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Tel: 011-339-2021

THE SOUTH AFRICAN INSTITUTE OF INTERNATIONAL AFFAIRS

Fax: 011-339-2154

THE COMMONWEALTH, NIGERIA AND SOUTH AFRICA

James Barber is a Research Associate
at the Centre of International Studies, Cambridge University.
He is also a Research Associate at SAIIA
and is currently visiting at Jan Smuts House.

Early in February 1997 the South African football authorities invited Nigeria to send its national team to play for the Mandela Cup. For football enthusiasts it was a mouth-watering prospect: the Olympic champions (Nigeria) against the African champions (South Africa). In the event the Nigerians were unable to come, but what was surprising was not that they had to refuse but that they were invited at all. Fifteen months before, at a Commonwealth Conference in New Zealand, Nigeria and South Africa were at loggerheads, and the issue that created the confrontation - the abuse of human and democratic rights in Nigeria - has not disappeared.

Nigeria and International Concern

Long before the clash with South Africa, Nigeria had been a matter of international concern. The situation inside the country has all the ingredients of a dramatic and controversial story. Nigeria is a large country, with the highest population of all African states; it has had aspirations to be the continent's natural leader, and was prominent in the campaign against apartheid. Yet it is a deeply divided country with a history of instability and conflict, including a civil war. No Nigerian government has achieved long term stability and the country has been ruled more often by military regimes than politicians. Yet whether led by military or civilian rule most Nigerian governments have been notorious for their corruption, and some for their abuse of human rights. The present military regime of General Sani Abacha stands accused of both. It has overthrown an elected government, imprisoned some political opponents (including such prominent people as Chief Abiola), and is accused of killing others, either by assassination or the use of kangaroo courts.

To this mixture must be added two other elements - first the presence of a major international oil company (Shell), and second a local resistance movement which has international support. Shell is involved in that it has oil and gas fields in Ogoniland in the Niger delta. In working these fields Shell has been accused of causing serious environmental damage; of being hand in glove with the Abacha government, which derives considerable royalties from the oil; and of trampling on the rights of the Ogoni people. The Ogoni, it is said, have gained nothing but misery and poverty from Shell's activity. Shell hotly deny these charges, claim that they have helped to develop the area, have supported community activities, and are cleaning up their environmental act. Challenging the government and Shell is a local Ogoniland resistance movement, which has support from some, but not all the people, and was led before his death by Ken Saro Wiwa. Saro Wiwa was a colourful character - an author of considerable wealth, who lived much of his time in Britain, and had a flair for publicity. He led a campaign against the Abacha government and Shell, which was backed not only by the local resistance movement but by international environmental and human rights groups. In October 1995 Saro Wiwa and some of his supporters were arrested and brought before a military court where they were accused of conspiring to murder political opponents and organise a military coup. After an arbitrary trial they were sentenced to death.

South Africa Enters the Scene

Conscious of the Nigerian situation and inspired by a crusading spirit to promote human rights throughout the continent, following its own 'political miracle' at home, the new South African

Government set out to play a mediating role in Nigeria's problems. Aziz Pahad, the Deputy Foreign Minister, stated that South Africa had three main aims: to secure the release of Chief Abiola; to encourage the democratic process; and to prevent the execution of Ken Saro Wiwa and the other Ogoni prisoners. Pretoria decided to pursue its end through quiet diplomacy. Visits were exchanged between the leaders of both countries, including a trip to Nigeria by Thabo Mbeki and one to South Africa by Chief Tom Ikimi, Nigeria's forceful Foreign Minister.

Alongside its own sense of obligation, high expectations were and are held by other governments and NGOs about the role that South Africa can and should play in the continent. In the Nigerian case two Nobel laureates, Wole Soyinka of Nigeria and Archbishop Desmond Tutu, told President Mandela that he had a duty to take the lead. Soyinka claimed that 'if Mandela were to say today: "I will not sit in the same room with Abacha or his emissaries", the game is over!'

The 1995 Commonwealth Conference

That was the situation that existed as Commonwealth leaders assembled at Millbrook in New Zealand in November 1996. Despite news that the death sentences on the Ogoni prisoners had been confirmed President Mandela remained hopeful. When, on arriving in New Zealand he was asked whether it was time to act against Nigeria, he replied: 'I do not think I can call for sanctions at this stage. If persuasion does not succeed it will be time enough to consider options!'

In the event the Nigerian case came to dominate the conference. That was due to the coincidence of three chance factors: first the Commonwealth Secretariat arrived at Millbrook with a programme of action against members who defied the organisation; second the behaviour of the Nigerian government; and third the presence of President Mandela.

Explosion at Millbrook

The Commonwealth has always claimed to stand for a set of moral values. In the past the clearest example of that was the stand against apartheid. With the end of the Cold War and the transformation of South Africa, a new set of values has been promoted based on multi-party democracy, human rights, good government and the free market. The Commonwealth embraced these values in its 1991 Harare Declaration, which

speaks of 'totalitarianism giving way to democracy and justice'. For the future it identifies the need to promote democracy, the rule of law, just and honest government and human rights.

It is one thing to enunciate principles, it is another to implement them. The conference which followed Harare - Cyprus in 1993 - made no progress in developing a means of implementing the Declaration. In 1995 the Commonwealth Secretariat, (led by Chief Emoka Anyaoku, a Nigerian) was determined to remedy this and so arrived in New Zealand with an 'Action Programme'. The nub of the programme is for the Commonwealth to act as a unit if a member violates the Harare Declaration. The presence of the programme was the first chance factor.

The second factor was the behaviour of the Nigerian regime. It was represented at the conference by Chief Tom Ikimi, the Foreign Minister, and not General Abacha, the head of state. If that was an indication of lack of concern, it turned to open disdain when news was received at Millbrook, that Saro Wiwa and his fellow Ogoni prisoners had been executed. Had the executions taken place at any other time doubtless the Commonwealth would have criticised and deeply regretted the Nigerian action, but may have done little else. However, at Millbrook the leaders were assembled together with their minds concentrated on Commonwealth matters, and in particular the Nigerian situation.

The conference exploded. Mandela lit the fuse, accusing Nigeria of 'judicial murder'. It was the first Commonwealth meeting that Mandela had attended, and that was the third chance factor. He came to New Zealand trailing clouds of international glory from his achievements at home. Whenever Nigeria had executed the Ogoni prisoners it would have been a blow for South African diplomacy, and President Mandela personally. That it came while the conference was in session turned the knife in the wound. Mandela's reaction was a combination of hurt pride (the executions were described as 'spitting in his face'); a sense of moral defeat (his quiet diplomacy was compared with Reagan's and Thatcher's despised 'constructive engagement'); humiliation at a failure in African leadership; and anger at accusations of naiveté in international affairs.

At Millbrook there were immediate calls for action, including breaking diplomatic ties, imposing economic sanctions and expulsion from the Commonwealth. In the end it was decided to operate through the Secretariat's Programme of Action by suspending Nigeria from membership

(the first time this had been done) and setting up an eight member Ministerial Action Group (CMAG), including South Africa, to pursue matters further.

The Aftermath of Millbrook: South Africa

The aftermath of Millbrook has fallen far short of the expectations raised at the conference. On his return to South Africa, Mandela tried to generate action against Nigeria at home and abroad. He recalled the High Commissioner, he urged the US and UK to impose oil sanctions, he summoned before him the Shell manager in South Africa, and he requested a SADC meeting to take the matter further. None of this led anywhere.

When the SADC met, the other members showed no enthusiasm for action. Nor was there support elsewhere in the continent, and Pretoria was alone in recalling its senior diplomat. Other states still perceived Nigeria as a continental leader, an opponent of apartheid, and a contributor of up to a third of the OAU's finances. Pretoria was learning the unwritten continental law that 'African states do not turn on each other in international fora'.¹

The fires of enthusiasm also died at home. The Department of Foreign Affairs was keen that Pretoria should not be isolated when it was seeking support for a seat on the UN Security Council. Radical ANC members claimed that Mandela had been tricked by Western imperialists into condemning a fellow African state; and reminders were given of Nigeria's past contributions to ANC funds - rumoured to be US\$10m. When, therefore in March 1996, Nigerian opposition groups in exile sought to establish a base in South Africa they received no support from Pretoria, and finished with only a small scale conference.

The Aftermath of Millbrook: The Commonwealth

The experience of the Commonwealth has been similar to that of South Africa; early enthusiasm followed by doubts and foot dragging. Some measures were quickly decided - including a partial arms ban, a refusal to grant visitors' visas to the regime and members of their families and (as noted above) the establishment of the CMAG. The Nigerians were recalcitrant. In January 1996 they snubbed a proposal by the CMAG to send a Commonwealth mission to Nigeria to pursue dialogue on terms set out by the Commonwealth body. The regime did however, agree to a UN mission to Ogoniland, which left concluding that 'the problems of human rights are terrible, and the

political problems are terrifying'.

Meanwhile the CMAG at its second meeting in April 1996 regretted Nigeria's intransigence and noted that human rights abuses appeared to have increased. It therefore recommended consideration by Commonwealth governments of 'further measures' - such as a full arms embargo, a ban on sporting links, and, in co-operation with the US and the European Union, a ban on air links and the freezing of the regime's bank accounts. Nothing happened.

The Nigerians, furious at their suspension pointed out that they had already announced a three year transition to democracy. That could mean as much or as little as Commonwealth members wanted it to. Some seized on it because they were reluctant to continue along the sanctions road that might lead nowhere, or even be turned against them for their own human rights record. Steadily the CMAG's stance changed from explaining punitive measures against Nigeria in an attempt to force it comply with the Harare principles, to establishing a dialogue to reach a mutual agreement.

The search for a dialogue led to a meeting in London in June 1996 between the CMAG and a large Nigerian delegation led by Tom Ikimi. On the eve of the meeting the Nigerians struck a conciliatory note by releasing five detainees, but at the meeting itself they were defiant as ever. Tom Ikimi submitted a lengthy memorandum bristling with indignation at the way Nigerians had been treated, claiming that there had been a conspiracy against her, and accusing others of attacking Nigeria while their human rights records were worse.

A division developed in the CMAG about how tough it should be on Nigeria. The outcome was that the group decided on a pusillanimous compromise, whereby the punitive sanctions were held in reserve while further discussion took place. These further discussions led to a CMAG visit to Nigeria in November 1996 (minus Canada, one of the tougher members, which had visa problems for security staff). Although General Abacha told the group it could travel anywhere, because of time pressure, it did not visit Ogoniland nor see any detainees. However, it met a cross section of Nigerians including some government critics. The discussions covered human rights issues, the rule of law and the return to democracy. The group also welcomed the release of three more prominent detainees but was concerned about those still held in detention. Overall the CMAG concluded that the talks had been constructive and favoured a continuation of dialogue.

That is how the situation stands. Nigeria is still suspended from the Commonwealth, the dialogue with the CMAG continues, the military regime remains in power, the detainees stay in their cells, Shell still operates and there is a promise of democratic elections in the future.

Conclusions

What is striking about the Harare Declaration is its attempt to lay down a code of behaviour which concerns the internal affairs of states - such as human rights and good government. It is an overt attempt to promote rights and justice. Yet there are different interpretations of international justice and rights. Hedley Bull identified three:²

1. Interstate Justice, based on a state sovereignty, in which governments practise reciprocal rights towards each other;
2. Individual justice, which emphasises the rights and duties of individuals irrespective of their state;
3. Global justice, which overrides the interests of states and individuals to benefit mankind as a whole - eg protection of the environment.

Bull argued that international organisations, like the Commonwealth, are built on the foundation of a system of states, and are composed of government representatives. The organisations are therefore more at ease with interstate than individual or global justice. In particular the member states resent interference in internal affairs. The result, according to Bull, is that state based international organisations are selective and ambiguous about individual justice and often silent about human rights.

The Harare Declaration and the reaction at Millbrook appears to fly in the face of Bull's assumptions. What are we to conclude? Is the Harare Declaration a pious irrelevance, a set of admirable principles but principles which cannot be implemented, or does it reflect a new set of international values which may be difficult to implement but are gaining ground?

The answer is probably somewhere between the two. The Nigerian case has shown how difficult it is to pursue individual rights across state borders and the reluctance of many states to seek to implement principles which they may have endorsed but infringe the concept of state

sovereignty. However, human rights, democracy and good government are now firmly on the international agenda. Clearly they are difficult to implement and there is much hypocrisy among governments, but, as with individuals, governments like to be liked. No regime wants to be castigated as Nigeria was at Millbrook, and therefore simply publicising abuses of human rights is a way of exerting pressure.

The outcome may be less than the leaders at Millbrook hoped, and certainly it falls far short of the demands of human rights groups, but establishing norms of behaviour in international affairs is a slow, imperfect process. That is a lesson which the South African Government, and President Mandela in particular, have learned the hard way. The ANC came to power proclaiming its commitment to democracy, human rights and freedoms throughout the globe. Less is heard of that now and the Nigerian case is part of the explanation. However, that should not deter South Africa from sticking to its guns, even if it does so with more realistic expectations. The Harare Declaration and the Commonwealth reaction at Millbrook may be signposts pointing to a hard difficult road ahead, but it is one that the international community, with South Africa's help, has started to tread, albeit slowly and hesitantly.

Endnotes

1. Van Aardt M, 'A Foreign Policy to Die For: South Africa's Response to the Nigerian Crisis', *Africa Insight*, 22, 2. Pretoria, 1996.
2. Bull H, *The Anarchical Society*. Macmillan, 1977.

STATEMENT OF PURPOSE

The South African Institute of International Affairs is an independent organisation which aims to promote a wider and more informed understanding of international issues among South Africans.

It seeks also to educate, inform and facilitate contact between people concerned with South Africa's place in an interdependent world, and to contribute to the public debate on foreign policy.