed to be perpetrated by refugees from the Mano River conflict triangle’.

**Precedent soft law**

In response to the major human security threat posed by the proliferation of small arms in the region, ECOWAS contracting parties adopted the politically binding ECOWAS Moratorium in 1998. In international law, it is considered a soft law agreement. At the time, the moratorium was a landmark for several reasons. It was the first attempt by any regional organisation in Africa to establish measures to halt illicit weapons proliferation. Second, it set the precedent for the AU to adopt a similar position for the entire continent relating to the proliferation of small arms and light weapons, that is, in the
Bamako Declaration, as mentioned. The ECOWAS Moratorium, even though it is soft international law, served as a stepping stone for the consolidation of a legally binding regional instrument, thus serving as a precedent.

The ECOWAS Moratorium allowed governments to create national commissions, ‘which gives each government the ability to implement and monitor its own initiatives as set forth by the Moratorium, with the help of state police, the government, and civil society organizations’.

In cooperation with several UN programmes and agencies, member states were able to initiate several successful arms collection and destruction programmes. For instance, the Arms for Development initiative in Sierra Leone, in partnership with the UN Development Programme (UNDP), awarded communities US$20 000 towards the implementation of a development initiative in exchange for the implementation of a voluntary arms collection programme. Similarly, the Sierra Leone police force granted limited amnesty to civilians owning licensed or unlicensed weapons in order to encourage them to hand them in. In less than two years, the programme collected 9 327 arms, 34 035 rounds of ammunition and explosives of all types.

Despite its importance as a model for responsible subregional action in the small arms debate, there are several criticisms of the ECOWAS Moratorium. Human Rights Watch claims that violators of the moratorium have made it irrelevant and thereby its potential impact has been reduced. In 2003, during conflict in Liberia, despite the moratorium being in place, the government of Guinea allegedly imported mortar rounds and ammunition from Iran and re-exported them to Liberia. On cargo documents, these were described as ‘technical equipment’. This ammunition was later sent to the Liberians United for Reconciliation and Democracy (LURD) rebels, who used it in civilian areas of Monrovia. Human Rights Watch notes that LURD used child soldiers as young as 11 to fire these mortar rounds, which, if the ECOWAS Moratorium had been obeyed, should not have been in circulation in the first place.

Liberia, once under the control of Charles Taylor, has been under a UN arms embargo since its civil war began in 1989. Human Rights Watch notes that the governments of Sierra Leone, Burkina Faso and Côte d’Ivoire were also frequent violators over this period, at one point supplying Taylor with arms and ammunition despite the ECOWAS Moratorium.

Despite its shortcomings, the ECOWAS Moratorium paved the way for the creation of the ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Material later on and the related ECOWAS Code of Conduct, adopted on 10 December 1999. The Code of Conduct anticipated the establishment of national commissions, the preparation of reports, the development of a regional arms register, a system of arms destruction, the harmonisation of legislation, the training of security personnel, and the declaration of weapons and ammunition used for peacekeeping.

Article 9 of the Code of Conduct states that any member state or individual may seek an exemption to the ECOWAS Moratorium, deposited at the ECOWAS secretariat, to allow...
it to import arms to meet legitimate national security needs or participate in international peace operations. It also allows exemption for individual hunting or sporting purposes. An application for an exemption must be made to the ECOWAS secretariat, which transmits the application to all other member states or to the national commissions in cases of individual applications.\(^{19}\)

The ECOWAS Convention, signed in 2006, makes it legally binding for all states to adopt and implement measures on arms trafficking and proliferation reduction. It will come into force upon ratification by nine member states and was made possible by the financial contribution of the European Union, Canada and Switzerland.\(^{20}\) According to Sola Ogunbanwo, international consultant for the convention, ‘the preceding moratorium had “no teeth” because it was not legally binding. The new Convention has a monitoring and implementation mechanism set in place.’\(^{21}\) The document states in its preamble that the proliferation of small arms and light weapons constitutes a major destabilising factor in ECOWAS member states and poses a serious threat to the peace and stability of their peoples. States are aware of the disastrous consequences that the proliferation of small arms and light weapons has for the prolongation of armed conflicts and the illegal exploitation of natural resources.

**Main elements and legal structure of the ECOWAS Convention**

The ECOWAS Convention’s enforcement strategy is overseen by the ECOWAS executive secretary, who is tasked with developing plan of action strategies to implement the convention, which are then subject to the approval of the member states for adoption. Subsequently, the convention created an independent group of experts who assist in monitoring implementation of the plan of action strategies. According to Ogunbanwo, the convention has great potential to reduce armed violence because of its legally binding nature. It can ‘create a ban on international small arms transfers to non-state actors, impose sanctions on violating member states, regulate local arms manufacturers, create procedures to share information through national databases, regulate small arms possession through more rigorous licensing and registration schemes, and more effectively manage current and existing government stockpiles.’\(^{22}\)

The ECOWAS Convention is housed at a long-standing institution, ECOWAS. This is beneficial for the implementation of the convention, as an established structure is already in place.\(^{23}\) ECOWAS is a collective regional integration and security instrument, and it serves to drive the region towards tackling its multiple security problems.\(^{24}\) It also functions as an important norm-setting mechanism that, combined with activism within the non-governmental sector across the region, is making the region gradually progress towards improved governance, especially in the security sector. It is apparent that the
tenets of good governance are actually moving faster at the ECOWAS level than at the national level. At the latter level, there is a pressing requirement to promote security sector governance.25

The many long civil wars in the region have spurred the need for establishing links between security and governance, and ECOWAS has been instrumental especially in focusing a larger understanding of security centred on communities and people. Given that the problem of arms goes beyond borders and that the borders in this region are so porous, the role of ECOWAS in security building is essential.26 ECOWAS also plays a role in the regulation of the illicit trade in natural resources in the context of armed conflicts in the region. As these conflicts were usually initiated and perpetuated by competition over these resources, it is essential that tackling arms and regulating the wealth of natural resources in the region are done under the same umbrella.27

The ECOWAS Convention breaks new ground as it is based on human security, international humanitarian law, sustainable development and human rights principles (as spelt out in the preamble). Under the convention, arms transfers should not be authorised if they will violate the obligations imposed by universally accepted principles of international humanitarian law. Such transfers should be prohibited if they will infringe upon human rights norms or be used to perpetrate oppression, violations of international humanitarian law, genocide or crimes against humanity. In addition, arms transfers must be restrained if they will jeopardise sustainable development and unjustifiably divert human and economic resources to arms procurement (article 6).

Article 20 aims to regulate brokering activities by requiring the registration of brokers, financial agents and agents transporting arms; the establishment of a system for obtaining authorisation for each individual transaction and supplying information on transit points and routes, as well as the brokers and transporters involved in the transaction; and the criminalisation of illicit arms brokering. Berkol says that this is a pioneering requirement in the region, because most states have hitherto considered that no arms brokers were operating in their territories and that arms transfers were largely the prerogative of the state. Certain government experts expressed concerns that the introduction of an article on brokering in the convention would accord a certain degree of legitimacy to private brokers who also dealt on the illicit arms market. Others considered that on the contrary, the lack of regulation of brokering activities would constitute a missed opportunity to tackle the issue of brokering.28

**Key legal tenets of the ECOWAS Convention**

There are a few areas addressed by the convention that may lead to a reduction of the ease of access to arms in the region: control of arms production, circulation and transfer;
the criminalisation of illicit arms production, circulation and transfer; regulations on arms export authorisations; and cooperation towards maintaining the security of ports, borders, airspace and the continental shelf.29 Regarding the first area – control of arms production, circulation and transfer – member states shall undertake to control the manufacture of small arms and light weapons within their national territories; shall regulate the activities of local small arms and light weapons manufacturers; and shall undertake to adopt strategies and policies regarding the reduction and/or limitation of the manufacture of small arms and light weapons so as to control their local manufacture, as well as their marketing in the ECOWAS region (articles 7 and 8).

Regarding the second area of the criminalisation of illicit arms production, circulation and transfer, in the convention’s article 3, in a very comprehensive way that moves towards an almost total ban, states undertake to prohibit the transfer of small arms and light weapons and their manufacturing materials into their national territory or from and through their national territory. This is a breakthrough contribution by the convention in spurring efforts at the international level, as it inaugurates language not only prohibiting the transfer to non-state actors, but also requiring authorisation by the importing state when it says that member states shall ban, without exception, ‘transfers of small arms and light weapons to non-state actors that are not explicitly authorized by the importing Member’ (article 3[2]). This is important on several levels. First, the discussion on regulating the ban on the sale of arms to non-state actors is quite controversial and fraught with ethical and moral dilemmas. Second, it is an issue that faces open opposition from the United States, and veiled resistance from many other powerful states. Third, arms transfers to non-state actors usually occur from the major arms producers to Africa, and therefore the inclusion of the condition that authorisation by the importing state is required is key.

The convention also outlines the conditions for exemptions to this rule – in order for states to meet legitimate national defence and security needs, or to participate in peace support activities or other operations in accordance with the decisions of the UN, the AU, ECOWAS, or other regional or sub-regional bodies of which they are members. It goes further and outlines cases for the refusal of exemptions for transfers, which is a significant contribution, in general, to international law on controlling small arms. The convention states that a transfer shall not be authorised if it violates obligations under international law, including universally accepted principles of international humanitarian law and UN Charter obligations (article 6).

The most innovative part of this convention is when it spells out that arms transfers shall not be authorised if the arms are:

- To be used for the violation of international humanitarian law or infringement of human and peoples’ rights and freedoms, or for the purposes of oppression
To be used for the commission of serious violations of international humanitarian law, genocide or crimes against humanity

To be used to worsen the internal situation in the country of final destination

To be used to carry out terrorist acts or support or encourage terrorism

To be used to facilitate the commission of violent or organised crime

To be used to hinder or obstruct sustainable development and unduly divert human and economic resources to armaments of the states involved in the transfer, or

Likely to be diverted within the transit or importing country or re-exported to unauthorised users or into the illicit trade (article 6)

This part grounds the convention on international humanitarian law, and this is a pioneer contribution in any of the legal and political documents on small arms. Importantly, the convention also enshrines sustainable development in causal connection to arms transfers, which is also groundbreaking. Therefore, states are required to move vigorously in adopting legislative measures to establish as criminal offences under their domestic law the illegal manufacture, transfer and possession of small arms and light weapons, which should be enshrined in national penal codes and should include requirements for the observance of international humanitarian and human rights law.

On the third area of regulations covering arms export authorisations, the most important elements are enshrined in article 6, which overviews the cases for refusal of exemptions for arms transfers. Such transfers shall be refused if the export, even if it is considered a donation, has not been approved by all states directly concerned with the transfer, which reiterates the notion that states in the region are moving towards banning transfers beyond the state-to-state realm. Article 6(5) states that arms transfer cannot be authorised if there is a likelihood that they will be diverted to unauthorised uses or fall into the illicit trade. In addition, article 20 provides ample consideration of the process of issuing brokering licence applications for import and export. Contracting parties are bound by the convention to observe their responsibilities under international law, taking into account in particular whether transfers will result in the diversion of resources from sustainable development (article 6[4]).

In the fourth area, cooperation towards maintaining the security of ports and borders, states commit themselves to strengthen sub-regional cooperation among defence and security forces, intelligence services, and customs and border control officials in combating the illicit circulation of small arms through enhancing the capacity of national defence and security forces and law enforcement and security agencies, including
appropriate training in investigative procedures and border control and law enforcement techniques, and the upgrading of equipment and resources (article 22).

The convention also establishes an innovative complaint procedure whereby all concerns relating to the violation of the convention shall be brought to the attention of the ECOWAS executive secretary, who would submit such complaints to the ECOWAS Mediation and Security Council, whereupon the secretariat decides on measures to be taken, such as sanctions, inquiry or study, or would refer the matter to the ECOWAS Court of Justice (article 27).

**Black market feeder indicators**

The black market is an important factor in the illicit trade in small arms. There are five areas that, if not addressed, will result in higher ease of access to small arms and may therefore constitute black market feeders that increase the circulation of small arms. These areas are:

- Whether 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 has adopted the practice of destroying weapons that are deemed surplus in its inventories or that were seized in crime (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

In this article, I will focus on the first three, which are the most problematic ones.

There are many reasons why these areas are responsible for feeding the black market. The majority of guns are in the possession of civilians worldwide. Therefore, the potential for misuse is enormous. By 2006, 133 states had laws and procedures criminalising the illicit possession of small arms, and 47 states have reviewed at least some of their laws and/or procedures governing civilian possession of small arms, the domestic small arms trade and small arms manufacturing since 2001.

Three aspects are related in perceptions of the relationship between violence and unrestrained civilian gun possession held by most states. First, most problems caused
by the unrestricted availability of small arms are ‘civilian’ – that is, most guns are owned by civilians, and 60 per cent of the global stockpile of 640 million small arms is in the possession of civilians.33 Second, most of the victims of gun violence are civilians: 200 000 – 270 000 people die each year from non-conflict-related gun violence. And third, there is now a general recognition that civilian-owned guns help fuel the illicit arms trade as a result of theft, unsafe storage or sale.

Since 2001, when for the first time states discussed small arms multilaterally at the UN, there has been a trend towards the adoption of rigorous new laws on civilian possession. Recently, more than a dozen states have passed stringent national civilian gun-ownership regulations. Therefore there seems to be a strong de facto emerging international norm deriving from a growing consensus on the practice of states worldwide, but not yet enshrined in any international convention. This emerging norm has gained currency at the sub-regional level in Africa. It was the US that pressed for the complete deletion of the clause on the norm on controlling gun civilian ownership at the UN conference that led to the adoption of the Programme of Action in 2001. In his statement after the adoption of the Programme of Action, the president of the conference, Camilo Reyes, underscored that the conference had provided an invaluable venue for addressing one of the most urgent problems of international peace and security: the illicit trade in small arms and light weapons. He stressed that the national delegations were able to overcome their differences and attain a consensus on all parts of the Programme of Action except for two of the most important, for which there was overwhelming support, despite the concerns of ‘one state’. These two points of contention were controls over the private ownership of weapons and the need for the prevention of sales of arms to non-state groups. Reyes emphasised that the states of the region most afflicted by this global crisis, Africa, had agreed only with the most extreme unwillingness to the deletion of language addressing these critical issues. They did so in order to achieve a compromise that would allow all states to adopt the document. As Reyes’ speech made clear, the illicit trafficking of arms is a problem that must be addressed (as the title of the conference demands) in all, and he repeated, ‘all its aspects’. And as Reyes stressed, this position was supported by many states outside Africa.34

The second area considered a black market feeder is arms brokering. The driving impetus eliciting response from the international community vis-à-vis illicit arms brokering came from reports published in mid-1995 by Human Rights Watch and Amnesty International on arms deliveries to Rwanda via airports in the Democratic Republic of Congo (DRC).35 These reports described the secret transfer of weapons and ammunition from several countries, including Albania and Bulgaria, to the exiled Rwandese armed forces in eastern DRC by traders in the UK using aircraft registered in Ghana, Nigeria, Ukraine and the Russian Federation. In the DRC and other countries, commanders of these exiled forces, who were responsible for crimes against humanity and acts of genocide, purchased or negotiated transit facilities for these military supplies.
Commentators have pointed out that Amnesty International reported on arms brokers based in the UK delivering arms from Albania, Bulgaria and Israel, whereas Human Rights Watch focused particularly on the officially sanctioned Chinese and French arms deliveries and on supplies brokered from South Africa.  

These disclosures prompted the establishment of an international commission of inquiry created pursuant to UN Security Council Resolution 1013 of 1995 to investigate, among other things, reports relating to the sale or supply of arms and related material to former Rwandan government forces in the Great Lakes region, in violation of Security Council Resolutions 918, 997 and 1911. The unprecedented atrocities committed in the Rwandan genocide helped raise awareness of the work of illicit arms traffickers operating internationally and taking advantage of the absence of laws regulating their activities. In this process, NGOs like Amnesty International and Human Rights Watch were instrumental in raising awareness about the problems associated with illicit arms brokering in perpetrating such crimes in the context of widespread violations of UN Security Council embargoes. Once the reports mentioned above were made public and widely circulated in an intense process of advocacy and teaching about this entirely new problem, while concomitantly trying to shame the arms suppliers, the next step was to define what constituted ‘illicit brokering activities’ and to define the dimensions and extent of this phenomenon of the post-Cold War world. The activities of arms brokers operating on the fringes of international law remained unabated throughout the 1990s, and have done so up to the present. The activities of arms brokers may flood a society with arms, not only imperiling fragile post-conflict situations, but also feeding the black market.

The last area considered as a black market feeder is whether a country consistently adopts the practice of destroying excess, surplus or confiscated weapons. Failure in this area has an enormous potential for feeding the black market. The most evident example of how weapons that are stored unsafely or are surplus in governmental arsenals can fall prey to insurgents and rebels is the case of Iraq and the present imbroglio that the situation in that country presents. Several arsenals were looted in the aftermath of the poorly planned US invasion, which did not anticipate that the arms arsenals dotted around the country had to be secured. The idea that weapons had to be managed through destruction, in certain situations, emerged in three tracks. The first track is associated with the realisation that in post-conflict situations dealt with by the UN, the processes of demobilisation and disarmament had to include a component of weapons destruction to galvanise the peace process. The second track corresponded to surplus weapons originating from excess arsenals across the world following the end of the Cold War; and, finally, the third track, which developed later, was the destruction of weapons seized in the context of violent crime in cities across the world. The idea that surplus, post-conflict or illicit weapons must be destroyed began as a practice adopted in an unsystematic fashion and with low degrees of success in some UN
peacekeeping operations, like those in Mozambique, Nicaragua and El Salvador. As will be demonstrated, this practice slowly started to be embedded as an international practice throughout the 1990s.

The first track took place through a gradual realisation, especially among workers involved in peacekeeping operations, that if arms were not collected and destroyed following a peace settlement, they might be used to restart the conflict or end up in another part of the world fuelling conflict and crime there. In addition, arms from conflicts taking place during the Cold War in many parts of the world were reused in other violence or conflict settings. From the mid-1980s, global levels of military expenditure started to decrease, and after the Cold War, much potential for conversion was created. The removal of surplus weapons from societies or from post-conflict situations is a central part of broader efforts to restrict the availability of small arms and light weapons.

Many initiatives were carried out across the world with the specific purpose of collecting small arms and light weapons, for example in Angola, Mozambique, Bosnia and Herzegovina, Croatia, and Somalia. Some of the UN peacekeeping operations in some of these countries, for instance Mozambique, included a component of destroying weapons.

Broadly, there are two types of weapons collection. The type that is conducted in peacetime with the objective of reducing and preventing crime is often, though not always, voluntary, with incentives (and sanctions) included for the purpose of recovering firearms from legal (and illegal) owners. A second major type of weapons collection programme is that carried out in peacekeeping settings and post-conflict societies. As many experiences across the world demonstrate (in Central America, South Africa and Albania, for example), in post-conflict or unstable situations, weapons are likely to be stolen, falling into the hands of criminals who contribute to the rise of rates of crime. Therefore, the appropriate disposal and destruction of weapons are crucial components of the stabilisation of post-conflict societies. Key practitioners in the small arms debate have pointed to stockpile management and the destruction of excess arms as the simplest and most reliable ways of preventing the proliferation of illicit arms.

The starting point for the development of the second track galvanising the idea of weapons destruction and the debate on surplus weapons management and related issues relates closely to the end of the Cold War. The 1990 Conventional Armed Forces in Europe Treaty on force reductions made strict provisions for the management of surplus weapons. However, the treaty related only to major conventional weapons and there were no provisions in it for small arms. With the reduction of forces and the collapse of the Warsaw Treaty and the Soviet Union, large quantities of surplus small arms became available. Therefore, after the Cold War, two parallel processes started taking place: one was the general downsizing of armies across the globe; the other was the dissolution
of the Warsaw Pact, which released many weapons into the global arms market. Both processes resulted in millions of weapons being made surplus from inventories all over the world, which had to be somehow managed. Other analysts also point to additional reasons for the post-Cold War surplus weapons stockpiling: international disarmament agreements, the cessation of hostilities in many parts of the world, financial constraints on defence budgets, the modernisation of armed forces, and the replacement of their equipment.40

In addition, the end of the Soviet era meant that arms from Eastern Europe and the former Soviet Union were sources feeding the black market. Needing to upgrade their forces, ex-Warsaw Pact members disposed of large numbers of outdated small arms and light weapons in the international (illicit) market. The sales of surplus arms, often to undesirable end users such as insurgent groups or warring governments under international embargo, has proved to be a ready source of revenue to countries in political transition that are experiencing harsh economic conditions. The area of conversion studies includes the reallocation of the financial resources of the military sector to non-military purposes, the reorientation of military research and development to non-military purposes, the downsizing of defence industry overcapacity and the reduction of dependencies on arms production, the demobilisation of armed forces, the closure of military bases, and dealing with surplus weapons systems.

Black market feeders and the ECOWAS Convention

How well does the ECOWAS Convention deal with black market feeders?

Civilian gun ownership

The ECOWAS Convention suggests that member states prohibit the possession, use and sale of light weapons by civilians. However, it then requires them to regulate civilian possession and qualifies the authorisations that may be granted to permit individual possession by a strict control regime for civilian possession of arms with the following criteria: the user should be of the required minimum age and have no criminal record; and he/she should provide proof of a legitimate reason to possess and (among others) that the weapon will be stored in a safe place and separately from its ammunition. This involves a waiting period of 21 days before the final authorisation, while any contraventions identified in reviews may result in the withdrawal of the authorisation and minimum penal sanctions (article 14). This provision could have been strengthened by a total ban on civilian possession, the requirement of a record-keeping system or more stringent criteria for the establishment of criminal offences or penalties, but the convention falls short of fully addressing this important area.41
Regulation of arms brokering

The convention also requires that member states register all citizens and all companies incorporated in their territory that are brokering arms, including financial agents and transportation agents, and that states should make registration a requirement for the licit operation of such people, who should provide full disclosure of all transactions, irrespective of where they take place. Member states also commit themselves to adopt legislative and other measures to punish and establish as a criminal offence illicit arms brokering (article 20). The convention does not require measures vis-à-vis curbing activity that violates a UN Security Council arms embargo in accordance with the UN Charter.

Weapons destruction

Member states shall undertake to collect and/or destroy arms that are surplus or obsolete, seized weapons, unmarked weapons, illicitly held weapons, and arms collected during the implementation of peace accords or during programmes for the voluntary handing in of weapons (article 17). The convention fails to establish a norm of destroying weapons when it suggests that states can either collect weapons or destroy them. It therefore falls short of the precedent set by the Programme of Action. Thus, the likelihood that improperly stored weapons may fall prey to corruption or theft and then enter the black market is high.

Conclusion

The ECOWAS Convention is groundbreaking in many respects. It is innovative especially vis-à-vis basing its text on international humanitarian law, international human rights law and development needs. In comparison with all other instruments of law on small arms, it is one of the most evolved.

In September 2007 the ECOWAS Advisory Board on Small Arms and Light Weapons was created with a mandate to provide advice to the contracting parties and develop strategic partnerships with donors, governments, intergovernmental organisations and specialised agencies. The distinguished board members are supposed to serve as ECOWAS goodwill ambassadors contributing to the advancement of the convention. This initiative should serve to give further impetus to the long road of implementing the convention and making it effective.

In terms of the making of international law, the evolution of arms control law for West Africa based principally on the ECOWAS Convention demonstrates first, that the road for the institution of a restraint regime on arms, especially in post-conflict
situations, is a long one. Also, the implementation of such a regime will be complex and will require initiatives with international clout, like the Advisory Board; concerted national and regional action; and capacity-building. Second, the convention has showed the importance of soft law agreements (the ECOWAS Moratorium and the Code of Conduct) in setting the legal stage and opening political space for the making of a legally binding commitment.

Notes

1 I wish to thank Esther Chou for her invaluable research assistance in the preparation of this paper, as well as my editor, Dr Alex Potter.
2 These scholars were Michael Klare and Edward Laurance.
6 UN General Assembly Resolutions 52/38, 53/77 B, 56/24U and A/57/510.
7 Though official numbers and estimates are uncertain, WAANSA estimates that some 2 000 000 people have died as a result of small arms use in West Africa over the course of the decade. Available at http://www.iansa.org/regions/wafrica/documents/WAANSA-press-statement-14june06.pdf (accessed April 2008).
9 ‘The easy accessibility of natural resources such as rubber, timber and most importantly diamonds means that weapons can be bartered for these resources, thereby sustaining the decade long wars in Liberia and Sierra Leone’ (Bah, Micro-disarmament in West Africa, 1).
10 Official numbers and estimates of the number of small arms circulating in West Africa range from eight to ten million. According to Reuters (2007), in 2007, the weapons ‘concentrated’ in West Africa numbered about ten million.
11 Bah, Micro-disarmament in West Africa, 1.
12 Ibid.
15 Statistics collected by Arms for Development Initiative; see Bah, Micro-disarmament in West Africa, 6–7.
17 The use of child soldiers during Liberia’s 11-year civil war is noted in several references, most notably in Misol’s testimony: Human Rights Watch, Small arms and conflict in West Africa.
18 Ibid.
21 IANSA, 2006.
22 Ibid.
23 Berkol, Analysis of the ECOWAS Convention on Small Arms and Light Weapons.


28 Berkol, Analysis of the ECOWAS Convention on Small Arms and Light Weapons, 5.


30 Only about 40 countries have enacted legislation pertaining to brokering activities. US law is the strongest and is likely to serve as a model for the ongoing negotiations on a possible treaty on brokering at the UN.

31 Charlotte Watson et al, International action on small arms: examining implementation of the UN programme of action, Biting the Bullet Project, 2005, 32.

32 Denise Garcia, *Small arms and security*.


Enhancing counterterrorism cooperation in eastern Africa

Eric Rosand, Alistair Millar and Jason Ipe

Introduction

The Executive Secretary of the Intergovernmental Authority on Development (IGAD) recently noted that ‘due to its geographical location, persistence of conflict, absence of state structures, despair from the loss of hope and the growth of extremism, the IGAD region is considered to be the most vulnerable to terrorism of all regions in sub-Saharan Africa’.1 While innovative collaborative efforts among eastern African states, external donors, and civil society through the establishment of the IGAD’s Capacity Building Programme against Terrorism (ICPAT) are making significant strides toward the development of a coherent approach to counterterrorism capacity building in the sub-region, significant challenges to effective cooperative action in eastern Africa² remain. These include severe intra- and inter-state conflict, increasing violent radicalisation,

Keywords terrorism, counterterrorism, cooperation, ICPAT, UN
lack of state capacity, competing priorities, and political sensitivity surrounding the very notion of counterterrorism. To date, most counterterrorism efforts have focused on short-term security and law enforcement measures to the near exclusion – at times even to the detriment – of longer-term efforts to address underlying conditions conducive to the spread of terrorism.

This article begins with an overview of the terrorist threat and vulnerabilities in eastern Africa and the capacity of governments to respond. It then looks at the response at sub-regional level and what has developed into the primary mechanism for fostering deeper sub-regional cooperation, ICPAT, and how they may be improved. It also examines how the United Nations can help to strengthen that cooperation and the opportunity offered by the September 2006 UN Global Counter-Terrorism Strategy (‘the Strategy’). It concludes that ICPAT, with its technical focus and relative success to date, offers a solid foundation on which to improve counterterrorism cooperation in eastern Africa and has a key role to play in carrying forward implementation of the UN Strategy serving as an interlocutor between the sub-region and the international community. It argues, however, that more must be done to rationalise and coordinate the division of labour between the various actors engaged and recommends that ICPAT assume a lead role in that regard. It concludes that counterterrorism efforts need to be grounded in the needs and priorities of countries in the region and that more must be done by key counterterrorism donors, UN agencies, and others to address underlying conditions conducive to the spread of terrorism and the radicalisation which fuels much of extremist violence in the sub-region.

**The terrorist threat, vulnerabilities and capacity in eastern Africa**

All countries in eastern Africa have been victimised by terrorist acts, whether perpetrated by and against a country’s nationals for a domestic cause or focused on ‘extra-national or extra-regional targets, for example, Western targets located in [eastern Africa]’. Most casualties of terrorism in eastern Africa are not linked to international terrorism but to domestic insurgencies in the sub-region. Most incidents of international terrorism, which is the focus of the United Nations’ counterterrorism agenda, have targeted Westerners or Western-related assets, which has led to the perception that terrorism is a predominantly Western concern. This has complicated efforts by some governments in eastern Africa to support international counterterrorism efforts without being seen as promoters of external interests. Regardless of the type of terrorism, however, local communities in Africa have borne the brunt of the loss of life and property and other economic damage from the attacks.

The sub-region has experienced prolonged and severe intra- and inter-state conflict, leading to instability, poverty, and political isolation that make it vulnerable to terrorist
exploitation. According to many experts, the unstable situation in Somalia – which has been without a fully functioning national government since 1991, despite more than a dozen attempts at national political reconciliation – is a particularly important factor fuelling the spread of violent radicalism in eastern Africa today. The situation in Somalia has deteriorated even further in the last couple of years with the growth of the Union of Islamic Courts (UIC), a group believed to have terrorist ties, which defeated a coalition of US-backed warlords in 2006. The subsequent US-backed Ethiopian invasion and occupation of Somalia briefly dislodged the UIC, but a festering insurgency has complicated efforts by Ethiopia, the Transitional Federal Government, and the African Union (AU) to bring stability to the country and may have in some ways strengthened the hand of hard-line Islamists fighting for control of the country.6

Despite the ongoing conflict in Somalia, states neighbouring Somalia with better developed communications, transportation, and financial infrastructures – but weak institutions and long stretches of unsecured border territory – may in fact be considered by terrorists to have a more conducive environment for their operations. Kenya, with a large international population and significant tourist sector, or Djibouti, which hosts US and Western European troops, offer international terrorists more ‘high-value’ and Western-related targets.7 The impact of the situation in Somalia on neighbouring states is significant. For example, northeastern Kenya has been severely affected by the near absence of state control in Somalia, where inter-clan rivalry and banditry have further weakened border security and created additional space for criminal and terrorist elements to operate.8

The poor response to the rise in expectations for better socioeconomic conditions and democratic reforms has contributed to the frustration and even radicalisation of some, particularly younger, sectors of society in eastern Africa. The spread of extremist religious ideology into this combustible mix of frustrations and contradictions has contributed further to the radicalisation of susceptible groups. Because the region is populated by people of different faiths, the growth in religious assertiveness has resulted in further tensions and created an enabling environment for the resort to terrorist violence.

The heightened sense of insecurity has accentuated the weakness of state institutions to assure peace and stability. The sub-region’s significant capacity gaps – including porous borders, insufficiently patrolled coastlines, lack of a sound legislative framework to counter terrorism, and swaths of barely governed territory – have become a growing concern among stakeholders on the ground and outside the sub-region.

To further complicate matters in a sub-region where people move relatively freely across borders, there are no formal mechanisms for extradition, mutual legal assistance, or the sharing of relevant information between countries. The lack of a formal framework for such cooperation has contributed to the use of extrajudicial renditions of terrorism
suspects between countries in the sub-region, which has helped undermine public support for and confidence in counterterrorism efforts in eastern Africa.

To their credit, political leaders in eastern Africa have acknowledged the sub-region’s vulnerabilities and that capacity-building across many areas is needed to address current weaknesses. Countries in the sub-region are in critical need of support in terms of equipment, training for police, judges and prosecutors, improving border control and monitoring, strengthening interdepartmental cooperation, upgrading communications equipment and facilities, combating terrorist financing, detecting document forgery, and combating arms trafficking. Some countries would benefit from further assistance in drafting and passing counterterrorism legislation, while others require assistance in refining existing legislation. Support is also needed to address more fundamental capacity issues such as strengthening democratic institutions and the judicial system, combating corruption, improving governance, dealing with internal and external conflicts, and supporting vulnerable communities. Many of these needs can only be met by bilateral assistance, while others can be met by regional and sub-regional capacity-building programmes such as ICPAT, and international and other donors and assistance providers.

With this in mind, states in the sub-region, often at the behest of the United States and other outside actors which consider eastern Africa as a main concern of the ‘Global War on Terror,’ have acted to try to fill these gaps, albeit with mixed success. Despite being a major counterterrorism priority for important donor countries such as the United States, the focus of much of this assistance has been imbalanced in both its geographic scope (certain countries have received substantial amounts of assistance – for example Kenya and Djibouti – while others have received very little) and its temporal perspective (in other words, it has primarily emphasised short- and medium-term measures, aimed at catching and bringing terrorists to justice and strengthening national counterterrorism infrastructures). Much of this assistance has emphasised training military, intelligence, criminal justice, and border security officials and pushing for more robust counterterrorism legislation. To a certain extent, UN counterterrorism efforts in the sub-region have followed this path with their emphasis on joining and implementing the international counterterrorism instruments, adopting and implementing comprehensive counterterrorism laws, training criminal justice officials, and generally encouraging countries in eastern Africa to enhance their operational counterterrorism capacity.

Yet, as Peter Gastrow and Annette Hübschle point out, this call for tough action by governments in eastern Africa, ‘where democracy is fragile and governance weak,’ may in the end be counterproductive as it can escalate rather than diminish the threat. In general, lack of respect for human rights and the rule of law by governments has undermined public support for counterterrorism efforts in eastern Africa and further undermined confidence in the law enforcement and security services of some countries in the sub-region. To exacerbate matters, the lack of information currently being
provided to the public has helped galvanise human rights advocates against governments in the sub-region.

A broader based, long-term strategy is needed not only to thwart and respond to terrorist attacks, but to prevent the violent radicalisation of local populations which might resort to terrorist acts in the future, which may be the greatest strategic challenge to counterterrorism efforts in the sub-region. Such a strategy should include measures aimed at addressing the political, economic, and social factors that lie at the root of much of the insecurity in the sub-region.

One of the most significant challenges to developing and implementing such a strategy in the sub-region relates to the political sensitivity surrounding the issue of counterterrorism and the difficulties in garnering support in eastern Africa for initiatives labelled as such. The international counterterrorism rhetoric may simply be too muscular and unnecessarily polarising for a sub-region where the concept of counterterrorism is sometimes seen as an external or specifically Western agenda. Therefore, framing counterterrorism initiatives in the context of more easily understandable notions, such as promoting good governance and combating transnational crime, may resonate better with states and other stakeholders in the sub-region.

Another significant challenge in eastern Africa is overcoming the serious intra-regional rivalries which have circumscribed the potential for effective sub-regional security cooperation. Although the contentious state of relations between certain countries in eastern Africa does complicate sub-regional counterterrorism cooperation, it is precisely because those underlying tensions and conflicts are some of the main drivers of terrorism in eastern Africa that it is essential to stimulate efforts at the regional and sub-regional level.

The chances of overcoming these challenges to more effective counterterrorism will increase significantly if the United Nations and regional and sub-regional bodies develop effective partnerships and programmes aimed at promoting a holistic response to the threat which are tailored to address the needs and realities of the sub-region.

**The role of regional and sub-regional bodies**

The comparative advantages of regional and sub-regional bodies in the context of contributing to efforts to counter terrorism are many. They include having at their disposal knowledge and expertise of local issues that makes them well suited to develop approaches that take into account cultural and other contextual issues and undertake region- or sub-region-specific initiatives or other actions that complement and build upon global counterterrorism objectives; increasing a sense of local ownership of global initiatives; and fostering interest and maintaining momentum on the ground that is critical to ensuring
the implementation of such initiatives. They can facilitate the exchange of expertise and information among governmental and non-governmental experts, as well as the sharing of good national practices and lessons learned from national implementation among the countries of the region or sub-region. Although there are a number of regional and sub-regional bodies relevant to countering terrorism in eastern Africa, this article focuses on those most relevant to eastern Africa, ICPAT and the AU.

The AU plays an important role in the sub-region in terms of conflict prevention, crisis management, and peacekeeping missions (including in Somalia and Sudan), which are critical in this volatile area where ongoing regional tensions underlie much of the terrorist violence. The AU has also adopted a broad treaty-based framework to combat terrorism, but unfortunately many of its members have yet to sign up to and still more have yet to implement that framework. Competing priorities within its Peace and Security Commission, differing perceptions of the threat among AU members, as well as lack of resources have so far limited its contributions in this area. In 2004, the AU established the African Centre for Study and Research on Terrorism (ACSRT) as its technical arm on matters related to terrorism and implementation of the AU counterterrorism programme. It has organised a number of meetings of national and regional focal points including one in eastern Africa as well as a number of training seminars at its well-equipped facility in Algiers. In general, however, much like the AU Commission, a lack of both human and financial resources has limited the ACSRT’s ability to make practical contributions to fulfilling its wide-ranging mandate, although recent funding contributions from the Council of the European Union and European Commission should help.

IGAD began with a focus on development issues but gradually took on security functions, underscoring the reality of the intimate relationship between security and development in the Horn of Africa. Since its inception IGAD has also been extensively involved in peace efforts in Somalia and southern Sudan, which generally contributes to addressing ‘conditions conducive to the spread of terrorism’. However, it is in the context of strengthening the sub-region’s capacities to combat terrorism where IGAD, through ICPAT, is making its greatest contribution.

The four-year ICPAT programme was launched in June 2006 in Addis Ababa, where the programme is based. It is funded by European and other donors, administered by an African non-governmental organisation with research and networking experience in the security area (the Institute for Security Studies), and overseen by a steering committee made up of the member states of IGAD and including non-voting representatives from the countries that provide direct support to ICPAT, thus utilising an innovative approach aimed at developing an effective sub-regional counterterrorism mechanism. It has also succeeded in overcoming the human and financial resource limitations that other parts of IGAD as well as many other African-based multilateral organisations suffer from and the lack of political support for deepening sub-regional cooperation among its members in the security field.
The programme focuses on capacity- and confidence-building measures in the IGAD region, working closely with partners at the regional and global level. ICPAT’s work focuses on five areas: enhancing judicial measures; working to promote greater inter-agency coordination on counterterrorism within individual IGAD member states; enhancing border control; providing training, sharing information and best practices; and promoting strategic cooperation. ICPAT, at times in partnership with the UN Office on Drugs and Crime’s (UNODC) Terrorism Prevention Branch (TPB) and the Eastern African Police Chiefs Cooperation Organisation (EAPCCO), and with the contributions of such institutions as the International Organisation for Migration, the Commonwealth Secretariat, and high-level experts from the region, has carried out country-specific capacity-building initiatives in each of these areas.

Highlighting this approach, in September 2007, ICPAT, with the support of UNODC’s TPB, organised the first-ever IGAD ministerial-level meeting on countering terrorism in Kampala to which six IGAD member states sent high-level delegations. The purpose of the meeting was to provide a platform for reviewing progress on strengthening legal cooperation against terrorism and to establish a more effective mechanism of future cooperation in the legal field. The Kampala Statement calls on IGAD members, inter alia, to take the necessary legal, administrative, and regulatory measures, including establishing inter-ministerial counterterrorism coordination mechanisms in each country; to respect human rights while countering terrorism; and exchange information and experiences related to combating terrorism, including through the establishment of a forum of counterterrorism experts. The statement also takes note of and requests the member states to implement the UN Global Counterterrorism Strategy and requests the continuation of the UNODC/ICPAT capacity-building training.14

Despite success in its first year and a half of existence, ICPAT faces a series of challenges going forward. Perhaps first and foremost are the conditions in the sub-region, which pose an obstacle to the development of a successful sub-regional security agenda. For example, it has been impossible to date to launch a special programme for Somalia in light of its unique needs. Also, the absence of Eritrea from the IGAD forum has a negative impact on the overall effectiveness of ICPAT. The politics of the region also mean that cooperating in the security field among some of the countries still leaves much to be desired.15 Despite those challenges, ICPAT member states seem to genuinely appreciate its technically focused, results-oriented work and are deeply engaged in the programme.

The role of the UN system

With the significant capacity gaps and vulnerabilities in eastern Africa, in addition to ICPAT and bilateral donors, nearly every part of the UN system represented on the UN Counterterrorism Implementation Task Force has an important role to play in helping
to build counterterrorism capacity in the sub-region. Given the often counterproductive emphasis that has been placed on hard security approaches to combating terrorism in eastern Africa to date, the United Nations should emphasise a holistic, more balanced, and hopefully more effective approach to addressing the threat. Coordinated, strategic, and sustained engagement by the different parts of the UN system can help recalibrate and significantly augment the counterterrorism capacity of countries in the region. The relevant parts of the UN system include traditional counterterrorism bodies such as the various Security Council bodies and UNODC’s TPB, as well as entities not traditionally associated with counterterrorism, such as the Office of the High Commissioner for Human Rights (OHCHR), UNDP, and the UN Educational, Scientific and Cultural Organisation (UNESCO).¹⁶

Despite the potentially important role of the United Nations in building state capacity in the sub-region, it appears that states in eastern Africa have so far not benefited from this UN technical support in implementing UN counterterrorism mandates, apart from legislative drafting and criminal justice training delivered by UNODC’s TPB, aimed at helping countries join and implement the sixteen universal instruments against terrorism. To its credit, UNODC has been rather successful in pursuing this narrow mandate. To help sustain its involvement in the sub-region, UNODC established a formal working relationship with ICPAT in June 2006 to enhance the overall impact of its counterterrorism technical assistance for IGAD member states. Pursuant to this agreement, ICPAT has sought and received UNODC support on several joint counterterrorism initiatives in the sub-region, including training for senior criminal justice officials, legislative drafting workshops, and the production and dissemination of joint technical assistance tools. In addition, UNODC supported the convening of the September 2007 IGAD Ministers of Justice meeting on counterterrorism, which will hopefully turn into a regular event. UNODC should encourage IGAD to use future meetings of the ministers as a platform for reviewing progress on strengthening national and regional cooperation against terrorism.

Cooperation with sub-regional partners such as ICPAT is particularly important to ensure the sustainability and effectiveness of the technical assistance UNODC provides and should be leveraged to ensure its one-off workshops have an enduring impact on the ground. As UNODC continues with its work in the sub-region, there is the need to ensure that its capacity-building activities are part of a broader, strategic UN approach that ‘provides in-depth and substantive training to the right officials, practitioners, and policy makers’, includes a ‘steady dissemination of useful and accessible training tools and handbooks, backstopped by effective follow-up and reinforced by ongoing support services’¹⁷ and promotes the development and implementation of a holistic response to addressing the terrorist threat. UNODC needs to ensure that its efforts to get countries to adopt comprehensive anti-terrorism legislation go hand in hand with initiatives that help the states of the region utilise the new instruments in a way that strengthens public support, the rule of law, and the respect for human rights.
Going forward, given the allegations of human rights abuses being committed by some governments in the sub-region in their fight against terrorism, particular attention should be paid to ensure that UNODC raises awareness of human rights issues that may confront practitioners. Donors and other providers of technical assistance need to be sure to balance capacity-building assistance to law enforcement and security services with human rights training, and where possible, involving civil society groups in such training. Efforts should also be made to reinforce oversight mechanisms such as national human rights commissions.

Overall, the impact of the United Nations on the sub-region’s counterterrorism capabilities has been limited. This is largely due to the underperformance of the Security Council’s Counter-Terrorism Committee (CTC) and its expert group, the Counter-Terrorism Executive Directorate (CTED). The CTC is charged with monitoring the implementation of Resolution 1373 (2001), which imposed a range of law enforcement and other security-related counterterrorism obligations on all UN member states. Among other things, the CTC/CTED is responsible for facilitating the delivery of counterterrorism technical assistance to states that it has identified as needing help implementing the provisions of the resolution. Despite the significant capacity gaps in the sub-region, the CTC/CTED’s interactions with and impact on eastern Africa have been limited, having conducted site visits to two countries in the sub-region: Kenya and Uganda.

Generally, the CTC/CTED has had difficulty sustaining a dialogue with countries in eastern Africa, partly due to the limited amount of information it has received from those countries and the difficulty it has had reaching past diplomats in New York and interacting with local counterterrorism practitioners. The CTC/CTED can only cite two examples in eastern Africa in over six years of work where it played a role in facilitating the delivery of technical assistance: one in Kenya and one in Uganda. Although its difficulties in facilitating the provision of technical assistance extend well beyond eastern Africa, the shortcomings of the CTC/CTED effort so far are magnified when looking at a sub-region such as eastern Africa where both the terrorist threat and capacity needs are so significant.

There are signs, however, that the situation has been improving since the appointment of a new, highly qualified CTED executive director in late 2007 and the approval of the new director’s reorganisation and revised work plan aimed at moving the CTC/CTED away from relying on written country reports towards engaging more directly and informally with experts in capitals, which should allow for more tailored dialogues with states. In addition to a reorganisation of the staff, the new approach includes different types of site visits and improved outreach to states, regional bodies, and civil society outside New York.

The CTED may, however, continue to have trouble engaging meaningfully with implementing agencies on the ground so long as its entire staff is based in New York.
Although the new reforms should help improve its outreach somewhat, consideration should be given to moving some of the CTED’s New York-based staff into UN country and/or regional offices where more sustained and ongoing interaction can take place with national counterterrorism practitioners, regional and sub-regional bodies, civil society, and other relevant actors. Alternatively, a UN entity with a presence in the sub-region could serve as the CTED’s focal point in eastern Africa.

In a sub-region where human rights/counterterrorism concerns are so acute and national human rights institutions fragile or non-existent, OHCHR has a critical role to play. OHCHR has a regional office in Addis Ababa and a presence in Nairobi. Priorities for OHCHR in the sub-region should include improving the poor record on ratification and cooperation with international human rights treaties and their monitoring mechanisms; improving cooperation with the Universal Periodic Review mechanism and UN special procedure mandate holders such as the special rapporteur dealing with human rights and counterterrorism; reinforcing the capacity of national human rights institutions; and providing training and otherwise reinforcing the human rights capacity of security officers, judges, and civil society in close cooperation with UNODC, the CTED, and ICPAT.

Finally, with promoting good governance, the rule of law, social inclusion, and addressing other conditions conducive to the spread of terrorism essential to effective long-term efforts to prevent terrorism in eastern Africa, UNDP has a critical role to play, including through its democratic governance, poverty reduction, crisis prevention and recovery programme, and its field presence in all eastern African countries. Yet, UNDP has so far been reluctant to associate itself with ‘counterterrorism’ actors for fear of unduly politicising its ongoing work. So long as UNDP’s overabundance of caution remains, it will be difficult for the wider United Nations to leverage any UNDP expertise, resources, or build on the partnerships it has with local actors across the sub-region.

Finding ways to get UNDP to be less reflexively ‘anti-counterterrorism’ is crucial to encouraging the United Nations to become more active at the country level, where UNDP is the most prevalent actor. In addition, greater UNDP engagement with the United Nations’ traditional counterterrorism actors would likely increase opportunities to use the often more politically palatable rule of law framework to reinforce counterterrorism-related objectives. Such an approach may prove more fruitful in some eastern African countries than one dominated by the CTC/CTED.

The one exception to UNDP’s general reluctance to engage on counterterrorism is a Danish-funded UNDP project in Kenya which UNDP is currently carrying out in cooperation with UNODC and the Kenyan National Counterterrorism Centre under the Office of the President. The project was designed to help, inter alia, promote the adoption and effective implementation of national counterterrorism legislation that
safeguards human rights and raise awareness among the general public of the reasons why such a law is needed.\textsuperscript{20}

The close working relationship in Kenya not only between UNDP and the counterterrorism elements of the UN system, but also with government actors, civil society, and faith-based groups, may be the exception that proves the rule, but it demonstrates the logical synergies possible on the ground. Despite the challenges it has faced as a result of the political situation in Kenya, the abovementioned UNDP programme demonstrates that UNDP’s slow-moving efforts to devise a policy on counterterrorism in New York need not preclude cooperation in the field and provides a model of cooperation among a wide array on stakeholders on the ground that could be reproduced elsewhere with regard to implementation of the Strategy.

The significance of the UN Strategy for eastern Africa

Adopted unanimously by the UN General Assembly on 8 September 2006, the UN Global Counterterrorism Strategy marked the first time that all UN member states agreed on a common framework for addressing the terrorist threat. The UN Strategy presents a unique opportunity to improve both regional counterterrorism cooperation in eastern Africa and the UN system’s engagement with the sub-region.

Its four-pillar plan of action includes measures to address conditions conducive to the spread of terrorism, measures to prevent and combat terrorism, capacity-building, and ensuring an approach based on human rights and the rule of law to countering the threat. It sets forth a holistic way forward that reinforces what many terrorism experts on and from eastern Africa have long believed, namely that an effective counterterrorism strategy must combine preventative measures with efforts to address both real and perceived grievances and underlying social, economic, and political conditions.

The UN Strategy, therefore, offers states and other stakeholders in the sub-region a framework through which to promote a more holistic response to the threat. It represents a conceptual shift away from a primarily law enforcement/military approach to a more holistic one that might be characterised as a ‘human security’ approach to counterterrorism. Thus the Strategy reframes the international counterterrorism discourse in a manner that is both better suited to the needs in the sub-region and politically palatable to eastern African governments and their populations, providing an alternative narrative to the controversial US-led War on Terror.

If this conceptual shift is going to succeed in practice, however, states in the sub-region, as well as donors, need to reflect this change of emphasis in their policies. Donors and
the United Nations need to emphasise the development pillar of the Strategy and in particular target disaffected and marginalised groups and parts of the sub-region which are potential breeding grounds for terrorism.

Perhaps the greatest opportunity of the UN Strategy, however, is it that it provides countries in eastern Africa, the UN system, the African Union, relevant regional bodies, and civil society with a coherent framework that can serve as a basis for improving the overall coordination and cooperation within and among them on the continent. Eastern African stakeholders will need to determine how best to implement the Strategy’s generally broad provisions to maximise its impact on the ground and ensure that implementation efforts are not a top-down exercise initiated from and dictated by New York, but rather proceed from the bottom up and thus reflect the needs, priorities, and concerns of eastern Africa and eastern Africans.

Conclusion

There are significant challenges to effective cooperative action to counter terrorism in eastern Africa including severe intra- and inter-state conflict, increasing radicalisation, lack of state capacity, competing priorities, and political sensitivity surrounding the very notion of counterterrorism itself. To date most counterterrorism efforts have focused on short-term security and law enforcement measures to the near exclusion, and at times to the detriment, of longer-term efforts to address underlying conditions conducive to the spread of terrorism. The UN Strategy and the holistic approach it represents offer an opportunity to recalibrate counterterrorism efforts in the sub-region.

Given the nature of the states and the problems and realities on the ground in eastern Africa, however, translating the framework in the Strategy into action will be a challenge. The chances of overcoming the challenges will increase significantly, however, if the UN, and regional and sub-regional bodies, in particular ICPAT, develop effective, broad-based partnerships and programmes aimed at promoting the holistic message of the Strategy, rather than just its law enforcement and other security-related aspects, that take into account and are tailored to address the needs and realities on the ground.

ICPAT is therefore a logical focus for UN Strategy implementation efforts in the sub-region. If provided with the necessary mandate and additional resources, ICPAT could play an important role in supporting sub-regional implementation of the Strategy. It could head a sub-regional task force on implementation of the Strategy, becoming a focal point for interactions with the UN Task Force in New York and other stakeholders and devising and overseeing a plan of action for Strategy implementation in the sub-region. The IGAD ministers of justice forum of counterterrorism experts, which was created
following their September 2007 meeting in Kampala, could be used for developing this sub-regional plan of action (and monitoring and evaluating its implementation).

To make its work more broadly relevant to a broader-based approach to counterterrorism such as that reflected in the UN Strategy, ICPAT should broaden its approach both in terms of the stakeholders with which it engages and the substantive focus of its activities. Its focus on strengthening the capacity of national law enforcement and other security officials to fight terrorism should be anchored in the context of larger security enhancement efforts, and it should examine ways to expand the involvement of civil society in its work.

Notes

1 A H Bashir, Meeting of Ministers of Justice of IGAD member states on legal cooperation against terrorism, 20 September 2007 (opening speech by IGAD on file with the authors).
2 For purposes of this report ‘eastern Africa’ refers to those countries in the region of the Intergovernmental Authority on Development. These are Djibouti, Eritrea (although it withdrew from IGAD in 2007), Ethiopia, Kenya, Somalia, Sudan, and Uganda.
3 See http://www.un.org/terrorism for a list of the 24 entities represented on the Task Force.
4 Bashir, Meeting of Ministers of Justice.
12 The AU’s counterterrorism framework includes the 1999 Organisation of African Union (OAU) counterterrorism convention and the 2002 counterterrorism plan of action and 2004 protocol.
13 Martin Ewi and Kwesi Aning, Assessing the role of the African Union in preventing and combating terrorism in Africa, African Security Review 15(3) (2006), 43. As of 2007, the Council of the European Union intended to contribute €665 million to the ACSRT for a programme to support AU member states’ capacities to combat terrorism and the European Commission contributed some €1 million to help set up the ACSRT’s information technology and database system as well as its documentation centre, and to organise training seminars for relevant AU member state officials.
16 There are a number of UN peacekeeping and other activities related to addressing the longstanding
conflicts in the sub-region which are relevant to elements of the Strategy, but which will not be addressed in this paper due to space limitations.


18 Even in the cases of Kenya and Uganda, it is not clear to which extent the CTC/CTED was responsible for the matching up of donors and recipients. See the semi-annual report of the work of the Counterterrorism Executive Directorate 1 January to 30 June 2007 – Annex 2: Progress and outcomes of the facilitation of technical assistance by CTED [on file with the authors].


20 The project has worked since 2006 to assist with the finalisation of Kenya’s anti-terrorism bill – which has still not been passed by parliament – and anti-money laundering bill; convene sensitisation and awareness-raising workshops; organise training workshops for officers from the judiciary and the security sectors; assist in the establishment of a financial investigation unit; and produce and disseminate informational materials: UNDP, e-mail communication with authors, 7 December 2007. UNDP has conducted public awareness raising workshops in different parts of the country, focusing mainly on police chiefs and sub-chiefs. However, much of the work has yet to take place because many of the other project activities were contingent upon the passage of the counterterrorism bill, which remains stalled in parliament due to strong objections from civil society that the draft targets Muslims and expands the powers of a police force already accused of abusing its current powers. The continuing political sensitivities surrounding this issue have not allowed UNDP to bring together officials from the NCTC and civil society to discuss the difficult issues surrounding the legislation as was planned. Despite the problems caused by tying the programme’s mandate to the passage of a specific piece of legislation, UNDP Kenya can play an important role in promoting implementation of the Strategy there because of its strong relationship with both Kenyan counterterrorism officials and civil society.
The scramble for mineral resources in Cameroon: How can the government learn from previous conflicts and social responsibility failures?
Rexon T Nting

Human insecurity: The problem of poverty, unemployment and social exclusion
Mxolisi Makinana
The scramble for mineral resources in Cameroon: How can the government learn from previous conflicts and social responsibility failures?

Rexon T Nting

Introduction

The objective of this commentary is to reflect on conflicts linked to social responsibility (SR) failures and propose suggestions for the efficient management of Cameroon’s mineral resources. The argument put forward is that a rigorous evaluation of the reasons for the failures of SR in Africa can assist in the establishment of proper accountability in the management of revenues generated by mineral exploitation. This will in turn have a positive influence on tension and promote the nation’s socio-economic development.

An unprecedented increase in the price of mineral deposits has fostered exploration and exploitation in resource-rich sub-Saharan countries such as Cameroon. In addition,
owing to recent political instability in oil-producing countries in the Middle East, the interest of mainstream Western multinational companies and new global players such as China, India and Malaysia has shifted to the Gulf of Guinea, and most consider this to be a significant source of oil for the future.

In a bid to benefit from the recent surge in commodity prices, the Cameroonian government has recently engaged in wide-scale mineral exploitation. Before the 1980s wealth generated by the exploitation of mineral resources was widely regarded as a blessing for developing economies and a means of improving the welfare of their citizens. However, since that time the view of mineral exploitation has changed, leading to the development of a new theory of ‘resource curse’. Its advocates are concerned about the adverse effects of the dependence on mineral exploitation for economic growth, development and equity, particularly in rural economies.

An analysis of the sociopolitical dynamics of Cameroon will affirm that it is a relatively peaceful country compared to many African nations with natural resources. However, the recent drive towards mineral exploitation could lead to conflict if appropriate measures are not taken to ensure sustainable economic development. In this respect it is important to bear in mind that a typical developing country that has been at peace for a long period has a 9 per cent risk over the period of a decade of descending into large-scale violence if appropriate measures are not taken to promote social cohesion.

Research suggests that steep economic growth of nations does not directly reduce the risk of conflict, except if accompanied by a reduction in the dependence upon natural resources. When the host community does not benefit, modes of resistance might emerge among the population in defence of livelihoods and to protect assets by challenging the structures, discourses and institutions that drive and permit exploitation of their minerals.

The Cameroonian government needs to be able to manage expectations that follow economic growth, especially when the new economy (based on mining investments, for example) is likely to influence the livelihood of the rural communities. This has been the case in several African countries (such as Botswana, South Africa and Namibia), where there has been a visible contribution of mining revenues to socio-economic development and political stability. In other nations – such as Angola, the Democratic Republic of Congo (DRC), the Republic of Congo, Liberia, Sudan, Central African Republic and Sierra Leone – who have seemingly irresponsible and corrupt governments, mineral exploitation has been linked to numerous economic problems, including a lack of public infrastructure, unequal distribution of wealth, environmental pollution and exploitation of labour. These are clearly signals of SR failures.
Government policies and social responsibility failures in Africa

African governments (among them Cameroon) have recently deregulated investments laws related to resource capture and economic development. This was due to concerns about the sheer power of multinationals and the amount of profit they accrue. Influenced by several national and international non-governmental organisations (NGOs), this has stimulated debates about the long-term economic benefits of various exploration contracts in developing economies for the host communities.

Because of the lack of technological know-how and financial resources to undertake costly exploitation of minerals, governments in developing economies have bargained from weaker positions. As a result, they have accelerated the exploitation of mineral resources, often speedily signing contracts without consulting with local communities. This has in most cases fuelled discontent among the affected communities.

The huge power that multinationals wield (such as Elf, the French state oil company, in Congo) often threatens democracy, because weaker African governments tend to accept these companies to ensure their political survival. The result is, however, that investment policies stemming from the globalisation of businesses do not directly benefit weak African states. Instead, it might pressurise the host governments to bring about deregulation that strengthen the power of multinational corporations. Since economic growth and development are linked to political survival and politicians are often pressured to sign deals that purport to promote economic growth, politicians must in most circumstances be willing to uphold a precarious balance between their short-term political gains, which are inextricably linked to their survival, and the perceived long-term economic cost.

Multinationals often consider community demands linked to SR to be unrealistic expectations which require that they take on government responsibilities. They believe they are simply carrying out their normal activities, after receiving government approval. In their view it is the responsibility of the government, to whom they pay area royalties, to improve the governance of mineral rights and reduce ethnic tension through inclusion of host communities in wealth creation. They regard any additional expenditure on community development as a gesture of goodwill and a partial recognition of the deficiencies of the governments. However, many analysts and the host communities are of the opinion that it is the responsibility of companies whose operations affect the environment to act responsibly.

The conflicting views suggest that prevailing regulations linked to SR are inadequate and need to be overhauled. African governments play a crucial role as far as clarifying and enforcing SR legislation are concerned.
African conflicts linked to natural resource capture and social responsibility failures

African economies generate most of their export revenues from one or two natural resources. Countries like Nigeria, Angola, Congo-Brazzaville and Equatorial Guinea generate more than 75 per cent of their export revenues from oil alone. Others, such as the Central African Republic, Rwanda, Guinea, the DRC, Liberia and Sierra Leone, generate almost all their export revenues from the exploitation of mineral resources such as gold, diamonds, uranium and bauxite. This suggests that the development of African economies is greatly dependent on the management of their mineral revenues.

Despite investments in the exploitation of natural resources of several African nations, the local communities rarely derive any direct benefit. On the contrary, in regions like Ogoniland and the Niger Delta of Nigeria, water sources have been polluted and land appropriated without any compensation. As different political and social groups usually want a direct input into the management of royalties and a say in the development of their communities, there are bound to be conflicts.

In Africa both intra-state conflicts (for example in Nigeria, Sudan, Sierra Leone, Liberia, Angola, Congo and Guinea) and inter-state conflicts (for example between Cameroon and Nigeria and between Gabon and Equatorial Guinea) have always been a part of the political scene, fuelled by an interest to control regions with substantial mineral resources. A case in point is the Bakassi region, which received little socio-economic development and political attention from either the Nigerian or Cameroonian governments prior to the escalation of the conflict. In Angola, the civil war that lasted for close to three decades was fuelled by the discovery of petroleum and other mineral reserves. The main rebel movement (UNITA) was known to be selling diamonds on the black market to finance the war against the Angolan government. Other countries (such as Sierra Leone, Liberia, the DRC and Angola) have recently emerged from devastating conflicts, often sponsored by international businessmen who exploit the mineral resources of conflict zones.

Cameroon’s mineral potential and the recent scramble by multinationals

According to recent geological surveys Cameroon has an extremely rich mineral wealth with over fifty varieties occurring in commercial quantities. Recent discoveries include bauxite in the Minam and Martap regions (estimated at one billion tons) and iron ore deposits in Kribi (estimated at 200 million tons). Other mineral deposits recently discovered and exploited in small quantities include diamonds, tin, gold, mica, marble, columbo-tantalite, silica sand, cassiterite, lignite and rutile.
### Table 1 Cameroon’s mineral potential and major new international investors

<table>
<thead>
<tr>
<th>Company</th>
<th>Country of origin</th>
<th>Year commenced</th>
<th>Mineral</th>
<th>Estimated quantity</th>
<th>Area</th>
<th>Investment value (US$)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hydromin</td>
<td>US</td>
<td>2006</td>
<td>Bauxite</td>
<td>2 billion tons</td>
<td>Minim, Martap and Adamaua</td>
<td>4–5 billion</td>
</tr>
<tr>
<td>Geovic</td>
<td>US</td>
<td>2003</td>
<td>Cobalt, nickel, manganese</td>
<td>Cobalt: 4 200 tons per year Nickel: 2 100 tons per year</td>
<td>Lomie, Nkamouna</td>
<td>n/a</td>
</tr>
<tr>
<td>Mega Uranium Ltd</td>
<td>Canada</td>
<td>2007</td>
<td>Uranium</td>
<td>n/a</td>
<td>Kitongo, Teubang and Lolodorf</td>
<td>n/a</td>
</tr>
<tr>
<td>African Aura Resources</td>
<td>UK</td>
<td>2006</td>
<td>Gold, iron, diamonds, Uranium</td>
<td>n/a</td>
<td>Batouri, Tchollire, Rey Buba, Djoum, Akonolinga, Essong, Ekomedion, Mbanga, Ntem and Nkout</td>
<td>n/a</td>
</tr>
<tr>
<td>NiCo Mining</td>
<td>Canada</td>
<td>2007</td>
<td>Nickel, cobalt</td>
<td>n/a</td>
<td>Lomie</td>
<td>n/a</td>
</tr>
<tr>
<td>Sundance</td>
<td>Australia</td>
<td>2007</td>
<td>Iron</td>
<td>567 million tons</td>
<td>Mbalam</td>
<td>2,6 billion</td>
</tr>
<tr>
<td>Alcan</td>
<td>Canada</td>
<td>2006</td>
<td>Bauxite</td>
<td>n/a</td>
<td>Minim, Martap and Ngouandral</td>
<td>n/a</td>
</tr>
<tr>
<td>Gansu Corporation</td>
<td>China</td>
<td>2007</td>
<td>Bauxite</td>
<td>n/a</td>
<td>Minim, Martap and Ngouandral</td>
<td>n/a</td>
</tr>
<tr>
<td>Lafarge</td>
<td>France</td>
<td>Already present</td>
<td>New limestone</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Small-scale mining</td>
<td>Cameroon and foreign countries</td>
<td>2007</td>
<td>Gold, diamonds, etc</td>
<td>n/a</td>
<td>Nationwide</td>
<td>11,13 million</td>
</tr>
</tbody>
</table>

Source: Compiled by author from information collected from media sources such as Reuters, Dow Jones, Bloomberg, and Cameroon Radio and Television.
With a flood of new investors, including prominent multinationals, the government hopes to attract investments in excess of US$10 billion and create more than 27 000 jobs in Cameroon over the next few years. Recent investors include Geovic Cameroun SA, which mines cobalt, Nu Energy Corporation Cameroun, which is exploring uranium, Australia’s Sundance Resources Ltd, which is exploring iron, and the US Company Hydromin Inc, which is exploring bauxite. These investments have been stimulated by the introduction of a 2001 mining code giving investors incentives such as a five-year tax break and a free transfer of capital out of the country.

In line with the government’s aim of integrating the mining sector into the formal economy, it initiated an ambitious plan to organise and develop the mainly small-scale mining companies in Cameroon before 2001. This led to the injection of close to US$11.13 million in funding for small-scale miners which has so far generated 5 000 new jobs and is expected to reach 15 000 by 2010.

After close to 15 years of political debate between Cameroon and Nigeria, the much disputed Bakassi Peninsula – thought to hold huge oil deposits – was handed to the government of Cameroon by the International Court of Justice. In other parts of the country (for example onshore Logone, and in the Birni and Garoua basins) it is speculated that there are exploitable oil and gas deposits. The Cameroonian government has recently signed exploration contracts with foreign oil and gas companies to prospect for oil in the area.

The implications of this huge potential are that despite the flawed political record of the government of the Republic of Cameroon, foreign multinationals are still interested in exploring the minerals of the country.

The role of accountability and community engagement in conflict reduction

While resource revenues have a positive effect on economic growth in countries with good governance, their effect in countries with poor governance has on the whole been negative. In addition, commodity prices are highly volatile and thus do not provide a steady source of income, and depletion of stock over time could also lead to a decrease in revenue. The implications are that the management of revenues from windfall mineral discoveries is very important if the country is to have any chance of escaping from the so-called resource curse.

There are huge problems in the Cameroonian socioeconomic and political set-up, including corruption, tribalism, nepotism and cultural clashes, which hinder the smooth functioning of government institutions. For close to three decades revenues received by
Cameroon’s offshore oil resources were largely unaccounted for. It took the intervention of multilateral organisations like the World Bank before the government agreed to include oil revenues in the national budget. Not only is economic growth of the utmost importance in the promotion of peace, the distribution of aggregate economic benefits is also important in maintaining peace.

Although companies operating in Cameroon have not come under too much pressure from international activists worried about failures in SR, there is widespread discontent amongst the Cameroonian people and local NGOs about what benefits local communities have gained from the exploitation of its natural resources. For example, although almost 90 per cent of petroleum originates from the Rio-Del-Rey area in Anglophone Cameroon, indigenous communities there lack basic social facilities and have complained of employment discrimination by a government that mostly favours Francophones.

Cameroon is generally known for being underdeveloped and suffering from poor public infrastructure, red tape and costly corruption, factors that often deter foreign investors. The nature of leadership in Cameroon is frequently described as dictatorial. Tribalism and corruption are rampant, and there is bound to be conflict if investors and stakeholders do not foster the interests of host communities. These problems can only be resolved if a system of checks and balances is instituted in the management of revenues generated from the exploitation of the country’s new-found mineral resources.

Conclusion and recommendations

Cameroon has never experienced conflicts linked to mineral resource capture before, but the scramble by multinationals and small-scale miners for its huge mineral deposits changed this state of affairs. It is this author’s belief that the current investment policy of the government of Cameroon is aimed simply at easing public pressure linked to economic failures and at legitimising the government’s short-term political ambitions. Past experience with mineral exploitation has shown that post-investment movements emerge in many countries with high-level government corruption such as that in Cameroon, to contest the development of extractive industries. To avoid such a development, the government of Cameroon needs to initiate sustainable investments for the benefit of the host communities.

The author also believes that if public accountability and governance are not improved, it would have a negative influence on the national economy, similar to the resource curse. In such a scenario the exploitation projects will only benefit rich contractors and affluent businessmen linked to the political system.

In conclusion it may be stated that armed conflict might occur if local economic development programmes that identify and promote income-generating opportunities
for local communities, and particularly the poor, are not implemented by the government in conjunction with the multinational companies.

Notes

6 To some countries, gems bring only misery, International Herald Tribune, 7 April 2000.
7 T Musa, Cameroon targets $10 billion mines investment, Reuters, Friday, 25 July 2008.
11 Ibid, 4.
12 Darimani, Mineral resource capture and conflicts in Africa, 4.
15 Musa, Cameroon targets $10 billion mines investment, 3.
17 Ibid.
23 See for example Collier et al, Managing resource revenues in developing economies, 3; Miguel et al, Economic shocks and civil conflict, 3.
24 Musa, Cameroon targets $10 billion mines investment, 3.
Human insecurity: The problem of poverty, unemployment and social exclusion

Mxolisi Makinana

Introduction

Much of the conflict troubling South Africa and the African continent today – whether it is poor-on-poor violence in a community (such as the xenophobic attacks that occurred in South African informal settlements in 2008 and what Mahmood Mamdani calls non-revolutionary violence), marches against high food and energy prices, or resistance to forced removals in squatter settlements – is a result of poverty, unemployment and social exclusion. This article looks at what can be done to eradicate poverty in such a way that people can lead better lives and ensure a better future for their children.

The low purchasing power of agricultural and pastoral producers with little or no productive capital prevents them from meeting their basic human needs with respect...
to nutrition, literacy, health and security. Without sufficient income and political structures which are responsive to their needs, people cannot meet their minimum nutritional requirements, pay school fees for their children and ensure for themselves and their families access to a healthy environment that includes the housing, health care, food, water and social security that are guaranteed by the Constitution. Failure to fulfil these basic needs reinforces poverty, leads to greater social deprivation and may aggravate conflict.

Lack of transformation in agriculture and other economic activities in rural areas through education, training and agricultural extension and credit programmes have led to a relative lack of improvement in production tools, methods and techniques, low productivity, and the continuation and expansion of poverty.

It is in pursuit of their right to earn a living wage that rural people migrate to urban areas, where they hope to enjoy a better standard of living. Unfortunately, South African urban areas are characterised by expanding populations but without concomitant expanding economies. The result is a growing unemployment rate, an increase of the informal economic sector and an inability by large segments of the population to pay service fees and municipal rates for the social services they require and use. This also results in communities clashing with authorities over service delivery.

On the other hand, it is in urban areas that poor people are more likely to have access to social services like education, health, water, sanitation and public transportation. This explains the increase in squatter settlements, a major cause of conflict stemming from the housing question.

**The housing question**

There are two interconnected aspects to the housing question, namely the housing shortage and the struggle for space. The housing shortage and the related issues of unsanitary living conditions and squalor are structural problems, and ones that cannot be dealt with in a technocratic manner as simply a case of improvements to the habitat. These issues cannot be solved without major changes to the economic structure, an argument made by Frederick Engels in his 1872 book *The housing question*. The struggle for space, particularly urban space, is an outcome of the failure or reluctance of the government to promote the interests of the poor against those of the richer classes.

The housing shortage is a structural problem because property capital, like commercial capital, simply entails buying commodities (land, dwellings, office buildings and floor space) in order to sell or rent them to others at a higher price. However, investors are more interested in expensive buildings and locations, which bring in more profits. In
South Africa decent housing is priced out of the reach of low-income groups (and some sections of the middle classes), most of whom find shelter in overcrowded townships or build their own shelters in squatter settlements.

As a struggle for an economically viable space, the struggle over urban space is connected to the following:

- The urban question, or the organisation of those economic, social and cultural activities on which the daily lives of urban residents depend

- The ecological question, or the relationship between land use, economic activities and the quality of life

These two questions influence people’s interaction with bureaucrats over plot allocation, and their political protest against the state through squatting as an affirmation of their right to urban space. Squatter settlements (Joe Slovo in Langa, Ramaphosa, and the like) allow poor people to avoid high rents and the constant threat of evictions for non-payment of rent; to live closer to their place of work or trade and thus avoid the need for costly transportation (this was one of the reasons advanced by residents of Joe Slovo for their refusal to be relocated to Delft, further away from Cape Town); and to have easier access to essential services such as clean water, health centres and schools. Squatters regard these as major social gains, which are worth protecting against anyone, including state authorities. Hence there are organisations like Abahlali baseMjondolo (the South African shack-dwellers movement), the Western Cape Anti-Eviction Campaign and the Landless People Movement who fight for and defend these social gains. These groups are willing to use violence to defend their settlements if these are threatened with destruction.

Because the poor see squatting as a form of resistance, they will continue to regard it as a partial solution to their problems. This will only change if squatters are gainfully employed and have sufficient incomes to enable them to take advantage of low-cost housing and sites and services programmes. Because they have a right to earn a decent living and have easier access to social services, they need to be empowered economically, politically and culturally to overcome poverty and social exclusion.

Although poverty eradication has purportedly been a major priority for the present government, it has not been realised on a large scale. The government has followed the ‘shopping list’ approach of international organisations by looking at issues like healthcare simply as a technical package of services which deals with ill health stemming from poverty without seeking to eliminate its causes. This approach looks at the effects of poverty rather than its roots, which have to do with economic, political and cultural problems. That is why the poor must organise themselves to eradicate the causes of ill
health, inadequate housing and the like, and to create the conditions to prevent them from recurring. Without this, it is submitted that targets such as that of Department of Housing to ‘eradicate squatter settlements by 2010’ are empty slogans, however laudable the intention behind them might be.

The question that needs to be answered is whether the South African state, as structured at present, can create an environment that would allow the poor to organise themselves and find a solution to their problems.

For this to happen, in the housing or any other sector, the state must be restructured from being a network of relations built around a dominant individual to a set of impartial institutions serving the general interest. The institutional structures of good governance must also include devolution of power to provincial and local authorities (as provided for in the Constitution) and a greater role for civil society organisations and other mechanisms of popular participation in public policy-making.

Poverty eradication is not going to take place through ideologically loaded slogans like ‘war on poverty’ and target dates adopted by government or elites at conferences. It will come about only through concrete policies and programmes designed to transform those economic, political and social structures perpetuating poverty in South Africa, at the local, national and international levels. A major aspect of this transformation concerns changing the definition of what is needed and realising that this should not be regarded as handouts from the government but as part of the basic rights and means to which people are entitled for increasing their ability to improve their lives. In this regard, since housing, health care, food, water and social security and other basic amenities of life are both conditions of development and basic human rights, the kernel of the question is not what the state can provide for the people (within its available resources), but what kind of control the latter can have on their access to these services. Who should control housing, healthcare, water supply, waste disposal, and so forth – the state, private corporations or the people?

Answers to these questions depend on South African politics as it is played out in front of our eyes. Nicolas Machiavelli’s understanding of the essence of politics is most relevant to our understanding of South African politics. The Prince, this Italian political philosopher and diplomat’s most famous book, can be regarded as a practical manual/guide on how to rule. In this book the ruler receives concrete and practical advice on how to remain in power and survive, based on such ingredients as ruthlessness, deception, cruelty and manipulation. Those in power must be seen to be generous (offering company shares to workers’ unions, donating money to charitable organisations) whilst maintaining their power. They must appear to be compassionate (visit people whose shacks have been destroyed by fire, show compassion to victims of xenophobia and crime) while ruling with an iron fist (criminalising unemployed youths and students,
arresting progressive community, religious and workers’ leaders, using terror campaigns and performing mass murders in the name of anti-imperialism and neo-colonialism, as happened in Zimbabwe). It would seem that politicians say one thing, mean another and do yet something else. However, there are principled people in politics, such as Kwame Nkrumah, Amilcar Cabral, Patrice Lumumba, Steve Biko, Robert Sobukwe and Nelson Mandela, who led the way in a more liberating political leadership, based on the struggle of the people and their needs.

**Populist versus popular leaders**

What is the difference between a popular leader and populist politician? They are a world apart. The defining features of a populist is that he or she:

- Focuses on power
- Is a demagogue, saying and using slogans that people want to hear (for example on the creation of jobs or building of houses), and using primitive prejudices of race, tribalism, religion, gender or age
- Exploits prejudices to his or her advantage
- Leads from behind
- Is an opportunist
- Wants to be and remain ‘popular’ even if that means employing deception and conspiracies

A popular leader, in contrast, is one:

- To whom the cause and principles are important
- Who tells the truth, even if this makes him or her unpopular
- Leads the masses
- Who does not crave power or popularity

Populists leader want to remain popular. They use deception and false promises (promises of a better life for all, war on poverty, jobs for all) to gain popularity and when they cannot deliver and their popularity wanes, they become dictators. Herein lies the
danger of a popular leader becoming a populist one – if a popular leader has an obsessive belief in the morality of his cause, his popularity could degenerate into populism.

In this regard intellectuals play a critical role. Intellectuals are supposed to hold up to the society its wrongs and assist it in understanding where it is coming from and where it is going. Hence South African intellectuals should critically assess the experience of the liberation struggles (especially in the Southern African region as these often reflect what is happening within our borders) to discover the basis of its degeneration into fascism – as has happened to Zanu-PF (the Zimbabwe African National Union – Patriotic Front) in Zimbabwe. This requires a close examination of the issue of organisation (of particularly liberation and political parties like the African National Congress, Pan-Africanist Congress and Azanian People’s Organisation) as well as its leadership (for example Mugabe, Mbeki, Zuma). Intellectuals should be able to go beyond a formal understanding of an organisation, beyond its constitution, rules and its own description. A prison is not necessarily an institution where criminals are punished for their crimes and receive rehabilitation and education on the morals of society (its definition), as some offenders leave prison as graduates in the art of crime! Hence we have the phenomenon of recidivism. When analysing political parties, it is therefore imperative that a distinction be made between popular participation and control, and between membership and leadership.

Some parties, such as the African National Congress, have a popular base, but its direction comes from a particular class. An analyst must be able to identify the particular interests (or constellation of these) that are manifest (be it the populist forces aligned to Jacob Zuma or the neo-liberal forces around Mbeki) in the functioning of an organisation. On the question of leadership, some leaders seem to be surrounded by an aura of majesty or glory and are regarded with reverence. People seem then to forget that they are supposed to represent the people and be the servants of the people. Such leaders are at times regarded as the ‘elder’ or ‘utata’ (representing the original first president who has attained the status of the founding father and became a god-like figure), the ‘sage’ (representing the teacher president, a fount of knowledge to whom people have to listen), and the ‘warrior’ (who continues the legacy of the anti-colonial struggle).

The question is: Why is this exaggerated importance of an individual in politics allowed? The solution is that individual importance should be demystified by means of an objective political analysis by which the personality and charisma of the individual are situated within the political process. To paraphrase Karl Marx: ‘Just as one does not judge an individual by what he thinks about himself, so one can not judge a period of transformation by its consciousness, but on the contrary, this consciousness must be explained from the contradictions of material life.’ However, this is easier said than done.
Notes

1 The views expressed in this article are solely those of the author and do not reflect the position of the Department of Justice and Constitutional Development.

2 ... violence in which different groups of more or less equally impoverished and disempowered people are pitted against each other. Fanon called such people the wretched of the earth. When the wretched of the earth divide into contending groups that take it out on one another, that violence is non-revolutionary', in M Mamdani, Making sense of non-revolutionary violence: some lessons from Rwandan genocide, Westville: University of Durban Westville, 2001, 1. See also F Fanon, The wretched of the earth, New York: Grove Press, 1963.

3 'Of the more than 6 billion people living in the world today, the United Nations estimates that close to 1 billion suffer from chronic hunger. But this number, which is only a crude estimate, leaves out those suffering from vitamin and nutrient deficiencies and other forms of malnutrition. The total number of food insecure people who are malnourished or lacking critical nutrients is probably closer to 3 billion – about half of humanity. The severity of this situation is made clear by the United Nations estimate of over a year ago that approximately 18 000 children die daily as a direct or indirect consequence of malnutrition, in F Magdof, The world food crisis: sources and solutions, Monthly Review, New York: Monthly Review Press, May 2008, http://www.monthlyreview.org/080501magdoff.php#Volume (accessed 18 August 2008).


5 During the 1870s Engels contributed to the polemics unfolding in Germany’s press on the shortage of housing available to workers because of their influx into industrial centres. The crux of Engels’s argument for solving this problem was that the revolutionary point of view of the industrial proletariat cannot be replaced by reformism. He argued that the abolition of capitalism, eradication of the antithesis between town and country and solving of the agrarian problem were the only possible ways of solving the housing question.

6 There have been many legal challenges with regard to evictions and the realisation of the right to housing. The Constitutional Court has on many occasions made pronouncements on the legal enforceability of socioeconomic rights. In the Government of the Republic of South Africa & Others v Groothoon & Others 2000 (11) BCLR 1169 (CC) the court was emphatic on the position held in the First Certification case that socioeconomic rights cannot exist nominally. The link between socioeconomic rights and political/civil rights was noted in the Groothoon case and the fact that affording economic and social rights to all people enables them to enjoy the other rights in Chapter 2 (the Bill of Rights). It is also important to note that South Africa is a signatory to the International Covenant on Economic, Social and Cultural Rights. Therefore the South African state has a constitutional and an international duty to observe and protect socioeconomic rights. In the Groothoon judgment the respondents (510 children and 390 adults) were rendered homeless as a result of being evicted from their informal homes around the Cape metropolitan area. They applied to the High Court for an order requiring government to provide them with adequate basic shelter or housing until they obtained permanent accommodation and were granted relief. They based their action on section 26 of the Constitution (housing), which places a duty on the state to take reasonable legislative and other measures within available and limited resources to ensure progressive realisation of these rights. In section 26(3) the Constitution further provides that ‘No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstance. No legislation may permit arbitrary evictions.’

7 A Xhosa word for father.


Human rights in peril in Africa

Jeremy Sarkin

Rebels and robbers: Violence in post-colonial Angola

Assis Malquis
Human rights in peril in Africa*

Jeremy Sarkin

‘No one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones’.

– Nelson Mandela

The challenges of Africa are many and varied. So also are the solutions. What is lacking is the political will to effect comprehensive and constructive change to the existing status quo. There is a solution for the every problem, but how constructively engaged those are who are seeking the right answers, will determine the solutions at which they arrive. Sarkin points out that to fully understand the status of human rights in African prisons, it is critical to understand the development of the penal system in Africa, as

many of the problems that existed during colonial times still prevail throughout the continent (p 12).

*Human rights in peril in Africa* is a well-research book that exposes the reality of jails in African countries. It is packed with information on the state of prisons across the continent and also exposes the continent’s state of democracy and good governance. It addresses the core concerns of fundamental human rights as far as the issues of law and order, justice and the penal code are concerned. This makes the book the first comprehensive investigation into African prisons and as such it is essential reading for members of government, academia and all interested in human rights and prison reform.

The origin of the book can be traced to the Organisation of African Unity (OAU) which mandated five heads of state, namely those of Algeria, Egypt, Nigeria, Senegal and South Africa, to develop an integrated socioeconomic development framework for Africa and which resulted in the creation of the new Partnership for Africa Development (NEPAD). A major focus of NEPAD is the eradication of poverty on the path of sustainable development and growth, to halt the marginalisation and exploitation of Africa in the globalisation process.

Statistics and information about prisons in Africa are scanty. However, what is known is that South Africa has the highest rate of incarceration on the continent and that the continent has approximately 3,000 prisons with about one million prisoners. Africa has just over 10 per cent of the world’s prison population.²

The book provides useful statistical data. The International Crime Victim Survey found that the majority of people in Africa (69 per cent) and Asia (60 per cent) supported incarceration, as opposed to those in other parts of the world.³

The book is divided into ten chapters, and each chapter is written by a different author. Chapter 1, written by Jeremy Sarkin, provides an overview of human rights in prisons worldwide. This section contains vital statistical data – the state of prisons, reforms and charters by African states and the international community which are relevant to prisons. Sarkin points out certain common characteristics of prisons worldwide, namely that prisons are integral fixtures of all societies, that prisons globally are plagued by similar problems, and that prison populations around the world have much in common.

The number of prisoners globally has been rising rapidly, especially since the 1990s. Between 1998 and 2004 the population of prisoners worldwide increased from 8.1 million to 9.1 million.⁴ In 173 countries with available data, two thirds have seen an increase in inmates and 50 of these countries have shown a 50 per cent increase in prison population in the 12-year period from 1992 to 2004.⁵ The United States has the highest confinement rate in the world, of 714 individuals for every 100,000 members of its national population.
Chapter 2 by Stephen Pete presents a synopsis of human rights in African prisons from pre-colonial days, through the Atlantic slave trade to the present. He discusses areas such as racial discrimination, corporal and capital punishment, imprisonment of women, political oppression and economic collapse, and the HIV/AIDS pandemic. The writer concludes with the statement that after examining the systematic and sustained violations of human rights in African prisons, it is a fair assessment to state that Africa's overall record is appalling.

Chapter 3 on challenges to good prison governance in Africa by Chris Tapscott emphasises governance, reforms, overcrowding and prison design, healthcare, management of youth and children, rehabilitation programmes and human resources management. His conclusion is that prison governance remains a serious challenge for states across the continent.

In chapter 4 Victor Dankwa deals with one of these challenges, namely overcrowding in prisons. He makes a strong appeal to African countries to follow international norms and standards, particularly those created by treaties to which African states are party.

In chapter 5 Martin Schonteich focuses on pre-trial detention and human rights in Africa. He looks at African jurisprudence and resolutions adopted by the African Commission on Human and Peoples’ Rights (ACHPR) and shows that there are significant gaps between states’ de jure and de facto compliance with international standards in respect of pre-trial detention. The chapter contains a wealth of statistical data on the issue of pre-trial detention across the continent.

Julia Sloth-Nielson tackles issues of children in African prisons in the next chapter. She examines prison conditions found in practice, concerns about the separation of children from adults in detention and children of imprisoned mothers, and education, nutrition and healthcare. She also highlights positive aspects of African approaches to incarceration. She concludes by noting that in relation to children in conflict with the law, there are promising indications of reform efforts in law and in practice to minimise the practice of depriving children of their liberty and incarcerating them in penal institutions as a means of punishment.

In the chapter entitled ‘The imprisonment of women in Africa’, Lisa Vetten deals with issues relating to women in African prisons, in such diverse areas as menstruation, pregnancy, birth and children in prison, the children outside prison of incarcerated women, violence and abuse, women’s crimes, marriage, sex and sexually transmitted diseases. In conclusion she appeals for an understanding of the many ways in which women may be denied their liberty by looking at the operation of the various legal systems applied on the continent, as well as the different institutions and practices that are used to detain and confine women. In this regard imprisonment is the end point of a continuum of censure and regulations applicable to women’s conduct.
In chapter 8 Amanda Dissel draws attention to issues of rehabilitation and reintegration in African prisons by looking at regional instruments, legislation and policy frameworks, literacy training and education, access to religious services, open prison systems and the role of civil society and reintegration into the community. She notes that the prison ideology continues to be influenced by the ideas of the developed Western world despite the vastly different conditions, culture and resources in African prisons. However, what is not different are the fundamental human rights, for these are same the world over. The author notes that imprisonment is not effective as a form of rehabilitation and therefore she recommends that this should not be the first avenue followed by the criminal justice system to punish offenders. Imprisonment should be used sparingly and only for those offenders that are deemed to be a very high risk to society.

In chapter 9 Lukas Muntingh looks at alternative sentencing options for Africa. The writer discusses amongst others the origins of alternative sentencing in Africa with a focus on Zimbabwe, and includes numerous statistical data underscoring the level of prison overcrowding in selected African countries (pp 184, 185 and 187). With regard to alternative sentencing on the continent he refers to a number of declarations, such as the Kampala Declaration on Prison and Penal Reform of 1996, the Kadoma Declaration on Community Service Orders of 1997 and the Ouagadoudou Declaration on Accelerating Penal and Prison Reform of 2002. These declarations are significant in that they are an acknowledgement by African states that problems exist in prisons and that they contain measures to address these issues. Appending their signatures not only illuminates the position of that African country on the declaration in question, but most importantly shows willingness to implement it – to walk the talk. Muntingh amongst others states that criminal justice reform and sentencing reform need not follow the route of European development of the last fifty years, in which the state played a central role. He mentions the Gacaca system practised in Rwanda and the peace committee in South Africa as alternatives for achieving justice. However, building of bridges to cross the divide between formal criminal justice structures and traditional structures will require a change in mindset. An inclusive approach need not mean loss of power by the formal criminal justice system, but it is vital that judicial officers receive the necessary training to ensure that they understand how community-based mechanisms function.

The last chapter, on the African Commission approach to prisons by Rachel Murray, addresses the role of international institutions in assessing prison conditions. The importance of the role of the special rapporteur is emphasised and the role of the ACHPR on the continent with respect to the state of prisons and other places of detention is discussed as well. It faults the commission for not being coherent on the one hand and for not developing clear policy guidelines on the other.

The publication is well referenced. It is written by a panel of highly regarded scholars in the field, including the former chairperson of the ACHPR, professors on human
rights, deans of faculties of law, political science, and sociology, senior legal officers and attorneys. The book provides a detailed analytical and comparative collection of the situation in African prisons and critically examines how various human rights concerns such as overcrowding, healthcare, pre-trial detention and the treatment of women and children are dealt with. The book shows that processes are under way across African states to reform prisons and improve human rights in African prisons. The AU Commission on Human Rights, which met in Abuja, Nigeria, in November 2008, faced the same challenges for improving on its poor human rights record on the continent.

Sarkin’s book is insightful and absorbing on many levels. It is essential reading for government officials, academics, members of non-governmental organisations and all persons interested in human rights and reforms on the continent. It is a most welcome publication that fills a gap in the field of African correctional and prison services. The book suggests practical solutions for upholding fundamental human rights and freedoms in Africa.

The reviewer, John W Forje, is a member of the teaching staff of the University of Yaoundé II-Soa and a visiting lecturer at the University of Buea, Cameroon

Notes
5 Ibid, 7 and 99.
Rebels and robbers: Violence in post-colonial Angola*

Assis Malaquias

Violence in any country is a bad recipe for the realisation of development goals. As such it has to be researched with the intention of understanding and reducing its occurrence. This book by Assis Malaquias is aimed at analysing how violence in post-colonial Angola affected development and how it was subsequently dealt with after years of civil strife.

The text begins by giving a background to Angola's violent history. The author notes that ‘violence – both physical and structural – inflicted upon the country by its rebels and robbers has helped to create important political and economic bases for state building and indigenous driven development that were absent at the time of independence’ (p 13). The book gives a background to the legacies that characterised Angolan society from pre-colonial period to the early years of post-independence. The author alludes to issues

of ethnic groups and their physical location, natural resources and the dynamics of the colonialism and nationalism, and subsequently the emergence of the civil war.

The author analyses the violence characterising Angolan society in the post-independence era. He is convinced that the roots of violence lie in the legacies that emerged in Angolan history, namely the slave trade, colonial violence, and the bifurcated liberation movements. He proceeds to analyse the liberation movements (MPLA, FNLA and UNITA) alluding to their historical development and factors at play in their establishment and survival. In essence, the author notes that ‘the roots of the extreme levels of violence registered after independence can be found in both colonial and autochthonous violence … the salience of an important new element – greater direct external participation in the conflict, a function of the prevailing bipolarity and super power rivalry – also helps explain the nature of post-colonial violence in Angola’ (p 71).

The role of external intervention and how it influenced internal violence is examined. The author analyses the role played by the Cold War in exacerbating violence in Angola. The foreign intervening forces – South Africa, Zaire, the United States, Cuba and the former Soviet Union – and the UN’s peacekeeping force are analysed, as well as their motivations and how they impacted the violence alluded to.

Chapter 4 dwells on UNITA and an exposition of its politics of survival and renewal in the face of international and internal involvement and changes in the Savimbi era. The author does note that ‘UNITA’s own errors ultimately contributed to the Angolan government’s victories both in the political arena and on the battlefield’ (p 112). In relation to the extent of violence the author holds that ‘while UNITA is the undisputed culprit for physical violence and destruction that assailed Angola for the first twenty seven years as an independent state, the governing MPLA is primarily responsible for the structural violence that permeated society’ (p 114).

The post-colonial state of Angola is put into perspective by illuminating developmental issues and factors of corruption, poverty, and wealth accumulation. Political and economic factors that contributed to problems are espoused. According to the author, problems of transforming society are emerging from the fact that ‘a parallel government – comprising the president and a handful of trusted aides – makes all key policy decisions with negligible oversight from weak legislative body’ (p 136). The road to the peace process is examined with key meetings and accords being highlighted.

Post-conflict challenges are analysed in chapter 7, as the end of war did not automatically usher in ways to share power and wealth. Issues of ethnicity, ideological difference and governance are cited as the major obstacles to post-colonial state building in Angola. The author posits that ‘Angola, like all other former colonies, cannot return to pre-colonial forms of governance. It must, therefore, adapt according to the requirements of
a modern state … In the absence of an equitable division of power and wealth within a democratic system, Angola’s future remains grim’ (p 188).

The text concludes by examining the future of the Angolan state in cultivating better state–civil relations and manipulating the international environment and actors, and discusses factors that ought to be taken into consideration to enable development. The author notes that ‘social actors and institutions must have an existence of their own, which is not a result of the state’s activities, and must justify their continuing existence through their ability to resist the state, particularly by repudiating the state’s propensity to seek a commanding position in the public sphere and challenging the state’s definition of the public good, whether in terms of economic growth or in terms of social consensus’ (p 206).

The text is of relevance to readers on African politics as it is informative about civil wars that emerged with the coming of independence and discusses how they are linked to historical factors such as slavery, colonialism and the politics of the Cold War.

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