

AFRICAN JOURNAL ON CONFLICT RESOLUTION

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Contemporary security issues in the Horn of Africa**

**Boko Haram insurgency and the necessity for trans-territorial
forestland governance in the Lower Lake Chad Basin**

**Linking governance and xenophobic violence
in contemporary South Africa**

**The challenges of power-sharing and transitional
justice in post-civil war African countries:
Comparing Burundi, Mozambique and Sierra Leone**

**Pervasive intra-party conflicts in a democratising Nigeria:
Terrains, implications, drivers and options for resolution**



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Lay-out by Keegan Thumberan.

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Foreword

Jannie Malan

In all five articles in this issue, some aspect of governance plays a significant role. The term ‘governance’ appears in the titles of two articles, and words such as ‘govern’, ‘government’ and ‘governance’ occur in all the articles – altogether more than two hundred times. This did not happen in response to any call for papers or as a result of any planning for a special issue. This is therefore not a special issue on governance, but it happens to be a regular issue full of articles about governance matters.

As I was reading and editing these articles, my thoughts turned to the metaphor embedded in the verb ‘govern’ and its derivatives. I did remember how communication and hermeneutic studies caution us against an obsession with diachronic and/or root meanings. I do agree with the semantic experts therefore, when they advise us not to be carried away by meanings of long ago and/or meanings of the original component(s) of a term. It is true that a term is currently used in its synchronic field(s) of meaning and usually without any thought about root meanings.

I also feel, however, that there are occasions when a justifiable reference can be made to some facet of an ‘original’ meaning. So, with regard to governing, I wish to share my few thoughts about the simple but significant metaphor present in the set of words containing ‘govern’. Ancient Greek had a verb κυβερνάω (kybernaō) for the meanings ‘to steer [a boat or a ship], to hold the helm of the state, guide, govern’, and a noun κυβερνήτης (kybernētēs) for the meanings ‘steersman, helmsman, guide,

governor’ (Liddell and Scott 1944:397a). The Greek philosopher Plato used *kybernētikos* (good at steering) in the context of ‘the study of self-governance’ (New World Encyclopedia 2017). Classical Latin adopted the set of words, but changed the ‘k’ into the ‘g’ which we still have in English and several other contemporary languages.

The metaphor that I find ‘simple but significant’ is the one of steering a vessel or a vehicle – either as the only one on board or with one or more trusting passengers. In various ways, all of us have certainly experienced feelings of responsibility for passengers when driving, and feelings of trust when oneself is a passenger placing faith in a driver or pilot. Therefore, what this metaphor can do is to confront all of us – whether in government or among the governed – with the realism of steering. It may help those in leadership positions, at all levels, to feel responsible, or more responsible for their trusting followers/passengers. Leaders may then realise that the safety and desired destination of the passengers is not a vague, abstract idea, but a distinct, concrete reality – to be taken seriously. And followers may realise that entrusting themselves to the steering abilities of a particular leader is not a matter of casually going along with a multitude, but one of making a well-informed decision with real-life implications for themselves and others.

On behalf of our editorial team and our Advisory panel, I do hope that our readers will find guiding ideas and insights in these articles, and especially that governing leaders will use such guidance to the benefit, not of themselves, but of their followers. May more and more of those who govern, at whatever level, become follower-oriented experts in Cybernetics, ‘the science of communication and control in machines and animals (including man)’ (Hornby 1982:215), and steer the system concerned in the most responsible direction and way.

Finally, however, I feel obliged to add a thought about updating our metaphor to include a contemporary factor. The Greeks had the image of a helmsman steering a ship in (apparently) two-dimensional space. In the last hundred years, the image of a pilot steering a plane in three-dimensional

space was added. Fifty years ago, however, an astonishing new ‘picture’ came onto the scene: ‘the internet considered as an imaginary area without limits where you can meet people and discover information about any subject’ (New World Encyclopedia 2017). And it was given a name which includes the root concept of steering: Cyberspace! Although not specifically mentioned in this quoted definition (one of many), the steering potential of information is surely implied. We, the leaders and the led of the 21st century, therefore have an unlimited ‘space’ of information at our disposal, which can be applied in self-interested strategies of brinkmanship or in altruistic commitments of genuine leadership.

Let us drive then, literally *and* figuratively, as responsibly as possible – for the survival and well-being of ourselves and our literal *as well as* figurative passengers.

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State fragility and conflict nexus: Contemporary security issues in the Horn of Africa

*Yonas Adaye Adeto**

Abstract

Although research on natural resource and ethnic identity-based conflict abounds, studies which critically examine how the state fragility–conflict nexus shapes the contemporary security of the Horn of Africa are rather limited. Qualitatively designed, this study attempts to explore and explain security implications of such a nexus. Analysis of the regional security complex (RSC) and empirical data from the field reveal that conflict dynamics feed and fuel state fragility in the Horn of Africa sub-region. The presence of extra-regional security actors, who are competing for military bases along the coast of Djibouti, the spill-over effects of violence in Yemen, and the Iran–Saudi power rivalry, together with incompetent regional political leadership, tend to shape the security of the Horn. Hence, a new and innovative approach to contemporary security and political commitment are *sine qua non* since the existing institutions and policies are not fully capable of coping with the need for a new security regionalism. It is hoped that the recent rapprochement between Eritrea and Ethiopia, albeit at an embryonic stage, is and will be a positive force capable of bringing about a

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paradigm shift in security structure, and inducing a viable and sustainable economic, political and security community in the Horn of Africa.

Keywords: conflict dynamics, Horn of Africa, military bases, political community, regional security complex, state fragility

Introduction

While research on natural resource or ethnic identity-based conflicts in the Horn of Africa is widely available, studies which examine how the *state fragility–conflict dynamics nexus* shapes, and has implications for, the contemporary security of the sub-region are rather limited. *State fragility*, in this context, is the weakness of state institutions to provide physical security, including the basic good of the survival of citizens. Such weakness leads to corruption, ineffectiveness, undemocratic practices, as well as failure of state authority and legitimacy. By their very nature, fragile states lack the functional authority to provide basic security within their borders, the institutional capacity to provide basic social needs for their populations, and the political legitimacy to effectively represent their citizens at home and abroad (Clapham 2005:6–10). *Conflict dynamics*, on the other hand, are violent, variable, interactive, and interdependent acts, which are manifestations of the urgency of the needs and goals of the actors. Conflict dynamics may be conceptualised as a *cause*, a *symptom* or a *consequence* of state fragility. Violent conflict and state fragility fuel each other in the Horn of Africa as realities on the ground demonstrate. In other words, state authority, effectiveness and legitimacy in the Horn are weakened by the damaging effects of violent conflict, and state fragility manifests itself in and contributes to the conflict process with a serious consequence to the contemporary sub-regional security (Clapham 2017:17; Coleman and Tieku 2018:13). Hence, I argue in this article that the state fragility–conflict dynamics nexus is the most critical factor in shaping the contemporary security of the Horn of Africa.

The objective of the present study is, therefore, to explore and explain the contemporary security implications of the nexus between state fragility and conflict dynamics in the sub-region. And the significance of the study lies in what it may contribute to scholarly literature and debate in the discipline as well as to coherent security policies and strategies in the Horn of Africa. The article has been structured as follows: first, it has already introduced a short background of the study, which is followed by a brief description of the research context where extra-regional security actors and their role in state fragility and violent conflict in the Horn have been outlined. Third, it lays out a framework of analysis and justifies why a *regional security complex* (RSC) is preferable in the Horn context. In addition, it discusses the nexus between state fragility and conflict dynamics in the Horn of Africa today. Finally, it analyses and synthesises how the nexus shapes the contemporary security of the sub-region, and it draws a conclusion. The study makes use of qualitative data collected from previous and current works on the theme, in-depth interviews with conveniently selected expert political cum policy analysts and civil society activists as well as online materials pertaining to the research context, which is described and discussed in the following section.

Research context

Three major points depict the research context: First, a brief physical and socio-political description of the Horn is provided; second, patterns of violent conflicts and state fragility in the sub-region are discussed; and finally, some of the major implications of the presence of external security actors or 'security overlays' in posing potential and actual security threats to the Horn are summarised.

To begin with, located in northeast Africa (see Figure 1, below), the Horn of Africa is composed of six countries with a population of nearly 130 million and an area of 1 882 757 km² (2016 estimate).

Figure 1 - Political map of the Horn of Africa



ACCORD map

Of the six Horn countries, Djibouti, Eritrea, Ethiopia, Somalia, Sudan and South Sudan, two (Ethiopia and South Sudan with a total population of about 115 million) are landlocked and most urgently need seaports as outlets. They are currently also in dire need of sub-regional cooperation for economic, security, social and political purposes. It is worth noting at this juncture that these six countries were the former four countries, Djibouti, Ethiopia, Somalia and Sudan. Ethiopia became Ethiopia and Eritrea, whereas Sudan split up into Sudan and South Sudan. Hence, the rationale of using the six countries as comprising the Horn of Africa lies in their contemporary political history of conflict dynamics, fragility, and finally, the secession of the newly born countries of Eritrea and South Sudan. The Horn has eight major seaports: Assab, Massawa, Djibouti, Berbera, Bossaso, Mogadishu, Kismayu, and Port Sudan. Easy access to a seaport is essential for trade and security, but economic interdependence is

a factor of amicable relations and provides a sense of community amongst the Horn countries. It is to be noted that the pre-1991 Ethiopia was a coastal state, but because of ‘the wrong political decisions made by the EPRDF [Ethiopian Peoples’ Revolutionary Democratic Front] regime, the country remained landlocked, with implications for potential violent conflict leading to further state fragility and insecurity in the Horn’.¹

Second, patterns of state fragility and violent conflict dynamics in the sub-region loomed larger towards the end of the Cold War, which marked the end of competition between the then superpowers, the United States (US) and the Soviet Union (USSR), to find proxies and allies in the Horn of Africa. In the aftermath of the Cold War, the international community appeared to have lost appetite to engage with the sub-region. The vacuum of external interest is currently being filled largely by the *Al-Qaeda*-affiliated *Al-Shabaab*, which maintains a momentum of wanton killing and destruction in Somalia with spill-over effects beyond the Horn. These originated and spread mainly from Kenya, but also from the devastating and erratic civil wars in South Sudan, which continued unabated irrespective of the mediation efforts by major global, regional and sub-regional actors, and from the unresolved internal violent conflicts in Sudan, mainly in Darfur. These conflicts are still going on at the time of writing, and have led to the overthrow in April 2019 of Omar al-Bashir, Sudan’s leader, after thirty years in power (BBC News 2019).

Another kind of ‘on and off’ conflict dynamics has appeared since the 2008 Eritrea–Djibouti border conflicts in Ras Dumera, which has caused relations between the countries to fluctuate between ‘on’ and ‘off’. Even greater uncertainty was reached after Djibouti’s opposition to the lifting of United Nations (UN) sanctions against Eritrea in August 2018. The Eritrea–Ethiopia relations had been in a state of ‘no-war, no-peace’ until the July 2018 sudden, yet official end of the twenty-year stalemate and the commencement of a rapprochement under the leadership of the new Ethiopian Prime Minister, Dr Abiy Ahmed Ali (Underwood 2018:1–3).

1 In-depth interviews with a civil society leader, Addis Ababa, February 2018.

As a result of the state fragility and conflict situation, negative security externalities have prevailed in the contemporary Horn of Africa, largely in the form of internally displaced people, refugee flows, transnational organised crimes, violent extremism and terrorism, illegal cross-border trades and flow of small arms and light weapons. The 2018 Global Peace Index and State Fragility Index reveal that the Horn is the most negatively affected region. It is the only region in Africa where secession movements succeeded in breaking away from the previously incorporated entities – in both cases (Eritrea and South Sudan) with a significant potential security implication for the region. Despite South Sudan's independence on 9 July 2011, thousands of its people have been killed in armed conflicts, and millions displaced since 15 December 2013. The fighting is entrenched in a power struggle between the main political contenders, with overtones of ethnic politics of the Dinka and Nuer, represented by President Salva Kiir and Vice-President Riek Machar respectively. In the same vein, Eritrea had been on conflictual terms with most of its neighbours immediately following its independence in 1993, and remained in a state of 'no-war, no-peace' with Ethiopia from 2000 to July 2018 as stated above.

Despite these dismal scenarios, however, the international engagement with the coastal side of the Horn seems to have increased since the turn of the 21st century (Verhoeven 2017) making the sub-region the centre of gravity for current 'super-powers' and some of the most powerful countries of the gulf region. This brought significant actual and potential security implications to the Horn of Africa, which is the third point to be discussed below.

Several extra-regional actors and their 'security overlays' (Buzan and Waever 2003) are affecting security choices in the Horn, making state fragility and conflict dynamics more complex and posing further security challenges. A number of military bases along the coast of Djibouti and Somalia have, for instance, been established by Saudi Arabia, UAE (United Arab Emirates), Turkey, China, Japan, the US, NATO (North Atlantic Treaty Organisation), France, Germany and Italy. Major security developments have profiled the geo-strategic significance of the region from the perspectives of foreign actors, and over time the high concentration of security overlays have

created their own dynamics in the military base race. Governments within the Horn and in the larger region remained keen to exhibit more interest. Turkey, for instance, has established its first overseas military base – to date the largest in Mogadishu. The presence of such military and naval forces in the Horn has prompted security concerns from some of the member countries, however, including Ethiopia (Lee 2018:239; Zelalem 2018:24).

By virtue of being the former colonial power, the French have historically maintained a military base in Djibouti. This has emerged as a key factor for geo-political contestation between maritime powers owing to its strategic location adjacent to the Red Sea, which is estimated to account for almost 4% of the world's maritime traffic in petroleum and produce of petroleum (Lee 2018:240). After 9/11, the United States opened a military base in Djibouti as an operational base for its 'War on Terror' focusing on *Al-Qaeda* targets in Yemen and Somalia. In 2007, piracy became a critical security issue off the coast of Somalia, threatening maritime commerce in the busy trade routes through the Bab-el-Mandeb Strait. This situation increased Djibouti's attractiveness as the most preferred base for international anti-piracy operations (Verhoeven 2017).

Unsurprisingly, the presence of these major powers in the Horn, each with its own military base, has attracted foreign rivalries to the Horn. China and Turkey, both currently ascending powers, are keen to translate their economic might into global security and political influence. China's key interest in international maritime trade, which is compatible with its Belt and Road Initiative (BRI), made Djibouti the main route for Chinese exports to Europe. China opened its first overseas military base in Djibouti, adjacent to the Doraleh Multi-purpose Port in 2017 (Lee 2018:241). In the same vein, Turkish investments are drawn to the Horn in response to the increasing foreign presence. Hence, the substantial Gulf influence in the region made it relevant for the wider intra-Middle East competition, which later erupted in the form of the Gulf Cooperation Council (GCC) crisis, pitting Qatar and Turkey against the Saudi-led coalition. Much like those of the UAE and China, Turkish military bases carry a link with commercial port deals. In late 2014, the Turkish firm Albayrak Group took over the management of Mogadishu's port. At the end of 2017, Turkey announced

it had been given a lease to rebuild and operate Suakin, a former Ottoman port city in north-eastern Sudan. The agreement reportedly includes naval facilities and Sudanese–Turkish military cooperation (see Lee 2018:241; Zelalem 2018:20).

In a nutshell, the Horn of Africa is becoming a centre of contestation for major external global and regional actors. It should not be surprising if the countries of the Horn show their concern about the current and emerging security threats by observing who allies with whom, and what the consequence of such alignment might be. The complex nature of historical, cultural, ideological and religious intricacies between the Horn of Africa and the Middle East, competition between Riyadh and Teheran through their proxies, and presence of global actors from the West and the East, further complicate the security landscape of the sub-region. Sudan as well as Ethiopia are engaged in dam constructions for the development of their respective countries; Somaliland is in dire need of international recognition as a sovereign state; South Sudan and Sudan are replete with violence and in a quagmire of civil war at the moment, although there appears to be some improvement; Djibouti and Eritrea are still on ‘bad neighbourhood’ terms; and *Al-Shabaab* has an upper hand on Somalia’s security. Furthermore, at the time of writing, Sudan has been excluded from the regional organisation, the African Union (AU) for the unconstitutional change of government (BBC News 2019). It may be inferred that each country of the Horn is fragile to some degree and has specific economic, political, security and social aspirations and fears that can effectively be addressed only collectively and interdependently through a regional security complex (RSC) approach, which is the subject of the following section.

Regional Security Complex as a framework of analysis

The RSC approach assumes a region to be: ‘a set of units whose major processes of securitisation, de-securitisation, or both are so interlinked that their security problems cannot reasonably be analysed or resolved apart from one another’ (Buzan, Waever and De Wilde 1998:10–15). In the case of the Horn of Africa, the ‘units’ (countries) are characterised by

durable patterns of amity and enmity taking the form of geographically coherent patterns of security interdependence. The essential structure of an RSC embodies: (1) a boundary, which differentiates the RSC from its neighbours; (2) anarchic structure, which means that the RSC must be composed of two or more autonomous units; (3) polarity, which covers the distribution of power among the units; and (4) social construction, which covers the patterns of amity and enmity among the units (Buzan and Waever 2003:53; Kay 2007:68–69).

Four points constitute the rationale for focusing on the *regional level* when investigating contemporary security implications of the nexus between state fragility and violent conflict dynamics in the Horn of Africa. First, the existing scholarship tends to seek the causes of state fragility, incomplete sovereignty or the absence of effective state authority over territory, in either purely systemic (global/international) or purely domestic (national/local) explanations (Lee 2018:285). On the contrary, the post-Cold War security problems confronting the contemporary world are found and addressed at the regional level. They are manifested, according to Lepgold (2003:3), in at least two ways: (1) the degree of negative security externalities in the region (how much a given conflict spills over or affects others); and (2) the extent to which there are states or other institutions as well as politically committed and transformative leaders capable of managing conflict in the region. I concur with the foregoing argument that conflict dynamics in the Horn of Africa arise from state fragility and they come in ‘a regional package’ (Zartman 2003:83–84). In other words, most if not all of the Horn of Africa conflicts do not take place between well-established states, but mostly inside states which are not in control of their internal dynamics, i.e. ungoverned spaces with privatised economies and security, and competing rebel groups, as well as multinational forces, vying for control of political space as evidenced in Sudan, Somalia and South Sudan at present. This means the locus of conflict and its management will become largely region-based. Hence, efforts to cope with violent conflicts, as well as to achieve order and security, will primarily involve arrangements and actions designed and implemented at the sub-regional level (Lepgold 2003:3; Zartman 2003:83–84; Lee 2018:239).

Second, in unstable communities or ‘bad neighbourhoods’ (Brown 2001:209), conflicts spread across states when internal turmoil pushes refugees away from danger and toward safety, or when soldiers use adjacent territory as sanctuaries. Conflict can also diffuse across boundaries through a process of social learning. A group that sees itself as marginalised at home might develop a stronger sense of its identity, and thereby its dissatisfaction, by observing a comparable struggle in other states. Groups that already are discontented might learn from conflicts elsewhere how they can become less vulnerable or more autonomous and metamorphose into a non-state actor status (see Buzan and Waeber 2003:29–30). Security dynamics theoretically have a strong territoriality, and on this basis it can accommodate non-state actors without too much difficulty. Although some aspects of the new security agenda are de-territorialised, such as economic and environmental sectors, territoriality remains a primary defining feature of many (in)security dynamics. A *regional approach* can therefore provide both a much clearer empirical picture and a theoretically more coherent understanding of security dynamics (Buzan and Waeber 2003:29–30).

Third, security dynamics are inherently relational, and therefore no nation’s security is self-contained. Nevertheless, studies of ‘national security’ often implicitly place their own state at the centre of an ad hoc ‘context’ without a grasp of the systemic or sub-systemic context in its own right. In contrast, the region, or sub-region in the case of the Horn of Africa, refers to the level where states or other units link together sufficiently closely so that their securities cannot be considered separately from each other. The regional level is where the extremes of *national* and *global* security interplay, and where most of the action occurs. The general picture is about the conjunction of two levels: the interplay of the *global powers at the system level*, and clusters of close security interdependence at the *regional level*. Each regional security complex is made up of the fears and aspirations of the separate units (which in turn partly derive from domestic features and fractures). Both the security of the separate units and the process of global power intervention can be grasped only through understanding the regional security dynamics, which usually share

borders with other regional security complexes (see Buzan and Waever 2003:43; Kay 2007:213–287).

To grasp the full picture of the Horn, it is worth pointing out that the Horn of Africa RSC itself borders with the Middle East RSC whose pattern of security interdependence comprises more than twenty countries. The Middle East RSC stretches from Morocco to Israel and Iran, and it includes all of the Arab states (see Buzan and Waever 2003:187). It developed three sub-complexes: the Levant, the Gulf, and the Maghreb. A case might sometimes be made that the Horn of Africa constitutes a fourth weak sub-complex in this set (see Buzan and Waever 2003:188). Evidently, Somalia, Djibouti, and Sudan are all members of the Arab League, and there is a clear and persistent pattern of conflict and hostile intervention connecting them with Ethiopia, Eritrea, and sometimes even Egypt. However, Clapham (1996:128–129) and Tibi (1993:52, 59) argue that the Horn RSC is part of sub-Saharan Africa, and should *not* be considered part of the Middle East (as quoted in Buzan and Waever 2003:188) with which I concur.

From the three Middle East sub-RSCs outlined above, the Gulf Complex, which is subsumed under the Gulf Cooperation Council (GCC), is the most important one for its immediate neighbourhood to and significant impact on the Horn of Africa RSC. Centred on a triangular rivalry among Iran, Iraq, and the Gulf Arab states led by Saudi Arabia, the GCC was originally composed of Saudi Arabia, Kuwait, Bahrain, Qatar, the UAE and Oman. It was formed in 1981 in response to the Iraq–Iran war, and is generally understood as being a response to fear of them (Tibi 1993:171). The 1979 revolution in Iran added a sharp ideological element to its rivalry with Saudi Arabia, since both states claimed leadership of competing Islamic universalisms (Chubin and Tripp 1996:15, 71). Egypt, although a central player in the Arab–Israeli conflict, is also prominent in the Gulf. It intervened extensively in Yemen during the 1960s, and during the Second Gulf War sided with the Gulf Arab states and Syria against Iraq (Tibi 1993:171). Currently, its presence is felt in the GCC and in the Djibouti military base race as has been discussed above. Hence, ‘the GCC is as much a means of reinforcing the domestic security of a set of

anachronistic monarchical regimes as an alliance against external threats' (Acharya 1992:150). In short, the regional security dynamics of the Middle East RSC were exceptionally strong, and deeply rooted in the character of local politics and history (Tibi 1993:171). The impact of the global level has also been strong during the Cold War as well as the post-Cold War era on this RSC. In addition, there has been a rivalry between Saudi Arabia and Yemen (and within Yemen), which has generated a lot of local wars, (still going on at the time of writing, mainly as proxy of Iran and Saudi Arabia) and has at times drawn in wider Arab participation along rival royalist versus radical lines.

Consequently, the pouring in of small arms and light weapons, refugees fleeing the violence in Yemen to the Horn of Africa, and competition of Saudi Arabia and Iran to have allies from the Horn countries, using their commercial projects, investment, trade and aid leverage, are clear evidence of the effect of the proxy war in the contemporary Yemen on the Horn of Africa RSC. What is more, the close interaction with and allegiance of some of the Horn RSC countries, e.g. Djibouti, Somalia and Sudan, to the Arab League, is a conspicuous demonstration of the linkage of the two RSCs with far-reaching socio-cultural, economic, political and security effects. Even though these effects are not the object of analysis of this article, it ought to be underlined that their interface plays vital roles in the RSCs of both security clusters.

Equally important, in parallel with the GCC in the Gulf RSC, is the Intergovernmental Authority on Development (IGAD), as a regional economic community, which includes but is not limited to the six Horn countries. Various studies (e.g. Tadesse and Yonas 2006:13) and empirical experience in the sub-region reveal that IGAD's institutional and normative frameworks as security provider are weak as evidenced in the Eritrean–Ethiopian, Somali–Al-Shabaab, South Sudan or Darfur–Sudan violent conflict cases. Moreover, IGAD includes Kenya and Uganda, which belong to the East African Community, not the Horn of Africa. Hence, even though IGAD is the regional economic community of the Horn of Africa, it was not treated as the primary agency of the Horn of Africa RSC in this article. Furthermore, if IGAD were to be made a primary target, the topic might shift its focus to

the Greater Horn of Africa or East Africa RSC, which is beyond the scope of this study. Hence, the traditional Horn countries and their security interdependence are the object of analysis instead of IGAD *per se*.

Finally, a regional approach specifies what to look for at four levels of analysis and how to interrelate them: (1) Domestically, in the states of the region, particularly their locally generated vulnerabilities. (2) State-to-state relations, which generate the region as such. (3) The region's interaction with neighbouring RSCs such as the Gulf RSC in the Middle East. Finally and essentially, (4) the roles of global powers in the region. With regard to the interrelatedness of the levels, it may be added that in the case of the Horn, the interplay between the global security structures (for instance, the presence of the US, China and Germany) and the regional security structures (mainly the presence of the Gulf countries) is of great importance (Buzan and Waever 2003:50–51; Kay 2007:12–19). On the whole, the regional approach is more of a necessity than a choice to understand the nexus between state fragility and conflict dynamics in the Horn of Africa.

State fragility in the Horn of Africa

State fragility is understood and conceptualised in a number of ways. For Acemoglu and Robinson (2012:376–377) as well as for Herbst (2000:254–255), state fragility is symbolised by extractive state institutions that expropriate power and wealth: thereby impoverish the people and block economic development, and at the same time initiate savage conflict. Fukuyama (2012:10; 2015:302) implies that state fragility is the failure of the perceived legitimacy of the government that binds the population together by making them willing to accept its authority both internally and externally. Mills and others (2017:231) point out that ten of the sixteen countries in the 'very high alert' categories in the 2016 Fragile States Index are in sub-Saharan Africa. They further state that six of the bottom ten countries in Transparency International's 2015 Corruption Perception Index are African. As empirical evidence reveals, in the 'Horn of Africa, states are fragile and their structures lack political will and capacity to provide the basic functions needed for poverty reduction, development

and to safeguard the security and human rights of their populations'.² Daily experience demonstrates in Somalia, South Sudan, Sudan and in some parts of Ethiopia since 1991 (e.g. Benishangul Gumuz, Gambella, South Omo, Ethiopia Somali Region, Oromia Region of Moyale, Gedeo and Guji, Sidama and Wolaita of Southern Regional State, various parts of the Amhara National Regional state, to mention just a few) how the failure of state institutions to maintain basic security leads to violent conflict and violent conflict fuels state fragility. This situation plays a major role in shaping the contemporary security of the sub-region as small arms and light weapons are being circulated *en mass*, refugees flee their abode, statistics of internally displaced people as well as trans-border organised crimes swell up. Consequently, ungoverned spaces are being created, and serve as safe haven for non-state actors who claim to provide security to their respective communities at grassroots by further weakening already fragile states of the Horn as, for instance, Ethiopia, Somalia, South Sudan and Sudan. It follows that when fragility refers to the situation in the Horn, it implies that fragility is in fact a property of the prevalent political system. A 'fragile state', hence, is incapable of fulfilling its responsibility as a provider of basic services and public goods, which in turn undermines its legitimacy. This has consequences for society as a whole: threatening livelihoods, increasing economic downturn and causing other related crises which affect human security and the likelihood of widespread armed conflict in the sub-region (see Fragile State Index Team 2018).

Regional Security Complex analysis of the Horn further demonstrates that primordial enmity or resource deficiency is not as much a critical factor for conflict in the Horn of Africa as the failure of authority, legitimacy and effectiveness of the state (see Deng 1996:48; Zartman 2003:82; Wolf 2011:951). The evidence comes from the current situations in Ethiopia and Somalia. The Hobbesian hypothesis is that in the absence of a political Leviathan, life for individuals will be nasty, brutish, and short (Hobbes 1999:96). In Somalia citizens live in constant fear of attacks from *Al-Shabaab* – a non-state actor, which emerged as a result of the failure

2 In-depth interview with a political/policy analyst, Addis Ababa, March 2018.

of authority, legitimate power and effectiveness of the state. In the 1970s and 1980s, the horror of extreme political repression reigned in Ethiopia during the military regime, the worst case of which was ushered in under the EPRDF regime since 2005. State-sponsored terrorism based on ethnic identity politics indeed made life of individual citizens nasty, brutish and short, but fortunately, since April 2018, there are some modest positive changes in Ethiopia in terms of openness and a democratisation process.

It is legitimate to argue that in the Horn of Africa state fragility is more responsible for violent conflict dynamics than economic underdevelopment – as the analysis of its RSC reveals. This does not mean, however, that political and economic developments can be divorced – as was frequently insinuated in the discourse on ‘developmental state’, particularly in the Ethiopian political-economy literature since 2005 (see Lefort 2015:360). Hence, the Horn of Africa’s economic and political failures are tightly linked with each other and with state fragility and violent conflict dynamics. Economic improvement alone, even if it could be achieved, has therefore not broken the cycle of violence in Ethiopia. For more than two decades there has been double digit economic growth, but no end to the killings, forced disappearances, torching and dispossessing of citizens’ properties, and basic human rights violations across the country. It may be concluded that fragile states in their very nature are unable to meet, or at least manage their population’s demands and expectations through the political process (Verhoeven 2017:16). It may be inferred from the analysis of the Horn RSC that whereas the understanding of the security threats posed by fragile states merits further investigation, the lessons learned from the Horn of Africa indicate that fragile states are an ideal breeding ground for domestic or state-sponsored as well as international terrorism, national and transnational organised crimes, human trafficking, and armed conflicts.

Conflict dynamics in the Horn of Africa

In the context of the Horn of Africa, conflict dynamics could be a *cause*, a *symptom* or a *consequence* of fragility, which explains why it is a dimension of most indices of fragile situations. What the analysis of the framework of

the RSC of the Horn portrays, is that the very state formation in the Horn of Africa is contested: hence, it is pregnant with conflict dynamics from the outset. It is either a readymade gift from the colonial masters (top-down, except in the Ethiopian case), or a usurped possession acquired through a coup d'état or a rebellion by indigenes from the jungle (bottom-up). In either case the state does not represent the whole society; hence, it has neither *de facto* nor *de jure* legitimacy. Consequently, perceptions and feelings of exclusion from politics and 'state ownership', and/or of marginalisation from economic as well as social goods (such as education, health services and infrastructure), constitute conflict dynamics which serve as a *cause* as well as a *symptom* of state fragility (see Clapham 2005; 2017). State fragility in turn leads to civil unrest, communal violence and armed conflict (Collier and Sambanis 2005; UNESCO 2013; Williams 2015). When the state does not deliver the basic services it is supposed to, when its authority is limited or arbitrarily exercised, or its legitimacy systematically questioned, the social contract and public trust weaken to the point where public dissatisfaction easily transforms into violent contestation by sectors of society as has usually been the case in the Horn of Africa. In attempts to regain order, the state has often responded with violence to the violence caused by its own failures – as demonstrated specifically in Ethiopia since 2005, South Sudan since 2013, and Darfur in Sudan since February 2003. As a result, the Horn of Africa RSC has remained the crucible of conflict dynamics feeding and fuelling state fragility as the following discussion of their nexus further reveals.

The nexus between state fragility and conflict in the Horn of Africa

Almost all the countries of the Horn which comprise the RSC have experienced intra- and inter-state conflicts of varying degree and intensity over different time periods (see Kassahun 2012; Clapham 2017). What is visible on the ground in the Horn of Africa RSC is that the insecurity of ruling elites within their domestic sphere plays a significant role in shaping the dynamics of (in)security overall. As already pointed out, state fragility and violent conflict dynamics are directly related in the Horn

of Africa. Consequently, their nexus shapes the contemporary security of the Horn. In the Global Peace Index, the level of peace in the Horn is labelled 'medium', 'low' or 'very low' as measured by using internal and external peace indicators (Global Peace Index 2018:80).³ Likewise, the State Fragility Index rates the status of the states in the Horn as 'high warning', 'alert', 'high alert' and 'very high alert' on the basis of *input, process* and *output* criteria (Fragile State Index Team 2018:16).⁴ As can be seen in Table 1, the higher the rank of the Global Peace Index and the total score of the State Fragility Index, the lower is the level of peace and the more severe the fragility of state in a given country.

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- 3 *Internal peace indicators include:* (1) level of perceived criminality in the society; (2) number of internal security officers and police per 100 000 people; (3) number of homicides per 100 000 people; (4) ease of access to small arms and light weapons; (5) number of jailed persons per 100 000 people; (6) intensity of organised internal crimes; (7) intensity of violent crimes; (8) likelihood of violent demonstrations; (9) political instability; (10) political terror scale; (11) impact of terrorism; (12) number and duration of internal conflicts; (13) number of deaths from organised internal conflicts; (14) internal conflicts fought. *External peace indicators include:* (1) relations with neighbouring countries; (2) military expenditure as a percentage of GDP (Gross domestic product); (3) financial contribution to the UN peacekeeping missions; (4) number of armed services personnel per 100 000 people; (5) refugees and IDPs; (6) weapon exports; (7) deaths from external conflicts; (8) external conflicts fought (9) nuclear and heavy weapon capabilities.
- 4 (1) *Input indicators*, also known as structural or *de jure* indicators, refer to the existence and quality of enabling structural conditions. Input indicators focus primarily on the legal framework, institutions and procedures in place in a given country. The testing questions commonly require 'yes' or 'no' answers. The questions are about issues as the following: the division of powers (executive, legislative, the judiciary) that guarantees the independence of the different branches of the state; the ratification of core international human rights conventions; the existence of regulations and public institutions overseeing public expenditure; country membership of regional and international organisations. (2) *Process indicators*, also known as responsibility or *de facto* indicators, measure efforts made to achieve certain outputs or outcomes. For example: health expenditure as percentage of GDP; military expenditure as percentage of GDP; international transfers of major conventional weapons; pupil-teacher ratio in primary schools; number of ex-combatants receiving professional training. (3) *Output indicators*, also known as performance indicators, measure results of actions. For example: number of conflict-related deaths per year; unemployment; violent demonstrations and social unrest; trade balance as percentage of GDP; incidents of victimisation that have been reported to the authorities. Regarding the generation of data, we distinguish four types relevant for measuring fragility: public statistics, expert data, opinion polls and content analysis.

Table 1: The 2018 Global Peace and State Fragility Indices of the Horn of Africa

The 2018 Global Peace Index				The 2018 State Fragility Index		
Country	Level of peace	Peace index ⁵	Rank among 163 countries	Level of state fragility	Fragility index ⁶ (Total score)	Rank among 178 countries
Djibouti	Medium	2.269	115	High warning	87.1	42
Eritrea	Low	2.522	138	Alert	97.2	19
Ethiopia	Low	2.524	139	High alert	99.6	15
Sudan	Very low	3.155	153	High alert	108.7	5
Somalia	Very low	3.367	159	Very high alert	113.2	2
South Sudan	Very low	3.508	161	Very high alert	113.4	1

Source: Collated and tabulated by the author from Global Peace Index 2018 and State Fragility Index 2018

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- 5 Nations considered more peaceful have lower index, e.g. Iceland Global Peace Index of 2018 is 1.096 whereas countries replete with violence (or low level of peace) have higher Global Peace Index such as South Sudan whose Global Peace Index is 3.508. Whereas Iceland ranks 1st among 163 countries (high level of peace), South Sudan ranks 161st (low level of peace). Simply put, violent countries have more militarisation, more internal and external violence going on at present and higher crime rate; hence, higher Global Peace Index.
- 6 Nations considered more violent have higher Fragility Index; hence, ‘Very high alert level’ and least resilient or sustainable. For instance, Finland is the lowest in fragility index, 16.9 and ranks 178th in fragility among 178 countries. It means Iceland is least fragile or most sustainable whereas South Sudan’s Fragility Index is 113.2 and it ranks 1st in fragility ranking among 178 countries. It means South Sudan is the least resilient and most fragile country.

As can be observed in Table 1, South Sudan and Somalia are the most fragile in terms of *state fragility* in the Horn of Africa and least peaceful in terms of *conflict dynamics* in the world. The other four countries in the Horn have also been ranked high in state fragility and medium to low in peacefulness (for detailed discussions, see Global Peace Index 2018:9; Fragile State Index Team 2018:16) What follows from the analysis, is that state fragility and violent conflict are so closely interlinked that these two interrelated phenomena shape the type and level of contemporary security of the Horn of Africa RSCS. This situation is daily experience in the Horn since the end of the Cold War and has critical security implications as discussed in the following section.

Implications of the nexus for contemporary security of the Horn

The above analysis of RSC reveals that the Horn of Africa is replete with actual and potential insecurities at grassroots, national and sub-regional levels, which emanate from the nexus between violent conflict dynamics and state fragility. Internally, most of the contemporary insecurities prevalent in the Horn are related directly to the failure of the political leadership and state institutions to deliver required public goods to the citizens. Externally, the increased involvement of foreign countries in the Horn's ports has significant impacts on the Horn itself, since the substantial flow of foreign funds from investments and rents from military bases give foreign actors considerable political and economic weight with regard to the Horn's security. Resultantly, however, foreign political cleavages are transported into the Horn of Africa by foreign states through their financial capacity, by which they are capable of combining commercial deals with political pressure and even occasional threats of cutting off financial aid – as some policy analysts of the Horn of Africa think.⁷ Consequently, the political leaders of the region become more vulnerable and more loyal to the foreign states than to their fellow citizens. They use the money pumped in by the

7 In-depth interview with a political/policy analyst, Addis Ababa, April 2018.

foreign companies to maintain the security and military apparatus, which they use to suppress any dissenting voices of their own citizens.

Furthermore, regional balances of power also shift as hundreds of millions of dollars are invested and military bases are established, altering the status quo by funding actors involved in inter-state rivalries (see Verhoeven 2017; Van den Berg and Meester 2018). For example, Ethiopia's decision to take a 19% stake of the Berbera port deal is appreciable, as the country needs to diversify its reliance on Djibouti for import and export, and may need to keep an eye on the activities of the UAE. This might upset its neighbours, however, particularly Djibouti and Somalia, which are concerned, respectively, about losing trade and seeing a breakaway state gain international recognition. In the same vein, the large amounts of foreign funding have brought changes to local political settlements, not least because the funds from abroad may empower certain political actors within individual Horn countries to challenge existing political settlements in favour of the foreign powers (Verhoeven 2017; Van den Berg and Meester 2018). The amount of the investments and their impact, have significant implications for internal and external security of the Horn.

Moreover, studies indicate that currently the most crucial element that brings Gulf capital to the shores of northeast Africa is geopolitical (Verhoeven 2017). The Emirati and Saudi investments in the ports of Berbera (Somaliland) and Assab (Eritrea) and in upgrading old and constructing new military facilities, the on-going Saudi support for Sudan's Dam Programme, and the promises of billions of Qatari funding for agriculture, light manufacturing, and social services in Darfur are all to be understood in the light of escalating rivalries between Middle East sub-RSCs (Verhoeven 2017). Two fault-lines are relevant, though. Firstly, the proxy war between Iran and Saudi Arabia is the major factor that is shaping much of the violence in the contemporary Middle East/Gulf RSC with significant impact on the Horn RSC. Teheran perceives the Saudi-American alliance, and the attendant partnership with Israel, as the root cause of regional instability, and reckons that only armed resistance can

stop the menace of US imperialism and Wahhabism. To make matters worse, the renewed economic sanctions of August 2018 by the Trump administration on Iran might further fan the flame in the Middle East/Gulf RSC with important security implications for the Horn. As a result, the Horn of Africa's eastern flank is becoming an extension of the battlefield, with Teheran and Riyadh accusing each other of seeking to use African allies to commit aggression against the other. Because of the Saudi ruling family's perceptions of Iran as an existential threat, no efforts are spared to counter it. This has not only meant rallying all Gulf Cooperation Council states (including Kuwait, Qatar and the UAE) to support the Saudi-led war in Yemen but also persuading Sudan, Eritrea and Somalia through investment, loans and central bank to central bank transfers to sign up to the pro-Saudi camp and keep Iranian ships out of the Red Sea.⁸

The second defining geopolitical fault-line stimulating a renewed and intensified interest in the Horn RSC is the growing intra-Gulf Arab enmity. While Saudi Arabia continues to see itself as the regional hegemon, Qatar and the UAE both feel capable of and entitled to an independent foreign policy in which they pursue their own interests in and ideological vision of the Middle East and Northeast Africa. Their aid and investment into the Horn are thus driven by the same geopolitical objectives as that of their Saudi friends-cum-rivals: commercial projects are first and foremost meant to consolidate political relations and gain greater influence in regional politics cum security (Lee 2018).

It may be inferred from the above discussions that the Horn of Africa RSC and the dominant states of the Middle East/Gulf RSC are locked in an interdependent but unequal relationship that has deep historical roots as well as significant power to shape the contemporary security of the Horn RSC. Both sides of the Red Sea have built strategies of engagement that allow them to maximise the benefits from the asymmetric relationship, in terms of their own internal political context. Economic flows in both directions are subordinate to the overarching goal of maintaining power.

8 In-depth interview with a political/policy analyst, Addis Ababa, April 2018.

The main reason for the Horn of Africa incumbents to continue to court Gulf aid, investment and political support remains the same: maintaining regime security.

Finally, there is a serious concern that the expanded policy of the GCC, specifically with regard to Saudi Arabian and UAE military presence in Djibouti, may adversely affect Ethiopia's interests, specifically in the event that tensions between Ethiopia and Egypt over the Grand Ethiopian Renaissance Dam (GERD) escalate owing to the widely held perception that the GCC coalition would align with Egypt. A related fear is the prospect of the GCC states pressuring the Djiboutian government to apply pressure indirectly on Ethiopia as Djibouti is Ethiopia's major route to a seaport (Zelalem 2018).

Bearing in mind such contemporary implications of state fragility and conflict dynamics for security in the Horn, it should be obvious that the security challenges should be approached and addressed from local, sub-regional and global perspectives.

Conclusion

The objective of this study was to critically examine the implications of the contemporary regional security of the nexus between state fragility and violent conflict dynamics in the Horn of Africa. The article highlighted the severity of state fragility using the State Fragility Index, the pattern of conflict dynamics using Global Peace Index and the nexus of the two in the Horn of Africa, using as analytical framework the Regional Security Complex. It has emphasised the significance of the current and emerging role of security overlays in the state fragility and conflict dynamics in the Horn, thereby implying the necessity for Horn countries to develop coherent security policies and strategies. The study unearthed developments in the wider Red Sea region, which have turned the Horn's coastline into a strategic location for foreign actors and resulted in an international military base race. The activities of these foreign powers have a significant impact on the security of the Horn: foreign cleavages are being imposed on the

Horn, fusing with the Horn's own cleavages, while domestic and regional balances of power are shifting. In spite of these security predicaments, there are economic opportunities emerging from foreign rivalries played out in the Horn, and Horn governments are seizing them to maintain primarily their respective regime securities. Policy makers have apparently taken into account the increasing strategic relevance of the region to a variety of foreign actors and they include the role of foreign influences, particularly of the Gulf States, China and Turkey, into their thinking on the economics, politics, and security of the Horn's ports and the region (Van den Berg and Meester 2018).

The above analysis and discussions point in the direction of a new and innovative approach to contemporary security in the Horn of Africa with political commitment being in the forefront. Existing institutions and policies need to become fully capable of introducing a new regionalism in the Horn of Africa. What is still rampant in the sub-region, as one can observe on the ground, can be listed as follows: neo-patrimonialism, clientelism, corruption, political and economic marginalisation, nepotism, ethnic- or clan-based politics (with attendant internal displacement of persons on the basis of their ethnic identity), and dysfunctional state apparatus (which is merely meant to keep the regime intact). These practices are indeed (further) weakening social fabric and state institutions. Disregard for human rights, lack of commitment to eradicate poverty and deprivation, growing educated youth unemployment and the tendency to neglect global responsibilities in an increasingly integrated world are indeed intensifying state fragility and conflict dynamics in the Horn. What fragile states therefore need, most urgently and indispensably, are strong institutions capable of delivering public goods, state effectiveness and authority with accountability, integrity, responsibility and transparency, as well as investing in and empowering the youth. Employing the emphatic phrase of the Romans, it may surely be said that such an agenda is *sine qua non* to entrench sustainable security, to provide resilience to statecraft and to reduce conflict in the Horn of Africa.

Finally, so as to address the issues of state fragility and violent conflicts in the sub-region, it is imperative to deal with structural violence internally as well as externally, rather than over-focusing on sovereignty and territoriality at an individual country level (even though regional security is strictly tied to territoriality). It is high time the Horn of Africa countries started thinking and acting in terms of one economic, political and security community in the RSC. Although at an embryonic stage, the current initiatives and positive moves by Eritrea and Ethiopia will be an encouraging starting point in the right direction to mitigate state fragility and conflict dynamics in the Horn. When the two countries were at war, as well as on 'no-war, no-peace' status, both Ethiopia and Eritrea sponsored armed groups to fight each other in proxy wars, some of which took place as far away as in Somalia. Each country hosted the other's opposition or rebel groups and acted as safe haven by backing them financially and materially. Eritrea has border disputes with Sudan and Djibouti, but since Ethiopia has good relations with both, there is now a better chance of addressing these grievances since all of them are in the same RSC. And now that Ethiopia and Eritrea are no longer in direct confrontation, the overall stability of the Horn of Africa ought to improve. The Horn owns eight seaports, but stable and dependable access to ports for the landlocked yet rapidly growing populations and economies of South Sudan and Ethiopia necessitates thinking and acting in terms of an interdependent community that shares common security aspirations and fears. This is the essence of an RSC. If the political elites in the Horn start thinking and acting as a political/security community with committed, transformative and innovative leadership, contemporary regional security could improve and negative security externalities may give way to positive peace and prosperity in the Horn of Africa.

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Boko Haram insurgency and the necessity for trans-territorial forestland governance in the Lower Lake Chad Basin

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Abstract

The significance of forests as an existential threat to national security in Nigeria has been underscored in the phenomenon of Boko Haram insurgency. The occupation and apparent ‘weaponisation’ of Sambisa and the adjoining forests by Boko Haram insurgents have continued to pose an enervating tactical challenge that complicates the ongoing counter-insurgency efforts in northeast Nigeria. The instrumentalisation of forests as an operational and defensive stronghold by the insurgents in the lower Lake Chad Basin has been enabled by the existence of large expanses of dispersed, uninhabited and un-policed forested spheres in the area. This study examines the imperative for transnational forestland governance in the lower Lake Chad Basin, in the light of a continual incidence of Boko Haram insurgency in that context. Drawing discursively from the ‘ungoverned spaces’ (territorial ungovernability) hypothesis, the study

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posits that the prevailing vacuum of effective forestland governance in the region must be filled in order to mitigate the security challenge. To that end, the study prescribes a strategic trans-territorial forestland governance regime whereby Nigeria and Cameroon synergise efforts in bringing about effective reclamation and occupation of the volatile forested landscapes.

Keywords: Boko Haram, forest, forest governance, insurgency, lower Lake Chad Basin

1. Introduction

Armed conflicts in Africa are systemic and opportunistic. More often than not, they have been symptomatic of structural misalignments within the state or the economy. But more fundamentally, the conflicts have had the tendency to complicate matters and prolong themselves by exploiting extant socio-ecological and political faultlines. A veritable and critical instance of such faultlines is the pockets of ‘ungoverned spheres’ that dot the continent’s territorial domains and frontiers. By ‘ungoverned sphere’ is meant an area within the territorial domain of a state that is lacking or grossly deficient in governmental presence and control. Ungoverned spheres are, nonetheless, not absolutely anarchic. In effect, they are often ruled by illicit non-state authorities with criminal or treasonable political agendas. Typifying this territorial category is the phenomenon of forest.

Forest has been a topical subject of academic and policy research. Existing studies in this regard however, have been skewed towards bio-ecological, agricultural and environmental studies (Food and Agricultural Organisation [FAO] 2011; International Tropical Timber Organisation [ITTO] and FAO 2009). In this respect, the emphasis has variously been on forest as a veritable site for ecological conservation, eco-tourism and recreation, as well as rural livelihood. The existing literature on environmental health recognises the forest as a veritable existential health hazard (ITTO and FAO 2009). Beyond this, only little has been done in terms of systematic studies underscoring the significance of forest as a crucial national security problematic. In the view of Albert (2017:5),

‘Though strategically important, not many academic works exist on the physical security implications of (African) forests’. In effect, scholarship in this area of study is still nascent and emerging, with scholars such as Ladan (2014), Okoli and Ochim (2016), Albert (2017), and Olaniyan (2018) as seminal contributors. The present study intends to build upon these studies, with an analytical departure that privileges the strategic importance of forest vis-à-vis Nigeria national security.

In a nutshell, previous presentations in the ongoing conference have tended to approach the theme from either a socio-ecological or an economic perspective. However, this presentation deals with the politico-strategic dimension of the subject matter. It probes the accompanying effects and strategic implications of the occupation of Sambisa forest in the lower Lake Chad Basin by Boko Haram insurgents. The exigency of trans-territorial forestland governance is then highlighted.

The paper is a product of a desk-study, drawing from library and online resources. It is an exploratory analysis of the threat potential of forests in Africa through the vantage prism of the ongoing Boko Haram insurgency in northeast Nigeria, within the wider remit of the lower Lake Chad Basin. The study problematises forests as a crucial existential threat to national and regional security and logically underscores the necessity for a contingency transnational forest governance approach as the way forward. Aligning its analytical perspective to the theory of ungoverned spaces, the study underscores the strategic implication of the scarcely or poorly governed Sambisa forest in the context of insurgency and counter-insurgency, with the submission that the virtual ungovernability of the forest has provided operational incentive and advantage to the insurgents, in addition to inhibiting the efficacy of the ongoing counter-insurgency operations. It is expected that the outcome of the study would contribute to motivating and edifying future research endeavours on the relevant aspects of the subject matter.

The remainder of the paper is organised in eight thematic sections. Following this introductory section is one on conceptual clarifications

in which the concepts of insurgency, forest, and forest governance are considered with the intent to clarifying and situating their operational meanings. This is followed by the theoretical framework whereby the ‘ungoverned spaces’ thesis is appropriated as an analytical anchor for the study. Next is a brief literature review on the connections between forests and insurgency, geared towards predicating the study on the theories and results now available from our extant corpus of knowledge. Following this section is an attempt to highlight the strategic utility of forest ecology from the standpoint of the varying uses and abuses of forests in different contexts. Then there is an overview of the setting and contextual background to the study. This is followed by an examination of Boko Haram’s occupation and exploitation of the Sambisa forests. Heralding the conclusion is a section on the imperative for governing the Sambisa forest through a trans-territorial approach involving the strategic synergy between the governments of Nigeria and Cameroon. The final section is a conclusion, which summarises the developed argument.

2. Clarification of terms

Five basic descriptive terms constitute and motivate the content of this study. These are: insurgency, forest, ungoverned space, forest governance and Boko Haram insurgency. This section clarifies their meanings, provides situational contexts for each and points out how they are used to conceptualise the problems and solutions.

2.1 Insurgency

This refers to the systematic use of subversion and violence to seize, nullify, or challenge political control of a region. By its peculiar nature, insurgency is a pattern of asymmetric violence. In effect, it involves the use of a combination of subversion, sabotage, guerrilla tactics, and sundry extremist machinations in a bid to attain a politically amenable objective (cf. Otegwu 2015; Albert 2017).

2.2 Forest/Forestland

A forest is a plant community consisting predominantly of trees and a variety of woody vegetation, which occupies an extensive area of land (Ladan 2014; Okoli and Ochim 2016). Depending on the geographical characteristics of its environment, a forest can be classified as, for instance, a tropical forest, rainforest, savanna forest or swamp forest. Generally, there are two types of forest regime, namely wild-woods and protected forests. Regarding this typology, Okoli and Ochim (2016:45–46) succinctly opine that ‘Wild-woods are naturally growing forests that are open to primitive and unregulated exploitation while protected forests are wood-lands controlled and regulated by the government’. Forests are characterised by difficult terrain, exemplified in rough and rugged landscape as well as thick and crowded foliage (Olaniyan 2018:1). Some of the common features of a typical forest are woods, jungles, creeks, caves, swamps and wild animals.

2.3 Ungoverned space

An ungoverned space refers to a territorial sphere where firm governmental control is lacking. It is ‘a physical or non-physical area where there is an absence of state capacity or political will to exercise control’ (Whelan 2006:65). This may include land areas, maritime spheres and cyberspace domains, where state control is grossly deficient or absent. Such a scenario often gives room for illicit and subversive activities by criminal or extremist elements.

2.4 Forest governance

This refers to ‘the modus operandi by which officials and institutions acquire and exercise authority in the management of forest resources’ (ITTO and FAO 2009:5). Contemporary forest governance emphasises issues that are critical to the safety, security and sustainability of forests (Yale School of Forest and Environmental Studies n.d.). This includes measures geared towards reducing illegal and subversive activities in forested areas (Kishor and Rosenbaum 2012:3).

2.5 Boko Haram insurgency

The term 'Boko Haram' literally translates to 'western education is forbidden'. It refers to the notorious terrorist group based in northeastern Nigeria, whose official name is Jama'atu Ahlissunnah Lidda'awatiwal Jihad (meaning: people committed to the propagation of the Prophet's teachings and Jihad). The Jihadist group was founded in 2002 in Maiduguri, Borno State, by a radical Islamist cleric, Mohammed Yusuf. The group's ideology is based on extremist jihadism, with strict observance of Islamic law (Sharia) in Nigeria (Okoli and Iortyer 2014:39–40). In the early 2000s, the insurgents were active in the greater part of northern Nigeria, almost overrunning states like Borno, Yobe, and Adamawa. The intensification of counter-insurgency operations of the Nigerian forces and allied civilian Joint Task Forces in the 2014/2015 period forced the insurgents to withdraw from its city cells and circuits into the Sambisa forest. Since then, the forest has become the safe haven and sanctuary for the insurgents.

3. Theoretical framework: The 'Ungoverned Spaces' hypothesis

The paper appropriates the 'ungoverned spaces' thesis as its theoretical compass. This theory is an attempt to highlight the threatening effects of 'under-governed, ill-governed, contested, and exploitable areas' in contemporary state systems (Taylor 2016:2). Stemming from the counter-terrorism/insurgency cum state-failure discourse of the post-9/11 era, the theory posits that ungoverned spaces are 'areas of limited or anomalous governmental control inside otherwise functional states' (Keister 2014:1) and that the prevalence of ungoverned spaces in contemporary states provides safe havens for treasonable and subversive activities, often orchestrated by organised criminals and extremist groups (Rabasa et al. 2007:1–7).

Although ungoverned spaces are controlled by criminal and subversive non-state elements, they are, first and foremost, brought about by the state through its functional incapacitation and illegitimacy (Keister 2014:1). The failure of the state to hold real and firm sway in respect of

governance and security has often created ‘governmentality gaps or deficits’ (Rabasa et al. 2007), which are exploited by aggrieved, disgruntled, or criminally motivated elements to perpetrate violent crime. This is typically the case with the instrumentalisation of forests as a strategic resort in asymmetric warfare in contemporary Africa.

Through the prism of the ungoverned spaces theory, therefore, it is posited herewith that the abusive and criminal use of forests in Africa is symptomatic of the state’s fragility syndrome, exemplified by the prevalence of ungoverned spaces within the territorial confines of the state. So, whilst sundry ungoverned spaces exist and persist, opportunistic elements (criminals and insurgents alike) within the civic domain and the underworld are inclined to exploit the prevailing ‘faultlines’ towards criminal and subversive ends. It is in this sense that the strategic significance of forests in relation to insurgency is understood in this study.

4. Forestland and insurgency: A literature review

Extant literature on the relationship between forests and insurgency presents us with two important perspectives, namely: (1) that forested landscape and resources are exploited by insurgents towards sustaining their violence; (2) that insurgency and counter-insurgency operations undermine the forests by destroying their ecology and resources (Albert 2017). The first perspective refers to the strategic and economic importance of forests in the context of insurgency. On the one hand, it emphasises the tactical deployment of the forest (for instance, its topography, ecology and cover) to gain strategic advantage in the course of insurgency. Literature is fraught with instances where the insurgents have utilised the difficult terrain of forested areas to advance their guerrilla-style violence (cf. Berdal and Malone 2000; Fearon and Laitim 2003). The other side of the perspective is illicit plundering of forest resources by insurgent movements, not only to sustain their cause, but also to make some economic gains. This viewpoint is prominent in the ‘resource war’ or ‘political/economy of war’ thesis (Atkinson 1997:4). The utilisation of forests by insurgents whether as safe havens or as economic resort, affords

them with some strategic advantage over conventional troops who are involved in counter-insurgency operations. It is in recognition of this fact that forests are considered to be one of the most critical environmental ‘force de-multipliers’ in counter-insurgency campaigns (Albert 2017:2).

The second perspective on the nexus between forests and insurgency speaks to the fact that insurgency and counter-insurgency operations are detrimental to the forest landscape, resources, and ecosystem (Albert 2017:1). The combat activities of both insurgents and government troops, the bombs, the improvised explosives, the landmines, and of course, the wanton exploitation of valuable flora and fauna in that context, add up to the collateral jeopardy of violence for which the ecological integrity of the affected forest must dearly pay.

Contemporary scholarship on the relationship between forests and insurgency has underscored the significance of forest as an existential threat to national and regional security (cf. Landan 2014; Olaniyan and Yahaya 2016; Okoli and Ochim 2016; Albert 2017, Olaniyan 2018). The dominant argument in these works is that forests are scarcely governed and therefore are vulnerable to criminal/terrorist inhabitation and exploitation. The necessary implication of this is that effective forest governance should be prioritised in national and regional security endeavours. This study seeks to make a contribution to this body of discourse by considering the contemporary trajectory of the Boko Haram insurgency in the forested areas of the Lower Lake Chad Basin.

5. The strategic utility of forest ecology: Uses and abuses

Forest ecology refers to the bio-physical, socio-ecological, topological and vegetational characteristics of the forest as an organic entity (Okoli and Ochim 2016:43–47). The strategic utility of forest ecology refers to the uses and abuses of the forested environment for specific purposes in various contexts. This underlines the understanding that forest ecology could be appropriated or misappropriated for some ecological, socio-economic, tactical (military), criminal, or scientific purposes.

Generally, a forest holds both beneficial and nuisance values, depending on the nature and motive of its exploitation. The beneficial value of the forest has to do with the legitimate economic and socio-ecological exploitation of forest resources and endowments. This includes hunting and gathering, ecological conservation, eco-tourism, scientific research, and military trainings/simulation. On the other hand, the nuisance value of the forest refers to the untoward use of the forested environment by criminals, insurgents, and terrorists towards advancing their nefarious activities.

The instrumentalisation of the forest as a means of furthering organised crime has been well documented in the extant literature (Ladan 2014:120; Olaniyan 2018:1). A case in point is the use of forests as safe havens by rural bandits in West Africa, who indulge in cattle rustling, kidnapping and arms smuggling (Olaniyan and Yahaya 2016:93; Okoli and Ochim 2016:47–48). In addition to criminal violence, forests have been used by terrorists and/or insurgents in various parts of the world as sanctuaries for the plotting and prosecution of political violence. The ‘forest wars’ in places like Cambodia, Burma, the Democratic Republic of the Congo, Liberia, and Sierra Leone provide abundant examples of this tendency (cf. Albert 2017; Olaniyan 2018).

The Niger Delta militants, prior to the 2008/2009 Amnesty deal, capitalised on the strategic cover provided by the littoral jungles and creeks of the region to wage sustained war against the Nigerian state. The difficult nature of the regional forests conferred on the militants some degree of strategic advantage over the government troops, who were not sufficiently conversant with the terrain (Okoli 2016). Besides, the forests also afforded the militants with a ‘political economy of war’ (Atkinson 1997:4–5) by providing them with an enabling environment for the exploitation and expropriation of petroleum resources through oil theft and artisanal refining (Okoli 2016). This opportunistic strategy boosted the operational efficacy and sustainability of the Niger Delta militancy in the focal era. Such a strategy has since been perfected by the Boko Haram insurgents who capitalise on their stranglehold on the Sambisa forest to sustain its operations through cattle rustling, hostage taking, and arms smuggling.

6. Overview of the setting of the study: Lower/Lake Chad Basin and Sambisa forest

This study has its locus as the lower Lake Chad Basin. Within this geographical remit, the study focuses on the activities of Boko Haram fighters in the Sambisa forests in the context of the ongoing insurgency and counter-insurgency in the area. The Lake Chad Basin is located in northern Central Africa. It covers about 8% of Africa's land mass, spreading over seven countries (Table 1).

Table 1: Lake Chad Basin: Areas and rainfall by country

Country	Total area of the country (km ²)	Area of the country within the basin (km ²)	As % of total area of basin (%)	As % of total area of country (%)	Average annual rainfall in the basin area		
					(mm)		
					Min.	Max.	Mean
Nigeria	923770	179282	7.5	19.4	285	1330	670
Niger	1267000	691473	29.0	54.6	0	635	105
Algeria	2381740	93451	3.9	3.9	0	135	20
Sudan	2505810	101048	4.2	4.0	70	1155	585
Central Africa	622980	219410	9.2	35.2	760	1535	1215
Chad	1284000	1046196	43.9	81.5	0	1350	400
Cameroon	475440	50775	2.1	10.7	365	1590	1010
For Lake Chad basin		2381635	100.0		0	1590	415

Source: FAO 1997: Chapter 6

The seven countries indicated in Table 1 are categorised into two: core and periphery. The core countries of the basin constitute the four countries that have direct contact with Lake Chad while the peripheral countries are

those that do not. The former are also referred to as the conventional Lake Chad Basin in that they are the official members of the Lake Chad Basin Commission. This covers about 20% of the total area of the Lake Chad basin (427500 km²) (42% in Chad, 28% in Niger, 21% in Nigeria and 9% in Cameroon (FAO 1997:Chapter 6).

The core Lake Chad Basin is sub-divided into the Upper and Lower axis. The Upper axis refers to Chad and Niger Republic while the Lower basin includes Cameroon and Nigeria (see figure 1). This study focuses on the Lower Basin, which has been most affected by the on-going insurgency in northeast Nigeria and its cognate Lake Chad neighbours. The Sambisa forest, which has been a critical factor in the insurgency and counter-insurgency operations in the region, is located in this area.

The Sambisa forest is located between the northeastern axis of the west Sudanese Savanna and the southern boundary of the Sahel Acacia Savanna (BirdLife 2015). The location of the forest is about 60 km southeast of Maiduguri, the capital of Borno State in Nigeria (Kayode 2014a). It stretches northwards across the States of Borno, Yobe, Gombe, Bauchi and Jigawa, up to parts of Kano (Kayode 2014a; 2014b). Sambisa forest derives its name from the village of Sambisa which is on the borderlines of Gwoza in the eastern part of Borno State. The Gwoza hills have peaks of 1300 meters above sea level. The hills form part of the Mandara Mountain range, situated along the Cameroon-Nigeria border (Kayode 2014a). The forest is drained by seasonal streams into the Yedseram and the Ngadda Rivers (Mbaya and Malgwi 2010:135).

The Sambisa forest has been crucial to the economy and strategy of Boko Haram insurgents. The insurgents have occupied the Forest since the late 2000s. The exigencies of insurgency and counter-insurgency have transformed the Forest into a highly militarised, 'weaponised' and securitised zone (Okoli and Ochim 2016:47–48). In effect, it has been exploited by the Boko Haram insurgents as an operational base as well as a strategic sanctuary. It has also played a vital role in sustaining the political economy of insurgency by providing an enabling environment for war-time

criminal franchise, such as cattle rustling, illegal lumbering, hostage-taking/kidnapping and arms smuggling (Okoli 2017b:1; Olaniyan 2018:1).

Figure 1: Map of Lake Chad and its surrounding countries, showing Sambisa forest in the centre



Source: Creative Commons

7. Sambisa forest: Occupation and exploitation by Boko Haram

The Sambisa forest constitutes the bastion of Boko Haram insurgency. The strategic symbolism of the forest is such that it evokes phobia and mystery, signifying the territorial dimension of Nigeria's national security

debacle at the present. The Sambisa forest has been the physical and virtual headquarters of Boko Haram insurgency. According to Albert (2017:13):

Sambisa forest provides the insurgents with a space for organizing their prayer sessions, interrogating and executing abductees, producing their media instruments and doing their military trainings. They take all seized weapons and vehicles there. It is their operational headquarters.

The Sambisa forest hosts the organisational, operational, logistical and technical infrastructure of Boko Haram, including its command, armoury, training, detention and execution camps, landmines, artisanal bomb-making factories, prayer grounds, military and civilian supplies, loots, and livestock. It is also the destination for the insurgents' prisoners of war, including abductees, sex slaves, and those kidnapped for ransom.

The Sambisa forest came into international recognition in 2014, following the mass abduction of the Chibok School Girls, who were then taken to the forest for custody. As a consequence of this incident, the forest has been a critical theatre of counter-insurgency operations by the Nigerian troops and their international support forces. In spite of the significant successes made by the Nigerian armed forces in gaining entrance and reclaiming the Sambisa forest between 2015 and the present, some aspects of the forest are still under firm control of the insurgents.

The Nigerian troops have often encountered operational setbacks in their bid to dislodge the insurgents from the Sambisa forest. The challenges naturally emanate from the vast nature of the forest as well as its virtual ungovernability. The size of the Sambisa forest has been likened to that of Lagos State in South West Nigeria. In addition to its expansive nature, the forest is located along an equally expansive international frontier, characterised by porous and poorly policed borderlines (Okoli 2017a). This has made it possible for the insurgents to manoeuvre along the porous and defective borders and readily reinforce their position.

Another challenge is that the forest has been heavily weaponised and fortified over the years. Clear indicators of this trend include the presence of combat-ready terrorists, suicide bombers, landmines and human shields.

Coupled with the availability of sophisticated weaponry as well as the insurgents' brutal efficiency in the theatre of combat, the highly militarised and weaponised Sambisa forest has so far proven a hard nut for the troops involved in counter-insurgency operations.

The insurgents' occupation of the Sambisa forest has been accompanied by corresponding exploitation of the terrain (see table 2). In effect, the forest has doubled as the base for sundry illicit franchises, including cattle rustling, illegal mining, lumbering and arms trafficking. These activities support the economy of insurgency by providing funding and material sustenance to it (Okoli 2017b). The criminal exploitation of Sambisa forest by insurgents has been facilitated by their relative familiarity with and mastery of the ecology of the forest. This is in view of the fact that a good number of the commanders and foot-soldiers of the insurgent movement appear to have come from the region.

For more than a decade now, Boko Haram insurgents have maintained their strategic stranglehold on Sambisa forest, exploiting its strategic terrain and resources for sustaining its campaign of terror. Beyond this ultimate end, the insurgents have also effectively utilised the forest as a vantage site for media production dedicated to propaganda, ideological warfare and radicalisation. By so doing, they have been able to sustain an appreciable level of international visibility and propaganda.

It is pertinent to reiterate that, in comparison with other areas, Sambisa forest is the most strategically auspicious base for the pattern of asymmetric guerrilla warfare and jihadist occupation, used by the Boko Haram insurgency. It is extremely sparse and expansive, and therefore very problematic to govern. It is also located within a trans-territorial area characterised by porosity of borders. It is, furthermore, generally bereft of settled civil and military habitation. Most importantly, its physical topography, comprising woodlands interspersed by hills, rocks, waters and jungles, is amenable to asymmetric manoeuvrability.

Table 2: Dimensions of Boko Haram’s activities in the Sambisa forest

Domain of Activity	Empirical Indicators
Subsistence	Cultivation and storage of food; rearing of animals; extraction of wood for fuel; gathering of fruits and hunting of wild animals
Strategy	Operational/tactical base for combat training, planning, camping, torture and execution, holding of prisoners of war and abductees, manufacturing and testing of improvised explosives
Economy	Safe space for smuggling, cattle rustling, illicit logging, charcoal milling, mining and quarrying

Source: Author’s compilation.

8. Governing Sambisa forest: The imperative for a trans-territorial approach

Boko Haram poses a trans-national threat within the wider Lake Chad Basin. The group has launched a couple of attacks in Nigeria, Chad and Cameroon. Given its nascent affiliation with ISIS (Islamic State in Syria), it is apparent that the operational scope of the group will expand. The same is also true of the group’s asymmetric opportunism. The porous nature of the borderlines as well as the forested landscape in the Lake Chad region has afforded the insurgents with the opportunity of trans-border tactical manoeuvrability. In this regard, Albert (2017:12) observes that ‘When Boko Haram attacks any Nigerian community, it would simply “dive” into the forest for cover and emerge in any of the Lake Chad Basin countries that interests it and that is the end of the operation’.

Within the lower Lake Chad Basin, the transnational threat of Boko Haram insurgency has been most immanent and palpable. Cattle rustled in northeastern Nigeria have often crossed into Cameroon via the fringes of Sambisa forest (Okoli 2017b). Similarly, Boko Haram fighters have oftentimes engaged Nigerian troops in a hit-and-run combat along the northward Nigeria-Cameroon borderlines (Okoli 2017a). The exigencies

of counter-insurgency in the Lake Chad region have necessitated and recommended the adoption of a multinational approach towards finding a lasting solution to the prevailing threat. This is expedient because the threat has transcended national boundaries and has assumed a sub-regional dynamics (common threat). More so, it has persistently exploited the faultlines of the virtual porosity and ungovernability of Nigeria's northward borderlands. More importantly, the threat has overwhelmed the defence capacity and strategy of Nigeria; hence the need for a transnational strategy that leverages tactical synergy unencumbered by territorial considerations.

So far, Nigeria and Cameroon have been tactically cooperating in terms of military reconnaissance in an attempt to police and guard their common borderlines that stretch from the Bight of Biafra in the southeastern axis through the Mambila Plateau in the middle-belt region to the Lake Chad area in the far north corridor. The military cooperation has taken the form of bilateral and multilateral engagements designed to respond to the exigencies of Boko Haram insurgency. For instance, Nigeria and Cameroon are frontline members of the sub-regional Multinational (Military) Taskforce, comprised of special emergency fighters from the member states of the core Lake Chad Basin that are dedicated to counter-insurgency in the region (Okoli 2017a). Such engagements have been very challenging both logistically and tactically. The challenge arises from encumbrances of territoriality and sovereignty which often inhibit troops of both countries from engaging in cross-border combat operations.

Going forward, meaningful remediation must begin with fashioning a systematic means of vacating the circumstantial security encumbrances posed by the notorious Sambisa forest. In the light of the foregoing, this paper makes a case for a trans-territorial forest governance framework whereby the authorities of Nigeria and Cameroon synergise in ensuring military and civil reclamation of the Sambisa corridor through effective occupation. To this end, it is recommended that the governments of Nigeria and Cameroon should institute both functional and territorial mechanisms dedicated to the security and development of their common

forested frontiers on the lower Lake Chad axis. The security component of the initiative should prioritise aspects of rangeland policing, with emphasis on joint armed reconnaissance, intelligence sharing, rangeland surveillance and patrol, as well as intensive combatant operations. On the other hand, the development component should emphasise endeavours to effectively reclaim the vast and volatile trans-border forestlands through elaborate ecological conservation, agricultural extension, as well as strategic civilian and military occupation. The expected result of the process is to entrench a territorial control through effective and proper civil-cum-military inhabitation of the erstwhile 'ungoverned spaces' in a manner that forecloses its virtual ungovernability. In a nutshell, there is a need for a Nigeria-Cameroon emergency cross-border governance regime that prioritises joint rangeland security and development as well as incremental civil and military occupation of the Sambisa corridor through phased functional developmental projects in areas such as agro-settlement, military industrial complex, eco-tourism, and the like.

The above recommendation could be situated within the domain of emergency trans-border governance/security regimen which has been adverted to in the extant literature. For instance, in a study carried out on the Lake Constance Region and the Upper-Rhine Region in continental Europe, Zumbusch and Scherer (2015:500–520) reveal how the exigencies of cross-border cooperation in that context informed a governance system that transcended the imperative of territoriality. Such was a trans-territorial cross-border regimen that sought to balance the concerns of 'formalized and less formalized co-operations' in an effort to assure an effective frontier development and security (Zumbusch and Scherer 2015:500). Elsewhere, in a study on 'cross-border territorial strategy' in 'Greater Region' of Europe, Decovillea and Durand (2016:66) highlight the need for the institutionalisation of functional development initiatives as a means of dealing with the territorial impediments to sustainable cross-border governance and, ultimately, integration. These scholarly observations point out that emergency situations in this context do impose a necessity for cross-border governance which would be borne best

by way of a trans-territorial framework. This is the option before Nigeria and Cameroon in the face of their common terror-related territorial threat, especially within the forested landscapes of the Lower Lake Chad region.

9. Conclusion

Insurgency is an unconventional, opportunistic warfare. It thrives by tactical opportunism through the exploitation of difficult or scarcely governed spaces in order to gain a strategic, asymmetric advantage. In Africa, insurgent groups have often utilised difficult terrains, such as mountains, creeks, deserts, and jungles as safe havens or sanctuaries. The difficult nature of these terrains affords the insurgents with an enormous strategic operational advantage vis-à-vis the conventional forces. It also inhibits the efficacy of counter-insurgency operations by national or regional authorities.

The Boko Haram insurgency in northeast Nigeria has followed the logic of tactical opportunism. It has sustained itself through a firm occupation and exploitation of the Sambisa forest in the lower Lake Chad Basin. The Sambisa, apart from providing territorial cover and shield for the bulk of Boko Haram activities, serves as a fountain of 'political economy' for armed conflict in that context. The strategic importance of the forest is that while it has boosted the activities of the insurgents, it has at the same time encumbered the operational efficacy of the counter-insurgency endeavours of the Nigerian government and its regional allies. In view of its strategic significance in the context of the on-going insurgency and counter-insurgency in the Lake Chad Basin, the Sambisa forest poses a virtual existential threat to member-states of the region, particularly those on the lower belt (Nigeria and Cameroon). The trans-border character of this threat requires a corresponding trans-territorial forest governance strategy whereby the affected countries would synergise on an enduring basis towards finding a lasting solution to the common threat.

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Linking governance and xenophobic violence in contemporary South Africa

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Abstract

By demonstrating that local governance facilitates the occurrence of xenophobic violence by providing what I term favourable micro-political opportunity structures, the article argues that governance is a key determinant of xenophobic violence in South Africa and of collective violence generally. Research evidence (from extensive comparative empirical data and the global literature) informing this argument sits incongruently with the common and widely accepted understanding of governance and its relationship with collective violence. It shows that some aspects of this relationship are misunderstood and others are yet to be examined. Indeed, theoretical predictions in this regard indicate that collective violence and other forms of contentious collective action tend to occur in societies where mechanisms of social control have lost their restraining power. This article challenges these predictions by illustrating that, in most cases, xenophobic violence occurs in areas where social controls are strong and actually a facilitating factor. Further, the article indicates that the biggest misunderstanding of the relationship between governance and collective violence lies in interconnections yet to be examined. Such an

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examination would reveal the predominant role of governance, not only as a determinant, but particularly because of the significant role it plays in the making of violence co-determinants.

Keywords: xenophobia, xenophobic violence, governance, collective violence, social controls, political opportunity structure

1. Introduction

Xenophobia in its various manifestations continues to threaten the lives and livelihoods of foreign nationals in South Africa. In particular, the August 2018 attacks on foreign nationals in parts of Johannesburg and North West province were yet another reminder that xenophobic violence, which generally refers to any acts of collective violence targeted at foreign nationals or 'outsiders' because of their being foreign or strangers (Dodson 2010:7), has become a perennial feature in post-apartheid South Africa (Landau 2011:3). Indeed, since 1994, tens of thousands of people have been harassed, attacked, killed or displaced because of their status as outsiders or foreign nationals (Misago 2016a:444). The main characteristics of this violence in South Africa include murder, assaults, looting, robbery, arson attacks (burning of people and property), displacement, intimidation and threats (Misago 2017:40).

The violence has prompted academics, political leaders, migrant rights organisations and other analysts to explain its causal factors and propose measures to stop/prevent its occurrence or at least mitigate its effects. This article aims to contribute to these ongoing efforts by providing a comprehensive empirically based and theoretically informed causal explanation for this violence. It does so by exploring the linkages between governance and the occurrence of such violence. Drawing on extensive comparative empirical data and the global empirical and theoretical literature, this article argues that governance (and more specifically local governance) plays a defining role in the occurrence of xenophobic violence in South Africa by providing a favourable political opportunity structure and by using social and political controls to facilitate violence rather

than prevent it. While the focus is on governance factors that facilitate xenophobic violence, note is also taken of governance factors that are non-receptive of violence and can help to prevent it despite other violence determinants that may be present.

It is however important to emphasise that ‘governance *favourable* to violence’ does not necessarily mean or imply absence or weakness of governance. This insight could be the article’s main contribution to the literature on xenophobic and collective violence. Indeed, the article uses empirical data to interrogate widely accepted and time-honoured theoretical predictions that collective violence and other forms of contentious collective action tend to occur in societies where mechanisms of social control (particularly institutional leadership and authority) have lost their restraining power.

Building on the increasingly recognised understanding of governance as ‘the hybridisation of modes of control that allow the production of fragmented and multidimensional order within the state by the state, without the state, and beyond the state’ (Levi-Faur 2012:3), the article, for present purposes, uses the term ‘*local governance*’ broadly to refer to all formal and informal systems of order in a given locality or polity, i.e. the integration of – or interaction between – all localised systems of controls (social, economic, normative, legal, and political) and leadership, authority and power regimes.

2. Methods and approach

The analysis presented here is based on extensive comparative qualitative empirical data collected by the African Centre for Migration and Society (ACMS) at the University of the Witwatersrand from 2008 to date (cf. African Centre for Migration and Society (ACMS) n.d.). It draws more specifically on data collected in sixteen locations across the four South African provinces most affected by xenophobic violence (Gauteng, Western Cape, Eastern Cape and KwaZulu-Natal).

The specific aim of this on-going research is to explain the occurrence of xenophobic violence in affected areas. The focus is not so much on

xenophobic attitudes as such, i.e. why many South Africans dislike or distrust foreigners and other ‘outsiders’ (Crush 2000:103). The research does aim, however, to explain why long-standing negative attitudes suddenly turn into organised and mass violence, to identify immediate triggers and conditions, and to explore why certain groups are targeted. What is also investigated, is why violence breaks out in some areas and not in others. To achieve this goal, the study adopts the ‘most similar systems’ approach by selecting research sites affected by the violence and sites that did not experience the violence despite having similar socio-economic indicators and dynamics. This approach is informed by the conviction that ‘no enquiry into riots [in this case xenophobic violence incidents] should fail to account for their absence’ (Horowitz 2001:xiv).

At each site, the above-mentioned research teams have been conducting in-depth, qualitative interviews with South African residents, foreign nationals, relevant government officials, community leaders, and representatives of different civil society organisations. In addition to individual in-depth interviews, the teams conducted an average of two focus group discussions at each research site. Thus far, the study counts more than 760 participants.

3. Local governance as a political opportunity structure for xenophobic violence in South Africa

In this section, I illustrate that local governance (both official and informal) regimes can provide a political opportunity structure for xenophobic violence in two ways. First, in many cases, official community leadership uses its authority and legitimacy to mobilise community members for violence. Second, in areas where official community leadership is weak or absent, violent alternative governance by non-state actors defines new forms of social control and authority that conceive violence as, not only a tool to consolidate their power and legitimacy, but also as legitimate means for protecting or restoring threatened local socio-economic and political orders. I start with a brief discussion of the general causal relationship between the political opportunity structure and collective violence to set

the scene for the discussion of the critical role local governance plays in the occurrence of xenophobic violence in South Africa.

3.1 On Political Opportunity Structure and collective violence

Used more prominently in the social movement literature, the Political Opportunity Structure (POS) concept generally refers to a complex compound of formal and informal social and political conditions that facilitate the formation and/or operations of a social movement (McAdam 1999; Tarrow 1994; Tilly 1978). Vermeersch (2011:9) argues that the concept (and the related theoretical model) 'responds to an intuitive feeling that social movements will act in accord with the institutional opportunities and constraints with which they are confronted in a given political system'.

With regard to contentious politics, which usually involves some form of collective action, POSs refer to 'those aspects of the political system that affect the possibilities that challenging groups have to mobilize effectively. In this sense, opportunities are options for collective action, with chances and risks attached to them, which depend on factors outside the mobilizing group' (Giugni 2009:361). As such, a POS is a balance between facilitation and repression. Indeed, Tarrow (1998, cited in Meyer 2003:19) notes that repression or facilitation of dissent by the state is a key aspect of the POS. According to Tilly (1978:100) 'repression is an action by another group which raises the contender's costs of collective action. An action which lowers the group's costs of collective action is a form of facilitation'. Therefore, 'Social movements must examine opportunity and threat and they must decide whether to act or not, based on that opportunity and/or threat' (De Búrca 2009:6; see also Tarrow 1998).

Scholars have also identified POS as a key variable or determinant of other forms of collective action, particularly collective violence in its different forms which include political violence (Tilly 2003; De Búrca 2009), race riots (Lieberson and Silverman 1965), religious violence (De Búrca 2009), ethnic riots or pogroms (Bergmann 2011) and genocide (Bond 2007). De Búrca (2009:1), for example, explains that political violence by Hamas

and the Irish Republican Army was in each case made possible by a favourable POS in terms of social sanction and political support by their constituencies. Similarly, Bond (2007:39) argues that mobilisation (by political leadership) for genocide in Rwanda succeeded due to a receptive socio-political setting. Bergmann (2011) further identifies the POS as a key variable in the outbreak and escalation of ethnic riots or pogroms. In his study of anti-Jewish violence in Europe, he provides evidence that pogroms 'require a favorable political opportunity structure, in which the behavior of the government, the police, public opinion, and bystanders fulfills a key function in the outbreak and escalation of the violence in intergroup conflict' (Bergmann 2011:489).

3.2 Local Governance playing a critical role in the occurrence of xenophobic violence in South Africa

Micro-political opportunity structures

Analysts usually use the POS concept in reference to national level socio-political factors or conditions that facilitate collective violence, with a particular focus on the state capacity (or lack thereof) to regulate and contain violent conflicts (see, for example, Meyer 2003 and Tong 1991). However, to understand the role of local governance in the occurrence of xenophobic violence in South Africa, I propose to extend the meaning and application of the POS model to subnational, local, community level socio-political arenas and their governance regimes. This is in recognition of the fact that national political systems often nest subnational power and authority regimes with significant relegated or appropriated autonomy that often translates into variations in authority patterns, institutional structures and political incentives.

As I argue elsewhere (Misago 2011:106), these variations mean that we must start thinking of the state in the 'plural' rather than the 'singular' in terms of (in the South African case, for example) its role, responsibilities, capacities and incentives at national, provincial and local levels (see also Boone 2003). The recognition of these subnational variations similarly challenges those who continue to speak of politics as fundamentally a set of

national processes, and rather confirms the adage that ‘all politics is local’ (O’Neil and Hymel 1994:xv). Building on increasing recognition that POSs vary among subnational spaces within the same national political systems (Kitschelt 1986:63) and that there are often recognisable differences in the conduct of local state agencies and organs of control (Bergmann 2011), I argue that the POS model maintains its relevance and that its explanatory power (with regard to collective violence) prevails even when applied to local, community level socio-political factors and systems of order (i.e. local governance regimes). Indeed, the analysis of xenophobic violence in South Africa shows that local governance regimes present (independently or in conjunction with the wider national level socio-political systems) opportunities for – and constraints to – xenophobic violence. It is these locally generated opportunities that I term ‘*micro-political opportunity structures*’.

As the discussion below indicates, local governance provides a (micro-) POS for xenophobic violence in two ways: (1) in many cases, official local authority facilitates and is directly involved in the violence, and (2) in areas where official community leadership is weak or absent, violent informal leadership groups are provided with an opportunity to act.

Official local authority’s direct involvement, complicity and inaction: A perfect opportunity for xenophobic violence

The research this article draws from provides detailed evidence that, in many violence affected areas such as Alexandra, Diepsloot, DuNoon, Madelakufa II, Ramaphosa, Durban, the institutional local authority and official community leadership structures (e.g. local police, local Community Police Forum (CPF) branches, ward and street committees) permit or provide the means and incentives for xenophobic violence. It specifically shows that, in those areas, these structures permit the occurrence of the violence in a number of ways. They either (1) directly organise the violence and/or are actively involved in the attacks, (2) are complicit with instigators/perpetrators and sanction their actions, (3) passively encourage or tolerate the violence, or (4) do not make any effort to prevent the attacks despite visible warning signs (Misago 2016b:211).

In these cases, by commission or omission, the local leadership and authority provide a perfect socio-political opportunity for xenophobic violence. Indeed, using their clout, institutional authority and moral legitimacy, local governance regimes easily secure social sanction and normative acceptance; legitimise the violence by framing it as a necessary act of solidarity in legitimate self-defence; and lower the violence costs while raising its (real or perceived) normative and/or material benefits. All these are acts of facilitation, characteristic of a favourable POS.

Examples from elsewhere also show that official community leadership structures can indeed provide a facilitating social and political opportunity and therefore play a critical role in the occurrence of collective violence. For example, Worsnop (2013:2) notes that strong community leadership structures are crucial in both starting and sustaining rebellions. Such structures are able to mobilise community members for participation by employing status rewards based on solidarity, enforcing social controls and norms, controlling the flow of information leading up to and during the collective action, and ensuring monitoring and concomitant sanctioning of undesired behaviour (Worsnop 2013:2).

Absent or weak institutional authority: An equally *de facto* POS for xenophobic violence

In addition to areas where the official leadership and authority is directly involved or tacitly supportive, the research finds that xenophobic violence also occurs in areas where local institutional authority and community leadership is weak or absent. The absence or weakness of the official community leadership is demonstrated by its inability to exercise its bestowed authority, and its subsequent inability to enforce the rule of law, and by its lost legitimacy, and lack of public trust. In these areas, the community leadership and authority have been usurped by informal leadership groups which residents considered more legitimate, more competent and more worthy of their trust.

The absent or weak official local authority and community leadership provides a favourable opportunity for xenophobic violence in three related

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ways: (1) its absence means there are no effective conflict resolution mechanisms able to diffuse tensions before they escalate into violence; (2) its absence also means impunity and lack of accountability for the perpetrators and instigators of xenophobic violence, and (3) its absence leads to the emergence of informal leadership groups that use violence to further their economic and political interests.

Many of the places where xenophobic violence occurs lack conflict resolution mechanisms capable of channelling or solving concerns in ways that could diffuse the socio-political tensions inherent in any diverse and dynamic community. Without denying that South Africa's townships have a documented history of using violence as a means of solving problems, communities largely resort to violence, vigilantism and mob justice when relevant institutions and existing conflict resolution mechanisms have failed to adequately address issues of concern. The words of a respondent in Itireleng are telling in this regard: 'If there are no other ways of resolving these problems even after several meetings, violence seems to be the only voice we have left'.

Respondents across all affected areas reported that the members of the community took the law into their own hands because they did not trust the local authorities and leaders or the police and the criminal justice system. With regard to xenophobic violence, the lack of effective conflict resolution mechanisms is particularly evident in local authorities' failure to engage communities during the events that precede the attacks. In some affected areas, violence is fuelled by people's frustrations over the inability or perceived unwillingness of local authorities (such as police, ward councils and CPFs) to address communities' concerns/complaints (substantiated or not) with regard to the presence of foreign nationals in their communities.

In the face of the local authority's inability or unwillingness to address communities' concerns, instigators start organising mass meetings during which attacks on foreign nationals are publically planned. That the police and local authorities are aware that the attacks are being organised and do nothing to prevent them is further evidence of lack of effective mechanisms

to resolve conflicts in communities. By allowing the public collective discontent and resentment towards foreign nationals in affected areas to fester and mobilisation for violence to take place and succeed, the lack of effective conflict resolution mechanisms presents a favourable opportunity for the occurrence of xenophobic violence.

Similarly, this research identifies impunity as a facilitation for xenophobic violence. It finds an endemic culture of impunity with regard to perpetrators and instigators of xenophobic violence. As indicated earlier, foreign nationals have been repeatedly attacked in South Africa since 1994 but few of the attackers have been charged and fewer convicted. Perpetrators are rarely arrested and where a few arrests are made, suspects get released without charges and in some cases with the assistance of local and provincial authorities. Further, repeated government promises to set up 'special courts' to deal swiftly with xenophobia-related crimes have never materialised. As other authors have observed (see, for example, Monson and Misago 2009), the National Prosecuting Authority (NPA) seemed to share – with political leaders of different levels – the lack of interest or incentives to hold the offenders of the xenophobic violence accountable. Monson and Misago (2009:30) note '... there is an evident lack of strong determination to hold the perpetrators of the violence accountable. ... The actual and perceived impunity with which instigators and perpetrators of xenophobic violence are seen to act can only continue to encourage the ill-intentioned to attack foreigners and outsiders'. The inability or unwillingness of relevant organs of control to hold perpetrators and instigators accountable perpetuates a perceived sense of impunity that in turn encourages the continuation and the spread of the violence.

Studies elsewhere also confirm that impunity is common for acts of collective violence when the state organs of control and the population majority are not the primary target or when control organs and representatives of the majority are to a certain degree involved (Bergmann 2011). Black (1998:40) notes that 'These crimes which are often perceived as "collective self-help" are usually treated comparatively mildly'. With 'brutality greeted by impunity, and impunity greeted by indifference' (Monson 2011:46), the

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lack of accountability in terms of prosecution and restorative justice (i.e. impunity) provides a favourable opportunity structure for violent attacks on foreign nationals. Indeed, impunity proves to be an excellent act of facilitation that lowers the hostile group's costs of xenophobic violence.

In many affected areas, absent or weak local authority and community leadership leads to the emergence of violent alternative governance in the form of informal leadership groups that use xenophobic violence as means to consolidate their leadership legitimacy and consequently further their political and economic interests. That the absence of official local authority provides a POS for xenophobic violence by allowing these violent groups to emerge and use violence to articulate their interests is probably obvious. What is perhaps less obvious is that in these instances, local governance provides a double opportunity for the violence to occur.

First, by its absence, institutional governance indirectly permits the violence by allowing violent groups and other interested parties to organise and carry out attacks against foreign nationals. Second and perhaps most importantly, the absence of institutional governance does not mean the absence of governance altogether (see details in the sections to follow). It rather ushers in an era of alternative governance by non-state actors that defines new forms of social control and authority that see violence as not only a tool to consolidate their power and legitimacy, but also as 'legitimate' means of protecting or restoring threatened local socio-economic and political orders. This new and violent alternative governance provides an opportunity for xenophobic violence by its direct involvement and by its mobilisation of communities for participation. Therefore, the absent 'old' institutional governance and the present 'new' alternative governance provide (indirectly and directly, respectively) a double opportunity for xenophobic violence in affected areas.

4. Local Governance as an effective constraint to xenophobic violence

In previous sections, I discussed how local governance provides a favourable POS for xenophobic violence in affected areas. Here I wish to briefly highlight this research finding that without such an opportunity, xenophobic violence does not occur even when other determinants are present. The research provides detailed evidence (see Misago 2016b:141) that local authority and community leadership are instrumental in preventing xenophobic violence in potentially volatile areas by not only discouraging potential perpetrators from within but also and most importantly by successfully mobilising communities to stand against actions and influence from outside violent elements.

In these areas, local governance constrains rather than facilitates xenophobic violence and these cases present clear evidence that mobilisation for xenophobic violence does not succeed without a favourable POS provided by local governance. Local governance is the most significant distinguishing factor that explains the absence of xenophobic violence in those areas. It does not provide the micro-POS needed for violence to occur. As Monson (2011:189) confirms:

... the spread of [xenophobic] violence appeared to depend on the strength of leadership institutions in the surrounding areas. Arguably, more strongly democratic forms of leadership created firebreaks against the conflagration, while adjacent areas of weakly institutionalised leadership or leadership autonomous from the state presented softer boundaries, more easily penetrated both by political instigators and by the depoliticised spread of recidivism.

In sum, research evidence indicates that local governance (formal and/or informal) provides a favourable POS for xenophobic violence. This is an indication that xenophobic violence in South Africa occurs both in areas where official local authority is present and strong and in areas where it is weak or absent, and this finding is in line with research findings elsewhere. For example, Bergmann's study on ethnic violence in 20th century Europe

concluded that waves of pogroms occur more often during periods when the state authority has either suffered a loss of power, making it less effective in exerting its control, or when it has become a party to the conflict (Bergmann 2011).

5. On social controls and collective violence: Interrogating the existing theory

The concept of 'social control' generally refers 'to structures, mechanisms and strategies whose purpose is to cause society's members to adhere to its valid norms and standards' (Kirschner and Malthaner 2011:13). In its original and wider sense, the concept denoted a society's capacity to regulate itself through social influence, and as such was contrasted with forms of state control that applied coercion (Kirschner and Malthaner 2011:13). Currently and increasingly however, the concept is used in a narrower sense to denote formal, state-sanctioned mechanisms and instruments as the police, the justice and prison system and institutional governance (Kirschner and Malthaner 2011:13; see also Horwitz 1990).

Regarding collective violence, there are widely accepted and time-honoured theoretical predictions that collective violence and other forms of contentious collective action tend to occur in societies where mechanisms of social control (particularly formal state mechanisms) have lost their restraining power. Indeed, a number of prominent theorists of collective violence (see for example Useem 1998; Smelser 1963; Horowitz 2001 and Tilly 2003) have long predicted that collective violence occurs when and where social controls are weak or no longer have deterrence power. Noting that 'social control involves the institutionalising of respect for the law and for orderly means of resolving grievance', Smelser (1963:261) argues that the occurrence of collective hostile outbursts signals the failure of agencies of control to prevent, interrupt, deflect, or inhibit the accumulation of the determinants that eventually produce such outbursts (Smelser 1963:261). The theoretical predictions of Tilly (2003:232) equally imply the correlation between the weakness or incapacity of state organs of control and the occurrence of collective violence. He notes that collective violence

is more likely to happen in 'low-capacity' and '*undemocratic*' states that allow violence entrepreneurs to operate.

This study on xenophobic violence (a form of collective violence) in South Africa challenges the above-outlined predictions on two main accounts. First, it proves these predictions not entirely correct by demonstrating that in most cases, it was the formal community leadership and authority that used its clout, institutional authority and moral legitimacy to successfully mobilise communities for violence (Misago 2016b). Here official, institutional leadership and authority was not absent or weak but rather it was its presence and power that facilitated the occurrence of the violence. In these cases, local official or state-sanctioned social controls had clearly not lost their restraining power. Instead of attempting to 'restrain' it, official social and political controls rather sanction and 'facilitate' the violence. This proves that collective violence also occurs in societies where official leadership and authority are strong and social controls are in fact a mobilising factor. Formal social controls provide a perfect POS for xenophobic violence to occur in areas where it does. Examples from elsewhere are plentiful. Analysts (see, for example, Hinjens 1999 and Mamdani 2001) note that the 1994 Rwandan genocide was not a result of the collapse of social controls or the inability of the national authority to enforce them. It is rather now common knowledge that state-sanctioned social controls (including government, the army and state-sponsored militia) supported and facilitated the violence rather than trying to constrain it. Similarly, Bergmann's (2011) study of ethnic violence in Europe confirms this study's finding that collective violence indeed happens both in areas where formal social controls are present and strong and in areas where they are absent or weak.

Second and perhaps more importantly, I argue that even in communities where institutional leadership and authority are absent or weak, social controls are not necessarily absent or weak – i.e., have not necessarily lost their meaning and power. The lack of state-sanctioned social controls does not necessarily mean that the entire control system (i.e. governance regime) has collapsed. Instead, the 'unoccupied' space allows the emergence of

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alternative, informal governance regimes that create new forms of social controls and socio-political order that supplant the older ones. Official leadership vacuums created by absent or weak institutional governance lead to the emergence of powerful informal community leadership structures that take over the authority of the state in their respective locations. These leadership groups forged their own laws and/or new law enforcement mechanisms (see Monson 2011).

This means that where institutional leadership is not trusted, its legitimacy and related socio-legal controls are questioned, confronted and where possible replaced by newly defined modes of social order that are perceived more legitimate and more relevant. Social controls are not always in line with state authority or institutional leadership regulations. This means that in those locations where official leadership is absent, new forms of social control emerge (or existing ones are redefined); new modes of enforcement are adopted and new custodians entrusted. As Monson (2011:172) correctly notes, during xenophobic violence these new custodians of local governance create new social controls and new enforcement mechanisms by either 'making the law, breaking the law or taking the law into their own hands'. Demonstrating that xenophobic violence involves various levels of departure from the state-sanctioned social order, Monson argues that making the law, breaking the law or taking the law into own hands are three sub-national forms of sovereignty and political authority that help understand '... xenophobic violence as local-level appropriations of – or incursions into – one or both of the dual components of state sovereignty: legitimacy (or recognition as the “lawful source of social predictability”) and capacity to regulate (for instance, through its theoretical monopoly on mobility and coercive force)' (Monson 2011:173).

These findings not only challenge the theoretical predictions outlined above but also the assumptions informing them. Indeed, predictions that collective violence tends to occur in societies where social controls have lost their regulatory capacity seem to be informed by two main assumptions that are equally poorly supported by empirical evidence: (1) the assumption that collective violence is an aberrant behaviour that

social controls are there to prevent; and (2) the assumption that legitimate governance is a state monopoly (i.e. that the state is the sole producer and arbiter of legitimate governance and authority).

While increasingly rejected, the assumption that collective violence is an aberrant or anti-social behaviour which strong social controls (particularly those state-sanctioned) should be able, or should at least try, to prevent still persists and ‘still shakes the field’ (Roche 1996:98), as many ‘continue to characterize collective violence of some kinds by some people not only as deviant behaviour but also as undesirable and blameworthy – irrational, pathological, or criminal’ (Roche 1996:98). Horowitz (2001:35) similarly notes that there is an enduring ‘assumption that collective violence or crowds act in contradiction to values accepted in the wider society’. This article adds voice to calls that reject the assumption as mostly unfounded. It indeed illustrates that, (1) collective violence is not always regarded as anti-social or deviant behaviour but rather often enjoys social approval and is facilitated by the very same social controls; and (2) when collective violence enjoys social approval, those state-sanctioned controls that would attempt to prevent it would no longer be relevant or legitimate.

This research finds that, for many of those who are involved in the xenophobic violence – and for many who are not – attacking foreigners is a legitimate means of protecting South African lives, livelihoods and systems of order; a means of extending official law by other means (Monson 2011). Although some express sympathy with the victims, most respondents report that the communities in general support the attacks and feel satisfied that foreigners are finally being removed from their space and society. A respondent in Alexandra, for example, states, ‘... others were crying with excitement; they were saying “at last action is taken against foreigners”’. In this case (and undoubtedly in many others), collective violence was considered as a legitimate means of protecting or restoring threatened local systems of order. Here collective violence acts as a form of social control or as a collective behaviour for which social controls are the dependent variable (Black 1990).

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In line with this finding, this article affirms the emergence of an increasingly recognised but still unpopular conception of some types of collective violence as a form of social control (albeit not always in line with state authority and regulations), a form of self-help by a group, a form of protest, a quest for justice (no matter how justice is defined). For Roche (1996:101), for example, 'collective violence is often an extreme form of self-help, a species of social control that entails the handling of a grievance by unilateral aggression'. Similarly, Gurr (1989, cited in Roche 1996:98) argues that 'collective violence is now commonly regarded as a form of protest, a quest for justice, and the purposive expression of real grievances over underlying social, economic, and political issues'. Drawing from the 'functionalist' theory that explains collective violence in terms of its purpose and motives, Aya (1979:49) argues that, as an indicator of severe underlying social discontents and maladjustment in the community, collective violence is often a legitimate attempt to protect or restore threatened social, structural and material orders. It is motivated and triggered by the pressing need for redress of grievances. Looking at and analysing specific types of collective violence, different analysts have reached similar conclusions. For example, Bergmann (2011:488) defines pogroms as 'a one-sided and non-governmental form of social control, as a form of self-help by a group that occurs when no remedy from the state against the threat which another ethnic group poses can be expected'; while Tilly and others (1975:85), drawing upon the analysis of European crowd violence, concludes that 'justice lies at the heart of violent conflict'. Xenophobic violence in South Africa certainly is a form of social control at least in the eyes of perpetrators, sympathisers and custodians of the local authority. It is one of those newly and locally designed forms of social control, and given the extent of mass participation, popular support and social approval it receives, there is no doubt that it is often considered duly legitimate and effective by the communities concerned.

The second assumption informing the predicted effect of social controls on collective violence is that legitimate governance is a state monopoly or that the state is the sole producer and arbiter of legitimate governance and

authority (particularly the legitimate use of violence as social control). This assumption flows from the Weberian understanding of the state as the only institution in the society, which has the monopoly on legitimate use of violence on society's members (Wulf 2007). This understanding implies that state-sanctioned social controls are relevant or have currency in communities across the state's territorial jurisdiction.

By demonstrating that xenophobic violence in most communities represents a local appropriation of state authority and the redefinition, reinvention and reclaiming of social controls (see also Monson 2011), this article argues that legitimate governance and use of violence are not the monopoly of the state. In those communities, governance and authority are exercised by non-state, informal actors that gain their legitimacy from the assent of both the governed and other local power holders. These alternative systems of authority are at liberty to use violence (e.g. xenophobic violence, vigilantism) whenever it is deemed to serve their interests and/or those of their constituencies. The use of violence to achieve societal goals has proven to be an effective type of service provision that confers authority and legitimacy to these non-state actors. Helping communities expel unwanted foreign nationals appears to be a highly appreciated service which the state has failed to deliver.

In many of the areas effected by xenophobic violence, the institutional authority has no normative power as a result of lack of public trust due to poor service delivery; has no coercive power due to weak and incompetent law enforcement agencies; and has no economic power due to lack of control over material resources. In other words, in the 'Weberian' sense, the local state has no power at all. The person who – or group that – governs those spaces is one that can claim and/or dispense at least one of those forms of power. Xenophobic violence provides that power because (1) it is in itself a form of coercive power in addition to other forms of vigilantism characteristic of those areas; (2) it mobilises the normative values of the communities (normative power); and (3) it distributes material resources through direct distribution of material incentives for participation

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in violence (e.g. housing or cash for the hired youth) or through the elimination of business competition (economic power).

Things are not necessarily different in contexts beyond South African borders. Indeed, many scholars (see, for example, Clunan 2010 and William 2010) note the emergence of alternative forms of authority and governance in a context of softening state sovereignty and show that increasingly 'social structures exert authority over the control of violence' (Clunan 2010:8). Others (see, for example, Baylouny 2010 and Arias 2010) demonstrate that, state incapacity and/or the exclusion of certain communities from mainstream official economic, social and political space creates room for alternative forms of governance to emerge, particularly over the provision of goods of policing and conflict resolution. Arias (2010, cited in Clunan 2010:8), for example, notes that in Latin America, 'non-state actors wielding violence have become authoritative governors along with the police and unveils hybrid systems of urban governance' which he labels 'violent pluralism'. Similarly, Baylouny (2010) discusses how violent non-state actors in the Middle East gained authority and legitimacy through the provision of basic services of security to residents of marginalised spaces.

In sum, the case of xenophobic violence in South Africa and examples from elsewhere clearly demonstrate that the state is not the sole producer and arbiter of legitimate governance and has no monopoly over the legitimate use of violence. I therefore agree with those who argue that instead of calling locations where the state is absent or has limited influence 'ungoverned spaces' (see the discussion in Clunan and Trinkunas 2010 or Keister 2014); we should refer to them as places governed by alternative authority and governance structures led by non-state actors (Clunan 2010; Keister 2014). These are unconventional ways of governance but governance nevertheless. As Keister (2014:2) correctly puts it, 'Ungoverned spaces are actually not ungoverned, but exist under authorities other than formal states'. Similarly, Landau and others (2010:168) note that 'the absence of state-centered, stable regulatory regimes does not reflect an *ungoverned* space, but a space that is *alternatively* governed'. Those areas demonstrate multiple layers of authority and 'shared monopoly' of legitimate use of violence

(Wulf 2007) and render outdated ‘conventional accounts of the monopoly of force concept in which the nation-state is conceived as the sole appropriate agent’ (Wulf 2007:16).

6. Conclusion

By demonstrating that local governance (formal or informal) facilitates the occurrence of xenophobic violence by providing a favourable micro-POS, the article argues that governance is a key determinant of xenophobic violence in South Africa and of collective violence generally. Research findings supporting this argument sit incongruently with the common and widely accepted understanding of governance and its relationship with collective violence. It shows that some aspects of this relationship are misunderstood and others are yet to be examined. Indeed, the current understanding of this relationship revolves around the role social controls play in preventing collective violence. Many analysts define this relationship in terms of the capacity (or the lack thereof) of the state organs of control to prevent collective violence often perceived as anti-social behaviour. Theoretical predictions in this regard indicate that collective violence and other forms of contentious collective action tend to occur in societies where mechanisms of social control (particularly institutional leadership and authority) have lost their restraining power.

This article interrogates and challenges these predictions on two accounts. First, it proves these predictions incorrect by demonstrating that in most cases, xenophobic violence occurs in areas where local official or state-sanctioned social controls are not absent or weak. In these cases, instead of attempting to ‘restrain’ it, present and strong official social and political controls rather sanction and facilitate the violence. Second and perhaps more importantly, it demonstrates that even in areas where institutional local authority is absent, social controls are not necessarily weak. The lack of state-sanctioned social controls does not necessarily mean that the entire control system (i.e. governance regime) has collapsed. Instead, the ‘unoccupied’ space allows the emergence of alternative, informal governance regimes that create new forms of social control and adopt new

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modes of enforcement. The new local custodians of social controls use their authority to mobilise communities for violence. In both instances therefore, social controls are a facilitating rather than a restraining factor in the occurrence of xenophobic violence. This finding is further evidence that collective violence is not always regarded as a deviant behaviour which social controls are meant to prevent or contain.

Perhaps the biggest misunderstanding of the relationship between governance and collective violence lies in interconnections yet to be examined. Indeed, in addition to the often misunderstood effect of social controls (as discussed above), the analysis of causal factors of collective violence critically fails to detect the role governance plays in the making of other determinants. I argue that the inability to detect that aspect of the relationship makes current analyses incomplete. For example, while there is value in understanding the effect of governance on collective violence in terms of social controls 'quashing the rebellion' or preventing aggrieved and discontented group members from carrying out a collective violent act, there is also need to investigate the role governance plays in the making of that rebellion and collective discontent as well as in the framing of the target group as the source of group members' frustrations in the first place. Such an investigation would probably reveal that governance plays a predominant role in the occurrence of xenophobic/collective violence, not only because of its role and efficacy as a determinant but particularly because of significant roles it plays in the making of violence co-determinants and their interconnections.

A more accurate understanding of governance and its multiplicity of modes, nodes, levels and actors would provide a more solid foundation for a better analysis and understanding of the causal relationships between governance factors and the occurrence of different types of collective violence including xenophobic violence in South Africa. Such an understanding would be the first and indispensable step towards more effective measures to address xenophobic/collective violence wherever it occurs.

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The challenges of power-sharing and transitional justice in post-civil war African countries: Comparing Burundi, Mozambique and Sierra Leone

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Abstract

This article uses the cases of Burundi, Mozambique and Sierra Leone to analyse transitional justice processes in African societies where power-sharing was used as a key tool to end very protracted and violent civil wars. It is argued that, by affording warring parties a prominent role in the post-settlement political environment, power-sharing inadvertently impeded the pursuit of both restorative and criminal justice in all three countries. As an instance of ‘warriors’ justice’, power-sharing was used by such actors as an opportunity to avoid facing retributive justice. Indeed, due to the central position they held within the power-sharing dispensations, former warriors emphasised amnesty while paying lip service to reparations for victims. In all three countries, the decision to revert to the international judicial system or not was mainly motivated by political calculations rather than any genuine concern for justice. However, notwithstanding the

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shortcomings above, the consensus brought about by the power-sharing dispensations enabled the three countries to effect meaningful institutional reforms, albeit with limited and different levels of success.

Keywords: power-sharing, transitional justice, civil war, Burundi, Mozambique, Sierra Leone

1. Introduction

The post-1990 world environment has witnessed a radical shift in the nature of wars around the world, characterised by a decrease of interstate wars and an increase in the number of internal or civil wars. Civil wars take place in individual states and involve civilians as both fighters and principal victims of atrocities. The fact that civil wars result in the commission of large scale atrocities against civilians brings about the need for the pursuit of post-conflict or transitional justice as one of the conditions for achieving sustainable peace.

Transitional justice thus poses a major challenge to societies emerging from civil war. The situation becomes even more complex when dealing with post-conflict societies where the resolution of the conflict involved negotiations and the establishment of an all-inclusive power-sharing transitional mechanism. As former fighters become new rulers and are directly involved in state management under the transitional power-sharing dispensation, several questions arise. Can those responsible for committing atrocities during the fighting be expected to champion the cause of justice once in power? Can those responsible for wartime atrocities be dragged into transitional justice mechanisms without endangering the fragile post-settlement peace? Does power-sharing as a conflict resolution strategy promote impunity and undermine justice in post-conflict societies?

This article seeks to answer the questions raised above (and others), relating to the challenge of pursuing transitional justice in post-violence societies where the resolution of the conflict involved power-sharing. It discusses the cases of three African countries that have in recent years reverted to power-sharing as the main mode of war termination, namely

Burundi, Mozambique and Sierra Leone.¹ Two criteria have dictated the selection of the case studies. Firstly, all cases involved herein relate to civil wars that ended in negotiations (as opposed to military victory by one of the fighting parties). Secondly, the chosen cases are spread evenly across three different African regions, namely central Africa (Burundi), southern Africa (Mozambique) and western Africa (Sierra Leone) as a way to ensure geographical balance.

The main argument of this article is that, while each of the three countries analysed herein resorted to some form of transitional justice mechanisms to deal with civil war-related atrocities, they only applied justice aspects that were not meant to threaten their elites' political survival, freedom and personal security. This situation was the result of the war termination strategy applied in these countries, namely negotiations followed by power-sharing, which had suddenly turned former warring parties into key stakeholders in the transitional dispensations of these countries.

Before discussing the specific country cases, it appears important to clarify the concepts of power-sharing and transitional justice, attempting to highlight philosophical tensions between the two.

Conceptual clarification: Power-sharing and transitional justice

Debating power-sharing

As concepts, power-sharing and the different mechanisms designed for its operationalisation (government of national unity, inclusive government or

1 Although other African countries would meet the set criteria, space did not allow for all to be included. In fact, the initial research for this article involved six countries, namely Angola, Burundi, the Democratic Republic of the Congo, Liberia, Mozambique and Sierra Leone. However, the need to comply with length limits made it necessary to split the initial article into two, each sharing the same theoretical framework. This first one focuses on Burundi, Mozambique and Sierra Leone while the second will be dedicated to Angola, the DRC and Liberia. Also, although a potentially very relevant case for this study, South Africa is not included given the fact that it has already received adequate attention in existing literature.

coalition government) are prone to semantic confusion. In fact, two strands of research use the term power-sharing, often without recognising the differences between them (Jarstad 2008:108). The first strand, labelled the 'consociational democracy' school, is concerned with practical strategies of distributing power among socio-political stakeholders in divided societies as a means to guarantee adequate group representation and foster democratic participation. One of its renowned proponents, Arend Lijphart (1999), was concerned with addressing the exclusion of minorities brought about by a rigorous application of liberal democratic principles and rules in ethnically and/or religiously divided societies and where political allegiances may align with ethnic and/or religious identities. In such societies, Lijphart argues, majority rule is not only undemocratic, but also dangerous; it spells majority dictatorship and civil strife rather than democracy. He thus proposed consociational democracy, a group-based form of democracy, grounded on a grand coalition of the political leaders of all significant segments of the plural society; mutual veto rule (which serves as an additional protection of vital minority interests); proportionality (as the principal standard of political representation, civil service appointments and public funds allocation); as well as a high degree of autonomy of each segment of society to run its own internal affairs (Lijphart 1977).

The second strand of research relating to power-sharing is rooted in the field of conflict management. 'In this discourse the main function of power sharing is to end violence' (Jarstad 2008:108). This practice of power-sharing generally emerges in the context of stalemated civil wars. It is based on the understanding that '[b]y dividing power among rival groups during the transition, power sharing reduces the danger that one party will become dominant and threaten the security of others' (Papagianni 2008:1). This is insofar relevant as exclusion is one of the main drivers of conflicts on the African continent (Lemarchand 2006). In this regard, it is no surprise that, with its emphasis on the inclusion of non-state stakeholders (armed groups, political parties and civil society organisations) in transitional

mechanisms, power-sharing has been commended as ‘a recipe for peaceful cohabitation’ (Lemarchand 2006:2).

This article focuses on the conflict management dimension of power-sharing. It examines the practice of power-sharing as an incentive towards ending internal armed conflict. In contrast to the consociational approach that is both preventive and built on a long-term perspective, the conflict management dimension of power-sharing is reactive and temporary. It seeks to address the problem of power illegitimacy through accommodative transitional mechanisms entrusted with conducting free and inclusive elections for institutional renewal in ‘post-settlement’ societies. Provisions of power-sharing in this approach are generally derived from peace (or political) agreements signed by parties and, depending on a specific conflict situation, guarantee ‘the participation of representatives of significant groups... in the executive, but also in the legislature, judiciary, police and army’ (Papagianni 2008:42).

Understanding transitional justice

Transitional justice can be defined as the full range of ‘processes, strategies and institutions that assist post-conflict or post-authoritarian societies in accounting for histories of mass abuse as they build peaceful and just states ...’ (Armstrong and Ntegeye 2006:3). It seeks to

... halt ongoing human rights abuses; investigate past crimes; identify those responsible for human rights violations; impose sanctions for some of those responsible for serious human rights violations; provide reparations to victims; prevent future abuses; preserve and enhance sustainable peace and promote [community] and national reconciliation (Fombad 2008).

Overall, there is a need to distinguish between three different sets of transitional justice mechanisms. Firstly, there are those targeting perpetrators, namely trials, exiles, vetting or purges and amnesties. Secondly, there are ‘victim-oriented restorative justice processes’ (Olsen, Payne and Reiter 2010:803) that include reparations or compensations and victims’ empowerment programmes. Thirdly, there are mechanisms targeting the

wider society, including institutional reforms, truth commissions, and other public memory projects whose aim is ‘to officially recognize but pardon past acts’ (Olsen, Payne and Reiter 2010:803). However, as Bhargava (2000:54) argues, in spite of their institutional variation, the shared overarching goal of all transitional justice mechanisms is to restore the dignity of individuals and communities victimised by atrocities, deter future violations and prevent a repeat of past horrors.

Power-sharing and transitional justice: Purposes and challenges

Power-sharing and transitional justice tend to come to prominence in countries emerging from civil war ended through negotiations. Whereas power-sharing is used in such societies to enable former warriors to partake in post-war politics, the pursuit of transitional justice is generally regarded as a guarantee to address victims and society’s wartime losses as well as to prevent the recurrence of violence.

Power-sharing and transitional justice can both be very effective, but in the implementation of each of them, seriously challenging problems may arise – which have already attracted waves of criticisms. As far as power-sharing is concerned, it has been argued that the ‘[i]nclusion of warring parties in a power-sharing arrangement does not always end violence’ (Jarstad 2008:117). Power-sharing is also said to be elite-driven and to exclude the general public from matters directly affecting national life and, in so doing, to undermine democratic processes. Lastly, by providing rebels with a share of state power, the practice of power-sharing tends to ‘contribute to the reproduction of insurgent violence [as it creates] an incentive structure would-be leaders can seize upon by embarking on the insurgent path’ (Mehler 2009:455).

On its part, transitional justice poses a problem of timing as the ‘post-conflict’ context to which it is designed to apply varies from one conflict situation to another. Although only processes ‘initiated within five years following an armed conflict’ (Binningsbø et al. 2012:733) should be regarded

as transitional justice, experiences in post-conflict societies are filled with instances of transitional justice mechanisms being established even over a decade after the signing of a peace agreement. In this latter situation, the decision by government to set up transitional justice mechanisms can be seen as a ploy for pursuing political goals, including settling scores with political opponents.²

Transitional justice also faces a challenge with regard to its content and/or scope. Two scenarios ought to be distinguished in this regard. In cases of internal conflicts that ended in the military victory of one of the parties, the transitional justice mechanism is designed by the winners. Hence, it is criticised as victors' justice (Reydams 2013). In cases where the war ended through negotiations and power-sharing, transitional justice mechanisms have to be agreed upon by all parties involved, especially warring parties, resulting in what can be termed 'warriors' justice' (Sadiki 2013:254). The fact that alleged human rights violators are directly involved in determining the timing and content of transitional justice leads to the criticism that transitional justice is first and foremost a political matter and justice is simply its second, sometimes far-distant, aim.

If anything, the potential tensions between power-sharing and transitional justice in post-settlement societies as highlighted above, bring about the debate regarding the operationalisation of transitional justice mechanisms or processes in scenarios involving power-sharing as a mode of civil war termination, as discussed below.

2 This debate has taken place in Bangladesh, for instance, where a number of high profile politicians have, as recently as 2014, been charged and convicted for crimes allegedly committed during the 1971 war with Pakistan. These include Zahid Hossain Khokon of the Bangladesh Nationalist Party, Motiur Rahman Nizami of the Jamaat-el-Islami and Ghulam Azam of the Bangladeshi Islamist Party. They were all found guilty of war crimes and sentenced to penalties ranging from death to life imprisonment (Snyder 2014).

Dialectics of power-sharing and transitional justice in post-civil war Burundi, Mozambique and Sierra Leone

According to Järvinen (2004:36), '[o]ne of the greatest challenges to any post-conflict society is how to deal with past crimes ... and other human rights abuses'. Firstly, internal wars generally occur in states with weak or dysfunctional institutions, including the justice system, which the armed conflict contributes to weakening further. In this context, institutional inefficacy is a critical factor in the inability of post-conflict societies to effectively prosecute cases of wartime crimes and human rights abuses (Souaré 2008).

Secondly, civil wars are periods of utter anarchy when thousands or even millions of crimes are committed. The sheer number of such crimes and their alleged perpetrators would make it virtually impossible for even the most willing states to prosecute – given the amount of time and resources required, as well as the overall impact of such prosecutions on the society and its peace prospects.

This section explores the manner in which Burundi, Mozambique and Sierra Leone dealt with the issue of transitional justice following the conclusion of their respective civil wars.

Background to the Burundian, Mozambican and Sierra Leonean civil wars

Since the killings of 1972 and the subsequent establishment of the Hutu People's Liberation Party – National Liberation Front (Palipehutu-FNL), Burundi had been experiencing a low-intensity civil war as exiled Hutus (mainly based in Tanzania and Rwanda) explored ways to challenge militarily the Tutsi-controlled regimes ruling Burundi after the 1966 military coup. But, the crisis intensified following the assassination of the country's first democratically elected and first Hutu President, Melchior Ndadaye, and other senior government officials from the ruling Front for Democracy in Burundi (FRODEBU) party, in October 1993. The assassination was the work of 'radical' elements within the Burundian

Tutsi-dominated security and political circles who were concerned with the prospect of losing their long-held privileged positions.

The Burundian civil war was fought along ethnic lines, pitting the Tutsi-controlled national government against an array of Hutu-led rebel groups, including the Palipehutu-FNL and the National Council for the Defence of Democracy – Forces for the Defence of Democracy (CNDD-FDD). The war resulted in the death of over 300 000 people and the displacement of 1.8 million more within the country and in neighbouring states (Tanzania, Democratic Republic of the Congo [DRC] and Rwanda) (Falch 2008:1). The war officially ended in 2008 following the signing of the Magaliesberg Peace Agreement between the Burundian government and the country's last standing rebel group, the Palipehutu-FNL. However, the peace process had started as early as August 2000 when the Arusha Agreement for Peace and Reconciliation in Burundi (henceforth Arusha Agreement) was signed between the Burundian government and 19 political parties.

In contrast to the Burundian civil war that was essentially driven by internal dynamics, the Mozambican civil war (1976–1992) was a complex emergency triggered by several internal and external factors. On the one hand, it was a product of internal disagreements within FRELIMO³ and discontent within the Mozambican society. On the other hand, it was the result of interferences from the Rhodesian and Apartheid South African governments in their design to destabilise and, if possible, get rid of the Mozambican regime under President Samora Machel with its policy of support for liberation struggles in Zimbabwe, Namibia and South Africa.

The Mozambican civil war equally embodied the characteristics of a proxy war within the Cold War context, pitting the Marxist-oriented FRELIMO (supported by the Soviet Union) against the Mozambican National Resistance (RENAMO) backed by the USA. The war resulted in the death of between 600 000 and 1 million people (Hirsch 2009) and the displacement

3 Front for the Liberation of Mozambique, the country's ruling party since independence in 1975. It was established in 1962 and successfully led the armed struggle (1966–1975) for independence against Portugal.

of many more both within the country and in neighbouring countries. Lastly, as was the case in Burundi, the Mozambican civil war ended in a stalemate, leading the protagonists to explore peaceful means to end the conflict.

On its part, the Sierra Leonean civil war erupted in March 1991. It formed part (and was the product) of the country's troubled post-colonial evolution characterised by political repression and violence, military coups, the politicisation of (ethnic) identities, economic collapse and the uninterrupted weakening of state institutions, including the security forces. The war was waged by the Revolutionary United Front (RUF) under the leadership of Corporal Foday Sankoh. The RUF's official goal consisted of ridding Sierra Leone of the corrupt and unjust regime under President Joseph Momoh (1985–1992).

However, the actual situation in areas controlled by the RUF contrasted significantly with the group's public claims. The regime of fear and extreme violence imposed by the RUF on civilian populations contributed to alienating the rebel group not only from the Sierra Leonean people but also from the international community.

By January 2002 when the civil war officially ended, an estimated 100 000 people had been killed while thousands had had their arms or limbs amputated and approximately 2 million more had been displaced within and outside the country (Tejan-Cole 2009). In an effort to find a peaceful solution to the crisis, the Economic Community of West African States (ECOWAS) dispatched a peacekeeping mission, the ECOWAS Monitoring Group (ECOMOG), to Sierra Leone in 1997. The ECOMOG was credited with, among other things, the signing of the Lomé Agreement in July 1999, later complemented by the Abuja Agreements I and II signed in November 2000 and May 2001 respectively.

Peace agreements and power-sharing in Burundi, Mozambique and Sierra Leone

The Arusha Agreement was grounded on two main principles, namely the choice of negotiation as the preferred mode to end the civil war, and the

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establishment of a transitional power-sharing mechanism involving all of the country's main political stakeholders.

In spite of its significant contribution to paving the way to peace, the Arusha Agreement only involved the Burundian government and 19 political parties as all armed groups remained sceptical about the government's commitment to a peaceful settlement of the conflict. However, in 2002, a ceasefire agreement was signed between the government and the CNDD-FDD's wing led by Jean-Bosco Ndayikengurukiye and the Palipehutu-FNL's wing led by Alain Mugabarabona. This was followed, in November 2003, by another agreement between the transitional government and the CNDD-FDD's main wing led by Pierre Nkurunziza.

As per the Arusha Agreement, the transition was comprised of two phases designed to last 18 months each. In November 2001, the transition was inaugurated with the swearing in of sitting President Pierre Buyoya (Tutsi). On 30 April 2003, Buyoya handed the presidency over to his deputy, Domitien Ndayizeye (Hutu), for the second phase of the transition which was extended to August 2005 as the government failed to abide by the November 2004 deadline to organise the much anticipated general elections.

Power in transitional Burundi was shared between Hutus and Tutsis in national government, national parliament, provincial administration as well as the security forces. However, it ought to be observed that, in contrast to the civilian sector where the Hutus' demographic superiority was recognised and implemented, power in the security sector was shared on the equalitarian ratio of 50:50 between Hutus and Tutsis. Lastly, there is need to recall that – in conforming with the recommendation contained in the Arusha Agreement for the work of the country's transitional justice mechanisms to commence during the transition – President Ndayizeye enacted Law No 01/021 on 27 December 2004 establishing the country's (first) truth and reconciliation commission (TRC). However, this initial TRC never got off the ground for several reasons – including the

fast-approaching end of the transition, the attempt by UPRONA⁴ and FRODEBU to control the TRC's working and appointments as well as protests from human rights organisations regarding the political affiliation of the TRC's nominated officials (International Centre for Transitional Justice 2011:10). As a consequence, Law No 01/021 was abrogated by Law No 1/18 discussed in the next section.

As far as Mozambique is concerned, tentative peace talks between the government and RENAMO started as early as August 1989 in Nairobi, through the facilitation of the Mozambican Christian Council (CCM). The talks involved a direct meeting between President Joachim Chissano (who had succeeded Samora Machel following the latter's death in 1986) and Afonso Dlakhama, RENAMO's leader. They resulted in the issuing of three statements that established the basis for a peace accord in Mozambique, namely the 'Twelve principles for peace' from government, RENAMO's 'Six-point declaration', as well as the 'Seven-point proposal' from the USA government (Almeida, Sanches and Raimundo 2010:7).

Following two years of continued direct negotiations between the government and RENAMO under the auspices of the Community of Sant'Egidio, the agreement to end the civil war in Mozambique was signed on 4 October 1992 in Rome (Italy). The General Peace Agreement, as the agreement was called, began with a statement of seven protocols, dealing with basic principles including the establishment and recognition of political parties, elections, military issues, guarantees, ceasefire and donors. The Agreement also contained a declaration on humanitarian assistance, a joint declaration on the conclusion of the peace process and other joint communiqués and declarations signed by the parties during the two-year negotiation process.

The Agreement did not provide for a power-sharing transitional dispensation at national level as was the case in Burundi (see above) and

4 The Union for National Progress (UPRONA) was established in 1958 by Burundi's first prime minister, Prince Louis Rwagasore. It was the country's single party from 1966 to 1976 and between 1987 and 1992.

Sierra Leone (see below). Instead, it formalised the *de facto* ‘territorial power-sharing’ reality brought about by the armed conflict. This means that RENAMO and the FRELIMO-led government maintained administrative management over the areas under their respective control at the time of the signing of the agreement. In this regard, public administration services in RENAMO-controlled areas could employ only citizens residing in those areas (including RENAMO’s members).

At the same time, the government was requested to afford these ‘public servants’ and the institutions under their care the respect, treatment and support required for the discharge of their duties – on a basis of strict equality and without any discrimination in relation to others performing similar duties at the same level in areas under FRELIMO’s control.⁵

In order to ensure a smooth coordination between these two new public administrations, the parties established an eight-member National Commission (four from each side) that remained in place until the end of the ‘transition’. Inasmuch as the agreement could be commended for providing ample details regarding the country’s new political system, the electoral process and the reform of the security sector – among other things, it fell short of providing a clear and meaningful leadership on the issue of transitional justice as shall be shown later.

5 See General Peace Agreement for Mozambique, 1992 – Protocol V: Guarantees, Specific guarantees for the period from the cease-fire to the holding of the elections, III 9.(d). It ought to be mentioned that the long-term consequences of the peculiar territorial power-sharing model applied in Mozambique has been the projection of wartime confrontational logic onto Mozambican politics: there were limited levels of disarmament, demobilisation and reintegration of former RENAMO combatants, and an entrenchment of wartime loyalty among former RENAMO combatants toward the group’s leadership while serving under the new national defence and security forces. As a result, armed confrontation resumed in 2015 between loyalist troops and RENAMO combatants in the latter’s stronghold in central Gorongosa. Dissatisfaction with the political system (including the outcomes of the 2014 general elections), the need for inclusion of remaining former rebel fighters in the regular army, and internal political dynamics within RENAMO are said to be behind this resumption of violence.

In Sierra Leone, the Lomé Agreement represented the main framework that helped end the civil war. It provided for power-sharing under a government of national unity comprising representatives of President Tejan Kabbah's government, the RUF and other national stakeholders such as political parties and civil society. To this effect, Foday Sankoh was appointed Vice-President and Head of the Commission for the Management of Strategic Resources, National Reconstruction and Development; while Major Johnny Paul Koroma (who led the military coup against President Kabbah in 1997) was appointed Chairperson of the Peace Consolidation Commission (Tejan-Cole 2009:244). Furthermore, the RUF was awarded four ministries (trade and industry; energy and power; land, housing, city planning and environment; as well as tourism and culture) and four deputy ministries in the national cabinet (Hayner 2007). However, it ought to be mentioned that the Lomé Agreement lacked popular support among Sierra Leoneans mainly as a consequence of the blanket amnesty it granted for atrocities committed by the RUF during the war.

Transitional justice mechanisms in Burundi, Mozambique and Sierra Leone

Burundi's Arusha Agreement contained provisions relating to transitional justice. It called for amnesty for all crimes committed during the conflict as long as they did not amount to genocide, war crimes, crimes against humanity and *coups d'état*. To this effect, the agreement called on the UN Security Council to establish an international judicial commission of inquiry tasked with investigating acts of genocide, war crimes and crimes against humanity committed in the country from independence in July 1962 to the date of the signing of the agreement (28 August 2000). Furthermore, the agreement called upon the Burundian government to work with the UN Security Council towards the establishment of an international tribunal, should the commission referred to above identify cases of genocide, war crimes and crimes against humanity committed in the country during the earmarked period. Lastly, the agreement called for the establishment of a Truth and Reconciliation Commission (TRC) tasked with establishing the

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truth about serious crimes and acts of violence committed in the country between 1962 and 2000, identifying victims and perpetrators and, after thorough assessment of individual cases, granting amnesty. The TRC was also required to make recommendations on reparation measures for victims and other social and political initiatives designed to foster national reconciliation and healing.

Following up on the provisions contained in the Arusha Agreement, in August 2000, parliament adopted a law granting temporary immunity to political leaders returning from exile, including those who may have committed crimes between July 1962 and August 2000. This provision was later extended to rebel leaders and fighters following their decision to join the transitional dispensation.

The UN Security Council never established the international judicial commission alluded to in the Arusha Agreement. Instead, the Council encouraged the Burundian political leadership to set up the TRC as provided for in the agreement⁶ and remained opposed to the government of Burundi granting any amnesty on the gross crimes as mentioned above.

On 15 May 2014, President Pierre Nkurunziza enacted Law No 1/18 relating to the establishment, mandate, composition, organisation and working of the TRC.⁷ This was followed by Decree No 100/286 signed by President Nkurunziza on 8 December 2014 and through which he appointed the TRC commissioners after they had been approved by parliament as provided for in Law No 1/18. It ought to be highlighted that, although commendable, this development came very late. If anything, the work of the TRC was undermined by the tense socio-political situation in which it was established

6 Beside the provisions of the Arusha Agreement, the case for the TRC was further emphasised during the national consultations on transitional justice organised in 2009. The vast majority of the 3 887 respondents indicated their preference for the country's transitional justice programme to be anchored on truth, justice and reparations (International Centre for Transitional Justice 2011:16).

7 It ought to be noted that the Burundian parliament adopted the law establishing the TRC on 17 April 2014 amid a boycott of the parliament session by UPRONA's members of parliament, despite their party's alliance with the ruling CNDD-FDD.

as related to the controversial 2015 general elections and their aftermath. The TRC found itself outpaced by political events while the relevance of its work was questioned by different role players throughout the country's socio-political spectrum.

In contrast to the Arusha Agreement, the General Peace Agreement for Mozambique did not provide for a transitional judicial mechanism. Instead, the Mozambican government unilaterally granted a legislative amnesty to all combatants well before the start of actual peace negotiations with RENAMO (Almeida, Sanches and Raimundo 2010:11). Such a move was designed to assure RENAMO's leadership of the government's commitment to a peaceful settlement.

Although both parties openly acknowledged the human and material costs of the civil war, none of them was eager to apologise publicly for their role in the violence. The shared sentiment among them was that the people of Mozambique needed not to focus on the past but rather invest their energy in a future peaceful and developing country. As Igreja (2009:278) observes, the parties to the Mozambican peace agreement

... deliberately precluded any possibility for the enactment of a mechanism for justice that could reckon with the grave abuses and war crimes. Justice was considered inimical to the peace-building process and was therefore replaced with a discourse of reconciliation that was expressed through oblivion and silence.

To this effect, just 10 days following the signing of the peace agreement, the FRELIMO-controlled Mozambican People's Assembly adopted Law No 15/92 that effectively granted unconditional amnesty for all crimes committed in the country between 1976 and 1992. However, although the agreement emphasised the need for reconciliation, the Mozambican government never set up a truth and reconciliation commission. Furthermore, no specific reparation programmes targeting war victims were put in place. With their 'forward-looking' approach, the FRELIMO-led government and RENAMO rejected any idea of justice, be it retributive or restorative, in post-civil war Mozambique.

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As far as Sierra Leone is concerned, it ought to be recalled that amnesty from prosecution was central to the Lomé Agreement. Article 9 of the agreement enjoined the government to ‘take appropriate legal steps to grant Corporal Foday Sankoh absolute and free pardon.’ The same measure applied to all combatants and collaborators on both sides of the conflict spectrum in respect of anything done by them in pursuit of their objectives as members of their respective organisations for the period between 1991 and 1999. In conforming to the official discourse, these measures were expected to contribute toward consolidating the peace and promoting national reconciliation.

Furthermore, the agreement called for the adoption of legislative and other measures necessary to guarantee immunity to former combatants, exiles and other persons, within and outside the country for reasons related to the armed conflict in order to ensure the full exercise of their civil and political rights and to fast-track their reintegration. It ought to be noted that all these provisions were consistent with demands from the RUF that requested a blanket amnesty for all its actions during the civil war.

The Lomé Agreement also provided for the establishment of a TRC tasked with addressing impunity, breaking the cycle of violence, providing a forum for victims and perpetrators of human rights violations to tell their stories and better understand the past, making recommendations on the rehabilitation of war victims as well as facilitating genuine reconciliation and healing (Hayner 2007:224).

The Sierra Leonean TRC was set up in 2000 through an act of parliament and lasted until 2005 when its final report was released to the public. However, the actual work of the commission only started in late 2002 as a consequence of disagreements over the suitability of commissioners put forward by the parties to the conflict, the resurgence of violence in the country and the reluctance of international donors to support a process that they regarded as controlled by former belligerents.

In its early days, the TRC focused its work on raising public awareness on its mandate, role, implementation plan and difference with the country’s

other transitional justice mechanisms so as to foster public participation in its work. This initial phase was followed by the actual work of the commission that involved statements taking, hearings and the writing of the report (Ekiyor 2009).

Ultimately, the TRC received close to 8 000 statements from a variety of stakeholders (Ekiyor 2009). The recommendations put forward by the commission included a call for national, community and inter-personal reconciliation; the implementation of a reparations programme for victims (access to pensions, micro-credits, free health care, education, skills and training) as well as the establishment of a permanent Human Rights Commission (HRC). While the HRC was set up as early as 2004 and some reparation measures were carried out, the country's post-civil war economic predicament prevented the government from undertaking any large-scale reparation programme for the victims.

Lastly, transitional justice mechanisms in post-civil war Sierra Leone also included the establishment of the hybrid Special Court for Sierra Leone (SCSL). The SCSL was not provided for in the 1999 Lomé Agreement; yet, it was popular among ordinary Sierra Leoneans who had borne the brunt of the violence perpetrated by warring parties, especially the RUF. In fact, the idea of establishing the court emerged as a result of the RUF's determination to pursue military activities in spite of signing the Lomé Agreement. The move was regarded by President Kabbah's government and the international community as an opportunity to put into context the open-ended amnesty provisions contained in the agreement, as they applied to the RUF.

The agreement establishing the SCSL was signed between the UN and the government of Sierra Leone on 16 January 2002. Located in Freetown, the court was tasked with prosecuting individuals who bore the greatest responsibility for serious violations of international humanitarian and Sierra Leonean law committed in the country from 30 November 1996 onward (Tejan-Cole 2009:226, 228). The court was thus designed to prosecute only those who played leadership roles in the conflict.

Hence, the low number of those who were prosecuted and eventually sentenced, including Moinina Fofana and Allieu Kondewa from the government-allied Civil Defence Forces (CDF); Issan Sesay, Morris Kallon and Augustine Gbao from the RUF as well as Alex Brima, Brima Kamara and Santigie Kanu from the Armed Forces Revolutionary Council (AFRC), all sentenced for jail terms of between six and 50 years. But, the most prominent case handled by the SCSL relates to the former Liberian President Charles Taylor who was sentenced in May 2012 to a 50-year imprisonment for his role in the Sierra Leonean civil war.

Politicised power-sharing and impeded transitional justice in post-civil war Burundi, Mozambique and Sierra Leone

The section above has highlighted the manner in which Burundi, Mozambique and Sierra Leone have implemented transitional justice processes following their respective civil wars. Despite some similarities, a number of differences among the three countries have been noted – attributable to the specific conditions within each state and the peculiar context of their respective civil wars and post-war situations. However, in taking into account the role played by power-sharing in the design and the implementation of transitional processes in the three countries, the paragraphs below highlight some salient trends derived from Burundi, Mozambique and Sierra Leone that may be applicable to countries having to pursue transitional justice in the aftermath of civil war ended through power-sharing.

Manipulated power-sharing and its negative impact on retributive and restorative justice

Whereas transitional justice in post-conflict countries where internal war has ended in military victory by one of the parties tends to turn into victors' justice, the cases of Burundi, Mozambique and Sierra Leone have revealed that where war ended through negotiations and power-sharing, it tends to turn into warriors' justice. In these latter settings, justice is only

pursued in its dimensions that do not threaten the political survival (and sometimes the physical freedom) of the main protagonists, in spite of their possible involvement in the commission of crimes and atrocities during the war period. This is mainly due to the fact that, in most cases, the suspected criminals are directly involved in state management during the transition and beyond. This state of affairs helps understand the total absence of lustration measures in transitional justice processes implemented in post-war Burundi, Mozambique and Sierra Leone as analysed in this article.

Although in Sierra Leone, some senior armed groups' leaders (including Foday Sankoh) were successfully prosecuted, this only became possible after international peacekeeping intervention had significantly boosted the position of President Kabbah's government, bringing the country into a *de facto* situation of a civil war won by the government.

Furthermore, while Mozambique chose to totally ignore all aspects of retributive and restorative post-war justice and Burundi failed to effectively implement several aspects of transitional justice mechanisms contained in the Arusha Agreement, Sierra Leone ought to be commended for actually establishing a fully functional TRC and the SCSL that successfully prosecuted a number of individuals implicated in the commission of the gravest crimes during the country's civil war.

Elite-driven Truth and Reconciliation Commissions with a negative impact on retributive justice

The fascination with TRC processes, as far as Africa is concerned, can be traced back to South Africa. In order to deal with the past legacy of violence that included centuries of white minority domination, 45 years of legalised racial discrimination and decades of armed resistance, South Africa adopted the TRC in 1995 on the premise that the country could only move forward by uncovering and documenting the truth as well as reconciling with itself. Furthermore, the context of the emergence of the South African TRC model was conducive to its adoption in many African countries that, like South Africa, had chosen negotiation and power-sharing as preferred mechanisms to end their respective civil wars.

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As highlighted in the previous section, no truth and reconciliation commission or mechanism was ever provided for in the General Peace Agreement for Mozambique. In Burundi, the process of establishing the TRC provided for in the Arusha Agreement experienced several setbacks as a result of the eagerness of the two largest political parties to the Agreement and the transition (UPRONA and FRODEBU) – joined since by the ruling CNDD-FDD – to ensure their direct control over this transitional justice mechanism (International Centre for Transitional Justice 2011:10).

In Sierra Leone, the TRC achieved much under very difficult circumstances. Its work enabled an open national debate on the root causes of the country's civil war and the implementation of some reparation programmes for the victims. Yet, it needed the political elite's support for the effective implementation of its recommendations. In both Burundi and Sierra Leone, the main perception is that the TRC was designed and managed in a way that does not threaten the physical freedom and political worthiness of political elites. In spite of the opportunity it provided to the country's people to uncover the truth surrounding the civil war, the Sierra Leonean TRC still fell short of imposing meaningful retributive measures (judicial prosecution or vetting) to senior political elites, including those involved in the commission of wartime crimes and atrocities.

Power-sharing and the imbalance between demanded amnesties and deserved reparations

Amnesty represents the only transitional justice mechanism that cuts across all the three countries analysed in this article. Of course, internal predicaments specific to each country determined the scope and content of amnesty laws and measures adopted by each of them.

It should be admitted that the prominent place afforded to amnesty in the three countries was, to a very large extent, a consequence of the adoption of power-sharing as the principal means to end the war in the three countries.

In all three countries, some forms of amnesty laws and measures were enacted prior to the conclusion of peace agreements between the government

and rebel groups as a demonstration by the former of its commitment to a peaceful settlement. On the other hand, the adoption of amnesty laws or measures was a response to demands from armed groups that regarded such action as *sine qua non* for their commitment to a negotiated settlement. The case of Sierra Leone is eloquent in this regard.

Still, after inclusive transitional institutions were put in place, former warring parties (either affiliated with the former government or with former rebel groups) used their newly earned privileged positions to issue further amnesty measures and laws designed to benefit wartime crime suspects. This was for instance the case in Burundi where a number of amnesty measures and laws have been taken since the signing of the Arusha Agreement in 2000.

While power-sharing was central to the adoption of wide amnesty measures and laws in post-civil war Burundi, Mozambique and Sierra Leone, it did not make similar provisions for reparation measures aimed at victims. In this regard, Mozambique totally ignored the victims of what was actually a very atrocious civil war with devastating consequences for very large numbers of the civilian population. On its part, the Arusha Agreement for Burundi failed to include victims' reparation as a specific aspect of the country's transitional justice package. Perhaps, there was an expectation from all involved parties that the issue of victims' reparation would be addressed by the country's TRC as provided for in the Agreement. Only Sierra Leone implemented victims' reparation measures following on the TRC's recommendations.

As may be learned from the Burundian, Mozambican and Sierra Leonean cases analysed in this article, power-sharing (as a means to end civil war) tends to provide former warring parties an opportunity to request and secure amnesty laws and measures for themselves. It does not necessarily cater as much for the victims. To this end, it is not exaggerated to argue that, in spite of efforts to address its impunity aspects, power-sharing brings an imbalance between amnesty and victims' reparations in post-civil war societies. Indeed, power-sharing significantly reduces the possibility

for those suspected of committing wartime crimes and atrocities to face retributive justice. At the same time, as a result of the central role it affords to those suspected of committing wartime crimes and atrocities in the post-war dispensation, power-sharing tends to place the fate of war victims – including their quest for justice – in the hands of their very victimisers.

Power-sharing which avoids or politicises referrals to the international judicial system

In Mozambique, parties to the General Peace Agreement, i.e. the FRELIMO-controlled government and RENAMO, never made any reference to the international judicial system as a means for addressing crimes and atrocities committed during the country's civil war. In Burundi, the Arusha Agreement left open, in theory, the possibility for a recourse to the international judicial system in the form of an international tribunal. However, in practice, no internationally-inspired court was set up in/for Burundi. In similar vein, no referral to the international judicial system was made by Burundian transitional and post-transitional authorities.

Sierra Leone represents the only country, among the three analysed in this article, to have made use of the international justice system in dealing with atrocities committed during the country's civil war. However, as may be recalled, the 1999 Lomé Agreement did not provide for any retributive justice mechanism. Instead, as a result of the RUF's pressure, the agreement made extensive provisions for amnesty. In this context, the establishment of a retributive justice mechanism, as symbolised by the SCSL, was only made possible after the UN Secretary General's Special Representative (for Sierra Leone), Francis Okello, reminded the parties that the amnesty provisions contained in the 1999 Lomé Agreement could not apply to war crimes, crimes against humanity and crimes of genocide. This position was further reinforced after the RUF attacked and killed civilian populations in Freetown as they marched to protest against the group's lack of commitment to peace. Still, as argued earlier, the eagerness of the international community and the Sierra Leonean government to explore judicial prosecution as one of the country's transitional justice mechanisms

was only made possible after significant international military intervention (mainly from Britain) had helped strengthen the Kabbah government's position against the RUF and its allies.

It is important to observe that the SCSL spread the blame of civil war atrocities on all non-state parties by sentencing leaders of the RUF, the AFRC and the CDF. Although CDF leaders, allied to the government, were prosecuted, there is need to emphasise that government and national army leadership were absolved of any wrongdoing during the civil war. This was despite the government's involvement in the Liberian civil war, albeit, in a retaliatory move against Charles Taylor's meddling with the Sierra Leonean civil war.

Perhaps, the most blatant case of politicisation of the international judicial system, as far as Sierra Leone is concerned, relates to Charles Taylor. He had agreed to vacate the Liberian presidency in 2003 after he was guaranteed by ECOWAS leaders that he would not be prosecuted for his involvement in the Sierra Leonean civil war (Souaré 2008:212–213). This guarantee was later abandoned and Taylor was prosecuted and eventually sentenced to a 50-year jail term, raising the concern that threat of judicial prosecution (or withdrawal thereof) had become a tool to constrain political actors to specific actions.

The experiences of Burundi, Mozambique and Sierra Leone analysed herein reveal that post-civil war countries where conflict ended through a power-sharing-based agreement tend to avoid recourse to the international judicial system. This can be seen as forming part of former warring parties' strategy not to expose themselves to the risk of prosecution in judicial institutions over which they have no meaningful control. Sierra Leone was able to steer away from this dominant trend after involvement from international role players contributed to weakening significantly the position of Foday Sankoh's RUF and its allies. Yet, as shown in this article, although commendable, the overall success of the SCSL was limited.

Nonetheless, commendable, yet limited efforts towards institutional reforms

Besides providing for amnesty and the establishment of TRCs, the Arusha and Lomé Agreements for Burundi and Sierra Leone called for institutional reforms, including the establishment of national human rights commissions and, in the case of Burundi, the office of ombudsman. In Burundi, the Office of Ombudsman was established in January 2010, a year before the establishment of the National Independent Human Rights Commission (CNIDH), while Sierra Leone set up its Human Rights Commission as early as August 2004.

In Mozambique, the end of the country's civil war brought an end to the single party system and enabled the adoption of multiparty democracy. In Burundi, the process involved in resolving the country's conflict also incidentally led to the overhaul of the country's political system through the establishment of an ethnic-based democratic regime that remains in place to this day. The Arusha Agreement is also credited with the establishment in May 2006 of the National Commission on Land and Other Assets (CNTB) tasked with, amongst other things, resolving land disputes as they relate to those displaced by the country's cyclic episodes of political violence (both Internally Displaced Persons and returning refugees).⁸ Lastly, the processes involved in ending civil wars have also enabled the establishment of autonomous election management bodies in all countries analysed in this article.

Conclusion

Countries emerging from civil wars face daunting challenges, most of which they can hardly overcome even with meaningful external assistance. Transitional justice constitutes one among such challenges. As this article has shown, Burundi, Mozambique and Sierra Leone have all had to deal

⁸ The Commission succeeded in providing the citizenry with an alternative framework to the conventional court system to resolve land-related conflicts. For a discussion on the working of the CNTB, see for instance Isbell (2017).

with demands for transitional justice in the aftermath of their respective civil wars. To a large extent, these demands were the result of the highly violent nature of these civil wars that affected large numbers of the civilian populations.

The article has found that, by affording warring parties a prominent role in the post-settlement environment, the power-sharing mechanisms set up in Burundi, Mozambique and Sierra Leone inadvertently impeded the pursuit of both restorative and retributive justice in all three countries. As an instance of warriors' justice, power-sharing was used by such actors as an instrument to avoid facing retributive justice. Indeed, due to the central position they held within the power-sharing dispensations, former warriors emphasised amnesty while paying lip service to reparations. In all three countries, the decision to revert to the international judicial system or not was mainly motivated by political calculations rather than any genuine concern for justice. Lastly, notwithstanding the shortcomings above, the consensus generally brought about by power-sharing dispensations enabled all three countries to effect institutional reforms, albeit with limited and different levels of success.

This article analysed the role of power-sharing in the design and the operationalisation of transitional justice mechanisms in post-civil war Burundi, Mozambique and Sierra Leone. Future research ought to go beyond just power-sharing to look into the contribution of other variables such as the economic situation and external influences in shaping transitional justice in African countries emerging from protracted internal wars ended through negotiations.

Meanwhile, in learning from Burundi, Mozambique and Sierra Leone, the proposals below ought to be considered with regard to addressing the tensions between power-sharing and transitional justice in such post-war settings:

- Transitional justice processes ought to include the larger public and not just be elite-focused.
- There is need to acknowledge the virtual impossibility to prosecute all wartime crimes perpetrators in the short term. Provisions ought

therefore to be made for war crimes, crimes against humanity and genocide to be prosecuted – even if a longer period than that of the initial transition is required.

- The provision of amnesty should always be conditional on potential beneficiaries committing to open up to the TRC.
- Care ought to be taken to ensure that the TRC's recommendations on victims' compensations are fully complied with by the government and all relevant stakeholders.
- Lastly, adequate space, capacity and resources ought to be afforded to civil society entities – especially community-based organisations – so as to enable them to play a meaningful role in the transitional justice process.

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Pervasive intra-party conflicts in a democratising Nigeria: Terrains, implications, drivers and options for resolution

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Abstract

Intra-party conflicts of all shapes and complexions have been part and parcel of Nigeria's democratic journey. However, in recent times, they have become much more pervasive and even assumed crisis dimensions, with negative implications for democratic stability and consolidation. Drawing from the literature and interpreting the evidence, this article examines the terrain, implications and drivers of intra-party conflicts in a democratising Nigeria with a view to recommending options for resolution. It proceeds from the premise that pervasive intra-party conflicts, which have now assumed crisis dimensions, are not given, but have been nurtured by certain structural factors which have shaped the contours of politics in Nigeria. Specifically, it argues that the crises are closely connected with the neo-patrimonial character of the Nigerian petro state, the nature of politics being played by the political actors, praetorian hangover, and the paucity of

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democrats who genuinely have democratic temperaments to play the game of democratic politics according to established rules. It calls for, among others, the reform and strengthening of the internal conflict management capacities of political parties in Nigeria.

Keywords: democracy, political parties, elections, intra-party conflicts, conflict management, Nigeria

Introduction

As political organisations, made up of individuals with divergent opinions, values, interests, and also as platforms for recruiting personnel to occupy public offices, political parties cannot but be an arena of conflict arising from mutually exclusive views, thoughts and interests. Indeed, beyond being conveniently tagged, albeit theoretically, as the media for aggregating interests and opinions within a polity (Omotola 2010:125), political parties' personalities in liberal democracy are constantly shaped and reshaped by ever-recurring conflicts among the different actors within their folds. Put differently, conflict, in different shapes and dimensions, is part and parcel of the operational architectures of political parties in a liberal democracy.

While intra-party conflict the world over may emanate in different forms and sizes, the most debilitating, not only to democracy itself but to the society as a whole, are those arising over the selection of party leadership and candidates. Ideally, political parties are expected to put in place adequate institutional frameworks for mediating conflicts that may occasionally arise among their members (see Scarrow 2005). By institutionalising such frameworks, they do not only engender consensus building within their folds, but also contribute overtly to the stability of the entire system (Simbine 2015:5). In the words of Omotola (2010:12), 'if well-institutionalized, political parties can serve as a set of mediating institutions through which differences in ideas, interests, and perceptions of political problems at a given time can be managed'.

The foregoing ideal would appear to have been internalised and institutionalised in mature liberal democracies, where institutions

for regulating power contestations within political parties have been entrenched. But in a democratising Nigeria, as in most illiberal democracies, the opposite seems to be applicable (Basiru 2015:83). Since the country re-democratised itself in 1999, it may not be out of place to assert that political parties' records in the area of internal conflict management have not been disappointing (see Olaniyan 2009; Ojukwu and Olaifa 2011), but in the last few years, the lack of conflict management has resulted in unending intra-party wrangling, ceaseless litigations, wanton party defections, among other antimonies that are rare in liberal climes (see Omilusi 2013; Nwanegbo et al. 2014). Although the problem is not new, but has been manifested during the country's previous Republics, the dimension of the problem in the Fourth Republic is indeed alarming. This is evident from the acrimonies and crises that trailed the recently concluded primaries of major political parties across the country (Daka and Abuh 2018:1).

Against the backdrop of the foregoing and considering the crisis dimension that intra-party conflicts have assumed in recent times, it is thus imperative to interrogate the pervasiveness of intra-party conflicts in a democratising Nigeria. Although there has been a plethora of works on internal democracy within political parties in a democratising Nigeria, the sphere of intra-party conflicts and management would seem to have received scant attention. The significance of this article is therefore predicated on deepening the discourse in this area. Primarily, this article examines the terrain of intra-party conflicts in a democratising Nigeria and teases out the implications of its pervasiveness for democratic peace and stability. It also identifies and engages the drivers and factors responsible for the pervasiveness of intra-party conflict in a democratising Nigeria. It then concludes and suggests options for resolution.

Conceptual framework

Though many descriptive terms in this area of study may be viewed as concepts and invite analysis, two are of central significance in this article: 'political party' and 'intra-party conflict'. In other words, what is

a political party? What constitutes intra-party conflict? However, it must be stressed that it is not an easy task to define them, as the two concepts are essentially contested (Gallie 1962:170). As regards the former, it has been conceptualised in various ways by scholars. To Sartori (1976:63), a political party is 'any political group identified by an official label that presents at elections candidates for public office'. In their contribution to the literature, Lapalombara and Anderson (2001:143) view a political party as 'any political group, in possession of an official label and a formal organisation that links center to locality, that presents at elections, and is capable of placing through elections (free or non-free) candidates for public offices'. Elsewhere, Ikelegbe and Osumah (2008:34) see a political party as a voluntary association, organised by persons bound by common interests, which seeks to acquire or retain power through the election of its candidates into public office.

What could be gleaned from the foregoing is that a political party is an entity made up of people whose aim is to translate the agenda that unites them into policy-based actions after gaining political power via the electoral process. Therefore, a political party is distinguished conceptually from other democratic institutions by the numerous functions it dispenses in a democracy. Agbaje (1999) has broadly categorised these into three, viz: electorate-related functions, government-related functions and linkage-related functions. However, it has to be stressed that, in the case of members struggling for power, the dispensation of these functions is not given but rather depends on how well a political party has institutionalised its internal mechanisms for resolving conflicts. The point here is that a political party should have internal mechanisms for managing conflicts arising among its members. Assessed against the background of the foregoing, therefore, where do we place political parties in Nigeria? We will come to this shortly, but before then, it is germane and imperative to first engage the concept of conflict and then its subset, intra-party conflict.

Suffice it to aver that the concept of conflict, in spite of its ubiquitous use in the fields of Peace Studies, cannot be pinned down to one specific definition. Indeed, as Ezirim (2010:38) remarks, it has many definitions

which all point to the same thing. To this end, it has been defined by theorists from different standpoints. Thus, for Coser (1956:8), 'conflict is a struggle over values and claims to scarce status, power, and resources in which the aims of the opponents are to neutralise, injure, or eliminate their rivals'. Elsewhere, Tjosvold and Van de Vliert (1994:304) perceive it as the interaction of interdependent people who perceive incompatible goals and interference from each other in achieving their goals. For Francis (2006:20), it is the pursuit of incompatible interests and goals by different groups. In his own contribution, Wallensteen (2002:15) says that conflict requires a disputed incompatibility, that is, two parties striving to acquire at the same time an available set of scarce resources, which can be either material or immaterial.

While the foregoing conceptual exposé on conflict would seem to have captured the various opinions of scholars on the subject, the additional perspective of Hussein and others (1999) is pertinent in this article. Specifically, they are of the view that the concept of conflict could be deployed as an all-encompassing term to cover a wide range of interactions which may include tension between resource users, disagreement between interest groups, and large-scale violence between groups. Against the background of the foregoing, therefore, intra-party conflict would suggest a clash of interests among members of a political party who are struggling over the control of the decision-making machinery of the party and other resources that could confer certain benefits on themselves. In the words of Momodu and Matudi (2013:3), 'it arises when members of the same political party pursue incompatible political goals or try to influence the decision making process of the party to their advantage'. In a similar vein, Muhammad (2008) describes it as conflict between members of a party whereby some members employ certain strategies to hijack the party machineries with the ultimate aim of serving their personal interests.

Specifically, conflicts among members often arise over issues of internal leadership recruitments, the selection of candidates for general elections, the sharing of appointive posts (in the case of the ruling party), among others. To be sure, conflict of interests among members of a political

party, if not well managed within the context of the legal and institutional framework of the party, could escalate into intense competition (for instance, disputants taking uncompromising positions) and eventually, into violence (such as assassination and arson).

The terrain of intra-party conflicts in Nigeria's Fourth Republic

Perhaps, given the tortuous journey towards democracy and the Fourth Republic in 1999, it would have been expected that political parties had learnt from the errors of the past. Unfortunately, as the case illustration below demonstrates, the terrain of intra-party conflict management did not improve. In the words of Muhammed (2008:11), 'the intra party conflict has remained a predominant feature of partisan politics in the Nigeria's Fourth Republic. Virtually all major political parties in this republic are afflicted with the virus of internal crisis'. Echoing the position of Muhammed in the year preceding the 2015 general elections, Olorungbemi (2014:248) avers that, 'since the inception of the present democratic rule in 1999, political party organizations were transformed into a battle field characterized by hatred, enmity, victimization and suspicion resulting from bitter struggles among party members in their quest to achieve public and/or personal interests'.

As a matter of fact, no party, in recent times in Nigeria, illustrates the crisis dimension that intra-party conflicts and their poor management have assumed better than the ruling All Progressives Congress (APC). It was formed on 6 February 2013 following the merger of the All Nigeria Peoples' Party (ANPP), the Action Congress of Nigeria (ACN), the Congress for Progressives Change (CPC) and a faction of the All Progressives Grand Alliance (APGA) (Mazen 2013:1). Prior to this era, the People's Democratic Party (PDP) had dominated the country's political scene – winning presidential elections, controlling both the Senate and the House of Representatives, as well as state governments, including various states' Houses of Assembly and Local Government Councils (Basiru 2015:84). The coming of the APC was therefore generally believed to herald a strong

opposition party that would give the ruling PDP strong competition (see Murtala 2013:1).

Indeed, true to this general belief, the APC reversed the dominance of the PDP in subsequent general elections. Specifically, it won the 2015 presidential election by almost 2.6 million votes. In addition, it won the majority of seats in the Senate and the House of Representatives (BBC 2015; Punch 2015a; Punch 2015b). It was not long, however, before it got entangled in a web of internal crises and fissures arising over the sharing of executive positions. For instance, barely a year after its formal recognition by the electoral body, three of its founding leaders, Mallam Ibrahim Shekarau, Chief Tom Ikimi and Chief Annie Okonkwo, left the party, arguing that they felt almost marginalised (Daily Post 2014:1; Premium Times 2014:1).

Specifically, Tomi Ikimi, who had played a major role during merger talks between competing factions, resigned from the party on 26 August 2014, after he had confronted the National leader of the party, Asiwaju Bola Tinubu, and his group for imposing what he called 'strange leadership' on the party (Owete 2014:1). To be sure, his resignation was a fall out of the leadership crisis that trailed the National Convention of the party held in Abuja on 13 June 2014. To put the record straight, Chief Ikimi, having lost out in the power game to assume the chairmanship of the party, perhaps felt that he was schemed out by Tinubu and his group. In a lengthy letter addressed to the Chairman of the party, Chief Odigie Oyejun, dated 27 August 2014, he openly accused Tinubu of hijacking the party for his personal aggrandizement. An excerpt from the letter reads:

This reckless and arrogant self-aggrandizement paved the way for the imposition of a strange leadership on the APC in July 2013 when the party obtained registration from INEC [Independent National Electoral Commission]. Those of us who had worked so hard towards the successful merger and creation of the APC were manipulated out of the scheme of things. In the bizarre struggle to seize control of the party we were even openly accused by the self-proclaimed owners of the party, of wanting to steal 'their' party (quoted in Owete 2014:6).

Indeed, not only did these founding leaders leave the party, but their numerous supporters followed suit and left the ruling PDP weakened. Castigating the APC, after joining the PDP, Alhaji Modu Sherrif, another founding leader who played a major role during the merger exercise, was reported to have stated, 'I have taken time to study the package called APC and come to realise that it won't work. And any serious politician who knows his onions would not want to be in a ship that is bound to crash' (quoted in Adebajo 2018:4). Although the party would seem to have succeeded in managing the next threat to its existence – the organisation of the 2014 presidential primary – and even although it assumed the dominance of the country's political terrain in the aftermath of the 2015 general elections, intra-party crises have remained pervasive. These could be discerned in the acrimonious party primaries and congresses across the states in the run-up to the 2019 general elections.

Between 29 May 2015, when many politicians who won elections in March and April of the same year were sworn in, and 30 June 2018, the party conducted gubernatorial primaries in Kogi, Bayelsa, Anambra, Edo and Ondo states. Except in Anambra and Bayelsa states in which the exercises to a reasonable extent were well managed by the national and state leadership of the party, others were so acrimonious that it created schisms at the national level. The 2016 Ondo State gubernatorial primary offers an illustration here. To be sure, the primary, besides generating a 'war-like' atmosphere among the contestants, pitched the party's chairman, Chief Odigie Oyegun, against the national leader of the party, Bola Tinubu. The latter accused the former of manipulating the party's guidelines to favour one of the candidates in order to emerge as the party's flag-bearer in the November 2016 poll (Azikem 2016:1). In a lengthy communiqué, issued through his media office, Tinubu was reported to have accused Oyegun of sabotaging the will of democracy in Ondo state. In his words:

[A]s a party chairman, Oyegun was supposed to protect our internal processes and be an impartial arbiter, a person in whom all had confidence. Instead, he donned the garment of a confident man, duping the NWC [National Working Committee], the party, and INEC in one fell blow. He has robbed APC members in Ondo State of the chance to pick in a fair manner who they believe is the best candidate (quoted in Azikem 2016:6).

In reaction to the allegation levelled against him by Tinubu and the calls for his resignation, the party chairman described the allegations as ‘reckless falsehood’. One of the paragraphs of his rebuttal reads:

This reckless and baseless corruption allegation leveled against me is unfortunate and an insult to my person and my hard-earned reputation which I have strongly maintained. Nobody has the kind of money that can buy my conscience or makes me do injury to an innocent man. In all the primaries conducted under my watch as National Chairman, I have strived to ensure a free, fair, transparent and credible process. The 2016 Ondo State APC Governorship Primary Election was not an exception (Premium Times 2016:1).

In the aftermath of the Ondo State Governorship Primary imbroglio, neither did Oyegun resign as demanded by Tinubu nor did the party go into extinction in Ondo State, but the reverberation of the impasse would seem to have set the stage for future confrontations between the two party leaders. Indeed, barely eighteen months after the Ondo State affair, the personality clash between the two figures came into the open again when Tinubu publicly accused Oyegun of frustrating his efforts at reconciling aggrieved party members across the states (Oladesu 2018:1). In a letter dated 21 February 2018, entitled ‘Actions and conduct weakening the party from within’ and sent to the President, Vice-President, Senate President and the Speaker of the House of Representatives, Tinubu alleges:

Drawing from your behaviour in Kogi, Kaduna and with regard to the state chapter assessment requested, I am led to the inference that you have no intention of actually supporting my assignment. Instead, you apparently seek to undermine my mandate by engaging in dilatory tactics for the most part. When forced to act, you do so in an arbitrary and capricious manner, without the counsel of other NWC members and without regard to our internal procedures. You may have personal qualms with me. That is your right as a human being. However, you have no such right as the chairman of this party. This party belongs to all of its members. You have no greater claim on it than any of the rest of us (The Nation 2018:6).

In his response, Oyegun claimed that he gave full support to Tinubu in the discharge of his duties in resolving the APC crisis (Nwafor 2018:1). Interestingly, the open rifts between the two *dramatis personae* may also have played out during the tenure elongation imbroglio. In line with Article 17(1) and 13.2(B) of the party's constitution and Section 223 of the 1999 Constitution, which limit tenure of elected officers to 4 years, renewable once by election, the tenure of the Oyegun-led National Executive Council (NEC) was to run out on 30 June 2018. However, there arose, in some quarters within the party, a call for tenure extension of the body. The implication of this call is that there would not be a need for a National Convention of the party because the tenure of the current NEC has been extended (see Olagoke 2018).

To be sure, the pro-tenure elongation group justified their contention on the ground that holding a National Convention and congresses a few months before the party primaries across all levels would create chaos, and might affect the electoral fortune of the party in the 2019 general elections. Conversely, the other group insisted that the provisions of the party's constitution, which stipulate periodic elections, must be adhered to so as not to incur the wrath of the electoral body. In the end, however, the position of the latter prevailed, as the party gave it official backing at the caucus meeting held in May 2018. Soonest, true to the fear and predictions of the pro-extension group, except the National Convention of the party held without rancour in Abuja on 23 June 2018, congresses conducted at all levels to elect the party executives, were marred by crisis. In Lagos, for instance, a jurisdiction that many may have expected to be crisis free, due to perceived hegemonic hold of the National leader on the state, there were two parallel congresses (This Day 2016:8).

Indeed, if the map of the country was shaded with a colour to indicate all places where congresses generated into an open rift, there would hardly be an unshaded portion on the map. Interestingly, the rancorous congresses across the country, as predicted, snowballed into the party's primaries to elect the candidates for the 2015 general elections. Although the National Convention of the party produced the incumbent president, Muhammadu

Buhari in a rancour-free atmosphere, the same remark might not be made about other primaries to elect State Governors, members of the National Assembly and members of the State Houses of Assembly (Neme 2018:3; Ebiri 2018:8; Akeregha 2018:3). Centring mainly on the mode of electing candidates, the party was further factionalised. In the majority of States, barring the few in which the earlier party congresses were well managed, there were tussles between the State Governors and those opposed to what they regarded as State Governors' imposition. Very soon, the National Chairman, Comrade Adam Oshiomhole, was caught up in the crises which rocked three States (Abuh 2018:12).

As a matter of fact, the latent conflict came into the open when three Governors, Abdel Aziz Yari, Rochas Okorochoa and Ibikunle Amosun of Zamfara, Imo and Ogun States, respectively, accused the National Chairman of being behind the crises in their States. The Governors of Imo and Ogun States were clinically scathing in their attacks of the party chairman. The former of the two claimed that the fortunes of the party, not only in Imo State but also in the South-east, had suffered a reversal under the chairman. His counterpart from Ogun State criticised the chairman for visiting injustice on Ogun by not allowing the wishes of the people to stand (Fabiya et al. 2018:8). Responding to these criticisms within twenty-four hours, the chairman informed the public that the renewed attacks on him were a result of the failure of the governors concerned to foist an undemocratic process on the party (Ebegbulam 2018:1). As regards Governor Okorochoa, he stated: '... what I am not able to do for Governor Okorochoa is to assist him with the instrument of APC to help him to build a political dynasty' (Alechenu and Akinkuotu 2018:8). What could be gleaned from the foregoing narratives is that the ruling APC, like the PDP, had also been caught in the web of pervasive intra-party conflicts.

Implications of pervasive intra-party conflicts

Pervasive intra-party conflicts as painted in the foregoing paragraphs could have wide-ranging implications for the peace and stability of a society, especially one that is still trying to consolidate democratic governance.

In the first place, they are not only a threat to the party concerned, but also a major source of political instability. Functionally, as remarked earlier, political parties, performing their traditional responsibilities of internal conflict management could be purveyors of political stability in the society. However, political parties that are unable to marshal disagreements within the frameworks of extant rules are not likely to be able to perform functions that could enhance the stability of the polity (Omotola 2010:130). Seen this way, therefore, intra-party squabbles and ‘wars’, as are characteristic of the post-1999 Nigerian politics (Omoruyi 2002:8), have not only institutionalised indiscipline and political vagrancy (Basiru 2015: 92), but have, as the narrative of the APC’s crisis has shown, created an environment for political instability both within and outside the parties. In their insightful study on the internal working of the PDP prior to the 2003 general elections, Amadasu and Amadasu (2003:120) implicate the party as an organisation riddled with internal schisms, brigandage and subterfuge. These pathologies, according to them, do not only weaken the party, but also do not allow for cooperative effort or support needed by the party to develop the economy. However, to draw a conclusion that pervasive intra-party conflicts and their antimonies are trademarks of only the ruling parties would perhaps amount to taking a jaundiced position. Indeed, the intra-party conflicts that rocked the Allied Congress Party of Nigeria (ACPN), in the run-up to the recently concluded presidential election, offer an illustration here. The conflict centred on the rift between the party’s presidential candidate, Dr Obiageli Ezekwesili and key officials of the party led by the chairman of the party, Alhaji Ganiyu Galadima. The chairman and other key officials of the party did not only direct their numerous members, following Dr Ezekwesili’s withdrawal from the presidential race, to support the APC’s presidential candidate, but also accused Dr Ezekwesili of using the party’s platform to negotiate herself into the position of the country’s finance minister. She was further accused of not consulting with the party before withdrawing from the presidential race on 24 January 2019 (Ugbede 2019a). In her reaction to the party’s allegation, Dr Ezekwesili accused the party and its leadership

of engaging in transactional politics which she detested (Ugbede 2019b). What is inferable from the foregoing illustration is that minor parties may also be caught in the web of pervasive intra-party squabbles.

Beyond being an albatross to societal peace and democratic stability, intractable intra-party conflicts, if not nipped in the bud, could also play out at the horizontal level of intra-governmental relations. Specifically, such conflicts could create unhealthy executive-legislative relations, especially in the spheres of public budgets and appointment ratifications (Aiyede and Isumonah 2002; Aiyede 2005). Theoretically, the executive and the legislative arms of government are meant to be autonomous of each other, but the realities and complexities of modern societies have made their co-operation imperative (Basiru 2014:80). Although conflicts and gridlocks between the two organs are sometimes inevitable, this could be better managed where there is a culture of party discipline and cohesion. Where such is lacking and intra-party conflicts have become so pervasive, executive-legislative gridlocks, when they do occur, are often akin to brinkmanship, if not warfare. As a matter of fact, since the return of Nigeria to democracy in 1999, there have been many documented instances in which legislators and Governors in the same parties, did not only frustrate governance but also attempted to destabilise the social system. The 2004/2005 intra-party crisis in Oyo State's PDP offers an illustration here. While it lasted, it did not only polarise the party into Alhaji Adedibu and Governor Ladoja camps, but also the State's legislature. The zenith of the crisis was when the Governor was illegally impeached by the legislators loyal to Alhaji Lamidi Adedibu on 3 January 2005 (see Ladoja 2018:12).

At another level, the intra-party conflicts had, in many instances, led to the criminalisation of political struggles in which politicians engaged in an assassination spree (Basiru 2015:92). As reported, between 2001 and 2006, many political heavyweights, from all sides of the political spectrum, were felled down by assassins. These include among others Chief Bola Ige, Chief Harry Marshall, Ahmed Pategi, Funso Williams (Olorungbemi 2014:263). Finally, in the course of contestation for power within a party, players may embark on primordial mobilisation which could create further divisions

in the society which in the long run will threaten national stability. The 2002 impeachment crisis in the national government in Nigeria illustrates this clearly. At the height of the intra-party crisis in the PDP in which the President and the Speaker of the House of Representatives were involved, both personalities resorted to ethnic mobilisation in order to outwit each other (see Omotola 2006). By such actions, the ethnic groups of the two personalities, within and outside the House of Representatives, also got involved in the crisis (Fashagba 2010:136–137).

Predisposing factors and drivers

The previous sections of this paper have teased out the implications of intra-party conflicts for society peace and democratic stability. Since such conflicts are pervasive and have permeated the country's body politik, the poser is raised: how are pervasive intra-party conflicts to be explained? To be sure, this calls for the deciphering of the predisposing factors and drivers of intra-party conflicts.

The first thesis that is proposed here is that a weak party system, the incubator of pervasive intra-party conflicts in Nigeria's Fourth Republic, cannot be divorced from the character and content of the democratisation project that was first imposed on Nigeria and other African countries by the colonial authorities during the decolonisation era. The project was further marketed and promoted by the Bretton Woods institutions, as part of the 'political conditionality' packages, during the structural adjustment era (Adetula 2011:10). As argued elsewhere, this factor can be better understood and appreciated if situated within the context of the country's colonial history (Basiru 2015:93). The argument being teased out here is that liberal democracy and all its appurtenances, inclusive of political parties, emerged in Nigeria within a colonial framework. As Basiru (2018:137) remarks, 'liberal democracy and its institutional components, like other Eurocentric social institutions that have become an integral part of Nigeria's socio-economic and political existence, were products of British colonial engineering'. To be sure, with colonial order in place, many functioning traditional democracies in Nigeria and elsewhere in Africa were supplanted

by the European-modelled bureaucratic state. What thus emerged, was a model of democracy whose underlying ideologies and values were alien to the players (Parekh 1993). Indeed, when liberal competitive democracy, adapted to the European cultural milieu, superseded pre-colonial traditions in Africa, it took another form. Resultantly, what blossomed in Nigeria and other colonies in Africa, was a democracy that was in content and form markedly different from the one in Europe (Mafeje 2002). Interestingly, by the time party democracy eventually emerged in colonial Nigeria, during the decolonisation phase of its evolution, what emerged were parties that were the complete opposite of parties in Europe – lacking internal discipline and a democratic ethos. The point here is that institutions of liberal democracy, including party politics, exported to Africa/Nigeria did not fit into the African cultural milieu. Putting this in perspective, Finkel and others (2008:15) aver, ‘the adoption of particular institutions (elections, legislatures, universal suffrage, and so on) is ... a necessary but not a sufficient condition for the establishment of democracy’. Deductively, therefore, the pervasive intra-party conflicts that have characterised party politics in the post-1999 era, as those in the previous Republics, are throwbacks of the crises of the liberal democratisation project in Nigeria/Africa.

Closely related to the above is the issue of praetorian hangover. Put differently, consider the effect of long years of military dictatorship on the country’s political firmament and the attendant implications on the nascent democratic project in the country. Prior to 1999, the military, for fifteen years, dominated the country’s politics and while in power, the military wing of the ruling elites became focused on accumulating wealth. By the time the institution exited from politics, some of them, labeled as the ‘political soldiers’, joined some of the newly formed political parties, especially the ruling PDP (Adekanye 2000). Upon joining these parties, their military instincts would seem to have become manifest, and they were unable to acculturise into the new democratic environment. In the words of Omotola (2010:66), ‘the dominance of the retired officials, without a corresponding reorientation of values and sufficient time lag to adjust to civil life, meant they came into the democratic job with a military ethos

and mindset'. The case of the first democratically elected president in the Fourth Republic, General Obasanjo, offers an illustration here. Having been given state pardon by the regime of General Abdulsalam Abubakar in 1998, he joined the PDP, received its presidential ticket and later won the presidential election and was sworn in as president on 29 May 1999. Upon consolidating his hold on power, he began the process of de-democratising and de-institutionalising the party: altering rules, applying intimidation and triggering conflicts of various genres (see Basiru 2015:96; Amadasu and Amadasu 2003:120).

The neo-patrimonial character of the Nigerian state and the politics that it engenders offers another perspective for understanding the causes of pervasive intra-party crises in a democratising Nigeria. The Nigerian petro-state, unlike the taxation-driven states, is not really a productive one but a rentier one that depends on oil rent (Obi 2011:62). Given its central role in the economy and collection of oil rents, coupled with its non-autonomy in relations to the social classes, the Nigerian petro-state, over the years, has become the arena of intra-class struggles in which the triumphant party becomes the dispenser of oil wealth. And given the imperial nature of the country's presidential system, the individual that captures power through the instrumentality of the ruling party becomes the holder of the keys to the country's treasury (see Basiru 2016). This reality may have accounted for the fierce struggles among the key gladiators in PDP – in the run-ups to the 2003, 2007 and 2011 presidential elections – to get the party's presidential ticket to preside over the department of capital accumulation (Okereka 2015:100; Amadasu and Amadasu 2003:120).

Conclusion and recommendations

In liberal jurisdictions, political parties have, over the years, evolved efficient institutional frameworks for dealing with conflicts among their rank and file, to prevent them from escalating into crises. In contrast, Nigeria's political parties, as it has been demonstrated in this article, have not really institutionalised such frameworks. Resultantly, intra-party conflicts, and all genres of antinomies associated with them, have become

ubiquitous in recent times. This article has reflected on these, discussed their implications for societal peace and stability and identified their drivers. As has been revealed through the example of the All Progressive Congress (APC), pervasive intra-party conflicts are not only threats to democratic consolidation but also to social harmony and stability. They may snow-ball into intra-governmental crises and by so doing, affect governance and development. To conclude, the arguments above clearly suggest that intra-party conflicts are rooted in a genre of political practice which makes entrance into public office a surety for easy access to public resources and an avenue to private accumulation of wealth.

On this basis and also as an imperative to chart a way forward, a number of reform measures are suggested. At a more general level, to this end, concerted efforts should be made by concerned agencies in charge of national organisations to acculturalise and re-orientate the political actors, especially the gladiators, towards embracing the age-long meaning of politics – which is service to the community. Indeed, in some jurisdictions with a longer history of democratic practice, democratic politics is seen by politicians as calls to service. Perhaps, that partly explains why electoral games, within and outside political parties, in such climes are played with decorum and civility. Rather unfortunately among the later democratisers, as in the case being examined in this study, democratic politics and its niceties are portrayed as an investment. Such orientations have over the years tended to heighten the premium placed on capturing political power within and outside the political parties. Therefore the conditions, material or otherwise, that make politics and by extension intra-party struggles for power ‘warlike’, should be looked into. Civil society organisations, through a strong and robust advocacy, must ensure that efforts are geared towards reviewing the cost of governance in Nigeria. The aim here is to make public office less attractive, and by so doing, decrease the desperation of the members of the political class to capture power at all cost. Civil society organisations must engage and promote an agenda towards re-engineering politics and governance in Nigeria.

Beyond the foregoing general recommendation, political parties in Nigeria urgently need to re-examine and re-engineer their internal mechanisms for managing conflicts within them. Although there is no doubt that almost all political parties in the country have processes for internal conflict management enshrined in their constitutions, it would appear from existential realities that these institutional frameworks are weak. They, therefore, need to be re-engineered and further strengthened. Further, political parties in Nigeria, especially the most powerful, must work towards strengthening the capacities of local branches in the sphere of conflict resolution. In other words, the extant centralised approach to intra-party resolution of conflicts needs to be replaced by a decentralised approach in which local branches play pivotal roles. Again, political parties should attempt to incorporate non-adversarial conflict management models into their internal conflict management menu. This will help to inculcate a culture of trust and win-win attitudes at all levels within parties.

Finally, the judiciary, usually the next port of call when internal party resolution mechanisms fail to resolve lingering conflicts, needs to be reformed for enhanced electoral justice delivery. To this end, reforms to ensure efficient and speedy dispensation of electoral justice need to be urgently undertaken. Attempts may, for instance, be made by concerned authorities in Nigeria to establish special courts, like election petition tribunals, with jurisdictions over intra-party conflicts. An efficient judicial sector that can deliver justice speedily will contribute to lessening tensions among disputants within parties.

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Book review

A Theory of Mediators' Ethics: Foundations, rationale, and application

Shapira, Omer 2016

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*Reviewed by Saran Fina Sidime**

Introduction

A Theory of Mediators' Ethics is Omer Shapira's attempt at rectifying, in his view, a lack of clear and updated ethical guidance for mediators and theoreticians. Shapira, therefore, assumes the ambitious task of providing various codes of conduct and a guide for how to identify, and understand the content and scope of mediation norms. The author divides the book into three parts with a total of 16 chapters and two appendix sections. The first part, entitled 'A theory of professional ethics', expounds on the ethical principles undergirding professionalism which apply to the practice

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of mediation. The second, 'A theory of mediators' ethics', delves into the content and meaning of the norms of mediators' ethics. The third and final part, 'Dealing with ethical problems', demonstrates the ways in which the theory of mediators' ethics applies to ethical scenarios mediators confront in their practice.

Defining mediators' ethics

According to the author's own explanation, the book is not a textbook on mediation laws, but 'a monograph constructing a general theory of mediators'. While the book mainly applies to mediators in the 'United States, United Kingdom, Canada, Australia, and other Anglo-American countries that share the definition of mediators' role suggested in the book' (p. xxiii), additional beneficiaries include 'all those who have a stake in the practice and study of mediation: mediation teachers and students; actual and potential mediation participants; mediation organizations; program directors and staff; policymakers; ethical advisory bodies and the ADR [Alternative Dispute Resolution] community' (p. xxvii). Central to the author's argument is the tenet that all those who engage in the practice of mediation – professionals (paid, organised, highly skilled, experienced mediators) and non-professionals (volunteer, unorganised, amateur, sporadic mediators) alike – ought to be bound by the same ethical code of conduct. Hence, mediators' ethics is defined as 'ethics that apply to all those who perform the role of mediators' (p. 8). The recognition here is that mediation practice is at present highly unregulated and broadly varied, thus necessitating well defined and categorised moral and ethical codes of conduct.

Philosophical framework

Relying on philosophers Lon Fuller and Bernard Gert, Shapira adopts a critical morality framework to engage the ethical demands in mediation practice. He departs from *descriptive virtue ethics* and takes a stance on *ethics as particular morality*. Further emphasising this point, the author states that 'moral norms are not absolute and may be deviated from on the basis of objective reasons of rationality and impartiality' (p. 22).

Ethical mediation practice then is understood to exercise duty towards employers, principals, parties, the profession, and the public (p. 337). The author employs these fundamental concepts and organises them into a Proposed Model Code of Conduct for Mediators (pp. 397–411). The Proposed Code, ‘aims at supplementing, *not replacing*, legislation, case-law, court rules or other professional rules of obligatory force applicable to mediators’ (p. 397) and serves as a point of reference for reforming existing codes, e.g. the 2005 Model Standards of Conduct for Mediators (p. xxvii).

Mediation beyond borders

The premise behind Shapira’s argument is that the practice of mediation is quickly outgrowing existing codes of norms, and the Proposed Code, he adds, is to serve as a point of reference for reforming existing codes (p. xxvii). Let us consider for example the practice of international peace mediation. Mere codes of conduct are proving insufficient, and authors Brenda Daly, Noelle Higgins, and Sarah Bolger explore this point in their 2010 paper, ‘International Peace Mediators and Codes of Conduct: An Analysis’. These authors argue: ‘In order for the Proposed Code to be effective, however, it might need to consider moving beyond ‘codes of conduct to include training of mediators and perhaps involve some level of uniformity between mediation organisations, which some practitioners believe are necessary to ensure a positive mediation process’ (Daly, Higgins and Bolger 2010:10).

Cultural context

Shapira emphasises that mediators’ ethics, ‘cannot rely on abstract principles alone, but must be contextualized, grounded in the particularities of mediation cases’ (p. 345). Mediation practice, in Shapira’s view, often requires the mediators’ critical analysis and moral engagement in varied case by case circumstances. While the author vehemently opposes ethical relativism, there is little mention of cultural competency. Such inattention weakens Shapira’s argument for particularity. While Shapira adopts a set of liberal values that are assimilated into his Proposed Model Code of Conduct

for Mediators (pp. 397–411), none requires mediators' engagement with ethics outside of their own context. Contextualisation requires cultural understanding. As previously mentioned, in the case of international mediation, various actors and diverse ethical challenges may be involved. While many institutions including those in Africa are adopting the Code of Professional Conduct as prescribed by the International Mediation Institute (IMI), these codes remain subject to necessary amendments in order to make them applicable to African circumstances (Mediate Africa Dispute Resolution Services 2013).

In her review of the book, Barbara Wilson takes issue with Shapira on the notion that there be consensus among theoreticians in Western developed societies on fundamental social values (Wilson 2018:51). While a fair critique, these countries, at minimum share a common context. For the African reader, at first glance, the book does little to add to the effectiveness of current practice in ethical mediation. In this aspect, the book is limited in scope and applicability. Where Shapira is successful, is in the relevance of the fundamental question he raises about the necessity for ethical guidance. If ethical challenges for mediators are global, is there indeed a need for 'professional' and ethical guidance even for those mediators in Africa? While ethical challenges might differ per context, the necessity for clear codes of conduct remains. In this regard, Shapira's work is useful.

Conclusion

The strength of Shapira's extensive and comprehensive text, is the innovative combination of various forms of resources including literature on morality and professional ethics, major codes of conduct for mediators in Anglo-American countries, the writings of mediation experts, the author's own experience of sitting in on a mediator ethics committee and drafting ethics opinions in response to mediator queries. The result is a substantive contribution to the profession of mediation. While the relevance of the Proposed Model Code of Conduct for Mediators is limited with regard to context and culture, it is a helpful foundation for further development on mediators' ethics. Shapira successfully reaches the intended goal of

providing tools for guiding mediators. These tools, at the very least, can begin to guide mediators no matter their location and context and indeed ‘fill up lacunas’ of ethical guidance in mediation practice. For the African audience, it can at best, serve as a basis for some comparative analysis of ethical mediation practices.

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