

CONFLICT TRENDS

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BY **VASU GOUNDEN**



As 2012 comes to a close, I am reminded of a visit that I made to Syria in September 2010 with Mr Aziz Pahad, the African Centre for the Constructive Resolution of Disputes (ACCORD) Senior Political Advisor and South Africa's Deputy Minister of Foreign Affairs from 1994 to 2009. In September 2010 Syria's violent conflict was confined to a few areas and involved clashes between street protesters and the police. The purpose of our visit was to engage in dialogue with all the parties to the conflict and to share with them South Africa's experience of peaceful negotiations that ended our own conflict almost two decades earlier.

Our message was simple: peaceful dialogue is preferable to war. We stressed to all those that we met from the government and the opposition forces that dialogue involves compromise and that 'timing' is key to ensuring a successful negotiated outcome. We emphasised that a further deterioration of the situation will likely harden attitudes and positions on all sides and make compromises much more difficult to reach. We urged the parties to immediately engage in inclusive negotiations to address the grievances that were leading to widespread discontent in the country.

In 2010 the Syrian conflict was confined to violent protests only. It was not yet a full-scale civil war. There were few deaths then – unlike the more than 50 000 deaths that are witnessed today and that have resulted in significant entrenchment of the conflict, making compromise now even more difficult. Also, in 2010, external factors did not dominate the conflict landscape as they do today. This further makes a Syrian-owned solution very difficult to reach.

In 2010, while President Assad's government had more power to lose, it was in a much stronger position to negotiate a favourable outcome and a gradual transition to a new political order. It was the right time then for negotiation. Today the situation is different; they are now facing an armed opposition in control of territory, not just

street protesters. However, even today, given the global dynamics and the situation on the ground, there is still time to negotiate, with all sides having relative power and with challenges that create opportunities for compromise. Tomorrow the only alternative may be between winning or losing on the battle-field.

As we end this year and ACCORD celebrates its twentieth anniversary, I am sadly reminded of the many lost opportunities we have had over the years to get parties to negotiate early so that lives could be saved and other human injustices averted. We have had the opportunity over the last twenty years to dialogue with many protagonists in Africa and elsewhere to convince them of the need to negotiate timeously and from a position of strength. Some have heeded the call and are still alive and in many cases still exercising some power. Others, sadly, are either dead or in the political wilderness.

The parties, and especially the leaders, have a responsibility to put the interests of their nations first and not to take positions whose outcomes lead to destruction. The burden for a negotiated solution also lies with external parties who have a direct or indirect interest in the country and oftentimes encourage parties to take irresponsible positions. Mediators also have a special responsibility to understand the dynamics of a conflict very well and to creatively and productively engage the parties in attempting to find constructive solutions. Today we seem only too keen to seek military solutions first! This is the seemingly easy, but enormously more costly, route to follow. The Syrian crisis reminds us that we need renewed commitments to seeking peaceful and negotiated solutions timeously! **A**

Vasu Gouden is the Founder and Executive Director of ACCORD.

ELECTION RELATED VIOLENCE: BEYOND ELECTORAL SYSTEMS AND NORMATIVE STANDARDS

BY KISIANGANI EMMANUEL

*"The fundamental problem that has turned elections into violent conflicts is Africa's crisis of governance."*¹



REUTERS / THE BIGGER PICTURE

Introduction

Electoral violence is becoming a common feature in African politics. Analyses of the causes of this phenomenon often focus on the electoral process and institutions charged with overseeing it. Election-related violence, however, reflects deep-seated problems including dislocations in the socio-economic and political fabric. In other words, elections can easily become a mechanism through which public questions on issues of governance and distribution of

national resources are violently contested. In identifying the basis of election related violence, this article aims to focus not only upon the rules and procedures for administering elections, but also on the broader structural architecture of governance. There are many conceptions of electoral

Above: Electoral violence is becoming a common feature in African politics.



Police in Togo clashed with opposition protesters in Lomé as tensions over the upcoming legislative elections escalated (August 2012).

democracy, each of which has distinct implications about what kind of legislation should be adopted.² Moreover, there is a growing body of literature that deals specifically with the question of how the design of election systems can either prevent conflict or promote peaceful solutions to existing ones.³

This article therefore maintains that lasting solutions to election related violence should not only be sought in the technical deficiencies of the electoral process. Rather, broader structural problems of governance must also be addressed.

Elections in Africa in Context

Elections are supposed to be a civilising activity, a process by which citizens choose their leaders. While elections have been an integral part of post-independence politics in African nations, they assumed a new dimension following the so-called third wave of democratisation in the late 1980s and early 1990s.⁴ This brought a change in constitutions across much of sub-Saharan Africa enshrining provisions for regular legislative and presidential elections. This was hailed as a triumph of electoral democracy. Indeed, by the end of the 1990s, virtually all of sub-Saharan Africa had adopted one or another form of elections.

Several years on, the record of free and fair elections on the continent has been mixed. In the specific cases of Ghana, Namibia, Mozambique and South Africa, the election process has been promising. In other cases, including Angola (1992), Kenya (2007/2008), Zimbabwe (2008) and Côte d'Ivoire (2011), the promise of elections as an alternative to violence and a key component of democracy has, paradoxically, turned into a source of conflict and violence. What explains the phenomenon of elections leading to intense violence in some countries but not in others?

The unravelling of elections in a number of African countries is a source of concern. Some studies have focused on political parties and electoral systems for answers as to the causes of electoral violence.⁵ The reality is, however, that election related violence is a function of complex problems that result from multi-layered interactions of socio-economic and political factors. Some are historical in nature. They are not simply the rules that govern the electoral system and the administration of that process. A full understanding of electoral violence in Africa requires a conceptualisation that views election violence as part and parcel of the broader architecture of governance. The core of this endeavour goes beyond delineating normative frameworks for governing

elections since elections beget violence when they form a platform on which deeper structural issues are contested.

Defining Electoral Violence

Violence is generally viewed in terms of the 'intentional use of physical force or power, threatened or actual, against oneself, another person, or group'.⁶ The destructive effects of violence on the relationships between groups and individuals are well documented. The question raised is: How does election violence vary from other forms of violence?

Election violence is generically categorised as belonging to either or both of the following two strands. First, it is 'a type of fraud', which refers to 'clandestine efforts to shape election results'.⁷ This includes activities such as ballot rigging, vote buying, and disruptions of the registration process. Second, election violence is manifest as 'a sub-set of activities in a political conflict clustered around the time of an election'.⁸ Election violence is thus distinguished by actors, activities, timing, and motives.⁹ There is sometimes only a fine line between election violence and criminal activity. Kristine Höglund identifies three main areas that create enabling conditions that trigger factors for election violence: the nature of politics in conflict societies, the nature of competitive elections, and the incentives created by electoral institutions.¹⁰ Höglund observes that these clusters of factors are important for understanding 'election violence between different societies and across elections in a specific country'. Although there may be a variety of disaggregated motives, the broad objective of election violence is to influence the electoral process and its outcome.

Election violence takes place not just during elections, but also during the periods leading up to and immediately after them, such as campaign season and the counting of ballots. Timing and motive are what distinguish election violence, which is the tool of trade for the intimidation and disempowerment of political opponents. Derrick Marco identifies the following as acts that possibly constitute election violence or are used in its implementation:

'Assassination, attempted assassination, assault (including battering and threats of violence), torture, sexual assault (including rape and sexual harassment), abduction, confinement, obstruction, hijacking, threats and intimidation, defamation and character assassination or insults and damage to reputation, hate speech, political thuggery (such as using private militia or gangs), arson, looting, destruction of property, damage to property, displacement through violent acts, violent or physical disruptions of public meetings, disruption of campaign rallies or civic education activities, closure of opposition offices, removal or damage of posters, and creating no-go areas for the opposition.'¹¹



REUTERS / THE BIGGER PICTURE

Children hold burnt election ballots outside a polling station in Matete district, Kinshasa, the Democratic Republic of the Congo (November 2011).

Marco's toolkit focuses on the activities of individual political actors and their supporters. There are, however, other factors, including state actors, such as the security apparatus, the media, election management bodies, and external players. These can all trigger or exacerbate electoral violence. The media and external actors can heighten tensions by pursuing narrow selfish agendas while reporting on the elections, including ignoring relevant data.

A FULL UNDERSTANDING OF ELECTION VIOLENCE IN AFRICA REQUIRES A CONCEPTUALISATION THAT VIEWS ELECTION VIOLENCE AS PART AND PARCEL OF THE BROADER ARCHITECTURE OF GOVERNANCE

Electoral violence can extend beyond overt forms of violence. Jeff Fischer, for example, has identified five intervals of conflict in an election cycle:

- 1 The voter registration interval when potential voters are left out on account of improper (or lack of) documents
- 2 During the actual electioneering period when rivals coerce and undermine each other
- 3 The polling day interval when there are contestations around the balloting process
- 4 The electoral outcome interval where there are conflicts over election outcomes
- 5 Conflict over representation/participation in government.¹²

Acts of election violence are costly in human, social and economic terms. Election violence can, as evidenced in Kenya after the 2007 general election, lead to a breakdown of infrastructure and civic institutions which in turn undermines a broad range of human rights. During the course of protracted election violence, assaults on political rights and the fundamental right to life often take place. Election violence not only disenfranchises citizens but can also easily lead to the emergence of systems that essentially encourage individuals or groups to seek illegitimate or criminal alternatives for earning a living. Election violence thus has the power to create cultures of violence and impunity that can persist unless such cycles are broken.

Systemic Weaknesses: Voting without Change?

The majority of African countries have embraced elections as a mechanism for deciding political competitions. As a consequence, Africa has experienced a reduction



Kenyan President Mwai Kibaki launches the nationwide biometric voter registration exercise in November 2012, ahead of the 4 March 2013 general election, the first after the previous one was marred by violence. The registration process is already two months behind schedule, and any glaring hitches will likely cause anger and suspicions over the election process that sparked violence the last time around.



Hundreds of women march during a protest against Senegal's President Abdoulaye Wade's controversial third term bid for presidency in Dakar (February 2012).

in absolute authoritarian and statist regimes. Indeed, undemocratic regimes in Benin, the Democratic Republic of the Congo (DRC), Liberia, and Mali among others have been ousted. With virtually all of sub-Saharan Africa holding elections, in some cases dictators turned themselves into ‘democrats’ at the ballot box. The democratic project, however, has faced a number of challenges. These include an assault on constitutionalism and the fostering of a cynical kind of expediency that owes much to contenders’ prospects in the next election rather than promotion of the common good. This has made politics too dependent on the whims of individuals and groups with the largest amount of money.¹³ Electoral democracy has thus failed to nurture the ‘democratic delegation chain’ that adds value between elections.¹⁴ This phenomenon raises important questions and threatens electoral democracy. Are the systems of representation and governance that Africa has accepted suitable or adequate within the African context? Do Africans have the requisite leaders and institutions that can lead to the development of a democratic culture given Africa’s historical diversity? The phenomenon of election violence may help in answering these questions.

While multiparty politics has served as a vehicle for socio-economic and political transformation in Africa, actual transformations have not been guaranteed. The process of conducting democratic elections requires a tolerant political culture which was largely lacking during the era of one-party rule. Unfortunately, in many African countries in the 1990s the assumption of multiparty politics did not bring about fundamental constitutional or institutional changes. The one-party state structures often remained intact. This situation continues to perpetuate high levels of intolerance and restrictions on basic freedoms, including freedom of association. Indeed, some of the transitions toward democracy in Africa resulted merely in military regimes transforming themselves into political parties. In Guinea

and Mauritania these transitions have suffered democratic reversals, with unconstitutional changes in government. In these cases, the regimes secured continuation of quasi-military rule with favourable electoral laws.¹⁵

One threat to electoral democracy in Africa has been the attempt by incumbents to ‘review’ their state’s constitution in order to extend their grip on power. This is despite some of them having come to power on a platform of democracy and good governance. Examples of these include Algeria (2008), Burkina Faso (2005), Cameroon (2008), Chad (2005), Gabon (2003), Namibia (1999), Niger (1999), Nigeria (2006), Togo (2002), Tunisia (1988), Uganda (2005), Zimbabwe (2000) and Zambia (2001).¹⁶

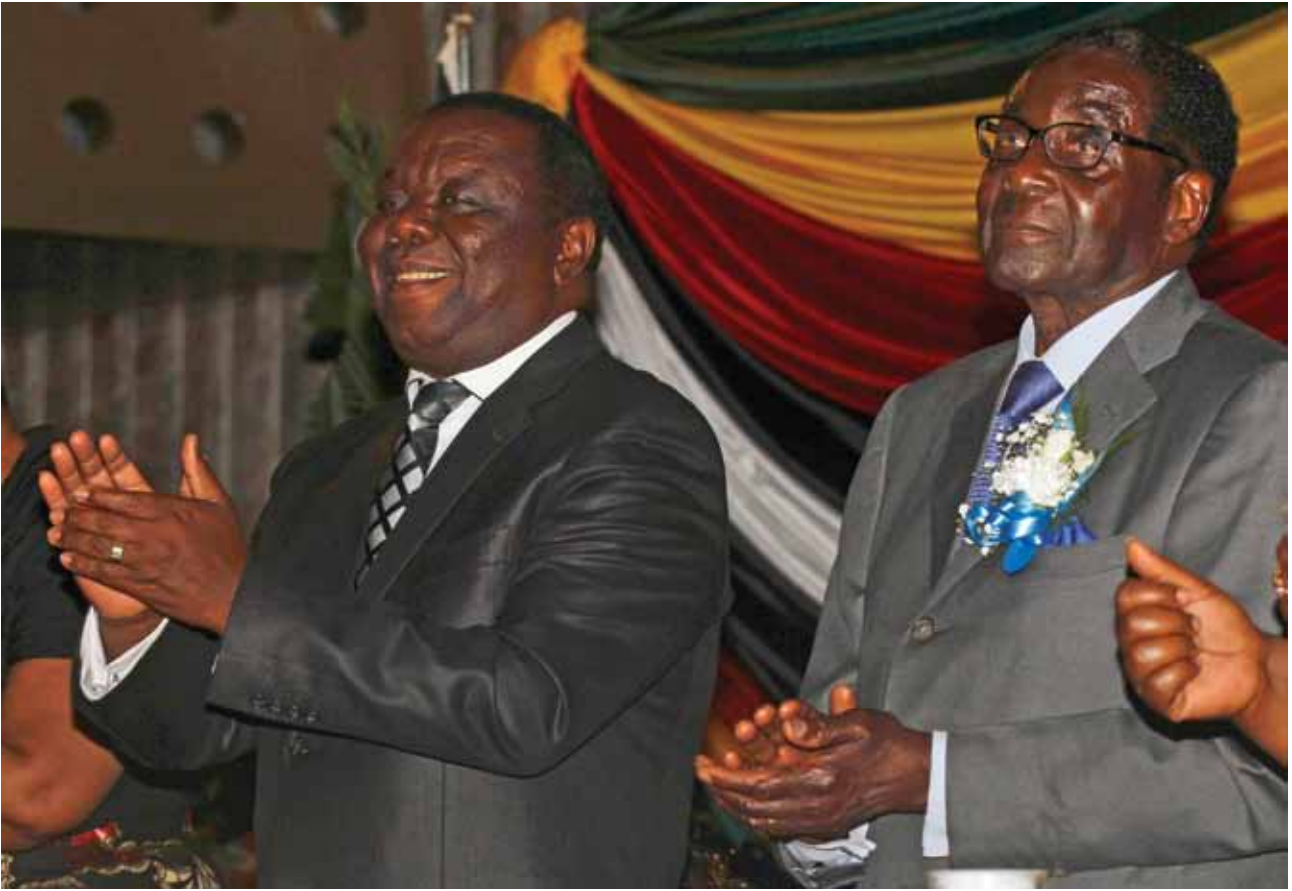
The democratic project still faces significant challenges in Africa. Nevertheless, Africa’s general outlook has improved since the 1990s, with some previously unstable or authoritarian regimes – including in Benin, Ghana, Liberia, Senegal, and South Africa – holding what were deemed to be free and fair elections. However, many of the regimes on the continent, notwithstanding their semblance of political pluralism, organise elections only as a façade to validate their continued stay in office.¹⁷ Despite the increased frequency of elections on the continent, there is still a huge deficit in the quality of elections and democracy. This calls for the building of countervailing forces to help check and restrain the power of political leaders in order to help consolidate the benefits of electoral democracy. In other words, the unraveling of electoral processes is a reflection of Africa’s crisis of governance that has often resulted from unresolved historical issues.¹⁸

Electoral Rules and Institutions in Africa

There is no doubt that election processes in Africa are set against loopholes in rules and laws governing electoral processes. It is important to bear in mind that most of the electoral systems, laws, institutions and constitutions

Table 1: Status of Electoral Laws in Africa

Status	Country List
Part of Constitution	Angola, Botswana, Chad, Congo (Brazzaville), Congo (Kinshasa), Egypt, Eritrea, Ethiopia, Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mauritius, Mozambique, Namibia, Réunion, Rwanda, Seychelles, Sierra Leone, Somalia, South Africa, Swaziland, Tanzania, Tunisia, Uganda, Zambia, Zimbabwe.
Separate Legislation	Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Congo (Brazzaville), Congo (Kinshasa), Côte d’Ivoire, Djibouti, Egypt, Eritrea, Gabon, Gambia, Guinea, Guinea Bissau, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Réunion, Rwanda, Senegal, Seychelles, Somalia, South Africa, Sudan, Tanzania, Togo, Tunisia, Uganda, Zambia, Zimbabwe.
Decree	Chad, Congo (Brazzaville), Côte d’Ivoire, Gambia, Guinea, Madagascar, Mali, Mauritania, Senegal.
Regulations or Administrative Rules	Eritrea, Gambia, Liberia, Mauritania, Rwanda, Senegal, Sierra Leone, Somalia, South Africa, Uganda, Zambia, Zimbabwe.



Zimbabwe's President Robert Mugabe (right) and Prime Minister Morgan Tsvangirai made a joint appeal for tolerance in reviewing a draft constitution that, if adopted, will lead to Zimbabwe's next election expected in 2013.

that govern elections in sub-Saharan African countries were inherited from the colonial era, although some have undergone cosmetic changes. Most electoral processes in Africa are also governed by various electoral laws and provisions (see Table 1) that make it cumbersome to regulate electoral processes.

Table 1 highlights that there are diverse pieces of electoral laws in Africa. This underscores the need to consolidate the various pieces of legislation so as to ensure that all aspects of the electoral process are clearly regulated. Particular attention should be paid to introducing essential transparency requirements. This calls for the reforming

INDIVIDUALS AND GROUPS EASILY RESORT TO VIOLENCE TO WIN POLITICAL COMPETITIONS. THEY ARE OFTEN WILLING TO SUBVERT THE ENDS OF THE ELECTORAL PROCESS WHEN THEY SEEM DESTINED TO LOSE

of entire electoral processes in African countries to reflect current realities as well as to adhere to international best practice standards.

Broadly, elections by their very nature are very competitive processes that can be constructive or damaging. Where the electoral system is such that the winner takes all in a very centralised state system, state power becomes such a high price to be won or lost. All efforts including corruption, rigging, abuse of state resources and violence are expended to gain or retain control of the state apparatus. Sometimes in the 'winner takes all' type of electoral democracy, incumbents use/misuse their immediacy to power to exclude those opposed to them. The consequence of this is that it polarises society and sows seeds of divisions and conflict. In such contexts, individuals and groups easily resort to violence to win political competitions. They are often willing to subvert the ends of the electoral process when they seem destined to lose.

Overall, while electoral related norms and laws can help minimise election related violence in Africa, the prospects of elections remaining a civilising activity can only be promoted by improving the broader structure of governance.



Election workers in Bunia, Ituri, the Democratic Republic of the Congo explained the electoral process to voters before the presidential and provincial elections began in October 2006.

Election related violence is unlikely to take hold if a country has embraced structures and institutions that embody checks and balances to ensure fairness and legitimate opportunity to all to participate and realise their potential. This is where African citizens must develop their organised power to hold their leaders to account. The problem is that active citizenship in many African countries is constrained by repressive laws, strong central authorities and a lack of resources. Regardless of these constraints, it is imperative that the African citizenry cultivates its organised power to push for meaningful structural change. If this does not happen then elections organised against structural and systemic challenges will continue generating controversial processes and outcomes.

Conclusion

There is no doubt that Africa has made advances in electoral democracy since the advent of multiparty politics. Evidence suggests that transitions toward electoral democracy were relatively easier when compared to the process of building and sustaining democracy. It is one thing to have elections and quite another to build the institutions

and political foundations for democracy. This is why some of the initial 'model democracies' in Africa have ended up generating cynicism and antagonism. Not only have they often been riddled with unethical and self-serving practices, but much more importantly, they are underpinned by deep seated structural issues.

To summarise, the quality of an election constitutes one of the determinants for deepening democratic governance. While democracy cannot be reduced to elections, free and fair elections do play a critical role in the sustainability of democratic governance. There is, however, a need to discourage the obsession with the concept of electoral democracy as being a process to establish winners and losers. Electoral democracy should go beyond the periodic right to vote. If electoral democracy is to become meaningful

THERE IS NO DOUBT THAT AFRICA HAS MADE ADVANCES IN ELECTORAL DEMOCRACY SINCE THE ADVENT OF MULTIPARTY POLITICS

to ordinary citizens, then it needs to be harnessed into a force for real positive change in Africa. Where that is not the case, violence during elections can easily become a mechanism through which public questions are contested and sometimes stakeholders are motivated to go outside of the established norms to achieve their objectives.

This article, therefore, maintains that when conflict or violence occurs during elections, it is often not only a result of the electoral process itself but it is a reflection of dislocations in broader structures of governance and the society's political culture. The decay of socio-economic and political systems results in violence becoming a tactic in the political game and a tool for settling public contests. There is therefore more to election violence than the electoral process itself. In countries such as Kenya, Nigeria and Cote d'Ivoire amongst others, multiparty electoral democracy has been spawned by a profound struggle over perceived injustices. This has unravelled politically expedient economic dispensations from earlier times. For democracy to sustain its legitimacy, it has to be meaningful in the lives of ordinary people. **A**

Dr Kisiangani Emmanuel is a Senior Researcher in the Conflict Prevention and Risk Analysis Division of the Institute for Security Studies, in Nairobi, Kenya.

Endnotes

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- 16 For further details see 'Changing the constitution to remain in power.' France24.com, October 8, 2009.
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- 18 This is an abridged version of the ACE Electoral Knowledge Network data found at <<http://aceproject.org/regions-en/CDMap?question=LF01>>. The information is valid as of February 2012, but parts of the data might be missing or outdated as acknowledged by ACE Electoral Knowledge Network data.

THE SUDAN - SOUTH SUDAN MILITARY ESCALATION IN HEGLIG: SHIFTING ATTENTION FROM DOMESTIC CHALLENGES

BY ALEKSI YLÖNEN



UN PHOTO/PAUL BANKS

Introduction

The 2005 Comprehensive Peace Agreement (CPA) was a landmark treaty for Sudan. An exclusive two-party agreement, it paved the way for the independence of South Sudan on 9 July 2011. This generated optimism that the legal partition of the state would bring about a durable resolution to Sudan's longest rebellion.

However, Sudan formally losing part of its territory and the accompanying natural resources raised the stakes. This converted its political row with South Sudan into

an international confrontation. Although the negotiation process on the pending issues related to the final resolution of the conflict and the creation of two separate states¹ has continued after South Sudan's independence, thus far it has brought few results. In April 2011, this politico-economic deadlock between the two parties culminated in the

Above: South Sudan gained its independence from Sudan on 9 July 2011.



An aerial view of the Heglig oil processing facility in Sudan's South Kordofan state.

border military escalation in Heglig (Panthou in the local Dinka language).

This article unveils some of the strategies behind the military confrontations in Heglig. It argues that the understanding of political and economic dynamics and challenges emanating from the war and the period of CPA implementation (2005–2011), faced by both the Sudan's governing National Congress Party (NCP) and the Sudan People's Liberation Movement/Army (SPLM/A), its counterpart in South Sudan, is fundamental for understanding the recent crisis between Sudan and South Sudan. The article shows that the fighting resulted largely from both parties seeking to draw attention away from their domestic challenges and pushing for national unity through focussing on the old foe.

Military Escalation in Heglig

In mid-April 2012, hostilities erupted between the Sudan Armed Forces (SAF) and the SPLA, the guerrilla force-turned-southern army. Provoked in part by the intensification of aerial bombings of southern border areas by Sudan since early April (which it had continued intermittently since the independence of South Sudan), the SPLA invaded Heglig. This is an oil area generating half of Sudan's daily production (approximately 115 000 barrels per day). The invasion

occurred after Sudan had lost roughly 75% of its petroleum reserves through the independence of South Sudan.

During its occupation of Heglig, South Sudan claimed that this area belonged to it. This was because the CPA had designated the territory south of the 1956 north-south border at the time of Sudanese independence to South Sudan. Although this argument went against the July 2009 Permanent Court of Arbitration decision which had resolved that Heglig was an integral part of Sudan, it adhered to the earlier decision of the Abyei Boundary Commission² in July 2005. This had concluded that a wider area, including Heglig, belongs to Abyei. The controversy, originating from both parties claiming Abyei as an integral part of their territory and disputing who exactly is eligible to vote, has delayed the region's CPA-stipulated referendum. The Abyei issue together with the lack of agreement on the demarcation of other parts of the border has left approximately 20% of it contested. After holding on to Heglig for ten days despite SAF's numerous attempts to retake it, the SPLA finally withdrew. The Government of South Sudan (GoSS) claimed that this was due to international pressure. It announced its willingness to negotiate with Khartoum on the overall border dispute.

The heavy military engagement in Heglig provides further evidence that the parties' exchange of accusations



wants to engage in an all-out war. This is the case as long as the tit-for-tat conflict is confined to the north-south border area where it can be maintained under a certain level of control.

The GoSS decision to respond to Sudan’s provocation by ordering the SPLA occupation of Heglig can be seen as a diplomatic failure. Alternatively it could be claimed that the SPLA should never have withdrawn. However, the situation played out well for Juba in the medium term. This is due to the SPLM/A leadership’s long experience with external actors during the war. It knew that attacking Heglig would re-focus international attention on the contested north-south border and the other pending issues of negotiation between the two states. This indeed took place as the African Union (AU) initiated an effort to reinvigorate its mediation attempt between Khartoum and Juba.⁶ This was later endorsed by the United Nations Security Council (UNSC) following an initiative by the United States.⁷

Conflict and Natural Resources in the North-South Borderlands

With the legacy of long and devastating wars that were largely about the subjection of southerners,⁸ national identity,⁹ and heavily involving oil as an important factor,¹⁰ the military confrontation in Heglig was merely a show of military force. This escalation of violence was a demonstration of SPLA’s capacity to confront the SAF in conventional warfare in a small area of the contested north-south border. It was also the first armed confrontation between Sudan and South Sudan as two sovereign polities, making it essentially an inter-state clash.

MORE THAN 80% OF THE OIL DEPOSITS OF BOTH SUDANS LIE ON THE SOUTHERN SIDE WHILE THE REFINING AND TRANSIT FACILITIES ARE LOCATED IN THE NORTH

Moreover, the clashes concentrating on Heglig were also not a coincidence. In the current situation it is a strategically important oil producing region. Heglig and the surrounding areas were already contested between Khartoum and the regional government in southern Sudan during the 1970s after oil was first discovered there.¹¹ Witnessing extreme fighting during the war, the region was subjected to military campaigns. Civilians were deliberately targeted to remove them from areas reserved for oil exploitation. Humanitarian crises caused by the resumption of conflicts in the north-south border region also emerged during the period of CPA implementation (2005–2011).¹² The contested nature of the resource rich borderlands in Abyei, Southern Kordofan and the Blue Nile states have made the greater north-south

on each aiding rebel elements in the other’s territory appears legitimate. Both the Juba-aligned SPLM-North, mainly active in the Nuba Mountains of Southern Kordofan and Blue Nile States (northern Sudan), and the South Sudan Democratic Movement/Army (SSDM/A), largely from Unity and Jonglei states (southern Sudan), staged offensives in parallel with the SPLA and SAF respectively. These however both failed. The SPLM-North was unable to capture Talodi, a major town in the Nuba Mountains. The SSDA was unable to take Malakal, the capital of Greater Upper Nile in South Sudan. The attacks showed the military vulnerabilities of both sides. The mutual use of proxy forces also demonstrates that the SPLM/A has learnt from Khartoum having employed this practice to debilitate southern rebels during the war. This has evened out the current strategic proxy situation between the SAF and the SPLM/A.

The Heglig confrontation was also deliberately restricted to the disputed north-south border. The aim was largely to draw attention away from domestic tensions and challenges. Despite the Sudanese parliament unanimously declaring South Sudan an ‘enemy’ state,³ and the Sudanese President engaging in hate rhetoric which could have escalated the situation further,⁴ both parties feared to engage in a total war. This would have jeopardised their rule,⁵ and they deemed the domestic challenges their greatest threat. Neither one considers the other as the main danger to its existence nor



Supporters of the Sudan People's Liberation Movement (SPLM) express their support for South Sudan taking control of the Heglig oil field (April 2012).

transitional zone the main territory of conflict between Sudan and South Sudan.

The official budgets of both Sudan and South Sudan are highly dependent on oil export receipts. Since more than 80% of the oil deposits of both Sudans lie on the southern side while the refining and transit facilities are located in the north, this provokes a situation in which each party attempts to outlast the other if cooperation is not possible. This is why at the end of January South Sudan, frustrated with Sudan seizing petroleum to compensate for unpaid transit fees,¹³ shut down the oil production from its territory (more than 75% of total production of both Sudans, or approximately 350 000 barrels per day). Later, by successfully occupying Heglig, it managed to cut Sudan's total daily oil exports by half. However, it was faced by an inability to export the reserves from its own territory.

The deadlock over petroleum debilitated both governments. Although Sudan's official budget is only approximately 30% dependent on oil, the derived revenues have provided important financing for the NCP. This is the driving force of the Government of Sudan (GoS) as well as of the state institutions and organs under its control. These revenues nourish the NCP's patron-client structures drawn along family and clan lines. These are well-situated in the most important state agencies, institutions and the

private sector. But due to financial constraints these now encompass little more than their core. However, the NCP's ever diminishing base of legitimacy coupled with a decrease in resources continue to weaken it. The challenges are its own marginalised cadres and the northern Sudanese opposition against which it continues to seek resources from its external allies, principally China and Iran.

On the other hand, since approximately 98% of the official GoSS budget derives from oil revenues, it was hard hit by the inability to sell from its reserves. However, the GoSS has grown to believe that the international recognition of South Sudan and the large number of allies it has gained since the CPA will allow it to survive the hardship that possible extended austerity measures may force. Indeed, it has ensured continuing Western support. Since the military escalation South Sudan has sought to mend fences with China after having accused it earlier of conspiring with Sudan on oil. As a long term strategy the GoSS has planned to construct a pipeline from the oil producing areas to Djibouti and the Kenyan port of Lamu. During the oil dispute it contemplated exporting oil overland by lorries as a short term solution.¹⁴

The situation in which South Sudan was unable to export oil forced the GoSS to pass austerity measures. It cut its overall budget by more than 50%, and subjected it to an increasing financial dependency on external stakeholders

such as international aid organisations. During the crisis South Sudan's increasing dependence on international goodwill was the main factor in explaining the SPLA withdrawal from Heglig. This was despite the GoSS President, Salva Kiir, initially rejecting the demands voiced by the international community. In the aftermath of Heglig some external actors appeared willing to provide loans against South Sudan's oil reserves or to buy oil from the GoSS on future sales contracts. These may have addressed its most immediate financial needs.

However, oil is not the only resource of strategic importance in the borderlands of the two Sudans. Contested sections of the border contain other mineral reserves, while fertile arable and grazing land continues to also be a source of dispute. First, Kafia Kingi and Hofrat al-Nahas are towns in western Sudan located in a region with high concentrations of minerals such as copper, uranium and gold. This was the main reason why in 1961 the Abboud regime in Sudan removed them from southern Sudan and annexed them to southern Darfur. This western extreme of the north-south border remains disputed.

Second, access to land continues to be a major issue relating to the wider question of Abyei. It features in the conflicts in the Nuba Mountains and the Blue Nile regions. Other border towns and their surrounding areas also remain contested. These include the Renk/El Jebel and

Magenis area, Kaka town, and access to Bahr al-Arab (Kiir in Dinka) River. These have intermittently been sources of land disputes between the local groups over centuries. However, the areas are also attractive to both Sudan and South Sudan because many of them are likely to contain oil and mineral reserves.

Domestic Challenges and Military Escalation

Although the military confrontation in Heglig was a culmination of tensions between Sudan and South Sudan, analysing it fully requires an understanding of the domestic situation in each. This is because the final escalation in Heglig took place in circumstances in which the NCP and the SPLM/A sought to deviate attention away from their national and sub-national political challenges.

The NCP's Strategies and Vulnerabilities

The NCP (formerly known as the National Islamic Front, NIF) took power in Sudan in an army coup in 1989. Subsequently, it consolidated power over the state apparatus and sought wider legitimacy in northern Sudan by seeking to return the focus of the northern population on the 'common' enemy in southern Sudan. The NCP therefore suspended the peace negotiations the preceding government had held with the SPLM/A. It also strengthened counterinsurgency against the rebellion that had been raging since 1983.



REUTERS / THE BIGGER PICTURE

Sudanese people wave flags in celebration, in Khartoum, following South Sudan's withdrawal of its troops from the Heglig oil region. Sudan quickly declared victory, saying its armed forces had "liberated" the area by force.

The NCP's repressive policy was relatively successful in keeping the most severe challenges to its rule at bay throughout the 1990s. It managed to dispossess and marginalise the traditional political forces in northern Sudan and confine armed insurgencies to the peripheral regions of the state. The NCP used a variety of tactics to achieve this. They included imposing strict Islamic law (*shari'a*) in northern Sudan, using the state security apparatus against the opposition, co-opting individuals and their followings that might pose a threat and engaging in frequent re-shuffling of senior leadership positions. Simultaneously it spent a considerable amount of resources on the war effort in which it largely used militias and irregular troops. These strategies, permitted by resources gained mainly through oil exports and external alliances, allowed the NCP to maintain a strong grip on power during the war.

It was not until the aftermath of the 11 September 2001 attacks on the United States that the prospects for peace in Sudan increased considerably. This was mainly because of the intensifying international pressure on the NCP headed by the United States through its 'War on Terror'. The effort by the main international stakeholders resulted in the NCP and the SPLM/A signing the CPA. However, in the final stages of the negotiation process the conflict in Darfur and demands from the rebels in eastern Sudan intensified. This exposed Khartoum's weakness not only in southern Sudan, but also in the state's other peripheral territories. The CPA allowed the NCP to re-orient some of its resources, combining co-optation, diplomatic and violent counterinsurgency strategies in the west and the east.

During the CPA implementation (2005–2011), the NCP committed itself to power-sharing with the SPLM/A at the national level. It simultaneously remained in power and in firm de facto control of the state apparatus and national resources, particularly oil. Nevertheless, the consequent secession and independence of South Sudan in 2011 was a loss to the NCP both in terms of territory and exploitable natural resources. It sought to minimise this loss by re-engaging in military campaigns in the north-south borderlands, particularly in Southern Kordofan and Blue Nile states. It claims the local rebels there who had fought with the SPLA during the war are still being supported by the GoSS. Sudan also ordered the SAF to re-occupy and maintain a military presence in northern Abyei. This was despite the region being internationally declared an unoccupied zone guarded by the United Nations Interim Security Force for Abyei. SPLA police were deployed in the southern part of the region until recently.

Since 2005, one of the NCP's central strategies to minimise challenges to its rule in northern Sudan has continued to be to emphasise the southern Sudanese and particularly the SPLM/A as the *other*, against which 'common' northern Sudanese identity has historically been constructed. This strategy of demonising the southerners draws from the northern elite's interpretation of the prevailing social hierarchy in northern Sudan. It is perceived to be united by

association with a certain interpretation of 'Arab' culture and Islam. The northern leadership has long considered these the main components of national identity.¹⁵ In the current situation in which the NCP leadership is concerned about the organisation's diminishing legitimacy, it has hoped to re-focus the attention of the wider northern Sudanese population on what it has portrayed as aggression by the southern *other*. This facilitated the generation of a 'hate atmosphere' in northern Sudan for mobilisation against South Sudan. Claiming to be at war allowed the NCP to partially justify its simultaneous repressive domestic actions.

Concurrently, Sudan deliberately failed to mention that the SPLA decision to occupy Heglig was largely an answer to the SAF's provocative aerial bombings. This was in the aftermath of failed negotiations on oil transit payments and South Sudan shutting down its petroleum production.

IT WAS NOT UNTIL THE AFTERMATH OF THE 11 SEPTEMBER 2001 ATTACKS ON THE UNITED STATES THAT THE PROSPECTS FOR PEACE IN SUDAN INCREASED CONSIDERABLY. THIS WAS MAINLY BECAUSE OF THE INTENSIFYING INTERNATIONAL PRESSURE ON THE NCP HEADED BY THE UNITED STATES THROUGH ITS 'WAR ON TERROR'

It has also purposely failed to provide full details of the unforeseen military setbacks during the military confrontation, which exposed the vulnerability of SAF. Instead, Sudan sought to portray its Heglig campaign as a success. Fearing mainly internal challenges, Sudan's engagement in the tit-for-tat game resulting in a military stalemate with South Sudan is thus largely motivated by its need to show strength. This was while facing a stronger SPLA than during the war and continuous rebellions in Darfur, Southern Kordofan and the Blue Nile regions.

SPLM/A's Tactics and Challenges

The SPLM/A was founded in 1983 and subsequently became the flagship of the southern rebellion. Initially heavily supported by Ethiopia, which refused to endorse a secessionist movement, it adopted a socialist outlook and focused on achieving a national democratic transformation through revolution. This was one of the major reasons why the SPLM/A suffered a number of defections mainly among its secessionist commanders due to ideological differences. It was torn by inter-ethnic and inter-sectional fighting. Consequently, despite being considered a liberating force in parts of southern Sudan, in other southern areas it developed the reputation of an occupying army against which a number



Sudanese President Omar al-Bashir addresses supporters during a rally at the ruling National Congress Party (NCP) headquarters in Khartoum (April 2012).

of local ethnic militias struggled. This allowed the GoS to exploit fissures and generate confrontations among southern armed groups during the war. It supplied rebel factions and militias in southern Sudan and integrated some of them loosely into the SAF. Some of these connections have subsequently persisted.

After the signing of the CPA the GoSS was established. The SPLM/A, the most prominent force in southern Sudan, became its driving force. However, the untimely death of its supreme leader, John Garang, in a helicopter crash six months later prompted the secessionists in the SPLM/A leadership to gain power. They substituted the organisation's official agenda of seeking national transformation with a more opaque strategy. This was to consolidate the SPLM/A power over the GoSS and seek independence from Sudan. This also put increasing emphasis on the southern referendum for self-determination, an opportunity to materialise secession of southern Sudan offered by the CPA.

As a result, the SPLM/A used the general and presidential elections in April 2010 to consolidate its position over the GoSS and state-level administrations in southern Sudan. In the process, it engaged in repressive suppression of opposition parties. It appears to have struck a covert deal with the NCP. This included withdrawing Yasir Arman, the SPLM/A's popular candidate for national presidency who

hails from northern Sudan, from challenging the incumbent, Omar al-Bashir. The NCP, on the other hand, allegedly agreed not to challenge the election of the SPLM/A leader Salva Kiir as the GoSS president.

During the elections the SPLM suffered fissures. Some of its 'big men' not selected as official candidates of the party decided to contest them independently. While the SPLM purged opposition candidates and parties out of the GoSS and the Southern Sudan Legislative Assembly, only one of these 'independent' candidates prevailed. A number of others staged small-scale rebellions against the SPLM/A-GoSS based on their personal SPLA or former militia constituencies.¹⁶ These 'internal' rebellions, militia activity, violence related to cattle-rustling and SPLA's disarmament campaigns have caused occasional clashes and large scale violence. These continue as the GoSS's main domestic security challenges.

The violent outbreaks and insecurity experienced by the civilian population in parts of South Sudan are manifestations of the inability of the SPLA to answer the high expectations of security provision after the CPA. While the SPLA and the currently developed South Sudan Police Service are effective security forces in the central areas of South Sudan, they continue to suffer from the lack of effective capacity and continued access to geographically remote



South Sudan's President Salva Kiir speaks after signing a border deal with Sudan to secure their shared border and boost trade, which will restart crucial oil exports. However, the remaining conflicts between the two countries were not resolved (September 2012).

locations. These territories are also where development has been less visible than in the urban areas of more central regions. This has prompted local grievances over uneven economic opportunities and development. These remote areas also host some of the most resistant opponents of the consolidation of the SPLM/A-GoSS orchestrated system in South Sudan. In these, personal sacrifice, membership and support for the movement largely determine political and economic prominence and opportunities as well as social inclusion and exclusion.

In governance, the GoSS has experienced difficulties in controlling the corrupt practices of some of its senior leaders. Although some areas have experienced a significant amount of progress in terms of infrastructure and economic development since 2005, widespread opinion locally is that with more transparency and 'good governance' the GoSS could have achieved much more with the extensive external financing and support it has received.

These political dynamics and challenges manifested during the CPA implementation have carried over to the period of independence. Therefore, the ambitious top-down state and nation building project of the GoSS centred on the SPLM/A, and attempting to extend authority and legitimacy over all South Sudan is a slow and reversible process. It is undermined by the possibility of the escalation of domestic conflicts. These may take place on multiple fronts, for

instance between ethnic groups, clans and internally within the GoSS and the SPLM/A. In the multi-ethnic landscape of South Sudan, group identities were hardened and divisions heightened by the long war. Thus the attempt to establish a salient national identity capable of uniting the heterogeneous population will, at a minimum, require a long term commitment in implementation of a clearly oriented policy backed by sufficient resources.

Given these domestic challenges, the GoSS has made a conscious effort to draw attention to the north-south border conflict. This has allowed the SPLM/A to re-emphasise the importance of the northern 'Arab' other, against which it aims to consolidate the common sense of belonging in South Sudan. This is based on 'southernness' and 'Africanness'. This strategy has also facilitated the shifting of attention of many frustrated southerners from GoSS deficiencies to the old 'common' enemy.¹⁷

Finally, drawing media attention to the north-south borderlands has served at least two purposes. The occupation and the subsequent voluntary withdrawal from Heglig has allowed the GoSS to re-focus the AU's and the UNSC's attention on the pending negotiation issues between South Sudan and Sudan.¹⁸ It has also diminished the media emphasis on South Sudan's domestic problems and allowed it to quietly pursue the neutralisation of military challenges posed by defectors, militias and inter-ethnic clashes.¹⁹

Conclusion

This article has argued that the prevailing political reality in Sudan and South Sudan respectively helps to understand the military escalation in their shared border area. In the light of this, the Heglig crisis emerges as having a great deal to do with the domestic challenges facing both countries and their interest in engaging the other for a limited military showdown.

While Sudan's motivation to draw South Sudan into an armed engagement has been related to seeking domestic re-legitimation for the increasingly narrowly confined NCP regime, South Sudan has sought similarly to draw attention away from its domestic challenges and strengthen state and nationhood. As a result, both parties have attempted to use the crisis to reinforce their political power domestically. They have done so through a popular appeal against the 'common' enemy, while simultaneously engaging in repressive strategies. At the same time, neither one has an interest in a large scale war which could lead to the collapse of either, or both parties. Thus the military escalation has predictably wound down and the immediate effect of the Heglig episode has been the short term domestic strengthening of both the NCP and the SPLM/A. ▀

Dr Aleksis Ylönen is a Research Fellow specialising in Africa at the Peace Research Institute, in Frankfurt, Germany.

Endnotes

- 1 These issues include the completing of border demarcation, arrangements for exporting oil originating from South Sudan, the referendum regarding Abyei and citizenship of southerners in Sudan and northerners in South Sudan.
- 2 Abyei Boundary Commission was an advisory body for north-south border demarcation established in the CPA. It included five internationally known Sudan experts and one representative from the NCP and the SPLM/A.
- 3 British Broadcasting Corporation (2012) 'MPs in Khartoum brand South Sudan "enemy" state', 16 April. Available at: <<http://www.bbc.co.uk/news/world-africa-17727624>> Accessed on 25 April 2012.
- 4 Ori, Konye Obaji (2012) 'Sudan President Bashir in extermination rhetoric'. *The Africa Report*, 19 April. Available at: <<http://www.theafricareport.com/index.php/20120419501809636/soapbox/sudan-president-bashir-in-extermination-rhetoric-501809636.html>> Accessed on 23 April 2012.
- 5 In the case of NCP, this is exemplified by the conflicts in the peripheries of Sudan and the calls of the opposition parties for the end of its rule. In the case of SPLM/A, the various small-scale rebellions, along with the lack of legitimacy brought about in some areas by the war experience, lack of widespread development in spite of high expectations and poor governance record in terms of transparency since 2005, challenge its attempt for state consolidation and nation building in South Sudan.
- 6 *Sudan Tribune* (2012a) 'AU pushing roadmap for resolution of conflict between Khartoum and Juba', 26 April. Available at <<http://www.sudantribune.com/AU-pushing-roadmap-for-resolution,42398>> Accessed on 29 April 2012.
- 7 *Sudan Tribune* (2012b) 'U.S. introduces UNSC draft resolution in support of AU roadmap on Sudan conflict', 27 April. Available at <<http://www.sudantribune.com/U-S-introduces-UNSC-draft,42411>> Accessed on 1 May 2012.

- 8 See Jok, Jok Madut (2001) *War and Slavery in Sudan*. Philadelphia: University of Pennsylvania Press, and Jok, Jok Madut (2007) *Sudan: Race, Religion, and Violence*. Oxford: Oneworld.
- 9 Deng, Francis Mading (1995) *War of Visions: Conflict of Identities in the Sudan*. Washington DC: Brookings Institution, and Lesch, Ann Mosely (1998) *Sudan: Contested National Identities*. Bloomington: Indiana University Press.
- 10 See Prendergast, John (2002) *God, Oil and Country: Changing the Logic of War in Sudan*. Brussels: International Crisis Group, and Rone, Jemera (2003) *Sudan, Oil and Human Rights*. Brussels: Human Rights Watch.
- 11 Alier, Abel (1990) *Southern Sudan: Too Many Agreements Dishonored*. London: Ithaca, pp. 217–220.
- 12 On the NCP's war in the Nuba Mountains of Southern Kordofan, see Ylönen, Aleksis (2009) 'Marginalisation and Violence: Considering Origins of Insurgency and Peace Implementation in the Nuba Mountains of Sudan.' Institute for Security Studies, Paper 201. On an excellent analysis on the Blue Nile, see James, Wendy (2007) *War and Survival in Sudan's Frontierlands: Voices from the Blue Nile*. Oxford: Oxford University Press. Human Rights Watch has monitored the ongoing crisis and violence against civilians since June 2011 in both areas. See: Human Rights Watch (2012a) 'Sudan: Crisis Conditions in Southern Kordofan'. Available at: <<http://www.hrw.org/news/2012/05/04/sudan-crisis-conditions-southern-kordofan>> Accessed on 22 May 2012, Human Rights Watch (2012b) 'Sudan: Blue Nile Civilians Describe Attacks, Abuses'. Available at: <<http://www.hrw.org/news/2012/04/23/sudan-blue-nile-civilians-describe-attacks-abuses>> Accessed on 22 May 2012.
- 13 In January 2012, President of South Sudan, Salva Kiir, claimed that Khartoum had confiscated oil worth USD 815 billion since December 2011, much more than its rightful share. See Reuters (2012) 'S. Sudan says Khartoum seized oil worth \$815 million', 23 January. Available at: <<http://www.reuters.com/article/2012/01/23/sudan-south-oil-idUSL5E8CN0TF20120123>> Accessed on 26 April 2012.
- 14 allAfrica (2012) 'South Sudan: Nation to Export Oil By Truck, As Talks Restart', 7 March. Available at: <<http://allafrica.com/stories/201203080285.html>> Accessed on 15 September 2012.
- 15 See Deng, Francis Mading (1995) *War of Visions: Conflict of Identities in the Sudan*. Washington DC: Brookings Institution, and Lesch, Ann Mosely (1998) *Sudan: Contested National Identities*. Bloomington: Indiana University Press.
- 16 This was former SPLA Colonel Joseph Bakosoro who defeated the official SPLM candidate, Jemma Nunu Kumba, to become Governor of Western Equatoria. He was reinstated as a member of the SPLM in March 2012. Prominent among those staging rebellions against the GoSS have included defected SPLA commanders and militia leaders such as late George Athor and Gatluak Gai, and David Yau Yau and Peter Gatdet.
- 17 Evidence for this during the recent escalation is, for instance, the statement of the willingness of forces of late George Athor in Jonglei to join the southern war effort on the side of the SPLA. The youth also mobilised for the southern cause in Warrap State, an area where SPLM/A has not always enjoyed widespread legitimacy. See Williams, Dhieu (2012) 'Former Athor Forces to Stand with SPLA against Sudan', *The Citizen*, 14 April. Available at: <<http://www.thecitizen.info/politics/former-athor-forces-to-stand-with-spla-against-sudan/>> Accessed on 16 April 2012
- 18 Uma, Julius N. (2012) 'Warrap State: 1,500 youth mobilised as training commences', *Sudan Tribune*, 23 April. Available at: <<http://www.sudantribune.com/Warrap-State-1-500-youth-mobilised,42358>> Accessed on 26 April 2012.
- 18 United Nations Security Council (2012) Resolution 2046. 2 May, p. 2.
- 19 For instance, the escalation has allowed the continuation of the controversial disarmament campaign in Jonglei State, a region which has hosted many of the outbreaks of intra-South inter-ethnic and clan violence in recent years. See International Crisis Group (2009) Jonglei's Tribal Conflicts: Countering Insecurity in South Sudan. Africa Report 154.



OPERATIONALISING THE RESPONSIBILITY TO PROTECT

BY **ERIK REICHBORN-KJENNERUD**

The United Nations Security Council's (UNSC) response to the recent crises in Libya and Cote d'Ivoire needs to be seen in the context of its increasing willingness to authorise all necessary means for human protection in peace operations. This is so even though it has previously remained reluctant to authorise force against states.¹ Responsibility to Protect has become a commonly accepted frame of reference for preventing and responding to mass atrocities. In these two cases, the problem was not that military force was used to protect civilians from mass atrocities. In both Libya and Cote d'Ivoire this had been authorised by the UNSC, but the use of force resulted in regime change despite the Council not specifically

authorising it. This has reinvigorated the debate over the Responsibility to Protect. However, what has so far been largely missing from the debate is *how* to protect civilians from regimes; that is, the operationalisation of the Responsibility to Protect. Exploring this problem leads to a number of important questions that need answers in order to investigate 'whether there are ways of maintaining a clear distinction between Responsibility to Protect and regime

Above: In operationalising "The Responsibility to Protect" the primary purpose of intervention must be to protect the population and halt or avert human suffering.

change without sacrificing the protection of civilians'.² How is protection defined as a military objective? What is the role of the use of force? How should we define military success? Is the cessation of attacks against civilians sufficient? Can we ensure protection without regime change?

This article argues that a distinction between the Responsibility to Protect and regime change is, from a military standpoint, illogical when intervening on behalf of a civilian population against a regime that is committing mass atrocities. Rather, the best way to ensure the protection of civilians from mass atrocities committed by regimes is to remove that regime.

Responsibility to Protect and Regime Change

The proponents of Responsibility to Protect see it as an important advancement in international norms, complimenting Chapter VII of the United Nations (UN) charter. This authorises military intervention in the domestic affairs of a state. However, there is a continuing tension between respect for state sovereignty, pressure to protect victims of mass atrocities and the desire for justice. Central to this is whether regime change should be a more explicit goal of the Responsibility to Protect in extreme cases of mass atrocities.

According to the International Commission on Intervention and State Sovereignty (ICISS) report on *Responsibility to Protect*, 'the primary purpose of the intervention, whatever other motives intervening states may have, must be to halt or avert human suffering.' This leads to an operational principle in which the objective should be 'protection of a population, not defeat of a state.'³

*Overthrow of regimes is not, as such, a legitimate objective, although disabling that regime's capacity to harm its own people may be essential to discharging the mandate of protection.*⁴

This points towards the dilemma of operationalising the Responsibility to Protect. Although regime change is not a legitimate objective, there are instances (for example, when the regime is the perpetrator) where destroying the regime's capacity to inflict mass atrocities is necessary, legitimising direct action against the perpetrators. However, the ICISS report does not define an end-state of such action.

At the UN World Summit in 2005 the Heads of States and governments unanimously affirmed that each individual state has the responsibility to protect its population. However, because of the need for consensus around the Responsibility to Protect, the World Summit distanced itself from regime change and the discussion of non-consensual military intervention by stressing the need for UNSC authorisation to use military force. In addition, the Responsibility to Protect should only be about responding to four specified crimes and violations.

*We are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, (...) should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.*⁵

In the 2009 report, *Implementing the Responsibility to Protect*, the UN Secretary General clearly emphasises non-coercive aspects of the Responsibility to Protect. The report says nothing about the possible need for regime change when operationalising the Responsibility to Protect. Pillar three of the Responsibility to Protect principle focuses on the international community's responsibility to take timely and decisive action to prevent and halt mass atrocities. Such action is not first and foremost about military intervention, but includes a broad range of political, economic and humanitarian measures. The 2009 report thus distances the Responsibility to Protect further from the highly contentious question of regime change.

While protection is seen as a legitimate activity, regime change is not. After the interventions in Libya and Cote d'Ivoire, questions about the relationship between human protection and regime change have increasingly been raised. In a recent interview the UN special advisor on the Responsibility to Protect, Edward Luck, came to the crux of the dilemma between the Responsibility to Protect and regime change stating that 'it isn't the goal of the Responsibility to Protect to change regimes. The goal is to protect populations. It may be in some cases that the only way to protect populations is to change the regime, but that certainly is not the goal of the Responsibility to Protect per se.'⁶

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Although the proponents of the Responsibility to Protect and the UN try to separate the Responsibility to Protect from regime change, this view offers no solutions as to how interveners might protect civilians without targeting and possibly also challenging the regime's right to rule. Human protection requires external actors to engage in local wars and politics which will obviously blur the lines between protection and regime change. Keeping these agendas separate is often hard, if not impossible to do in practice.



The United Nations envoy and Military Adviser, General Gaye (centre), visited the troops providing security at the Hotel Golf in Abidjan where the internationally recognised president, Alassane Ouattara, was residing under the protection of United Nations forces, since winning elections that Laurent Gbagbo refused to concede (December 2010).

Once intervening on behalf of a population over a regime, the use of force to protect civilians invariably means taking sides. Abandoning impartiality then becomes a necessary element of the strategy to protect. Acknowledging this may even save more lives.

'When the principal threat to civilians comes from the regime, those demanding strict separation need to explain how peacekeepers or coalitions authorised to use force to protect civilians can do so effectively without facilitating regime change.'

While the bulk of the efforts around the Responsibility to Protect have been focused on forming consensus, the *how* of protection has so far received very little attention.

The Problem of Operationalising Protection

Strategy is the bridge between political ends and military means. To develop a strategy, the military needs to know what tasks have to be accomplished in order to fulfil political ends. The problem is that in the Responsibility to Protect the policy goal and military objectives become entwined because of the strict separation between protection and possible regime change. Protection of

civilians cannot be a goal in itself. It is a continuous task with no end, making the policy goals and military goals the same – the protection of civilians. It becomes impossible to formulate a strategy, and once authorised to use force to protect civilians, the military is left with few guidelines on how to do this. A number of questions thus arise on how to protect civilians from authoritarian regimes. What is the role of the use of force for protection? What does success look like? Is protection without regime change possible?

In recent years the civilian protection discourse has become embedded in UN peace operations that are mainly concerned with operating in a setting in which they have consent from the host government. They are faced with

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Members of the audience listen during the United Nations General Assembly's informal interactive dialogue on the "Report of the Secretary-General on the Responsibility to Protect: Timely and Decisive Response" in New York (September 2012).

threats to civilians from non-state actors.⁸ According to the 'protection of civilians from the effects of armed conflict' literature, there are in essence two ways of operating when the military objective is to protect civilians. One option is to separate the threatened and the threatening by positioning of military forces between them – sometimes referred to as coercive protection – to deter and respond to attacks. A second option is to proactively take steps designed to eliminate or restrict the activities of those threatening civilians.

In the case of the Responsibility to Protect operations, the strict separation between protection and regime change, insisted upon by proponents of the Responsibility to Protect and the UN, makes the second approach difficult to operationalise. This leaves military strategists with the first option, although this is not without its difficulties. If the only option in operationalising the Responsibility to Protect is to separate combatants from civilians, how does one ensure that the violence will not continue once the interveners leave? This is highly problematic. If this cannot be guaranteed, such an 'end-state' is simply a stalemate. This postpones violence to a later date unless the intervening forces can ensure a permanent partition. A stalemate is better when the alternative is civilian massacre.

But separating the threatened from the threatening turns protection into a never-ending mission. Operationalising the Responsibility to Protect lacks actual, practical objectives for militaries to achieve. This runs counter to any military logic and practice. As one colonel noted: 'the concept to protect doesn't exist [...] from there it becomes a problem. What is the end state? [...] You don't protect, you defend areas [as a military objective]'.⁹ Protecting civilians by defending areas is extremely challenging, especially if the population is dispersed and the perpetrators live among them. The military simply cannot be everywhere at all times. Because of a historic lack of will to use massive amounts of resources towards protection, a military strategy for the Responsibility to Protect needs to carefully consider what would be operationally feasible given the available resources. Moving civilians to 'safe areas' – another strategy to separate civilians from perpetrators – which requires a full-scale civilian-military operation is usually not politically feasible. Given these practical problems of protection, one should not be surprised if the military wants to use its regular logic and process. This does ensure that the political goal of protecting civilians is met.

From a military standpoint, strategy is about destroying the adversary's capability to fight in order to destroy that



Francis Deng, the United Nations Special Adviser for the Prevention of Genocide and Mass Atrocities, speaks at the opening of a workshop on the "Prevention of Genocide and the Responsibility to Protect" in Juba, South Sudan (July 2011).

opponent's *will* to fight. The destruction of the perpetrators' capabilities is the activity that delivers the objective. If this logic is applied to a Responsibility to Protect operation, it means that 'protecting the population should not be the activity, but should be the benefit from destroying the enemy.'¹⁰ Defeating perpetrators will ensure the long-term protection of the civilian population. Thus, removing the threat to the civilian population should be the core objective of the military effort.

From a strategic standpoint the problem with the Responsibility to Protect is that protection of the population cannot be both the policy objective and the military objective. If protection of civilians is the political objective, the military objective will necessarily be something different. Removing the threat to the population through force is the strategy that makes most sense to a military commander tasked with crafting a strategy to protect civilians from mass atrocities.

No-fly Zones in Iraq

The problem with protecting civilians against a regime can probably best be illustrated by the effort to establish

no-fly zones under the banner of UNSC Resolution 688 in Iraq in 1991 and 1992. The UNSC Resolution 688 was adopted on 5 April 1991. This was because the UN was concerned with the repression of the Iraqi civilian population which was deemed to threaten international peace and security. Although Resolution 688 was adopted long before the official 'language' of the Responsibility to Protect and protection of civilians came into being, France, the United Kingdom and the United States (US) used it to establish Iraqi no-fly zones. These were to protect the Kurds in northern Iraq and Shiite Muslims in the south. In the south this proved largely ineffective as Saddam Hussein's forces continued to attack civilians from the ground. However, in the north it helped protect the Kurds and provided them with humanitarian assistance. Although the Iraqi no-fly zones have a mixed record, the main problem was their never-ending nature. Because these operations did not seek to *remove* the threat to the Iraqi population, but rather *separate* them from the threat, they continued until the American led invasion of Iraq in 2003 removed the Saddam Hussein regime. This subsequently removed the need for no-fly zones. The establishment of no-fly zones in

Iraq to protect civilians from their regime thus illustrates the difficulty and never-ending nature of protection missions that do not explicitly pursue the source of the threat, but rather focus on separating the civilians from the threat.

Responsibility to Protect as Regime Change in Libya

The North Atlantic Treaty Organisation (NATO) led mission in Libya underlines the difficulties in translating the Responsibility to Protect into action. UNSC Resolution 1973 made clear that the goal of the Libyan mission was to protect civilians, not to effect regime change. However, in order to protect civilians from the Gaddafi regime the military strategy was to remove the capacities of that regime to inflict mass atrocities upon its population. In Libya the 'enemy' was clear and the solution apparent. As long as Gaddafi's security forces remained operational, civilian protection was not an achievable goal.

The London Conference on Libya held on 29 March 2011 'agreed that it is not for any of the participants here today to choose the government of Libya: only the Libyan people can do that. Participants agreed that Gaddafi and his regime have completely lost legitimacy and will be held accountable for

PARTICIPANTS AGREED THAT GADDAFI AND HIS REGIME HAVE COMPLETELY LOST LEGITIMACY AND WILL BE HELD ACCOUNTABLE FOR THEIR ACTIONS

their actions. The Libyan people must be free to determine their own future.'¹¹ By stating that the Gaddafi regime had lost its legitimacy and would be held accountable for its actions, the conference had in effect called for regime change.

Two months later on 8 June 2011, NATO expanded its objective and explicitly called for regime change and the removal of Gaddafi. 'Time is working against Gaddafi who has clearly lost all legitimacy and therefore needs to step down. There is no future for a regime that has systematically threatened and attacked its own population.'¹²

Many of the proponents of the Responsibility to Protect cautioned against pursuing regime change in the name of the Responsibility to Protect, fearing it would undermine the norm. As Gareth Evans argued, 'legally, morally, politically



UNPHOTO/PAULO FILGUEIRAS

A full United Nations Security Council chamber as the Council adopts resolution 1973, calling for an immediate ceasefire, strengthening sanctions, and authorising the use of military force – including a no-fly zone – in Libya (March 2011).



From a military perspective, the most effective way of ensuring the protection of civilians in Libya was the removal of the Gaddafi regime and its means to inflict mass atrocities.

and militarily [the international military intervention in Libya] has only one justification: protecting Libyans (...) When that job is done, the military's job will be done. Regime change is for the Libyans themselves to achieve.¹³ Following up, Simon Adams bemoaned that 'Responsibility to Protect became entangled with the regime change agenda of some of those enforcing the UN's mandate.'¹⁴ The problem is that the Responsibility to Protect did not become 'entangled' with regime change in Libya; regime change was the only viable military option.

According to Jenifer Welsh, Resolution 1973 contributed to a shift in the involvement of the UN from being impartial to one of taking sides. The use of the wording *crimes* points

IT MAY ALSO BE DIFFICULT TO IGNORE REGIME CHANGE AS STATES HAVE AN OBLIGATION TO PREVENT AND PUNISH GENOCIDE, WAR CRIMES AND CRIMES AGAINST HUMANITY UNDER CONVENTIONAL AND CUSTOMARY INTERNATIONAL LAW

the finger at 'wrongdoers' and victims, leading toward partiality. A by-product of this partiality is that 'the ambition of the military mission no longer matches the narrowly circumscribed political objective of civilian protection.'¹⁵ This means that there clearly are uncertainties about what civilian protection actually entails and what the military objectives should be. But once intervening on behalf of a population over a regime, the use of force to protect civilians requires taking sides. This means that abandoning impartiality, so treasured by the Responsibility to Protect proponents, becomes a necessary element of the strategy to protect. From a military point of view then, the most effective way of ensuring the protection of civilians in Libya became the removal of the Gaddafi regime and its means to inflict mass atrocities.

Conclusion

The Responsibility to Protect was separated from regime change to make it more palatable in order to get political consensus for the norm. However, the evolution of the Responsibility to Protect tells us that it is much easier to agree that civilians should be protected from mass atrocities than to agree on what to do about it if it occurs. The difficult question on how to protect civilians has not been solved. Instead, the Responsibility to Protect has

become something akin to the precautionary principle. It tells us that something must be done, but not what to do. Herein lies the problem. The Responsibility to Protect has made it harder not to do anything, but the belief that we should do something - anything - is not itself a strategy. Without clear guidelines there is still incoherence between the ends and the ways and means of achieving these. This leads to a minimalist goal of preventing the worst rather than attaining a desired goal. Reducing opportunities for harm rather than addressing its causes is strategic. It may lead to endless operations to avert risks to civilian populations.

If the object in war, as Liddell Hart argues, is a 'better peace' one would seriously have to ponder whether regime change is a necessary component of the Responsibility to Protect when regimes are actively committing mass atrocities upon their population. Regime change does not have to be the political aim of the mission. However, in order to fulfil the objective with military means there is a high probability of regime defeat, and possibly regime change. This does not mean that regime change, as a military objective, will ensure the protection of civilians. While a strict separation between protection and regime change may make sense politically, militarily it is illogical if the threat to civilians comes from the regime.

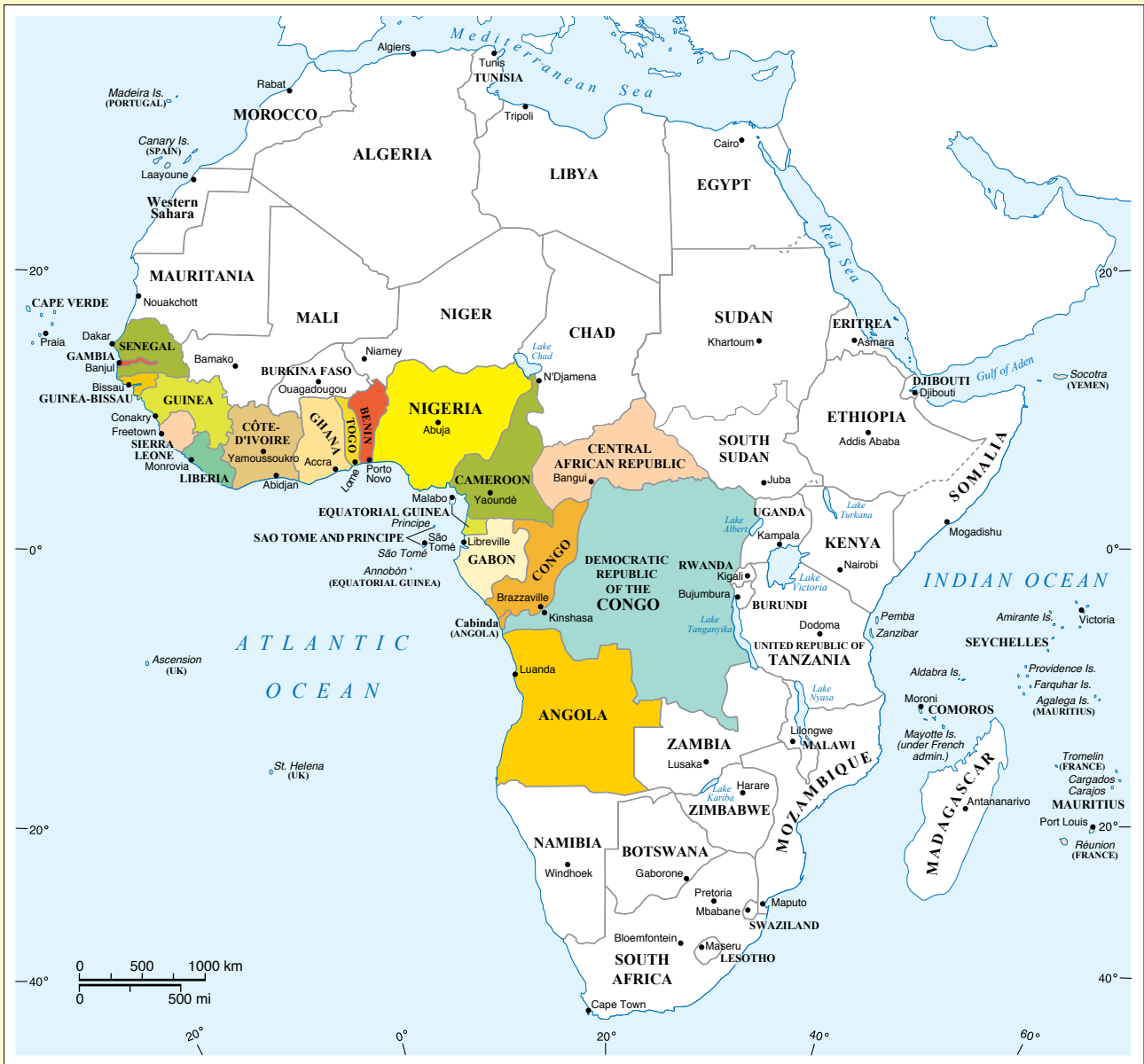
It may also be difficult to ignore regime change as states have an obligation to prevent and punish genocide, war crimes and crimes against humanity under conventional and customary international law. Since intervening in a Responsibility to Protect situation where the regime is committing mass atrocities inevitably means that it is in violation of international law, there will be tensions between upholding international law and the desire for justice by holding those committing the atrocities accountable. In essence, this makes the Responsibility to Protect as military intervention a continuation of international law by other means. This inevitably indicates the need for change, fully or partially, of the regime. If upholding international law is something that is valued, regime change would be the outcome even when it was not the intention of the mission.

Although proponents of the Responsibility to Protect have tried to separate the Responsibility to Protect from regime change, this article argues that such a strict separation does not make sense militarily. If the norm continues to involve a military dimension, there is a need to discuss the implications for the Responsibility to Protect and interventions in general. One starting point is to abandon the illusion of impartiality and to acknowledge that a strict separation between the Responsibility to Protect and regime change without sacrificing the protection of civilians is not possible 🚩

Erik Reichborn-Kjennerud is a Researcher in the Department of Security and Defence at the Norwegian Institute of International Affairs.

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OIL PIRACY IN THE GULF OF GUINEA

BY FREEDOM C. ONUOHA

Introduction

The outbreak and persistence of piracy off the Gulf of Guinea has for long been overshadowed by Somali piracy, which has seized the attention of the international community in recent years. Over the last three years, however, the dynamics of piracy in African waters has assumed a new direction. While the number of ships signalling attacks by Somali pirates has dropped, due to the intervention of foreign naval forces and use of vessel

protection detachments, the incidence of piracy is rising in the Gulf of Guinea.¹ Piracy in the Gulf of Guinea has escalated from low-level armed robberies to more sophisticated violent hijackings and cargo thefts. As a result, piracy off the coast of the Gulf of Guinea is increasingly gaining the attention of

Above: The Gulf of Guinea's coastal arc of over 6 000 km, stretching from Senegal in West Africa to Cameroon in Central Africa and Angola in southern Africa.

stakeholders in the maritime domain – states, international and regional organisations, ship owners, crew members and insurance firms, among others.

Two major factors account for the growing attention. First is the surge in the number of pirate attacks in the last three years, triggering apprehension within the international community of possible ‘Somalisation’² of the waters off the Gulf of Guinea. Second is the nature and target of the attacks. Unlike Somali pirates, who hijack ships and crew for ransom, pirates in the Gulf of Guinea are known to be very violent and focus predominantly on the theft of cargo.³ The cargo of choice for Gulf of Guinea pirates is oil and petroleum products. Security experts and commentators have dubbed this ‘oil piracy’.⁴

This article examines the dynamics of piracy in the Gulf of Guinea, with emphasis on the modus operandi of oil pirates. At the outset, oil piracy is defined as the act of boarding an oil-laden vessel when the vessel is at anchor, in intent to commit the theft of diesel, petrol or other petroleum products and with the capability to use intimidation or actual force for furtherance of the act. Although the primary target is the cargo, some other valuables can be stolen during the raid.

The Context: Oil in the Gulf of Guinea

Before understanding the dynamics of oil piracy, it is important to highlight the huge hydrocarbon potential of the region. The Gulf of Guinea can be geo-strategically defined to include the oil-producing (and potential oil-producing) states along the coast of West Africa, Central Africa and southern Africa.⁵ The region encompasses over a dozen countries, namely Angola, Benin, Cameroon, Central African Republic, Côte d’Ivoire, Democratic Republic of the Congo (DRC), Equatorial Guinea, Gabon, The Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Nigeria, Republic of the Congo (Congo-Brazzaville), São Tomé and Príncipe, Senegal, Sierra Leone and Togo. Since Chad’s oil is connected to that of Cameroon, analysts usually add Chad as a player in the region.⁶ The Gulf of Guinea’s coastal arc of over 6 000 km, stretching from Senegal in West Africa to Cameroon in Central Africa and Angola in southern Africa, highlights its value as an area of global geo-maritime importance.

The Gulf of Guinea Region⁷

The region is endowed with large reserves of mineral and marine resources, such as oil, diamonds, gold, fish and so on. Nearly 70% of Africa’s oil production is concentrated in the region, and it plays host to large oil producers.⁸ Angola and Nigeria are some of the bigger producers worldwide and have an output of around 2 million barrels per day. Congo-Brazzaville, Gabon and Equatorial Guinea have extracted between 240 000 and 350 000 barrels per day. Cameroon’s oil production has been on the decline in recent years, producing approximately 77 000 barrels per day (as of 2009).⁹

Oil has been discovered in Ghana, Sierra Leone and São Tomé and Príncipe. On the shores of Sierra Leone, an oil field (named ‘Venus’), stocking around 200 million barrels, was discovered in September 2009.¹⁰ Currently, no substantial discoveries have been made and no substantial oil production takes place in Benin, Togo and Liberia.¹¹ On 15 December 2010, Ghana formally commenced with commercial oil production from the Jubilee oil field, which holds approximately 800 million barrels of oil. With an initial production of around 120 000 barrels per day, Ghana will rank as sub-Saharan Africa’s seventh-largest producer, with the output set to double within three years.¹² The region’s untapped oil reserves hold the prospects of supplying significant quantities of oil to the global economy in the years ahead. Each day, the Gulf of Guinea ships 1.5 million barrels of its oil to the United States, as well as 1 million barrels to Europe, 850 000 barrels to China and 330 000 barrels to India – altogether, 40% of Europe’s and 29% of the United States’ oil imports.¹³ In 1999, it was estimated that Western oil companies would invest between US\$40 billion and US\$60 billion in the Gulf of Guinea alone over the next 20 years. The huge investment in oil extraction



GALLO IMAGES/GETTY IMAGES/ TOM STODDART ARCHIVE

The Exxon Mobil rig at Kome, Chad. The pipeline carries oil from the land-locked oil fields of Chad through the jungles of Cameroon to the Gulf of Guinea.

in the region meant that seaborne oil trade increased, with a high volume of maritime traffic, including oil-laden vessels. Keeping these shipping lanes open and safe is, therefore, vital for world supply. Other key concerns include the safety of offshore and onshore oil installations, safety of foreign oil workers and political conditions conducive for resource extraction. It is in this context, therefore, that maritime threats such as the growing pirate attacks on oil vessels assume wider international significance and generate much media and security attention.

Incidence and Scope of Piracy in the Gulf of Guinea

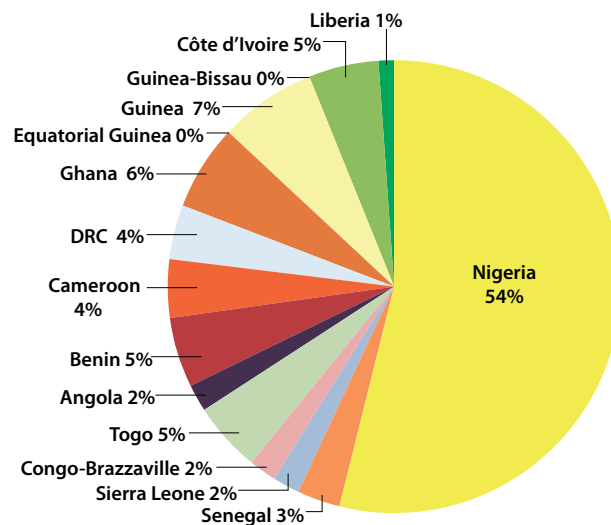
The outbreak of piracy off the coast of the Gulf of Guinea is not a new phenomenon, but dates back to the 1980s. Recent statistics (see Table 1) show that piracy in the region has not been evenly distributed. The incidents of piracy in the region decreased from 64 attacks in 2003 to 56 in 2004 and 25 in 2005. They escalated from 31 in 2006 to 53 in 2007 and 59 in 2008. Although they declined from 48 in 2009 to 39 in 2010, they increased to 53 cases in 2011 and further to 62 in 2012. According to the International Maritime Bureau (IMB), there were 10 hijackings in 2012, during which 207 crew members were taken hostage, 26 kidnapped and four killed.¹⁴

Table 1: Actual and Attempted Attacks against Ships in the Gulf of Guinea, 2003–2012

Gulf of Guinea States	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Angola	3			4	1	2			1	
Benin	1						1		20	2
Cameroon	2	4	2	1		2	3	5		1
DRC				3	4	1	2	3	4	2
Equatorial Guinea						1				
Ghana	3	5	3	3	1	7	3		2	2
Guinea	4	5	1	4	2		5	6	5	3
Guinea-Bissau							1			
Côte d'Ivoire	2	4	3	1		3	2	4	1	5
Liberia	1	2			1	1		1		
Nigeria	39	28	16	12	42	40	29	19	10	27
Senegal	8	5								
Sierra Leone		3		2	2				1	1
Congo-Brazzaville						1		1	3	4
Togo	1			1		1	2		6	15
Total	64	56	25	31	53	59	48	39	53	62

In the period under review, the majority of attacks in the region occurred in Nigerian waters (54%), but an estimated 60% of attacks in Nigerian waters go unreported. Besides Nigeria, other countries with high number of incidents include Guinea (7%), Ghana (6%), Côte d'Ivoire (5%) and Benin (5%) in 2003–2012. Figure 1 represents these attacks.

Figure 1: Percentage Distribution of Attacks in the Gulf of Guinea, 2003–2012.¹⁶



The dynamics of piracy are mostly related to the upsurge in the activities of local militias in Nigeria's oil-rich Niger Delta, who are protesting perceived marginalisation and deprivation of oil benefits by successive governments in Nigeria. The operational tactics of the militia groups include the hostage-taking of oil workers, sabotage of oil facilities, attacks on oil vessels, oil bunkering and kidnapping for ransom, among others.

To contain the activities of militant groups, the Nigerian government granted amnesty to militants in August 2009, to free them from prosecution for participation in different acts of violent crime in the region. The initiative saw over 15 000 militants surrender a large cache of arms and weapons. The amnesty deal partly accounted for the decrease in the number of attacks witnessed in 2009 and 2010. However, the rejection of the amnesty by some militia groups may partly explain why the incidence of piracy remains high. Pirate attacks in Nigeria have previously concentrated on fishing vessels and general cargo ships. With the emergence of sophisticated bandits specialising in hijacking oil vessels, however, pirates are increasingly modifying their tactics by launching attacks on oil vessels operating off the coast of the Gulf of Guinea.¹⁷

The experience of Benin is quite insightful in this regard. There was only one incident of piracy off Benin waters in 2003, while none were recorded between 2004 and 2008. In 2011, however, Benin had 20 cases of pirate attacks. Analysts attributed the upsurge in piracy off the coast of Benin to

Nigerian pirates. About 1 250 trained pirates are believed to live in Nigeria. It was alleged, for instance, that the pirates who attacked and killed a crew member of the *Cancale Star* on 23 November 2009 were from Nigeria. The Monrovia-flagged oil tanker was attacked some 18 nautical miles (33 km) off the coast of Benin, in what is believed to be the country's first such attack.¹⁸ Starting in October 2011, Nigeria and Benin mounted a joint naval patrol of their waters, known as Operation Prosperity.

This intervention has reduced attacks in their own waters but diverted pirate attacks to Togo and Côte d'Ivoire. While Benin recorded a sharp fall from 20 incidents in 2011 to just two in 2012, attacks off Togo increased from six in 2011 to 15 in 2012. Most of the recent attacks targeted oil tankers. In the following section, a brief analysis of the modus operandi of oil piracy is presented to understand the contemporary threat better.

Oil Piracy in the Region: Modus Operandi and Actors

Oil piracy in the Gulf of Guinea is conducted by well-organised criminal gangs, mostly operating from Nigerian

waters. As argued by Malaquais, in the Gulf of Guinea "piracy is the organized, sometimes highly sophisticated, illicit taking of oil. They steal the oil, make a couple of black market circles of the stuff, and then deposit it back into the global supply".¹⁹ The director of the IMB, Pottengal Mukundan, provides further comparative insight: "The attacks off West Africa follow a different modus operandi from pirate activity in other parts of the world. In addition to armed robbery, the more serious attacks involve hijacking of product tankers to steal a part of the cargo. The majority of the attacks usually involve a high level of violence against the crew. After the hijacking the product is transferred on to a smaller vessel to be taken and sold illegally in the region."²⁰ The current focus on oil vessels is not unconnected to the hike in the oil price, especially in Nigeria, which presents a ready market for the distribution and sale of stolen oil cargo. Table 2 lists a few examples of pirate attacks targeting product oil tankers.

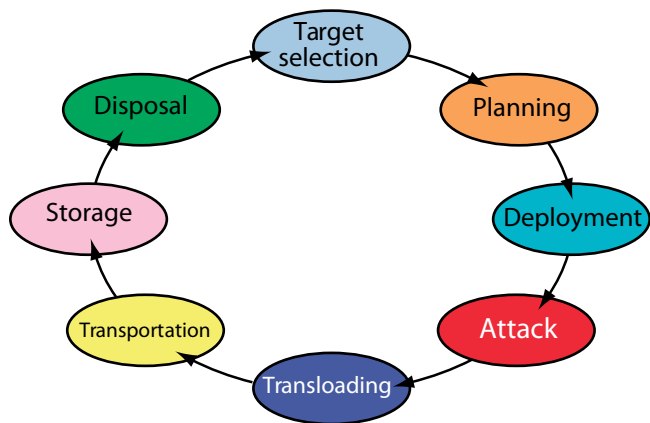
In the immediate aftermath of any successful oil piracy incident, what appears less apparent are the various stages that come before and after such an attack on oil-laden

Table 2: Some Pirate Attacks on Oil-laden Vessels.²¹

Date of Attack	Vessel and Crew	Location of Attack	Location and Date Released or Rescued	Remark
3 February 2013	<i>M/T Gascogne</i> (with 17 crew)	Hijacked off Côte d'Ivoire	Released on 6 February 2013 (location not disclosed)	The pirates took the ship to Forcados in Nigeria and siphoned off about 200 tonnes of its diesel fuel cargo. Two crew members were injured during the incident.
4 February 2013	<i>Pyxis Delta</i> (with 17 crew)	Lagos port, Nigeria	Rescued a few hours later, after the Nigerian navy intervened	The tanker was attacked when carrying out a ship-to-ship transfer. A Filipino crew member was killed.
16 January 2013	<i>ITRI</i> (with 16 crew)	Hijacked at port of Abidjan, Côte d'Ivoire	Released on 13 January 2013 (location not disclosed)	The hijackers siphoned off 5 000 tonnes (worth US\$5 million) of the fuel the tanker was carrying.
6 October 2012	<i>Aframax tanker Orfeas</i> (with 24 crew)	Hijacked at anchor off Abidjan, Côte d'Ivoire	Released on 9 October 2012, off Nigerian waters	The pirates stole 2 500 tonnes of the 32 068 tonnes of gasoline the vessel was carrying. This was the first time a tanker was hijacked off Côte d'Ivoire.
4 September 2012	<i>Abu Dhabi Star</i> (with 22 crew)	Attacked about 14 nautical miles from the entrance to Lagos port, Nigeria	Nigerian navy freed the vessel after it had been hijacked for about 11 hours	The raiders escaped when they saw a Nigerian naval ship and helicopter. Their intent was to steal the oil.
28 August 2012	<i>Energy Centurion</i> (with 23 crew)	Hijacked 7 km off the coast of Lomé, Togo	Released on 30 August 2012, off Nigerian waters	Some 3 000 tonnes (worth about US\$3 million at market value) of the 56 000 tonnes of gas oil cargo was stolen.
18 August 2012	<i>MT Anuket Emerald</i> (with 17 crew)	Hijacked close to the port of Lomé, Togo	Released 23 August 2012, off the coast of Delta State, Nigeria	The pirates drained the vessel of its oil cargo (3 450 tonnes) into another vessel (<i>MT Grace</i>), reportedly belonging to Akoto Ventures.

vessels. The modus operandi of oil piracy shows that it is a well-organised crime which generally follows a process that involves eight stages: target selection, planning, deployment, attack, trans-shipment, transportation, storage and disposal. Figure 2 shows that in the act of oil piracy, the organised criminal group must identify a vessel, plan for the attack, conduct the attack, steal and transfer the cargo, transport the stolen cargo to a storage facility and dispose of the stolen cargo. These various stages are discussed briefly.

Figure 2: A Typical Oil Piracy Cycle



- **Target selection:** This involves identifying a potential oil-laden vessel and obtaining the necessary information for planning. Vital information such as the names of ships, the route they will take, value of the cargo and extent of insurance is often provided by a powerful transnational ‘mafia’ – people with vast knowledge of how the oil industry operates – who finance and facilitate the operations of oil pirate gangs.
- **Planning:** This is the stage at which the pirate gang has been contacted and provided with the necessary information to begin plotting. The pirates then decide when, where and how to hijack the tanker successfully. The planning often takes place at the hideout of the pirates.
- **Deployment:** This involves the dispatch of the pirates with every necessary tool (global positioning devices, satellite and mobile phones, speedboats, guns and hooks, among others) that will aid the operation. While offshore, tact is critical at this stage to avoid the crew of the vessel or maritime security forces from becoming suspicious of their mission.
- **Attack:** This is the stage when the pirates (pirate commander, mothership crew and pirate-soldiers) successfully board the ship and make their way to the bridge to take control or to order the captain to navigate it to their chosen location or direction. The invasion is usually brisk and may or may not be violent, depending on the level of resistance by the crew of the vessel. Gulf of Guinea oil pirates are known to

be violent, as they usually deploy sophisticated arms and weapons such as AK-47s in their operations. The communication and navigation equipment of the ship are usually damaged by pirates at this stage to prevent the crew from calling for help.

- **Trans-shipment:** This is the period when the vessel’s content (crude oil or petroleum products) are emptied or pumped into the pirates’ vessel. The transfer is done while the hijacked vessel is sailing slowly at sea.
- **Transportation:** Once loaded into the pirate vessel, the stolen cargo is transported to storage tank farms, mostly located in Lagos (Nigeria).
- **Storage:** At this stage, the stolen cargo is offloaded into the tank farm or storage facilities of the oil marketer for sale and distribution.
- **Disposal:** This is the stage when contacts are made with local oil dealers or distributors to inform them of the availability of the product. The stolen cargo is sold to buyers, who will use fuel tankers to remove the product to their fuel stations in Nigeria. It could also be resold for export.

After every successful hijacking and disposal of the stolen cargo, the parties split the proceeds. The confession of Blessing Numbers, the leader of the pirate gang who hijacked the *MT Energy Centurion*, on their mode of operation is quite revealing:

Once there is a ship to be hijacked, our sponsors get across to us through their points-men. We then move to get the details about the vessel from the Ministry of Petroleum Resources, Nigerian National Petroleum Corporation and then seek support from relevant security agencies. We operate on an agreed fee and between 70 and 80 percent of the fee is paid before we embark on the operation and the balance is paid immediately after the operation. Once we complete the assignment, we inform the points-men, who immediately get in touch with another group also working for the sponsors to take charge of the hijacked vessel, get the oil off-loaded into another vessel to deposit it in various oil storage facilities for distribution and sale to oil marketers and merchants. We do not engage in the sale of oil products. However, we assist at times to monitor it through arms support.²²

His confession confirms not only the organised nature of this illicit maritime crime, but also the diverse network of actors and ‘division of labour’ or specialisation that facilitate such a lucrative criminal enterprise. The network of diverse actors includes oil industry workers, security agents, oil marketers, government officials, gun runners and vessel owners, among others, who benefit from the criminal economy. Depending on the actor’s role in the oil piracy ring, the individual may physically collect his or her share, or it

may be deposited into an agreed bank account. The pirates are known to collect their payment before venturing onto the sea. Also, some sophisticated oil piracy gangs are composed of people of different nationalities – Ghanaians, Nigerians and Togolese, among others – making it possible for them to overcome the challenges of language and geography when operating in different coastal waters and harbours.

Enabling Environment and Contributory Factors

Several interrelated factors underlie the outbreak of oil piracy in the region. Despite their vast oil wealth, most Gulf of Guinea states are suffocating under the weight of official corruption and have the worst indices of human development. For decades, income from oil wealth has, in large part, only benefited central government, oil companies and local elites.²³ With declining opportunities for legitimate livelihood amidst affluence, youths are easily recruited into criminality such as sea banditry. Lured by the prospect of easy money and facing competition from foreign vessels, many fishermen in the region have sold their boats to pirates or turned to piracy themselves.²⁴

Resorting to sea banditry in turn compounds the vicious cycle of small arms and light weapons (SALWs) proliferation in the region, since pirate gangs need sophisticated arms to guarantee their own security. During a recent raid on a pirate camp in Nigeria, for example, security agents recovered various sophisticated weapons.²⁵ In turn, the availability of SALWs contributes to the frequency and intensity of violent

conflicts and crime (such as kidnapping) onshore and offshore in the region.

Given the environment of insecurity, states in the region tend to couch their security in terms of narrow, landward defence. An obvious consequence of this narrow view of security is the overwhelming priority given to land-based forces, particularly the army, to the neglect of maritime security forces such as the navy, air force and coastguards. This disproportionality manifests not only in personnel strength, but also in the size of budgetary allocations. The result is that maritime security forces are ill-equipped and underfunded, thereby making them unable or unwilling to perform interdiction operations which they often consider as risky. Off West Africa and Central Africa, for example, there are fewer than 25 maritime craft longer than 25 metres available for interdiction efforts.²⁶

There is also the problem of corruption and collusion between criminal groups and state actors – politicians, oil industry workers, security agents and government officials – who benefit from the shadow economy. Weak governance institutions and weak rule of law allow these powerful state actors to use their influence and affluence to block efforts at the investigation and prosecution of arrested oil gangs. They often secure bail for these oil thieves and pirates when apprehended, or seek ‘soft’ consequences for them if prosecuted.²⁷

More so, in a globalised world facilitated by tremendous growth in maritime transportation, the range of maritime



REUTERS / THE BIGGER PICTURE

The United States navy trained partners from Africa's Gulf of Guinea to help boost maritime security in the region (March 2009).



The international community should sustain efforts at the capacity building of maritime security forces in the Gulf of Guinea states, and should support these states with platforms and equipment to enhance their presence at sea.

threats requires collaboration among national navies in defence of their coast. In the Gulf of Guinea region, in particular, it is doubtful whether there is any country that has a navy powerful enough to combat piracy alone. Most of the littoral states are not only blighted with poorly equipped and poorly trained navies, they are yet to evolve a robust regional cooperative framework that would ensure the full utilisation of maritime domain resources to achieve sustainable security and development.

LURED BY THE PROSPECT OF EASY MONEY AND FACING COMPETITION FROM FOREIGN VESSELS, MANY FISHERMEN IN THE REGION HAVE SOLD THEIR BOATS TO PIRATES OR TURNED TO PIRACY THEMSELVES

Conclusion and Recommendations

Oil piracy in the Gulf of Guinea is similar to any other type of profitable organised crime. If concerted efforts are not made to deal with the actors and dismantle the market, its lucrateness will embolden current actors and even encourage new entrants into the business, now and in the future. A concerted effort by the international community, in

partnership with states of the Gulf of Guinea and regional organisations such as ECCAS, ECOWAS and the Gulf of Guinea Commission, is therefore critical to addressing the piracy problem more broadly. Ongoing efforts at the national, bilateral, regional and international levels to deal with the evolving threat of piracy in the region should be strengthened and sustained. It is also recommended that:

- Gulf of Guinea states should evolve sound resource management practices to leverage their oil affluence effectively to address the myriad economic afflictions – such as widespread poverty, unemployment and destitution – that contribute to citizens resorting to crime
- maritime security agencies should invest more resources in intelligence gathering and sharing, including working in concert with relevant state agencies in gathering evidence on the modus operandi of pirates, to aid prosecution
- regional bodies such as ECCAS and ECOWAS should evolve a common maritime patrol and interdiction mechanism
- Gulf of Guinea states should review, update and harmonise their (domestic) legislation pertaining to piracy and other maritime crimes, to plug legal loopholes that criminals can exploit to avoid conviction
- the international community should sustain efforts at the capacity building of maritime security forces in Gulf of Guinea states, and should support the states

or any agreed regional maritime security mechanism with platforms and equipment to enhance their presence at sea; and this capacity building should also be extended to judicial officers in prosecuting trans-maritime criminals

- the governments of Gulf of Guinea states should demonstrate the will and commitment to prosecute diligently and punish sea pirates as well as persons, groups or organisations financing and facilitating illicit oil transactions in the maritime domain
- there is the need for greater international collaboration (adoption of legal instruments) in the fight against illicit oil trade and arms smuggling, and shipping lines involved in illicit oil transactions should be blacklisted
- governments of Gulf of Guinea states should register vessels, barges and boats operating in their waters to prevent criminals from hiding under the pretence of engaging in a legitimate livelihood (such as local fishing) to perpetrate maritime crimes. **A**

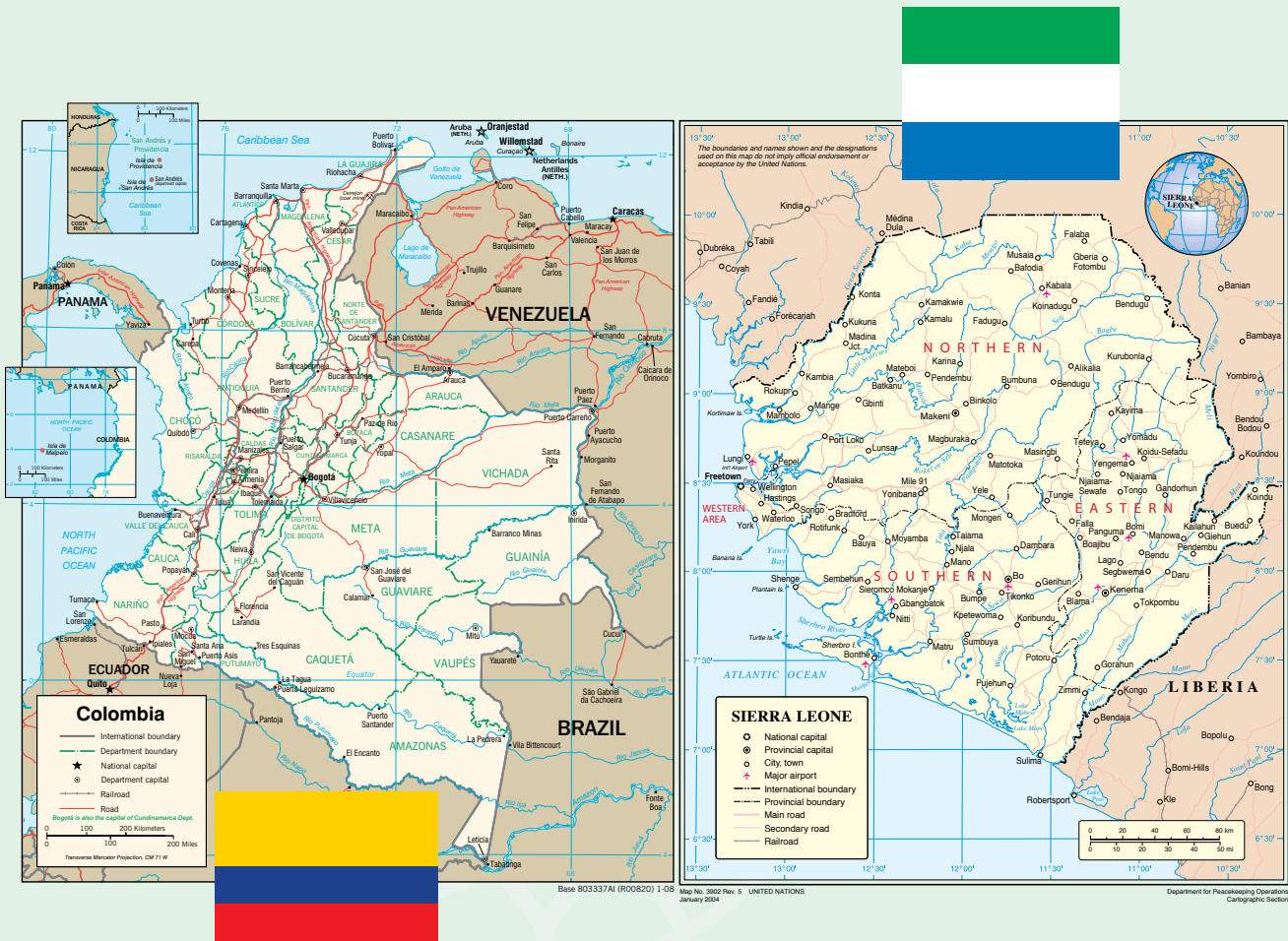
Freedom C. Onuoha is a Research Fellow at the Centre for Strategic Research and Studies (CSRS) at the National Defence College in Abuja, Nigeria. He is also a doctoral candidate at the University of Nigeria, Nsukka.

Endnotes

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PRIVATE MILITARY AND SECURITY COMPANIES: A COMPARATIVE ANALYSIS BETWEEN COLOMBIA AND SIERRA LEONE

BY JERÓNIMO DELGÁDO CAICEDO AND NICOLÁS ÁVILA



Nowadays there is a general international recognition of the role private military and security companies (PMSCs) can play in a country’s development. There is no doubt that the increase in the number of these companies has created debates about the privatisation of war, the monopoly of the legitimate use of force, and the new challenges they pose to humanitarian law. There is also a debate about whether their role can be understood as either beneficial or detrimental.

The growth of PMSCs responds to an ‘increasing disinclination on the part of great powers to intervene in civil wars’¹, a glut of trained manpower and the new ideology of market, leading to a paradigm change. This involves thinking

about security in terms of cost-effective privatisation and not as a fundamental function of the modern state.

Some African states have been catalogued as fragile states, and the PMSCs’ growth has been attributed to that specific condition since decolonisation. However, problems within states occur not only in Africa but also in Latin America, the Middle East, South East Asia and the Balkan region. Countries such as Cambodia, Iraq, Croatia and Colombia have had a significant presence of PMSCs in different fields and with different outcomes.

In classifying PMSCs, Singer and Avant² supplied a conceptual structure in order to understand differences



An increase in the role of private military and security companies has created debates about the privatisation of war, the monopoly of the legitimate use of force, and the new challenges they pose to humanitarian law.

and similarities related to mercenaries.³ Nonetheless, Spear makes an interesting categorisation of PMSCs. This gives greatest relevance to their permanent, corporative structure with a specific doctrine, training capacity and, of course, the final aim of profit.⁴ She differentiates PMSCs from mercenaries by identifying the former as having such characteristics as a permanent staff with a trustworthy structure and a hierarchical organisation. These allow PMSCs to trade, compete and profit openly on the international market.

'The combination of global systemic and structural factors – and local responses to them – has created both the demand for private military companies and the supply of labour and capital investment to meet that demand'.⁵ A comparative analysis of the dynamics in Colombia and Sierra Leone allows for a better reflection and understanding of the pros and cons of the presence of PMSCs. The use of these companies is either to protect important places like government buildings, natural resources and international companies' headquarters, or to be directly involved in the combat against armed groups, war lords and illegal activities.

Colombia: A Bitter-sweet Outcome

PMSCs entered Colombia in the 1990s during a cooperation programme implemented by the United States (US) against drugs in the country. The end of the Cold War also ended communism as the main enemy against the security of the US. It was replaced by drug trafficking, which placed Colombia as the receptor of the US's coercive diplomacy.⁶

The situation strengthened militarisation and led to the implementation of Plan Colombia. This Plan, started in 2000, increased the use of private companies to a point where 50% of all resources provided by the US government was paid to PMSCs in 2002. These payments were made in order to achieve the broad goal of winning both the war on drugs and the war against the guerrilla groups. Counselling by the US was transformed from an exclusive approach on the war on drugs to one of counterinsurgency training. This was despite



UN PHOTO/JOHN ROBARTON

Private military and security companies entered Colombia in the 1990s during a cooperation programme implemented by the United States against drugs in the country.



A member of a private security company stands guard next to the remains of a bomb-damaged bank in Medellín, Antioquia province, Colombia. The attack was made by Revolutionary Armed Forces of Colombia (October 2002).

the fact that various topics in the cooperation agreement such as respect for human rights, social development and economic growth needed more funding and attention.

In 2006, there were about 25 PMSCs working for the Department of Defence and the Department of State. There were the Military Support Firms that only provided military input – the most important component. Companies such as Lockheed-Martin, Virginia Electronic Systems, Chenega Federal Systems, among others, provided logistical support. This included training for the state’s military forces, radar operation, communication equipment and database upkeep, while trying not to get involved in the conflict. On the other hand, Military Provider Firms such as DynCorp, Northrop Grumman and Airscan were directly involved in combat during activities such as pipeline protection, military escort, and the recognition of illegal activities through infrared cameras. These situations led to both positive and negative results.

There is no doubt that these firms increased the Colombian military capacity in terms of intelligence and direct combat strategies. Attacks and military operations against ‘Martín Caballero’, ‘Negro Acacio’ and ‘Raúl Reyes’⁷ resulted from information shared by these companies.

The results have also weakened the capacity of the Revolutionary Armed Forces of Colombia (FARC) to undertake actions against both the government and the civilian population.⁹

However, undesirable results have also occurred. The Colombian government’s degree of dependence on the US is much higher, as former Defence Minister Juan Manuel Santos admitted in 2007. PMSCs control military intelligence information which is shared first with the US government due to contracts having been signed with Washington DC and not with Bogotá.⁹ Equally, there have been military mistakes involving these companies. But their employees are legally immune unlike Colombian soldiers who have to respond to Colombian justice.

The best known case involves DynCorp. The company has been linked to the Narcotic Affairs Section since 1994 and

BUT THEIR EMPLOYEES ARE LEGALLY IMMUNE UNLIKE COLOMBIAN SOLDIERS WHO HAVE TO RESPOND TO COLOMBIAN JUSTICE



Colombian mayor, Cielo Gonzalez, is escorted by private bodyguards. As the prominent mayor of Neiva city near Colombia's drugs heartland, leftist guerrillas wanted Gonzalez dead to send a message that the United States-backed security campaign is failing (March 2007).

today is the most important Department of State contractor in Colombia. Its functions include spraying, training, air transport, ground reconnaissance, and search and rescue operations. The US embassy does not actually track DynCorp activities.¹⁰ In some cases, the company does not respect the US Congress ban¹¹ as DynCorp soldiers are usually present *in situ* before drug fumigation to secure the work of airplanes and helicopters. Their presence in combat areas may eventually lead to a confrontation between DynCorp employees and FARC forces.

Sierra Leone: Have PMSCs Saved the State?

'Private security was used in Sierra Leone as long ago as 1936, when the government handed over security of the diamond fields to companies prepared to field their own armed forces'.¹² However, growth in PMSCs started in 1991 due to Revolutionary United Front (RUF) military power and their capacity to almost take the capital city, Freetown. This was despite the presence of the Economic Community of West African States Monitoring Group (ECOMOG) troops.

These troops were sent because of the evident link between the RUF and Liberia's President Charles Taylor.¹³

In the early stages of the conflict Joseph Saidu Momoh¹⁴ asked the British for military help, but neither the British nor other powers answered the call. Instead, PMSCs such as Gurkha Security Guards (initially a private security company) provided some training to the Sierra Leonean army with few results. In 1995, Capitan Valentine Strasser¹⁵ hired Executive Outcomes (EO) after carrying out a coup d'état against President Momoh. He hired EO to provide intelligence and combat assistance for a fee of US\$60 million and 40% of the Koidu diamond field ownership.

EO's objectives were to secure Freetown, regain control of the mines in the Kono region, destroy the headquarters of the RUF and push them out of the country.¹⁶ Ultimately the EO argued that it would be an advance guard for the UN to make peace, but instead the real priority was business. During the EO presence, two coups were prevented in 1996. At the same time two coups were carried out, leading finally



Eben Barlow was the head of Executive Outcomes, the private military company hired by Valentine Strasser in 1995 to provide intelligence and combat assistance in Sierra Leone.



Private military and security companies in Sierra Leone assisted ECOMOG troops to secure public order that eventually led to the reinstatement of Ahmad Kabbah as president in 1998.

in the same year to the Abidjan Peace Agreements headed by President Kabbah.

However, after EO's withdrawal, a new coup occurred and Nigerian troops were unable to prevent it. In 1997 the conflict shifted to one between the Armed Forces Revolutionary Council (AFRC) against the paramilitary Kamajors. The role of PMSCs like Sandline International was also important in helping ECOMOG troops to guarantee the public order that led to the reinstatement of Kabbah as president in 1998.

After the departure of Sandline, the government and its allies remained unable to defeat the RUF.¹⁷ Therefore, with both parties at the same military level, the Lomé Peace Agreement was signed in 1999 despite the indifference of the United Nations (UN) Security Council. In 2000 the RUF violated the accord and took United Nations Mission in Sierra Leone (UNAMSIL) soldiers as hostages. This endangered

the UN personnel in the capital and caused the unilateral British intervention.

In spite of some UN attempts to improve their capacity in Sierra Leone, there was not enough support from the international community. No one was ready to lose its troops there and the UNAMSIL officers realised that they could not defeat the RUF militarily. The final solution paradoxically came from Sierra Leone's citizens. They overcame intimidation tactics and captured the RUF leader, Foday Sankoh, taking him to the authorities for trial. They eventually forced a ceasefire agreement in 2000.

'In the broader analysis, EO was a true innovator in the overall privatised military industry, providing the blueprint for how effective and lucrative the market of forces-for-hire can be.'¹⁸ Sandline was effective in accomplishing their



Former Secretary General Kofi Annan visits the United Nations Mission in Sierra Leone following the capture of peacekeeping soldiers by the Revolutionary United Front (2000).



The Revolutionary United Front leader, Foday Sankoh, was captured by Sierra Leone’s citizens and handed over to the authorities for trial. This forced the ceasefire agreement of 2000.

task of reinstating president Kabbah. At the same time it increased the number of actors involved in the conflict and led to the uncertainty of future country revenues.

Dilemmas and Challenges

The cases of both Colombia and Sierra Leone allow for an analysis of the different problems that PMSCs create. At the same time, they offer an opportunity to inquire if results, and not how to reach them, are the appropriate measure to determine whether or not a company is effective. Whereas in the Colombian case the PMSCs have had important but not significant results in managing and controlling the conflict, the case of Sierra Leone can be understood as successful in this regard. Even though specific companies such as EO or Sandline International in Sierra Leone did not ultimately achieve the termination of the conflict, they were crucial to forcing peace agreements and short periods when violence was absent.

Regardless of whether or not they are successful, Singer mentions certain dilemmas when using PMSCs¹⁹ which can be applied to both cases. First, the incentives of a private

company do not always align with its client’s interests. This is easily recognisable in Sierra Leone as neither Sandline nor EO took social welfare into account. These companies were interested in the profit that could possibly be obtained from military services and diamond rents instead of the public interest.

Second, the unregulated nature of a global industry is manifested in the Colombian case. Immunity for PMSCs employees, few regulatory laws and violation of human rights are facts linked to the challenges of controlling these companies. Indeed, the case of Sierra Leone shows that almost anyone with economic resources can hire PMSCs. This is so regardless of whether the potential client is an authoritarian regime, a rebel group, a drug cartel or a guerrilla force.

Third, removing certain activities from popular oversight affects the host government. Companies allow governments to carry out actions that would otherwise not be possible.²⁰ A good example is the increased use of military contractors hired by the US government in Colombia. Without the hiring of PMSCs, the Bush administration could not have exceeded


the limits of Congress to increase the size and scope of military involvement in Colombia and would have had to participate in political debates before Congress.

Fourth, there is a significant problem when trying to distinguish between civilians and soldiers. In both cases the armed conflicts assumed different dynamics. It was very difficult to determine whether someone was part of the conflict or not. Moreover, PMSCs make it harder because some of them are directly involved in combat while others are limited to providing training and logistical support. Today there is thus a challenge to international humanitarian law due to changes in the scope, concepts, legitimacy, distinctions between combatant/civilian, perpetrator/victim²¹ and a lack of new standardised norms applicable to all conflict situations.

Finally, academics are currently inquiring about the future of the public military itself. The liberal era has created the best conditions for free market development in almost every single productive area, including military force. PMSCs pay much more money than states pay to their armies. For that reason, 'the military's professional identity and monopoly on certain activities is being encroached on by the regular civilian marketplace'.²²

Conclusion

PMSCs form a sensitive topic because the use of companies dedicated exclusively to military services may affect the monopoly on the use of force. This is imperative in order to protect human rights and humanitarian law. This profitable industry raises questions about the possibility of international actions to regulate such companies. This will only be possible with strong political will from various states.

Both cases show the imperative need to protect national interests. They highlight why states have to be cautious - to be independent, to develop rules against human rights violations and to give the state's purpose preponderance over the reward received by PMSCs for their military services. Privatisation does not always imply better quality, less resources or successful results. States should not only evaluate results but also the means employed to achieve them. 

Jerónimo Delgado Caicedo is the Coordinator of the African Studies Centre at the Universidad Externado de Colombia, in Bogotá, Colombia. He is also a Consultant for the Asia, Africa and Oceania Bureau at the Colombian Ministry of Foreign Affairs.

Nicolás Ávila is a Research Assistant at the African Studies Centre at the Universidad Externado de Colombia in Bogotá, Colombia.

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- 8 The Colombian conflict has lasted more than 50 years. Violence reached a peak in 2002. It has been argued by different experts in Colombia that during the Uribe administration, the military capacity of FARC decreased due to a strong State policy of military extermination of the guerrilla groups.
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DEVELOPMENT SENSITIVITY FOR RECONCILIATION: LESSONS LEARNED FROM RWANDA

BY TATSUSHI ARAI

Introduction

Reconciliation and development are deeply interconnected in conflict-affected societies. The relationship between them, however, is far from self-evident. This article examines the nature of their interdependence and explores ways in which practitioners of reconciliation and development can integrate these two sets of activities. Examples of relevant concepts in reconciliation and development will be derived from the research I conducted in Rwanda in January 2012. This is supplemented by the practical experience I have gained over the years as a practitioner of reconciliation and development in Africa and elsewhere.

In this article, development is defined as a progressive satisfaction of basic human needs, both material and non-material, with the emphasis on those most in need.¹ Reconciliation refers to a sustained communal process that facilitates healing from trauma and closure to revenge.² Conceptually, reconciliation is a subtype of conflict transformation. This is a term used to describe an umbrella category of practices that seek to understand

Above: A genocide survivor and a prisoner (in pink shirt) participate in a *gacaca* meeting in Gotovo, Rwanda (February 2003).



was bound to be the most difficult emotional encounters.

They had been meeting weekly for the past four years. The ongoing dialogue had been facilitated by a local non-governmental organisation (NGO) with deep local ties and extensive experience in inter-communal reconciliation and psychosocial healing. This particular meeting in mid-January 2012 focused on the participants' views on forgiveness and reconciliation.

It built on the deep interpersonal relationships they had already fostered up to that point. The NGO-led initiative was independent of, but complementary to, the government-sponsored *gacaca*. This is an institutionalised form of traditional community tribunals established nationwide in 2002. At the point of this dialogue the *gacaca* court was already winding down and nearing the end of its ten-year operation.

The community dialogue under study generated a wealth of insights into how reconciliation and development interact with one another in the daily lives of ordinary Rwandans. The following two narratives offer a glimpse of the challenges they face in their struggle to pursue reconciliation and development:

*I don't have my own shelter. I can't get any medicine even when I am sick. I don't know what to do. These circumstances of financial difficulty cause me tremendous anxiety and challenge me mentally. I am facing an identity crisis.*³

*I am very grateful for the NGO hosting our dialogue. After I was released from prison, I felt isolated and lonely. But thanks to the dialogue that has brought us together, I feel integrated into our community again. I asked the survivors for forgiveness. Some people even told me that I don't have to pay them the compensation I owe them. Others told me that I should pay only one tenth or one third of the compensation. These positive experiences gave me an opportunity to reconcile not only with the victims, but also with myself and with God.*⁴

The first of these two narratives illustrates economic deprivation as a basis for the interlocutor's identity crisis.

conflict sources and contexts in a systematic, multi-angled manner. This understanding is used to redirect the way of relationship-building toward sustainable coexistence. While this article focuses primarily on reconciliation, it also argues that lessons learned from this inquiry apply to conflict transformation in general. This is because reconciliation and conflict transformation both share the core practice of rebuilding human relationships.

To explore how conflict transformation and development relate to one another, I propose the concept of development sensitivity. This is the capacity of conflict transformation practitioners to interact self-consciously and constructively within the context of socio-economic deprivation and underdevelopment in which they work. Development sensitivity suggests a mirror image of conflict sensitivity. This has recently been popularised as a guiding principle of development in conflict-affected societies, with a view toward minimising harm and maximising constructive influence. To illustrate these concepts, I first present selected narratives from a community dialogue between Rwandan genocide survivors and ex-prisoners. I then explore the concept of conflict and development sensitivity more deeply based on lessons learned in Rwanda and elsewhere.

Reconciliation and Development in Context: Lessons Learned from Post-Genocide Rwanda

The narratives introduced in this section are adopted from a dialogue between genocide survivors and ex-prisoners held in mid-January 2012 in Rwanda's Southern Province bordering on Burundi. Some thirty participants in the meeting were all residents of the same rural agricultural community who volunteered to come forward to face what



A genocide survivor (right), meets with the man accused of killing his wife and children and stealing his cows during the 1994 genocide in Karama, Rwanda. The two men met to attempt dialogue and reconciliation, following the accused's release from prison.

The second one suggests a possible link between improved victim-offender relationships and debt forgiveness. This is considered conducive to the ex-prisoner's effort to establish a better prospect of economic survival. The need for compensation mentioned in the second narrative refers to the duty of perpetrators to offer restitution to victims in the form of money, commodities, or labour, according to the government-sponsored procedure of justice.

The interconnected nature of development and reconciliation challenges the very spirit of the dialogue intended to disentangle this intricate connection. The following two narratives illustrate this challenge:

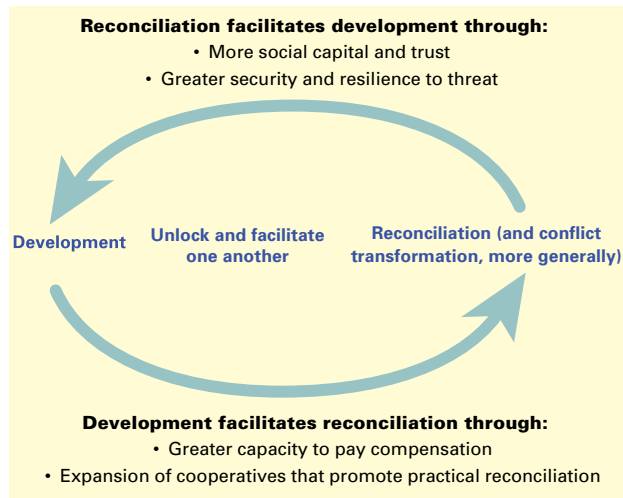
*The person [an ex-prisoner] who was elected as our community healing assistant [a position created to facilitate a community-based reconciliation process under the NGO's initiative] has not paid his compensation to victims. When we have such a problem of dishonesty among us, how can we forgive the perpetrators and work together with them as a community?*⁵

*[Commenting on the preceding remark on the healing assistant who allegedly has not paid his compensation] I confronted him when I was sick. I asked him if he could cultivate my land while I was sick. He told me that he would not be able to do it for everybody to whom he owed compensation. I felt rejected.*⁶

These two narratives show that the way in which community members handle the critical question of compensation, which genocide survivors consider essential for both justice and development, either facilitates or hinders healing and reconciliation critically.

The local context of community dialogue that these narratives illustrate mirrors the national context in which development and reconciliation interact. In broad outline, their interdependent relationship is illustrated as follows:

Figure 1: Development-Reconciliation Link: The Case of Rwanda





The need for compensation refers to the duty of perpetrators to offer restitution to the victims. Ex-prisoners can offer their labour in the community as restitution.

As Figure 1 illustrates, the reciprocal way in which development and reconciliation enable each other suggests that progress in one realm facilitates activities in the other. More specifically, expansion of tangible development activities through well-organised cooperatives engages both genocide survivors and ex-prisoners in a joint task of community-based agriculture and livestock development. These development initiatives, if managed effectively, facilitate 'practical reconciliation'. This is a way of restoring divided relationships and deeply wounded identities through hands-on activities that generate immediate tangible gains for both sides. These and other concrete measures aimed at uplifting the most marginalised, including ex-prisoners in destitution, increase the beneficiaries' capacity to pay compensations to genocide survivors. In addition they expand economic freedoms in various other ways. In short, well-organised development initiatives facilitate reconciliation. They do so because they help rebuild the material and social infrastructure that enables human interaction to emerge and evolve.

On the other hand, reconciliation and psychosocial healing, as illustrated in Figure 1, enable divided communities to restore trust. It increases social capital or value in society generated by cooperation. In addition, progress in reconciliation fosters a sense of security and builds people's resilience to security threats that may be generated either within communities or from outside.

The deepening of interpersonal and inter-communal relationships also creates a more conducive social climate in which divided communities can work together for development. At the very least people will refrain from obstructing development initiatives of perceived adversaries through rivalry and vengeance. In brief, reconciliation facilitates development by unblocking the development potential inherent in human relationships.

Conflict Sensitivity and Development Sensitivity

A deeper understanding of the interconnectedness between reconciliation and development leads to a search for useful frameworks of reflective practice that actively build on this interconnectedness. One example of such frameworks is conflict sensitivity. This is adopted widely by development practitioners working in conflict-affected societies. Another framework proposed here as a way of expanding the scope of reflective practice is development sensitivity. Practitioners of reconciliation must take this into consideration when working in economically deprived societies. To illustrate both concepts, I will first summarise conflict sensitivity and then outline my vision of development sensitivity.

Conflict Sensitivity

Conflict sensitivity is the holistic awareness and capacity of development practitioners working to:

1. Assess the social context of conflict in which development initiatives take place,
2. Monitor how their development initiatives interact with the broader social context,
3. Continuously define and redefine the substance and delivery of the initiatives in such a way as to minimise harm and maximise positive impact on the context.⁷

Importantly, conflict sensitivity draws on a systematic, multi-angled analysis of the root causes and evolving dynamics of the conflict at hand. It incorporates elements of conflict transformation aimed at addressing the sources and dynamics of the conflict either directly or indirectly by means of development practice.

Elements of conflict-sensitive development are found in a multi-year initiative for cooperative development in Rwanda's rural communities. This initiative invited genocide survivors and ex-prisoners to form a democratically accountable mechanism of joint governance. They work together to meet common needs in livestock development, greater agricultural productivity, warehouse management and the cost-effective distribution of agricultural products. The community meetings I held or observed in January 2012 with multiple groups of cooperative participants cogently demonstrated that they genuinely appreciated the practical focus of these hands-on development activities. These would lead immediately to tangible economic gains. Moreover, community members across multiple locations indicated that anxiety and worries caused by economic deprivation would not only reactivate traumas, but also drive aggressive behaviour and cause conflict to resurface. For them, jointly overcoming poverty through conflict-sensitive development is reconciliation in and of itself.

Conceptually, a conflict-sensitive approach to development places conflict analysis and transformation in the background and carries out development initiatives in the foreground. Figure 2 illustrates the foreground-background relationship between development and conflict.

Figure 2: Conflict Sensitivity

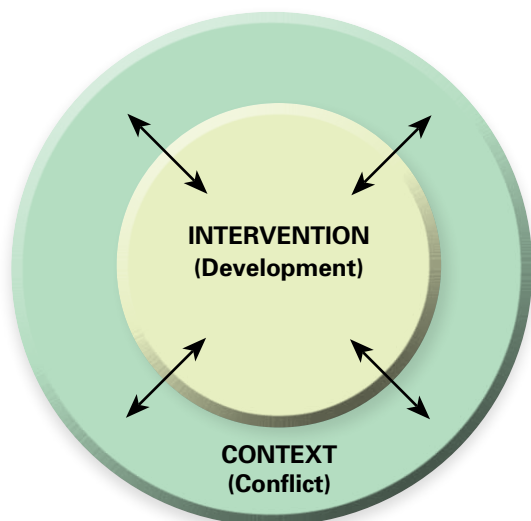


Figure 2 describes an *intervention* for development (for example, establishment of community-based agricultural cooperatives) that proactively interacts with the evolving *context* of social conflict (for example, tension between genocide survivors and ex-prisoners). In this context, conflict-sensitive development does not aim at transforming the social conflict in the background. Such development practice, however, remains responsive to the ever-evolving dynamics of the conflict. It strives to minimise harm and maximise the positive impact on the conflict by meeting the development needs of the stakeholders involved in the context.

Development Sensitivity

While conflict sensitivity views development in the foreground and conflict transformation in the background, development sensitivity suggests a reversal of this foreground-background relationship. Modeling on conflict sensitivity, development sensitivity advocates the holistic awareness and capacity of conflict transformation practitioners to:

1. Understand the context of underdevelopment in which their initiatives take place,
2. Continuously monitor the interactions between the conflict transformation initiatives and the broader social context of underdevelopment,
3. Act on the understanding of this dynamic interaction in such a way as to minimise harm and maximise positive impact on the context.

Figure 3: Development Sensitivity

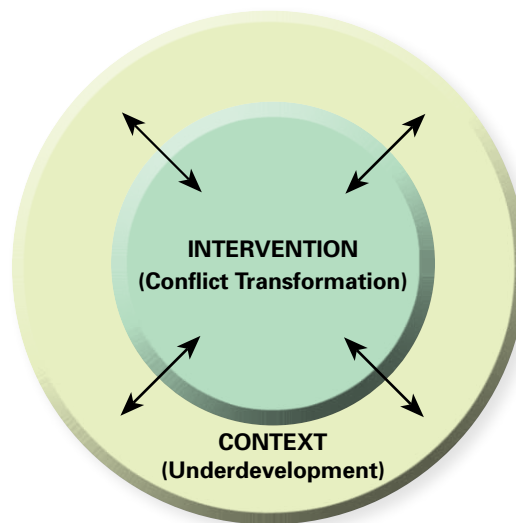


Figure 3 reverses the relationship between intervention (development) and context (conflict) described in Figure 2. It illustrates how to practice conflict transformation (*intervention* in Figure 3), in the form of mediation and community dialogue for psychosocial healing, for example, in the midst of sustained underdevelopment (*context* in

Figure 3). Development-sensitive interventions for conflict transformation may not seek to uplift people from poverty or create income-generating opportunities. But these interventions by conflict transformation practitioners may be designed in such a way as to minimise harm and maximise positive impact on the social context of underdevelopment.

Conflict transformation practitioners may rightly ask: Why do we need to take development sensitivity seriously when our primary focus is to transform social conflict? The answer is simple and straightforward. Their interventions have the potential to cause or exacerbate structural violence, a form of systematic, institutionalised denial of access to basic human needs ranging from food, water and shelter to identity, freedom and security. For example, trainers and facilitators in reconciliation dialogue may be able to help members of a divided community humanise each other's images and express conciliatory gestures to one another in a given workshop. Yet such gestures, unless monitored carefully, may serve as a means to demand and impose greater tolerance on unresolved economic injustices that sustain the conflict. In other words, a development-insensitive attempt at conflict transformation may lead to appeasement and even perpetuate structural violence.

IT WORKS TO PREVENT BOTH THE ECONOMIC AND PSYCHOSOCIAL PRESSURE OF REPARATIONS FROM DEGENERATING INTO A CAUSE FOR AGGRESSION

What would development-sensitive activities for conflict transformation and reconciliation look like? An example is found in an ongoing civil society initiative that promotes collective reparations in Rwanda's Southern Province. Led by a well-established NGO with deep roots in local communities, this initiative invites ex-prisoners and concerned local residents to make voluntary donations to establish a community fund that supplements financial support for genocide survivors. The amount of resources collected and distributed through the scheme is modest and far from sufficient to meet the needs of the recipients comprehensively. However, the symbolic value of such a community-based process is significant.

Conceptually, this civil society initiative fills a 'collective-individual gap' in the administration of transitional justice. A collective-individual gap refers to the discrepancy between the group-based structures such as those of radicalised militia groups that advanced the social movement of mass extermination on the one hand, and on the other the individual perpetrators who have been held accountable for their acts of killing. This gap is a significant challenge to overcome in Rwanda. As in other conflict-affected societies,

historical structures of economic inequity remain intact. This is so even after the war is over and individual perpetrators involved in the acts of mass killing are brought to justice.

Given this background, the ongoing effort made by the Rwandan NGO to transcend the collective-individual gap deserves attention. This is because it casts an aspirational vision as to how Rwandans may choose to transform the sustained structures of economic inequity that gave rise to the genocide. For this reason, the civil society initiative for collective reparation, which represents a subtype of conflict transformation and reconciliation, cogently illustrates development sensitivity. It works to prevent both the economic and psychosocial pressure of reparations from degenerating into a cause for aggression.

Three Guidelines of Development Sensitivity

To expand the application of development sensitivity I suggest three guidelines of reflective practice that integrate conflict transformation and development coherently. To do this I will present a brief example of the application of each guideline, either from the Rwandan context or from other contexts.

Guideline 1: Development-sensitive initiatives prioritise meeting the basic human needs of the most impoverished.

To be development sensitive, initiatives in conflict transformation must build on a systematic understanding of how the goals and needs of the parties involved in the context come to be in conflict with one another and how their relational conflict blocks paths to development. Such an awareness of the interconnected nature of conflict transformation and development advocates conflict transformation activities that mainstream meeting the



GETTY IMAGES

Rwandan prisoners accused of acts of genocide participate in a reconciliation class in a 'Solidarity Camp' in Kigali, Rwanda.



Conflict sensitive development allows genocide survivors and ex-prisoners to work together for greater agricultural productivity and cost-effective distribution of agricultural products.

essential needs of the most vulnerable constituents. Alternatively, development-sensitive practice may choose to orchestrate a more systematic, multi-directional change on multiple levels of the socio-economic strata. The aim is to incorporate the most vulnerable as part of that systemic change.

The community dialogue for reconciliation between Rwandan genocide survivors and ex-prisoners described earlier demonstrates elements of development sensitivity that prioritise the human needs of the most impoverished. While the primary purpose of these weekly dialogues is community-based psychosocial healing, not socio-economic development, they strive to acknowledge socio-economic deprivation as a shared challenge that stands in the way of reconciliation.

On the conclusion of the three-hour dialogue reported earlier the participants formed small discussion groups, each comprised of a few survivors and ex-prisoners. The survivors and ex-prisoners in each discussion group then jointly reflected on why it had been difficult for them to either offer or receive compensation. When all the groups were brought together again in the same room, their representatives summarised their discussions by identifying shame, pride,

closed mindsets, and ignorance of others' feelings as the main obstacles to compensation.

Arguably, these perceptions are all familiar subjects of discussion in reconciliation dialogue. However, these psychological issues tend to be relegated to the background of development practice, away from its main focus. In the context of the community dialogue under study, the NGO as its facilitator does not offer solutions to development-related challenges (such as 'poverty', a term used repeatedly by the dialogue participants) that prevent the delivery of compensation. But the facilitators strive to hold a safe, open space for sincere dialogue in which the participants may voluntarily choose to share their guilt, shame, and trauma that stand in the way of minimal collaboration for much needed development activities that would benefit them all.

Guideline 2: A development-sensitive process of conflict transformation through participatory dialogue enables its participants to discover and redefine their goals and needs continuously and progressively.

A sustained participatory process of learning and empowerment may turn an experience of social conflict into both an opportunity for deep self-reflection and to unleash creative potential. It can activate inter- and intra-communal

interdependence and help discover untapped resources, both tangible and intangible, that may be utilised to fulfil greater development needs. In other words, development-sensitive conflict transformation may facilitate development. It can help to open up a new reality of development that enables the parties to see their needs in a new light.

During the Rwandan reconciliation dialogue described earlier, an elderly male survivor stated that the results of the cumulative dialogues he experienced included a high level of mutual trust. This permitted ex-prisoners to openly acknowledge that they had finally come to renounce their desire to exterminate the remaining survivors. Arguably, confessions of this magnitude represent a major achievement in the reconciliation dialogue. It had brought together the two sides of the local population that had so far refused to exchange greetings.

Interviews with Rwandan practitioners of reconciliation dialogue and community mobilisation were revealing. They indicated that once the basic human need for survival is met through confessions and acknowledgement of this magnitude, thus gradually transcending the fear of extermination, a new possibility of development opens up.⁸ The Rwandan practitioners also reported on the community contexts in which a minimalist approach to development that had focused narrowly on subsistence farming for each isolated household began to be replaced by a more collaborative mode of development practice.⁹ Such a new mode of community practice includes victim-perpetrator collaboration on the formation of agricultural cooperatives, and reduction and flexible refinancing of compensation. In these contexts of social change, development-sensitive reconciliation enabled divided communities to reimagine and redefine their development needs progressively.

Guideline 3: Development-sensitive practice of conflict transformation seeks to understand and transform the structural roots of underdevelopment systematically.

Emphasis on a systematic structural analysis is informed by a realisation that deeply entrenched patterns of social inequity underlying underdevelopment generate and fuel vicious cycles of conflict. Structural inequity that denies access to basic human needs thus links underdevelopment to protracted conflict.

Expanding the scope of inquiry from the community dialogue in Rwanda to a larger scale of social transformation, an example that illustrates the third guideline may be found in the Gandhian approach. This civil disobedience and non-cooperation strategy in the 1910s to the 1940s was first initiated in South Africa and later in India. The historic Gandhian movement, still cited widely by leaders of nonviolent social change around the world, illustrates a development-sensitive approach to the transformation of deeply structural conflicts. Supporting it was a sustainable development initiative known as a constructive programme. It aimed at overcoming Indians' economic dependency on

British colonial rule through grassroots mobilisation and economic independence. The constructive programme for community-based development in turn trained and prepared its participants to undertake civil disobedience and non-cooperation whenever necessary to challenge structural inequity through direct action.

Conclusion

Reconciliation and development are tied together inseparably in societies affected by conflict and underdevelopment. The two approaches explored in this article, namely conflict sensitivity and development sensitivity, build on this conflict-underdevelopment link and apply the awareness of this link to social action. The findings presented here advocate the need for development and conflict transformation practitioners to cross their professional boundaries more proactively and work together towards a shared vision of peacebuilding and development. These findings also affirm the value of tackling a complex set of highly interconnected issues holistically. This must occur without dissecting them into familiar modes of thinking and practice that fail to reflect the complex reality of conflict-affected societies. ▲

Dr Tatsushi Arai is a Visiting Scholar at George Mason University's School for Conflict Analysis and Resolution and an Associate Professor of Peacebuilding and Conflict Transformation at the School for International Training (SIT) Graduate Institute in the United States.

Endnotes

- 1 This working definition is inspired by Johan Galtung. 2010. *A Theory of Structural Violence: Overcoming Structural Violence*. Basel, Switzerland: Transcend University Press.
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- 3 Quoted from the remarks made by a male ex-prisoner in his 30s as a participant in the community-based reconciliation dialogue that the author observed in Huye District, Southern Province, Rwanda on January 18, 2012.
- 4 Quoted from the remarks made by an elderly male ex-prisoner in the aforementioned dialogue.
- 5 Quoted from the remarks made by a young female survivor in the aforementioned dialogue.
- 6 Quoted from the remarks made by another young female survivor in the aforementioned dialogue.
- 7 For a more detailed description of conflict sensitivity, see the concept paper of International Alert at: <www.conflictsensitivity.org/resources_pack.html>.
- 8 A series of interviews conducted by the author with Rwandan reconciliation and development practitioners in Kigali and Butare on January 18–19, 2012.
- 9 See endnote 8.

YOUTH-LED PEACE CARAVANS AND INTER-COMMUNITY PEACEBUILDING AMONG PASTORALISTS IN NORTH-WESTERN KENYA

BY WILLIS OKUMU



PHOTO COURTESY OF AUTHOR

Introduction

North-western Kenya has been a theatre of violent conflict pitting the Pokot, Samburu and Turkana communities against each other. It is a fierce and deadly competition. The causes are a combination of diminishing pasture and water resources, the proliferation of small arms and light weapons, political incitement, disputes over land and ethnic boundaries, the absence of adequate state security and the commercialisation of cattle raiding. This has led

to a state of helplessness in many pastoralist households. They have been violently deprived of their source of livelihoods (cattle), many have lost their lives and many more are living in destitution in trading centres such as

Above: Laikipia Peace Caravan members address a Turkana warrior at Ameyian in Samburu County (August 2011).



Map No. 4187 Rev. 3 UNITED NATIONS December 2011 Department of Field Support Cartographic Section

as agents of change, mentors and leaders of a new paradigm in governance, development and peacebuilding among pastoralist communities. Acceptance and support is given to these youth-led peace caravans by the Kenyan state. This highlights a realisation by the government of the need to involve young people in peacebuilding and conflict resolution in peripheral borderlands inhabited by pastoralist communities. These had previously been neglected by both colonial and successive independent Kenyan governments. This article therefore argues that governance, development and peacebuilding must be approached through youth-led local peacebuilding initiatives as demonstrated by the 'peace caravans' among the Pokot, Turkana and Samburu communities.

Peace Caravans

The approach of peace caravans involves the youth travelling as a single group to areas of high tension within the three communities. The aim is to present a united front to their warring kinsmen and women. This initiative seeks to create a platform for inter-community dialogue on issues that promote conflict with a view to finding amicable solutions. In an interview² with IRIN News, James Teko Lopoyetum, a Pokot member of the Laikipia Peace Caravan provides the broad based approach and attitude change focus with which the Laikipia Peace Caravan envisions peace-building among these communities,

'Several attempts have been made in the past to end rivalry between us but failed... they all involved the use of force. Our approach is different, our people listen to us and I am confident they will accept our messages. Northern Kenya has always been like a war zone. The situation has worsened in recent years. It is shameful that we always meet to plan funerals and raise money for the injured while professionals from other parts of Kenya meet to discuss development issues'.

Baragoi in Samburu, Chemolingot in Pokot and Kapedo in Turkana. The frontline participation of thousands of youth from these communities in violent conflict has been blamed on their lack of education and high unemployment. There is also a cultural requirement that young men participate in cattle raids against neighbouring communities to enhance their status in society. The raided cattle are sometimes used to pay bride wealth in marriage which moves the young man up the social status ladder.

However, there has been an emergence of peacebuilding initiatives by young and educated members of the Pokot, Samburu and Turkana communities through various 'peace caravans' in Turkwel, Laikipia, Suguta, Samburu North and Baragoi. This phenomenon can be seen as the rise of a 'mediated state' as espoused by Ken Menkha.¹ He argues that citizens in neglected rangelands such as North-western Kenya have long been ignored by the state. Lacking security, health and education they eventually seek to obtain these provisions through inter-community dialogue in the region to resolve such problems. These 'peace caravans' are locally initiated. They are supported by groups of young men and women from pastoralist communities who see themselves

THEY ARE SUPPORTED BY GROUPS OF YOUNG MEN AND WOMEN FROM PASTORALIST COMMUNITIES WHO SEE THEMSELVES AS AGENTS OF CHANGE, MENTORS AND LEADERS OF A NEW PARADIGM IN GOVERNANCE, DEVELOPMENT AND PEACEBUILDING AMONG PASTORALIST COMMUNITIES



Pokot and Samburu morans symbolically shake hands at the Amaya Peace Monument in December 2010.⁷

The youth-led peace caravans approach to inter-community peacebuilding has facilitated dialogue among the Turkana, Pokot and Samburu communities. In interviews and focus group discussions³ with community members and peace caravan members, the recurring sentiment was that the role of these caravans is to act as an avenue for community members to ventilate their issues openly and seek amicable solutions. To effect this, several meetings involving warriors were organised. These were held particularly in common grazing areas such as Kanampiu in Laikipia North, Ntipakun and Lomirok in Samburu North and Amaya in East Pokot. The role of the Laikipia Peace Caravan in facilitating the formation of grazing and peace committees⁴ in areas where communities share common pasture is also evident in its tour of the Samburu North district during 14–20 August 2011. The Samburu North Peace Caravan helped in the formation of peace and grazing committees in Suyan, Kawap, Nachola and Marti.

Cessation of Hostilities

One of the major achievements of the Laikipia Peace Caravan was the cessation of hostilities between the Pokot in

Baringo East, the Turkana in Turkana South and the Samburu in Laikipia West. They had clashed from time to time along the Amaya river in competition over grazing land and access to water. This was achieved by convincing community warriors (*morans*) to abandon cattle rustling. In a landmark event at Amaya market in December 2010, the Laikipia Peace Caravan brought together members of the Turkana, Samburu and Pokot communities to celebrate one year of peace in the region. According to the Laikipia Peace Caravan chairman Richard Leshiyampe⁵, they identified

'...a few morans and educated them on the need to end cattle rustling and live peacefully. In one year cases of rustling and the resultant deaths have dropped significantly. In the last year, less than 10 people have died in cattle raids and this is tremendous because in the last few years hundreds were killed each year'.

The 2004–2009 Pokot-Samburu violence over land and boundary disputes around Amaya led to the closure of schools such as Amani Primary School and the removal of Samburu students and teachers from Churo High School.



A woman from the Pokot community shares her views at a Peace Caravan meeting at Ameyian in Samburu County (August 2011).

The cessation of hostilities therefore enabled the reopening of these schools and allowed teachers to return to work. This facilitated the lifting of 'the-self-imposed 6 p.m. curfew'⁶ at Baragoi centre and free movement of both Samburu and Turkana communities and their animals across the main Maralal-Baragoi-Loiyangalani road, which was regarded as the divide between the two communities. It was made possible through the lobbying of the Laikipia Peace Caravan for the creation of the joint Turkana-Samburu Kenya Police Reservists to respond to conflict incidents. The situation is so stable that the Samburu North District Commissioner is now being allowed to take his annual leave. This was unheard of a year ago when even a request for sick leave would be denied in view of the insecurity.

The first anniversary of the Laikipia Peace Caravan was celebrated by the Pokot, Turkana and Samburu communities in December 2010 at Amaya. This was a very symbolic ceremony given that a previous truce among these communities had been solemnised here. It marked the burial of the 'tools of war'. The presence of community members from these three communities as well as the Caravaners from the Pokot, Samburu and Turkana communities along with

the media gave the Laikipia Peace Caravan positive publicity. The Kenyan media has rarely been able to report favourably on pastoralist communities. According to respondents who are members of the Laikipia Peace Caravan Secretariat, the positive media coverage was vital in winning over many government officials. It also attracted more professionals from these regions who had not registered with the Laikipia Peace Caravan.

The Laikipia Peace Caravan has also used its influence among the Samburu, Turkana and Pokot to support government initiated disarmament programmes in seeking to reduce armed conflict in these areas. Meetings⁸ urging community members to hand over their arms were held in Amaya, Kapedo and Lorora. Minutes of meetings, reports and interviews with Laikipia Peace Caravan members indicate strong support for the disarmament of pastoralist communities in North-western Kenya. This marks a significant break with the past given that politicians from these regions have never before supported disarmament initiatives. The support to disarm pastoralists of illegally acquired firearms stems from the shared view by many members of the Laikipia Peace Caravan that cattle rustling



Turkana morans arrive at a Peace Caravan meeting at Ameyian Samburu County (August 2011).

and subsequent killings are criminal offences. Respondents such as Naisula Lesuuda⁹ advocate the application of the rule of law in cases of the loss of lives or property as a result of raids. Furthermore, the need to bring the justice system closer to these communities was also pointed out by members of the Laikipia Peace Caravan as being key to applying the rule of law. These views therefore indicate a shift from the reliance on traditional justice systems to the application of the state's judicial jurisdiction over offences and crimes in this region.

The modest success of the Laikipia Peace Caravan in local peacebuilding can be partly attributed to its willingness to partner with other organisations and groups based at the community level which have implemented projects aimed at peacebuilding and development. A case in point is the partnership with the Morijo Integrated Pastoralist Programme (MIPP). One report from MIPP indicates that joint peace meetings were held on 29 July 2010 and attended by Samburu and Pokot community members at Siambu-Malaso. Another report refers to a peace meeting held on 30 July 2010 with members of the Pokot and Samburu communities in Angata Nanyukie. The main message

of these meetings was the need for inter-community peaceful coexistence.


Peace Agreements

The partnership between the caravaners, local elders, community based organisations, youth and women's groups and the provincial administration in Kenya has also led to the formulation of measures aimed at peacebuilding in the region. The Damu Nyekundu Peace Agreement signed between the Pokot and Samburu communities living in Lorora and OI Moran in June 2010 in the Laikipia North district came against the backdrop of the Kanampiu Massacre. This peace pact was spearheaded by Laikipia Peace Caravan members. A Turkana member of the Laikipia Peace Caravan helped in drafting the '13 Commandments' to fight cattle rustling. This was incorporated into the Kainuk-Sarmach-Turkwel-Masol Corridor Peace Agreement in December 2010. The treaty enables the Pokot and Turkana communities to share water and pasture resources thus reducing chances of conflict. Sarah Lochodo, an assistant chief in Kainuk and a renowned peacemaker among the Pokot and Turkana, captured the multi-stakeholders

participation in the signing of the peace agreement. The peace agreement was reached following a meeting between elders from both the Pokot and Turkana communities. Police officers, professionals and chiefs were also present.

The Peace Agreement puts in place punitive measures in terms of fines and penalties against perpetrators from both communities. The offences listed in the agreement range from acts of murder, the stealing of livestock and even interfering with beehives. The '13 commandments' have enabled the recovery of stolen livestock thereby reducing cases of revenge attacks that often spiral into massacres. For every animal stolen the thief is fined four animals. This applies to cows, goats, sheep and camels. If one commits murder against a member of a different community (in this case a Pokot killing a Turkana or vice versa during a raid), the culprit and his family are obliged to pay the family of the deceased 40 head of livestock. In the case of bodily injury, the perpetrator is fined 20 head of cattle. The Peace Agreement led to the recovery of 14 goats and six cows by the Pokot from the Turkana, while the Turkana have had to pay 12 goats as a fine for one cow. From the Pokot side, eight sheep stolen from Kainuk have been returned and a fine of four goats paid to the Turkana for one goat slaughtered by the Pokot warriors.

Conclusion

Pastoralist youth from Pokot, Samburu and Turkana have taken it upon themselves to act as a bridge to inter-community peacebuilding and healing. For decades this has eluded the government of Kenya and other non-state actors. Through their peace caravans, these youth have effectively built dialogue channels within and between these communities. They have done so in a manner that does not threaten the authority of the state and is also relevant and salient for the pastoralists' communities of North-western Kenya. 

Willis Okumu is a Research Associate in Resilience, Collapse and Reorganisation (RCR) of the African Savannas Research Project at the University of Cologne, in Kenya.

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- 6 Notes from interview with Naisula Lesuuda on 19 September 2011 with the author, in Nairobi Kenya. The 6 pm curfew in Baragoi was as a result of insecurity occasioned by rivalry between the Turkana and Samburu communities in the Samburu North district. This made it impossible for citizens to be outdoors after 6pm for fear of ethnic attacks and loss of cattle to raiders from rival communities in the area.
- 7 The Peace Monument symbolises the Peace Pact between the Pokot and Samburu that was initially agreed upon in 1913 and renewed in 2001. The celebration of peace during the first anniversary of the Laikipia Peace Caravan therefore is a renewal of the inter-community peace that existed pre-2005.
- 8 These meetings were convened by Laikipia Peace Caravan members and attended by community elders, provincial administration and community members.
- 9 Lesuuda, Naisula (2011) Interview with the author 19 November, in Nairobi, Kenya.
- 10 Information about MIPPP can be found at <<http://artofpeace.weebly.com>> Accessed on 15 May 2012.
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Publisher

The African Centre for the Constructive Resolution of Disputes (ACCORD)

Private Bag X018

Umhlanga Rocks 4320

South Africa

Tel: +27-031-502 3908

Fax: +27-031-502 4160

Email: conflictrends@accord.org.za

Website: <www.accord.org.za>

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