CONFLICT TRENDS

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From Uprising to Revolutionary Change

Vladimir Lenin said: "It is impossible to predict the time and progress of revolution. It is governed by its own more or less mysterious laws." There is no doubt that this statement rings true today in no less a place than the African Maghreb and, more particularly, Tunisia and Egypt – where, barely three months ago, it was unthinkable that their leaders would be deposed. It is not just the history of these countries that made the idea of changed leadership unthinkable, but also the speed and intensity with which mass protests occurred and these governments collapsed. No-one imagined that these regimes would collapse – and collapse in such a short space of time, no less!

There are many lessons that leaders can draw from these uprisings. First, leaders must not take their perceived power for granted and underestimate the power of popular uprisings, underpinned by personal suffering, deprivation, marginalisation and exclusion. Second, leaders should not overstate the loyalty of their armed forces to the leadership, in contrast to the allegiance of the armed forces to their own families and the moral good. Third, leaders must not continue to believe that, despite overwhelming repression, people will not break the fear barrier. Fourth, leaders must know that once the fear barrier is broken, even the fear of death is minimised. Fifth, leaders must know that when the fear barrier is broken, the end for them is near and, in the absence of a tactical retreat, they will face defeat and possibly death! Needless to say all these lessons, except the last, were ignored by the leaders of Egypt and Tunisia and all the lessons, including the last, are being ignored by the leader of Libya.

There are also many lessons that the protesters can learn from these recent experiences. The first lesson is probably the most instructive for protesters, and is captured in this thoughtful quote by Eric Hoffer: "We used to think that revolutions are the cause of change. Actually, it is the other way around: change prepares the ground for revolution." What we have witnessed and are continuing to witness in the countries of the African Maghreb and the Persian Gulf are popular uprisings against despotic regimes, and not a revolution. It is still to be determined what change these uprisings will result in: a change in leadership, or a transfer of power that results in fundamental change in the ordering of social relations – such change we call 'revolution'. Thus, a revolution only happens when a fundamental change in the social order occurs.

The second and equally important lesson for protesters and the international community of supporters of the 'revolution' is captured in this quote by Edmund Burke: "Make revolution a parent of settlement, and not a nursery of future revolutions." A revolution should result in the settlement of the injustices that initially led to the revolution. However, when a mass, spontaneous uprising is united only in targeting a symbol of that injustice, and does not have a clear consensus on how to end the injustice and what to replace it with, then there is a grave possibility that such a movement, without direction, will lead to anarchy. Consequently, the 'revolution' itself will become a 'nursery for future revolutions'. In this regard, current developments in Egypt and Tunisia are cause for concern. The situation urgently calls for visionary, selfless leadership – in both countries, and globally – that is able to manage a fragile stability and transform it into lasting peace!

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TRANSITIONAL JUSTICE AND POLITICAL PRE-TRANSITION IN ZIMBABWE

BY **ISMAEL MUVINGI**

Introduction

Transitional justice is a fast-growing concept, both in practice and in its scholarship. Even though the parameters of its practice are not yet precisely defined, transitional justice is being prescribed as an indispensable component of the transition from violence and repression to more just and peaceable dispensations. African examples include Rwanda, South Africa and Sierra Leone. The expectations placed on transitional justice have increased exponentially as victims and victim associations, social justice and human rights advocates, governments, regional and international organisations, as well as donors, have increasingly adopted the language of transitional justice in conflict situations. Academic efforts to understand the concept have similarly witnessed phenomenal growth and, within just a few years, transitional justice has developed into a field of study in its own right.[1] This transitional justice momentum has taken root in Zimbabwe even before there has been a political transition in the country.

With violence and repression such a prominent feature of the Zimbabwean political landscape, it was perhaps inevitable that transitional justice would become topical.

Above: In 2003, organised civil society, including womens' groups, publicly called for transitional justice in Zimbabwe.
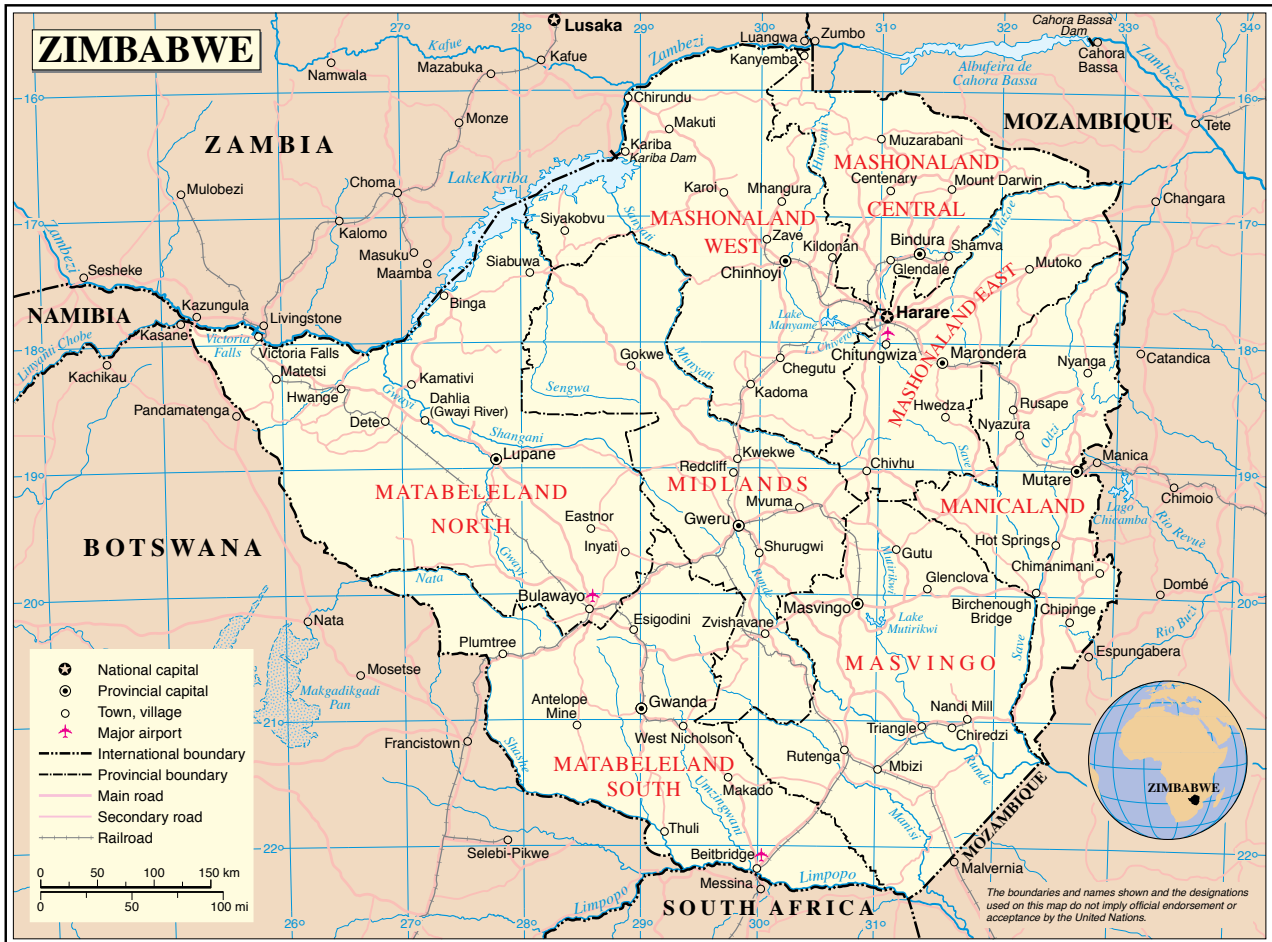
An indicator of the extent of public discourse and engagement on transitional justice was the launch, on 30 July 2010, of a coalition of non-governmental organisations' (NGOs) report on their transitional justice outreach initiatives in over 50 constituencies. The event was attended by lawyers, activists and ministers of state.[2] The outreach exercise was only one of several transitional justice engagements in the country. There have been human rights investigations, documentation and reporting that date back to the 1997 report on state violence in the Matabeleland and Midlands provinces.[3] That same year, individual citizens, labour movements, student and youth groups, women's groups, churches, business groups and human rights organisations formed the National Constitutional Assembly (NCA), to press for institutional reform through constitution making. It has been a heavily contested process. In 2003, organised civil society publicly called for transitional justice in the country. In 2008, the government set up an Organ on National Healing, Reconciliation and Integration to address the fracturing caused by political violence.

Historically, the stimulus for transitional justice was the desire to hold perpetrators of heinous war crimes criminally accountable, especially in the aftermath of World War II. However, transitional justice has since broadened to include wider societal processes for dealing with legacies of violent conflicts and repression. Its mechanisms now include truth commissions, reparations, lustrations, purges, memorialisation and institutional reforms.[4] Jointly or severally, the processes are aimed at uncovering the truth about the crimes of the previous regime, correcting the wrongs, holding perpetrators accountable, vindicating the dignity of victims and survivors, preventing repetitions of the violations, establishing or re-establishing the rule of law and contributing to reconciliation.

To date, conceptualisations of transitional justice have located it temporally in the post-conflict phase, normally with the institution of a new political regime. The logic of such location is not hard to discern. No sitting government would willingly embark on serious investigations of its own wrong-doings. Transitional justice has been perceived, therefore, as an undertaking by new governments, unless there is external intervention. The Zimbabwean developments are interesting in that public discourse is taking place before political transition has occurred. Until 2009, President Robert Mugabe and the Zimbabwe African National Union Patriotic Front (ZANU-PF)

President Robert Mugabe has been the Head of State in Zimbabwe since 1980.

were the sole governing power. Despite the compromise coalition Government of National Unity (GNU), which was established in February 2009, ZANU-PF still remains in control. The public discourse on transitional justice that is occurring while the perpetrator government is still in power challenges us to think about the place and role of transitional justice in the transition process. This article argues that the interjection of transitional justice in the pre-transition phase expands its ambit beyond being just an arbiter of past wrongs and a post-conflict facilitator, to being an active element of the political contestation for change. By being linked to the wider political demands of different competing groups, transitional justice has become part of the pre-transition political dynamic.

Zimbabwe: A History of Violence and Repression

Transition in Zimbabwe is a slippery subject and a messy affair. The demise of the colonial state ushered in an era of both progress and regression on almost every front. The GNU

is transitional, intended to bridge the twin crises of a collapsed economy and the politics of repression and violence with an as yet undefined future about which there is little agreement. There is no guarantee of radical political change. Thus far, efforts to unlock ZANU-PF's hold on power have not been successful. There are also genuine concerns that regime change alone may not bring transformation from an ingrained culture of violence and impunity. The country has a disquieting history of officially sanctioned impunity for violence.

In the 90 years from conquest and colonisation in 1899, the country was ruled by a colonial regime through force and organised exploitation. The subjugation of Africans instigated a 15-year war of liberation, which ended when Britain brokered a settlement to avoid a battlefield victory. Despite the brutalities of the war, all sides embarked on concerted efforts to grant indemnities, pardons and amnesties, each to its own side.[5] This started an unfortunate trend. The victorious ZANU-PF bestowed on itself liberation hero status and claimed entitlement to rule, as it saw fit, for delivering liberation. It constantly reminded citizens that it was the gun that had brought liberation. While Mugabe proclaimed a policy of harmony with the erstwhile oppressors, the victims of repression and war were left to tend to their wounds as best they could, with little social intervention.

In the post-independence era, violence became the tool of choice for dealing with dissent. While there was general peace for the majority in the country in the initial 20 years of independence, there were episodes of large-scale violence – including *Entumbane* (suppression of dissent among former combatants), *Gukurahundi* (massacre of civilians in Matabeleland in the name of national security), violent expropriation of land from white farmers, operation *Murambatsvina* (the razing of urban communities perceived as the bedrock of support for the opposition group, Movement for Democratic Change) and electoral violence that reached a crescendo in the 2008 elections. As Michael Bratton and Eldred Masunungure have expressed, violent repression became the mainstay of governance.[6] In none of the incidents of violence have there been any state-level processes of accountability, truth-telling or victim acknowledgement, or trauma healing. Indeed, some who allegedly masterminded and executed the violence were rewarded with high office. It is against this backdrop, together with the internationalisation of human rights, that current initiatives for transitional justice have taken root in Zimbabwe.

Transitional Justice Initiatives in Zimbabwe

As the discourse on transitional justice unfolds, there are disparities in the meanings attached to 'transitional justice' and the outcomes desired. The editor of *The Independent*, for example, demanded trials, while the government of Zimbabwe is focused on forgiveness and reconciliation.[7] Organised civil society has, through the Human Rights NGO Forum (The Forum), defined transitional justice as "a range of approaches that societies undertake to deal with diverse past
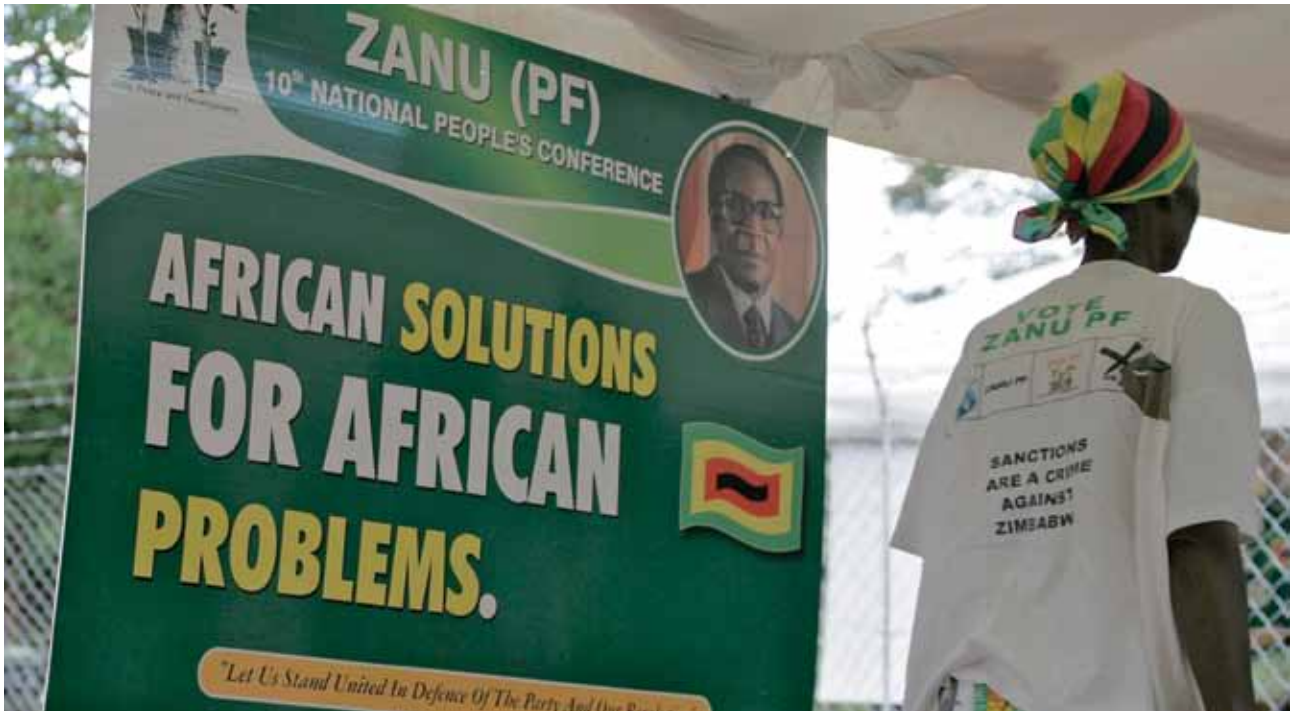
Despite the establishment of the compromise coalition Government of National Unity, established in February 2009, the Zimbabwe African National Union Patriotic Front (ZANU PF) remains the dominant party in control.

political situations such as authoritarianism, totalitarianism, or conflicted democracies to a stable democratic state", indicating it as a broader range of processes for attaining a democratic state.[8] The NCA is focused on institutional reform.

Intentional calls for transitional justice were first articulated in 2003, when a number of NGOs issued a declaration formally demanding transitional justice in Zimbabwe.[9] Following a resolution made at that time, The Forum organised an outreach exercise in which it held meetings with numerous communities to introduce and discuss the concept of transitional justice. The report launched in July 2010 was part two of the documentation of the exercise. The Forum has also produced simplified texts on undertaking transitional justice and there is now open discussion of the concept in the media.[10] The Forum sees truth-seeking, prosecutions, reparations and institutional reforms as necessary for a democratic future, and claims confirmation of these desired outcomes from its consultations with the people, as referenced above.[11]

The investigation, documentation and reporting of large-scale violence started in the liberation war era, when the Catholic Commission for Justice and Peace produced reports on the terror of the war on unarmed civilians. Its report on *Gukurahundi* in 1997 followed in the same tradition. Government mandated its own reports, such as the Dumbutsena and Chihambakwe reports on Matabeleland, but unfortunately they were never made public. When the government embarked on Operation *Murambatsvina*, the fact-finding was conducted not only by local NGOs but also by

the United Nations.[12] The electoral violence of 2008 was also extensively documented.[13] NGOs now track political violence on a monthly basis with case-by-case details.[14] Documented truth has not been postponed to the post-conflict era.

The struggle for institutional reform through constitution-making has not necessarily been conducted in the name of transitional justice. However, institutional reform is most fundamentally embodied in the constitution as the highest legal authority in a state. If transitional justice is to be relevant in the rebuilding of violence-wreaked societies, it follows that institutional reform has to be an important component. The draft constitutions proposed by the NCA and other groups such as the Lawyers for Human Rights, seek to rewrite key institutions of governance so as to prevent abuses of power and violations of human rights. The NCA draft also provides for a Truth, Justice, Reconciliation and Conflict Prevention Commission, but more significant are its proposed revisions to current governance structures. Institutional reform is driven by the need to purge government of its deep infiltration by ZANU-PF and the military. Military personnel have been appointed to many high positions in government.[15] Negotiation of the post-conflict dispensation is already underway.

Interestingly, the government is a participant in the transitional justice process, even if less than half-heartedly. Following the formation of the GNU in 2008, it put in place The Organ to deal with the scourge of politically linked human rights violations and to promote reconciliation. The Organ has stuttered and faltered, and civil society has largely been

dismissive of it. However, the formation of The Organ signalled the important admission of wrongdoing, and its very existence has created a space for dialogue on violence and transitional justice. The government also put in place a Human Rights Commission, but an assessment of that institution may be premature as it has not even started to function at this point.

There is less fanfare surrounding local-level initiatives to help victims of political violence overcome trauma, but such projects are helping to transform victims into survivors.[16] The local projects have been prompted by the lack of help from a government that is seen as the major perpetrator. As part of the healing processes, victims have engaged with perpetrators, and some now seek ways of preventing similar harm to others. In some ways, this may be addressing a shortcoming in public reconciliation efforts, such as the Truth and Reconciliation Commission in South Africa. Top mandated or directed reconciliation is necessary as it gives the moral sanction from the top; however, it does not necessarily translate into person-to-person or community-level reconciliation. For that, different-level processes are needed and, because of the blockage at the top, communities in Zimbabwe may well be addressing that need with NGO assistance.[17]

Accountability through judicial remedy has thus far been limited. In 2001, some victims instituted legal suits in the United States, and a New York court ordered ZANU-PF to pay US$100 million compensation to victims of the violence in the 2000 Zimbabwe parliamentary elections.[18] White farmers have also taken cases – for compensation for assets lost through political action – to the Southern African Development Community (SADC) Tribunal in Namibia.[19] Some scholars and advocates have called for members of ZANU-PF's leadership to be prosecuted in the International Criminal Court; however, the international community does not appear to have any appetite for prosecution of Zimbabwe's elite at this point.[20]

Another form of transitional justice engagement has been the attempt at memorialisation. When there is violence and repression, memory and history become contested. Zimbabwean artists have attempted to engage in public and collective remembrance of those who have been tortured or killed in political violence. In March 2010, Owen Maseko attempted to put up a photo exhibit memorialising victims of political violence in an effort "to contribute to reconciliation."[21] However, the police seized the exhibits, arrested the organisers and shut down the exhibit. Subsequent attempts suffered the same fate, even though they had the blessing of the prime minister.

Transitional justice initiatives in Zimbabwe must, of course, be understood in the context of their attachment to wider political objectives. It is noteworthy, however, that activists have intentionally called for transitional justice as a necessary component of political change while change is being negotiated. In part, this may be because civil society is caught in a dilemma. It is possible that there could be no regime change and the desired democracy might evolve through

Victims of Zimbabwe's 2008 post-election violence camp outside the United States of America's embassy in the capital city, Harare (July 2008).

Zimbabwean artists have attempted to engage in public and collective remembrance of those who have been tortured or killed in political violence. Here an artist puts the finishing touch to his Shona stone sculpture called "Eye Witness".

incremental change. Waiting for a post-conflict era could, therefore, prove indefinite. Rather than risk the perpetuation of impunity, civil society has risked engagement before radical political change. Such engagement has its implications.

Implications of Pre-transitional Justice in Zimbabwe

Not all transitional justice processes have the same political implications. Healing initiatives are probably viewed by political elites as non-threatening, and may not trigger serious political considerations. What they do represent, however, is an early awareness and engagement in transitional justice by ordinary people, which is bound to heighten and broaden post-conflict engagement should the transition moment come to pass. Institutional reform efforts, demands for accountability and truth-telling, as represented by the investigation and documentation of violations, as well as attempted memorialisations cannot, however, be separated from the immediacy of transitional politics. Transitional justice is now present before the political transition moment and it may be adding to the dilemmas of attaining political change.

The GNU was an admission that the country is in deep crisis and needs a differently imagined future. ZANU-PF's defiant refusal to cede power based on citizen electoral

choice while couched in terms of defence of the revolution from neo-colonial forces is, no doubt, driven by other considerations.[22] Fear of reprisals and accountability for past misdeeds rank high. Those are not the only considerations. The deep infiltration of the state by ZANU-PF and the military means that the transitional justice desirable from institutional reform threatens not just political positions, but also the access to resources that the total control of the state has afforded them.

The possibility of trials or other forms of accountability has become more real, as transitional justice has eroded the impunity previously bestowed by sovereignty. The political elite and members of the military, the police, the intelligence service and militia groups have watched developments in Sudan, Sierra Leone and Rwanda. The insertion of transitional justice into the public discourse prior to political transition serves to bring the reality of accountability home and reinforce its high probability. At least three alignments can be discerned in the battle over transitional justice. First, ZANU-PF is adamant that there will be no accountability, and is only willing to discuss forgiveness and reconciliation in the same way that was afforded the former colonisers. Second, organised civil society is equally adamant that accountability be a part of transitional justice. It is lining up the grassroots

THE PUBLIC DISCOURSE ON TRANSITIONAL JUSTICE THAT IS OCCURRING WHILE THE PERPETRATOR GOVERNMENT IS STILL IN POWER, CHALLENGES US TO THINK ABOUT THE PLACE AND ROLE OF TRANSITIONAL JUSTICE IN THE TRANSITION PROCESS

constituency to see transitional justice as essential for future peace and justice. For these activists, transitional justice is linked to other desired outcomes, like democracy. The contest for a supportive constituency is not one-sided. ZANU-PF has its own supporters – the most vocal among them being the war veterans and youth militias. The third element – the former opposition of the Movement for Democratic Change (MDC) – is torn between its own desire for accountability, the demands of its constituency and the pragmatic reality of effecting a transfer of power. The challenge is reflected in Prime Minister Tsvangirai's contradictory statements both for and against accountability, which have caused dissonance with the MDC membership. As indicated by an MDC functionary in an interview with the author[23], the MDC leadership has to navigate a fine line between catering to the desires of its followers and the need to reassure ZANU-PF and the military that they will not be persecuted for their evils.

The pragmatic situation demands tempering the 'justice talk' for fear that ZANU-PF will opt to take its chances hunkered down in the state house, rather than risking justice at the hands of people who have every reason for vengeance.[24]

Conclusion

Transitional justice is a project in pursuit of particular outcomes. Achieving some of these outcomes may entail transitional justice coming into play, before either agreements are reached for new dispensations or perpetrators are removed by other means. The Zimbabwean experience illustrates this dynamic. The country's historical engagement with violence and the ambivalence of political transition have pushed civil society to call for and start the engagement on transitional justice while the current conflict is ongoing. The political outcomes are as yet unknown, despite calls for new elections. In any event, elections have not succeeded in transferring power and, even if they do, history has demonstrated that transfer of power alone does not end cultures of impunity. Both to address past and ongoing wrongs as well as to pre-empt continued impunity, transitional justice is being called into effect during ongoing conflict. As activists adopt it as a creed for transformation, its functions and location will require re-evaluation. Zimbabwe may not be unique in this regard. In Kenya, transitional justice mechanisms have also been mobilised in efforts to reform the judiciary and the politics of the country. It makes for an interesting area of study, and transitional justice will require more careful analysis, both in conceptualisation and in its implications in the real world of power politics.

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AFRICAN INITIATIVES TOWARDS CREATING KILLING-FREE SOCIETIES

BY **GREGORY BOURNE**

The idea of creating societies where people do not kill other people, and which are free from the fear of being killed, is both old and new. It is 'old' in that anthropologists can cite numerous societies throughout history[1] where intentional killing was absent, or considered an anomaly. It is 'new' because, until more recently, we seem to have lost sight of the possibility that killing-free societies are within our grasp. Scepticism exists among some that progress toward killing-free societies is achievable, especially in those places where violence and killing have been pervasive. Yet, it is in these same areas – including those across the African continent – where the sense of need, and belief that progress can be made, is greatest.

The publication of *Nonkilling Global Political Science*[2] in 2002 provided needed impetus to reconsider the potential for progress. Following nearly two decades of research, Professor Glenn Paige asserts that we should reject the idea that killing is inevitable and should be taken for granted, citing both historic and current evidence. To begin, more than 99% of humans have never killed another person. Stated another way, humans are not predisposed to killing; quite the contrary. Why then do we so readily accept it as inevitable?

Paige notes that, while many governmental and non-governmental institutions directly or indirectly contribute

Above: Neuroscience research reveals that when babies are held often in the early years, the tendency for violence later in life is greatly reduced.

Lethal conflict in Africa is associated with natural resource extraction and distribution, such as water availability, amongst other causes.

to actions which take human lives, it is possible to refocus institutions to support nonviolent, life-sustaining approaches to solving problems and meeting societal objectives. Further, he suggests this *must* be the direction of our institutions if we hope to create truly civil societies, and ultimately to survive – since working towards killing-free societies will also result effectively in addressing poverty, social inequities and injustices, environmental degradation, and a host of other conditions that undermine human dignity and life itself.

This work was reinforced by another document published in 2002 – the World Health Organization's *World Report on Violence and Health*.[3] A key result from the rigorous research behind this document is that, ultimately, violence is preventable. By understanding the root causes of violence, strategies can be developed and applied – such as public health epidemiological models – to eliminate the causes and conditions that lead to violence. In other words, violence

should be treated like a disease, exploring various ways to prevent it. Clearly, if violence can be prevented, so can killing.

Another body of work suggesting we can make progress toward the progressive elimination of killing comes from the field of neuroscience. Existing research[4] shows that by holding our babies – especially during the first two to three years of life – we can greatly reduce the tendency towards violence later in life. Holding our children is essential for brain function development that occurs during the early stages of life outside the womb. This simple action, which every caregiver can provide, can make a world of difference. More information about the brain and brain function is emerging that will likely assist in developing new strategies for eliminating killing.

Combined, these findings suggest we can make significant progress toward killing-free societies – if we are as intentional about that goal as we are about many other widespread goals, such as ending world poverty, hunger, disease and social injustices. Of course, from a political and institutional perspective, there must be the political will to change the course of policies and institutional missions that contribute to killing and the conditions which lead to killing, and replace those with policies and institutional missions that prioritise the value of life, social justice and non-violent means of resolving conflict.

The role of individuals and non-governmental organisations (religious, business and philanthropic) is also critical. They play a crucial – if not essential – role, as commonly it is these sectors, not government, which lead change. This requires vision as well as intention – and perhaps a social movement – to ensure that sufficient support develops and resources are allocated for effecting change.

The Center for Global Nonkilling (CGNK), an international non-profit organisation based in Honolulu, Hawaii, United States of America, exists to support the development and sustainability of societies free from killing. The CGNK has initiated various strategies to support this mission, which include working with other organisations around the world pursuing similar ends, many of which are in Africa. The CGNK promotes a five-pronged strategy to effect change, reflected in much of the non-killing work in Africa discussed below: leadership development, education, research, policy/action and public mobilisation.

The remainder of this article focuses on various initiatives in Africa to promote killing-free futures locally, regionally and nationwide. There is not only one solution or approach to resolving the problem of killing and moving to non-killing societies. Different strategies are required for different underlying causes. For example, across Africa, lethal conflict has been associated with natural resource extraction and distribution (for example, water availability, petroleum production, and so on), divisions and animosities among people (sometimes traced to colonisation), power struggles and the quest for political reform. As the underlying causes and conditions of killing in these situations vary, the

strategies to end or prevent killing must be tailored to those conditions.

When we think about creating killing-free societies, then, it involves not only prevention, but also strategies for ending lethal conflicts as well as reducing negative post-conflict conditions that could lead to the recurrence of lethal conflict. Ultimately, the key to prevention is to identify conditions that could potentially lead to killing far enough in advance to interrupt, prevent or resolve them. Once violence has broken out, it is even more challenging to find non-killing solutions. This is where the non-violent intentions of political institutions are critical, along with movements – such as the non-violent, non-killing women's movement in Liberia that helped bring the civil war there to an end. Effective restorative justice and reconciliation programmes are needed to decrease the likelihood of the recurrence of lethal conflict. Effective forecasting tools, based on indicators that predict the potential for violence and killing, are needed.

Throughout Africa, a wide range of governmental and non-governmental organisations are working to address conditions that can lead to violence and killing. Ultimately, this work will help prevent lethal conflict. Likewise, there are numerous organisations working in post-conflict locations to help prevent the recurrence of lethal conflict. And, of course, there are numerous efforts underway to stop lethal conflicts where they are occurring. This article cannot do justice to all these efforts. The CGNK is working with organisations in several countries, however, and they serve as examples of progress being made to promote a killing-free future for Africa.

The Great Lakes Region

In 2005, *Nonkilling Global Political Science* was translated into French by a Haitian colleague of CGNK. Leaders of a small group of local organisations in the Great Lakes region acquired copies of the French translation of the book, created a shortened Kiswahili version (2007) and then initiated a series of workshops to promote the concepts of non-killing in the region. This primarily included workshops for leaders in remote villages in eastern Democratic Republic of the Congo (DRC).

At about the same time, these leaders created the Africa Great Lakes Center for Global Non-violence, as an affiliate of the CGNK. Subsequently, they have transformed the organisation into the Africa Great Lakes Consortium on Nonkilling, which now has grown to almost 20 organisations.[5] The organisations within the Consortium are accomplishing an invaluable array of activities in support of non-killing, many of which are aimed either to eliminate the conditions that lead to killing, or provide healing and transitions after killing has occurred to reduce the likelihood of recurrence.

Furthermore, a school has been established that focuses on the needs of local children who are casualties of war, disease and abandonment in the Kazimia-Katondje (South Kivu) area of eastern DRC. The kindergarten and school has over 200 students and, as part of its innovative programme,

Once violence has broken out, it is even more challenging to find nonkilling solutions. The key to prevention is to identify conditions that lead to killing far enough in advance to interrupt and resolve them.

teaches non-killing through an adapted condensation of the CGNK's materials into Kiswahili. The school is a project of the non-profit organisation, Mleci.

Members of the Consortium are working on more initiatives than can be included in this article, but they include a broad and creative range of strategies to deal with a wide array of issues associated with non-killing.

In eastern DRC, these include:

• Teaching non-violence courses through schools in Kazimia and Shabunda;
• Conducting a sensitisation campaign and leader training on global non-violence and non-killing within Maniema, North Kivu and South Kivu provinces;
• Convening workshops on cohabitation, peace, conflict resolution and ways to address causes of violence in Fizi, Kabambare, Walungu, Mwenga, Uvira and Maniema;
• Resolving tribal conflicts related to lands, individuals, families and churches at Kabumbe, Malinde, Bukavu, Kabamba, Ishovu, Kadjuche, Ngweshe and Kabare;
• Providing psychosocial and medical support for 24 raped women at Kabumbe; and training for 50 young mothers at Kanyole, 30 vulnerable women in Uvira and 325 vulnerable children in Bukavu;
• Building a library based on non-violence at Baraka; and
• Using sports to promote peace and cohabitation of people in Katana, Uvira and Kabamba territories, and peace games with 257 youth in Bukavu.

In Rwanda:

• Training 100 teachers and trainers on non-violence using the Kiswahili translation of *Nonkilling Global Political Science* in Kigali; and
• Working on cohabitation between repatriated and other people at Gisenyi.

In Tanzania:

• Providing trauma healing, therapeutic support and training to refugees at camps of Nyarugusu and Lugufu; and
• Broadcasting radio messages and disseminating peace culture programmes on Kigoma radio.

In Burundi:

• Lobbying and advocating non-violence and non-killing responses to armed conflict within Cibitoke, Muyinga and Ngozi provinces;
• Teaching non-killing and distributing the Kiswahili translation of *Nonkilling Global Political Science* in Bujumbura, Makamba, Nyanza Lac and Cibitoke to 400 people; and
• Resolving land conflicts in Rumonge and Gitega, and promoting human rights in Bujumbura.

These represent just a cross-section of activities being undertaken by the 20 organisations making up the Consortium.

> WHEN WE THINK ABOUT CREATING KILLING-FREE SOCIETIES, THEN, IT INVOLVES NOT ONLY PREVENTION, BUT ALSO STRATEGIES FOR ENDING LETHAL CONFLICTS AS WELL AS REDUCING NEGATIVE POST-CONFLICT CONDITIONS THAT COULD LEAD TO THE RECURRENCE OF LETHAL CONFLICT

Kenya

Each year, the CGNK conducts a Nonkilling Leadership Academy for 15 young leaders around the world. One of its 2009 Leadership Academy Fellows – a teacher and counsellor at the Aga Khan Academy in Mombasa – highlights what one individual can accomplish, both personally and professionally to promote non-killing principles. She notes: "The Leadership Academy for me was not only educative but inspiring and life-changing. I have since continued to strive to be peaceful myself… more conscious of my interactions with others, responding peacefully; remaining calm when I encounter 'unpeace'… little acts of kindness."[6]

Her work demonstrates that non-killing principles can be integrated into educational initiatives in very practical ways, and in numerous contexts – with specific intention. As a teacher and counsellor, she works to cultivate an ethic of peace with students. She uses school-wide display boards to promote peace, kindness and good conduct as alternatives to bullying, violence and killing. She has convened numerous weekend workshops where students reflect on peace and how to achieve it in their lives.

She has been involved in numerous events where non-killing principles were simply infused into her presentations and teaching. During 2010, she was among six educators nominated by an independent non-governmental organisation – Africa Peace Forum – to lead discussions on youth unemployment, creating awareness on the importance of education as a key pillar for human development. She presented workshops to various teacher and parent groups within Kenya, addressing topics such as parenting skills, self-awareness, stress management, HIV/Aids awareness, managing behaviour, alcohol and substance abuse and other social issues. She has also been a guest speaker on local radio discussing the role of education in alleviating poverty, and held a workshop for about 170 university and college students on 'Youth and Modernity'. In each of these initiatives, non-killing was an underlying theme.

She has also demonstrated other ways that the non-killing ethic can be conveyed, recognising that experiencing peace communally is powerful. With a Ugandan poet and friend, she

Innovative school programmes, in conflict regions, are teaching children non-violence and nonkilling.

organised a poetry evening event, titled 'Of Peace and Words', aimed at sensitising people on peace and non-killing. And she actively promotes non-killing principles through discussions with friends and family, encouraging people to use the CGNK's website, and inviting friends to join the Facebook cause and explore the CGNK's 'Mothers against Killing' blog, among other ways of expressing her belief that non-killing is essential to the future of Kenya.

Liberia

During the past two years, three participants from Liberia have become Leadership Academy Fellows. One is a key leader working under the auspices of the Carter Center. Another is the leader of a major media initiative in Liberia, and the third is a member of the Liberian National Police. This trio, and others with whom they are working, are in the process of creating a 'Nonkilling Liberia' national initiative.

During the 15-year civil war – which ended in 2003 with the intervention of the international community – killing was commonplace in Liberia. Rebel groups enlisted children as young as six years old to fight and to kill. Although the war has ended, and Liberia is headed to a rather gradual recovery to normalcy, the vestiges of killing remain – especially among youth. This is where the work needs to begin – on changing the minds and attitudes of Liberia's youth, estimated to be 65% of the population.

The Nonkilling Liberia initiative incorporates the following:
• Training young people on the virtues of non-killing principles as a realistic alternative to violence and killing;

• Tracking the level of violent crimes leading to killing, and efforts minimising killing;
• Providing regular media coverage of crime reports and conducting interactive radio programmes that air the views and concerns of young people and discuss non-killing alternatives;
• Using community town hall meetings to present and discuss non-killing solutions to situations that lead to violent crimes; and
• Creating small non-killing advocacy groups in communities, and conducting training supporting a killing-free Liberia.

The Liberia Media Initiative works through the national network of television and radio stations to present educational and public information campaigns to ensure that people are aware of and involved with issues associated with the transition to democracy in the post-civil-war era. They are also using theatre and debate in schools, demonstrating and teaching non-violent and non-killing values. Through the Carter Center, conflict resolution and mediation techniques are being taught to tribal leaders and others around the country to help create the means for resolving conflicts non-violently and non-lethally. The Liberian National Police is presently discussing with a United Nations Development Programme curriculum development specialist how it can include non-killing principles as part of the training curriculum for police officers. All these and other activities are in various stages of development as part of the comprehensive

In oil-producing communities, the transition from killing to nonkilling rests on socio-economic and political reforms.

Nonkilling Liberia initiative. Public awareness and mobilisation are a critical foundation for the initiative. In addition, many partnerships are being developed among women's groups, the National Traditional Council, tribal leaders and the Inter-Religious Council, among other governmental and non-governmental organisations, to ensure broad support for the initiative.

Nigeria

As an affiliate of the CGNK, the Center for Global Nonviolence Nigeria (CGNVN) was registered in 2006 as a non-profit organisation to promote non-violence and non-killing. CGNVN's vision is to be the best facilitator of research, education, training, problem-solving, leadership, sustainable development and non-violent social, economic, political and cultural transformation in West Africa.

CGNVN began by translating *Nonkilling Global Political Science* into Ogoni and Ijaw. These publications helped tremendously in publicising non-killing in the Niger Delta, and have aided seminars and workshops by having literature in local languages. In 2006, CGNVN undertook a partnership with the local radio station in Port Harcourt to run jingles in Pidgin English on the evils of violence and killing, charging young people to oppose violent behaviours. This included phone-in programmes as well, which enabled people to talk with CGNVN personnel. On at least one occasion, the programmes contributed to a woman changing her mind about killing her children. She later became a volunteer for the organisation.

CGNVN also works with other organisations in support of non-killing and sustainable development in Nigeria. Each year since 2008, it has organised seminars in Port Harcourt on non-violent social change, together with Social Action, Ogoni Solidarity Forum and the Rosa Luxemburg Foundation. Leaders of youth associations and civil society organisations, and members of groups in the Niger Delta who have relied on violence, were the focal point of these seminars. The seminar in 2010 provided leaders of civil society and justice groups in the Niger Delta with a platform for intellectual debate on how to organise for non-violent social change in Nigeria.

Also in 2010, CGNVN focused on political education and research on the possibilities of a killing-free Nigeria. Research findings have been disseminated through published peer review journals.[7] Drawing on responses from a cross-section of representatives of civil society, traditional ruling and non-governmental institutions, 60% of participants surveyed indicated they felt a non-killing Niger Delta is impossible. They cited environmental degradation, lack of development, lack of political power and pervasive unemployment as key reasons. Some 40% of respondents, however, indicated they believe a non-killing society in the Niger Delta is possible, with the preconditions of regional development and economic empowerment. Based on accompanying research, the authors suggest that the transition from killing to non-killing in oil-producing communities rests on socio-economic and political reforms. Ongoing research intends to expand CGNVN's intellectual

engagement in issues of non-violence and social change in Nigeria.

Rwanda

Apart from the activities in Rwanda that are part of the Great Lakes Consortium, a 2010 Leadership Academy Fellow is also promoting new non-killing initiatives in Rwanda. Completing his assignment as a leader within the *gacaca* court system responsible for identifying and handling cases from the Rwandan genocide, he developed Community for Peace Action (COPA), a local organisation advocating non-killing. The focus of COPA is empowering individuals with non-killing values, assisting them to develop more locally oriented non-killing strategies, and disseminating non-killing values through creative and positive learning relationships using mentors to nurture, challenge and explore these strategies to ensure success. This non-killing mentorship programme, prepared in partnership with the CGNK, is anticipated to be nationwide.

Intended to prevent the recurrence of killing, he notes of COPA: "In order to mitigate this situation in remembrance of those who have been killed, of all the killers, of all who have not killed and all who have worked to end killing, especially during genocide, the need exists to reverse people's attitudes and the entrenched culture of killing. Concerted efforts through a focused programme of instilling non-killing values in a society like Rwanda can be achieved through a mentorship programme that keeps on going to create new mindsets with new values of working towards creation of a non-killing Rwanda."[8]

Today, the tradition of young women and men learning from their elders is no longer working effectively. The mentoring programme will, in part, fill this void by creating a platform for participants to talk about values and their application to everyday life. Mentors will be providing practical, real-life examples reinforcing why the values of peace, non-violence and, subsequently, non-killing are essential for the long-term health of both individuals and society. The programme will create ongoing relationships, built around face-to-face fellowship intended to transform attitudes and behaviours to align more with the needs of peaceful and prosperous societies and nation-states.

Western Sahara

The 2009 Nonkilling Leadership Academy included a diplomat representing Western Sahara. This Academy Fellow proceeded to become the Saharawi Republic ambassador to Ethiopia and Permanent Representative to the African Union. Also a visiting professor in the International Masters in Peace, Conflicts and Development Studies programme at Universitat Jaume I, Castellón, Spain, he includes the non-killing paradigm in his courses[9] while encouraging students to research and consider how to apply non-killing principles. With both academic and practical experience in applying non-killing principles in his work, especially in the Western Sahara context, he is making an impact in various leadership arenas across Africa in promoting non-violent and non-killing approaches to conflict. He works very closely with human rights activists in the occupied Western Sahara, and has written on their peaceful and non-violent resistance against Morocco's occupation.

Conclusion

Creating non-killing societies will clearly not happen overnight. The examples of non-killing initiatives in these eight African countries, however, suggest a wide array of approaches – local to national, personal to corporate, research to action – that can be applied practically to contribute to progress now. Progressively eliminating killing requires intention and sowing seeds of social change. It requires reconciliation and transformation. To achieve this transformation, individuals, organisations and institutions must continue to work together, creatively developing and applying strategies focused on eliminating the underlying causes of killing. Ultimately, the value of human life must become a priority inherent in government, corporate and community ethics. If we truly desire to create civil societies, and hope for the advancement of human civilisation, there is no choice. ⚑

Gregory Bourne serves as Co-director of the Center for Global Nonkilling, in Honolulu, Hawaii.

Endnotes

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Examples of courses include: Peace and Intercultural Dialogue: Post-Colonial Studies Approach, and Introduction to Peace Studies and Culture.

RELIGION: A SOURCE OF CONFLICT AND A RESOURCE FOR PEACE

BY **TENDAIWO PETER MAREGERE**

Introduction

It seems quite safe to assume that all human beings yearn for peace. What is not always very clear, however, is what each person's interpretation of peace is and how it is understood to be achieved and consolidated. Religion and peace have been almost natural companions in the minds of humans in time and space, and in different cultures of the world.[1] This is because, although far too many adherents and leaders of different religions in the world have disrupted peace in society by promoting violence and wars, the vast majority of believers still hold that 'true' religion is a source and guarantor of individual and societal peace. Invariably, religion influences the cultural behaviours and perceptions of individuals and groups, to varying degrees – to the extent that people who get involved in violent conflicts often declare that they fight and kill others in defence of their culture and identity, political beliefs and religion.[2]

Take a casual glance at the state of the world today and one is almost forgiven for suggesting that, in the last two decades, religion has been at the heart of most violent conflicts. For instance, by taking a glimpse at the conflicts

Above: Villagers look at the bodies of victims of religious attacks lying in a mass grave in Dogo Nahawa village, near the capital city of Jos in central Nigeria (March 2010).

Hardline Somali Islamist insurgents from Hisbul Islam parade with their weapons in the streets of Somalia's capital city, Mogadishu (April 2010).

in Iraq, Afghanistan, Pakistan, Sudan, Lebanon, Nigeria and Sri Lanka, one would likely conclude that, indeed, religious differences are the epicentre of these conflicts. As observed by Mohammed Abu-Nimer, since the end of the Cold War, many scholars have argued that most conflicts are driven by clashes of community identity based on race, ethnicity and religious affiliation.[3] Essentially, conflicts based on religion tend to become dogged, tenacious and brutal types of wars, and a threat to the meaning of life. When conflicts are couched in religious terms, in most cases they become transformed into value conflicts. Unlike resource conflicts, which can be resolved by pragmatic and distributive means, value conflicts have a tendency to become mutually conclusive or zero-sum issues. They entail strong judgements of what is right and wrong, and parties believe that there is no common ground to resolve their differences.[4]

Since time immemorial, some religious contributions to social evolution have been characterised by intolerance, divisiveness and resistance to change. Thus, sometimes religious convictions have become too absolutist, to the extent that compromise has been rendered useless. In such instances, it is all too often a reality that religion has been used as a badge of identity, which is usually employed to fuel or abate conflict for political ends. More so, as a major source of soft power, religion has been used or misused by religions and governmental organisations to pursue their interests, to a greater extent.

Yet religion's ability to inspire violence is intimately related to its equally impressive power as a resource for peace, especially in the growing number of conflicts around the world that involve religious claims and religiously inspired combatants. One strange phenomenon, noted by Scott Appleby, "is that terrorists and peacemakers may grow up in the same community and adhere to the same religious tradition. The killing carried out by one and the reconciliation fostered by the other indicates the range of dramatic and contradictory responses to human suffering by religious actors."[5] Douglas Johnston buttresses this point and concludes that religion is a double-edged sword, in that it has the capacity to cause conflict and abate it.[6] Nevertheless, it remains a tremendous resource for the creation of a just and egalitarian society that the world seeks to achieve.

Religion as a Source of Conflict

In the contemporary discourse, many of the intractable conflicts appear – at least on face value – to be driven and/or motivated by religion. Although this may appear to be minimalist in interpretation and analysis, there is a dominant school of thought that traces religion as a source of conflict all the way back to the religious wars that ravaged seventeenth century Europe. Embedded in this polemic is an established fact that religious warfare was and still is a theme that runs throughout human history, notwithstanding

A copy of the Koran and a cross are held up during protests, in Cairo's Tahrir Square, demanding that Egyptian president, Mubarak, step down immediately (February 2011).

that all religious traditions are built around the concept of peace.

Arguably, there are some aspects of religion that make it susceptible to being a latent source of conflict. Notably, all religions have their accepted dogma, or articles of belief, that followers must accept without question. This has, oftentimes, led to inflexibility and intolerance in the face of other beliefs. After all, if it is the word of God, how can one compromise it? At the same time, scripture and dogma are often vague and open to interpretation. Conflict can, therefore, arise over whose interpretation is the correct one – and this conflict cannot be solved because there is no arbiter. The winner generally is the interpretation that attracts the most followers, who ultimately must also be motivated to action. Although, almost invariably, the majority of people of any faith hold moderate views, they are often more complacent, whereas extremists are motivated to bring their interpretation of God's will to fruition.

Almost inevitably, religious extremists can contribute to conflict escalation. More often than not, they see radical measures as necessary to fulfilling God's wishes. Fundamentalists of any religion tend to take a Manichean view of the world in that, if the world is a struggle between good and evil, it is hard to justify compromising with the devil. Any sign of moderation, thus, can be decried as selling out, more importantly, of abandoning God's will. And, of course, religion is a contentious issue. Where

eternal salvation is at stake, compromise can be difficult or even sinful. Therefore, as a central part of many individuals' identity, any threat to one's beliefs is a threat to one's very being. This is the primary motivation for ethno-religious nationalists.

In virtually every heterogeneous society, religious differences serve as a source of potential conflict. Since individuals are often ignorant of other faiths, there is some potential tension – although it does not usually follow that conflict will result. Although religion is not necessarily conflictual, it serves – as with ethnicity or race – as a way to distinguish one's self and one's group from another. Often, the group with less power – be it political or economic – is more aware of the tension than the privileged. When the privileged group is a minority, however – such as the Jews historically were in much of Europe – they are often well aware of the latent conflict.

Many religions also have significant strains of evangelism – a phenomenon that has gripped Africa of late – which is potentially conflictual. Believers are called upon to spread the word of God and increase the numbers 'in the flock'. For example, the effort to impose Christianity on people was an important part of the conflict surrounding European colonisation. Similarly, a group may seek to deny other religions the opportunity to practise their faith – the suppression of Christianity in China and Sudan being two contemporary examples. In the case of China, this is not a conflict between religions; rather, the government views

Hundreds of women gathered in Abidjan, Côte d'Ivoire, to pray for peace in their country (December 2010).

religion as a dangerous rival for citizens' loyalties. Such examples derive from a lack of respect for other faiths.

Arguably, religious fundamentalists are primarily driven by displeasure with modernity. Motivated by the marginalisation of religion in modern society, they act to restore faith to a central place. Understandably, this is driven by the need for purification of the religion in the eyes of fundamentalists, who are of the conviction that cultural globalisation in recent times has, in part, perpetuated this trend. The point here is that the spread of Western materialism is often blamed for increases in gambling, alcoholism and loose morals in general. Al-Qaeda, for example, claims it is motivated by this neo-imperialism as well as the presence of foreign military forces in the Muslim holy lands. The liberal underpinning of Western culture is also threatening tradition by prioritising the individual over the group, and by questioning the appropriate role for women in society. Of course, the growth of the New Christian Right in the United States indicates that Westerners, too, feel that modern society is missing something. Conflict over abortion and the teaching of evolution in schools are but two examples of issues where some groups feel that religious tradition has been abandoned. [7]

It is a given that religious nationalists can also produce extremist sentiment, in that they tend to view their religious traditions as so closely tied to their nation or their land that any threat to one of these is a direct challenge to their existence. In response to such threats, religious nationalists often seek a political entity in which their faith is privileged at the expense of others. In these contexts, it is also likely that religious symbols will come to be used to forward ethnic or nationalist causes. This has been the case for Catholics in Northern Ireland, the Serbian Orthodox church in Milosevic's Yugoslavia, and Hindu nationalists in India.

Religion is often a latent source of conflict, and any triggering event can cause the conflict to escalate. Typically in such cases, grievances, goals and methods frequently change in such a way that the conflict becomes intractable, and the momentum gathered therefrom ultimately gives extremists the upper hand. Usually, in a crisis, group members may see extremists as those that can produce what appear to be gains – at least in the short term. In such situations, group identities are even more firmly shaped in relation to the other group, thereby reinforcing the extremists' message that one's religion is threatened by another faith that is diametrically opposed. Often, historic grievances are recast as being the responsibility of the current enemy, because at this stage tactics often come detached from goals, and radical interpretations are increasingly favoured. Once martyrs have been sacrificed, it becomes increasingly difficult to compromise, because their lives will seem to have been lost in vain.

Equally so, the global media, Cable News Network (CNN), British Broadcasting Corporation (BBC), Al Jazeera and others have had their fair share of controversy in the religion, conflict and peace dichotomy. In their coverage on conflict, popular portrayals of religion have often reinforced the view that it is indeed conflictual. Although the media has paid significant attention to religion and conflict, it has somewhat negated the powerful role that religion has played in peacemaking.

This excessive emphasis on the negative side of religion and the actions of religious extremists generates interfaith fear and hostility. This rather skewed media portrayal of religious conflict tends to confuse rather than inform.

Religion: A Resource for Peace

In proposing his concept of the ambivalence of the sacred, Appleby makes a critical contribution to the understanding of the way religion reinforces the human psychological construct, where we are all capable of love and creativity but also hatred and destructiveness. Although the great world religions vary widely in their substantive differences, as Appleby says, "One can trace a moral trajectory challenging adherents to greater acts of compassion, forgiveness, and reconciliation."[8]

Sadly though, a scan through most of the literature on religion in the contemporary world relates to the negative aspects of religion and its contribution to instability across the globe. What many scholars have often overlooked is the positive role that religion plays in preventing and resolving conflict. Religion has the capacity to bring parties together, based on the increased trust that it can introduce in certain situations. Certainly in the case of Mozambique, the religious group Community of Sant'Egidio played a cardinal role in

require careful interrogation in the discourse on religion and its potential to build lasting peace.

In the latter half of the 1990s, one of the favoured discussions in the peace discourse was the reflection on the role and importance of civil society in the area of conflict prevention and transformation. Comparative advantages and challenges were noted and it was argued that a new culture of peace needed to be established, encompassing a broad-based alliance of government actors, international organisations, non-governmental organisations (NGOs) and other civil society organisations (CSOs). A decade later, the centrality of CSOs in the field of conflict prevention and transformation is no longer a matter of principled discussion but the locus of most successful peacebuilding initiatives. In the same vein, religious institutions working in the area of peace have since grown, with a greater percentage of them extending their mandate from relief and development to peace and conflict resolution. As Cynthia Sampson acknowledges, although the religious sector's contribution was largely unknown, it has become the most expanding in

> TAKE A CASUAL GLANCE AT THE STATE OF THE WORLD TODAY AND ONE IS ALMOST FORGIVEN FOR SUGGESTING THAT, IN THE LAST TWO DECADES, RELIGION HAS BEEN AT THE HEART OF MOST VIOLENT CONFLICTS

resolving an intractable conflict between the two feuding parties, Frente de Liberação de Moçambique (FRELIMO) and Resistência Nacional Moçambicana (RENAMO). There are many other such examples in the world where religion and religious bodies were responsible for building trust between protagonists in conflict.

Although the peacemaking potential of religion is still a debatable issue – more particularly in Western policymaking circles – it has (in other parts of the world) been central as a defining element of national security and, hence, is far too important to be marginalised. In many conflicts, it would be important to understand the religious dynamics at play, if any, so as to deal effectively with their confrontational aspects – or perhaps most importantly, to capitalise effectively on their harmonising elements. To unpack this dichotomous polemic, a few questions would help direct the discourse. If this is the dilemma that confronts religion, how have the institutions and actors transcended this problem? How have they been able to contribute meaningfully to conflict resolution and peacebuilding? What tools have they employed to achieve this seemingly monumentous task? These are questions that

Religious organisations often provide assistance and support to their communities, through meal provision, offering shelter, and other support services, in the aftermath of violent conflict.

the field of international conflict analysis and transformation in the contemporary world. She observed that:

> "What for decades was the untold, unnoticed story behind the news, the undocumented history of religiously motivated peacemaking and reconciliation efforts – has now begun to grab the attention of scholars, journalists, diplomats, various governmental and non-governmental agencies, and funding organisations as these efforts have become more numerous, more visible and more needed."[9]

In a greater percentage of the conflicts that ravaged Africa after the Cold War, civil society, NGOs, inter-governmental organisations, the church and other religious institutions have continued to play a critical role in resolving conflicts and building peace. A plethora of examples are quite evident throughout the length and breadth of the African continent from the world-acclaimed roles played by the Community of Sant'Egidio in Mozambique; the Council of Churches in South Africa; the Catholic Church in Rhodesia/Zimbabwe, Zambia, Burundi and Rwanda; the Acholi Religious Forum in Northern Uganda; Christian–Muslim Dialogue in Nigeria; and the Community of Sant'Egidio in Algeria. These examples indicate that civil society – particularly religious institutions – have continued to play a fundamental role in ending hostilities on the continent, cementing the argument that religion is indeed a resource for peace.

Archbishop Desmond Tutu played an influential role in his native South Africa and the many conflicts around the world.

What has prompted this sudden surge by religious institutions to work tirelessly in the area of conflict resolution and peacebuilding? Douglas Johnston, in his article 'Faith-based Organisations: The Religious Dimension to Peacebuilding', explores what he termed "the potential of the faith-based approaches to conflict prevention and transformation."[10] He posited that faith-based approaches represent a viable and – more often than not – effective alternative, as opposed to traditional approaches. Such approaches may take the form of interventions by outside agencies and organisations rooted in religious traditions, or the local religious bodies themselves, "acting with moral authority they possess to cool tempers and promote reconciliation." This may also take the form of religious leaders bridging the gap between faiths and engaging in dialogue, with the view to developing trust and building strong relationships to enable joint collaboration in addressing common problems.

Religious leaders are also uniquely positioned to use their moral authority and influence to encourage mutual understanding within and between protagonists. Thus, serious consideration should always be given to their inclusion in formal peace processes. Not only does their influence provide the necessary moral authority that is sometimes missing and enhanced capacity for dealing with all kinds of religious issues that may arise in such negotiations, but their often-unrivalled influence at grassroots level can be useful in ensuring that any political settlement which emerges will be lasting. Certainly the irrepressible and influential role played by Archbishop Desmond Tutu in his native South Africa and the many conflicts around the world remains indelible.[11]

Religious communities can also provide social cohesion in the aftermath of violent conflict. They may also provide spiritual support to help people face agonising pain and suffering with some prospect for the kind of forgiveness that can break the cycle of revenge. Thus, it can be argued that more victimised societies find solace and comfort in dealing with religious institutions than secular ones. Religious networks generally provide the largest social infrastructure for human care, as depicted by the presence of churches, mosques, temples and other religious structures in virtually every village. Invariably, such communities and networks are committed to collaborative work for justice and peace, and they are generally dedicated structures that allow for such collaboration. It can be summed up that religious actors, communities and their institutions can play a significant role in the resolution of intractable conflicts in the contemporary world.

As John Paul Lederach, among others, has indicated, assuming that religious (or any other form of) conflict can be avoided is completely fallacious. Rather, there is need to recognise that conflict is a natural outgrowth of human interaction, and there are relatively effective ways of managing conflict. With respect to our present interest, interfaith dialogue would seem an important, often proactive
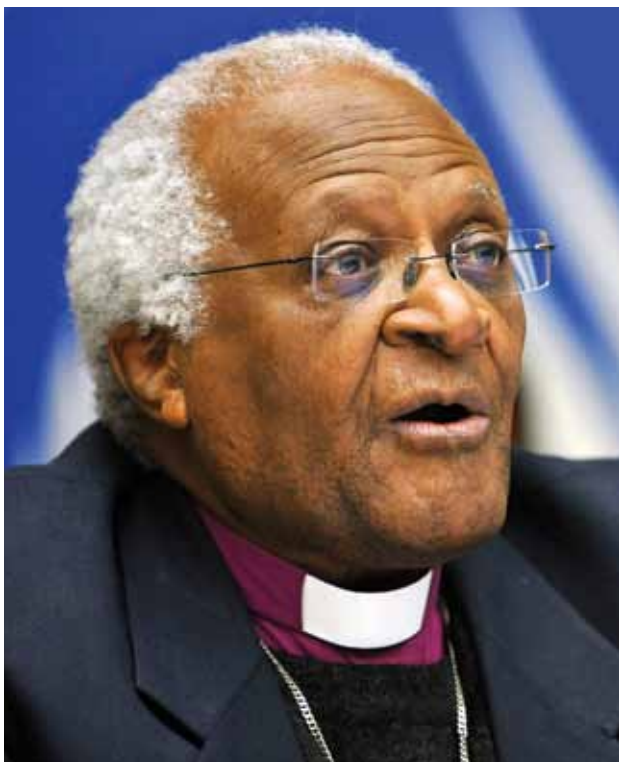
means of minimising conflict through addressing ignorance and distrust. At its core, inter-religious dialogue brings together those of different faiths for conversation. Dialogue can take a range of forms and have a variety of goals. Through discussions, groups and individuals may come to a better understanding of other faith traditions and of the many points of agreement that likely exist between them.[12]

In the pursuit of the goals of seeking peace, religious leaders and faith-based NGOs have frequently played prominent roles as mediators or other forms of intervention in conflict scenarios. Some religious figures have been able to use their positions of authority to work toward peace and to forward the cause of justice. The late Pope John Paul II, for example, played an important role in Lebanon, Poland and Haiti, among other places where he preached religious tolerance. As respected members of society, individual national religious leaders have often been at the forefront of efforts to deny impunity and bring an end to fighting. As examples, local bishops have served as mediators in civil wars in Mozambique, Burundi and Liberia. The All Africa Conference of Churches brought a temporary end to the Sudanese civil war in 1972, in part through prayer at critical points in the negotiations, and by invoking both Christian and Muslim texts. Some have pointed to the role that Buddhism has continued to play in building peace in Cambodia, as it is the only institution respected and trusted by all segments of society. Under many Latin American dictatorships in the 1970-1980s, the Catholic Church was able to criticise the lack of human rights (an example of this was in Brazil, where members of the Church worked with the World Council of Churches to conduct a private truth commission of abuses under the military government). These efforts, however, often go unrecognised – particularly the important efforts of individuals and groups engaged in unofficial diplomacy and working at the grassroots level.

Conclusion

Although religion can be referred to a double-edged sword, the various religious doctrines are premised on peace. In many of the intractable conflicts around the globe, religion has continued to play a pivotal role in the resolution of these disputes. The role of religious leaders in creating spaces for interfaith and inter-religious dialogue cannot be overemphasised in this regard. Hence, the creation of an environment where genuine debate is possible is important. Extremist rhetoric clearly flourishes best in an environment not conductive to rational deliberation. Needless to say, extremist rhetoric is very difficult to maintain in a discursive environment in which positions taken or accusations made can be challenged directly by rebuttal, counter-propositions, cross-examinations and the presentation of evidence. Without a change in the environment of public discourse within and between religious organisations, demagogy and rhetorical intolerance will prevail. Key to this observation is the erasure of ignorance, which is fertile ground for intolerance and extremism.

In conclusion, and as a practical way forward, the wisdom of Cynthia Sampson is highlighted:

"Religious communities are taking an increasingly systematic, intentional approach to peacemaking. Religious universities have developed conflict and peace programs, and churches are incorporating more explicit peacebuilding efforts into their outreach and development activities. Interreligious organizations are also following that trend. Non-religious peacebuilding groups are targeting religious groups as ripe for training and mobilization. Religious relief and development NGOs are expanding their mandates and training to include peacebuilding activities. Indigenous religious groups are being called upon to provide spiritual, emotional and psychological support to people who have suffered from violent, protracted conflict. There is also an increased number of religion based citizen's groups focused on bringing about peace, justice, and reconciliation. The Internet has allowed people from across the globe to hold dialogues within and across denominations and religions."[13]

Such a holistic approach, as espoused by Sampson, will ensure that religion is a resource for peace and the creation of a just and egalitarian society.   🅐

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INTERNATIONAL PROSECUTION OR POLITICAL COMPROMISE: WHICH WAY FOR THE AFRICAN UNION IN THE DARFUR CRISIS?

BY **ISAAC TERWASE SAMPSON**

Introduction

Sudan is one of Africa's most populous countries. Its predominant religion is Islam, while Christianity and animist traditional religions are more prevalent in the South where Darfur is situated. Darfur is Sudan's largest region, with an estimated population of approximately 6 million people, consisting of non-Arab African farmers – such as the Fur, Masalit and Zaghawa tribes (target groups).[1] Before the outbreak of the conflict in 2002, tension had been building in the region due to the alleged socio-economic and political marginalisation of the non-Arab African communities in Darfur by the predominantly Arab-based Government of Sudan (GoS). Low-intensity conflicts between the sedentary farmers of the African tribes and the landless nomadic Arab herdsmen over

land and water use took a political turn when the GoS sought to subdue the rebellion that sprang up in the Darfur region in the late nineties.

Propelled by these grievances, the main rebel groups in Darfur – the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM) – began organising themselves during 2001 and 2002 in opposition to the GoS, and commenced a military campaign against the GoS in late 2002 and 2003.[2] Faced with a military threat from two rebel

Above: The nomadic Arab tribes formed a local militia, known as the "*Janjaweed*", which refers to armed bandits on horses or camels.

The ICC's indictment of al-Bashir, otherwise heralded as an unprecedented step in the march against impunity, has not gone down well with the African Union (AU). The aftermath of that indictment is a frigid relationship between the ICC and the AU, over reasons of sustainable regional peace and sovereignty. This has led to a call by the AU on the United Nations Security Council (UNSC) to defer al-Bashir's trial for at least one year, to enable stakeholders in the Darfur peace process to explore non-litigable remedies. The refusal of the UNSC to grant the request has drawn the indignation of the AU. At its 15th Summit of Heads of State and Government, held in Uganda in July 2010, the AU resolved to explore the amendment of Article 16 of the Rome Statute to wrest the power of granting deferrals from the UNSC and confer it on the General Assembly. It reiterated its decision prohibiting African States Parties to the ICC from cooperating with the court in respect of al-Bashir's indictment, and also refused the ICC's request to establish a liaison office at the AU Secretariat.

Among many other concerns expressed by the AU over al-Bashir's indictment, the principal reason for its objection is predicated on the argument that the warrant of arrest would jeopardise the ongoing peace process being brokered by the AU and other interested parties in Darfur, and would compromise the search for enduring peace in the region. In justifying the AU's position, its chairperson Jean Ping argued that the ICC's search for justice should be pursued in a manner not detrimental to the search for peace.
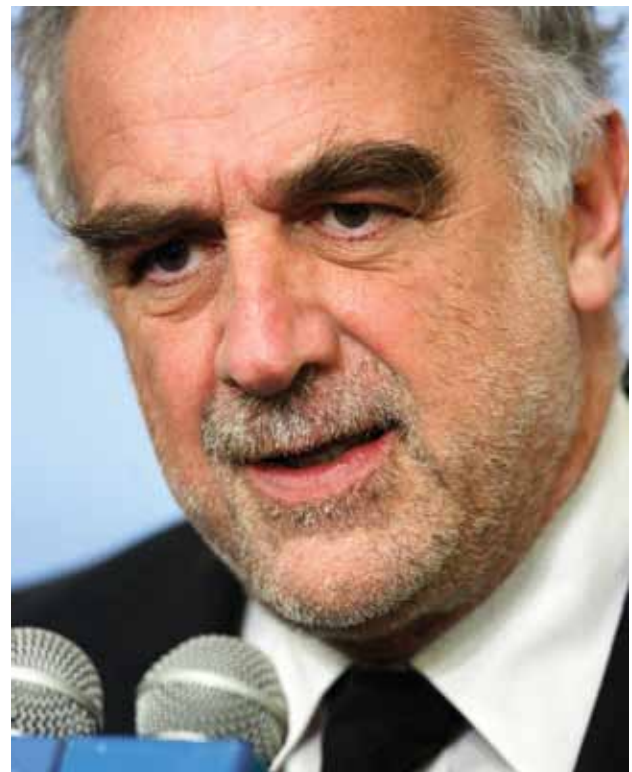
movements and a serious deficit in terms of military capabilities and personnel in Darfur, the GoS called upon local tribes to assist in fighting the rebels. These mostly Arab nomadic tribes, without a traditional homeland and wishing to settle down, responded to the government's call by forming a local militia group, the Popular Defence Forces (PDF) – locally called the *Janjaweed*, a traditional term denoting an armed bandit or outlaw on a horse or camel.[3] The GoS therefore exploited the existing tensions between the nomadic Arabs and the Darfur tribes.

In spite of the lack of unanimity over the fatality rate, it is estimated that between 200 000 to 500 000 people lost their lives in the aftermath of the ensuing conflict. This humanitarian situation prompted the United Nations Security Council (UNSC) to adopt resolution 1564 on 18 September 2004, requesting the establishment of an International Commission of Inquiry (ICI) to, inter alia, investigate reports of the atrocities in Darfur and identify the perpetrators of such atrocities, with a view to ensuring that those responsible are held accountable. The ICI recommended the referral of the Darfur situation to the International Criminal Court (ICC) for prosecution of those responsible for the atrocities.[4] Accordingly, on 14 July 2008, the ICC prosecutor filed an application requesting the issuance of a warrant of arrest against the Sudanese president, Omar Hassan al-Bashir, for his alleged complicity in crimes against humanity and war crimes against the target groups. The Pre-Trial Chamber (PTC) delivered its ruling on 4 March 2009, granting the requested warrant of arrest against al-Bashir, and later added the crime of genocide to the indictment on 12 July 2010.

Luis Moreno-Ocampo, prosecutor for the International Criminal Court, briefs the press on the situation in Sudan.

This article, therefore, seeks to examine the credibility of the AU's claim that pursuing prosecutorial justice in Darfur would compromise the ongoing peace process. It interrogates the appropriateness of Africa's adherence to transitional justice in post-conflict negotiations as a strategy exclusive of prosecutorial justice. By cursorily examining the transformation of the concept of transitional justice, this article argues that contemporary transitional justice is, in fact, predicated on international prosecution as opposed to political compromises. It concludes that the hybrid approach to justice advocated by the African Union High level Panel on Darfur (AUPD) is the appropriate means for achieving sustainable peace in Darfur.

Transitional Justice: Evolution and Transformation

The current debacle over the propriety (or otherwise) of prosecutorial justice in Darfur resurrects the controversial 'peace versus justice' debate that characterised the second phase of transitional justice. So wide is the literature on the peace versus justice debate[5] on transitional justice that its entire gamut cannot be exhaustively discussed within the compass of this article's limited content. Nonetheless, a cursory sketch of its thesis and transformation will be made in an attempt to situate properly the AU's perspective on the impact of the ICC's indictment of al-Bashir on sustainable peace in Sudan.

"[T]he origins of modern transitional justice can be traced to World War I. However, transitional justice becomes understood as both extraordinary and international in the post-war period after 1945."[6] Although 'transitional justice' jurisprudence initially focused on extraordinary post-conflict situations, its transformation now resonates with post-conflict situations in societies under democratic transitions to post-conflict justice in fairly stable societies – what Teitel calls "steady-state transitional justice."[7]

Teitel divides transitional justice into three phases: the post-World War phase, the post-Cold War phase and the steady-state phase. The first phase of transitional justice focused on establishing the rule of law through accountability; hence, its approach was the trial of post-World War I war criminals at the Nuremberg Tribunal. The second phase shifted from the phase one goal of accountability to the goal of preserving peace and, therefore, privileged judicial compromises in dealing with pre-transition human rights and humanitarian law abuses by past dictators for purposes of achieving peace and deepening the then-ubiquitous democratic transitions. The setting and conditions that surround contemporary (phase three) transitional justice are, however, different from second phase transitional justice. This third phase deals with issues of post-conflict justice in fairly stable societies. It envisions justice under conditions of political fragmentation, weak states, small enduring conflicts or wars in a time of peace, all of which characterise contemporary political conditions.

Phase three transitional justice resurrects the phase one approach to accountability in the form of the ICC, apparently established to stabilise or 'normalise' transitional justice. According to Teitel, the ICC symbolises the entrenchment of the
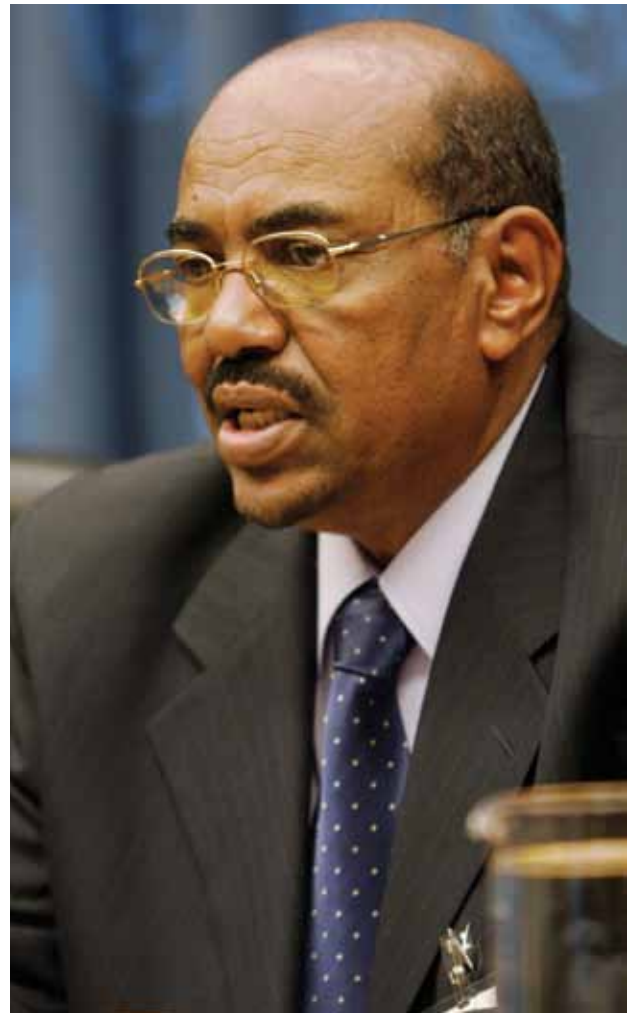
In 2009, the International Criminal Court issued a warrant of arrest for Sudanese president, Omar Hassan al-Bashir, for his complicity in crimes against humanity and war crimes; genocide was added to the indictment in 2010.

Nuremberg model, which privileged international prosecution for perpetrators of war crimes, crimes against humanity and genocide as a routine matter under international law.[8] Steady-state transitional justice, therefore, combines human rights law, international criminal law and international humanitarian law as a framework for determining accountability for perpetrators of international crimes, even beyond state boundaries.

The peace versus justice debate, which epitomises transitional justice, underscores the dilemmas that have trailed the concept from phase two to the present phase three. Predicated on the principles of realpolitik, the peace perspective inherent in the transitional justice debate focuses on the negative impacts that the recourse to accountability through the courts portend for the pursuit of peace negotiations. Adherents to this perspective favour the search for peace through extra-legal means – such as truth commissions, amnesties and, more recently, deferral of prosecution for egregious violations of human rights and humanitarian rules
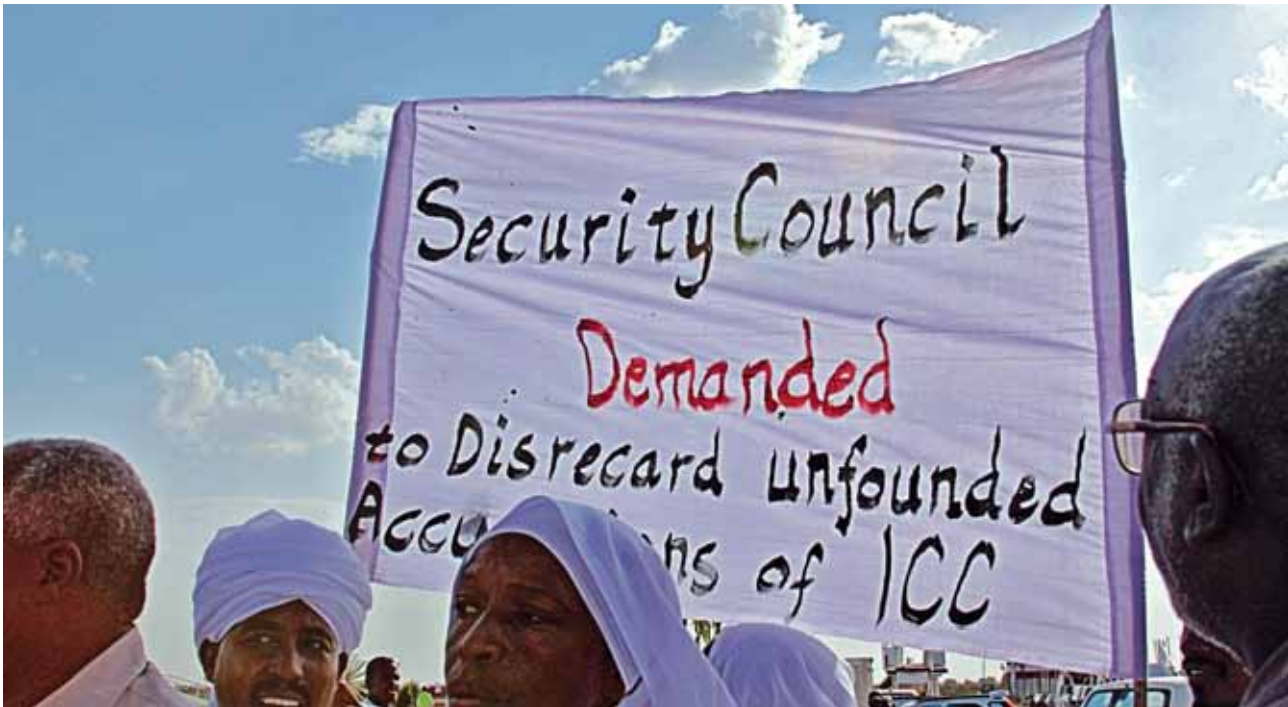
Demonstrators voice support for Sudan's president, Omar Hassan al-Bashir, who was indicted by the International Criminal Court for genocide in Sudan's western Darfur region, as they protest the arrival of the United Nations Security Council in El Fasher in North Darfur (2010).

over a strict adherence to retributive justice. Commentators who favour this viewpoint[9] advocate the exploration of extra-legal (de facto) means in order to achieve peace, rather than take the prosecutorial path to justice and risk conflict escalation or perpetuation. They argue that where human rights violators in control of state power sense they will be prosecuted and punished for their past conduct, they will likely try to perpetuate the conditions that sustain their access to political power, and this will inevitably lead to repression and further violation of human rights.[10]

On the other hand, adherents to the justice perspective argue that "realpolitik expresses a particular normative preference that makes impunity possible… as well as an attitude of indifference toward the victims of grave crimes of international concern."[11] Based on this premise, therefore, they conclude that there must be strict legal accountability for perpetrators of grave crimes in regular courts of law. The justification for this argument is that there can be no long-lasting peace in circumstances where an impunity policy for grave crimes is implemented and, therefore, neither de facto nor de jure impunity for such crimes should be allowed.

Furthermore, adherents to the justice perspective on transitional justice posit that, even if amnesties or deferrals are helpful in specific situations, they are capable of sending the wrong signals to other regimes and perpetrators of international crimes that they, equally, could invoke the palliative of amnesties or deferrals when their time comes.[12] It is also a contention that justice is essential to peace – in other words, lasting peace cannot be achieved if victims of grave crimes of international concern do not get justice. This contention is eloquently captured by Ellis, who argued that

"decisions not to prosecute are often premised on a misguided belief that it is necessary to choose between justice and peace, but this is a false choice; there can be no lasting peace without justice, and justice cannot exist without accountability."[13] It appears that the United Nations (UN) allies with the perspective that the prosecution of perpetrators of atrocities is the only way to guarantee lasting peace. In its resolutions establishing the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), the UNSC insisted that only the prosecution of persons responsible for grave crimes would guarantee effective redress for victims, and foster national reconciliation and the maintenance of peace.[14]

The justice perspective to transitional justice is the bedrock of the steady-state phase of transitional justice. It relies on a prosecutorial apparatus – the ICC – established principally to put an end to impunity for the perpetrators of international crimes. ICC proponents have argued that the court can assist efforts at national reconciliation after a conflict has occurred; on the other hand, its critics suggest that it may sometimes undermine peace.[15] In agreement with this view, proponents of the 'peace' perspective on transitional justice argue that the ICC's issuance of a warrant of arrest against al-Bashir may undermine peace – not necessarily by scuttling negotiations, but by complicating the efforts of the UN and other international bodies in stabilising the conflicts.[16] The AU has harped strongly on this rhetoric in requesting the UNSC to defer al-Bashir's indictment.

The transformation of transitional justice to a steady-state phase has rendered the claim that accountability may harm the achievement of peace moot, since contemporary

Former South African president, Thabo Mbeki (right), hands to the chairperson of African Union Commission, Jean Ping, the report compiled by the High Level Panel on the Darfur crisis.

transitional justice is, in fact, predicated on accountability through national and international prosecution. The political development of African states has gone beyond the stage of democratisation envisioned by the second phase of transitional justice. One can, therefore, appropriately situate African states as either stable or weak, precisely suited for the application of the steady-state phase of transitional justice. Most African states have long moved away from 'political transition' to 'developmental transition'.[17] Consequently, an attempt to describe them continually as 'states in transition' may, therefore, be made appropriately in a developmental sense, but not so appropriately in a political sense. Accordingly, the prosecution of al-Bashir and others for the grave crimes committed in Darfur is doctrinally correct – and, as we shall see below, available evidence also supports this approach.

Accountability as a Threat to Peace in Darfur

Apart from justifying accountability on the basis of contemporary transitional justice, this article seeks to determine if, on the basis of available evidence, the AU is justified in rejecting al-Bashir's indictment or whether the ICC and UNSC are complicit in scuttling peace in Darfur. First, the AU has unequivocally expressed its readiness to put an end to impunity through humanitarian intervention[18] and international criminal prosecution for grave crimes of international concern. Many African countries have voluntarily referred situations in

their territories to the ICC – these include Kenya, the Democratic Republic of the Congo and Côte d'Ivoire (a non-party to the ICC). From these and other examples, one could assert that African States Parties to the ICC have expressed a preference for a criminal justice response to international crimes.[19]

Proponents of the deferral of al-Bashir's indictment may, however, argue that there is no irrefutable presumption in favour of prosecution; hence the Rome Statute itself recognises the essence of deferral in the pursuit of the interest of justice.[20] Nonetheless, a request for deferral should not just be made without concrete evidence verifying the existence of a systematic approach towards the achievement of peace through alternative avenues, as this may lead to the resuscitation of the conflict. As the African Expert Study Group[21] aptly stated, African states advocating for deferral have an obligation to make their claims with proper consideration for the publicly available evidence, and relevant provisions of the treaty. From available information, however, it appears that the AU's refusal to engage with the ICC on al-Bashir's indictment is based more on the perceived breach or invasion of the sovereignty of African states by the ICC and support for one of their own, than it is on legally justifiable grounds or concern for peace in the region.

Controversial as this conclusion may seem, its potency becomes obvious after addressing the following queries: What approach to justice has the AU adopted in Darfur? Would deferring al-Bashir's indictment ultimately serve the interest

of justice in Darfur? Is there any alternative justice mechanism initiated in Sudan? Are there any steps taken by the AU to demonstrate to the UNSC the potential for success in the ongoing peace process? Is there any systematic programme of action adopted by the AU to demonstrate its intent to entrench lasting or interim peace in Sudan post-deferral?

The AUPD[22] recognised that justice and reconciliation for Darfur are inextricably linked, and should be approached conceptually and procedurally in an integrated manner to contribute to peace and stability in Sudan. The Panel asserted that, even at full capacity, the ICC can only deal with a handful of individuals, thus leaving the burden of justice to the national system. Therefore, it urged the GoS to deal with the crimes that have been committed in Darfur. Thus, in essence, the AU recognises that peace and justice are not strictly exclusive imperatives but are mutually reinforcing; for peace to reign, justice has to be rendered to victims.

Unfortunately, the GoS has not demonstrated any will to bring the perpetrators of atrocities in Darfur to justice. In an attempt to oust the ICC's jurisdiction in Darfur by invoking the complementarity rule[23], the GoS established some courts to try perpetrators of atrocities in Darfur. Unfortunately, these courts have tried only a handful of low-profile cases, involving insignificant offences such as intentional wounding, armed robbery, theft of livestock and possession of firearms without a licence, among others.[24] The ICC prosecutor has argued that the multiple judicial instruments created by the GoS have not been allowed to fulfil their mandates and, therefore, what they have done does not satisfy the condition for complementarity.[25] Consequently, the perpetrators of serious crimes in Darfur have overwhelmingly remained unpunished, while the need for healing has remained largely unmet. To date, Ahmad Haroun and Ali Kushyab – the first principal actors to be charged by the ICC prosecutor – are yet to surrender to the court. In fact, Ahmad Haroun is now the governor of the Sudanese state of Kordofan – an act that demonstrates that the GoS is not intent on pursuing justice to guarantee peace in Darfur. This attitude has led to the persistence of violence in the region and has created serious doubts over the so-called comprehensive peace process (the basis for the AU's request for deferral).

There is equally no compelling evidence to suggest that the deferral of al-Bashir's indictment will serve the interests of justice in Darfur. Although the Rome Statute of the ICC has not defined what constitutes 'the interest of justice', article 53(2)(c) of the Statute[26] suggests that the gravity of the crimes and the interests of victims would tend to favour prosecution. Furthermore, the Office of the Prosecutor (OTP), in its policy paper on the 'interests of justice', posits that the prosecutor's discretion in relation to this issue will be guided by the scale of the crimes; the nature of the crimes; the manner of their commission and their impact; the interest in seeing justice done for victims and their protection; the complementary role that can be played by domestic prosecutions; truth seeking; reparations programmes; institutional reform and traditional justice mechanisms in the pursuit of a broader justice; and ultimately, the objectives and purpose of the Statute.[27]

Summarily, therefore, the considerations for determining whether prosecution would serve the interest of justice includes the magnitude of the crimes, the interest of victims, the existence of other alternative means to justice, and conformity with the objects of the Statute. That the crimes in Sudan were of grave concern is an axiom; the persistence of these crimes in the region, therefore, weighs in favour of prosecution in order to secure the protection of victims. Lastly, there is no alternative approach to justice as advocated by the AUPD and enunciated in the OTP policy paper. The present situation in Darfur does not justify discontinuing or abating prosecution, as that would clearly negate the interest of justice.

In spite of the recommendations of the AUPD that the GoS begin a comprehensive pursuit for justice based on the principles of reconciliation, equality, obtaining compensation and restitution, establishing the rule of law, as well as criminal justice, the GoS has not made any efforts in this direction. There is a total absence of reconciliatory measures – such as the South African-type truth and reconciliation commission – or any compensatory or reparatory scheme. There is neither an alternative traditional system of justice nor a reformed criminal justice system to secure accountability for the perpetrators of those crimes. Instead, al-Bashir has maintained a dogged stance never to surrender any Sudanese national to the ICC.

It is also noteworthy that the AU has not demonstrated evidence of success in the Darfur peace process to the UNSC in

> THE AU SHOULD CONSTRUCTIVELY ENGAGE THE UNSC IN EXPLORING MUTUALLY WORKABLE WAYS OF ACHIEVING JUSTICE IN DARFUR WITHOUT NECESSARILY HURTING THE PEACE PROCESS

its request for deferral. The continuation of hostilities between rebels and government forces on the one hand, and the unabated attacks on civilians, aid workers and peacekeepers by rebels and government forces as late as August 2010[28] on the other, does not indicate any ray of success. Furthermore, the political undertone in the Arab League – echoed by Muammar Gaddafi – signals a potential failure of the scheduled referendum in Sudan. At the Arab-Africa summit held in Libya, Gaddafi warned that the secession of Southern Sudan could have a domino effect on the whole of Africa.[29] Similar concerns were echoed by the chairpersons of the Arab League and the AU. This shaky posture of the peace process in Southern Sudan does not justify the risk of abating the pursuit of justice via deferral. Assuming without conceding that South Sudan successfully secedes, it may not indicate the success of the peace process or sustainable peace in Darfur – in fact, it may mark the beginning of fresh hostilities. The activities of the Lord's Resistance Army in Darfur, DRC and Uganda are supported by the al-Bashir-led GoS.[30] Khartoum may, therefore, explore many other means to complicate security in Southern Sudan generally, thereby complicating the Darfur situation. With these possibilities available, accountability remains the only panacea to lasting peace in the region.

The AU has also failed to exhibit any systematic programme of action to demonstrate how it intends to achieve sustainable or even interim peace in Sudan after the deferral. An illustration of a road map for the achievement of sustainable

peace in Sudan post-deferral, would have given the UNSC an idea of what the AU aims to achieve within the period. Consequent upon the absence of this road map, therefore, the AU's request appears to be an emotive show of solidarity with an embattled colleague, leaning on sentiments of sovereignty and nothing more. The pursuit of accountability by the ICC is not inimical to the attainment of peace in Darfur; rather, it is a complementary effort in the attainment of sustainable peace. Prosecution is, in fact, endorsed by all Sudanese stakeholders and organs of the AU. The AUPD has stated that all Sudanese stakeholders also stressed the need for concerted action to deliver justice, which they argued would itself consolidate the pursuit of peace.

The AU should constructively engage the UNSC in exploring mutually workable ways of achieving justice in Darfur without necessarily hurting the peace process. In this regard, the integrated justice and reconciliation response proposed by the AUPD is highly recommended. ⚑

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Endnotes

1   Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General Pursuant to Security Council Resolution 1564 of 18 September 2004, Geneva, 25 January 2005.

2   Ibid., para. 63.

3   Ibid., para. 69.

4   Ibid., para. 569.

5   Proponents of the peace perspective on transitional justice advocate for politically pragmatic ways of achieving justice for victims of post-conflict or post-dictatorial regimes, while advocates of the justice perspective favour strict accountability measures like the prosecution of violators of human rights and international humanitarian law during armed conflicts or dictatorial regimes.

6   Teitel, Ruti G. (2002) Transitional Justice Genealogy. *Harvard Human Rights Journal*, 16, p. 69.

7   Ibid., p. 89.

8   Ibid.

9   For a comprehensive exposé on this perspective, see among others, Villa-Vicencio, Charles (2000) Why Perpetrators Should Not Always be Prosecuted: Where the International Criminal Court and Truth Commissions Meet. *Emory Law Journal*, 49; and Zalaquett, José (1992) Balancing Ethical Imperatives and Political Constraints: The Dilemma of New Democracies Confronting Past Human Rights Violations, *Hastings Law Journal*, 43.

10 See Morris, Madeline (2002) Lacking a Leviathan: The Quandaries of Peace and Accountability. In Bassiouni, M. Cherif (ed.) *Post-Conflict Justice*, pp. 135–153.

11 Bassiouni, M. Cherif (1996) Searching for Peace and Achieving Justice: The Need for Accountability. *Law & Contemporary Problems*, 59, pp. 11–12.

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14 See the Preambles to UNSC Resolution 827 (25 May 1993), UN. DOC S/Res/827, establishing the ICTY and UNSC Resolution 955 (8 November 1994), UN DOC /Res/955 (1994) establishing the ICTR.

15 Alexander, James F. (2009) op. cit., p. T–23.

16 Ibid., p. T–24.

17 Most African countries are no longer at the level of 'post-dictatorship political transitions' or extraordinary post-conflict situations to which classical transitional justice refers. In spite of the existence of conflicts in some of these states, they are fairly stable and should not be classified generally as states in transition; otherwise, they would be so referred to in perpetuity. While this appellation can be appropriately used in the case of Sudan and Somalia, it cannot be used, for instance, in the case of Côte d'Ivoire, in spite of the political crisis there. The common problem faced by all African states is development, hence the appellation 'developmental transition'.

18 See Article 4(h) of the Constitutive Act of the AU, Available at: <www.africaunion.org/root/au/Aboutau/Constitutive_Act_en.htm> Accessed on: 28 October 2010.

19 Akande, Dapo et al. (2010) *An African Expert Study on the African Union Concerns about Article 16 of the Rome Statute of the ICC* (hereafter African Expert Study Group). Pretoria: Institute for Security Studies, p. 19.

20 Id., Article 16 of the Rome Statute permits the UNSC to request the ICC to defer investigation or prosecution for a period of one year renewable, while Article 53(2)(c) and (3)(c) recognises deferral of investigation or prosecution in the interest of justice.

21 Akande, Dapo et al., op. cit., p. 20.

22 'Darfur: The Quest for Peace, Justice and Reconciliation', Report of the African Union High Level Panel on Darfur (AUPD), October 2009 (hereinafter AUPD Report), Available at: <http://blogs.ssrc.org/sudan/wp-content/uploads/2009/10/AUPD-Report-Final-October-2009.pdf> Accessed on: 15 December 2010.

23 According to Article 1 of the Rome Statute of the ICC, the court shall be complementary to national criminal jurisdictions rather than override them. Where the domestic courts assume jurisdiction on a matter, they do so to the exclusion of the ICC, which is merely complementary.

24 Williamson, Cécile Aptel (2006) Justice Empowered or Justice Hampered: The International Criminal Court in Darfur. *African Security Review*, 15, pp. 23–24.

25 See paragraph 17 of the Prosecutor's Tenth Report to the UNSC, Available at: <www.icc-cpi.int/.../FinalformattedspeechUNSC_11062010postdeliveryclean.pdf> Accessed on: 22 June 2010.

26 Rome Statute of the International Criminal Court, Available at: <http://untreaty.un.org/cod/icc/statute/romefra.htm> Accessed on: 10 February 2011.

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UNDERSTANDING RAPE IN THE DEMOCRATIC REPUBLIC OF THE CONGO

BY **CHRISTY GILLMORE**

GETTY IMAGES

According to most sources, 5.5 million people have died since the beginning of the war in the Democratic Republic of the Congo (DRC) in 1994, and rape is used as a weapon of destruction. More than 15 000 rapes were reported in the DRC in the last year[1] – accounts of these rapes include descriptions of horrific acts, such as mutilation and the killing of unborn children. The sexual violence is so severe in the DRC that some have described rape in the country as the worst in the world. To understand the reasons for the brutal violence against women, it is necessary to look at the DRC's historical, political, social and environmental contexts, as well as social psychological processes. Many have examined the economic, political and environmental processes that cause and perpetuate the rapes, but little psychological research has been conducted.

Historical, Political and Economic Background to the Conflict

After the Rwandan genocide ended in 1994, the Tutsi–Hutu conflict was left unresolved. The Hutu paramilitary group, the *Interahamwe* – which carried out much of the genocide – along with more than a million non-military Hutus, fled to the

Above: Margot Wallström (left), the Special Representative of the United Nations Secretary General for Sexual Violence, visits the DRC and talks to women following the mass rape of more than 300 women in Walikale, North Kivu. United Nations peacekeepers stationed nearby were accused of failing to protect civilians.
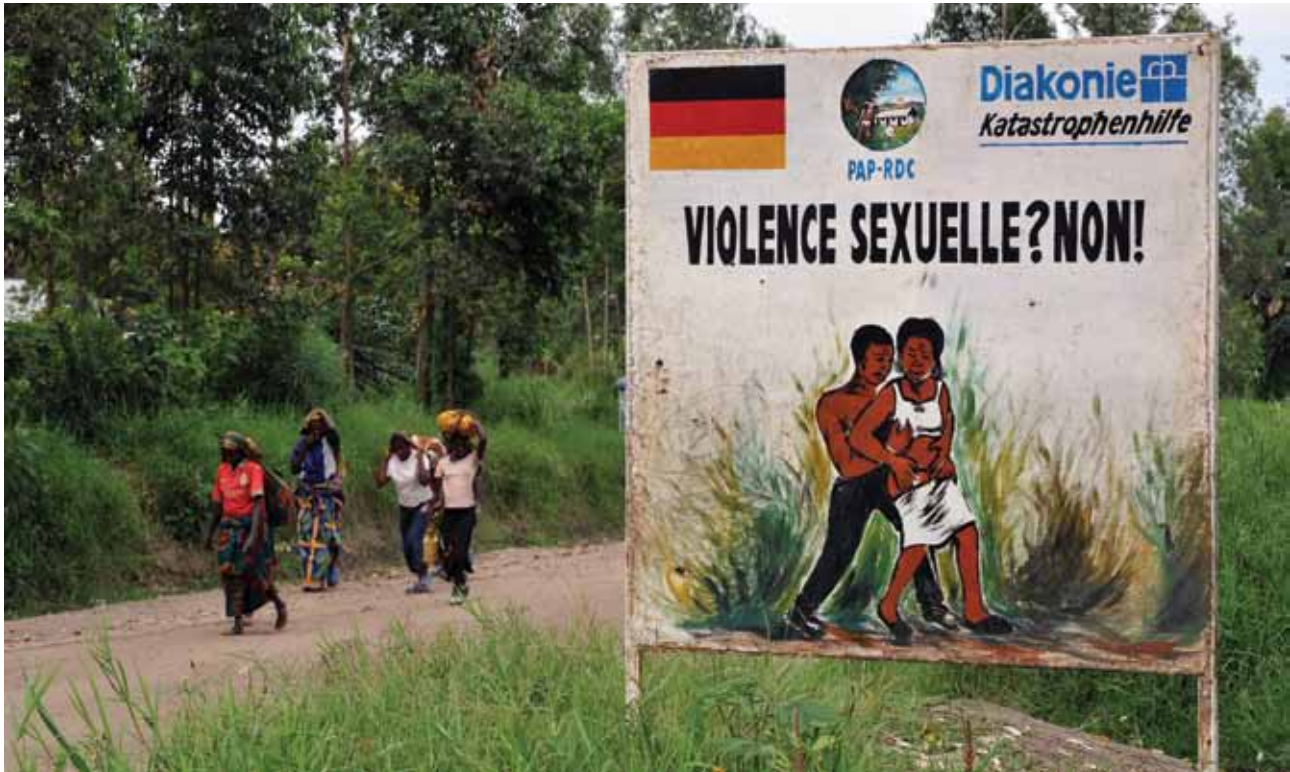
Rape and sexual violence in the DRC is considered to be the worst in the world.

DRC for refuge.[2] Claiming that the Hutus across the border posed a threat to Rwandan security, Tutsi President Paul Kagame sent troops into the DRC in 1996, and the Rwandan army massacred thousands of Hutus – civilians included. Rwanda, Burundi and Uganda all sent additional troops to the DRC in 1997 to aid rebel leader Laurent Kabila in his attempt to depose Mobutu Sese Seko, the DRC's then-dictator.

Although a peace agreement was signed between Kabila and Kagame, rebel groups prevented it from being fulfilled by continuing to cause destruction and chaos. In 2006, Kabila won the first democratic election in the DRC in over 40 years, but the situation in the country has not improved. Since Rwandan refugees and armed groups began moving into the DRC, the levels of violence and mass rape have been consistently staggering. The United Nations (UN) estimates the numbers of various forms of sexual violence – such as torture and gang rape – to be in the hundreds of thousands since 1998.[3]

Based on the natural resources available, the DRC should be one of the wealthiest places on earth – it is rich in minerals such as gold, diamonds, tin and coltan. The invaluable properties of the DRC's minerals have created an incredible demand and, with it, an incredible opportunity for profit. Unfortunately, it is the military and paramilitary groups responsible for carrying out mass killings and rapes that are benefiting from the mineral trade profits, allowing them to purchase weapons and other resources necessary to continue the destruction.

Rape as a Weapon of War

Human rights groups working in the eastern DRC have reported countless acts of violence committed by armed groups against civilians, especially women. A member of the Christian Peacemaker Team recounts the pictures she saw of "…women who had been shot in the vagina, who had had salt rubbed in their eyes until they were blind… who had been burned or had limbs amputated after being raped."[4] The UN has been overwhelmed by the atrocities in the DRC, and recently failed to stop the mass rape of women from a village 20 miles from a UN base.[5]

It is widely thought that all the armed groups in the area have used rape as a "weapon of terror."[6] Indeed, rape is a highly effective weapon in the area, as the stigma associated with it can cause the victims' families and friends to shun them, devastating communities. The stigma is particularly strong for women who become pregnant as a result of rape. Women who have the burden of carrying the 'enemy's' child are even more likely to be deserted by their families, leaving them without support to raise the child. Many are too ashamed to visit a doctor to tend to their damaged bodies. According to one development agency, rape in the eastern DRC "causes lifelong physical, psychological and social suffering to tens of thousands of women and girls."[7]

Theoretical Explanations

Various disciplines have made significant contributions to explaining the causes of mass and wartime rape. The theories

Rape is a highly effective weapon as the stigma associated with it brings great shame and can cause people to shun the victim.

here are meant to provide a brief overview from some of these disciplines, although the list is by no means exhaustive.

Structural and Political

Political scientists have studied the causes of mass rape, especially during war, and have contributed significant literature to the topic. Weitsman examines historical cases where sexual violence was used during war time, including in Rwanda during the 1994 genocide. In Rwanda, the Hutu government used rape to instil hatred against Tutsis, to destroy Tutsi women and as a "mechanism to try to take life."[8] Since many of the groups who committed the atrocities in Rwanda are now in the DRC, it is likely that many of the same perpetrators are now responsible for rapes in the DRC.

Policymakers have begun to investigate mass rape in the DRC. The United States Institute for Peace recently released a report that attempts to explain the underlying attitudes and motivations for sexual violence in the DRC.[9] The report presents the results of qualitative research conducted with members of the Mai Mai militia group.[10] The soldiers provided many explanations for rape – including that women should be treated as rewards for victories against an enemy, and individual sexual desires.

The soldiers' explanations for rape tie into theories that consider biological needs. Gottschall argues for nuanced biosocial theories that take into account biological sexual desire as well as socio-cultural and environmental factors. Biosocial theorists argue that a "prominent motive for wartime rape is the simple sexual desire of individual fighters"[11], but that socio-cultural factors greatly enhance the "increased propensity to commit rape in the context of war."[12] While these biological explanations may explain some of the rapes, they do not explicate the brutality of rapes and the fact that all age groups – from children to the elderly – are frequently raped.

Another common explanation for the continuation of the violence is a severe lack of punishment for perpetrators of rape. Opotow refers to societies with a "culture of impunity" that allow for atrocious acts to be committed without fear of punishment. This is the case in the DRC, where the eastern part of the country has almost no government presence, leaving militia groups free to rape and pillage as they see fit.[13] The Congolese military itself – the *Forces Armées de la République Démocratique du Congo* (FARDC) – was responsible for approximately 40% of the total rapes in 2007.[14] Though the government passed a law on sexual violence in 2006, few citizens know about it and it is uncertain when and if the government will enforce it.[15]

Socio-cultural beliefs

Research among armed groups in the DRC has shown that personal and cultural beliefs can also lead to sexual violence. For example, in the 2008 documentary *The Greatest Silence*, a group of male soldiers from the Mai Mai militia speaks about committing rapes. Several soldiers refer to superstitious beliefs that raping women will help overcome one's enemies in combat. An aid agency team that interviewed the Mai Mai soldiers discovered that superstition and fetishism contribute to rape; some men believe that sex with pre- or post-puberty women could give strength to fighters and protect them from death. "Professional fetisheurs" also advise the soldiers to rape young girls as a means to protect them from harm or

advance their financial situation.[16] According to these men, deeply held cultural beliefs play a significant part in the continuation of sexual violence in the eastern DRC, helping to explain the bizarre rapes of children and the elderly.

Militarisation and masculinity

A substantial body of literature exists on military ideologies and the images of masculinity produced within those ideologies as contributors to mass rape, which can only be touched upon in this article. Building on Cynthia Enloe's work on "militarised rapes"[17], Baaz and Stern examine ideas of masculinity relating to sexual violence, specifically in the DRC. Analysing the motivations of male soldiers in the DRC's state military (the FARDC), they determined from the soldiers' testimonies that they differentiate between "lust" rapes and "evil" rapes. They argue that these types of rapes result both from an overarching idea of "masculine heterosexuality" that must be fulfilled through the satisfaction of deprived sexual needs and from "frustration connected to poverty... and

SINCE MANY OF THE GROUPS WHO COMMITTED THE ATROCITIES IN RWANDA ARE NOW IN THE DRC, IT IS LIKELY THAT MANY OF THE SAME PERPETRATORS ARE NOW RESPONSIBLE FOR RAPES IN THE DRC

the general climate of warring, etc."[18] The soldiers' logic of sexual violence stems from larger discourses of masculinity that are produced within military institutions – which produce images of masculinity that are unattainable. The DRC has a highly militarised culture where men must strive to reach certain masculine ideals. It is primarily men that work in the Congolese government and who create policies for the country, and soldiers in the Congolese military and rebel groups are nearly all men.

The Missing Piece

Most of the above interdisciplinary theories do not explore psychological explanations for rape. This leaves a large gap in explanations of the topic – specifically in understanding how these atrocities can be carried out so brutally and what enables people to commit these crimes. Psychological theories can contribute to our understanding of the underlying motivations of the rapes. Research from the field and empirically rooted psychological theories can provide a solid foundation from which to explore peacebuilding options.

The above explanations of rape in the DRC – the desire to control mineral mines to gain profit and power, a culture of impunity, overarching masculine ideologies, and deeply rooted cultural beliefs – explain much of why the

violence has continued. However, for such brutal acts to be physically carried out, deeper psychological processes of dehumanisation, moral disengagement and societal norms are involved.

Social psychological theories

Social psychological explanations of genocide and mass violence can add to our understanding of the rapes. Some psychologists have described the phenomenon as starting small and slowly gaining strength over time. Ervin Staub, one of the most prominent scholars of the psychology of genocide, discusses the "evolution of increasing violence." He argues that two main instigators of genocide – difficult life conditions and group conflict – combined with a third motive of self-interest, can lead to mass killing.[19] Problems such as poverty, political instability and rapid social change make it difficult to meet basic human needs – to cope, people turn to a group with whom they can identify, and they diminish other groups to feel as though their ingroup is superior. This practice of scapegoating outgroups "strengthens connection within the group, and provides a psychologically useful...understanding of events."[20] As members of the ingroup increasingly devalue and dehumanise outgroups, they commit harmful acts toward those outgroups. They become more violent, along with similar occurring group and institutional behaviour, leading to more and more violence. This progression of violence, perpetuated by rape, can be seen in the DRC. The situation there meets Staub's

A woman, in Goma, cares for her two babies after being abandoned by her husband for being raped.

Women rest while recovering from their fistula repair surgeries in a HEAL Africa hospital in Goma.

instigator criteria of difficult life conditions, group conflict and self-interest.

Many people have described the rapes in the DRC as now so common that they have become seemingly normal. Staub discusses the progression of the normalisation of rape in the DRC. He recognises that a patriarchal society that devalues women, and the hatred toward Tutsis that spurred the Rwandan genocide, likely merged to create violence toward Tutsi women. The perpetrators who committed atrocities in Rwanda are now doing the same in the DRC – but, without the stability or support from their families or communities, these conditions have likely increased the men's aggression and their need to establish dominance and power. "Their actions in the Congo contributed to making rape 'normal', to create a culture of rape among all the fighting groups."[21]

There have been reports that government officers and United Nations officials have refused to deal with the subject of rape in the DRC – one officer even told members of his team that "rape was 'normal' behavior to be expected of soldiers who had been without women in the forest a long time."[22] In *The Greatest Silence*, a soldier's explanation for his own raping illuminates their normalcy: "For myself, I'm just doing like everybody else." Thus, situational and motivational factors in the DRC could be encouraging soldiers to continue raping, even when it seemingly has no immediate purpose.

For the sexual violence to become normalised, a set of psychological processes must occur within the perpetrators; ways for them to justify the acts to themselves. Bandura discusses various practices of moral disengagement as a way to distance oneself psychologically from having committed

inhumane acts. One such practice is moral justification, where "detrimental conduct is made personally and socially acceptable by portraying it as serving socially worthy or moral purposes."[23] Because of superstitious beliefs that raping women will help one in battle, these men view the rapes as contributing to the good of the country. One claims: "If I knew that [my sister or mother] was raped for a good cause, I wouldn't do anything [to stop the rape] because I know it's for the sake of helping the Congo."[24]

In another disengagement practice – displacing responsibility – perpetrators separate themselves from their actions by minimising their own self-agency in committing them. This often takes the form of placing blame on the authority figure who supposedly forced them to commit the act.[25] One soldier claimed: "If [my commander] sends me somewhere, I accept."[26] Another explains that the soldiers must do what their chiefs say in all circumstances to avoid consequences: "Despite your refusal, they oblige you to do it; otherwise you will be beaten seriously."[26]

Bandura discusses another practice – that of dehumanisation. This involves "stripping people of human qualities"[27] so that they are no longer viewed as having feelings, making it easier to harm them. As discussed earlier, the patriarchal society in the DRC devalues women and places them in roles that merely complement men's roles. In Mai Mai history, women have been given as "rewards" to soldiers. Offering women as "spoils" of war equates them with goods and property, removing their human qualities. Such treatment of women has helped set the stage for mass rapes.

Mai Mai soldiers believe that raping women will help overcome one's enemies in combat and that sex with women gives strength to fighters and protects them from death.

Much recent social psychological research has dealt with the phenomenon of dehumanisation as a means of doing harm to other groups. Researchers have found that associating other groups with less-than-human qualities and characteristics often precedes harm done to those groups. For example, Goff et al.[28] found in studies – conducted with both American white and non-white participants – that associations of black Americans with apes affected participants' judgements in criminal justice contexts. Specifically, the association increased support for violence against black suspects in criminal trials. Through studies like these, scholars can begin to understand the cognitive processes that may be leading soldiers in the DRC to commit such violence against women.

These individual psychological processes may be reinforced by a societal culture of impunity. Opotow claims that within this culture, government officials, armed groups and citizens can carry out crimes without fear of being punished. There is a "shared understanding that each person will be silent about the other's abuses as long as the favor is returned."[29] This culture establishes a moral framework that allows certain acts of violence to be considered appropriate. Harm committed by groups considered outside the scope of justice is excused through "moral exclusion." Soldiers in the DRC carry out mass rapes without fear of being held accountable for their actions. Women are unlikely to report the rapes – and often when they do, law enforcers do not have the capacity to carry out justice, or choose not to.

Conclusion

Social psychological theories, when used in conjunction with political, economic, social and environmental explanations, can be useful for understanding violence against women in the DRC. A single theory or theories from a single discipline falls short of explaining the phenomenon fully. Profit-driven motivations and globalised militarisation may begin to explain the vast numbers of soldiers who have committed atrocities in the DRC, but they do not elucidate the psychological processes that must take place for the

THE SOLDIERS PROVIDED MANY EXPLANATIONS FOR RAPE , INCLUDING THAT WOMEN SHOULD BE TREATED AS REWARDS FOR VICTORIES AGAINST AN ENEMY, AND INDIVIDUAL SEXUAL DESIRES

acts ultimately to be carried out. At the same time, moral disengagement does not explain the complexities of life and culture unique to the DRC, nor the power of masculinity ideals in shaping soldier mentality. While all of the disciplines have made significant advances in understanding the phenomenon, none have been able to explain fully why the rapes in the Congo are so incredibly brutal.

The topic of mass rape has been debated by academics from multiple disciplines, journalists, NGO workers, government and aid agencies for many years. The DRC has finally begun to receive attention with regard to this subject. More in-depth qualitative and quantitative research is being conducted to understand more fully the underlying causes of such brutal acts of sexual violence. It is clear that all of the explanations and theories across the various disciplines offer useful interpretations to explain the phenomenon. The real challenge, then, lies in merging the theories and research into a cohesive and integrative whole. Specifically, the field of social psychology should work more with human rights groups and aid agencies to conduct additional empirical research and provide psychological theories that support the existing data. The more these disciplines work together, the more quickly they can understand the phenomenon and develop strategies for halting the violence and preventing future atrocities.

Fortunately, some social psychologists have recognised the opportunity to work with human rights groups and NGOs to apply empirically backed psychological theories to the Congolese context and, ultimately, change the situation there. Dutch NGO Radio La Benevolencija has collaborated with psychologists to initiate a large-scale radio media campaign in Rwanda – they created a radio soap opera that promoted ideas of reconciliation, healing and the prevention of new violence, based on psychological theories. The campaign has since moved into Burundi and the DRC, and has reached a very wide audience. It has been successful in Rwanda at changing listeners' perceptions of social norms, as well as certain negative behaviours.[30] If this kind of collaboration took place more often to address sexual violence in the DRC, there could be an earlier end to the atrocities and the prevention of future violence.   ⚑

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PROTECTION FROM SEXUAL AND GENDER-BASED VIOLENCE IN LIBERIA: A ROLE FOR TRADITIONAL JUSTICE?

BY **NIELS NAGELHUS SCHIA** AND **BENJAMIN DE CARVALHO**

The international response to the situation of women in Liberia – although touted as one of the great success stories in implementing the United Nations Security Council (UNSC) resolution 1325 by the United Nations (UN) and the Liberian government – has not achieved what it set out to do.[1] Efforts at reforming the institutions of the rule of law have shown a mixed record. Since the end of the conflict in Liberia, a main priority of the UN Mission in Liberia (UNMIL), UN agencies, non-governmental organisations (NGOs) and international non-governmental organisations (INGOs) has been to deal with the very high levels of sexual violence against women and children. In spite of all these initiatives, few perpetrators are brought to justice; even fewer face trial and are found guilty.

In this article we investigate the tension between addressing specific issues per se, and viewing them within their broader context of pre-existing traditional mechanisms for dealing with conflicts – so-called traditional justice mechanisms. Much of the problem in Liberia today may lie

in the fact that sexual and gender-based violence (SGBV) is not dealt with by taking into account how local traditions and systems of justice administration work in practice. For, operating on an assumption of *tabula rasa* or *terra nullius* seems to be the default option of international reformers in the wake of armed conflicts.[2] Too often, the assumption is that, since 'it's a jungle out there', what is needed is to obliterate the 'laws of the jungle'. These inherently work against the ideals and principles which international institutions *ipso facto* embody – especially in the case of SGBV.

Based on a brief account of the implementation of policies aimed at dealing with SGBV in Liberia, we make the case that policymakers at the international level lack the knowledge and analytical means necessary to grasp the root

Above: Efforts at reforming the rule of law institutions in Liberia, to protect women, have shown a mixed record.

A poster featuring a man attacking a woman with a black cross over it, is pictured in a market in Monrovia, during a campaign to create public awareness that rape is wrong.

causes of problems. International donors and the UN often assume that nothing is working, and that everything in a post-conflict environment will have to be built anew.[3] Measures implemented are often ineffective or counterproductive, and international actors are largely left to deal with the symptoms.

Remedying these difficulties will require taking stock of how institutions worked before the intervention, and tackling the problems in a comprehensive manner, rather than in the piecemeal fashion that suits the agendas of largely Western donors. For the major problem in Liberia is not impunity for SGBV crimes alone, but for crimes in general.[4] In probing the argument about the effectiveness of traditional justice mechanisms in dealing with SGBV, we rely on the excellent project undertaken by the Carter Foundation and the United States Institute of Peace (USIP) on rule-of-law reform in Liberia.[5] The underlying assumption behind much of the efforts of the international community to provide protection from SGBV has been that the victims are better protected by a modern, largely Western, legal statutory system – as opposed to traditional arrangements for dealing with conflicts. Based on the experiences of Liberians with both traditional arrangements and customary ones, however, we argue that the rights of women may, in some cases, be advanced better by allowing the traditional chiefs to administer justice.

The Liberian Customary Justice System

The local level has an impact on the national level, and vice versa. In Liberia, this is especially relevant as the country has a dual justice system: a formal court hierarchy under the judiciary, and a system of customary courts authorised under the Hinterland Regulations. This system was established as an attempt on the part of the Liberian state and the Ministry of Internal Affairs to extend its authority by using indirect rule. The landscape of the justice system in Liberia is a complex one, involving several different and parallel systems.

The levels of the customary justice system range from senior members of a household to the county superintendent. This customary justice system involves non-binding arbitration and mediation, whereby cases can be appealed to higher levels and to the formal system. If, for example, one of the parties disagrees with the decision of a town chief, the case can be taken further to the next level, which might be the paramount chief or the formal system. However, in accordance with state law, the customary justice system is not permitted to handle matters of serious crime. In order to find the truth and assign guilt in a case, the chiefs consult civil society – communities of elders, youth groups or families in the local community. The chiefs are also accompanied by elders when they examine witnesses. Redress is first and foremost aimed at social reconciliation. The most efficient means of ensuring that unwanted behaviour is stopped is not through punishment, but the social shame placed upon the guilty party. This customary system is still preferred by Liberians in general; it is seen as being more accessible and efficient than the formal system.[6] On the other hand, having two systems working alongside each other also presents challenges.

Odd Bedfellows? SGBV and Traditional Justice

If we, for the moment, agree that using the interplay between statutory and traditional customary systems may, in many situations, be a more efficient and legitimate way of dealing with impunity than addressing the rule-of-law institutions through imposing a Western liberal statutory system, several problems arise. Fundamentally, the challenge

is for the international community to understand how these traditional systems work.

As Isser and her colleagues note: "While there is widespread understanding that rape cases must go to the formal courts, there is also widespread dissatisfaction with how formal courts handle the cases – primarily for the same reasons that formal courts are seen as ineffective generally – and concern that the ineffectiveness of the courts leads to impunity."[7] However, while there seems to be agreement that rape is a type of crime that should fall under the jurisdiction of the formal court system, Liberians also criticise the new rape law "for not allowing for restorative remedies that take into account broader social interests for 'less egregious' types of rape."[8] As a male respondent from Nimba County is reported to have said, the traditional system has an element of reconciliation that the formal court system lacks: "The traditional way is good because whenever you go wrong, and they fine you. Even if you wrong XYZ, they will tell you the fact, even though it may hurt. But the fact will be told and later they will bring the both of you together as brother and sister."[9] In the words of another respondent: "Actually, the customary law is the one that I prefer... Our traditional laws help us to handle our dispute very easily and after the settlement of these disputes, the disputants go with smiles in their faces... [In] fact, the statutory law brings separation among our people."[10] There would appear to be a clear case for attempting to draw upon both systems in administering justice, for the traditional system does seem to take into account several elements that the formal court system does not.[11] Liberians are dissatisfied with the formal system because it does not deliver effectively. In addition:

"Most Liberians would still be unsatisfied with the justice meted out by the formal system, even if it were able to deliver on the basics... This is because the core principles of justice that underlie Liberia's formal system, which is based on individual rights, adversarialism, and punitive sanctions, differ considerably from those valued by most Liberians.... In order to be seen as adequate, justice must work to repair those relations, which are the ultimate and more fundamental causal determinant, rather than merely treat the behavioural expressions that are viewed as its symptoms."[12]

This could all easily provide a strong defence for the traditional system at the expense of the formal system generally advocated by international organisations – but this is not necessarily so. Liberians – as confirmed on several occasions through our own fieldwork as well – generally feel that there are some cases which should be handled by the statutory system. However, in the majority of cases – often also including murder and rape – social reconciliation is preferred and looked upon as more important than punishment.

This view also corresponds to the practice of chiefs, who generally seem to refer these cases to the formal system. In a sense, then, the interplay between formal and traditional systems needs to take into account the deep-rooted perceptions, beliefs and cultural practices of Liberia. While Liberians seem to agree that cases of rape should be handled by the formal system – despite its many inadequacies – such a view could be adapted to local perceptions about the gravity of these crimes: "Manslaughter (involving accidental killing) and instances of alleged rape between young lovers in particular

In the customary justice system the chiefs consult elders and families in the local community.

Liberians are dissatisfied with the formal justice system because it does not deliver effectively and it is a system based on individual rights, adversarialism and punitive sanctions.

were examples of cases that respondents felt the customary system could resolve more effectively and for which it would produce rulings viewed as more fair than those afforded by the formal court system."[13]

Although the formal system may enjoy a fair amount of legitimacy, it can at times be problematic. Isser and her co-workers encountered this in a focus group in Lofa, where men seemed somewhat suspicious of the new rape law and the fact that dealing with rape was now to be the sole prerogative of the formal system, as they feared this was open to abuse: "Some women are happy about this rape law while others are not. Some use this to falsely accuse their husbands probably because of some dispute."[14] As these interviews show, the road towards implementing a statutory system is paved with difficulties.[15] In fact, rather than respect for the law, the reason many Liberians take matters to the formal system seems to be done with the intention of making money.[16] However, it is important to note that one reason for why the traditional system may enjoy higher legitimacy is the emphasis that traditional institutions place on restorative justice:

> "[I]n the resolution of most types of rape most rural Liberians continue to emphasize restorative and socially reconciliatory objectives as more important than punitive ones. The objective of reconciliation remains particularly important in a context in which the kinship relations that are so vital to all aspects of subsistence and social order itself are likely to socially link perpetrators and victims and their families."[17]

From this discussion, there seems to be a clear argument for a dual system of justice – at least in the shorter term – rather than for the international community to focus all its efforts on implementing a weak formal system throughout the country. There is no mechanism by which modern statutory systems gain legitimacy by virtue of the principles they embody, neither are there any prescriptions for how such a system could become effective overnight. It would seem advisable to operate with caution when reforming rule-of-law institutions, as failure of the new systems to operate can easily not only result in their losing support, but can also severely damage the social fabric.

The case of the rape law in Liberia would indicate that a certain amount of duality in the international community's efforts at addressing the shortcomings of so-called 'rule-of-law institutions' may be a viable road. In Liberia, the pursuit of the rights of women in cases of SGBV does not seem to have greatly improved their access to justice. There is little evidence that the traditional chiefs do *not* take the rights of women into account. On the contrary, Isser et al noted few – if any – complaints about how traditional authorities handle rape cases – whereas these exist in abundance when it comes to the formal court system.[18] Perhaps a programme established by the Norwegian Refugee Council (NRC) to address land disputes in Liberia could be used as a model also to address SGBV in the country. The Information, Counselling and Legal Assistance (ICLA) programme was established in Nimba county in 2006,

MUCH OF THE PROBLEM IN LIBERIA TODAY MAY LIE IN THE FACT THAT SEXUAL AND GENDER-BASED VIOLENCE IS NOT DEALT WITH BY TAKING INTO ACCOUNT HOW LOCAL TRADITIONS AND SYSTEMS OF JUSTICE ADMINISTRATION WORK IN PRACTICE

and was later expanded to several counties throughout Liberia. It has been particularly successful in solving cases. This success was, according to a recent CDA report, related to the programme's "…careful approach to researching all interests and details of land conflicts that it helps mediate, its ability to offer a combination of legal, technical, and process (mediation) skills, as well as its efforts to link with different official and traditional authority structures and offices, each of which have a say in the management of land ownership and access in Liberia."[19]

The programme's main focus of intervention was at the community level, which is also an important level to address SGBV in the country. When intervening,

the programme always sought to "…navigate a complex system of overlapping authority structures… local landlords and traditional chiefs and elders; district and county government offices; the national land administration and titling authority;… and where political interests are at stake, national level ethnic representatives or Monrovia-based politicians."[20]

This approach could also prove to be particularly successful with SGBV cases, because these cases always affect and involve social communities and social relations – and they may also be politically motivated. In the report *Local Ownership in Peacebuilding Processes in Failed States Approaches, Experiences, and Prerequisites for Success*, Thomas Jaye calls for better knowledge and understanding across the systems.[21] Supported by training courses (focusing on both traditional justice and legal statutory law), the NRC model – through making representatives from the various parties work together – may be one way to do this.

There is little to indicate that the best way to achieve justice for all – and especially weaker groups – in Liberia is through strengthening the formal system at all costs, at the expense of traditional arrangements. For many Liberians, justice seems to go through a dual administration of justice that takes due account of local practices and traditional arrangements. Implementing a uniform legal system by extending one set of statutory laws to the country as a whole, with a unitary legal system and framework that works the same way everywhere for everybody, does not stand out as the best option. For the time being – and perhaps even beyond – justice for all in Liberia may involve different systems of customary and formal arrangements that interplay according to principles of effectiveness, local legitimacy and the extent to which they can take into account the perspective of the victim as well.

How to manage the interplay between different systems so that most SGBV victims receive acceptable justice is still a matter of debate. This is a question that requires urgent and sustained attention. However, the fact remains that the hinterlands of Liberia are neither *terra nullius* nor a 'savage jungle'. It is time for international rule-of-law reformers to realise this, and discard the assumption that customary arrangements are based on some mythical 'law of the jungle' and can be reformed through indiscriminately imposing a generic Western liberal blueprint.

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Endnotes

1   Schia, Niels Nagelhus and De Carvalho, Benjamin (2009) Addressing Sexual and Gender-based Violence in Liberia. *Conflict Trends*, 03/2009.

2   See Sarah Cliffe and Nick Manning on "the fallacy of *terra nullius*" – the inability of the UN to take into account pre-existing institutions, and the assumption that everything must 'start from zero' – Cliffe, Sarah and Manning, Nick (2008) Practical Approaches to Building State Institutions. in Call, Charles T. and Wyeth, Vanessa (eds.) *Building States to Build Peace*. Boulder, CO: Lynne Rienner, p. 165.

3   One exception is the recent strengthening of the Civil Affairs section of the United Nations Peacekeeping Operations (DPKO). This civilian component of the DPKO has approximately 500 officers deployed to the field. These officers work in rural areas at the subnational level, focusing on communication and interaction with the local population, local level analyses, and extension and restoration of state authority – including at the local level, where the continued presence of civil affairs and other staff can facilitate critical early assessment and support. For more, see the Secretary General's report to the Special Committee on Peacekeeping, 4 January 2011, p. 7.

4   This article builds on fieldwork undertaken in Liberia in December 2007, May 2008 and January/February 2009, and is based on the general implementation of UNSC resolutions on women, peace and security (1325, 1820, 1888 and 1889); visits to Women and Children Protection Sections (WACPS); and interviews with NGO workers, UN officials and Liberian government officials.

5   The recent study by the US Institute of Peace breaks some new ground in showing not only how traditional systems work, but also what expectations Liberians have of conflict management systems – be they traditional or 'modern'. The study makes it possible to tentatively sketch out how such an interplay between different mechanisms and institutions for conflict management might work in addressing SGBV. See Isser, Deborah, Lubkemann, Stephen C., N'Tow, Saah et al (2009) *Looking for Justice: Liberian Experiences with and Perceptions of Local Justice Options*. Washington, DC: United States Institute of Peace.

6   Legal Working Group (2009) 'Findings of the Legal Working Group'. Monrovia: Ministry of Justice and UNMIL, p. 3, Available at: <http://www.usip.org/files/Liberia%202009/LWG%20%20Findings%20Final_Updated.doc> (accessed 13 August 2010).

7   Isser, Deborah, Lubkemann, Stephen C., N'Tow, Saah et al. (2009) op. cit.

8   Ibid.

9   Ibid.

10 Ibid., p. 4.

11 De Carvalho, Benjamin and Schia, Niels Nagelhus (2010) C. S. I. Monrovia? Liberia à la carte og bekjempelsen av seksularisert vold. *Internasjonal Politikk*, 68 (2), pp. 287–294.

12 Isser, Deborah, Lubkemann, Stephen C., N'Tow, Saah et al. (2009) op. cit., pp. 6–7.

13 Ibid., p. 54.

14 Ibid., p. 67.

15 De Carvalho, Benjamin and Schia, Niels Nagelhus (2011) Sexual and Gender-based Violence in Liberia and the Case for a Comprehensive Approach to the Rule of Law. *Journal of International Relations and Development*, 14 (1), pp. 134–141.

16 Isser, Deborah, Lubkemann, Stephen C., N'Tow, Saah et al. (2009) op. cit., p. 67.

17 Ibid., p. 69.

18 Ibid., p. 88. A brief note of caution: while available evidence seems to indicate that crimes involving SGBV are addressed by the customary authorities in a satisfactory and effective manner, there is still very little research that takes into account the perspectives of the victims.

19 Kurz, Christof P. (2010) Cumulative Impact Case Study: The *Cumulative Impacts of Peacebuilding in Liberia.* Reflecting on Peace Practice Project. Liberia: CDA Collaborative Learning Project, p. 32.

20 Ibid., p. 46.

21 Pietz, Leopold and Von Carlowitz, Tobias (2007) *Local Ownership in Peacebuilding Processes in Failed States: Approaches, Experiences, and Prerequisites for Success*. Report 12/07, Expert Meeting, 20–21 April 2007. Berlin: Center for International Peace Operations (ZIF), p. 27.

LIBERIA AFTER THE CIVIL WAR: VICTIMS DEMAND FOR REPARATION

BY **IBRAHIM AL-BAKRI NYEI**

Introduction

Liberia is undergoing post-conflict recovery and peacebuilding after 25 years of political crises that included 14 years of brutal armed conflicts. This conflict left the Liberian state collapsed, and only sustained efforts by the international community coupled with local efforts are reviving the state and its economy. In addition to state failure was the disintegration and desecration of society, the erosion of values, social challenges with young people, and mass unemployment and illiteracy. The conflict in Liberia resulted in the death of over 250 000 people, and the displacement of hundreds of thousands of people.[1]

Currently, international reports from some institutions like the World Bank and credible media organisations speak of significant progress in peacebuilding and the rebuilding of the country's image. The challenge remains rebuilding the lives of the people who were directly or indirectly affected by the civil crises. There were people who lost all

Above: Individual reparation processes are aimed at rehabilitating people directly through the restoration of their rights and provision of opportunities for advancement, including necessary health and medical services.

Community reparation processes are aimed at rebuilding communities, providing security, restoring rights and building necessary infrastructure.

that they had, families who lost their breadwinners and children who became fighters and were left as wayward youth, and women who were raped. Communities were also burnt down and massively looted. How can these people's situation be addressed and properly transformed outside of the conventional political and economic development agenda of the sitting government? This article discusses reparation in Liberia, and analyses the demands and rights of Liberia's victims to reparation. Finally, the article proposes a well-articulated policy on reparation as part of a post-war transitional justice mechanism to rehabilitate the lives of people and communities that were directly affected by the war.

Reparation: A Contextual Overview

Reparation can be described as a process of rehabilitating the lives of victims of armed violence, human rights abuses and disasters through social development packages and economic empowerment for communities and individuals. This process usually risks misconceptions, and can sometimes be seen as a handout to victims or payback for damages if not properly carved out and implemented. The term 'reparation' must therefore clearly be seen with a meaning that transcends repayment for past and continuing wrong, to embrace self-rehabilitation through education, organisation and mobilisation.[2] In designing reparation programmes and packages, a strategy will have to be implemented to make victims and their communities accept the process as a means of rehabilitating, reintegrating and uniting them for the present and the future, and to assure them that the conflicts and gross human rights violations they suffered before can never be repeated.

Reparations may be directed at individuals or communities, sectors and groups affected by conflicts or human rights abuses. Individual reparation processes are aimed at rehabilitating people directly through the restoration of their rights, and provision of opportunities for advancement – such as educational, medical and psychosocial support. Community reparation processes involve rebuilding communities, providing security, restoring rights and providing infrastructure such as schools, markets, hospitals, clinics, and so on.[3]

Transitional Justice and Reparation in Liberia

Since the end of the civil war in 2003, substantive efforts at transitional justice have not proven fruitful in Liberia. The foremost mechanism for transitional justice, which both the government of Liberia and the international community supported immensely, was the Truth and Reconciliation Commission (TRC) process. Local civil society organisations were also supportive of the TRC process all over the country. This process is still inconclusive, with the country divided on its recommendations.

The Liberian TRC commenced its activities in 2006, immediately after the inauguration of the first post-war government. The Commission conducted its work through statement-taking, public and thematic hearings, and research. Over 20 000 statements were taken from victims and witnesses, of which 47% were from women.[4] A commendable aspect of the TRC process was that it solicited statements and conducted hearings outside Liberia for the diaspora community. Statement taking and public hearings were also carried out in the United States of America, Europe and Ghana.

After three consecutive years of work (June 2006 to June 2009), the TRC submitted its final report to the Liberian government and the public. This report remains an issue of national controversy. Even though the Commission made brilliant recommendations for governance and institutional reforms, and recommended actions in addressing victims' conditions, land crisis, ethnic and religious diversities, and promoting national identity and unity, the debate over criminal prosecution and lustrations has overshadowed the entire process.[5] Little has been done by media and civil society groups to create public awareness on other aspects of the recommendations. The Commission recommended several individuals it termed as 'perpetrators', 'financiers of war' and 'most notorious perpetrators' for

Members of Liberia's Truth and Reconciliation Commission listen to a witness's testimony in the capital city, Monrovia (2008).

criminal prosecution and public sanctions. Among those recommended for criminal prosecution and lustrations from public office were senior government officials in the Cabinet and Legislature, including the sitting president.

The TRC Report on Reparation

The Commission advanced several recommendations on reparation in its reports, with an estimated budget of US$500 million over a period of 30 years. The recommendations on reparation include, among others, psychosocial, physical, medical and counselling services for victims; free education and infrastructural development for communities; economic empowerment for victims; microcredit schemes for women; memorialisation; and public apology from the government to the people of Liberia. These reparation programmes, according to the Commission, must target individuals and communities separately, and their support shall come from a proposed Reparation Trust Fund, which will be sustained through the seizure of private properties that were obtained from mismanagement or theft of tax payers' money, or through forceful acquisition.[6]

Government's Response to Reconciliation and Reparation

The government of Liberia has not shown any strong interest or strong political will to reconcile the country on the basis of the TRC report. More divisions have emerged and new alliances have been formed following this report. Former leaders of armed groups formed an 'alliance of convenience' immediately after the report was released,

and threatened to go back to war if any attempts are made towards their prosecution. With some of these people in key legislative positions, and the name of key public officials listed for public sanctioning, it is obvious that reconciliation and reparation by means of justice for the victims is far-fetched in Liberia. Government officials have publicly condemned the TRC report and its commissioners, and media reports have claimed that officials in government have arranged 'bogus' civil society groups to condemn the entire process and describe it as a 'waste of resources'. A group of prominent civil society organisations, such as human rights and pro-democracy groups, have endorsed the report and continue to remind government about its obligations in implementing it. Other organisations have initiated processes of dissemination and civic dialogue around the report's recommendations. The International Center for Transitional Justice (ICTJ) office in Liberia is engaged with the National Legislature, victim groups, victims' communities and other policymakers. In December 2010, the ICTJ, in collaboration with two other civil society groups, organised a symposium for government officials, civil society and victims and survivors to discuss collective and individual reparations and the significance of a national framework in the administration of reparation.[7] The role of civil society organisations in reparation in Liberia is highly noteworthy, but civil society – local and international organisations – has limited capacity and legitimacy to undertake these functions alone, as reparation projects are direct functions of every post-war government. Such government-led projects have real legitimacy and can

mobilise sufficient resources to make impacts and attain genuine success.

Specific strategies for implementing the recommendations on reparation are yet to be rolled out by the government of Liberia, and there is no sign of establishing any Reparation Trust Fund. The institution mandated by the TRC Act to implement the TRC's recommendations – the Independent National Commission on Human Rights (INCHR) – has distanced itself from the TRC report with a legal argument that its enabling legislation does not link its work to the TRC report. Legal arguments on constitutional issues, coupled with political manoeuvrings in the Legislature and division in civil society on the TRC report, indicate that Liberia is very far from addressing the direct needs of victims of the war through direct victim support programmes, least of all attaining genuine reconciliation.

The only action of the government of Liberia so far on the TRC report is the establishment of a small task force to assist the president in formulating a roadmap to guide the process of 'implementing the report'. The work of this task force has compartmentalised the report in four categories: historicity and memorialisation, reparation, prosecution and lustration, and reconciliation.[8]

In her second quarterly report to the Legislature on the implementation of the TRC report, the president expressed full agreement with the TRC in establishing a National Palaver Hut Programme around the country to support national reconciliation. This programme will bring together victims and perpetrators at a town gathering to reconcile the past, in front of traditional and religious leaders and community elders. The INCHR will be responsible for overseeing and coordinating this programme. Interfaith groups and non-governmental organisations are expected to play significant roles in the success of this initiative.

Recommendations for direct victim support have been ruled out by the president, with claims that every Liberian citizen was in one way or the other affected by the conflict and that everyone deserves or could claim reparation. It will, therefore, be impossible for the government to provide reparation for individuals, given the financial implications. It is clear that every citizen was affected in Liberia's civil war, but a careful review of the TRC statements and testimonies at the public hearings, and present living conditions in the country, show that everyone was not affected by the conflict in the same way. With the cessation of hostilities and stability in the country, some people have since recovered while others – who lost family members and homes, survived massacres, and suffered physical harm from bullets and torture – still have fresh memories and are yet to be rehabilitated or given assistance for survival. These are the people that the advocacy for reparation must emphasise. This article provides recommendations later for dealing with the reparation needs of such people.

Following the TRC process, some local and international organisations have been working with victims and victim

President Ellen Johnson Sirleaf of Liberia looks at the Truth and Reconciliation Commission's logo.

communities in rehabilitation. Even before the TRC process, efforts were made by some international humanitarian organisation – such as the Peace Winds Japan, Norwegian Refugee Council and the United Nations High Commissioner for Refugees – towards victims' rehabilitation. These groups organised resettlement packages for refugees and victims, and distributed construction materials in towns that were destroyed by the war.[9] The Trauma Healing Programme of the Lutheran Church in Liberia has done much work in rehabilitating victims through counselling and promoting community peace and reconciliation programmes.

Victims' Demands and Rights to Reparation

Liberia's victims are demanding their rights to reparation mainly from the government and international organisations. The expectations of the victims are high, and the government's proposed programme of only community reparation has increased frustrations in victims' communities. The victims are demanding a national programme for their rehabilitation, similar to what was provided for the prosecutors of the war, the ex-combatants. The victims believe that they who suffered the consequences of the war are being abandoned, while those who perpetrated mayhem against them (the combatants) have been rehabilitated and 'rewarded' with millions of dollars. A specific national programme was developed to disarm and reintegrate ex-combatants immediately after the civil war. The National Commission on Disarmament, Demobilisation,

Rehabilitation and Reintegration disarmed and reintegrated more than 101 000 former fighters, of which there were 22 000 women and 11 000 children.[10] The ex-fighters were supported in schools, colleges and vocational training centres and given monthly allowances. Some were given business start-up capital and logistical support to engage in self-employed businesses.

Survivors, victims and war-affected youth are demanding similar support for their rehabilitation, and civil society organisations have joined this call on behalf of victims. Victim organisations – such as the Liberia Massacre Survivors Association (LIMASA) and the Lutheran Church Massacre Survivor Association (LUMASA) – have taken exception to the government's proposal of a community-type reparation programme only. While they believe that community-type reparation is also needed in Liberia, they demand specific programmes that will address the concerns of individual victims – particularly those individuals with bullets in their bodies, amputees, orphans and widows who were directly victimised during the crisis.[11]

Denying these people reparation not only violates their individual rights, but also violates domestic and international statutes. There are several international and local legal instruments that provide for the rehabilitation of victims of armed conflicts in Liberia.

A victim of violence in Liberia, who was left physically disabled, explains his ordeal to members of the Truth and Reconciliation Commission in Palala. He is demanding assistance and reparation for his suffering.

International Instruments

There are many instruments of international laws, conventions, treaties and protocols that support reparation for victims, and oblige state parties to take action on behalf of victims of armed conflicts and human rights violations through legal remedies and/or rehabilitative programmes. The following are a few such instruments:

Universal Declaration of Human Rights (UDHR): The UDHR was the first universally protected international human rights standard, set out by the United Nations (UN) and adopted in 1948. Article 8 of the UDHR states that everyone has the right to an effective remedy for acts of violations against their fundamental rights granted under the constitutions of their countries. "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."[12] In the Liberian situation, the competent 'national tribunal' that was established to look into the civil war and the violations of human rights and international humanitarian law was the TRC – a quasi-judicial arrangement.

The United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law: The Basic Principles demand that state parties implement international laws regarding acts of gross violations of human rights, and ensure that perpetrators are prosecuted and victims are taken care of through reparations. Section 2 of the Basic Principles asserts that states are required under international law to make available adequate, effective, prompt and appropriate remedies including reparation, other provisions for justice for victims, and prosecution and punishment for perpetrators.[13] Other instruments – such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child – are instruments strongly in support of the victims' demand for reparation in Liberia.

Domestic Instruments

Whether armed conflicts or human rights violations, the Liberia legal system provides for remedy and payment for damage to individuals who suffer at the hands of other people. Even when a person is wrongly quoted by a press agency, thousands of dollars are paid for legal damage after a successful court trial, least of all for deaths, injuries, torture, rape, dismemberment, and so on. This section discusses two immediate domestic documents relative to the Liberian conflict that provide for reparation for war victims.

The Comprehensive Peace Agreement (CPA): The immediate peace and stability enjoyed in Liberia came as a result of the CPA, which was signed in Accra, Ghana in 2003 by the warring factions, political parties, civil society and the international community. The CPA set the stage for a ceasefire, the inauguration of a two-year transitional government, the deployment of an international stabilisation

force, the reformation of armed force and paramilitary organisations, governance reform, the formation of the TRC and the holding of democratic elections, and provided for reparations for victims. Nearly all of the above have either been completed or are ongoing, except for victims' reparation. The CPA mandated the establishment of the TRC, and ordered that the TRC recommend measures to be taken for the rehabilitation of victims. The TRC has since done its work and has, accordingly, forwarded recommendations. The responsibility to rehabilitate war victims was first assigned to the National Transitional Government of Liberia, which was mandated by the CPA to "accord particular attention to the issue of the rehabilitation of vulnerable groups or war victims (children, women, the elderly and the disabled) within Liberia, who have been severely affected by the conflict in Liberia."[14]

The Act to Establish the Truth and Reconciliation Commission (TRC ACT): The establishment of the TRC was mandated by the CPA, and its creation was passed into law by an Act of the National Transitional Legislative Assembly. The TRC Act mandated the Commission to investigate the Liberian conflict between 1979 and 2003, and to look into cases of human rights violations, submit findings and make recommendations

> THE VICTIMS ARE DEMANDING A NATIONAL PROGRAMME FOR THEIR REHABILITATION, SIMILAR TO WHAT WAS PROVIDED FOR THE PROSECUTORS OF THE WAR, THE EX-COMBATANTS

for amnesty, prosecution and the rehabilitation of victims. The Act also declared that all recommendations of the Commission shall be implemented, and that the Independent National Commission on Human Rights shall be charged with the responsibility to ensure that the recommendations contained in the TRC Report are implemented.[15]

Towards a Way Forward for Reparation

With victims of abuses still suffering from the tragedy that visited them during the Liberian conflicts, and with a lack of appropriate action seven years after the conflict, the prospects for a viable programme of rehabilitation for war victims remain uncertain. In the wake of these uncertainties, what then needs to be done? Programmes of victim support, governance reform, and national identity and unity are needed. To get close to national reconciliation and national unity and cohesion, a national reconciliation conference is needed for Liberia. This reconciliation conference must, among other things, aim at bringing victims and perpetrators together to decide on a way forward in reconciling the country, and formulating a national reconciliation policy that will address issues of national identity and cohesion. Liberians must be mobilised to take ownership of this

process, so that every citizen can be a moral guarantor of peace and reconciliation. Also needed is a strong moral and political leadership in support of reconciliation that will mainstream peacebuilding and reparation programmes in all national development and social policies. At the centre of reconciliation in Liberia must be reparation for the victims, who will be asked for forgiveness. Reparation must be addressed using both a governance focus approach and a victim-centred approach.

Governance Approach

Reparation from a governance approach refers to a process of reform in which state institutions are transformed in a post-conflict arrangement to ensure adequate and efficient services to all of its people, equal opportunities, and broader participation for the masses of the people. Conflict erupts in many countries out of historical grievances and structural violence against sectors of the population – in most cases, the majority of the people. Amos Sawyer argues that the conflict in Liberia – like other countries in the Mano River Basin area – was made possible by conditions of injustice and repression perpetrated by predatory and repressive rule.[16] If post-conflict governance arrangements in Liberia consider reform processes that seek to redress those grievances, and provide for the human security of the people, considerable progress in reparation from a governance perspective will be attained. These arrangements must target the following for the advancement of peace, progress and reconciliation: strong and responsive governing institutions, open political space for participation, credible democratic processes, equal opportunities for the advancement of the individual citizen, protection of human rights, and advancement of human security.

Victim-centred Approach

A victim-centred reparation programme seeks to transform the conditions of war victims directly through support to individual victims. A national reparation programme must begin with a proclaimed national policy or strategy on reparation. The development of this strategy must be informed by a process of mapping out victims of the war nationwide. This national mapping of war victims must identify both direct and indirect victims by answering the following questions: who they are, where they are, what are their conditions, what are they involved with, how are they coping, and what interventions do they need? Also needed is a mapping of affected communities; that is, communities that lost institutions and economic infrastructure.

Finally, it is recommended that newly established or existing national institutions mainstream reparation programmes for direct support to war victims. The National Commission on Disability, the Land Commission, and the Governance Commission are well suited to address reparation policy and implementation challenges in Liberia. The Governance Commission has done significant work in governance reform, particularly in building state institutions'

capacities for efficiency, policy development, public sector reform and national decentralisation. The Land Commission must be endowed with the legal capacity of arbitrating in land matters, and helping individuals and communities that lost land and properties during the war to regain them. The National Commission on Disability must be given sufficient financial and technical support to address the needs of individuals who are now physically disabled as a result of the war. Lastly, a commission on reparation to manage the Reparation Trust Fund of US$500 million, as recommended by the TRC, is needed to oversee victims' reparation and rehabilitation in Liberia directly.

Conclusion

Reparation in Liberia is unattainable in the absence of a well-proclaimed national programme for victims of the civil war. The prospects for genuine reconciliation in Liberia, therefore, also remain elusive without reparation for victims. The government of Liberia has to consider the rights of victims after civil war, as provided for under international laws. Claims by the government that every Liberian was affected by the war, and therefore only community reparation will be supported, are not acceptable to the victims – particularly those children who no longer have parents to support them, those who have become wayward youth, women who have suffered as a result of rape and forceful marriages to combatants, and those who lost their limbs and are only surviving by street begging. These are just a few examples of the many social and economic problems experienced by individuals and families in Liberia. Community reparation has to be done concomitantly with individual reparation. Victims can be supported in many ways. Direct victim support programmes will require educational support for young people; and special school programmes, vocational training and economic empowerment programmes for the disabled, women and war-affected youth. Special medical care and psychosocial treatment programmes are also needed for war victims with medical and psychosocial problems.

The INCHR is largely expected to lead efforts at reconciliation and reparation in Liberia. Considering the legal and political context surrounding the report of the TRC and the role of the INCHR, the focus on the implementation of the reparation segments of the report must be directed to the establishment and operationalisation of the proposed commission on reparation. This commission will, in addition to supporting victims, address other significant recommendations regarding human rights, governance reform and land issues. It is evident that criminal prosecution and lustration from public office are impossible, considering the current political environment in the country. Reparation and other means of reconciliation as recommended by the TRC must, therefore, be given immediate priority. ⚐

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Endnotes

1   Truth and Reconciliation Commission of Liberia (2009) *Consolidated Final Report*. Monrovia, Liberia.

2   Nehusi, Kimani (2000) The Meaning of Reparation. *Cabrinet*, Issue No. 3, September 2000. Available at: <http//www.ncobra.org/resources/pdf/knehusi> Accessed on: 6 January 2011.

3   For further reading on individual and community reparation, see Magarrell, Lisa (2007) *Reparation in Theory and Practice*. Reparative Justice Series, International Center for Transitional Justice.

4   Truth and Reconciliation Commission of Liberia (2009) op. cit.

5   For further analyses of the TRC process, its report and ensuing debate, see Allen, Paul James, Weah, Aaron and Goodfriend, Lizzie (2010) *Beyond the Truth and Reconciliation Commission: Transitional Justice Options in Liberia*. Liberia: International Center for Transitional Justice.

6   The Report recommends that the multimillion headquarters of the True Whig Party – the EJ Roye Building – be nationalised and the proceeds be utilised for the Reparation Trust Fund. It also recommends that the J.J. Roberts Trust Fund – established by President J.J. Roberts and now managed by the First United Methodist Church – be nationalised and the proceeds be utilised for the education of the children of Liberia.

7   This policy seminar was held in collaboration with ActionAid–Liberia and CENTAL, under the theme 'Liberia after the TRC Report; Moving Reparation Forward'. This author was one of several presenters at this seminar.

8   Johnson-Sirleaf, Ellen (2010) *Second Quarterly Report on the Implementation of the TRC*. Recommendation to the Speaker of the House of Representatives, 27 August 2010. Monrovia, Liberia.

9   Many towns and villages in Bomi County got bundles of zinc for houses, hand pumps and pit latrines. Nearly all of the factions in Liberia, including the RUF of Sierra Leone, had bases in Bomi County at separate times.

10 (2010) *Seven Years of Peace*. UN FOCUS, Vol. 7 No. 1 (September–November 2010).

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SMALL ARMS AND LIGHT WEAPONS PROLIFERATION AND HUMAN SECURITY IN NIGERIA

BY **FREEDOM C. ONUOHA**

Introduction

Nigeria's internal security environment has deteriorated in the last decade. Old security threats have remained or even assumed worrisome dimensions, while new threats have emerged. Some of the old threats that assumed new dimensions include small arms and light weapons (SALW) proliferation, armed robbery, ethno-religious conflicts, militancy, assassinations, human trafficking and kidnapping.[1] Threats considered to be relatively new in Nigeria – though not without precedent, in the strict sense of it – are the outbreak of Islamic extremism and domestic terrorism, evident in the growing audacity of the Boko Haram sect[2] and the 50th Independence Day (1 October 2010) twin bomb blasts in Abuja that killed 12 people and injured several dozen others.[3]

A common denominator in the manifestation of both old and new threats is the use of SALWs. Thus, Nigeria now features prominently in the three-spot continuum of transnational organised trafficking of SALWs in West Africa: origin, transit route and destination. Weapons in circulation in Nigeria come from local fabrication, residue of guns used during the civil war, thefts from government armouries, smuggling, dishonest government-accredited importers, ethnic militias, insurgents from neighbouring countries and some multinational oil corporations operating in the oil-rich

Above: Light weapons are portable arms designed to be used by several people working together and include heavy machine guns.

Small arms are used by one person and include firearms.

but crisis-plagued Niger Delta.[4] When and where these SALWs are deployed, human security has been the main victim.

This article, therefore, focuses on one of the most current afflictions of Nigeria – illicit penetration and proliferation of SALWs – and its impact on human security. Before delving into the substantive aspect of this article, it is apposite to clarify the concepts of SALWs and human security as used here.

Conceptual Clarification

This article adopts the definition of SALWs provided by the Economic Community of West African States (ECOWAS) Convention. 'Small arms' refers to arms used by one person, and which include firearms and other destructive arms or devices such as exploding bombs, incendiary bombs or gas bombs, grenades, rocket launchers, missiles, missile systems or landmines; revolvers and pistols with automatic loading; rifles and carbines; machine guns; assault rifles; and light machine guns. 'Light weapons' are portable arms designed to be used by several persons working together in a team, and which include heavy machine guns, portable grenade launchers, mobile or mounted portable anti-aircraft cannons; portable anti-tank cannons, non-recoil guns; portable anti-tank missile launchers or rocket launchers; portable anti-aircraft missile launchers; and mortars with a calibre of less than 100 millimetres.[5]

Although the concept of human security has gained currency recently, the idea is not fundamentally new. The ontological and epistemological assumptions that have underpinned previous orthodox security and policy formation simply did not recognise, include or value it.[6] The specific term 'human security' was first officially introduced by the United Nations Development Programme (UNDP) in its 1994 *Human Development Report*.[7] The report captured seven dimensions of the human security concept: economic

security, food security, health security, environmental security, personal security, community security and political security. Two main aspects of human security are identified in the report: safety from chronic threats such as hunger, disease and repression; and protection from sudden disruptions in the pattern of daily life, whether in homes, jobs or communities.

The conceptualisation of security from the human security perspective represents a paradigmatic shift from orthodox security thinking, which privileges the protection of state power over an approach that accounts for the complex social and economic relations of its citizens. Human security is defined here as freedom from actual and potential threats to human life that may arise either as a result of human actions or inactions, or from natural disaster such as flood, earthquake, famine, drought, disease and other natural calamitous events resulting in death, human suffering and material damage. The emphasis on human security derives essentially from three fundamental convictions – namely the sanctity and inviolability of human life, the universality and dignity of human rights, and the existential imperatives of and value for individual safety in a world full of multifarious threats. Human security is, therefore, rooted in three basic human instincts: selfpreservation, self-extension and self-fulfilment. By contributing to the disruption of the pattern of daily life at the individual, community and societal levels, the proliferation of SALWs plays a key role in denying people entitlement to these three core human values, central to the notion of human security.

Overview of Small Arms and Light Weapons Proliferation in Nigeria

In spite of the existence of regional, continental and international instruments designed to curb the proliferation of SALWs, Africa features prominently in the global map of regions with a high circulation of arms. Some of these instruments include:

- the ECOWAS Convention on Small Arms and Light Weapons: Their Ammunition and Other Related Materials (2006);
- the Bamako Declaration on the Common African Position on the Proliferation, Circulation and Illicit Trade in Small Arms and Light Weapons (2000); and
- the United Nations (UN) Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects (UN PoA).

Out of approximately 500 million illicit weapons in circulation worldwide in 2004, it was estimated that about 100 million are in sub-Saharan Africa, with eight to 10 million concentrated in the West African subregion.[8] Regrettably, more than half of these SALWs are in the hands of non-state actors and criminal groups. Nigeria is both a producer and consumer of SALWs in the West African subregion. Although it is difficult to determine the exact quantity of illegal SALWs circulating within or penetrating into Nigeria, it is estimated

Most arms and small weapons are in the hands of non-state actors and criminal groups, in West Africa.

that over 70% of about eight to 10 million illegal weapons in West Africa are in Nigeria.[9]

The high rate of illegal procurement and use of SALWs in Nigeria is indexed by the intermittent seizure of SALWs by security and border control officers, the frequency of deployment of these arms in conflict and crime scenes, and the level of human casualty and material damage recorded in the aftermath of its use in the country. For instance, the quantity of arms surrendered during the disarmament and demobilisation (DD) phase of the Amnesty programme for the Niger Delta militants in 2009 gave an idea of the quantum of SALWs proliferation in the country. The Amnesty initiative saw over 15 000 militants surrender arms at the expiration of the DD phase of the Amnesty. Weapons recovered during the disarmament process included 2 760 assorted guns, 287 445 ammunitions of different calibre, 18 gun-boats, 763 dynamite sticks, 1 090 dynamite caps, 3 155 magazines and several other military accessories, such as dynamite cables, bulletproof jackets and jackknives. It is widely believed that militants only surrendered a small fraction of their arms, as most of them doubted the government's genuine commitment to the amnesty.

The regular interception of illegal arms trafficking within and across the borders by security agencies also reveals the worrisome dimension that arms proliferation has recently assumed in the country. The media is awash with frightening

reports of sophisticated SALWs being seized by security operatives either at ports, borders, highways or crime and conflict scenes. In August 2010, security agents in Maiduguri arrested a commercial driver carrying 25 AK-47 rifles and hundreds of rounds of ammunition in a Peugeot 504 vehicle.[10] These arms, allegedly smuggled into the country from Cameroon, were destined for Jos – where cascading ethno-religious violence has caused serious devastation in human and material terms. In November 2010, a woman identified as Lucy Danagana was intercepted at Dabar Masara, Borno State, trying to smuggle 10 AK-47 rifles from Chad Republic into Nigeria. She entered Nigeria from Chad through Kofia in Cameroon via a boat.[11] Around the same period, the police in Ibadan, Oyo State, intercepted a large cache of arms and ammunition from a suspected bank robbery squad. The seized arms and ammunitions included 47 rifles, 103 AK-47 rifle magazines, one assault rifle magazine, 2 540 AK-47 rounds of ammunition, 727 general purpose machine gun (GPMG) rounds of ammunition, three chain bullets, explosive materials, two GPMGs and one chisel (a tool with a characteristically shaped cutting edge).[12]

A high-profile interdict was recorded in October 2010 when a combined team of security agents impounded 13 containers loaded with various sizes of grenades, rocket launchers, explosives, assault rifles, heavy machine guns and ammunition at Apapa Wharf in Lagos, Nigeria.

Azim Adhajani, an Iranian, is charged with illegally importing arms into Nigeria (February 2011).

The containers were aboard a vessel – MV CMA-CGM Everest – from Iran and were destined for The Gambia in West Africa.[13] This discovery came a few weeks after the National Task Force to Combat Illegal Importation of Goods, Small Arms, Ammunition and Light Weapons (NATFORCE) had, on 18 October 2010, impounded a lorry load of arms and ammunition in Onitsha, Anambra State.

Nigeria's problem with SALWs is also traceable to the civil war (1967–1970), during which the south-east made a failed attempt to secede. Deminers Concept Nigeria Limited – a company involved in the enumeration of mine victims, identification and marking of unexploded ordinances and demining exercises in the south-east of Nigeria – has revealed that it recovered over 17 000 unexploded bombs from the zone. An estimated 300 unexploded bombs and improvised explosive devices are still believed to be buried in the region.[14] These unrecovered explosive remnants of war still pose a threat to human security, especially for women and children that farm in fields in the area.

Understanding the Proliferation of SALWs in Nigeria

The high circulation of SALWS in Nigeria is a product of the interplay of several interrelated factors. The proliferation derives principally from the internal socio-economic and political dynamics of Nigeria, compounded by globalisation.

The crude nature of Nigerian politics is one key factor driving the process of SALWs proliferation. Politics in Nigeria – especially electoral politics – is defined and approached by politicians as a do-or-die affair, or warfare. The stake in Nigerian politics is incredibly high, making politicians desperate in the struggle to win elective positions. As a result, many of them recruit 'specialists of violence' – cultists, gangs and thugs – to attain and retain political power. In some cases, these 'specialists' are compensated with sensitive elective and appointive offices. The result is either gross ineptitude or recrudesces of political warfare, further exacerbating governance failure in Nigeria. This goes a long way to explaining the violent brand of Nigerian politics, usually painted with blood and money. The incredible logic becomes: more money in politics, more SALWs. And more SALWs in politics, more blood spilling in the name of politics.

Governance failure, in turn, adds another dimension to the proliferation of SALWs. The term 'governance' is used here in its generic form to encompass not only how state institutions and structures are managed, but also the processes of decision-making and policy formulation, the capacity to execute these policies, resource allocation, information flow and the efficiency of officials.[15] Governance, therefore, seeks institutions and rules that promote more equitable socio-economic outcomes and enhances human development. Accordingly, governance failure entails the inability of state actors, institutions and agencies to use public resources and authorities to ensure the protection of lives and properties, as well as the delivering of public goods necessary for the advancement of human security and development. It is a product of gross mismanagement and embezzlement of public resources, resulting in mounting poverty, unemployment and poor/failed delivery of basic services, not least security. Despite enormous oil wealth, over 70% of Nigeria's 150 million people subsist on less than US$1 per day. Owing to frustration and deprivation, many have taken to criminal activities such as piracy, armed robbery, kidnapping and militancy, which contribute to the demand side of arms penetration and circulation.

Also related to – or defining – the problem of governance failure is the issue of corruption. Corruption creates a security paradox that feeds into the cycle of SALWs proliferation in Nigeria. Corruption has become largely institutionalised in both the public and private sectors in Nigeria, and the security sector has become worse for it. Given widespread poverty and the low wages of security agents, some greedy security personnel are easily corrupted by transnational arms traffickers – or are themselves involved in illegal business. On several occasions, security agents have been found aiding arms trafficking in Nigeria. For example, a major and five other soldiers of the Nigerian Army were convicted in November 2008 of selling over 7 000 arms [valued at over 100 million Nigerian naira (₦)] – including AK-47 rifles, rocket launchers and machine guns – to Niger Delta militants between January 2000 and December 2006. These arms were stolen from

Many corrupt politicians in Nigeria recruit "specialists of violence" (gangs and thugs) to help them attain and retain political power.

the depots of the Nigerian Army at the Command and Staff College, Jaji, and the One Base Ordnance, Kaduna.[16]

Governance failure also manifests in the inability of the Nigerian state to provide public security. In the last decade, the Nigerian state has demonstrated visible weakness in controlling the use of violence within its territory. As a result, its monopoly on the legitimate use of violence is increasingly up for grabs by criminals, militants, warring communities and other forms of non-state actors. The consequence of the failure of public security is the intermittent outbreak of violent conflicts in recent times. The failure of public security in Nigeria has lead communities to indulge in different forms of 'self-help' security measures, ranging from vigilante groups to community-owned arms stockpiling. Having lost confidence in the Nigerian state, parties to some of these conflicts have become entangled in a security dilemma. The quest to procure more arms to guarantee personal and community protection from perceived and real enemies is fuelling the 'domestic arms race'. Hence, breaking the chain of SALWs circulation has remained a major challenge to the Nigerian government.

This unfortunate situation, in turn, stokes the demand for more arms by both the government and non-state actors (individuals, groups and communities, among others) to maintain security. While the government increases its stock

through importation and local manufacturing at the Defence Industry Corporation of Nigeria (DICON), non-state actors patronise transnational traffickers and burgeoning unregulated local and artisanal arms manufactures. In November 2010, for instance, the police uncovered arms fabrication outfits in Barkin Ladi and Kuru in the Jos South local government area of Plateau State. In the south-eastern zone of Nigeria, a locally manufactured firearm known as 'Awka-made' enjoys patronage from hunters, armed robbers, cultists and kidnappers, among others.

The challenge of containing SALWs proliferation is further compounded by contradictions inherent in globalisation. The process of globalisation has congealed both time and space, making it easier for ideas, goods, persons, services, information, products and money to move across borders with fewer restrictions.[17] Globalisation is the product of numerous factors, including reduced trade barriers, lower transportation and communication costs, and increased movements of capital, knowledge, technology, culture and people across borders. Its logic presents opportunities and risks for the world, with potential security implications for states, corporate bodies and individuals. Globalisation, which has enhanced the movement of goods and people across borders, has equally facilitated the activities of criminal groups. In this regard, the ECOWAS

region and Nigeria are suffering from the negative effects of the relaxation of national boundaries intended to enhance regional integration, but inadvertently facilitating transnational trafficking in SALWs. With porous land and maritime borders coupled with ineffectual national security systems, SALWS proliferation has grown by leaps and bounds in Nigeria.

SALWs Proliferation and Human (In)Security in Nigeria

Although Nigeria's problem with SALWs is not new, its increasing availability in the last decade has helped stoke a wave of insurgencies, ethno-religious conflicts, cross-border banditry, kidnapping, armed robbery and other violent crimes. Arms build-up has fuelled violence in different parts of Nigeria – especially communal clashes and ethno-religious conflicts. Between 1999 and April 2010, Nigeria recorded at least 187 ethno-religious conflicts[18], leading to the death of several thousands of people. These weapons helped to prolong conflicts, induced huge internal population displacement, undermined social peace and devastated the economic livelihoods of individuals and communities.

As a result of recurrent violent conflicts, Nigeria is faced with the Herculean task of responding to a fluctuating but always sizeable number of internally displaced persons (IDPs). Between 2000 and 2002, for instance, an estimated 1 713 306 persons were displaced by ethno-religious conflicts and, by June 2010, some 1.6 million Nigerians are estimated to have been internally displaced.[19] The January 2010 crisis in Jos displaced over 40 000 persons.[20] Situations of internal displacement undermine human security at individual and community levels. IDPs are usually vulnerable to violent crimes like robbery and rape, and are prone to contracting contagious diseases, due to poor sanitary conditions at the (re)settlement centres.

The impact of Nigeria's SALWs problem on human security is also evident in financial losses induced by conflicts. About 10 major ethno-religious conflicts between 1999 and 2004 cost the Nigerian government over ₦400 million (US$2.86 million).[21] Besides, the amount of money that governments spend on security during such crises and their aftermath are huge. In the aftermath of the Jos crisis in early 2010, the federal government assisted the Bauchi State government with ₦135 million (US$900 000) to help resettle or integrate about 30 000 IDPs from neighbouring Plateau State seeking refuge in Bauchi State.[22] These scarce resources could otherwise be used in providing basic services that promote human security and development, such as clean water, education and healthcare, among others.

Beyond the cost to government, individuals lose property and family members. The loss of property compounds the problem of poverty and deprivation of the affected population. Through the death of family members, arms-induced conflicts lead to a deep fracturing of kinship and family structures – many children have been left without parents, husbands without wives, and vice versa. When a family unit is dismantled, children suffer and their future wellbeing is often bleak, as they are denied good parental care. Many end up as social miscreants who contribute to violent crimes. Thus, for every person killed or injured in conflict and crime involving the use of SALWs, there are many more who must cope with the psychological, physical and economic effects that endure in the aftermath. In this context, women and children are invariably the hardest hit. In recent times, SALWs proliferation has led to an increase in violent crimes that undermine human security, such as rape, cultism, armed robbery and kidnapping, in most parts of the country.

Conclusion and Recommendations

The proliferation of SALWs is posing a grave threat to security and development in Nigeria. These arms should be cleaned up if the country is to achieve a measurable degree of security of life and property. There is, therefore, the need for the Nigerian government to pursue a robust strategy that encapsulates three broad dimensions of interventions: governance, security and diplomacy (GSD). Some of the specific intervention mechanisms would include:

Governance
- The Nigerian government should strengthen institutions and processes of governance to enhance social provisioning for its citizens, who are becoming increasingly frustrated over governance failure, thereby resorting to violent crimes that increase demand for SALWs.
- Government at all levels – federal, state and local – need to partner with the private sector to undertake an aggressive job creation programme for Nigeria's teeming and idle youths.
- There is a need for interventions at the national, state and local levels to be strengthened to promote peaceful coexistence amongst the diverse ethno-religious and political groups in Nigeria. This would help minimise the outbreak and persistence of violent conflicts that stoke arms proliferation.
- The National Orientation Agency should partner with credible civil society organisations (CSOs) and the media to mount enlightenment and orientation programmes on the practice of security situation awareness or security consciousness critical to crime prevention. This will enable people to appreciate the importance of monitoring developments around them and to report unwholesome activities (arms trafficking) to security agencies.

Security
- Adoption of a national arms control strategy (NACS) to guide the clean-up and prevention of SALWs circulation. The proposed establishment of a National Commission on the Control of Small Arms and Light Weapons (NatCom) should be fast-tracked to lead this effort, involving collaboration with CSOs, NATFORCE and other stakeholders.
- Implementation of effective collaborative mechanisms between security agencies and border communities to enhance information-sharing on activities along the borders.
- The strengthening of border security arrangements through enhanced intra- and interstate collaboration

among security and intelligence agencies in maritime and land border areas, to ensure effective tracking and interdiction of SALWs traffickers.

- Robust funding and provision of equipment for security agencies, including security posts at the nation's entry points: land, sea and airports.

- Conduct of regular and comprehensive verification exercises to ensure that government arms are not being stolen.

Diplomacy

- The Nigerian government should deepen its partnership with other states at regional, continental and international levels to reinvigorate its call for a legally binding international instrument that will regulate, control and monitor illicit trade in SALWs: an international arms trade treaty (ATT).

- In the interim, Nigeria, working within the African Union, should vigorously canvass for the creation of a continent-wide body to regulate arms trade in Africa. 🔔

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