EDITORIAL

BY PROF CHRISTOF HEYNS

editorial

Human rights is the idea of our time. Through the centuries, we have learnt that certain core interests need to be protected if people are to flourish; if they are to avoid withering away or, eventually, taking the law into their own hands to protect their interests. History has taught us that certain interests - such as the rights to freedom of conscience and basic education - are to be considered as 'inalienable' rights, beyond manipulation by any government, irrespective of whether it is democratically elected or not.

This idea is widely reflected and accepted in the constitutive documents of modern Africa. For example, a commitment to human rights can be found in the constitutions of all 53 African states, as well as in the treaty that established the African Union and the African Charter on Human and Peoples' Rights.

The question is how to get Africa's reality to conform to this ideal, when every conceivable human rights violation is committed on the continent.

The official recognition of the human rights ideal - although also a potential cause of cynicism

- provides a starting point. It affords an opportunity to hold governments accountable to the norms which they have accepted. Africa's courts provide an often underutilised resource in this regard.

While most of these official systems do, at the moment, operate in a most unsatisfactory way, it is only through popular usage that they could be improved. Supplemented by free and fair elections, they constitute the building blocks of democracy.

It will, however, take a collective effort to improve the situation. The African Commission on Human and Peoples' Rights - a body created under the auspices of the Organisation of African Unity (OAU), in order to monitor compliance with the African Charter on Human and Peoples' Rights - is starting to show some promise. This body will soon be supplemented by an African Human Rights Court. This system, despite all its problems, provides the best hope for a continental focus on human rights.

A continental effort, aimed at the prevention of human rights abuses, is also required in other areas. For example, African law faculties should

pool their meagre resources in order to develop the curricula required, which would enable domestic and international lawyers to bring human rights norms to the legal systems in which they operate. Joint programmes between African universities would also facilitate the development of networks and centres of excellence. These would be much more sustainable than merely attempting to duplicate resources in every country.

It is also important to see human rights in its broader context. To focus on the judicial and academic component of human rights would hardly be enough. Unless the economies of African states (and Africa's economic ties with the rest of the world) are strengthened, socio-economic rights are bound to be neglected. Consequently, regional human rights initiatives - such as the African Human Rights Court - would not have much of an influence.

Attempts to secure a general culture of human rights in Africa are often overshadowed, and seemingly rendered irrelevant, by the occurrence of massive human rights violations, as have occurred in Amin's Uganda, and more recently, in Rwanda. Talks about the limitations of freedom of expression seem rather trivial in comparison with the question of how to deal with the killing of hundreds of thousands of people by the state.

Consequently, humanitarian intervention, and the creation of international criminal tribunals (as in the situation of Rwanda in Arusha) play an important role. However, the question is whether Africa will be able to move beyond these large-scale (and often belated) interventions, to a point where human rights violations are dealt with before they reach such proportions.

For example, prior to the Rwandese massacre, the African Commission on Human and Peoples' Rights considered a report on human rights, which was submitted by the Rwandese government. The commission discovered that identity cards were issued which indicated ethnic origin. If the commission had been more effective, it could have given an early warning about the direction in which events were unfolding.

Ultimately, however, there are limits to what may be expected of official structures. Important as these structures are in the long run, human rights remain inalienable. If they are violated, and if there is no other alternative, they have to be asserted by the people. There is no reason why governments, which constantly violate human rights on a large-scale, should be tolerated. ⌂

who will keep the peace in Africa?

The Peacekeeping Programme at ACCORD, has for the past five years embarked on peacekeeping training in an effort to build capacity on the continent. Through the Programme and strategic partnerships, civilian and military peacekeepers have been trained in conflict management skills. Reflecting the challenges of today's peacekeeping missions, ACCORD's emphasis is on civil-military cooperation through joint skills training

Training tomorrow's peacekeepers today

TRENDS
in peacekeeping

As we settle into the twenty-first century, conflicts on the African continent continue to pose a threat to the livelihood of all its inhabitants. These conflicts represent immense challenges in terms of the resources and human personnel to be deployed in conflict management.

The United Nations (UN) continues to play a vital role in enforcing peace on the continent; its role can be witnessed through the various peacekeeping missions that have been deployed to crisis-stricken areas - all undertaken with the hope of bringing about a sense of calm. The UN continues to respond to conflicts in Ethiopia and Eritrea (through the UN mission in Ethiopia and Eritrea - UNMEE); developments in Sierra Leone (through the UN mission in Sierra Leone); the conflict in the Democratic Republic of Congo - DRC (through the UN Organisation Mission I the DRC); as well as the electoral process in Western Sahara (through the UN mission for the Referendum in Western Sahara).

EAST AFRICA

The mandate of the mission in Ethiopia and Eritrea was extended by Resolution 1344 of March 2001, until the 15 September 2001. This change comes in the wake of the parties' positive indication to demobilise forces in accordance with the peace process signed by both sides in December 2000 - a condition included therein was that there be lasting peace between the neighbouring countries. The process of returning internally displaced persons to their homes, within the zone monitored by UNMEE, was begun by the government of Eritrea. Parties to the process have been lobbying, and are awaiting funding from the international community in order to begin demobilising their troops, which is expected to begin in October 2001.

UNMEE remains confident of the peace process, and continues to monitor a 15-mile buffer zone which separates the two armies. Additional troops have been placed in areas that are considered to be tense, particularly along the southern boundary. Based on UN reports, the mission maintains that the chances of the war erupting again are unlikely. However, there is still much to be done in order to guarantee that peace will prevail between the two sides.

Another positive development from the region - with regard to peacekeeping - is the opening of a Peace Support Training Centre at the Kenya Defense Staff College. In line with its aim to learn from the rest of the world (and forge regional ties), the centre hosted the UN Training and Assistance Team during August. The conference focused on disarmament, demobilisation and reintegration. It is hoped that the centre will become an institution that could take on the challenge of preparing peacekeepers for regional responses to conflict management efforts in that part of the world.

WEST AFRICA

Significant progress has been achieved in Sierra Leone, particularly on the political and humani-

tarian fronts. Politically, the mission and international efforts seem to be taking charge of the situation by bringing the parties closer to each other through the visible exhibition of commitment to the agreement. This is evidenced by the successful efforts, by the Revolutionary United Front (RUF), towards the ratification of a review agreement. On the humanitarian front, relief agencies report even more positive trends with regard to the high number of returnees, school enrolment, etc. Other encouraging developments include non-governmental efforts to seek peace, such as a women's march for peace and the organisation of a peace concert in one of the towns - both signaling a deepening sense of ownership of reconciliatory efforts.

Deserving special mention is the disarmament process, which was relaunched in May 2001. Although it began at a slow pace, there are firm indications that is has accelerated. In April 2001, a meeting brought together members of ECOWAS, the government of Sierra Leone and the UN, who all met with the RUF. The meeting concluded that the ceasefire agreement had been observed, with only a few exceptions. The Sierra Leone government was called upon to extend its influence as UNAMSIL was deployed. By the end of May 2001, the RUF had promised to return all the weapons and equipment which they had seized from UNAMSIL. The meeting further addressed the need to begin the process of disarmament, demobilisation and reintegration, which was accepted. The Sierra Leone government further agreed that its army and police were open to include demobilised ex-combatants, but only after careful screening. UNAMSIL was also invited by the Sierra Leone government to partake in the screening of ex-combatants, who may choose to join the armed forces.

It is a positive sign to see regional actors playing a role complementary to the process. It is understood that plans are underway to investigate ways in which regional economic integration can assist and complement the recovery process necessary to consolidate peace within Sierra Leone.

SOUTHERN AFRICA

The hope of an inter-Congolese dialogue was given a major boost in May, when Sir Ketumile Masire facilitated an agreement - between the government of the DRC and other parties - on essential principles that would guide the dia-

logue. As a vote of confidence for the potential of the process, the positive political climate has made it easy for the return of political opponents who were in exile, and who have demonstrated interest in becoming involved in the upcoming political negotiations.

The UN Mission Organisation in the DRC (MONUC) has enjoyed relatively good cooperation from the conflicting parties. The secretary-general's report to the Security Council noted that, by and large, there were indications of a general observation of the ceasefire agreement. This resulted in the council's decision to extend the mission until June 2002.

In essence, much still needs doing, particularly regarding the inter-congolese dialogue. Any sincere evaluation of the success of this mission will depend largely on how parties conduct them-

Children play near a disarmament camp controlled by the UNAMSIL (the UN mission in Sierra Leone) 11 July 2001, in Lunsar

JACQUES LHUILLERY/AFP

MARCO LONGARI/AFP

Uruguayan troops serving in a UN observer mission walk past the MONUC headquarters at the rebel-held town of Goma, in eastern Democratic Republic of Congo (DRC)

selves, and on how they continue to be engaged in the process.

NORTH AFRICA

The UN Mission for the Referendum in Western Sahara (MINURSO) - which has been deployed since September 1991 to monitor the ceasefire, and to hold a referendum that would allow the Sahrawi to decide between independence or integration with Morocco - had its mandate extended by the Security Council until November 2001. In addition, the Security Council backed a proposal by the secretary-general to enable the parties to meet - directly or through proximity talks - to discuss a proposed draft framework agreement on the future of Western Sahara. The discussions would take place under the auspices of his personal envoy.

In response to the deteriorating humanitarian situation within the country, the international community has made pledges of support in recognition of the fact that any political progress would have to be complemented by material gain aimed at alleviating any form of suffering.

As one of the long-standing missions on the continent, positive developments might be realised if a few questions were answered regarding the role of regional and sub-regional bodies, as well as the role of neighbouring territories. Perhaps the time has come for the above-men-

tioned entities to reconsider their approach; to seek meaningful contributions that could make a definitive difference in resolving the problem.

CONCLUSION

In July, the Organisation of African Unity (OAU) adopted to dissolve the organisation, which will be replaced by the African Union (AU). Between July and the next annual summit, measures will be undertaken to phase out the former organisation, thus making way for the new structure. This is a very encouraging development, as Africans appraise their structures and effectiveness in dealing with integration. The proposed changes are aimed at putting together structures that would respond better to the many challenges facing the continent. Certainly, one of those challenges is how to prevent, manage and resolve disputes and conflicts. As we continue to try to understand the new trends in peacekeeping, it is necessary to remember that monitoring the shaping of the AU will reveal a lot as to the future direction of conflict prevention, management and resolution on the continent. Not only should we observe or monitor developments in this regard, but we should also sincerely engage in 'reconstruction' endeavours within our many spheres of work, so as to make the union a practical vehicle for the prevention, management and resolution of conflicts.

TRENDS
in constitutional and political developments

EAST AFRICA

In the last quarter, inter-religious tension appears to have taken centre stage in Tanzania's political scene, and it is likely to impact on current and future discussions regarding the constitution. Reacting to a recent conviction of a Muslim youth activist on a charge of defaming the Christian faith, a group of predominantly Muslim youth organised a demonstration in Dar es Salaam. The high court of Tanzania later intervened to suspend the sentence in the interest of public order, and also to avert further protests. The demonstrations resulted in the arrest of more than 170 people, 41of whom were formally charged. Towards the end of August, however, groups threatened to stage yet another demonstration with the aim of securing the release of the detainees. The Ministry of Home Affairs reacted by affirming the constitutional right of worship for every religion. The ministry also condemned the defaming, which served to heighten religious unrest within the country. The incidents highlighted what appears to be underlying tensions between certain Muslim and Christian communities in Tanzania. These tensions have manifested themselves at different levels through the years. Inter-religious protests last occurred in Dar es Salaam in 1998. The protests were organised because of a perceived sentiment that the Muslim community was being politically and economically marginalised. This was followed by demonstrations in 1999, during which Muslim students pressed for the right to wear headscarves at school. The trend of inter-religious tensions in Tanzania cannot be analysed in isolation of the wider political and constitutional context. Within the Muslim community, a combination of poverty, unemployment and feelings of marginalisation have been powerful stimuli for the staging of politically charged protests. The community has argued that since independence in 1961, key positions within the government, civil service and, in particular, the army, have gone to Christian Tanzanians. Christians, on the other hand, argue that the political and economic system does not necessarily discriminate against Muslims. They maintain that the more radical sections of the Muslim community seek to undermine constitutional stability within the country by taking advantage of unemployed and disenfranchised youth. This division has also manifests itself at the political level - the opposition Civic United Front (CUF), which is dominated by Muslims, perceives the August 2000 electoral dispute as an attempt, by the ruling CCM, to isolate Islamic interests on the Zanzibar Islands. The CCM is predominantly Christian. This complicates the constitutional question, in the sense that the CUF still maintains that the current union constitution discriminates (rather than uplifts) the Muslim community. The fact that the Muslim community is more dominant in Zanzibar - as opposed to the Christians on the mainland - makes the situation even more com-

Supporters of the Kenyan opposition celebrate outside the parliament building after legislators threw out a controversial bill that was key to the government's effort to fight corruption and win back foreign aid

plex, and it seems set to impact on any future discussions regarding constitutional reform.

In Kenya, conflict between internally and externally driven constitutional reform was highlighted by events surrounding the Kenya Anti Corruption Authority (KACA). Parliament rejected a bill that would have paved the way for the reinstatement of this institution. With pressure building on its finances, it was expected that the government would push the bill through before the next parliamentary recess. Opposition parties and civil society groups argued that the constitutional amendment proposed by the government to allow the re-establishment of KACA, would have guaranteed a weak and ineffectual institution. The Kenyan courts ruled the original KACA as unconstitutional, on the basis that it undermined the powers of the Attorney-General and Police Commissioner. A coalition of 10 professional and civil society organisations cited a number of anomalies, which in their view, rendered the bill unworkable. They also strongly opposed the provision in the Anti-Corruption and Economic Crimes Bill, which would allow an amnesty for crimes committed before December 1997. The coalition maintains that both bills have the potential for

conflict between the Attorney-General and the KACA in the execution of their duties.

On the regional front, preparations are underway for the revival of the East African Legislative Assembly and Regional Court. The assembly forms one of the core institutions of the revived East African Community (EAC) - a grouping of Tanzania, Kenya and Uganda. Tanzania has already nominated its nine members to the East African Assembly, with Kenya and Uganda expected to do likewise by October 2001. None of the member states have yet selected judges for the East African Court, but the appointments are expected to be finalised before its launch in November.

WEST AFRICA

In Sierra Leone, the United Nations (UN) Security Council has approved plans to establish a special court, which will prosecute people accused of war crimes and crimes against humanity during the last five years of the Sierra Leone conflict. The court, which will be created by an agreement between the UN and Sierra Leone, will have mixed national and international components, and is expected to form part of a future constitutional

structure in Sierra Leone. It will be based in Freetown, and will have both international and Sierra Leonean judges, prosecutors and staff.

In Nigeria, a bill that seeks to strengthen the Human Rights Violation Investigation Commission (HRVIC) has been tabled at the national assembly. If the bill is passed into law, the panel will be renamed the Nigerian Truth and Reconciliation Commission, and will become a permanent statutory organ under the federal constitution. The period to be covered by the commission would also be expanded from the present span of 15 January 1966 - 28 May 1999, to 1 October 1960 - 28 May 1999, thus reaching further back to the period since independence. Inspired by the South African experience, the bill also seeks to empower the panel to grant amnesty to persons who make full disclosure of all relevant facts on human rights abuses. In Ghana, the debate on state funding for political parties, and its constitutional viability, continues.

Ghana's president, John Agyekum Kufuor, has called for a national debate on whether the state should devise a formula for funding qualified political parties, the aim of which would be to enhance multi-party democracy in the country. The country's parties have been invited to take part in a public debate in order to agree on the enactment of a law required to achieve this goal. President Kufuor maintains that such a proposal would serve as the best guarantee for sustaining the multi-party system, as prescribed in the constitution.

In Gambia, opposition parties have threatened to boycott the upcoming presidential elections owing to what they view as an absence of constitutional guarantees for electoral transparency. The doubts were expressed after the Independent Electoral Commission (IEC) announced that ballots would not be counted immediately at polling stations. At a meeting with political parties, the IEC explained that although the commission had earlier promised to count ballots immediately, the government could not provide the required security. The opposition has, nevertheless, insisted that they will not accept that ballots be transported from polling stations to counting zones.

SOUTHERN AFRICA

Turning to the South, Swaziland has convened a meeting to present a draft from the Constitutional Review Commission (CRC), which has been at work since 1998. The draft process involved a nationwide consultation with a number of interest groups. The trade unions have, however, questioned the composition of the constitutional panel, arguing that their terms of reference were not clear. The Ngwane National Liberatory Congress (NNLC) also expressed misgivings, and announced that it would boycott the meeting.

In Zambia, opposition political parties are demanding the resumption of the inter-party dialogue initiated by the ruling Movement for Multi-party Democracy (MMD). The parties have argued that the inter-party dialogue would chart the way forward for Zambian politics. A group of seven opposition political parties have been pressing for inter-party dialogue on key issues aimed at narrowing differences among the various political groupings. The groups are making proposals for the reform of several constitutional provisions, one of which includes the existing law on criminal libel. In addition, some civic organisations have argued for the need to revisit the rights to the preamble of the constitution - such as the rights to health, education, shelter and access to clean water - in order to devise ways to ensure their enforceability in Zambia.

In Zimbabwe, the National Constitutional Assembly (NCA) committee, which is currently drafting a new constitution, has proposed the abolition of the 30 special seats reserved for non-constituency MPs appointed by the president. The constitutional delegates have agreed that parliament should have two chambers: the National Assembly and the Senate. The first 100 people with the most votes in a parliamentary election will qualify automatically for the assembly. The other 100 will be elected on the proportional representation system, to be calculated on the basis of the number of cumulative votes won by each of the contesting parties. The NCA draft is also opposed to a president being the head of the government. Instead, it proposes that a prime minister be the head of government, and should be required to serve for a maximum of two terms of five years each. The president, on the other hand, would serve one five-year term. Another major proposal is the refusal, by the Matabeleland delegation, of a federal system of government. The draft also proposes that the abolition of the death penalty be subject to national debate during the NCA's outreach programme on the draft. The outreach programme is to be held in October and November, throughout the country.

TRENDS
in preventive action

During the third quarter of this year, several encouraging moves were made towards political stability within many African countries. It seems that African people are getting tired of the endless conflicts that are raging throughout the continent. Over the last three months, numerous important meetings have taken place, where agreements were reached regarding some major issues. The following paper will attempt to summarise - through a broad compilation of various information sources - key events that have taken place in the main sub-regions.

WEST AFRICA

On 23 August, the Mano River countries (Guinea, Sierra Leone and Liberia) agreed to tackle the problems being caused by armed groups that are bent on undermining efforts towards socio-political development within the region. The foreign ministers of the aforementioned countries have agreed that all such groups should be arrested and returned to their homelands. Also discussed was a possible summit - between the presidents of the Mano River countries - aimed at promoting subregional cooperation.

The United Nations (UN) lifted the travel ban on Liberian officials in order to allow them to take part in the discussions. These sanctions were imposed after Liberia could not produce convincing evidence of its non-involvement with Mano River rebels.

A few days later, the Sierra Leone government announced that it was planning to postpone elections until the disarmament process was complete. In protest, rebels said they were going to suspend their cooperation in the peace process. They view the government's plan as an attempt to prolong its stay in power.

Meanwhile, the head of the African division of Human Rights Watch (HRW), Peter Takirambudde, condemned the Ivory Coast government for having 'deliberately promoted intolerance based on ethnic and religious differences'.

The statement prompted Ivory Coast president, Laurent Gbagbo, to promise that he would do everything possible to hold a successful reconciliation meeting with his political rivals: Henri Konan Bedie (ousted president); General Robert Guei (former military ruler); and Alassane Ouattara (opposition leader). However, it is still unclear which of Mr Gbagbo's rivals will turn up for the meeting. The meeting was first scheduled for 7 September, but has now been postponed to 9 October.

SOUTHERN AFRICA

The Southern African Development Community's (SADC) 21st summit opened in Blantyre (Malawi) on 12 August. Events in Zimbabwe were among the main topics discussed. The delegates decided that a five-country task force would be established

to facilitate dialogue in Zimbabwe, and help resolve the country's economic and political crisis. The decision to set up such a task force was as a result of the negative effect that the Zimbabwean economic situation has had on the rest of the SADC region. It was also at this summit that President Chissano of Mozambique was elected as the next chairperson of the SADC Organ on Politics, Defence and Security (OPDS).

On 27 August, representatives of the different political actors from the Democratic Republic of Congo - DRC (Congo government, rebel factions and other civic groups) met in Gaborone for preparatory peace talks. The purpose of the meeting was to determine the place, time, agenda and rules for the national inter-Congolese dialogue.

Delegates committed themselves to freeing all political prisoners and prisoners of war; to return of all seized goods and property; to permit free movement; and to end arbitrary arrests.

NORTH AFRICA

In June, the Moroccan government accepted the UN's plan - involving autonomy for the disputed Western Sahara region - as the basis for negotiations. However, the Polisario and Algeria's president, Abdelaziz Bouteflika, rejected the plan, stating that it had advantages for the Moroccans.

As part of the diplomatic efforts undertaken by the UN, special envoy to Western Sahara, James Baker, held three days of talks in Wyoming (US) at the end of August. Polisario, along with Algeria and Mauritania, took part in the talks. However, Morocco - which gave its qualified support to the autonomy proposal - did not attend the meeting.

In Algeria, the Berber community is still pressing the government to obtain cultural recognition. They are also demanding the inclusion of a programme to revive the economy of the region, as well as the withdrawal of the gendarmerie - a force

Delegates of Berber towns hold an Algerian flag during a banned protest march 05 July 2001, in Algiers to confront the government with their demands

HOCINE/AFP

PETER BUSOMOXE/AFP

A Ugandan woman waits at the imigration office at Entebbe airport in Kampala. A group of 48 people abducted by the Lord's Resistance Army are returning to Kampala. In the group there are 25 children under 18 years, 20 women and 24 males

EAST AFRICA

On 20 August, Sudanese president, Omar Hasan al-Bashir, announced the total withdrawal of his government's support to the Ugandan rebel organisation, Lord's Resistance Army (LRA). During a meeting held in Kampala (Uganda), Bashir called on the Ugandan government to respond positively by breaking off relations with the rebel Sudan People's Liberation Movement/Army (SPLM/A). According to Ugandan's press secretary, Hope Kivengere, this statement 'paved the way' for the Ugandan government to improve relations with Sudan.

Following President al-Bashir's statement, the LRA is said to be conducting military operations against Sudan. On the other hand, the authorities in Khartoum stated that they plan to engage in military operations as well, in order to curb any threats to its military and civilian population.

CENTRAL AFRICA

President of the Republic of Congo (ROC), Denis Sassou Nguesso, stated that the referendum on the constitution would be held before the end of the year. He also stated that there was a need to institute real democracy. He made this declaration on the 41st anniversary of independence. The ROC recently completed a national dialogue, as well as a census of its people.

On 27 August, military officers from the DRC, the ROC and Angola met in Brazzaville, in order to create a permanent consultative structure aimed at addressing security issues relevant to the three neighbours. The relations between the ROC and the DRC have been characterised by tensions, due to accusations from both sides that they have been supporting each other's rebel groups.

CONCLUSION

The third quarter of this year has witnessed an increasing concern for the definitive settlement of rebel activities. For instance, the Mano River countries, the DRC and the ROC - along with Sudan and Uganda - engaged in discussions aimed at stopping the national instabilities due to confrontations between governments and rebel organisations. Although the long-term outcomes of such meetings cannot yet be asserted, these moves can be interpreted as encouraging.

they perceive as corrupt and repressive.

Marches have been organised by the Berbers ever since the death of a Berber youth, who had been held in police custody four months ago. Although the marches were meant to be peaceful, this was not always the case.

Another problem that is undermining the Berber effort is the fact that their cause is being pulled in three directions: the two official political parties (FFS & RCD); the village elders; and the angry youth. This situation could make the Berber cause vulnerable to disarray.

TRENDS
in elections

Elections in Africa are not a modern occurrence - they can be traced back to the precolonial era. In many instance, the colonial period formally introduced elections, in one form or the other, to their colonial subjects. However, considering the fact that these elections took place within the parameters of colonial policies, African elections are more readily acknowledged within the post-colonial context. Many African states marked their newfound independence from colonialism through elections.

This discussion will briefly explore some of the African elections that were conducted during the year 2000, in order to identify possible trends that are emerging in the electoral process 30 years after most states have gained independence. Brief considerations will be given to historical developments during the last three decades. Thereafter, six recent elections will be analysed.

HISTORICAL PERSPECTIVE

The continuation of the electoral process following the elections that marked independence was soon placed in jeopardy in most African states. Those in power, as well as the political elite, perceived political competition as a threat - owing to immense pressures from the ranks of the political elite, political competition was illusory, rather than a reality.

This marked a new shift in the political arena, with unconstitutional and violent changes of government being the norm of the day. Political regimes and ideologies were characterised by authoritarian rule - oligarchies, military regimes and one party states. The leaders of the day included tyrants such as Idi Amin, Jean-Bedel Bokassa and Mengisutu Haile Miriam.

The 1990s brought hope of a movement towards democratic systems. Various waves of democracy were identified during the last decade. In 1991, the first elections that marked a move towards democracy were in Cape Verde, Sao-Tome, Benin and Zambia. Multi-party elections became a regular occurrence, and survived a number of cycles in the electoral process. Ghana's landmark elections occurred in 1992, with follow-up elections in 1996 and 2000. Kenya's transitional elections occurred in 1992, with subsequent elections in 1997. Post-apartheid South Africa held elections in 1994, which marked the end of racial domination. Subsequent elections were held in 1999.

RECENT ELECTIONS

During the year 2000, elections were held in about 24 countries across the continent. These elections represented the entire spectrum of election-types: parliamentary; presidential; national; provincial; municipal; rerun; run-off; and by-elections. The countries discussed below were chosen for a variety of reasons. They share similar colonial backgrounds and socio-economic factors, and are representative of the various regions throughout the continent, which include Arab, Anglophone and Francophone countries.

Cote d'Ivoire - The Bedie government was over-

Supporters of the National Democratic Congress (NDC) stretch out their hands and wave flags as they listen to outgoing Ghanean President Jerry Rawlings and his chosen successor, incumbent Vice-President John Mills during an election rally held in Accra 05 December 2000, two days before Ghana 's general elections

thrown by a military coup on 24 December 1999. Elections had been scheduled for 2000, and this coup placed the democratic future of the country in the balance. General Guei seemingly tried to restore democracy, and proclaimed that the military would play a neutral role during the transition. Although elections were scheduled for May 2000, various irregularities (with respect to the then upcoming elections) were noted by observer groups, and presumably contributed to the instability. Sadly, the situation in the country rapidly deteriorated. Elections finally occurred on 22 October 2000, after Guei placed restrictions on potential opposition candidates. Despite this, his only opposition - Laurent Gbagbo - won the majority of the electorate, with 59% of the votes. The volatile situation in the country erupted after Guei, who was not willing to accept the outcome of the election, declared himself the winner. Gbagbo stepped in as the leader, after civil clashes left about 150 people dead. A foiled coup attempt as recent as January 2001, serves as evidence of the instability within the country.

Egypt - Elections, which started on 18 October 2000, were conducted in three rounds. Voter turnout was the biggest in the country's history, which was viewed as a progressive step in the country's electoral process. The supreme court exercised full judicial supervision to ensure free and fair elections. Considering the National Democratic Party retained power by winning 353 of the 454 seats, and the fact that 14 parties participated in the elections, one could possibly question the effectiveness of opposition party policies, and the dissemination thereof to the electorate.

Ghana - The 2000 elections can only be described as democracy in action. Ex-military leader, Jerry J Rawlings, remained in power after the 1992 'democratic' elections. Despite various irregularities and discrepancies, the Rawlings era continued until the 2000 elections. Rawlings was compelled, by the Ghanaian constitution, to step down in the event that his party, the National Democratic Congress (NDC), retained their stronghold after the elections. His successor was to be Atta Mills. Of the nine parties that participated in the December 2000 elections, the strongest opposition came from the New Patriotic Party (NPP) and the party's leader, John Agyekum Kufour. The NPP managed to secure the lead in the parliamentary election, and Agyeman Kufour was sworn in as the new president of Ghana after the presidential run-off elections on 28 December 2000.

Senegal - The presidential elections were earmarked to take place on 19 March 2000. The conflict in the south of the county; increased opposition from the younger generation; intolerance; allegations of fraud; and the growing popularity of Abdoulaye Wade, the opposition party leader of the Parti Democratique Senegalais (PDS) - all these factors contributed to the uncertainty surrounding the outcome of these elections. After the second round of presidential elections, Wade took the lead over President Diouf with 58,5% of the votes. Consequently, the forthcoming parliamentary elections promise to deliver interesting results, as a marginal majority of parliamentary members remain members of former president Diouf's party, the Parti Socialiste (PS).

Tanzania - The two main parties that partici-

pated in the 2000 elections were Chama cha Mapinduzi (CCM) and the Civic United Front (CUF). In spite of a relatively peaceful transition in 1995, concerns have been raised regarding the potential political instability on Zanzibar Island. President Mkapa won the 2000 elections, with a total of 71,7% of the votes. He was sworn into office for his second term on 9 November 2000. The CCM also retained its power on the island. Despite criticism pertaining to the credibility of the Zanzibar elections, Amani Abeid Karume was sworn in as president of Zanzibar on 8 November 2000.

Zimbabwe - The June 2000 parliamentary elections in Zimbabwe raised criticism and contentious issues within the political arena. The volatile situation in the run-up to the election was characterised by issues such as the country's involvement in the Democratic Republic of the Congo (DRC); unemployment; poverty; and the four month campaign of violence allegedly unleashed by the ruling ZANU (PF) party. The two days of voting saw a sudden shift in mood, and voters cast their votes in the absence of any violence, and in a relative peaceful environment. Despite criticisms, the election was described by observers as one of the most sincere elections in Africa, and one we could all learn from. Months after the elections, uncertainty emerged on issues such as the settlement of the land crisis; the country's questionable human rights record; and President Mugabe's announcement to run as the sole candidate for the ZANU (PF) in the upcoming presidential elections.

EMERGING TRENDS AND OBSERVATIONS

Most African states have, over the last decade, opted for democratic systems through elections. Democracy ostensibly rules African politics. An identifiable trend is the movement towards more transparent, free and fair elections. Although there is no fix definition of free and fair elections, various indicators exist that describe what can contribute to free and fair elections. Elections tend to be at regular intervals, and the electoral processes are seemingly enhanced with each consecutive cycle of elections. Ghana provides evidence that despite criticisms and accusations pertaining to previous elections, aspects - such as improvements to electoral results; registration processes; public participation in political debates; freedom to campaign without fear of intimidation; and independent elec-

toral authorities - can have far-reaching effects which could be used to strengthen civil society. Further evidence of this movement to free and fair electoral processes and transparency, is governments' acceptance of independent observation agencies which observe their national elections - in doing so, they lay themselves open to criticism, but also to improvement of future elections. At least five of the elections discussed witnessed a great influx of observer groups. Egypt's voter turnout should be an indication of a well-informed electorate eager to participate in the electoral process, as well as the fact that judicial review is an important aspect in any democracy. Tanzania, despite criticisms which are generally part and parcel of any election, highlights the importance of accepting the outcome of a election.

Democracy, in its operation, is not a quick event - it is a battle that stretches over many years. Consequently, one can not merely evaluate transitional elections or current elections in isolation. Democracy demands a contextual and holistic evaluation. Both Ghana and Senegal are examples of where the incumbents were effectively removed through more than one attempt at the ballot box. It is, however, a progressive indication that the continent is witnessing a possible rebirth of workable and sustainable democracies.

Although most countries have opted for democratic systems, and strive to enhance the workability and sustainability of these systems, a marginalised number of countries continue to struggle under instability. Prevalent conditions, in countries like Cote d'Ivoire, raise concerns about individual subregions, as well as the continent as a whole. One can only have faith that the growth of current democracies will bring these unstable countries to the realisation that through free and fair elections - as a contributing factor - workable and sustainable democracies can be achieved.

CONCLUSION

Although many countries have moved beyond the vital transitional election, there are many challenges ahead. These challenges pertain to the stabilisation and refinement of democracies already in place. Elections, as such, are no guarantee for democracy, but are undeniably a crucial aspect of democracy. Although they can contribute to the realisation of human rights, socio- and economic development, and assist in conflict resolution, they are not substitutes for these delicate issues. ▪

Exploring the ever
changing complexity of
peacekeeping diplomacy

BY CEDRIC DE CONING

PEACEKEEPING

peace and
peacekeeping

A s in so many other fields, the changing world order fundamentally altered our perception of peace. During the Cold War era, our understanding of peace focused on the absence of war within the context of the nation state. The end of the Cold War allowed a more positive understanding of peace - peace as an individual-centred presence of social justice - to reclaim the stage.

The changing nature of conflict has changed the way in which the international community responds to conflict. If one looks at United Nations (UN) peace operations since 1989, one sees that the responsibilities of peacekeepers have changed from the traditional military duties of inter-positioning and the monitoring of ceasefire lines, to include a whole new range of duties, many of which go beyond the traditional military sphere. Modern

peace missions include tasks such as human rights monitoring; civilian police monitoring (and even executive policing in some cases); electoral assistance and election monitoring; voter education and democratisation programmes; demilitarisation; demobilisation; the reintegration of ex-combatants into society; and many more such activities.

In some cases - for example, those of Cambodia, Haiti and Kosovo - the UN was given the responsibility of rebuilding the entire state bureaucracy, including the criminal justice system, state administration, education, health systems, and so on. In East Timor, the UN has to administer the territory for an interim period up to about the end of 2001, at which time the Timorese should be ready to govern their own independent state. In this case, peacekeeping incorporates every possible aspect of governance, as well as the responsibility

Senegalese soldiers, who are taking part in the UN
Observer Mission in the Democratic Republic of
Congo (MONUC)

of training and developing East Timorese expertise to take over all the functions of government in a relatively short period of time.

Although the military has been forced to undertake some of these tasks during modern peace operations, they are not specifically trained or equipped to execute them. The UN has increasingly turned to civilian experts in these fields. Thus, modern peace operations involve large numbers of civilian personnel. These civilian roles, however, are not well understood within the public terrain. People still tend to associate peacekeeping with soldiers, and even where there is an understanding that civilians do play a role, exactly what these roles are remains blurred for many.

From the above, it is clear that the way we understand peace, violence and conflict has changed radically since the end of the Cold War. In addition, the international community's response to this changing environment has undergone radical change. The way in which the UN reacts to violent conflict has also changed, and peacekeeping itself has undergone a major shift from traditional peacekeeping, to a range of much more complex multi-functional peace missions.

The UN has identified four major areas of action in pursuance of peace: preventive diplomacy; peacemaking; peacekeeping; and peace-building. Preventive diplomacy seeks to resolve disputes before violence breaks out; peacemaking and peacekeeping are required to halt conflicts and preserve peace once it is attained; and peace-building is aimed at preventing the recurrence of violent conflict. Together, these four areas represent the UN's comprehensive response to violent conflict, as well as its holistic approach to peace.

Conflict Prevention and Preventive Diplomacy

Everyone would agree that prevention is better than cure - almost every conference, seminar and international meeting that has discussed peacekeeping over the last decade has stressed the importance of improved preventive action. However, this is easier said than done, and despite many attempts to come up with an improved preventive response, very little has been achieved to date.

The preventative process works as follows: various early warning systems and mechanisms would indicate that a certain situation is about to get out of hand. The UN system would react by focusing more resources on the trouble spot. These would include increased humanitarian assistance, and

perhaps more focus on human rights monitoring and education, if that is appropriate. At the overall diplomatic level, the UN secretary-general would more than likely dispatch a fact-finding mission or a special envoy. Both these actions are designed to focus special attention on the problem by dedicating certain specific resources to it, and by creating the impetus for special reports to be developed for the secretary-general and the UN Security Council regarding the situation. The special envoy or fact-finding mission would visit the conflict area and surrounding countries, meet with as many of the relevant role players as possible, and make an assessment of how the UN could best try to alleviate the problem. The UN Security Council and/or secretary-general would formulate a response that would cover as wide a range of actions as possible. Its response may include various humanitarian and/or developmental actions that would be organised through the UN's offices within the country or region; a specific human rights monitoring and education programme; and normally a peacemaking role for the special envoy.

All these actions would be aimed at preventing a conflict from escalating - or if a violent conflict has already broken out, they would be designed to limit its impact on innocent civilians, with the aim of stopping violent hostilities as soon as possible. The special envoy, supported by a number of political affairs and support staff, would essentially be engaged in diplomatic activities with the various parties, as well as other relevant actors, such as civil society, neighbouring countries and organisations. This dialogue could take the form of shuttle diplomacy, and in some instances, it could include some form of mediation or joint negotiations, with the aim of achieving a formal agreement.

Successful conflict prevention is not often reported, because the situation is averted or resolved before becoming violent - hence, it is not newsworthy. It is difficult to claim, with certainty, that a situation that had been resolved would have otherwise become violent, or that a specific initiative was successful in preventing conflict. It is generally agreed, however, that many conflict situations could have been avoided had there been timely preventative intervention, and if everyone was in agreement that prevention is much more effective and less costly than peacekeeping.

The dilemma in conflict prevention is that the political will to allocate the necessary resources towards prevention is often lacking, because the decision-makers are not convinced of the serious-

ness of the situation until it is too late. Very often the political leadership of a country that is about to experience conflict, is unwilling to read the early warning signs, and their friends in the international community are too embarrassed to act against the wishes of the country's leadership.

In exceptional circumstances, the UN may deploy a preventive force (preventive deployment) before violent conflict has broken out, as it did in Macedonia during the earlier days of the conflict in former Yugoslavia. In this case, it appeared highly likely that the conflict was going to spread to Macedonia, and the UN decided to deploy a force on the border as a deterrent action - it was a successful action and the conflict did not since spread to that particular country. Until now, the aforementioned example is the only case of preventive deployment. However, it is not unlikely that this tool may be used again in the future, provided the necessary political will exists to undertake this potentially costly (both financially and politically) step.

Peacemaking

When a violent conflict occurs, the focus would always be on bringing an end to it. In other words, achieving a ceasefire. The UN would describe peaceful diplomatic efforts towards achieving such a ceasefire or peace agreement, as peacemaking. The immediate focus would be on achieving an agreement that would end the hostilities. Once that has been achieved, more time and effort would be dedicated to achieving a comprehensive long-term peace agreement. The immediate goal is to stop the fighting in order to end the people's suffering , as well as the destruction of the environment, economy, property and infrastructure.

Peacemaking efforts take place at all levels, but those at the highest level naturally attract the most attention. Depending on the nature of the conflict, these efforts may include several neighbouring heads of state or government representatives, as well as representatives of regional organisations. Recent peacemaking efforts - such as the Lusaka process in connection with the Democratic Republic of the Congo (DRC) conflict; the Dayton peace process established for Former Yugoslavia; and the Lomé process in Sierra Leone - are examples of this kind of high-profile, multilateral ceasefire/peace agreement.

Many actors may be involved in supporting the larger process, but those responsible for the actual negotiations would be the special envoy, or special representative of the UN secretary-general, as well

as a relatively small number of political affairs officers and specialist advisors. They would facilitate the peacemaking process, negotiate with all warring parties, and finally mediate between them. They would be responsible for the venue, security, and all other aspects pertaining to the negotiations.

Peacekeeping

Once a ceasefire agreement of any form has been reached, the special envoy may, in part, call on the UN to monitor and facilitate the warring parties' observance of the ceasefire. It may also call on the UN to assist with other aspects, such as some form of election or popular consultation; human rights investigations; humanitarian relief; or the rebuilding of state and physical infrastructure.

As the demands for these political and humanitarian tasks grew, the UN increasingly turned to civilian experts in the aforementioned fields. As a result, modern peace missions involve large numbers of civilian personnel. This was not always the case - certainly not to the extent, size and proportionality that is typical of peace missions today. One of the ways in which this change has manifested itself, is in the management of modern peace missions. Since 1989, appointing a civilian head of mission (normally in the form of a special representative of the secretary-general - SRSG), has become the norm. A typical management structure within a classical peacekeeping operation would see a force commander at the head of the operation. In contrast, a typical modern peace mission would be headed by a civilian special representative of the secretary-general (SRSG), who would normally be assisted by a deputy SRSG. The SRSG would have a mission management team which would consist of the divisional heads of all the components that make up the peace mission. These would differ from mission to mission, depending on the specific mandate and circumstances. However, a generic mission management team could be said to include (apart form the SRSG and deputy SRSG): the force commander; the chief military observer (if there is a separate military observer mission); the civilian police commissioner; the head of the election component (where relevant); the humanitarian coordinator; the head of the human rights component and the chief administrative officer. From an organisational point of view, the latter are all equal in terms of their level of seniority. However, in practice, their power and influence within the peace mission would be influenced by the amount of resources

they controlled.

With such a large number of diverse disciplines represented within one mission, it is not surprise that coordination has become one of the most critical success factors of modern peace missions. It is also expected that such an organisational make-up - if left unchecked - would result in interagency conflict over resources, position and power.

Peacekeeping will continue to develop and respond to the changing nature of conflicts, as evidenced by the Brahimi Report. However, what remains at its core is the UN's ability to respond to certain conflict situations by deploying various civilian, military and police assets to the field. The UN's ability to do so could be improved and made more effective, but the need for such an ability has not been questioned.

Peace-building

Any actions undertaken by the UN within a conflict situation, which are aimed at addressing the root causes of a problem in order to prevent a reoccurrence of the conflict once the UN presence is scaled down or phased-out, is referred to as peace-building. In its simplest form, peace-building comprises those actions that are aimed at preventing a recurrence of the conflict. These normally include longer-term developmental aspects, such as physical infrastructure projects; agricultural development projects; health systems; and so on. They also often include the disarmament, demobilisation and reintegration of former combatants. In some conflicts - such as East Timor - peace-building could include the preparation of a new country for independence, which means that new civil servants, judges, teachers, police personnel and soldiers must be selected and trained. Laws and systems must also be put in place, and an overall political framework must be developed.

The UN talks of two types of peace-building: preventive peace-building and post-conflict peace-building. Preventive peace-building refers to efforts dedicated to preventing a conflict from developing into a violent one, whereas post-conflict peace-building addresses the rebuilding of physical infrastructure, state systems and civil society organisations.

Peace-building is incredibly complex, because it represents a wide range of actions and initiatives undertaken by an equally wide range of UN personnel, as well as other actors. It normally occurs at a period when stability, and law and order, have been more or less restored, and there is less international and media attention focused on the conflict in question. The result is a much less focused and controlled effort. This does not mean that little is undertaken. Rather, it becomes less of a 'mission' function and more of a 'coordination' function. In most cases, the development-type activities will continue long after the peace mission has withdrawn. Peace-building thus spans the latter part of a peace mission, where the focus shifts from emergency relief to rehabilitation and longer-term development. This leads to a post-peacekeeping phase where the UN system (most probably coordinated through the UN development programme - UNDP) works with the resident coordinator system to carry on with the peace-building programme. Although the focus is now on peace-building, this may include aspects such as nation-building, human rights tribunals or commissions; the training and establishment of a new police force and/or defence force; and other such initiatives particular to post-conflict situations.

Mission Coordination and Civil-Military Cooperation (CIMIC)

The overriding lesson of modern peace missions undertaken to date, is clear: there is a need to improve coordination and cooperation among all of the various multidisciplinary elements of a modern UN peace mission. This must be done during all phases of the mission (i.e. the planning phase and execution), and at all levels of the mission (i.e. strategic, operational and tactical).

We need to understand the new conflict-paradigm as being one where peacemakers are confronted with complex and continuously evolving conflict systems. To manage them, we need to develop an equally complex conflict management response - one that addresses the conflict system holistically, in a coordinated fashion. Hence, the modern peace mission formula that combines military, police, humanitarian and various other disciplines into one united effort to achieve a combined and interrelated objective - a meaningful and lasting peace, normally described in mission terms as the 'end state'.

The most significant failure of modern peace missions - with their complex mix of political, civilian and military personnel and objectives - is their inability to integrate the various components into a single holistic effort.

The need for synergy between the political, civilian and military contingents also extends to the multitude of non-UN international organisa-

tions and NGOs, which have become part of the reality of any modern complex emergency.

If one places this enormous management challenge into perspective - most UN peacekeeping missions are established and deployed in four to nine months; most of the people who make up the peacekeeping mission will meet each other for the first time during the mission (on the job), and will not have trained or worked together before; most of the personnel are rotated every six months; missions are normally carried out under hostile conditions - it is not at all difficult to understand why most UN peace missions have failed to achieve the cohesion and synergy necessary to achieve unity of effort and purpose.

Managing modern peace missions is not unlike managing many other large organisational systems, except that it is perhaps even more complex, because a UN peace mission brings diverse elements together under one umbrella for a relatively short period of time. In any large organisational system one would need to: (1) continuously exchange information between all the sub-systems or elements that make up the peace mission; (2) continuously coordinate all the sub-systems or elements so as to ensure that all are working together; (3) continuously monitor the effect your specific and overall efforts are having on the conflict system; and (4) ensure that this feedback is carried back into the coordination mechanism of the peace mission, so that the mission's activities can be continuously refined and adjusted to maintain overall maximum effect. Such a continuous intelligent feedback system is a basic hallmark of any complex system, and we need to improve the modalities of how this is done in modern UN peace missions. Mission coordination has thus become a crucial aspect of successful peacekeeping diplomacy.

Future Perspectives

Peacekeeping diplomacy - as undertaken by the UN through its preventive diplomacy, peacemaking, peacekeeping and peace-building response matrix - is complex due to the large number of variables at play, as well as the ever-changing circumstances that must also be dealt with. It is inevitable that both the conflicts, and the way in which we respond to them, will undergo further change. The UN and other international organisations may wish to further define their roles, and the terms we use today may become unpopular or obsolete. However, the need for the UN and other international organisations to undertake peacekeeping

diplomacy will not change. We will continue to try to prevent conflicts, and we will continue to improve our early warning systems and preventive responses. Perhaps one day, based on improved predictions and a clearer assessment of the potential future cost of inaction, we can achieve a situation where we would be able to generate the political will to initiate preventive action much earlier in the conflict cycle. We will continue to have to make peace between warring parties, and this will always involve diplomatic efforts centred around dialogue, negotiation and mediation. Similarly, we will continue to have the need to deploy military, police and civilian assets to the field, in order to monitor and facilitate ceasefires, as well as to assist with the implementation of comprehensive peace agreements.

It is in this field, however, that a drastic change in methods is possible (and needed) in future. The UN and other international and regional actors must improve their ability to train, select and deploy the right people at much shorter notice, and with much greater effect than we are currently capable of. This is achievable through better cooperation; more preparation and planning; and most importantly, by allocating more resources to the effort.

We will also continue to undertake what we now call peace-building. However, we hope to learn more in the future, thereby obtaining a greater understanding of the relationship between peace and development. In so doing, we should be able to detect potential root causes (imbalances) much earlier, and direct development assistance much more effectively to problem areas.

We tend to direct these missions 'by the seat of our pants', instead of respecting them as incredibly complex systems that are forced to operate in very volatile circumstances - we need to afford them much more focused managerial attention. In the end, we also need to devote much more research towards the management and coordination challenge of peacekeeping diplomacy if we wish to have a better success rate in future.

Endnote

Conflict Trends spoke to

President Museveni of Uganda

INTERVIEW WITH PRESIDENT MUSEVENI

Conflict Trends: Following the recent victory of the movement in the referendum, and the concluded presidential elections, what are the current priorities, nationally and regionally?

President Museveni:The most important priorities right now are mass education, modernisation of agriculture and poverty eradication. The main mission of our movement - the National Resistance Movement - is to transform our society from a backward, pre-industrial society into a modern one, propelled by science and technology. We are convinced that if we have a literate population, and if we eliminate subsistence agriculture and poverty, we shall launch our society on a irreversible path to transformation. Certainly, a population mired in poverty, illiteracy and subsistence farming cannot modernise.

On the regional front, the most important challenge is to create large markets for our products. We must ensure that the region's people work, live and function as one economic unit. This is the only way we can guarantee the viability of our commodities, both in terms of production, marketing and quality. It is important for us to produce and market our goods in our own region, so that we do not have to be at the mercy of the international market, which has its own ups and downs. We must, first and foremost, produce what we consume, and consume what we produce. If others from outside our region consume what we produce, that would be an added bonus. However, it must stop being our only lifeline. The lifeline of our products must be our own people. What we need most from the outside is investment to help us produce quality goods, as our people currently lack capital.

Within this context, we must pool our resources to provide essential services for our people, to raise their standards in health, education, transport, communication, utilities and other infrastructure.

Conflict Trends:Various rebel formations are still operating in the north and west of Uganda. Is there a possibility that the movement will go into dialogue with these rebel formations?

President Museveni:What we have in the north and west of Uganda are remnants of the ADF and LRA rebels, who have been terrorising our people, on and off, for some time. We have declared an amnesty for any of them who come forward and give up insurgency - many have responded. We have also sent missions to them, to try to persuade them to abandon their crimes, and come back and settle.

However, when you talk about dialogue, you must keep in mind that dialogue with a political opponent must revolve around political objectives. What are the political objectives of these people? What do they stand for? What do they aim to accomplish by torturing and murdering innocent people? The NRM has never resisted dialogue. In fact, dialogue with previously politically hostile factions constituted the cornerstone of our recovery programme. As you will recall, we spoke to all our opponents and invited them to participate in a government of national unity as far back as 1986. We excluded no one. Our cabinet comprised leaders who even opposed us militarily. However, for the sake of unity, we called them on board. This is the essence of governance under the movement. It still constitutes our driving policy, which is why previous heads of state - with the exception of Obote and Idi Amin - are safely residing in the country, enjoying their rights and freedoms. We believe that dialogue with any political opponent must be based on certain principles aimed at creating a better situa-

tion for our people. We must differentiate between a genuine political opponent and an opportunist, otherwise common murderers will demand that society have dialogue with them. Many of the so-called rebels in the north and west of Uganda have been murdering innocent people in cold blood. The best they can hope for is forgiveness, which we have offered them through an amnesty, simply for the sake of peace. We are open to them.

Conflict Trends:What have been the successes of the movement in the following fields:

a) Building of democracy and constitutionalism

President Museveni:First of all, from the outset, we have endeavoured to inculcate a culture of democracy among our people. We have not been so interested in giving an impression of democracy; we have been more interested in creating real democracy within our society. That is why we started introducing participatory democracy in those areas where our movement was active during the struggle. Unlike many societies where democracy is the preserve of the elite, we made sure that the peasantry in Uganda practised democracy by participating directly in the system, and by making it really part of their lives. The resistance councils, which were set up from the inception of the movement, have become the cornerstone of democracy in Uganda. They have empowered the people of our country (from the grassroots) in such a way that every Ugandan has a voice. The zone, or cell, is the smallest political unit in the country. Citizens at this level meet to elect their chairpersons, as well as a committee to take charge of the youth, social affairs, women, the environment, security and infrastructure. The zonal committees then meet to form a local council, which replicates the structures at the zone level. The local councils meet to form district councils, again with the same structure, and so on. This process repeats itself up to national level, finally reaching parliament. Consequently, what we have in Uganda, is a mixture of committee-type and parliamentary democracy, alongside the more formal electoral system, which is modelled along conventional democratic lines. However, our prospective candidates for public office at national level stand for elective office on the basis of individual merit, as opposed to party sponsorship. We hope that this system will give birth to a more healthy and participatory environment, which is crucial for the building of democracy anywhere. We have consolidated this

democracy by having regular free and fair elections by secret ballot, in order to ensure that the people choose the leaders of their choice. Political parties are constitutionally limited to participate in politics on the basis of individual merit, and they continue to do so in all our elections. However, establishing a more conventional type of democracy, based on party competition, will have to be arrived at methodologically, rather than for the sake of creating an impression of democracy. The movement has clearly attempted to cultivate democracy in Uganda as a right, and not a privilege, as was the case in the past.

On the constitutionalism front, the movement has established a people's constitution, which was the result of years of canvassing for people's views about the future of the country. We have ensured that all Ugandans know the importance of respecting the constitution - their own constitution - and we have educated our security forces to respect and defend the constitution. The people of Uganda now know that no one has the right to tamper with their constitution.

b) Education and poverty eradication

President Museveni:The movement has made tremendous strides in the fields of education and poverty eradication. Our Universal Primary Education Programme, now in its fifth year, has been a major breakthrough for our people. From a primary school enrolment of 2.5 million four years ago, we now have seven million primary school pupils enrolled. We have increased the number of universities in the country, we have increased the number of government-sponsored students, and we have introduced private sponsorship at Makerere University, which has seen enrolments increase almost tenfold. We are also presently making plans to move the country towards universal secondary education. This is because of our firm belief that an illiterate society cannot easily modernise or advance.

In the sphere of poverty eradication, the movement has set up imaginative and innovative programmes that directly target the poor in our society, in order to empower them to fight poverty. Credit has been availed to the poor through schemes such as Entandikwa, (start-up fund), the Poverty Alleviation Programme (PAP) and others. Although the struggle to reduce poverty is always a slow one, commendable progress has been made in this field, with poverty levels falling from 56% in 1992, to 36% today. This is a reduction of 20% in less than

10 years. We are doubling our efforts to free our fellow Ugandans from poverty and are encouraged by these figures, which clearly show that the task can be accomplished.

c) Creating better terms of trade between the North and South

President Museveni:The effort to promote better terms of trade between the North and South has mainly been hampered by protectionism being practiced by advanced countries, particularly Japan, the USA and the European Union. The subsidies to European and American farmers have done a great deal of harm to our agricultural products because they render them uncompetitive. In addition, although our own markets are totally open to products from advanced countries, their own markets are not open to our products, despite a free world market being propagated by these advanced countries.

Therefore, what we are trying to do, and what we must do, is forge tight links between all countries of the South. We must bargain with countries of the North using one strong voice, so that we cause changes in the international trade arrangements, which would ensure that all the people of this planet can benefit equally from a free world market, rather than just a section of it. We must also send clear signals that if the countries of the South were to boycott the products of the North, this would have an adverse effect on producers from the North. We have to send a clear signal that the world is one, and we must behave and live in it as one humanity.

We have already made some headway by establishing dialogue with other countries of the South, through such efforts as the Smart Partnership Dialogue. In addition, our movement is regularly in touch with countries from the South, such as India, China, South Africa, Malaysia and many others, discussing the issue of expanding trade between the countries of the South. We are also discussing strategies we could use in the event that the countries of the North remain adamant on the issue of opening up their markets to products from the South.

Conflict Trends:Under what conditions does the movement foresee the evolution of a multi-party system in Uganda?

President Museveni:First of all, it needs to be pointed out that any political system must never be seen as an end in itself. Political systems are ways of organising society for the advancement of their interests, and for development. The way you organise

society depends on the situation on the ground, as well as on the interests of the people in that society.

There is nothing wrong with either a movement system, or a multi-party system, as long as the system reflects the interests and situation of the population, and as long as it is built on the foundation of a healthy and participatory culture. A culture of intolerance and factionalism, which is the result of decades of authoritarian rule - firstly historically, then under the colonial system, and more recently, under successive post independence governments - remains, by far, the biggest obstacle to building a democratic culture, not only in Uganda, but elsewhere in Africa. We are trying to reverse this through our unique grassroots system that we have just talked about. The movement system evolved out of our historical experience and socio-economic realities, and it has served to create unity, sanity, cohesion and stability. However, our task is far from complete, and we do not expect easy victories - we never did. Therefore, a multi-party system must also evolve out of the situation, as it develops in Uganda. The last 15 years have given our country an opportunity to advance socially, economically and politically. New conditions have come up and are continuing to develop. We think that the situation is steadily becoming ripe - socio-economic interests of various groups are crystallising around political ideas, which means that an environment for healthy competitive politics is already emerging. This augurs well for the future of our country.

What we would not like to do is bequeath to the younger generation a host of groups masquerading as political parties, when in actual fact, they are simply regional or religious interest groups, with no commitment to the substance of democracy. We have been through that scenario in the past, and it was a costly experience.

As we progress economically, politically and socially - which we have been doing steadily for the last 15 years - real political parties will start to emerge which we, as a movement, will support because healthy political parties are good for the country.

During the next few years, the Constitutional Review Commission will obtain the views of the population regarding the main elements of the constitution of Uganda, one of which will be the issue of political parties. The movement structures will receive the commission's report and will discuss the issue of political parties, taking into account the people's opinions on the matter. The movement will then make a formal recommendation to the

country, taking into account what the population put forward. We think that it is important for the evolution of political parties to take place within the context of the democratic culture which has taken root in our society, and which is today, an open society. Above all, what we want to avoid is imposing a system on our people, either because of opportunistic reasons, or because of pressure from the outside.

Conflict Trends:What future does Uganda see in the DRC and, specifically, what is Uganda's position with regard to supporting the peace process in the DRC?

President Museveni:Uganda went into the DRC for very clear reasons, those being reasons of security. Many people around the world - both friend and foe - have ignored the fact that our people were butchered with impunity by renegades who made the DRC their training ground; a base for their evil projects and a haven, as well as a source, of funding and military support. In addition, Sudan was using the DRC to launch regular bombing raids into Uganda, killings hundreds of our innocent civilians, while the world watched without concern. No government can sit by while another country is used as a base from which to murder its citizens.

Consequently, we went into the DRC because we could see that the rest of the world was oblivious to the suffering of our people. We have routed Sudan from the DRC, we have broken the back of the ADF, and we have destroyed their camps in the DRC. At the same time, we have helped the people of Congo see that they are capable of resisting bad leadership by organising themselves. We are now pulling out of the DRC, having accomplished the major objectives that took us there. At the same time, we have sent a clear message to all, that never again, shall we allow our people to be butchered from across our borders, any more than we shall allow our territory to be used by enemies of our neighbours to butcher their people. We insist on having mutual and reciprocal good neighbourliness for the benefit of all the people in the region.

What we would like to see, is the people of the DRC discussing their future and moving their country towards democracy and development. We think that a stable, democratic DRC would be a very worthwhile neighbour to have, so that we can work together to develop and transform our region into a modern and prosperous one. We think that the people of this region deserve to live in a prosperous and happy environment, and we are convinced that they are capable of doing so.

We, therefore, fully support the peace process in the DRC, both as a strategy for the region, but also ideologically, so that we end, once and for all, the conflicts which have been preventing us from forging ahead with development, despite the numerous natural and human resources that abound in our area.

Conflict Trends:Is Uganda's recent withdrawal from certain areas of the DRC linked to the future of the evolution of democracy in that country?

President Museveni:We cannot dictate to the people of Congo as to how they should run the affairs of their country. Of course, we wish them a prosperous and happy future, and we think that this would be best accomplished in an atmosphere of democratic governance. However, it is up to the people of Congo to work out their own arrangements and to decide how democracy should evolve in their country. All we can do is to wish them well in their efforts, and indicate that we are available to share our experience with them should they wish to learn from it. However, the withdrawal of our troops is not linked to the Congolese people's plans to democratise their country. It is linked to our own security interests, which we have largely secured by our decisive presence in the DRC.

Conflict Trends:In brief, what is Africa's problem today?

President Museveni:In my opinion, Africa's main problem today is the problem of ideological dependence. The African elite, especially, have still not broken out of the ideological mould bequeathed to them by colonialism. We have still not grasped the fact that we have, among us, the means, resources and capacity to find solutions to our problems. We, the African people, must have confidence in ourselves and know that we have the solutions to our own problems. We have to stop looking to others for solutions, and we must stop believing what non-Africans tell us - that we are a hopeless continent, with the worst record on earth. Actually, even the much-hyped African conflicts are nothing compared to the numerous conflicts that have taken place on other continents, in both this and previous centuries. Do not forget the times that Europe tried, almost successfully, to annihilate itself in this century alone. This is has not stopped her from rebuilding herself and forging ahead.

If we can resolve this problem of ideological dependence and confusion, we shall be able to solve all the other problems facing us, such as underdevelopment, poverty and illiteracy.

Internal armed conflicts have cast a dark shadow over the prospects of a united, secure and prosperous Africa, in which a respect for human rights and dignity for all are practised

HUMAN RIGHTS

BY KITHURE KINDIKI

gross violations
of human rights

For many centuries, the question of whether or not a state, or group of states, could legally exercise the so-called right of humanitarian intervention, has remained a matter of great political and legal controversy. Humanitarian intervention relates to the use of armed force by a state, or group of states, for the purpose of ending gross violations of citizen's rights within the target state.

Some of the well known cases of humanitarian intervention in Africa includes the ousting of Idi Amin's brutal dictatorship in April 1979 by Ugandan rebels, who were aided by Tanzanian army units; also, the intervention by ECOMOG forces in Liberia (1990) and Sierra Leone (1997). Some analysts have also cited South Africa's intervention in Lesotho in 1997, as well as the interven-

tion by three southern Africa states (Angola, Namibia and Zimbabwe) in the Democratic Republic of Congo (DRC), as instances of humanitarian intervention.

Numerous reports, compiled by the United Nations (UN) and various human rights organisations, have cited gross violations of human rights in Africa, especially within the context of internal armed conflicts. In light of this scenario, the question of whether or not a right to humanitarian intervention exists, has become even more pertinent.

Internal armed conflicts in Africa: An overview

The term 'internal armed conflict' refers to conflicts that involve the use of military equipment and personnel (including militia), the conflicts

A refugee boy sits on the wreckage of a car in the refugee camp of Cambambe 3, outside the city of Caxito, Province of Bengo, 70 kilometres from Luanda, Angola. With the revival of the civil war in the country, refugees from the north of Angola find shelter in the new camp site, where they wait for medical assistance and food supplies

being conducted entirely within the borders of a sovereign state. This definition leaves out 'low intensity unrests', a less severe level of civil strife, usually involving scattered riots or limited terrorist activities. Most of the conflicts plaguing the continent are internal - or at least internal in origin - as the following overview will show.

In West Africa, the Sierra Leonean civil war has directly involved the Nigerian-led ECOWAS Ceasefire Monitoring Group (ECOMOG), which has been engaged in bitter fighting with a rebel group, the Revolutionary United Front (RUF). In North Africa, the governments of Mali, Niger, Algeria and Libya have also been involved in conflict with the Tuaregs, who are demanding their autonomy.

Perhaps the most serious conflicts on the African continent are those taking place within the 'Great Lakes' area - the conflict in the DRC has affected seven other African states, while the conflict in Burundi has been exacerbated by the latest, failed military takeover in April 2001.

Around the horn of Africa, Sudan and Somalia are engulfed in conflicts of varying magnitude. While in southern Africa, the government of Angola has been involved in offensives, and counter-offensives, with the rebel group, Uniao Nacional Para a Independecia Total de Angola (UNITA), since the country's independence in 1975.

Implications of conflicts in Africa for the protection of human rights

Internal armed conflicts in Africa pose an enormous challenge to efforts aimed at securing peace, prosperity and human rights for all on the continent. Underlining this point, the Organisation of African Unity (OAU) heads of states and government, which met in Cairo in 1993, had this to say:

> 'Conflicts have brought about death and human suffering, engendered hate and divided nations and families. [They have] forced millions of our people into a drifting life as refugees and internally displaced persons, deprived of their means of livelihood, human dignity and hope...'

Egregious violations of human rights during armed conflicts have been reported from all corners of the African continent. These violations include (but are not limited to) the use of prohibited weapons of war; indiscriminate attacks against civilians; the amputation of limbs; and the denial of humanitarian

relief to civilian populations and prisoners of war.

As a result of violating the fundamental standards of humanity during internal armed conflicts in Africa, the continent is now known for its horrendous statistics of destruction and inhumanity. For instance, in 1998, the UN secretary-general's report on conflict in Africa showed that during 1996, 14 of the 53 African countries were involved in internal armed conflicts. These conflicts accounted for more than half of all war-related deaths in the world, and resulting in more than eight million refugees and internally displaced persons.

Internal armed conflicts negate the progress made towards protecting and promoting human rights, at both continental and national levels. Therefore, it is arguable that humanitarian intervention, particularly in grave situations where the government is denying its citizens their fundamental rights and freedoms, is permissible. The OAU, and sub-regional organisations such as ECOWAS and the SADC, should develop mechanisms for collective humanitarian intervention on the continent in order to restore the rule of law, as well as the respect for human dignity within target states.

The need for collective humanitarian intervention

There are two kinds of humanitarian intervention involving the military. The one is unilateral intervention (intervention by a single state), and the other is collective intervention (intervention by a group of states). Unilateral intervention is often the most criticised mode of intervention. Moreover, relatively few states, nowadays, have the capacity to intervene on their own; few have the necessary combination of skill, surprise, speed and sufficient force to accomplish the aim with minimum collateral (incidental) damage. Consequently, the focus here is on collective humanitarian intervention.

The criticism often levelled against the doctrine and practice of humanitarian intervention involves the 'violation' of sacrosanct principles relating to state sovereignty and the non-use of force in international law. Admittedly, these two principles form the bedrock of contemporary international law, and are enshrined in the charter of the UN (articles 2(7) and 2(4) respectively). This line of argument has led some scholars to conclude that humanitarian intervention rests in the realm of morality, not of law.

Apart from the above criticism, which may be regarded as a 'legal' objection to humanitarian intervention, a 'policy' objection to the doctrine has

ABDELHAK SENNA/AFP

also been raised, which maintains that humanitarian intervention is prone to abuse. Some states use it to achieve selfish and political ends, thus humanitarian intervention is selectively applied to suit political and strategic interest.

The proposition that legal tolerance of humanitarian intervention violates the principles of state sovereignty and the non-use of force - as enshrined in the charter of the UN - is tenable to some extent. The UN charter is an authoritative source of the legal order, and forms the basis upon which nations interact with each other. However, reading the provisions on state sovereignty and the non-use of force, within the context of the entire charter, lends credence to the view that humanitarian intervention, at least in its collective form, is permissible in terms of the charter.

Of course, the UN charter does not expressly provide for the 'right to humanitarian intervention'. However, scrutiny of the charter as a whole leads us to argue that humanitarian intervention - apart from seeking to secure respect for human rights, which is a principal purpose of the UN - does not, in principle, threaten the independence, territorial integrity and political independence of a target state. On the contrary, humanitarian intervention aims to restore the rule of law, as well as a respect for the fundamental standards of humanity. It does not aim to destabilise the target state, nor does it aim to tamper with the affairs of the state once the violations have ceased.

Turning back to our focus - Africa - it is our view that collective humanitarian intervention is required in grave circumstances, such as situations where genocide, war crimes and crimes against humanity are being committed. Purposive interpretation of the UN charter would, as we have argued above, support the intervention. It appears that collective humanitarian intervention it is the only practical way of salvaging the continent from self-destruction. African intergovernmental organisations have a role to play in facilitating collective intervention.

The debilitating effects of the abuse of power by political leaderships and state authorities have been particularly felt in Africa, where the principle of accountability is yet to take root. The newly formed African Union, as well as sub-regional intergovernmental organisations such as the Southern Africa Development Community and the Economic Community for West African States, should take the lead in developing and applying the notion that sovereignty can legally be transcended with the 'intervention' of 'outside forces', and by their will to act collectively to halt gross

Congolese children victims of the conflict in the DRC sit together in an orphanage in Goma

violations of human rights.

It is our view that humanitarian intervention is gaining legitimacy in Africa. In 1990, ECOMOG forces intervened in Liberia and successfully managed to stop the civil war that had threatened to tear the country apart. According to the Gambia president (then the chairman of ECOWAS), intervention by ECOMOG was mainly aimed at ending the suffering of the Gambian people. In 1997, ECOMOG forces were again sent into Sierra Leone to restore the rule of law, and to end the perpetration of serious atrocities (by warring factions) against the civilian population. Neither the UN nor the OAU criticised the interventions. The constitutive act of the newly established African Union has even codified the principle of intervention by providing - in article 4 (h) - the Union with the right to intervene, where genocide, war crimes and crimes against humanity are being committed within a member state.

Legal and institutional aspects for collective humanitarian intervention in Africa

In instances of unilateral intervention, it is the intervening state that decides, on its own terms, whether or not the intervention is effectuated in accordance with international law. Collective humanitarian intervention should be encouraged within the context of the OAU, as well as sub-regional organisations such as ECOWAS and the SADC. This way, the possibility of abusing the right to intervention would be minimised.

Many authors have made propositions on the legal and institutional mechanisms that would ensure humanitarian intervention is properly undertaken. Some of the principles that have been suggested by authors, such as Charney and Lillich, include the following:

> On the whole, an attempt must be made to strike a balance between the desire to protect human rights, and the need to minimise the use of force in international relations. In this regard, principles should be developed aimed at limiting the use of humanitarian intervention to the gravest of cases, in which no alternatives are available. These cases include genocide, war crimes, crimes against humanity and the so called 'grave breaches' of the 1949 Geneva Conventions, relating to the protection of victims of armed conflicts.

In Sierra Leone, there have been documented reports of civilians (including children), whose limbs have been amputated by fighting groups

JEAN-PHILIPPE KSIAZEK/AFP

turning information into action

The regional group must endeavour to engage in negotiations, consultations and other non-forcible countermeasures. Only where the remedies fail to yield the necessary results, should intervention follow. The intervening states should be compelled to report to competent international organisations - such as the UN Security Council - on a regular basis, regarding the activities of the intervening forces. The intervening states must adhere to the principles of international humanitarian law (law of armed conflict) and should undertake to be liable for any violations thereof. For instance, civilians and other persons who are not, or are no longer, taking part in hostilities (wounded or sick soldiers and prisoners of war) should not be harmed. Also, collateral (incidental) damage should be minimised.

After the objective of intervention has been realised, foreign forces must withdraw promptly, unless the target state consents to them remaining, or competent international organisations (in this case, the UN Security Council) permit them to do so.

Gross violations of human rights have been reported in many of the on-going internal armed conflicts in Africa. In the case of Sierra Leone, there have been documented reports of civilians (including children), whose limbs have been amputated by fighting groups. This is clearly a crime against humanity and, therefore, justifies the intervention by ECOMOG.

Conclusion

Internal armed conflicts have cast a dark shadow over the prospects of a united, secure and prosperous Africa, in which a respect for human rights and dignity for all are practised. We have argued that the principles of state sovereignty and the non-use of force in international relations cannot be regarded as a protective mask, behind which human rights are allowed to be massively or systematically violated with impunity. African inter-governmental organisations ought to practice the doctrine of humanitarian intervention in order to end atrocities committed during the course of internal armed conflicts in Africa.

Endnotes

* Kithure Kindiki is a Lecturer in Law at the Moi University in Kenya.
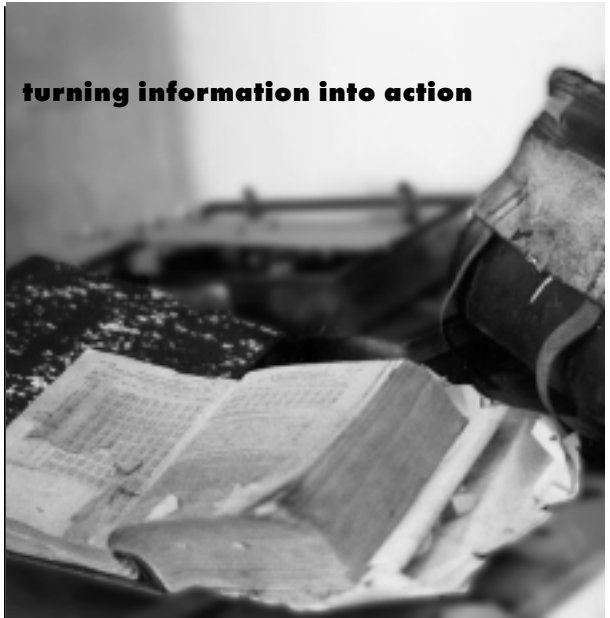
Ongoing monitoring of all conflict situations across Africa is undertaken on a daily basis to generate ACCORD's Conflict Watch and Renaissance Barometer reports. Indepth situation reports are also complied in response to the requirements of ACCORD's directorate. The Preventative Action Programme analyses the information gathered on each of the SADC countries on monthly basis as part of ACCORD's conflict update series. These country reports cover conflict indicators and occurrences in the region and serve as a basis for developing intervention strategies.

Taking Preventive Action

WATER WARS

BY MIKE MULLER

water wars?

The notion that there will be wars over water in the future is a pernicious one, despite the obvious fact that there is no world shortage of water. Water is, after all, not just an widely distributed resource; it is also a renewable one. While there may be a shortage of financial resources required to transport water to where it is needed - or to purify the ubiquitous reserves of saline or brackish waters of the oceans, inland lakes and underground sources - water is generally available.

It is, therefore, important to unpack the idea of 'water wars' and, where appropriate, replace it with more obvious and appropriate paradigms.

One such paradigm is that water, as an essential resource, is an important focus of cooperation between nations seeking to access it as cheaply as possible, since, in many cases, there are economies of scale and opportunity in the development of shared resources.

The second is that the real causes of water-related conflicts are often derived from the economic and political relations between nations at a larger scale, rather than from any conflict over water, *per se*.

Finally - and most controversially - another cause of water-related conflict is the imposition of international environmental norms upon regimes, involving costs that are incurred by one set of (relatively poor) national actors, while the rules are set - and the benefits enjoyed - by other (often, relatively rich) extra-national groups.

To illustrate this, it is necessary to introduce a

little technical 'rigour' into the broader economic and political discussion.

Richard Meissner's recent article in Conflict Trends - '*Drawing the Line*' (No.2, 2001) - provides good examples of both an appropriate paradigm, as well as the myth surrounding the idea of 'water wars'. Meissner's careful dissection of the 'water' dispute between Namibia and South Africa concludes that 'it seems as if a water war, in the traditional sense of states going to war over water, is unlikely to occur between South Africa and Namibia vis a vis the Orange River'.

He finds that there is not a water dispute, but rather a boundary dispute, involving control over significant non-renewable natural resources, such as diamonds (and possibly oil) - access to these is determined by a border defined by the Orange River. Despite the fact that there is competition for access to relatively cheap 'run-of-river' water, there is good trans-border cooperation over its management. 'It seems the Orange River border issue is more a case of enhancing territorial integrity, and the securing thereof by the two parties, than it is of utilising water resources,' concludes Meissner.

This is well and good. Unfortunately, Meissner undermines the integrity of his analysis when he seeks to contextualise the border conflict. He highlights the importance of water in the southern African region by noting that 'many of the countries in these regions are also classified as water stress (sic) or water scarce, with Namibia being the driest, followed by Botswana and South Africa'.

In fact, this is only correct in the restricted technical sense of the aridity of climate, and in the availability of internally generated water resources. In terms of the gross availability of water, it is completely inaccurate.

To clarify this, an appropriate definition of the availability and distribution of non-tradable natural resources would, from the perspective of political economy, involve using the gross availability of resource per capita as a measure, rather than a general description of landscape and climate. A further, and more immediately useful indicator of the resource-shortage-stress suffered by a society, would be the proportion of available resources currently being used by that society.

Of all the countries of southern Africa, Namibia and Botswana are amongst those best endowed with water resources - 6,672 kilolitres per capita are available annually in Nambia, and 14,107 in Botswana. By contrast, Malawi, which is perceived to have a great deal of water by virtue of its access to Lake Malawi, has only 961 kl/cap, and South has only Africa 1,349 (1990 figures from Engelman and Leroy, 1995, cited in Meinzen Dick and Rosengrantz, *Achieving Food Security in Southern Africa*, ed Haddad, L, IFPRI, 1997).

Against the other measure of water stress, neither Namibia nor Botswana are particularly stressed - these countries use only 4.0% and 3.9 % of their resources, respectively. This is negligible in comparison with South Africa (29.7%), and even Malawi (5.4%). (Figures for 1991 ñ 1994 from FAO, Irrigation in Africa in Figures, 1995, cited by Thamae, L, *Achieving Food Security in Southern Africa*, ed Haddad, L, IFPRI, 1997).

Given this objective situation, why should there be a perception of water shortage and potential conflict over water in the south western region of the sub-continent?

The answer lies first in the source of the water. The bulk of water available to Namibia and Botswana is derived from the Okavango River - the third largest river in southern Africa, after the Zambesi (88,000 Mm3 at Cahora Bassa) and the Orange (11,800 Mm3). The perception of shortage is reinforced by the distribution of water, which is problematic because the sources are far from the main centres of demand.

The Okavango River rises principally in Angola, flows across the Namibian 'panhandle' Caprivi Strip, into Botswana and Angola. The Okavango's average annual flow - of more than 10,000 million cubic metres - discharges into the 15,000 square kilometre system of wetlands that comprise the Okavango Delta. Given the flat terrain and arid climate, the bulk of the water simply evaporates (net evaporation rates of more than 1,000 mm a year are common), or infiltrates the soil, with only about 2% discharging at the exit of the delta, where it dries up shortly thereafter.

Historically, the fate of water in such wetlands has been described as waste. In other contexts - notably in proposals for the management of the Nile's Sudd Swamps in mid-Sudan - plans have been made to make more water available for use elsewhere by canalising rivers in order to reduce the 'spillage' of water into wetlands, thereby curtailing subsequent losses.

Yet, in terms of today's understanding, water in wetlands is not 'wasted' as much as it is used for a specific purpose. It often supports unique ecological systems. In more developed or densely populated parts of the world, these have long been

destroyed or significantly reduced. Thus, the diversity represented by these ecological systems is relatively rare. However, they are still declining and are highly valued by the international community. Owing to this, there is international pressure to protect those ecological systems that remain, and they are being supported by beneficiary groups in the areas concerned. In addition, the relative scarcity of such habitats makes them attractive tourist destinations, which generate significant income.

The concept that a proportion of water resources should be identified as necessary for the maintenance of ecological systems, and allocated or reserved for such purposes, is not new. In South Africa, the concept was first formally introduced into water management policy as early as 1970, when the Commission of Enquiry into Water Matters recommended that 'provision be made for the reasonable needs of nature conservation areas'. This was extended to include the broader concept of an ecological reserve in the National Water Policy (1997), and was later introduced into law in the National Water Act (1998).

Within this context, it is assumed that there is a certain proportion of the resource needed to maintain the 'ecological health' of the resource, and that a water resource can be more or less developed or used depending on the ecological state at which the society wishes to keep it.

This implies that there may be a reduction in either the extent or quality of the ecological diversity supported by the resource if, in the words of the South African Constitution, the resource is required to promote 'justifiable social and economic development'.

In the case of the Okavango River, the rules governing the allocation of water are derived from external instruments. Rather than there being a shortage of water, it is the application of these rules to the allocation and use of available water in south western Africa, that is at the root of any controversy or possible conflict.

Thus, Namibia's 1997 proposals to abstract 18 million cubic metres annually - less than 0.2% of the waters of the Okavango - were met with serious objections, both from within Botswana, and from a vociferous international environmental lobby.

Even under the most optimistic projections, Namibia's national water consumption is unlikely to rise above 500 million cubic metres annually - only 5% of the average flow of the Okavango (which would never supply more than part of Namibia's needs).

While there would not appear to be a fundamental conflict between protecting the bulk of the Okavango Delta eco-system and the developmental needs of Namibia, it is argued that even such a relatively small reduction in the flow of the river would reduce the extent of the swamp area. Groups, such as the International Rivers Network, are implacably opposed to such abstractions. Instead, they propose alternative sources ñ including such novel and untested sources as the desalination of sea water through the use of wave power generators (*The Okavango Pipeline*, report published on the Internet by International Rivers Network, 2001).

The fact is that the Okavango has been declared a 'RAMSAR' wetland in terms of a treaty which binds all signatories to promote the conservation of listed wetlands. The treaty also binds all signatories to promote the 'wise use' of all wetlands (IUCN, 1989). Owing to the fact that Namibia is also a signatory to the convention, it is under the same obligations as Botswana to manage the delta wisely. What this convention does not do is help define how a balance can be struck between the need to preserve a wetland, and the need to meet the demands of poor communities (inside or outside the country concerned) for basic water supplies and livelihoods. In addition, the convention does not provide guidance as to how a relatively poor developing country can grow.

Thus, on the Okavango (as on the Orange River), it would appear obvious that this is not a conflict over water. There is a supply of water vastly greater than is needed to meet the economic and social needs of the communities who share the common resource. What is taking place is a conflict over the protection of the environmental resource which the water sustains, and more specifically, the extent to which that resource may be impacted upon. Also contributing to the tension is the question of who has the authority to make a decision about the issue.

This has important implications for the relationship between Botswana and Namibia, as well as for the southern African community. It also has implications for the international water and environmental community, in the run-up to the Johannesburg Earth Summit in 2002.

Negotiations over the management of the Okavango River have been initiated, and the Permanent Okavango River Basin Commission (OKACOM) was established to begin the process of developing a management plan for the entire basin.

Whether this will provide a mutually acceptable outcome will depend on whether it can address the economic and environmental issues which are at stake.

If Namibia was better able to afford the costs of accessing alternative sources, the contention over access to the waters of the Okavango would be reduced.

The conflicts of interest surrounding the Okavango are further exacerbated by the fact that the eco-system to be protected lies in one country, which also derives the tourism benefits from its preservation, while other riparian states bear the costs of conservation, but receive no benefits.

The Southern African Protocol on the Use of Shared Water Courses provides the basic framework whereby an equitable approach to the use of shared waters can be promoted. However, there are no clear mechanisms through which the financial benefits, accrued from the allocation of water for use within the territory of only one of the riparian countries, could be shared. Such mechanisms could help to reduce contention.

In summary, it is not a water shortage that is the source of conflict in south western Africa. It is the expectation that relatively poor riparian communities should carry the economic cost of protecting an international environmental resource, without adequate support from the international community, and without sharing the benefits that may be derived from such conservation.

Mechanisms to address this asymmetric burden need to be developed. This done, the southern African community has demonstrated itself to be well able to make cooperative arrangements regarding the sharing of its limited - but still adequate - water resources.

The final point remains: water management is a complex business. If the issues at stake are not clearly identified and understood, we will not be able to address them effectively. In the Okavango, as well as on the Orange, it is not water shortages that are at the root of regional conflict. Can we now please turn our attention to the real issues?

Endnotes

* Mike Muller is director general of Water Affairs and Forestry in South Africa, but wrote this article as a personal contribution to the debate over regional conflicts.

will her vote count?

ACCORD have trained over 16,000 people

from numerous African countries over the past

decade. This includes some 4,000 South African

election monitors trained in 1994 and over 2000

Nigerian election monitors trained in 1999

Training

JEAN-PHILIPPE KSIAZEK/AFP

Examining the regional system
for the protection of human
rights in Africa

HUMAN RIGHTS

BY EVARIST F. BAIMU

commission
and the
court

As in Europe and the Americas, Africa has a regional human rights system. The African system of human rights operates under the auspices of the Organisation of African Unity (OAU). It is based primarily on the African Charter on Human and Peoples' Rights, which was adopted by the OAU Assembly of Heads of State and Government in 1981. The adoption of the African charter was partly based on the realisation that violations of human rights lead to conflicts, and that the protection of human rights is an integral part of lasting peace and development on the continent.

The African charter was entered into force in 1986. Today, all 53 member states of the OAU have ratified the charter, which recognises a wide range of human rights and creates an enforcement mechanism. Initially, the enforcement mechanism consisted of the African Commission on Human and Peoples' Rights only. However, the adoption of a protocol on the establishment of the African Court on Human and Peoples' Rights in 1998, set in motion a process to introduce a dualistic protection mechanism, which comprises the African Commission and the African Court on Human and Peoples' Rights.

THE HUMAN RIGHTS STANDARDS UNDER THE AFRICAN SYSTEM OF HUMAN RIGHTS: THE AFRICAN CHARTER

The rights protected under the African charter can be categorised into three groups: civil and political rights; economic, social and cultural rights; and group rights.

The civil and political rights protected under the charter include the right to equality before the law; the right to life; the right to human dignity; the right to liberty and security of a person; and the right to a fair hearing. Others include the freedom of conscience; the freedom of expression; the freedom of association; the freedom of assembly; the freedom of movement; the right to participate in a government; and the right to property.

The African charter also protects economic, social and cultural rights, such as the right to work; the right to health; and the right to education.

The rights of groups, such as women, children, the aged and disabled, are specifically protected. African states have a duty to protect the rights of women and children as stipulated in international declarations and conventions. The aged and disabled have the right to a special measure of protection, in keeping with their physical or moral needs. The charter recognises several peoples' rights. These include the right to political and economic self-determination; the right to development; the right to a satisfactory environment, favourable for their development; and the right to peace and security.

The right to peace and security (together with the right to development) enjoys a special place among the human rights, in that its realisation is key to the promotion and protection of other rights. Practically speaking, it is difficult to talk of the right to associate, or even the right to life, in situations of conflict. The guarantee of the right to peace provides a suitable environment in which other rights can be realised. Moreover, although all human rights are generally connected to issues related to conflicts (in that their violations are often one of the contributing factors in conflicts), the right to peace and security is much more intimately connected to issues of conflict than that of other rights. Hence, it deserves further elaboration.

According to the African charter, all people have the right to both national and international peace and security. The states are also obliged to ensure that individuals enjoying asylum, do not engage in subversive activities against their country of origin, or any other state party to the charter. In addition, states must ensure that their territories are not used as bases for subversive or terrorist activities against the people of any other African state party to the charter. The relevance of the above provision to the African situation, where external involvement is often a key factor in conflicts, need not be emphasised.

Lastly, it is important to mention that, unlike other human rights instruments, the African charter does not have a provision that would allow for the suspension of rights during a time of war, public danger or any other emergency that could threaten the independence or security of a state party. Thus, unlike other regional and global instruments (such as the European Convention of Human Rights), which allow violations of some rights in emergency situations, in Africa, even a civil war cannot be used as an excuse by a state to violate or permit the violation of the African charter. The fact that conflicts, and the associated massive human rights violations, have continued to engulf the continent when most of the African states are bound by the provisions of the charter, indicates that the African charter is still not taken seriously by many African states.

THE ENFORCEMENT MECHANISM UNDER THE AFRICAN SYSTEM OF HUMAN RIGHTS

The enforcement mechanism under the African system of human rights is dualistic. It consists of the African commission and the African court.

The African Commission

The African commission was established in 1987. The commission consists of 11 members elected by the OAU assembly.

The commission has two main functions: the protection and promotion of human and peoples' rights. The protective mandate entails the receipt and consideration of complaints alleging violations of rights by state parties. Individuals or other state parties may lodge complaints. While considering the complaint, the commission would seek an amicable solution. Should that fail, the commission would make non-binding recommendations. However, the complaints procedure has not been functioning very well. The commission has sometimes delayed issuing its decisions, and there are no mechanisms in place to follow-up on the implementation of the commission's decisions by the state

concerned. For instance, the commission's decision regarding the cases brought to it on behalf of Ken Saro-Wiwa, a Nigerian human rights activist, was issued long after the execution of the victim by the Abacha regime. It was also issued long after a change of government in Nigeria, following the death of Sani Abacha. In hindsight, one imagines that a prompt decision against the very regime that violated the human rights, would have been more meaningful considering the circumstances.

The promotional mandate of the commission involves educating states about the rights included in the charter. Its mandate also includes creating a culture of respect for human rights. The examination of state reports compiled by member states is the key promotional activity carried out by the commission. The African charter obliges state parties to submit, on a two-year basis, a report on the legislative (or other) measures that states have taken to give effect to the rights and freedoms recognised by the charter. The main objective of the reporting state is to establish a framework of constructive dialogue between the commission and the state. The state reporting mechanism is, however, suffering from a high level of non-compliance by state members. There has been an almost total lack of state reporting. For instance, by the end of 1999, only 24 of the 53 member states had submitted their reports, and more than 225 state reports were overdue. Even in situations where states had actually reported that problems still persisted, many had not been following reporting guidelines. Information they provided was inadequate or incomplete, and reports were insufficiently self-critical. In some instances, state representatives had failed to appear during the consideration of respective state reports.

Of late, the commission has tried other measures in the quest to promote and protect human rights in Africa. The commission has appointed some of its members as special rapporteurs, whose mandate is to make a thematic study of a particular matter and then issue recommendations. Thematic studies have been carried out on such issues as prisons and conditions of detention in Africa; extra-judicial killings; summary or arbitrary executions; and women's rights. The commission has also conducted missions to investigate, on the spot, human rights violations - these missions have issued reports on the human rights situation in particular countries. So far, the commission has undertaken missions to Togo, Senegal, Mauritania, Sudan and Nigeria. The use of this mechanism has

provided conflicting results. For instance, while the special rapporteur on prisons and conditions of detention has been successful in fulfilling his mandate, the one on women's rights has not been as efficacious. On the other hand, the country missions have been beset with funding problems. In the cases where the missions were carried out, their effectiveness has been, to say the least, doubtful.

The commission meets twice a year (usually in April and November) for a 15-day session. It can also meet for extraordinary sessions. The sessions are held either in the capital city of a country that volunteers to host the sessions, or in Banjul, Gambia, where the commission has its headquarters.

Most recently, the commission met in Tripoli, Libya, from 23 April to 7 May, 2001. The meeting was attended by more than 230 participants, including, representatives from 29 state parties, six national human rights institutions and 65 non-governmental organisations (NGOs). The commission considered 21 complaints and made decisions on some of them. It also examined state reports submitted by the Republic of Congo (Brazzaville), Namibia, Ghana and Algeria. Furthermore, it adopted resolutions on a number of issues, including the recent violence in the Kabylia region of Algeria; the HIV/AIDS pandemic as a threat to human rights and humanity; and the commission's place under the African union. The NGOs participated actively in the meeting by commenting on the situation of human and peoples' rights in some African states, including Rwanda, Liberia and Sudan. Representatives of the accused countries were given an opportunity to respond to these concerns.

Despite the commission's progress in the protection of human rights in Africa, some commentators and African leaders felt that the enforcement mechanism was inadequately addressing the problem of human rights in Africa. For this reason, a protocol on the establishment of the African court was adopted in 1998.

The African Court

The protocol on the African court envisages the establishment of a court made up of 11 judges who would be elected by the OAU assembly. All judges, except the president, would serve the court on a part-time basis, each for a six-year term.

In terms of its mandate, the court will complement the protective mandate of the African commission by using its own powers to make binding decisions, whether there is a violation of the

African charter, or any other relevant human rights instrument ratified by a state party. The court will also have powers to provide an opinion on any legal matter relating to the African charter, or any other relevant human rights instruments.

Ordinarily, individuals, NGOs and states would submit their complaints to the African commission. The African commission, any state or African intergovernmental institution can bring cases to the African court, but only after the African commission has considered the matter. NGOs and individuals are generally excluded from bringing cases to the African court directly, unless the state which is party to that particular case has made a special declaration recognising the powers of the court to hear complaints from individuals or NGOs directly, without having a recourse to the African commission, as is usually the case.

The court will conduct its proceedings in public. Parties to the case are entitled to legal representation. In conducting the case, the court will hear the submissions of all parties, hold enquiries if necessary, and receive evidence. In order to avoid irreparable harm, the court has powers to adopt provisional measures. The court will issue a judgment on the case, and make a finding, whether there has been a violation of a human right or not. Where the court finds a violation of a human right, it will take appropriate action in order to remedy or compensate the victim.

The OAU Council of Ministers has the responsibility of monitoring the execution of court orders. Additionally, the court is expected to specify, in its annual report to the OAU assembly, the cases in which a state has not complied with the court's judgment.

CONCLUSION

The commission has had a significant impact in the promotion and protection of human rights in Africa. It has considered more than 300 complaints of alleged violations of human rights, and has also considered 30 state reports in 13 countries since its inception. During the course of so doing, it has also clarified the obligations of state parties to the African charter. Increasingly, African states and NGOs are involved in the activities of the commission through participating actively in commission sessions.

Despite the modest success achieved, the African commission continues to face numerous challenges and obstacles. These include underfunding; understaffing; inadequate publicity on its activities; lack of independence on the part of some commissioners who maintain close ties with the executive structures in their respective countries; and non-compliance of states in submitting their state reports, as well as the implementation of commission decisions.

The question - whether the African court complementing the African commission, could enhance the impact of the African system of human rights in the African human rights scene in general, and in conflict prevention and resolution in particular - is open to debate. Some commentators are optimistic that the African court will strengthen the African human rights system. Others, however, are concerned that the court will draw resources and attention away from the African commission, thus weakening the African system of human rights.

The African human rights enforcement mechanism can only be as strong as the African states wish it to be. The effectiveness of the African human rights system will depend on the extent to which the African states support it, by allocating sufficient resources to it, by implementing the decisions and recommendations emanating from it and, above all, by striving to fulfil their human rights obligations under the African charter, as well as any other African human rights instruments. African states need to take action in order to indicate their conviction that genuine protection of human rights in Africa is the only firm foundation on which peace and development can be built and sustained on the continent.

Within the context of conflict in Africa, efforts to coordinate the work of the African commission and court, with that of other OAU institutions of conflict resolution - such as the OAU Central Organ for Prevention, Management and Resolution of Conflict - would go a long way to ensure that human rights feature higher in the processes of peace negotiations, mediation, enforcement and peacekeeping. Involvement of the commission and the court in electoral issues, through such means as election observation; state reporting; making onsite investigations; the issuing of advisory opinions; and even litigation, will, undoubtedly, contribute to the prevention and resolution of election-related conflicts in Africa.

Endnotes

- Evarist F. Baimu LLB (Dar-es-Salaam), LLM (Pretoria) is a LLD candidate and tutor for the Centre for Human Rights at the University of Pretoria