

CONFLICT TRENDS

ISSUE 1, 2012



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EDITORIAL

BY **VASU GOUNDEN**

The African Centre for the Constructive Resolution of Disputes (ACCORD) was established in 1992. In that year we set as our mission: “ACCORD seeks to encourage and promote the constructive resolution of disputes by the peoples of Africa and so assist in achieving political stability, economic recovery and peaceful co-existence within just and democratic societies”. To achieve this mission, over the 20 years of its existence ACCORD has employed some 200 full-time staff and over 100 part-time consultants and associates. ACCORD currently employs about 100 full-time staff and 150 part-time associates. Today, 20 years later, we reflect on our mission statement to assess how much we have achieved.

Firstly, we examine ACCORD’s contribution in building Africa’s capacity to address its conflicts. In 1992, there was no capacity of any significance on the continent. Today, the African Peace and Security Architecture boasts several mechanisms in various stages of development, among them the Panel of the Wise supported by the Conflict Management Division (CMD) of the African Union and the African Standby Force supported by the Peace Support Operations Division (PSOD). ACCORD has one staff person seconded to CMD and another to PSOD to support both these mechanisms and we have extensive capacity building initiatives in training and policy development with both mechanisms. In addition, ACCORD is involved in the development of the peace and security capacity of several Regional Economic Communities (RECs) and individual governments in Africa. To this end we have trained over 15 000 Africans in conflict resolution skills.

Secondly, we examine ACCORD’s contribution to the knowledge base of conflict resolution in Africa and globally. In 1998 ACCORD published this quarterly magazine, *Conflict Trends*, for policy makers and practitioners and in 1999 ACCORD launched Africa’s first conflict resolution journal, *The African Journal of Conflict Resolution*. Both publications currently continue in production and are widely distributed and read. In addition, each year ACCORD produces several other publications on conflict resolution.

Thirdly, we examine ACCORD’s role in supporting peace initiatives. Since its establishment in 1992, ACCORD has supported peace initiatives in 28 African countries. We have prepared almost all the rebel groups in Africa for

their respective peace negotiations as well as several of the government delegations which have participated in the peace negotiations. We have assisted mediators and facilitators with mediation process strategies and thematic knowledge, trained election observers in conflict resolution skills, prepared peacekeepers in the civilian dimensions of peacekeeping, and established and implemented reconciliation and post-conflict reconstruction initiatives.

The test of all our efforts must be whether we have contributed to “achieving political stability, economic recovery and peaceful co-existence within just and democratic societies”. Many of the countries we have engaged in, such as South Africa, Mozambique, Angola, Sierra Leone, and Rwanda enjoy relative stability. All of these countries have had regular and peaceful elections and some are even posting high economic growth rates. Other countries that we have been actively engaged with like Burundi (since 1995), the Democratic Republic of the Congo and Somalia (since 1999), Sudan (since 2000) and Liberia (since 2002) are still experiencing different levels of instability. In addition, several countries such as Nigeria, Ivory Coast, Tunisia, Libya and Egypt have recently entered ‘crisis’ status.

Have we succeeded in our mission? The answer is a resounding YES! Our experience has taught us that Africa’s conflicts are complex, multi-faceted social phenomena that require skilled interventions and political will. Our response is therefore not complacency but a renewed determination to examine our efforts, assess our successes and failures, examine our context to understand the nature of the societies we engage with and consequently grasp how these conflicts will manifest themselves. We are fully committed to redoubling our efforts at capacity building and developing new and innovative solutions for our continent and globally. To achieve these goals we embrace a new African consciousness that renders us responsible and accountable for the challenges that our continent faces. ▀

Vasu Gouden is the Founder and Executive Director of ACCORD.

ASSESSING THE AFRICAN UNION'S RESPONSE TO THE LIBYAN CRISIS

BY SADIKI KOKO AND MARTHA BAKWESEGHA-OSULA



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Introduction

On 22 August 2011, Libya's National Transitional Council (NTC) forces entered the country's capital city, Tripoli, driving away troops loyal to Colonel Muammar Gaddafi. If anything, the seizure of Tripoli by the NTC became a rallying point for countries behind the North Atlantic Treaty Organisation (NATO)-led military alliance providing aerial bombardment support to the NTC to apply additional pressure on the African Union (AU) to recognise the NTC as the legitimate government representing the people of Libya. But over and beyond being simply a case for recognition, the fall of Tripoli into the hands of the NTC reignited the debate on the very relevance of the entire AU's response to the Libyan crisis.

Initially overtaken by the speed of developments on the ground, as was the case earlier with the Tunisian

and Egyptian 'Revolutions', the AU eventually capitalised on the degeneration of the Libyan uprisings into a *de facto* civil war to devise its roadmap for peace. This was consistent with its long-held practice in similar situations, including a call for an immediate ceasefire to be followed by direct talks between parties under the facilitation of a third party. But for all its good intentions and purposes, the AU's peacemaking proposal failed to receive the support of the NTC. The NTC's position was bolstered by the overwhelming backing it had received from NATO

Above: Protesters take part in an anti-Gaddafi demonstration outside the hotel where representatives of the African Union were meeting Libya's rebel leadership in Benghazi (11 April 2011).



NATO Secretary-General Anders Fogh Rasmussen (left) walks beside the National Transitional Council's Defence Minister Jalal al-Digheily (right) upon his arrival at Mitiga airport in Tripoli (13 October 2011). Rasmussen hailed the end of the alliance's military intervention in Libya, which helped bring about the overthrow and death of Muammar Gaddafi.

powers, the Arab League, the United Nations (UN) and even some individual African states. Faced with the spectre of isolation, the AU repeatedly denounced what clearly became a regime change agenda spearheaded by the NATO powers on the fallacious justification of enforcing UN Security Council Resolution 1973 of 17 March 2011, with its emphasis on the protection of Libyan civilians. Yet despite denouncing the means, the AU reluctantly recognised the NTC as the legitimate government of Libya and authorised its occupation of that country's seat within AU structures.

A RETROSPECTIVE ASSESSMENT OF GADDAFI'S 42-YEAR RULE OVER LIBYA PAINTS A MIXED PICTURE OF ENCOURAGING SUCCESSES IN THE SOCIO-ECONOMIC SPHERE CONTRASTED WITH APPALLING RECORDS OF POLITICAL GOVERNANCE

This article analyses the AU's response to the Libyan crisis as represented by its roadmap as well as its decision to recognise the NTC. It is the article's central argument that whereas the AU's roadmap was consistent with the organisation's practice on civil war situations, its decision to recognise the NTC is in stark conflict with its legal positions, its jurisprudence and even the very recommendations put forward by its own Peace and Security Council (PSC) and High Level Ad Hoc Committee on Libya. The article is divided into four sections dedicated respectively to the background of the Libyan state and crisis; an assessment of the AU's roadmap and the reasons for its failure; and an analysis of the rationale and implications of the AU's recognition of the NTC as well as of the way forward.

Background to the Libyan State and Crisis

In order to fully understand the complexities of the recent crisis in Libya there is a need to delve into the country's past, especially with regard to state-society relations as well as the evolution and nature of the Gaddafi



Greece, the Roman Empire, the Muslim world and preindustrial Europe. Yet European colonisation, which started in 1911, can be considered as the most significant factor contributing to the shaping of contemporary Libya.

At the time of the scramble for Africa among the European powers, as precipitated by the Berlin Conference of 1884–1885, Libya fell under the control of Italy. Initially, Italians managed their newly acquired territory as a united entity known as Italian North Africa (1912–1927). In 1927, the country was split into two autonomous regions or colonies, namely Italian Cyrenaica in the west and Italian Tripolitania in the east. Seven years later, Libya was reconfigured administratively to encompass the three regions of Cyrenaica, Tripolitania and Fezzan (in the south). Although these three regions formed integral parts of one united territory, the uneven spread of an already small population and the distances separating the three regional capitals of Benghazi (Cyrenaica), Tripoli (Tripolitania) and Sabha (Fezzan), coupled with the administrative inadequacies inherent to virtually all colonial regimes in Africa at the time, contributed to hampering the emergence of a cohesive and integrated Libyan society. Inter-regional differences were further entrenched after Italy lost control of Libya in 1943 within the context of World War II as Britain took control of Cyrenaica and Tripolitania while Fezzan fell under French domination.

Against this backdrop of regional and distinct identities, Libya gained independence in December 1951 as a united

regime. Like many other African countries, Libya is a mosaic of cultures and demographics. Due mainly to its position on the Mediterranean Sea, Libya has been exposed at different periods of its history to cultural interactions with Ancient



France's President Nicolas Sarkozy (left), National Transitional Council head Mustafa Abdul Jalil (middle) and Britain's Prime Minister David Cameron (right) join hands in a show of united support in Benghazi (15 September 2011).

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The United Nations Security Council is briefed by the Head of the African Union's High Level Ad Hoc Committee on Libya (15 June 2011).

kingdom under King Idris I, previously the Emir of Cyrenaica. Until the discovery of oil in 1959, Libya remained "one of the world's poorest countries"¹. Yet wealth accruing from oil exploitation only contributed to antagonising the society against the King, especially Tripolitania and Fezzan, insofar as "[p]ower and wealth remained concentrated in the hands of the Sanusi monarchy and its tribal allies in Cyrenaica."² The King's close relationship with Western powers at a time of the rise of 'Nasserism'³ in Egypt and Arab nationalism in the Middle East also contributed to alienating the regime further from civil society. During this period, Libya was engaged with Britain in extensive engineering projects and arms deals while allowing the United States of America (USA) to maintain its large Wheelus Air Base on Libyan soil.

Taking advantage of the general social discontent arising from the miscalculations highlighted above, a small group of "left inclined"⁴ army officers, "disgruntled by corruption in high places"⁵ and led by 27-year old Gaddafi, deposed King Idris I on 1 September 1969 and set Libya on the path of a national revolution. According to Souaré, "[i]t is well known that the overthrowing of King Idris Al Sanusi by Gaddafi ...

was a blow to the eastern domination of the country, with political opposition to his rule coming mainly from the east while Gaddafi promoted his own tribesmen."⁶

A retrospective assessment of Gaddafi's 42-year rule over Libya paints a mixed picture of encouraging successes in the socio-economic sphere contrasted with appalling records of political governance. Under Gaddafi, Libya had succeeded in rising from "one of the poorest and least developed countries in the world"⁷ under King Idris to a high human development index country, ranking 53rd on a list of 169 countries, the highest for an African country.⁸

Yet in spite of its achievements on the socio-economic front, which could hardly be surpassed by the vast majority of developing countries, the regime was renowned for its repression of political dissent, the political marginalisation of Libyan people and the formation of a personality cult around Gaddafi as the 'enlightened Brother Leader and Guide of the Jamahiriya revolution'. If anything, the regime's heavy-handed approach in political governance not only antagonised large portions of the Libyan citizenry (especially among democracy and human rights activists) but also placed Libya among the

THE ORGANISATION'S SUBSEQUENT APPARENT PASSIVITY COULD BE EXPLAINED BY BOTH THE SPEED WITH WHICH THESE CHANGES WERE TAKING PLACE – ESPECIALLY IN TUNISIA AND EGYPT – AS WELL AS THE LACK OF PRECEDENCE ON THE PART OF THE AU IN DEALING WITH THIS 'NEW' MODALITY OF REGIME CHANGE

world's pariah states. Gaddafi's sense of ownership over Libya and its people was well demonstrated in his regime's response to the popular uprisings at their initial stage around the city of Benghazi. Widespread grievances arising from four decades of political marginalisation and oppression contributed to placing Libya in the path of the 'Arab Revolution' as it swept through North Africa and the Middle East from Tunisia.

The African Union's Roadmap for Libya: A Failed Peacemaking Effort

"Like many other international actors, the AU was caught by surprise"⁹ by the spreading uprisings in Tunisia, Egypt and Libya. The organisation's subsequent apparent passivity could be explained by both the speed with which these changes were taking place – especially in Tunisia and Egypt – as well as the lack of precedence on the part of the AU in dealing with this 'new' modality of regime change.

However, when the Libyan popular uprising changed into a *de facto* civil war, the AU responded with a roadmap consistent with its long-established practice with regard to the handling of intra-state conflicts. Meeting in Addis Ababa on

10 March 2011 for its 265th session, the AU PSC set up the High-Level Ad Hoc Committee. This comprised the presidents of Mali, Congo-Brazzaville, Uganda, Mauritania and South Africa, as well as the Chairperson of the AU Commission, Jean Ping. The proposed roadmap revolved around the following elements:

- The immediate cessation of all hostilities;
- The cooperation of the concerned Libyan authorities to facilitate the diligent delivery of humanitarian assistance to needy populations;
- The protection of foreign nationals including African migrant workers living in Libya;
- Dialogue between the Libyan parties and the establishment of an inclusive transition period, with the view to adopting and implementing the political reforms necessary for the elimination of the causes of the current crises, with due consideration for the legitimate aspirations of the Libyan people for democracy, political reform, justice, peace and security, as well as socio-economic development.¹⁰



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Members of the new Libyan government pose for a group photo after taking their oath of office in front of Libya's National Transitional Council leader, Mustafa Abdel Jalil, in Tripoli (24 November 2011).



Djibouti's President Ismail Omar Guelleh (left), Uganda's President Yoweri Museveni (middle) and South Africa's President Jacob Zuma (right) talk during an emergency summit of the African Union's Peace and Security Council in Ethiopia, following the African Union's call for the formation of an inclusive transitional government in Libya (26 August 2011).

The AU's peacemaking initiative for the Libyan crisis as symbolised by its roadmap never materialised. A number of reasons explain why. First, the deliberate decision by Western powers involved in the NATO offensive – namely France, the United States and the United Kingdom – to ignore, undermine and sideline the AU is the most significant cause of the failure of the AU's roadmap. As Bellamy and Williams¹¹ observed, "it is clear that NATO began moving ships to the Libyan coast at least a week before the [UN Security Council] had passed Resolution 1973...", a clear indication that military intervention was their preferred course of action insofar as dealing with the Libyan regime was concerned. The reason for this choice on their part derives from their historical stance against the Gaddafi regime, the geo-strategic importance of Libya and their need to control the country's strategic resources.¹²

The second reason for the failure of the AU's roadmap lies within the very intricacies of African politics. In spite of his well publicised largesse towards African states as well as continental institutions and initiatives – including Libya's regular 15% contributions to the AU's operational budget – Gaddafi's repeated interference in the internal affairs of several African countries earned him very few genuine friends among African leaders. Diverging views among African players insofar as the Gaddafi regime was

concerned quickly translated into a lack of coherence within the African group, including within the Ad Hoc Committee itself. In this context, although the three African countries serving as semi-permanent members of the UN Security Council at the time – namely Gabon, Nigeria and South Africa – may have supported Resolution 1973 for different reasons, their actions illustrated a lack of strategic coordination between the AU Commission and these countries insofar as protecting the AU's already crafted position on Libya. As Handy observed, "[t]he Libyan crisis has come at the worst possible time, when Africa is lacking the type of leadership that helped build the AU in the last decade."¹³

The third reason for the failure of the AU's roadmap stemmed from the perception it instilled among the Libyan protagonists, namely the Gaddafi regime and the NTC. On the one hand, whereas the Gaddafi regime was quick to welcome the AU's initiative, it did so fully aware of the latter's lack of hard power to enforce compliance should the NTC have agreed to the initiative. Subsequently, the regime could make use of the AU's initiative to bolster its position and possibly undermine and sideline or even defeat the NTC. On the other hand, by posing the departure of Gaddafi and members of his family as a prerequisite to the peace process, the NTC was simply rejecting the very rationale

underpinning the AU's initiative, namely inclusiveness. But in reality the NTC never trusted either Gaddafi or the AU, perceiving the latter as biased toward the former. Yet one cannot ignore the fact that the NTC's rejection of the AU's initiative was actually consistent with its alliance with the NATO powers.

The African Union's Recognition of the NTC: Rationale and Implications

Inasmuch as the militarisation of the crisis as well as the direct military involvement of NATO powers contributed to turning the Libyan conflict into a civil war – a somewhat 'internationalised' civil war – there can be no doubt that insofar as the AU is concerned, the toppling of Gaddafi by the NTC was a case of unconstitutional change of government.

The 'Declaration on the Framework for an OAU response to unconstitutional changes of government' adopted by the OAU in 2000 in Lomé (Togo) defines unconstitutional change of government as:

1. A military coup d'état against a democratically elected government;
2. An intervention by mercenaries to replace a democratically elected government;
3. A replacement of democratically elected governments by armed dissident groups and rebel movements;
4. The refusal by an incumbent government to relinquish power to the winning party after free, fair and regular elections.¹⁴

While the Declaration did not specify what amounted to a 'democratically elected government' at a time (2000) when Uganda, Libya and Swaziland 'proudly' defined themselves as 'no-party states', its preamble stressed the OAU's determination to curb the 'resurgence of coup d'états in Africa'. To this end, it would perhaps be helpful to review cases in which the AU has operationalised the 2000 OAU's Declaration referred to above so as to provide clarity on the Libyan situation. Togo (2005), Mauritania (2005 and 2008), Guinea (2008), Madagascar (2009), Niger (2010) and Côte d'Ivoire (2011) have all been suspended by the AU at different periods for violations of the above declaration. While it is true that none of these cases involved a civil war, not all the regimes displaced by the incriminated coups could be dubbed democratic either. Yet all of these cases constituted what can be referred to as the jurisprudence of the AU in terms of its responses to

situations of unconstitutional changes of government on the African continent.

Insofar as Libya is concerned, in spite of its penchant for popular democracy models, the political system deployed by Gaddafi in Libya was both oppressive and repressive towards the country's population. Yet this did not translate into the AU approving the NTC's early decision to transform what was initially a non-violent popular uprising of the Libyan people against the Gaddafi regime into a fully-fledged civil war. Instead, the AU proposed a roadmap for the resolution of the Libyan dispute with its ultimate emphasis on the need for Libyan parties to desist from violence and evolve into an all-inclusive transitional mechanism that would pave the way for the emergence of a new 'democratic' Libya. The AU's opposition to violence as the means for the NTC to challenge the Gaddafi regime grew even stronger after the NATO powers took advantage of the UN Security Council Resolution 1973 of 17 March 2011 to drive what clearly became a regime change agenda in Libya.

A regime displacement by a civil war, just as is the case with a coup d'état, is deemed a case of unconstitutional change of government by the AU. But some analysts have challenged the relevance of this argument insofar as Gaddafi's Libya was concerned because of the democratic deficiency of the regime as well as its 'lack of a constitution'. As already mentioned, it would be a non-starter to engage in a debate on what constitutes a democratic government in Africa since the AU does not provide criteria to rate such regimes in individual African states.

On the question of the constitution, Libya under Gaddafi was not the only country in the world to not have a written, book-format type constitution. In the same vein, the absence of a written, book-format type or codified constitution does not necessarily mean a constitutional void as the case of Israel attests. Arguing that any means used to displace the Gaddafi regime could not be unconstitutional as the country did not have a (codified) constitution is simply ill-informed. Like Israel, Libya under Gaddafi had sets of laws and legal and political practices that could amount to the equivalent of what the Israelis refer to as Basic Laws and have constitutional validity. Like the country's political system, these sets of laws were unjust, oppressive and repressive, being designed to entrench Gaddafi's grip on Libyan society.

Perhaps the most intriguing part of the AU's move to recognise Libya's NTC is found in the outcomes of its PSC's meeting on 26 August 2011 in Addis Ababa as well as the

THE AU'S OPPOSITION TO VIOLENCE AS THE MEANS FOR THE NTC TO CHALLENGE THE GADDAFI REGIME GREW EVEN STRONGER AFTER THE NATO POWERS TOOK ADVANTAGE OF THE UN SECURITY COUNCIL RESOLUTION 1973 OF 17 MARCH 2011 TO DRIVE WHAT CLEARLY BECAME A REGIME CHANGE AGENDA IN LIBYA

meeting of its High Level Ad Hoc Committee in Pretoria on 14 September 2011. The PSC refused to immediately recognise the NTC and instead made its recognition conditional upon the establishment of an all-inclusive transitional government in Libya. Meeting under the leadership of South African President, Jacob Zuma, the High Level Ad Hoc Committee emphasised the PSC's initial position of linking the admission of the NTC into the AU to the formation of an all-inclusive Libyan government.

The decision by the AU's PSC to recognise the NTC before the formation of any government in post-Gaddafi Libya therefore raises questions on the very working ethics of the AU as an institution. Maru maintains that not only did the recognition threaten the AU's normative framework governing unconstitutional changes of government but that, more importantly, such recognition amounted to an official endorsement of the AU's own marginalisation by the deliberate acts of the international actors that actively supported the NTC.¹⁵

The Way Forward

The recognition of the NTC by the AU was not consistent with the organisation's legal positions and jurisprudence with regard to (unconstitutional) changes of governments on the continent. It contradicted not only the 'logic' adopted by the AU since the beginning of the Libyan uprisings in February 2011 but also the positions put forward by the PSC as well as the High Level Ad Hoc Committee. It set a very dangerous precedent for the organisation in the future, taking into consideration that the continued prevalence of 'imperfect democracies' on the African continent constitutes a recipe for forceful changes of government in many African countries. The 2009 Freedom House report found that there were only eight fully democratic states in Africa against 25 partially democratic states and 21 authoritarian states.¹⁶ Thus, will the AU's High Level Ad Hoc Committee's argument on Libya's 'exceptionalism and uniqueness' be enough to deny coup makers in Chad, Sudan, Cameroon, Zimbabwe or Swaziland a seat in the AU?

More than just a debate on the recognition of the new Libyan regime (and other similar regimes) by the AU, what is urgently needed is for the continental body to devise appropriate mechanisms to handle crisis situations similar to the recent North African popular uprisings. Inasmuch as the AU is clear in prohibiting unconstitutional changes of government on the continent, it ought to set up clearer and stronger modalities for assessing and regulating political governance and stability within individual member states. This is relevant as future challenges to the AU's legitimacy on the continent are likely to relate to its (in)ability to intervene proactively in - and respond decisively to - quests for socio-economic development and participatory political governance in individual African countries as opposed to merely resolving armed conflicts which are currently on the decrease. ▲

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Endnotes

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- 2 Bell, Anthony and Witter, David (2011) *The Libyan Revolution: Roots of Rebellion. Part I*. Washington: Institute for the Study of War, p. 16.
- 3 Nasserism is a neologism derived from the name of former Egyptian President Gamal Abdel Nasser who ruled Egypt between 1956 and 1970. As a political ideology, Nasserism called for unity among Egyptians, Arabs and even all people of the Third World in their struggle against domination by the developed world, mainly the West. In his early political life, Gaddafi portrayed himself as a fervent disciple of Nasser.
- 4 Calvocoressi, Peter (1971) *World Politics since 1945*, 2nd edition. London: Longman, p. 337.
- 5 Ibid.
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- 7 Bell, Anthony and Witter, David (2011), op. cit., p. 16.
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- 9 Handy, Paul-Simon (2011) AU's illusion of dogmatic pacifism. *The African.org*, Issue 15, October-November 2011, p. 8.
- 10 Communiqué of the 265th Meeting of the Peace and Security Council – PSC/PR/COMM.2(CCLXV).
- 11 Cited by Souaré, K. Issaka (2011), op. cit., pp. 10–11.
- 12 In this regard, it is informative to note that 'according to the 1 September edition of French newspaper *Libération*, the French government signed a contract with the NTC as early as April [2011], when the rebels conceded 35% of Libya's crude oil to Paris in exchange for its support.' Souaré, K. Issaka (2011), op. cit., p. 11.
- 13 Handy, Paul-Simon (2011), op. cit., p. 9.
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EMERGENT CONFLICT RESOLUTION AT SEA OFF AFRICA

BY FRANCOIS VREÿ

Introduction

Conflict Trends, Issue 4 of 2011, entertained the dilemma of “mediation with muscles or minds” in an article pertaining to Darfur.¹ Whether an option or merely a suggestion that muscle has its limits, responses to contemporary African security threats often display the muscle-mediation tension in a fight-and-talk pattern. Much of this fight-and-talk approach became encased in a landward fixation² and a comfort zone suggesting that threats and vulnerabilities, as well as their solution – whether through coercion, prevention or resolution – originate primarily from a landward security culture supported by military muscle. Regime security and people as a base of legitimacy, albeit for different reasons, played a major role in keeping political and other decision-makers focussed on landward threats and their resolution.

During the first five years of the 21st century however, a debate emerged about insecurity at sea around Africa. Since 2005 a repertoire of securitisation actions (in the western Indian Ocean in particular) by a host of state and non-state agencies began to take shape. As Africa’s oceans are deeply entrenched in the global system through the strategic value of shipping routes traversing its waters and marine resources, the heightened security attention is no surprise. A parallel trend is the international interest in Africa as a trading partner for raw materials, energy resources and

Above: Portuguese navy special forces marines capture a pirate group that attacked a Spanish-flagged fishing vessel in the Indian Ocean (November 2009).

manufactured goods that must be harvested and transported safely by sea via secure harbours and shipping routes. Whether seen as an asset for African interests, or viewed more sceptically as interventionist attempts, responses to maritime safety, security and bad order at sea in general have now entered the African security agenda.

The following discussion posits that Africa's maritime threats and vulnerabilities coexist or have merged with those on land to the extent that both need to be considered simultaneously. Maritime threats that stem from bad order at sea hold dire security consequences for Africa as well as the international community. Measures to prevent escalation and resolve existing maritime threat landscapes are thus now part of the African sub-regional and regional security agendas. It is however necessary to first demarcate the sectors of insecurity on the African maritime landscape before turning to matters of conflict prevention and resolution off the African coast.

The African Maritime Threat Landscape

Maritime threats have intruded upon the African security debate in a way few envisaged at the dawn of the 21st century.³ Calls for good order at sea now reside alongside the responses to landward threats and a growing realisation that maritime security threats are no less demanding than those on land. Offshore threats continue to challenge the minds of analysts, scholars and officials as conflict prevention or resolution at sea is not only about military muscle as the waters off Somalia so aptly demonstrate. Even where applicable, Africa reflects a glaring absence of coercive naval capabilities.⁴ For Africa, the matter of conflict prevention or resolution along its coastlines (for the moment at least) is thus a test of the mind and not naval muscle.

The Brenthurst Foundation and Atlantic Council are but two institutions that outline African maritime threats and the urgent need for an African maritime strategy to resolve existing threats, prevent their escalation and also their future return. Terrorism at sea, sea piracy, drug smuggling, human trafficking, illegal oil bunkering, illegal fishing and pollution are now recognised maritime threats occurring off Africa's coasts. The interplay of unsettled maritime boundaries amidst the sharp rise in lucrative off-shore hydrocarbons around Africa must also be noted.⁵ The aforementioned threats are real. They operate primarily off the African east and west coasts, and have drawn significant international attention.

An ongoing debate explores how the link between al Shabaab insurgents, the Somali pirates, and al Qaeda in the Arabian Peninsula can possibly play out at sea off the



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Juan Echeverry, captain of the Mozambican-flagged fishing vessel VEGA 5, is guarded by masked Somali pirates (December 2010).

Horn of Africa.⁶ The debate takes place amidst the high incidence of piracy off the Horn as the current piracy hub of the world. Off the west coast of Africa, the western edge of the Gulf of Guinea is a major transit route for drugs into West Africa en route to Europe, with weakly governed off-shore and on-shore territories being exploited for their utility to this criminal practice.⁷ Illegal oil bunkering not only pollutes the Niger Delta, it corrupts officials, promotes violent clashes between competing syndicates, and sustains the pirate tanker trade in the Gulf of Guinea.⁸ Illegal fishing threatens an environmental source of food for African

CALLS FOR GOOD ORDER AT SEA NOW RESIDE ALONGSIDE THE RESPONSES TO LANDWARD THREATS AND A GROWING REALISATION THAT MARITIME SECURITY THREATS ARE NO LESS DEMANDING THAN THOSE ON LAND

populations, promotes famine, sustains unemployment and encourages violence as is seen by pirate attacks upon illegal fishing vessels.

Ungoverned African waters also offer scope for undetected pollution at sea and from the sea by passing ships, or syndicates deliberately targeting African coasts due to the lack of maritime jurisdiction.⁹ Lastly, but very disturbing, matters of unsettled boundaries off the African east and west coasts abound and as found on land, competition for resources raises the conflict potential if boundaries remain unresolved.¹⁰ This particular matter requires urgent attention to prevent conflict about offshore assets.

The November 2011 issue of the Royal United Services Institute (RUSI) Journal highlights the maritime connection of African threats and particularly the repercussions that piracy holds, but also the human security implications of piracy, as the most prevalent threat in Africa's waters. Piracy thus serves to raise the awareness of the degeneration of order at sea off Africa and its vertical security consequences to states, regions and the international community. It also

draws attention to human security due to threats feeding off the collapse of order along certain sections of the African coast. While it is possible to regard the Brenthurst overview as an initial contribution, it nonetheless flags the most serious off-shore threats and vulnerabilities along African shores. Additionally, the ongoing scholarly debate increasingly projects the threat well beyond piracy, identifying conflict prevention or resolution as requiring much more than naval deployments.¹¹

Political threats unfold as interstate competition rises in the offshore domain. The confluence of unsettled maritime boundaries and almost unprecedented discoveries of offshore hydrocarbons with the potential to dramatically change the economic status of African countries raise interstate conflict potential.¹² In addition, foreign rivalry at sea through the deployment of naval vessels under the guise of anti-piracy reflects a further political power play for influence. This is most visible off the coast of east Africa in the multinational naval task forces and independent deployments of naval vessels that range from between 20 to 30 vessels at a time.¹³ African countries, as well



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Members of Somalia's Al Shabaab militant group parade during a demonstration to announce their integration with al Qaeda, in Elasha, Somalia (February 2012).



A Libyan police officer inspects a haul of prescription drugs seized from a shipping container in Tripoli. The drugs were hidden in containers that were identified as furniture, sports equipment and marble tiles (March 2011).

as non-African powers must be aware of this potential flashpoint at sea, and one holding the potential to spill back onto land as well.

Regarding its economic impact, interference with the exploitation of resources (minerals and food) not only impacts upon governments but, given the vastness of the formal and informal African fishing industry, upon people in particular. Food security unfortunately suffers as well. Off the Somali coast with its famine-prone food sector, food deliveries by sea are crucial. Vessels sailing into Somali ports with World Food Programme (WFP) donations are at risk due to the piracy threat to maritime transportation routes. A call for responses to lower the risk to WFP vessels in effect sparked the international naval response. Off the Nigerian coast the economic impact stems from the interdependence of illegal oil-bunkering in the Niger Delta and a weakly policed Gulf of Guinea, allowing for pirate tankers to receive the illegal crude and transport it to littoral states or further afield.¹⁴ The loss of income to the Nigerian economy is staggering. The resultant violent conflict in the Niger Delta disrupts farming and fishing as well as an oil industry which could make this region the most prosperous and wealthiest in Nigeria, if not in Africa. The most disturbing aspect of both Somalia and the Niger Delta is the humanitarian impact of events in terms of food

security, environmental security, and economic security upon vulnerable societies.

The Land-Sea Nexus

As Africa's maritime security debate grows, the umbilical connection between the collapse of security on land and its equivalent at sea remains influential.¹⁵ With the landward collapse of security so prevalent in many African countries, the rise of its maritime equivalent hastened the extension of prevention and resolution to threats at sea and from the sea. Piracy probably still serves as a catalyst in raising awareness about the looming risks at sea and continues to stimulate the need to put in place measures to deal with this challenge, but also for measures reaching into African threat sectors beyond the piracy hype.¹⁶

The November 2011 response by Kenya where the military operation into Somalia's southern region was directed against al Shabaab insurgents is a case in point.¹⁷ Al Shabaab's survival stems from the weakness of the Somali government, but also from its supply from the sea due to the absence of Somali jurisdiction over its territorial waters.¹⁸ In the Gulf of Guinea the threat off Nigeria's coast results from armed attacks by rebel groups from the land against offshore oil infrastructure and shipping, but with an overt political agenda related to political changes in



Militants patrol the creeks of the Niger Delta region of Nigeria.

governmental policies.¹⁹ Somalia, however, most graphically reveals how the absence of governance on land can spiral out of control at sea with national, regional and global security repercussions. This can result in an international response (including African actions) to address the offshore equivalent of bad governance on land.

Conflict Resolution and Prevention off Africa's Coasts

Dealing with maritime conflicts around Africa hardly reflects the history and progress one finds on the continent, but several measures feature on the continuum of prevention, resolution and coercion. It is however difficult to place overlapping events into hard categories. Events and responses off the coasts of southern and east Africa nonetheless suggest differing attempts at conflict prevention and resolution that takes cognisance of the growing offshore security landscape, but in two different ways.

The Horn of Africa attests to how comprehensive conflict resolution must be if governments have to deal with the offshore and on-shore domains simultaneously. While the United Nations (UN) Report on Somalia²⁰ depicts the wide ambit of the conflict dynamics in need of attention, Bueger outlines how the UN Security Council (INSC) formulated the

four 2008 UN Resolutions pertaining to piracy off Somalia in a fashion to clamp down on the piracy threat, bring the actions at sea into the fold of ongoing operations on land, and to support the struggling Somali government in its hour of need.²¹ The UN report readily acknowledges the rise of threats at sea and its impact within Somalia. The report thus serves as an indicator that disorder at sea is now part of the conflict resolution continuum in the Horn of Africa.

The non-military elements of bringing the Somali conflict to an end are often misjudged, as these are rather extensive and involve multiple actors. Alongside the non-military endeavours there are extensive military missions on land with an offshore concentration of one of the largest concentrations of naval forces in recent times. As neither the African Union (AU) nor Somalia were able to assert their authority upon the sea off Somalia, an international response characterised by military muscle materialised. On land, however, it appears that pressure by forces from the African Union Mission in Somalia (AMISOM), Kenya and Ethiopia are beginning to make headway against al Shabaab while a growing number of indicators claim the naval deployments have toned down the piracy threat.

In the south-western Indian Ocean a preventative operation is taking place off Mozambique's coast. Although



Marines guard a World Food Programme relief ship at Freeport in Monrovia, Liberia (August 2003).

incidents of piracy off the east coast of Southern Africa are rare, South Africa thought it well to deploy a small military contingent of naval and air assets as a preventative measure. The South African deployment takes place through a bilateral agreement between South Africa and Mozambique with Tanzania having expressed an interest to join.²² These actions resonate with the Southern African Development Community's (SADC) 2011 statement of intent in Luanda, Angola, about a maritime strategy for its western and eastern shores. It is also a direct African maritime response to the threat of bad order at sea. In this way the SADC stance on maritime security through its Standing Maritime Committee is operational through Operation Copper in SADC territorial waters. Although not showing the landward-offshore interface found in the Gulf of Guinea and off the Horn of Africa, the early response through Operation Copper depicts a growing understanding of prevention as a pathway to maintaining good order at sea. However, the military response is once again the option used to respond to a possible maritime threat.

Regarding the western SADC littoral, Angola's Defence Minister announced an Angolan initiative to begin monitoring maritime threats, in particular due to the bad order at sea to its north in the Gulf of Guinea. Angola is exposed to events in the Gulf of Guinea and apparently decided upon preventative action against a possible spillover effect.²³ As a sub-regional security arrangement, SADC likely shows the most mature regional response to emergent maritime threats off Africa's coasts. In both cases, the naval response is salient, preventative and directed at good order at sea. The naval prominence also masks the underlying regional diplomacy and decisions of SADC to break out from the African landward security culture focus only, to heed early warnings and to respond in good time.

Somalia and South Africa, as well as Mozambique and Angola portray how Africa's emergent maritime threat landscape gives rise to a range of responses from both Africa and the international community. Both cases also show a response that strongly relies upon the flexible roles that naval forces can play. They do so through their fluid

constructive-destructive role migrations from warfighting to diplomacy and humanitarian support as opposed to the rigid nature of army operations on land that are encased in destructive fighting capabilities. Military coercion, albeit in the form of more constructive roles by navies, does not and cannot be successful by itself. Other measures and arrangements must be considered.

Identification of non-coercive strategies to deal with threats along the African coast brings to light a number of arrangements and initiatives that are primarily directed at, or embody ways of preventing or resolving maritime threats. Several arrangements for African waters, dedicated to East and West Africa in particular, are visible and offer opportunities to raise the influence of non-coercive pathways. These are:

- An African Integrated Maritime Strategy (2010): An AU initiative to give content to an African-driven long term vision to address Africa's maritime challenges and opportunities – also called the 2050-AIM Strategy and one envisaged to be ready for adoption during January 2012.²⁴
- The Africa Partnership Strategy (2007): A United States (US) initiative including Europe, South America and Africa to promote cooperation and training with African countries for the promotion of maritime safety and security off Africa in particular.²⁵
- Maritime Transport Charter of the AU (2009): A charter directed at cooperation towards the safety of shipping around Africa in recognition of the importance of the seas and the safe passage of shipping for the development and prosperity of Africa.²⁶
- The Gulf of Guinea Commission (2001): A conflict resolution body that is based in Luanda and comprises eight West African countries with a focus on preventing or resolving possible conflicts in the Gulf of Guinea.²⁷
- Djibouti Code for the Repression of Piracy and Armed Robbery against ships in the western Indian Ocean and Gulf of Aden (2009): Outcomes are the establishment of piracy information exchange centres in the following locations: regional maritime rescue coordination centre (Mombasa/ Kenya); sub-regional coordination centre (Dar es Salaam/Tanzania) and regional maritime information centre to be established (Sana'a/Yemen); and regional training centre to be established in Djibouti.²⁸

In a certain sense Africa reflects a range of bodies that offer optimism towards prevention and resolution approaches that do not always have to follow the naval muscle pathway. The somewhat lesser role of these institutions is perhaps more a function of a grave need for some response to a rapidly deteriorating maritime threat landscape at a time when African arrangements are being put in place, rather than them being irrelevant. As in the case of prevention and resolution on land, African institutions

with a lesser inclination for coercion will have to step in at sea too as piracy cannot indefinitely dictate and promote the maritime security agenda.

Summary

In contrast to conflict prevention and resolution on land, its maritime equivalent perhaps stems even more from cooperation and collaboration efforts for what transpires at sea cannot be isolated from its international impact beyond Africa. The notion of African solutions to Africa's problems in the absence of credible maritime capabilities compels African decision-makers to be more creative about prevention and resolution of conflicts at sea. In a sense, naval acquisitions by African governments are steadily growing, but so are arrangements by a multitude of African parties with a maritime concern. The international naval deployments in the Indian Ocean have shown however, that this is an expensive, temporary and limited mechanism and prone to also reflect agendas other than African interests. The optimistic side to this is that Africa is bound to benefit from first assessing the threat before investing blindly in naval assets.

Off the Horn of Africa a visible and dangerous, but not politically orchestrated, interface between on- and offshore threats has evolved. This is further complicated by the close involvement of the international community. In the Gulf of Guinea there is a more deliberate land-maritime interface as rebels, criminals and officials partake in questionable political and economic activities with a more deliberate security overspill into the Gulf of Guinea. In both regions weak or collapsed governance on land allowed for ungoverned spaces at sea that were subsequently occupied by pirates, rebels, criminals and similar groups that extended their criminal operations and intentions on land to the sea or merely found their existing transgressions at sea all the easier to continue. In SADC waters off Mozambique a preventative operation led by South Africa continues in cooperation with the government of Mozambique. This latter African response attests to early warning, cooperation and the foresight of prevention rather than conflict resolution.

In conclusion, three observations surface. Firstly, maritime threats have settled upon the African security

AS IN THE CASE OF PREVENTION AND RESOLUTION ON LAND, AFRICAN INSTITUTIONS WITH A LESSER INCLINATION FOR COERCION WILL HAVE TO STEP IN AT SEA TOO AS PIRACY CANNOT INDEFINITELY DICTATE AND PROMOTE THE MARITIME SECURITY AGENDA

agenda and now compete with the established landward preferences for conflict prevention and resolution. Secondly, both the international community, as well as African decision-makers have noted the intrusion and reality of maritime threats and their responses depict actions such as verbal commitments and promises towards concrete actions such as naval deployments. Thirdly, responses to maritime threats along the African littoral show the difficulty of conflict resolution if events are allowed to migrate to the extremes visible off the Horn of Africa, but the preventative notion (albeit rather marginal in scope) that is visible in SADC waters, serves as a laudable example for the rest of Africa. ▲

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MOROCCO'S EQUITY AND RECONCILIATION COMMISSION: A NEW PARADIGM FOR TRANSITIONAL JUSTICE

BY CATHERINE SKROCH



GETTY IMAGES

"What future is there for humans and communities if nothing is known about their past?"

Ahmed Herzenni, Director of the Moroccan Advisory Council for Human Rights¹

After violent protests and political upheaval, states across the Middle East and North Africa must now negotiate complete conflict transformations as per the demands of their citizens. In a best-case scenario, countries in

transition, including Liberia, Egypt, Tunisia and Iraq, would navigate healthy and peaceful democratic transitions from eras of authoritarianism and corruption, to eras where vibrant civil societies interact with

Above: Victims of human rights abuse during Morocco's 'Lead Years' listen to public hearings organised by the Equity and Reconciliation Commission in Rabat (December 2004).



A victim of Morocco's 'Lead Years' testifies during a public hearing organised by the Equity and Reconciliation Commission in Figuig, eastern Morocco (January 2005).

transparent governments. However, transitions are incomplete if revolutionaries merely claim elections and re-written constitutions as victory. In places where little trust exists between citizen and state, Truth and Reconciliation Commissions (TRCs) may be the key to meaningful democratic transition and complete resolution of conflict.

Many states are currently attempting to decide the fate of their former rulers including Tunisia's Zine El Abidine Ben Ali, Liberia's Charles Taylor, and Egypt's Hosni Mubarak.

IN PLACES WHERE LITTLE TRUST EXISTS BETWEEN CITIZEN AND STATE, TRUTH AND RECONCILIATION COMMISSIONS (TRCS) MAY BE THE KEY TO MEANINGFUL DEMOCRATIC TRANSITION AND COMPLETE RESOLUTION OF CONFLICT

However, while they may satiate a natural desire for accountability or revenge, trials may do more harm than good. Many of these nations do not yet have the institutional infrastructure or objectivity to address large-scale human rights abuses in a systematic or efficient way, and often run up against cultural and religious barriers. In the post-conflict competition of peace versus justice, the time and resources consumed in protracted legal disputes are often not commensurate with the resulting closure or healing for victims and their family members.²

In order for these victims to become healthy, participatory citizens and to ensure that healthy democracy is passed down to the next generation they must be reconciled with their own histories and their own governments. TRCs are unique mechanisms of accountability and catharsis without the risk inherent in trials. Although it has been little analysed, Morocco has demonstrated that a TRC may be the best option for newly democratic, predominantly Muslim nations to address large-scale abuses and to reset history, and could serve as a useful model for neighbouring countries.

Transitioning to Justice

According to the International Center for Transitional Justice (ICTJ), the leading consulting body in establishing TRCs around the world, the 'truth commission approach' emerged in the late 1980s in response to political changes and demands for justice particularly in both Latin America and Sub-Saharan Africa. Human rights activists wanted to address the systematic abuses by former regimes without endangering the political transformations underway. To date, there have been approximately 40 TRCs established around the world, with undoubtedly the most famous being in post-apartheid South Africa.³

TRCs investigate specific human rights abuses within a specific time frame. They are vehicles of democratic transitions which may include prosecuting perpetrators, establishing shared narratives about past abuses, reparations, commemoration and reconciliation initiatives, and institutional reform, while bypassing national judicial systems that may be ill-equipped or ill-positioned to take on these tasks.

IN ORDER FOR THESE VICTIMS TO BECOME HEALTHY, PARTICIPATORY CITIZENS AND TO ENSURE THAT HEALTHY DEMOCRACY IS PASSED DOWN TO THE NEXT GENERATION THEY MUST BE RECONCILED WITH THEIR OWN HISTORIES AND THEIR OWN GOVERNMENTS

Ousting a dictator does not automatically mean full freedom for all people, but many nations in transition do not have the infrastructure necessary to address large-scale human rights abuses with any efficiency. Victims - such as the nearly 7000 killed or injured during protests in Egypt during the Arab Spring - are often relegated to be symbols of revolution, but do not get to play an actual role in the ensuing democratic process.

As newly democratic nations are politically overtaxed, TRCs are an important means of ensuring that every level of society is included in this process. They fill in the cracks by allowing victims to grieve and abuses to be addressed in a systematic, often public, manner. In many cases including Libya today, when military forces and civil society are both involved in perpetrating large-scale crimes, TRCs are able to directly acknowledge those responsible across political boundaries.

In an interview with the author, Julie Guierrot, (Director of the ICTJ in Morocco), explained that TRCs bring a solution when facing a massive situation of human rights violations where the judicial system cannot examine every case and establish truth. Truth Commissions are universal



Moroccan King Mohammed VI addresses the nation to demand the application of the recommendations of the Commission of Equity and Reconciliation to end the impunity of those who violate human rights and to apologise officially to the victims (January 2006).

in the sense that they are a tool to overcome the practical, logistical, and financial limitations of the judicial system in the face of massive human rights violations.⁴

In order to garner public support, TRCs very often employ the use of religion (predominantly Christian) and cultural rhetoric, (such as South Africa's rallying cry for Ubuntu, which is defined as valuing the good of humanity).⁵ However, there is an urgent need to examine the utility of TRCs in Muslim nations, especially in North Africa, which is currently a hotbed of democratic transitions.



Plans are underway to transform the infamous Derb Moulay Cherif prison and torture facility into a community centre and museum to honour all those who were scarred by the 'Years of Lead' in Hay Mohammadi, a Casablanca suburb. The building currently houses residents on the four floors above the former basement prison. Some residents remember hearing screams of the tortured from below, while former detainees recall hearing the sound of holiday celebrations and weddings from above as they were held captive.

It just so happens that a model exists for a TRC which fits into the Arabo-Muslim context. It also just so happens to exist in one of the only Middle East North Africa (MENA) nations that has not recently experienced a violent revolution, but rather a calmer re-working of the regime. As the first, and to-date, only TRC in the Arab world, a holistic analysis of Morocco's Equity and Reconciliation Commission (or IER as it is known, from the French Instance Equité et Reconciliation) may change the paradigm of the democratisation process at a critical moment for the region.

The History of Healing in Morocco

After Morocco's independence in 1956, a constitutional monarchy was established. However, King Hassan II's rule from 1961 to 1999 was characterised by the persecution of those who dared to oppose the regime, including arbitrary detention, forced disappearances, torture, and the suppression of fundamental liberties. Secret prisons were constructed around the country, and entire regions fell into disrepair. Most alarming, many Moroccans lost faith in or

grew to fear their own government, leading to a serious decline in civic involvement.

After Hassan's death in 1999 his son, the current King Mohammed VI, prioritised human rights by focusing on democratising measures including a Commission to investigate what is known as 'The Years of Lead'. On his 7 January 2004 Throne Day speech, King Mohammed VI mandated the IER to investigate the gross human rights violations that occurred between 1956 and 1999. In consultation with the ICTJ, 16 commissioners and staff were appointed to conduct field investigations, collect

TRUTH COMMISSIONS ARE UNIVERSAL IN THE SENSE THAT THEY ARE A TOOL TO OVERCOME THE PRACTICAL, LOGISTICAL, AND FINANCIAL LIMITATIONS OF THE JUDICIAL SYSTEM IN THE FACE OF MASSIVE HUMAN RIGHTS VIOLATIONS



As part of communal reparations programmes, the small date palms in this barren field will be transformed into an orchard to supply a livelihood to the Zagora community, who were formerly marginalised because of the existence of a secret prison in their community.

testimonies, hold seven nationally-televised hearings and conferences, and gather and analyse records of disappearances.

In total, the Commission received over 22 000 claims and examined 16 861 cases between 12 April 2004 and 30 November 2005, determining reparations for over 13 000 of these cases. The mandate was eventually expanded to compensate 17 032 individuals as of 6 April 2010.⁶ The IER's Final Report suggested that recommendations and reparations should be managed by Morocco's Advisory Council for Human Rights (CCDH). Recommendations encompass four main areas:

- Individual reparations;
- Community reparations;
- The establishment of the truth through investigations of disappearances and re-writing national history;
- Legislative and institutional reforms

By 2010, the CCDH has declared that individual reparations including medical and psychological rehabilitation and social reinsertion programmes for victims and their family members had been completed in all but nine cases of disappeared persons. Work is underway on communal reparation programmes through development projects which span from women's literacy programmes and agriculture initiatives, to citizenship and democracy education. In contrast, institutional reform has been slow and debates on establishing the truth for past violations continue.⁷

A New Paradigm for Conflict Transformation

As the first, and to-date, only TRC in the Arab world, lessons from the IER may serve as a template for conflict transformation for future commissions in

the Arabo-Muslim context, especially in North Africa. In particular, the IER is an exemplary model in the areas of reparations, religion, and recognition.

Reparations

The IER's reparations programmes include both a development dimension that meets the social and economic needs of the targeted individuals and communities, as well as a symbolic dimension that acknowledges past abuses and preserves memory to ensure non-repetition. Eleven regions were marginalised for being scenes of political uprisings or because of the presence of a prison the previous King wished to hide. The CCDH has consulted with local leadership to address specific needs in these communities, from cell phone towers to microloans for women to the transformation of former detention centres into museums and memorials. Plans are also underway to transform Casablanca's infamous Derb Moulay Cherif torture facility into a walk-through museum.

The ICTJ acknowledges that Morocco's accomplishments in this area are unparalleled, albeit unfinished. In 2009, in partnership with local institutions and the CCDH, the ICTJ held an International Symposium on Collective Reparations Experience, which produced *The Rabat Report: Concept and Challenges of Collective Reparations*, which is meant as a guidebook for future commissions.⁹

Morocco demonstrated that a country can improve human rights without 'democratising' in the traditional Western sense – or even without breaking from an established regime – because the essential idea behind a TRC is to establish and fortify democratic and participatory structures, not necessarily democracy as a *system* of government. This means including actors from all levels, from Parliament to the judiciary to civil society, in formulating reparation plans.

Religion

Western conceptions of human rights focus almost exclusively on the 'group right' component (that is, the right to life, liberty, and the pursuit of happiness), rarely mentioning the 'individual duty' component (that is, the duty to protect and develop the community). In contrast, the prevailing Islamic conception focuses on the 'group duty' component, rarely mentioning 'individual rights'.⁹ *The Universal Islamic Declaration of Human Rights* states in its preamble that "duties and obligations have priority over ... rights" and concludes that "... each one of the Human Rights enunciated in this declaration carries a corresponding duty."¹⁰ In effect, there is an imbalance between rights-based international standards which exalt individualism (and upon which most conventions and protocol are constructed), and duties and community-based Shari'a (Islamic jurisprudence).



REUTERS / THE BIGGER PICTURE

Communal reparation programmes include supporting women's literacy.

Although debates rage over the actual universality of human rights, the ideas of justice, truth, and reconciliation are fundamental to Islamic philosophy. The Islamic scholar, Dr. Abdulaziz Othman Altwaijri, emphasises:

“The Islamic concept of human rights thus ascends to the sublime status of an act of worship, these rights being in Islamic Shari’a no less than religious duties... In contrast to mere constitutional or political rights schemes, individual duties are not the intellectual result of a phase in the development of the human mind...They are, in fact, duties of the faith, entrusted to the individual and the society.”¹¹

Accordingly, every Muslim has a religious duty to uphold human rights. If the duties-based paradigm of Islamic law is married to the aim of human welfare and prevention of harm, then a balance is struck between rights and duties.

Morocco’s IER was decidedly secular, but it was in accordance with this Islamic approach to human rights. It balanced rights and duties by valuing and examining the experience of individuals (victims and their family

Kabazal: The Walls of Tazmamart, as a catharsis. “It’s as if I said to my comrades who died there: ‘Don’t worry, you are not forgotten’.”¹³ Hachad and his fellow ex-prisoners have formed an association that meets regularly, rarely to talk about The Years of Lead, but rather to enjoy what is left of their lives, sharing meals, holidays, and lively discussions. “When they are together” mused Hachad’s wife Aida, “they laugh all the time, just like schoolboys!”¹⁴

In 2010, Rabat’s Mohammed V University launched a Master’s Programme in Contemporary History where students learn to critically read and write their history. The interdisciplinary programme includes courses in human rights law and archival management, with the objective to establish a National Archive of IER witness testimony, eventually to be open to the public as a memorial.

Unfortunately, personal catharsis may be the only recourse for victims when justice is not an option, as was the case in Morocco and is likely to be the case for many of its neighbours. “When it comes to the issue of past human rights abuses, it is very difficult to actually take those people responsible for torture to court and have them

MOROCCO’S IER WAS DECIDEDLY SECULAR, BUT IT WAS IN ACCORDANCE WITH THIS ISLAMIC APPROACH TO HUMAN RIGHTS. IT BALANCED RIGHTS AND DUTIES BY VALUING AND EXAMINING THE EXPERIENCE OF INDIVIDUALS (VICTIMS AND THEIR FAMILY MEMBERS), IN ORDER TO ESTABLISH A NATIONAL RECONCILIATION AND DEVELOPMENT SCHEMA

members), in order to establish a national reconciliation and development schema. Unlike South Africa, no religious figures served on the Commission, and Islam was invoked by the King only in the context of a national duty to forgive. Even if individuals may never own up to their participation in the Years of Lead, Islam instructs that collective development, collective forgiveness, collective memory, and collective reforms are necessary. As such, a TRC is a duty for the greater good because the healing of one individual contributes to the amelioration of society as a whole.

Recognition

The IER opened an unprecedented culture of dialogue and recognition of past abuses in Morocco. Issues that would formerly have been discussed only behind closed doors are now open for public debate. Permitting victims to share their stories openly, constructing public memorials, and using prison literature and art in school curricula allow society to mourn. As IER Commissioner Idriss El-Yazami articulated, “Mourning is an important step when making the transition from being a victim to becoming an active citizen.”¹²

Held for 18 years in Morocco’s infamous Tazmamart prison, Saleh Hachad described the writing of his memoirs,

account for their deeds”, reasoned Dr. Tayeb Belghazi, Director of the Contemporary History programme in an interview with the author at Mohammed V University:

“So actually the best deal we can achieve is what happened [in Morocco]: the ability of empowering those who suffered from past abuses to actually articulate their sufferings. And that could achieve some kind of therapy: to come to terms with the past and be able to build some kind of future for themselves.”¹⁵

Conclusion: The Globalisation of Reconciliation

With its unique reparations programmes, religious interplay, and national catharsis, Morocco’s IER has demonstrated that reconciliation is not only possible in the Arabo-Muslim world, but necessary for completing democratic transitions in divided and wounded societies. Of course as Moroccan author and human rights activist Khadija Marouazi explains, “Pain has no model. It is always relative. There is no triumphalism in this type of thing. We must always be listening to victims...Their experiences are *tools* for understanding what happened, to not repeat it.”¹⁶

TRCs are not ‘silver-bullet solutions’, as there is always a tradeoff between peace and justice when the work of reconciliation distracts attention from prosecution,

punishment, and institutional reforms. Morocco's IER is no exception. Many victims have yet to receive compensation. The constitution continues to give almost absolute power to the monarch. Perhaps most troubling, no justice has been served because victims were not allowed to name perpetrators during the proceedings. In the words of Mohamed Sabbar, former president of Morocco's *Forum Vérité et Justice*, the precursor to the IER, impunity for perpetrators has led to an 'implicit amnesty' which allows criminals to retain positions in government.

In the course of the Arab Spring, Morocco has not been without its own upheaval. The February 20 Movement has organised several protests in the past year, calling not for an overhaul of the monarchy, but rather for expediency on the constitutional reforms originally proposed by the IER.¹⁷ In a nod to the promised institutional liberalisation, King Mohammed VI ordered reforms to begin the "process of consolidation of our model of democracy and development", resulting in a revised constitution in July and parliamentary elections in November 2011.¹⁸

Nevertheless, "Morocco demonstrates that mechanisms of transitional justice are globalizing" notes transitional justice scholar Pierre Hazan, "and are effective in engaging new political spaces to remake a trust between State and society, and to constitute a precedence in the Arabo-Islamic world."¹⁹ Morocco's creative initiatives for healing are certainly exportable. Although the IER is limited by the continuity of the monarchy, other nations once steeped in political nepotism are free to take advantage of their liberalisations to form their own Commissions and ensure a durable, holistic transition. ▽

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CROWDSOURCING AS A TOOL IN CONFLICT PREVENTION

BY ANNE KAHL, CHRISTY MCCONNELL AND WILLIAM TSUMA¹



EMAD KARIM

Conflict prevention and peacebuilding relies on information. If accessed on time, well verified, analysed and shared with the right actors, it has the potential to stop violence before it escalates. Traditionally, the processes of information generation and flow have relied on conflict analysis experts, which is not only costly but also time-consuming when it comes to transmission and dissemination for action. Technology is therefore changing the way information is shared and processed; tools, such as mobile devices and social media, allows for information to rapidly be disseminated, analysed and made actionable. As the world continues to move forward at new speeds of information sharing with the likes of Facebook, Twitter and YouTube, such tools increasingly affect the field of peacebuilding and conflict prevention.

This article seeks to initiate policy and practice related discussions on the role that such technologies can play in complimenting traditional peacebuilding and conflict prevention efforts. More specifically, the article explores the role of crowdsourcing as a method for gathering and sharing conflict information for timely and coordinated response. Crowdsourcing uses technology to receive specific information from a crowd of people related

Above: The voice of people is increasingly communicated through newer media channels such as Facebook, Twitter, blogs, and text messages rather than merely transferred and controlled through traditional media and elected politicians.



Crowdsourcing facilitates the transfer of important information directly from the source in a crisis situation to responsible stakeholders capable of responding and possibly mitigating further escalation.

to targeted topics or issues, and then allows for this information to be geographically mapped. Crowdsourcing¹ has had considerable success in the field of humanitarian action and crisis management. It was used for the first time during the 2008 post-election violence in Kenya to alert authorities of outbreaks of violence, and again in the 2010 Haiti earthquake used to alert rescuers and relief workers of survivors and needs on the ground. With the success of crowdsourcing in crisis management, there is now a need to further explore the ability to add value to conflict prevention by engaging people locally in collaborative efforts for early warning and timely response using crowdsourcing to not just respond to the crises but to prevent violence.

This article explores the role of crowdsourcing as a methodology for gathering and sharing conflict information

CROWDSOURCING USES TECHNOLOGY TO RECEIVE SPECIFIC INFORMATION FROM A CROWD OF PEOPLE RELATED TO TARGETED TOPICS OR ISSUES, AND THEN ALLOWS FOR THIS INFORMATION TO BE GEOGRAPHICALLY MAPPED

for timely and coordinated responses. The article outlines the various components of a crowdsourcing system and identifies the factors that are crucial for crowdsourcing systems to compliment conflict prevention efforts.

Technology and Conflict Prevention

The use of technology can localise the warning and response mechanisms aimed at preventing violent conflict and hence give more ownership and responsibility to the people impacted. In 2011 alone the impact of social media in political transition processes was evident, the latest developments in the Arab World and in many African countries testament to this proliferation and impact. The voice of the people is increasingly communicated through newer media channels such as Facebook, Twitter, blogs, and text messages rather than merely transferred and controlled through traditional media and elected politicians. As one activist ‘tweeted’ during the February 2011 protests in Cairo: “We use Facebook to schedule protests, Twitter to coordinate and YouTube to tell the world.”²

Innovations in open-source technology and greater affordability and access to digital devices have changed the speed of information sharing and the nature of information, notably with the rise of social media and the spread of services offered via mobile phones. The increase



Uwiano staff members monitor results and peace messages at the 2010 Referendum National Tallying Centre at Bomas, Kenya (August 2010).

gathering information from a crowd but also empowering the crowd, or crowdfeeding, with information). However, crowdsourcing is only a complementary tool, and does not replace established methods of conflict analysis and early warning systems. The challenge then remains as to how these innovative social media tools and user-generated information can be utilised for and translated into localised and participatory preventive multi-stakeholder action in potential conflict situations.

Early Warning, Crowdsourcing and Violence Prevention

Early warning systems have advanced concomitantly over time as the knowledge and understanding of conflict and prevention have evolved and new quantitative and qualitative tools have become available. Previous generations of early warning systems that contributed to the efforts of conflict prevention were good at generating information around potential or existing conflict, but they have been heavily criticised for their lack of response to that

information. A new early warning system generation seeks to address this gap by linking warners and responders, and by focusing on direct first-responder interventions.⁵ While the former generations of early warning systems, that is, the first through third generations, define early warning as ‘the systematic collection and analysis of information’, the latest system draws on the United Nations (UN) Institutional Strategy for Disaster Reduction’s people-centred definition⁶ of early warning and response:

“Empower individuals and communities threatened by hazards to act in sufficient time and in an appropriate manner so as to reduce the possibility of personal injury, loss of life, damage to property and the environment, and loss of livelihoods.”

These recent and evolving early warning initiatives draw on crowdsourcing as a methodology to rapidly connect warners and responders by facilitating the quick transfer of information. There is now the capacity for information to be transferred directly from the source to the responsible stakeholders capable of responding. In crisis situations and for conflict preventive purposes, crowdsourcing as a methodology has several advantages. First, *crowdsourcing allows for rapid information sharing*. Rapid information sharing during a crisis is vital for early warning purposes to relevant response systems and actors. Second, crowdsourcing provides for broad involvement of populations in generating ‘state of the moment’ information, which then raises the awareness of affected communities and has potential to foster rapid and timely action. Lastly, crowdsourcing *makes alternative sources of information available for verification, action planning and response*. In this case, pooling information from various channels, such as international and local media, government reports, and now crowdsourced information, allows for much quicker verification of information, facilitating rapid planning and response mechanisms.

The Crowdsourcing System for Early Warning and Conflict Prevention

In the previous section the methodology of crowdsourcing and its relevance as a tool for generating conflict information, was introduced and discussed. This section highlights the key components of a crowdsourcing system that has potential to compliment and strengthen peacebuilding and conflict prevention efforts.

Components of Crowdsourcing: The Call, the Crowd, the Tools

There are three main components in any crowdsourcing system: the issue being broadcasted (the call), the target audience (the crowd), and the methods (the tools) used to send and receive information to and from the crowd. The call is a way to get a particular audience involved in sharing information. The message to the crowd can be

communicated through many different tools. The call has to be concise and specific and the crowd has to be informed about the means to report and the reason why they should share information. It is important to clearly specify who is running the service, how people should report, what they should report and how the information will be processed, utilised and responded to.⁷ The call could prompt a response from the crowd expecting either information about specific needs or about a particular situation.⁸ The crowd can be an already identified and 'trusted' group (bounded crowd) – consisting of appointed field monitors – or an open crowd (unbounded crowd) – such as a community in a given location.

Having learned significantly from the 2008 Kenya elections and in the build up to the Kenyan constitutional referendum in 2010, the Kenyan government's National Steering Committee on Conflict Management and Peacebuilding (NSC), with the support of the United Nations Development Programme (UNDP), issued a call to inhabitants of selected communities that were identified as high-risk areas for election violence. They were requested to report any incidences of hate speech from politicians, cases of community militarisation or clan animosity. All these were perceived as potential threats to a peaceful referendum. Incidences were reported through mobile phones where a free SMS short code had been made available. The information generated was managed through an online system dubbed the Uwiano (kiSwahili for cohesion) Platform for Peace. Information gathered was analysed, verified by the NSC team and disseminated for action to various state agencies, civil society organisations and others resulting in a primarily peaceful 2010 election season.

As illustrated in the example above, most crowdsourcing initiatives are either mobile or web based. This requires a slightly advanced technology infrastructure in a country and the crowd ought to have access to at least one form of communication – whether it is the internet, mobile phones or land line telephones. In some developing countries internet coverage is only available in urban centres and not in rural areas, yet mobile network coverage is increasing throughout most developing countries, including rural areas. The use of mobile phones in developing countries has been found to be the best option for crowdsourcing (as opposed to internet based tools like emails, online submissions, or blogging) as mobile network coverage is continually increasing into formerly hard to reach rural locations.

In some cases where the target audience is illiterate or unable to access the needed technology (be it for economic reasons or otherwise), the initiator of the call may choose to target specific field monitors to generate information. This was done in Kenya: where mobile phone coverage was inaccessible a local field monitor was selected and given



During the 2008 elections and the 2010 constitutional referendum in Kenya, people were able to report incidents of political hate speech by using a free SMS short code on their mobile phones.

training and a short wave radio to provide a daily report to the NSC.

Analysis and Credibility

Information credibility is a central prerequisite if prevention of violent conflicts is to be achieved. Credible information in this case is verifiable, well analysed and trustworthy. If information is not deemed to be credible, that is, mere rumours, subjective, leads to hate speech or is inflammatory, then there is a likelihood that its dissemination could lead to further violence or even escalate a situation. Credibility of information and information flow processes becomes a core aspect of prevention. Effort and planning in a crowdsourcing system must ensure that credibility of process and information collection is a core outcome of the early warning and prevention effort.

As mentioned earlier, the use of modern technologies should not be seen to replace traditional information



The use of mobile phones in developing countries has been found to be the best option for crowdsourcing as mobile network coverage is continually increasing into formerly hard to reach rural locations.

generation approaches like conflict analysis. On the contrary, technology plays a more complementary role, working to strengthen existing mechanisms. In some cases, for example the Economic Community of West African States Early Warning and Response Network (ECOWARN) in West Africa and Kenya's Conflict Early Warning System, a hybrid system is adopted where traditional conflict analysis methods are intertwined with crowdsourced information.

A hybrid method of using a targeted call to a specific crowd is an important part of accessing and verifying credible information at the local level, and one that is important in creating a functioning early warning system. Irrespective of their title, field monitors, peace or conflict monitors play a central role in ensuring that the information generated is reliable and credible. In most cases the field monitors are locally embedded, meaning that they belong, and in some cases reside, in specific conflict contexts. In this sense they bring a local perspective to an early warning system while also ensuring legitimacy to the information collection process. These field monitors can also be trained in the use of the crowdsourcing systems in addition to conflict preventive actions.

Efficient and credible monitoring systems would therefore rely heavily upon dependable field monitors. These monitors provide a dual role: they link the conflict early

warning system to the people at the local level, while also being responsible for the information that is relayed to key decision makers.

When incorporating data gathered through crowdsourcing, especially from an unbounded crowd, the need for a reliable system to analyse and assess the validity of information rapidly is required. More information, often from unspecified sources, does not ease the analysis but rather increases the complexity of analysis. A credible system therefore requires triangulation of information to ensure, to the extent possible, that the information is reliable.

The process of verifying social media data largely requires a two-step process: the authentication of the source as reliable and the triangulation of the content as valid.⁹ The underlying assumption is that if we can authenticate the source and find it trustworthy, it may be sufficient to trust the content.

Triangulation of information sources becomes a key basis for enhancing information quality. As in any information generation process, it helps to employ various methods in order to test the reliability of the data. For example, it might be helpful not only to rely on field monitors but to also check with reliable media houses, civil society groups working in respective conflict areas, and rapid assessments generated by other actors. This information can also be

triangulated and verified by primary information collected by reliable conflict and peace monitors (the bounded crowd). In addition, verification can be crowdsourced by using such technology as OpenStreet Map, Ushahidi and new systems such as Swift River - tools that have been developed to triangulate information and create reliability scores.

The Dual Role of the Crowd

The dual role of the crowd is imperative in an early warning and early response approach to conflict prevention. Information on potential violence is received from the crowd and accurate information is also provided to the crowd to empower appropriate responses. Information shared with the crowd can localise the warning and response mechanisms giving more ownership and responsibility to the people impacted. Therefore crowd information is then fed back to a targeted or large group. The feeding back of information received is called crowdfeeding. The role then of the crowd in crowdsourcing is to provide information to credible stakeholders. Therefore, crowdfeeding is to early response what crowdsourcing is to early warning.¹⁰ Crowdfeeding involves using the same technologies that are used to gather data and information from the crowd to feed that data and information back to the crowd. Since the crowd is often the first responder on the ground, the more

THE CHALLENGE THEN REMAINS AS TO HOW THESE INNOVATIVE SOCIAL MEDIA TOOLS AND USER-GENERATED INFORMATION CAN BE UTILISED FOR AND TRANSLATED INTO LOCALISED AND PARTICIPATORY PREVENTIVE MULTI-STAKEHOLDER ACTION IN POTENTIAL CONFLICT SITUATIONS

its members know the better they can respond. Empowered local populations normally know what to do and have local coping mechanisms.¹¹

In 2001, Kubatana Trust was founded in Zimbabwe as a coalition of civil society organisations and activists with the intention of creating a hub for sharing information and ideas around human rights and civic education through their website, email and mobile phone technology. With over 250 civil society organisation members, Kubatana provides a constant flow of information through its website and through its innovative approach to 'crowdfeeding' through mobile technology. During the 2008 elections the media was banned in Zimbabwe. However, Kubatana kept their subscribers updated with voting station information, election results, important information and even encouraging participation

in targeted activism. The following are examples of various SMS text messages sent to subscribers:

Kubatana! Some poll stations asking foreign borns for renunciation certificates. This is NOT a requirement. Call Zim Lawyers to assist [number provided].

Kubatana! Email Zimbabwe Electoral Commission [email provided] or phone them [number provided] and complain about unacceptable delays in announcement results.

Kubatana! The MDC has called for a strike from 15 April until the pres election results are announced. Is your workplace closed tomorrow? <Defend your vote!>

Kubatana has built its strategy around two-way communication. Even in a country where the 'responder' is not the national government, it has found a way in an environment of suppressed media to engage the community by providing real-time information through its website, through a call-in phone messaging system and via SMS. Kubatana's 'crowd' shares information and also receives important information shared, therefore creating trust amongst the community. This type of crowdsourcing and crowdfeeding can lead to sustainable conflict prevention in varying environments. As the Kubatana case reveals, the challenge for any crowdsourcing system is how to adapt appropriate technologies to facilitate the kind of two-way communication with the crowd and/or responder that will help organisations involved in early response deliver information or intervention to prevent violence and allow the crowd to self-organise grassroots responses.

Just as crowdsourcing cannot always be controlled, there is an element of crowdfeeding that cannot be controlled. Currently in Brazil the government is asking Twitter to take down a link that shares information about police roadblocks. The Brazilian police have been working to curb drunk driving, but with the ability to feed and send information in real-time, information on police locations are being shared and quickly avoided. Another example of crowdfeeding comes from the 2011 protests in London where a technology tool called Sukey was developed to share information of police roadblocks and provide real-time police-free routes for protestors to escape. While Sukey states that it is a tool for non-violent protests, this type of information shared in real-time on a smart phone map or via SMS gives violent protestors the same information and can undermine national security and safety.

The Role of Multiple Stakeholders

Another aspect of developing a reliable crowdsourcing system for early warning is to understand the constraints and boundaries of the processes of warning, analysis and response: who can do what, when, and how much can they do to prevent or stop conflict? A core characteristic of response is the role of multiple stakeholders in mobilising response in a coordinated manner and forging action

based on the various types of warnings generated through crowdsourced information.

The prevention of violence is a collaborative process between local (grassroots), district (regional), national and international actors in identifying and ensuring the preparedness of established response mechanisms as part of the given country's existing infrastructures of peace. These infrastructures include local peace councils and actors supporting local conflict prevention and response efforts and include local communities in the shaping and implementation of response mechanisms.

A reliable crowdsourcing system requires multiple stakeholders fulfilling multiple roles. For example, civil society organisations, the UN, the national government, media and regional bodies play very specific roles in informing, verifying, analysing and responding to conflict. Civil society groups can play a key role in generating 'grassroots' information depending on their outreach and area of cover and assistance, and, with crowdfearing they can mobilise 'grassroots' responses to conflict. On the other hand, government institutions such as provincial administration, intelligence services or the Ministry of Interior, might have the legitimacy and ability to respond and be more effective in stopping conflict through the use of police and other interventions. Engaging these government institutions in a collaborative manner to mobilise information provides the much-needed legitimacy to the process as well as empowering legitimate institutions with the space for response to the warnings.

The UNDP is currently exploring how to further integrate technology and crowdsourcing into its work on infrastructures for peace and conflict prevention to engage people locally in collaborative efforts for warning and response. During the 2010 constitutional referendum in Kenya, UNDP provided support to the government and civil society in advance of the referendum to implement the Uwiano Platform. UNDP supported a similar system of linking early warning and response using crowdsourcing in Kyrgyzstan's 2011 elections and is currently supporting the use of technology and local peace committees for early warning and response in Liberia.

As technology begins to help shape new ways of information sharing and response, it appears that crowdsourcing can be a powerful tool for conflict prevention. Organisations are already implementing parts of a complete crowdsourcing system for conflict prevention and observing results. The use of such technology can be especially important in preventing electoral violence and in curbing violent attacks. However, the most crucial part of early warning and response is the collaborative role of multiple stakeholders and generating appropriate and constructive responses from the information received. Through partnerships and technology violence can be prevented. **A**

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Endnotes

- 1 This article is part of a larger research effort by the authors and is part of a background document for discussion which will lead to further field research and testing. The views expressed in this article are those of the authors and do not necessarily reflect the views of the United Nations or the Global Partnership for the Prevention of Armed Conflict.
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THE BOKO HARAM UPRISING AND INSECURITY IN NIGERIA: INTELLIGENCE FAILURE OR BAD GOVERNANCE?

BY ODOMOVO S. AFENO



REUTERS / THE BIGGER PICTURE

Introduction

Since the return to democratic rule in May 1999, Nigeria has witnessed a number of security challenges associated with militancy, kidnapping, armed robbery, political assassinations, arms proliferation, piracy and ethno-religious conflicts. However, the outbreak of the Boko Haram uprising in July 2009 heralded new security challenges in the country. The Boko Haram uprising stands out because of the seeming facelessness of the perpetrators and the mystery shrouding their real agenda. Boko Haram (which translates to: 'western education is a sin') is a product of the resurgence in Islamic

fundamentalism in northern Nigeria. It has become more organised and dangerous in unleashing terror on Nigerians, particularly Christians, and government establishments in

Above: Clergymen gather around the coffins of the victims of the Christmas day 2011 bombing at St Theresa Catholic Church Madalla, during a mass funeral for the victims, outside Nigeria's capital city, Abuja. Boko Haram claimed responsibility for the bombing of the church, which killed 37 people and wounded 57 people.



Members of Boko Haram (seated) following their arrest in Kano, Nigeria.

the northern part of the country. The consequent decline in internal security and the reactions it has elicited from the State raises important questions about the effectiveness of governance and security agencies in the country. This article therefore attempts to situate the problem of insecurity in Nigeria within the context of governance and intelligence gathering, with a particular focus on the Boko Haram uprising.

Conceptual Discourse

National security has been conceived in terms of the maintenance and protection of the core values, interests and socio-economic order of a State in the face of threats from within or without. It is a condition where the most

cherished values, ideas, beliefs, ways of life, institutions of governance and the well-being of a nation are protected and continuously strengthened. This implies that security is a holistic concept that involves the protection of lives and property. It encompasses a network of armed and civil forces that secure the citizens not only from external attacks but also from devastating internal disturbances, starvation, diseases, homelessness, environmental degradation and socio-economic injustices.¹

Since 1960, most threats to national security in Nigeria have been internal rather than external. This has necessitated a fundamental rethinking of the very framework of national security. The concept of ‘human security’ has been developed to express the need for the safety of individuals in the area of basic needs. Human security emphasises all the structures and processes that can engender peace and security in a modern State. Consequently, in an attempt to bridge the gap between State and human security, national security has been conceived in terms of human development. Hence, from a human development perspective, the former Secretary General of the United Nations (UN), Kofi Annan states that:

“Today we know that ‘security’ means far more than the absence of conflict. We know that lasting peace requires a broader vision encompassing areas such as education,

THE CONSEQUENT DECLINE IN INTERNAL SECURITY AND THE REACTIONS IT HAS ELICITED FROM THE STATE RAISES IMPORTANT QUESTIONS ABOUT THE EFFECTIVENESS OF GOVERNANCE AND SECURITY AGENCIES IN THE COUNTRY

health, democracy and human rights, protection against environmental degradation, and the proliferation of deadly weapons. We know that we cannot be secure amidst starvation, that we cannot build peace without alleviating poverty, and that we cannot build freedom on the foundation of injustices. These pillars of what we now understand as the people-centred concept of 'human' security are inter-related and mutually reinforcing."²

The concept of 'human security' therefore recognises those human needs that must be satisfied to ensure sustainable security. It goes beyond arguing that problems such as socio-economic discriminations are likely to create security threats by encouraging conflict, to claiming that such injustices constitute a threat to the life of those affected. In other words, a threat to national security is something that threatens to reduce the quality of life of citizens of a State. A secure society must therefore promote a viable economic system while at the same time working towards ending physical and structural violence by eliminating socio-economic discriminations.

An important component of national security is intelligence gathering. Intelligence deals with information and knowledge about threats that are obtained through

investigation and analysis. Intelligence gathering, according to Lowenthal is:

"...the process by which specific types of information important to national security are requested, collected, analysed, and provided to policy makers; the product of that process, the safeguarding of these processes and this information by counterintelligence activities; and the carrying out of operations as requested by lawful authorities."³

In other words, intelligence refers to both the organisations that officially collect secret information and the information that is collected. It is information or foreknowledge relating to the strength, resources, capabilities and intentions of an adversary sought by a nation in response to external or internal threats in an attempt to protect its vital interests and especially the well-being and

THE BOKO HARAM UPRISING IS NOT ONLY A SECURITY ISSUE. IT HAS ALSO EXPOSED THE WEAKNESS OF GOVERNANCE IN THE COUNTRY



REUTERS / THE BIGGER PICTURE

The riots that broke out during the 2002 'Miss World' contest in Nigeria was linked to the issue of Sharia law.



The Nigerian leadership has failed to reduce poverty and avert all forms of socio-economic and political exclusions as a way to avert human insecurity.

safety of its citizens. Intelligence gathering is thus the official secret collection and processing of information by a State or its agencies for national security.

Synopsis of Internal Security Threats in Nigeria, 1999–2011

Nigeria’s return to democratic rule in 1999 opened up avenues for people to express their grievances against the State and new areas of conflict were created by the competition for political power and economic resources. Since 1999, Nigeria has witnessed a series of ethno-religious and resource-based violent conflicts that have threatened its national security. The state-wide introduction of Sharia law initially in Zamfara State in 1999 precipitated its swift adoption in twelve northern states. The adoption and implementation of the Sharia legal system led to a series of violent clashes in major northern cities such as Kano, Kaduna and Jos between the mainly Muslim Hausa-Fulani majority and Christian minority groups.

The November 2002 ‘Miss World’ riots in Kaduna that displaced thousands of people, and the 2004 Jos crisis between Muslims and Christians that led to the massacre of several hundreds of people, were associated with the issue

of Sharia law. These crises subsequently triggered deadly reprisal attacks in Kano. In addition, there were instances where violent attacks in the North sparked reprisals in the South and vice versa. For example, violent clashes in Lagos in October 2000 and February 2002 in which thousands of people were displaced were the result of reprisal attacks.⁴ The South East and the Niger Delta region have also witnessed an unprecedented level of kidnappings, cultism and other criminal activities that threatens internal security. Insecurity in the Niger Delta is linked mainly to oil production, where environmental degradation and resource control agitations have triggered violent conflicts. Violent clashes between local militias and security forces as well as infighting within and among militia groups created insecurity in the region before the federal government’s amnesty programme reduced the rate of violence in the region.

During the run-up to the 2007 general elections, kidnapping and the use of thugs became veritable tools in the hands of politicians to intimidate and silence opponents. The controversies and violent reactions that followed the outcome of the elections led to a further decline in the country’s security. Since then there has been a resurgence in violence from militant groups in the Niger Delta agitating

for resource control and environmental protection, which culminated in the 1 October 2010 bomb blasts during the country's 50th Independence Anniversary. The blasts, for which the Movement for the Emancipation of the Niger Delta (MEND) claimed responsibility, involved explosives which were planted and detonated near the Eagle Square, Abuja (venue of the anniversary celebration) and which killed at least 12 persons and injured many others.⁵

Since the 1 October 2010 bomb blasts numerous other blasts have been carried out particularly by the Boko Haram sect, challenging the legitimacy of the State. Initially, the activities of the group involved carrying out sporadic attacks on police stations. However the security challenges posed by the group reached a climax in 2009 when the leader of the sect, Yusuf Mohammed and other key members of the group were killed by the police. Following the extra-judicial killing of its leader, the sect regrouped and has continued to perpetrate acts of violence including bomb blasts and suicide attacks against the State. While the 16 June 2011 attack on the national police headquarters demonstrates the group's capability to strike at almost any target in the country, the 26 August 2011 suicide attack on the United Nations (UN)

headquarters in Abuja generated a stronger international response to the group.

In November 2011, the sect carried out one of its most deadly attacks in Maiduguri, Borno State and Potiskum, Yobe State, targeting churches, banks and police stations. The November attacks were so deadly that they attracted international condemnation specifically from the head of the Organisation of Islamic Conference, the Pope, the UN Security Council, and the UN Secretary General. The widely condemned 'Christmas bombings' on 25 December 2011, which targeted churches and killed dozens of people, has raised the fear of the possibility of another chain of religious violence in Nigeria as Christians vow to defend themselves henceforth.⁶ Consequently, the need for internal security has led to the establishment and deployment of Special Joint Task Forces to trouble spots to dispel conflicts. In spite of the deployment of intelligence agents and joint military task forces, the frequency and targets of violent attacks are increasing on a daily basis with occasional carnage in Abuja, the capital.



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Boko Haram provides a platform for unemployed and disgruntled youth to attack a system that they believe is largely responsible for their plight.



The Nigerian government emphasises physical security through the presence of military, police and intelligence agents, and pays minimal attention to human development issues, which are essential for sustainable national security.

Insecurity in Nigeria: Intelligence Failure or Failure of Governance?

The Boko Haram uprising is not only a security issue. It has also exposed the weakness of governance in the country. Ultimately, responsibility for security rests with the government. The political leadership has failed to transparently use public resources to reduce poverty and prevent all forms of socio-economic and political exclusions as a way of averting human insecurity. The Boko Haram uprising is primarily the result of the failure of successive governments in Nigeria to fight corruption, provide public services, create economic opportunities and establish accountable and effective security institutions. According to the U.S. Secretary of State, Hillary Clinton, "The most immediate source of disconnect between Nigeria's wealth and its poverty is the failure of governance at the federal, state and local levels."⁷ Boko Haram therefore provides a platform for unemployed youth and disgruntled persons to attack a system they believe is largely responsible for their plight.

It appears that the Nigerian government lacks the capacity and the political will to mount an effective response,

as violent attacks by the sect have increased in frequency, reach and destructiveness, occurring almost on a daily basis in the northern part of the country. In spite of the increasing deterioration of security, no effective counter-strategy and enabling legislations have been put in place by government to address the situation. The most visible response to date has been a massive deployment of the security forces, which has further created a feeling of fear among the local population. The belief that the presence of security forces is sufficient to guarantee national security seems to be deeply rooted in the psychology of those saddled with national security decisions. Government is increasingly putting too much emphasis on the maintenance of physical security typified by the presence of military, police and intelligence agents, and paying little attention to human development issues which are essential for sustainable national security. In some cases, to demonstrate that government is capable of ensuring peace and security, military and police units are deployed to violent flashpoints. They use excessive force to arrest, detain and possibly even kill anyone who happens to be in the wrong place at the wrong time, thereby exacerbating a situation which they are meant to alleviate.

The emphasis on physical security notwithstanding, intelligence failure could also be blamed for much of the threat to public security in Nigeria. This is based on the understanding that the occurrence, escalation and duration of violence against citizens and the State depends to a large extent on the capability of intelligence and security agencies in terms of ability to identify, regulate, curb or stop such violence through accurate information gathering, analysis and utilisation.⁹ In the run-up to the April 2011 general elections, large caches of arms capable of mass destruction which are believed to have been imported from Iran were seized at the ports. However, the intelligence agencies failed to establish any link between these incidents and the current violent attacks.

In addition, the September 2010 large-scale prison break which was orchestrated by members of the Boko Haram sect that freed about 700 prisoners, including over 100 of its members,⁹ as well as the June 2011 lethal attack on the Police national headquarters shows that the country's security forces are constrained to deal with the nation's security challenges. There are unsubstantiated claims that members of Boko Haram are enlisted among security agencies, and at different times high profile members of the sect have either escaped from detention or have been

A SECURE SOCIETY MUST PROMOTE A VIABLE ECONOMIC SYSTEM WHILE AT THE SAME TIME WORKING TOWARDS ENDING PHYSICAL AND STRUCTURAL VIOLENCE BY ELIMINATING SOCIO-ECONOMIC DISCRIMINATIONS

wrongfully released by security operatives.¹⁰ Above all, the decision of the federal government in 2011 to relocate the 51st national day celebrations and independence parade from the usual venue, Eagle Square in Abuja, to the Aso Rock presidential villa is symptomatic of bad governance and intelligence failure. It was done after the threatened disruption of the events by Boko Haram and MEND. This is a sign that government and intelligence agencies are indirectly succumbing to the growing security challenges bedevilling the country.

Conclusion

This article has identified how a combination of accumulated grievances and religious extremism led to the emergence of the Boko Haram sect, and that its violent confrontation with the State is the consequence of the failure of successive governments in Nigeria to sincerely address human development and other pressing national issues. The deteriorating state of security has discredited the Nigerian state by exposing the weakness of governance and security institutions in the country. Therefore, the state of insecurity created by the escalation and spread of violent

attacks is mainly the result of bad governance, and partly the consequence of intelligence failure.

To address the current state of insecurity, the political and administrative leadership must demonstrate sufficient commitment and political will in pursuit of inclusive democracy and good governance. This should involve a combination of political, economic and security strategies that can produce realistic and timely improvement in the standard of living of the citizenry. Crucial national issues such as widespread corruption, poverty, unemployment and all forms of socio-political and economic exclusions should be addressed through effective poverty alleviation and human development programmes. In addition, security and intelligence agencies should be empowered in the areas of counter-insurgency and improved capabilities for proactive response, as well as the promotion of inter-agency collaboration in the form of information sharing in order to effectively curtail both existing and emerging national and human security threats. ▀

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UNCLEAR CRITERIA FOR STATEHOOD AND ITS IMPLICATIONS FOR PEACE AND STABILITY IN AFRICA

BY **ABEBE AYNETE**

Introduction

There are two governing theories which define statehood. One focuses on the effectiveness of the emerging State and the other underlines legal recognition as a precondition for statehood. However, the two approaches remain debatable. In addition, the 1933 Montevideo Convention on the Rights and Duties of States provides four criteria for statehood. All the approaches have limitations and lack clarity. The criteria

offered are not binding in all cases. As a result, there is an observable gap in recognising a newly emerging country as a fully-fledged State. This implies that these criteria have relative subjectivity. This article attempts to explore to what extent the

Above: Membership to the United Nations is open to all peace-loving States.



A South Sudanese delegate celebrates as the flag of the Republic of South Sudan is raised on the occasion to mark the admission of the 193rd member State to the United Nations.

lack of clear criteria for statehood and for legitimate secession have encouraged the emergence of numerous secessionist movements and thereby threatened the peace, stability and territorial integrity of the existing states in Africa.¹

Conceptual Underpinnings of a State

Arguments on statehood are dominated by two competing theories: the declaratory and the constitutive theories.² The proponents of declaratory theory argue that recognition is merely an acknowledgement of the existing statehood status. They further argue that statehood is acquired by satisfaction of objective criteria. This theory gives due attention to the expression of goodwill to a new entity and recognises the ability of a State to establish good relations with a new State. This assertion is based on sovereignty and exclusive control within the territory. Thus, according to this theory, recognition should be automatic and based on specified criteria because the status of statehood is based on fact and not on an individual State's discretion.³

The constitutive theory provides that a State is only a State upon the political act of recognition by other States. According to this theory, an act of recognition is based on certain standards and the new State has to fulfil these criteria before it is entitled to a legal status. This theory states that

recognition is not automatic. Rather, it should be based on the judgment of other States. Accordingly, upon recognition by other States, the new State exists in a legal sense.⁴ On the other hand, the 1933 Montevideo Convention on the Rights and Duties of States provides four factors which define the claim for statehood. This regional treaty, which has become customary international law and hence is a proper source for defining statehood in the contemporary context, is based on Article 38.1(b) International Court of Justice (ICJ) Statute.⁵ Furthermore, Article 1 of the Montevideo Convention states that a State as a person in international law should possess the following qualifications:

- a. A permanent population
- b. A defined territory
- c. A government
- d. The capacity to enter into relations with the other States⁶

As is indicated in Article 1(a), a permanent population does not mean that the population has to be static at one place. Rather, it takes into account pastoralists who move seasonally from place to place. Additionally, the size of the population is not an essential requirement for statehood. For example, in 1991 during its emergence, the population of Eritrea was estimated at 2.5 million people whereas that

of South Sudan is currently some 10 million. Similarly, 'a defined territory' as a criterion as indicated in Article 1(b) does not imply that the boundaries have to be defined precisely. Thus a border dispute with another country does not cast doubt on the territorial status of a country. It is only important that a country has a clear core territory in order to be a State. According to the Montevideo Convention, a territory is defined as a State of sovereignty.⁷ In this regard, sovereignty can be classified as internal and external. Both are closely connected and referred to in Articles 1(c) and (d) of the Montevideo Convention.⁸ Internal sovereignty refers to the government as the highest authority of law-making within a State while external sovereignty assures that a State is independent in governing its external affairs.⁹

To gain certification for external sovereignty, which is essential to establish international relations, the government needs to exercise effective power over its territory and citizens.¹⁰ Effectiveness implies internal sovereignty and capacity to enter into relations with the other States. In this regard, capacity does not imply the ability to negotiate or make connection with other States. Rather, it defines the new entity's recognition by other States so that they have the

capacity to start relations. Capacity in a theoretical manner indicates the State's ability to enter into international relations. In other words, the government will have effective power and the ability to carry out government obligations, such as law enforcement and determining the policy of a State. But constitutive theory considers recognition by other States as a precondition to be a State. This precondition contradicts Articles 3 and 6 of the Montevideo Convention¹¹, which distinguish between the de facto existence of States and their recognition.

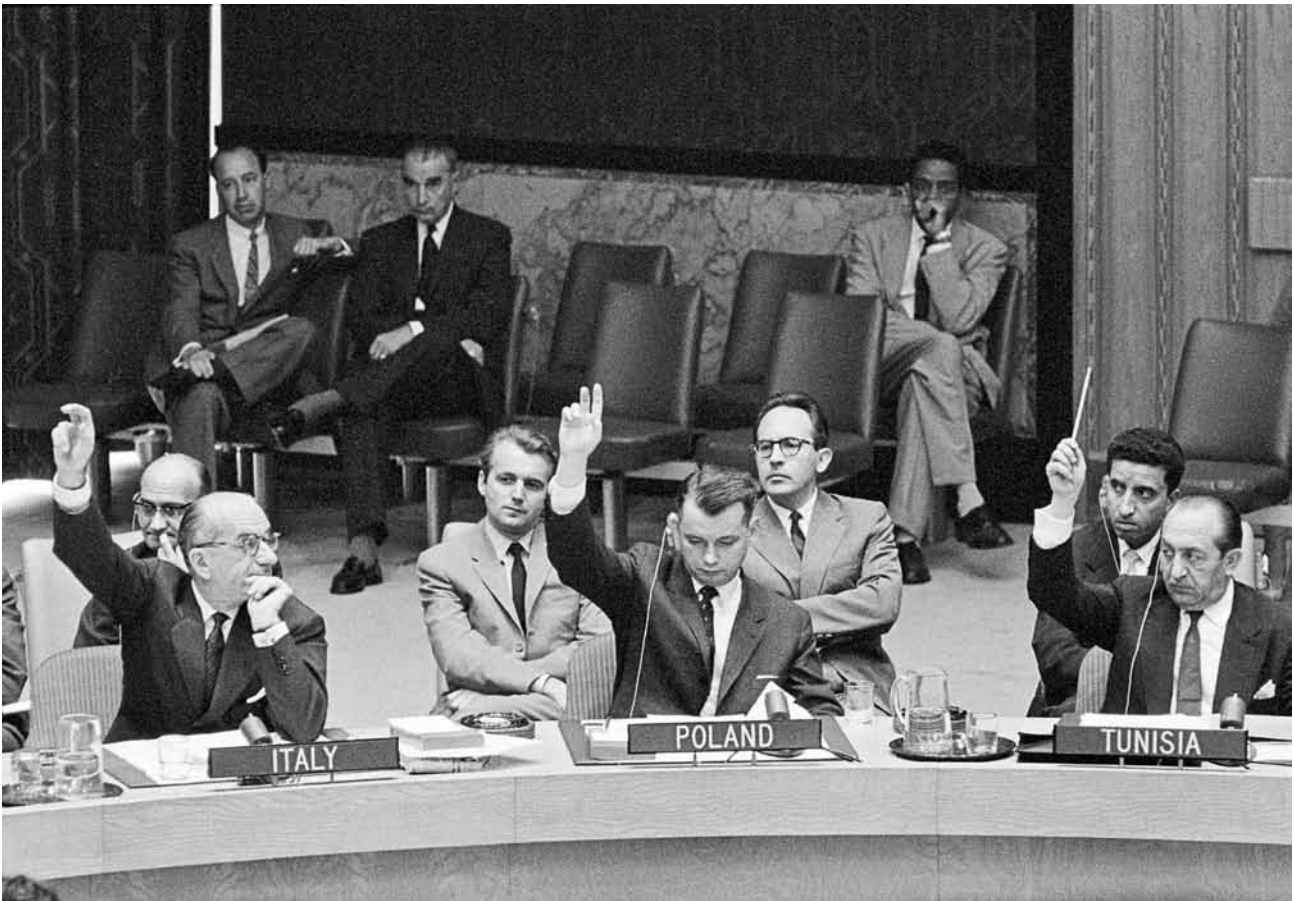
Beyond the international conventions, the newly emerged State gets unilateral recognition for different reasons. For

TO GAIN CERTIFICATION FOR EXTERNAL SOVEREIGNTY, WHICH IS ESSENTIAL TO ESTABLISH INTERNATIONAL RELATIONS, THE GOVERNMENT NEEDS TO EXERCISE EFFECTIVE POWER OVER ITS TERRITORY AND CITIZENS



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Libya's Transitional National Council (some members are pictured here) gained unilateral recognition from African Union member States, but not from the African Union initially.



On 5 July 1960 the United Nations Security Council unanimously recommended, to the General Assembly, that the Republic of Somalia be admitted to membership in the United Nations. Three of the Council representatives are seen here voting for the resolution.

instance, in the case of Libya the Transitional National Council (TNC) gained unilateral recognition from African Union (AU) member States, but not from the AU. The divergence of unilateral and collective recognition occurred for different reasons. One reason was the existence of a political vacuum in the country and the need to minimise the expansion of extremists in the region. The other was the specific political interests of individual countries. In this regard, France was the first to recognise the TNC. However, the AU only subsequently recognised the TNC. The delay was due to the

THE DELAY WAS DUE TO THE AU'S CONSTITUTIVE ACT THAT DOES NOT RECOGNISE REGIME CHANGE THROUGH POPULAR UPRISING, BUT ONLY THROUGH DEMOCRATIC ELECTIONS HELD IN A PEACEFUL MANNER

AU's constitutive act that does not recognise regime change through popular uprising, but only through democratic elections held in a peaceful manner. The AU's constitutive act therefore has certain limitations and lacks clarity in this regard. Similarly, the deficiency in clarity in defining statehood and the lack of objective criteria in the contemporary world for lawful secession encourages the search for alternatives in this regard.

Legitimisation of States through Recognition

In today's Africa, due to the wave of changes of government through revolution, particularly in the northern part of the continent, the concept of unilateral recognition could be acceptable. The current situation is changing common norms. It would seem that acceptance or recognition of a new State by one or a few other States could not be needed. Justified and unjustified political reasons and preferences affect the decision of any State to recognise another State. Historically, in most cases, unilateral recognition was not generally acceptable. The assumption behind discarding a unilateral recognition of the new entity

was related to incompatibility with international law. Since the implementation of the United Nations Charter (UNCH), collective recognition was dominant with respect to the crucial principle of the sovereign equality of States.

Accordingly, the right of entry of new members into the United Nations (UN) is more than a symbolic act, because it is related to a new understanding of collective recognition. Article 4.1 of UNCH stipulates that membership of the UN is open to all peace-loving States. In addition, it orders that it is open to those who accept the obligations and judgments contained in the Charter and, furthermore, are able and willing to carry out these obligations.¹²

Article 4.1 of UNCH has major implications for the modern criteria of statehood. It can be deduced that only States can be members of the UN. Hence, every member of the UN is a State according to the UNCH. In other words, membership of the UN is not a precondition in order to be a State. For instance, Somalia joined the UN in 1960 but is considered a failed State since 1991.¹³ Yet it is never denied that the Transitional Federal Government (TFG) of Somalia has been the country's government. On the other hand, Somaliland has been a self-declared State since 1991 but is

Article 4.1(b) states that a UN member State must adhere to the obligations of the present charter. In other words, the State has to agree to surrender some of its sovereignty in order to be able to adhere to universal obligations and the main principles of the UNCH. Furthermore, the compliance with the UNCH has to be without any reservation. This resolution, which stipulates that "by virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all people have the right to freely determine ... their political status", and also imposes on all States the obligation to respect the right of self-determination in accordance with the UN Charter.¹⁷

Historically, self-determination crucially affected the legal nature of decolonisation. The UN was motivated to include the principle of self-determination to encourage decolonisation. The colonies would be able to define themselves as long as this was in accordance with human rights. In their first articles, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) express the right of self-determination as a main principle. These two treaties are the main human rights treaties and self-determination is therefore

THE IDEA OF SELF-DETERMINATION BECAME THE PRIME CATALYST FOR MINORITY GROUPS TO REALISE THEIR SELF-DETERMINATION THROUGH SECESSION

not as yet recognised.¹⁴ According to Article 2.1 of the UNCH, every State is sovereign in deciding to join international treaties like the UNCH. It cannot be denied that membership of the UN is a good indicator in determining whether a country is a State or not because, according to the UNCH Article 4.1, it is a matter of fact that only States can become members of the UN.¹⁵ If this assumption is turned around, it can be claimed that the non-admission of entities willing to join the UN means that they do not fulfill the statehood criteria and hence are solely entities with people but without legal status.

If one looks more closely at Article 4.1 of UNCH, it reveals that there are certain other criteria to be complied with before admission to UN membership. The applicant has to:

- a. Be peace-loving
- b. Accept the obligations of the present Charter
- c. Be able and willing to carry out these obligations¹⁶

In contemporary politics there has been an inconsistent application of the granting of statehood. Two examples of this are evident in Libya and Somaliland. In the case of Libya, before Gaddafi was killed, the TNC attained unilateral recognition even though it had not yet met the criteria for recognition as stated under Article 4.1(c) that a State "must be able...to maintain peace and carry out state responsibilities". On the other hand, Somaliland fulfils all the stated criteria of the UN Charter and the 1933 Montevideo Convention but is not yet recognised as a legitimate State.

considered a human right. On the other hand, the borders of the former colonies remain valid even after independence and this narrowed and constrained the right to self-determination.¹⁸

In order to support the process of decolonisation, admission to the UN was eased for former colonies. On the one hand, they had to be States in accordance with Article 4.1 of the UNCH in order to be admitted. On the other hand, State practice implies that the criteria for statehood was likely not to be solely based on the principle of effectiveness but rather on the legitimacy of governments. Indeed, it seems that other factors beyond the principle of effectiveness were considered more important, such as the compliance with the principles of the UNCH and international law, with particular reference to the principle of self-determination and thus with human rights.

The Wave of Secession

The end of the Second World War resulted in a change in the international political landscape. The UN was born and created as the subject of international law. The UN Charter redefined international law significantly. As is stipulated in the UN Charter, Article One was realised to maintain international peace and security.¹⁹ The end of the Cold War brought about another political change in the world. In 1989, the breakdown of the German Democratic Republic (GDR) government intensified the collapse of the communist bloc centred on the Soviet Union, which led to another wave of State creation with many new States emerging in Africa and elsewhere in the world.



Somalia has an ineffective government and has been a failed State since 1991.

The creation of States has largely been a new phenomenon and the claim is backed by the rights to self-determination. However, the rights stipulated in the UN charter were in support of the decolonisation process and respect for the principle of equal rights. Following the end of the Cold War, the assumption in the UN Charter as well as the concept and interpretation of self-determination changed in both approach and meaning. With the end of the Cold War many regional minority groups' claims for secession increased and this resulted in significant tensions and triggered wars. A good example is provided by the former Soviet Union.

In this regard, the idea of self-determination became the prime catalyst for minority groups to realise their self-determination through secession. The issue of self-determination was considered as a means to realise freedom from dictatorship and oppression. But secession by itself is

IF A NEW STATE ESTABLISHED EITHER BY SECESSION OR IN ANOTHER WAY AND RECOGNISED ACCORDINGLY FAILS TO CARRY OUT RESPONSIBILITIES OR PROVIDE SERVICE TO ITS NATION, THERE IS NO WAY TO CHALLENGE THIS

not a guarantee of minority rights. There are other options to guarantee such rights, including the devolution of power through the development of regional autonomy and self-government. Therefore, secession often does not solve the minority problem. Mostly, it simply results in the reversal of the minority-majority roles, and the new minority becomes subject to similar ill-treatment at the hands of the former minority. The question also arises as to how long any 'right to secession' due to the large-scale ill-treatment of a given minority will remain applicable once the ill-treatment has ended?

The Need for New Criteria for Statehood in the Contemporary World

For a newly emerging State, there is no obligation under international law to be recognised as a State. This gives States and international organisations the opportunity to make recognition or accession to an organisation conditional upon the fulfilment of certain substantial criteria, including political will. But the benchmark for political will is still subjective and it is unclear what conditions result in the recognition of a new State quickly or what causes a delay in this regard. This gap implies the need for certain substantive standards as preconditions for the recognition and accession of new States as being crucial in the contemporary environment. On the other hand, there is no mechanism for 'withdrawal' if the conditions under which it was granted are no longer fulfilled.

For instance, if a new State established either by secession or in another way and recognised accordingly fails to carry out responsibilities or provide service to its nation, there is no way to challenge this. Even traditional customary law does not provide clarity on this point. Therefore, the following points need to be given due attention to be considered as criteria for emerging States in the contemporary world:

- Respect for democracy, the rule of law and human rights
- Guarantees for ethnic groups and minorities to participate in issues and processes that affect their lives
- The recognition of the inviolability of existing borders
- The recognition of existing commitments for disarmament and reintegration
- The obligation to peaceful settlement of disputes
- Equal distribution of resources

Somalia

Somalia became a UN member in 1960 but since 1991 there has not been effective control over the country. As already discussed, only States can enter the UN but Somalia, a member State, is also a collapsed State. The act of collective recognition through the UN is evidence that Somalia is a State (Article 4.1 of the UNCH), because the ineffectiveness of Somalia's government was not taken into consideration. The principle of effectiveness is undermined. Hence, from the perspective of the UN members, Somalia had a legitimate government which was the deciding criterion to accept it as a new UN member State.

The Somalia case shows that although the country has had an ineffective government since 1991, the criteria for statehood was satisfied in 1960 when independence was in accordance with the self-determination of the people, and thus the government was deemed legitimate.

Somaliland

In 1991, Somaliland declared its unilateral independence from Somalia and built a minority government in Hargessa. This was a unilateral declaration. The act was in accordance with the right to self-determination and it fulfilled human rights as well as the rights of a minority group.

Somaliland is effective and fulfils all the requirements stipulated in the UN Charter Article 4.1(a) to be peace loving. Somaliland portrayed its fulfilment of peace by fighting terrorism and allowing its ports to be used for anti-terrorism operations. However, the claim for recognition seems challenged by the following factors:

- The principles of the AU's Constitutive Act, Article 4(b), which stipulates the respect of borders based on the existing achievements of independence
- The absence of an effective central government in Mogadishu
- The fear of States (African and others) to recognise Somaliland as a State. This would be considered as encouraging disintegration and secessionist movements, contrary to the AU's Constitutive Act.

Conclusion

Lack of clarity for recognition and legitimate secession of States remains debatable. Non-recognition for a new State will continue as an exception in State practice. In the case of Somalia this problem may contribute to the country remaining weak and unstable. It also undermines the good lessons that can be learned from Somaliland's creation of pockets of peace and stability within Somalia. On the other hand, internationally ostracising a regime as an outlaw not only means that the entity is deprived of rights under international law. It also negatively affects peace and stability in the country and neighbouring countries. It cannot be called on to fulfil international obligations and responsibilities, although the international community would have an elementary interest in doing so in order to guarantee the universality of international law. **A**

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A CRITICAL ANALYSIS OF CULTURAL EXPLANATIONS FOR THE VIOLENCE IN JONGLEI STATE, SOUTH SUDAN

BY ØYSTEIN H. ROLANDSEN AND INGRID MARIE BREIDLID



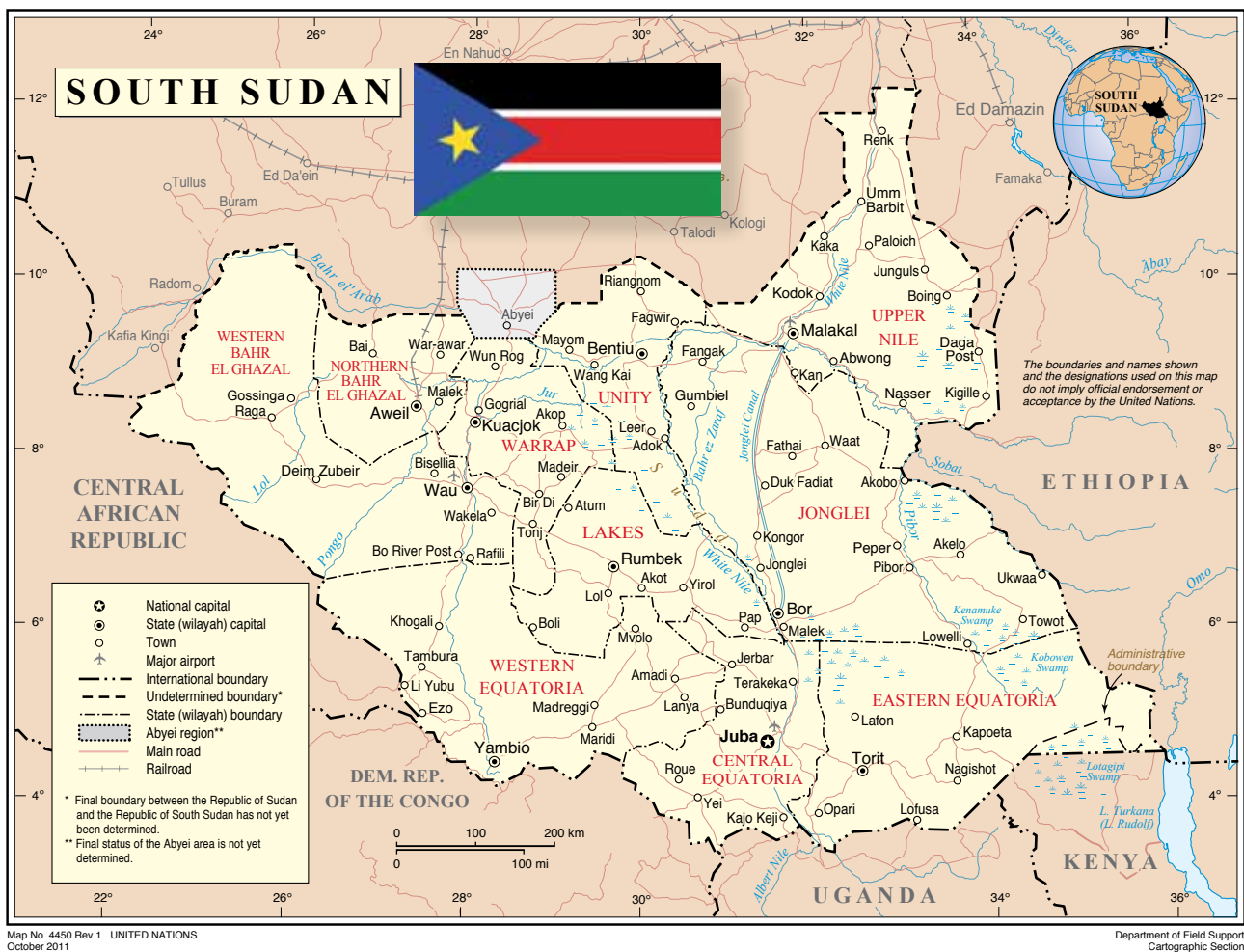
UN PHOTO/TIM MCKULKA

Introduction: Local Violence in Independent South Sudan

The declaration of independence on 9 July 2011 did not end widespread violence and insecurity in South Sudan. This violence stems from a combination of armed uprisings against the regime in Juba and an escalation of local-level violence throughout the countryside, as well as related counter-insurgency operations by the Sudan People's Liberation Army (SPLA). Youth – in particular young men from rural areas – are assumed to play a prominent role in the violence. While local violence is of serious concern throughout South Sudan, the State of Jonglei made international headlines following mass killings and the large-scale displacement of the civilian population in Pibor County in December 2011.

Government officials, representatives of the international community and journalists tend to explain local-level violence in Jonglei with reference to a mélange of cultural factors. In Jonglei a number of myths related to the Murle people such as that they abduct children to compensate for their low fertility rate, have added extra flavour to the argument. Some of these factors cannot be ruled out in the overall analysis, but when they are not properly contextualised and supplemented

Above: In an effort to stem the cycle of attacks and killings the United Nations Mission in the Republic of South Sudan (UNMISS) deployed peacekeepers to conflict-stricken Jonglei State (September 2011).



with other more important factors, cultural explanations of violence in Jonglei State by themselves are inadequate and misleading. The causes of local violence are more complex and multi-layered, and need to be seen in relation to the dynamic social structures and political economy of South Sudanese society in the aftermath of the civil war (1983-2005).

Efforts by the government and the international community to mitigate local-level violence have proven largely unsuccessful. Instead of addressing the underlying causes of the violence and focusing on conflict prevention, these initiatives have tended to be ad hoc and short lived. In many cases, youth involved in violence are not included in peace processes, and there is limited knowledge on the complex dynamics, including the causes and role of youth in this violence. This article is a critical examination of four often-cited explanations for local violence in South Sudan, namely that:

1. Violence is a result of South Sudan's secession.
2. The 'tribes' have always fought and killed each other, but the severity of current attacks is a result of a shift from spears to modern military weapons.
3. Due to inflated bridewealth, cattle raids and related local violence have increased drastically since the signing of the Comprehensive Peace Agreement (CPA).

4. Infertility among the Murle is causing child abductions and related local violence.

The article concludes with policy recommendations on the way forward for the government of South Sudan and the international community.

Assumption 1: Violence in Jonglei is a Result of South Sudan's Secession

The recent large-scale violence and mass killings in Jonglei State are often portrayed as a consequence of South Sudan's independence from Sudan. In the absence of a common enemy, South Sudan is expected to implode as a result of internal fighting and ethnic fragmentation. This is a faulty assumption. During the post-war period (since 2005), Jonglei has been riddled with widespread insecurity and violence. Local violence in Jonglei has often been attributed to disputes over grazing land, water and cattle. 2009, however, was marked by a significant shift from cattle raiding and clashes between armed youth in cattle camps to the targeting of women, children and elders in villages. In 2009 more than 1 200 civilians were killed and 26 000 people displaced as a result of armed violence in Jonglei.¹



The causes of local violence in Jonglei state are complex and multi-layered and must be seen in relation to dynamic social structures and the political economy of the South Sudanese post-war society.

There have been three intermeshed sources of violence in Jonglei since 2009, all of which are rooted in the prevailing governance vacuum and legacies of the civil war. The first and most significant is the local violence between groups of 'civilians' (mainly youth) with both weapons and experience to conduct co-ordinated operations on a significant scale. The most spectacular among these groups has been the so-called 'White Army'. This was originally a loosely organised Nuer youth 'militia' which at times served as an auxiliary force to rebel factions during the second civil war. Although the White Army was officially dissolved in 2006 following a forceful and violent disarmament campaign led by the government,² its youth members were not integrated into the regular forces or civil service. Rumours regarding the alleged 'revival' of the White Army were reinforced when 8 000 heavily armed people from the Lou Nuer areas attacked multiple Murle settlements in Pibor County in December 2011, causing widespread killings and displacement of the civilian population. The attack was a continuation of a cycle of revenge attacks in the region since 2009. Members of the South Sudanese diaspora in the United States claim to speak on behalf of the group, but it is difficult to ascertain the strength of their link with the rural youth in Jonglei.³

Second, following their defeat in the general elections in April 2010, David Yau Yau and General George Athor, a former SPLA Commander, took up arms against the government in Juba. Pigi County in northern Jonglei has since become the scene of fierce battles. The ongoing armed rebellions in Jonglei state may also be partly related to the recent youth violence outlined above. Until his death in December 2011, George Athor, with external backing, was allegedly supplying youth with arms and ammunition in an attempt to destabilise the region.⁴ It is, however, unclear what level of influence Athor had over the youth and their operations. Recent accounts are instead pointing in the direction of a powerful Lou Nuer prophet in Uror county, assumed to be in control of the youth.

Third and finally, by forcefully disarming the civilian population in some areas and in combating local rebellions, the government of South Sudan has become a perpetrator of violence and source of insecurity in Jonglei State. An array of international organisations has attempted to assist the government of South Sudan in stabilising Jonglei state.⁵ These actors have focused their attention and funding on activities intended to improve government control over its territory and population. Initiatives in support of the security



Internally displaced Sudanese wait for food, water, and health care at Akobo camp in South Sudan’s Jonglei State (May 2009).

sector include professionalising, demobilising, disarming and reintegrating military personnel; expanding, equipping and training the civilian police force; and disarming a highly militarised ‘civilian’ population. Various schemes to provide youth with alternative sources of income and employment are also included in the community security programmes.⁶ Peace negotiations and conflict mitigation have been pursued at different levels, for example, between the government and armed rebels, as well as third party mediation between groups of civilians with hostile relations. The United Nations Mission in Sudan/South Sudan (UNMIS/S), church representatives and local politicians have been active in the latter type of mitigation. Patrolling, pre-emptive deployment and information gathering also form part of the United Nations (UN) mission’s early warning and stabilisation efforts.⁷

In sum, South Sudan’s secession has not yet dramatically altered the security situation in Jonglei but, for better or worse, local violence receives more attention now than previously when (foreign) eyes were on the momentous national processes of peace negotiations, the referendum and secession.

Assumption 2: The ‘Tribes’ have always Fought and Killed Each Other, but the Severity of Current Attacks

is a Result of a Shift from Spears to Modern Military Weapons

The ‘modernisation of tribal warfare’ explanation is fundamentally flawed. Firstly, the notion of ‘tribes’ or ‘ethnic groups’ in South Sudan is largely a colonial construct forged from a plethora of local socio-political relations. What in the media is referred to as ‘tribal warfare’ is a more recent phenomenon. Since the independence of Sudan in 1956, war and partisan politics have strengthened mutually exclusive identities, severed ties between local groups and exacerbated animosity. The words ‘tribe’ and ‘ethnic group’ mask a sometimes overlapping set of identities which are mobilised for different purposes. Examples include the South Sudanese against the government of Sudan, the Dinka against the Nuer, the Jikany Nuer against the Lou Nuer, and section against section. The assumption further fails to acknowledge the diversity within each group. ‘Civilians’ mobilised for local clashes may include government soldiers, while ‘civilians’ can form part of a militia or rebel group, and may even accompany government troops in their operations. Moreover, rural societies in most of South Sudan are organised according to generations which are commonly referred to as ‘age sets’. It is first and foremost the ‘youth’ (15–30 years) that constitute the main fighting force in the local clashes.⁸

Secondly, the last civil war's militarisation of society and distortion of politics rather than the availability of modern small arms per se are the reasons for so many people having been killed in Jonglei since 2009. Fewer people were killed in local confrontations before the civil war because warfare was an integrated part of the moral economy and had a strong ritualistic aspect. Upon death a blood bond was instantly forged between the killer and victim, and in most cases the family of the deceased received compensation in the form of bloodwealth.⁹ While there were regional variations, the code of fighting ethics also prevented large-scale killings of women and children in inter-communal conflicts. With the proliferation of modern weapons it became more difficult to identify killers, and people instituted new rituals and moral codes to deal with the change. The brutality of the civil war and the SPLM administration's redefinition of the social and spiritual consequences of homicide, including the moral obligations of the killer, further contributed to the erosion of local conflict resolution mechanisms.¹⁰ An assumed weakening of the chiefs' courts combined with a rise in competing authorities, may have made it more difficult to regulate and enforce social control mechanisms and fuelled today's violent spiral of revenge attacks in Jonglei.¹¹

Finally, apart from lengthy sieges of garrison towns, the civil war had few fixed front lines or permanent safe-zones.

Local communities in different parts of South Sudan thus formed various irregular protection forces.¹² Moreover, a considerable share of the violence and insecurity during the civil war was not directly related to the conflict between the official warring parties. The 1991 split of the SPLA/M and the government in Khartoum's divide and rule strategy of buying off and arming southern militias further fragmented the civilian population and made Jonglei the scene of intense battles during the civil war.¹³ The flawed integration of former militias into SPLA or Sudan Armed Forces following the 2006 Juba declaration needs to be taken into account when analysing the complex conflict dynamics in Jonglei state and the wider Upper Nile region.

Assumption 3: Due to Inflated Bridewealth, Cattle Raids and Related Local Violence have Increased Drastically since the CPA

Cattle rustling is regarded as the main motive for engaging in local violence in Jonglei and the increase in violence is commonly attributed to the inflation of bridewealth (dowry) paid in cattle. Although cattle are looted during local violence and young men face challenges when planning to marry, the correlation of these factors requires a more nuanced analysis. The vast majority of the population in Jonglei are agro-pastoralists combining agriculture with cattle-keeping



UNPHOTO/ISAAC BILLY

An aerial view of the village of Fertait in South Sudan's Jonglei State, which was burned to the ground in clashes between the Lou Nuer, Murle and other people (January 2012).



Members of the United Nations Security Council delegation visiting South Sudan watch a demonstration by the Livestock Protection Unit of the South Sudan Police Service in Malau, Jonglei State (24 May 2011).

based on seasonal migration. Marriage is a concern for the extended family with the groom usually receiving assistance from his father and relatives when collecting cattle and cash for bridewealth. As many lost their parents and paternal relatives during the war, this could have reduced their capacity to mobilise adequate resources for marriage. Concomitantly, an influx of oil money into the South Sudanese economy has increased the demand for cattle and there are indications that the cost of marriage for young men has increased significantly.¹⁴ However, while cattle remain the preferred bridewealth currency throughout the countryside of South Sudan, the number of cows required varies widely between the different communities. In some areas, especially in urban centres, it is not uncommon to pay part of the bridewealth in goats and cash.

Undeniably, young men have engaged in small-scale cattle rustling for generations, but the post-2009 violence in Jonglei appears to be driven by more complex factors. The attacks on settlements and the widespread killings of women, children and elders suggest that neighbouring communities are the main targets and not the cattle per se. Large numbers of cattle are usually also stolen following these attacks, but the cattle may be regarded as part of the loot or the retrieval of previously stolen cattle. While the youth who engage in such violence may be primarily motivated by revenge, various actors behind the scenes could be mobilising the youth for

very different reasons such as the pursuance of their own political and economic interests. Youth do not only participate in ad hoc raiding parties, but are also current and former members of militias, rebel groups and official military units. Additionally, organised criminal gangs conducting raids for profit form a part of the complex conflict dynamics.

The share of looted cattle in South Sudan's limited barter and monetised economy is yet to be determined. In the cattle markets in larger towns the seller needs to prove his rightful ownership of the cattle, but it is likely that people find ways of circumventing these regulations. Furthermore, looted cattle are in some cases destined for meat-markets within South Sudan and across the international border. Through sales of cattle in exchange for weapons and ammunition, looted cattle may facilitate large scale violence and contribute to prolonging and escalating local conflicts.

There is, however, limited knowledge of the various actors involved in these raids, including their perceived agenda and status within the community. While looting of civilian property, including livestock seems to be part of the armed groups' modus operandi, the causes and drivers of cattle rustling must be seen in relation to the changing post-war context and the current political economy of violence. Inflated bridewealth therefore does not provide a satisfactory explanation for the increase of violence in Jonglei.

Furthermore, motives for violence are of less importance than the lack of regulating local institutions and state capacity to stop the cycles of violence. The main challenge in Jonglei is not that people want to use violence to solve problems and disputes, but that the opportunity to use mass-violence with impunity exists. Due to its weak security and justice institutions and low capacity, the government has been unable to provide security in the rural areas, hence 'allowing' the lawlessness to continue unabated. The violent 'counter-insurgency' interventions carried out by undisciplined state security forces tend to further exacerbate state-society friction and spawn more violence. Combined with the absence of state authority, this may also have encouraged youth recruitment into armed groups and the formation of village protection units.¹⁵

Assumption 4: Infertility among the Murle is Causing Child Abductions and Related Local Violence

Reputedly notorious for its war culture, including systematic and violent attacks on neighbouring tribes, the Murle community of Pibor County has long been used as a scapegoat for the troubles in Jonglei state. Child abductions, seen as a major cause of insecurity in the state, have further commonly been attributed to the Murle. It is believed that the kidnappings are motivated by their alleged low fertility

who appear to have limited trust in government authorities and security apparatus. Finally, the negative sentiments towards the Murle community are arguably rooted in the civil war, when elements of the Murle youth were mobilised under the leadership of Ismael Konye into a Khartoum backed militia, called Pibor Defence Forces (PDF). This fought against the SPLA and other militia factions as part of Khartoum's divide and rule strategy.

Conclusion and Policy Recommendations

The myths and exoticism surrounding most accounts of local violence in Jonglei State overshadow the more important but less tantalising factors. These are related to the combination of weak government structures and deeply ingrained destructive state-society relations: the social contract is broken. The situation in Jonglei State illustrates this point clearly. The causes of local violence in Jonglei are complex and multi-layered and must be seen in relation to dynamic social structures and the political economy of the South Sudanese post-war society. The motives for engaging in violence must further be distinguished from the structural factors facilitating violence. The on-going spiral of violence is related to the legacies of the civil war and the failure by the government to provide security and justice in the rural areas, hence allowing lawlessness and widespread violence

SINCE THE INDEPENDENCE OF SUDAN IN 1956, WAR AND PARTISAN POLITICS HAVE STRENGTHENED MUTUALLY EXCLUSIVE IDENTITIES, SEVERED TIES BETWEEN LOCAL GROUPS AND EXACERBATED ANIMOSITY

rate which is assumed to be caused by widespread sexually transmitted diseases (STDs) within the community. Although some studies indicate a relatively low population growth in the Murle society, there is no proven correlation with STDs.¹⁶ Murle areas are among the most marginalised in South Sudan and a low population growth is likely to be attributed to livelihood related factors. Moreover, no one has so far been able to document a causal relationship between the alleged low fertility among the Murle community and child abductions. Individuals belonging to the Murle community are not the only people involved in the kidnapping of children and women in South Sudan. Several communities, including the Baggara Arab raiding parties from Sudan, have been engaged in such crimes.¹⁷ Hence, these kinds of abductions have been a particularly sad part of the political economy of Sudan and should not be seen as a 'tribal characteristic' of the Murle communities.

The stigmatisation of the Murle and their alleged reputation have antagonised local communities, as well as exacerbated the Murle people's perceptions of themselves as being politically and economically marginalised. Reinforced by the geographical isolation of Pibor County, this has resulted in a sense of insecurity and defensiveness among the Murle,

with impunity. Youth are perceived to be important players in the State violence, but there is limited knowledge on the causes and drivers of such violence. As a result, government and international actors base many of their policies and plans on received wisdom and anecdotal evidence. This has far-reaching implications for on-going peace and conflict prevention efforts in Jonglei.

Given their poor track record, both the government and international community need to rethink their strategies and approaches in addressing local violence in Jonglei State. These actors must move away from relying solely on crisis management and 'quick fix' solutions. Mediation initiatives and peace conferences need to be integrated into a long-term strategy and approach which can only succeed if all the relevant actors, but particularly the youth, are involved. Projects and initiatives which engage the youth directly, such as vocational training or livelihood programmes, should also be integrated into a broader peace and development process.¹⁸ The plan to have UNMIS/S present in a number of counties and the strengthening of the 'protection of civilians' mandate might have a positive impact on reducing local conflict. This strategy could create a direct interaction between local communities and peacekeeping personnel and

could thus increase the potential for timely and constructive engagement. There is, however, the lurking danger that the mission could be drawn into the local conflict dynamics, hence compromising its perceived impartiality and legitimacy. UN and donor representatives should advise the government strongly against embarking on a coercive civilian disarmament campaign in Jonglei, as this could well result in an escalation of violence and further polarisation of – and between – local communities.

To address the wide-reaching security problems in Jonglei State, the government and international community need to obtain context specific research-based knowledge on both the youth population and the risk factors involved, including the impact of the civil war on social, political and economic structures. Without such knowledge, violence in Jonglei will continue unabated while journalists and commentators futilely squabble over whether it is the Murle infertility or the Lou Nuer need for dowry that causes the violence. ▽

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ACCORD is a non-governmental, non-aligned conflict resolution institution based in Durban, South Africa. The institution is constituted as an educational trust. Views expressed in this publication are the responsibility of the individual authors and not of ACCORD.

Conflict Trends is a quarterly publication. Back issues can be downloaded from the ACCORD website at <www.accord.org.za>

ISSN 1561-9818

Printing

Colour Planet,

Durban,

South Africa.