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To Form a More Perfect Future for Africa

AFRICAN political debate is obsessed with missing ingredients. Politicians and pundits variously pointing to the lack of money, aid, debt relief, fair trade, peace or good governance as *the* explanation for the continent's economic stagnation. But in five decades of searching for prosperity and growth, Africa has neglected to adequately answer two critical questions: What kind of a political system do we wish to live under? And how should that constitutional order be engineered to prevent human beings from succumbing to the inevitable temptations of corruption, ethnic politics and the lust for absolute power?

Yes, Africa has had dozens of constitutional conventions. But these have been driven by either the short-term goal of ousting an autocrat or entrenching his power. Rarely have we been able to step away from the exigencies of politics and apply the wisdom of history to our political systems. South Africa is the exception. Marching headlong toward civil war, it stepped back, assembled all

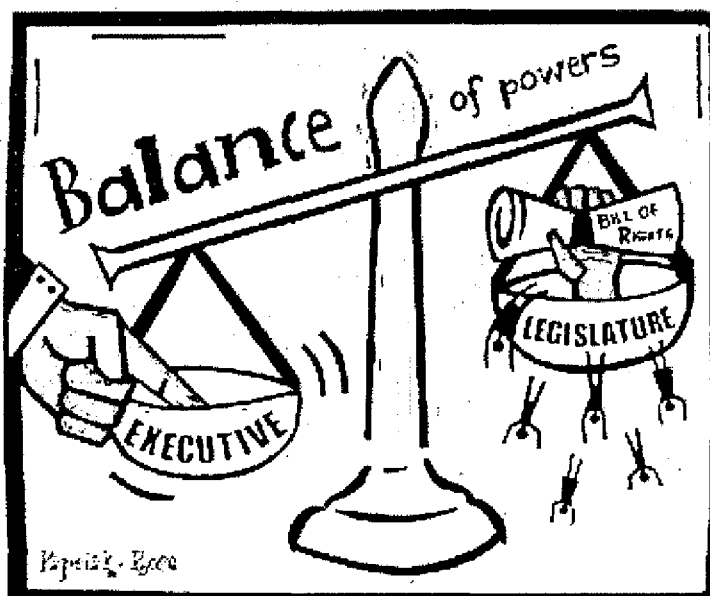
stakeholders, and produced one of the world's most encompassing national charters. But even there, the verdict is still out. A decade after taking power, the ruling African National Congress shows signs of chafing against legal strictures by which it governs. The next five years may well determine whether South Africa sets a vital precedent or plays out the dog-eared African script by eroding its constitutional framework in the name of party interests.

For any of the other remedies to the continent's problems to really work, Africa must reconsider the most basic rules by which we live. Peer review might help. It is a first step toward agreeing on the principles of effective governance, but critically, it lacks specificity.

What exactly makes an election 'free and fair'? How do we create and safeguard genuine independence for parliaments, judiciaries and electoral commissions? What constitutional provisions provide the most effective checks against creeping or unlimited executive power?

Without answers to these questions, Africa will never achieve the kind of rapid growth it desperately needs.

This issue of *eAfrica* examines some of the crucial issues around constitutional order in Africa: the pitfalls of reform; the potential for peer review to strengthen adherence to principles already enshrined in constitutions; and the terrible price to be paid when governments subvert the laws they promise to protect and defend. – Ross Herbert



Verbatim

“We’re corrupt, yes, but not to the extent they’re putting it.” – Remi Adebayo, a spokesman in the Nigerian ministry of information, commenting on Nigeria being rated the second most corrupt country in the world, for the second straight year, by the anti-corruption watchdog Transparency International.

“The ongoing strife has made Sudan synonymous with tragedy – the tragedy of 2 million lives lost and of millions more disrupted by war.” – Colin Powell, US Secretary of State, on a possible peace deal in Sudan.

“Parliament is a rubber stamp. MPs do nothing. What we are seeing are people greedy for privileges, who are scrambling for a piece of the cake.” – Alex Simelane, a member of the Swaziland Democratic Alliance, on the appointment of 10 new MPs by Swazi King Mswati. At least three new MPs are close direct relatives of the king.

“What further evidence does it [the South African government] need to convince it that the Mugabe regime has no interest in observing human rights or the rule of law in Zimbabwe?” – Opposition Democratic Alliance spokesperson Graham McIntosh on the recent arrest of the directors of *The Daily News* newspaper.

“It appears that while we were all focused on Liberia, things did get out of control and we need to refocus on Ivory Coast.” – Mohamed Ibn Chambas, the executive secretary of the Economic Community of West African States, on the faltering peace process in the West African country.



“These rumours are all wishful thinking. President (Robert) Mugabe is in good health.” – Simon Khaya Moyo, Zimbabwe’s high commissioner to South Africa, on reports that Mugabe was in a South African hospital after suffering a stroke.

“Come and celebrate our independence day anniversary free of charge with our tough man Arnold Schwarzenegger, the Master of the Universe and the new governor of California.” – A message at a cinema hall in Malaba, eastern Uganda, offering free Schwarzenegger movies to mark Uganda’s 41 years of independence from Britain.

“I cannot stand as a presidential candidate because I am intolerant and selfish. That’s why I decided to support Bingu because unlike me, he is calm and caring, just like president Bakili Muluzi.” – Chakufwa Chihana, Malawi’s second vice president, revealing that he won’t stand as a presidential candidate in the 2004 elections, but will support UDF candidate Bingu Mutharika.

“Polio and other infectious diseases know no national boundaries.” – David Heymann, from the World Health Organisation, talking about a polio outbreak that has spread from Nigeria to Burkina Faso, Ghana, Niger and Togo.

“Matatus carry four passengers per seat and I can’t see a situation where it will be possible to have four seat belts on these seats... unless you say that there will be one seat belt tying all the passengers on the seat.” – Justin Onyanyi, who manages one of the many taxi routes in Nairobi, commenting on a government directive to use seatbelts on public vehicles to curb accidents that kill up to 3,000 people a year.

“Let me remind all of us who are holding government jobs that it is not going to be business as usual. All of us will be monitored and assessed by the highest standards of transparency and accountability.” – Gyude Bryant, the new chairman of Liberia’s transitional government, delivering his first speech to the nation in mid-October.

“As the then president, Charles Taylor did enjoy immunity and therefore the special court did not have a right to issue an indictment against him at that time.” – Terrence Terry, lawyer for former Liberian president Charles Taylor, appealing some of the indictments issued against Taylor for war crimes.

“We have not received any accusations from the DRC government about any Rwandan presence [in DRC] and I don’t know who else has the moral authority or the responsibility to accuse Rwanda.” – Mbusa Nyamwisi, DRC Minister for Regional Cooperation after a meeting between the two countries, which fought on opposite sides in Congo.

“Sao Tomé earned \$3.9 million from exports last year. That is like 50 years of exports at one go. This is not going to change the world, but it is going to change Sao Tomé’s world.” – Antony Goldman, analyst with Clearwater Research in London, on \$500 million worth of bids to prospect for oil off the poor Atlantic ocean island’s coastline.



“The comments are tantamount to declaring war on the UN Security Council and the guarantors of the Algiers peace agreement.” – Ali Abdu Ahmed, Eritrea’s acting Information Minister, following a speech by Ethiopian President Meles Zenawi in which he rejected the recommendations of the independent Eritrea-Ethiopia Boundary Commission.

“When fuel goes up by 10 bucks, you and I will complain but still fill up and have a gin and tonic in the evening. But for the rural poor, it’s the difference between life and death.” – Rafiq Hajat, of the Malawian Institute for Policy Interaction, on recent fuel hikes in the Southern African state.

“[Africa’s water] crisis has to be addressed comprehensively at all levels, from the way farmers use water to international policy decisions that affect reforms and investments in water management and infrastructure.” – Frank

Rijsberman, chairman of the Challenge Programme on Water and Food consortium. A conference in Kenya predicted that over half a billion people will not have access to clean water in Africa by 2025 unless governments invest in better infrastructure.

“The reason why he [President Thabo Mbeki] has lost touch with ordinary South Africans and all their problems is because he has rendered himself aloof with his constant international travel.” – Nick Clelland-Stokes, opposition Democratic Alliance spokesman, commenting on Mbeki’s trips abroad.

“The President goes abroad in our national interest, in the interest of the continent and, we hope, in the interest of millions.” – Essop Pahad, Minister in the Office of the Presidency. South African President Thabo Mbeki took 30 foreign trips totalling 62 days in the 2002/03 financial year ending March, amounting to 1.2 days each week.

Pipeline to Hope ... Or Misery?

New oil conduit enables Chad to tap its oil wealth, but the resource could be a curse if mismanaged

IN LATE October, a tanker set off from the Cameroon port of Kribi with a belly full of crude oil that finally put Chad, a landlocked desert backwater virtually unknown beyond its own borders, on the world's geostrategic map.

The tanker's cargo, originating more than a thousand kilometres inland, was some of the first oil to spill forth from a \$3.7 billion pipeline stretching from Chad's southern Doba basin across Cameroon to the Gulf of Guinea. Chad's President Idriss Deby officially opened the spigot on 13 October. The timing is fortuitous. Rising instability in the Middle East is causing giant oil consumers like the US to renew their interest in Africa's vast reserves. By 2015, industry analysts predict, West Africa's contribution to US oil imports will grow from 15% to 25%.

As a rule, resource booms are seldom good for developing countries. They bring a welcome influx in foreign exchange, but they also distort fragile economies and corrupt weak-willed politicians. The African states that are richest in minerals, hardwoods, and fossil fuels are not accidentally among the most dysfunctional.

But the Chad-Cameroon pipeline marks an important attempt to change how developing countries extract their most valuable resources so that the wealth they generate uplifts the poor rather than corrupting the rich. Working with the World Bank and a consortium of oil companies, Chad – 11th from the bottom on the UN Human Development index – has developed a system to account for all oil produced and sold and enshrined it in law. A specified portion of earnings will service debts to international lending institutions. The rest will go to education, health care, and a raft of programmes to alleviate poverty.

'The pipeline signals that now there is a new paradigm for oil development in Africa,'

Ahmedou Ould-Abdallah, executive secretary of the Washington-based Global Coalition for Africa, told the news service *allAfrica.com* recently. 'It could rightly be considered as one of the first concrete operations of Nepad' – the New Partnership for Africa's Development.

Look anywhere on the map of Africa. The greatest deposits of the most valuable natural resources coincide with

estimated to total \$4 billion.

Similar discrepancies exist in Nigeria. The government earned more than \$300 billion in oil revenues over the past 25 years, but 70% of the population lives on less than \$1 a day.

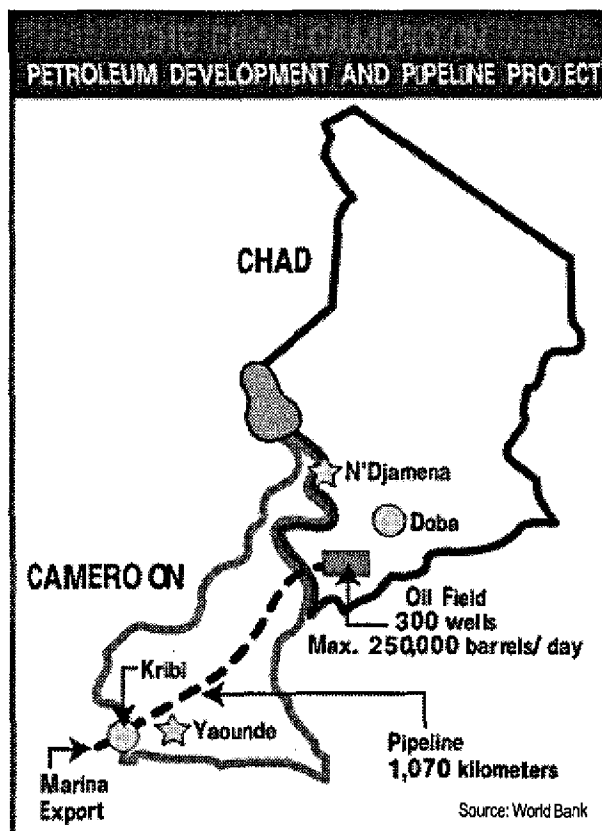
Oil and diamonds alone don't explain poor governance. But several factors help explain how an abundance of resources can become more bane than blessing for developing countries, according to a recent study by the World Bank. Countries that export a high quantity of natural resources relative to their overall economic production tend to have poor economic growth. Sharp and sudden increases in domestic wealth associated with new resource exports decrease savings and investment, increase government expenditure, inflate prices and artificially increase exchange rates. At the same time, the study found, manufacturing sectors decline.

There are political and social ramifications to these economic distortions. Governments that experience sudden windfalls of resource-based foreign exchange often change their spending patterns. Taxation eases and social spending increases. Revenue resources eventually dry up, and when that happens, it becomes difficult and potentially destabilising to wean ordinary citizens off the boom-time services their governments provided.

At the same time, as labour shifts away from manufacturing, workers lose the incentive to pursue education.

And, of course, an easy flow of money leads to corruption.

The one notable exception is Botswana. Endowed with deep diamond vents, the Kalahari Desert country has avoided the resource curse. 'At independence [in 1966], Botswana was among the twenty-five poorest countries,' the World Bank reports.



the greatest misery. The resources of poor and poorly governed states draw contending forces. They also undermine governance. Rich in diamonds and oil, Angola has known war for all but a few of the last 40 years. An internal report by the International Monetary Fund showed last year that nearly \$1 billion disappeared from state coffers in the preceding 12 months. Over a five-year period, unaccounted funds were

'By 1998, income per capita had reached \$3,460 (in constant 1995 USD) and Botswana was considered an upper-middle income economy.'

Botswana managed its resource extraction, using diamond wealth to help diversify its economy, and it avoided excessive expenditures in boom times while accumulating budget surpluses for leaner times. It also protected its currency from sharp appreciations, allowing other goods to remain competitive overseas.

Developing countries, however, seldom have the ability to manage their resources alone. Most remain vulnerable to the predatory tendencies of prospectors. For that reason, many stakeholders argue that private actors have a responsibility to bear in the exploitation of resources in developing countries.

The UN Security Council is debating a report that names the individual companies operating in Congo and assesses their role in fomenting that country's fractured war. The British government has launched an Extractive Industries Transparency Initiative in a bid to promote voluntary disclosure of revenue flows and payments by companies to governments. The World Bank is involved in a similar exercise.

Oil firms have resisted attempts by non-governmental groups to force disclosure of their payments to host governments, claiming this would harm partnerships between the state and private sector.

One proposed solution is the establishment of an International Natural Resources Fund that would be responsible for the collection and management of resource revenues of weak developing states. Revenues would be released only on the authority of the Fund for purposes determined by its managers in consultation with the local government, mainly for social and economic infrastructure projects.

This would 'depoliticise deployment of the natural resources rents and remove a major reason for the failure of states,' said Deepak Lal, a University of California professor who thought up the idea for the fund. The country's sovereignty over its resources would be restored 'as properly deployed resources rents lead to general prosperity

and developed political institutions.'

Such sovereignty transfers have already been tried. The Iraqi Oil-for-Food programme is one. Chad provides another example.

With a per capita GNP of \$230, Chad is desperately poor. The country has a poor record of governance and has been plagued by internal strife. Yet, as a prolific cotton producer, the country has a basis for an expanded and diversified economy.

The pipeline management programme cobbled together by the governments of Chad and Cameroon, with help from the World Bank and a consortium of three oil companies (ExxonMobile, Chevron-Texaco and Petronas), provides a potentially significant combination of checks and balances. All revenues will be directed to an escrow account in London that is subject to the scrutiny of two external monitoring committees that include both civil society and industrial experts. The panels will visit both Chad and Cameroon every six months.

Revenues will be released from the escrow account in pre-determined allocations: 80% for education, health, social services, rural development and infrastructure; 10% to a trust for future use; and 5% for development of the oil-producing Doba Basin. The remaining funds will service debts incurred in the building of the pipeline. The programme also incorporates environmental standards.

Not everyone is convinced. The Bagyeli Pygmies in Cameroon see the pipeline as a threat to their lifestyle and ecology, even though the state established the Campo Ma'an National Park to offset the conduit's impact. The Washington-based Global Witness, meanwhile, has criticised the World Bank, saying the provisions for transparency in the handling of oil revenues are not strong enough.

Few, however, dispute that managing revenues through offshore third parties is at least novel – and perhaps groundbreaking. What Chad and Cameroon have surrendered in sovereignty, their people may have gained in future prosperity. And, as a former aid worker in Chad observes, 'If it can be done in Chad, it can be done anywhere.' – Michael van Winden

Corporate Greed in DRC

HUMAN rights groups have called on the United Nations Security Council to make public undisclosed allegations of illicit profiteering by multinational corporations contained in the final report of an independent panel commissioned by the UN to investigate the connection between resource extraction and the war in the Democratic Republic of Congo.

The Security Council began debating the findings of the report in late October. Some UN officials have expressed concern that releasing the more sensitive conclusions could undermine the fragile peace accord that the many and diverse factions signed last year to end the war.

The conflict, which included up to 21 rebel and international belligerents at its peak, killed an estimated 3 million since its outbreak in August 1998. Rwanda, Uganda, and the Congolese government of Joseph Kabila are said to be implicated in the report, which draws a causal link between the plundering of natural resources and the perpetuation of the fighting.

During the course of its three-year mandate, the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo identified 157 multinationals that were involved in the exploitation of diamonds, coltan, hardwoods and other resources from the vast interior of central Africa. The panel also identified 12 countries in the region through which goods from the DRC passed.

Although the war formally ended, resource exploitation continues, the report said, and continues to fund disparate militia groups that still have not fully put down their arms. 'Illegal exploitation remains one of the main sources of funding for groups involved in perpetuating the conflict, especially in the eastern and northeastern regions of the DRC,' the report states.

Among its recommendations, the report urges measures to strengthen the interim central government, integrate the new armed forces, enhance border controls, revamp national accounting procedures and break apart large state-owned mineral enterprises.

SPECIAL FEATURE

Whither 'Of The People, By the People, For the People'?

Weak constitutions and a prevailing disregard for the systems they create hold Africa back

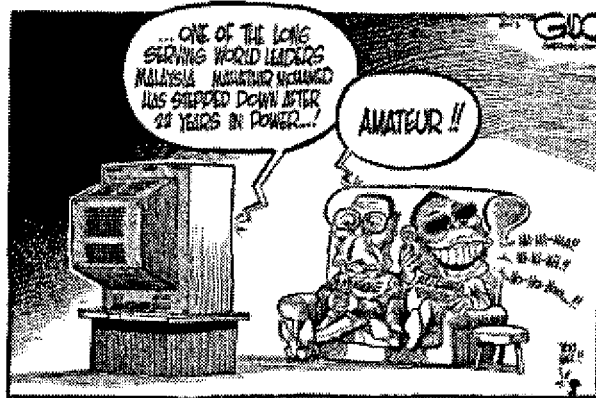
ZIMBABWE has become an odd litmus test for Africa. The major industrialised countries have taken a hard line against Robert Mugabe's deepening authoritarianism by imposing sanctions and publicly condemning the violence, human rights abuse and electoral fraud there.

Africa's leaders took a different view. Shaped by their struggles against colonial domination, they could not easily accept that London, Washington and Canberra opposed Harare purely for democratic and humanitarian reasons. They suspected – or at least publicly insinuated – more imperial and racist motives. Instead of reaching their own, objective conclusions about the severity of Mugabe's human rights abuses, African leaders approached the whole issue backwards, reasoning that if the international community pushed strongly in one direction, they should rally in resistance, regardless of the events and circumstances on the ground.

As an African, I feel more than frustration. I feel anger, sadness and a sense of bitterness at my continent. In crisis after crisis, Africa gets caught up in the details of who is advocating what and which bloc they belong to. In so doing, Africa has failed to examine the deeper causes of its chronic conflicts.

We often cite lack of money, aid, resources or capacity. But these are just excuses.

The biggest causes of conflict, of corruption, of ineffective economic and social policy are badly designed constitutional systems and a lack of commitment to the principles they were meant to enshrine. This is the greatest



challenge to the New Partnership for Africa's Development and the continent's future.

As colonialism was coming to an end, Africa was in such a rush to seize power that we gave almost no mature thought to the kinds of rules we should live by. We did not examine the history of governance elsewhere in the world. We did not try to assess what types of laws and rules would ensure effective, harmonious government. And we most definitely did not look into the character of human beings and design provisions to counteract the temptations that inevitably distract political leaders.

African leaders implicitly accepted the policies and governmental systems of their former colonial masters as the gold-standard to be emulated. But even

'In crisis after crisis, Africa gets caught up in the details of who is advocating what and which bloc they belong to'

a cursory look at history shows that the British, French, German and Portuguese political systems all have major flaws that are only counteracted by particular national cultural characteristics.

The British parliamentary system is, for example, highly prone to domination by the ruling party. If Britain were to add in the kind of heavy party discipline that African leaders impose on members of the ruling

party, parliament would be as weak a rubber stamp as it is in much of Africa. There would be little except the innate honesty and combativeness of citizens to hold the regime in check. The French system of a president and prime minister is inherently unstable and prone to creating divisive politics. So why do we mindlessly follow such systems in Africa?

We often hear African leaders plaintively ask why they are pressured to have term limits when the British, Germans and others do not. Instead of arguing that we should be allowed to have the same flaws in our political systems that exist elsewhere in the world, we ought to listen to the advice and learn from history. Every leader left in power more than 10 years starts to spend more and more time defending his or her position. Increasingly the leader is surrounded by yes-men who don't bring bad news. The best ideas have been exhausted. The tentacles of corruption spread wider. The leader who stays beyond his sell-by date inevitably expands his tools of patronage and repression to block rivals. This is not uniquely African. It happened to Richard Nixon, Franklin Roosevelt, Helmut Kohl, and Margaret Thatcher. Since the adoption of presidential term

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limits in the US, every two-term administration has been wracked by scandal in the second four years.

Are African leaders too unenlightened or too callous to understand constitutionalism and the value of constitutional order? Is living under a system of law and principle alien to Africa? In the main, African leaders are not unintelligent. Robert Mugabe holds a basketful of degrees. The benefits of a good constitution to economic, social and political development are too obvious to ignore. The idea of higher laws is not un-African.

In fact, the majority of Africans know what is right and good for their countries. Africa has strong cultural traditions of respecting fairness, equity and the responsibility of people to take care of one another. The problem is that leaders, knowing the right thing, still seek to do wrong. They deliberately subvert and destroy constitutional order to suit their personal appetite for power.

Zimbabwe rushed to create its independence constitution and achieved one of the most rapid ballot transfers of power seen in Africa. But both the constitution and the ideal of constitutionalism became subverted by the same leaders who supposedly fought for freedom. Zimbabwe, like many other African countries, largely adopted the body of law left by the previous regime. After all the fighting for freedom, Zimbabwe's leaders spent almost no time thinking about how to manage that freedom. Mugabe kept and greatly extended the draconian state security laws. Instead of learning the lesson from white oppression and granting more guarantees of freedom, he ultimately devised even worse forms of repression to perpetuate his reign.

Similarly, failure to craft an effective

constitution has driven Zambia to severe economic, social and political chaos. Its backwardness is worse than conditions in countries at war. Zambia still survives on its original transitional constitution, which has rendered it prone to abuse and 'constitutional dictatorship' by successive governments.

Part of the problem is intolerance of public criticism by African leaders. At independence, instead of applying common sense, leaders stifled dissent. To those wanting stronger checks and balances the said: 'How dare you imply that I might need restraining?'

The American constitution is among the world's most effective systems precisely because it assumes that people will always abuse power. It provides many checks and balances to ensure that no one can block freedom of expression and stealthily deny political rights. African constitutions, in contrast, fail to provide such safeguards against the baser aspects of human nature. While the American system is built on many independent centres of power, each

with their own taxing power and rules, African constitutions are built more on a Soviet model of monolithic institutions. No separation of the powers of party and president leads to constant abuses of power and corruption.

The challenge for the promoters of Nepad, and indeed for all of us, is to champion constitutionalism and good governance. Only through constitutional order can we check the greed for power of the African leaders. Without constitutionalism and good governance, the continent shall forever remain wretched, condemned to perpetual political chaos, poverty and underdevelopment. — **Dean Mung'omba, financial consultant and former deputy minister in Zambia, and Ross Herbert**

'The challenge for the promoters of Nepad is to champion constitutionalism and good governance'

BRIEFS

Incremental progress: Burundi's main Hutu rebel group has signed an agreement that moves the country an important step closer to ending its 10-year civil war. The rebels will now be part of the national army, taking up 40% of the officers' posts. But full peace remains elusive. A second rebel group has not yet agreed to take part in talks with the government, and fresh fighting between Hutus and their minority Tutsi countrymen flared even as the FDD rebels were shaking hands with the government.

Slain: Wealthy Somali businessman Sheikh Ibrahim Ali, a member of Somalia's transitional national assembly, was murdered in Nairobi in October. Ali was part of a group that has been meeting in Kenya for the past year to establish a lasting national administration in Somalia. The transitional assembly, created in 2000, only controls parts of Mogadishu and pockets of territory in the south.

Lighting up the future: The national utilities of South Africa, Namibia, Angola, Botswana and the Democratic Republic of the Congo have joined to build a 3,500 megawatt power plant on the Congo River. The project, slated to be finished by 2012, is under the auspices of Nepad and will provide electricity to sub-Saharan Africa, the Middle East and Europe.

New access to treatment: A deal brokered by former US President Bill Clinton with four pharmaceutical companies in South Africa and India in late October has paved the way for developing countries to gain easier access to cheaper generic versions of name-brand HIV/Aids drugs.

Rift Valley on the Hudson: Kenyan athletes dominated the 34th New York City Marathon on 2 November 2003. Martin Lel won in 2 hours 10 minutes 30 seconds, followed by compatriots Rodgers Rop and Christopher Cheboiboch. Margaret Okayo smashed her own course record by two minutes, in a time of 2:22:31, with Kenyan Catherine Ndereba in second spot. Male African runners have won the NYC Marathon 11 times since 1987. Kenyan women have won five times since 1994.

Kenya Sweeps Moi-Era Graft

But breaking a culture of corruption entrenched over 24 years carries risks for new government

THE grave-faced men filed quietly out of the Nairobi court building. One wept bitterly, others held their heads defiantly high. Pushing through a scrum of reporters, they vowed – as accused men resolutely do – to fight the charges against them. But they were no ordinary defendants. Trudging down the court steps were some of Kenya's most senior judges, freshly stripped of their horsehair wigs.

Not quite a year after riding into power on a populist backlash against a deeply crooked government, President Mwai Kibaki is sweeping the corridors of government with an ever-widening broom. Half of Kenya's Appeal and High Court judges were suspended in mid-October pending investigations into allegations of corruption. Then 800 forestry officials were placed under investigation for colluding with illegal timber dealers. Finally, on 3 November, Kibaki called on all cabinet members, parliamentarians and civil servants to declare their wealth by mid-November or face prosecution.

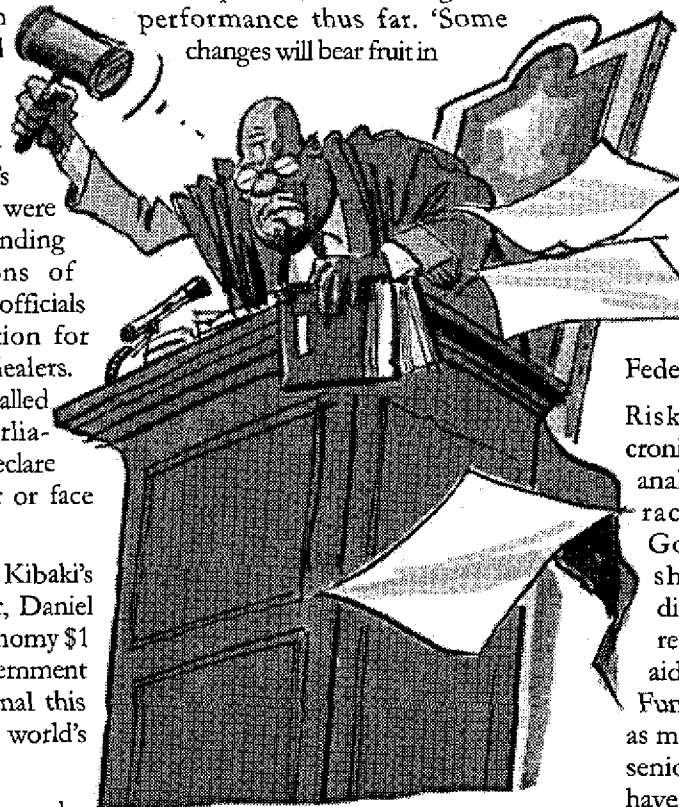
Corruption, the elephant left in Kibaki's living room by his predecessor, Daniel arap Moi, costs the Kenyan economy \$1 billion, according to a recent government study. Transparency International this year rated Kenya as one of the world's 11 most corrupt countries.

'There are individuals who may be labouring under the impression that the anti-corruption fight will not reach them,' Kibaki told a conference of African parliamentarians on 3 November. 'They are mistaken.'

But despite his resolution, Kibaki is coming face to face with just how difficult it is to break a culture of corruption that was allowed to flourish during Moi's 24-year reign. The public is clamouring for accountability, but the

well-monied old guard still wields significant influence. Kibaki's administration, a mishmash coalition of reformists and converts from the previous ruling party – Kibaki himself was once a vice president under Moi – has been dogged by infighting and tribalism.

'It's a mixed result,' said Gichira Kibara of the Centre for Governance and Development, assessing Kibaki's performance thus far. 'Some changes will bear fruit in



the long term but there have also been a lot of missed opportunities, particularly in cultivating a sense of transparency.'

Kibaki's National Rainbow Coalition (NARC) won a landslide victory last December in a poll that was widely hailed as a triumph for both Kenyan and African democracy.

The new president started out well. In his first months of rule, he fired a slew

of sticky-fingered officials and replaced them with a mix of skilled technocrats and political cronies. He oversaw the enactment of two cornerstone new laws: the Public Officers Ethics Act, which requires all public servants to declare their wealth, and the Anti-Corruption and Economic Crime Act. Kibaki also launched a new constitutional reform process and re-empowered the semi-defunct Kenya Anti-Corruption Commission to investigate allegations of high-level graft.

In an important signal of his commitment to breaking the culture of public pilfering, Kibaki appointed John Githongo, a former analyst from Transparency International, as his corruption czar. Famously bent parastatal companies and organisations were probed. Even the Kenya Football Federation came under scrutiny.

Risking the wrath of former Moi cronies, Kibaki revived inquiries into what analysts describe as one of the largest rackets in Africa's history. The Goldenberg scandal involved the shady exporting of gold and diamonds between 1990 and 1993. It resulted in some \$500 million in lost aid from the International Monetary Fund and cost Kenya, by some estimates, as much as \$1 billion. Some of the most senior members of Moi's government have been implicated in the dealings.

The new breeze could be felt on Nairobi's bedraggled streets. Fresh flowers appeared on previously barren verges. Public services that used to require 'kitu kidogo' – kiSwahili for 'something small' – were available for free. Some citizens, at least, found they could obtain a birth certificate or a passport without greasing any palms.

But there have both ominous and petty setbacks too. Odhiambo Mbai, a top constitutional official, was murdered in

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August, sharpening tensions. The circumstances of his death still have not been resolved. The Goldenberg Commission was abruptly adjourned last month when the presiding judge, Daniel Aganyanya, was among the jurists who were suspended.

Analysts worry that old vices are creeping back. In public mud-slinging ministers have accused each other of corrupt behaviour. Even bribe-taking policemen – who were subjected to spontaneous citizens' arrests in the wake of the elections – are returning to their old ways.

More serious problems lie within the Kibaki government itself. Some observers grumble about a 'Mount Kenya Mafia' – a cabal of Kibaki tribesmen dominating government business. And there is evidence that procurement, a process that is easily and often exploited, is again falling prey to unscrupulous dealings, according to Transparency International.

'At first they had success with low-hanging fruit,' said Mwalimu Mati, of Transparency International in Nairobi, about Kibaki's government. 'Obvious things were easy to deal with. But as the year has progressed the corruption networks, old and new, have started to emerge.'

Corruption under Moi was practised with zeal by the highest presidential aides down to the lowest office clerks. From 1990 to 1997, according to the annual reports of Kenya's Controller and Auditor General, nearly one-third of all government revenues were lost to shady deals. There is evidence that Moi's cronies cleared out bank and pension accounts before leaving office and sold off state lands – including slices of national parks – to friends.

Few, however, were prepared for the level of rot that Kibaki's government has revealed in the judiciary. A report by Justice Aaron Ringera, published in early October, made it clear that, in many cases, Kenya's

judicial system had crumbled into little more than a merchant's bazaar.

One High Court judge allegedly wrote two judgments on a case and then accepted bids from rival litigants to determine which one to use. Another offered a lawyer arguing before him advice on how to present his case, then charged a hefty 'consultation fee'. Others were accused of stealing exhibits, having sexual relations with court prosecutors and using prison labour for private work.

A 'league table' outlined the price of bribery. According to it, an Appeal Court judge could be pocketed for \$200,000, a High Court judge for \$650 and a magistrate for as little as \$50. On the criminal side, murder convictions could be overturned for just \$500.

Kibaki suspended six of the 11 Appeal Court judges and 18 from the 36-strong High Court, and called tribunals to investigate the allegations. Within a week, seven had already applied for early retirement. One of them said he was leaving on a religious pilgrimage to India.

But the purge has also brought problems: gridlock in the courts system, complicated cases halted mid-stream, and the possibility that former litigants may now seek to have their cases re-heard, arguing that the original judgments were tainted.

Kibaki's other litmus test of reform – revamping the constitution – has also had a bumpy ride.

Constitutional reform was one of the key planks of the NARC election campaign. Kibaki promised he would deliver a

draft within 100 days of taking office. Almost a year later, that goal remains elusive.

The obstacles originate from the election itself. In opposition, Kibaki's party was a patchwork quilt of rival groups that buried their difference and united to oust

Moi. Now they are in power, the bitter rivalries between them have re-surfaced.

The deepest rift is between Kibaki and the dynamic public works minister, Raila Odinga. In a pre-election pact, Kibaki vowed to break the near-dictatorial presidential powers accumulated by Moi. He promised to create a prime minister post and slated it for Odinga. When he started having second thoughts

later, Odinga became furious.

The row spilled over into the constitutional conference, where partisans from both sides openly warred. Money exchanged hands to obstruct debates. Yash Pal Ghai, the respected academic chairing the process, admitted at one point to being 'extremely' disillusioned.

'I can't tell you how disappointed I am,' he said. 'Delegates come to me with allegations they are being bribed to delay the process.'

The murder of Mbai, who headed one of the technical committees, threw proceedings further into turmoil. On 12 September armed gunmen broke into his house and shot him dead as he read the Sunday papers. The politics professor was a Luo, the same tribe as Odinga, so allegations flew that Kibaki supporters wanted him dead.

The rancour has delayed urgent steps to revive Kenya's flagging economy. 'Economic reform is not even on the back seat, it's in the boot,' said economic analyst Robert Shaw.

Kibaki supporters argue the gargantuan scale of corruption in Kenya meant it was always going to be a slow battle. Even critics admit his government has notched up some impressive victories. But Kibaki and his government have not emerged from their first year in power unbruised.

On the crumbling streets of Nairobi, impatience is growing for the promised 'new Kenya'. 'The honeymoon period is over,' Mati said. 'Now it's time to deliver'.
– Declan Walsh, Nairobi

'At first they had success with low-hanging fruit'

'On the crumbling streets of Nairobi, impatience is growing for the promised new Kenya'

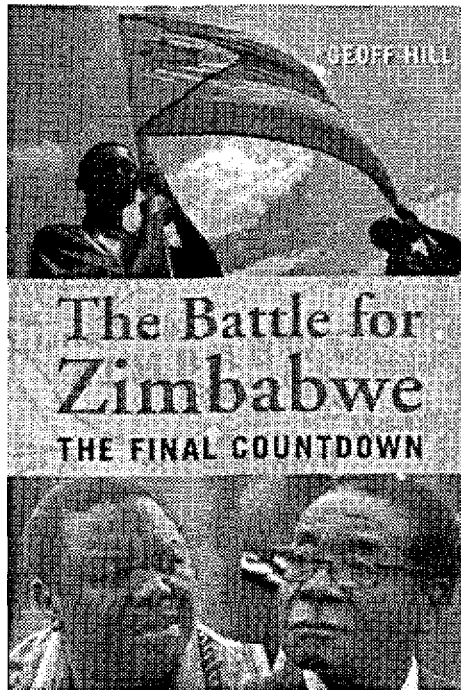
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The Precedent for Mugabe's Misrule in Zimbabwe

WHILE the world fixates on questionable wars and ancient animosities in the Middle East and African leaders excuse the violent abuses of a venerated liberation hero, the country that Robert Mugabe fought to free from repressive colonial rule now crumbles beneath the growing weight of his iron fist. The editors of the Daily News, the country's only independent daily newspaper, languish behind bars, where they have reportedly been badly beaten. Inflation, about 500% at the time of publication, rises by the hour. Unemployment has passed 80%. The country has no currency, no fuel, and very little food. Businesses have been raided and forced to close. In shades of Uganda under the brutal dictator Idi Amin, Zimbabwe's Asian community has been hounded. And, of course, all the commercial farmers have been chased off the land, replaced by peasants who have no tools, water, or knowledge of commercial agriculture – or, worse yet, by drunken bands of violent government thugs.

Southern Africa has largely recovered from last year's drought. Some countries in the region expect bumper crops this year. But in Zimbabwe, more than 2 million people depend entirely on food aid. Seed prices rose 55% in September alone, according to the World Food Programme. The government, according to a report released last month by Human Rights Watch, interferes constantly in the distribution of donated grain, manipulating food – often violently – to maintain political dominance. By January, the WFP warns, up to 7 million people – more than half the population – will be in danger of starvation.

One ray of light pokes through the dark, albeit dimly. On 3 November the High Court opened hearings on the opposition's legal challenge of last year's presidential election. It took 18 months to get a court date even though the law stipulates that all legal challenges to elections should be heard within a month of the voting. The Movement for Democratic Change argued that the government's implementation of that poll violated both the constitution and the Electoral Act. Mugabe has attacked the



judiciary in recent years, stacking the Supreme Court with sympathisers and sacking independent-minded judges on the High Court. A fair trial in this pivotal case seemed unlikely.

It is fashionable these days for African leaders to commit themselves to lofty pledges of good governance. But the tragic demise of what was once one of Africa's most stable, educated, and prosperous societies follows an old script. Far from sitting idly by, Mugabe's peers applaud the aging autocrat and defend him fiercely against international sanction. In the following excerpt from his new book *The Battle for Zimbabwe*, journalist Geoff Hill, a native of Zimbabwe, examines the diplomatic vacuum in which African despots have historically thrived.

'Mugabe matured politically at a time when violence was the norm rather than the exception'

To understand how Zimbabwe could descend into such madness without rebuke, one has only to remember Africa's appalling record on human rights, and how other leaders got away with even worse than Gukurahundi [the organised massacres of up to 30,000 people in Zimbabwe's southern Matabeleland by Mugabe's North Korean-trained military Fifth Brigade in the 1980s]. I would go so far as to say that Mugabe, as one of the old men of Africa, matured politically at a time when violence was the norm rather than the exception, and he might genuinely have seen the Matabeleland campaign as a legitimate way of consolidating power.

Perhaps the greatest horror of apartheid is that, if a black tribe that made up only 15% of South Africa's population had perpetrated it, the policy would have raised the ire of no one in the international community. Radical as that statement may be, one has only to look at ethnic cleansing in Indonesia or the murder of millions of people in Burundi and Rwanda, the dreaded Idi Amin and Milton Obote – who was almost as ruthless as Amin – or General Mengistu Haile Mariam, who starved thousands to death in Ethiopia, and at the lack of world condemnation for Third World dictatorships in general.

Before becoming the Swedish ambassador to Zimbabwe, Kristina Svensson was an active member of the anti-apartheid movement. I once asked her why her country had remained silent throughout the 1970s and 1980s on human rights in the rest of Africa.

'It was a period of post-colonial consolidation,' she told me. 'The period of one-party rule was necessary, and Sweden supported it.'

But if one accepts that argument, the notion of a universal declaration of human rights becomes meaningless,

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because the rights of some would become subjective and less important than those of others.

In 1989 South African journalist Donald Woods toured Australia to raise awareness for International Refugee Week. I was working for the *Australian* newspaper in Sydney and attended one of his briefings. Best remembered as the editor of the Eastern Cape newspaper the *Daily Dispatch*, and for being a friend of the black activist Steve Biko, who died in police custody in 1977 (their story was told in Richard Attenborough's film *Cry Freedom*). Woods had impressive credentials when it came to human rights, and his plea for change in South Africa touched my heart.

He spoke passionately about his country, where Nelson Mandela was still imprisoned, and about the campaign he had spearheaded in London to get British banks to withdraw their investments from South Africa. He had been active in Europe as well, pushing a range of multinationals to disinvest.

But his visit to Australia was in aid of Refugee Week, and compared with East Timor, Tibet, Afghanistan, Uganda, and a score of other countries, the number of political refugees who had been forced to flee South Africa was tiny. At question time, I asked Woods whether the world would care more about the East Timorese or the Tibetans or Afghans if they were a different colour from the people who were persecuting them.

There was silence in the room before Woods, to his credit, took the challenge and replied: 'I quite agree with you. The world is full of terrible regimes, and we must fight abuse wherever we find it.'

His answer drew a round of applause, and when it died down, he added: 'But

'I quite agree with you. The world is full of terrible regimes and we must fight abuse wherever we find it'

we need to focus our energies on the main problem, which is South Africa.'

The point of this story is not to diminish the stature of Woods, but to illustrate the mindset that allowed people such as Obote,

Mengistu, Amin and Mugabe to misrule their countries with impunity. It's hard to counter Mugabe's complaint of unfair criticism against him and his government when decades of equal and greater abuse elsewhere failed to evoke international censure.

If independence in Africa had not been



such a shambles, the history of southern Africa might have been very different. As it was, the backlash against political opponents in virtually every former colony served only to harden resolve in Salisbury [as Harare was known prior to Zimbabwe's independence in 1980] and Pretoria – and, for that matter, in Lisbon until 1974 – against black majority rule.

As the colonial powers withdrew, the economies of the newly independent African states collapsed one after another, not because foreign interests conspired against the new rulers or

'If independence in Africa had not been such a shambles, the history of southern Africa might have been very different'

because they lacked the opportunity to succeed, but due to corruption, waste, inefficiency and outright theft by those in power. Human rights were the greatest casualty in every instance, but for more than 40 years, African tyranny was little more than a footnote on international agendas.

In many ways, the independence of Ghana in 1957 was to have been the litmus test for democracy in Africa, but the government of Kwame Nkrumah was one of the earliest examples of post-colonial decline. When Ghana was declared a republic in 1960, Nkrumah's position changed from prime minister to president, but his conduct was that of an absolute monarch. He awarded contracts worth millions of dollars without reference to cabinet, let alone parliament. He set up a special company, the National Development Corporation, to receive 'gratuities' from foreign business people seeking the nod for a government deal, but the money was actually used to fund the ruling party or Nkrumah's personal expenses.

Not a word of criticism was raised in Europe, Britain or America, even when his policies began to impoverish the nation. In 1961, Nkrumah launched a range of state enterprises to develop fishing, farming, and a steelworks. A total of 50 state corporations were created, providing jobs for those who supported him, but leaving Ghana with little real development and a huge foreign debt.

In 1962, there was an attempt on Nkrumah's life. He ordered the arrest of his foreign minister, Ako Adjei, and several other members of the cabinet, but they were acquitted due to lack of evidence. Nkrumah sacked the judges, appointed new ones and ordered a retrial, at which the men were found guilty.

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The press was muzzled, with Nkrumah providing 'guidance' to editors on how best to report events. Special courts presided over by judges appointed by Nkrumah were set up to try those accused of political offences, and when verdicts displeased him, he passed a law allowing him to set aside the courts' decisions.

In 1964, books deemed 'counter-revolutionary' or critical of his philosophies were banned and all copies were removed from libraries. Later that year, Nkrumah declared Ghana a one-party state, making it a crime to oppose the ruling party.

In just nine years, Ghana had become a dictatorship, the freedom Nkrumah had espoused in his fight against colonialism, forgotten. Profiteers from the US, Britain, Cuba, Israel, Russia – anyone willing to flatter the government and pay a bribe – had made money by exploiting Nkrumah's demented vision, while *nothing was done by the UN, the Commonwealth, Britain, America, China or the Soviet bloc to halt the destruction of Ghana's economy and democracy.*

The only countries that raised the alarm were in Africa. Tanzania's Julius Nyerere fell out with Nkrumah over the latter's hard line on the rapid unification of the continent – one of his passions – and neighbouring West African states objected to Ghana offering refuge to dissidents fleeing dictatorships in their own countries.

And there were many dictators to run away from.

Togo, Ghana's neighbour, gained independence from France in 1960. In 1963 the head of the army, General Eyadema, overthrew the government and made himself the sole source of power. Political activity was banned, the press was controlled and no criticism or even discussion of Eyadema's rule was tolerated. He managed to overcome

'Both Malawi and Zambia became dictatorships within five years of independence, while the former Belgian Congo was plunged into rebellion and war just one day after independence'

divisions between north and south and largely rid the country of corruption, but at the cost of all the recognised human freedoms.

Niger, to the north, had also been granted independence by France in 1960, and in no time at all the president, Hamani Dori, banned all opposition and proclaimed himself the sole legitimate ruler. He and his ministers spent their time embezzling foreign aid and amassing personal fortunes, and the president's wife became one of the richest women in Africa.

Madame Dori and her personal guards were killed in a coup in 1974 when Colonel Seyne Kountché seized power, and while his Supreme Military Council allowed no political activity, Kountché virtually wiped out corruption and resuscitated the country's farming sector. Within five years, Niger was at least able to feed itself.

With the exception of Gambia, all West African states had become dictatorships within a few years of winning independence, and countries in southern and East Africa fared little better.

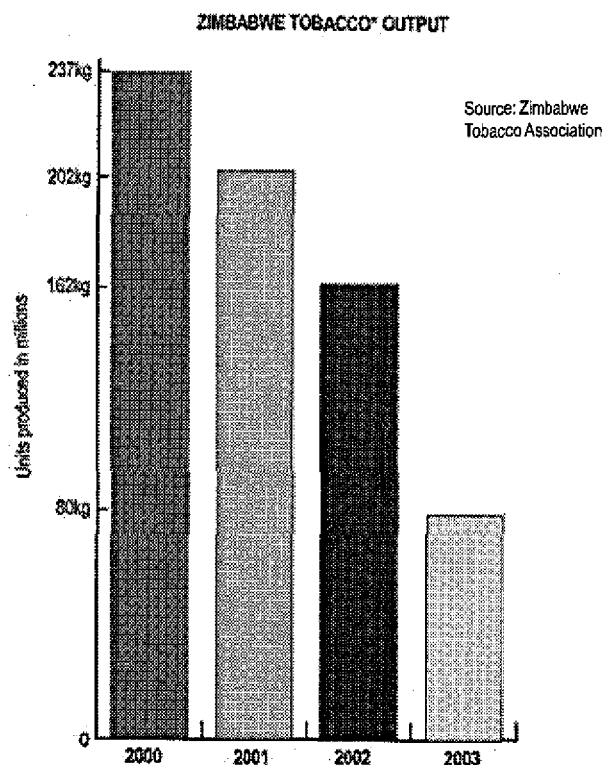
Jomo Kenyatta, who led Kenya to independence from Britain in 1963, and who is often hailed as one of Africa's great statesmen, passed a law making it a capital offence to discuss what might happen to the country when he died. His KANU party funded itself from state coffers, while the opposition had to raise money from the public, with Kenyatta using the police to spy on them and thwart their efforts. He banned private broadcasting and turned the government-owned Voice of Kenya radio and television service into a KANU mouthpiece.

In Tanzania, Nyerere nationalised the majority of privately owned property and declared a one-party state. Elections were held every five years, but only his ruling Ujamaa Party was allowed to field candidates.

Uganda came under the tyranny of Milton Obote, whose rule was so harsh that when General Idi Amin mounted a coup in 1971, crowds rushed into the streets to welcome the change.

However, Amin took Uganda on his own journey into madness, and by the time he was overthrown by Nyerere's army in 1979, an estimated 300,000 people had died at the hands of the state.

Both Malawi and Zambia became dictatorships within five years of independence, while the former Belgian Congo was plunged into



*Tobacco has traditionally been Zimbabwe's leading product in foreign exchange earnings

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rebellion and war just one day after independence on 30 June 1960. By 1965, the American-sponsored Mobutu Sese Seko had become supreme dictator.

All across Africa, the earning power of working people collapsed while heads of state lined their own pockets, the media was gagged, dissenters were tortured and jailed, and, with the exception of Amnesty International and a few civic groups, virtually no voice was heard in the West clamoring for human rights in Africa – except when it came to Rhodesia [as Zimbabwe was known under colonial rule] and South Africa.

Throughout the Cold War, the unwritten rules of engagement meant that any tyrant denounced by the West was assured of support by the communist bloc, and vice versa.

When Mugabe came to power in 1980, the Soviets had plenty of their own men in Africa, including Machel in Mozambique, Neto – and later Dos Santos – in Angola, and Mengistu in Ethiopia. The French maintained an even tighter hold on the leaders of their former colonies, none of which was a democracy, while Britain and America supported a host of one-party states in East, West and Southern Africa.

In Mugabe's defence, one would have to acknowledge that by the standards applied in Africa from the mid-1950s – when the first colonies became independent – until the fall of the Berlin Wall in 1989, he was not an exceptionally bad leader.

But when the Cold War ended and human rights became a primary factor in international relations, Mugabe found it difficult to adjust, and from 1990 onwards his increasingly repressive regime was an aberration on a continent where most governments had succumbed, however grudgingly, to calls for greater political freedom.

The Battle for Zimbabwe: The final Countdown, by Geoff Hill, was published in October 2003 by Zebra Press, a division of Struik New Holland.

A Jackboot's Tale

ZIMBABWE President Robert Mugabe has resorted to increasingly violent tactics as the country's economy implodes. Tens of thousands of young men and women have been forcibly coopted into militias known as the Green Bombers and made to perpetuate his rule through horrific acts of intimidation. As Geoff Hill noted, 'I met people who had been branded with hot irons, buried alive in trunks, drowned and left for dead, axed, slashed and raped. In one case, a group of police, war vets and militia used police truncheons to anally rape a group of more than 30 MDC youths near Harare.... As the 2002 presidential election drew nearer, agents of the state carried out ever worse acts with impunity. But the most serious violence involved the Green Bombers, a modern-day African equivalent of the Hitler Youth, their value system apparently warped by a daily diet of depravity. ... Of the 52 men who shared their experiences with me, 38 had been raped, and it soon emerged that a systematic programme of male rape, deliberately designed to break the morale of the opposition, had been implemented throughout Zimbabwe.'

The following testimony is a verbatim account from one of the several Green Bombers Hill interviewed for his book:

I was working at a factory near my home in rural Matabeleland. I was not yet married but I was ready to pay lobola to my girlfriend's parents, and I was also looking after my mother and my two young sisters, because our father had passed away.

One Sunday, I was walking home from church when a group of Green Bombers met me and asked why I was not at a ZANU-PF meeting, which was being held in our village. Before I could answer, they knocked me to the ground and started kicking me and shouting that I was an MDC sell-out. I was taken to the local militia camp where some other boys and girls who had been picked up were also waiting. I knew some of them from the local area, but others had been brought from far away. One of the men had a broken arm because he had struggled when they grabbed him and he was very much in pain, but no one was doing anything for him.

We sat in the shade of a tree at the camp all day with no food or drink. That night, we

were given porridge and water, but we slept under the tree without blankets.

When I woke the next morning, the man with the broken arm was gone and I never saw him again. I was led to an interview with a senior Bomber and two war vets. They told me that from now on the camp would be my life, and that my job and my family were not important any more...

That night, I was led to an area of open ground next to the camp, and all the young Bombers were sitting there in rows. Those of us who were new had to sit in front. Some of the militia had broken rules of some kind, and one had tried to escape, and we were going to watch them being punished. The first one was dragged to the front of the crowd and questioned about why he had not been following orders. As he tried to speak, the militia leaders and two war vets started punching and kicking him.

He was crying and blood was coming from his mouth, and I felt sick. But the Bombers who had been in the camp for a while started cheering and laughing. Then I felt a pain in my back. Someone had kicked me in the spine. I looked up and a senior Bomber was standing behind me. 'Are you not enjoying this,' he shouted. 'Would you like to be next?'

I still can't believe it, but I started cheering and shouting for the man to be punished further. I am so ashamed now when I think of how I behaved, but I was just thinking about my own survival. Over the next few weeks, I was also beaten, and twice I was raped as punishment. And then, when I had lost all my human qualities, I was sent out with other militia to patrol the district and to chase out any MDC who might be in the area.

In the Bombers, there is never enough food and you are always hungry, and learn quickly not to trust anyone. If you find a vendor who is selling goods at more than the official price, or if you suspect someone of supporting the MDC, you have to punish them to your full extent. If you are soft in your judgment, one of the other militia on patrol with you may report the matter to the commanders, and that night you will find yourself being punished in front of your friends, who will cheer while you bleed and scream.

Keeping a Watchful Public Eye On Africa's New Stocktakers

Civil Society has a vital role to play in making African peer review an effective tool for reform

AFTER years of talk from African leaders about renaissance and reform, Ghana is now poised to become the first country to be evaluated by its peers under the African Peer Review Mechanism.

Civil society is understandably wary. Although 16 countries have agreed so far to scrutinise each other's ways and means, much remains uncertain. Peer Review, like the New Partnership for Africa's Development, was conceived without much public input and left some important contradictions unresolved. African reformers first said peer review would cover political and economic spheres of governance. Then they backtracked. Important questions about when review reports will be made public – and in what form – remain unanswered.

But too much is at stake for civil society to sit on the sidelines waiting for an invitation to participate. It is probably not stretching the point to say that the future of constitutional democracy in Africa hinges on how well peer review is applied. When a country accedes to being judged by its neighbours, it commits to reform. Public vigilance is critical to ensuring that African leaders follow through on the raft of new pledges they have made. Here are some ways civil society can engage at each stage of the peer review process.

First stage of peer review: At the outset of the process, the country being reviewed develops a draft programme of action outlining initiatives it will take within a specific period of time to ensure that it complies with the objectives of



Nepad and a series of other new pledges African leaders have vowed to uphold. Peer review stipulates that a country must consult with civil society in compiling this programme. At the same time, the review team develops its baseline assessment of the country under review, drawing information from a range of players.

This material forms the outline of the impending review. Civil society input is critical in the development of both the programme of action and the review team's initial assessment to ensure that all relevant issues are considered.

Second stage: The peer review team then conducts meetings with a range of country stakeholders to assess the programme of action.

Once again, civil society groups need to campaign vigorously for their inclusion at this point, working with the business sector, parliament, and marginalised communities to safeguard against political manipulation of the process. Civil society should be prepared to offer both written

submissions and in-person presentations.

Third stage: The review team drafts a report on its findings, which it shares with the host country. Rebuttals from the government under review are appended to the report, which is then submitted to the Panel of Eminent Persons. While there is no official role for civil society in this stage, active public scrutiny is essential to ensure transparency. By drafting a shadow report for the panel, civil society can make sure that vital issues are neither

omitted nor diluted.

Fourth stage: The Panel writes its recommendations for policy reform on the basis of the findings of the country review team. The Heads of State in the African Peer Review Forum discuss these with the country's leader. This is a closed process, but again, public lobbying is essential to ensure transparency.

Fifth stage: The report goes public and is tabled in bodies like the African Union and the Pan African Parliament. At this point, civil society should ensure that the final report reflects substantially the expectations and findings arising from earlier stages of the process.

At the end of the five stages, the African Peer Review Secretariat shares best practice models and offers technical support to the reviewed country. Civil society must monitor the country's compliance with the recommendations, publicising the promises undertaken and applying pressure on the government to fulfil its commitments.

Engaging in the peer review process may seem daunting. But two grassroots national campaigns in South Africa provide some useful lessons for how civil society can play an influential role.

'Civil society must monitor the country's compliance with the recommendations, publicising promises undertaken'

The Treatment Action Campaign (TAC) is one of South Africa's greatest advocacy success stories. Over the past few years, the TAC has persistently campaigned for

government to provide free access to medication to prevent mother-to-child transmission of HIV as well as affordable anti-retroviral treatment to HIV-positive people. The TAC approach had two components: It built community awareness of and participation in the campaign, and it worked with the government to help combat the epidemic.

This latter approach began with attempts to force pharmaceutical companies to reduce the cost of vital drugs and permit the government to research and produce its own generic medicines. When the government opposed rolling out treatments, the TAC brought a lawsuit to make it do so. The TAC is now playing a partnership role, assisting government in implementing a widespread treatment programme.

On another front, the Gender Advocacy Programme (GAP) has worked to address under-representation in local government. Prior to South Africa's first democratic local government elections in December 2000, there were very few women councillors in local government. GAP put pressure on government to address the underlying structural causes of this problem. It successfully lobbied for three policy reforms in relevant legislation: A quota for women's representation on party lists; changes in the electoral system to remove disadvantages women candidates often face; and equitable female representation on ward committees.

A strategic assessment by GAP indicates lessons civil society can draw from both these campaigns for engaging more effectively in peer review. These include:

'Knowing the actors makes it easier to develop strategies for intervention'

specifically. GAP whittled down gender discrimination into under-representation of women in local government. The lesson: Civil society needs to pinpoint the exact issue it wants to tackle.

Clarify goals: A clear set of objectives is critical to an effective advocacy campaign.

Know the facts: To be persuasive, advocacy interventions need to be guided by accurate data – such as documented incidents of human rights violations, weaknesses in law, or specific evidence of corruption. Civil society interventions in the peer review process must be informed by the governmental and developmental issues needing to be addressed. Specific evidence must be gathered to demonstrate the impact of shortcomings in governance, economic management, corporate governance and socio-economic development.

Understand the system: Know the key decision-makers, understand the policymaking process, and identify opportunities for intervention nationally and in the visiting APRM team. Civil society needs to have a thorough understanding of the peer review role-players and structures, objectives, process, timeframes – if it wishes to engage in the process and claim its space.

'When engaging government, strive not to alienate or marginalise key roleplayers'

Identify the problem: Both initiatives tackled specific elements of a larger concern. The TAC narrowed its focus from the HIV/Aids epidemic generally to affordable treatment

either when government has created an opportunity to consult civil society on an issue or when developments have created a platform for addressing a problem. The eve of a country's peer review presents an ideal opportunity to engage with both the review team as well as key government representatives. But civil society must be prepared well in advance for this moment.

Target specific groups: Know which decision-makers to influence and the stakeholders who could apply the most effective pressure on them. Gather information on the review team, the Panel of Eminent Persons, and government stakeholders. Knowing the actors makes it easier to develop strategies for intervention.

Tailor your message: Different groups require different approaches. Petitions and media pressure work in some instances, civic education and awareness

campaigns in others. Sustained action is essential. When engaging government, strive not to alienate or marginalise key role-players. Initiate partnerships where possible, but also challenge and

defy where appropriate.

Monitor and evaluate: Any advocacy initiative needs to build in an ongoing assessment of its actions in order to be able to troubleshoot difficulties, respond to new opportunities, and recover from failures.

The peer review process may be imperfect. Governments under scrutiny will undoubtedly balk at some of the review findings and recommendations. But on the national political stage, it represents an important opportunity for civil society to press for change.

The key is to prepare and engage, keeping in mind that creative political lobbying has enabled Africa's grassroots to force tremendous change on the continent in the past – and can do so again. – **Janine Hicks, director at the Centre for Public Participation**

'Civil society needs to pinpoint the exact issue it wants to tackle'

Time your actions: The success of a campaign can hinge on the timing of its implementation. Identify the appropriate moment to raise issues –

Measuring Governance: Hard Data and Opinions

WITH the African peer review poised to begin, some civil society organisations have begun contemplating a shadow process to parallel the official one.

The fundamental challenge – both for official and shadow peer review teams – is figuring out how to measure governance. The official documents refer to 37 codes or standards against which governments are to be measured. They also outline 21 major objectives, 78 criteria, and 98 other indicators (by no means an exhaustive list) that should be considered.

But even those criteria don't reflect the complexity of the task. Measuring government enforcement of its fiscal rules or of corporate governance, for example, would call for the kind of detailed financial analysis that professional auditing firms conduct. That kind of scrutiny demands more than most civil society groups can muster in terms of either budget or staff.

Unlike the peer reviews conducted in the Organisation for Economic Cooperation and Development, which focus on confined areas of policy, the APRM intends – within a six-month period – to assess the entire range of government performance, from the fairness of political systems to protection of human rights to economic development strategies. This requires investigating corruption; examining fiscal and banking systems; and assessing corporate governance laws and the extent to which companies comply with and governments enforce those rules.

African peer review does not simply seek to give a scorecard on government performance. It will assess the adequacy of draft plans of action that governments devise when they agree to be reviewed.

Most existing attempts to measure governance are driven by the research needs of economists and political scientists who wish to evaluate theories by comparing the performance on key issues across a broad range of countries. This is a useful academic exercise, but African peer review aims to

identify effective policies worth adopting and poor measures that should be abandoned. The architects of APRM ultimately agreed that the process must assess both numerical indicators *and* the views of experts and citizens in order to reveal the underlying causes of problems and their potential solutions.

Civil society organisations intending to shadow the official process can turn to a number of institutions studying how to measure governance. These include:

- SAIJA is participating in the African Human Security Review project, which is attempting to measure the performance of governments who have volunteered for peer review from a human security point of view. This research partnership, involving seven organisations and coordinated by the Institute for Security Studies in South Africa, will examine arms management, civil society, human rights, democracy, security and conflict management and terrorism. (See www.africanreview.org)

- The International Institute for Democracy and Electoral Assistance has developed a methodology for assessing democracy and electoral systems. Its *Handbook on Democracy Assessment* can be found on www.idea.int

- The IMF web site publishes reports on the compliance of countries with various codes and standards (www.imf.org/external/np/rosc/rosc.asp#G).

- The World Bank Institute measures six aspects of governance for more than 200 countries, including accountability, political stability, and anti-corruption efforts (www.worldbank.org/wbi/governance/govdata2002/).

- The World Peace Foundation recently published *Good Governance Rankings: The Art of Measurement*, which attempts to create a more empirical measurement. The report gives a concise overview of 47 different approaches to measuring governance (<http://www.worldpeacefoundation.org/publications.html>). – **Ross Herbert**

All-Africa Shames

NIGERIA'S handling of the 8th All African Games, critics say, provides a manual on what not to do. Behind the javelin throws and steeple chases lies a story of misappropriated funds, duplicate contracting, nepotism and unpaid hotel bills.

While 70 % of its citizens live on less than \$1 a day, Nigeria spent hundreds of millions of dollars on the event. By the time it was over, the roof on the main stadiums had collapsed, bureaucrats were scuttling off in shiny new cars like dung beetles, and the vice president was drenched in the spittle of ungrateful citizens.

Activist Shehu Sani called the games 'one of the greatest swindles of this century – mysteriously conceived, poorly organised and fraudulently executed.'

The organising committee, COJA, originally requested a budget of \$375 million. Government halved this amount. Nigeria's Vice President Atiku Abubakar was charged with supervising COJA.

The government then pumped as much as \$480 million into Abuja's stadium complex – more than the combined annual budget for education and healthcare.

The minister of industry commissioned cars for the event from Peugeot Automobile of Nigeria. COJA head Amos Adamu, then imported 900 BMWs duty-free – meaning no revenue for the state. Abubakar allegedly fled in one well before the closing ceremony.

The government awarded a \$21 million contract for new broadcasting equipment to the Nigerian Television Authority. Then COJA, with Abubakar's approval, awarded a second, \$51 million contract to a private broadcaster. When the NTA director-general objected, he was sacked.

The national assembly included the stadium's exorbitant price tag in impeachment charges against Nigerian President Olesegun Obasanjo in mid-2002. The president's son and wife are both under suspicion for misusing state funds.

Obasanjo has asked Adamu to render accounts. But observers worry that the government will once again roll out the notorious Official Secrets Act to cover the money trail. – **Bolaji Adepegba, Nigeria**